

Bill No. LXXI of 2016

THE INDIAN PENAL CODE (AMENDMENT) BILL, 2016

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BILL

further to amend the Indian Penal Code, 1860.

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

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2016.

Short title
and
commencement.

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

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

Amendment
of article
124A of Act
45 of 1860.

“124A. (1) Whoever acts by words, either spoken or written, or by signs, or by
visible representation, or otherwise, urges, incites or promotes violence, against the
10 Government established by law in India and publishes or causes to be published such
seditious acts, written or spoken words, signs or visual representation 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.

(2) Notwithstanding anything in sub-section (1), any act, speech, words, signs or visual representation shall not be deemed to be an act of seditions by reason only that it has a tendency,—

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(a) to show that the Government has been misled or mistaken in any of its measures;

(b) to point out errors or defects in the Government or the Constitution as by law established or in legislation or in the administration of justice with a view to remedying of such errors or defects; and

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(c) to express disapprobation of the administrative or other action of the Government, if such act, speech, words, signs or visual representation does not urge, incite or promote violence against the Government established by law in India”.

STATEMENT OF OBJECTS AND REASONS

The law relating to sedition that prevails in the country today was enacted by the imperial British Government during its colonial rule. The purpose of this law, as can be logically understood today was to curb down protests and uprisings of the 'subjects' of colonialism, against acts of the Government-whether these be legitimate or tyrannical acts. The law was enacted to clampdown on potential political, cultural, or even intellectual threats, challenges and possible upheaval of the colonizers.

The Indian Constitution, on the other hand, guarantees two very elemental fundamental rights to its citizens. Rights, that through their very nature, elevate the people of the country, from the designation of 'subjects' to citizens. Rights, that permit, the citizens of this democratic nation to speak up against wrongs being committed upon them, whether by outsiders or fellow citizens, or the ruling, all powerful Government itself. These are the Right to Freedom of Speech and Expression, the Right to Freedom of Peaceful Assembly-embodied in articles 19(1)(a) and 19(1)(b) of the Constitution of India.

The sedition law, feudal and imperialist to the extreme in its current wording, cannot be harmoniously constructed along with the spirit of article 19(1)(a) and article 19(1)(b). This is because it presumes that acts of opposition against the Government which incite 'disaffection', 'hatred' or 'contempt' pose a threat to public order. The wide restriction it imposes on article 19(1)(a) and article 19(1)(b) has allowed for the law to be misused against *bona fide* citizens of the country, who have dared to question the policies of the ruling Government. The restrictions imposed by the current sedition law are arbitrary and wide and far outreaching the ambit of reasonable restriction as allowed in article 19, sometimes defeating the purpose of the freedom granted by the Article completely.

This fact has also been recognized by various countries like Britain itself, Australia, Singapore, and others that have either repealed the old sedition law, or brought about suitable amendments in the existing one.

The Bill as proposed seeks to restore the article 19(1)(a) and article 19(1)(b) to their rightful position, wherein acts of opposition against the Government which are carried out without urging, inciting or promoting violence, and which pose no threat to public order and national security will not be classified as seditious acts.

Hence, this Bill.

HUSAIN DALWAI

ANNEXURE

EXTRACTS FROM THE INDIAN PENAL CODE, 1860

(45 OF 1860)

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124A. Sedition

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 Government with a view to obtain their alteration by lawful means, without exciting 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.

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RAJYA SABHA

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further to amend the Indian Penal Code, 1860.

(Shri Husain Dalwai, M.P.)