



# Plea Challenges Sedition Law

## Why in News

Recently, a petition was filed in the [Supreme court \(SC\)](#), that seeks a relook into the **Sedition Law**.

## Key Points

### ▪ From Petitioner:

- The nearly-60-year old judgment helped sedition to survive in Indian Penal Code.
- The **1962 judgment in the KedarNath case**, which upheld **Section 124A (sedition)**, a relic of the colonial legacy, was given at a time when doctrines such as **'chilling effect' (Deterring effect resulting from restrictive law) on free speech** were unheard of. It was delivered at a time when scope and inter-relationship of fundamental rights were rather restrictive.
  - In the Kedar Nath judgment, the court had reasoned that without **Section 124A**, the State would be in jeopardy if the government was subverted. It, however, said that Section 124A would apply only to expressions that either intended to or had the tendency to cause violence were punishable as **'sedition'**.

### ▪ Court's Ruling:

- It sends a strong message to the government that **sedition is being misused by the authorities** to trample upon **citizens' fundamental rights** of free speech and liberty.
  - SC made it clear that the court is sensitive to the public demand to judicially review the manner in which law enforcement authorities are using the sedition law to control free speech and send journalists, activists and dissenters to jail, and keep them there.
- Section 124A of the Indian Penal Code **may have passed its time**.
- The Court said "a statute criminalising expression based on unconstitutionally vague definitions of **'disaffection towards Government'** etc. is an unreasonable restriction on the fundamental right to free expression guaranteed under [Article 19 \(1\)\(a\)](#) and causes constitutionally impermissible **'Chilling Effect' on speech**".

### ▪ 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.

- It was used by the British to silence [Mahatma Gandhi](#) and [Bal Gangadhar Tilak](#).
- **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.

## Analysis

### ▪ Arguments in Favour of Section 124A:

- 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.
- 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, they 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:

- 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.
- 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.
- The sedition law is being misused as a tool to persecute political dissent.
- 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

- 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 the

KedarNath 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.

**Source: TH**

PDF Refernece URL: <https://www.drishtias.com/printpdf/plea-challenges-sedition-law>