

# Sedition Law and Freedom of Speech

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**Abstract:** *In accordance with Article 19(1)(a) of the Indian Constitution, every citizen has been granted the right to speech and express their views. However, the freedom is not absolute and, under Article 19, some fair limits on freedom of speech and expression have been imposed (2). But if a person performs an act that is deemed to be disdainful to the Government of India by his speech, signs or representation, then that act is punishable under section 124-A of the Indian Penal Code, 1860. Sedition is an offense that criminalizes speech that is considered disloyal to the state or threatening it. The provisions of Section 124A are very broad and relate to the Government's act of defamation, excluding any criticism in good faith of any specific measures or acts of administration. Sedition is a controversial term that is thrown about in today's social dialogue rampantly and carelessly. With a distaste for the policies of the government growing in the general population, the manifestation of youth dissatisfaction is also branded as sedition. Many don't know what it really constitutes, though. Therefore, we have to ask ourselves first, what does sedition mean in law? In this review paper, we shall look at the various aspects related to the crime of Sedition in reference to freedom of speech. We will further look at the judicial pronouncement which helps in evolving and establishing the concept of the sedition.*

**Keywords:** *Constitution, Government, Offense, Right to speech, Sedition, Human Rights.*

## INTRODUCTION

In such a critical timeline of our nation's social and political maneuvers, Sedition is a very contemporary subject of debate. India is a "Sovereign Socialist Secular Democratic Republic" nation, and preserving the nation's "Unity and Integrity" should not only be a mere statement on a piece of paper, but a responsibility to every citizen of this country. Unfortunately, some people misinterpret the sense of secularism into appeasement, displaying political and sociological prejudices that trigger social discord; use the "Freedom of Speech and Expression," a fundamental right guaranteed under Article 19, to strike at the cornerstone of our national dignity in a trendy way, such as projecting terrorists involved in the attack on Parliament as national hero; branding prominent freedom fighters as terrorists, or insulting our National Army, or refusing to stand and sing the National Hymn, or disrespecting our National Flag or observing Independence Day on 14 August rather than 15 August, or pronouncing "Pakistan Zindabad"/"Bharat tere tukre honge" on JNU campus, or in very recent years remembrance gathering for the death of a terrorist was held on campus at Aligarh Muslim University (AMU), or refusing to acknowledge coins and currency commissioned by the Government of India, etc. and so many actions and speeches that remain unrepresented and unpublished [1].

### *Meaning of Sedition Law*

Thomas Macaulay introduced sedition as a statute in the 1860 Indian Penal Code (hereinafter called the IPC). In section 113 at the time, it was similarly worded. However, it was not included in the 1860 Indian Penal Code and it was only in 1870 that, under Offences against the State, the British Colonial Government adopted section 124A in Chapter VI of the IPC. In 1898, the clause was further revised to expand the meaning of the section by adding, along with disaffection, the words "hate" and "contempt." The colonial regime's motive was to use it as a tool to persecute dissent and openly curb any space for government criticism during the struggle for liberty.

The first such case was that of the trial of journal editor Jogendra Chandra Bose [2] in 1891, where the editor objected to the increase in the age of sexual intercourse of Indian girls from 10 to 12 years by English rulers. It is here that the judge gave the words disaffection and disapprobation an interpretation. Disaffection means an emotion, in other words, hate or hatred, compared to love. Disapprobation means simply disapproval. Mahatma Gandhi, the father of our country, was also tried by the British government

under this clause. "In his words, "If an individual or system is not affected, one should be free to offer his disaffection the fullest expression, as long as he does not contemplate, encourage or incite violence [3].

Attached to section 124A are three explanations. Explanation 1 stresses that the word "disaffection" involves disloyalty and all feelings of animosity. Explanations 2 and 3 state what does not constitute an offense pursuant to this section, including comments expressing disapproval of the government's measures with a view to obtaining their modification by legitimate means, without attempting to excite hate, contempt or disappointment (Explanation 2). Under this clause, statements expressing disapproval of the government's administrative or other behavior without exciting or threatening to excite hate, contempt or disaffection do not constitute an offense. (Explanation Three). Simply placing the offense of sedition under Section 124A is the execution of such actions that would bring hate or contempt on the government formed by law in India or generate disaffection against it [4].

### *Sedition law – Constituent Assembly Debate 1948*

Sedition was included as one of the limitations on freedom of speech and expression when the initial draft of the Indian Constitution was being discussed. However, sedition was finally removed from the application of Article 19 after the deliberations had taken place and the scope and limitations on freedom of expression had been imposed (2). Many members of the constituent assembly opposed this and resumed the assembly which Indians had suffered greatly due to the abuse of the laws of sedition.

### *Sedition and Freedom of Speech*

The Free Speech Principle has acquired global prominence and has been endorsed by all as a basic fundamental right of a human being. In India, certain rights are provided for in the Indian Constitution under Part III and Article 19. There is no geographical indication of the said right because it is the citizen's right to collect information with others and to share thoughts and opinions inside or outside India. The courts have been given the authority to serve as guarantors and protectors of citizens' rights. Article 19(1)(a) guarantees 'freedom of speech and expression,' but it is bound by the restriction provided for in Article 19(2) which provides for the permissible legislative abbreviation of the right to freedom of expression and expression.

In the case of *Niharendu Dutt* [5], the Federal Court has taken the opportunity to read Section 124A of the IPC in line with British law for sedition. It ruled that the propensity to disturb public order was an integral element under Section 124A. Under Section 124A, the Privy Council held that there was no need for incitement to violence or a tendency to disturb public order. The validity of Section 124A of the IPC was specifically challenged in *Tara Singh v. State*[6]. In this situation, freedom of speech and expression was curtailed, so this provision was found invalid by the East Punjab High Court.

Two amendments related to freedom of speech and expression were made by the Constitution (First Amendment) Act of 1951:

- It greatly extended the latitude for restrictions on freedom of expression by adding additional grounds;
- The limitation put on point (a) of Article 19(1) must be fair.
- Consequently, the issue now arises as to whether or not Section 124A of the IPC clashes with Article 19(1)(a). The following points reflect this:

Section 124A of the IPC is ultra vires the constitution in so far as, in Article 19(1)(a), it infringes the constitutional right of freedom of speech and is not saved by the phrase 'in the interest of public order.' Since the word "in the interests of public order" has a broader sense and should not be limited to only one type of public order, Section 124A is not invalid.

Partly void and partly true is Section 124A IPC. It was held in *Indramani Singh v. State of Manipur*[7] that Section 124A, which seeks to place restrictions on exciting mere disaffection, is ultra vires, but intra vires may be held to be the restriction imposed on freedom of speech and expression protected by Article

19(2). In 1959, Allahabad High Court ruled that Article 19(1)(a) of the Constitution was ultra vires in Section 124A.

### *Constitutionality of Law of Sedition in India*

- (i) *Kedarnath Singh v. State of Bihar* [8]: It was held that the legislation was lawful and protected words written or spoken that had the tacit idea of violently subverting the government. People may criticize the government in order to cause public disorder, as long as they do not provoke citizens to violence against the government. The Supreme Court upheld the validity of Section 124A, restricting its scope to actions relating to the intention or propensity to cause disorder, to disrupt law and order, or to provoke abuse.
- (ii) *Balwant Singh and Anr v. State of Punjab* [9]: The accused raised the slogan "Khalistan Zindabad" outside a cinema hall after the assassination of Prime Minister Indira Gandhi. It was held that it was not possible to claim that two individuals casually raising slogans were exciting disaffection against the government. The circumstances of this case will not be protected by Section 124A.
- (iii) *Romesh Thapar v. State of Madras* [10]: The petitioner argued before the Supreme Court that his paper 'Cross Roads' was banned by the Madras State by that order. It has contravened the constitutional right given to it by Article 19(1) of the Constitution to freedom of speech and expression. The Supreme Court held that Article 19(2) provided that such a limitation was enforced only in situations where there was a public security issue. It may not be held to be constitutional and legitimate to any degree in cases where no such problem can occur. The Supreme Court quashed the order of the State of Madras and permitted the petitioner's request under Article 32 of the Constitution.

### CONCLUSION

The point of consideration here is not whether such actions have been performed by people who have been taken aback by being accused of sedition. But the real difference here relates to two problems. First, the degree to which such events occur in the Indian legal system and the extent to which limitations are placed on individuals to convey and control their views, opinions, apprehensions and fears with respect to those in authority.

As students and young minds, all the accused had the right to criticize in the three cases guaranteed by Article 19(1)(a) and Article 21 of the Indian Constitution and to bring forward their ideas, and the principle of the rule of law and constitutionalism should undoubtedly be respected at all turns and turns of the road, but the state mechanism should begin to realize that the form of our sedition law is such that in the near future it will be very effective in taking a toll on the equality, fraternity and human dignity of individuals.

The key slogan of Section 124-A is to defend individuals from agitators in order to preserve the government's stability. The nature of the critique depends on every service being condemned. It is enough to stimulate some feeling of hate or disdain or disaffection towards the government developed in India. In any case, it will be a matter of fact to be decided by reference to the circumstances. It may also be argued that that right, which comes under the umbrella of a constitutional right, is made circumstantial and reliant on the court's adjudication of the truth. This means that if the court determines that the criticism is legitimate, the act of speech or expression will come under the block of fundamental right, but if the action stirs up the general public, all the rights given to the action are automatically stripped away and succumb to the charges of sedition.

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