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## Reviewing sedition law in contemporary India: An analysis

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### Abstract

Being largest Democracy in world India is an example for protection of its citizen rights while embracing freedom of speech and expression. In India, Sedition Law is always being a matter of debate on its existence and relevance, many social rights activists demand for total scrapping of Section 124A (Sedition) of IPC. Sedition law has long back history in India when India was under colonial power and the sedition law was introduced by British Government to suppress rebellious acts against government. From Bal Gangadhar Tilak to Mahatma Gandhi no freedom leader was left without charges of sedition on them. This article is an effort to analysis the sedition law in contemporary India. The article is divided into two parts, the first part deal with the history and definition of sedition law and in the second part debates on the sedition law with important judicial reference has been discussed.

**Keywords:** Democracy, contemporary India, analysis

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### Introduction

The term "sedition" comes from the Latin word "sedition," which meant "insurrectionary separation (political or military), civil discord, insurrection, or mutiny". In contemporary India, sedition is defined as any act, whether by words, doings, or writing, that is thought to disturb the country's peace and defame the government.

**Section 124(A) of IPC:** reads as, "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."

The case of *Queen-Empress v. Jogendra Chunder Bose & Ors.*, (1892) ILR 19 Cal 35, in which the editors of a Bengali magazine were charged with sedition for their criticism of the British Government's policies, was reported in 1891.

Another landmark case of *Queen-Empress v. Bal Gangadhar Tilak & Keshav Mahadev Bal*, (1897) ILR 22 Bom 112, in which Tilak was attempted for sedition in this case for allegedly inciting the killing of two British officials through inflammatory speech.

### Post-Independence

Post-Independence, the framers of the Constitution spent a significant amount of time debating various aspects of colonial law. The term 'Sedition' was fully dropped from the Constitution of India before enactment in 1950. At that time, K.M. Munshi, one of the most outspoken opponents of the sedition law, argued that such draconian legislation is a threat to India's democracy. The word "sedition" was removed from the Constitution as a result of his efforts and the persistence of Sikh leader Bhupinder Singh Mann. However, in 1951 Jawaharlal Nehru the first PM of India brings first amendment under Article 19(1) (a) and enacted Article 19(2) to put reasonable restrictions on the right to freedom of speech and expression. Later, in 1974 section 124A of IPC became a cognisable offence for the first time in history of India.

*Kedar Nath Singh v. State of Bihar* the Supreme Court of India, 1962 is one of the landmark case in independent India. Kedar Nath Singh, a member of the Forward Communist Party of Bihar, was charged with sedition in this case for making derogatory remarks about the ruling Indian National Congress government. In this case, a five-judge Supreme Court Constitutional bench upheld section 124A's constitutional validity and went on to clarify the correct position of India's sedition law. Whereas the Supreme Court upheld Section 124A's constitutionality, it restricted its scope to acts involving the intent or inclination to cause public disorder, disrupt law and order, or provoke violence, among other things.

*Balwant Singh Vs State of Punjab*, 1995 on the grounds that the slogans raised did not lead to violence, the Supreme Court overturned a sedition conviction for sloganeers who shouted incendiary slogans shortly after Indira Gandhi's assassination. It was stated that the appellants shouted "Khalistan Zindabad" five to six times, "Raj KaregaKhalsa" two to four times, and "Khalistan Zindabad" once or twice. Even though neither party

argued that the appellants had committed the offence of shouting "Hindustan Murdabad," the Supreme Court held that they had not evoked public through slogan hence it cannot be considered as sedition.

Kanhaiya Kumar v. State of NCT of Delhi, Kanhaiya Kumar, (the then president of JNU) and others, including former JNU students Umar Khalid and Anirban Bhattacharya, were accused of raising anti-India slogans in JNU campus in 2016. His arrest sparked a political debate between left-right political wings. The accused were also charged with offences under sections 124A (sedition), 323 (punishment for voluntarily causing hurt), 471 (using as genuine a forged document or electronic record), 143 (punishment for being a member of an unlawful assembly), 149 (being a member of an unlawful assembly), 147 (punishment for rioting) and 120B (criminal conspiracy) of the Indian Penal Code (IPC). In 2021, Delhi High Court ordered Delhi police to provide copy of charge sheets to all accused.

### Debate over Sedition Law

Quoting a statement by the Chief Justice of India N.V. Ramana on sedition law the section will discuss the further debates on the sedition law. While showing his concern over the misuse of sedition law, 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." His statement has again sparked the long- running debate on sedition law.

After the Kedar Nath Judgement, it was thought the sedition law to be used only in rare cases where the country's security and sovereignty were threatened. However, increase in sedition cases has weaponised is as a tool to against opposition. Recently, 6 sedition case were registered during Farmer's protest (2020-2021), in CAA Bill protest (Dec 2019- March 2020) 25 sedition cases, after the Hathras gangrape case 22 sedition cases and 27 cases after Pulwama attack were registered.

As per NCRB (National Crime Record Bureau) data, sudden rise has been seen in sedition cases from 47 cases in 2014 to 96 cases in 2019. In 2019 25 % increase in sedition cases has been noted but conviction rate of sedition case is only 3 per cent.

Many critics argue that the legal definition of 'Sedition Law' is not well defined. The poor definition of the term empower government to abuse the law, police can falsely accuse people as the law doesn't clearly mention which act is seditious. According to Justice D.Y. Chandrachud "Everything cannot be seditious. It is time we define what is sedition and what is not." He also stated that "Expression of views which is dissent and different from the opinion of the government cannot be termed seditious."

Arundhati Roy, a novelist, was charged with sedition in 2010 after expressing support for an Independent Kashmir at a seminar. In a public statement, Arundhati Roy stated that the Sedition Act is completely contrary to public policy because it restricts individual freedom of speech and expression in the name of national security. Binayak Sen, a doctor and activist, was convicted of sedition in 2010 and sentenced to life in prison, but was granted bail in 2011. Critics at that time questioned state authorities, they claimed, have misuse the law to target critics and activists who, rather than inciting violence against the state, are simply expressing legitimate criticism of its activities.

The arrest of kanpur-based cartoon artist Aseem Trivedi in September 2012 under sedition law for 'offensive' cartoons mocking the constitution, during an anti-corruption rally in Mumbai (2011) has sparked nationwide outrage. Through his anti-corruption cartoons, he was accused of insulting the national emblem, parliament, flag, and Constitution. Due to mass outrage against sedition charge on him Maharashtra Government has dropped the charges made against him. Advocate General Darius Khambata told Bombay High Court that "There have been no clear case find against Aseem Trivedi under Section 124A of IPC.

In 2016, February Kanhaiya Kumar, JNU President was detained in Anti-National Slogan case. His detention has sparked a national debate on sedition law among left and right political wings. Human right activists, social activists criticised the BJP Government that it is misusing the sedition law in the name of nationalism. In an investigation done by Aam Aadmi Party the video was morphed which shows Kanhaiya and other raising anti-national slogan. However, in the charge sheet filed by Delhi Police they mentioned that the accused have raised anti-national slogan in JNU campus.

Despite the increase in the misuse of the Sedition Law, many argue that the important of the law can't be ignored. A statement given by CJI N.V. Ramana clearly states that Sedition law isn't bad but it is misused by the power.

There are debates found supporting Sedition Law to protect national security and integrity with the clear meaning that criticising a government is not a crime and is not a criticism of nation.

- In a study author have argued that every fundamental right come with certain restriction, and the Article 19 defines that.
- Section 124A of IPC protect the government from the attempt to overthrow the government with violence and illegal means.
- Sedition Law is used to suppress Maoist insurgency in different parts of the India.

By going through important judicial ruling and statement we have got an overview of Sedition Law working and its challenges in contemporary India. It is found that in recent time misuse of sedition law is increased and demand of scrapping the law has increased over the time. Also, demand of revising the definition of Section 124A of IPC has increased.

**Conclusion**

India is world largest democracy which provide every citizen with right to free speech and expression, but it is limited by the provisions of Article 19(2) of the Constitution. In recent time the demand of revising the Sedition Law (Section 124A, IPC) has increased to provide more clarity on the seditious activity. Government should also understand that questioning and asking for right isn't a crime it's a fundamental right. Opposing the law of sedition does not imply complete and utter freedom of speech, as words that incite violence and actions that endanger public order must be contained, especially given the diverse sentiments of Indian society.

Scrapping Section 124A of IPC is ill-advised and not a preferred for healthy democracy. Instead a proper balance should be maintained so that it doesn't overlap the fundamental right of speech and expression.

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