

Sedition Law in India - What is Section 124A of IPC?

Latest Context: A Supreme Court bench on 3rd February 2021 junked a petition seeking action against former Jammu and Kashmir Chief Minister (CM) Farooq Abdullah for his comments over scrapping of Article 370 and bifurcating J&K into two union territories. The apex court stated it is not seditious to have views that are different from the government's.

This brings 'Sedition Law in India' under highlight. [IAS Exam](#) aspirants must know the relevant details about it for their preparation.

The topic 'Sedition Law' comes under Indian Polity that is one of the major subjects in [UPSC GS Paper 2](#).

History of Sedition Law in India

1. 1837 - Thomas Macaulay (Famous for his Macaulay Minute on Indian Education 1835) drafted the Penal Code in 1837.
 - Sedition was placed in the Penal Code 1837 as Section 113.
 - Later, it was omitted, to only be readded in 1870 back in the Penal Code by an amendment introduced by Sir James Stephen.
 - British Raj in India had introduced this section on sedition under the title "Exciting Disaffection".
2. IPC Amendment Act of 1898 - It made amendments to the changes brought through the Penal Code in 1870.
 - The current Section 124A is said to be similar to the amendments made to it in 1898 with few omissions made in 1937, 1948, 1950, and by Part B States (Law) Act, 1951.

Section 124A of IPC - Sedition

The IPC Section 124 A says, "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 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.

What is Disaffection towards Government?

Disaffection includes disloyalty and all feelings of enmity.

What does not constitute an offence under Sedition?

- When comments disapprove of government measures but with a view to alter them lawfully i.e. 'Comments expressing disapprobation of the measures of the Government with a view to obtaining their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection.'
- When comments disapprove of government's administrative actions without exciting all feelings of enmity - Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection.

Punishment for the Sedition Offence

1. It is a non-bailable offence.
2. Imprisonment up to three years to a life term, to which fine may be added.
3. The person found guilty of this offence is not eligible for any government job.

Cases Related to Sedition Law in India

Pre-Independence

1. Queen Empress v Jogendra Chunder Bose (1891)
 - Jogendra Bose wrote an article criticizing the Age of Consent Act, 1891.
 - His criticism was taken as disobedience towards the government.
 - However, later the case was dropped after he was released on bail.
2. Sedition Trial of Lokmanya Tilak (1897)
 - [Bal Gangadhar Tilak](#) has published the reports of the celebration followed by an 1894 paper on the Maratha king Shivaji by Professor R. P. Karkaria. Karkaria presented his paper to Bombay's Royal Asiatic Society in 1894. This paper led to the annual celebration of the Shivaji Coronation. Later, Tilak published the celebrations' reports.
 - Tilak reported these celebrations as "Shivaji's Utterances" in his dailies - Kesari and Mahratta.
 - The case was presided by Justice Arthur Strachey.
 - This sedition trial is historically famous as in this case, an attempt to excite feelings of enmity against the government was also brought under the scope of Section 124A terming it is seditious. Hence, it widened the understanding of Section 124A.
 - Tilak was sentenced to 18 months of rigorous imprisonment.
3. Sedition Trial of Lokmanya Tilak (1908)
 - Tilak published two Kesari articles, titled "The Country's Misfortune" which he published on 12th May 1908 and "These Remedies Are Not Lasting" which was published on 9th June 1908.
 - Under the newly drafted Section 124A, he was sentenced to six years of imprisonment in Burma (Now, Myanmar).
4. Sedition Trial of Mahatma Gandhi (1922)

- Mahatma Gandhi was imprisoned for six years for his articles in his newspaper, 'Young India'.
- The charges imposed on him were - “Bringing or attempting to excite disaffection towards His Majesty’s Government established by law in British India”
- Mahatma Gandhi termed Section 124A as “Prince among the political sections of the Indian Penal Code designed to suppress the liberty of the citizen.”

Source: News Articles

Post-Independence - Supreme Court Decisions

1. Brij Bhushan And Another vs The State Of Delhi (1950) & Romesh Thappar vs the State of Madras (1950)
 1. The apex court held that a law that restricts speech on the ground that it would disturb public order was unconstitutional.
 2. The decision of the court prompted the ‘First Constitution Amendment’, where Article 19 (2) was rewritten to replace “undermining the security of the State” with “in the interest of public order”
2. Kedar Nath Singh vs State of Bihar (1962)
 1. The constitutional validity of Section 124A was put to a test in this case.
 2. A member of a Forward Bloc had given a speech which was charged as sedition.
 3. The [Supreme Court](#) held:
 - “Speech or writing to which “subverting the government by violent means” is implicit—including the notion of “revolution”—is seditious.”
 - A failed attempt to incite too is counted as sedition.
 - It was seditious to create public disorder.
 4. No “unreasonable distinction” between criticism of the government’s measures and criticism of the government itself was drawn.
3. Balwant Singh vs State of Punjab (1962)
 1. Balwant Singh who was the Director of Public Instructions (DPI) in Punjab, Chandigarh among other two, was alleged to have shouted pro-Khalistan slogans on the day of former PM Indira Gandhi’s assassination.
 2. The apex court held that unless there is public disorder merely sloganeering can’t attract punishment under Section 124A.

One can also learn about important [Supreme Court judgements](#) that are important for UPSC from the linked article.

Why can Sedition Law be important?

1. The law keeps a check on anti-national, secessionist and terrorist elements that can hamper the public order and incite violence and induce enmity.
2. It helps in the stability of the elected government which could otherwise be attempted to be thrown out using illegal and violent means.
3. It is an alignment with [contempt of court](#). Elected Government is an important part of the executive. Hence, contempt of the government can be checked.

Arguments Against the Sedition Law

1. As the seeds of sedition law were sown in colonial times, it is often described as a draconian law that can be used against what is otherwise is constitutionally guaranteed [freedom of speech and expression](#)
 2. It has an ill effect on constructive criticism. As noted by the Supreme Court, views that are different from the government's don't mean seditious. Therefore, sedition laws can demotivate legal and lawful criticism.
 3. Britain had repealed the Sedition Act in 2009, hence India should too be long done with this.
 4. To penalize the offender for disrupting public order, IPC and Unlawful Activities Prevention Act 2019 have provisions that can take care of the punishments.
 5. India's ratification of the International Covenant on Civil and Political Rights (ICCPR) in 1979 should be seen as a right step towards acknowledging freedom of expression. Hence, with Sedition Law in activity, could lead to the wrong use of the law where people are charged with offence arbitrability for expressing their opinions.
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