

LEGALFOXES LAW TIMES

SEDITION LAWS IN INDIA: NECESSARY OR DRACONIAN?

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INTRODUCTION

Do u know what's common between Kanhaiya Kumar, Arundhati, Mahatma Gandhi and many more:

They all were arrested under the sedition case. What happened with Gujjars? What is today happening with our Kisans, it all throws the light on Sedition laws.

One of the first cases, booked under Sedition law in India, was on Bal Gangadhar tilak. Therefore, a deliberate focus has been given on understanding the significance and consequences of the word "rebellion" and understanding the limitations imposed on "freedom of speech and speech"

Sedition: Behavior or speech that promotes rebellion.

Freedom of speech and expression under Article 19 (1) (a) includes the right to express your views and opinions on any matter in any form (oral, written, print, photographic, film, movie, etc.)

However, Freedom of speech and expression is not a complete right. Freedom of speech and speech is limited under certain circumstances.

OBJECTIVE

To understand the significance and the evolution of Sedition law and to analyze its impact.

RESEARCH QUESTION

Sedition law in India: *Necessary or Draconian?*

METHOD OF DATA COLLECTION

The data is collected with the help of secondary sources such as various websites, online articles, books etc.

Also, the constitution of India and the Indian Penal Code, 1860, itself stands firm as one of the sources for Data collection.

HISTORICAL ACCOUNT

The history of revolutionary law is related to the history of the Indian liberation movement. After

the 1857 uprising, the ruling power in India was transferred to the British Crown, which initiated the first attempt to incorporate criminal law in India. The Indian Penal Code came into force in 1860 following the recommendations of the first Judicial Commission headed by Thomas Beington Macaulay. Initially, Section 124A was not part of the original IPC and was introduced in Chapter IV of the IPC only in 1870 to settle state affairs. This import came in the form of the Wahhabi movement aimed at overthrowing the British Empire.

This controversy and debate over the sedition law became most evident in the case of one of the most famous cases of sedition trails in the history of India, i.e. the case of Bal Gangadhar Tilak, who was booked under this law thrice. His cases also lead to several changes in the language of sedition law, where attempts were made to strike a balance between sedition and freedom to criticize the state.

After the entry of Mahatma Gandhi, those accused of sedition such as Mahatma Gandhi, Jawaharlal Nehru and Maulana Azad pleaded guilty to sedition without trial.

Two prominent members of the Electoral Commission, Sardar Vallabhbhai Patel and C. But even though the Constituent Assembly has strongly discussed rebellion and freedom of speech, the controversial section 124A of the IPC remains.

PRESENT LAW

Section 124A – Sedition Law

Whoever, 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 shall be punished with imprisonment for life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

It is a non-bailable offence. Hate speech has not been defined in any Indian law.

According to Law commission of India(267th report), Hate speech is “any word written or spoken, signs, visible representations within the hearing or sight of a person with the intention to cause **fear or alarm, or incitement to violence**”

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.

CASE STUDIES

Tara Singh Gopi Chand v/s The State (1951)

In this case, two pleas were pending against Tara Singh with regards to two speeches that he had given, one in Karnal and one in Ludhiana. One of the sections under which he was charged was Section 124A. He challenged this, saying that the very crime of sedition is inappropriate in India after the foreign rule has ended, and submitted that Section 124A should be declared void as it is in contravention of the 'Right of Freedom of Speech and Expression' guaranteed by Article 19 of the Constitution.

The High Court agreed with the claim of Constitutional invalidity of Section 124A, and that it was a violation of the 'Fundamental Right to Freedom of Speech and Expression'. It struck down this provision and at the same time, quashed the proceedings against Tara Singh and ordered for him to be set free. The Allahabad Court passed a similar ruling in the case of *Ram Nandan v. State*

(1959), where Section 124A was declared ultra vires of the Constitution.

The sanction of a constitutional uprising was challenged in the Supreme Court in *Kedar Nath Vs State of Bihar* (1962). The court upheld the law on the basis that the powers required by the state to defend itself. However, it had added a vital caveat that "a person could be prosecuted for sedition only if his acts caused incitement to violence or intention or tendency to create public disorder or cause disturbance of public peace".

The court held that "a citizen has a right to say or write whatever he likes about the Government, or its measures, by way of criticism or comment, so long as he does not incite people to violence against the Government established by law or with the intention of creating public disorder".

In September 2016, the Supreme Court had reiterated these necessary safeguards and held that they should be followed by all authorities.

The school's principal and parent of a student have been arrested by Karnataka police in Bidar district, a few days after a rebellion was filed against the school authorities for allegedly engaging in a drama starring Prime Minister Narendra Modi for neglecting the CAA and NRC. SC dismisses PIL demanding cancellation of sedition cases in Karnataka School. The expulsion of SC from PIL will not affect the trial of Bidar and the Karnataka High Court.

Aseem Trivedi was charged with sedition under the Indian Penal Code as well as with violating the Prevention of Insult to National Honour Act, 1971 and Section 66(A) of Information Technology

Act, for displaying a number of cartoons at a public meeting organised by the India Against Corruption on November 27, 2011, in Mumbai. Following an FIR lodged against him, he was arrested on September 8, 2012, and produced before a Metropolitan Magistrate. However, Trivedi refused to accept bail until the sedition charge was dropped. In a major relief to cartoonist and free speech activist Aseem Trivedi, the Bombay High Court on March 18, 2015, said that his cartoons did not incite violence, adding that, they only expressed anger with the state machinery. The court's verdict came on a Public Interest Litigation, filed by an activist-lawyer Shankar Marathe, challenging Mr Trivedi's arrest on sedition charges in 2012.

The Delhi government has given a go-ahead to the city police to go prosecute former JNUSU

president Kanhaiya Kumar, Umar Khalid and Anirban Bhattacharya in connection with a 2016 Sedition case, on Feb 28,2020. The case against Kanhaiya, Umar and Anirban was filed in 2016 at Vasant Kunj Police station, and the complaint accused of them of raising “anti-national slogans” in the JNU campus during an event that was organized to protest Afzal Guru’s hanging.

In 2012-2013, a coup d'état hit thousands of protesters against the kudankulam nuclear power plant in Tamil Nadu.

Hundreds of civil cases were filed against anti-CAA protesters in Uttar Pradesh.

POINTS OF INFORMATION

In 1951, the Punjab High Court ruled Section 124A to be

unconstitutional.

The validity of the provision itself was upheld by a Constitution

Bench in 1962, in

Kedarnath vs. State of Bihar

The process of a long-drawn trial then becomes the punishment.

Courts view Sedition as a serious offence, making it harder for the

accused to secure bail, even if booked only for speech offence.

The number of Sedition cases nearly doubled between 2015 and

2018, according to NCRB data.

Between 2016 and 2018, 332 people were arrested under the

sedition provision, but only 7 were convicted.

In 2018, the Law Commission of India published a consultation paper recommending that it was time to re-think or maybe even repeal Section 124A.

“There is no proposal to scrap the provision under the IPC dealing with the offence of Sedition. There is a need to retain the provision to effectively combat anti-national, secessionist and terrorist elements,” Minister of State for Home Nityanand Rai in a written reply in Rajya Sabha in July 2019.

CONCLUSION

The Law Commission has rightly said, "an expression of frustration over the state of affairs cannot be treated as sedition". If the country is not open to positive criticism, there would be no difference between the pre- and post-Independence eras.

Lawyers point out that the problem is not the conviction rate, but opposition to the government is termed “anti-national”, making it easier for the police to make arrests citing any protests as threat to national security.

Sedition is, no doubt, a controversial concept; it must be held in a delicate balance with our ‘Right to Freedom of Speech and Expression’.

Though, Sedition law helps the government to curb secessionist movement and other Anti National Propaganda.

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