

IEEE

NAGPUR SUBSECTION

IEEE TECH MUN

9-10, February 2019.

G.H. Rasoni College of Engineering.



Lok Sabha
(Study Guide)

LOK SABHA
Letter from the Dias

Dear Delegates,

It gives us immense pleasure to welcome you all to the third edition of IEEE TechMun 2019. As your speaker and vice- speaker, we are looking forward to meeting you and hearing out your solutions towards the particular agenda. We assure you to help you understand the parliamentary procedures and ensure that the view of all the Parliamentarians are heard and respected.

We expect each one of you to come to the committee, well prepared and well researched with his/ her allotted portfolio and have a deep understanding of the agenda, and the willingness to provide suitable solutions.

Please keep in mind, this background guide provides you only the basics related to the agenda, and we expect you to research in depth for your convenience and better understanding.

We look forward to seeing you in the committee with great spirit and enthusiasm.

Yours sincerely,

Dhnyanada Dhote.

Arnab Hait Speaker

Agenda: Discussing the extent of section 124(A) of Indian Penal Code

Sedition: Meaning and History Meaning of Sedition under Section 124A of IPC, 1860

The term 'Sedition' means "conduct or speech which results in mutiny against the authority of the state". Law of Sedition deals with section 124A of IPC, 1860, is considered as a reasonable restriction on freedom of speech. It was drafted by Thomas Macaulay and introduced in 1870.

"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 shall be punishable with Life Imprisonment".

What is Sedition law and what does it say in the Indian Penal Code:

- Section 124-A in the Indian Penal Code, named 'Sedition', explains sedition in wide and magnanimous terms
- It 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 life imprisonment
- The explanations which the Indian Penal Code gives are that 'the expression 'disaffection' includes disloyalty and all feelings of hate
- It also says that comments that express strong disapproval of 'the measures of the Government, with a view to obtain their desired modifications by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offense under this section.'
- According to the section 124-A, comments expressing strong disapproval of the 'administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offense under this section.'
- The law was originally drafted by Thomas Macaulay
- It was not a part of IPC in the 1860s and was even dropped from the law. It was introduced in the IPC in the year 1870
- Many Indian freedom fighters, including Mahatma Gandhi and Bal Gangadhar Tilak, were charged with sedition during freedom struggle
- When the first amendment was introduced, which also included detailed limitations on free speech, the then Prime Minister Jawaharlal Nehru was categorical in his belief that the offence of sedition was fundamentally unconstitutional. He had said 'now so far as I am concerned [Section 124-A] is highly objectionable and obnoxious and it should have no place both for practical and historical reasons. The sooner we get rid of it the better.'

Important Landmark Cases Which Facilitated Different Views and Interpretation of Sedition

The Queen Empress v. BalGangadharTilak

The most famous cases of sedition in history have been of our country's freedom fighters against colonial rule. BalGangadharTilak, staunch advocate of India's freedom was charged with sedition on two occasions. The first in 1897 for speeches that allegedly incited the violent behavior of others, which resulted in the death of two British officers. He was convicted and released on bail in 1898, and in 1909 prosecuted again for seditious writing in his newspaper Kesari. 1897 was the first instance where Section 124 (a) from the IPC was identified and applied. Incitement to violence and insurrection was immaterial in the eyes of the presiding Privy Council in regards to the culpability of a person that's been charged with sedition.

KedarNath v. State of Bihar (1962)

This was a landmark case, the first case of sedition tried in the court of Independent India, where the constitutionality of the very provision was challenged and the Supreme court clearly differentiated between

disloyalty to the country's government and commenting on the measures of the government without inciting public disorder by acts of violence. Similar to the alleged anti-national speech of Kanhaiya Kumar, in a way, KedarNath Singh, a member of the Forward Communist Party in Bihar, was charged for quite an extreme speech condemning the ruling government of the time and calling for a revolution. "Today the dogs of the CID are loitering around Barauni. Many official dogs are sitting even in this meeting," he said as he began his speech. "The people of India drove out the Britishers from this country and elected these Congress goondas to the gaddi and seated them on it. Today these Congress goondas are sitting on the gaddi due to mistake of the people. When we drove out the Britishers, we shall strike and turn out these Congress goondas as well..." The Supreme Court imposed a narrower scope of interpretation, holding only those matters that had the intention or tendency to incite public disorder or violence as legally seditious.

Dr.BinayakSen v. State of Chhattisgarh (2007)

Dr.BinayakSen was charged for sedition, amongst other things, for allegedly aiding naxalites, and sentenced to life imprisonment at the Session Court in Raipur. He was accused of helping insurgents, who were very active in the region at the time, by passing notes from a Maoist prisoner that was his patient to someone outside the jail. Denying all charges against him, Dr.Sen stated he was under the constant supervision of prison officials during his treatments so such an action would not be possible. It was his criticism of the killings committed by a vigilante group that prompted his arrest and subsequent accusations, Dr.Sen stated to The Wall StreetJournal.SalwaJudum is the group he's referring to, designed and supported by the state government of Chhattisgarh to curb the insurgency in the villages of indigenous tribes where it thrived, according to them.

But Dr.Sen, who's a human-rights activist apart from being a pediatrician, claims that the groups real job's to clear village land that's rich in iron ore, bauxite and diamonds for it to be quarried.His arrest gained a lot of international attention, and the U.S.-based Global Health Council awarded Dr.Sen its 2008 Jonathan Mann Award for global health and human rights in recognition of his services to poor and indigenous communities inIndia.

In May later that year, 22 Nobel laureates sent a letter to the Indian government criticizing the incarceration and asking that he be released to receive the award in person. "We also wish to express grave concern that Dr.Sen appears to be incarcerated solely for peacefully exercising his fundamental human rights...and that he is charged under two internal security laws that do not comport with international human rights standards," they said in the letter.

Aseem Trivedi v. State of Maharashtra (2012)

Controversial political cartoonist and activist, Aseem Trivedi, best known for his anti-corruption campaign, Cartoons Against Corruption, was arrested on charges of sedition, in 2010. The complaint, filed by Amit Katarnayea who is a legal advisor for a Mumbai-based NGO, condemns Trivedi's display of 'insulting and derogatory' sketches, that depicted the Parliament as a commode and the National Emblem in a negative manner having replaced the lions with rabid wolves, during an Anna Hazare protest against corruption, as well as posting them on social networking sites.

As reported by India Today, members of India Against Corruption (IAC) claimed that the cases were foisted on Trivedi by the government, as the government was angry with their anti-corruption crusade. Mayank Gandhi of the IAC said, "The case has been registered simply because Aseem had participated in the BKC protest organized by Anna Hazare and had raised his voice against corruption. So the government is trying to scuttle his protest in this manner." Trivedi's case seriously questioned freedom of speech and expression in the country where a young man got arrested for lampooning evident corruption in the country. It's acceptable that some may find his cartoon offensive and in bad taste, but sentencing a person to life in prison for such an act is too extreme.

Shreya Singhal v. Union of India (2012-15)

This case is monumental in India's jurisprudence as its judgement took down Section 66A of the IT Act, sought to be in violation of Article 19 (1) of the Constitution of India that guarantees the right to freedom of speech and expression to all citizens. A student of law at the time, Shreya Singhal filed a petition in 2012 seeking an amendment in the section 66A, triggered by the arrest of two young girls in Mumbai, for a post on Facebook that was critical of the shutdown of the city after the death of Shiv Sena leader, Bal Thackeray; one of them posted the comment, the other merely 'liked' it.

What's critical about this judgement is the court's ruling that a person could not be tried for sedition unless their speech, however "unpopular," offensive or inappropriate, had an established connection with any provocation to violence or disruption in public order. The Supreme Court distinguished between "advocacy" and "incitement", stating that only the latter is punishable by law. The Supreme Court judgement came after three years of the petition's filing in 2015, but Shreya did not deter. "I did feel saddened in between but never lost hope. I was also hurt to see that despite the matter pending before the SC, police continued to arrest people under section 66A of the IT act. What was heartening was that the arrests did not deter people from posting comments," Shreya told Hindustan Times.

Kanhaiyaya Kumar v. State of NCT Delhi (2016)

On 9th February, 2016 a programme was proposed to be organized under the title 'Poetry Reading -The Country Without a Post Office' at Sabarmati Dhaba, Jawaharlal Nehru University. Since the title of the programme did not suggest anything objectionable, permission was granted. When the posters of the said programme revealed the topic of the programme to be organized that evening, the authorities at JNU acted swiftly by cancelling the permission and communicating the same to the organizers as well the security staff. What followed thereafter has been recorded in FIR No.110/2016 under Section 124- A/34 IPC at PS VasantKunj North.

The status report shows that now the case is under investigation for the offence punishable under Sections 124-A/120-B/34/147/149 IPC. The Delhi high court today gave 6-month interim bail to Kanhaiya Kumar, the Jawaharlal Nehru students' union president who was arrested on sedition charge. The court gave relief to Kanhaiya by

asking him to furnish a personal bond of Rs10,000 and a surety of like amount. The high court made it clear that a JNU faculty member has to stand as surety for Kanhaiya. Justice Pratibha Rani had on Monday reserved the order after over three hours of hearing on the bail plea of Kanhaiya, accused of raising anti-India slogans inside JNU campus during an event organized on February 9. During the hearing, while Kanhaiya's counsel had argued that the student leader had never raised any slogans against the nation, Delhi Police had maintained that there was evidence that he and others were shouting anti-India slogans and were holding Afzal Guru's posters.

Overview of Sedition Laws in India

While this document is dealing with section 124A of the Indian Penal Code in detail, there are other laws that are related to this section or also criminalise 'disaffection' to the state.

Indian Penal Code (IPC), 1960

Section 124A forms the main section that deals with sedition in the Indian Penal Code. 124A carries with it a maximum sentence of imprisonment for life.

CRIMINAL PROCEDURE CODE (CrPC), 1973

The CrPC contains section 95 which gives the government the right to forfeit material punishable under section 124A on stating grounds. The section requires two conditions to be fulfilled: (i) that the material is punishable under the mentioned sections (ii) the government gives grounds for its opinion to forfeit the material.

UNLAWFUL ACTIVITIES (PREVENTION) ACT (UAPA), 1967

Supporting claims of secession, questioning territorial integrity and causing or intending to cause disaffection against India fall within the ambit of 'unlawful activity' (Section 2(o) UAPA). Section 13 punishes unlawful activity with imprisonment extending to seven years and a fine.

PREVENTION OF SEDITIOUS MEETINGS ACT, 1911

The Seditious Meetings Act, which was enacted by the British a century ago to control dissent by criminalizing seditious meetings, continues to be on our statute books. Section 5 of the Act empowers a District Magistrate or Commissioner of Police to prohibit a public meeting in a proclaimed area if, in his/her opinion, such meeting is likely to promote sedition or disaffection or to cause a disturbance of the public tranquility. Considering this legislation was specifically enacted to curb meetings being held by nationalists and those.

.

Comparative Law

Several formerly colonized countries have retained sedition laws even after their independence from colonial rule. There are countries which have retained these laws, but whose judiciary and civil society actors have been critically engaged in conversations regarding their constitutionality. In these countries, the crime of sedition has either been abolished or the courts have read it down to focus on an extremely narrow range of activities. In all the cases discussed below, either the judiciary or civil society has recommended the abolition of the crime.

While countries like the United Kingdom and New Zealand have abolished the crime of sedition, in the United States and Nigeria, prosecutions for sedition have largely fallen into disuse. Further, in Australia and Malaysia, laws relating to sedition have attracted much criticism.

Canada

In Canada, sedition, which includes speaking seditious words, publishing a seditious libel, and being party to a seditious conspiracy, is an indictable offense, for which the maximum punishment is of fourteen years' imprisonment.

During World War II former Mayor of Montreal Camillien Houde campaigned against conscription in Canada. On 2 August 1940, Houde publicly urged the men of Quebec to ignore the National Registration Act. Three days later, he was placed under arrest by the Royal Canadian Mounted Police on charges of sedition. After being found guilty, he was confined in internment camps in Petawawa, Ontario, and Gagetown, New Brunswick, until 1944. Upon his release on 18 August 1944, he was greeted by a cheering crowd of 50,000 Montrealers and won back his position as the Mayor of Montreal in the election in 1944

United Kingdom

In England, the forerunner of the crime of sedition was the crime of treason. Under the Treason Act, 1795, any act which endangered the person of the King, his government or the constitution would be considered treason. The Treason Felony Act of 1848 is still on the statute books. The crime of sedition extends to a] publication of seditious libel b] utterance of seditious words and c] conspiracy to do an act in furtherance of seditious intention. In all these cases, a seditious intention has to be proved. A seditious intention is one where the person of the sovereign or of the government, the constitution, either House of Parliament, or the justice administration system could be brought into hatred or contempt. It also includes the alteration of church or state by unlawful means and any incitement of disaffection or discontent among the subjects or promoting hostility among different classes of people.

These offences at common law have also been codified to some extent. Section 1 of the Criminal Libel Act, 1918 also mirrors the definition. Incitement to Mutiny and Disaffection Act criminalises promoting ill will among the members of the armed forces.

The last known prosecution of sedition was in 1972; and subsequent attempts to prosecute political activities by activists and intellectuals have not succeeded. In the case of *R v. Chief Metropolitan Stipendiary Magistrate ex parte Choudhury*, the court held that there had to be provocation to violence, resistance or defiance of authority for seditious libel to be proved. The Criminal Libel Act and the common law offences of seditious libel and criminal defamation were to be repealed, according to the Law Commission in the UK. Following this, in February 2010, the Joint Committee on Human Rights prepared a note on press freedom, privacy and libel. Inter alia, they commented on the crime of seditious libel and criminal defamation. Since the European Convention on Human Rights guarantees wide-ranging protection for political speech, these crimes would be in contravention since they were likely to have a “chilling effect” on criticism and censure of government.

Hence, these offences would also violate Article 12 of the Human Rights Act, 1998 in the U.K., which was enacted in furtherance of the ECHR. Subsequently, the Coroners and Justice Act, 2010 abolished the crimes of sedition and seditious libel. However, sedition by an alien is still an offence under section 3 of the Aliens Restriction (Amendment) Act 1919. In abolishing the crime of sedition, the primary consideration was that the language in which the offence was framed was archaic and did not reflect the values of present day constitutional democracies. Further, although the prosecutions were few and far between, even the sporadic uses of the law had a “chilling effect” on free speech. However, although the crime of sedition has been done away with, the Terrorism Act, 2000 contains offences of “inciting terrorist acts” and seeking or “providing training for terrorist purposes at home or overseas”, which are as broadly defined and as vague as the earlier offences.

United States of America

In the United States, the Sedition Act was enacted in 1798, in a bid to protect the nation from ‘spies’ or ‘traitors’. Although several prosecutions did take place in this context, in 1840, Thomas Jefferson pardoned all those who had been sentenced under it. The Sedition Act, 1918, was actively used during the World War I, particularly against those who professed a Communist ideology. Its constitutionality was upheld in a series of cases. The Alien Registration Act, popularly known as the Smith Act was enacted in 1940 and again, was used against many members of the Communist Party. As many as 140 prosecutions were carried under this. Both Acts have now fallen into disuse.

In the case of *Yates v. United States*, the U.S. Supreme Court held that teaching an ideal, however unpopular or unreasonable it might be, does not amount to sedition. Initially, the decisions by the Holmes and Brandeis Courts of the 1920s and 1930s had criticized the “chilling effect” on free speech brought about such crimes. The decision in the case of *New York Times v. Sullivan* was that the free criticism of public officials and public affairs would not constitute libel. In this context, it stated that the Sedition Act, 1798 had by “common consent” come to an “ignominious end”, being a violation of the First Amendment.

Finally, in 1969, in the case of *Brandenburg v. Ohio*, a distinction was made between the advocacy of a doctrine or violence in abstract terms and the advocacy of violation of law which resulted in immediate lawless action. The former was held to be protected under the First Amendment. Hence, in the United States, the courts have generally afforded wide protection to political speech, excepting where it results in immediate lawless action. Article 94 of the Uniform Code of Military Justice, which governs those in the U.S. military, punishes mutiny by creating violence or disturbance, by refusing to obey orders or perform duties. In contrast, sedition governs those who were resisting civil authority. Failure to prevent sedition is also punishable. The offence is punishable by death after a court-martial

National Crime Records Bureau Statistics on Sedition

When all the crimes are committed against the state or government, it disturbs public order. According to the data from 2014-2016 of NCRB, 165 people were arrested on the charge of sedition. During 2014, 47 cases were reported under sedition. Of the total sedition cases, Jharkhand and Bihar have reported 18 cases and 16 cases respectively. Besides, 5 cases in Kerala, 2 cases each in Andhra Pradesh, Assam, Chhattisgarh and Himachal Pradesh were also reported during 2014.

According to the NCRB, the latest crime data shows the cases of sedition fell from 2014 to 2015. A total of 30 sedition cases were registered in 2015, less than in 2014. Tamil Nadu topped the list for committing the crime against state including sedition. Of the 6,986 cases were registered in 2016, 1,827 cases were reported from Tamil Nadu, followed by U.P. 1,414, Haryana 1,286 and Assam 343 cases. In the last three years across the country, 165 people were arrested on the charge of sedition. According to the reports of NCRB, 111

people were arrested in four state i.e., 68 in Bihar, 15 in Haryana, 18 in Jharkhand and 10 in Punjab.

References

[1] Section 124A of IPC, 1860

<https://indiankanoon.org/doc/1641007/>

[2] [Indra Das v. State of Assam](#)

[3] Balwant Singh v. State of Punjab

[4] Kedarnath Singh v. State of Bihar

[5] Nazir Khan v. State Of Delhi (2003) 8 SCC 461 [6] <https://indiankanoon.org/doc/256394/>

[7] Tara Singh Gopichand v. State, AIR 1951 E.P. 27

[8] Ram Nandan v. State, AIR 1959 All. 101

[9] AIR 1955 Manipur

[10] Queen Empress v. Bal Gangadhar Tilak <https://indiankanoon.org/doc/890587/>

[11] Queen Empress v. Jogendra Chunder Bose (1892)

<https://indiankanoon.org/doc/334102/>

Questions to be discussed

- (i) How can the law commission report of sedition be effectively implemented?
- (ii) Should sedition be not redefined in a country like India – the largest democracy of the world, considering that right to free speech and expression is an essential ingredient of democracy ensured as a Fundamental Right by our Constitution?
- (iii) Will it be worthwhile to think of an option of renaming the section with a suitable substitute for the term 'sedition' and prescribe punishment accordingly?
- (iv) What is the extent to which the citizens of our country may enjoy the right to offend'?
- (v) At what point the right to offend would qualify as hate speech?

(vi) How to strike a balance between s.124A and right to freedom of speech and expression?

(vii) In view of the fact that there are several statutes which take care of various acts which were earlier considered seditious, how far would keeping section 124A in the IPC, serve any purpose?

(viii) Given the fact that all the existing statutes cover the various offences against the individual and / or the offences against the society, will reducing the rigour of s.124A or repealing it be detrimental or beneficial, to the nation?

(ix) In a country, where contempt of Court invites penal action, should contempt against the Government established by law not invite punishment?

(x) What could be the possible safeguards to ensure that s.124A is not misused?

8.5 The Committee hopes a healthy debate will take place among the legal luminaries, lawmakers, Government and non-Government agencies, academia, students and above all, the general public, on the above issues, so that a public friendly amendment could be brought about.