



## ANALYSIS OF SEDITION LAW IN INDIA

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### ABSTRACT :

The crime of inciting revolt or destabilizing a government by speech, writing, or behavior is covered under the law of sedition. By punishing people or organizations that support violence or incite rebellion against the government, it seeks to stop actions that threaten the legitimacy and security of a state. Depending on the jurisdiction, different laws may contradict with free speech rights when it comes to sedition. However, it plays a crucial role in upholding social order and preserving the sovereignty of the state. Speech or other kinds of communication that are perceived to be encouraging revolt or resistance against a government or its authority are considered to be illegal under the legal philosophy known as the law of sedition.

### INTRODUCTION:

In Section 124A of the Indian Penal Code discusses sedition as a crime against the state. Sedition punishes any content that can trigger violent or widespread unrest in the country by promoting hatred, contempt, or disaffection for the government. When criticism is used to contest and change government-made legislative or administrative choices, this is not viewed as seditious activity. It is a heavily criticized and erroneously used component that is mostly intended to quell political resistance. According to the argument, it prevents people from expressing their right to free expression.<sup>1</sup>

According to Article 19(1) (a) of the Constitution, everyone in India has the right to free speech and the expression of their beliefs. The right to free speech and expression is not unfettered, but Article 19 has placed some obtrusive limitations on it. However, under section 124-A of the Indian Penal Code, 1860, actions that are deemed to be disrespectful of the Government of India and that can be expressed by words, signs, or other means of expression are criminally sanctioned. Speech that is considered to be antagonistic to or dangerous to the state is unlawful under the crime of sedition. The criteria of Section 124A, which do not apply to good faith criticism of particular program, have a relatively broad scope.

Sedition is a topic that is constantly debated. It blatantly infringes upon one's right to free speech. It is a tactic the government can use to suppress dissent and dissenting voices. It was employed against protesters by both the British administration and later independent Indian governments. The cornerstone of democratic government is the freedom of speech and expression. In a democracy, the right to free speech is crucial for swaying the public's opinions on social, political, and economic issues. International organizations claim that the freedom of expression is essential. The freedom to communicate one's ideas both orally and in writing is a part of this. This suggests that it also concerns the freedom of expression and the capacity to disseminate or publish ideas.

<sup>1</sup> Sedition law – ipleaders <https://blog.ipleaders.in/sedition-law/>

### RESEARCH PROBLEM:

The sedition law in India is an important topic of debate and controversy in India. Under Section 124A of Indian Penal Code, 1860. It is defined the any act or attempt to excite disaffection towards the government of India. In Indian Constitution, Article 19(1) (a) defined freedom of speech and expression which violates ones rights, the authority of the government often used to silence dissenting voices, restrain voices of people in the society. But in Britain this act has been repealed due to unwanted political controversy in India it has not removed.. So in this paper it discuss about the evolution of sedition law , how it impact on the society, and what are the elements of the rising of sedition law and how does it relates with the freedom of speech and expression.

### RESEARCH QUESTIONS:

1. What is the purpose of Sedition law in India?
2. What is the difference between sedition and right to speech and expression?
3. Why does India need to remove the Sedition Law?

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## RESEARCH OBJECTIVE:

- To understand how sedation law impact on the society,
- To understand the relation between the sedation law and speech and expression.

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## METHODOLOGY:

This paper is Doctrinal Research; the material is used in the format of reports, research papers, legal articles, books etc.

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## SEDITION LAW-EVOLUTION

The Indian Constitution contains several laws that were in effect at the time the basic system of governance in India was founded, which was under British control. The law against sedition is one that was carried over from British rule. Sedition, which was not a part of the IPC when it was approved in 1860, was added to the IPC under section 124A by Special Act XVII of 1870.

In Clause 113, which deals with sedition, was the first piece of the Penal Code to be written by Thomas Babington Macaulay<sup>2</sup> in 1837. Between 1863 and 1870, Wahabi activity increased; in 1870, it was added to put a stop to it. The criminal crime of seditious law was become cognizable in 1974. Indian leaders who aspired to break away from the British Empire in the 19th and 20th centuries utilized this piece as leverage. Gandhi said that "Section 124A is the prince among the political sections designed to crush the freedoms of citizens" in 1922, when he was accused of being a seditiousist.

In the earliest well-known sedition case, *Queen Empress v. Jogendra Chandra Bose &ors.*,<sup>3</sup> (1892) ILR 19 Cal 35, editors of Bengali publications were charged with seditious statements. The publishers argued that they just published the seditious content; they did not produce it. They said that it was against the letter of the law to penalize people for using their lawful rights. According to the Calcutta High Court, publishers cannot be released since the target market for their magazine distribution is magazine readers. The High Court previously stressed the difference between "disaffection" (any feeling adverse to attachment) and "disapprobation" (legitimate criticism).

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## MEANING OF SEDITION

Sedition is defined by Section 124A of the Indian Penal Code as "words, spoken or written, or by signs, or by visible representation, or by any other means, that incite hatred or contempt, or excite or attempt to excite disaffection against the Government established by law." The offender is punished with either a life sentence or a sentence that may extend to three years in prison, to which a fine may be added.

<sup>2</sup> Sedition Laws in India: A Critical Analysis. (n.d.) Sedition Laws in India: A Critical Analysis.

<sup>3</sup> (1892) ILR 19 Cal 35

Sedition is a crime against the state that usually comes before treason and is almost identical to it. Disaffection is defined as a lack of loyalty and hostility in the section's explanation. According to the ruling in the *Indramani Singh case*<sup>4</sup>, the term "sedition" is broad and refers to any actions or words that create public anger with the administration and attempt to upset the peace of the state. Sedition's goal is to incite uprising and revolt.

- Any words which can be written or spoken which includes posters with can be seen.
- Must have hatred or contempt against the Indian government,
- Must result in 'imminent violence or public disorder.

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## PUNISHMENT FOR SEDITION

Under the section 124A of Indian Penal Code,1860 denotes punishment for sedition:

- Imprisonment for life(include fine)
- Extend up to 3 years
- If the person found guilty of the offence in not eligible for any government job.

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## IMPACT OF SEDITION LAW IN INDIA

The media, civil society, and political opposition in India have all been significantly impacted by the country's sedition laws. Some of the effects are as follows:

**Media:** The Indian media has been intimidated by the sedition laws, which has caused self- censorship and a reluctance to cover delicate subjects. There is an environment of fear and intimidation when journalist's cover stories those are critical of the government or security forces because they frequently face sedition charges. The standard of journalism has suffered as a result, as has the public's right to information.

**Civil society:** The sedition laws have also had a chilling impact on civil society, with sedition charges being brought against human rights advocates, solicitors and social workers for their activities. The laws have been used to frighten people who seek to hold the government responsible and to repress criticism. Particularly disadvantaged populations, such as Dalits, Adivasis, and

<sup>4</sup> 1955 CriLJ 184

religious minorities, who are frequently targeted under the guise of sedition, have been negatively impacted.

Political opposition: Members of opposition parties have been charged with sedition for criticizing the government or its policies, demonstrating how the sedition laws have been used to target political opposition. As a result, the democratic foundation of the nation has been damaged, and the level of conversation and public discussion has decreased.

The media, civil society, and political opposition have all been negatively impacted by India's sedition laws, creating an environment of intimidation and fear. It has major ramifications for the health of Indian democracy and the defense of fundamental rights because the laws have been abused to suppress dissent and restrict freedom of speech and expression.

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## ELEMENTS OF SEDITION

### *Intention:*

The person's intention is really important. It either wins or loses the case. By examining the person's overall goal while also taking into account his statements, the environment, and the general direction. The accused must intend to incite people's anger, disdain, or dissatisfaction with the government. It is necessary to combine this drive with a desire to incite violence or civil upheaval. The person must understand that making such an effort or doing such an act will have the aforementioned result. Sedition is illegal regardless of how persuasive the language is since it has a malicious intent. The individual who had the aforementioned desire and knowledge should have done the deed voluntarily.

### *By Act:*

Any act of this sort is regarded as the act under the Section, including speaking, writing, making signs or other visual representations, and other similar actions. Any item, including a letter, a published article, a video, a poster, a speech, etc., can be used to sow discord. It's important to keep in mind that you must publish something in order to initiate a sedition lawsuit. Seditious material distribution, republication, or circulation is a few instances of any other conduct.

### *Public Disorder:*

Sedition includes a conditional element of inciting violence or unrest among the populace. An act must either result in or be likely to result in violence or public commotion for it to be considered sedition.

A plausible connection (nexus) between the disturbance or violence and the purportedly seditious material is required. It is insufficient to condemn the accused based on the unlikely theory that the allegedly seditious material sparked the violence or public disturbance. The prosecution must demonstrate a connection between the allegedly seditious material and any encouragement of violence or other disruptive behavior in public.

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## EXCEPTION OF SEDITION

- Enhancement or modification by legal means in opposition to governmental actions.
- Strong language that expresses opposition to government policies and discourages attitudes that would otherwise lead to acts of violence causing public disruption.
- To better the state of the populace or to ensure the modification of those actions by legal methods without inciting hatred or disloyalty that would lead to public disruption or the use of force.<sup>5</sup>

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## SEDITION AND FREEDOM OF SPEECH AND EXPRESSION

The question of whether the Law of Sedition, as it currently stands, violates the right to free speech and expression guaranteed by Article 19(1)(a) of the Constitution has been debated since the Constitution's inception. The right to free speech and expression is the first of six essential rights guaranteed by Article 19(1) of the Constitution. It entails the open interchange of ideas, the spread of information and knowledge, and the right to express oneself. The freedom to express one's thoughts, ideas, and opinions includes the right to publish, circulate, disseminate, and convey one's expression in any form and via any medium.

<sup>5</sup> Sedition Laws In India. (n.d.) Sedition Laws in India. <https://legalserviceindia.com/legal/article-6585-sedition-laws-in-india>

The right to be informed, the right to quiet, the freedom of discussion, some types of protests, the right to criticize the government, and the right to discuss political matters all fall under the umbrella of the right to free expression and expression. The right to open political debate is a political obligation of every citizen, not just a civil privilege granted by the right to free speech and expression. It is vital to highlight, however, that there can be no ultimate right, and no one can be claimed to be completely free of restriction. The enjoying of one's own rights, as well as the enjoyment of the rights of others, is always subject to certain constraints. The complete absence of restriction would result in chaos and anarchy. Article 19 clauses (2) to (6) include appropriate restrictions on the six essential rights. Clause (2) of Article 19 contains restrictions on the right to free speech and expression<sup>6</sup>.

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**CASE LAWS:**

1. In the case of **Niharendu Dutt Majumdar And Ors. vs. Emperor, 1939AIR 1939 Cal 703**<sup>7</sup>, the Federal Court decided to apply British Law to interpret Section 124A of the IPC. It had found that the potential to disrupt the peace qualified as a need under Section 124A. According to the Privy Council, encouragement to violence or a propensity to disrupt the peace are not necessary elements of section 124A.
2. In the case of **Tara Singh Vs State**<sup>8</sup>, The East Punjab High Court ruled that this clause was illegal since it restricted the plaintiff's right to free speech and expression. The First Amendment's rights of free speech and expression were amended in two ways by the Constitution (First Amendment) Act of 1951. It greatly expanded the range of free expression limitations by adding more reasons; the limitation imposed on Article 19(1) (a) must be fair. The question of whether Section 124A of the IPC is in contradiction with Article 19(1)(a) is brought up by this. The following arguments are in favor of this: Section 124A of the IPC is extra virus of the constitution

<sup>6</sup> <https://www.legalserviceindia.com/legal/article-9028-law-of-sedition-in-india>

<sup>7</sup> AIR 1939 Cal 703

<sup>8</sup> 1951 AIR 441, 1951 SCR 729 in that it violates Article 19(1) (a), which safeguards the right to free expression, and is not covered by the qualifier "for the sake of public order."

1. In the case of **Kedar nath Singh Vs State of Bihar**<sup>9</sup>, The constitutionality of Section 124A was put to the test in this situation. After speaking, a member of the Forward Bloc was charged with sedition. The High Court decided: It is seditious to speak or write anything that indicates "subverting the govt. by violent means," including the concept of "revolution."Sedition is seen as an unsuccessful attempt at provocation. To cause a commotion in public was seditious. Between critiquing the government's acts and denouncing the government as a whole, there was no "unreasonable difference" created.
2. In the case of **Sabir Raza Vs The State**, The Allahabad High Court ruled that maintaining public order cannot be justified by prohibiting speech or sentiments that incite hostility towards the government. The Court also ruled that only when there is a threat to the political system can it be argued that the security of the state is in danger. A danger to the security of the state is not just a threat to the individual in a position of authority or an energized sentiment of hatred, contempt, or disaffection against the system. Sedition was therefore seen to be against the law.

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**CONCLUSION :**

One of the pillars of Indian democracy is the freedom of speech and expression, which is protected under Article 19 (1)(a) of the COI. Sedition legislation and Article 19(1)(a) cannot coexist. The COI and unlawful Activities Prevention Act of 2019's Article 19(2) lists the penalties for "disturbing the public order" and "overthrowing the government by violence and illegal methods." If these other laws are meant to preserve national unity, why is there still a need for a sedition law? Lawmakers should remove Section 124A of the Indian Penal Code due to the intricacy and sensitivity of the sedition charge. Due to section 124A of the IPC's arbitrary, capricious, and abuse-prone character, the violation of basic rights is not proportional, but rather excessive and obscene. Therefore, the sedition act should be modified or removed to ensure that it cannot be abused or have a chilling effect.

<sup>9</sup> 1962 AIR 955, 1962 SCR Supl (2) 769