

THE CHILLING EFFECT OF SEDITION LAWS ON PRESS FREEDOM IN INDIA

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Introduction:

In the largest democracy on the planet, the press is often dubbed the fourth pillar, designed to challenge authority, uncover corruption, and amplify the voices of the people. But what occurs when that voice is stifled by the fear of legal repercussions? In India, the application of sedition laws—a relic from the colonial era—raises significant alarms regarding the state of press freedom.

Initially crafted to quash dissent against the British Empire, these laws are now increasingly wielded in contemporary India to silence journalists, critics, and activists who dare to speak out against the government. Under Section 124A of the Indian Penal Code, charges of sedition can lead to punishments as harsh as life imprisonment. Although the law stipulates the need for evidence of incitement to violence or public disorder, in reality, it is frequently misapplied to target individuals and media organizations merely for holding unpopular or critical views.

Consequently, journalists are not only confronted with legal battles but also face harassment, arrests, and the constant threat of imprisonment—all for simply performing their duties. This environment of intimidation leads to what is termed a "chilling effect." It extends beyond those directly accused of sedition; it also dissuades others in the media from reporting boldly. Self-censorship becomes a necessary tactic for survival. Dissenting voices fall silent, leaving the public with a narrower, more restricted flow of information.

In a nation where democracy thrives on discussion and debate, this rising fear of punishment seriously undermines the vitality of free expression. This article explores how sedition laws are applied in India today, the repercussions for journalists and media freedom, and why there is an urgent need for

reform or repeal to safeguard one of the fundamental elements of a democratic society—a free and fearless press.

Impact on Press Freedom:

What exactly is the Sedition Law?

Section 124A of the IPC makes it a criminal offense to engage in any actions or speech that 'brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the government.' This law was initially introduced by the British colonial rulers back in 1870 to suppress dissent, yet it still exists and is actively enforced today.

2. Legal Ambiguity and Broad Interpretation:

The wording of the sedition law is rather vague, which leads to a lot of subjective interpretation. Journalists, cartoonists, activists, and even everyday citizens have found themselves facing charges under this law simply for speaking out against the government or sharing dissenting views. Because the legal boundaries are so unclear, many media professionals choose to self-censor themselves, fearing possible legal repercussions.

3. Impact on Press Freedom:

a. Self-Censorship:

Many journalists steer clear of reporting on delicate topics such as human rights abuses, government corruption, or political dissent to

avoid trouble with the law. This self-censorship undermines investigative journalism and restricts the press's vital role as a watchdog in a democracy.

b. Harassment and Intimidation:

Using sedition charges to silence critical voices creates an atmosphere of fear. The legal process itself can be a form of punishment; even if journalists aren't found guilty, the lengthy and costly procedures can be overwhelming and stressful for them.

c. Erosion of Trust in Media Independence:

When media outlets or journalists are perceived as being under government pressure, it diminishes public trust in the media's independence and objectivity.

4. Examples of Misuse:

In Kashmir, journalists have faced sedition charges for reporting on events that clash with official narratives. During the farmers' protests, reporters and editors were booked under sedition laws for their social media posts or coverage related to the demonstrations. Moreover, individuals, including journalists, have been targeted with sedition charges for tweets that criticize government actions.

5. International Perspective:

Human rights organizations like Amnesty International and Reporters Without Borders have condemned India's application of sedition laws. Furthermore, India's press freedom ranking has fallen in global indices, partly due to the intimidation and arrests of journalists.

6. Judicial View and Calls for Reform:

The Supreme Court of India has made it clear in various rulings that sedition should only be applied narrowly, specifically when there's incitement to violence or public disorder. In May 2022, the Supreme Court effectively paused the sedition law, directing the government not to use Section 124A until it could be reviewed. There is an increasing call from civil society,

media groups, and even some politicians for either a repeal or amendment of this law.

Impact on Press Freedom:

The sedition law in India, found in Section 124A of the Indian Penal Code (IPC), is a contentious piece of legislation that dates back to the colonial period. It was crafted to silence those who voiced opposition to the imperial powers. This law criminalizes any act or speech that stirs up feelings of hatred, contempt, or disloyalty towards the government. It was primarily aimed at suppressing dissent from freedom fighters, revolutionaries, and key nationalist figures like Mahatma Gandhi and Bal Gangadhar Tilak.

When India gained independence, the sedition law was kept in the IPC, even though many democratic nations had chosen to abolish such laws. The ongoing struggle between sedition law and the right to free speech hinges on figuring out where criticism and dissent cross the line into sedition. Supporters of the law maintain that it is vital for safeguarding national security and ensuring public order. On the flip side, critics see it as an outdated remnant of colonial oppression, often exploited by various governments.

The rise of digital communication has added layers of complexity to the discussion around sedition law. The Indian government has increasingly used these charges against individuals, journalists, activists, and political adversaries who express dissenting opinions. Key legal cases, such as Kedar Nath Singh v. State of Bihar (1962), have significantly influenced the debate. This case affirmed the constitutional validity of Section 124A but clarified that only actions that incite violence or threaten public order would be classified as sedition, thus narrowing its application.

Yet, recent judicial interpretations and government actions have revealed inconsistencies in enforcing the law, with people being detained for expressions or protests that do not involve violence or public disorder. Notable recent cases have reignited

discussions about the relevance of sedition law in a democratic India and highlighted the urgent need for reform. To truly understand the significance of sedition law today, it's essential to consider global legal shifts, such as the United Kingdom's repeal of its sedition laws in 2009 and the strong protections for free speech outlined in the First Amendment of the United States Constitution.⁹⁷⁷

Legal & Constitutional Debate:

The sedition law in India, which stems from Section 124A of the Indian Penal Code (IPC), was first introduced by the British colonial government in 1870. This law was aimed at quelling the rising tide of nationalist movements and any dissent against the British Empire. Its main goal was to make it a crime to speak, write, or act in ways that could be seen as stirring up hatred, contempt, or disaffection toward the government.

During the struggle for independence, this law played a significant role in restricting the freedoms of Indian leaders and revolutionaries. Notable figures like Mahatma Gandhi and Bal Gangadhar Tilak found themselves charged under it. Even after India gained independence, the sedition law was kept in place, defended as a necessary means to protect the sovereignty and integrity of the new republic.

Article 19(1)(a) of the Indian Constitution ensures the fundamental right to freedom of speech and expression. However, this right isn't absolute and can be limited under Article 19(2) for reasons like public order, sovereignty, and state security. In this light, sedition law is often viewed as a tool to curb actions that might threaten national unity or provoke violence.

Yet, the law's vague and broad language has sparked considerable debate over the years, especially regarding its use against individuals who voice dissent or criticize the government. Critics contend that the sedition law, in its current form, is a remnant of colonial rule and is

frequently misapplied to suppress free speech, political dissent, and activism.

On the other hand, supporters argue that the law is essential for maintaining law and order, particularly in a nation grappling with complex internal security issues like terrorism, insurgency, and separatism.⁹⁷⁸

The Way Forward:

India, one of the world's largest democracies, has long prided itself on its robust constitution, which guarantees fundamental rights like freedom of speech and expression. Among these rights, the freedom of the press is a crucial pillar of democracy, as it ensures that citizens are well-informed, public discourse is open, and accountability is maintained. However, in recent years, India's sedition laws have cast a dark shadow over press freedom, raising concerns about the growing risks faced by journalists and media organizations. The sedition law has become a tool that stifles free expression and threatens the democratic fabric of the nation.

Understanding Sedition Laws in India:

Sedition laws in India trace their origins to the colonial era. The term "sedition" refers to acts that incite rebellion against the authority of the government. Section 124A of the Indian Penal Code (IPC), which criminalizes sedition, has been a significant tool of the government to silence dissent and curb free speech. Under this law, anyone who "by words, either spoken or written, or by signs or by visible representation, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the government" can be charged with sedition.

The law was introduced by the British in 1870 to suppress the freedom movement. Over the years, while the country gained independence, the law continued to be in place. Though it was initially meant to suppress anti-colonial

⁹⁷⁷ Anju Bala, 'Sedition Law Vis-A-Vis Freedom of Speech and Expression in The Current Scenario: A Critical Study'.

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sentiments, it has been increasingly used against critics of the government, including journalists, activists, and citizens, leading to widespread concern over its misuse.

The Chilling Effect on Press Freedom:

The chilling effect refers to a situation where the fear of legal consequences stifles free expression and discourages individuals or groups from engaging in activities they are legally entitled to, such as journalism. Seditious laws, when misused, have a profound chilling effect on press freedom in India.

1. Fear of Arrest and Harassment:

Journalists in India often face the threat of seditious charges for reporting on or criticizing government policies, exposing corruption, or covering sensitive issues. The mere threat of arrest or detention under such laws has a chilling effect on journalists, leading to self-censorship. Journalists may refrain from covering critical stories or may alter their reporting to avoid provoking the ire of the government.

For example, in recent years, several reporters have been charged under seditious laws for their coverage of protests, such as those against the Citizenship Amendment Act (CAA), or for investigating issues related to corruption or human rights abuses. This constant fear of legal action hampers journalists' ability to carry out their work effectively, undermining their role as watchdogs of democracy.

2. Constraints on Investigative Journalism:

Seditious laws create an environment where investigative journalism is particularly difficult. Investigative reporters who uncover corruption, human rights violations, or the abuse of power are often targeted with seditious charges. As a result, many journalists and media houses avoid pursuing stories that could potentially attract government backlash. The investigative work that is crucial for holding power to account is, therefore, severely limited.

3. Suppression of Dissent and Critical Voices:

A healthy democracy requires a diversity of opinions and the ability to question and challenge the government. However, when seditious laws are used to silence critics, the space for public debate shrinks. Journalists, activists, and civil society groups who dare to voice dissenting views risk facing criminal charges. This climate of fear prevents a genuine exchange of ideas and discourages people from speaking out against policies or government actions.

4. Media Ownership and Influence:

The growing influence of corporate interests and government-friendly media owners further complicates the situation. In this environment, independent journalism is at risk of being sidelined, with media outlets more likely to avoid critical reporting in exchange for government favors or to maintain their access to powerful circles. Seditious charges exacerbate this problem by encouraging a conformist media landscape where only pro-government narratives are given prominence.⁹⁷⁹

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