



Section 66A of the IT Act, 2000

For Prelims: Section 66A of the IT Act, 2000, Article 19(1)(a)

For Mains: Freedom of Speech and Expression, Issues Arising Out of Design & Implementation of Policies, Government Policies & Interventions

Why in News?

Recently, the [Supreme Court](#) ordered States and their police forces to **stop prosecuting free speech on social media** under **Section 66A of the Information Technology Act, 2000**.

- However, the court clarified that this direction would apply only to a charge under Section 66A and not extend to other offences in a case.

What is Section 66A of the IT Act?

▪ About:

- Section 66A of the Information Technology Act, of 2000 made it a **punishable offence for any person to send offensive information** using a computer or any other electronic device.
- The provision also made it **punishable for a person to send information that they believed to be false**.
 - Section 66A had prescribed **three years' imprisonment** if a social media message caused "**annoyance**" or was found "**grossly offensive**".
- Even sending emails for causing annoyance, inconvenience, or to deceive or mislead the recipient about the origin of the message was punishable under this section.
- The court struck down the provision as **unconstitutional and a violation of free speech in 2015 in the Shreya Singhal Case**.
 - The section relating to restrictions on online speech was **declared unconstitutional on grounds of violating the freedom of speech** guaranteed under Article 19(1)(a) of the Constitution of India.
 - It held that **online intermediaries would only be obligated to take down content** on receiving an order from a court or government authority.

▪ Issues with Section 66A:

- **Based on Undefined Actions:**
 - The weakness of Section 66A lay in the fact that **it had created an offence on the basis of undefined actions:** such as causing "inconvenience, danger, obstruction and insult", which do not fall among the exceptions granted under Article 19 of the Constitution, which guarantees the freedom of speech.
- **No Procedural Safeguards:**
 - Section 66A did not have **procedural safeguards like other sections of the law** with similar aims, such as the need to obtain the concurrence of the Centre before action can be taken.
 - Local authorities could proceed autonomously, literally on the whim of their

political masters.

- **Against the Fundamental Rights:**

- Section 66A was **contrary to both Articles 19 (free speech) and 21 (right to life) of the Constitution.**
- Right to know is the **species of the right to speech and expression** provided by the Article 19(1) (a) of the constitution of India.

Way Forward

- There is a pressing need to move from a system where communication about judicial decisions is at the mercy of initiatives by scrupulous officers, to a method not contingent on human error to the greatest possible extent. The urgency cannot be overstated.
 - Enforcing unconstitutional laws is sheer wastage of public money.
- But more importantly, until this basic flaw is addressed, **certain persons will remain exposed to denial of their right to life and personal liberty** in the worst possible way imaginable.
 - They will suffer the indignity of lawless arrest and detention, for no reason other than their poverty and ignorance, and inability to demand their rights.

[Source: TH](#)

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