

RAJEEV CHANDRASEKHAR MEMBER OF PARLIAMENT RAJYA SABHA

Member of Standing Committee on Defence
Member of Consultative Committee on Defence
Member of Central Advisory Committee for the National Cadet Corps
Co-Chairman, Vigilance & Monitoring Committee, Bangalore Urban District
Vice Chairman, National Military Memorial Management Trust, Bangalore

8th September 2016

Respected Prime Minister,

I write to you to draw your attention to the worrying point that thousands of arrests continue to be made under the draconian Section 66A of the IT Act by police in various states and ironically also some courts. This despite the fact that Section 66A was struck down by the Supreme Court in March 2015. As one of the petitioners who impleaded the court in the matter, I am obviously deeply disturbed at this

Data reported by the National Crime Records Bureau (annexed with this letter for your perusal) suggest that over 4154 cases have been registered under the infamous Section 66A of the IT Act, which the Supreme Court had rightly deemed as "arbitrarily, excessively, and disproportionately invading the right to free speech" and "upsetting the balance between such right and reasonable restrictions that may be imposed on such right". Further, in 2015, 1510 charge sheets were issued against 2105 persons. I was also troubled to note that as of January 1st this year, as many as 575 individuals continue to languish in jails, after being convicted under a section that was struck down by the Highest Court of the Land. These arrests, you will appreciate, are illegal and void.

What especially concerns me as a representative of the people who has been persistently advocating for the Freedom of Speech over the internet, is that the police forces across



the country have not taken cognizance of this important legal development, and instead appear to be on an overdrive to file charge sheets against people under section 66A – as evidenced by the fact that the 1,500 charge sheets filed in 2015, being nearly double the figure for 2014.

I have been amongst the most vocal proponents of your vision for Digital India, but must bring to your attention the fact that these illegal arrests are sending a completely contrary message to India's citizens. If we are indeed serious about transforming India into a "Digitally Empowered Society and Knowledge Economy", then our institutions and policies must back this intent by aligning to this goal. The current data, however, points to a disconnect between the verdict of the Apex Court, the police and the lower courts, and may give citizens the impression that this Government too, like the UPA, is keen on playing Big Brother.

In the light of the above, I would urge to you to direct the Home Ministry and Law Ministry to immediately call for a cancellation of all matters pertaining to Section 66A, and ensure that the police forces and courts in all states/UTs are informed about the March 2015 Verdict of the Supreme Court, and thus prevent arrests and prosecutions under this section.

The fight for repealing Section 66a, which saw its genesis during the UPA's flawed drafting of the IT Rules in 2011, has been a long and arduous battle. After multiple interventions in Parliament and letters to the then Government failed, I had joined the petition in the Supreme Court 2013. I am certain, that the community of Digital Indians join me in expressing my anguish against this current situation – which indicates that



despite our unrelenting efforts, the draconian and unconstitutional Section 66A continues to impede citizen's right to Freedom of Expression.

I am confident that you will address this issue at the earliest and thank you in anticipation.

Yours sincerely,

RAJEEV CHANDRASEKHAR

Shri Narendra Modi Hon'ble Prime Minster Government of India New Delhi

Annexure:

Excerpts from "Crime in India 2015" published by National Crime Records Bureau:

- a) Table 18.2 on Disposal of Cyber Crimes (IT Act, IPC & SLL) by Police during 2015
- b) Table 18.4 on Persons Arrested Under Cyber Crimes (IT Act, IPC Crimes, SLL Crimes) by Age Group and Sex during 2015

TABLE 18.2
Disposal of Cyber Crimes Cases (IT Act, IPC & SLL) by Police During 2015

S. Reported Investigation Reported by the Govt. to other Investigated for Police II/S 157(1)(h) Investigation	т	T							
The Habba The Tempering Computer Source Documents	Cases Ended as Final Report False	for Investigation	Investigated U/S 157(1)(b)	Transferred to other Police Station/	Withdrawn by the Govt. During	Reported During the	Pending Investigation from Previous	Crime Head	
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7 IPC - Counterfeiting 8 12 0 0 0 20 7.1 IPC - Currency 8 12 0 0 0 20 7.2 IPC - Stamps 0 0 0 0 0 0 0 0 8 IPC - Others 636 980 1 0 0 0 1615 Total Offences under IPC 1681 3422 2 7 0 5094 1.1 Under Section 63 49 55 0 0 0 104 1.2 Under Section 68A 0 18 0 0 0 56	0	26	0	0	0	18	8	1 IPC - Credit / Debit Card	6.1
7.1 IPC - Currency 8 12 0 0 0 20 7.2 IPC - Stamps 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 1615 0 0 1615	0	48	0	0	0	24	24	2 IPC - Others	6.2
7.2 IPC - Stamps 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 1615 0 0 1615 1615 1615 0 0 0 1615 1615 0 0 0 0 1615 1615 0 0 0 0 1615 178 0 0 0 0 178 1615 1615 1615 0 0 0 0 104 1615	0	20	0	0	0	12	8	C - Counterfeiting	7 IPC
8 IPC - Others 636 980 1 0 0 1615 Total Offences under IPC 1681 3422 2 7 0 5094 1 Copyright Act, 1957 65 113 0 0 0 178 1.1 Under Section 63 49 55 0 0 0 104 1.2 Under Section 68A 0 18 0 0 0 18 1.3 Others 16 40 0 0 0 56	0	20	0	0	0	12	8	1 IPC - Currency	7.1
Total Offences under IPC 1681 3422 2 7 0 5094 1 Copyright Act, 1957 65 113 0 0 0 178 1.1 Under Section 63 49 55 0 0 0 104 1.2 Under Section 68A 0 18 0 0 0 18 1.3 Others 16 40 0 0 0 56	0	0	0	0	0	0	0	2 IPC - Stamps	7.2
1 Copyright Act, 1957 65 113 0 0 0 178 1.1 Under Section 63 49 55 0 0 0 104 1.2 Under Section 68A 0 18 0 0 0 18 1.3 Others 16 40 0 0 0 56	44	1615	0	0	1	980	636	C - Others	8 IPC
1.1 Under Section 63 49 55 0 0 0 104 1.2 Under Section 68A 0 18 0 0 0 18 1.3 Others 16 40 0 0 0 56	59	5094	0	7	2	3422	1681	Total Offences under IPC	Te
1.2 Under Section 68A 0 18 0 0 0 18 1.3 Others 16 40 0 0 0 56	1	178	0	0	0	113	65	opyright Act, 1957	1 Cop
1.3 Others 16 40 0 0 0 56	1	104	0	0	0	55	49	1 Under Section 63	1.1
	0	18	0	0	0	18	0	2 Under Section 68A	1.2
2 Trade Marks Act, 1999 0 0 0 0 0 0	0	56	0	0	0	40	16	3 Others	1.3
	0	0	0	0	0	0	0	rade Marks Act, 1999	2 Trac
2.1 Under Section 102 0 0 0 0 0 0	0	0	0	0	0	0	0	1 Under Section 102	2.1
2.2 Under Section 103 0 0 0 0 0 0	0	0	0	0	0	0	0	2 Under Section 103	2.2
2.3 Under Section 104 0 0 0 0 0 0	0	0	0	0	0	0	0	3 Under Section 104	2.3
2.4 Others 0 0 0 0 0 0	0	0	0	0	0	0	0	4 Others	2.4
3 Other SLL Offences 18 12 0 0 30	0	30	0	0	0	12	18	ther SLL Offences	3 Oth
Total SLL Offences 83 125 0 0 0 208	1	208	0	0	0	125	83	Total SLL Offences	To
Total Cyber Crimes (IT Act+IPC+SLL) 8032 11592 4 196 1 19423	336	19423	1	196	4	11592	8032	al Cyber Crimes (IT Act+IPC+SLL)	Total

TABLE 18.2 (Concluded)

S. No.	Crime Head	Cases Ended as Mistake of Fact or of Law	Cases in Ended as Final Report as Non Cognizable Submitted During the Year	Cases in Which Charge- sheets were Submitted	Cases in Which Chargesheets were not laid but Final Report as True submitted	Total Cases Disposed of by Police (Col. 9+10+11+12+13)	Cases Pending Investigation at the End of the Year (col. 8 - col. 14)	Charge-Sheeting Rate {Col.12/(Col.12+Col.13)} X 100	Cases Pendency Percentage {Col.15/(Col.3+Col.4)} x 100
(1)	(2)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)
	IE HEAD:	_							
l .	Tampering Computer Source Documents Computer Related Offences	5 193	0 67	36 1841	36 2355	80 4675		50.0 43.9	50.3 57.7
ŀ	Computer Related Offences-Under Section 66A	133	40	1510	1676	3514		47.4	52.8
ŀ	Computer related Offences-Under Section 66B	5	0	38	31	80		55.1	56.4
2.3	Computer related Offences-Under Section 66C	25	14	160	376	611	1186	29.9	64.7
ŀ	Computer related Offences-Under Section 66D	28		100	247	407	1141	28.8	72.8
	Computer related Offences-Under Section 66E	2		33	25	63		56.9	63.6
l .	Cyber terrorism Publication/Transmission of Obscene/Sexually	0	0	1	3	4	11	25.0	73.3
	cit Content	27	3	335	341	728	687	49.6	48.3
ŀ	Under section 67A	27	3	329	335	714		49.5	48.1
	Under section 67B Under Section 67C	0	0	5 1	2	8		71.4 20.0	42.9 71.4
	Intentionally not Complying with the Order of								
Conti	roller Failure to Provide or Monitor or Intercept or	0	0	3	0	3		100.0	40.0
Decry	ypt Information Failure to Block Access any Information Hosted	0	0	0	2	2		0.0	0.0
etc	Not Providing Technical Assistance to Govt. to	0	0	0	0	0	1	-	100.0
Enab	le Online Access Un-authorized Access/Attempt to Access to	0	0	0	1	1	2	0.0	66.7
Prote	ected Computer System	0	0	3	2	5	3	60.0	37.5
Obta	- Misrepresentation/suppression of Fact for ining License etc	0	0	5	1	6		83.3	25.0
12 IT	- Breach of Confidentiality/Privacy - Disclosure of Information in Breach of Lawful	0	0	5	3	12		55.6 25.0	64.7 0.0
	- Publishing /Making Available False Elect.	0	0	0	2	2		0.0	33.3
14 IT	uture Certificate - Create/Publish/Make Available Elec. Signature ficate for Unlawful Purpose	0	0	2	0	2	3	100.0	60.0
15 IT	- Others Fotal Offences under IT Act	48 275	10 80	164 2396	256 3006	509 6033	660 8088	39.0	55.9
	- Offences by Public Servant	0		2396	0	0		44.4	56.5
2 IPC	- Fabrication/Destruction of electronic records vidence	0		2		2		100.0	66.7
	- Cheating	19	26	259	430	748	2373	37.6	75.8
4 IPC	- Forgery	0	0	13	11	24	102	54.2	81.0
l .	- Data theft	1		19	10	31		65.5	76.5
	- Criminal Breach of Trust/Fraud	0		21	7	28		75.0	62.2
ł	IPC - Credit / Debit Card IPC - Others	0		10 11	3	14 14		71.4 78.6	46.2 70.8
	- Counterfeiting	0		10	1	11		90.9	45.0
7.1	IPC - Currency	0	0	10	1	11	9	90.9	45.0
l .	IPC - Stamps	0	0	0	0	0		-	-
ł	- Others	33		386	174	645		68.9	60.0
	Otal Offences under IPC Oyright Act, 1957	53		710 90	633	1489 96		52.9 96.8	70.6 46.1
	Under Section 63	1		54	1	57		98.2	45.2
	Under Section 68A	0		12	0	12		100.0	33.3
1.3	Others	1		24	2	27	29	92.3	51.8
ł	de Marks Act, 1999	0		0	0	0		-	-
	Under Section 102	0		0	0	0		-	-
ŀ	Under Section 103 Under Section 104	0	0	0	0	0		-	-
	Others	0	0	0	0	0		-	-
l .	ner SLL Offences	2		10	4	16		71.4	46.7
Т	Total SLL Offences	4	0	100	7	112	96	93.5	46.2
Total	Cyber Crimes (IT Act+IPC+SLL)	332	114	3206	3646	7634	11789	46.8	60.1

TABLE 18.4
Persons Arrested under Cyber Crimes (IT Act, IPC Crimes, SLL Crimes)by Age Groups & Sex During 2015

S.	Crime Head	Below 18 Years (Juveniles)		18 Years & Above - Years		- Below 30	30 Years & Above – Below 45 Years			
No.		Male	Female	Total	Male	Female	Total	Male	Female	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
CRIN	IE HEAD:									
1 IT -	Tampering Computer Source Documents	0	0	0	28	0	28	34	0	34
2 IT -	Computer Related Offences	70	3	73	2576	91	2667	1257	26	1283
2.1	Computer Related Offences-Under Section 66A	63	1	64	2007	68	2075	897	13	910
2.2	Computer related Offences-Under Section 66B	0	0	0	49	1	50	28	1	29
2.3	Computer related Offences-Under Section 66C	6	2	8	252	17	269	201	11	212
2.4	Computer related Offences-Under Section 66D	0	0	0	207	2	209	98	1	99
2.5	Computer related Offences-Under Section 66E	1	0	1	61	3	64	33	0	33
3 IT -	Cyber terrorism	0	0	0	3	0	3	0	0	0
4 IT -	Publication/Transmission of Obscene/Sexually Explicit Content	10	0	10	346	6	352	165	1	166
4.1	Under section 67A	7	0	7	345	6	351	159	1	160
4.2	Under section 67B	3	0	3	1	0	1	3	0	3
4.3	Under Section 67C	0	0	0	0	0	0	3	0	3
5 IT -	Intentionally not Complying with the Order of Controller	0	0	0	2	0	2	1	0	1
6 IT -	Failure to Provide or Monitor or Intercept or Decrypt Information	0	0	0	0	0	0	0	0	0
7 IT -	Failure to Block Access any Information Hosted etc	0	0	0	0	0	0	0	0	0
8 IT - Acce	Not Providing Technical Assistance to Govt. to Enable Online ss	0	0	0	0	0	0	0	0	0
9 IT - Syste	Un-authorized Access/Attempt to Access to Protected Computer em	0	0	0	3	0	3	1	0	1
10 IT	- Misrepresentation/suppression of Fact for Obtaining License etc	0	0	0	2	0	2	0	0	0
11 IT	- Breach of Confidentiality/Privacy	0	0	0	3	0	3	2	0	2
12 IT	- Disclosure of Information in Breach of Lawful Contract	0	0	0	0	0	0	2	0	2
13 IT	- Publishing /Making Available False Elect. Signature Certificate	0	0	0	0	0	0	0	0	0
	- Create/Publish/Make Available Elec. Signature Certificate for wful Purpose	0	0	0	1	0	1	0	0	0
15 IT	- Others	15	0	15	125	2	127	84	0	84
1	Total Offences under IT Act	95	3	98	3089	99	3188	1546	27	1573
1 IPC	- Offences by Public Servant	0	0	0	0	0	0	0	0	0
2 IPC	- Fabrication/Destruction of electronic records for evidence	0	0	0	0	0	0	2	0	2
3 IPC	- Cheating	12	0	12	312	6	318	358	7	365
4 IPC	- Forgery	1	0	1	37	4	41	28	0	28
5 IPC	- Data theft	1	1	2	84	2	86	47	0	47
6 IPC	- Criminal Breach of Trust/Fraud	2	0	2	808	0	808	376	0	376
6.1	PC - Credit / Debit Card	0	0	0	11	0	11	7	0	7
6.2	PC - Others	2	0	2	797	0	797	369	0	369
7 IPC	- Counterfeiting	0	0	0	9	0	9	4	0	4
7.1	PC - Currency	0	0	0	9	0	9	4	0	4
7.2	PC - Stamps	0	0	0	0	0	0	0	0	0
8 IPC	- Others	35	0	35	315	6	321	208	5	213
1	Total Offences under IPC	51	1	52	1565	18	1583	1023	12	1035
1 Co	pyright Act, 1957	2	0	2	40	0	40	80	2	82
1.1	Jnder Section 63	2	0	2	18	0	18	41	0	41
1.2	Jnder Section 68A	0	0	0	8	0	8	7	0	7
1.3	Others	0	0	0	14	0	14	32	2	34
	de Marks Act, 1999	0	0	0	0					0
	Jnder Section 102	0	0	0	0			0		0
	Jnder Section 103	0	0	0	0					0
	Jnder Section 104	0	0	0	0					0
'	Others	0	0	0	0			0		0
2.4		- 0						U		
l	ner SLL Offences	0	0	0	3	0	3	13	0	13

TABLE 18.7 - Page: 1 of 2

TABLE 18.4 (Concluded)

S.	Crime Head	45 Years & Above – Below 60 Years			6	0 Years & Al	bove	Total of Overall Age-Group			
No.		Male	Female	Total	Male	Female	Total	Male	Female	Total	
(1)	(2)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	
	1E HEAD:										
	Tampering Computer Source Documents	0	0	0	0		0	62		62	
	Computer Related Offences	153	4	157	37		37	4093	124	4217	
	Computer Related Offences-Under Section 66A	78	4	82	6		6	3051	86	3137	
	Computer related Offences-Under Section 66B	6	0	6	6		6	89	2	91	
	Computer related Offences-Under Section 66C	52	0	52	21		21	532	30	562	
	Computer related Offences-Under Section 66D	15	0	15	4		4	324	3	327	
	Computer related Offences-Under Section 66E	2	0	2	0		0	97	3	100	
	Cyber terrorism	0	0	0	0		0	3	0	3	
	Publication/Transmission of Obscene/Sexually Explicit Content	22	1	23	4		4	547	8	555	
	Under section 67A	22	1	23	4		4	537	8	545	
	Under section 67B	0	0	0	0		0	7	0	7	
	Under Section 67C	0	0	0	0		0	3	0	3	
	Intentionally not Complying with the Order of Controller	0	0	0	0		0	3	0	3	
1	Failure to Provide or Monitor or Intercept or Decrypt Information	0	0	0	0		0	0		0	
	Failure to Block Access any Information Hosted etc	0	0	0	0	0	0	0	0	0	
Acce	Not Providing Technical Assistance to Govt. to Enable Online ss Un-authorized Access/Attempt to Access to Protected Computer	0	0	0	0	0	0	0	0	0	
Syste	·	0	0	0	0	0	0	4	0	4	
10 IT	- Misrepresentation/suppression of Fact for Obtaining License etc	0	0	0	0	0	0	2	0	2	
11 IT	- Breach of Confidentiality/Privacy	1	0	1	0	0	0	6	0	6	
12 IT	- Disclosure of Information in Breach of Lawful Contract	0	0	0	0	0	0	2	0	2	
13 IT	- Publishing /Making Available False Elect. Signature Certificate	0	0	0	0	0	0	0	0	0	
	- Create/Publish/Make Available Elec. Signature Certificate for wful Purpose	2	0	2	0	0	0	3	0	3	
15 IT	- Others	13	0	13	6	0	6	243	2	245	
	Total Offences under IT Act	191	5	196	47	0	47	4968	134	5102	
1 IPC	- Offences by Public Servant	0	0	0	0	0	0	0	0	0	
2 IPC	- Fabrication/Destruction of electronic records for evidence	0	0	0	0	0	0	2	0	2	
3 IPC	C - Cheating	54	4	58	1	0	1	737	17	754	
4 IPC	C - Forgery	2	0	2	0	0	0	68	4	72	
5 IPC	C - Data theft	0	0	0	0	0	0	132	3	135	
6 IPC	- Criminal Breach of Trust/Fraud	106	0	106	0	0	0	1292	0	1292	
6.1	PC - Credit / Debit Card	0	0	0	0	0	0	18	0	18	
6.2	PC - Others	106	0	106	0	0	0	1274	0	1274	
7 IPC	- Counterfeiting	1	0	1	0	0	0	14	0	14	
7.1	PC - Currency	1	0	1	0	0	0	14	0	14	
7.2	PC - Stamps	0	0	0	0	0	0	0	0	0	
8 IPC	- Others	28	0	28	1	0	1	587	11	598	
	Total Offences under IPC	191	4	195	2	0	2	2832	35	2867	
1 Co	pyright Act, 1957	10	0	10	1	0	1	133	2	135	
1.1	Under Section 63	4	0	4	1	0	1	66	0	66	
1.2	Under Section 68A	3	0	3	0	0	0	18	0	18	
1.3	Others	3	0	3	0	0	0	49	2	51	
2 Tra	nde Marks Act, 1999	0	0	0	0	0	0	0	0	0	
2.1	Under Section 102	0	0	0	0	0	0	0	0	0	
2.2	Under Section 103	0	0	0	0	0	0	0	0	0	
2.3	Under Section 104	0	0	0	0	0	0	0	0	0	
2.4	Others	0	0	0	0	0	0	0	0	0	
3 Ot	her SLL Offences	1	0	1	0	0	0	17	0	17	
	Total SLL Offences	11	0	11	1	0	1	150	2	152	