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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# AN IN-DEPTH EXAMINATION OF THE LEGALITY OF SEDITION IN INDIA

AUTHORED BY: SAHIL VATS

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## **Abstract:**

*The primary objective of this research paper is to undertake a detailed examination of the legal status of sedition in India. Sedition, as defined under Section 124A of the Indian Penal Code (IPC), is a criminal offense that involves actions that encourage or provoke violence, disloyalty, or animosity against the government of India. The purpose of this paper is to thoroughly analyze the legislative structure pertaining to sedition, encompassing its historical backdrop, judicial interpretation, and its influence on freedom of expression and opposition in India. To achieve this aim, the paper will begin with a comprehensive overview of the legislative history of sedition in India, tracing its roots back to the colonial era and its subsequent evolution over the years. The study will then delve into the various interpretations of the law by the judiciary, examining significant legal precedents that have shaped its application in India. The research will also explore the impact of the sedition law on the freedom of expression and opposition in India. The study will examine how the law has been used to stifle dissent and curb criticism of the government, particularly in recent years. The paper will also analyze the role of the media in shaping public opinion around the issue of sedition and the impact of social media on the discourse. Overall, the study aims to provide a nuanced and detailed understanding of the legal status of sedition in India. By conducting a comprehensive examination of pertinent legislation, significant legal precedents, and authoritative scholarly viewpoints, the research will make a valuable scholarly contribution to the ongoing debate around the delicate balance between national security and the fundamental rights of individuals.*

*KEYWORDS- Freedom of speech, sedition laws, section 124A, freedom, judicial precedents, criminalization IPC, hatred, human rights, socio-political, freedom of speech.*

## **1. INTRODUCTION:**

The Indian Penal Code (IPC) is a set of laws that defines and punishes criminal offenses in India. One such law pertains to sedition, which is defined as any act or attempt aimed at generating animosity or contempt towards the government of India. In particular, Section 124A of the IPC defines sedition as



any word, written or spoken, or any sign or visible representation that brings or attempts to bring into hatred or contempt towards the government of India. The section also considers any act that incites violence against the government or public servants as sedition.

Despite its legal definition<sup>1</sup>, there has been considerable controversy and critique around the legality and implementation of sedition laws. Critics argue that sedition laws have the potential to be misused to stifle opposition and restrict the exercise of freedom of speech and expression. They contend that the vague and expansive phrasing of the law allows for its arbitrary implementation, which leads to the suppression of valid criticism of the government.

In contrast, supporters of sedition laws argue that their implementation is necessary for maintaining national security and preserving the integrity of the state. They believe that sedition laws discourage individuals from engaging in activities that could pose a threat to the country's security and sovereignty. Additionally, they assert that sedition laws play a critical role in safeguarding the nation's unity and stability, particularly in times of unrest.

In conclusion, while sedition laws have been a part of the legal framework in India for many years, their implementation and enforcement continue to be the subject of debate and discussion. While some argue that they are necessary to protect the country's security and integrity, others contend that they can be misused to suppress dissent and curtail freedom of expression.

The sedition laws in India are designed to serve as a deterrent against any behaviour or actions that have the potential to instigate violence or jeopardize the stability of the nation. These laws have been the focus of numerous legal proceedings over the years, as the judiciary has worked to achieve a harmonious balance between safeguarding national security and upholding the principles of freedom of expression. The Supreme Court of India has played a significant role in clarifying the application of sedition laws in the country. In several landmark judgments, the court has emphasized the importance of limiting the use of sedition charges to instances where there is a distinct incitement to violence or public disruption. The court has also highlighted that the mere expression of dissent or criticism of the government does not necessarily qualify as sedition.

The court has also recognized that the vague and broad nature of the sedition laws can be misused by those in power to stifle dissent and silence critics. To address this issue, the court has set a high threshold for applying sedition charges, requiring that there must be a clear and present danger to

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<sup>1</sup> Saksham Vishal Sood, "Sedition Law in India: Application and Impact", 5 Issue 1 Indian J.L. & Legal Rsch. 1 (2023)



public order or the security of the state.

While sedition laws play an important role in protecting national security, they must be applied with caution and in accordance with the principles of freedom of expression and the rule of law. The judiciary has an important role to play in ensuring that these laws are not misused and that the rights of citizens are protected.

## **2. SEDITION LAWS IN INDIA:**

2.1 Historical Backdrop- Sedition laws in India have their historical roots in the colonial era, during when India was under British governance. The sedition law in India can be traced back to the British Crown's endeavor to stifle opposition and uphold authority over its colonial populace. Section 124A of the Indian Penal Code (IPC) was enacted in India in 1870 to establish the sedition statute. The implementation of this legislation was a direct reaction to the growing opposition and disagreement towards British colonial governance. The British government endeavored to suppress any actions that were viewed as posing a challenge to its legitimate power and governance. The sedition legislation functioned as a potent mechanism employed by the colonial administration to uphold societal stability, regulate political opposition, and quell revolutionary endeavours<sup>2</sup>. It was a component of a more comprehensive plan to suppress nationalist groups and hinder the emergence of widespread mobilisation against British governance. India maintained the sedition statute as a component of its legal structure following its independence in 1947<sup>3</sup>. The purpose of retaining it was to guarantee the preservation of social cohesion and safeguard the integrity of the just-formed democratic nation. Nevertheless, the perpetuation of the sedition statute after gaining independence has been a topic of censure and contention. There were numerous arguments positing that it was antiquated and incongruous with the tenets of freedom of expression and democratic ideals.

### 2.2 Legal Frameworks-

Socio-political structure of sedition in India  
Section 124A of the Indian Penal Code (IPC) is the main legal framework that regulates sedition

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<sup>2</sup> Deshraj Singh, "Legality of Sedition in India: A Comprehensive Analysis", International Journal of Creative Research Thoughts (IJCRT), Volume 11, Issue 6 June 2023, ISSN: 2320-2882

<sup>3</sup> Saptarshi Bhattacharya, "The Law of Sedition and India: An Evolutionary Overview", The Hindu Centre of Politics and Public Policy

in India. It provides a definition and outlines the punishment for sedition. The legal framework encompasses the following fundamental elements: Section 124A of the Indian Penal Code: Sedition, as defined in Section 124A, is the act of expressing or attempting to express hatred or contempt towards the legally established government, or inciting or attempting to incite disaffection towards the government, through spoken or written words, signs, or visible representations. The offence is subject to a maximum penalty of life imprisonment, in addition to a monetary fine. The utilisation of the adjectives "hatred" and "contempt" conveys a profound sentiment of bad feelings and criticism that is specifically targeted at the government. The intensity of these emotions must be sufficiently substantial to generate an environment characterised by animosity and disharmony towards the government.

Disaffection can be defined as a sentiment characterised by a lack of allegiance, disdain, or estrangement towards the governing authority. The act of sedition can be perpetrated by the deliberate effort to provoke or inspire disaffection, which entails deliberately promoting or instigating unfavourable attitudes or hostility towards the governing authority.

The legal framework necessitates the exhibition of purpose to induce public disruption or instigate violence in order for an action to be classified as seditious. Merely critiquing the government or articulating unpopular viewpoints does not automatically qualify as sedition:

2.2.1 The Indian Penal Code (IPC) offers specific exceptions and defences pertaining to the offence of sedition. For example, the legislation specifies that expressing dissatisfaction of government measures, without inciting violence, is permissible. Or instances of public disorder do not constitute sedition. Furthermore, actions carried out in the enjoyment of the constitutionally guaranteed right to freedom of speech and expression in India might be regarded as valid justifications.

2.2.2 The Code of Criminal method (CrPC) governs the method for prosecuting sedition crimes, including the imposition of punishment. Sedition is a crime that does not need bail, and the police have the authority to apprehend a someone without a warrant. The offence is cognizable, indicating that the police have the authority to commence an investigation and apprehend individuals without the need for a court order. The penalty for sedition varies from incarceration, which can be life imprisonment, in addition to a monetary penalty.

The Supreme Court of India has significantly influenced the comprehension and implementation of sedition legislation through its judicial decisions.

- 2.3.1 In the legal case of *Kedar Nath Singh v. State of Bihar*<sup>4</sup>: The Supreme Court of India's momentous ruling offered significant elucidation on the concept of sedition. The court determined that for an action to be deemed. To be considered seditious, an act must encompass an instigation of violence or a direct menace to public order. Sedition may not be constituted by mere criticism of the government or the expression of unpopular beliefs that do not provoke violence or public unrest.
- 2.3.2 In the case of *Balwant Singh v. State of Punjab*<sup>5</sup>: The Supreme Court, in this instance, restated that the act of sedition necessitates the presence of a purpose to instigate violence or disrupt public order. The court underscored the significance of achieving a harmonious equilibrium between the fundamental right to freedom of expression and the safeguarding of national security and integrity.
- 2.3.3 The case of *Arup Bhuyan v. State of Assam*<sup>6</sup>: The Supreme Court has ruled that the act of raising slogans, even if they possess the capacity to generate disaffection or foster a feeling of insecurity, does not constitute sedition unless there is an encouragement to violence.
- 2.3.4 The case was *Common Cause v. Union of India*<sup>7</sup>: In the context of a public interest litigation contesting the validity of the sedition statute, the Supreme Court observed the necessity of a narrow interpretation of the provision, emphasising that it should not be employed as a means to stifle dissent or criticism directed towards the government. The significance of safeguarding freedom of speech and expression in conjunction with the preservation of public order and national security was emphasised by the court.

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<sup>4</sup> 1AIR 1962 SC 955.

<sup>5</sup> AIR 1995 (1) SCR 411.

<sup>6</sup> (2011) 3 SCC 377

<sup>7</sup> 4 (2016) 15 SCC 269



### **3. THE IMPACT OF SEDITION LAWS ON DEMOCRACY AND FUNDAMENTAL RIGHTS:**

Specifically, the freedom of speech and expression can be substantial. The subsequent factors<sup>8</sup> exert influence on democracy and fundamental rights:

- 3.1 The imposition of sedition legislation inherently curtails the exercise of freedom of speech and expression. The worry of facing sedition charges can result in self-restraint, impeding the unrestricted dissemination of ideas, critique of the administration, and public deliberation. This limitation has the potential to erode democratic principles and curtail the range of perspectives that are crucial for a thriving democracy.
- 3.2 Suppression of Dissent: Sedition laws have the potential to suppress and suppress dissenting voices. When individuals have apprehension regarding the potential consequences of voicing their dissident viewpoints, such as sedition charges, they may choose to abstain from engaging in political deliberations, nonviolent demonstrations, or lobbying for transformative measures. The suppression of opposing opinions undermines the democratic structure of society.
- 3.3 Undermining of Valid Critique: Sedition laws possess the capacity to be exploited in order to stifle valid critiques directed towards the government or public authority. Authorities can deter criticism, suppress resistance, and weaken accountability by labelling dissenting voices as seditious. The aforementioned phenomenon undermines the essential checks and balances required for a resilient democratic government.
- 3.4 Sedition laws can jeopardise the freedom of the press. Scholars engaged in the examination of delicate matters or the coverage of governmental wrongdoing may encounter allegations of sedition about their professional endeavours. This phenomenon can result in self-censorship among the media, so undermining their function as vigilant overseers and purveyors of crucial information to the general public.
- 3.5 Disproportionate Punishment: Sedition laws frequently entail stringent penalties, such as incarceration, that may be disproportionate to the purported transgression. The strict

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<sup>8</sup> Adam M. Smith, Charline Yim, and Marryum Kahloon, "The Crime of Sedition: At the Crossroads of Reform and Resurgence", TrialWatch Fairness Report

enforcement of severe sanctions for acts of speech has the potential to dissuade persons from enjoying their fundamental right to freedom of speech and expression. The principle of proportionality and fairness in a democratic society is compromised by the presence of disproportionate punishment.

3.6 The violation of international human rights standards can be observed in sedition laws that fail to adhere to established norms, potentially encroaching on fundamental rights. The significance of safeguarding freedom of speech and expression is underscored by international human rights frameworks, which also advocate for the limitation of speech limitations to only what is deemed essential and proportional.

3.7 Impact on Democratic Discourse: Sedition laws can hinder open democratic discourse by restricting freedom of speech and suppressing dissent. The presence of robust deliberations, and debates, and the capacity to critique and interrogate governmental actions are vital for the sustenance of a robust democratic system. Sedition laws impede the progress and advancement of a democratic society by limiting such expression. Multiple case studies have elucidated the ramifications of sedition accusations on the freedom of expression.

In 2007, Dr. Binayak Sen, an Indian human rights activist and physician, faced charges of sedition in the case of *Dr. Binayak Sen v. State of Chattisgarh*. He faced allegations of exhibiting sympathy and providing support to Naxalite rebels. The charges of sedition brought against him were predicated upon his purported affiliations with the insurgents and his literary works about infringements upon human rights. The case garnered global scrutiny and sparked apprehensions regarding the utilization of sedition laws as a means to suppress opposing viewpoints.

In 2018, Kishore Chandra Wangkhem, a journalist based in Manipur, India, faced charges of sedition. He was apprehended for disseminating derogatory comments about the state government on various social media platforms. The aforementioned case brought attention to the susceptibility of journalists and the consequences of sedition accusations on the freedom of the press.

Toolkit Case Study In the year 2021, Disha Ravi, an environmental activist based in India, faced charges of sedition. The individual in question faced allegations of modifying and distributing a toolkit about the farmers' protest, which the authorities alleged contained seditious material. The case

ignited controversies over the autonomy of expression, digital advocacy, and the improper application of sedition legislation.

#### **4. SUGGESTED MODIFICATIONS AND ALTERNATIVE OPTIONS:**

Numerous individuals and groups have offered revisions and alternatives to sedition laws to alleviate concerns regarding the potential for these laws to violate democratic<sup>9</sup> ideals and freedom of expression. Alterations and alternatives have been recommended.

The following are some of the proposed amendments to the sedition legislation:

- 4.1 The concept of sedition might be narrowed, with a particular emphasis placed on activities that deliberately advocate violence or offer a distinct threat to public order. This is one of the potential reform ideas that could be implemented. An effective deterrent against the improper use of sedition charges as a way to silence lawful dissent and criticism of the government would be the implementation of this provision.
- 4.2 Proposal for the Elimination or Modification of Sedition Laws: Certain persons urge for the total elimination of sedition laws, asserting their redundant nature within a democratic society. On the other hand, they propose changing the legislation so that it is by international human rights standards. This would ensure that restrictions placed on the right to freedom of expression are both reasonable and necessary.
- 4.3 Implementation of Safeguards and Procedural Reforms: The introduction of safeguards and procedural reforms can act as a preventive measure against the potential misuse of sedition laws. To accomplish this, it is necessary to ensure that the investigation and legal proceedings in cases of sedition are conducted transparently, to set clear guidelines for the implementation of these directives, and to make certain that authorities are held accountable for any violations of the laws.
- 4.4 One other suggestion is to incorporate a public interest exception into sedition statutes. This provision would enable valid critique of the government or public authorities in cases where it serves the public interest, even if it may be perceived as seditious in typical situations.
- 4.5 The promotion of a culture that encourages discourse, free debate, and tolerance for disagreement is of utmost importance. Promoting platforms that facilitate constructive deliberations, actively including varied viewpoints, and establishing venues for nonviolent demonstrations can

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<sup>9</sup> Snigdhendu Bhattacharya, "Recommended Changes in India's Sedition Law May Intensify Government's War Against Dissent", The Diplomat



effectively resolve grievances and foster democratic communication, hence obviating the need for sedition charges.

4.6 Enhancing Defamation Legislation: The enhancement of defamation laws might offer an alternative legal avenue for individuals or entities to confront and rectify incorrect and detrimental assertions. This can aid in reducing the necessity of depending on sedition charges as a means to address defamation.

4.7 The study of foreign best practices can offer valuable insights into alternate ways. An examination of countries that have either eliminated or greatly limited sedition laws might provide valuable insights for prospective changes or alternative legal structures.

When contemplating alternative legal frameworks, it is of the utmost importance to make certain that a harmonious equilibrium is maintained between the protection of fundamental rights and the maintenance of national security. For the purpose of preventing misuse and safeguarding democratic principles, it is of the utmost importance to incorporate precise definitions, proportionate punishments, stringent procedural protections, and judicial monitoring inside such frameworks.

## 5. CONCLUSION:

The subject of sedition laws in India is a multifaceted and continually evolving topic that warrants careful consideration. While it is true that sedition laws can be traced back to the colonial era, they remain a crucial aspect of India's legal system. However, the interpretation and application of these laws have sparked concerns about their potential impact on fundamental rights, democratic discourse, and freedom of speech.

Over the years, there have been debates and investigations about the legitimacy of sedition laws in India, leading to recommendations for their revision or abolition. Some argue that these laws are outdated and should be abolished altogether, while others believe they are essential for protecting national security. The challenge is to strike a delicate balance between protecting national security and preserving democratic values.

The ongoing debate highlights the need to protect the right to freedom of speech and expression while simultaneously addressing serious threats to public order and safety. It is crucial to ensure that the

interpretation and enforcement of sedition laws do not impinge upon fundamental rights and democratic discourse. Any revisions to these laws must be carefully considered to ensure that they are not used to stifle legitimate dissent or criticism.

The examination of sedition laws in India is a complex issue that demands thoughtful consideration. It is important to find a balance between protecting national security and preserving democratic values, including the right to freedom of speech and expression. The ongoing debate underscores the need for a nuanced approach to this critical issue

