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NAVIGATING SEDITION: THE INTERSECTION OF SEDITION LAW AND FREEDOM OF SPEECH AND EXPRESSION IN INDIA

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ABSTRACT

A divisive topic in India since independence and the adoption of our Constitution has always been in the context of colonial law. Anything, which arouses a sense of “disaffection” against the government, is forbidden by sedition. Sedition is defined as anything written or spoken, any sign or visual representation, or otherwise done to bring contempt, hatred, or contempt against any act of government, giving the law, as stated under IPC section 124A, the broadest possible meaning. Many times, the opponents of this legislation have claimed that it is frequently employed to stifle opposition and restrict freedom of speech and expression. Together examining the most recent sedition cases, the article examines the background and history of sedition law and its application in the present. The significance of the legislation on the democratic principles of the national Constitution is attempted to be understood in this study. The article concludes that uncontrolled, sedition legislation can be used to stifle opposition and compromise democratic values of “freedom, speech and expression”. National security and preserving democratic principles of freedom of speech and expression must therefore be balanced. The study intends to add to the discussion on the sedition statute and how it affects Indian freedom of expression today.

Keyword: IPC, Government, Writ Petition, Sedition, Legislation

Introduction

The liberal premise that there should be a place where an individual is free from social pressure gives rise to the visualization of freedom of speech. Sedition cannot be acknowledged to be one of the validations for limiting “freedom of speech and expression”. The word "sedition" has varied meanings in English law; 150 years ago, it was used to describe gatherings or parades. Latin in origin, the term "sedition" in Roman times meant insurrectionary schism (political or military), civil disturbance, or revolt. Surely, be emphasized that the title "sedition" is not present in the Indian constitution and that it is not a crime against the state if it is a state-sponsored crime as defined in IPC, unless article 19 of the constitution is in the true context. Sedition, as understood in modern India, is any action—written, verbal, or physical—that is thought to disturb the peace of the state and encourage ignorant people to disparage the government. "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 inspires or attempts to incite disaffection towards, the Government constituted by law," states Section 124-A of the Indian Penal Code and now as The politic working body has advanced, and the right to free speech has been established as a fundamental right, therefore the legitimacy of India's sedition laws has been called into question. The law of Section 124-A of the Indian Penal Code, 1860, was formed by other acts, but the general statement of law was the same throughout and could be gleaned.

1. Constitutional perspective and developments on sedition law

The very first amendment made by the Apex Court of India was from the case of Romesh Thapar v. State of Madras and since the modern democratic government by a comparative medium has always questioned its validity in a democratic country. In the work "Freedom of Speech and Sedition in India," RK MISRA questions the validity of sedition law post-independence. Following the Indian uprising movement in 1857, the British made sedition illegal to manage riots and protests, and it is appalling and raises the issue of "why" this law still exists in liberal India. A measure employed against its inhabitant's during colonialism is a sign of how regressive and ineffective India is, even though it is a democratic liberal nation. Not only that, it has also been said to violate “Article 19(1)(a), our Fundamental Right to Freedom of Speech and Expression”. Understand the importance and show the significance of this Right through several rulings before exploring sedition. Ramlila Maidan Incident Case gives it significance. The court judgment focused on the right operation of the democratic process depends on the freedom of speech, and it is the cornerstone of any democratic form of government. They also noticed that the first essential of liberty is considered to be freedom of speech and expression. It is essential to the way

that the public views social, political, and economic issues are formed. The court noted in *Sahara India Real Estate Corporation v. SEBI AIR 20 SC 3829* that such right extends to ideas and views that are not only accepted but sometimes those that may violate someone's right or shock any segment of society.

The fundamental principles of a free society are explained by the Court in *Union of India v. Motion Picture Association AIR 1999 SC 2334* as the unrestricted exchange of ideas, knowledge, debate, and the airing of opposing viewpoints. That type of right in the Constitution covers several facets of individuals' freedom to express and convey ideas and thoughts, whether or not they are popular. We have this right guaranteed in our constitution. It highlights even more the commitment expressed in our preamble to protect the freedom of opinion and speech of all its citizens. In *Romesh Thapar v. Union of India*, this Right is cited as the cornerstone of a democratic form of government, without which open and free political debates the political education is incomplete, impeding the ideal operation of a government. This in and of itself demonstrates the great regard with which Indian courts have handled and taken this privilege.

Turning now to sedition, it was employed as a weapon to stifle the few educated, free-thinking liberals of the day. By making it illegal, it seeks to accomplish the same goal; the only difference is that every single person has opinions, access to information, and a desire to improve their nation. A journalist in the recent *Vinod Dua v. Union of India WRIT PETITION (CRL.) NO.154 OF 2020* in the case he was charged with sedition charges for criticizing the government in an online video. Similar charges have previously been filed under Sedition for liking a Facebook page, giving a speech emphasizing the horrors carried out by the forces who were armed, allegedly inciting violence with cartoons, supporting the Pakistan team in a match of cricket against India, speculating real heroes in an exam, and criticizing a yoga expert. This most certainly isn't the "freedom" that the Constitution's writers intended for the people to enjoy. In *Kedar Nath Singh v. State of Bihar AIR 1962 SC 955* was one of the seminal instances that called into doubt the legality of Section 124A back in 1962. After much abuse, the Supreme Court considered the validity of Section 124A and resolved the ambiguity since the provision's wording allowed for a wide range of interpretations that may include any activity. The court established several guidelines that indicate when the section is applicable. One crucial component was noted and reaffirmed: "A person should not be held guilty of sedition as long as they do not incite people to violence against the Government established by law or to create public disorder." Because it both made the law clear and limited its application, this ruling was historic. Sadly, very few people get this

interpretation. The social shame of being called an "accused" in a criminal case and the emotional suffering one does not deserve (usually) to undergo is not made up for even if the court finds the individual accused of sedition innocent.

Sedition is a statute that restricts any kind of hate speech disaffection towards the government, however, section 124 is being fully used by our current administration. As of right now, the term "state" has come to represent religion. Their faith is so brittle that a joke by a comedian or an opinion presented by a journalist threatens their religion and beliefs to such an extent that such individuals framed with sedition charges beaten, or even killed. They claim to uphold their religion so high and expect the same from the entire nation highlighting the most basic manifestations of anti-constitutionalism. Comics, artists, and journalists have moved beyond entertainment to awareness-raising, which is essential for India today.

2. Law of sedition in the context of freedom of speech

'Democracy' and 'Freedom' are the byproducts of each other. For a democracy to function fully, individual freedom is crucial. However, as we have already established, sedition laws do serve as an exception to the general right to freedom of speech. That is why determining if "Sedition" constitutes a legitimate aberration to the freedoms guaranteed by the Indian Constitution is of the utmost importance.

Although considered that the lack of validation of section 124-A focuses primarily on remarks that are likely to provoke violence, it fails to demonstrate any kind of relationship in the Kedar Nath Case. In addition to the usage of public order requirements, it surely is fair to the extent of freedom of speech and expression which is required by section 124A. In a recent scenario, an FIR was lodged against an advocate for sharing a YouTube video that contained content criticizing the government on its actions and policies. The government in such an era of people are getting more access to their open speech and expression is on the verge of getting to social media and other free speech and expression platforms under their regulations.

To examine if an action about a right is reasonable, a restriction on a person's enjoyment of a right must not be arbitrary or excessive. This goes beyond what is crucial for the public good. "A law that excessively infringes the rights of its citizens cannot be regarded to possess the quality of reasonableness in context to the sedition law".

It is impossible to state that section 124-A maintains the correct balance between freedom of speech about social control. Furthermore, it does not fulfil the criteria of having a rational connection with the aim of the legislature by not surpassing that purpose. The breach of this clause is not simply an intentional endeavour (even if consist no likelihood of success) to elicit specific reactions. Although the words, signs, or representation in question would not be a hazard to public order, the provision of the section is nonetheless. Taking forward, the legislation tries to suppress the voice of the people who are not satisfied or are pointing out the wrongdoings of the government.

Freedom of speech is an essential right for a developing democratic country which must be given.

3. Impact of social media on sedition law

In recent times, the legislature has wanted to regulate social media by framing laws that will regulate social media influencers who have a certain number of followers as they can impact people through social media in a single social media interaction. In recent trends, social media has been the voice of the nation and is the most impactful way of conveying ideology and point of view on any concern of the nation. The government itself uses social media nowadays as a medium to convey ideas and knows its importance and values it. Therefore, Sedition laws threaten Internet users who have a degrading impact and influence on virtual social communication, and immediately damage Article 19 (1) (a) of the Indian Constitution, which guarantees freedom of expression and speech.

In India, the government also frames sedition charges against a social media user, and in the incident of 2016 a social media user from Haryana was charged for tweeting against a political party. A similar incident happened when a drawing artist in the year 2012 was arrested for making a drawing that criticized the parliament and was thereafter charged with sedition.

4. Recent Judicial precedent on sedition law

To discuss the case Kedar Nath is now to be considered as the old case and there have been many recent cases because of this fearless generation who are ready to question and point out the government in case of any wrongdoing by the government or any action that is not suitable. In the recent case of 2022, a student of Aligarh Muslim University was arrested under UAPA and sedition for giving hate speech on the university campus in regards to showing his views on the Citizenship Amendment Act by the central government.

In recent times, in 2019 December an FIR was registered against an MP of Shiv Sena on the grounds of writing an objectional article against the Prime Minister of India.

In a recent case, journalist Vinod Dua was charged with sedition on the grounds of commenting on the prime minister on his YouTube show. There are many examples in which individuals are charged with sedition on the grounds of merely criticizing the government pointing out the actions or merely commenting.

5. Effectiveness of sedition Law in context to freedom of speech

Sedition is defined as any unwillingness to accept or just express one's dissatisfaction with the government's policies or laws, which is causing increasing animosity and conflicts among the youth and citizens. Every Indian has the right to free speech and expression. The contradiction is that Section 124A of the IPC takes away from the people the basic right to freely express and voice their thoughts on issues including State policy and laws made by the government, even if the Constitution grants the residents of the nation the freedom to do so.

The Government can interpret the word "disaffection" in any way they see fit, and they frequently misuse it to punish people for just voicing their dissatisfaction. Criticism and dissension of the government are necessary for a nation to run well since they promote lively public discussion and let people voice their views on political issues. This ought to be supported as the idea of democracy is based on the freedom to question, criticize, and select their leaders, not as treason.

The basic meaning of Section 124A is incredibly ambiguous in its phrasing, even though it is important to have measures that maintain social order for the efficient operation of a nation. And because of the public humiliation and dishonour the crime brings, it must be applied with great precision, something the state regrettably lacks as demonstrated by several cases.

One could argue that the sedition legislation is also easily replaceable. One such provision is the National Security Act, of 1980, which permits preventative detention in specific situations when the government believes the individual poses a threat the national security or to stop individuals from damaging the public order. Article 22(3)(b) covers preventive detention, so it can only be used in compliance with Parliamentary legislation. The Offences against Public Tranquilly listed in Chapter VIII of the IPC provide another superior substitute for sedition. This schedule covers crimes like rioting, affray, illegal assembly, and animosity between classes. Furthermore, it is a

serious offense even if there is a chance that such an offense could be committed that could disrupt tranquillity and cause a public commotion; the actual offense is not required. It penalizes only those crimes that could upset the balance of the State and endanger public order, not those that just entail voicing one's dissatisfaction with the institution.

6. Conclusion

In democratic liberal India, the essential basis of the nation is "secularism." Still, we have cases of people being slaughtered or publicly humiliated for no other reason than that they follow a different faith or have individualistic views. The Kedarnath ruling states that sedition laws are only meant to be applied seldom, when violence was to be incited by the deed. Still, several recent events have demonstrated that this legislation is frequently employed as a political tool to stifle free speech and opposition of any kind, including political rivals. Authorities are abusing the ambiguous interpretation of the sedition statute to their use to instil terror among the people or anyone who voices dissatisfaction with the government. Many times, the sedition legislation is employed as a tool to make sure its citizens comply. A journalist Vinod Dua arrested on the charge of sedition in the context of asking the government about their COVID handling norms and effectiveness and natural activist Disha Ravi was charged under sedition for supporting the farmers and her involvement in the online toolkit and by her tweets which showed support to the farmer. These cases are unequivocal evidence that authorities frequently abuse and interpret the laws in ways that serve their political agendas, therefore undermining the intent of the law. Legislation that finally restricts freedom of speech and expression is obviously against one's fundamental rights and should not be implemented in a nation like India.