



ISME MUN 2019
BACKGROUND GUIDE – All India Party Meet

Agenda: Reviewing the Anti Seditious Framework in India

Letter from the Executive Board.

Dear Prospective Members,

At the outset on behalf of the Executive Board, we extend a warm welcome to all of you and congratulate you on being a part of the **AIPM at ISME MUN 2019**. The committee being simulated, would unlike most other simulations you must have heard of or been a part of; focus on political intellect and analytical application of thoughts and strategic application of thoughts in resolving impending politically sensitive bilateral issues.

Kindly note, we are not looking for existing solutions, or statements that would be a copy paste of what the leader you are representing have already stated; instead we seek an out of the box solution from you, while knowing and understanding your impending political and ideological limitations. We expect all delegates to go through this study guide and make note of the same as they shall be of utmost importance in ensuring a high level of debate during committee proceedings and it shall be expected that the members steer the discussion on those lines.

Given, the extremely political and volatile nature of this committee, your presence of mind and politico-analytical aptitude is something which we at the executive board would be looking to test. That being said kindly, do not limit your research

to the areas highlighted further but ensure that you logically deduce and push your research to areas associated with the issues mentioned.

Kindly note, that unlike most conventional/unconventional committees you have attended, this committee shall have “substantive” intervention by the Executive Board.

On a very serious note all members are requested to refrain from using the Internet during the Committee sessions, Members found using Internet or any electronic devices will be removed from the committee with immediate effect without any exception.

Note: This committee does not have position papers.

Regards,
Chairperson: Dinesh Babu
Vice chairperson: Farooqi Abdur Raqeeb

Disclaimer: This background guide is a compilation of information from multiple web sources and is not an original work of the Executive Board. This is just to assist you with the process of researching and we expect you to validate the information given; the organizers or the EB will not be liable for any questionable information present.

RULES OF PROCEDURE

This committee will follow standard UNA-USA procedure with a few changes.

1) Procedure name changes:

- The General Speakers List (GSL) will be called the Opening Statements’ List (OSL).

- Moderated Caucuses will be called Public Sessions
- Unmoderated Caucuses will be called Private Sessions
- The Resolution will be called a Recommendation Paper. (No Pre-ambulatory Clauses)

2) Procedural Changes:

- You can refer to yourself in first person.
- There is only one voting stance - present. It is mandatory for all members to vote on the recommendation paper.
- A maximum of two questions/comments on a member's speech will be entertained even during Public Session Motions, irrespective of whether or not the member wishes the same. However, if the said questions/comments eat up committee time, the EB can choose to not grant this privilege to the house.
- When it comes to Points of Order, logical fallacies are extremely welcome in this committee. In fact, they will be given preference over factual inaccuracies. On that note however, you must know that frivolous points of order attract a heavy penalty.

Note- the Rules of Procedure may vary upon the discretionary powers of the executive board.

AGENDA: Reviewing the Anti-Sedition Framework in India.

INTRODUCTION

Sedition as of today is of utmost importance considering the recent arrests on charges of sedition and the rights and duties of citizens of India. This topic is inviting concerns as there is degradation in the recognition of the same. We also need to look at the use and exploitation of power by various power structures in the social order and need to understand what is to be done to ensure a better conduct of the subject. It will be our attempt to explore the diverse facets of Section 124A of the IPC which talks about sedition and form a consensus in order to execute solutions which will discuss the applicability of Section 124A.

SEDITION

Section 124A, IPC reads as follows;

124A. Sedition — “Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, the Government established by law in India, shall be punished with imprisonment for life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.”

FAMOUS TRIALS OF SEDITION

Kanhaiya Kumar v. State (NCT of Delhi)

JNU Student Leader, Kanhaiya Kumar was arrested in February 2016 on the charge of sedition. The petitioner charged under section 124A IPC approached Delhi High Court for grant of bail.

Deciding upon the issue, the Court observed that while exercising the right to freedom of speech and expression under Article 19(1)(a) of the Constitution, one has to remember that Part-IV Article 51A of the Constitution provides Fundamental Duties of every citizen, which form the other side of the same coin.

He was arrested for inciting violence through unlawful speech, allegedly spread not all over India but also across the world. On March 2, 2016, the videos purporting to show this activity were found to be fake and he was released after three weeks in jail.

Dr. Vinayak Binayak Sen v. State of Chhattisgarh

He was a pediatrician by profession and was allegedly supporting Naxalites. For which he was charged with Sedition by Chhattisgarh Government. where the Chhattisgarh High Court held that, to hold a person guilty of sedition, it is not necessary that the person himself be an author of seditious material, under this section, even circulation of such material can be penalized.

Cartoonist Aseem Trivedi

During a rally of Anti-Corruption crusader Anna Hazare in Mumbai, he had been accused of putting up banners mocking the constitution and posting the same on his website. He was charged under Section 124A of IPC, Section 66A of Information Technology Act and Section 2 of Prevention of Insults to National Honor Act.

SEDITION AND ARTICLE 19(1)(a) OF THE INDIAN CONSTITUTION

Every citizen has been given freedom to speak and express their views under Article 19(1)(a) of the Indian Constitution. However, this freedom is not absolute and some reasonable restrictions have been imposed on freedom of speech and expression under Article 19(2). But when a person does an act by his words, signs or representation which is held to be contemptuous towards the Government of India, then such act is punishable under section 124-A of Indian Penal Code, 1860.

Courts have been given the power to act as guarantors and protectors of the rights of the citizen. Article 19(1)(a) secures the ‘freedom of speech and expression’ but it has been bound by the limitation which has been given under Article 19(2) which states the permissible legislative abridgement of the right of free speech and expression.

Key Questions to be Answered

1. How to strike a balance between s.124A and right to freedom of speech and expression?
2. At what point the “right to offend” would qualify as hate speech?
3. What could be the possible safeguards to ensure that s.124A is not misused?
4. Should sedition be not redefined in a country like India – the largest democracy of the world, considering that right to free speech and expression is an essential ingredient of democracy ensured as a Fundamental Right by our Constitution?

Bibliography

1. Sec. 124A, Indian Penal Code, 1860.
2. <https://en.wikipedia.org/wiki/Sedition#India>

Additional Reading

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2. <http://www.lawcommissionofindia.nic.in/reports/CP-on-Sedition.pdf>
3. <http://indianexpress.com/article/india/india-news-india/what-is-section-124-a-under-which-one-is-charged-with-sedition/#sthash.xxrXyS6S.dpuf>
4. https://www.nls.ac.in/resources/csseip/Files/SeditionLaws_cover_Final.pdf