**Constituent Assembly Debates on Sedition and Freedom of Speech and Expression**

Article 19 (1) (a) of the Constitution of India, 1950 deals with freedom of speech and expression:

*(1) All citizens shall have the right—*

*(a) to freedom of speech and expression;*

*(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India,] the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.*

Draft Article 13 dealt with freedom of speech and expression and was debated in the Constituent Assembly:

1. *Subject to the other provisions of this article, all citizens shall have the right-*
2. *To freedom of speech and expression*
3. *Nothing in sub-clause (a) of clause (1) of this article shall affect the operation of any existing law, or prevent the State from making any law, relating to libel, slander, defamation, sedition or any other matter which offends against the decency or morality or undermines the authority or foundation of the State.*

The Assembly debated Draft Article 13 on 1st and 2nd of December 1948 and the 16th and 17th of October 1949.

This document has excerpts from the debates in the Assembly on *sedition* as a restriction to freedom of speech and expression.

**1st December 1948**

**7.64.154:** **K.M. Munshi**

...As regards the merits, the changes sought to be made are two. In the original clause, the word ‘sedition’ occurs. The original clause reads as follows: "relating to libel, slander, defamation, sedition or any other matter". The amendment seeks to omit the word ‘sedition’. Further the amendment seeks to substitute the words "undermines the authority or foundation of the State" by the words…..

**7.64.164:** **K.M. Munshi**

The House will not permit me to do anything of the sort. Sir, the importance of this amendment is that it seeks to delete the word ‘sedition’ and uses a much better phraseology, *viz*. "which undermines the security of, or tends to overthrow, the State." The object is to remove the word ‘sedition’ which is of doubtful and varying import and to introduce words which are now considered to be the gist of an offence against the State.

**7.64.167:** **K.M. Munshi**

I was pointing out that the word ‘sedition’ has been a word of varying import and has created considerable doubt in the minds of not only the members of this House but of Courts of Law all over the world. Its definition has been very simple and given so far back in 1868. It says "sedition embraces all those practices whether by word or deed or writing which are calculated to disturb the tranquility of the State and lead ignorant persons to subvert the Government". But in practice it has had a curious fortune. A hundred and fifty years ago in England, in holding a meeting or conducting a procession was considered sedition. Even holding an opinion against, which will bring ill-will towards Government, was considered sedition once. Our notorious Section 124-A of Penal Code was sometimes construed so widely that I remember in a case a criticism of a District Magistrate was urged to be covered by Section 124-A. But the public opinion has changed considerably since and now that we have a democratic Government a line must be drawn between criticism of Government which should be welcome and incitement which would undermine the security or order on which civilized life is based, or which is calculated to overthrow the State. Therefore the word ‘sedition’ has been omitted. As a matter of fact the essence of democracy is Criticism of Government. The party system which necessarily involves an advocacy of the replacement of one Government by another is its only bulwark; the advocacy of a different system of Government should be welcome because that gives vitality to a democracy. The object therefore of this amendment is to make a distinction between the two positions. Our Federal Court also in the case of Niharendu Dutt Majumdar Vs King, in III and IV Federal Court Reports, has made a distinction between what ‘Sedition’ meant when the Indian Penal Code was enacted and ‘Sedition’ as understood in 1942. A passage from the judgement of the Chief Justice of India would make the position, as to what is an offence against the State at present, clear. It says at page 50:

*"This (sedition) is not made an offence in order to minister to the wounded vanity of Governments but because where Government and the law ceases to be obeyed because no respect is felt any longer for them, only anarchy can follow. Public disorder, or the reasonable anticipation or likelihood of public disorder is thus the gist of the offence. The acts or words complained of must either incite to disorder or must be such as to satisfy reasonable men that that is their intention or tendency****."***

**7.64.168: K. M. Munshi**

This amendment therefore seeks to use words which properly answer to the implication of the word ‘Sedition’ as understood by the present generation in a democracy and therefore there is no substantial change; the equivocal word ‘sedition’ only is sought to be deleted from the article. Otherwise an erroneous impression would be created that we want to perpetuate 124-A of the I. P.C. or its meaning which was considered good law in earlier days. Sir, with these words, I move this amendment.

**1st December 1948**

**7.65.132: T.T Krishnamachari**

 Sir, I would like to say this that the amendments proposed by my honourable Friend Dr. Ambedkar particularly to clauses (4), (5) and (6) are a great improvement on the original draft and my own view is that they do take away the lacunae that existed in the original draft. But I should like to lay emphasis on one particular amendment moved by my Friend Mr. Munshi who is not here. The value of that amendment happens to be only, to a very large extent, sentimental. The word `sedition' does not appear therein. Sir, in this country we resent even the mention of the word sedition' because all through the long period of our political agitation that word `sedition' has been used against our leaders, and in the abhorrence of that word we are not by any means unique. Students of Constitutional law would recollect that there was a provision in the American Statute Book towards the end of the 18th Century providing for a particules law to deal with sedition which was intended only for a period of years and became more or less defunct in 1802. That kind of abhorrence to this word seems to have been more or less universal even from people who did not have to suffer as much from the import and content of that word as we did. Just all the same the amendment of my honourable Friend Mr. Munshi ensures a very necessary thing so far as this State is concerned. It is quite possible that ten years hence the necessity for providing in the Fundamental Rights an exclusion of absolute power in the matter of freedom of speech and probably freedom to assemble, will not be necessary. But in the present state of our country I think it is very necessary that there should be some express prohibition of application of these rights to their logical end. The State here as it means in the amendment moved by my honourable Friend Mr. Munshi as I understand it, means the Constitution and I think it is very necessary that when we are enacting a Constitution which in our opinion is a compromise between two possible extreme views and is one suited to the genius of our people, we must take all precautions possible for the maintenance and sustenance of that Constitution and therefore I think the amendment moved by my honourable Friend Mr. Munshi is a happy mean and one that is capable of such interpretation in times of necessity, should such time unfortunately come into being so as to provide the State adequate protection against the forces of disorder.