



The 22nd Law Commission on Section 124A of the IPC

For Prelims: [Sedition Law](#), [Section 124A](#), [Law Commission](#), [Unlawful Activities \(Prevention\) Act \(UAPA\)](#), [National Security Act](#)

For Mains: 22nd Law Commission recommendations, Significance of sedition Law and the Related Issues

Why in News?

The 22nd [Law Commission](#) report recommends retaining Section 124A of the IPC, pertaining to sedition, but proposes amendments and procedural safeguards to prevent misuse.

What are the Recommendations of the Law Commission?

▪ Background:

- The Home Ministry requested the Law Commission to examine the usage of Section 124A and propose amendments through a letter in 2016.
- The Law Commission's report highlights that the existence of laws like the [Unlawful Activities \(Prevention\) Act \(UAPA\)](#) and the [National Security Act](#) (NSA) does not cover all aspects of the offence outlined in Section 124A.

▪ Recommendations:

◦ Retaining Section 124A:

- The Commission argues that repealing Section 124A solely based on other countries' actions would ignore the unique realities of India.
- It emphasizes that the colonial origins of a law do not automatically warrant its repeal.
- The report suggests that the Indian legal system as a whole carries colonial influences.

◦ Amendments and Safeguards:

- The Commission recommends adding a procedural safeguard to Section 124A, **requiring a preliminary inquiry by a police officer of Inspector rank** before registering an FIR for sedition.
- Permission from the Central or State Government would be necessary based on the officer's report.
- It proposes incorporating a provision similar to Section 196 (3) of the Code of Criminal Procedure, 1973, as a proviso to Section 154 of the same code for procedural safeguards against the use of Section 124A.
- The Commission suggests amending Section 124A to specify that it penalizes individuals "with a tendency to incite violence or cause public disorder."

◦ Enhanced Punishment:

- The report proposes an **increase in the jail term for sedition to a maximum of seven years or life imprisonment.**
- Currently, the offense **carries a term of up to three years or life imprisonment.**

What are the Justifications for Retaining the Sedition Law?

- The report argues that allegations of misuse do not automatically justify the repeal of Section 124A.
- It highlights instances where various laws have been misused for personal rivalries and vested interests.
- Repealing the sedition law altogether could have serious adverse consequences for the security and integrity of the country, allowing subversive forces to exploit the situation.

What is Sedition Law?

▪ Historical Background:

- Sedition laws were enacted in 17th 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.
- Today the 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:

- It is a **non-bailable offence**. Punishment under Section 124A ranges from imprisonment up to three years to a life term, to which a 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 appear in court at all times as and when required.

What are the Various Arguments Related to Sedition Law?

▪ Arguments in Favour:

◦ Reasonable Restrictions:

- The constitution of India prescribes reasonable restrictions (under Article 19(2)) that can always be imposed on this right ([Freedom of Speech and Expression](#)) in order to ensure its responsible exercise and to ensure that it is equally available to all citizens.

◦ Maintaining Unity & Integrity:

- Sedition law helps the government in **combating anti-national, secessionist and terrorist elements**.

◦ Maintaining Stability of State:

- It helps in protecting 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.

▪ Arguments Against retaining Sedition Law

◦ Relic of Colonial Era:

- Colonial administrators used sedition to lock up people who criticised the British policies.
- Stalwarts of the freedom movement such as Lokmanya Tilak, Mahatma Gandhi, Jawaharlal Nehru, Bhagat Singh, etc., were convicted for their "seditious" speeches, writings and activities under British rule.

- Thus, rampant use of the sedition law recalls the colonial era.
- **NCRB Report on Sedition Cases:**
 - The latest edition of the NCRB's Crime in India report showed that 76 sedition cases were registered across the country in 2021, a marginal increase from the 73 registered in 2020.
 - The **conviction rate in cases filed under the sedition law** (IPC Section 124A), now the subject of an ongoing case in the Supreme Court, has fluctuated **between 3% and 33%** over the years, and the **pendency of such cases** in court reached a high of **95% in 2020**.
- **Stand of Constituent Assembly:**
 - The Constituent Assembly did not agree to include sedition in the Constitution. The members felt it would curtail freedom of speech and expression.
 - They argued that the sedition law can be turned into a weapon to suppress people's legitimate and constitutionally guaranteed right to protest.
- **Disregarding Supreme Court's Judgement:**
 - Supreme Court in **Kedar Nath Singh vs State of Bihar case 1962**, limited application of **sedition to "acts involving intention or tendency to create disorder, or disturbance of law and order, or incitement to violence"**.
 - Thus, invoking sedition charges against academicians, lawyers, socio-political activists and students is in disregard of the Supreme Court's order.
- **Repressing Democratic Values:**
 - Increasingly, India is being described as an elected autocracy primarily because of the callous and calculated use of sedition law.

UPSC Civil Services Examination, Previous Year Question (PYQ)

Q. With reference to Rowlatt Satyagraha, which of the following statements is/are correct? (2015)

1. The Rowlatt Act was based on the recommendations of the 'Sedition Committee'.
2. In Rowlatt Satyagraha, Gandhiji tried to utilize the Home Rule League.
3. Demonstrations against the arrival of Simon Commission coincided with Rowlatt Satyagraha.

Select the correct answer using the code given below:

- (a) 1 only
- (b) 1 and 2 only
- (c) 2 and 3 only
- (d) 1, 2 and 3

Ans: (b)

Exp:

- The Rowlatt Committee, also known as Sedition Committee was appointed in 1917 by the British Indian Government with Sidney Rowlatt, an English judge, as its president.
- The Anarchical and Revolutionary Crimes Act of 1919 (known as the Rowlatt Act or Black Act) was based on recommendations of Sedition Committee. Hence, statement 1 is correct.
- This act authorized the government to imprison for a maximum period of two years, without trial, any person suspected of terrorism.
- In response to this unjust law, Gandhi called for a countrywide protest against the Rowlatt Act. A Hartal (or strike) was started on the 6th April, 1919.
- He called upon members of the Home Rule League to participate in Hartal. Hence, statement 2 is correct.
- Rowlatt Satyagraha took place in 1919 whereas, Simon Commission came to India in 1927. Hence, statement 3 is not correct.
- Therefore, option (b) is the correct answer

[Source: TH](#)

PDF Reference URL: <https://www.drishtias.com/printpdf/the-22nd-law-commission-on-section-124a-of-the-ipc>

