

‘Disaffection’ and the Law: The Chilling Effect of Sedition Laws in India

SIDDHARTH NARRAIN

What place does a colonial legacy which, in its logic, believes that people are bound to feel affection for the state, and should not show any enmity, contempt, hatred or hostility towards the government established by law, have in a modern democratic state like India? This question lies at the heart of this essay, which examines how these laws impact the ability of citizens to freely express themselves and limit the ability to constructively criticise or express dissent against governments.

The recent conviction of Binayak Sen by a trial court in Raipur on charges of sedition (amongst other charges), and a spate of sedition charges filed against media personnel and human rights activists across the country have turned the spotlight on a 140-year old law, a draconian colonial legacy that has increasingly been used by governments across the country to stifle dissent and curb free speech.

The Supreme Court lawyer and legal commentator Rajeev Dhavan has commented on how sedition provisions are a prime example of the manner in which the imperial powers of a foreign government are transformed into the normal powers of an independent regime (Dhavan 1987: 290). The segment corresponding to Section 124A, the law that defines sedition in the Indian Penal Code, was originally Section 113 of Macaulay’s Draft Penal Code of 1837-39, but the section was omitted from the Indian Penal Code as it was enacted in 1860. James Fitzjames Stephens, the architect of the Criminal Procedure Code, has been quoted saying this omission was the result of a mistake (Donogh 1911: 1). Another explanation for this omission is that the British government wanted to adopt more wide-ranging strategies against the press including initiating systems of registration (Dhavan 1987: 278-85).

Section 124A¹ was introduced by the British government in India in 1870 when the colonial government felt that a specific section to deal with offence was needed.

Why Section 124A?

One of the reasons for this move was Wahabi activities in the period between 1863 and 1870 that posed a challenge to the colonial government (Ganachari 2009: 96-97). The Wahabis were a shadowy

network of rebels who were part of the First War of Indian Independence in 1857 and were feared for their extensive network across the country. They followed a modern organisational technique of combining secret work with mass preaching set in a politico-religious framework (Samaddar 2010: 41-49). The framework of this section was imported from various sources – the Treason Felony Act (operating in Britain), the common law of seditious libel, and the English law relating to seditious words. The common law of seditious libel governed both actions and words that pertained to citizens and the government, as well as between communities of persons (Donogh 1911: 4).

The law is placed bang in the middle of Chapter VI of the section in the Indian Penal Code that deals with “Offences against the State”, a passage that deals with serious offences including waging war against the state. The punishment that this section carries extends up to life imprisonment, and the charge is both non-bailable and cognisable. All of these indicate the seriousness of the crime. The law in its wording distinguished between bringing into hatred or contempt, or exciting or attempting to excite disaffection towards the government established by law and what is termed in the explanation as expressing disapprobation against the state (which is permissible). “Disaffection” has been defined as a feeling that can exist only between “the ruler” and “the ruled”. The ruler must be accepted as a ruler, and disaffection, which is the opposite of that feeling, is the repudiation of that spirit of acceptance of a particular government as ruler.²

Sedition Trials of Tilak

Ironically, some of the most famous sedition trials of the late 19th and early 20th centuries were those of Indian nationalist leaders. Of these, the most well known are the three sedition trials of Bal Gangadhar Tilak, which were closely followed by his admirers across the country and internationally. The fundamental moral question that Tilak raised was whether his trials constituted sedition of the people against the British Indian government (*Rajdroha*)

Siddharth Narrain (sid@altlawforum.org) is a legal researcher with the Alternative Law Forum, Bangalore.

or of the government against the Indian people (*Deshdroha*) (Ganachari 2009: 95). There are striking similarities between this and questions raised by contemporary targets of sedition law like Arundhati Roy. When faced with the allegation of sedition (along with S A R Geelani, Varavara Rao and others) for speaking at a seminar on Kashmir titled “Azaadi: The Only Way” held in Delhi in 2010, Roy issued a public statement in which she said,

...In the papers some have accused me of giving ‘hate-speeches’, of wanting India to break up. What I say comes from love and pride. It comes from not wanting people to be killed, raped, imprisoned or have their fingernails pulled out in order to force them to say they are Indians. It comes from wanting to live in a society that is striving to be a just one. Pity the nation that has to silence its writers for speaking their minds. Pity the nation that needs to jail those who ask for justice, while communal killers, mass murderers, corporate scamsters, looters, rapists, and those who prey on the poorest of the poor, roam free.³

Tilak’s first trial began in 1897. The government claimed that some of the speeches that referred to Shivaji killing Afzal Khan, had instigated the murder of the much reviled Plague Commissioner Rand and another British officer Lieutenant Ayherst, which occurred a week later. The two officers were killed as they were returning from the reception and dinner at Government House, Pune, after celebrating the Diamond Jubilee of Queen Victoria’s rule. Tilak was convicted of the charge of sedition, but released in 1898 after the intervention of internationally known figures like Max Weber on the condition that he would do nothing by act, speech, or writing to excite disaffection towards the government (Noorani 2009: 122).

In 1898, the law was amended to reflect Stachey’s interpretation. The British included the terms “hatred” and “contempt” along with disaffection. Disaffection was also stated to include “disloyalty and all feelings of enmity”. The British parliament while debating these amendments took into account the defence’s arguments in the Tilak case, and the decisions in two subsequent cases,⁴ to ensure there were no loopholes in the law (Dhavan 1987: 287). The debates in the British parliament demonstrate how “diverse customs and conflicting creeds” in India were used to

justify this amendment (Donogh 1911: 70). The new amendment added the words “hatred or contempt” to the word “disaffection”. These amendments also brought in Sections 153-A⁵ and 505⁶ of the IPC. The colonial government, particularly the Bombay government, followed the changes in the law with a spate of prosecutions against native newspapers.

In 1908, after the political situation created because of the partition of Bengal, the British enacted the Newspapers (Incitement to Offences) Act, a law that enabled district magistrates to confiscate printing presses that were used to publish seditious material. The colonial government also enacted the Seditious Meetings Act to prevent meetings of more than 20 people from assembling. These moves came in for severe criticism from Tilak. After the Muzaffarpur bomb incident,⁷ in which the wife and daughter of Pringle Kennedy, a leading pleader of the Muzaffarpur Bar, the *Kesari* carried an editorial, pointing to the effects of government repression. In 1908, Tilak was prosecuted once more for sedition. Despite a spirited defence from Mohammad Ali Jinnah, one of the most prominent faces of the Bombay Bar, the judges sentenced Tilak to six years rigorous imprisonment with transportation.

In 1916, the DIG of Police, Criminal Investigation Department (CID) J A Guider moved the district magistrate, Pune, alleging that Tilak was orally disseminating seditious information. He cited three of Tilak’s speeches in 1916, one given in Belgaum and two in Ahmednagar. Jinnah skilfully argued that since Tilak had attacked the bureaucracy through his speeches, and not the government, he could not be charged with sedition (Noorani 2009: 163-184).

In terms of the legal definition of the scope of sedition, there was a difference in opinion between the Federal Court in India and the Privy Council in Britain. The Federal Court had, in defining sedition in the *Niharendu Dutt Majumdar* case⁸ held that in order to constitute sedition, “the acts or words complained of must either incite to disorder or must be such as to satisfy reasonable men that that is their intention or tendency”, but the Privy Council, in the *Sadashiv*⁹ case overruled that decision and emphatically reaffirmed

the view expressed in Tilak’s case to the effect that “the offence consisted in exciting or attempting to excite in others certain bad feelings towards the government and not in exciting or attempting to excite mutiny or rebellion, or any sort of actual disturbance, great or small”.

Sedition Trial of Gandhi

The most famous sedition trial after Tilak’s was the trial of Mohandas Gandhi in 1922. Gandhi was charged, along with Shankerlal Banker, the proprietor of *Young India*, for three articles published in the magazine. The trial, which was attended by the most prominent political figures of that time, was followed closely by the entire nation. It was presided over by judge Strangman. Gandhi explained to the judge why from being a staunch royalist, he had become an uncompromising “disaffectionist” and non-cooperator, and why it was his moral duty to disobey the law. In a stunning statement, Gandhi commented on the law that was used to try him and demanded that the judge give him the maximum punishment possible.

...Section 124A under which I am happily charged is perhaps the prince among the political sections of the IPC designed to suppress the liberty of the citizen. Affection cannot be manufactured or regulated by the law. If one has no affection for a person, one should be free to give the fullest expression to his disaffection, so long as he does not contemplate, promote or incite to violence. But the section under which Mr Banker and I are charged is one under which mere promotion of disaffection is a crime. I have studied some of the cases tried under it, and I know that some of the most loved of India’s patriots have been convicted under it. I consider it a privilege, therefore, to be charged under that section. I have endeavoured to give in their briefest outline the reasons for my disaffection. I have no personal ill-will against any single administrator, much less can I have any disaffection towards the King’s person. But I hold it a virtue to be disaffected towards a government which in its totality has done more harm to India than previous system. India is less manly under the British rule than she ever was before. Holding such a belief, I consider it to be a sin to have affection for the system. And it has been a precious privilege for me to be able to write what I have in the various articles tendered in as evidence against me (*ibid*: 235).

Significantly, Gandhi, in his statement before the court, refers to the nature of

political trials that were ongoing at that time.

My unbiased examination of the Punjab Martial Law cases had led me to believe that at least ninety-five per cent of convictions were wholly bad. My experience of political cases in India leads me to the conclusion that in nine out of every ten the condemned men were totally innocent. Their crime consisted in the love for their country (ibid: 234).

Judge Strangman, in a remarkably respectful response, acknowledges the stature of Gandhi and his commitment to non-violence but says he is bound by the law to hold him guilty of sedition, and sentences him to six years imprisonment (Noorani 2009: 236). The irony of the sedition law used against nationalists like Gandhi and Tilak continuing in the statute books of independent India was not lost on those drafting the Constitution. While in their Draft Constitution, the Constitutional framers included “sedition” and the term “public order” as a basis on which laws could be framed limiting the fundamental right to speech (Article 13),¹⁰ in the final draft of the Constitution both “public order” and sedition were eliminated from the exceptions to the right to freedom of speech and expression (Article 19 (2)). This amendment was the result of the initiative taken by K M Munshi who proposed these changes in the debates in the Constituent Assembly.¹¹

Sedition Laws in Independent India

Jawaharlal Nehru was aware of the problems with the sedition laws in independent India. In the debates that surrounded the First Amendment to the Indian Constitution, Nehru came under severe flak from opposition leaders for compromising the right to free speech and opinion. Stung by two court decisions in 1949 that upheld the right to freedom of speech of opinions from the far left and the far right of the political spectrum, Nehru asked his Cabinet to amend Article 19(1)(a). The two cases that prompted Nehru to do this were the *Romesh Thapar* case, in which the Madras government, after declaring the Communist party illegal, banned the left leaning magazine *Crossroads* as it was very critical of the Nehru government. The court held that banning a publication because it would endanger public safety

or public order, was not supported by the constitutional scheme since the exceptions to 19(1)(a) were much more specific and had to entail a danger to the security of the state. The second case related to an order passed by the Chief Commissioner, Delhi asking the RSS mouthpiece *Organiser* to submit all communal matter and material related to Pakistan to scrutiny.

Nehru’s government decided to amend the Constitution inserting the words “public order” and “relations with friendly states” into Article 19(2) and the word “reasonable” before “restrictions”, which was meant to provide a safeguard against misuse by the government. In the debates that followed in Parliament, Nehru clarified that he was not validating existing laws like sedition through this amendment. While addressing the Parliament on the Bill relating to the First Constitution of India Amendment 1951, Nehru said,

Take again Section 124-A of the Indian Penal Code. Now so far as I am concerned that particular Section is highly objectionable and obnoxious and it should have no place both for practical and historical reasons, if you like, in any body of laws that we might pass. The sooner we get rid of it the better. We might deal with that matter in other ways, in more limited ways, as every other country does but that particular thing, as it is, should have no place, because all of us have had enough experience of it in a variety of ways and apart from the logic of the situation, our urges are against it.

I do not think myself that these changes that we bring about validate the thing to any large extent. I do not think so, because the whole thing has to be interpreted by a court of law in the fuller context, not only of this thing but other things as well.

Suppose you pass an amendment of the Constitution to a particular article, surely that particular article does not put an end to the rest of the Constitution, the spirit, the languages, the objective and the rest. It only clarifies an issue in regard to that particular article.¹²

However, sedition laws remained on the statute books post-independence and were used repeatedly by both central and state governments to stifle political dissent (Singh 1998). The first major constitutional challenge to sedition laws arose in 1958, when the constitutional validity of Section 124A of the IPC was challenged in an Allahabad High Court case that involved a challenge to a conviction and punishment of three years imprisonment

of one Ram Nandan, for an inflammatory speech given in 1954. In this speech Ram Nandan criticised the Congress regime for not being able to address extreme poverty in the state and exhorted cultivators and labourers to form an army and overthrow the government if needed. He also accused Nehru of being a traitor for dividing the country into two.¹³ The court overturned Ram Nandan’s conviction and declared Section 124A to be unconstitutional. Justice Gurtu said,

As a result of the conventions as has been remarked of parliamentary government, there is a concentration of control of both legislative and executive functions in the small body of men called the Ministers and these are the men who decide important questions of policy.

The most important check on their powers is necessarily the existence of a powerfully organised Parliamentary opposition. But at the top of this there is also the fear that the government may be subject to popular disapproval not merely expressed in the legislative chambers but in the marketplace also which, after all, is the forum where individual citizens ventilate their points of views.

If there is a possibility in the working of our democratic system – as I think there is – of criticism of the policy of Ministers and of the execution of their policy, by persons untrained in public speech becoming criticism of the government as such and if such criticism without having any tendency in it to bring about public disorder, can be caught within the mischief of Section 124-A of the Indian Penal Code, then that Section must be invalidated because it restricts freedom of speech in disregard of whether the interest of public order or the security of the State is involved, and is capable of striking at the very root of the Constitution which is free speech (subject of limited control under Article 19(2)).

This decision was overruled in 1962 by the Supreme Court, which held that the sedition law was constitutional.¹⁴ This case involved Kedar Nath, a member of the Forward Communist Party in Bihar,

Economic & Political WEEKLY

available at

Ganapathy Agencies

3/4, 2 Link Street
Jaffarkhanpet, Ragavan Colony
Chennai 600 083
Tamil Nadu
Ph: 24747538

who accused the Congress of corruption, black-marketing and tyranny and targeted Vinobha Bhave's attempts to redistribute land. He talked about a revolution that would overthrow capitalists, zamindars and Congress leaders. The trial court convicted Nath under 124A and 505B of the IPC,¹⁵ and sentenced him to one-year imprisonment. Kedar Nath appealed this decision. The Patna High Court dismissed his appeal, observing that the charge against the appellant was nothing but a vilification of the government; that it was full of incitements to revolution and that the speech taken as a whole was certainly seditious.

The case was then appealed in the Supreme Court, and made its way first to a Division Bench in 1959, and then a Constitutional Bench in 1960. In 1961, the Constitutional Bench of the Supreme Court examined this matter along with a bunch of related appeals from Uttar Pradesh. These appeals included that of Mohd Ishaq Ishaq, who was prosecuted for having delivered a speech at Aligarh as Chairman of the Reception Committee of the All-India Muslim Convention in 1953. Another appeal was related to a meeting of the Bolshevik Party in 1954 organised in a village named Hanumanganj, in the district of Basti, in Uttar Pradesh, where the members were accused of inciting people to open rebellion against the government. Another related case was that of Parasnath Tripathi for delivering a speech in the village Mansapur in the district of Faizabad, in 1955, in which he is said to have exhorted the audience to organise a volunteer army and resist the government and its servants by violent means.

In its decision, the Supreme Court distinguished clearly between disloyalty to the government and commenting upon the measures of the government without inciting public disorder by acts of violence. The Court upheld the constitutionality of the sedition law, but at the same time curtailing its meaning and limiting its application to acts involving intention or tendency to create disorder, or disturbance of law and order, or incitement to violence. The judges observed that if the sedition law was to be given a wider interpretation, it would not survive the test of constitutionality.

While the Supreme Court has limited the scope of the sedition law (at the same time upholding its constitutionality), successive central and state governments in the country continue to file charges of sedition against journalists, media practitioners, human rights activists and anyone who dares express dissent. Recent examples of sedition cases reported in the media demonstrate how the law is misused. In 2008 sedition charges were filed by the Ahmedabad police against *Times of India* resident editor Bharat Desai, reporter Prashant Dayal, and photojournalist Gautam Mehta over articles published in the newspaper which questioned the appointment as the city police chief and alleged that he was linked to an erstwhile underworld don. In 2008 Lenin Kumar, editor of the quarterly magazine *Nishan*, was arrested under sedition charges from the Orissa government after a special booklet on the Kandhamal riots entitled "Dharmanare Khandamalre Raktonadhi" (The rivers of blood in Kandhamal) was published in the magazine. In 2010, the Tamil Nadu police arrested environmentalist Piyush Sethia in Salem under charges of sedition for distributing pamphlets condemning state-sponsored violence in Chhattisgarh. In 2010, the Karnataka police filed sedition charges against E Rati Rao, the editor of the PUCL-Karnataka

Kannada news bulletin *Varthapatra* because the magazine had carried an article criticising the government for carrying out fake encounters and accused the state government of being casteist and communal.¹⁶

The Supreme Court's observations in a case related to a Kashmiri youth Bilal Ahmed Kaloo in 1997 puts things in perspective. The Court upheld charges against Kaloo based on a violation of the Arms Act but overturned charges under Sections 124A, 153A and 505(2) of the Indian Penal Code. The Court at the end of its decision said,

Before parting with this judgment, we wish to observe that the manner in which convictions have been recorded for offences under Sections 153A, 124A and 505(2), has exhibited a very casual approach of the trial court. Let alone the absence of any evidence which may attract the provisions of the sections, as already observed, even the charges framed against the appellant for these offences did not contain the essential ingredients of the offences under the three sections. The appellant strictly speaking should not have been put to trial for those offences. Mechanical order convicting a citizen for offences of such serious nature like sedition and to promote enmity and hatred etc does harm to the cause. It is expected that graver the offence, greater should be the care taken so that the liberty of a citizen is not lightly interfered with.¹⁷

This statement reflects the mechanical process of the state filing sedition charges



INDIAN INSTITUTE OF MANAGEMENT CALCUTTA

Diamond Harbour Road, Joka, Kolkata - 700104

Applications are invited for **Faculty positions in the Public Policy and Management Group.**

Applications are sought in the area of Health and Transport management. Ability to teach courses in the areas such as economic history, sociology, and environment and development is desirable. The candidates should have Ph.D. in the appropriate discipline, with first class in the previous degree, and an excellent academic and research record. Interested candidates may apply to Director, Indian Institute of Management Calcutta, Joka, Diamond Harbour Road, Kolkata 700104 (email:director@iimcal.ac.in). Application should be received within one month from the date of this advertisement. For full details on the application procedure and format, please visit our website at <http://www.iimcal.ac.in/ipc/>

against persons they want to target, and judges refusing bail, and in some cases, convicting accused persons of sedition based on flimsy evidence. The chilling effect of these laws threatens to undermine, and gradually destroy, the legitimate and constitutionally protected right to protest, dissent or criticise the government.

NOTES

- Section 124 A, as it stands today, reads:
Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the government established by law [in India], shall be punished with [imprisonment for life], to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.
Explanation 1 – The expression “disaffection” includes disloyalty and all feelings of enmity.
Explanation 2 – Comments expressing disapprobation of the measures of the attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.
Explanation 3 – Comments expressing disapprobation of the administrative or other action of the government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.
- Emperor vs Bhaskar Balavant Bopatkar* (1906) 8BOMLR421, MANU/MH/0064/1906.
- “Arundhati Roy’s Statement on Possible Sedition Case”, available at <http://www.ndtv.com/article/india/sedition-or-free-speech-arundhati-roy-reacts-62566> accessed on 1 February 2011.
- In the *Pratod* case (*QE vs Ramchandra Narayan* (1897) 22 Bom 152), justice Ranade had held that what was said or written should be such as “makes men indisposed to obey or support the laws of the realm, and promotes discontent and disorder”. In *Amba Prashad’s* case (*QE vs Amba Prashad* (1897) 20 All 55) the court highlighted the inherent ambiguity of the explanation to the section.
- Section 153A as it reads today:
Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc, and doing acts prejudicial to maintenance of harmony. (1) Whoever
(a) By words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place or birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or
(b) Commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, 2[or]
(b) 2[(c) Organises any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence of knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community

and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Offence committed in place of worship, etc-
(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

- Section 505 (as it stands today) reads [505. Statements conducing to public mischief.]

(1) Whoever makes, publishes or circulates any statement, rumour or report – (a) With intent to cause, or which is likely to cause, any officer, soldier, [sailor or airman] in the Army, [Navy or Air Force] [of India] to mutiny or otherwise disregard or fail in his duty as such; or

(b) With intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity; or

(c) With intent to incite, or which is likely to incite, any class or community or persons to commit any offence against any other class or community; Shall be punished with imprisonment which may extend to [three years], or with fine, or with both.

(2) Statements creating or promoting enmity, hatred or ill-will between classes. Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(3) Offence under sub-section (2) committed in place of worship, etc.: – Whoever commits an offence specified in sub-section (2) in any place of worship or in an assembly engaged in the performance or religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

Exception – It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report, has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it [in good faith and] without any such intent as aforesaid.

- The bomb was meant for Kingsford, the District Magistrate of Muzaffarpur, who as Chief Presidency Magistrate of Calcutta had made himself extremely unpopular by passing heavy sentences against young Bengali political workers. See Ritu Chaturvedi and S R Bakshi (ed.), *Studies in Indian History – Bihar through the Ages: ‘The J P Movement’*, Vol 3 (Delhi: Sarup and Sons), 2007, p 339, available at http://books.google.co.in/books?id=C9AcbaLom4C&pg=PA339&lpg=PA339&dq=muzaffarpur+bomb+incident&source=bl&ots=FdYyS09-X3&sig=94d1NYGoNb7iiXKZhoQfb4ZDIY8&hl=en&ei=E8zLTJyJFpKdcfHP-JcO&sa=X&oi=book_result&ct=result&resnum=1&ved=0CBoQ6AEwAA#v=onepage&q=muzaffarpur%20bomb%20incident&f=false accessed on 28 January 2011.
- Niharendu Dutt Majumdar vs The King Emperor* AIR (29) 1942 FC 22: (43 Cr L J 504).
- King Emperor vs Sadashiv Narayan Bhalerao* (1947) L R 74 IA 89.

- Clause 13 cited on p 7 of the Draft Constitution of India prepared by the Drafting Committee. Constituent Assembly Debates of Wednesday 30-4-1947, Vol III, No 3 at p 445 where Clause 8 referred to above is reproduced cited in Para 81, *Ram Nandan vs State* AIR 1959 All 101, 1959 CrLJ 1.
- Constituent Assembly of India Part I Vol VII, 1 December 1948, available at <http://parliamentofindia.nic.in/ls/debates/vol7p16b.htm> accessed on 3 February 2011.
- Parliamentary Debates of India*, Vol XII, Part II (1951) p 9621 cited in Para 81, *Ram Nandan vs State* AIR 1959 All 101, 1959 CrLJ 1.
- Ram Nandan vs State* AIR 1959 All 101, 1959 CrLJ 1.
- Kedar Nath Singh vs State of Bihar* 1962 AIR 955 1962 SCR Supl (2) 769.
- This clause relates to the publishing or circulating any statement, rumour or report (a) with intent to cause or which is likely to cause any member of the Army, Navy or Air Force to mutiny or otherwise disregard or fail in his duty as such; or (b) to cause fear or alarm to the public or a section of the public which may induce the commission of an offence against the State or against public tranquillity; or (c) to incite or which is likely to incite one class or community of persons to commit an offence against any other class or community. The Supreme Court upheld the validity of this section.
- See Nivedita Menon, “*Kithne Aadmi The? We are All Seditious Now*” available at <http://kafila.org/2010/12/02/kitne-aadmi-the-we-are-all-seditious-now/> accessed on 1 February 2011. See also “Sedition, Free Speech and Dissent” available at <http://www.thehoot.org/web/freetracker/story.php?storyid=215§ionid=14> accessed on 2 February 2011.
- Bilal Ahmed Kaloo vs State of Andhra Pradesh* AIR 1997 SC 3483.

REFERENCES

- Dhavan, R (1987): *Only the Good News: On the Law of the Press in India* (New Delhi: Manohar Publications).
- Donogh, W R (1911): *A Treatise on the Law of Sedition and Cognate Offences in British India* (Calcutta: Thakker, Spink and Co).
- Ganachari, A (2009): “Combating Terror of Law in Colonial India: The Law of Sedition and the Nationalist Response” in *Engaging Terror: A Critical and Interdisciplinary Approach*, edited by M Vandalos, G K Lotts, H M Teixeira, A Karzai and J Haig (Boca Raton, Florida: Brown Walker Press), p 95 available at http://books.google.co.in/books?id=rq6c2PCK7g0C&pg=PA99&lpg=PA99&dq=justice+strachey&source=bl&ots=xosiBOgH2u&sig=f6Z9vHSLixN94DYw-5xVYkEoO1s&hl=en&ei=aKbKTkunA4yfcYjZ-MkO&sa=X&oi=book_result&ct=result&resnum=2&ved=0C8sQ6AEwAQ#v=onepage&q=justice%20strachey&f=false accessed on 27 January 2010.
- Noorani, A G (2009): *Indian Political Trials: 1775-1947* (New Delhi: OUP).
- Samaddar, R (2010): *Emergence of the Political Subject* (New Delhi: Sage Publications).
- Singh, U K (1998): *Political Prisoners in India* (New Delhi: OUP).
- Cases**
- Bilal Ahmed Kaloo vs State of Andhra Pradesh* AIR 1997 SC 3483.
- Emperor vs Bhaskar Balavant Bopatkar* (1906)8BOMLR421, MANU/MH/0064/1906.
- Kedar Nath Singh vs State of Bihar* 1962 AIR 955 1962 SCR Supl. (2) 769.
- King Emperor vs Sadashiv Narayan Bhalerao* (1947) L.R. 74 IA 89.
- Niharendu Dutt Majumdar vs The King Emperor* AIR (29) 1942 F C 22: (43 Cr L J 504).
- Ram Nandan vs State* AIR 1959 All 101, 1959 CrLJ 1.
- QE vs Amba Prashad* (1897) 20 All 55.
- QE vs Ramchandra Narayan* (1897) 22 Bom 152.