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Why 2015 Was A Landmark Year For Indian Cyberlaw

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The year 2015 was nothing if not eventful, and while some developments generated plenty of sound and fury, others made a quieter impact. As I look back at legal developments, what stands out is how 2015 was a landmark year in the evolution of cyberlaw in India.

This was the year in which the Supreme Court delivered its landmark judgment in the case of [Shreya Singhal vs. Union of India](#). The apex court had been called upon to examine the constitutional validity of Section 66A of the Information Technology Act, 2000 and its various parameters from the perspective of the various principles enshrined in the Indian Constitution. In an unprecedented judgement it declared that the said section was unconstitutional, marking the day as a time of jubilation for free speech activists. However, the said judgment was also a landmark as it upheld the power of interception under [Section 69A](#) of the Information Technology Act, 2000 as enshrined under the law. The Supreme Court also upheld [Section 79](#) of the Act, pertaining to intermediary liability, but with a caveat: intermediaries in India will have to act only on court order or on order of governmental agency. The said judgment once again reiterated the principle that any provision of law, concerning the real as well as virtual world, will have to ensure compliance with the Indian Constitution.

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Given how the data economy is moving and the manner in which India is adopting the mobile ecosystem and the mobile web, it is only a question of time before the principles pertaining to intermediary liability will have to be relooked and reworked. Data repositories like intermediaries have to be made more accountable for third party data and information in their power and possession. It needs to be appreciated that the law must not be a tool in the hands of intermediaries to deny requests for legitimate access to information by users.

Later in the year, the government also introduced the [draft National Encryption Policy](#) for public comments. The policy was actually worded in very vague and broad terms so as to include within itself the requirement for every person to save all messages sent using encryption through all computer resources and mobile applications, including WhatsApp. The introduction of the said draft policy created a huge uproar, following which it was withdrawn. It was then announced that the policy would be reinitiated after taking into consideration all the concerns of the relevant stakeholders.

The year 2015 was also significant as it saw India hosting the [International Conference on Cyberlaw, Cybercrime & Cybersecurity](#) in New Delhi, with representatives of dozens of countries in attendance. The Hon'ble Chief Justice of India, Justice TS Thakur speaking at the conference emphasised the need for new laws to deal with cybercrimes and cyber terror. The conference deliberations and recommendations further contributed to the evolving cyberlaw jurisprudence in India.

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The past year also saw the courts redefining, clarifying and dealing with the law pertaining to electronic evidence in India. The courts in India followed the landmark case of [Anvar PV vs. PK Basheer](#), wherein the Supreme Court clarified the law pertaining to electronic evidence. Indeed, this year saw the urgent need to simplify the rules of electronic evidence. Cyberlaw as a legal discipline needs to evolve in a user-friendly manner and the task of proving electronic records should not be an arduous exercise for the person relying upon the said electronic evidence.

Given the fact that a majority of Indians are today only using mobile devices to access the internet, it is high time that legal approaches to electronic evidence -- with specific reference to mobile evidence -- are reviewed and revised. The entire issue of production and proof of electronic evidence must be made less cumbersome for those wanting to rely on it.

Seen in totality, 2015 provided fertile grounds for further developments in cyber jurisprudence to take root and develop in the coming year.

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