

Bill No. 234 of 2015

THE INDIAN PENAL CODE (AMENDMENT) BILL, 2015

By

DR. SHASHI THAROOR, M.P.

A

BILL

further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2015.

(2) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint.

Short title and
commence-
ment.

Substitution
of new
section for
section 124A.

2. For Section 124A of the Indian Penal Code, 1860, the following section shall be substituted, namely:—

45 of 1860

Sedition.

"124A. 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:

5

Provided that the provisions of this section shall apply only when the words, signs, visible representation or any other action directly results in incitement of violence and commission of an offence punishable with imprisonment for life under this Code.

10

Explanation 1.—Mere comments or signs or visible representation or any other act expressing disapprobation of the measures of the Government do not constitute an offence under this section.

Explanation 2.—Mere comments or signs or visible representation or any other act expressing disapprobation of the administrative or other action of the Government, do not constitute an offence under this section."

15

STATEMENT OF OBJECTS AND REASONS

Sedition as defined under section 124A of the Indian Penal Code, has been a subject of great dissatisfaction amongst advocates of unhindered freedom of speech and expression and critics of the Government.

Sedition, as we know today, was imported from the English legal system and enacted as an offence in 1870, to suppress any criticism of British policies, in pre-independent India. It became an instrument to terrorise the natives and implicate nationalist newspapers which disapproved of British colonialism. Bal Gangadhar Tilak, Annie Besant, Jogendra Chandra Bose and Mahatma Gandhi were amongst the first prominent figures to be charged with sedition. In fact, Mahatma Gandhi called it his moral duty to disobey this draconian provision, for it was enacted by an evil State.

Consequently, the Constituent Assembly decided against the inclusion of sedition as one of the restrictions to the fundamental right of free speech guaranteed under article 19 of the Constitution. Pandit Jawaharlal Nehru also voiced his discontent against section 124A by stating that "the sooner we get rid of it, the better".

However, this colonial legacy continues unchecked, for protecting the sentiments of successive Governments. It is increasingly being used to harass and intimidate journalists, human rights activists, artists and political activists, and illustrators, according to the whims of the members of the State and Central Government and other public institutions.

Even though the Supreme Court has narrowed the scope and applicability of section 124A, in its landmark judgment in *Kedar Nath Singh V/s State of Bihar* case, where it linked sedition to a test of tangible evidence of actual harm, the lower courts and investigating authorities have continually overlooked this interpretation of the Supreme Court. Section 124A was invoked to harass thousands of village who were peacefully protesting against the establishment of a nuclear plant in the State of Tamil Nadu, where over 300 FIRs were registered without any clear evidence of incitement to violence.

Thus, there is an urgent need to amend section 124A of the Indian Penal Code in compliance with the judgment of the Supreme Court and to prevent the possibility of undue harassment of citizens who simply disagree with the Government.

It is also increasingly pertinent to do so because the United Kingdom itself has abolished sedition and seditious libel, labelling it as a repressive law that caused more harm than good.

This Bill seeks to replace section 124A of the Indian Penal Code with a new provision which will implicate an individual for sedition only when it directly results in the use of violence or incitement of violence and results in the commission of an offence, which is punishable with imprisonment for life under the Indian Penal Code, 1860.

The amended provision will promote the freedom of speech and the right to express dissent against the Government, while ensuring safeguards against the use of words to incite violence.

Hence this Bill.

NEW DELHI;
July 23, 2015.

SHASHI THAROOR

ANNEXURE

EXTRACT FROM THE INDIAN PENAL CODE, 1860

(45 OF 1860)

* * * * *

Sedition. 124A. 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 administrative or other action of the Government without or 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.

* * * * *

LOK SABHA

A

BILL

further to amend the Indian Penal Code, 1860.

(Dr. Shashi Tharoor, M.P.)