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## CASE COMMENTARY ON INFORMATION TECHNOLOGY LAW

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### Decoding the contours of Shreya Singhal v. Union of India

<b>Case Name:</b>	Shreya Singhal v. Union of India
<b>Court</b>	In the Supreme Court of Delhi, Criminal/Civil Original Jurisdiction
<b>Petitioner:</b>	Shreya Singhal
<b>Respondent:</b>	Union of India
<b>Date of Judgement:</b>	Decided on March 24th, 2015
<b>Bench:</b>	Justice Chelameswar and Justice R.F. Nariman
<b>Equivalent Citations:</b>	AIR 2015 SC 1523

### I. BACKGROUND

Article 19 of the Universal Declaration of Human Rights (UDHR) guarantees the right to free expression and expression. It reaffirms that everyone has the fundamental right to unhindered expression of their thoughts and beliefs. Aside from that, the right to free expression is safeguarded under Article 19 of the International Covenant on Civil and Political Rights (ICCPR). It clearly specifies that "everybody shall have the liberty to free expression, and that this right shall include the freedom to seek, receive, and impart knowledge and thoughts of all types, regardless of boundaries, in person, in writing or print, in the shape of art, or by any other media of his choice<sup>61</sup>."

The Human Rights Council of the United Nations unanimously declared on July 5, 2012, that everyone's right to free speech and expression online must be protected. It was the first time

the UN recognised that the human rights of citizens in the virtual world should be safeguarded in the same way that they are in the physical world.

Behind the Supreme Court's repudiation of Section 66A of the IT Act<sup>62</sup> and affirmation of liberal free speech norms lies the persistence of colonial systems of speech restriction, which allow a democratically elected government to fend off challenges to its authority. The Indian Constitution's guarantee of fundamental rights is violated by Section 66A. According to the Supreme Court's judgement in the Shreya Singhal case, "it is clear that section 66A erroneously disproportionately, and unjustly invades the right of free speech and disturbs the balance between such right and the reasonable restrictions that may be placed on such right."

The cases under section 66A that are presently being investigated or prosecuted must be invalidated in light of the aforementioned Supreme Court ruling, and no new cases should

<sup>61</sup> <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

<sup>62</sup> <https://prsindia.org/theprsblog/a-background-to-section-66a-of-the-it-act-200>

be filed under section 66A. Additionally, the Information Technology Act of 2000's Section 66A must be struck from the official record.

The Information Technology Act, 2000 (the "IT Act"), Section 66A (punishment for sending offensive messages through communication services, etc.), and the Supreme Court's ruling in *Shreya Singhal versus Union of India*<sup>63</sup> on March 24, 2015, were the first to declare the section unconstitutional for violating Article 19(1)(a) of the Constitution's guarantee of the freedom of speech. This clause punished internet communication that was "grossly offensive," "annoying," "inconvenient," or "insulting," and several arrests were made as a result of it targeting political dissent.

As a result, the court's decision in the *Shreya Singhal* case has been praised for making important strides in India's free speech jurisprudence and for extending the right to free speech online. There are sufficient causes for the jubilation and extolment that followed the judgement. While invalidating Section 66A, the court established significant speech-protection grounds. It distinguished between speech that is merely discussion or advocacy and communication that incites violence, and it demanded on closeness between the speech and the threatening conduct in order for limits to be imposed. Furthermore, it places the burden on the State to demonstrate that a statement incited impending unlawful behaviour. However, according to legal databases and media sources, section 66A is still employed by law enforcement authorities such as the police, trial courts, and even the Supreme Court. Several cases filed under Section 66A prior to the *Shreya Singhal* judgement in 2015 are still being investigated and tried in courts, and new cases have been filed since the judgement, despite the fact that the provision has been declared unconstitutional by the highest court in the land.

## II. FACTS OF THE CASE

In 2012, the Mumbai Police arrested two girls, Shaheen Dhada and Rinu Srinivasan<sup>64</sup>, for making a disparaging Facebook post in response to the bandh enforced in the aftermath of Shiv Sena founder Bal Thackeray's death. The police ultimately released the girls, but their arrest was highly condemned across the country. Many activists have expressed concern that the police have abused their authority by invoking Section 66A of the Information Technology Act, 2000 (hereinafter referred to as the 'IT Act,' which prescribes the punishment for sending obnoxious texts or messages via communication services and has curtailed the fundamental right to free expression guaranteed by Article 19(1)(a) of the Indian Constitution. The offence specified in Section 66A of the IT Act is a cognizable offence, which permits police officers to apprehend and investigate a case without a warrant. As a result, police throughout the country made several bizarre arrests of people for sharing any viewpoint or position that the government deemed 'obnoxious content,' although it was largely defying political beliefs.

Following that, in 2013, the Union Government proposed a restriction on arrests made under Section 66A of the IT Act. According to the Central Government's recommendation, no individual shall be apprehended by the police without the previous authorisation of the senior official, who is not lower than the level of Inspector General of Police. People around the country began to file multiple petitions to overturn the unconstitutional elements of the IT Act. The petitions were consolidated by the Supreme Court of India into a single PIL that took the name **Shreya Singhal v. Union of India**.

## III. ISSUES IDENTIFIED

- A. Are Sections 66-A, 69-A and 79 of the IT Act constitutionally valid?

<sup>63</sup> <https://indiankanoon.org/doc/110813550/>

<sup>64</sup> <https://www.meity.gov.in/writereaddata/files/Honorable-Supreme-Court-order-dated-24th-March%202015.pdf>

- B. Does Section 66A of the IT Act violate the fundamental right to freedom of speech and expression?
- C. Whether Section 118(d) of the Kerala Police Act is constitutionally valid?

#### IV. CONTENTIONS ON BEHALF OF THE PETITIONERS

- A. Section 66A of the Information Technology Act, 2000 waives the right to free speech and expression guaranteed by Article 19(1)(a) of the Indian Constitution and is not subject to the reasonable categorization guaranteed by Article 19(2).
- B. Section 66A is vague by nature, and thus introduces a flaw by failing to clearly explain the section's wording and leaving opportunity for interpretation on the side of law enforcement organisations. As a result, the constraint is absent from the section.
- C. There is no discernible difference between taxing only netizens and charging all netizens under Section 66A of the IT Act. As a result, the entire clause is arbitrary, ambiguous, and discriminatory.
- D. In addition, the petitioners argued that the provision provided the government arbitrary power to interpret it.

#### V. CONTENTIONS ON BEHALF OF THE RESPONDENT

- A. The respondent argued that the judiciary should only become involved when a legislation is incompatible with Part III of the Indian Constitution since it is the legislature's responsibility to satisfy the requirements of the populace. Additionally, the respondent said that there is a presumption that the in question statute is intra-vires to it.
- B. The Court of Law has the authority to interpret the law in a way that justifies its

enforcement while also taking into account the nuances of its provisions.

- C. Executive abuse of legislation cannot be the primary reason for declaring the statute ultra-vires to the Indian Constitution.
- D. Broad terms are employed in the law to protect people's rights from those who violate them through the use of this medium.
- E. Legal uncertainty is not a reason to declare legislation ultra-vires to the Indian Constitution, especially when it is deemed qualified and just in other aspects.

#### VI. ROLE OF JUDICIARY

The freedom of thought, expression, religion, faith, and worship is mentioned in the Preamble of the Indian Constitution among other things. It also states that India is a republic with democratic autonomy. It cannot be overstated that freedom of thought and expression is a cardinal virtue that is of utmost importance under our constitutional system when it comes to democracy.

1. **In Maneka Gandhi v. Union of India AIR 1978 SC 597; (1978) 1 SCC 248<sup>65</sup>**: The freedom of speech and expression is guaranteed by the Preamble of the Indian Constitution and is thought to be of utmost importance in a democratic country. The fundamental right of free speech and expression is also enshrined under Article 19 of the Indian Constitution, which grants freedom of expression to every citizen of this nation. In this case, the Apex Court of India held that there are no territorial restrictions on the freedom to express & hold opinions.
2. **In Romesh Thappar v. State of Madras 1950 AIR 124, 1950 SCR 594<sup>66</sup>**: The Supreme Court of India expanded the ambit of Article 19 and correctly declared

<sup>65</sup> <https://indiankanoon.org/doc/1766147/>

<sup>66</sup> <https://indiankanoon.org/doc/456839/>



that the basic right to free expression includes freedom of the media to express thoughts and opinions. Indeed, of all the liberties guaranteed by the Indian Constitution, the freedom of the media to express itself is seen as the most important because it is required for the smooth functioning of democratic institutions.

3. **In Bennett Coleman vs. Union of India 1973 AIR 106, 1973 SCR (2) 757<sup>67</sup>**: In this case, it was still believed that the scope of Article 19 contained ambiguities that had not been resolved. The ever-increasing spread of misleading and malicious one-sided information by members of society was a notable example. As a result, the Supreme Court of India took notice of the increasing problem and resolved it.
4. **In Union of India v. Association for Democratic Reforms and Anr (2002) 5 SCC 294.<sup>68</sup>**: It was determined in this instance that biased transmission of information, red herrings, and non-information results in a misled nation, which is a threat to democracy.
5. **In S. Khushboo vs. Kanniamal and Anr (2010) 5 SCC 600<sup>69</sup>**, the fate of Article 19 was decided when the Supreme Court of India stated that the freedom of speech and expression is conditional, yet it is highly important in nature since we are needed to bear unpleasant societal views and thoughts. As a result, it may be concluded that the fundamental right to free speech and expression denotes the free flow of ideas and is regarded as an essential right for the survival of a collective existence. In other words, the tradition of social speech, in general, is of immense communal importance.

Because it refers to the "marketplace of ideas" concepts that has pervaded American law, the

most recent judgement is noteworthy. Men may grow to believe even more than they do the fundamental tenets of their own conduct, however, once they learn that time has disrupted many contending beliefs that the ultimate good desired is better reached by free trade in ideas—that the best test of truth is the power of thought to get itself accepted in the competition of the market," wrote **Justice Holmes** in his famous dissent in **Abrams v. United States, 250 US 616 (1919)**<sup>70</sup>. That is, at least, the theory of our Constitution."

As **Justice Brandeis** correctly stated in the case of **Whitney v. California**, "Liberty should be treated as both a means and an end in itself, and there should be a reasonable explanation for fearing that such free speech will result in serious evil." The Apex Court of the United States carefully considered in its judicial recourse whether the judicial pronouncements of U.S. Courts are taken into consideration when interpreting the reach of Article 19 of the U.S. Constitution, taking into mind Justice Brandeis' point of view. The Supreme Court established three crucial distinctions going forward:

1. First and foremost, the First Amendment to the United States Constitution is absolute, and Congress has no jurisdiction to enact legislation that restricts the basic right to free speech and expression guaranteed by Article 19 of the United States Constitution.
2. Second, the first amendment of the United States offers an essential liberty to speech for media houses and makes no mention of 'expression,' however Article 19(1) (a) of the Indian Constitution does not specifically contain freedom of expression for media companies.
3. Finally, in US law, freedom of speech can be restricted if it is judged to be indecent, slanderous, or vulgar, whereas under Indian law, such a right can only be restricted if it does not meet the eight criteria outlined in Article 19(2) of the Indian Constitution.

<sup>67</sup> <https://indiankanoon.org/doc/125596/>

<sup>68</sup> <https://indiankanoon.org/doc/57050385/>

<sup>69</sup> <https://indiankanoon.org/doc/1327342/>

<sup>70</sup> <https://www.meity.gov.in/writereaddata/files/Honorable-Supreme-Court-order-dated-24th-March%202015.pdf>

As a result, the only difference between the United States and India's freedom of speech and expression is that in the United States, there is an undeniable prerequisite to attain an essential sovereign policy or it should pass the muster test, whereas in India, freedom of speech and expression will be restricted only if it does not satisfy the eight conditions outlined in Article 19(2) of the Indian Constitution.

**⌘ Laws involved:-**

Section 66-A, 69-A and 79 of the Information Technology Act ;Article 14,19(1)(a),21 of Indian Constitution.

**⌘ Rule of Law:-**

Sections 66A, 69A, and 79 of the IT Act are ultra-vires to the Indian Constitution since they are broad and unclear. The purpose of these laws is to encourage irresponsible exploitation, which is prohibited under Articles 14, 19(1)(a), and 21 of the Indian Constitution. There are several terms that are not defined in any legislation, such as menacing, obnoxious, irritation, discomfort, obstruction, danger, and insult. As a result, it is more vulnerable to undesired mistreatment.

Aside from that, the distinction drawn between citizens and netizens of the nation was deemed arbitrary and in violation of the principle of free expression enshrined in Article 19(1)(a) of the Indian Constitution.

It was claimed that the distinction allows police officials the right to detain netizens for statements that may also be made by ordinary people of the country. As a result, such categorization breaches the basic right to equality enshrined in Article 14 of the Indian Constitution.

**VII. JUDGEMENT ANALYSIS**

On March 24<sup>th</sup>,2015, a two-judge bench comprised of Justice Chelameswar and Justice R.F.Nariman issued a decision.

**A. DECISION:**

The Information Technology Act of 2000's full Section 66A was declared illegal by the Supreme Court of India. The petitioners argued that Article 19(2) of the Indian Constitution's restrictions went beyond the protection it was intended to offer against annoyance, discomfort, danger, obstruction, insult, injury, and criminal intimidation. They also argued that Section 66A was unconstitutionally unclear. The Court decided that the limitation on disseminating material using a computer resource or a communication device with the intent to annoy, inconvenience, or insult did not come under any reasonable exceptions to exercising the right to free expression. It also determined that because the rule did not define phrases like discomfort or irritation, "a very large amount of protected and innocent speech" may be reduced, and so its scope was excessively wide and unclear.

**B. DIRECTIONS:**

The court considered both sides' arguments and cited the following:

- The Court first discussed the three most significant fundamental elements in comprehending free expression, namely discussion, advocacy, and incitement. The Honourable Supreme Court stated that "mere discussion or even advocacy of a particular cause, however unpopular, is at the heart" of Article 19(1)(a). The Court went on to say that Article 19(2) only applies where such debate or advocacy reaches the threshold of incitement.
- A two-judge bench of J. Chelameswar and R.F. Nariman overturned Section 66A of the Information Technology Act, 2000 in its entirety, ruling that it violates Article 19 (1) (a) and is not saved by Article 19(2).
- The Court upheld the constitutionality of Section 69A of the Information

Technology Act of 2000<sup>71</sup> and the Information Technology (Procedure and Safeguards for Blocking Public Access to Information) Rules of 2009.

- In addition, the Supreme Court declared Section 79 to be constitutionally valid, subject to Section 79(3)(b) being read down to mean that an intermediary fails to remove or disable access to such material after receiving actual knowledge from a court order or being notified by the appropriate government or its agency that unlawful acts related to Article 19(2) are about to be committed.
- Similarly, according to Rule 3 sub-rule (4), the Information Technology "Intermediary Guidelines" Rules, 2011 were found to be legitimate.
- The court also invalidated Section 118(d) of the Kerala Police Act on the basis that it contravenes Article 19(1)(a) of the Constitution of India and does not adhere to the reasonable limitations outlined in Article 19(2). Furthermore, it has been determined that this Act will fall under Entry 1 List III, which deals with criminal legislation, and will therefore in any event fall under the purview of the State Legislature.

#### C. ANALYSIS:

The judgement rendered by **Justices J. Chelameswar and R.F. Nariman** in the matter of **Shreya Singhal v. Union of India**<sup>72</sup> is a significant one in the history of Indian law, particularly after independence, and especially now as the voice of ordinary citizens is being sought to be silenced. We can categorically state that the Honourable Supreme Court of India made an outstanding action in this matter by striking down section 66A of the Information Technology Act, 2000, which

is effectively a censorship law. Section 66A was deemed to be illegal in this landmark case, and this landmark ruling upheld the breadth of one's right to freedom of expression as protected by Article 19 (1) (a) of the Indian Constitution. In this decision, the Supreme Court considered not only the constitutional legality of certain provisions, but also some other illuminating factors such as the relevance of the necessity of incitement rather than merely advocacy or discussion. This case is a fantastic illustration of how the judiciary's recognition of gaps in the law may lead to better and non-arbitrary legislation, as well as a larger scope of enjoyment of one's rights.

By closely scrutinising the arbitrary provisions of the legislation, the Honourable Court enabled greater enjoyment of the Right to Freedom of speech and Expression. To be honest, this is an instructive decision that explains different principles and connects them to freedom of speech and expression. The Doctrine of Reasonable Restriction and the Doctrine of Vagueness are primarily employed in this case to determine whether the restrictions are constitutionally legitimate or not. This instance is a superb and clear example of the Doctrine of Severability. In this case, the respondent's Learned Additional Solicitor General argued that "in the event that the Hon'ble Court is not satisfied about the constitutional validity of either any expression or a part of the provision, the Doctrine of Severability as enshrined in Article 13 may be invoked." However, the learned solicitor failed to mention which part of section 66A can be saved further, as it has been clearly held in the case of

<sup>71</sup> <https://www.indiacode.nic.in/show-data>

<sup>72</sup> AIR 2015 SC 1523



**Romesh Thappar v. State of Madras**<sup>73</sup> that "It is not a basis for holding that even if a clause is severable, it must be invalidated because the principle of severability is inadmissible when the invalidity of a statute arises due to its contravening constitutional prohibitions." As a result, the Supreme Court ruled in **Shreya Singhal vs. UOI** that the provision must be found unconstitutional in its whole since "no part of Section 66A is severable." When the Supreme Court rules on a landmark issue affecting free expression, the implications transcend far beyond a single individual decision. It is a landmark and uncommon judgement in which the Supreme Court went so far as to declare a censorship statute approved by Parliament unconstitutional. The Court overturned the illegal clause that sought to silence the common people's voice.

⌘ When it comes to the three issues which are identified:

- A. It is believed that the terminology utilised in Section 66A of the IT Act is particularly unclear and ad hoc in nature. Due of its ambiguity, it is difficult to clearly lay forth an accusation against an accused under this clause. The executive authority is also unable to understand the rationale behind dividing a specific speech or expression covered by this provision. Because of this, it is frequently argued that the rule is constitutionally vague in its totality because what might be offensive to one person may not be to another. The Indian legal system declares void any statute that is unclear in how it should be applied. In the case of **Kartar Singh v. State of Punjab**<sup>74</sup>, this was confirmed. In this instance, the court of law ruled that an enactment must be

declared null and invalid because it contains unclear language in its prohibitory application. As a result, the basic idea in our legal system says that a rule that controls persons in society should offer a reasonable and rational notice of whether their behaviour is unlawful or lawful. In the case of **Connally v. General Construction Co.**,<sup>75</sup> the court of law held that an enactment that either authorises or forbids a specific act or omission in a language that is so ambiguous in its nature that an ordinary intellect must essentially presume its interpretation and becomes perplexed by its application violates the fundamental of due process of law. As a consequence, the Supreme Court of India recognised the petitioner's arguments in the current case, resolving the ambiguity of section 66A. According to Section 69A of the IT Act, a website can only be disabled if a number of procedural norms and regulations have been followed, including listening to the source and intermediary. Following then, the website can be shut down by the Designated Officer in accordance with the 2009 Rules or when the Hon'ble Court of Law grants the Designated Officer permission to do so. However, nowhere in Section 69A read with the 2009 Rules is it stated that the intermediary has an obligation to block specific content from the digital arena. The only reason for this is if the intermediate fails to ban explicit content promptly following a court order. This is the only ground mentioned in Section 79(3)(b) of the IT Act; otherwise, it will be extremely difficult for intermediaries such as Instagram, Yahoo, and when millions of requests are pending, and the intermediate is then expected to authenticate which calls for are rational and which are not. It should be

<sup>73</sup> 1950 AIR 124, 1950 SCR 594

<sup>74</sup> 1994 SCC (3) 569, JT 1994 (2) 423

<sup>75</sup> 269 U.S. 385 (1926)

emphasised that the court of law's instruction or order must be in accordance with the subject matter outlined in Article 19(2) of the Indian Constitution. In light of this, the Apex Court of India declared in the current case that Section 79 does not apply to illegal acts or omissions that are prohibited by Article 19(2), rejecting the petitioner's request to have Section 79 of the IT Act struck down.

- B. To understand the freedom of free speech and expression in the context of information, there are three essential elements. The first is talking about the issue; the second is arguing for its veracity; and the third is inciting people to behave in a certain way. The discussion and support of any particular fact or opinion might reveal the essence of Article 19(1)(a) of the Indian Constitution. Only when such statements offend a particular group of people does Article 19(2) of the Indian Constitution come into play. Any regulation that limits the right to free speech and expression can polarise the populace and jeopardise the sovereignty and integrity of the nation. However, there are times when it is important to limit free speech and expression in order to maintain public peace in society. However, such a restriction on the basic right to free expression must be reasonable and intra-vires. As a result, article 19(2) of the Indian Constitution has been incorporated to provide eight necessary elements for the justifiable categorization of any limitation placed on the 'right to expression' that is not met by section 66A of the IT Act. In some circumstances, a court of law is dissatisfied with the constitutionality of a law. The idea of severability<sup>76</sup> comes into play in such instances. The respondent's contention is vague and illogical

because it does not specify whether percentage or proportion of Section 66A can be saved. Section 66A of the Information Technology Act, 2000 is written in a language that the authorities are likely to misinterpret, and it contains an arbitrary restriction on 'freedom of speech and expression' that is incompatible with Article 19(2) of the Indian Constitution. According to Article 13(1) of the Indian Constitution, any existing law that is inconsistent with Part III of the Constitution is only null and void to the extent of the disagreement. The subject of the constitutional legality of Section 9(1A) of the Madras Maintenance of Public Order Act, 1949 came before the court of law in the historical case of **Romesh Thappar v. State of Madras**. The law authorised the regional administration to prohibit the entry and distribution of a newspaper in order to maintain public order and safety in that region. Following the implementation of the Indian Constitution, the question of whether the clause is protected under Article 19(2) of the Indian Constitution arose. After hearing the arguments from both parties, the Hon'ble Supreme Court declared that the rationale for the creation of Section 9(1-A) is more extensive than that of Article 19(2) and that it is therefore impossible to remove the section from under its protection. As a result, in such circumstances, the contested legislation will be completely invalidated. Because of its logical rationale regarding the range of freedom of speech and expression in our nation, this judgement of the Apex Court has served as a significant legal precedent in the Shreya Singhal case.

- C. Along with Section 66A of the IT Act, Kerala Police Act Section 118(d) was also contested before the Apex Court. According to this clause, it is illegal to

<sup>76</sup> <https://lexforti.com/legal-news/doctrine-of-severability/>

enrage someone by sending them words or messages by any form of communication. The petitioner claimed that Section 66A of the IT Act and Section 118(d) of the Kerala Police Act include identical provisions. As a result, it was argued that it was outside the scope of reasonable classifications specified in Article 19(2) of the Indian Constitution and so violated Article 19(1)(a). As a result, the Supreme Court considered its validity and ruled that it is unconstitutional in the same way as Section 66A of the IT Act is.

### ⌘ Latest Developments

The Honourable Supreme Court of India's landmark ruling clearly strengthened freedom of expression by narrowly interpreting the legitimate grounds for restricting the right. This important ruling unequivocally upheld the right to free speech and expression. However, there was a hiccup in the implementation of the supreme court ruling issued in this important case. Because it has been 8 years since Section 66A was enacted. However, police continue to arrest people under this law in numerous states.

In this modern era, where communication is simple and quick, police personnel appear to be unaware that Section 66A has been struck down by a Supreme Court judgement. For example, two years after this judgement, in March 2017, an 18-year-old from Muzaffarnagar, Uttar Pradesh<sup>77</sup>, was imprisoned under Section 66A of the Information Technology Act, 2000 for making a comment on **Uttar Pradesh Chief Minister Yogi Adityanath and served 42 days in UP Jail.** Prof. Ambikesh Mahapatra, a Jadavpur University Chemistry professor, was arrested in 2012 under Section 66 A of the IT Act. Despite the repeal of Section 66 A of the IT Act, the trial in his case is still ongoing. Two more people were detained in October 2018 and May 2019 and charged under Section 66A of the IT Act. The two main causes of this lack of legal

knowledge are that the authorities, including magistrates and judges of lower courts, are ignorant of current changes in the law as well as recent rulings by the Supreme Court and High Courts. Most importantly, political influence on authority can lead to actions that violate the law.

As a result, in January 2019, the People's Union for Civil Liberties, one of the true petitioners in the Shreya Singhal Case, addressed the Supreme Court, citing the research, and asking for directives to ensure the Court's original ruling was implemented. The counsel for PUCL contended in court that there were 229 ongoing cases under Section 66A previous to its repeal. Since then, 1,307 new cases have been filed, with 570 of them currently outstanding. In a counter-affidavit, the Union of India detailed the actions it has done to raise awareness of Section 66A.

This includes a letter the government addressed to several state governments on January 11, 2019, followed by a reminder on January 14, 2019, urging them to provide information on Section 66A cases and to close them. However, only a few states responded. In response to a petition exposing the continued use of Section 66A of the Information Technology Act despite the court's 2015 ruling that it was illegal, the Supreme Court sent notices to all states, Union territories, and registrars general of High Courts in August 2021. The court stated, "This cannot continue on." The Centre also stated that the Ministries of Electronics and Information Technology (MeITY) and Home Ministry had written to chief secretaries of states, administrators of Union Territories, and DGPs of states and UTs, requesting that they sensitise LEAs and instruct police not to register cases under the quashed provision.

Furthermore, the Supreme Court supported the constitutionality of Section 69A of the material Technology Act in this case. 69A (Power to give instructions for preventing public access to any material via any computer resource). Therefore, in accordance with Section 69A of the

<sup>77</sup> <https://scroll.in/article/904317/interview-why-police-still-make-arrests-under-it-act-section-66a-years-after-it-was-struck-down>

Information Technology Act, the Ministry of Electronics and Information Technology (MeITY) ordered the shutdown of specific Twitter accounts and posts in February 2021. Jio consumers were unable to access specific websites such as Indian Kanoon, Reddit, and Telegram until MeITY took this action in February 2019 because all of them were restricted based on government orders under Section 69A. Most significantly, under this clause 59 Chinese apps were blacklisted in 2020, including Cam Scanner and TikTok. However, in my opinion and based on previous events, there is a potential that Section 69A will be abused because it has been and may be used as a tool to stifle the voice of citizens!

### VIII. CONCLUSION

**Shreya Singhal vs. Union Of India** is a milestone and significant judgement in the history of the Indian legal system regarding freedom of speech and expression for a variety of reasons. In this decision, the Supreme Court effectively protected people's rights while also protecting society's interests. Honourable **Judges J. Chelameswar and R.F. Nariman's** decision not only affirmed the fundamental right of citizens to freedom of speech and expression, but also significantly broadened the limitations of that right.

The court stated that the articulation in 66A are not protected by Article 19(2) of the Indian Constitution due to their entire open-endedness and lack of explanation. Section 66A was invalidated by the court because it had no proximate tie or nexus to disturbing the peace or encouraging someone to commit a crime. The court ruled that the legislation cannot in any way limit the fundamental right to free speech and expression by using Article 19(2) of the Constitution as protection. Using the severability test, the court also struck the confusing and arbitrary clauses. It is not required to declare every legislation null and void.

In certain regards, we might say that this decision marks a watershed moment for Article

19(1)(a), because everyone has the freedom to express their political beliefs without fear of arbitrary and unjustifiable restrictions. Despite the fact that Section 66A of the IT Act, 2000 was set down by a Supreme Court Order dated March 24, 2015, multiple charges were filed against innocent people under Section 66A. The order of the Supreme Court was unknown to police officers and even subordinate court judges. As a result, the state must take effective acts rather than simply issuing circulars to higher-level authorities. Only then can this historic decision be useful and successful. Even if a thousand criminals escape, one innocent person should not be punished! Overall, this is one of the most enlightening cases. And the historic decision is much appreciated, and most importantly, it maintains and improves the public's faith in the judiciary!

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- [https://www.researchgate.net/publication/308725478\\_Section\\_66A\\_of\\_Information\\_Technology\\_Act\\_vis-a-vis\\_Freedom\\_of\\_Speech\\_and\\_Expression\\_An\\_Analysis\\_in\\_the\\_Light\\_of\\_Shreya\\_Singhal\\_v\\_Union\\_of\\_India](https://www.researchgate.net/publication/308725478_Section_66A_of_Information_Technology_Act_vis-a-vis_Freedom_of_Speech_and_Expression_An_Analysis_in_the_Light_of_Shreya_Singhal_v_Union_of_India)
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