



PRESS RELEASE

25 March 2015

WGHR welcomes the Supreme Court of India's Judgment on striking down Section 66A of the Information and Technology Act (2000)

The Working Group on Human Rights in India and the UN (WGHR) - a coalition of human rights organisations and independent experts – applauds the 24 March 2015 judgment of the Supreme Court of India that struck down the Section 66A of the Information and Technology Act (2000) which was introduced in the Act in 2009.

The Bench comprising two Supreme Court judges, Justice J. Chelameswar and Justice Rohinton Fali Nariman ruled that the section 66A was unconstitutional as it violates the article 19 (1) (a) and devoid citizens off their fundamental right to freedom of speech and expression enshrined in the Constitution of India.

The bench also affirmed that the language used in the Section is vague and ambiguous saying it doesn't properly define words like 'offensive' or even 'persistent' as Section 66A reads: "Any person who sends by any means of a computer resource any information that is grossly offensive or has a menacing character; or any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, shall be punishable with imprisonment for a term which may extend to three years and with fine."

The bench also ruled that the controversial section was being misused by the police to arbitrarily arrest those who posted their opinion on websites. The apex court held that there should be scope for discussion and advocacy in a country like India. It reiterated that the free speech and expression might not complement everyone's thoughts and beliefs but the Constitution of India ensures our right to freedom of expression.

India has witnessed a rapid increase in cases of arrests of human rights defender, activists, academicians, journalists and writers under this section in the recent past and growing intolerance of the State on views expressed through social media. In April 2012, Abhishek Mahapatra, a chemistry professor at Jadavpur University, Kolkata was arrested under the IT Act for forwarding emails of caricature on a political leader. In September 2012, Aseem Trivedi, a cartoonist from Kanpur was arrested under this Act and was also charged with sedition for making cartoons against corruption. Thus stifling the genuine voice of ordinary citizens and common public was the trend observed.

According to B.V.Acharya, former Advocate General and former member of Law Commission of India, "Section 66A undoubtedly is not only vague, but also [strikes at] the very root of the Article 19 (1) (a) of the Constitution, which guarantees freedom of speech and expression to every citizen." Sunil Kuksal, senior researcher at WGHR says "this judgment is a positive development which will strengthen and uphold the ideals enshrined in the Constitution of India. It will go a long way in sustaining the struggle of individuals, social groups and organisations involved in social advocacy through social media."

Zeid Raad al Hussein, United Nations High Commissioner for Human Rights in his opening speech on 2nd March 2015 during the 28th session of the United Nations Human rights Council said that "when powerful leaders feel threatened by a tweet, a blog, or a high-school student's speech, this speaks of profound underlying weakness. And when writers are abducted, jailed, whipped, or put to death; when journalists are assaulted, subjected to sexual violence, tortured and killed; when peaceful protestors are gunned down by thugs; when human rights lawyers, human rights defenders and land activists are arrested and jailed on spurious charges of sedition; when newspapers are attacked or shut down – such cases attack and undermine the foundations of stable governance."

WGHR would like to highlight once again that during the second inter-governmental peer review of India's human rights (also known as the Universal Periodic Review) in May 2012, the UN Human Rights Council made 169 recommendations to the Government of India, out of which 4 recommendations were related to right to information act and freedom of speech and expression. While three of these recommendations have not been accepted by the Government of India, they nevertheless represent the growing concern in the international community against the concerns regarding violation of right to free speech in India.

WGHR welcomes the landmark judgment by Supreme Court of India and is hopeful that the country will witness objective and rational space for voice of dissent.

Henri Tiphagne
Convenor
WGHR

For further information contact:

Mr Sunil Kuksal, Senior Researcher, WGHR
Email id: sunil@wghr.org
Phone: +91 9810940982

The Working Group on Human Rights in India and the UN – a national coalition of fourteen human rights organisations and independent experts – works towards the realisation of all civil, cultural, economic, political and social human rights in India and towards holding the Indian government accountable to its national and international human rights obligations. For information on WGHR, please visit: www.wghr.org.

Convenor | Henri Tiphagne

Secretariat | G-18/1, Lower Ground Floor, Nizamuddin West, New Delhi 110013 | Tel./ Fax: +91 (0) 11 4101-8194 | Email: contact@wghr.org | www.wghr.org

Members | Citizens for Justice and Peace | Commonwealth Human Rights Initiative | FIAN India | HAQ: Centre for Child Rights | Housing and Land Rights Network | Human Rights Alert | India Alliance for Child Rights | Lawyers Collective | Multiple Action Research Group | National Campaign on Dalit Human Rights | Partners for Law in Development | People's Watch

Advisors | Mr. Miloon Kothari, Former Special Rapporteur on The Right to Adequate Housing and Former Convenor of WGHR | Mr. Anand Grover, Former Special Rapporteur on The Right to Health | Ms. Indira Jaising, Former Member, CEDAW Committee