

Sedition laws, colonial legacy, and possibilities of dialogue

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The British used sedition laws to silence anti-colonial voices so they could carry out their unjust forms of exploitation in the colonies they owned. These laws were mostly used as instruments to thwart justified opposition, and to limit the opportunities for argument that would challenge the injustices of British oppression. Claims to reason and arguments for freedom of erstwhile colonies could be labelled as anti-national and, hence, illegal. They could be seen as threats to the hegemony of the colonial power.

Sedition laws left over in decolonised nation states often reflect this oppressive British legacy. In a stroke of irony, these laws carry over a colonial instrument that was deployed to silence the very voices of the many freedom fighters who are celebrated as heroes in the now-independent former British

colonies. Even as Great Britain has taken a leaf from its history to repeal the Sedition Act in 2009, former British colonies such as India continue to utilise the Act as a tool for silencing diverse ideas.

Mohandas Karamchand Gandhi, a key architect of the Indian freedom struggle, for instance, was charged with sedition on March 10, 1922, and sentenced to six years in prison for protesting against the British colonial rule.

The current Sedition Act in India, Section 124A of the Indian Penal Code (IPC), serves as an instrument of silencing voices of difference, having been used against cartoonists, students, lecturers and other cultural practitioners.

Writing about the draconian nature of Section 124A in 1951, India's first premier Jawaharlal Nehru opined: "Now so far as I am concerned, that particular Section (Section 124A of the IPC) 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."

The most recent crackdown of the Indian state on student protests at the hallowed Jawaharlal Nehru University (JNU) is telling of the increasingly chilling climate across university campuses in India. The rhetoric of anti-nationalism runs amok in branding entire bodies of students and universities as threats, feeding into a national media and public frenzy to shut down debate, conversation and difference.

In one such incident of severe state response, the president of the JNU students' union, Mr Kanhaiya Kumar, was arrested for apparently shouting anti-India slogans at a cultural evening titled, *A Country Without A Post Office*, on Feb 9 to discuss the self-determination of Kashmir and question the unjudicial hanging of Kashmiri separatist Mohammed Afzal Guru for his role in the attacks on the

Indian Parliament in 2001.

The hanging of Afzal Guru has consistently been a point of protest because of the many uncertainties around the case. As multiple accounts emerge of what actually took place through the evening, the basis of the claim that Mr Kumar chanted anti-India slogans remains contested.

Responding to the events, Home Minister Rajnath Singh warned: "Anyone who raises anti-India slogans or tries to put a question mark on the nation's unity and integrity will not be spared."

Education Minister Smriti Irani said: "The nation can never tolerate any insult to Mother India."

Section 124A remains a powerful force for silencing democratic voices, especially so within the broader climate of totalitarianism that we are witnessing across Indian campuses. The threat to India comes from these threats to its very democratic spirit embodied in the totalitarian responses of the state.

Moreover, the draconian law was used as a pretext for police entry into the campus, for police conducting organised searches of student rooms and arresting Mr Kumar. The rhetoric of anti-nationalism directed at students of the university was picked up across a number of mainstream media channels, as if as justification for the arrest. The entire university campus was vilified in the mainstream media.

In a democracy like India that takes pride in the multiplicities of discourses and ideas, the Sedition Act works as an instrument for stifling ideas and for silencing the questioning of policies. The rhetoric of anti-nationalism works to silence dissent and opposing ideas. The fervour of nationalism, once stoked, creates a climate for oppressive measures and extreme responses that draw on colonial instincts and, paradoxically, undermine a fundamental pillar of the nation state as a democracy.

What the quick labels of anti-nationalism fail to recognise is that in the context of Indian law, the definition of sedition applies to words and actions that call for violence. In this sense, the police action on JNU campus is probably illegal under the Constitution of India. Yet, the very framework of sedition leaves open the opportunity for such wide-ranging interpretation, thus creating the pathway for totalitarian state responses.

To continue to cultivate its spirit of pluralism, India must begin by starting to undo some of the regressive elements of the Indian Penal Code. It might be worthwhile for Ms Irani to take a civics lesson on what truly is insulting to the idea of "Mother India" – sloganeering by a small group of students on campus or an orchestrated witch-hunt on one of India's strongest institutions of higher

education. The silencing of conversations at educational institutions across India is also an attempt at silencing critical thought and debate – signs of an unhealthy democracy.

Student protests across India are speaking up against the undemocratic use of the Sedition Act as a tool for silencing. These voices offer avenues for thinking critically and seriously about the relevance of this British colonial legacy in the context of modern Asian democracies, as well as for thinking through the possibilities of creating dialogic spaces that are welcoming of difference.

To be open to difference is to make possible the articulation of diverse world views on important questions such as the sovereignty of Kashmir, plebiscite and the juridical trial of Afzal Guru. Indian democracy, through these difficult but critical conversations, has a chance to grow into new imaginations grounded in respect for differences, getting in touch with the key tenets of the spirit of India embodied in its Constitution.

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