INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS

(ISSN 2582 - 6433)

VOLUME 2 ISSUE 6

(April 2022)

Email –

editor@ijlra.com

Website – www.ijlra.com

IJLRA

INTERNATIONAL JOURNAL

FOR LEGAL RESEARCH & ANALYSIS

 ISSN: 2582-6433

DISCLAIMER

 ISSN: 2582-6433

EDITORIAL TEAM

 ISSN: 2582-6433

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANLAYSIS ISSN

2582-6433 is an Online Journal is Quarterly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN

2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

 ISSN: 2582-6433

SEDITION: A BOON OR BANE TO INDIAN DEMOCRACY?

By: Lakshya Jauhari & Tripti Taneja

"Section 124 A under which I am happily charged is perhaps the prince among the political sections of the IPC designed to suppress the liberty of the citizen. Affection cannot be manufactured or regulated by the law. If one has no affection for a person, one should be free to give the fullest expression to his disaffection, so long as he does not contemplate, promote or incite to violence"[1]

-Mahatma Gandhi, March 18, 1922

INTRODUCTION

Sedition is nothing but an instrument used by the government established by law to suppress the democratic voices of the country against itself as well as its demeanor. It is merely a tool to mitigate criticism, dissent and diminish free speech against the acting government. In India's relevance, the law of sedition is stated in Section 124A of our official criminal code according to which whosoever, expressly or impliedly, brings or attempts to bring into hatred or contempt or stimulates disaffection or attempts to do so towards the Government established in India shall be booked under this aforesaid Section.[2] 'Hatred', 'Contempt' and 'Disaffection' are the three key elements of criticism against the Government as per Section 124A. The law of Sedition in India has no reasonable boundaries which causes it be ambiguous in nature and also afford wide discretionary power to the Government which is in violation of integral values of Article 14, 19 and 21 of the Indian Constitution also popularly acknowledged as the 'Golden Triangle' of the Constitution. Moreover, on successful conviction of an accused charged with the offence of sedition, the accused could be liable to imprisonment of life which is something not in parity

[1] Section 124A: The Most Anti-National Thing In India's Independent History, *available at:* https://thelogicalindian.com/opinion/sedition-section-124a/?infinitescroll=1 (Visited on April 10, 2022).
[2] The Indian Penal Code, 1860 (Act 45 of 1860).

 ISSN: 2582-6433

with the gravity of conduct.

Sedition law in India has a deep rooted history as this law was first brought in the colonial era by the British-India government to hush those who went against the reforms of such government. Lately, our Hon'ble CJI N.V. Ramana criticized the law of sedition in open court by asserting that this law is prone to be misused by the government and held in the following words:[3]

There is no dispute that it is a colonial law. It was used to suppress the freedom movement and used to silence Gandhi and Tilak. It is still necessary after 75 years of Independence? The use of sedition is like iving a saw to carpenter to cut a piece of wood and he uses it to cut the entire forest itself.

Applicability of section 124A is worrisome as the word "sedition" has been nowhere specifically mentioned in the Constitution of India and is majorly regulated by the penal code. The constitutional validity of this provision has been challenged numerous times on the ground that it is contrary to article 19(1) (a) of the Constitution but the matter has been emphatically adjudicated by the Supreme Court of India in 1962 in the landmark case of Kedar Nath Singh v. State of Bihar[4] in which constitutionality of sedition law was upheld subject to certain limitations that shall be discussed further in this paper.

Recent surge in misuse of the sedition law by the State machinery against journalists, social activists and other persons call for the authors to write this paper in which the authors intends to discuss the historical backdrop of sedition in India along with the constitutional validity, judicial perspective and recent trends of misuse of the same.

HISTORICAL BACKGROUND

Historic backing of sedition law in India is such that it was for the very first time inserted in the

[3] SC Asks Centre Why 'Colonial Era' Sedition Law Is Needed 75 Years After Independence, *available at:* https://thewire.in/law/supreme-court-sedition-colonial-era-independence-section-124a (Visited on April 2, 2022).

[4] AIR 1962 SC 955

 ISSN: 2582-6433

Macaulay's Draft Penal Code under section 113. It was the original draft established in 1837 by Lord Thomas Babington Macaulay who is known to be the father of Indian Penal Code.[5] Eventually the provision of sedition was plunged off from the final version of the penal code which got legal force in 1860 based on numerous reasons advanced by the historians.

Subsequently, the sedition law was inserted in the Indian Penal Code in 1870 by the British administration in order to deal with Indian freedom movement including the Wahabi movement as well as the relentless revolts against the British India government.

Wahabi movement is known to be an Islamic revivalist movement led by Syed Ahmed Barelvi whose purpose was to denounce any alteration into the original Islam. The movement was initiated in 1830s and in 1857 it turned into armed rebel, commonly recognized as Jihad against the British.[6] This movement was completely disbanded after 1870 only when British introduced sedition law in Indian Penal Code under section 124A through amendment in order to outlaw the speech which has the potential to advance disaffection towards the British India government. This movement highlights the commencement of sedition law in India. Subsequent to the initiation of sedition law in India several leaders of nationalist movement (Swaraj) and freedom fighters were held accused of sedition such as Bal Gangadhar Tilak, Mahatma Gandhi, Bhagat Singh and Jawaharlal Nehru.

Bal Gangadhar Tilak was the first nationalist to be convicted of sedition in British Raj as he published an article in his Marathi newspaper, namely, Kesari which had the capability to motivate people to deter the government's efforts in curbing the plague epidemic in India. He was sentenced an imprisonment of 18 months by the Bombay High Court under section 124A.[7] About 2 decades later he was tried again for sedition based on an article that he wrote in which he advocated the Swaraj movement. Queen Empress v. Jogendra Chunder Bose and Ors.[8] was the very first case of sedition in British India in which the editors of a Bengali magazine were

[5] Shantanu Pachauri & Jhalak Shah, "An Analysis of Sedition Law in India" 1 *ResearchGate* 3 (2017).
[6] Sedition Laws of India, *available at:* https://www.gktoday.in/topic/indias-sedition-laws-and-current-issues/#:~:text=The%20origin%20of%20sedition%20law,led%20by%20Syed%20Ahmed%20Barelvi (Visited on April 3, 2022).
[7] Queen Empress *v.* Bal Gangadhar Tilak, ILR (1898) 22 Bom 112
[8] (1892) ILR 19 Cal 35

 ISSN: 2582-6433

charged for criticism against the British policies. The Calcutta High Court in this aforesaid case reiterated the distinction between 'disapprobation' and 'disaffection' that is legitimate criticism and disloyalty/feelings of enmity respectively. In 1922, Mahatma Gandhi was tried for sedition with few others for 3 articles he wrote in a weekly, namely, Young India.[9]

In the case of Niharendu Dutt Majumdar v. King Emperor[10] (1942) the Federal Court ruled "public disorder or the reasonable anticipation or likelihood of public disorder is the gist of the offence" but this ruling was overturned by the Privy Council in the case of King Emperor v. Sadashiv Narayan Bhalerao[11] (1947) in which it was held that incitement of violence or public disorder is not a pre-requisite to sedition but the excitement of feelings of enmity suffice the establishment of guilt under section 124A. Interpreting the said ruling, it would not be wrong to establish that merely a malicious intent is enough to convict a person charged with sedition and actual occurrence of public disorder is not relevant for conviction.

The word "sedition" was eliminated when the Constitution was framed for independent India but it still derives its existence from section 124A of the Indian Penal Code, 1860 and is being used by the government established by law to curtail free speech which is a Constitutional mandate.

CONSTITUTIONALITY & JUDICIAL PERSPECTIVE vis-à-vis SEDITION LAW IN INDIA

Sedition law in India is an infringement of free speech and expression as guaranteed by article 19(1)(a) of the Constitution against the government established by law as contended by significant social reformers pre-independence such as Mahatma Gandhi, Jawaharlal Nehru, Bal Gangadhar Tilak as well as in petitions filed by journalists and other notorious people post-independence challenging the constitutional validity of section 124A IPC. Constitutional validity of section 124A IPC is yet questionable based on plethora of factors out of which some imperative ones shall be discussed hereunder.

[9] Republic of dissent: Gandhi's sedition trial, *available at:* https://www.livemint.com/politics/news/republic-of-dissent-gandhi-s-sedition-trial-15483527444498.html (Visited on April 3, 2022).
[10] AIR 1942 FC 22
[11] AIR 1947 PC 82

 ISSN: 2582-6433

Firstly, sedition law under section 124A IPC has no constitutional backing as there is no provision in the Indian Constitution specifically validating sedition law vested in section 124A IPC. The Draft Constitution of India, 1948 added sedition as one of the grounds to impose reasonable restrictions on free speech and expression however due to relentless determination of K.M. Munshi who proposed an amendment in the Constituent Assembly on 1st December, 1948 to drop 'sedition' from the Constitution, the word 'sedition' got essentially excluded from the Indian Constitution when it was adopted on November 26, 1949. K.M. Munshi had put up an argument that, "such a draconian law is a threat to democracy in India and as a matter of fact the essence of democracy is criticism of Government."[12]

Secondly, section 124A IPC is poorly defined as the language used in this provision lacking precision is exposed to wide interpretation and is being used as a tool of harassment by the State e.g. Law Enforcement. Justice D.Y. Chandrachud while prohibiting the Andhra Pradesh government from taking action against two news channels booked under section 124A highlighted that such ambiguity in section 124A empowers the police to falsely accuse the citizens as the provision is silent about as to which acts are seditious in particular. He reiterated, "Everything cannot be seditious. It is time we define what is sedition and what is not."[13] Moreover, Justice D.Y. Chandrachud in another case also opined that expressing views different from the opinion of the State cannot be sedition per se. Under the similar impression the Delhi High Court in Disha A. Ravi v. State (NCT of Delhi) & Ors.[14] ruled clearly that citizens cannot be put behind bars by the State just because they picked to disagree with State policies.

Thirdly, as of now there are no specific guidelines given by the courts as to which acts particularly constitute the offence of sedition as well as in what manner the law enforcement & prosecution shall initiate & conduct criminal proceedings against persons accused of sedition without infringing their fundamental rights, particularly, right to freedom of speech and expression. Kedar Nath Singh v. State of Bihar[15] is the landmark case in which the Supreme

[12] Sedition law: A threat to Indian Democracy?, available at: https://www.orfonline.org/expert-speak/sedition-law-threat-indian-democracy/ (Visited on April 3, 2022).
[13] Time to Define Limits of Sedition, Particularly in Context of Media Freedom: SC, *available at:* https://thewire.in/law/supreme-court-sedition-media-freedom-chandrachud-telugu-channel (Visited on April 3, 2022).
[14] W.P.(C) 2297 of 2021, Judgment Dated: February 19, 2021.
[15] *supra* note 1

 ISSN: 2582-6433

Court upheld the constitutionality of section 124A IPC and narrowed the applicability of the same but failed to deliver meticulous guidelines as to in what specific circumstances the FIR regarding sedition has to be filed and how such cases have to be tried. A poorly defined legal provision along with unavailability of specific guidelines on the same by the court confer wide discretionary powers to the executive which in turn give rise to administrative arbitrariness. This absolute discretion & administrative arbitrariness is contrary to the doctrine of equality enshrined under article 14 of the Constitution as stated in Shrinivasa Rao v. J Veeraiah.[16]

These aforementioned rulings by the judiciary suggests that it is inclined towards the protection of the citizen's free speech and expression against the government which is a fundamental and democratic right of the citizens whereas the executive is largely misusing the sedition law in order to restrict the citizens from raising dissent against executive's policies.

The Constitutional courts (Supreme Court & High Courts) have inversely interpreted the constitutionality of section 124A IPC since the Indian independence. The Constitutional validity of section 124A IPC was for the first time scrutinized in the case of Tara Singh Gopi Chand v. The State[17] in 1950, the year when India became a republic. The Punjab & Haryana High Court in this case acknowledged section 124A IPC as unconstitutional on the ground that this statutory provision is contrary to/violating article 19(1)(a) of the Constitution promising right to freedom of speech and expression to Indian citizens. Moreover, it was held that reasonable restrictions provided in article 19(2) has to be constitutional and not excessive. The pronouncement in this case was highly stimulated by Romesh Thappar v. The State of Madras[18] in which the entry & circulation of a Bombay-based leftist English journal, namely, Cross Roads was banned in the State of Madras under section 9(1-A) of the Madras Maintenance of Public Order Act, 1949 in order to maintain public safety & public order. This government order was challenged by the Editor of aforesaid journal contending that powers conferred by this Act were excessive restriction to article 19(1)(a) of the Constitution whereas the State of Madras argued that this was done to ensure public safety & public order which could be equated with security of the State as well, which is one of the reasonable restrictions upon right to freedom of speech

[16] AIR 1993 SC 929
[17] 1951 Cri LJ 449
[18] AIR 1950 SC 124

 ISSN: 2582-6433

and expression under Article 19(2). The Supreme Court concluded that the words in the impugned Section 9(1-A) of the aforesaid Act being 'public safety & public order' has a wide interpretation if understood in accordance with the Indian Penal Code, 1860 and other texts as public order includes rash driving as well and alternatively security of the State comprise extreme acts of violence that has the potential of overthrowing the State, therefore, the restriction imposed by the impugned Section of the aforesaid Act was excessive to what is constitutionally permissible as a reasonable restriction on freedom of speech and expression. The court quashed the government order imposing ban on the journal as well.

Subsequent to the ruling of Tara Singh Gopi Chand v. The State was the case of Sabir Raza v. The State[19] which was based on the similar ideology as what was in the former case. The Allahabad High Court too in Sabir Raza v. The State declared Section 124A IPC as unconstitutional and contrary to Article 19(1)(a) of the Constitution as Raghubar Dayal, J. opined that criticizing the government, its policies or a member of the parliament is protected by virtue of Article 19(1)(a) providing right to free speech and expression and such criticism cannot be reprimanded under Section 124A IPC even if it causes disruption of public order. Furthermore, it was reiterated that the security of the State is not threatened by public disorder but by the way of rebellion & mutiny that the State could be overthrown.

The High Courts in Tara Singh & Sabir Raza decision held that Section 124A IPC had gone obsolete only by enforcement of the Constitution whereas it was the Ram Nanda v. The State[20] where the Allahabad High Court had extensively determined the constitutionality of Section 124A IPC. Ram Nanda stood up for safeguarding the interest of farmers & agricultural labors in Uttar Pradesh and thereafter booked under section 124A IPC in 1954 for his statement asserting that the Congress (then ruling party) failed to tackle extreme poverty in the state as well as exhorted the cultivators to form an army for overthrowing the government if required.
The Allahabad High Court in the Ram Nanda decision took a view that if any criticism against the government not having intention or tendency to create public disorder or incitement of violence can be booked under section 124A IPC then such a statutory provision must be

[19] Cri App No.1434 of 1955, D/- 11-2-1958
[20] AIR 1959 All 101

 ISSN: 2582-6433

nullified or declared void as it violates Article 19(1)(a) which is a very root of the Indian Constitution comprising of free speech & expression irrespective of whether interest of public order or security of the State is involved.

In 1962 came the landmark ruling of the Supreme Court in Kedar Nath Singh v. State of Bihar whereby the constitutional validity of Section 124A IPC was upheld and the Tara Singh, Sabir Raza & Ram Nandan decisions were overturned. 'Public Order' in this case was considered as a reasonable restriction to restrict free speech by virtue of Article 19(2) of the Constitution and it was further reiterated that Section 124A IPC is constitutional up to the extent where a speech having the intention or tendency to disrupt public peace by incitement of violence attracts the offence of sedition. Court further explained that any words spoken spreading disaffection & enmity against the government but not inciting violence does not attract the offence of sedition and the interpretation of Section 124A in such a manner where merely a criticism against government policies without the intention or actual causing of public disorder is booked under sedition then this would make this impugned statutory provision contrary to free speech & highly unconstitutional.

Based on the notion of Kedar Nath Singh v. State of Bihar, Balwant Singh & Anr. v. State of Punjab[21] ruling was made in 1995 by the Supreme Court whereby the sedition charges against appellants, namely, Balwant Singh & Bhupendra Singh were dropped. Both the appellants allegedly raised slogans, "Khalistan Zindabad" in a crowded place on Indira Gandhi's assassination day for which they were arrested and charged with Section 124A IPC. The Supreme Court reiterated that if two individuals were involved in yelling slogans which neither didn't cause any public disorder/disruption of public peace nor mens rea was established for incitement of violence then the offence of sedition cannot be attracted.

In Bilal Ahmed Kaloo v. State of Andhra Pradesh[22] the Supreme Court quashed the conviction of a person under Section 124A based on principles reiterated in the Kedar Nath Singh & Balwant Singh decision and observed that the casual approach of trial court is exhibited by the

[21] (1995) 3 SCC 214
[22] (1997) 7 SCC 431

 ISSN: 2582-6433

manner in which convictions are made under Section 124A IPC by the trial court. The court further perceived that greater care must be taken in trying graver offences so not to curtail the liberty of a citizen which is a constitutional mandate under Article 21 of Indian Constitution.

All these aforementioned landmark rulings exhibit that since Indian independence judiciary is inclined towards protecting free speech of the citizens and tried to rightly interfere with wrongful convictions under sedition law of India. Kedar Nath Singh decision made it coherent that criticizing government policies is not seditious but what constitute sedition is the intention to incite violence or the tendency to disrupt public peace and order. Though this landmark ruling narrowed the scope of Section 124A IPC in conformity with the relevant provisions of Indian Constitution but the detailed guidelines are lacking as to in what manner prosecution under sedition has to be conducted by the State.

Shreya Singhal v. Union of India[23] was one landmark case of 2015 in which the Supreme Court outlawed the applicability of Section 66A of the Information Technology Act, 2000 in its entirety. Now one notorious factor is that Section 124A IPC & Section 66A of the IT Act, 2000 are alike in a sense that both the statutory provisions restrict free speech and expression enshrined under Article 19(1)(a) whereas the only variance is that Section 66A of the IT Act, 2000 restrict free speech on the internet and involves transmission of information via computer device. In Shreya Singhal case numerous writ petitions challenging the constitutionality of Section 66A of the IT Act, 2000 were disposed of. The petitioners contended: 1. that the grounds mentioned in the impugned provision are not in conformity with any of the reasonable restrictions under Article 19(1) of the Constitution, 2. that the impugned provision is vague and provides the State the power to exercise arbitrariness while booking people under this impugned provision, 3. that the disputed provision is violating Article 14, 19(1)(a) and 21 of the Constitution. The Supreme Court after noting the contentions of both the parties and scrutinizing plethora of relevant precedents opined that Section 66A of the IT Act, 2000 is contradictory to right to free speech on the internet and the grounds mentioned in the provision such as ‘annoyance’, ‘inconvenience’, ‘obstruction’, ‘danger’, etc. are not reasonable

[23] AIR 2015 SC 1523

 ISSN: 2582-6433

restrictions under Article 19(2) of the Constitution. The court took note of Chintaman Rao v. State of Madhya Pradesh[24] in which the court reiterated that 'reasonable restriction' describes that the restraint imposed on a person's
right must not be arbitrary or excessive to what is required for securing the public interests.
Now the issue in question after the ruling of Shreya Singhal v. Union of India is that Section 66A of IT Act, 2000 was struck down entirely because of its unconstitutionality but why does Section 124A stands far away from being declared violative of constitutional norms when both the statutory provisions are almost of similar nature and puts a bar on free speech?

RECENT TRENDS

Despite the fact that the aforementioned judicial pronouncements outlined the scope of sedition law, there has been an increase in sedition cases in recent years. According to the data disclosed by the Ministry of Home Affairs (MHA), between the years 2014 and 2019, 326 cases were filed in the country under the contentious law of sedition, with only six people being convicted. The data from National Crime Records Bureau (NCRB) also exposes the exponential increase in the incidents. While there were only 47 cases of sedition in 2014, 194 cases were filed in 2019 after the enactment of the contentious Citizenship Amendment Act (CAA).

The reports by MHA and NCRB further stated that 65 percent of the 10,938 Indians charged with sedition since 2010 were arrested after the government of Bharatiya Janata Party (BJP) assumed office at the Centre in May 2014. These findings indicate how state governments led by the BJP have exploited sedition charges as a de facto policy anytime they encounter harsh outcry or protests. The statistics revealed a spike in sedition charges during rallies or events essential to the BJP government at the Centre and in the states.

Many times, it has been observed that the State has utilized the law of sedition to silence dissenting voices in order to defend its own interests and the judiciary of India has questioned the vague application of the colonial-era law itself. Following are the recent incident of sedition in India:

[24] AIR 1951 (38) S.C. 118

 ISSN: 2582-6433

- Kanhaiya Kumar[25]

  On February 9, 2016, Kanhaiya Kumar, who was the president of the JNU Students' Union at the time, was charged, along with others, for yelling "anti-national" and seditious chants. The accused were charged with sedition along with other sections of IPC which sparked an uproar among the general public. Furthermore, Congress Vice-President Rahul Gandhi, Delhi Chief Minister Arvind Kejrival, and a number of other well-known figures were charged with sedition after they criticized government action and visited the campus of JNU to support the youngsters who had been targeted by the police.[26] The government's bold move has thrown the country into disarray.

- Arundhati Roy[27]

  In 2010, Arundhati Roy, Indian author and political activist, was booked on sedition charges for her contentious comment on Kashmir and "anti-India" speeches where she said, "Kashmir has never been an integral part of India. It is a historical fact. Even the Indian government has accepted this."

- Vinod Dua

  Sedition and other charges such as public nuisance, public mischief were filed against the renowned journalist, Vinod Dua for making negative comments against the Central Government and Prime Minister Narendra Modi in his show which, according to the F.I.R., caused chaos among the general public. The Hon'ble Supreme Court quashed all the charges brought against him and stated, "Every journalist is entitled to protection under the Kedar Nath Singh case."[28]

[25] JNU Sedition Case, *available at:* https://thewire.in/law/jnu-sedition-case-umar-khalid-kanhaiya-kumar-delhi-court (Visited on April 5, 2022).
[26] JNU Row: Rahul Gandhi, Arvind Kejriwal Among 9 Booked For Sedition, *available at:* https://www.ndtv.com/india-news/jnu-row-rahul-gandhi-and-arvind-kejriwal-booked-for-sedition-1282237 (Visited on April 5, 2022).
[27] The "Seditionist" Speech, *available at:* https://www.outlookindia.com/website/story/the-seditionist-speech/268505 (Visited on April 5, 2022).
[28] SC Quashes Sedition Case Against Vinod Dua, *available at:* https://thewire.in/law/supreme-court-quash-vinod-dua-sedition-case (Visited on April 5, 2022).

 ISSN: 2582-6433

- Disha Toolkit Case[29]

  Disha Ravi, a climate activist, was arrested for reportedly sharing a "toolkit" on social media to cause disturbance throughout the country under the guise of farmers' protest. She was booked for sedition, among other charges, and was granted bail as the Court was of the opinion that editing an inoffensive toolkit is not a crime.

- Three Kashmiri students were booked with sedition in Agra in October, 2021 for reportedly sharing joyful messages on social media following Pakistan's T20 cricket match triumph against India. They were booked under Sections 153-A, 505(1)(b), 124A of Indian Penal Code, 1860 as their slogans sparked social unrest in the country. The counsel of the students argued before the Allahabad High Court that they did not raise anti-India slogans and were law-abiding citizens of India. The Court, while granting the bail subject to some conditions to the students, held, "The unity of India is not made of bamboo reeds which will bend to the passing winds of empty slogans."[30]

LOCUS RELATING TO LAW OF SEDITION IN OTHER COUNTRIES

Here the authors intends to demonstrate the current position of sedition law in different countries. Some countries across the globe have totally outlawed the offence of sedition by considering free speech, a fundamental right to citizens of paramount importance whereas the other countries who have still kept alive the concept of sedition have narrowed the applicability of this law to the extent which is expedient to meet the ends of justice.

South Korea eliminated the concept of sedition in 1988 during its democratic and legal reforms. Indonesia pronounced sedition as unconstitutional. By enacting the Crimes (Repeal of Seditious Offences) Amendment Act, 2007 New Zealand also invalidated sedition law. Though sedition is an offence in Canada, the law hasn't been invoked after the 20th century. United Kingdom eradicated sedition as well by virtue of Section 73 of Coroners and Justice Act, 2009.

United States of America still penalizes sedition as per Section 2385 of the US Code which is

[29] Disha Ravi toolkit case, *available at:* https://indianexpress.com/article/cities/delhi/disha-ravi-toolkit-case-with-probe-making-no-headway-closure-report-may-be-an-option-7590653/ (Visited on April 5, 2022).
[30] UP Invokes Sedition Against Kashmiri Students, *available at:* https://thewire.in/rights/up-invokes-sedition-against-kashmiri-students-families-activists-urge-for-release (Visited on April 5, 2022).

 ISSN: 2582-6433

a 218 years old statutory provision and deals with the offence of overthrowing the government by force/violence, however the law is hardly used to curtail free and fair speech of the citizens. In Germany incitement of the people, namely, volksverhetzung is a legally observed concept and loosely relates to sedition. As per Section 111-113 of the Dutch Penal Code it is an offence to defame, demean or insult the king, his heir apparent and their spouse. Malaysia criminalizes sedition according to the Malaysian Sedition Act, 1948 as well as Norway does the same according to Chapter 9 of the Norwegian General Civil Penal Code. Sedition is also a crime in countries like Singapore and Hong Kong.

It would not be wrong to mention after the aforesaid discussion that India is the country having the broadest applicability of sedition law resulting in absolute curtailment of free speech as the other countries have either completely abolished the sedition law or moderated the applicability of same to the extent which is necessary for safeguarding the interest of general public.

CONCLUSION

The appropriate answer to the title of this paper is that the concept of sedition as of now is definitely a bane to Indian democracy by virtue of which people are prosecuted for simply criticizing the moves of the government established by law without even having the intention to incite violence or disruption of the security of the State. True essence of a democracy is the free flow of opinions either negative or positive without causing any hindrance to the same. Criticism is what makes a democratic setup function smoothly and it gives government a chance to review and amend its policies for the welfare of general public or society as a whole.

It is a matter of grave concern that even the United Kingdom itself invalidated the sedition law, the country who brought sedition law to India in the first place whereas India being the biggest democracy in the world is still in the clutches of an ambiguous sedition law. It is time that the State must bring in change to the concept of sedition in India by limiting its applicability to the extent which is crucial for maintaining public peace, law and order as well as to protect the State from getting overthrown. The law of seditio
n in India must be invoked with conformity to the fundamental right of citizens to free speech.

 ISSN: 2582-6433

Booking and arresting people deceitfully under Section 124A IPC also violates their personal liberty enshrined under Article 21 of the Constitution. Though Article 21 allows the curtailment of personal liberty through the procedure established by law, the Supreme Court in plethora of cases had reiterated that such a procedure must be just, fair and reasonable.

Lastly, no law in India is above the Indian Constitution which is established by the apex court as our 'law of the land' and a law shall endure only by keeping up with the constitutional norms.

SUGGESTIONS

After the aforementioned thorough research done by the authors following are the suggestions being rendered by the authors:

1. The Indian Constitution shall be amended in a way so as to either specifically create an Article for sedition or clearly include sedition as a reasonable restriction under Article 19(2) of the Constitution so that there is no need to determine by the courts every time as to whether sedition is a reasonable restriction to free speech or not. Establishing a specific sedition provision in the Constitution is the only way by which Section 124A IPC gets a constitutional validity/backing.
2. Section 124A IPC shall be redefined in order to limit its applicability and lessen the ambiguity so that the statutory provision does not allow the State to exercise arbitrariness while booking people under the said provision.
3. Comprehensive/Detailed guidelines shall be issued by the apex court regarding the manner in which cases are to be initiated and conducted against the accused under Section 124A IPC so as to stop the misuse of the provision by the State.
4. There shall be speedy trial in fast-track courts in sedition cases in order to prevent abuse of process of law as well as people who are being wrongfully prosecuted for the offence of sedition shall be adequately compensated by the State for mental agony they have been through.
5. The quantum of punishment in sedition cases which is life imprisonment shall be altered as the punishment does not in any way fits with the gravity of offence that is sedition. It is a cardinal principle of our criminal jurisprudence as well as what has been mentioned

 ISSN: 2582-6433

by the Supreme Court many a times is that the punishment for any offence has to commensurate with the severity of the offence.