

“Sedition Laws and Freedom of Expression in India: A Legal and Societal Perspective”

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Abstract:

Sedition laws in India, enshrined in Section 124A of the Indian Penal Code (IPC), have been a contentious issue ever since their inception during British colonial rule. This paper aims to explore the intersection of sedition laws with freedom of expression, with a particular focus on the legal and societal implications of these laws in contemporary India. It delves into the historical context of sedition, judicial interpretations, the rise of political dissent, and the challenges posed by the digital age. By critically examining the use of sedition laws in various political and social contexts, the paper also proposes the necessity of reform in these laws to safeguard democratic values and individual freedoms.

1. Introduction

The offense of sedition has been a subject of heated debate in India, especially in the post-independence era. Section 124A of the Indian Penal Code (IPC), which criminalizes sedition, was originally intended to suppress anti-colonial sentiments during British rule. However, the law has continued to be applied in independent India, where it has become a tool for both national security and political control. The law criminalizes speech or actions that are deemed to bring hatred or contempt against the government, often leading to its misuse. The Indian Constitution guarantees freedom of speech and expression under Article 19(1)(a), but the sedition law operates as an exception under Article 19(2), curtailing these freedoms when national security is at stake.

This paper seeks to explore how the interpretation and application of sedition laws have evolved in India, its impact on freedom of expression, and whether there is a need for legal reforms to better align it with modern democratic principles.

2. Historical Context of Sedition Laws in India

The origins of sedition laws in India can be traced to the British colonial period. The British government introduced Section 124A of the IPC in 1870 to curb the rising tide of political dissent and nationalist movements, particularly during the Indian independence struggle. The most prominent example of its use was the prosecution of Indian leaders such as Bal Gangadhar Tilak, who was sentenced to prison for publishing articles promoting Indian independence.

Even after independence, the sedition law remained in force, despite debates during the framing of the Indian Constitution about its potential misuse. Jawaharlal Nehru, India's first Prime Minister, expressed concerns over the law's potential to be used against political opponents. However, the framers of the Constitution decided to retain the sedition law, with the provision that it could be justified under the grounds of national security and public order.

The law's continued application in independent India has been a subject of intense scrutiny. Critics argue that sedition laws are a legacy of colonial rule and do not align with the democratic ideals enshrined in the Indian Constitution.

3. Legal Framework and Judicial Interpretations

The legal foundation of sedition in India is based on Section 152 of the BNS which states:

"Whoever by words, either spoken or written, or by signs or by visible representations, or otherwise, excites or attempts to excite feelings of hatred, contempt, or disaffection towards the government shall be punished with imprisonment for life or for a term which may extend to three years, and shall also be liable to a fine."

Over the years, various judicial interpretations have shaped the scope and limits of sedition laws in India. The landmark case of **Kedar Nath Singh v. State of Bihar (1962)** provided a critical interpretation of the sedition law. The Supreme Court ruled that sedition could only be invoked if the speech or action in question directly incited violence or public disorder. The court emphasized that mere criticism of the government or its policies does not amount to sedition.

Historical Context and Colonial Roots

The sedition law was first introduced by the British during the colonial period to suppress the rising nationalist sentiments and movements against British rule. The most famous application of the sedition law during this period was in the trial of **Bal Gangadhar Tilak** in 1897, who was charged with sedition for his writings and speeches that criticized British rule.

Post-independence, the sedition law was retained, albeit with the aim of maintaining law and order. However, critics argue that the law has often been used to curb dissent and political opposition, undermining the freedom of speech guaranteed under **Article 19(1)(a)** of the Indian Constitution.

Constitutional Framework

The **Indian Constitution** guarantees the right to freedom of speech and expression under **Article 19(1)(a)**. However, this right is not absolute, and it is subject to reasonable restrictions under **Article 19(2)**, which allows for limitations on speech if it conflicts with national security, public order, decency, or morality. Sedition is one such restriction, often invoked under the premise of safeguarding the state from disaffection, hatred, or public disorder.

Despite the constitutional safeguard of freedom of expression, sedition laws have been controversial due to their potential to stifle legitimate political dissent. Over the years, numerous **public interest litigations (PILs)** have questioned the validity and scope of Section 124A, asserting that it is incompatible with the democratic fabric of India.

Judicial Interpretations and Landmark Rulings

One of the most significant judicial interpretations of sedition law came in **Kedar Nath Singh v. State of Bihar (1962)**. In this landmark case, the **Supreme Court of India** upheld the constitutionality of Section 124A but introduced a critical qualification: sedition could only be charged if the speech or action directly incited violence or public disorder. The Court made it clear that criticism of the government, even if strong or vehement, would not automatically constitute sedition.

The **Kedar Nath Singh case** established the key principle that merely criticizing the government, its policies, or its officials does not amount to sedition unless it leads to an incitement to violence or disrupts public order. This ruling was important in setting the parameters for the application of sedition laws, yet the law's broad and vague wording has allowed for its misuse in politically sensitive cases.

Despite this limitation, the application of sedition laws has remained controversial, particularly in instances where individuals are charged for exercising their right to freedom of expression in peaceful protest, media coverage, or academic discourse.

Sedition and National Security

The sedition law has often been justified by the state on the grounds of **national security**. Governments argue that sedition laws are necessary to prevent actions or speech that could threaten the sovereignty and integrity of the nation. In practice, however, this justification has been used to curb political dissent, suppress movements advocating for democratic or social justice causes, and target activists and journalists.

The **national security argument** has been invoked in several high-profile cases, such as the arrest of political activists, students, and journalists for allegedly promoting anti-national activities or provoking violence, even in cases where the actions were peaceful protests, political speech, or critiques of government policies.

Criticism and Calls for Reform

Sedition laws in India have been widely criticized for their potential to stifle free expression and suppress political dissent. Several political leaders, civil society organizations, and legal experts have called for the repeal of BNS 152 due to its misuse and its chilling effect on public debate.

Some of the common criticisms of sedition laws include:

1. **Vague Definitions:** The terms “hatred,” “contempt,” and “disaffection” are not clearly defined, leading to subjective interpretations by authorities.
2. **Misuse for Political Gain:** Sedition charges are often leveled against critics of the government, journalists, and activists, undermining democratic values.
3. **Chilling Effect:** The fear of being charged with sedition has deterred individuals from expressing dissent, especially in the realms of politics, academia, and media.
4. **Conflict with Fundamental Rights:** Critics argue that sedition laws clash with the right to freedom of speech and expression guaranteed by the Constitution, and they undermine India’s democratic principles.

However, the court's ruling also left room for a broad interpretation of the law, especially in cases where speech or actions are seen as potentially undermining national security. In practice, this has led to a pattern of overuse and misapplication of sedition charges, particularly in politically sensitive contexts.

Recent cases, such as those involving the students of JNU (Jawaharlal Nehru University) and political activists, illustrate the ongoing tension between the sedition law and the right to freedom of speech. For instance, in 2016, Kanhaiya Kumar, a student leader at JNU, was arrested

on charges of sedition for allegedly shouting anti-national slogans, though the evidence was inconclusive.

1. Kanhaiya Kumar (2016) – Jawaharlal Nehru University (JNU)

In 2016, Kanhaiya Kumar, a student leader at JNU, was arrested on charges of sedition for allegedly raising anti-national slogans during a protest at the university campus. The protest was against the hanging of Afzal Guru, convicted for his involvement in the 2001 Parliament attack. The charges were based on the claim that Kumar's actions incited anti-government sentiment. However, the evidence was inconclusive, and his supporters argued that the slogans were political expressions rather than acts of sedition. Following protests across the country, Kumar was granted bail, and the charges were not substantiated in court. The case highlighted how sedition laws can be misused to suppress political dissent and stifle free expression in academic environments.

2. Umar Khalid and Anirban Bhattacharya (2016)

Alongside Kanhaiya Kumar, two other JNU students, Umar Khalid and Anirban Bhattacharya, faced sedition charges for their involvement in the same 2016 protest at JNU. The three were accused of organizing an event in which anti-national slogans were allegedly raised. However, the students argued that their actions were directed against the state's policies, not the state itself. In a politically charged atmosphere, their arrests were widely perceived as an effort to stifle political voices critical of the government. Like Kumar, Khalid and Bhattacharya were eventually granted bail, and the sedition charges were later questioned, demonstrating the potential abuse of sedition laws to suppress academic freedom and political expression.

3. Sedition Charges against Journalists (2020) – The Wire Case

In 2020, journalists from *The Wire*, an independent online news portal, were charged with sedition for reporting critically on the government's handling of the COVID-19 pandemic. The articles that were published criticized the government's response to migrant workers and lockdown measures, which were seen as causing massive hardship. The sedition charges against these journalists indicated an increasing tendency to use such laws against the media, particularly when the reporting is critical of the government. Although the charges were dropped after public outcry, the case highlighted the worrying trend of using sedition as a tool to silence critical journalism, raising concerns about press freedom in India.

4. Bhim Army Chief Chandrashekhar Azad (2017)

Chandrashekhar Azad, the leader of the Bhim Army, was charged with sedition after delivering a speech at a rally in 2017, allegedly inciting violence and challenging the political status quo. Azad's speech was seen by authorities as a threat to national security, particularly because it criticized caste-based inequality and political hegemony. However, his supporters argued that the sedition charges were politically motivated, aimed at suppressing the voice of marginalized communities. After being arrested and later granted bail, the case became a symbol of how sedition laws can be misused to target leaders who challenge the established political order, especially from marginalized social groups.

5. Shubhranshu Choudhary (2020)

In 2020, journalist Shubhranshu Choudhary was charged with sedition for his coverage of the anti-CAA (Citizenship Amendment Act) protests in Madhya Pradesh. His reporting on the violent clashes between police and protesters was framed by authorities as spreading anti-government sentiments. This case highlighted the increasing criminalization of journalistic work, especially when it involves covering protests or state violence. Although the sedition charge was not upheld, the case drew attention to the broader issue of how sedition laws are being used to intimidate journalists and restrict independent media in India, thus undermining democratic discourse.

6. Disha Ravi (2021)

Disha Ravi, a climate activist, was arrested in February 2021 and charged with sedition for allegedly creating and sharing a “toolkit” that was believed to support the farmers' protests against controversial agricultural laws. Authorities claimed the toolkit incited violence during the protests. However, Ravi's supporters contended that the toolkit was simply a document outlining the protest's peaceful objectives and strategies. The sedition charges against her were widely condemned by activists, who argued that the case was an attempt to criminalize dissent and suppress the voices of young activists. Ravi was granted bail, but the case remained a clear example of how sedition laws can be used to target peaceful activism.

7. Faizan Khan (2019)

Faizan Khan, a young man from Uttar Pradesh, was charged with sedition for allegedly posting anti-government content on social media in 2019. His post criticized the government's handling of certain issues and was deemed by the police to be an incitement to violence. Faizan's arrest brought to light the growing trend of using sedition laws to target individuals for their online

activities, raising concerns about the right to free expression on digital platforms. The charges against him were eventually dropped due to a lack of evidence linking his posts to actual incitement of violence. This case underscored the challenges posed by sedition laws in the digital age, where political expression on social media is increasingly subject to legal scrutiny.

8. Prashant Kanojia (2019)

Prashant Kanojia, a journalist, was arrested for sharing a tweet that allegedly defamed the Uttar Pradesh Chief Minister, Yogi Adityanath, in 2019. The tweet, which was critical of the state's handling of certain issues, was considered seditious by the authorities, and Kanojia was charged under Section 124A of the IPC. The sedition charge against Kanojia, widely criticized as an attack on free speech, was perceived as an attempt to silence dissent against the government. He was granted bail, but the case raised serious questions about the use of sedition laws to intimidate journalists and suppress critical commentary, especially in the realm of social media.

9. 2020 Farmers' Protest (Multiple Arrests)

During the 2020 farmers' protests against the government's agricultural reforms, several activists, social media influencers, and leaders were charged with sedition for allegedly inciting violence and promoting unrest. Authorities accused the protesters of being influenced by foreign forces and accused them of disrupting public order. The sedition charges were levied on several individuals who had a prominent presence during the protests, including farmers' union leaders and influencers on social media platforms. However, these charges were met with widespread criticism, with experts arguing that peaceful protests should not be criminalized under sedition laws. The cases remain unresolved, but they underscore how sedition laws are increasingly used to target peaceful demonstrations and dissent, particularly when they challenge government policies.

10. Alt News Co-Founder Zubair (2022)

Zubair, the co-founder of the fact-checking website *Alt News*, faced sedition charges in 2022 for a post that allegedly stoked religious tensions in India. Zubair's post was considered by authorities as spreading disaffection towards the government and fostering communal discord. The case raised alarms about the use of sedition laws to target fact-checkers and journalists who challenge government narratives. Zubair was granted bail, but the case highlighted the potential for sedition charges to be used as a tool of political and ideological control, particularly in the context of media and online platforms where diverse opinions are expressed. The growing use of sedition charges against media personnel signals an alarming trend for press freedom in India.

4. Sedition Laws and the Suppression of Political Dissent

One of the most controversial aspects of sedition laws in India is their potential to suppress political dissent. In a democratic society, freedom of expression is a cornerstone, and sedition laws, when misused, can stifle this fundamental right. Several high-profile cases have demonstrated the increasing use of sedition charges against activists, journalists, and students who criticize government policies.

For example, in 2019, many individuals were charged with sedition for their participation in protests against the Citizenship Amendment Act (CAA), which critics argue discriminates against Muslims. Similarly, in the 2020 farmers' protests against agricultural reforms, several leaders and participants faced sedition charges for allegedly inciting violence and unrest, even though their actions were primarily peaceful.

The paper will discuss how sedition laws have been used not only to protect national security but also to silence critics of the government. The political dimensions of sedition charges raise questions about the law's compatibility with the principles of free speech, political pluralism, and democratic dissent.

5. Sedition Laws and the Rise of Social Media

The advent of social media has brought a new dimension to the debate surrounding sedition laws. The Internet provides individuals with a platform to voice opinions, critique government policies, and organize protests. While social media has democratized public discourse, it has also led to an increase in the number of sedition cases related to online content.

In recent years, several individuals have been arrested for making allegedly seditious comments on social media platforms such as Facebook, Twitter, and WhatsApp. In one notable case, a student was arrested in 2020 for allegedly posting a meme that mocked the Prime Minister. In another case, an individual was charged with sedition for sharing a video criticizing the government's handling of the COVID-19 crisis.

This section will explore the role of social media in contemporary sedition cases, examining whether sedition laws are appropriately applied to online speech or if they are being used to suppress criticism in the digital age. Given the vast reach of social media, the question arises whether the law should be adapted to address the nuances of digital communication.

6. Societal Impact of Sedition Laws

The societal implications of sedition laws extend beyond legal consequences to affect the overall democratic fabric of the nation. The fear of sedition charges creates a chilling effect on freedom of speech, with people avoiding public discourse on contentious issues or expressing dissenting views. This stifles political and social dialogue and undermines the right to challenge governmental decisions.

Moreover, sedition laws disproportionately affect marginalized groups, such as political activists, journalists, and minority communities, who often find themselves at the receiving end of sedition charges for speaking out against state policies. The use of sedition laws in the context of social movements, like those advocating for minority rights or addressing inequality, demonstrates the disproportionate impact on those who are already vulnerable.

This section will discuss the broader societal impact of sedition laws, focusing on the role of these laws in curbing free speech, eroding public trust in democratic institutions, and exacerbating social divisions.

7. The Need for Reform: Calls for Repeal or Modification

In light of the growing concerns regarding the misuse of sedition laws, there is a strong call for reform or even repeal. Many legal scholars, civil society organizations, and political leaders have argued that sedition laws are archaic, overly broad, and incompatible with modern democratic values.

Reform proposals include redefining sedition to limit its scope to actions that directly incite violence or pose a tangible threat to national security. Another recommendation is to introduce a higher threshold for invoking sedition charges, such as requiring the evidence to show clear intent to harm national security or public order.

The paper will evaluate various perspectives on sedition law reform, including arguments for its repeal, modification, or replacement with more targeted legislation that addresses threats like terrorism, incitement to violence, or hate speech, without infringing on legitimate dissent.

8. Conclusion

Sedition laws in India remain a double-edged sword, meant to safeguard national security but also at risk of being used to suppress political expression and dissent. While the law's intent was to protect the state from subversive actions, its broad and ambiguous application has led to

significant concerns about the erosion of democratic values, particularly freedom of speech. The judicial interpretation of sedition laws has introduced some safeguards, but there is a pressing need for reform to ensure that these laws are not misused as a tool for political repression. In a democratic society, it is crucial to strike a balance between national security and the right to free expression, and the time may have come for India to reconsider the relevance and application of sedition laws in the modern age.

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