

## **Law of Sediton: A Tool to Suppress Dissent**

*Ritick Kumar, Panjab University, Chandigarh*

### **Abstract:**

Recently, the Uttarakhand High Court held that “dissent suppressed under sedition laws would make democracy weak”<sup>1</sup>. The court also added that “criticizing the government can never be sedition. Unless the public functionaries are criticized, democracy cannot be strengthened.”<sup>2</sup> This case has created a new controversy in the Indian Constitutional Jurisprudence. Before that, the protests against the Citizenship Amendment Act<sup>3</sup> and its consequences in the country had also reignited the debate around India’s sedition law.

### **Introduction:**

Right from the 20th century to the present day, India has seen drastic changes from the period of colonialism. Indian legislatures are making immense progress. Almost all Indian laws can be traced back to the British period, many of which were formulated for the oppression of the Indians. Unfortunately, they have been retained till now. One of those laws is sedition law. It is a useful tool in the hands of the administrator to shut down a particular dissenter. The provision was made before India got independence because the colonial rulers wished to penalize anybody who was trying to overthrow the state. But the irony is that this provision is still being used to bully and suppress the voice of citizens in the largest ‘democracy’ of the world. A new term, ‘anti-national’, has now emerged for the people who dissent. It is to be understood that dissent over some issues is not sedition. Opposing government or any other authority is not sedition.

### **History:**

The foremost thing that one must keep in mind is that the law of sedition was introduced when we were ruled by a foreign imperialist power. Section 124-A contains the offense of sedition under the Indian Penal Code; it was a law similar to treason in England. However, when the IPC came into existence in 1860, the sedition law was not a part of the Code even though it was a part of the original draft in 1837. There have been many reasons for such

---

<sup>1</sup>Umesh Kumar Sharma v. State of Uttarakhand and Another, 2020 SCC Online SC 845

<sup>2</sup> Ibid.

<sup>3</sup>*Hereinafter* referred to as CAA.

omissions. Some of the British drafters even termed it as an ‘honest mistake’. However, the law was eventually inserted into the code in 1870. The law was used to curb dissent and liberal views in the face of nationalism. The punishment for the offense is severe, as the offense is cognizable, non-bailable and non-compoundable. The journey of imposing this section to curb the voice started when Bal Gangadhar Tilak was sentenced to imprisonment<sup>4</sup> and is still going on till this date. In the post-independence period, its constitutionality was challenged several times.

One cannot say that no initiative was taken to end this law. In *Tara Singh v. State of Punjab*<sup>5</sup>, the court struck down section 124A as unconstitutional. The court held that when someone propagated the belief that the government wanted to ruin them, it is not sedition; but merely a critique of the government's adoptive measures. It is also not sedition to criticize the administration or the officers of the government. However, where an individual exceeds the limits of fair criticism, it amounts to sedition.

### **Sedition and Freedom of Speech and Expression:**

The Right to Freedom of Speech and Expression is a basic fundamental right that forms the bedrock of any state that claims to be democratic, but it is not an absolute right. Giving voice to the importance of freedom of speech, many scholars advocated for the free flow of ideas and expression in a society. Many argued that for the stability of the society, one must not suppress the voice of the citizens, how so ever contrary it might be. Freedom of speech makes a democracy vibrant. The laws and subjects like political science, anthropology, etc. clarify the distinction between the states and the government. It is an inevitable fact that the state is permanent and sovereign, but the government is neither permanent nor superior. Thus, the government may go on changing while the state would exist permanently. Therefore, to oppose a government through protests, strikes and campaigns to make people rebel by legitimate means is a right of a people in a democracy and it cannot be framed as sedition.

In *Ram Nandan v. State of U.P.*, the Allahabad High Court held that Section 124A restricted freedom of speech and expression is not in the interest of the general public and declares Section 124A as ultra vires the constitution<sup>6</sup>.

But overruling this decision, the Supreme Court held Section 124A<sup>7</sup> intra vires<sup>8</sup>. It is to be understood that the offenders who are charged with this offense are often termed as ‘traitors’

---

<sup>4</sup> Queen-Empress v. Bal Gangadhar Tilak, ILR (1898) 22 Bom 112.

<sup>5</sup> Tara Singh Gopi Chand v. The State of Punjab, 1951 Cri Lj 449.

<sup>6</sup> Ram Nandan v. State of U.P., AIR 1959 Alld. 101.

even before their guilt is proved, and then they are forced to live a treacherous life. They are often seen as the enemy of the country. The Law Commission of India also recommended in its consultation paper on sedition that it should be scrapped. Thus, we can say that sedition law has become vague, obsolete, and an urgent introspection of the IPC is needed.

**Conclusion:**

From the present instances, we can say that in the country, the sedition law has been used in numerous ways to restrict the freedom of speech and expression. These restrictions cross all cultural, religious, political, and national boundaries. It should be clearly understood that the government is a part of the state or nation, not the state itself. Therefore, disaffection towards the government does not mean disaffection towards the state. If this provision remains, the government someday may choke down the voice of dissenters by charging sedition against them. Every individual in a democracy has the right to freedom of speech and expression and has the right to criticize government policies and laws. Hence, they should not be treated as ‘anti-national’ or ‘traitors’. Criticism is the basic foundation of democracy and hence should not be curbed so that there is the smooth functioning of democracy.

India today, as a democratic state, needs to overthrow this narrow approach of not tolerating healthy criticism also and it is now the order of the day that legislature and judiciary should come up with newer reforms that either scrap off the law or amend it in such a way that it is no more arbitrary.

---

<sup>7</sup> Indian Penal Code, 1860 Act No.45 of 1860.

<sup>8</sup>Kedarnath Das v. State of Bihar, AIR 1962 SC 955.