

“Sedition Laws: The Oppressor of Right to Freedom and Speech”

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ABSTRACT

The law of sedition and the fundamental right of freedom of speech and expression cannot go hand in hand, it has been made evident by certain recent happenings in the state. The right to freedom of the press is one of the essential rights that are protected by the Constitution in Article 19(1)(a). Article 19(2) gives the government the authority to limit citizens' right to free expression if it determines that there is a danger to public order, human morality, civic virtue, or the interests of the nation. The body of law known as Indian jurisprudence renders it abundantly obvious that a civilian's right to free speech and the ability of the administration to regulate it cannot be perceived as being on an equal footing. The rule of free speech is that limits on it are the exception to the norm. It is not possible for an exemption to be either comparable to or superior to the norm. These constraints should be able to satisfy the "standard of reasonableness," which has been articulated in a number of decisions handed down by the Apex Court over the course of many decades. In this paper, the researcher aims to establish a relationship between the law of sedition and the freedom of speech and expression. Does the sedition law suppress the right to freedom of speech of the citizens in India?

Keywords: Sedition, Freedom, Speech, Expression, India, Indian Penal Code

INTRODUCTION

The Indian Penal Code was written before India's Constitution was ratified. In 1870, the Britishers added the crime of sedition to the Indian Penal Code in order to suppress political discontent. The word sedition comes from the Merriam-Webster definition of “provocation of opposition to or revolt against legitimate power.” Originally, during the time of the fight for independence from Britain, sedition prosecutions were utilized to silence political criticism directed at the British monarchy. Under this statute, which was in effect during the colonial period, freedom fighters like Bal Gangadhar Tilak and Mahatma Gandhi were prosecuted. The historical moment when MP Navneet Rana and her husband proclaimed that they were going to recite the Hanuman Chalisa in the residence of the Chief Minister of Maharashtra, they were arrested and charged with violating section 124A. Gandhi referred to this piece of legislation as “the prince among the political parts of the IPC meant to crush the liberty of the citizen.”

RELEVANCE OF THE STUDY

With the changing dynamics of society, it is essential to bring according to changes in the governing laws. However, since the right to freedom and speech of expression is a fundamental right, then the citizens of India are entitled to criticize the same. However, this is when the sedition laws come into the picture. The research is necessary to come up with a balance between the laws based on sedition and the right to free speech.

RESEARCH OBJECTIVE

In this paper, the researcher intends to study the impact of the laws of sedition on the freedom of speech and expression. The researcher has further focused on the constitutional validity of Section 124A of the Indian Penal Code, 1860. To study the various laws and landmark judgments associated with the laws of sedition. The researcher has also shed light on the factors that are likely to cause a hike in the cases of sedition nationwide.

RESEARCH METHODOLOGY

The researcher has taken a doctrinal method to carry out this research. To conduct this research, a variety of sources of information were used, including textbooks, reliable articles, reports, journals, legislation, court judgments, and e-sources. The researcher conducted an in-depth analysis of the legal structure by carefully analyzing the important legislations, case law, and actions implemented by the government that is related to laws of sedition in India.

WHAT IS SEDITION LAW?

The origins of the troublesome conceptions of sedition as well as its continued presence as a colonial legacy may be understood by looking at its short history. It was first prosecuted in 1832 under the "seditious libel" legislation of England when it was first brought to light. A revision in 1870 introduced section 124A into the IPC, which resulted in the addition of the provision.¹ Bal Gangadhar Tilak was the first person to be found guilty of the offense and sentenced.² The trial of Tilak is sometimes seen as the event that gave rise to the notion that sedition is synonymous with an abuse of authority at its most extreme. According to Justice Strachey, the definition of sedition includes not only the manifestation of hostility but also "the lack of compassion."³ It would include "every imaginable type of ill emotion towards the administration," in his estimation. It did not matter how strongly they felt this way about something. In 1898, the definition of sedition was broadened to include Strachey's view, which had previously been more restricted.⁴ Since the country's independence, Section 124A has been interpreted by the court multiple times; however, the Supreme Court of India's interpretation from 1962 remains the most significant one.⁵ In that ruling, the validity of the

¹ Prennav Preet Kaur, "Sedition under Section 124-A of the Indian Penal Code: An Analysis", *JLMH* (2019)

² Emperor vs Bal Gangadhar Tilak, 10 BOMLR 848

³ "Explained: What is the sedition law, and why Supreme Court's fresh directive is important", *The Indian Express*, May 12., 2022.

⁴ Ram Nandan vs State, AIR 1959 All 101.

⁵ "How have the courts interpreted the court's order on sedition laws?", *NewsClick*, Jul 11., 2022.

statute was upheld, but its application was restricted to situations in which there was an intent to incite violence.

After the verdict in 1962, there has been little change in the understanding of how the law of sedition should be applied. It has been emphasized on several occasions that provocation to violence is essential for the commission of the crime. On the other hand, both the number of cases that are being filed and the percentage of convictions hint to concerning tendencies.

SUPREME COURT ON SEDITION LAW

It has been established in a number of decisions made by the Supreme Court that a statement would only be considered to be an act of sedition if it entailed the encouragement of public disturbance or violence. Since 2010, more than 800 sedition charges have been launched against 13,000 Indians, according to claims that have been published in the media.⁶

Sedition is defined in Section 124A of the Indian Penal Code as any conduct or endeavor “to bring into hatred or contempt, or excite disaffection towards the government.” On May 11, 2022, the Supreme Court issued an order instructing both the Central and state governments to put this provision of the IPC on hold. A panel of judges led by Chief Justice N.V. Ramana and including Justices Surya Kant and Hima Kohli came to the conclusion that governments should refrain from making use of the sedition clause till the examination of the sedition clause by the Central Government is finished.⁷ The highest court in the land has granted the Central government permission to review and evaluate the terms of Section 124A of the Indian Penal Code, which is the clause that makes sedition a punishable crime.

LAW OF SEDITION: AN OPPRESSOR OF FREEDOM OF SPEECH

It was observed that two Private Member Bills were presented for consideration in Parliament in the years 2011 and 2015. First by D Raja, who is a member of the Rajya Sabha from the CPI, and then afterward by Shashi Tharoor, who is a member of the Lok Sabha from the Congress.⁸ Both sought to alter the definition of the word "sedition" and broaden the class of people who may be prosecuted for committing the crime. In addition, in 2018, the Statute Commission advised that the term sedition should be changed, and it also urged adding further protections against the inappropriate implementation of the Sedition law.⁹

When it limits the number of persons who have actually been condemned for sedition, indicators such as the creation of an environment of intolerance, the use of punitive actions against innocent civilians, and the misuse of sedition to constrain freedom of expression even if it is lawful, are all present. According to the sources, the records that were provided by the

⁶ “Explainer: How the Sedition Law Has Been Used in the Modi Era”, thewire, May 11., 2022.

⁷ “SC puts sedition trials on hold until Govt re-examines it, says affected can seek relief?”, The Indian Express, May 12., 2022.

⁸ “28 private members’ bills introduced in Lok Sabha”, The Times of India, Dec 02., 2019.

⁹ Ibid 8

National Crime Records Bureau (NCRB) in 2020 indicated that there were 73 charges that were lodged under the Sedition statute, however, no individual was convicted.¹⁰

The statistics are shown above point to a worrisome trend in which the government has been abusing the Sedition statute in order to restrict the independent and accessible platform on which individuals are able to voice their ideas. The people who are punished the very worst are the reporters and activists who criticize the actions and choices of the administration publicly.

For example, a teenage activist by the name of Disha Ravi uploaded an online "toolkit" in favor of the farmer's strike as part of a worldwide campaign. Siddique Kapan, a journalist covering the Hathras gang-rape of a young woman belonging to a lower caste by men from upper castes in Uttar Pradesh, was detained while reporting on the crime.¹¹

These incidents illustrate why India's ranking on the most recent World Press Freedom Index has fallen from 142 out of 180 nations in 2021 to 150 in 2022. India's previous ranking was 142.¹²

Reporters, activists, and every resident of India will be impacted if India survives that long because "our liberty rests on the freedom of the press, which is something that cannot be reduced without being lost." - President Thomas Jefferson¹³

In accordance with the verdict that was handed down in Kedar Nath in 1962, the sedition statute was only intended to be used in exceptional circumstances in which the safety and autonomy of the nation were in jeopardy.

On the other hand, there is mounting evidence to suggest that this rule has been weaponized as a useful tool against political competitors, in order to stifle dissent and freedom of expression. According to the most recent information that was provided by Article 14, a total of 25 sedition charges were filed following the demonstrations against the Citizenship Amendment Act, 22 sedition cases were registered after the Hathras gang rape, and 27 sedition cases were registered after the Pulwama attack.¹⁴ Throughout all, 96 percent of the sedition charges that were brought over the course of the previous decade involving 405 Indians were recorded after the year 2014.

The freedom of speech and expression is one of the defining characteristics of a democracy, yet this fundamental right is in jeopardy as a result of the sedition statute. Citizens of democracy are expected to take an active role in societal discussions and to provide feedback that is both constructive and critical of the actions of their own governments. Nonetheless, as a result of the sedition laws, the executive branch of the government now has the authority to

¹⁰ "Of 548 held, just 12 in 7 cases convicted", The Times of India, May 10., 2022.

¹¹ "From Disha Ravi to Arundhati, Supreme Court sedition law stay to impact several high-profile cases", The Federal, May 11., 2022.

¹² Anushka Singh, *Sedition in Liberal Democracies* 87-178 (5th ed., 2019)

¹³ Thomas Jefferson on Politics & Government, University of Virginia.

¹⁴ "Our New Database Reveals Rise in Sedition Cases In The Modi Era", Article 14, Feb 02., 2021

utilise the provision's vague definition as a tool to influence public opinion and exercise power without regard to any particular circumstance. The Sedition Act has evolved into a weapon that is used to inculcate a feeling of conformity in individuals with regard to the actions of the government. There have been numerous occasions in which the administration has utilized the sedition statute in order to silence the voices of protestors in order to defend its own interests. Both the arrest of NDTV journalist Vinod Dua for criticizing the government's response to COVID-19 and the arrest of 22-year-old Disha Ravi in the Greta Thunberg toolkit case for tweeting in solidarity with the farmer's agitation in India have raised many questions about the freedom of speech and expression in India.¹⁵ The censorship of journalists in accordance with the sedition statute has a negative influence on democratic processes. Because of sedition laws, the government is free to ignore its critics and then turn around and prosecute those critics with sedition. This reduces the responsibility of the government.

AN EQUILIBRIUM BETWEEN SEDITION AND FREEDOM OF SPEECH

Freedom of expression and freedom of speech are basic requirements for an individual's betterment.¹⁶ They serve as the essential cornerstone upon which any secular democratic society is built. Because it gives one's life purpose, the freedom to speak one's mind and articulate is the most fundamental and fundamental of all individual rights, the initial requirement of independence, and the mother of all freedoms.

Having said that, freedom of expression often raises challenging concerns, such as the degree to which the government may govern the behavior of individuals. Because the independence of the person is the bedrock upon which this independence is built, every constraint imposed on it is open to close examination. Although there is always the possibility of imposing reasonable constraints on these rights to ensure that it is used in a responsible manner and that it is accessible to all people in an equal manner.

In the Indian Penal Code, 1860, section 124A defines sedition as a crime that may be committed against the state.¹⁷ This portion of the constitution's applicability in the context of an independent and democratic country is a topic of ongoing discussion. Concern has been raised over the possibility that this option would be abused by the government in order to stifle legitimate dissent and criticism. Considering the fact, that India is one of the biggest democracies in the world, it is of utmost necessity to maintain a balance between the sedition law and the freedom of speech and expression.

THE TAKE OF GOVERNMENT ON THE SEDITION LAW

At this time, we are able to see two different outcomes. First, the government makes the decision to utterly do away with section 124A and very certainly passes a provision that is

¹⁵ "Farmers' protests | 22-year-old activist Disha Ravi arrested, sent to Delhi Police custody", The Hindu, Nov 28., 2021.

¹⁶ Constitution of India, A. 19(1)(a).

¹⁷ Indian Penal Code, 1860, S. 124A, Act no. 45 of 1860.

more morally sound in order to accomplish what it set out to do.¹⁸ Second, the government will provide a new version of the document, which will clear the way for intensive discourse over the restructuring of the organization.

In any case, it is of the utmost importance to put a stop to its abusive usage and make it incapable of being put to use as a method of coercion and tyranny; this is a pattern that has persisted ever since the gun was invented.

The interim order is a step in the right direction, but despite the fact that it is a victory, there is still a lot of room for improvement. Nevertheless, it was effective in bringing to light several concerns that had to be taken into account for any future action. Because the police are an arm of the executive and do not have judicial awareness, as shown by the situation of section 66A of the ITA,¹⁹ we cannot grant them the ability to differentiate between free speech and sedition. Unless protections are introduced to either the UAPA or the National Security Act, the offense of sedition will continue to raise its head under various titles regardless of whether 124A is repealed or reorganized. The Indian people are now awaiting a response from the government, which will determine the future of this remnant of India's colonial past in its current state of independence.

CONCLUSION AND SUGGESTION

In conclusion, sedition laws and the increasingly widespread abuse of these laws by governments of all shades (even those run by the opposition) are a cause for grave worry. Personal liberty and the right to free speech are trademarks of liberal democracy. Sedition laws and their flagrant abuse challenge the fundamental core of these rights that are guaranteed in the Indian Constitution. Personal liberty and the right to free speech are characteristics of liberal democracy. It is imperative that this harsh rule be examined by the judicial system given the current circumstances. Even though it's not possible to completely do away with this law, modifying it and authorizing strict guidelines to limit its use without discrimination are two things that can unquestionably help India's democratic standing in addition to protecting the right to freedom of expression throughout the country.

¹⁸ Ibid 17

¹⁹ Information Technology Act, 2000, S. 66A, Act No. 21 of 2000.