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DOES THE LAW OF SEDITION HINDER FREEDOM OF SPEECH

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ABSTRACT :

The disputed sedition legislation in India makes any conduct that is considered to be seditious—that is, one that advocates or incites public disorder or violence against the government—criminal. Due to worries that it might be used to stifle legitimate dissent and criticism of the government, this law has been the focus of discussion and criticism. Although it is a fundamental right protected by the Indian Constitution, the freedom of speech and expression is not unrestricted and is subject to reasonable limitations related to public order, morality, and national security. One such prohibition that the government has used to restrict free expression in the nation is the sedition statute. The sedition legislation is frequently abused to muzzle dissenting voices and restrict freedom of expression, according to critics who contend that it is an antiquated and archaic measure that has no place in contemporary democracy. They cite a number of well-known instances where journalists, activists, and students were victimized by the legal system because they dared to speak their thoughts. On the other side, proponents of the sedition law contend that it is essential to uphold law and order and safeguard the country's unity and integrity. They contend that only individuals who encourage violence or spread anti-national sentiment are subject to the law. Generally, India's sedition law and freedom of expression are still divisive subjects, with supporters and opponents having strong and frequently opposing opinions on their relative virtues and drawbacks.

INTRODUCTION :

The term Sedition means doing some act or using some words which are against the government established by law. This law was introduced by Britishers to counter the freedom of speech and expression in the colonial era. Many freedom fighters or leaders like Subhas Chandra Bose, Mahatma Gandhi, and Bal Gangadhar Tilak were charged under the law of sedition. The conflict between sedition and freedom of speech has always been a topic of hot debate. It is said that politicians use sedition as a political tool to violate the right to freedom

of speech. Article 19(a)¹ of the constitution provides freedom of speech & expression and it's a fundamental right that cannot be taken away. In this article, we will discuss the conflict between IPC section 124A² and Article 19(a)³ of the Indian Constitution. We will further know if sedition which was introduced by the Britishers still needed in independent India.

SECTION LAW IN INDIA :

Section 124A of IPC defines sedition as an act 'whoever by words, either spoken or written, or by any 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.'⁴

This is a non-bailable offense and punishment can go up from 3 years to a lifetime and a fine. Anyone charged under this law will also be prohibited from working for the government and their passport will be confiscated by the government.⁵

CONFLICT BETWEEN SEDITION AND FREEDOM OF SPEECH :

The conflict between sedition law and freedom of speech is going on since the colonial era. Britishers implemented this law to stop freedom fighters or leaders to speak against them, and to reduce the threat against them. In 1837 Thomas Babington Macaulay drafted the sedition law and in 1870 this law was introduced in India by James Stephen through an amendment. Since then, multiple times this law has been violating the freedom of speech and expression of common people and later it transformed into a political tool to prevent anyone from speaking against them. Ironically the sedition charge was abolished by the UK in 2010. But in India, this law is still intact. According to National Crime Records Bureau (NCRB)⁶ report 76 sedition cases were filed in 2021. In numerous instances, Journalists or media also have been charged under this law. Mere criticism should not be charged as sedition. In a democratic country, the value of freedom of speech and expression cannot be denied. Being able to express feeling free makes a country truly democratic.

¹ INDIA CONST. art 19, cl. a.

² Indian Penal Code 1860, 124A, No. 45, Acts of Parliament, 1860 (India)

³ INDIA CONST. art 19, cl. a.

⁴ Indian Penal Code 1860, 124A, No. 45, Acts of Parliament, 1860 (India)

⁵ Suchitra Karthikeyan, *Explained / India's Sedition Law, it's usages and the opinions around it*, THE HINDU, (Mar 22, 2023), <https://www.thehindu.com/news/national/explained-indias-colonial-sedition-law-origins-govt-abuse-courts-take-on-it/article65375097.ece>

⁶ National Crime Records Bureau \ <https://ncrb.gov.in> \ Last Visited 01\04\2023

In 'Vinod Dua vs Union of India' on 3rd June 2021, the Supreme Court dismissed an FIR against senior journalist Vinod Dua in Shimla, Himachal Pradesh, it was more than a year after local BJP official had accused him of making disparaging remarks against Prime Minister Narendra Modi and the center on his YouTube show. A bench made up of Justices UU Lalit and Vineet Saran said, every journalist is entitled to protection under the 'Kedar Nath Singh case⁷', which defined the breadth of the act of sedition under Section 124A IPC.⁸

On 13th February 2021, a 22-year-old climate change activist, named Disha Ravi was detained under sedition for her relationship with a "toolkit" for the farmer's protest. Delhi Court issued her release order within one week of her arrest. According to Court, the sedition cannot be used as a bandage for the government's injured ego.⁹

In September 2020 the police detained & charged Kishorechandra Wangkhem, a Manipuri journalist with sedition for inciting animosity among various groups for a social media post. In his social media post, he lambasted Manipur Chief Minister N Biren Singh, Rashtriya Swayamsevak Sangh (RSS), and Prime Minister Narendra Modi. Also, he was charged with violating the National Security Act (NSA).

In 2016 Delhi Police registered a complaint against Kanhaiya Kumar, the former president of the JNU Student's Union, and another student & Umar Khalid. They were charged with sedition and apprehended for shouting anti-Indian slogans during a demonstration on the campus of the university.¹⁰

In 2010 Dr. Binayak Sen, a civil rights activist, was found guilty of sedition and given a life sentence by a Chhattishgarh Court. He was found guilty of conspiring with the Naxals, He tried to create a network to combat the government. The Supreme Court granted him bail in 2011, the judge said it's a democratic country, and Dr. Sen might be a sympathizer but that does not compel him guilty of sedition.¹¹

⁷ Kedarnath singh v. State of Bihar

⁸ The News Minute\ K Nageshwar\ <https://www.thenewsminute.com/article/eight-reasons-why-sedition-and-free-speech-cannot-go-together-150095> Last Visited 01\04\2023

⁹ NDTV, <https://www.ndtv.com/india-news/from-kanhaiya-kumar-to-activist-disha-ravi-a-look-at-past-sedition-cases-2965686> (Last visited Mar 23, 2023)

¹⁰ NDTV, <https://www.ndtv.com/india-news/from-kanhaiya-kumar-to-activist-disha-ravi-a-look-at-past-sedition-cases-2965686> (Last visited Mar 23, 2023)

¹¹ J Venkatesan, *Binayak Sen gets bail in Supreme Court*, THE HINDU, (Mar 22, 2023),

<https://www.thehindu.com/news/national/Binayak-Sen-gets-bail-in-Supreme-Court/article14685491.ece>

In the 1962 Kedar Nath Singh vs State of Bihar case, the Supreme Court endeavored to limit the potential for the abuse of the sedition law while upholding its constitutional validity. The court made it clear that criticism of the government cannot be classified as sedition unless it is an act or speech which disrupts public peace or initiates violence.

13,000 people are already in jail under the charge of sedition. India is known biggest democratic country in the world. But in a democratic country, if freedom of speech is controlled by political agenda, it creates a disturbing image of that kind of democracy. In the 2022 press freedom index made by reporters without borders, India got 150th place out of 180 countries. It is labeled as the lowest rank ever. Sedition is not only a threat to freedom of speech it is also a threat to democracy. It can be said that this law can be misused easily. ¹²

DOES INDIA STILL NEED THE SEDITION LAW OF COLONIAL-ERA :

The question of whether India still requires the sedition law is being discussed a lot. The law's proponents contend that it is essential for preserving national security and safeguarding the integrity of the nation, while its critics contend that it is an outmoded, superfluous clause that might be abused to stifle dissent and free speech. Opponents of the bill contend that the provision's ambiguous and wide phrasing opens it up to abuse and that it might be used to stifle legitimate dissent and criticism of the government. They also draw attention to the fact that the clause is frequently used for vulnerable and oppressed groups including Muslims, Dalits, and Adivasis. Supporters of the law, however, contend that it is only used against people who openly encourage violence or advance anti-national views and that it is required to prevent actions that could endanger public order or pose a threat to national security. The sedition statute may have made sense in an earlier era and situation, but it is now generally accepted that its current iteration is no longer necessary. In order to protect national security and the integrity of the nation while also ensuring that the law is not abused to stifle dissent and restrict free speech, it has to be examined and changed.

Several Reasons why Sedition Law Should Be Banned

- The sedition legislation was implemented under British colonial control in India with the intention of quashing dissent against the colonial administration. It is an antiquated

¹² THE HINDU, <https://www.thehindu.com/data/data-the-worrying-state-of-press-freedom-in-india/article65384769.ece> (Last visited Mar 23, 2023)

statute from the colonial era that has no place in contemporary democracy. However, considering that India has been an independent nation for more than 70 years, many contend that the law is no longer important in a democracy.

- Critics of the sedition statute believe that the provision's imprecise and wide phrasing can result in its overuse, which can be used to silence opposition and restrict free speech. Legitimate disagreement and criticism of the government can be suppressed through the use of the law, which is crucial in a democracy.
- It violates the spirit of free speech: The Indian Constitution's enshrined fundamental right to free expression might be considered as being violated by the sedition provision. It is against the spirit of free speech to use the law to punish people for expressing views that are opposing the government's policies.

To protect the democratic image of the country this law needs to be amended again or dropped. The government needs to understand that criticism of government policy or the government itself is part of democracy. Misusing sedition to prevent people from speaking their points of view hurts the fundamental right of freedom of speech. In May 2022 Supreme Court puts a hold on this law and dropped all pending court trials under Section 124A of IPC. The SC allowed the Union of India to review the colonial-era law. A three-judge bench led by Chief Justice of India N.V. Ramana instructed to keep all sedition charges in abeyance. The Supreme Court decided this to put a hold on misuse of the law. This is an appreciable step made by the SC for the first time in the history of sedition law in India. This is the time we need to come out from the colonial era's abusive law. This law is absurd because of its wrong usage to disturb the freedom of speech and expression. Criticism always leads to growth. Media or common people no one should be deprived of their freedom of expression because they criticize the government or its policy. Criticizing national policy does not make someone anti-national.

CONCLUSION :

Sedition law and freedom of speech are never-ending debates. But for the first time, it may come to an end if this law is dropped. But at the same time, we cannot ignore the importance of the nation's security. This law should clearly mention if someone tries to disturb the public peace or tries to incite violence only then should be punished under this law. But criticism and expressing feelings should not be blocked. Do we need this law or not will always be a controversial matter. We just need to ensure the fundamental right of being able to speak or

express freely should not be taken away by misusing sedition law. In conclusion, the tension between upholding public order and defending individual rights in a democratic society is reflected in India's debate over sedition legislation and freedom of speech. The sedition statute has been abused to stifle free expression and quell legitimate opposition, despite its primary purpose of protecting national security and upholding the nation's unity. A democracy cannot work without the freedom of speech and expression, which is a fundamental right, yet it is not unrestricted and is subject to reasonable limitations. Several human rights groups, however, are worried about how the sedition statute is being utilized to limit free expression because they claim it is being used to silence dissent and limit individual liberty. In order to maintain both public order and individual rights, such as the right to free speech, it is crucial to strike a balance. To ensure that it is not employed as a tool to stifle dissent or muzzle government criticism, the sedition statute has to be examined and amended. At the same time, citizens must appropriately exercise their right to free expression while maintaining respect for the law and democratic ideals.



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