

Sedition Law in India

[UPSC Notes]

What is the Sedition Law in India?

Sedition Law in India has a long history that dates back to the Colonial rule of the British empire in the country. However, this archaic law has been redeemed in our constitution as well.

Section 124A of our constitution deals with the semiotics and semantics behind the word 'sedition'. This law defines 'sedition' as an act of offence executed through words, be it spoken or written, or through visible representation/signs, that instigates hatred and/or contempt among the masses for the government formed by law in India. This contempt or hatred is inclusive of feelings of enmity and disloyalty.

Recent Development- Section 124A

There have been numerous instances of speculations with the sedition law at its centre that questions its relevance in a democratic country like India that offers the right to free speech and expression as fundamental rights to its citizens.

- The Supreme Court of India scrapped a petition that sought action against Farooq Abdullah, former Chief Minister of the state of Jammu and Kashmir, for his remarks on the abrogation of Article 370 in the state. The bench stated on 3rd February 2021 that speaking against the country's government and its policies shouldn't be labelled as a seditious act.
- In June 2021, the SC emphasized defining the limits of Sedition Law, while protecting two Telugu news channels from adverse actions by the Andhra Pradesh government.
- In 2021, the Chief Justice of India (CJI) also questioned the relevance of this law that was once used as a political tool to keep the country forever under the shackles of colonialism, exploitation, and wealth drain. He also commented on how the law was made to favour the government and is, by its very nature, prone to misuse by the governments.
- The CJI bench recently put the sedition law case trial on hold and asked the Centre and state governments to review it. And in response, the centre has submitted its opinions before the Supreme Court. It maintained a pro-sedition law stance and that there was no need to review the validity of these laws since the judgement in the Kedar Nath case (1962) that states that is a 'good law'.

History of the Sedition Law

Sedition is not a domestic concept but rather a foreign one that was introduced in India under British colonial rule. Its long history has been summarised precisely below;

- Sedition laws were introduced in 17th century England initially where the government believed that the only opinions that should exist in the society about the government and monarch should be positive.
- The law was drafted, as we know it today, by Sir Thomas Macaulay, the British politician, and historian who was famous for the Macaulay's Minute, in the year 1837.

- This law was omitted when the India Penal Code was implemented in the year 1860 for reasons that remain inexplicable today.
- The sedition law was brought in as section 124A by an amendment to the IPC, initiated by Sir James Stephen.
- This actively made sedition a criminal offence in India which carries on to exist even now, in an independent India.

What are the Sedition Laws in India?

There are four such laws in India that cover seditious activities that are discussed in the table below;

Sedition Laws	What they state
The Indian Penal Code, 1860 (Section 124A)	Section 124A of the Indian Penal Code gives the definition of sedition and the punishment that a person can be charged with if caught practising a seditious act. It defines sedition as a criminal offence that can be undertaken using words, be it spoken or written, or through using visible representation/signs, that instigates hatred and/or contempt and disloyalty/disaffection among the masses for the government formed by law in India.
The Seditious Meetings Act, 1911	Any person concerned in the promotion or conduct of a public meeting held in a proclaimed area contrary to the provisions of Section 4 shall be punished with imprisonment for a term which may extend to six months, or with a fine, or with both.
The Code of Criminal Procedure, 1973 (Section 95)	Section 95 of the Code of Criminal Procedure of India empowers the governments to declare publication houses, that satisfy certain criteria, forfeited by the means of notification and provided provisions for the Magistrates to issue search warrants for the same.
The Unlawful Activities (Prevention) Act (Section 2(0) (iii))	Section 2(1)(o) (iii) deals with the definition of an “unlawful activity” and describes it as an act related to a person or an association that aims to cause or is actively causing disaffection/disloyalty against India.

Sedition Law in India Now and Its Punishment

The Indian Penal Code states sedition to be a criminal offence under section 124A. And under this article, the offence is described along with the appropriate punishment to be given to the individual charged with this offence.

- Sedition is a non-bailable crime. The punishment, as defined under section 124A, may range from a three-year imprisonment term to a life sentence. A fine can further be imposed on this.
- Government jobs aren't an option for those charged with seditious activity as they are banned from all such opportunities.
- The accused are to live without passports and must mark their attendance at courts whenever they are required to.

Sedition Act - Significance and Issues

There is a huge debate around the Sedition laws in India. While many consider them to be archaic and repressive in a democratic rule that has been independent of foreign intervention for over 7 decades, there are several merits to them that may make them a necessary evil that should exist in the constitution of India. These merits and demerits have been discussed below;

Significance of Section 124A in India

- **Reasonable Restrictions:** Article 19(2) provides for reasonable restrictions in the Constitution of India. These can always be out on the fundamental right of speech and expression if it is to be exercised responsibly and assures its equal availability to all citizens.
- **Integrity and Unity:** Sedition laws become a necessary evil in situations of internal turmoil and discontent while working against anti-national elements, secessionists, and terrorists.
- **State's Stability:** They prevent coups by illegal means and use of violence to upturn the elected governments. Situations like these are extremely distressing for the country and hence, the continuance of law-established governments becomes very important to the State's stability.

Issues with the Sedition Laws of India

- **Archaic Laws from the Colonial Times:** Sedition laws were introduced in England with the aim of erasing any and all criticism against the government and the crown. These were the very same laws that painted our freedom fighters like Bal Gangadhar Tilak, Jawahar Lal Nehru, and Bhagat Singh as criminals for their speeches against British Rule. silencing political dissent and differing opinions with sedition laws is archaic and sets us back.
- **Constituent Assembly's stand:** The members of the Constituent Assembly that were responsible for the making of our Constitution did not agree on the status of sedition laws to pertain as they felt that these would be paradoxical to the provisions of free speech in the document. They, very accurately, predicted that such laws are very prone to misuse at the hands of the governments in power, as

this was the original intent behind their introduction by the British. It could curtail the citizens' rights to protest.

- **Disregard of the Supreme Court's Judgement:** The Kedar Nath Singh vs the State of Bihar case of 1962 was when the Supreme Court of India guided to limit the use of sedition. The invocation of seditious charges against people of academic pedigree, students, social activists, etc. remains in defiance of the apex court's order.
- **Reprisal of Democratic Values:** The calculated and irresponsible use of the sedition laws has led to India being termed as an 'elected autocracy'.

Sedition Law related Cases in India

There have been multiple cases in India related to the sedition laws. Some of the important ones have been discussed below:

Under British India

- *Queen v. Jogendar Chunder Bose*
 - An article that criticized the Age of Consent Act of 1891 was published by Jogendra Chunder Bose.
 - This step by him was taken to be an act of disobedience towards the government. However, the charges were dropped soon and Bose was let out on a bail.
- *Lokmanya Tilak's Sedition Trial (1897 and 1908)*
 - The 1897 trial of Bal Gangadhar Tilak, a radical and beloved figure from the Indian Independence movement, had reported 'Shivaji's Utterances' in his dailies Kesari and Mahratta.
 - Shivaji's Utterances was a celebration of the Shivaji Coronation.
 - This article landed him with sedition charges under article 124A. This case was especially famous as it widened the scope of this article.
 - Following these charges, Tilak was subjected to 18 months of rigorous imprisonment.
 - The 1908 case was over Tilak's two articles published in Kesari named 'These Remedies Are Not Lasting' and 'The Country's Misfortune'.
 - The newly-drafted article 124A served him with a six-year jail sentence in Burma (now in Myanmar)
- *Mahatma Gandhi's Sedition Trial (1922)*
 - Mahatma Gandhi was one of the most prominent names in the Indian struggle for independence.
 - His newspaper 'Young India' was the one that landed him in jail on charges of sedition in the year 1922.
 - He was charged with inciting disaffection towards the Crown's government established in British India by law.

- Gandhi described article 124A as the 'prince' of the political sections present in the Indian Penal Code that would completely suppress the citizen's liberty.

Independent India

- *Brij Bhushan And Another v. The State Of Delhi (1950) & Romesh Thappar v. the State of Madras (1950)*
 - The Supreme Court ruling stated that any law that curbed the rights of expression and speech was unconstitutional.
 - This prompted the 'First Constitutional Amendment' which rewrote article 19(2). This amendment replaced "undermining the security of the State" with "in the interest of public order" to fit the judgment.
- *Kedar Nath Singh v. State of Bihar (1962)*
 - Section 124A was questioned in this case. Its validity and relevance were put to trial.
 - The case around a 'seditious' speech by a member of the Forward Bloc.
 - The Supreme Court upheld that writing which implicitly implies the subversion of a government by violence (including words like revolution) will be seditious.
 - Even a failed attempt at instigation shall be counted as sedition. Public disorder in any way is considered to be seditious.
 - However, there was no distinction drawn between what was seditious and what was simple criticism of the government and its measures here.
- *Balwant Singh v. State of Punjab (1962)*
 - Balwant Singh was the Director of Public Instructions in Punjab and Chandigarh and was allegedly seen sloganeering pro-Khalistani slogan on the day of Indira Gandhi's, the former Prime Minister of India, assassination.
 - Here, the Supreme Court upheld that without the public disorder, there can't be charges of sedition that would garner a punishment under article 124A.