

**SEDITION AND ITS NEED TO FORESTALL ITS ABUSE**

*A project report submitted in*

*Partial fulfillment of the requirements for the award of the degree of*

**MASTERS OF ARTS IN JOURNALISM AND MASS COMMUNICATION**

Submitted by

**Akshara R SM20JMC002**

UNDER THE GUIDANCE OF

**Mr. Tijo K George**



**DEPARTMENT OF COMMUNICATIVE ENGLISH**  
**ST. TERESA'S COLLEGE (AUTONOMOUS), ERNAKULAM**

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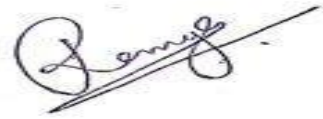
**MAHATMA GANDHI UNIVERSITY**

Kottayam- 686560

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## CERTIFICATE

This is to certify that the dissertation titled, '**Sedition law and its need to forestall its abuse**' prepared and submitted by **Akshara R** in partial fulfilment for the requirements for the award of the degree of **Master of Arts in Journalism and Mass Communication** is a bonafide record of project work done by the student and is hereby accepted.



Place: Ernakulam

Date: 25 March 2022

**Ms. Remya John**

**Head of the Department,**

**Department of Communicative English.**

## **GUIDE'S CERTIFICATE**

This is to certify that the dissertation titled, '**Sedition law and its need to forestall its abuse**' is a record of the original and independent work carried out by **Akshara R** under my guidance and supervision. This has not previously formed the basis of the award of any degree/ diploma /other similar title of recognition

Ernakulam

25 March 2022

Mr. Tijo K George

## DECLARATION

I hereby declare that the dissertation titled '**Sedition law and its need to forestall its abuse**' is an original work prepared and written by me, under the guidance of **Tijo K George, Department of Communicative English, St Teresa's College** in partial fulfillment of the requirements for the degree of **Master of Arts in Journalism and Mass Communication**. This thesis or any other part of it has not been submitted to any other University for the award of other degree or diploma.

Ernakulam

25 March 2022

Akshara R

SM20JMC002

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## **ABSTRACT**

The recent use of sedition statutes in various cases has prompted new concerns about the undemocratic nature and applicability of these provisions in today's constitutional democracy. It's unfortunate that these rules have survived colonial rule. The implementation of sedition laws by various Indian courts demonstrates how they have grown outmoded for today's culture, and numerous recommendations for their application are made. All citizens in a democratic country like India have the Fundamental Right to Freedom of Expression and Speech. Although appropriate constraints to such rights allow for a law of sedition, the scope of such a statute is a critical matter. In our country, where the rule of law reigns supreme, arbitrary charges of sedition are an act that runs counter to constitutionalism.

This paper attempts to examine how the sedition law has been abused and to propose some course corrections to safeguard and improve democracy. The research will also determine whether the sedition act should be repealed. The study proposes a qualitative research design, convenience sampling method, and judgmental sampling method. The information gathered through in-depth Interviews, data from the public domain & case studies from Nation Crime Records Bureau will be analyzed to determine the necessity for sedition laws to be repealed and to avoid their misuse.



## Chapter 1

### INTRODUCTION

Sedition is codified in Section 124A of the Indian Penal Code (IPC). It states that:

*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 the 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.*

The British introduced Section 124A as part of our colonial heritage. In the 1837 draught of the IPC, Thomas Macaulay included sedition as an offense, but it was removed in the 1860 version. As a response to the Wahabi movement, the crime of sedition was established in the Indian penal code in 1870. The British rulers devised the statute of sedition as a tool to deal with any severe criticism of the colonial administration and to use it against Indian nationalist independence fighters. Among the most well-known casualties were Bal Gangadhar Tilak and M.K. Gandhi. The provision was described by M.K. Gandhi as "the prince among the political sections of the Indian Penal Code (IPC) designed to crush people's freedoms." The act was not repealed in independent India, and after more than seven decades of independence, we have seen an increase in sedition trials in recent years so much so that India's Supreme Court has called the law into doubt. In 1837, Thomas Babington Macaulay's Draft IPC included clause 113, which established the law of sedition. According to a study, the clause dealing with sedition was strangely excluded when the IPC was ultimately implemented after a 20-year delay in 1860. According to the study, the British first recognized the need for sedition legislation following the

uprising of 1857, in light of increased Wahabi activities as well as episodes of mutiny against the British up to 1870. As a result, on November 25, 1870, the law of sedition was enacted under Section 124A of the IPC. The IPC (Amendment) Act of 1898 revised Section 124A, making it illegal to incite or seek to incite hatred or contempt (other than disaffection) against the government. It has essentially remained unchanged since then.

According to Article 14, the Ministry of Home Affairs (MHA) and the National Crime Records Bureau (NCRB) reported a significant increase in sedition cases since 2014 in 2019 and 2020, respectively. According to the research, 65 percent of the 10,938 Indians charged with sedition since 2010 were arrested after the Bharatiya Janata Party (BJP) government assumed office at the Centre in May 2014. In several of these cases, opposition politicians, students, journalists, authors, and intellectuals have been named. Since its establishment in 1870, the law of sedition has been utilized to stifle voices of protest, dissent, or criticism of the government. Furthermore, the Supreme Court's Kedar Nath decision upholding the sedition legislation came at a period when notions like the "chilling effect" on free speech, which creates psychological barriers through legal sanctions, were unknown. The rising number of sedition trials in recent years suggests that authorities are indiscriminately applying this special rule. The Law Commission issued a consultation paper in 2018 asking for the laws under Section 124A to be revisited. The evidence clearly shows that Section 124A is notable for its widespread misuse, subjective application, and ambiguity, and is frequently used to harass persons for minor reasons.

The misuse of sedition law in many fields is examined in this research study, as well as the necessary course corrections that can be done. Since the use of sedition laws is expanding while conviction rates remain low, it is critical to determine whether the law is being used as an oppressive tool against civilians. This study explains why India still requires sedition legislation

after 75 years of independence. Under human rights legislation and the Indian Constitution, freedom of speech and expression is the most cherished right. India is a republic that is democratic, sovereign, and socialist. The preamble emphasizes that the Indian constitution aspires to provide citizens with freedom of opinion and speech. The term "freedom of speech" refers to the ability to freely communicate one's thoughts to others. Individuals have the right to criticize and disagree with the government under the First Amendment.

This paper assesses whether the government is tolerant of people exercising their right to free speech and expression. Citizens dissenting views are frequently regarded as seditious. This study examines whether those in positions of power, such as politicians and the government, are utilizing the sedition statute to threaten anyone who speaks out against them. The study also looked at how the sedition statute affects journalists, who can face charges if they raise any criticisms of those in authority. Because sedition violates victims' fundamental rights, this article examines whether the legislation should be repealed or if specific course corrections might be done to protect democracy.

## Chapter 2

### REVIEW OF LITERATURE

Since the study is conducted with the objective of finding how the sedition law has been abused and to propose some course corrections to safeguard and improve democracy using both doctrinal & non-doctrinal approaches and with the aim to analyze to what extent does the Sedition law is denying freedom of speech & expression. Also, research focuses on whether the sedition law should be repealed, and it is necessary to review related literature on sedition. “The use of sedition is like giving a saw to the carpenter to cut a piece of wood, and he uses it to cut the entire forest itself,” said Chief Justice Ramana (2021). Therefore, the investigation of the literature on Sedition and specific aspects related to sedition will give a deep understanding of its misuse.

Many of the studies would look at only one aspect of the issue, such as the origins of the Sedition Act, the pre-independence scenario, the post-independence scenario, or the relationship between sedition and the right to freedom of expression and speech, and the findings would be that necessary course corrections should be made without mentioning/suggesting what course corrections should be made. Through in-depth interviews and case studies, this study intends to include the essential course corrections in Sedition law. Reviewing prior research studies from various viewpoints will provide greater insight into sedition and will greatly assist in doing this study in a more comprehensive manner.

In this chapter, previous research works on Sedition law focusing on different perspectives are reviewed. The main source for accessing previous literature on Sedition is

mainly through the web and also books and journals consolidating essays and research works on Sedition.

Bhakle (2010) in his essay "Savarkar (1883–1966), Sedition and Surveillance: the rule of law in a colonial situation" argues that sedition law had a critical, and extended, life in the colonial context, allowing the use of what were seen as dangerous words to be evidence of conspiracy long after the metropole had abandoned the practice. Vinayak Damodar Savarkar (1883–1966), a young Indian revolutionary nationalist was arrested in London in March 1910 after two years of continuous surveillance by the colonial government. He was extradited to India for trial. One of the strange charges he was facing was sedition. Using Savarkar as a starting point – and concluding with Gandhi's own encounter with sedition – this essay argues that sedition law had a critical, and extended, life in the colonial context, allowing the use of what was seen as dangerous words to the colonial state's response to revolutionary nationalism resulted in the development of two major colonial weapons against anti-colonial nationalism (Whether expressed in Savarkar's call for armed insurrection or Gandhi's nonviolent non-cooperation). The watch was the first weapon, a burgeoning state-control technology that placed an increasing number of young "revolutionaries" under systematic surveillance. They were placed under surveillance to keep track of not just what they did, but also what they thought, wrote, and spoke. The colonial state's second, and possibly more crucial, weapon in India was sedition law. While sedition had a long history in Britain, it was intrinsically related to colonial power in the modern era. The history of colonial surveillance and the evolution of sedition law strongly suggests that the real danger posed by all nationalists, revolutionary and otherwise, lay in rhetorical and symbolic violence rather than physical violence because what was really at stake was colonial rule's fundamental legitimacy.

Idugboe (2013) in his paper "A Case for the Repeal of the Laws on Sedition in Nigeria a Critical Legal Appraisal" discussed the early origins of sedition laws, their goals, and their dissemination by the British imperial power to her former colonies, especially Nigeria. The primary goal of the law, according to the article, was to prevent criticism of the British monarchy and colonial rulers in the colonies. The research examined the evolution of sedition laws in several nations and discovered that sedition laws have been repealed in the United Kingdom, the United States of America, Australia, New Zealand, Scotland, Uganda, and Canada, but not in Nigeria. The article contends that sedition limits public official criticism, which is a fundamental requirement in a healthy democracy, obstructs the freedom of thought and expression, fosters corruption, incompetence, and mediocrity in governance, and makes government accountability to the people impossible. Furthermore, the study contends that sedition is no longer fashionable in civilized real democracies, and those Nigerian courts, up to and including the Federal Court of Appeal have shown a desire to repeal the statute. As a result, the study suggests that the National Assembly should repeal it.

Narayanan (2015) in her study titled "A theoretical analysis of the law on Sedition in India" investigates the legislation of sedition under section 124A of the Indian Penal Code, 1860. By establishing Austin's Speech Acts Theory, Sorial's exposition based on Austin's theory, and adapting the prevailing judicial interpretation into the existing provision, the researcher hopes to propose an adjustment to section 124A. While it is critical to have sedition in prohibitions, they must be subject to specific statutory safeguards. According to the researcher, such redrafting would be the most effective way to address the problem produced by the misuse of sedition laws.

Gautam Bhatia's (2016) book named "Offend, Shock, Or Disturb: Free Speech under the Indian Constitution" delves into the history, intellectual underpinnings, and implementation of

these provisions. One of the chapters is about the sedition law, in which he discusses the factors that led to the creation of the law and how it was enacted under Article 19(2) of the Indian constitution to provide for justifiable restrictions on freedom of speech and expression. This book explains the evolution of India's sedition laws and how they relate to freedom of speech and expression. The "damage principle" and "offense principle," as well as their applications in order to justify or not restrict free expression, are among John Stuart Mill's ideas. Also, one of the key issues that lead to misapplications of the section is ambiguity in the legislation itself, with a disparity between the laws understood by the Supreme Court and the laws actually obeyed by the lower courts.

Pachauri (2017) in his study titled, "An analysis of sedition law in India" explored how sedition law in India has become outmoded for modern society and India, as they are arguably employed for more or less the same goals as colonial rulers, namely, the subjugation of the masses. The findings of the study state that; in a democratic state, everyone has the right to criticize the government, and doing so should not be considered "anti-national" or a "traitor", because criticism is not seditious and does not entail encouragement of violence. Because criticism is the foundation of democracy, sedition laws must be altered in order for democracy to work properly.

Singh (2017) in his paper "Law of sedition & constitutional rights in India: A critique" aims to highlight the flaws in the definition of Section 124A of the Indian Penal Code and its accurate reading in accordance with the spirit of the Indian Constitution with the help of judicial interpretation on the law of sedition. The need of the hour is for sedition laws to be read and applied in accordance with the Supreme Court's recommendations. It has become more essential since the inception of the Indian Constitution, as Article 19(1)(a) guarantees people's freedom of

speech and expression as a basic right, which can only be limited on the grounds set forth in Article 19(1)(a). The integrity of India, State Security, and Public Order are the components specified in Article 19 (2) that are related to the offense of sedition. As a result, sedition laws must include explicit language that satisfies the constraints of Article 19 (2).

Anand (2017) in his study titled "Freedom of Speech & Expression: A study on Sedition Law and the need to prevent its misuse" aimed to determine to what extent the legislation has been abused by succeeding governments at the federal and state levels, posing a threat to people's freedom of speech and expression. Another essential goal is to make required course corrections in the world's greatest democracy to improve citizens' fundamental right to free speech and expression. An exploratory and descriptive research methodology was used. The majority of respondents in the researcher's opinion survey through questionnaire favoured repealing the sedition statute. A report on this important topic is now required to not only examine how the legislation on sedition has been abused, but also to propose critical course corrections to protect and enhance democracy.

Kumar (2019) in his study "The relevancy of sedition law in contemporary society" uses the doctrinal approach in which data were gathered from secondary sources including historic judgments, Constituent assembly debates, and pertinent statutes which were examined in a systematic manner. The study provides judicial decisions during the last 18 years. Furthermore, the study also revealed that the misuse of the law of sedition cannot be controlled by the state or central executive apparatus because the terms employed in defining and explaining it cannot stop the misuse of the law of sedition. The remedy is simple: existing laws should be rewritten to reduce the scope of what constitutes a crime, and a commission should be established to study the path to absolute abolition.



Singh (2019) in her study "Comprehending the realm of free speech, dissent and sedition law" describes the relationship between sedition legislation and the right to freedom of expression and speech". The doctrinal methodology was used to evaluate and comprehend the research subject. The study uses a broad spectrum to try to understand the concept of free speech. The constitutional and statutory domains are examined in the building of an argument challenging the constitutionality of a statute that includes a sedition offense. The concept of liberty and the right to free speech is used to examine the floating ideas. The findings of the study state that, the current state of affairs, section 124A of the Indian Penal Code, 1860, can be repealed, or the unduly broad interpretation must be specified accurately and narrowly to avoid misapplication and misinterpretation.

Mishra (2020) in her study, "Criminalizing Dissent: Sedition Laws in India" discussed the goal of forbidding sedition which then contextualizes India's experience by historicizing its colonial history and quasi-authoritarian present. It concludes with a discussion of the law's usage as a political weapon, as well as questions about whether it should be abolished or changed in order to save Indian democracy from a rule of law crisis.

Kumar (2021) in his article "Is Indian sedition law colonial? J. F. Stephen and the jurisprudence on free speech" examines the arguments made by J. F. Stephen in opposition to the claim that sedition law is colonial. While Stephen disguised the intimate links between the sedition legislation and colonial governance requirements, he provided a compelling case for how the sedition law was entirely consistent with British concepts of liberty, utility, and the rule of law. Stephen's arguments about legitimate limits to political liberties, particularly his critique of J. S. Mill in this regard, allow us to re-examine the ostensible antithesis between colonial and metropolitan jurisprudence and trace their shared origins in British political thought. In order to

arrive at a different interpretation of British political liberalism, this study critically examines themes like empire defense, colonialism, and the idea of betterment within a larger group of texts by British political philosophers, using Stephen as an interlocutor. This article suggests that the fundamental relationship between sedition law and liberal jurisprudence, rather than "colonial difference," better explains the occurrence of similar authoritarian laws inside democratic regimes around the world.

Gaikwad in his study "Law relating to sedition in India vis-a-vis freedom of speech & expression: Issues & challenges" looked at the country's sedition law, including its origins, pre-independence, and post-independence scenarios, and recent cases of use of Section 124-A of the Indian Penal Code, which is inherently contrary to the fundamental right guaranteed by Article 19(1) (a) of the Constitution. The findings of the study state that, the sedition statute directly violates the fundamental right given by Indian Constitution article 19(1) (a) and should be repealed. The Supreme Court, as the guardian of the people's fundamental rights, Citizens should act immediately to declare Section 124A unconstitutional, as India did in the twenty-first century. It is necessary to repeal legislation used by the colonial authorities to silence India's voice.

Saksena & Srivastava in their study "An Analysis of the modern offense of Sedition" discussed the IPC's sedition provision, as well as other legislation that makes seditious activities illegal, should be repealed. The study also looks at how the rule of sedition has been used in Indian courts throughout the colonial era, highlighting its ambiguity and inconsistent implementation. They reviewed the court's findings in *Kedar Nath v. State of Bihar*<sup>15</sup> ('Kedar Nath'), which maintained the constitutional validity of 124A, and showed how the legislation has changed significantly since then. Sedition was looked at in two aspects: the character of a

"government constituted by law" and the impact of the transition to a democratic type of government after independence. They have examined all sedition cases from 2000 – to 2015 that have been brought before India's high courts and Supreme Court. From the observations made the findings of the study were to rethink the existence of Sedition provisions in the statute books.

Mukherjee in his article titled "Sedition, Law, and the British Empire in India: The trail of Tilak (1908) is a historical investigation into the 1908 sedition trial of Bal Gangadhar Tilak, one of India's most famous anticolonial figures. It says that Tilak rejected the British narrative of imperial justice that had served as the foundation of the British Empire until then in the magnificent spectacle of this political trial, and claimed a new discourse of legislative independence for the people of India. As a result of the trial, a key discursive rupture in the history of the empire was created, paving the way for vast anti-colonial movements led by Gandhi.

Nigam in his study "Strategic lawsuits against Public Participation in India: Why the neutrality principle of law not working" discussed the number of spurious litigation suits filed to silence the voices of dissenters and marginalized groups, especially women who complain about the assault, has increased dramatically in recent years. These legal maneuvers are tearing at the foundations of democracy, stifling public debate on critical issues while suffocating freedom of speech. Anti-SLAPP legislation has been enacted in Western countries to combat such frivolous lawsuits. Anti-SLAPP legislation in India is still in its infancy. The findings of the study stated that the laws must be framed in a way that prevents the powerful from abusing the laws and the legal system. To attain true justice aims, the dispute over the neutrality of the law must be re-examined from this perspective

### **Chapter 3**

#### **METHODOLOGY**

The study is conducted with the goal and objective to look into the application of Section 124 A of the Indian Penal Code's sedition provision. It has several goals, the most important of which is to determine to what extent the law has been abused by succeeding governments at the federal and state levels, posing a threat to people's freedom of speech and expression. Another essential goal is to make required course corrections in the world's greatest democracy to improve citizens' fundamental right to free speech and expression. The study's purpose is to look at how the sedition law has been exploited and make recommendations for how to protect and promote democracy. The investigation will also look into whether the sedition act should be repealed.

The study uses a qualitative research design therefore the information gathered is subjective and observational in nature. The data acquired will be based on the participants chosen for expert interviews ideology, perspectives, values, and social experiences, and also the researcher's observation by analyzing the case studies and data that is currently happening in our social scene. This research work uses an exploratory and descriptive methodology. Exploratory because the researcher believes that, based on the research conducted, this paper will build the groundwork for future discoveries of new frontiers of knowledge and research on this critical subject. Descriptive because the researcher will investigate and will attempt to explain in greater detail the many breaches and violations of the law, fill in the gaps, and increase our awareness of the legislation's benefits and drawbacks, as well as the critical necessity to prevent its abuse or misuse.

The study follows a qualitative research design, as well as convenience and judgmental sampling methods. The researcher constructed the following research topic by carefully reviewing the current data accessible in the public domain, the National Crime Records Bureau, and the findings from expert interviews, which are analysed in the relevant section. The primary data is acquired through expert interviews from an advocate who is a member of Standing Counsel in the National Investigating Agency, Advocates practicing in High Court, Journalists, and Research scholars of political science and these will be reviewed to see if sedition laws are needed or how they can be avoided. The interview was performed among the participants mentioned above via telephone and they have shared their thoughts which helped the researcher to reach a final conclusion. The study explicitly shows how Sedition is used by the government and politicians to safeguard their image irrespective of the facts raised by civilians. Throughout the study, the research was conducted in an ethical manner. The goal of the study was explained to the participants. This research did not utilize any personal information or any other data about the participants. All the participants were informed of the researcher's role throughout the process.

## Chapter 4

### ANALYSIS & INTERPRETATION

#### 4.1 Introduction

Section 124A in The Indian Penal Code deals with sedition. A person can be charged with sedition if one by word either written or spoken spreads or attempts to spread hatred or contempt towards the government. The main objective of the study is to look at how the sedition law has been exploited and make recommendations for how to protect and promote democracy. The investigation will also look into whether the sedition act should be repealed.

All the information that is gathered for the study to answer the research questions and to meet the objectives of the study is thoroughly analyzed and interpreted. Responses from the expert interviews and the data available in the public domain, National Crime Records Bureau, journals, and research articles are analysed and further described the data.4.2 Indian perspective of sedition LAW Legislature approach

#### 4.2 Indian perspective of sedition law

##### Legislature approach

- **Pre – Constitutional**

The British introduced Section 124A as part of our colonial heritage. In the 1837 draught of the IPC, Thomas Macaulay included sedition as an offense, but it was removed in the 1860 version. This was deemed a mistake by 59 British parliamentarians, who believed that the Indian press needed to be controlled in order to avoid the formation of a nationalist movement.

Furthermore, they were concerned about the rise of Wahabism, and in the late 1800s, Wahabi activities increased dramatically. As a result, in 1870, the clause was reinstated in the Code. The first case brought on the grounds of sedition was Queen Empress v. Jogendra Chunder Bose.

With the rise in rebel operations against the British, the necessity for a serious sedition charge was generally recognized, and the insertion of a section dedicated solely to seditious rebellion was seen as necessary. The measure containing the statute of sedition was finally passed as a result of this developing issue of the twentieth century, namely, home nationalism. Two other laws were passed shortly after the act was passed, with the goal of reducing criticism of British policies. The Dramatic Performances Act of 1876 and the Vernacular Press Act of 1878 were the two acts in question. All of these policy changes or decisions resulted in the restriction of free government policy criticism.

Section 124A of the fundamental penal legislation was introduced by the British government in 1870. According to a retrospective examination, it was adopted to silence anti-colonial sentiments at the time (pre- Independence). This provision was thus used against several nationalist leaders as a precedent, most notably Bal Gangadhar Tilak and Mahatma Gandhi.

- **Constitutional Assembly debates**

Many freedom fighters were subjected to sedition charges before independence in order to suppress the freedom struggle and limit their freedom of speech and expression. Among them were Mahatma Gandhi, Bal Gangadhar Tilak, Annie Besant, and others. With a recent history of important freedom fighters (essentially our liberation heroes) being accused and imprisoned under this law, the drafters of the constitution were understandably concerned about the ramifications of including sedition in the constitution.

After all, one of the essential factors in our liberation from repressive foreign authority was the basic right of a person to free expression. Sedition, on the other hand, was removed from the exceptions under article 19 in the final text. K.M. Munshi, an accomplished lawyer, and

independence fighter was substantially responsible for this. The IPC kept sedition even though it was deleted from the constitution.

- **Post constitutional development**

The coexistence of sedition and freedom of speech and expression in independent India proved tricky. In the exceptions to freedom of speech and expression, the Indian Constitution included the words 'public order and 'relations with friendly states,' and the word reasonable was inserted before restrictions.' As a result, the word inserted by the first amendment cannot be used to justify existing sedition statutes because the government at the time did not want to invalidate them. The existence of sedition laws allowed for their abuse during the post-independence period. There were numerous cases of this. Section 124A of the Indian Penal Code at one point was unconstitutional & then later declared constitutional at another.

#### **4.3 Sedition & its conviction rate from 2017 to 2020**

According to the National Crime Records Bureau (NCRB), sedition cases in India continue to rise.

#### **2020**

In the year 2020, India has 42, 54,356 out of which the total number of sedition cases is 73.

(Bureau N. C., Crime in India 2020, 2020)

#### **STATES**

<b>Sl. No</b>	<b>States</b>	<b>Crime Incidence</b>	<b>Crime Victims</b>	<b>Crime Rate</b>
1	Andhra Pradesh	0	0	0.0



2	Arunachal Pradesh	1	1	0.1
3	Assam	12	12	0.0
4	Bihar	0	0	0.0
5	Chhattisgarh	0	0	0.0
6	Goa	3	3	0.2
7	Gujarat	1	1	0.0
8	Haryana	6	6	0.0
9	Himachal Pradesh	2	2	0.0
10	Jharkhand	0	0	0.0
11	Karnataka	8	9	0.0
12	Kerala	0	0	0.0
13	Madhya Pradesh	0	0	0.0
14	Maharashtra	0	0	0.0
15	Manipur	15	15	0.5
16	Meghalaya	0	0	0.0
17	Mizoram	0	0	0.0
18	Nagaland	2	2	0.1
19	Odisha	0	0	0.0
20	Punjab	0	0	0.0
21	Rajasthan	4	4	0.0
22	Sikkim	0	0	0.0
23	Tamil Nadu	0	0	0.0
24	Telangana	2	2	0.0

25	Tripura	1	1	0.0
26	Uttar Pradesh	7	7	0.0
27	Uttarakhand	0	0	0.0
28	West Bengal	2	2	0.0
	<b>Total State's</b>	<b>66</b>	<b>67</b>	<b>0.0</b>

### UNION TERRITORIES

29	Andaman & Nicobar Islands	0	0	0.0
30	Chandigarh	0	0	0.0
31	Dadra & Nagar Haveli and Daman & Diu	0	0	0.0
32	Delhi	5	5	0.0
33	Jammu & Kashmir	2	2	0.0
34	Ladakh	0	0	0.0
35	Lakshadweep	0	0	0.0
36	Puducherry	0	0	0.0
	<b>Total UT's</b>	<b>7</b>	<b>7</b>	<b>0.0</b>
	<b>TOTAL ALL INDIA</b>	<b>73</b>	<b>74</b>	<b>0.0</b>

When compared to 2019, the number of sedition cases in 2020 decreased. Manipur has the most number of cases under Section 124A of the Indian Penal Code, with 15 cases. Assam is second

with 12 cases, followed by Karnataka with 8 cases and Uttar Pradesh with 7. The number of cases in Karnataka decreased from 22 in 2019 to 8 in 2020. The overall conviction rate of the year is 33.3% with only 6 cases that have completed trials.

## 2019

In the year 2019, India has 32, 25,701 Indian Penal Code offenses out of which total sedition cases are 93. (Bureau N. C., 2019)

## STATES

Sl. No	States	Crime Incidence	Crime Victims	Crime Rate
1	Andhra Pradesh	0	0	0.0
2	Arunachal Pradesh	0	0	0.0
3	Assam	17	17	0.0
4	Bihar	0	0	0.0
5	Chhattisgarh	1	1	0.0
6	Goa	0	0	0.0
7	Gujarat	0	0	0.0
8	Haryana	2	2	0.0
9	Himachal Pradesh	1	1	0.0
10	Jammu & Kashmir	11	11	0.1
11	Jharkhand	3	3	0.0
12	Karnataka	22	23	0.0
13	Kerala	4	4	0.0

14	Madhya Pradesh	1	1	0.0
15	Maharashtra	0	0	0.0
16	Manipur	1	1	0.0
17	Meghalaya	0	0	0.0
18	Mizoram	0	0	0.0
19	Nagaland	8	8	0.4
20	Odisha	2	20	0.0
21	Punjab	0	0	0.0
22	Rajasthan	4	4	0.0
23	Sikkim	0	0	0.0
24	Tamil Nadu	4	4	0.0
25	Telangana	1	1	0.0
26	Tripura	0	0	0.0
27	Uttar Pradesh	10	10	0.0
28	Uttarakhand	0	0	0.0
29	West Bengal	0	0	0.0
	<b>Total State's</b>	<b>92</b>	<b>111</b>	<b>0.0</b>

### UNION TERRITORIES

30	Andaman & Nicobar Islands	0	0	0.0
31	Chandigarh	0	0	0.0

32	Dadra & Nagar Haveli	0	0	0.0
33	Daman & Diu	0	0	0.0
34	Delhi	1	1	0.0
35	Lakshadweep	0	0	0.0
36	Puducherry	0	0	0.0
	<b>Total UT's</b>	<b>1</b>	<b>1</b>	<b>0.0</b>
	<b>TOTAL ALL INDIA</b>	<b>93</b>	<b>112</b>	<b>0.0</b>

In 2019, a total of 93 sedition cases were registered & 96 people were arrested regarding that. The charge sheet was filed against 76 people & 29 were acquitted in the court. Karnataka became top with 22 cases followed by Assam with 17 cases & Jammu and Kashmir with 11. The conviction rate declined to 3.33% this year. Also, just one trial was completed.

## 2018

In the year 2018, India has 31, 32,955 Indian Penal Code offenses out of which total sedition cases are 70. (Bureau N. C., Crime in India 2018, 2018)

## STATES

Sl. No	States	Crime Incident	Crime Victims	Crime Rate
1	Andhra Pradesh	1	1	0.0
2	Arunachal Pradesh	0	0	0.0
3	Assam	17	27	0.0

4	Bihar	0	0	0.0
5	Chhattisgarh	3	3	0.0
6	Goa	0	0	0.0
7	Gujarat	0	0	0.0
8	Haryana	1	1	0.0
9	Himachal Pradesh	0	0	0.0
10	Jammu & Kashmir	12	12	0.1
11	Jharkhand	18	18	0.0
12	Karnataka	2	2	0.0
13	Kerala	9	9	0.0
14	Madhya Pradesh	1	1	0.0
15	Maharashtra	0	0	0.0
16	Manipur	4	4	0.1
17	Meghalaya	0	0	0.0
18	Mizoram	0	0	0.0
19	Nagaland	0	0	0.0
20	Odisha	0	0	0.0
21	Punjab	0	0	0.0
22	Rajasthan	0	0	0.0
23	Sikkim	0	0	0.0
24	Tamil Nadu	1	1	0.0
25	Telangana	0	0	0.0
26	Tripura	0	0	0.0

27	Uttar Pradesh	0	0	0.0
28	Uttarakhand	0	0	0.0
29	West Bengal	0	0	0.0
	<b>Total State's</b>	<b>69</b>	<b>79</b>	<b>0.0</b>

### UNION TERRITORIES

30	Andaman & Nicobar Islands	0	0	0.0
31	Chandigarh	0	0	0.0
32	Dadra & Nagar Haveli	0	0	0.0
33	Daman & Diu	0	0	0.0
34	Delhi	1	1	0.0
35	Lakshadweep	0	0	0.0
36	Puducherry	0	0	0.0
	Total UT's	1	1	0.0
	<b>TOTAL ALL INDIA</b>	<b>70</b>	<b>80</b>	<b>0.0</b>

In 2018, a total of 70 sedition cases were registered & 56 people were arrested regarding that.

The charge sheet was filed against 46 people & 29 were acquitted in the court. Jharkhand

became top with 18 cases followed by Assam with 17 cases & Jammu and Kashmir with 12. The

conviction rate of the year is 15.40%. Also, the trail of 13 cases has been completed.

**2017**

In 2017, there were 24 cases of imputation and claims harmful to national cohesion, compared to 51 cases of sedition in 2016. 18 cases were reported under the Official Secrets Act, while 901 cases were registered under the Unlawful Activities (Prevention) Act. In 2017, India's police investigated 16,170 charges of crimes against the state, with 7,154 of those cases lingering since 2016. From the preceding years, 105 cases of sedition and 3,550 cases recorded under the UAPA were pending investigation. Similarly in 2017, four people were arrested and seven acquitted under 124A while 39 were convicted, two discharged and 42 acquitted under the UAPA.

Sedition cases in India are rising but the conviction rate remains low. Even the acquittal rate is also high. As many as 10,938 Indians were accused of sedition over the last decade, of which 65% were implicated after May 2014 when the Modi government came to power. In most cases, the charges have not even withstood a court trial. Between 2016–19, a total of 55,870 people were arrested under sedition and more than 40,000 were charged-sheeted. However, only 6511 were convicted which is about 11.6%. The low rate of conviction suggests that in most cases the sedition charge could not be proved.

#### **4.4 Journalists & sedition law**

The sedition law has been used to silence journalists on several occasions in the past & in recent times also. (Patil, 2021)

##### **Queen-Empress v. Jogendra Chunder Bose & Ors. (1892)**

Jogendra Chunder Bose, the editor of *Bangobasi*, a Bengali journal, was prosecuted with sedition for criticizing the British government's policies, including the Age of Consent Bill of 1891. According to the publisher, the sedition legislation exclusively punishes people who write seditious articles, not those who publish them. He further argued that the sedition law is



unconstitutional since it contradicts the law's original objective. The publisher was declared accountable by the Calcutta High Court because the magazine was circulated to be read by the public.

### **Mrs. Annie Besant v. the Advocate General Of Madras (1919)**

The lawsuit concerned Section 4(1) of the Indian Press Act, 1910, which is identical to Section 124A in structure. Several pieces criticizing the government's conduct and policies were published in *New India*, Annie Besant's printing press. The Governor-in-Council of Bombay issued an order barring Annie Besant from entering the Province of Bombay and an order for forfeiture of all copies of *New India* and Annie Besant's deposit belonging to the printing press, citing these articles as exceptions. The order was contested by Annie Besant, but the Madras High Court dismissed the case and the privy council maintained it.

### **Emperor v. Bal Gangadhar Tilak (1917)**

Bal Gangadhar Tilak was tried for sedition once more in this case. It was claimed that Tilak's remarks were seditious. The address was delivered in Marathi, and the respondent claims that the meaning of the speech was lost in translation. The proposed speech was peaceful and meant to influence government policy through legal means. It was also claimed that Tilak was criticizing the civil services rather than the British government. The Bombay High Court dismissed this argument, ruling that the civil services were empowered by the state. The HC, on the other hand, took a more liberal view on the term "disaffection," holding that it does not just refer to "lack of affection," as a narrower meaning would suggest.

### **Queen-Empress v. Bal Gangadhar Tilak & Keshav Mahadev Bal (1897)**

Tilak wrote two papers on the matter, titled ‘Shivaji’s Utterances.’ At the Shivaji festival, Tilak and C.G. Bhanu, a well-known Pune intellectual, discussed this article. The Bombay government alleged that the speech incited discontent, which resulted in the deaths of two British officials. The Bombay High Court stated that the case is unrelated to the question of whether these writings may be considered encouraging discontent against the government. As a result, the interpretation of the legislative text was reduced to “incitation of feelings of “disaffection.” However, after reading the paper, it was discovered that it illuminated Tilak’s political beliefs as a member of the radical liberalism movement. The High Court accepted the term of “disaffection” proposed in the Jogendra Chunder Bose case and ruled that having negative feelings toward the government is illegal. They further stated that whether or not there were any consequences is irrelevant. The offender's intent is the most important factor in determining whether or not they are guilty of sedition.

#### **4.5 Sedition law, as an oppressive tool**

*“In order to keep a society stable, citizens’ voices should not be suppressed”*

Adv Ajay, National Investigating agency

Even though Section 124A covers sedition, it is not fully defined. Whatever undermines Indian sovereignty is considered sedition, whether it be statements against India or the President of India. Preventative detention legislation also exists, which states that anyone who has a risk of committing a crime will be punished. This was introduced in India during colonial control, and it is still the only country that has it. This act has been repealed in all other countries because it is unlawful. Even though India is a democratic country, if the ruling government has a monarchical tendency, sedition law is the most straightforward approach to suppress the population.

Writers like M M Kalburgi, Govind Pansare, and comedian Umar Faruk have all been charged with sedition for allegedly hurting national sensibilities in some way. Our country, India, strives for unity and diversity, however, there are times when we are unsure how to express how one's nation's feelings are hurt. So, anything that calls into doubt Indian sovereignty might be classified as sedition. As a result, sedition has become a simple tool to oppress people, given that the definition of sedition changes per government. With the Modi regime, the number of sedition prosecutions rose exponentially. Sedition law is not clearly defined and is ambiguous as well.

The current cases in the country show that the sedition statute has been applied in a variety of ways to restrict freedom of speech and expression. All cultural, religious, political, and national barriers are crossed by these prohibitions. It is critical to recognise that the government is a component of the state or nation, not the state itself. As a democratic country, India must now overcome its narrow approach of not tolerating healthy criticism, and it is now the order of the day for the legislature and courts to propose fresh reforms that either repeal or amend the legislation so that it is no longer arbitrary.

#### **4.6 Sedition law; is a privilege for politicians and a curse to free speech and the right to dissent**

*“Power cannot be used to prevent facts from being established”*

Sanaja Sajeev, Law Student

The sedition laws refer to Sections 124A, 153A, and 505 of the Indian Penal Code, which have been abused to silence opponents in order to satisfy the governing classes' vested personal interests. Due to the expanding state's interference in residents' privacy, an aura of terror looms big over the expression of free flow of thoughts and information. Seditious expressions ranged

from just displaying posters to posting on social media, raising slogans, and private communication. The escalating abuse of sedition laws by governments of all stripes (including opposition-ruled states) is a serious problem. Sedition laws and their widespread misuse strike at the very heart of fundamental liberties established in the Indian Constitution. The judiciary must review this terrible law as soon as possible. Even though repealing the law is unlikely, toning it down and setting rigorous restrictions to limit its indiscriminate use can assist India's democratic status while still protecting freedom of expression. Article 19(1) (a) of the Constitution guarantees freedom of speech and expression as a basic right in our country. However, the existence of Section 124A of the IPC, a colonial remnant, has hampered the exercise of this right, and administrations have used sedition to suppress and quash political dissent. Because it does not explicitly indicate which acts are seditious and provides a broad description of what can be regarded as seditious, the police can utilize sedition law to wrongly accuse persons due to its inadequate definition. Aysha Sultana, a Lakshadweep filmmaker, was prosecuted with sedition after claiming that the federal government used Covid 19 as a bioweapon against the islanders. The case against Aisha was started after a BJP worker made a formal complaint. In her motion to dismiss the case, she claimed that she did not want to insult anyone when she made the statement. The term 'bioweapon' was used in a figurative sense solely and was intended to be a critique of the administrative action. Therefore, sedition law becomes a privilege for politicians and a curse to free speech and the right to dissent.

#### **4.7 Sedition law; should the Supreme Court strike down sedition law entirely/not**

*“Any law that is not in the best interests of citizens is invalid”*

Adv Blaise Joseph, High court of Kerala

No, but the Supreme Court should maintain a close eye on how the Indian justice system handles the Sedition law because any law should be for the people's advantage. Any law that is not in the best interests of citizens is invalid. So, there is no reason to repeal the sedition legislation because India is surrounded by foreign countries such as Pakistan and China, making infiltrations inevitable. Rather than repealing the law, a committee should be established and the victim should be allowed to be heard before being arrested without a warrant.

#### **4.8 The need for the 'colonial law' of sedition even after 75 years of Independence**

*“Sedition should have adequate check and balance since the aim of an Indian citizen is to protect nations sovereignty”*

Ambareesh T S, Research Scholar, Department of politics, Pondicherry University

India, like many other countries, was a British colony. First and foremost, India is a democratic country, but China and Pakistan are not, hence a Sedition Law are unnecessary. They are quasi-federal in the United Kingdom and the United States, and their neighbors pose no threat. As a result, most developed countries are not at risk of infiltration. As Indian citizens, our fundamental goal is to protect the nation's sovereignty because that is what nationalism is all about. I don't mind if you don't love your country, but you can't do something that is against it, hence Sedition legislation should be in place as long as adequate checks and balances are in place.

#### **4.9 Sedition Act & its effect on journalists**

*“Press freedom should be strictly enforced, and journalists should be protected from being victims since they do their job properly”.*

Sethulakshmi, Journalist, Deccan Herald

Regarding sedition laws and journalists, they frequently find themselves in situations where they are unable to adequately report. Because the press is the fourth pillar of democracy after the judiciary, executive, and legislative, it is supposed to have the same level of freedom as the other three. On the other hand, politicians control the press; for example, Kerala Janam TV, Kairali TV, and Manorama News are all owned by political parties rather than having press freedom. The press should be given complete independence and not controlled by anyone. Even if the sedition legislation has no adverse effect on the press, there are hundreds of other factors that do. There may be some journalists that adhere to ethical standards and are frightened of sedition to publish the facts, but this is rare in our society. Press freedom should be granted as long as it does not represent any particular group's ideology. Sedition charges Vinod Dua the journalist of NDTV for criticizing the government's response to Covid 19 & 22-year-old Disha Ravi in the Greta Thunberg toolkit case for tweeting in support of India's farmer revolt have raised many doubts about the country's freedom of speech and expression. The censorship of journalists under the sedition law influences democracy. Because the government can disregard its critics and prosecute them with sedition, the sedition laws diminish government accountability.

#### **4.10 Course corrections that can be made to the Sedition Law, to make it more favourable to the citizens**

*“An advisory committee should be formed & also Sedition law should be revised”*

Adv Akhil Raj B, High Court of Kerala

The individual charged with sedition is unaware of the charge; they are detained without a warrant and are not given the opportunity to defend themselves. This needs to change, because most of the victims are wasting their time in jail as under-trial prisoners, which is a huge loss for them. Since the conviction rate expressly shows that the majority of the victims are exonerated, it is becoming highly meaningless for them to stay in prison for not having committed a crime. As a result, the trial process should be accelerated, and the court should offer adequate compensation for the time spent in custody.

The Supreme Court should form an advisory committee that includes a retired Supreme Court judge, two or three High Court judges, political executives, and ministers from various religions, as India is a country where all religions are treated equally and our constitution states that we have the right to secularism. There should also be an advocate, then heads from the Human Welfare Commission, Women’s Commission, and representatives from the backward community. Because the courts are overburdened, these advisory groups should focus on sedition legislation, and victims should be provided with a lawyer as a basic right.

## Chapter 5

### CONCLUSION

A democracy's ability to change with the times and remain a dynamic reflection of global humanitarian issues is what defines it. Anyone who speaks out against the government might be punished with sedition under current law. Arundhati Roy was prosecuted with sedition for making speeches that did not result in any violence. Aseem Trivedi, a political cartoonist, was detained on sedition charges over a drawing that was once again blamed on violence. India cannot afford to be considered a regressive country, and its recent actions toward its population have drawn international condemnation. India may improve the public impression of itself by adopting the proper approach to sedition legislation.

The remedy is simple: existing laws should be rewritten to reduce the scope of what constitutes a crime, and a commission should be established to study the path to absolute abolition. Even in a contemporary democracy like India, change is slow, but it is unavoidable, and we must prepare for the future.

#### 5.1 Findings

- The judiciary should seek to rethink this statute, mitigate its impacts, and properly define it so that it does not vary according to each government. Even persons who make constructive criticism face persecution due to sedition.
- To make the trial process easier and to ensure proper victim justice, the Supreme Court should organize an advisory council that comprises respected chairs from essential professions.



- The victim should be given a chance to be heard, they should not be arrested without a warrant.
- The case study clearly demonstrates that even when the number of charge sheets submitted is considerable, the conviction rate is still too low. As a result, the majority of the victims accused of being the perpetrator spend a long time as under-trial inmates before being released once the court determines that they have not committed any seditious acts. As a result, the court should either award that person just compensation or order a trial as soon as possible.
- There is no need of repealing the sedition law since India has alien countries and infiltration is always expected.
- Sedition should have adequate check and balance since the aim of an Indian citizen is to protect the nation's sovereignty

## **5.2 Limitations of the study**

- The major limitation of the study is the lack of data availability. Even in the report of the National Crime Records Bureau, the Sedition crimes are specifically reported from the year 2018.
- The analysis of the methodology has its own limitations. Since this study follows a qualitative research design the findings will be limited to their perspectives and ideologies. Also, no theories have been used in the study.

## **5.3 Recommendations for the future study**

- Continued examination and study of the recent updates of Sedition with more samples on board will help to find solutions to the problems faced. This study can be used for future studies as well.

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## Appendix

1. How sedition law is used as an oppressive tool?
2. Has Indian sedition law become a privilege for politicians and curse to free speech & right to dissent? Why?
3. Should Supreme Court strike down Sedition law entirely? Why?
4. Why do you think we need the 'colonial law' of sedition even after 75 years of Independence?
5. Do you believe that the Sedition act affects journalists in such a way that they are unable to do their jobs properly?
6. According to you what are all the course corrections that can be made to the Sedition law, to make it more favourable to the citizens?