

Sedition charges

March 26, 2020

Source: *The Hindu*

Manifest pedagogy: Sedition has been a recurrent theme in Indian Politics in the recent years. The provisions of sedition and the cases associated with it along with its misuse.

In news: Sedition charge was slapped on a student who raised a pro-Pakistan slogan at an event in Bangalore.

Placing it in syllabus: Sedition (explicitly mentioned)

Static dimensions:

- What is Sedition and Section 124A
- Use and misuse of the section

Current dimensions:

- Present case
- Supreme Court judgements on the section

Content:

What is Sedition and history of Section 124A:

- The Indian Penal Code (IPC) defines **Sedition (Section 124A)** as an offence committed when *“any person 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”*.
- Disaffection includes disloyalty and all feelings of enmity.
- However, **comments without exciting or attempting to excite hatred**, contempt or disaffection, will **not**

constitute an offence.

- Sedition is a **non-bailable offence.**
- Punishment under Section 124A ranges from **imprisonment up to three years to a life term** with/without fine.

History of sedition law in India:

- The law was originally **drafted in 1837 by Thomas Macaulay**, a British historian-politician.
- However it was **omitted when the IPC was enacted in 1860.**
- Section 124A was **inserted in 1870 by an amendment introduced by Sir James Stephen** when it felt the need for a specific section to deal with any voices of dissent at that time.

Use and misuse of the section:

Utility of Section 124A:

- Section 124A is needed in **combating anti-national, secessionist and terrorist elements.**
- It **protects the elected government** from attempts to be overthrown with violence and illegal means.
- Many districts in different states are affected by **Maoist insurgency** and rebel groups virtually run a **parallel administration.** These groups openly advocate the overthrow of the state government by revolution. Hence the abolition of Section 124A would be ill-advised.

Arguments against Section 124A:

- Section 124A is a **remnant of colonial legacy** and unsuited in a democracy.
- It is a **constraint** on the legitimate exercise of constitutionally guaranteed freedom of speech and expression.
- **Dissent and criticism of the government are essential ingredients** of robust public debate in a vibrant

democracy and they should not be constructed as sedition.

- The **terms used under Section 124A like 'disaffection' are vague** and subject to different interpretation to the whims and fancies of the investigating officers.
- **IPC and Unlawful Activities Prevention Act** which have provisions that penalize "disrupting the public order" or "overthrowing the government with violence and illegal means" are sufficient for protecting the national integrity.
- The sedition law is being **misused as a tool to persecute political dissent.**

As per **NCRB data for 2014-2016**, a total of 179 arrests were done on sedition charges. However, no charge sheets were filed by the police in over 70% of the cases and only two convictions were done during this time period.

Present case:

A student-activist, who was allowed to talk on stage, in a protest against the Citizenship (Amendment) Act (CAA), organised in Bengaluru, with All India Majlis-e- Ittehadul Muslimeen (AIMIM) chief Asaduddin Owaisi as chief guest, raised **pro-Pakistan slogans.**

The college student, identified as **Amulya Leona, has been charged with sedition**, provoking enmity between groups, and intentional insult to provoke breach of peace.

The organisers of the protest claimed that they had not invited the "activist" and such statements were "a deliberate attempt to drive a wedge between Hindus and Muslims".

Supreme Court judgements on the sedition:

Supreme Court (SC) in the **Kedar Nath Singh vs State of Bihar case (1962)**, had ruled that comments, however strongly worded, *expressing disapprobation of the actions of the government*

without causing public disorder by acts of violence would not be penal.

The court **held that** *“a citizen has a right to say or write whatever he likes about the Government, or its measures, by way of criticism or comment, so long as he does not incite people to violence against the Government established by law or with the intention of creating public disorder”.*

However, the **judgment did not provide guidelines for pre-arrest requirements and compliances**. Any person arrested for sedition will have to obtain bail, attend proceedings, make herself present for investigation before the charge-sheet is filed or until the case is closed.

In the **Balwant Singh vs State of Punjab (1995) case**, the SC had clarified that merely shouting slogans (in that case Khalistan Zindabad), does not amount to sedition.

In **September 2016**, the Supreme Court had reiterated the necessary safeguards and held that they should be followed by all authorities.

In **August 2018**, the **Law Commission of India published a consultation paper** recommending that it was time to re-think or repeal the Section 124A of the IPC.

Moreover, India has ratified the **International Covenant on Civil and Political Rights (ICCPR)**, which sets forth internationally recognized standards for the protection of freedom of expression. Hence, misuse of sedition and arbitrary slapping of charges are inconsistent with India's international commitments.