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No neta has gone to jail for hate speeches

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Mumbai: The record has not been all that impressive when it comes to using the law on hate speeches. The charge of "promoting communal disharmony" has either been pressed unnecessarily or it has resulted in shocking acquittals and discharge. Legal experts now suggest it is time for a relook at the effectiveness of the law.

Sections 153, 153-A, and 153-B of the Indian Penal Code (IPC) have been invoked against a wide spectrum of politicians like L K Advani, Murli Manohar Joshi, Ashok Singhal, Uma Bharti, Sadhvi Ritambara, Bal Thackeray and Abu Asim Azmi.

But not a single politician has gone to jail for causing communal disharmony. Advani was given a clean chit by an Uttar Pradesh court after being charged with causing communal disharmony by his speeches before the Babri Masjid demolition in 1992. Videos submitted did not show any leader making any incriminating "hate speech". The court also said Advani did "not know that the demolitions of the disputed structure had started".

Bal Thackeray was accused of inflammatory writings during the 1993 communal riots in Mumbai. But the Sena chief had nothing to worry about for seven years; it was the Sena-BJP alliance in power and the charge under section 153-A could be proceeded against only with a sanction from the state government.

It was only in 2000, after the Democratic Front government came to

power, that the sanction to prosecute him was given. But it was too late; the case had become time-barred, the court held as the time limit for issuing a sanction was three years.

In another old case, after a dispute between Shias and Sunnis, a private complaint under IPC section 153-A for promoting ill-will between two sects on grounds of religion and race was filed



SEE WHAT THEY PROMISED: A Samajwadi Party new year's poster wished Mumbaikars a 'tension-free' 2008; the party's reaction to MNS leader Raj Thackeray's comments has complicated matters further, feel senior cops

THE OTHER ACT

Cops have used another Section of the IPC to arrest scores of MNS and SP activists over the last few days

SECTION 506 (2)

- Deals with punishment for criminal intimidation.
- The maximum punishment is 2 years.
- But if the criminal intimidation leads to death or serious hurt or causes destruction of property by fire, the punishment can extend to seven years.

against the Syedna of the Dawoodi Bohras in the mid-1980s. The state government went to the high court to get the complaint quashed and succeeded with a landmark order that said it was no point raking things up when there was peace prevailing in the community. That was for the first time in the state's legal history that a government filed a writ petition, arguing that there was peace and to continue with the prosecution might result in disturbing that. The court upheld the government's contention that it was in public interest not to allow the prosecution to continue.

(The law on "hate speech" was also applied to US professor and author James Laine and Baroda artist Chandramohan.

In the Laine case, the state said he hurt sentiments of a community through his writings in his book on Shivaji and promoted enmity and ill-will between groups. The book's publisher was also charged with the same offence. Laine was by then back in the US and was not arrested. He moved Bombay High Court to get the complaint quashed but it was ultimately the Supreme Court that quashed the complaint in 2007.

Chandramohan, a student of Fine Arts at the MS University in Baroda, was arrested for causing communal disharmony through his work and spent some time in jail. His arrest shocked the artist community and placed the issue of wanton application of the law under the spotlight.

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THE CASE AGAINST RAJ

WHAT HE SAID

ON AMHTABH BACHCHAN

- Has preferred to be a brand ambassador for Uttar Pradesh instead of Maharashtra, where he lives.
- Chose Allahabad when he wanted to contest an election.
- Opted for a Bhojpuri film when he acted in a non-Hindi movie.

ON LALUPRASAD

- Employs mostly Biharis in Indian Railways, thereby promoting a regional bias.

ON PEOPLE FROM UP AND BIHAR

- Make no effort to learn local language Marathi, different from Marwaris and Gujaratis in this regard.

This round of unrest started in the first week of February after MNS leader Raj Thackeray launched a diatribe against North Indians

- Celebrate Chhat Puja with unnecessary fanfare in Mumbai.

THE LAW

Such comments can attract punishment under Sections 153, 153-A and 153-B of the Indian Penal Code

SECTIONS 153, 153-A & 153-B

- Section 153-A considers it an offence to promote or try to promote, through written or spoken words or signs, enmity or ill will between people of different religions, races, places of birth or residence and languages.
- It seeks to punish a person for acting in such a way that can disturb public peace and harmony.

- Section 153-B seeks to punish people for acting against the interests of national integration and trying to deny other people their constitutional rights.

- Both are punishable with a maximum of three years' imprisonment and/or fine.

- They are non-bailable (only court can give bail to arrested offenders and not cops) and cognisable offences (state can take suo motu action).

- Section 153 is slapped against people who give speeches with the intention of causing a riot; it is bailable. If the act causes a riot, then the punishment can stretch to a year; in case there is no riot, the maximum sentence can be six months.

SPARINGLY USED : The Sections have rarely been invoked in the past and, on a couple of occasions, have failed in court when the government pressed charges



BAL THACKERAY

Gave himself up for arrest—for all of one hour—in 2000 for provocative written statements he made during the 1993 riots. The case did not proceed as the arrest came seven years after the alleged offence.



ABU ASIM AZMI

This Samajwadi Party leader is no stranger to this IPC Section. He allegedly made provocative statements during a political rally in 2000 and was slapped with a case. But that was all; he was not arrested.



JAMES LAINE

A Pune-based outfit complained of objectionable statements in the book on Shivaji written by Laine. He was charged with these Sections in 2005 but a court quashed the charges, saying there was nothing in them.