



## Sedition Law

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### Why in News

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Recently, the **Supreme Court** protected a political leader and six senior journalists from arrest in multiple **sedition** FIRs registered against them.

### Key Points

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#### **Historical Background of Sedition Law:**

- Sedition laws were **enacted in 17<sup>th</sup> century England** when lawmakers believed that **only good opinions of the government should survive**, as bad opinions were detrimental to the government and monarchy.
- The law was originally drafted **in 1837 by Thomas Macaulay, the British historian-politician**, but was **inexplicably omitted when the Indian Penal Code (IPC) was enacted in 1860.**
- **Section 124A was inserted in 1870** by an amendment introduced **by Sir James Stephen** when it felt the need for a specific section to deal with the offence.

It was one of the many draconian laws enacted to stifle any voices of dissent at that time.

### **Famous sedition trials during freedom movement:**

Some of the most famous sedition trials of the late 19<sup>th</sup> and early 20<sup>th</sup> century involved Indian nationalist leaders. The initial cases that invoked the sedition law included numerous prosecutions against the editors of nationalist newspapers.

The first among them was the trial of *Jogendra Chandra Bose* in 1891. Bose, the editor of the newspaper, *Bangobasi*, wrote an article criticizing the Age of Consent Bill for posing a threat to the religion and for its coercive relationship with Indians.

The most well-known cases are the three sedition trials of *Bal Gangadhar Tilak* and the trial of *Mahatma Gandhi* in 1922. Gandhi was charged, along with Shankerlal Banker, the proprietor of Young India, for three articles published in the weekly.

- **Sedition Law Today:** Sedition is a **crime under Section 124A of the Indian Penal Code (IPC)**.
  - **Section 124A IPC:**
    - It defines sedition as an offence committed when "**any person 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".
    - Disaffection includes **disloyalty and all feelings of enmity**. However, comments without exciting or attempting to excite hatred, contempt or disaffection, will not constitute an offence under this section.
  - **Punishment for the Offence of Sedition:**
    - Sedition is a **non-bailable offence**. Punishment under the Section 124A ranges from **imprisonment up to three years to a life term**, to which fine may be added.
    - A person charged under this law is **barred from a government job**. They have to live without their passport and must produce themselves in the court at all times as and when required.

- **Major Supreme Court Decisions on Sedition Law:**
  - The SC highlighted debates over sedition in **1950** in its decisions in *Brij Bhushan vs the State of Delhi* and *Romesh Thappar vs the State of Madras*.
    - In these cases, the court held that a law which **restricted speech on the ground that it would disturb public order was unconstitutional**.
    - It also held that **disturbing the public order will mean nothing less than endangering the foundations of the State** or threatening its overthrow.
    - Thus, these decisions prompted the **First Constitution Amendment, where Article 19 (2) was rewritten to replace “undermining the security of the State” with “in the interest of public order”**.
  - In **1962**, the SC decided on the constitutionality of Section 124A in *Kedar Nath Singh vs State of Bihar*.
    - It upheld the constitutionality of sedition, but **limited its application** to “acts involving intention or tendency to create disorder, or disturbance of law and order, or incitement to violence”.
    - It **distinguished these** from “very strong speech” or the use of “vigorous words” strongly critical of the government.
  - In **1995**, the SC, in *Balwant Singh vs State of Punjab*, held that mere sloganeering which evoked no public response did not amount to sedition.
- **Arguments in Support of Section 124A:**
  - Section 124A of the IPC has its utility in **combating anti-national, secessionist and terrorist elements**.
  - It **protects the elected government from attempts to overthrow** the government with violence and illegal means. The continued existence of the government established by law is an essential condition of the **stability of the State**.
  - If **contempt of court** invites penal action, contempt of government should also attract punishment.
  - Many districts in different states face a **maoist insurgency and rebel groups virtually run a parallel administration**. These groups openly advocate the overthrow of the state government by revolution.
  - Against this backdrop, the abolition of Section 124A would be ill-advised merely because it has been wrongly invoked in some highly publicized cases.

- **Arguments against Section 124A:**

- Section 124A is a **relic of colonial legacy** and unsuited in a democracy. It is a constraint on the legitimate exercise of **constitutionally guaranteed freedom of speech and expression**.
- Dissent and criticism of the government are essential ingredients of robust public debate in a vibrant democracy. They should not be constructed as sedition.  
**Right to question, criticize and change rulers is very fundamental to the idea of democracy.**
- The **British, who introduced sedition to oppress Indians**, have themselves abolished the law in their country. There is no reason why India should not abolish this section.
- The **terms used** under Section 124A like 'disaffection' are **vague and subject to different interpretations to the whims and fancies** of the investigating officers.
- IPC and **Unlawful Activities Prevention Act 2019** have provisions that penalize "disrupting the public order" or "overthrowing the government with violence and illegal means". These are sufficient for protecting national integrity. There is no need for Section 124A.
- The sedition law is **being misused as a tool to persecute political dissent**. A wide and concentrated executive discretion is inbuilt into it which permits the blatant abuse.
- In 1979, India **ratified the International Covenant on Civil and Political Rights (ICCPR)**, which sets forth internationally recognized standards for the protection of freedom of expression. However, misuse of sedition and arbitrary slapping of charges are inconsistent with India's international commitments.

## Way Forward

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- India is the largest democracy of the world and the **right to free speech and expression is an essential ingredient of democracy**. The expression or thought that is not in consonance with the policy of the government of the day should not be considered as sedition.
- **Section 124A should not be misused** as a tool to curb free speech. The SC caveat, given in Kedar Nath case, on prosecution under the law can check its misuse. It needs to be **examined under the changed facts and circumstances** and also on the anvil of ever-evolving tests of **necessity, proportionality and arbitrariness**.
- The higher judiciary should use its supervisory powers to **sensitize the magistracy and police to the constitutional provisions protecting free speech**.
- The **definition of sedition should be narrowed down**, to include only the issues pertaining to the territorial integrity of India as well as the sovereignty of the country.

- The word **'sedition'** is extremely nuanced and needs to be applied with **caution**. It is like a cannon that ought not to be used to shoot a mouse; but the arsenal also demands possession of cannons, mostly as a deterrent, and on occasion for shooting.

**Source: TH**