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India: Legal reform crucial to protect right to free speech

India must undertake critical legal reforms to better defend the right to free speech, said Amnesty International today, as it made a submission to the Law Commission of India on media laws and freedom of expression.

“In recent weeks, there has been a growing trend of intolerance towards dissent and criticism,” said Shailesh Rai, Senior Policy Advisor at Amnesty International India. “Authorities have shown a worrying eagerness to arrest and detain people for the lawful exercise of their constitutional rights to free speech, especially when it concerns the new Prime Minister.”

In May 2014, police in Bangalore arrested a man for sending a photograph on his phone depicting Prime Minister Narendra Modi on a funeral pyre. The same month, police in Panaji, Goa filed a First Information Report against a man who said in an online post that if Narendra Modi came to power, it would lead to a holocaust. In both cases, police relied partly on section 66A of the Information Technology Act, which criminalises online communication that “is grossly offensive”, and persistent sending of information known by the sender to be false, to cause “annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will”.

In June, police arrested students and staff at a college in Kunnampalam, Kerala, over an article that featured the Prime Minister in a list of “negative faces” in a college magazine. The next week, police in Guruvayur, Kerala arrested students and staff at a different college over a crossword puzzle that used derogatory language to refer to the Prime Minister and other political leaders. In both cases, the police said that the expressions amounted to criminal defamation, among other offences.

“While these expressions may be offensive to some, they certainly do not merit arrests and criminal cases,” said Shailesh Rai. “Unfortunately some Indian laws, including those on defamation and online speech, fall short of international standards on freedom of expression and enable the criminalising of opinion. The government must act to urgently amend these laws.”

In May 2014, the Law Commission of India sought comments on a consultation paper on aspects of media laws. Amnesty International India submitted its recommendations to the Law Commission on 21 June. Its submission focuses on laws relating to defamation, contempt of court and online speech which could directly violate or have a chilling effect on freedom of expression.

The organisation calls for the decriminalisation of defamation, and legal reform to guard against abusive civil defamation lawsuits. It also urges amendment to laws on contempt of court to abolish the offence of ‘scandalising the court’, and the repeal of section 66A of the Information Technology Act.

“These laws affect not just journalists, but ordinary people too. For public debate to remain robust in India, people should be able to express their opinions without fear of prosecution,” said Shailesh Rai. “The government must do more to respect and protect the right to freedom of expression.”

Amnesty International India’s full submission to the Law Commission of India is available <http://bit.ly/MediaLawsSubmission>

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Himanshi Matta
Media Officer, Amnesty International India
+91-8860182310
Twitter: @himanshimatta