

When Words are Used against You: The Case of Varavara Rao and the Right to Expression

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ABSTRACT

This research paper is a legal examination of the work *Captive Imagination: Letters from Prison*, a collection of letters by the poet Varavara Rao. Written while in prison, the letters not only tell the story of his imprisonment, they also serve as a critique of the legal and judicial apparatuses of the Indian state. The inquiry investigates the laws under which allow Rao to be imprisoned multiple times, particularly under preventive detention laws and the Unlawful Activities (Prevention) Act (UAPA). The broad and vague definitions of these laws have been a subject of criticism. These laws will be examined with reference to the constitutional rights to free speech and personal liberty, and the presumption of innocence. The paper carries an analysis of the literary imaginings of Rao, alongside the legal processes that helped in his confinement, to understand how law can be unjust while being just and vice versa. The letters of Rao reveal how prolonged detention without the trial affected him psychologically as well as existentially. Even in darkness, they resist the erasure of political dissent through poetry and philosophy. *Captive Imagination* turns the prison into a site that challenges the ideological content of the state narrative, helping to re-establish the dignity of the imprisoned subject. This legal-literary analysis demands a humane legal system which should provide accountability. The need for the same has been highlighted in the context of political prisoners and dissenters within democracy.

Keywords: *Imprisonment, constitutional rights, confinement, political prisoners, democracy.*

Introduction

The documentary *Captive Imagination* shows Rao's letters from prison. Rao's letters show that he is and will always be mentally free. The focus of this documentary is obviously what the authorities subjected him to for opposing their fascistic approach. Through these letters, Rao, a poet, teacher and long-time activist, provides a first-hand account of this experience of

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incarceration under a legal regime that treats dissent as a misdemeanor. In spite of being very personal, Rao's writings throw up serious questions about the actualization of constitutionally guaranteed rights and the obligations India has under international human rights law. This piece here seeks to critically analyze the legal issues raised by the experiences of Rao, both as per the Constitution of India and internationally, as per the ICCPR (International Covenant on Civil and Political Rights). His letters bring to light the gap between law as a written document and law as enacted, particularly in relation to those who pose a threat to the regime.

I. Constitutional Law and the Limits of Liberty

Many people think that the Indian constitution is a progressive law, especially when it comes to individual liberties. Rao's experience provides a valuable lesson in the limits of these rights. His arrest, the long pre-trial detention before being taken to court, denial of medical intervention, deferment of medical bail and, to top it all, the broad charges against him, show that unless insisted on by the legal fraternity, state organs function as if these rights are often not enforceable or not applicable to sections of persons.

A. Right to Life and Personal Liberty as per Article 21

As per Article 21, no person shall be deprived of his life and personal liberty except according to procedure established by law. A person can be deprived of his/her rights and freedoms only in accordance with procedures that have been established by law. This law has emerged from the Supreme Court which applied objective interpretation so as to include other matters regarding human dignity like the right to health, right to fair trial and the right to humane treatment. The Maneka Gandhi case, a landmark judgment involving the Union of India (1978), interpreted procedure established by law to imply that the law must be just, fair and reasonable. However, Rao's experience on being in delay in obtaining adequate healthcare because of COVID-19 shows that in actual practice the prison and the judicial are at variance with this legal jurisprudence. The deprivation of bail on several occasions, even after the worsening of health raises an important question in relation to fundamental rights and the state administrative orders becoming the violator, what actually remains the remedy available to a common citizen?

B. Freedom of Expression as per Article 19(1)(a)

As a writer and activist Rao has used these skills to share his experiences of incarceration. He writes speeches and poems about injustice, exploitation, and violence by the state. As State

officials accused him under the Unlawful Activities (Prevention) Act (UAPA), the State used his work to raise awareness on these matters against him. The state authorities have charged him with inciting violence or had sedition. Rao's culpability is recognised to be a seditious action. The issue with that is how the evaluable speech acts, that criticize the state, that call for structural change are labelled as criminal. In *Shreya Singhal v. Union of India* (2015), the Supreme Court had reobserved that mere tendency to create public disorder is not sufficient cause for restrictions on speech. Speech must be linked to incitement to violence for criminalization. The prosecution in Rao's case relied, more on association and ideology than direct evidence to incite the riots. It isn't the first time that such practices have been employed to restrict free speech under the cloak of seditious practices. This trend reflects a narrowing space for dissent.

C. Equality Before Law as per Article 14

Article 14 of the Indian Constitution declares and provides that the state shall not deny to any person equality before law or the equal protection of the laws. What this means is that all persons, regardless of their status, are equal in the eyes of the law. In reality, however, it has been seen that some categories of individuals, including activists, journalists, and critics of the state, are more likely to be prosecuted. One of the most commonly used actions by the state is long-term detention without conviction. Rao was not an isolated incident, his arrest alongside other dissenters was to be a reminder that the State is not afraid to use the courts when dealing with its critics. It is especially worrisome that the judiciary becomes an accomplice in the process through denial of bail, acceptance of vague accusations, and delay of trial. The application of law must not be unequal in order for Article 14 to be effective.

II. Preventive Detention and Prolonged Pre-Trial Incarceration

Rao's letters include a rather disturbing description related to mental and physical harm created by languishing in prison without a trial for an extended period of time. Indian courts have upheld preventive detention in some cases, but this mode of punishment should only be invoked in rare cases. Legislation such as UAPA has built a system through which the state handles people with suspicion and keeps them detained for a long time without having to conform to the general principles of criminal proof. Rao's imprisonment for over two years without a judgement of conviction is an instance of the same. It contradicts the very foundation of criminal law that the accused is always innocent until proved guilty. The slow initiation of the trial, frequent adjournments and unaccountability of prison administration have all resulted in

what has been called a ‘carceral continuum’ in which the prison becomes both punitive and political.

III. Role of the State as per International Human Rights Law

Rao is a poet, Marxist intellectual, and activist. The above activities of Rao entailed repeated arrests due to his participation in political mobilizations. While imprisoned, he was mostly placed in solitary confinement. Solitary confinement is assumed to be one of the most difficult, painful punishments. Rao created most of his writings under this harsh confinement. These writings reveal the complex relationship of individual rights, government oppression, and creative resistance. When international human rights law and principles are used to examine these complexities revealed by Rao and highlight the State’s need to prioritize human rights as much as national interest.

Rao’s criticism when examined under the international human rights standards, as laid down under the International Covenant on Civil and Political Rights (ICCPR), shows that the state action imposed against him was excessive and unjustified. According to the ICCPR, citizens have the right to liberty, freedom of expression and protection from arbitrary arrest. Rao’s letters show how the state’s actions breach these international commitments by criminalizing political speech and subjecting citizens to arbitrary arrest.

Although India’s relationship with the ICCPR first became tense views towards the desertion of the Kashmiris until Rao’s arrest in 2018, their rules violate international law. According to him, there is a gap between international laws and domestic state practices which raises serious questions regarding state’s capacity to uphold human rights. The idea of the book is true that international human rights law must be enforced rigorously against state overreach and political repression. It explains states need to make their domestic laws in line with international human rights obligations to ensure that freedom of expression and political participation of citizens is protected even during times of crisis.

A. Arbitrary Detention as per ICCPR Article 9

ICCPR Article 9 deals with arbitrary detention. International human rights laws like the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR) were drafted to protect citizens from excessive use of state powers. A key protection contained in the draft was protection against arbitrary detention. Article 9 of the ICCPR forbids acts of arbitrary arrest. The States’ powers are restricted and those individuals

who are depriving of this essential Fundamental Right must have adequate and effective access to a fair trial and remedies. The letters written by Rao's explain that his detention was unlawful. Laws of human rights were enacted to stop these kinds of practices by the states.

The response of the Indian administrative and judicial system towards Rao shows that the state's action is politically repressive in nature which is to curb dissent of any kind. His arrest occurred due to several conspiracy-like allegations even though there was no evidence and the trials were prolonged. Rao's multiple imprisonments are an example of the misuse of stringent laws against political dissidents. The actions breach globally accepted norms regarding a fair trial and the due process.

B. Freedom of Expression as per ICCPR Article 19

Rao's writings show the different ways used by the state to suppress freedom of expression, as is guaranteed under Article 19 of ICCPR. Article 19 of the ICCPR allows every citizen the right to express their opinion without state interference. Nonetheless, legislations are made to limit the right in the garb of national security and public order. The court applied the same restrictions in Rao's case to maintain national security and public order. Nonetheless, the suppression of artistic and political speech, in the absence of sufficient evidence, is creating a trend whereby the state is empowered to invoke such exceptional-use laws to crush dissent. Rao's letters were also censored and surveilled in prison, with the banshees and authorities regulating every word before allowing them to be released for publication.

Although Rao faced restrictions, his writings showed defiance. Rao's bravery represents the fight against oppressive actions by the state. His writings explain how even the prisoners find their freedom through their imagination and creativity. His experiences show how man's dignity is resilient even under state control. According to international law principles, the right to cultural expression is one of the human rights that needs to be protected.

C. Prison as a Site of Resistance

Essays and poems included in *Captive Imagination* imply how prison space can be a site for resistance. Rao makes comparisons with other intellectuals detained around the world to figures like Nelson Mandela and George Jackson. This connection links his experience with a global tradition of resistance. The writings of such prisoners send out the message that no matter what the locale, human rights and dignity must not become violated. These principles are also ideals enshrined in the UDHR.

The fight which Rao describes connects with the notion of ‘positive liberty’ in human rights literature. This refers to the capacity to exercise one’s agency even in oppressive situations. In the instance of Rao, literature became both a means of personal freedom and a political shield. The idea that political resistance knows no frontiers is proven invalidated by this.

D. The State’s Role and International Accountability

Rao’s descriptions on his imprisonment show how states can violate human rights while claiming to uphold national security. The function of the state is not just to ensure the security of its subjects, but also to allow the exercise of individual freedoms. The continuous harassment Rao experienced explains the clashing concepts of the authority of the state and punishment. Various cases have illustrated that various governments use the defense of sovereignty to justify breach of international human rights standards. Rao has been subjected to imprisonment and repression of dissent for long.

According to the UN Human Rights Committee, national security may sometimes justify some limitation of individual liberties, but must not be invoked as a defense for actions contrary to international human rights norms. Rao’s case explains the need to hold states accountable to international standards so that individuals are not targeted for their political opinions or activism.

IV. Use of Severe Laws and Criminalization of Dissent

In all of his letters, Rao explains how the Indian state has used harsh laws UAPA to repress dissent. The UAPA allows citizens to be detained for long periods without charge. In such cases, laws make it hard for the accused to seek justice. The UAPA’s safeguards are not stringent enough indicating the preference of the state toward national security over civil liberties.

Rao's imprisonment further reflects the revised state stance toward intellectual dissent. It prohibits any conduct that calls into question the state's evaluation of dissent in order to encourage such dissent. Rao’s case demonstrates the state’s tendency to equate intellectual support for revolutionary ideas with terrorism or sedition. The case suggests that there is a systematic effort underway to criminalize ideologies that challenge structural inequalities through any medium.

V. The Judiciary and Accountability Mechanisms - Essay Sample

While reading Rao's experiences, the reader also learns how the Indian judiciary is not fail-safe in guarding the citizen against state overreach. Although judiciary acts as a custodian of fundamental rights, it often surrenders to the "national security" claims of the state, particularly in politically sensitive cases. Rao's situation makes it evident that judicial remedies do not provide much relief as the accused often ends up in jail for a long stretch without being convicted.

The case of Rao also points to the unavailability of justice to political prisoners, as legal processes become tools of oppression. We see this in practice when bail is denied on vague reasons and then trials get dragged on for long periods. His experiences show that there should be a mechanism in place to ensure blaming of those using state power without accountability and judiciary remain bolstered.

VI. Is the State Suppressing or Engaging in Activism?

The democracy is patched with the way it deals with the situation where on one hand state is protected to certain extent from seditious dissent and on the other hand common citizen is free to express. Rao has denounced the mindset of a police state in his writings for its intrusive surveillance operations, arbitrary arrests, and needless imprisonment to silence dissent. The state showed its innate insecurity over dissenting viewpoints that challenged the power structure by the actions against him.

Nonetheless, his letters show hope for talks, not conflicts. Rao's letters to his friends reveal his belief that literature, art, and activism can lead to social change. His experience shows that the State should not criminalize intellectual dissent but should instead engage with its citizens. This will tackle the source of dissatisfaction of the citizenry and enhance modes of governance. He argues that a state must allow for criticism in order to grow.

Conclusion

Varavara Rao's *Captive Imagination: Letters from Prison* is as a powerful commentary on the fragility of India's democracy. The state's overreach under the guise of national security. It undermines civil liberties and fundamental rights. The writer's experiences make it clear what the personal cost of dissent is not just for him but also for countless activists, intellectuals and marginalized communities across the country who chose to voice their discontent.

The study of Rao's experience with the Indian police and judiciary also shows how constitutional and international legal provisions have limited success in protecting the personal liberty and free expression rights of citizens. The need for stronger safeguards to deter misuse of powerful laws is reflected in the misuse of draconian laws like UAPA.

Through his stories, Rao makes us think about how the state acts in a democracy. The author demonstrates that a healthy democracy should welcome dissent and not suppress it. Through the letters of Rao, we are reminded that the application of justice must go beyond the letter of law to protect the spirit of freedom, equality and dignity.

Works Cited:

1. Primary Source

Rao, Varavara. *Captive Imagination: Letters from Prison*. Penguin-Viking, 2010.

2. Books and Articles on Indian Constitutional Law and Civil Liberties

Austin, Granville. *The Indian Constitution: Cornerstone of a Nation*. Oxford UP, 1999.

Basu, Durga Das. *Introduction to the Constitution of India*. LexisNexis, 2022.

Baxi, Upendra. *The Crisis of the Indian Legal System: Alternatives in Development, Law, and Justice*. Vikas Publishing, 1982.

Sathe, S. P. *Judicial Activism in India: Transgressing Borders and Enforcing Limits*. Oxford UP, 2003.

3. Reports and Studies on Human Rights Violations in India

Amnesty International India: *The State of Surveillance in India – Repression through Technology*. Amnesty International, 2020.

Stifling Dissent: The Criminalization of Peaceful Expression in India. Human Rights Watch, 2019.

State Repression and the UAPA: Criminalising Dissent in India. People's Union for Civil Liberties, 2018.

4. Legal Commentary on Draconian Laws in India

Bhardwaj, Aparna. "Preventive Detention and the Judiciary in India: A Critical Analysis." *Journal of Indian Law and Society*, vol. 8, no. 1, 2020, pp. 102–120.

Mahapatra, Nilanjan. "The UAPA and the State's Response to Dissent." *Economic and Political Weekly*, vol. 55, no. 42, 2019.

Ramakrishnan, Venkatesh. "The Rise of the Police State: Law and the Criminalization of Dissent." *Frontline*, 2018.

5. Judgments and Case Law Related to Civil Liberties and UAPA

K. S. Puttaswamy v. Union of India, (2017) 10 SCC 1.

Maneka Gandhi v. Union of India, AIR 1978 SC 597.

Union of India v. K. A. Najeeb, (2021) SCC OnLine SC 50.

6. International Legal Frameworks and Human Rights Treaties

United Nations General Assembly. International Covenant on Civil and Political Rights (ICCPR), 1966.

United Nations High Commissioner for Human Rights (OHCHR). Report on Civic Space and the Protection of Human Rights Defenders. OHCHR, 2020.

United Nations Human Rights Committee. General Comment No. 34 on Article 19 of the ICCPR: Freedom of Expression, 2011.

7. News Articles and Media Sources on Varavara Rao's Incarceration and Human Rights Concerns

"Activists, Intellectuals Seek Justice for Varavara Rao." The Hindu, Sept. 2020.

"Varavara Rao Granted Bail on Medical Grounds: A Long Battle Against UAPA." The Indian Express, Feb. 2021.

"Poet Varavara Rao's Detention Raises Human Rights Concerns in India." The Wire, Aug. 2020.

8. Academic Work on Dissent, Literature, and Politics

Gupta, Nilanjana. "The Role of Literature in Resisting State Power." Indian Journal of Political Studies, vol. 32, no. 2, 2017.

Kaur, Baljeet. "Art as Resistance: The Legacy of Revolutionary Poets." Journal of South Asian Literature, 2019.

Mukherjee, Arun. Politics and Poetry: Revolutionary Writing in India. Routledge India, 2016.

9. Reports from Human Rights Organizations Regarding Prison Conditions

India's Prisons: Time for a Comprehensive Reform. Commonwealth Human Rights Initiative, 2020.

Prison Conditions in India: A Study of Systemic Problems and Reform Proposals. National Human Rights Commission, 2018.

10. Publications on Police and State Repression in India

Nandy, Ashis. The Intimate Enemy: Loss and Recovery of Self under Colonialism. Oxford UP, 1983.

Rao, Mohan. State and Violence in Contemporary India. Sage Publications, 2011.