

**DE JURE NEXUS LAW JOURNAL**

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**SEDITION LAWS IN INDIA**

Sedition, a simple word with an extensive denotation. Now-a-days, Sedition is a charge which questions a person's patriotism towards their country. But is that really what Sedition law is all about or has it been misused? And do we still require it?

**History of Sedition:**

Section 124A of the Indian Penal Code, 1860, underlines the provisions of Sedition. The Sedition Law under section 124A dates back to the British colonial Era. It was introduced in the year 1837 by Thomas Macaulay but this idea was rejected when the original Indian Penal Code was enacted in 1860. It was reintroduced by James Stephen in 1870. This Law was brought about to muzzle the voices of dissent, at that time. The Britishers enforced a Sedition Law so that no Indian could revolt against them and that the British rulers should not be subjected to bad opinions. It was used to enforce dominance over the Indians and any Indian who tried to raise their voice against the British Rule was charged with Sedition. Powerful Personalities like Bal Gangadhar Tilak, Mahatma Gandhi and many such freedom fighters were charged and detained under this law. The sedition law, at its core, is a purely discriminatory law. The very first case regarding Sedition was in 1891, against Bengali writer Jogendra Chandra Bose<sup>1</sup>. The editor was charged with Sedition for criticising the policies of the Queen Empress. The Calcutta High Court had not absolved the editor of the charge for reasons that the content written was seditious however, it also emphasised on the difference between

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<sup>1</sup> Queen-Empress vs Jogendra Chunder Bose and Ors. on 25 August, 1891 (1892) ILR 19 Cal 35

‘Disapprobation’ which is legitimate criticism or constructive criticism and ‘Disaffection’ which is feelings contrary to affection.

Section 124A<sup>2</sup> reads out 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 the fine may be added, or with fine.” It further explains the term disaffection which includes all disloyalty and feelings of hostility. Any person charged with sedition can be imprisoned or may have to pay a fine, moreover, it is a cognizable offence and a person’s passport can also be taken away and further, such a person can be barred from government jobs.

### **Sedition in Modern Days:**

Sedition law is often conflicted with the right to freedom of speech. Freedom of speech is a fundamental right of every citizen of this country. It is essential to understand that freedom to speak freely, as guaranteed by the Constitution, is not an absolute right, but is subject to reasonable restriction. A particular reason for Sedition being an exception to the freedom of speech is its scope to cause chaos and disturb public order, which becomes a valid ground for applying restrictions on this freedom. However, it cannot be used as a means to suppress the voices of those who are against the government’s policies or criticise the government. Criticism or difference of opinion cannot be curtailed in any way. But if the criticism by an individual, which has the potential to incite or actively plans to incite any kind of violence or disaffection to overthrow the lawful government of this country, is said to have committed the offence of Sedition.

The debate of Article 19(1) and Section 124A is an endless one. There are countless cases of sedition law and in the recent years, the number of cases filed have increased. Several cases have been filed in the Honourable Courts regarding the sedition laws. Many cases emphasize that the law of sedition needs to have limitations. The first case on sedition after the independence of India was of Tara Singh Gopi Chand vs The State<sup>3</sup> was the case wherein the

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<sup>2</sup> Section 124A, Indian Penal Code, Chapter VI, Offences against the State.

<sup>3</sup> Tara Singh Gopi Chand vs The State on 28 November, 1950, 1951 CriLJ 449

Punjab-Haryana High Court had been struck down Section 124A as it was held to be in contravention with Article 19. However, after the first Parliament passed the Constitution Act, 1951, which sought to resolve the inconsistency by introducing new grounds which restricted the Freedom of Speech and Expression.

The landmark judgement of Kedar Nath Singh<sup>4</sup>, it was upheld that the constitutionality of sedition, but limited its application to “acts involving intention or tendency to make disorder, or disturbance of law and order, or incitement to violence”. This judgement distinguished criticism from ‘very strong speech’ or using of ‘vigorous words’ strongly critical of the government.

In Other landmark cases like Romesh Thappar vs state of Madras<sup>5</sup> and Brij Bhushan vs State of Delhi<sup>6</sup>, the court had a different view. In both of these cases it was upheld that any law which restricts the speech of a person on the grounds that such speech has the ability to disrupt public order, is unconstitutional. It was further held that disturbing the public order will mean nothing less than endangering the foundation of the state or threatening its overthrow. There has always been difference of opinion on the sedition law. while in the case of Kedar Nath the emphasis was on freedom of speech and how it cannot be stifled, on the other hand, in the case of Niharendu Dutt Majumdar vs King Emperor<sup>7</sup>, it strongly batted for the criticism of the government but it also upheld arbitrary restriction of the freedom of speech. There has been a different stance of the Hon’ble courts with regards to Sedition laws.

The debate on sedition was reignited when the Chief Justice of India- Mr. N.V.Ramana in a recent case opined that the Sedition laws are colonial laws and questioned its requirement. The Court further raised concerns over its misuse. Erstwhile, the Ex-CJI, Mr. Ranjan Gogoi had other thoughts. In a recent interview, he explained that misuse of law can take place with any law and that scrapping the sedition law will not be the solution.

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<sup>4</sup> Kedar Nath Singh vs State of Bihar on 20 January, 1962, 1962 AIR 955, 1962 SCR Supl. (2) 769

<sup>5</sup> Romesh Thappar vs The State of Madras on 26 May, 1950, 1950 AIR 124, 1950 SCR 594

<sup>6</sup> Brij Bhushan And Another vs The State of Delhi on 26 May, 1950, 1950 AIR 129, 1950 SCR 605

<sup>7</sup> Niharendu Dutt Majumdar and Ors. vs Emperor on 10 July, 1939, AIR 1939 Cal 703

There should be amendments made to this law so that it does not contravene the fundamental rights of the people.

The recent cases like JNU protest case or the case against a teacher and a 6-year-old child for a play against the CAA act in Karnataka, has questioned the sedition laws and whether they are valid or not. But will scrapping the law be a valid option? The sedition law needs to be reviewed and amended. The laws regarding sedition can be interpreted in various ways and can be misused because of its ambiguity. The law should be amended so that it is not misused in any way. Its definition needs to be narrowed down so that there is an understanding of how it's can be used in the right manner and include only those issues which pertain to the relevant law. Those backing Sedition laws argue that it can be utilised against anti-nationals and terrorist groups. Secondly, Maoists groups with their own leaders from different states might advocate in overthrowing the lawful government. Thirdly, the sedition laws act as a protection for the elected government from any plans to overpower them as the stability of the elected government is extremely important for the law and order of the country. On the contrary, those against sedition law contend that it has been misused as per the convenience of the government to suppress dissent. The sedition laws are a relic of the British era and should be done away with, after years of independence. Secondly, with regards to disruption of public order, the UAPA Act and the Indian Penal Code have laws on the same and therefore do not find the Sedition law necessary in the current scenario. While both the arguments seem to be right in their own sense, the repercussions of scrapping such an important law might be much severe than what we actually think.

The government needs to educate all the law enforcing authorities about the use of sedition charge, as it is an extremely sensitive issue, to prevent the misuse of this law and thus protect the rights of the citizens of India. Rather than repealing the law, the judiciary and the government should focus on amending the law and making requirements of what acts should be done that would constitute as sedition as the current law is ambiguous and vague. There is a need to examine such laws keeping in mind the current scenarios. As given in the Kedar Nath Singh vs State of Bihar case, the Hon'ble Court has clearly specified that the use of sedition should be applied only limitedly and only for those reasons which can disrupt the public harmony and the Hon'ble Court's order should be adhered to and upheld.

To conclude, Sedition is an extreme charge which needs to be applied only if there is proper proof against someone. The charge of sedition is an extreme one and cannot be used in a whimsical manner as levelling of such a serious charge on any person has a severe impact on the person's reputation. A person charged with sedition is always deemed as an anti-national and looked down upon. Therefore, the charge of sedition becomes an extremely sensitive issue. There surely is a need to protect the lawfully elected government but not at the expense of compromising with the fundamental rights, of the citizens of this country, guaranteed by the Constitution of India.



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