

## PERVERSION OF SEDITION LAW (FREE SPEECH CONDITIONS APPLY)

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### INTRODUCTION

Article 124 A of IPC mentions a British-era law that is known for its misuse by various governments. This British-era law is commonly called the sedition law. The focus of juridical thought should be on the rule of justice. Citizens in India should be free to criticize their governments, whether at the national level or at the state level, which they do regularly and boldly; as they must, for that is what participatory democracy is all about. However, the application of sedition laws against journalists, human rights activists, and public intellectuals in the country, even after independence, has raised severe questions about the undemocratic nature of these laws, which were enacted by the British colonial government. This paper talks about the origin and evolution of this law. Its limited functions and the issues faced by masses in the past and in the recent times.

### 124A OF INDIAN PENAL CODE

It states that "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 law of sedition in India is covered under Section 124A of the Indian Penal Code. Section 124-A of the Indian Penal Code and the Defense of India Rule do not contain the word "sedition." It is only found as a marginal note to Section 124-A, and it is not an active component of the section; instead, it just gives the offense established in the section a name. This law talks about the concept of sedition and punishments given thereafter. Sedition means "conduct or speech which results in mutiny against the authority of the state". The punishments include imprisonment for life or imprisonment for three years with fines for both.

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## ORIGIN AND EVOLUTION

We have a habit to preserve things and the same is with this law. It was in the 1870s that sedition as a law in the Indian Penal Code was introduced, before which it had a place in Macaulay's Draft Penal Code in section 113. The reason was simple back then, the British Government wanted to keep a check on print and electronic media by endorsing powerful strategies against the print media. There were many pre-independence cases like Bal Gangadhar Tilak who was tried thrice in 1897, 1908, 1916, Savarkar was tried in 1910, and even Mahatma Gandhi was tried in 1922. Later in 1948 i.e. after independence, Indian leaders agreed to drop "Sedition" from the constitution. So in 1949 "Sedition" is no longer part of the Indian constitution but 124 A of IPC remains intact. Further in 1951 Nehru government introduces "Reasonable restrictions" under article 19(1) (a) in its 1<sup>st</sup> amendment. Section 124A was made a cognizable offense by the Indira Gandhi government in 1973.

Following 1947, there were numerous instances and popular demands to repeal the Sedition Act. The case of Kedar Nath Singh v State of Bihar is seen as a landmark example of the Apex Court of India upholding the constitutional validity of section 124-A of the Indian Penal Code, albeit with certain protections. It said that only matters with the aim or potential to cause public disorder would be evaluated. The Apex Court ruled in Anup Bhuy v State of Assam that only statements designed to provoke imminent lawless action can be criminalized. The Apex Court made a clear distinction between advocacy and incitement in Shreya Singhal v Union of India, ruling that only incitement can be penalized.

## FUNCTIONS

Section 124A of IPC safeguards the government's interests in combating insurgents and terror outfits. It protects the elected government from being overthrown by rebellious organizations

## THE ISSUE WITH THE LAW

The law of Sedition has lots of demerits and its constitutional validity has been questioned in the past. These questions are often raised by several judges of all positions and even the Chief Justice of India. The CJI questioned the government and its failure to ban this colonial law even after 75 years of independence. The CJI said, "If you look at the history of use of the Section 124A of IPC, you will find that the conviction rate is very low. There is a misuse of power by

executive agencies”. If the voices are unheard or oppressed in a democracy by a law that in the first place itself violates the constitutionally guaranteed freedom of speech and expression, then it is serious harm to the democracy. Section 124A uses words like “disaffection” “bring into hatred or contempt” and “attempt to excite disaffection” are vague and are subject to different interpretations by the officers in charge of investigating, which leads to officers using it to falsely accuse individuals. Sedition which was first introduced by the British to persecute common Indian masses has now repealed the law in its own country. There is no reason why India should keep this section in place. The International Covenant on Civil and Political Rights (ICCPR), which establishes globally accepted norms for safeguarding the freedom of expression, was ratified by India in 1979, however misuse of sedition is still prevalent. It is used as an instrument used to put restrictions on freedom of speech. It gives the government immense power against anyone who criticizes them.

## PERVERSION

19(1) (a) guarantees the right to speech and it should be a fundamental feature of any democracy. If government with sedition law gets an upper hand over people to suppress them may it be journalist, human rights activist, a student, or leader of a party. Recent trends from 2014-to 2019 show a rise in seditious cases. As per reports published by Article14, MHA, and NCRB, there were 326 seditious cases, out of which charge sheets were filed in only 141 cases, and out of it just six were convicted. The number of seditious cases surged by 160 percent between 2016 and 2019, according to the NCRB study, There has been a sudden decline in conviction rates as in 2016 it was around 33% and in 2019 it fell to 3.3%. According to the final police reports, twenty-one cases were dismissed due to "insufficient evidence" or "no clue," two were classed as "false," and six instances were considered to be civil disputes. It gets clearer when we look at it incident-wise. Where complaints against 44 people were registered after Pulwama terrorist attack in 2019 against people raising “pro-Pakistan” slogans and posting “Anti-national” statements. 25 seditious cases were filed against 3,754 individuals during anti-CAA protests. Out of 3,754 only 96 of them were identified. These facts point towards one thing i.e. misuse of sedition law to prove dominance or suppress the free speech and expression of a particular.

## CONCLUSION

The law which was used to suppress our freedom fighters is still in use to suppress the youth, the journalists, and the masses under the banner of national security. This colonial-era law has lots of demerits as compared to merits, which makes it a law that opposes the basic idea of democracy. The government which is elected by “the people” threatens “the people” when something against the government is communicated. The data collected shows the way governments misuse this law in an undemocratic way and that this should be repealed.

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