

Sedition Law in India a Threat of Democracy: Critically Study

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Abstract

The Law of sedition that existed during British rule has always been disputed. It violates the rights of the people. The government has been misusing it in the name of law and order, that's why at present once again the law of sedition has become the subject of controversy. It is proving to be dangerous for democracy due to the freedom and expression of the people getting weekend which is against the constitutional rights of the people. Leaders of India are not following the spirit of democracy in real sense. This is happening as they don't have passion & awareness regarding basic theme of democracy. Consequently, provisions of IPC are being used to demoralize the people who try to raise their voice against trampling of democracy. The main aim of this article is to mention legal validity of sedition & to impart knowledge whether it is against republic or not. It also highlights that it should not be considered as threatening weapon to our liberties. However, concerned authorities must not have mala-fide intention while exercising law of sedition.

INTRODUCTION

The sedition law in India was introduced during the British colonial rule in the country and is still in force today. The law, which is defined under section 124A of the Indian Penal Code, makes it an offence to use words or actions that are considered seditions and when which incite

others to rebel against the government or the state. The law was initially included in the Indian Penal Code in 1870, and has been controversial ever since. While some argue that the law is necessary to maintain law and order, others believe that it is a threat to democracy and the right to free speech. The sedition law has been the subject of several high-profile cases in India, and continuous to be a matter of debate among legal experts, civil society activists and the general public critics argue that the law is being used as a tool to silence dissent and intimidate those who speak out against the government.

People disapprove this provision as a remnant of British rule and therefore they believe that it does not satisfy the need of democracy. There is concern that the government is misusing this provision to control and check. On the other side, this conclusion is derived amidst rising worry about national security. This section allows appropriate limitation on expressions that are harmful to the peace and sovereignty of the nation. The 267th Report of the Commission on — *2017th Hate Speech* differentiates between hatred speech and crime of sedition contending that the misdemeanor of hate speech impact the State indirectly by interfering society peace, while sedition is a crime committed against the government directly. Act will be known sedition only when person rebel or do such deeds which threaten the integrity of India. Even the makers of our constitution did not accept the sedition as a prohibition on the liberty granted under fundamental rights, but it remained as it is in the IPC after independence. After independence, section 124A IPC came into existence for deliberation for the first time in the leading case of *Romesh Thapar vs. the State of Madras AIR 1950 SC 124*, The Supreme Court held that unless the freedom of speech threatens the security and sovereignty and also try to destabilize the State, people should not be charged under it.¹

ORIGIN AND EVOLUTION OF SEDITION

Sedition Law was drafted by the first law commission chaired by Lord Macaulay in 1834. In British rule, the sedition law was used against Indian freedom fighters to put down their dissatisfaction against the British government and to put them behind the bar. Great freedom fighter such as, **Subhash Chand Bos**, **Lala Lajpat Rai** and **Bal Gangadhar Tilak** expressed their vehement criticism over the policies of British Government.²

K. M. Munshi criticized this law strongly stating death on the pretext of putting down the movement of freedom fighter is not at all acceptable. These types of law are being enacted and incremented by British Government for suppressing the Indian People.

MEANING OF SEDITION UNDER SECTION 124-A IPC³

Therefore, we can say that if someone is indulged in activities that give voice to such speech and conduct which are considered as rebellious against the order of ruling government, it is known as crime of sedition. The sedition treats the people as anti-national. However, it is often argued that the misuse of law alone does not provide it invalid. The government itself admitted in parliament that the definition of sedition is too wide and requires considerable attention. According to section 124-A of IPC, whoever by words, either spoken or written or by signs or visible representation, or otherwise, give rise or try to nurture hatred, contempt, or disaffection towards the state setup by existing by law in India, commits the offense of sedition. The court has recorded its hope and expectation that the government at the center and state will refrain from registering any fresh case of sedition u/s 124-A of IPC. So that soul of right to freedom of speech may be preserved. Section 124A was legislated and implemented by the British government in 1870, and covers only those activities which impact the sovereignty and integrity of the state, as declared rebellious by a panel of experts.

THE CONSTITUTIONAL VALIDITY OF SEDITION⁴

It was felt that constitution has conferred the right of speech and freedom to its citizen. But because of Sec 124(A) persons cannot express their dissatisfaction or rebel against government. If they do so they may be charged under sedition. Therefore, it imposes limited restrictions and does not prevent all liberties to the Indians. So, we can say it is not ultra virus the constitution. Hence these laws cannot be declared as void. S.C. has also given the bench mark verdict in *Kedar Nath v. the State of Bihar, AIR 1962* that the provisions of sections 124A and 305 of the code are not unconstitutional and do not violate the rights conferred under Article 19(1) (a) of the Indian constitution.

The latest case involving the sedition law in India is the arrest of Disha Ravi, a climate activist in February 2021. She was charged with sedition for allegedly editing and sharing a toolkit on social media in support of the ongoing farmer's protest in India. The validity of the sedition law was not directly challenged in this case, but it sparked a debate over the appropriate use of the law. Many activists and civil liberties groups argued that charging Ravi with sedition for peacefully expressing her views was an infringement on her right to freedom of speech and expression.

APPRIASAL OF SEDITION LAW

Viewpoints in favor

1. **Protection of National Security** – It helps in maintaining security of the country & preserving of our sovereignty. Radical wants to usurp the power. In this process, they start provoking the general people to win their heart. These people listen to what they say and act according to their instruction and direction. On their order, they become ready to take law in their hands. So, in absence of such law a great threat is posed to national security.
2. **Deterrent Effect** – Sedition law create fear among people so they don't get indulged in such activities which involve spreading violence or any act of overthrowing the existing government.
3. **Protection of Sovereignty** – We have seen that in the past, Khalistan supporters were spreading rumors about the oppression and torture inflicted to the Sikh community and also added that they were denied for better opportunities. Innocent people accept their statements & start working against government but at the same time government made them realize that, if they are caught in anti-national activity then they have to suffer severe consequence of it. So, they refrained from such activities and did not involve any foreign countries in the internal matter of country. So, we can say sedition help to protect our sovereignty.
4. **Strong law and order** – Everybody are liable to maintain law and order. They can't ignore the authority of government. If anybody tries to disobey the rules and regulation of the country to shaken the government, he may be charged with sedition. So, people become reluctant to violates the law and disturb the peace of society.

Viewpoints Against

1. **Suppress the voice of Dissent** – In democracy, everyone has a right to ask questions from concerned authorities, conduct debates and strike against the detrimental decision of government. Even Gandhi Ji had also advocated that government must listen to voice of dissent only then amicable decision can be made in favor of people. But law of sedition just goes opposite to above concept. It attempts to suppress the opinion of dissent.
2. **Increasing misuse of Sedition** – Now it is being used by the government to tackle those people who criticized the government while there should be strong opposition who may deliberate on various issues and conduct heavy public debate only then ruling

government may fulfill the expectations of people. Healthy criticism promotes democracy and suit the constitutional provision.

- 3. Against democratic values** – It is our privilege to express our thoughts & feeling in democratic state. But sedition law attempts to trample our freedom. So, it is against the true spirit of democracy & is inconsistent with our rights. It does not resolve dispute & controversies arising in society rather it gives negative impact on the relation of common man and government.

SOME NOTEWORTHY DECISIONS OF COURT ARE AS FOLLOWS:

Kedarnath Sing v. State of Bihar,⁶ Kedarnath Singh, a famous Hindi poet, was charged with sedition in 1974 for writing a poem criticizing the policies of the government. He was found guilty and sentenced to prison. Kedarnath Singh appealed the verdict in the High Court, but his appeal was rejected. He then took his case to the Supreme Court, which ruled that criticism of the government is not sedition as long as it does not provoke violence or public disorder. The court also said that sedition law should be used sparingly and only in cases where there is a direct threat to public order and national security. This case sat an important precedent for the interpretation of sedition law in India and helped in protecting free speech and expression.

S.G. Vombatkere v. Union of India, S.G. Vombatkere had filed a petition seeking an inquiry into an alleged violation directly involving the Indian government and the Indian army. In this case, an Indian Air Force officer had taken money without telling anyone to purchase a license for a tank. Vombatkere petitioned the court as he believed that the matter was serious and needed amendment for the benefit of society.

The Supreme Court decided that there was a violation in the purchase of the license for the tank, but Vombatkere plea was not correct in providing the details. They stated that the government should initiate proceedings to investigate the matter.

Samar Gupta vs. State of Jharkhand it was a sedition case that took place in 2011. In the case, Samar Gupta had expressed his views on political issues in a Facebook post. He had expressed his opinions against the Jharkhand government and appealed to people to collectively protest against the government. The Jharkhand police arrested him on charges of sedition and put him in custody. After his arrest, he was sent to remand. His lawyers appealed in the Jharkhand High Court, arguing that his fundamental rights which come under the ambit of freedom of speech and expression should have been respected before accusing him of sedition,

The *Jharkhand High Court* ruled in favour of Samar Gupta and discharged him of sedition charges. The court stated that Samar Gupta had only expressed his opinion, which is a fundamental right and that he did not incite any violence.

ANTI-ETHICAL TO FREEDOM AND DEMOCRACY⁷

Freedom of speech and expression is the benchmark of a democracy that's being diluted because of the sedition law. A democracy expects citizens to laboriously share in discussion and express their formative opinion about government programs. There have been numerous cases where the government has instrumented the sedition law to repress objecting voices to cover its engrossment. When intelligencers are cleaned through the sedition law, it impacts the democracy. The sedition laws decrease government responsibility towards peoples and give weapon to the government against those persons who criticize and put them in to prison with sedition. Generally, most of sedition cases are registered in those cases where state uses its power to put down the dissenting voice of the public to protect its own shallow interest.⁶

The sedition laws have empowered the administrative branch of the government to use the inappreciably defined provision as a weapon to change the public opinion and frantically apply power. It provides a route to suppress the innocent people and bring about panic in others to express against the state. The case of the Kashmiri scholars in Hubli is an illustration of the toughness of obtaining bail in a sedition case as they got dereliction bail after 100 days of police guardianship. Yet, what's further concerning is that it is hard to obtain bail for those people who were arrested under the sedition law as the trial proceeding can be dragged for a long.

CONCLUSION

We may conclude that right to liberty conferred by constitution ought not to be violated in the name of sedition. It is the right of every person to articulate one expression against the ruling government, if the elected ruling government is working in the best interest people of country. Then only the spirit of democracy may be saved and protected. But at the same time, it is also essential to note that some person try to satisfy their detrimental motives by taking the shelter under freedom of expression. Their mission is to spread hatred among person and to create atmosphere of hostility. Such things should be curbed at the earliest otherwise they will be able to disrupt the integrity of India. In our country, number of people is uneducated and they are easily trapped under the speeches of such radicals. So, it become necessary for government to

put restriction on fundamental rights provided under article 19(1)(a). So, it is essential to adhere to section 124-A and 305 of Indian penal code. Hence neither we can call it unconstitutional nor violate the freedom given for our expression. So, there should be balance between protection of fundamental rights of freedom and charge of sedition. So that law and order in our country may be maintained.

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