

Topic of the week for discussion: 2nd to 8th April 2015

Topic: Article 19(1) a vs. 66(a) of Indian Constitution

Introduction:

Article 19(1)a; 1949

All citizens shall have the right to freedom of speech and expression.

Article 66 a; Information Technology Act 2000

Punishment with imprisonment for a term upto three years and a fine upto 5 lakh rupees, for sending offensive messages through communication service, etc.

Information is defined as:

- any information that is grossly offensive or has menacing character; or
- any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will, persistently by making use of such computer resource or a communication device
- any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages.

Media is defined as:

Electronic mail" and "Electronic Mail Message" means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message."

Latest News

The Supreme Court has quashed Section 66(A) of the Information Technology Act recently, terming it "**vague**" and "**unconstitutional**". The controversial section has long been decried by activists, freedom of speech and internet freedom campaigners as being aimed solely at muzzling dissent and differences of opinion on the internet.

Section 66A of IT Act clearly affects Right to Freedom of Speech and Expression enshrined under Constitution," the court said.



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Supporting View:

The law has been used in a number of instances to crack down on those who posted critical or divergent political views.

- Two girls near Mumbai were arrested for speaking on Facebook against the city's shutdown for Shiv Sena chief Bal Thackeray's funeral;
- a businessman in Puducherry was put behind bars for comments made on Twitter against then finance minister P Chidambaram's son Karti Chidambaram;
- a professor of chemistry from Jadavpur University in West Bengal, Ambikesh Mahapatra, was arrested for posting a cartoon of chief minister Mamata Banerjee; another led to arrests of two Air India employees.
- Most recently, a school student in Uttar Pradesh was arrested for making a comment about politician and MP Azam Khan

Now, the above mentioned instances are a serious issue of misuse or misinterpretation of the IT act showing that the "draconian" Act continued to be at play.

Counter view:

Section 66A also contained legal recourse against a number of other cyber crimes such as stalking, bullying, threatening through SMS and email, phishing and spamming, among others. Some experts argue that India's IT Act provides legal remedies for a just a handful of cyber crimes and that there are many that have been left out. Moreover, there are new kinds of cyber crimes which are emerging on a daily basis. The ruling will only mean several steps backwards for the government and the country on this aspect. As far as such cyber crimes are concerned, the Supreme Court's judgment is only a partial success.

There are several other sections under which content can be blocked, Section 66a's problem was only that it facilitated arrest. If the problem was the implementation of it by the police agencies, then perhaps that's what the Court should have focused on.

Read further:

<http://indianexpress.com/article/india/india-others/explained-article-66-a/>

http://articles.economicstimes.indiatimes.com/2015-03-29/news/60603048_1_cameraman-tada-cases-rinu-srinivasan

http://www.business-standard.com/article/opinion/section-66a-the-three-things-you-need-to-know-115032400502_1.html