

## 'FREEDOM OF SPEECH IS BEING MAULED'

Relevant for: Indian Polity | Topic: Indian Constitution - Features & Significant Provisions related to Fundamental Rights, Directive Principles and Fundamental Duties

A gradual erosion of one of our most precious fundamental rights — the right to freedom of speech and expression — is adversely impacting the liberty of all those who dare to speak up. Our freedom of speech is being mauled, through twisting and turning the law if not abusing it altogether. In my opinion, one of the worst forms of curtailment of the freedom of speech is charging a person with sedition. In 1962, a Constitution bench of the Supreme Court ... drew a correlation between sedition and violence, sedition and inciting violence, and sedition and tendency to incite violence — not just simple violence but violence of such a degree as to bring it within the purview of public disorder. So, when you have rival gangs confronting each other and one of them shouts "maro", a law-and-order situation of rioting and attempt to murder arises, not of sedition. However, depending on the occasion and context, when a speaker raises a slogan at a public gathering of supporters by shouting "goli maro", a charge could possibly be laid of tending to incite violence or incitement to violence and raising a public order issue rather than a law-and-order issue. The distinction is quite clear.

When there is a call to protest for a cause without any incitement to violence, it would not be sedition under any circumstances. For example, when a call was made for large numbers to assemble on the lawns of India Gate to protest against the rape and murder of Nirbhaya, or when India Against Corruption peacefully protested on the Ram Lila grounds, the organisers could not be held liable for sedition. This is extremely important for distinguishing between free speech and sedition, but unfortunately the distinction is being lost sight of by the establishment.

In recent years, new methods of silencing speech have been introduced: Attribute something to a speaker that he or she never said. A doctor delivered an address to students of the Aligarh Muslim University sometime in December 2019 criticising the Citizenship Amendment Act and the [National Register of Citizens](#). Over one month later, he was arrested for making a provocative speech. About 10 days later, he was granted bail but was not released. Immediately thereafter, he was kept in preventive detention under the National Security Act. The doctor challenged his preventive detention in the Allahabad High Court and by a judgment and order passed on September 1, the preventive detention order was quashed. The HC concluded that the detenu was alleged to have said things which he did not. For example, while he spoke of national integrity, he was accused of promoting hatred; while he deprecated violence, he was accused of promoting violence. Another recent case on the same subject of attribution is that of a student activist, accused among things, of attempt to murder and making an inflammatory speech and inciting violence. The Delhi High Court granted her bail after three months and noted that the prosecution had "failed to produce any material that she in her speech instigated women of particular community."

These cases lead to a frightening inference that if a citizen says something that is not even distasteful, he or she can be arrested on the basis of a fairy tale. If that person does not say anything at all but is a thorn in the flesh of the establishment, she can still be arrested and detained on some trumped up charges.

If you are old enough, please compare it to the period between 1975 and 1977 when persons were jailed for allegedly threatening the internal security of the country, without any evidence in this regard. We are gradually witnessing a somewhat similar situation... the only difference being that during the Emergency, the alleged threat was to our internal security and today the alleged threat is to the sovereignty and integrity of the country.

The National Crime Records Bureau (NCRB) started keeping a record of sedition cases in 2014 and every year has seen a spike in sedition cases. Figures for 2019 recently released by the NCRB reveal a 30 per cent increase. Almost every state seems to have weaponised sedition as a means of silencing critics. In an absolutely peaceful atmosphere, a teenager in Bengaluru raised a particular slogan three times and this resulted in her arrest on charges of sedition. She spent four months in jail before she was granted bail. Again in Karnataka, as many as 85 schoolchildren were interrogated by the police concerning a play in which a child recites what the authorities found to be an objectionable dialogue. The mother of the child and the teacher who oversaw the play were charged with sedition and arrested.

While it is important for each of us to exercise our fundamental rights within reasonable limits laid down by law, there is a greater obligation on the establishment to ensure that the laws are not misused or abused in such a manner that citizens are deprived of fundamental rights that impact their liberty. It is time for the establishment to realise that the people of this country mean well, and in any democracy, there are bound to be different points of view. These must be respected — otherwise the fabric of our society might disintegrate, and fraternity, one of the key words in the [preamble](#) to our Constitution, might just become another dead idea.

***Edited excerpts from the BG Verghese Memorial Lecture delivered on October 12 by former Supreme Court Justice Madan Lokur, organised by The Media Foundation***

***The Indian Express is now on Telegram. Click [here to join our channel \(@indianexpress\)](#) and stay updated with the latest headlines***

**END**

Downloaded from crackIAS.com

© Zuccess App by crackIAS.com

crack