

Notice: Constant SPORTS_CRICKET already defined in /data1/staging/frontend/config/iep/config.php on line 106 Notice: Constant DELHI_WEATHER_REPORT_URL already defined in /data1/staging/frontend/config/iep/config.php on line 258 Notice: Constant MUMBAI_WEATHER_REPORT_URL already defined in /data1/staging/frontend/config/iep/config.php on line 259 Notice: Constant CHENNAI_WEATHER_REPORT_URL already defined in /data1/staging/frontend/config/iep/config.php on line 260 Notice: Constant KOLKATA_WEATHER_REPORT_URL already defined in /data1/staging/frontend/config/iep/config.php on line 261 Notice: Constant BANGLORE_WEATHER_REPORT_URL already defined in /data1/staging/frontend/config/iep/config.php on line 262 Notice: Constant JAIPUR_WEATHER_REPORT_URL already defined in /data1/staging/frontend/config/iep/config.php on line 263 Notice: Constant PUNE_WEATHER_REPORT_URL already defined in /data1/staging/frontend/config/iep/config.php on line 264 Notice: Uninitialized string offset: 8 in /data1/staging/frontend/www/iep/storyoldHtm.php on line 85 Notice: Uninitialized string offset: 10 in /data1/staging/frontend/www/iep/storyoldHtm.php on line 85 Notice: Uninitialized string offset: 3 in /data1/staging/frontend/www/iep/storyoldHtm.php on line 85 Notice: Uninitialized string offset: 7 in /data1/staging/frontend/www/iep/storyoldHtm.php on line 85 Notice: Uninitialized string offset: 10 in /data1/staging/frontend/www/iep/storyoldHtm.php on line 85 Notice: Uninitialized string offset: 12 in /data1/staging/frontend/www/iep/storyoldHtm.php on line 85 Notice: Uninitialized string offset: 13 in /data1/staging/frontend/www/iep/storyoldHtm.php on line 85 Notice: Undefined offset: 10 in /data1/staging/frontend/www/iep/storyoldHtm.php on line 88 Notice: Undefined offset: 10 in /data1/staging/frontend/www/iep/storyoldHtm.php on line 88 Notice: Undefined index: pg in /data1/staging/frontend/www/iep/storyoldHtm.php on line 20

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RAJESH KUMAR

Posted: Sun May 14 2000 IST

NEW DELHI, MAY 13: The Information Technology Bill, cleared by the Cabinet today and scheduled to come up in Parliament on Monday, has provoked strong criticism from legal experts and civil liberty advocates. They argue that the punitive measures in the Bill ostensibly to check cyber crime could end up violating citizens' fundamental rights and invading their privacy.

The most strident protest is against Clause 79 of the Bill which proposes to confer unlimited powers on the police or any authorised government officer. Under these powers, the government representative can enter any public premises on a "reasonable suspicion" that a cyber crime is being committed or is about to be committed, search and make arrests without a warrant.

Saying that such a power is open to misuse, experts say this will give a fillip to police raj. Supreme Court advocate Rajiv Nayyar calls the clause "retrograde" while his colleagues Rajiv Dhawan and Prashant Bhushan say it's "draconian" and a serious threat to individual liberty.

"Going by the past record of the police, vesting such sweeping powers in them is shocking. Such a clause should be used only for serious threats to national security," feels Bhushan of the People's Union for Civil Liberties (PUCL).

Pawan Duggal, Supreme Court advocate who has launched the first online cyberlaw consultancy in India, says: "The exceptionally harsh provision has no parallel in the world and amounts to over legislating the internet industry like in Malaysia. Who, for instance, will decide and how that a person was about to commit a cyber crime?"

Another clause that has invited experts' wrath is the one that requires Internet cafes to maintain detailed records of those accessing the net from their premises and the sites they visit.

The Indian EXPRESS ... says Shivank Sharma, a

Nayyar feels there is a strong need to define the parameters on how this discretion is to be used, or else the clause could be abused for victimisation considering that the concept of cyber crime is in its nascent stage and confusions remain.

Incidentally, the National Association of Software and Service Companies (NASSCOM) had also expressed its strong objection to the provision and had sought its deletion during consultations with the Standing Committee on Science and Technology which studied the IT Bill. The committee has, however, chosen to retain the contentious clause and the bill is likely to be passed after taking into consideration its recommendations.

The committee earlier examined in detail the divergent views (...on the issue of giving powers to the police officials of the rank of Deputy Superintendent of Police (DSP) and above or government officers appointed by the Union or state governments) to search a premises without warrant for cyber crimes and had suggested creation of a special task force with the recruitment of persons with knowledge and experience for tackling computer crimes.

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Section 78 of the IT Bill is another area that the experts feel needs reworking. Through the clause, Internet Service Providers (ISPs) are sought to be absolved of any liability in case the data or service that they provide to the subscribers is misused. This, however, is subject to the conditions that they had no knowledge of it and that they had taken all reasonable steps to prevent offence.

While the clause is in keeping with the international trend -- a recent order by the US court has upheld it there -- several copyright issues remain. For instance, web services dealing in web-based music. US courts are also currently faced with legal cases moved by companies like Napster. The courts have to decide whether the copying and free uploading of music that is actually being sold by the company is a crime and fix liability.

The music industry has demanded that the ISPs be held responsible, though the latter plead that they have neither the means nor the resources for screening.

NASSCOM has also suggested the revision of clause 78 in conformity with legislation in the USA's Digital Millennium Copyright Act and the draft European Union Electronic Commerce directive which provided for network service providers to engage in responsible operating activities and to respond quickly to remove illegal activity.

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