



Stage And Statute: Legal Oversight In Indian Theatre

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Abstract:

The interplay between law and theatre in India presents a compelling narrative of control, resistance, and cultural evolution. This paper explores the intricate legal framework that governs Indian drama, with a particular focus on the historical and contemporary implications of the Dramatic Performances Act of 1876. Enacted during British colonial rule, the Act was designed to regulate and censor theatrical performances deemed seditious or obscene, thereby curbing the burgeoning nationalist sentiments expressed through theatre. Through a detailed analysis, this paper traces the Act's origins, its enforcement, and its enduring legacy in the post-colonial era. It examines how the Act and subsequent legislation have shaped the development of Indian theatre, influencing both its form and content. The research delves into key legal texts, historical records, and landmark court cases to illustrate the ongoing tension between artistic freedom and regulatory control.

The paper also highlights the role of theatre as a medium of social commentary and political resistance, showcasing how dramatists and performers have navigated legal constraints to address pressing social issues such as caste discrimination, gender inequality, and political corruption. Contemporary instances of censorship and legal challenges faced by theatre practitioners are discussed, providing a comprehensive overview of the current landscape.

By juxtaposing the colonial and modern contexts, this study underscores the resilience and adaptability of Indian drama in the face of legal restrictions. It calls for a re-evaluation of existing laws to better support artistic expression while maintaining necessary safeguards against genuinely harmful content. Ultimately, this paper aims to contribute to the broader discourse on freedom of expression and cultural policy in India, advocating for a balanced approach that respects both artistic integrity and social responsibility.

Key Words: Dramatic Performance Act; Indian Theatre; Censorship; Colonial Legislation, Legal Regulation

India has the longest and richest tradition of mass communication, especially dramatic or theatrical performances. The legacy of dramatic and theatrical performances in India is rich and varied, spinning thousands of years and reflecting the country's diverse cultural heritage. Early forms of drama can be traced back to the

Vedic rituals (1500-500 BCE), which included recitations, dialogues and enactments. These performances were primarily religious and ceremonial. The golden age of Indian drama is often attributed to the period of Sanskrit theatre (200 BCE-1000 CE). Key playwrights such as Kalidasa, Bhasa, Shudraka and Bhavabhuti made significant contributions. Kalidasa's plays such as "Shakuntala" and "Vikramorvashiyam" are celebrated for their poetic beauty and emotional depth. Natyashastra by Bharata Muni, written around 200 BCE, is a foundational text that outlines the principle of drama, including the structure of plays, types of characters and the concept of Rasa (emotional essence). With the decline of Sanskrit theatre, regional languages and forms flourished. Different regions developed their own styles of drama and theatre. Yakshagana in Karnataka, Kathakali in Kerala, Koodiyattam (a form of Sanskrit theatre), in Kerala and Therukooth in Tamil Nadu are prominent examples. These forms often included elements of dance, music and elaborate costumes, with performances based on epics like the Ramayana and Mahabharata.

The British colonization of India brought Western theatrical traditions, which influenced local theatre. English language gained popularity among the educated elite. Parsi theatre which combined elements of Western theatre with Indian themes, emerged during this period. This period also saw the rise of social and political themes in plays, with playwrights like Girish Chandra Ghosh and Rabindranath Tagore making significant contributions. Post-independence, Indian theatre saw a revival and experimentation with new themes and forms. Playwrights' life Vijay Tendulkar, Badal Sircar, Girish Karnad, and Habib Tanvir brought fresh perspectives and highlighted contemporary social issues. The Indian People's Theatre Association played a crucial role in promoting progressive and politically charged plays. Today Indian theatre is a vibrant mix of traditional forms and modern experimentation. Urban centers like Mumbai, Delhi, Kolkata and Bangalore are hubs for contemporary theatre. Theatre festivals, such as the National School of Drama's Bharat Rang Mahotsav, provide platforms for diverse performances. Modern theatre continues to explore new themes, including gender issues, identity, and globalization, while also preserving traditional forms through adaptations and innovative presentations. Thus, Indian theatre's legacy is a testament to its adaptability and resilience, reflecting the country's evolving social, political and cultural landscapes.

A theatre or dramatic performances is acting out of the written word or it is the speech mixed up with representation or conduct (Basu, 1991). It is the spontaneous expression of people shaped by them. It is a very potential medium of expression since it has an everlasting impact conducive to thought. Drama has been around in India over 2000 years. Even as early as the Sangam period (estimated to be between 200 BC - 100 AD), Tamil was divided into Iyal (literature), Isai (music) and Naakam (theatre). The Sanskrit drama blossomed during the Gupta Era (AD 320-550) and the plays from that era are closely related to the ancient rituals and seasonal festivities of the country. The stimulus produced by drama stirs up the emotions of individuals exposed to it. Theatre is a powerful weapon of publicity to deal with the issues ranging from nuclear war fare, peaceful co-existence to special evils like dowry, black money, and terrorism, AIDS etc. It is rightly held that "a theatre that does not participate in the social milieu is an impotent and sick theatre" (Singh, 1986: 21). Drama shows its vitality in mass education, information and entertainment. It gains popular support for being a potent inexpensive

medium to reflect the social milieu of India's life. It became a dynamic force molding the outlook of people and is the most powerful medium of expression. Drama has been used for the upliftment of people and acted as the most influential weapon against social, economic and political evils (Chatterji, 1956).

In India, drama has been intimately associated with the rural society. Indian drama has been more experimental and original with bold and devoted writers exercising their right to freedom of speech and expression guaranteed under the Constitution. Women's liberty is advocated in K.K.Ghose's Oriya drama "Barbadhu" in 1975; Indira Partha Sarathy's Tamil plays "Malai" and 'Aurangzeb' dealt with the problem of mentally abnormal characters; Thoppil Nasu's Malayalam play "Aswamedhan" dealt with the problem of leprosy in 1962. In 1980 the famous Mathura rape case instigated a lot of shows on the need to make the rape laws more stringent in 1980. 'Om Swaha' dealing with the demands for dowry resulting in harassment and sometimes death was a very effective street play. Telugu drama 'Clerk', Kannada drama 'Tukghlak' are very popular. There are many social and political satires in Indian drama due to the fact that Indian theatre groups have greater freedom of expression than those working in film or TV. Modern theatre in India can be traced back to the colonial period when the British administrators started bringing in actors from England to perform English plays. Even during the colonial period, drama was used as a medium of expression to protest against colonial exploitation. In 1860 Deenabandhu Mitra's 'Neeldarpan' vividly depicted the atrocities of the British rulers and the sufferings of Indians. There were dramatic performances, which lampooned the colonial administrators and the Indian toadies. Ardhendhu Mastafi's "Gajadananda and the Prince" (1875) attacked sycophancy and subservience of people and burlesqued the Prince's notorious exploits. Upendranath Das's "Endradra Binodini" depicted a real incident of an English magistrate trying to rape a Bengali Woman (Javed, 1994). Theatre plays a crucial role in raising awareness about contemporary issues. Plays like "Kanyadaan" by Vijay Tendulkar deals with caste issues and "Vagina Monologues" adopted to discuss women's issues. "Julos" by Bidal Sircar and "Final Solutions" by Mahesh Dattani are plays that provoke discussion on political and communal tensions. Plays like "Lights Out" by Manjula Padmanabhan deal with urban apathy towards violence, exemplify this approach.

The "Jana Natya Manch (Janam)", a street theatre group uses performances to address issues like workers' rights and political corruption directly within communities. Projects like "Forum Theatre" initiated by Augusto Boal and adapted by Indian theatre practitioners, involve the audience in creating solutions to social problems depicted in plays. Drama provides a platform for marginalized voices, including those of women and economically disadvantaged groups. Plays like "A Temporary Matter" by Nandita Das focus on marginalized communities and their struggles. Productions like "Every Brilliant Thing" adapted in India, highlight mental health issues and encourage audiences to reflect on their own mental health. Theatre in India continues to be a vibrant and dynamic medium, evolving to address the pressing issues of contemporary society. By raising awareness, fostering dialogue, promoting empathy, and inspiring action, drama plays a crucial role in shaping a more informed and compassionate society.

The impact of drama as a medium of expression was considered in *State Vs. Baboolal (1956)*. In this case the Allahabad High Court held that the written word takes a long time to reach its readers, but the spoken word is conveyed to the audience immediately. The written word can be confiscated before it has done much damage, but the spoken word achieves its object as soon as it is uttered. The question of Constitutional protection to drama as a medium of expression is significant, considering the powerful impact of drama. Art. 19 (1) (a) does not specifically mention the freedom of drama but, it was judicially settled that it includes one's right to express freely through the medium of drama (*Lakhanpal Vs. Union of India, 1982*). In *State Vs. Baboolal (1956)*, it was held that the Dramatic Performances Act was ultravires of the Constitution of India, because its procedural part imposed such restrictions on freedom of speech and expression, which cannot be covered by the saving Clause in Art. 19 (2). The decision implies that dramatic performances and staging of plays fall within the scope of fundamental right of freedom of speech and expression in the case *Harnam Singh Vs. Punjab (1958)*, the Punjab High Court held that an Order under Section 7 of the Dramatic Performances Act, 1876, calling upon the petitioner to furnish details of the dramas proposed to be staged in order to enable the District Magistrate to ascertain the true characters of drama, was violative of Art. 19 (1) (a) of the Constitution and *Chanan Singh Vs. Union of India (1961)* indirectly settled the matter beyond doubt that Art. 19 (1) (a) includes one's right to express his ideas freely through the medium of dramatic performances.

Restrictions on Drama

During the colonial period, drama emerged as a powerful platform for voicing the anti-colonial sentiments of people. Historical and mythological plays were staged with thinly veiled allusions to British oppression and popular resistance. Tensions between the rising nationalistic urges on one hand and British colonial resistance on the other, reached peak, when Mustafi's 'Gajadananda and Prince' attacked sycophancy and subservience of people. But it would have been difficult for the colonialists to tolerate any serious criticism of the English. While English drama enjoyed the immunity to ridicule Indians, Indian drama could not be allowed to mock the British. British administrators obstructed the play "Gajanananda and the Prince", yet the Great National Theatre continued to stage this play. Accordingly, an Ordinance was promulgated in 1876 in Bengal empowering administration to prohibit "dramatic performances which are scandalous, defamatory, seditious and obscene or otherwise prejudicial to the public interest". It was later turned into a law for the entire country namely the Dramatic Performances Act, 1876. The Act was introduced by the British colonial government to control and censor theatrical performances that were deemed seditious or obscene. It was a response to the increasing use of theatre as a medium for expressing nationalist sentiments and criticizing British rule. The Act gave authorities the power to prohibit the performance of any play deemed scandalous, defamatory, seditious, or obscene. It allowed for the seizure of scripts and the arrest of individuals involved in the production and performance of such plays. Theatre owners and managers could be held liable for permitting such performances. The Act set a precedent for government control over artistic expression, which continues to influence contemporary censorship practices. Authorities still use similar legal frameworks to regulate theatre, films, and other forms of artistic expression, citing concerns over public morality, national security, and communal harmony. The Act has often been

criticized for stifling freedom of expression and creativity. Artists and playwrights argue that such regulations impose undue restrictions on their work. The legacy of the Act contributes to ongoing debates about the balance between freedom of expression and the need for regulation to prevent harm or maintain public order. While the Dramatic Performances Act of 1876 itself may not be frequently invoked, its spirit persists in modern legislation. Laws such as the Indian Penal Code (IPC) and the Information Technology Act have provisions that regulate content deemed offensive or seditious, affecting not just theatre but all forms of media. Many theatre practitioners and activists continue to challenge the restrictions imposed by such laws. Street theatre and experimental theatre often push boundaries, addressing sensitive social and political issues. Organizations like the Indian People's Theatre Association (IPTA) and Jana Natya Manch (Janam) actively use theatre as a tool for social change, sometimes facing resistance from authorities. The judiciary in India has occasionally intervened to protect artistic freedom. Courts have ruled in favor of artists in cases where censorship was deemed excessive or unjustified. However, the legal framework established by the Dramatic Performances Act and its successors continues to provide grounds for censorship.

The primary object of this Act was to empower the government to prohibit native plays, which are scandalous, defamatory, seditious or obscene. The Act empowers the government to prohibit any dramatic performance that comes within the clauses mentioned under section 3. Power is then given to the Magistrate to grant warrants to the police to enter, arrest and seize scenery, dresses etc. (Sec.8). Local government is empowered to order that no play shall be performed in any place except under a license from government (Sec. 10).

Since the introduction of Dramatic Performances Act 1876, British Colonial Government as well as the Government of Independent India had invoked the Act several times to suppress the freedom of drama. The British Colonial Government in banning several plays from time to time, namely, the Marathi play 'Keechak Vadh' by K.P.Khadikar in 1910; the Bengali play "Srirajadulah" by Girish Ghosh in 1911; the Telugu play "Chichura Pidugu" by Ramachandrani Venkatappa in 1929; the Tamil play "Keemayanam" in 1947 etc., invoked the Act. All these plays had emerged, as a powerful platform for voicing the anti-social sentiments of people and colonial administration could not tolerate any serious criticism of the British.

After independence, though many of the oppressive laws made by British were abolished, the Dramatic Performances Act 1876 continues to this day. After the mid-fifties, most states repealed the Central Act and introduced various State Dramatic Performances Acts. The Constitution of India in its Seventh Schedule includes "theatres and dramatic performances" in Entry 33 of the State List. Therefore, it is permissible for the state legislatures to enact laws relating to the theatres and dramatic performances (Tamil Nadu Dramatic Performances Act 1954; Andhra Pradesh Dramatic Performances Act 1956; Kerala Dramatic Performances Act 1961; Orissa Dramatic Performances Act 1962; Mysore Dramatic Performances 1964; Himachal Pradesh Dramatic Performances Act 1964; Pondicherry Dramatic Performances Act 1965; Andaman and Nicobar Islands Dramatic Performance Regulations, 1962). However, the power of the government, whether the central or state to curb freedom of expression in the theatre is the same. The Dramatic Performances Act has been used frequently even

after independence. Though the Act has been invoked in order to suppress freedom of expression in theatre, only very rarely banning or prohibitory orders had been challenged before the Courts of Law.

Though, the states have gone for their independent enactments, they are more or less similar to the Dramatic Performances Act 1876, an oppressive law created by the British rulers in India. From early 50s, the theatre workers urged for withdrawal of the Dramatic Performances Act. Only in the West Bengal, the struggle by the theatre workers took a proper shape and the state government in West Bengal was forced to drop the bill on dramatic performances in the state. Consequently, there is no Dramatic Performances Act in West Bengal. However, the state government in West Bengal is not precluded from invoking Sections 124 A and 294 of the Indian Penal Code. For many years, dramatic performances in Great Britain were subject to the prior restraint of Lord Chamberlain, an Officer of Royal household (Wade, 1993). Until 1968, no play could be performed without a license granted by the Lord Chamberlain (Basu, 1991). The Theatres Act, 1968, abolished this pre-censorship. In USA, prior restraint on dramatic performances has been held to be prima facie unconstitutional (*Southeastern Promotions V. Conrad, 1975*).

Even after independence, Dramatic Performances Act has been invoked by the state governments to suppress the freedom of expression in drama, despite the constitutional provision guaranteeing this freedom to citizens. The question of constitutional validity on dramatic performances was raised before the Kerala High Court in Ramakrishna Kurup Vs. State of Travancore-Cochin (1953). In this case, the Court declared the ban order of district Magistrate on the play "You made me a communist" under the Travancore Dramatic Performances Act as void. The Allahabad High Court in *State Vs. Baboolal (1956)* gave a historic judgment, regarding the question of Constitutional validity of the Dramatic Performances Act. The Punjab High Court got an opportunity to consider the Constitutional validity of the Dramatic Performances Act in *Charan Singh Vs. Union of India (1961)*. These decisions remind us the inadequacy of necessary safeguards in the Dramatic Performances Act against the arbitrary power of the executive in suppressing the freedom for speech and expression in the theatre. In the light of these observations, most of the states repealed the Central Dramatic Performances Act and introduced the various State Dramatic Performances Acts.

Drama has an important social role being deeply rooted in the soil and intimately associated with the rural society. Despite the recognition of drama as a medium of expression, Government of India invoked the Dramatic Performances Act, an oppressive law enacted by the British rulers in India. Though some states repealed the Central Act, the provisions of both the Acts are similar and are frequently invoked to suppress the freedom of expression in the theatre. Judiciary in India acknowledged the inadequacy of safeguards against the oppressive measures taken by the executive in suppressing the freedom of expression in drama.

The Dramatic Performances Act of 1876 remains a significant piece of historical legislation with lasting impacts on the regulation of theatrical performances in India. Its legacy highlights the ongoing tension between regulation and freedom of expression, a debate that continues to shape the landscape of Indian theatre and other forms of artistic expression. While there have been efforts to modernize and balance these concerns, the influence of the Act persists in contemporary legal and cultural contexts.

The power to prohibit an objectionable performance is conferred on the government or the district collector to determine an objectionable performance is not an easy task. Therefore, it will be a welcome step if the necessary modifications are made in the Act so as to refer the matter to an expert body for decision. Further the power of the executive to prohibit an objectionable performance is very wide. The repressive provisions in the Dramatic Performances Act namely the power to call for information and the power to call for copy of purport of drama etc. is no more warranted in India. It is desirable that the Dramatic Performances Act may be amended to include the necessary provisions empowering District Collector to prohibit an objectionable performance only on the recommendation of an expert body and then issue a fitness certificate banning further prosecutions by any other law in force.

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