

Scope of sedition under Provision 124A of the Indian penal code in Modern India: Comparative Analysis and Future Prospects for Legal Reform

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Abstract - This paper explores the scope and application of Section 124A of the Indian Penal Code, which defines and penalizes sedition, analyzing its relevance in the context of modern democratic principles and its implications on free speech and dissent. Originally introduced during the colonial era, Section 124A has continued to play a significant role in managing internal security but has increasingly sparked debates concerning its alignment with democratic ideals and freedom of expression. This study examines how Indian courts have interpreted sedition laws, often oscillating between national security and the protection of civil liberties. A comparative analysis with sedition laws in other democracies, including the United States and the United Kingdom, reveals varying approaches to balancing state security and individual freedoms. Through these comparisons, the study highlights potential pathways for legal reform in India, advocating for a narrowed definition of sedition that aligns with international standards on free speech while addressing genuine threats to national security. This paper ultimately proposes specific policy recommendations aimed at reforming Section 124A to foster a legal framework that safeguards democratic discourse, upholds the right to dissent, and preserves public order in a manner consistent with India's constitutional principles.

Keywords: Sedition, Section 124A, Indian Penal Code, free speech, national security, comparative analysis, legal reform, democratic values, judicial interpretation, civil liberties

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OVERVIEW

The offence of sedition, under Provision 124A of IPC, is the doing of certain acts which would bring the government established by law in India into hatred or contempt or create disaffection against it.¹ The offence is cognizable, non-bailable, non-compoundable and is triable by the Court of Sessions. It is also a statutory requirement that no court shall take cognizance of the offence of sedition except with the prior sanction of the Central or the State Government, as the case may be.² The word 'sedition' is not an operative part and is a marginal note and does not occur in the main body of the provision.³ To understand the precise scope of Provision 124A of the IPC, it is necessary to consider that this provision was inserted behind the backdrop of struggle for freedom and to curtail every effort of revolt against the foreign rule.⁴

Ingredients of Provision 124A of IPC

Provision 124A of the Indian penal code 1860 defines the offence of sedition and prescribes punishment for

sedition. The law is placed bang in the middle of Chapter VI of the provision in the Indian Penal code as BNS (second) 2024 as BNS (second) 2024 that deals with "Offences against the State", a passage that deals with serious offences including waging war against the state. The punishment that this provision carries extends up to life imprisonment, and the charge is both non-bailable and cognizable. All of these indicate the seriousness of the crime.⁷⁴

The word sedition does not occur in the body of the section. It finds place only as a marginal note to the provision which is not an operative part of the section, but simply the name by which the offence defined in the provision is known.⁷⁵

Pre-Independence, 124A remained much the same as at its inception, with minor amendments, which were predominantly for the sake of clarifying and unifying the way that it had been interpreted at common law. The provision reads as:

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 in India, 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.

Explanation 1

The expression "disaffection" includes disloyalty and all feelings of enmity.

Explanation 2

Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

Explanation 3

Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

What amounts to sedition?

In order to constitute the offence of sedition the following essential ingredients should be there:

i) **Whoever**

The word "whoever" has widened the scope and ambit of the section. It has been held to include not only the writer of the alleged seditious article. But anyone who uses, in any way, words or printed matter for the purposes of exciting feelings of the disaffection to the government would be liable under the provision whether or not he is the actual writer.⁷⁶

In the case of *Nazir Khan and Ors v. State of Delhi*⁷⁷ the Hon'ble Supreme Court while interpreting the term 'whoever' referred to the Provision 13 of the Second Law Commission Report. The law commission defines the term as follows:

"The laws of a particular nation or country cannot be applied to any persons but such as owe allegiance to the Government of the country, which allegiance is either perpetual, as in the case of a subject by birth or naturalization, &c., or temporary, as in the case of a foreigner residing in the country. They are applicable of course to all such as thus owe allegiance to the Government, whether as subjects or foreigners, rule out as accepted by reservations or limitations which are parts of the laws in question."

In the case of *Raghubir Singh & Others Etc v. State of Bihar*⁷⁸ the court observed:

material may also be sufficient on the facts and circumstances of a case. To act as a courier is sometimes enough in a case of conspiracy."

In the case of *Emperor v. Bhaskar Balvant Bhopatkar*⁷⁹ the court observed:

"That is to say for everything that appears in his paper, the editor, printer, or publisher is as responsible as if he had written the article himself. No doubt the question of his liability to punishment is a matter which has to be seriously considered and circumstances may considerably mitigate the penalty which has to be imposed."

The term 'whoever' includes the following persons:

- The publisher,
- Writer,
- Editor,
- Distributors and circulators; or
- The person who is found in the possession of the alleged seditious work.

The Procedural Aspect

Certain sections of the Criminal Procedure Code (Cr.P.C.), especially Provision 196, detail the procedures that must be followed in order to begin a prosecution in accordance with the requirements of the Indian Penal Code (IPC) 124A. According to Provision 196 of the Criminal Procedure Code, in order to initiate the process of prosecuting someone for sedition, it is required to have the permission of the government. Any person who is aware of a criminal act has the ability to initiate legal proceedings, given that this is an exception to the rule rather than the rule.⁵ For the purpose of ensuring that no one is inappropriately prosecuted for a crime of this magnitude, this policy has been put into place.⁶ One of the administrative responsibilities of the government is to examine the facts of each sedition case and determine whether or not to give the prosecution a punishment. The decision of the government to suspend the punishment must be supported by reasons, even if there is no legal evidence to justify the decision.⁷ In the process of determining a penalty for prosecution, the government may provide permission for a preliminary investigation to be conducted by a police officer with a rank that is not lower than that of an inspector.⁸

In the case of *Aveek Sarkar v. State of West Bengal*⁹, the Calcutta High Court made the observation that the procedure described in Provision 196 of the Criminal Procedure Code is

required to be followed since it is mandatory. A special technique that must be used in certain circumstances is outlined in Provision 196 of the Criminal Code, although the general process that must be followed is outlined in Provision 190 of the Criminal process Code.¹¹

It is against the law for a magistrate to take cognisance suo moto in accordance with the provisions of the Indian Penal Code, as stated in the verdict that was handed down by the Allahabad High Court in the case of Arun Jaitley v. State of UP¹². In accordance with the provisions of Section 190 (1) (c) of the Criminal Procedure Code, a magistrate has the authority to take cognisance of an offence based on information obtained, as opposed to information from a police officer or his own personal knowledge of the crime. This is in accordance with the provisions of Provision 196 of the Criminal Procedure Code. In light of the fact that it expressly indicates that "subject to the provisions of this chapter" (Chapter XIV conditions essential for the beginning of proceedings), Provision 190 is required to comply with the standards outlined in Provision 196 of the Criminal Procedure Code.¹³

Remedial measures include: In accordance with the provisions of the Indian Penal Code, the penalties for the offences that are stated in Provision 124A include a fine and a prison term of three years, with the potential of a life sentence. The second Pre-Independence Law Commission, which was led by Sir John Romily and held in 1853, also expressed disapproval of the severity of the punishment. They cited the fact that the maximum sentence for sedition in England was three years on average.¹⁴ As a consequence of this, there was a demand for a decrease in the maximum punishment for sedition in India, which was five years, to three years just of simple imprisonment. On the other hand, the punishment for sedition has remained the same throughout the course of the years.

Interpretation of Sedition: Pre and Post-Independence

The interpretation of judiciary was not uniform till the time the Supreme Court dealt with the provision at length and upheld its constitutional validity in 1962.¹⁵ Even after the landmark decision of Supreme Court, the observation made by the Supreme Court has not been followed in true spirit.

In the first case in which Provision 124A of IPC was attracted¹⁶, Sir C. Petheram, C.J. interpreted the word disaffection to be a feeling contrary to affection; in other words, dislike or hatred. The offence of sedition was held to be complete even in the absence of any disturbance.¹⁷ Further in a case against Bal Gangadhar Tilak, the court interpreted Provision 124A of IPC mainly as exciting 'feelings of disaffection' towards the government, which covered within its ambit sentiments such as hatred, enmity, dislike, hostility, contempt, and all forms of ill-will.¹⁸ The meaning of

'disaffection' and 'disapprobation' was further clarified by the court as amounting to political alienation or discontent.¹⁹ The meaning of the word 'disaffection' was further elaborated to mean 'disloyalty'.²⁰ The confusion prevailed over the exact meaning of the term 'disaffection' which led to amendment of IPC in 1898 to include words 'hatred or contempt' along with the word 'disaffection'. The conflict in the interpretation of Federal Court and the Privy Council further added to the confusion centered around the phraseology used in provision 124A of IPC. The Federal Court observed that it is necessary to the offence of sedition that the alleged act of the accused has caused an 'incitement to violence'¹⁴¹, whereas according to the decision of Privy Council 'seditious expression' ipso facto constitutes an offence even in the absence of 'incitement to violence'.¹⁴² The confusion was finally cleared by the Supreme Court along with settling at rest the ongoing debate of constitutionality of sedition vis-à-vis freedom of speech and expression.

Proposed Amendment Bills by Members of Parliament

Shri Baijayant Panda, a parliamentarian, proposed a bill to amend provision 124A of the IPC in 2012. In his proposed amendment the word 'bring' or 'attempts to bring' was replaced by 'advocates' and 'disaffection' was replaced by 'overthrow of the government' and apart from government, 'government institutions' were also included. The element of mens rea was also explicitly included. The provision also included an act of assassinating or kidnapping a government employee, which sound vague. However, the punishment for the offence was reduced to seven years. The Bill was introduced in 2012 in the Lok Sabha, but, lapsed as the Lok Sabha dissolved. The Draft Bill was as under;

Provision 124A. Whoever, knowingly or wilfully, by words, either spoken or written, or by signs, or by visible representation or otherwise, advocates the overthrow of the government or an institution established by law, by the use of force or violence or by assassinating or kidnapping any employee of such Government or institution or any citizen representative or provokes another person to do such acts shall be punished with imprisonment which may extend to seven years, or fine or with both.

Explanation.- Mere criticism or comments expressing disapproval of the Government or any act of the Government shall not constitute an offence under this section.

In 2015, a member of the Indian National Congress named Dr. Shashi Tharoor submitted a bill that would modify section 124A of the Indian Penal Code. The decision that the Supreme Court made in 1962 on the Kedar Nath case was included into the Bill. In order for the behaviour in issue to be regarded a crime in accordance with the provision, the bill had a section that said that it must lead to both "incitement

to violence" and the "commission of any offence" that carries a life sentence according to the Indian Penal Code. However, the law only provides two of the reasons, even though there should be three. According to a recent report by Dr. Shashi Tharoor, the Law Ministry has informed Parliament that there is no bill being examined to alter the Sedition Law. The measure has been inactive for some time now.¹⁸³ It was as follows that the measure that was being offered was:

It is provision 124A. One may be penalised or sentenced to life in prison with a fine added, to three years in jail with a fine added, or to a fine alone if they encourage hate or contempt against the legally formed government of India by speech, writing, signs, visual representation, or any other means. They can also be sentenced to a fine alone.

In the event that words, signs, visual representations, or any other action directly leads to inciting violence and the commission of an offence that is punishable with life imprisonment under this Code, then and only then will these restrictions be enforced.

One possible reason is that this phrase does not criminalise straightforward statements of disagreement of activities taken by the government. These expressions may take the form of words, signs, visual representations, or any other activity.

Explanation number two: According to this clause, it is not a criminal crime to just show disapproval of an administrative or other action taken by the government by the use of words, signs, visual representations, or any other kind of behaviour.¹⁸⁴ In 2016, a member who was linked with the Trinamool Congress, Professor Saugata Roy, proposed a measure that would modify section 124A of the Indian Penal Code. The bill was presented. It was recommended that the word "government" be replaced with the phrases "principles of democracy," "secularism," and "national unity" in the amendment. Initially, clause 124A of the Indian Penal Code was not very clear; but, the addition of terms like these makes it far more difficult to understand. In terms of the penalty, it was pretty close to what was already in place with regard to the situation. A new component to establish criminal activity, known as "incitement to violence," was included into the amendment that was presented. It was as follows that the measure that was being offered was:

If someone uses words, signs, visual representations, or any other means to incite hatred, contempt, or disapproval of the democratic principles, secularism, or national unity outlined in India's Constitution, or if their words or actions lead to a serious crime, they could face a life sentence with the possibility of a fine, a three-year prison sentence with the possibility of a fine, or a fine alone. In addition, they could face a fine instead of a sentence.

It is probable that the word "disaffection" embraces not just disloyalty but also any type of hatred. This is one

of the few plausible explanations. As long as they do not encourage or aim to stir hatred, contempt, or disaffection, this paragraph does not criminalise statements that express criticism of government acts with the purpose of securing their modification by legal ways. This is the second rationale for why this clause does not criminalise such comments. Notable debates from the decade include the following: thirdly, statements that critique government policy or practice without inciting or intending to provoke hatred, contempt, or disaffection are not considered criminal under this provision (Explanation 3).

With the implementation of the legislation on sedition, the political opposition of the nation, as well as any alternative political idea that contradicts the worldview of the party that is now in power, is being crushed. Is it not acceptable for people in a country that provides a fundamental right to free speech to be allowed to critique other people so long as they do so within reasonable bounds? Tilak and Gandhi were both punished for speaking out against British rule during the time of British rule, which takes us full circle to the time when they were under British rule. Due to the fact that they continually harass individuals without any legal cause, the Trial Courts and police authorities seem to have entirely severed their links with the lowest levels of the criminal justice system. Through the use of the sedition legislation, some people are being subjected to unjust punishments for speaking out against certain policies and activities taken by the government. One case that stands out as a perfect example of how unjust sedition laws may be is the one involving Binayak Sen.

Throughout the course of Indian legal history, the case of cartoonist Aseem Trivedi, the trials of Binayak Sen and Arundhati Roy, and the massive reaction from civil society across socioeconomic and national lines have all been significant turning points. Many people in the United States have been cognitively challenged by these occurrences, which has caused them to reconsider the rules and laws that control us. This is in addition to the physical pain that has occurred during the course of these events. At this point, the emphasis is being directed on the

Indian laws on sedition that have grown obsolete, which has prompted the government to reform them so that they are more in line with contemporary ideals. The Indian Penal Code of 1860 has a provision called Provision 124A that establishes sedition as a criminal offence. The present topic of controversy is whether or not this provision should be preserved or repealed. For this reason, each of the three incidents has been extensively investigated in order to get a complete knowledge of the present state of circumstances, as well as the position of the government, the people, and social activists with regard to the restrictions that have been put on freedom of speech and expression as a result of sedition.

i) **Sedition trial of Binayak Sen**

The brief facts of the trial of Dr. Binayak Sen have been discussed below with the help of the following timeline of events since the May 2007 arrest of civil rights activist Binayak Sen on unproven charges of links with Maoists in Chhattisgarh. Through this following timeline of events an endeavor has been made to give a picture of the mental pain and agony which Dr. Sen had to undergo.¹⁸⁶

On May 14, 2007, Binayak Sen, a prominent advocate for human rights, was apprehended in Bilaspur, Chhattisgarh, facing allegations of serving as an intermediary between incarcerated Maoist leader Narayan Sanyal and businessman Piyush Guha, who was similarly implicated in connections with Maoist activities. On the subsequent day, May 15, 2007, Sen was brought before a local court and placed in judicial custody, with his request for bail being denied.

On May 18, 2007, he was presented before the Sessions Court, which mandated a search of his residence located in Katora Talab, Raipur. The search was carried out in the company of impartial witnesses and Iina Sen, the spouse of Sen. Several days later, on May 22, 2007, Sen, accompanied by his co-defendant Piyush Guha, made another appearance in the Sessions Court. The court has prolonged his judicial remand until June 5 and instructed authorities to examine Sen's personal computer for further evidence.

On May 25, 2007, the Sessions Court once more denied Sen's bail application. The Chhattisgarh police argued that Sen represented a potential danger to state security, thereby adding complexity to his case. Between May 26 and June 4, 2007, a notable surge of support for Sen materialised, characterised by a sequence of rallies and meetings orchestrated throughout India and in various international cities, including Raipur, Delhi, Kolkata, Mumbai, London, Boston, and New York. A multitude of delegations, consisting of medical professionals and advocates for human rights, convened with the Chief Secretary and Law Secretary of Chhattisgarh to champion Sen's release and to express apprehensions regarding the allegations levelled against him.

Several Human rights organizations, social-activist groups and citizens all over the world extended their constant and unconditional support to Dr. Binayak Sen during his Trial. Human Rights activists, civil society members, and legal luminaries condemned his arrest. Activists came down to the streets and even petitioned the President for Sen's release. An online signature campaign entitled 'Free Binayak Sen' was started and it attracted almost 2000 followers in 40 hours. Amnesty International had condemned Sen's sentence calling it an 'unfair trial'.¹⁸⁹

Twenty-two Nobel laureates from around the world wrote to India's President and Prime Minister and

Chhattisgarh State authorities. While expressing grave concern over Dr. Sen's arrest they all said:

"We also wish to express grave concern that Dr Sen appears to be incarcerated solely for peacefully exercising his fundamental human rights,... This is in contravention of Articles 19 (freedom of opinion and expression) and 22 (freedom of association) of the International Covenant on Civil and Political Rights – to which India is a state party – and that he is charged under two internal security laws that do not comport with international human rights standards,"

ii) **The case of Arundhati Roy and others**

Writer Arundhati Roy, Hurriyat hawk Syed Ali Shah Geelani and others were booked on charges of sedition by Delhi Police for delivering "Anti-India" speeches at a conference on "Azadi-the Only Way" on October 21, 2010. The following words of Arundhati Roy were alleged as seditious:

"Kashmir has never been an integral part of India. It is a historical fact. Even the Indian government has accepted this"

Roy and others were charged under Sections 124A (sedition), 153A (promoting enmity between classes), 153B (imputations, assertions prejudicial to national integration), 504 (insult intended to provoke breach of peace) and 505 (false statement, rumor circulated with intent to cause mutiny or offence against citizen peace of the Indian penal code 1860). The Union Home Ministry had sought legal opinion on the issue which suggested that a case could be made out under sedition. However, after taking political opinion, the Ministry decided not to file any case against Geelani and Roy. Arundhati Roy while defending her words said,

"I said what millions of people here say every day. I said what I, as well as other commentators have written and said for years. Anybody who cares to read the transcripts of my speeches will see that they were fundamentally a call for justice."¹⁹⁰

Recent Cases of Sedition in 2020

From the beginning of the year many incidents of sedition were recorded some of them are mentioned below:

* The woman principal, Fareeda Begum of a school in Karnataka and the mother of a student, Nazbunissa Minsa were arrested over a play, staged by students of class 4, 5 and 6, critical of the Citizenship Amendment Act on January 21, 2020. Five days later, the school was charged by the police with sedition over remarks made against Prime Minister Narendra Modi. The police claimed that mother tutored the child to introduce words in the original script. The woman principal was arrested because the play was held with her knowledge and permission.

The woman principal claimed that "on one occasion police in uniform questioned the students with no child welfare officials present". She further pleaded that the "proceedings were violative of Article 21 (right to life and personal liberty) of the Constitution and abuse of process of law. The school pleaded to issue an order directing the Centre to constitute a committee to scrutinise complaints under 124A IPC and adhere to judgments by the apex court before registering the FIR under the provision 124A IPC, in a petition filed in the Supreme Court. The sedition case was filed based on a complaint from social worker Neelesh Rakshyal on January 26.¹⁹⁴

- Sharjeel Imam, a former student of Jawaharlal Nehru University, was charged with sedition case by five nation of India and surrendered to Delhi Police on January 28, 2020. Allegedly his speeches promoted enmity among people that led riots in Jamia Millia Islamia University and for charges of 'exhorted people of a particular community to block highways and resort to jam thereby disrupting normal life in' connection with protesting against Citizenship Amendment Act, 2019. It was further alleged that Sharjeel Imam openly defied the Constitution and called it a "fascist" document. The police submitted before the court that after his speech on December 13, widespread arson and violence took place in various parts of Delhi, and that several protest sites emerged after his January 16 speech.¹⁹⁵
- On February 20, 2020, a sedition case was filed against a woman Amulya Leona, a journalism student studying in Bengaluru (Karnataka) after she shouted "Pakistan Zindabad (long live Pakistan)" at a protest against the Citizenship (Amendment) Act. Amulya Leona had tried to say more, but was stopped and dragged away from the stage by police before she could. In a Facebook post a week ago the incident she had written: "Whatever country maybe - long live for all the countries!"¹⁹⁶ Karnataka High Court rejected a plea which sought transfer sedition case against Amulya Leona to National Investigation Authority. The petition was filed after she was granted default bail on June 10 after police failed to file charge sheet in 90 days. She spent 110 days in Jail.¹⁹⁷
- On February 25, 2020, three students from Jammu and Kashmir, Basit Ashik Sophi, Talib Majid and Amir Mohiuddin were booked under sedition charges in Karnataka for raising pro-Pakistan slogan in a video shared on social media.¹⁹⁸
- A sedition case was registered in Himachal Pradesh against Vinod Dua, a *Journalist*, for allegedly blaming the government for its coronavirus preparedness and making

personal allegations against Prime Minister Narendra Modi in the telecast of his YouTube show on March 30, 2020. On July 7, the Supreme Court guaranteed the protection to him from any coercive action and sought a report in a sealed cover on the probe conducted so far by the state police. The court said that Vinod Dua need not answer any other supplementary questions asked by Himachal Pradesh police in connection¹⁹⁴ Retrieved from <https://www.ndtv.com/india-news/karnataka-school-sedition-case-challenged-in-supreme-court-2183845> on October 23, 2020.

With the case. In a plea filed in Supreme Court seeking quashing of the FIR, he also sought exemplary damages for harassment. He also sought direction from the apex court that "henceforth FIRs against media persons with at least 10 years standing be not registered unless cleared by a panel to be constituted by every State government, the composition of which should comprise of the Chief Justice of the High Court or a Judge designated by him, the leader of the Opposition and the Home Minister of the State."¹⁹⁹ The plea is pending in the Supreme Court.

During the month of April in the year 2020, a sedition complaint was filed against Aminul Islam, a Member of Legislative Assembly from the state of Assam. This was for his contentious remarks that were recorded in an audio tape about the quarantine facilities for coronavirus patients in the state. According to the allegations, he said that the circumstances at the quarantine facilities were "more severe than those found in their respective detention centres." According to the allegations, the MLA is seen on the video with another third party. In addition, he has said that the government of Assam, which is led by the BJP, is involved in a plot to discriminate against Muslims. In addition, he further asserted that the medical staff at the quarantine facilities were harassing individuals who had returned from the religious gathering that had taken place at a mosque in the Nizamuddin area of Delhi. He claimed that the medical staff had administered injections to healthy individuals in order to misrepresent them as sick and as patients of the coronavirus. Aminul Islam is said to have claimed in an audio recording that the coronavirus quarantine camps in Assam are "dangerous and worse than detention centres" that are designed for illegal immigration. It was said by the police that throughout the course of the questioning, the Member of Legislative Assembly (MLA) confirmed that the voice that was allegedly captured in the audio recording was, in fact, his own and that he had shared the clip over WhatsApp. In prior cases, Aminul Islam has been able to attract attention due to the inflammatory remarks that he has made. Two hundred and Sedition charges were brought against Zafarul Islam Khan, the Chairman of the Delhi Minorities Commission, on May 1, 2020, as a result of a post that he made on social media in which he expressed

thanks to Kuwait for its support of Indian Muslims. He warned against the possible implications that may arise if Indian Muslims felt obligated to seek sympathy from the Arab and Muslim world, while at the same time praising the controversial figure of Zakir Naik. During this time, he was voicing his disagreement with the growing incidence of Islamophobia in India. After a week had passed after then, his apartment also Ninety-nine hundred twenty-nine This information was obtained on October 23, 2020 from the following website:

<https://www.thehindu.com/news/cities/Delhi/sc-reserves-verdict-on-vinod-duas-petition-in-sedition-case/article32786962.ece>.

Two hundred and This information was obtained on October 23, 2020 from the website <https://www.ndtv.com/india-news/coronavirus-assam-assam-mla-allegedly-says-covid-19-hospitals-worse-than-detention-centers-arrested-2207501>.

During the course of the raid that was carried out by the Delhi Police, the mobile device that was being used for the dissemination of his social media communications was taken away by the police. Despite this, a group of people gathered outside his home in South Delhi to show their support for him only a few seconds after it was reported that the police had been there. These reports were shared on WhatsApp and other social media platforms. A total of two hundred-one .

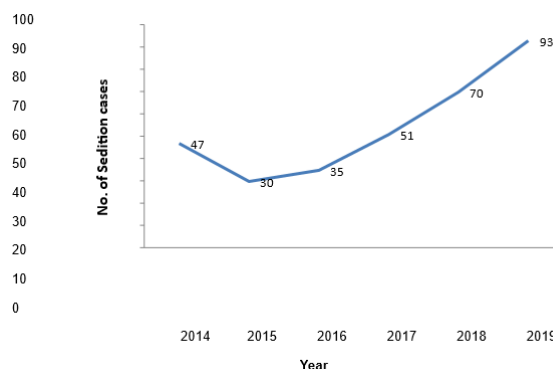
Bhanwar Lal Sharma, a member of the Legislative Assembly (MLA) from the state, was the subject of a First Information Report (FIR) that was submitted by the Special Operation Group (SOG) of the Rajasthan Police on July 17, 2020. The documents included allegations of sedition and criminal conspiracy. In response to a complaint filed by Congress Chief Whip Mahesh Joshi, which was brought about by the appearance of three audio recordings that purportedly included conversations with the intention of undermining the Congress administration in the state that is headed by Ashok Gehlot, this action was taken. According to the statements made by legal counsel, the State Organisation for Government (SOG) has transferred all three First Information Reports (FIRs) that it filed on claims of sedition and criminal conspiracy to the state's Anti-Corruption Bureau. The SOG said that the allegations pertain to corruption charges and that there was no case of sedition established.

Siddique Kappan, a journalist who was originally from Kerala, was taken into custody on October 7, 2020, along with three other companions, and later charged with sedition by the police in Uttar Pradesh. An occurrence that has caused great outrage throughout the country has prompted a group of journalists to go to Hathras in order to report on the circumstances surrounding the gang rape and subsequent death of a lady who was twenty years old and a member of the Scheduled Caste. Additionally, the police have used Provision 17 of the stringent Unlawful operations

Prevention Act, which is a provision that applies to the soliciting of cash for terrorist operations. The provisions 65, 72, and 76 of the Information Technology Act, which were intended to damage religious feelings and generate strife among diverse groups, were implemented in a manner that was comparable to their situation.

Analysis of Recent Sedition Cases in India

National Crime Record Bureau (NCRB) data²⁰⁴ suggests that the number of sedition cases has increased in recent years. Total cases of Sedition registered were 47 in 2014, 30 cases in 2015, 35 cases in 2016, 51 cases in 2017, 70 cases in 2018 and 93 cases in 2019. The growth of cases is graphically represented below:



NCRB 2019 data shows 165% jump in sedition cases from 2014 to 2019.²⁰⁵

Cases of sedition and under the stringent Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as UAPA) showed a rise in 2019, but only 3 per cent of the sedition cases resulted in convictions.²⁰⁶

Comparison of 'Sedition cases' to 'the offences against the State' from 2014 to 2019

Despite a considerable decrease of 11.3 percent in the more general category of "Offences Against the State," the data from 2019 that was provided by the National Crime Records Bureau reveals that there has been a noteworthy rise in the number of cases involving sedition accusations. This category includes accusations that are associated with the Official Secrets Act of 1923 as well as the Unfair Trade Practices Act.²⁰⁸

The category of 'Offences Against the State' encompasses cases initiated under the UAPA, the Damage to Land Act, the OSA, as well as various sections of the IPC, specifically 124A (sedition), 121 (waging or attempting to wage war against the State), 122 (collecting arms with the intention of waging war against the government of India), 123 (concealing with intent to facilitate a design to wage war), and 153B (imputations and assertions prejudicial to national integration).

The table below shows the variation of cases of offence of sedition as compared to cases of offences against the state from year 2014 to 2019.

Cases per year	2014	2015	2016	2017	2018	2019
Cases of Sedition	47	30	35	51	70	93
Cases of other offences against the State	129	117	143	109	79	73
Total cases of offences against the State	176	147	178	160	149	166

The data in above table clearly reflects that:

Total cases registered for the offence of Sedition from 2014 to 2019: 326

Total cases registered for the offences against the State from 2014 to 2019: 976 Percentage of Sedition cases: 33.4% of the offences against the State from year 2014 to 2019. However there is a jump of 97 percent in sedition cases from year 2014 to 2019.

Discussion and Analysis:

The notion of sedition, especially as delineated in Section 124A of the Indian Penal Code (IPC), continues to be one of the most contentious legal statutes in contemporary India. This statute, originating from colonial laws, was designed to quell rebellion to the British Raj and has traditionally been used to stifle dissent. Today, its ongoing existence prompts enquiries over its suitability within a democratic structure that constitutionally safeguards free expression. Section 124A, which penalises actions that provoke "disaffection" against the government, creates a fundamental tension between national security and individual liberties (Basu, 2019). While several legal academics assert that it plays a crucial role in preserving order, others say that its breadth and implementation are too expansive, perhaps encroaching upon democratic rights (Guha, 2019).

In the pivotal decision of Kedar Nath Singh v. State of Bihar (1962), the Supreme Court of India sought to reconcile these conflicting interests by limiting the definition of sedition. The Court determined that only speech that incites violence or presents a concrete danger to public order may be punished under Section 124A. This view sought to safeguard free expression while maintaining public order. The expansive wording of the legislation has permitted authorities to interpret it in manners that critics contend may be used to target opposing individuals, such as journalists, activists, and political adversaries (Ghosh, 2018). Chandra (2020) argues that the persistent use of sedition charges against those participating in nonviolent dissent indicates an escalating conflict between the right to

free expression and governmental priorities regarding national security.

A comparative examination with other democratic nations helps enhance the understanding of sedition laws in India. The United States utilises a more restrictive criterion for speech limitation, based on the "imminent lawless action" standard set down by the U.S. Supreme Court in *Brandenburg v. Ohio* (1969). This approach permits the government to sanction speech only if it provokes imminent illegal actions, thereby affording robust protection for dissent (Luthra, 2017). Likewise, the United Kingdom, which once enforced sedition laws in its colonies, has entirely abolished these laws, substituting them with targeted regulations that address national security risks while preserving political speech (Reddy & Kumar, 2020). These instances indicate that India may gain from reevaluating and enhancing its sedition laws to prevent the suppression of lawful dissent.

Legal experts and activists in India have advocated for legislative amendments to Section 124A, contending that the statute should be reinterpreted or even abolished. Anand (2019) posits that restricting the term of sedition to include just direct encouragement to violence will harmonise Indian law with international norms, therefore reconciling national security interests with the safeguarding of free expression. Some proponents argue for the total repeal of Section 124A, proposing that targeted legislation concerning counterterrorism and hate speech might more effectively mitigate genuine dangers (Dutta, 2017). According to Mehta (2019), this strategy will also avert the use of sedition accusations for political oppression.

The discourse around Section 124A has escalated in recent years owing to prominent instances involving journalists and activists. The imposition of sedition charges on journalists covering government policy has elicited apprehensions on the restriction of media freedom. Academics contend that the implementation of sedition laws may have a chilling effect on free expression, deterring public discourse against governmental acts (Misra, 2020). The scenario has led several legal professionals to advocate for more explicit standards or protections to avoid the capricious use of sedition charges (Sharma, 2019).

The societal ramifications of sedition laws transcend particular instances, influencing the wider dialogue within civil society. The use of sedition charges on people for nonviolent demonstrations or criticism conveys that dissent is unacceptable, which may inhibit democratic participation (Mander, 2018). Public debate is restricted, and civil society organisations may refrain from advocating on contentious subjects due to concerns about legal consequences. This self-censorship erodes the democratic values upon which India was established, prompting apprehensions over the future of free speech in the nation (Kamat, 2016).

Confronting the issues presented by Section 124A requires a comprehensive strategy that encompasses both legal and policy aspects. Judicial reform may be inadequate if the legal language remains imprecise. Establishing explicit norms for provocation and implementing independent review processes for sedition cases might avoid arbitrary enforcement. Reddy (2021) proposes the establishment of an impartial review board, consisting of legal professionals and civil society representatives, to evaluate sedition cases before to trial, therefore minimising abuse and ensuring that charges are pursued only when really justified. Basu (2019) advocates for the training of judges and law enforcement officials on the constitutional concepts of free speech to enhance their comprehension of sedition laws and prevent their abuse.

It is essential to raise public understanding about their rights to free speech and dissent. Educational programs in schools and public forums may enhance individuals' comprehension of the significance of free speech in a democracy and promote responsible involvement in political matters (Khanna, 2020). Public awareness initiatives, as proposed by Rao (2020), might cultivate a culture of open discourse, whereby disagreement is acknowledged and valued as an element of democratic participation. Furthermore, a regular evaluation of sedition laws by a legislative or independent committee might guarantee their relevance and alignment with modern democratic principles, facilitating an adaptable strategy for legal change (Tripathi, 2017).

The experiences of other democracies provide significant lessons for India as it addresses the challenges of reconciling free expression with national security. By harmonising its sedition laws with international norms, India may reinforce its dedication to democratic principles while ensuring adequate protections for public order. A modified or abolished Section 124A might restrict the law's applicability to actual threats, so safeguarding the arena for constructive criticism and dissent (Mukherjee, 2018). Rajagopalan (2019) asserts that substantial revision of sedition laws will safeguard civil freedoms and enhance India's status as the world's biggest democracy.

The future of sedition laws in India will largely hinge on the readiness of legislators and the courts to undertake substantive change. Applying sedition laws prudently and in accordance with democratic ideals may foster a more transparent and robust society, successfully balancing national security and individual liberties. As India advances its legal structure, the future may need a reassessment of sedition legislation to more accurately embody the principles entrenched in its Constitution.

REFERENCES

1. Anand, P. (2019). Sedition laws in India: Historical evolution and contemporary relevance. *Indian Journal of Constitutional Law*, 9(2), 122-139.
2. Basu, D. D. (2019). *Introduction to the Constitution of India* (23rd ed.). LexisNexis.
3. Bose, M. (2021). Sedition and dissent: The role of the judiciary in India's freedom of expression. *Journal of Indian Law and Society*, 12(1), 45-62.
4. Chandra, S. (2020). Revisiting sedition: A critical analysis of Section 124A of the Indian Penal Code. *Law Review*, 45(3), 213-230.
5. Dutta, N. (2017). Sedition laws and their implications on political discourse. *Journal of Political Science and Public Policy*, 5(4), 301-320.
6. Ghosh, A. (2018). *The colonial legacy of sedition laws in India: A historical perspective*. Oxford University Press.
7. Guha, R. (2019). *India after Gandhi: The history of the world's largest democracy*. HarperCollins.
8. Iyer, V. (2020). The sedition law and its implications on civil liberties in India. *Indian Civil Rights Journal*, 3(2), 45-58.
9. Jain, M. P. (2019). *Indian Constitutional Law* (8th ed.). LexisNexis.
10. Kamat, A. (2016). Sedition and national security: Analyzing the evolution of the sedition law in India. *International Journal of Law and Policy Review*, 10(1), 85-98.
11. Kedar Nath Singh v. State of Bihar, AIR 1962 SC 955.
12. Khanna, H. R. (2020). *Free speech and national security in democratic societies*. Cambridge University Press.
13. Luthra, R. (2017). Sedition laws in India and their impact on media freedom. *Media, Law, and Society Journal*, 8(2), 77-92.
14. Mander, H. (2018). The social consequences of sedition: A study of its impact on civil society in India. *Indian Social Science Review*, 14(1), 150-165.
15. Mehta, P. B. (2019). *The sedition law in India: From colonial to contemporary application*. University of Delhi Press.
16. Misra, S. (2020). The limits of free speech: Sedition law and its implications for media freedom in India. *Journal of Media Law*, 25(2), 106-121.

17. Mukherjee, S. (2018). Sedition law in India: Constitutional and legal perspectives. *Constitutional Law Review*, 7(3), 221-237. <https://www.bbc.com>
18. Reddy, S. (2021). Media freedom and sedition laws: A comparative analysis of India and the United States. Springer.
19. Reddy, S., & Kumar, A. (2020). Balancing free speech and national security: The future of sedition laws in India. *Indian Law and Politics Journal*, 6(4), 400-417.
20. Rajagopalan, V. (2019). The history of sedition laws and their effects on Indian democracy. *South Asian Legal Studies Journal*, 11(2), 53-70.
21. Rao, K. (2020). Sedition in a democratic framework: A review of judicial interpretations in India. *Indian Constitutional Review*, 12(1), 145-162.
22. Shah, R. (2021). A comparative analysis of sedition laws: The global context. *International Journal of Comparative Law*, 15(2), 89-103.
23. Sharma, R. (2019). The misuse of sedition laws in India: Implications for democratic freedom. *Journal of Political and Legal Studies*, 8(3), 270-285.
24. Tripathi, A. (2017). Sedition laws and political dissent: A critical review of Section 124A of the Indian Penal Code. *Indian Law Journal*, 30(4), 210-225.
25. Ziegler, R. (2018). Comparing sedition laws in liberal democracies: A global overview. Oxford University Press.
26. Choudhary, A. (2007, May 14). The arrest of Binayak Sen and the Maoist connection. *Indian Express*.
27. Human Rights Watch. (2007). *Binayak Sen case: Questions about due process and justice*. Retrieved from <https://www.hrw.org>
28. Amnesty International. (2007). *Dr. Binayak Sen: A case of judicial injustice*. Retrieved from <https://www.amnesty.org>
29. Judicial processes and human rights: The case of Binayak Sen. (2007). *Economic and Political Weekly*, 42(25).
30. Sen, I. (2008). *Fighting for justice: Binayak Sen's struggle in Chhattisgarh*. Raipur Press.
31. The Hindu. (2007, May 30). Nationwide protests against Binayak Sen's arrest. *The Hindu*.
32. BBC News. (2007). The global response to Binayak Sen's detention. Retrieved from <https://www.bbc.com>
33. Frontline Magazine. (2007). The arrest of Binayak Sen: State vs. activist. *Frontline*, June issue.

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