

Section 153A and Section 295A IPC

What is the issue?

In yet another brute show of power, Dr. Ratan Lal, a Dalit academician, was arrested for an objectionable post on the Gyanvapi mosque row.

What is Section 153A IPC and Section 295A IPC?

- **Section 153**
 - The act of promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, caste, community or any other group.
 - Acts prejudicial to the maintenance of harmony between different groups or castes or communities, if the acts disturb public tranquility.
 - Acts causing fear or alarm or a feeling of insecurity among members of any religious, racial, language or regional group or caste or community by use of criminal force or violence against them.
- **Section 295**
 - The accused must do such an act with the intention of insulting the religion of any person, or with the knowledge that any class of person is likely to consider such destruction, damage or defilement as an insult to their religion.
 - The accused must destroy, damage or defile any place of worship or any object which is held as sacred by any class of persons.
- The latest annual report of the National Crime Records Bureau records more than four jumps (458%) of cases registered under Section 153A since 2014.
- Though no separate data is available on Section 295A, anecdotal evidence suggests its increased use by the executive.

What is the legislative history of these Sections?

- In 1927, when Section 153A was already in existence, Section 295A was brought on the demand of a religious minority community which alleged that a pamphlet published objectionable content against its founder.
- The Legislative Assembly debates at the introduction of Section 295A expressed concern about its subjectivity that could be misused.
- The debates sensed and cautioned against a looming threat over free speech.
- It was anticipated that it could be misused to suppress honest, candid, and *bona fide* criticism, and hinder historical research towards social reform.

What about the safeguards against the misuse?

- The judiciary laid down two ways to measure the effect of the Sections
 - by establishing a link between speech and public disorder
 - by measuring the effects from the standards of a reasonable man, and not from one who fears all hostile viewpoints

- However, sentimental hurt cannot be tested against strict measures.
- The police do not get into the legislative nuances before registering a criminal case or making an arrest.
- This legal paradigm criminalising hurting religious sentiment facilitates the ruling dispensation's strategy to stifle all dissent and use the law to fuel divisive politics.

References

1. <https://www.thehindu.com/opinion/op-ed/the-executive-seems-more-fragile-than-hurt-sentiment/article65457762.ece>
2. <https://adrindia.org/sites/default/files/Details%20of%20IPC%20Sections%20153A,%20295%20&%20295A.pdf>

