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# **REVISITING SEDITION IN INDIA: CONSTITUTIONAL VALIDITY AND CONTEMPORARY CHALLENGES**

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## **ABSTRACT**

The sedition law in India, enshrined under Section 124A of the Indian Penal Code, was enacted during British colonial rule to suppress nationalist dissent. Despite India's constitutional commitment to freedom of speech and expression under Article 19(1)(a), the sedition provision has continued to exist and has been increasingly invoked in recent years against journalists, students, activists, and political critics.

This paper critically examines the historical evolution, constitutional validity, and contemporary misuse of sedition law in India. It traces its origins, discusses landmark judgments such as *Kedar Nath Singh v. State of Bihar*, and analyzes how the law is frequently used in conjunction with UAPA and other national security laws, often to silence lawful dissent rather than address genuine threats.

Through doctrinal and comparative analysis, the study finds that the sedition law is incompatible with democratic principles and human rights obligations. It concludes that the vague wording, low conviction rates, and widespread misuse necessitate either repeal or significant reform. The paper ends with concrete legislative and policy recommendations to harmonize national security with constitutional freedoms and democratic accountability.

**Keywords:** Sedition, Section 124A, Free Speech, Constitution of India, Democracy, UAPA, Kedar Nath Singh, Colonial Laws.

## **1. INTRODUCTION**

### **1.1 Background of Sedition Law in India**

The sedition law in India, enshrined under Section 124A of the Indian Penal Code (IPC), 1860, was introduced during British colonial rule to curb dissent and maintain control over the Indian

population. The law criminalizes any act or speech that brings or attempts to bring hatred or contempt towards the government established by law. Although originally intended to suppress revolutionary movements against British imperial rule, its presence in independent India has triggered significant legal and constitutional debate [1]. The continuation of this colonial-era law in a democratic framework raises serious questions regarding its compatibility with the rights guaranteed by the Constitution.

## 1.2 Importance of Freedom of Speech and Expression

**Article 19(1)(a)** of the Constitution of India guarantees every citizen the fundamental right to freedom of speech and expression. This right forms the bedrock of a democratic society, enabling citizens to express dissent, critique government policies, and participate meaningfully in public discourse. However, this right is not absolute and is subject to reasonable restrictions under **Article 19(2)**, including concerns for national security and public order [2]. The challenge lies in balancing this freedom with the state's interest in maintaining sovereignty and integrity. The use of sedition law has often led to concerns over its chilling effect on democratic engagement and journalistic independence [3].

## 1.3 Statement of the Problem

Despite its colonial legacy and widespread criticism, sedition law continues to be invoked against activists, journalists, students, and political dissenters in India. The problem arises from the vague and broad language of Section 124A, allowing discretionary interpretation by law enforcement agencies. The lack of clear legal standards, judicial inconsistencies, and increasing politicization of its use underscore the urgent need for a comprehensive legal review. The central issue is whether sedition, as defined under Section 124A, is constitutionally valid in the present socio-political and legal context of democratic India [4].

## 1.4 Research Questions

1. What is the historical and legal basis of sedition law in India?
2. How does the sedition law align with the constitutional guarantee of freedom of speech and expression?
3. What are the judicial trends regarding the application of Section 124A?
4. Is there a need for reform, reinterpretation, or repeal of the sedition law in contemporary India?

### 1.5 Objectives of the Study

- To trace the historical evolution and purpose of sedition law in India.
- To evaluate the constitutional validity of Section 124A IPC.
- To critically analyze judicial interpretations and landmark judgments.
- To examine the recent trends in its application and misuse.
- To propose suitable legal reforms that balance freedom of expression with national integrity.

### 1.6 Scope and Limitations

This research is primarily confined to the legal and constitutional analysis of sedition laws in India, focusing on judicial precedents, statutory provisions, and scholarly commentaries. Comparative perspectives from democracies such as the UK, USA, and Australia will be referenced briefly. The study does not delve into criminal procedural details or sociological impacts beyond the legal lens. Empirical data is cited where necessary, but the research remains doctrinal and analytical in nature.

### 1.7 Methodology

This research adopts a **doctrinal and analytical approach**, relying on primary sources such as constitutional provisions, statutory texts, Law Commission reports, and landmark judicial decisions. Secondary sources include scholarly articles, books, and recent case studies. A comparative review of international legal frameworks on sedition has been incorporated to enrich the discussion and offer reform-oriented insights.

## 2. HISTORICAL AND LEGAL EVOLUTION OF SEDITION LAWS

### 2.1 Origin under Colonial Rule: The British Legacy of Section 124A IPC

The law of sedition in India traces its roots to Section 124A of the Indian Penal Code (IPC), 1860, introduced by the British in 1870 to quell the rising tide of dissent among Indian nationalists. The colonial administration feared that the growing voice of resistance, particularly in vernacular newspapers and speeches, would threaten their control [8]. This provision criminalized speech or writing that could bring the government into “hatred or contempt” or excite “disaffection,” and was intentionally worded vaguely to allow maximum control [9]. Notably, freedom fighters like Bal Gangadhar Tilak and Mahatma Gandhi were prosecuted under this provision, with Gandhi famously calling it “the prince among the political sections of the IPC designed to suppress the liberty of the citizen” [10].

## 2.2 Major Amendments and Judicial Interventions

After independence, sedition law became a contentious issue during the Constituent Assembly debates, where members like K.M. Munshi and B.R. Ambedkar voiced concerns over its compatibility with democracy and freedom of speech. However, the law was retained in the IPC without modification [11].

The constitutionality of Section 124A was upheld in the landmark case of *Kedar Nath Singh v. State of Bihar* (1962), where the Supreme Court interpreted the provision narrowly. The Court ruled that only those expressions which incite “public disorder or violence” would qualify as sedition, thereby attempting to reconcile it with Article 19(1)(a) [12]. However, the law was not struck down, and its continued inclusion gave wide discretion to law enforcement agencies.

In *Balwant Singh v. State of Punjab* (1995), the Supreme Court acquitted individuals who had shouted pro-Khalistan slogans, holding that mere slogans without incitement to violence do not amount to sedition [13]. This decision reaffirmed the requirement of "incitement to violence or intention to create disorder" for applying Section 124A.

## 2.3 Use of Sedition During the Colonial and Post-Independence Era

During colonial rule, sedition prosecutions were used to stifle any challenge to British authority. Bal Gangadhar Tilak was tried multiple times, with the courts interpreting “disaffection” broadly to include criticism of British governance. In 1922, Mahatma Gandhi was convicted for publishing articles that criticized British rule, accepting the sentence but questioning the moral legitimacy of the law [10].

In post-independence India, the use of sedition laws has evolved to target dissenting voices against the state and ruling governments. For example, the 2012 arrest of cartoonist Aseem Trivedi for allegedly insulting national symbols and the 2016 JNU sedition case, where students were charged for allegedly raising “anti-national slogans,” showcase how the law continues to be applied to silence opposition [14][15].

Data from the National Crime Records Bureau (NCRB) reflects a disturbing trend: from 2014 to 2020, there was a 165% increase in the number of sedition cases filed, while the conviction rate remained extremely low [16]. This suggests that sedition charges are often used as a tool for intimidation, rather than actual threats to national integrity.

## 2.4 Conclusion of the Section

Sedition law in India is a legacy of colonial governance that was intended to suppress free speech and dissent. Despite landmark judicial attempts to limit its scope, Section 124A remains part of Indian criminal law and continues to be used, often arbitrarily, in ways that are inconsistent with the democratic values enshrined in the Constitution. A critical historical and legal evaluation thus becomes essential to understanding whether the provision still holds legitimate relevance in a modern, democratic India.

## 3. SEDITION LAWS IN CONTEMPORARY INDIA

### 3.1 Recent Cases and Misuse

In recent years, the application of sedition laws in India has witnessed a significant surge, with a noticeable pattern of its use against activists, journalists, students, and dissenters. For instance, in 2016, several students from Jawaharlal Nehru University (JNU) were arrested on sedition charges for allegedly raising anti-national slogans, sparking a national debate on freedom of expression [17]. Similarly, journalist Kishorechandra Wangkhem from Manipur was arrested in 2018 for Facebook posts criticizing the state and central governments [18].

Another controversial use occurred during the 2020 anti-CAA (Citizenship Amendment Act) protests, where protestors, including women leaders like Safoora Zargar, were slapped with sedition and other national security charges despite lack of violence or incitement [19]. Such cases indicate a trend where dissent is equated with disloyalty, undermining democratic principles.

### 3.2 Data and Statistics on Sedition Charges and Convictions

Official data highlights a worrying disconnect between the frequency of sedition charges and actual convictions. This low conviction rate points toward the use of sedition as a tool of harassment, rather than genuine legal enforcement. Accused individuals often spend months or years under trial, facing social and professional ostracism, even if acquitted later [21]. According to National Crime Records Bureau (NCRB) statistics:

- From 2014 to 2020, 356 sedition cases were filed, but only 12 convictions were secured, translating to a conviction rate of merely 3.3% [20].
- In 2020 alone, 73 sedition cases were registered, compared to 47 in 2019, marking a steady increase.

### **3.3 Relationship Between Sedition and Other National Security Laws (UAPA)**

In contemporary enforcement, sedition law is often invoked alongside more stringent national security statutes such as the Unlawful Activities (Prevention) Act (UAPA), 1967. UAPA allows for prolonged detention without charge and has stricter bail provisions than sedition, making it a more potent legal instrument against dissent.

For example, in the Bhima Koregaon case, several intellectuals and human rights activists, including Sudha Bharadwaj and Stan Swamy, were booked under both UAPA and sedition, even though substantive evidence regarding incitement to violence remained disputed [22]. These overlapping charges create a layered prosecution system, wherein sedition serves as an initial pretext for invoking harsher laws.

### **3.4 Media Freedom and Chilling Effect on Dissent**

The liberal application of sedition charges has created a chilling effect on journalism, civil society, and academia. Several journalists have been booked under sedition for tweets or reports that question government narratives. In 2021, six journalists were charged with sedition for reporting on the death of a farmer during the Republic Day tractor rally [23].

Legal experts argue that such applications deter the press from playing its constitutional role as the fourth pillar of democracy. International watchdogs, including Reporters Without Borders (RSF) and Human Rights Watch, have flagged India's increasing use of sedition as a factor contributing to its declining press freedom index, where India ranked 161st out of 180 countries in 2023 [24].

### **3.5 Conclusion of the Section**

The use of sedition in modern India reflects a disturbing pattern of state overreach, where legal instruments meant for national integrity are increasingly deployed against lawful dissent. The merging of sedition with draconian laws like UAPA and its weaponization against journalists and activists reveals an urgent need for legal reform and clearer judicial oversight. Without such measures, the freedom to dissent, a core tenet of democracy, risks being eroded under the guise of national security.

## 4. CONCLUSION

The sedition law in India, codified under Section 124A of the Indian Penal Code, is a remnant of colonial rule that was crafted to suppress free speech and democratic resistance. Despite gaining independence and adopting a liberal Constitution that guarantees freedom of speech and expression under Article 19(1)(a), the Indian state has continued to use sedition to curb dissent, regulate media narratives, and silence opposing voices.

Although the Supreme Court in *Kedar Nath Singh* (1962) attempted to narrow the scope of sedition to instances involving incitement to violence or public disorder, in practice, the vague language of the statute has allowed arbitrary and politically motivated application. The low conviction rate juxtaposed with rising cases indicates that the provision is being used more as a tool of intimidation than justice [25].

Furthermore, the overlap of sedition with draconian laws such as the Unlawful Activities (Prevention) Act (UAPA) exacerbates the situation, leading to prolonged detentions without trial and violation of civil liberties. This has had a chilling effect on press freedom, public debate, and academic inquiry—all of which are foundational to a functioning democracy.

In a modern democratic India, where constitutional morality and human rights must prevail, the continuation of sedition law stands in contradiction to the very ideals the Constitution espouses.

## 5. SUGGESTIONS AND RECOMMENDATIONS

In view of the above analysis, the following reforms are recommended to address the misuse and constitutional concerns associated with sedition law:

### 5.1 Repeal or Replace Section 124A IPC

- The Indian Parliament should consider repealing Section 124A entirely, as the UK, Australia, and New Zealand have already done, recognizing it as incompatible with modern democratic values [26].

### 5.2 Define ‘Incitement’ with Precision

- If retained, sedition law must be narrowly tailored through legislative amendment to

define what constitutes "incitement to violence" and "public disorder," consistent with international legal standards and Supreme Court precedent [27].

### 5.3 Procedural Safeguards

- Strict procedural safeguards must be instituted before initiating sedition charges. This includes:
  - Mandatory approval by a high-ranking legal authority (such as the DGP or Law Secretary)
  - Preliminary judicial scrutiny before FIR registration
  - Timely disposal of cases to avoid trial delays

### 5.4 Media and Civil Society Protections

- Explicit exemptions should be incorporated for journalists, academicians, and civil society actors, unless there is demonstrable intent and effect of inciting violence or rebellion [28].

### 5.5 Judicial and Police Training

- Training programs for police, prosecutors, and judges on the constitutional limits of sedition law and the rights of individuals under Article 19 should be implemented nationwide.

### 5.6 Law Commission Involvement

- The Law Commission of India should be tasked with a detailed study involving civil society stakeholders, constitutional experts, and jurists to draft a comprehensive reform bill or replacement framework [29].

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