



## SEDITION LAWS: AN OBSTICAL TO FREEDOM OF SPEECH IN INDIA

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### ABSTACT

The right to free speech and expression has two sides: while it gives people enjoyment, it also forbids some actions that can be construed as abusing this fundamental and unalienable freedom. Any act or utterance that encourages people to hold anti-national opinions against a government or that is likely to disturb the stability or tranquillity of a nation is considered sedition. Seditious offenses carry a severe sentence of at least 7 years in jail, with the possibility of life in prison. The provision became abused to the extent where the Court declared it to be "similar to giving a carpenter a saw to chop some wood and he uses it to clear the complete forest"<sup>20</sup>.

The multifaceted connection among sedition laws and the inalienable right to free expression is examined in this research paper. The paper explores the legal foundations, historical background, and current issues that sedition laws present to the right to free expression. Through a critical analysis of seminal cases, court interpretations, and the dynamic nature of these laws, it illuminates the fine balance that must be struck between protecting individual liberty and national security concerns.

**Keywords:** Sedition laws, Democracy, Freedom of speech



<sup>20</sup> Kishorechandra Wangkhemcha & Anr Vs. Union of India W.P.(Crl.) No.106/2021

## Introduction

It is essential to preserving a country's solidarity, safeguards, and sustainability. The sedition statute is required.

Sedition laws are primarily intended to prevent acts that jeopardize a country's legitimacy and sovereignty. Its goal is to stop people or organizations from instigating insurrection, brutality, or any other action that threatens the legitimacy of the governing body. The law protects national security and averts the possible disturbance of social harmony by making such actions illegal.

The sedition law also makes sure that people use their right to free expression in a responsible manner. Despite being a fundamental right, the right to free expression has some restrictions. Promoting violence or animosity towards one's own nation can have far-reaching effects, resulting in anarchy and societal unrest. The sedition legislation achieves a balance by permitting people to voice their thoughts and critiques, but it also clearly defines what constitutes inciting violence or encouraging acts that endanger national security.

Furthermore, the sedition legislation promotes social cohesion and solidarity amongst the various communities that make up a country. It stops the propagation of polarizing ideas that encourage animosity and hostility amongst various communities. By suppressing seditious activity, the law safeguards the social fabric and fosters unity, guaranteeing that people can live in harmony and contribute to the advancement and development of their country.

The sedition statute, according to critics, can be abused to quell dissent and muzzle reasonable criticism of the administration. Although these worries are legitimate, it's critical to make sure the legislation is accurately implemented and that the guidelines are followed. Individual rights can be safeguarded, and misuse can be avoided, by putting safeguards in place. Clear terms for sedition, impartial judicial procedures,

and oversight systems to guarantee responsibility are a few examples of this.

## Sedition Law

The core tenets underlying the Indian Constitution strengthen the adamant opposition to the sedition clause, which is based on antiquated idea of colonial era<sup>21</sup>.

Sedition laws prohibit certain behaviours, speech patterns, and forms of expression that are perceived to incite opposition, rebellion, or rebellion against a lawful authority or governing body. Sedition laws are designed to defend the state against perceived threats to its order, safety, or sovereignty by outlawing behaviour that could incite public disturbance or disobedience.

Section 124 A of the Indian Penal Code imposes penalties for crimes against the state. Sedition was defined as any action or effort to incite abhorrence or deprecation for the legally recognized Indian authority, or to create discord or rebellion against it.

Sedition is a recognized offense that is subject to bail under Section 124 A. A person convicted under this statute is required to live without a passport and is not eligible to apply for any government jobs. If found guilty, the offender faces a sentence of life in prison, a fine, up to three years in jail, or merely a fine.

### 1. Indian Penal Code, 1860 (IPC)

In relation to that offence, section 124(A) which defines the offences cover under sedition that should be reviewed. A life sentence in prison is the harshest penalty that can be imposed on someone who violated under this clause.

### 2. The Criminal Procedure Code, 1973

Section 95<sup>22</sup> As to the CrPc, any work that violates section 124 A of the IPC may be seized or forfeited by the government.. The authorities may also issue a search warrant in order to take

<sup>21</sup>Yadav, V. (2023). The Sedition Conundrum in India: A Critical Examination of its Historical Evolution, Current Application and Constitutional Validity. *International Annals of Criminology*, 61(2), 188-222. doi:10.1017/cr.2023.19

<sup>22</sup> The Criminal Procedure Code, 1973

back a publication. For this legislation to take effect, two conditions must be satisfied: (1) the item in question must be penalized in Section 124A; and (2) the governing body must justify its choice to forfeit the material that is subject to that kind of punishment.

### 3. **Unlawful Activities Prevention Act, 1967**

Section 2(o) of the conduct defines criminal action as any conduct that "supports claims of secession, questions or disrupts territorial integrity, and causes or intends to cause disaffection against India will fall within its purview." The punishment for the offense is likewise outlined in Section 13 of the statute, and it entails a fine and a potential prison term of seven years.

### 4. **Prevent Seditious Meetings Act, 1911<sup>23</sup>.**

The Act, which is a part of our legal system, was drafted during the British Empire's rule. In compliance with the Act Section 5, public meetings may be subject to restrictions by the District Magistrate/Commissioner of overall Police if it is thought that they will likely cause discord or sedition or disrupt the public peace.

### **Now let's discuss about judicial interpretation on sedition law.**

In Kedar Nath Singh vs State of Bihar<sup>24</sup>, the Supreme Court (SC) affirmed the constitutionality of IPC section 124 A in 1962. However, the court tried to restrict its potential for misuse. The court decided that unless criticism of the administration is coupled with incitement or a call for violence, it cannot be considered sedition.

The (SC) Supreme Court of India ruled on the 1995 case of Balwant Singh versus the State of Punjab that yelling slogans is not the same as sedition.

### **Now let's have a look at the recent recommendation of Law Commission**

Inclusion of Kedarnath rulings ratio in the citizen law provision.

- The clause needs to be amended to include the phrase "with a predisposition to inside violent or cause public disorder."
- Strengthen the penalty for sedition in order to rectify a current legal anomaly.
- Currently section 124A of the sedition law provides for a jail term of up to 3 years or life imprisonment.
- The law commission's report proposes enhancing the jail term to up to 7 years of life imprisonment.

The reports suggest the inclusion of a procedural safeguard to regulate the registration of first information reports FIRs for sedition.

An RIR shall not be registered unless a police officer specifically of the rank of inspector or higher conducts a preliminary inquiry.

### **Sedition Law conflict with the Freedom of speech**

As per the Kedar Nath<sup>25</sup> judgment in 1962, The purpose of the sedition statute was to be used in extreme circumstances when the nation's security and sovereignty were under jeopardy. However, there are more and more examples that demonstrate this rule has been used as a weapon against political opponents and as a convenient instrument to stifle free speech and criticism.

The "colonial-era" sedition law on 15 July, Chief Justice N.V. Ramana voiced his worry about its improper use. He said, "The use of sedition is like giving a saw to the carpenter to cut a piece of wood and he uses it to cut the entire forest itself<sup>26</sup>."

The freedom of speech and expression is guaranteed to Indian citizens by Article 19 of the

<sup>23</sup> The Seditious Meetings Act, [INDIA ACT X, 1911] (22nd March, 1911)  
<sup>24</sup> Kedar Nath Singh vs State of Bihar, 20 Jan, AIR 1986

<sup>25</sup> Utkarsh Anand, The sedition story: Complicated history of Sec 124A, Hindustan Times, New Delhi,

<sup>26</sup> Meher Manga, Sedition law: A threat to Indian democracy, <http://20.244.136.131/expert-speak/sedition-law-threat-indian-democracy>



Constitution. This independence can be expressed verbally, in writing, or via any other medium of communication. Based on the idea of free expression, this is the most frequently used defence against sedition. Section 124 A of the Sedition Law has been challenged in court for being unconstitutional because it violates the fundamental right to freedom of expression and therefore becomes unconstitutional. The Supreme Court thoroughly examined and definitively resolved this issue of the basic right to freedom of speech in the Kedar Nath case<sup>8</sup> of 1962, holding that section 124A was constitutional.

A democracy's fundamental right of freedom of speech and expression is being jeopardized by the sedition statute. In order for a democracy to function, its members must take an active role in discussions and offer constructive critique of governmental actions. Nonetheless, the government's executive branch now has the authority to arbitrarily exercise power and control public opinion by using the vaguely defined clause as a tool. This is made possible by the sedition laws. The law against sedition has become an instrument of violence for maintaining citizens' sense of obedience to governmental directives. The government has frequently employed the sedition statute to silence dissenting opinions in order to further its own agendas. Sedition does not include merely voicing disapproval for the way the government operates or making criticisms of it. An act must be done with a purpose to use violence to interfere with the peace or break the law for the reason for it to be considered sedition, and must incite violence<sup>27</sup>.

### Judicial Frame Work

(i) TARA SINGH GOPI CHAND V. STATE (1951)<sup>28</sup>

On the topic of sedition the first case handled by the Indian judiciary system since independence was the Tara Singh case. The

case is significant in and of itself because it illustrates the how the Indian government and judiciary viewed the idea of sedition and applied it. The Punjab and Haryana High Court declared that S.124 A was against constitution and that the sedition statute infringed upon the fundamental right to free to speech and expression. This was the result of the case's intricate course, which was the first in independent India. The governing parties and political philosophies will shift in a democracy. It's possible that sedition laws were required when under foreign administration. But given the significance of the shift that occurred with independence, they are unsuitable.

(ii) SABIR RAZA V. THE STATE<sup>29</sup>

In this instance, the court adopted a similar stance about the elements that contribute to sedition and made it apparent that it disagreed with the sedition notion and with its association with criticism of the ruling governs. "Any criticism of the Government done by a Member of Parliament or Government policy is safeguarded under the right to freedom of speech and expression and such speech cannot be penalized under sedition even if it disrupts public order," the court in the Sabir Raza case said. Regarding the matter of endangering state security, the Court determined that disturbance of public order did not result in the collapse of the State. A republic cannot be destroyed or the state toppled except by mutiny and insurrection.

(iii) RAM NANDAN V. STATE OF UP<sup>30</sup>

One of the well-known cases involving sedition law is this one, in which Ram Nandan, an activist and agricultural labourer, is accused of sedition. He charged that the Congress administration was not doing enough to alleviate the acute poverty that exists in the State. In addition, he had exhorted cultivators to organize an army and topple the government if necessary. Ram Nandan's act was taken very seriously by the

<sup>27</sup> Yagyabharadwaj, Sedition and Freedom of Speech in India, <https://www.legalserviceindia.com/legal/article-2660-sedition-and-freedom-of-speech-in-india.html>

<sup>28</sup> Tara Singh Gopi Chand vs The State on 28 November, 1950

<sup>29</sup> SABIR RAZA V. THE STATE (1955)

<sup>30</sup> Ram Nandan vs State on 16 May, 1958

government, which filed charges of sedition over him. Following the hearing, the court made significant pronouncements about nation's sedition statute, declaring that S. 124A was unconstitutional since it restricted free speech and was not in the "public interest".

(iv) **KEDAR NATH SINGH V. STATE OF BIHAR**<sup>31</sup>

The fate of India's sedition statute was determined by the historic Kedar Nath ruling. Based on all the aforementioned prior ruling, the court rendered a decision about the constitutionality of section 124A of the IPC, or the sedition statute. All of the preceding High Court rulings have been overturned by the Supreme Court's constitution bench in this case. It ruled that, as long as sedition is intended to encourage violence, it is a legitimate exception to the free expression clause. The case's factual matrix states that Kedar Nath, the petitioner, faced sedition charges following his 1953 address. He had targeted Vinobha Bhave's land-redistribution efforts and charged the Congress government of corruption. The court defined the parameters for using sedition laws. It stated that unless a person takes "violent acts to cause public disorder," speaking against the ruling party in "strong terms" will not be considered seditions. As a result, this ruling based the relevancy of sedition on the possibility of inciting ferocity.

### International framework of Sedition Law

#### **United Kingdom**

Seditious behavior was seen as tantamount to treason during the monarchy. The fundamentals of feudal society and the king's divine right were accepted as unquestionable in the Statute of Westminster, which was drafted in 1275. Because the State and the Church were seen as one and the same, seditious libel was associated with blasphemous libel. In the United Kingdom, sedition was made illegal by the Sedition Act of 1661. The case that solidified the concept of

seditious defamation in the United Kingdom was "De Libellis Famosis."

But in 1977, a report issued by the Law Reforms Committee now known as the Law Commission called for the repeal of the sedition laws. The Criminal Justice and Immigration Act of 2008<sup>32</sup>, enacted by the democratically elected government, also outlawed blasphemous libel. The Coroners and Justice Act of 2009 then repealed the prohibitions against sedition and seditious libel the following year.

It is important to emphasize that sedition is no longer regarded as a crime in the United Kingdom, which is the source of Indian law. Other nations have used the existence of these antiquated charges in our nation as rationale for preserving laws of a similar kind that had been deliberately used to stifle political opposition and limit the freedom of the press. The UK will be prepared to take the lead in opposing laws that other nations employ to stifle free speech if these offenses are eliminated.

The UK will be in a stronger position to take on the battle against laws that restrict free expression abroad if these fees are eliminated.

#### **United State of America**

Anti-sedition laws have not stopped even the birthplace of freedom from being used to quell dissent. The Aliens and Sedition laws, which were intended to target foreigners and non-citizens who lived in the United States of America and had sympathies with France, were passed by the Federalist administration in response to the virtual war with France. The Sedition Act was one of the legislation in this group. The Sedition Act of 1798 prohibited Americans from libellous or slanderous remarks regarding the federal government in speech, writing, or publishing.

Since press publications served as political parties' main tool for spreading their message, Democratic-Republican journalists became

<sup>31</sup> Kedarnath Singh v. State of Bihar (1962)

<sup>32</sup> The Criminal Justice and Immigration Act of 2008

targets. The public's opposition to this measure was fierce. This led to the Sedition Act being repealed on the 3rd of March 1801, by the newly elected Republican government.

In the course of World War I, the American government passed the Sedition Act of 1918<sup>33</sup>. The Act outlawed aiding countries engaged in hostilities with the United States, encouraging disloyalty among military personnel, and treason against the administration, the Constitution, the armed forces, and the flag. However, this Act was overruled by the US Supreme Court. The Federal Criminal Code now recognizes treason and seditious conspiracy as crimes according to Articles 2381 and 2384, respectively. India's sedition statute is far more expansive than what used to exist in the US, which is one of the main ways that the two nations handle sedition.

#### **Australia**

The first comprehensive law to incorporate a sedition offense was the Crime Act of 1920. The prohibitions on sedition in this Act were far broader than the common law definition since subjective purpose and the incitement of violence or public commotion were not criteria for conviction under these provisions. The Hope Commission was established in 1984 and suggested that the definition of Australia's sedition statute be in line with the definition of common wealth. In 2005, the Anti-Terrorism Act (No 2) 2005 introduced sedition to its list of offenses, and the Criminal Code Act of 1995's articles 80.2 and 80.3 were added as countermeasures. The usage of the term "sedition" to describe the offences listed in the 2005 amendment was examined by the Australian Law Reform Commission (hereafter ALRC). The National Security Legislation Amendment Act of 2010 adopted the ALRC's recommendation, replacing references to sedition with those to charges involving inciting violence.

Apart from the provisions updated by the Anti-Terrorism Act of 2005, Section 30A of the Crimes Act 1914 empowers the Government to designate any person or group as an unlawful association if they engage in any of the following activities:

- Over throwing the Commonwealth Constitution through revolution or sabotage;
- Destroying or damaging Commonwealth property or property used in trade or commerce with other nations or states;
- Any organization that promotes or encourages the conducting of any act having as its object the carrying out a sedition intention.

#### **Conclusion**

The tension that exists among freedom of speech and sedition legislation is complex and needs to be carefully considered. Safeguarding democratic norms while addressing legitimate worries about national security requires finding the correct balance. The analysis emphasizes how careful judicial scrutiny and sophisticated legal frameworks are necessary to maintain this precarious balance.

The examination of sedition laws and the underlying tensions they create with free expression exposes a convoluted situation in which upholding fundamental rights and maintaining national security coexist. The legislative framework, historical background, and global viewpoints all emphasize the careful balancing act required to uphold democratic norms and address justifiable concerns.

The International Human Rights Organization and Amnesty International assert that the sedition statute ought to be revoked. That there should be greater emphasis placed on the right to free speech and expression, and that as a democratic country, we ought to place greater significance on the ideas of individuals.

1. **Legal Ambiguity:** Sedition laws, often couched in broad terms, create legal ambiguity, allowing for potential misuse and the chilling of free speech.

<sup>33</sup> The Espionage Act of 1917



2. **Historical Precedents:** Historical precedents showcase instances where sedition laws have been wielded to suppress dissent, raising concerns about their potential for political exploitation.

3. **International Standards:** International human rights standards emphasize the importance of protecting freedom of expression, questioning the compatibility of overly broad sedition laws with these standards.

4. **Judicial Role:** The judiciary plays a crucial role in mediating the conflict, with landmark decisions shaping the interpretation and application of sedition laws.

5. **Chilling Effect:** The existence of sedition laws, even when not actively enforced, can have a chilling effect on expression, leading to self-censorship and a potential erosion of democratic discourse.

#### Suggestions for Reforms:

1. **Definition Clarity:** To ensure that the reach of these regulations is clearly defined and is not detrimental upon lawful manifestations of dissent, legislative revisions should seek to give clearer explanations for seditious activities.

2. **Judicial Scrutiny:** Provide procedures for judicial review to determine whether charges of sedition are constitutional. This entails making sure that the charges don't unfairly restrict freedom of speech and are appropriate for the alleged threat.

3. **Public Awareness and Education;** Encourage public education and knowledge of the constraints and ramifications of sedition legislation. This can lessen the possibility of self-censorship by assisting people in understanding their rights and obligations.

4. **International Best Practices:** Examine and incorporate international best practices in drafting and reforming sedition laws. Learning from the experiences of other jurisdictions can inform more effective legal frameworks.

5. **Periodic Review:** Establish procedures for the recurring evaluation of sedition laws in order to adjust them for changing geopolitical

conditions, societal standards, and technical breakthroughs.

In conclusion, resolving the disagreement between freedom of speech and sedition legislation necessitates a careful and sophisticated strategy. If reforms are to ensure that these laws accomplish their intended goals without unnecessarily impinging upon the democratic ideals they are designed to defend, they should place a high priority on legislative clarity, judicial monitoring, and compliance with international human rights norms.

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