

SEDITION

## Gagging Free Speech

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The detractors of Arundhati Roy have found a fresh *casus belli* against her for her recent speech (Oct. 21) in New Delhi, on Kashmir. The participants in the polemics include such intellectuals as Swapan Dasgupta, a journalist and a BJP leader. The burden of their criticism is that Arundhati should be arrested for sedition because by her speeches she has caused hatred and disaffection towards the Government and actually championed the secession of a part of India, that is, Jammu and Kashmir.

Section 124A of the Indian Penal Code says : “Whoever brings or attempts to bring in hatred, contempt or excites disaffection towards the Government shall be punished .....” Before proceeding further, let us note that the concerned section speaks of “disaffection towards the Government”, without specifying whether by “Government” the Central Government is meant or the State Governments. Since there is no explanation, it may be inferred that “Government” means both Central and State Governments.

Now, going by the letter of Sec. 124A of IPC, any speech or writing or action that brings in “hatred, contempt or disaffection” towards the Government, attracts the provision of this Section and becomes punishable. It’s better to explain the political implications of this Section.

Someone delivers a speech or writes an article against the POSCO project in Orissa and alleges that the Government is surrendering the interests of the people to satisfy the profit motive of industrialists (whether indigenous or foreign) and that the project must be opposed. His speech/writing causes “hatred” of the people against the Government and holds the Government in “contempt” and therefore he becomes liable to prosecution (and conviction) under the law.

Or suppose someone speaks or writes against the projects of “industrial development” being taken up and/or implemented by the Government of West Bengal, like the steel factory project of the Jindals in Medinipur district, uprooting and displacing thousands of adivasis from the lands. He attracts Section 124A. And if he or she organizes and/or leads a mass movement against the project, then he/she only further compounds his/her offence. The same goes for anyone anywhere in India who may be opposing the eviction drive of the Government in the adivasi areas all over the country. If someone were to say that the Government’s motive behind the large-scale eviction of the adivasis is to hand over their land so that the rich mineral wealth lying buried in their land can be exploited to swell the profits of the monopolists and multinationals, he brings the Government into contempts and therefore commits sedition.

So, if Sec. 124A is taken literally, it will put an end to all criticism of the Government, all mass movements against it. It will change the character of the Indian polity as enshrined in the Preamble to the Constitution that India is a sovereign, democratic Republic where ultimate power lies in the people. India will cease to be a democratic polity and thereby the “basic structure of the Constitution” will be changed. But the Supreme Court has already given its verdict that the basic structure of the Constitution cannot be changed and any law which seeks to do that is ultra vires of the Constitution and therefore void ab initio. If the official interpretation of the scope of Sec.124A is accepted, India will cease to be a

democracy and become a totalitarian State, whether of the CPI-M brand, or of the BJP-RSS brand.

Therefore, this whole gamut of issues—no less political than legal— has to be brought under the scanner and analyzed in a larger perspective.

Secondly, Secession from India, or anything that overtly or covertly supports secession, people are told, is an unpardonable act of treason that should be punished by the eternal banishment of the traitor to Hell (or *ananta narakvaas*).

More than half a century ago—on September 10 1958, to be precise, the Prime Minister of India, Jawaharlal Nehru, signed an accord with the then Prime Minister of Pakistan, Feroze Khan Noon, which came to be known as the Nehru-Noon Pact. Under the terms of the treaty, India agreed to cede to (East) Pakistan a rich and fertile tract of West Bengal, named Berubari, situated in North Bengal. The land was not only fertile but several lakh East Pakistani refugees had been settled on it. Nehru took the decision to hand over Berubari to Pakistan without the consent of the Government of West Bengal, run by his own Congress Party.

The news created a wave of anger and resentment all over West Bengal. The resentment snowballed into a powerful mass movement. Ultimately the people foiled the attempt to cede Berubari to (East) Pakistan. Nehru became the target of trenchant criticism but the charge of sedition was never hurled at him.

The Assam Legislative Assembly passed a piece of legislation called the Assam (Alteration of Boundaries) Act, 1951, (Act 47 of 1951) under which 32.81 square miles of land in Assam's Kamrup district was ceded to Bhutan. Nobody called it a treasonable action or the legislation a treasonable Act.

These instant patriots are perhaps blissfully ignorant of the fact that for decades, a separatist movement has been going on in Wales in the extreme west of England. The separatist movement is led by the Welsh Nationalist Party and its avowed aim is the secession of Wales from the United Kingdom. There is no witch-hunt against them and no suppression of their movement for openly preaching secession. As a democratic country, Britain takes such demands and such movements in its stride.

One of the charges that the CPI-M is frequently hurling at the Maoists is that they are anti-State. The Communist Party of India (Marxist) is supposed to be both communist and Marxist. (The nomenclature suggests as if Marxism and communism were two mutually exclusive political categories and a Marxist need not necessarily be a communist and vice versa. One has to be a communist as well as a Marxist!) It is the avowed aim of the communists (the aim Marx said the communists “disdain to conceal”) is the forcible overthrow of the bourgeois State. The CPI-M admits that the Indian State is a bourgeois-landlord State. How come then that a party opposing a bourgeois State and seeking to change this State, becomes an “anti-State” party in the eyes of another party which also swears by Marxism? It's quite relevant to recall Marx's passionate support for Irish independence in the First International in 1871.

Patriotism is a weapon which has been used by the bourgeoisie throughout history to perpetuate their class rule. It is precisely on the question of the task of the Social Democrats in the First World War that the Second International broke down as Social Democrats of most European countries thought it their “patriotic” duty to support their respective bourgeois governments in the War. They ignored Lenin's call to “turn the imperialist war into a civil war”. Three successive conferences held at Zimmerwald could not convince the Social Democrats of the need to maintain the unity and solidarity of the working class in the face of

the War. From that day, “Social Democrat” became a term of abuse in the lexicon of the Marxist-Leninists.

The the way “sedition” is being interpreted in India today is ominous. It will put an end to all political debates, gag all criticism of the Government and outlaw all mass movements.  
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