DAILY CURRENT AFFAIRS

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SECTION 152 OF BNS SHOULD NOT BECOME A PROXY FOR SEDITION

Section 152 of BNS should not become a proxy for sedition

The Rajasthan High Court, in *Tejender Pal Singh v. State of Rajasthan* (2024), cautioned against using Section 152 of the Bharatiya Nyaya Sanhita (BNS) as a tool to stifle legitimate dissent. In 2022, before the BNS was enacted, the Supreme Court had suspended pending criminal trials and court proceedings under Section 124A (sedition) of the Indian Penal Code (IPC) until the government reconsidered the law. This was followed by a verbal proclamation by the Union Home Minister that 'sedition' would be repealed as an offence. Section 152 of the BNS criminalises any act exciting secession, armed rebellion, and subversive activities. It also criminalises acts encouraging feelings of separatism or endangering the sovereignty, unity, and integrity of India. While the BNS does not formally use the term 'sedition', the Rajasthan High Court's recent decision hints that the spectre of sedition still looms large in the BNS.

Problems with Section 152

First, Section 152 BNS criminalises 'acts endangering the sovereignty, unity, and integrity of India.' However, what constitutes such endangerment under Section 152 has not been defined in the statute. This renders the provision vague, and amenable to expansive interpretation by enforcement authorities. Accordingly, a speech criticising a prominent historical or political figure, or sympathising with a controversial public figure, may be construed as 'endangering' the 'unity and integrity of India' for initiating legal action against a person. In the current sociopolitical environment that appears increasingly fragmented, a stringent penal provision without inbuilt checks for abuse may be used to stifle dissent and criticism.

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The lack of a statutory requirement to establish a causal linkage between the speech and its actual consequence before depriving the accused of personal liberty renders Section 152 amenable to abuse

Second, the term 'knowingly' in Section 152 substantially lowers the threshold for commission of the offence, especially in the context of social media. Even if a person does not have the malicious intent to incite activities or feelings prohibited under Section 152, they can still be considered liable for the offence if they share a post knowing it will reach a larger audience and may provoke such activities or feelings. This would be sufficient to arrest a person and prosecute them for commission of the offence under Section 152, which is cognisable and non-bailable. The lack of a statutory requirement to prima facie establish a causal linkage between the speech and its actual consequence before depriving the accused of personal liberty renders Section 152 amenable to abuse much like its predecessor, and has the potential to instill a chilling effect on free speech. The potential for abuse of the sedition-like provision is clearly borne out by data of the National Crime Records Bureau (NCRB) regarding Section 124A of the IPC. Out of 548 persons arrested between 2015 and 2020 for sedition, only 12 people were convicted in seven cases. More importantly, this was the situation when Section 124A IPC was relatively narrower and more specific in comparison to Section 152 of the BNS. Unfortunately, the NCRB data, and the benefit of hindsight regarding abuse of Section 124A, seem to have had no bearing in designing the contours of Section 152 of the BNS.

The way forward

In the past, the judiciary has consistently adopted a consequentialist interpretation to strike a careful balance between national interest and the freedom of expression. The Supreme Court has given weight to the actual consequence or impact of free speech in determining the offence rather than considering the 'speech' on its own. For instance, in *Balwant Singh and Anr v. State of Punjab* (1995), the Court drew a line of demarcation between casual sloganeering and its repercussions or consequences, requiring a direct causal nexus between the act and its impact for it to amount to an offence of sedition. Further, in *Javed Ahmad Hazam v. State of Maharashtra and Ors* (2024), the Court said the "effect of the words must be judged from the standards of reasonable, strong-minded, firm and courageous men, and not those of weak and vacillating minds..." Moreover, in *Kedar Nath Singh v. State of Bihar* (1962), the Court had differentiated 'disloyalty towards the government' from 'strongly worded criticism of the government and its policies'.

Given the lack of inbuilt safeguards in Section 152 to prevent its abuse, these interpretations should guide the enforcement authorities in applying this provision. Moreover, the Supreme Court should, when it gets the earliest opportunity, craft a set of guidelines for the enforcement authorities, demarcating the boundaries for the terms used under Section 152 BNS, as it did with respect to 'arrest' in *D.K. Basu v. State of West Bengal*. This will ensure that the provision does not become a proxy for the offence of sedition.

It is important to provide liberal space to thoughts, beliefs and expressions, and to subject them all to unimpeded criticisms, especially in the age of social media. We need to fall back on the concept of 'marketplace of ideas', as envisioned by Justice Holmes in *Abrams v. United States*, because the best test of truth will always be the potential of an idea to get itself accepted in a democratic and diverse society.

Context

- **Judicial Developments:**
  - Rajasthan High Court's judgment in *Tejender Pal Singh v. State of Rajasthan (2024)* cautioned against the misuse of Section 152 of BNS to stifle dissent.
  - Section 124A (sedition) of the IPC was suspended by the Supreme Court in 2022 pending reconsideration.
  - Union Home Minister proclaimed that sedition would be repealed, yet Section 152 retains similar provisions.
- **Provisions of Section 152 of BNS:**
  - Criminalises acts exciting secession, armed rebellion, subversive activities, or encouraging separatism.
  - Penalizes actions perceived as endangering the sovereignty, unity, and integrity of India.

Issues with Section 152

- **Lack of Definition and Vagueness:**
  - Terms like "endangering the sovereignty, unity, and integrity of India" lack clear definitions.
  - Ambiguity opens doors to subjective interpretation, allowing enforcement authorities to misuse it against dissenters.
  - Criticisms or controversial statements may be misconstrued as threats to national integrity.
- **Lower Threshold for Offence:**
  - The term "knowingly" creates liability even without malicious intent.
  - Sharing social media content that could provoke prohibited feelings suffices to attract prosecution.
  - Absence of a prima facie causal link between speech and consequences raises concerns of arbitrary arrests and prosecution.

Chilling Effect on Free Speech:

- Overbroad and unclear provisions deter individuals from expressing opinions.
- Historical data from NCRB on sedition cases shows widespread misuse:
  - Between 2015-2020, 548 arrests were made under Section 124A, but only 12 convictions occurred.
  - The broader scope of Section 152 exacerbates the potential for misuse compared to Section 124A.

Judicial Precedents and Safeguards

- **Consequentialist Approach to Free Speech:**
  - Balwant Singh v. State of Punjab (1995): Distinguished casual sloganeering from its consequences, emphasizing the need for direct causal nexus.
  - Javed Ahmad Hazam v. State of Maharashtra (2024): Stated that the impact of speech must be judged from the perspective of reasonable and strong-minded individuals.
  - Kedar Nath Singh v. State of Bihar (1962): Differentiated between disloyalty to the government and strong criticism of policies.
- **Judiciary's Role in Protecting Rights**:
  - Past judgments emphasize balancing national security with the right to free expression.
  - Guidelines like those in *D.K. Basu v. State of West Bengal* can help clarify enforcement boundaries and prevent abuse.

The Way Forward

- **Judicial Intervention:**
  - Supreme Court should establish guidelines to prevent the misuse of Section 152.
  - Demarcation of terms like "endangering sovereignty" is necessary to ensure fair application.
- **Legislative Reforms:**
  - Amend Section 152 to include specific definitions and safeguards against abuse.
  - Require a prima facie causal link between speech and its consequences before prosecution.
- **Fostering Free Expression:**
  - Embrace the "marketplace of ideas" concept by Justice Holmes (*Abrams v. United States*):
    - Encourage diverse viewpoints and allow ideas to compete in a democratic framework.
  - Provide space for criticism, dissent, and debate without fear of persecution.
- **Awareness and Training:**
  - Train enforcement authorities on the nuanced application of the law.
  - Encourage judicial review and oversight to curb arbitrary actions.

Conclusion

- The Rajasthan High Court's cautionary stance on Section 152 highlights the necessity for legal clarity and safeguards to protect free expression. Drawing from judicial precedents and adopting a balanced approach, the government and judiciary must ensure that Section 152 does not become a proxy for sedition laws. In a democratic society, fostering an environment for the free exchange of ideas is essential for progress and inclusivity.

INDIA RELEASES COMPILATION OF 10,000 HUMAN GENOMES

India releases compilation of 10,000 human genomes from 83 population groups

The 'Genome India' database will be available to researchers across the world; it will serve as a template for investigations into disease, drug therapy; PM says it will strengthen biotech economy

Jacob Koshy
NEW DELHI

India has completed and made available a year-long compilation of 10,000 human genomes representing 83 population groups, making up about 2% of the country's 4,600 population groups, as a database. This collection will serve as a template of future investigations into disease and drug therapy.

The 'Genome India' database, as it is known, will now be available to researchers across the world for investigation and is housed at the Indian Biological Data Centre (IBDC), in Faridabad, Haryana.

A first analysis of the genomes estimates around 27 million low-frequency (or relatively rare) variants, with 7 million of them not found in similar reference databases around the world. Certain population groups show higher frequencies of alleles, or different versions of the same gene. Over the last two decades, many countries have created databases of the genomes of their population – for a variety of purposes including estimating disease risks, adverse drug reactions, establishing genealogy and DNA-profiling databases.

A major focus of the Indian reference genomes is to have researchers study diseases. GETTY IMAGES

However, a major focus of the Indian reference genomes is to have researchers study diseases. "The discoveries from Genome India are not just scientific – they hold the potential for targeted clinical interventions, advancing precision medicine for better healthcare," said Union Minister of State (independent charge) for Science and Technology Jitendra Singh, at an event here to announce the project.

Researchers wishing to access the genomes must send in a proposal that will be perused by an independent panel with a commitment that will adhere to data sharing and privacy policies. Though the database stores information on population groups, this data will not be classified by the names of castes or tribes but will be numerically coded, Rajesh Gokhale, Secretary, Department of Biotechnology, told *The Hindu*.

Describing the project as "historic", Prime Minister Narendra Modi, in a video address, said this paved the way for India strengthening the biotechnology economy as well as biotechnology-based manufacturing.

Experts said that while only a small fraction of India's population groups were studied, the door was open to expanding the database to a million genomes. "Though costs are a limiting factor, a million would dramatically scale insight into India's genetic diversity," said Kumaraswamy Thangaraj of the Centre for Cellular Microbiology, Hyderabad and one of the project leaders.

Genome India Project

- Sequencing of 10,000 Indian genomes.
- Funded: DBT
- Stored: Indian Biological Data Centre (IBDC) Faridabad.
  - ↓
  - India's 1st national repository for life science data.

Genome Sequencing.

DNA extraction
↓
DNA fragmentation.
↓
Tagging with fluorescent markers. → DNA Sequencers ← Algorithms

Applications

- Biomedical
- Pharmacogenomics
- Agricultural genomics

Z- MOREH TUNNEL

PM to open Z-Morh tunnel, key feature in year-round Kashmir-Ladakh corridor

Peerzada Ashiq
SRINAGAR

The Z-Morh tunnel is set to become the first major milestone in the effort to build a strategic corridor between Kashmir and Ladakh which is open all through the year, with Prime Minister Narendra Modi slated to inaugurate it on January 13.

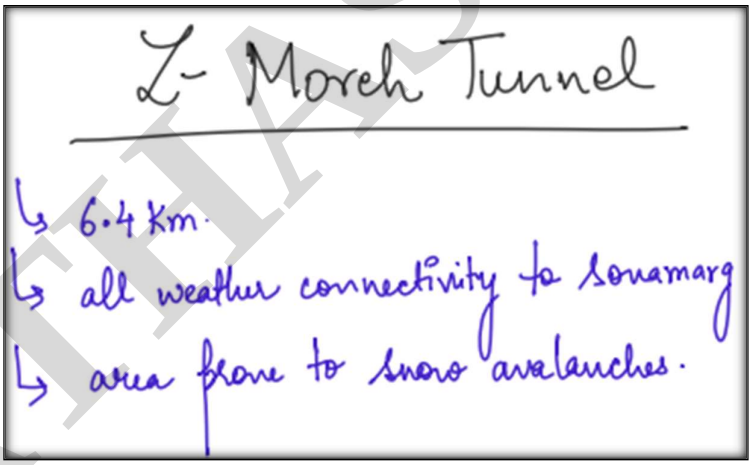
The tunnel, in Ganderbal district, is key to keeping the tourist destination of Sonamarg open for visitors around the year. Earlier, snowfall and avalanches would cut off the tourist spot every winter.

The tunnel in Ganderbal district would keep the tourist destination of Sonamarg open for visitors around the year. FILE PHOTO

This will be Mr. Modi's first visit to Kashmir since an elected government took over the reins in the Union Territory. A security assessment of the project was done on Thursday to set up foolproof security arrangements ahead of the PM's visit. Security across the Valley, especially in Srinagar, has been stepped up and additional checkpoints set up on the main roads.

Hoteliers are enthusiastic about the tunnel. "It was much needed to have Sonamarg on the winter tourism map of Kashmir. There is a need to open up new winter destinations in Kashmir given the growing footfall. It would be safe to drive to Sonamarg in winters now," said Sajid Majeed, a hotelier.

At present, most hotels remain closed because of unreliable road access and infrastructure problems.



(UPSC PYQ 2017)

Q.1 With reference to agriculture in India, how can the technique of 'genome sequencing', often seen in the news, be used in the immediate future? (2017)

1. Genome sequencing can be used to identify genetic markers for disease resistance and drought tolerance in various crop plants.
2. This technique helps in reducing the time required to develop new varieties of crop plants.
3. It can be used to decipher the host-pathogen relationships in crops.

Select the correct answer using the code given below:

(a) 1 only
(b) 2 and 3 only
(c) 1 and 3 only
(d) 1, 2 and 3

ANCHAR LAKE

PICTURE OF THE WEEK

Silent waters, hidden catch

Fishermen holding harpoons, covered under blankets, wait in their boats to catch fish using a unique technique called Tchay-e-gard shikar (shadow fishing) on the frozen waters of the Anchar Lake in Srinagar, on Thursday. Every winter, from December 21 to April 30, the Kashmiri fishermen use this method of camouflaging their presence to lure the fish into a trap with the help of reeds and shock waves by beating the water. IMRAN NISSAR

→ Jammu & Kashmir. (Soura area).
→ connected with Dal lake via 'Amir Khan Nallah'
→ Hanji Community.

Shadow fishing : traditional fishing method.
↓
(Tchay-e-gard Shikar)

OTHER ARTICLES

We need accessibility rules that are based on principles

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The Supreme Court, in *Rajive Raturi v. Union of India* (2024), held Rule 15 of the Rights of Persons with Disabilities (RPwD) Rules, 2017, violative of the Rights of Persons with Disabilities Act, 2016.

The Court reasoned that the Rule was drafted in a discretionary tone whereas the corresponding provisions (Sections 40, 44, 45, 46, 89) in the Act imposed a mandatory obligation for the government. This was significant as Rule 15 was a statutory provision under which the accessibility guidelines of respective departments and ministries were notified. Key examples include the Ministry of Housing and Urban Affairs' guidelines for creating barrier-free environments, the Ministry of Road Transport and Highways' bus body code, and other accessibility standards established by the Ministries of Sports, Culture, and Information and Broadcasting.

The Court observed that these guidelines allowed discretion to the ministries and departments, which is antithetical to the mandatory language of the Act. Moreover, striking down Rule 15 also meant that the accessibility guidelines notified under the Rule lost their statutory authority. As a result, the Court gave the government three months to develop minimum mandatory accessibility requirements to govern all the sectors.

The judgment is a stark reminder of how accessibility guidelines have been created in silos without the identification of normative principles that will ensure universality and intersectionality to those guidelines. Thus, while formulating new guidelines, there needs to be a shift towards a principle-based framework on accessibility rules.

The idea of accessibility

The Court deliberated in detail on the difference between accessibility and reasonable accommodation. Accessibility and reasonable accommodation both originate within the principles of substantive equality of the Constitution. Accessibility is now accepted as a right woven throughout the United Nations Convention on the Rights of Persons with Disabilities. Conversely, reasonable accommodation is a facilitator of substantive equality where specific challenges are dealt with in a specific context. Therefore, both concepts should be understood as interdependent and complementary to each other, where accessibility builds the edifice through standardised accessibility standards from the outset, while reasonable accommodation ensures tailored solutions for those individuals who might still face inaccessibility in a specific context.

The idea of accessibility is not static, and the conceptual contours and corresponding tools have evolved regularly. For instance, with the advent of Artificial Intelligence and the Internet of Things and their incorporation into social interactions, the understanding of digital accessibility has evolved simultaneously. This makes it necessary to modify the nature, extent, and type of digitally accessible tools that can ensure broader inclusivity.

The shifting threshold also needs to be understood in the context of phased realisation of accessibility. The Court in *Rajive Raturi* observed that the existing guidelines are framed in a way that establishes long-term goals of accessibility without setting the minimum standards requiring immediate implementation. Hence, the minimum accessibility threshold shall be envisaged on a sliding scale wherein the baseline moves forward at periodical intervals. Canada has developed a comprehensive road map to achieve full accessibility by 2040, focusing on harmonising standards across the country through two work streams, with periodic reviews every five years to adapt to changing needs.

The RPwD Act defines barriers in the broadest form possible, wherein intangible barriers such as attitudinal barriers are recognised in addition to tangible barriers such as infrastructure. This has modified how accessibility is viewed and understood within physical and digital ecosystems. Thus, it is necessary to evolve accessibility parameters in theory and practice to overcome tangible and intangible barriers. For instance, the evolving understanding of disability is an aspect that informs the attitude of society and, hence, directly relates to the attitudinal barrier. Thus, accessibility must also align with this evolution of disability understanding to be truly inclusive.

The understanding of universal design has also evolved over time. It is not just limited to persons with disabilities but also includes every vulnerable community, such as women, children, and the elderly. This reflects a tacit recognition of the universality of disability, which is not identified as an individual's incapacity to perform but rather the composition of the environment in which one operates. Disability may arise from a high cognitive workload causing an inability to focus and control emotions, temporarily broken limbs, unavailability of ramps to a pregnant mother, age-related complications, etc. Thus, the rules should be applicable across groups, providing accessibility in the general sense and not exclusive to persons with disabilities.

Compliance with social audit

Section 48 of the RPwD Act mandates the Central and State governments to regularly undertake social audits of all general schemes and programmes to ensure they do not have an adverse impact on the needs and concerns of persons with disabilities. Social audits play a vital role in developing and strengthening the accountability of the government and service providers. For instance, regular social audits of schemes providing assistance technologies to persons with disabilities can assess the bottlenecks in the delivery of services, identify the changing needs of individuals, and provide better devices.

However, due to the lack of standardised guidelines under the RPwD Rules, there is no clarity on the scope and methodology of social audits. This might lead to inconsistencies among the Centre and the States, lack of awareness, and insufficient training for auditors. Therefore, clear guidelines and operationalisation of social audits at a larger scale will help identify the changing nature of disability-related challenges and make targeted interventions to enhance service delivery through concerned schemes and programmes.

Rules have to be understandable

The earlier accessibility rules across departments and ministries suffered from bureaucratic complexity regarding their mandate. There were too many technicalities and often contradictory accessibility mandates from multiple ministries that confused the complying entities. For instance, a sporting complex has multiple guidelines for accessibility from the Ministry of Urban Affairs and Housing, Sports, Transport, and others. This led to not just a failure to provide objective parameters but also increased the compliance cost for such establishments. During the proceeding under the redressal mechanism, the complex and overlapping guidelines also delayed the relief sought by persons with disabilities.

The new accessibility rules must be direct, understandable, and practical to ensure effective implementation. The ambiguity in department/ministry jurisdiction that plagued the earlier rules should also be addressed by having a nodal authority, ideally, the sector regulators, and in the absence of it, the Ministry of Social Justice and Empowerment should adjudicate on rules.

The deadline for releasing the new accessibility guidelines is February, subject to extension. Thus, there is a necessity for diverse sectors, both private and public, beyond social services such as financial, technological, transport, to deliberate upon the minimum rules of accessibility. This isn't just warranted by the legislative mandate of the RPwD Act but also a market incentive to tap into the large population base by providing accessible products and services.

The new accessibility rules must be direct, understandable, and practical to ensure effective implementation

Wildfires rage out of control near Los Angeles, killing at least five

The biggest of the three blazes has consumed more than 5,000 acres in Pacific Palisades, a picturesque neighbourhood in west Los Angeles; officials say fierce winds were hindering firefighting efforts; California declares a state of emergency

Reuters
LOS ANGELES

At least five people were killed as several fast-growing wildfires raged out of control on Wednesday near Los Angeles, destroying hundreds of buildings, scorching hillsides and prompting officials to order some 1,80,000 people to evacuate their homes.

Fierce winds were hindering firefighting efforts and fuelling the fires, which have expanded unimpeded since they began on Tuesday.

The biggest blaze has consumed more than 5,000 acres in Pacific Palisades, a picturesque neighbourhood in west Los Angeles County between the beach towns of Santa Monica and Malibu that is home to many film, television and music stars. More than 1,000 structures have been destroyed, Los Angeles County Fire Chief Anthony Marrone said at a press conference on Wednesday.

Smoke billows: A Bank of America building engulfed in flames in Los Angeles on Wednesday. AFP

Another fire, the Eaton fire, had grown to more than 2,000 acres as it burned some 50 km inland in Altadena, near Pasadena. The L.A. County sheriff has indicated that the total death count is still being determined.

The Hurst fire, in Sylmar in the San Fernando Valley northwest of Los Angeles, had exceeded 500 acres. All three fires were 0% contained, officials said.

A " high number" of significant injuries had occurred among residents who did not heed evacuation orders, Mr. Marrone said. Officials warned that the gusty winds were forecast to persist throughout the day.

As the flames spread and residents began evacuating after the fires broke out on Tuesday, roads were so jammed that some people abandoned their vehicles to escape the fire. Emergency responders were going door to door to press evacuation orders.

California Governor Gavin Newsom declared a state of emergency on Tuesday. President Joe Biden planned to visit a Santa Monica fire station for a briefing from fire officials on Wednesday, the White House said.

President-elect Donald Trump, who takes office in two weeks, blamed Mr. Newsom's environmental policies for the disaster in a post on his Truth Social website.