International Annals of Criminology (2023), **61**, 188–222
doi:10.1017/cri.2023.19

ARTICLE

The Sedition Conundrum in India: A Critical Examination of its Historical Evolution, Current Application and Constitutional Validity

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(Submitted 22 April 2023; revised 10 June 2023; accepted 16 June 2023; first published online 26 July 2023)

Abstract
The fundamental scheme of the Indian Constitution furthers absolute antagonism against the sedition provision that has its underpinnings in the archaic principles of the colonial era. Commentators on Indian law and politics have raised concerns that the country's sedition law runs counter to India's peculiar libertarian constitutional framework. The trepidation of the accused is intensified by ambiguous, vague and unclear wording of Section 124A of the Indian Penal Code. This article examines the judicial promotion of free speech in sedition cases as law under the aegis of Article 141 of the Constitution of India. By investigating its ancestry, the author proposes to shed light on the circumstances behind the conception and establishment of the Sedition Act in colonial India. The article further intends to comparatively analyse and examine the sedition statutes of India and other countries, including the United Kingdom and the United States of America, etc., with a comprehensive emphasis on the philosophy and rulings of the respective Supreme Courts. The article concludes by proposing that India's arbitrary sedition statute should be repealed for being redundant and in derogation with the country's professed legal compass, the "Rule of Law".

Keywords sedition law; freedom of speech; political dissent; sedition and democracy; sedition and human rights

INTRODUCTION

One of the rights acknowledged as intrinsic to every human being is the right to freedom of speech. This freedom is at the pinnacle of individual liberties and is essential to any functioning democracy. The philosophy behind the provision of free speech protected under Article 19(1)(a) of the Indian Constitution is the idea of a fair opportunity to express one's authentic beliefs without a restraint of an adverse consequence against any external pressure. Self-actualization, truth-finding, better decision-making, and a healthy equilibrium between societal stability, and social change are all outcomes of an unfettered prospect to exercise the right to free

expression in a societal sphere. This elemental right has also claimed global recognition while being preserved as the right to freedom of opinion and expression under Article 19 of the Universal Declaration of Human Rights, 1948.[1]

The global conversation surrounding the right to express oneself without censorship or restraint is a pivotal component of the broader discourse on fundamental human rights across the globe. This discourse delves into different aspects of freedom of speech, drawing from significant international legal instruments such as the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights. The discourse encompasses significant themes, including the need to balance competing interests such as national security and public order, safeguarding minority voices, addressing hate speech and incitement, and navigating the challenges posed by the digital age. The statement underscores the significance of promoting comprehensive involvement, safeguarding underrepresented communities and acknowledging the obligations of digital platforms. The monitoring and promotion of freedom of speech on a global scale is significantly facilitated by the above-mentioned international human rights mechanisms. In general, the global conversation demonstrates a dedication towards preserving the right to express oneself while managing intricate social factors and developing a technological environment.

However, in India, free expression is not limitless and does not exist in a vacuum. The State may impose "reasonable limitations" in instances of contempt of court, defamation and incitement to crime, as well as to safeguard India's integrity and sovereignty, the State's security, cordial relations with other governments, and public order, while promoting decency and morality (Article 19, Clause 2). Freedom of expression was guaranteed in the proposed Indian Constitution, specifically Article 13 of the Draft Constitution. When Article 13(2) of the Draft Constitution, which provided for reasonable restriction to take to the right of speech and expression, was finally adopted as Article 19(2) of the Indian Constitution in 1950, the phrase "sedition" had already been deleted by the Drafting Committee due to debates within the Constituent Assembly to limit this freedom on the grounds of "libel, slander, defamation, offenses against decency or morals, sedition, or other things which undermine the security of the State" (Saksena and Srivastava 2014). Despite the prohibition of utilizing it as a means of controlling free expression under Article 19(2), the term "sedition" continues to be present in the Indian Penal Code. Justice Fazl Ali, in his dissenting opinion in *Brij Bhushan v. State of Delhi*,[2] noted why "sedition" is not defined in Article 19(2) of the Constitution. He argued that the ambiguous nature of the phrase indicates the uncertainty of the Constitution's drafters in utilizing the term. Concerns were expressed regarding the potential for sedition to incite civil unrest, thereby posing a risk to the security of the State (Singh 2021). In *Kedar Nath Singh v. State of Bihar*,[3] Fazl Ali, J., argued that "security of the State" was linked to "public order". The judiciary observed that the Constitution (1st Amendment) Act, 1951, appended the phrase in the interest of public order to Article 19(2) in order to endorse

[1]See International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976), 999 UNTS 171, Article 19.

[2]*Brij Bhushan and Another v. State of Delhi*, 1950 AIR 129, 1950 SCR 605.

[3]*Kedar Nath Singh v. State of Bihar*, 1962 AIR 955; 1962 SCR Supl. (2) 769.

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Ali's interpretation, and did so retrospectively. The phrase "in the interest of" was included as a means of highlighting a particular point. As the revision appeared to bring Section 124A closer in accordance with the right to freedom of expression guaranteed by Article 19, sedition was deemed permissible. The court reaffirmed the legitimacy of the provision despite the fact that it restricts constitutionally protected free speech on the premises that doing so is necessary for public safety.

Research Questions

The article will be asking the following:

1. How does India's sedition legislation affect people's ability to speak freely?
2. How has the sedition law been used in the past to curtail dissent and criticism against the government?
3. Are the sedition laws in India constitutionally valid?
4. What are the arguments for and against the constitutional validity of the sedition law in India?

Objectives of this Article

This article has the following objectives:

1. To examine the historical background of the sedition law in India.
2. To analyse the provisions of the sedition law in India.
3. To evaluate the impact of the sedition law on freedom of speech and expression in India.
4. To analyse the sedition laws in other countries, i.e. United States, United Kingdom, Australia, Malaysia and others.

Statement of the Problem

The sedition law in India has garnered criticism due to its ambiguous and extensive provisions, which possess the potential to impede opposition and restrict the liberty of speech and expression. Instances have been reported where the sedition law has been employed in a manner that appears to be aimed at journalists, activists and students who have expressed dissent towards the government or its policies. The aforementioned phenomenon has resulted in a reduction of expressive freedom within the media and an increase in self-imposed limitations on speech. Therefore, it is necessary to conduct a thorough analysis of the sedition legislation in India and its implications for the freedom of expression guaranteed by the country's constitution.

Hypothesis

India's sedition law has to be revised since it is at odds with international human rights standards. A chilling effect on the media and self-censorship have developed

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from the abuse of legislation to quash dissent and criticism of the administration.[4] To safeguard the right to freedom of speech and expression, it is crucial to undertake certain measures such as decriminalizing sedition, limiting the law's ambit, raising awareness and bringing the laws in line with global human rights norms.

MEANING OF SEDITION

The "Crown" was recognized as the ultimate governing power, and individuals were obligated to exhibit their allegiance through acts of fidelity. Sedition is defined as any action that threatens the very survival of a country, although it is important to remember that "lawful governance" and "chosen representatives" are not always synonymous.

Sedition is a criminal offence perpetrated against the State, which entails the act of instigating animosity or resentment towards the governing authority. According to Section 124A[5] of the Indian Penal Code:

> whoever, by words, whether 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, shall be punished with life imprisonment to which a fine may be added, or with a fine. (Thapa 2018)

A breach occurs if the comments at issue incite violence or create "public disturbance", regardless of whether they are spoken, written or communicated in any other way. If someone criticizes and nothing occurs, that person is not guilty of sedition. A common definition of sedition is "disloyal in action".[6] The major purpose of the crime is to foment strife between the population and the existing government. The aim is to plant seeds of hatred and discontent among the population to generate widespread resistance against the administration. Sedition is a crime against people and the government if it leads to widespread discontent or even civil war.[7] Frequently, leaders of the opposition express statements that provoke dissatisfaction towards the current governing body, which is safeguarded by the constitution as a form of critique. Nevertheless, if such statements are confined to mere dissatisfaction and possess the potential to instigate aggression, then they would fall within the scope of sedition.

[4]The concept of the "chilling effect" has its roots in the United States and pertains to government policies or actions that appear to target expression, potentially deterring individuals from exercising their First Amendment rights to free speech and association. The concept in question bears a significant correlation with the overbreadth doctrine, which proscribes the government's ability to regulate speech and expressive conduct by employing an excessively broad scope.

[5]Indian Penal Code, 1860, Section 124A.

[6]*Nazir Khan v. State of Delhi* (2003) 8 SCC 461.

[7]Indian Penal Code, Section 124A, above note 5.

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ORIGIN OF CONCEPT OF SEDITION

The term "sedition" has its origins in ancient Rome. Sedition, or *seditio* in Latin, was used to characterize behaviour or speech that stirred up revolt, turbulence or hostility to the reigning authorities during the time of the Roman Empire. Sedition was a capital offence in the Roman law system and carried harsh penalties. The goal was to put a stop to any actions or words that may disrupt public stability (Tacitus 2004).

The ancient Roman understanding of sedition was intricately connected to the concept of treason, or *proditio*, and encompassed a range of actions intended to subvert the power of the Roman government or foment insurrection among the citizenries. The commission of sedition was perceived as a peril to the solidarity and coherence of the Roman Empire, and rigorous actions were implemented to avert and penalize such transgressions (Chilton 1955).

The Roman authorities, comprising of the emperors and local officials, were responsible for enforcing the laws against sedition in the Roman Empire. The consequences for engaging in sedition varied, encompassing monetary penalties and seizure of assets, confinement, banishment or, potentially, capital punishment (Tacitus 2004). The degree of punishment was frequently contingent upon the perceived level of danger associated with the seditious behaviour and the social standing of the parties implicated.

It is noteworthy that the regulation and implementation of sedition laws exhibited temporal variability in ancient Rome, as distinct emperors and legal revisions influenced the handling of sedition (Suetonius, Grant, and Graves 2007). The legal system of ancient Rome, which encompassed regulations pertaining to sedition, exerted a notable impact on subsequent legal frameworks and the evolution of sedition laws in various societies across time.

STATUTES DEALING WITH SEDITION IN INDIA

The legal offence of sedition has been extensively analysed in various Indian legal literature. In accordance with established conventions, the transgression of Section 124A of the Indian Penal Code constitutes an act of sedition. This subsection applies to the aforementioned infraction. The offence of sedition is described under various statutes in detail below, along with the accompanying penalties.

Indian Penal Code

The topic of sedition is frequently referenced in connection with Section 124A[8] of the Indian Penal Code, a legislative enactment that originated in the year 1860. The violation of this particular article incurs the most severe punishment, which entails a lifetime imprisonment without the option of release on parole. The legislation in question is located in the central portion of Chapter VI of the segment of the Indian Penal Code that deals with "Offences against the State". This specific segment encompasses serious transgressions, including the action of engaging in armed conflict against the government. This provision of the legislation entails a sanction

[8]Ibid.

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that has the potential to lead to incarceration for the duration of one's life. Furthermore, the aforementioned offence is categorized as both non-bailable and cognizable. All of these factors indicate the severity of the offence. In legal discourse, a clear differentiation is made between the act of inciting emotions of animosity or contempt or attempting to stimulate sentiments of disloyalty towards the government that has been lawfully established and what has been elucidated as the act of articulating disapprobation towards the State, which is deemed to be permissible. The notion of "disaffection" has been defined as a feeling that pertains solely to the dynamic between the ruling body and the citizenry. The acceptance of a ruler is a crucial factor in determining their legitimacy. Conversely, disaffection, which signifies a refusal to recognize a particular government as the ruling authority, represents a rejection of the prevailing ethos.[9]

Code of Criminal Procedure

In accordance with Section 124A of the Indian Penal Code, the government is authorized according to Section 95 of the Code of Criminal Procedure to confiscate or forfeit any publication found to be in violation of the aforementioned law.[10] To initiate a search for the purpose of publication forfeiture, law enforcement officials may file a petition for a warrant. The implementation of the provision is contingent upon the fulfillment of two conditions, namely, (1) the material in question being in contravention of the provisions of Section 124A, and (2) the government furnishing adequate justification leading to the determination that the material in question warrants forfeiture.

Unlawful Activities Prevention Act, 1967

According to Section 2[11] of the Act, it is against the law to take part in "any action supporting claims of secession, disputing or disturbing territorial integrity, and inciting or seeking to stir disaffection toward India". This conduct is considered to be "inciting or seeking to stir disaffection toward India". Further punishments are outlined in Section 13, including a possible fine and incarceration of up to seven years.

Prevention of Seditious Meetings Act, 1911

The aforementioned rule was approved by the colonial regime and is still in effect today. The District Magistrate or Head of Police, in accordance with Section 5 of the aforementioned Act, has the authority to issue a directive restricting a public gathering within a specific area if they have reasonable belief that such a congregation may incite sedition or disaffection, or lead to disruption of public tranquillity. The reasoning for including this section in the Act was that the results of such a meeting may sow seeds of dissatisfaction with the administration.

[9]*Emperor v. Bhaskar Balvant Bhopatkar* (1906) 8 BOMLR 421, MANU/MH/0064/1906.
[10]The Code of Criminal Procedure, 1973, Section 95.
[11]Unlawful Activities (Prevention) Act, Act No. 37, Section 2(o) (1967).

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The Prevention of Seditious Meetings Act of 1911 was a legislative measure passed by the British Parliament, which had a territorial application to specific colonies, including British India. The purpose of the Prevention of Seditious Meetings Act of 1911 was to limit and prevent seditious actions by regulating mass gatherings of people. The document presumably included clauses that delineated the characteristics of gatherings deemed seditious and prescribed sanctions for those implicated in such assemblies. Sedition laws, such as those outlined in the 1911 Act, typically define seditious meetings as gatherings or assemblies that involve discussions, speeches or actions aimed at inciting rebellion, promoting disaffection, hostility or violence against the government, or disrupting public order.

THE DEVELOPMENT OF LEGAL IDEAS

Pre-Independence

In 1870, Section 124A of the original Penal Code of the United Kingdom was implemented. Consequent to this provision, analogous accusations were levelled against other nationalist figures, including Bal Gangadhar Tilak and M. K. Gandhi.

The aforementioned provision encompasses elements of the Treason Felony Act of 1848, alongside the customary principles of seditious libel and the English legal doctrine of sedition, within its structural composition. The legal doctrine of seditious libel under the common law regime pertained to both physical and verbal offences committed against individuals and the State, as well as inter-group conflicts. The aforementioned legislation remains in force today due to reasons that bear a striking resemblance to those of the colonial authorities.

The sedition trials that garnered significant attention in the late 1800s and early 1900s were those that pertained to leaders of the Indian nationalist movement. Bal Gangadhar Tilak's local and foreign followers carefully followed his three sedition prosecutions because of their historical significance. Tilak's trials addressed the important moral issue of whether the Indian people were committing sedition against the British Indian government or if the government was committing sedition against the Indian people.

In the year 1897, Tilak's trial began.[12] According to official statements, it has been suggested that specific speeches alluding to Shivaji's act of slaying Afzal Khan were potentially accountable for instigating the murders of Plague Commissioner Rand and Lieutenant Ayherst, who were extensively detested. The aforementioned speeches were followed by the occurrence of these events approximately one week later. The two officers were killed when they were returning from a celebration held in honour of Queen Victoria's Diamond Jubilee during a reception and supper held at Government House in Pune. After being found guilty of sedition, Tilak was liberated in 1898 thanks to the advocacy of public leaders like Professor Max Müller and Sir William Hunter (Tilak 1908:7). Max Müller's letter to the Crown seeking mercy for Tilak was criticized widely (Müller and Müller [1902] 1976). The issuance of this statement was dependent on Tilak's abstention from any conduct, whether spoken or written, that could potentially stimulate dissatisfaction towards the governing body.

[12]*Queen Empress v. Bal Gangadhar Tilak* (1897) ILR 22 Bom 112.

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Tilak was later accused again with inciting a riot after publishing an article titled "The Country's Misfortune" in the journal *Kesari*, which addressed the unnecessary murder of two European women at Muzzafferpore.[13] As evidence of the prisoner's guilt, the prosecution presented four items that had nothing to do with the claims against him. The court decided that his support for Swarajya[14] violated Section 124A, which prohibits expressions of discontent against the administration. This category includes statements indicating enmity, antagonism, or other ill intent toward the government.

The court's decision in *Queen Empress v. Amba Prasad*[15] established the connection between "disaffection" and "disapproval", expanding the definition of "disaffection" to include dislike of the government and concluding that even "disapproval" of government policies and decisions could be interpreted as seditious if the accused's intent was to incite such feelings.

During the non-cooperation movement of 1921, M. K. Gandhi faced charges of sedition in March 1922 for two articles that were published in *Young India*, a weekly periodical. Gandhi, who exhibited non-cooperation and disloyalty, admitted guilt for his offences and received a six-year prison sentence. It should be noted, however, that his confession served more as a statement of his commitment to freedom than as an admission of guilt under the Sedition Act. During the judge's concluding statements, he drew a comparison between Gandhi and Tilak, expressing his desire for the Indian government to potentially lessen the defendant's sentence and grant their release, as it would bring him great satisfaction.[16]

The divergent construals of Section 124A by the Federal Court, which was the apex court of India at that juncture, and the Privy Council, which was the supreme appellate court for commonwealth nations at that time, in the years antecedent to independence are pivotal for comprehending the legal landscape during this epoch. During the colonial era in India, there was considerable debate surrounding the precise definition of sedition. In the case of *Niharendu Dutt Majumdar*,[17] the Federal Court determined that mere use of strong language was insufficient to classify a speech or publication as subversive. They must also be actively aimed to cause and capable of causing public disorder. However, the Privy Council overturned this ruling in the *Sadashiv* case,[18] restating its position from the trial of *Bal Gangadhar Tilak*[19] that provoking violence was not a prerequisite feature of sedition.

[13]Ibid.

[14]The Poorna Swaraj movement was a significant phase in India's struggle for independence, initiated by the Indian National Congress in 1929. Under the leadership of Mahatma Gandhi, the movement aimed for complete independence and utilized non-violent civil disobedience tactics. The Salt March, or Dandi March, became a notable event during the movement, capturing attention and galvanizing the Indian populace. Despite facing repression and arrests, the movement played a pivotal role in shaping India's path to independence, leading to subsequent phases of the struggle and the ultimate attainment of independence in 1947.

[15]*Queen Empress v. Amba Prasad* (1898) ILR 20 All 55.

[16]"Trial of Mahatma Gandhi-1922" (*Bombay High Court Judge's Library*). Retrieved 15 June 2023 (https://bombayhighcourt.nic.in/libweb/historicalcases/cases/TRIAL_OF__MAHATMA_GANDHI-1922.html).

[17]*Niharendu Dutt Majumdar and Ors. v. King Emperor*, AIR 1942 FC 22.

[18]*King Emperor v. Sadashiv Narayan Bhalerao* (1947) LR 74 IA 89.

[19]*Queen Empress v. Bal Gangadhar Tilak*, above note 12.

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Constituent Assembly Debates

Notable nationalists including Annie Besant, Bal Gangadhar Tilak and Mahatma Gandhi were all indicted under India's sedition statute throughout the course of the independence fight against British rule. These outlandish incidents inspired the Draft Constitution's inclusion of the principle of Free Speech and Expression in Article 13. The initial iteration of this clause guaranteed the aforementioned entitlement, albeit with constraints enforced by federal legislation to protect marginalized populations and indigenous communities, while also upholding public welfare and stability (Constituent Assembly India 1948a).[20]

A proposal was made during the Constituent Assembly to amend the aforementioned provision, allowing restrictions to be placed on the exercise of this right in cases of libel, slander, defamation, indecent or immoral conduct, insurrection or additional activities that could compromise the safety of the State (Constituent Assembly India 1948b).[21] The authors of the Indian Constitution acknowledged the possibility of partiality in judicial verdicts concerning sedition cases, as well as the growing exploitation of sedition statutes to incarcerate persons with patriotic perspectives. That is why it was so important to make sure that sedition was not included as a ground for denying people their right to free expression (Sorabjee 2012).[22]

Sardar Hukum Singh made a compelling argument against stifling free speech by including sedition as a potential punishment. The speaker emphasized the need of judicial examination for any legislation in the United States that limits a basic right. If the Indian Parliament passes a sedition legislation, the courts in India will be unable to strike it down on the grounds that it violates the fundamental right to freedom of speech and expression (Constituent Assembly India 1948a).[23] The person in question conveyed their dissent towards the legitimization of laws that are justified on the basis of promoting "public order" or subverting the "authority or foundation of the State", as they deemed these categories to be excessively vague (Constituent Assembly India 1948a).[24]

Members of the Constituent Assembly were unanimous in their belief that sedition laws were unjust and should be abolished. No one has shown any hesitation to use it as a basis for limiting free expression. Therefore, the phrase "sedition" was not included in the proposed revision to Article 13 of the Draft Constitution.

[20]Speech by Damodar Swarup Seth, Constituent Assembly India, 1 December 1948.

[21]Speech by Professor Shibban Lal Saksena, Constituent Assembly India, 2 December 1948.

[22]Dr K. M. Munshi, a prominent activist and lawyer, expressed the strongest opposition to the inclusion of sedition. Dr Munshi referenced the significant variation in the judicial construal of the term "sedition" as evidence to bolster his stance. The individual held the belief that the perception of sedition among the general public had undergone a transformation over time. Acknowledging this shift in public opinion, it was deemed necessary to establish a distinction between constructive criticism of the Government, which played a vital role in redressing the grievances of the populace, and instigation of violence, which had the potential to jeopardize security and disrupt public law and order.

[23]Speech by Sardar Hukam Singh, Constituent Assembly India, 1 December 1948.

[24]Ibid.

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Post-Independence Evolution of Sedition Law

The drafters of the Constitution exhibited reluctance in incorporating sedition as a component of the law, owing to the fact that notable advocates of freedom were detained and incarcerated under this statute in the past. The pivotal role played by our dedication to the principle of free speech cannot be overstated in our efforts to resist oppressive foreign control and attain sovereignty (Kamal 2021).

Sedition remained a crime under Section 124A of the Indian Penal Code after India's independence in 1947. Free speech in India has been limited by the sedition clause of the Indian Penal Code, despite the fact that the Constituent Assembly specifically excluded sedition as a foundation for restricting the privilege to free speech and expression. The ensuing discussion over sedition laws was influenced by these events.

The initial phrasing of the Constitution employed sedition as a basis for imposing constraints on the right to free expression (curtailment of the freedom of speech). The final iteration, however, did not include sedition in the roster of exceptions outlined in Article 19(2) providing reasonable restrictions on freedom of speech. The eminent legal practitioner K. M. Munshi spearheaded the struggle for independence. Despite the removal of sedition from the Constitution, it remains preserved in the Indian Penal Code, thereby posing a significant risk by potentially challenging the jurisprudential supremacy of the Constitution as the paramount legal document (Kamal 2021).

Prime Minister Jawaharlal Nehru came under fire from opposition members during the debate over the first amendment to the Constitution for severely limiting freedom of speech and expression (Narrain 2011). The aforementioned critiques, coupled with the court decisions in the aforementioned cases that deemed Section 124A unconstitutional, prompted Nehru to propose a constitutional amendment (Narrain 2011).

By adding the categories of "public order" and "relations with friendly States" to the inventory of Article 19(2), the first amendment to the Constitution expanded the allowable constraints on the freedom of speech and expression guaranteed by Article 19(1)(a). The word "reasonable" was included in front of "restrictions" to prevent any unintended excessiveness on the part of the government (Narrain 2011). Nehru clarified during parliamentary deliberations that the amendment's purpose was not to legitimize laws like sedition. The speaker deemed Section 124A to be objectionable and obnoxious, and argued that it lacked sufficient rationale for its incorporation into the Indian Penal Code (Narrain 2011).

Advancements through Case Law

Over time, courts in independent India have analysed and revised the extent of the sedition law. Section 124A of the Indian Penal Code, 1860 is at the heart of the controversy since it directly contradicts the constitutional guarantee of free expression.

The High Court, in the case of *Ram Nandan v. State of Uttar Pradesh*, declared Section 124A as "unconstitutional on the grounds that restricting freedom of speech and expression is not in the best interest of the public".[25] The court in the case of *Tara Singh Gopi Chand v. State of Punjab* arrived at a similar determination that

[25]*Ram Nandan v. State of Uttar Pradesh*, AIR 1959 All 101.

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"Section 124A was unconstitutional on the grounds that it contravened the fundamental democratic principles of free speech and expression, which are protected under Article 19(1)(a)."[26] The Punjab and Haryana High Court has ruled that the statute of sedition restricts citizens' rights to free expression since the Constitution takes precedence over British law and precedent. The aforementioned verdict resulted in the incorporation of supplementary rationales, such as apprehensions pertaining to public order and international affairs, with the aim of restricting the liberty of speech and expression as delineated in Article 19(2) of the Indian Constitution.

The case of *Romesh Thappar v. Madras*[27] established that the exclusion of the term "sedition" from the aforementioned provision was "a deliberate legislative decision aimed at restricting the scope of freedom of speech and expression".[28] According to the court's ruling, expressions of disapproval towards the government's administration and advocacy of anti-government beliefs do not qualify as sedition, unless they possess the capability to topple the government.

The first amendment was subsequently adopted, presumably to prevent the court from vacillating on the basis of the statute. As the administration decided to amend the constitution, Article 19(2) was amended to include public order, ties with friendly States, and the word "appropriate" before "restrictions". The word "reasonable" was included so that future administrations could not take advantage of the phrase. With the adoption of new restrictions, especially those related to "public order", the government now has broad jurisdiction to curtail citizens' rights to free speech and expression. The amendment to Article 19(2) is often seen as a constitutional endorsement of the sedition statute (Sharma 2019).

Ram Manohar v. the State of Bihar (Sharma 2019) distinguished between "public order" and "State security". That is to say, stricter conditions than those used in the context of "public order" must be met if a restriction on free expression is to be justified on the basis of national security.

A comprehensive analysis of the various legal judgments pertaining to the crime of sedition would be insufficient without acknowledging the pivotal *Kedar Nath Singh v. State of Bihar*[29] case. This case has established itself as the leading authority on sedition and remains the primary and uncontested elucidation of Section 124A. Several judicial decisions pertaining to the matter have proven to be insufficient in addressing the legal principles surrounding sedition laws. Except in cases where the act was carried out with the express intention or inclination to cause disturbance, disruption of law and order, or instigation to violence, Section 124A of the Indian Penal Code has been maintained as constitutional by the Indian Federal Court.[30] Therefore, expressing dissent towards the government without advocating for a forceful and unlawful removal of the current administration does not constitute sedition. As a supplementary measure, individuals who engage in critiquing the

[26]*Tara Singh Gopi Chand v. State of Punjab* 1951 CriLJ 449.
[27]*Romesh Thappar v. Madras*, AIR 1950 SC 124.
[28]See above note 4.
[29]*Kedar Nath Singh v. State of Bihar*, above note 3.
[30]*Niharendu Dutt Majumdar and Ors. v. King Emperor*, above note 17.

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government should focus their attention on the actions taken by the legally established incumbent government, rather than on the particular individuals responsible for executing administrative tasks at any given moment. The Supreme Court has ruled that Section 124A is constitutional because it places reasonable limits on the protections guaranteed by Article 19(1). According to the judgment:

> The government established by law is the visible symbol of the State. The very existence of the State will be in jeopardy if the government established by law is subverted. Hence any act within the meaning of section 124A which has the effect of subverting the government would be within the penal statute because the feeling of disloyalty to the government established by law or enmity to it imports the idea of tendency to public disorder by the use of actual violence or incitement to violence.

This implies that vehemently opposing government policy is not disregarded as an act which can translate into legal action, but demonstrating disloyalty to the government would. Clause 124A thus applies to any speech advocating violent or threatening overthrow of a legal government on the grounds that it is corrupt or unconstitutional.

The challenges associated with the implementation of the Kedar Nath ratio may have contributed to the escalation of social unrest witnessed in the contemporary era. The notion expressed by the Supreme Court in this ruling has served as a fundamental principle in setting the precedent (particularly in the legal realm) against any perceived abuse of the legal system to stifle public expression.[31] The Constitution Bench of the Supreme Court examined the matter of the *Kedar Nath* case, wherein the issue of whether Section 124A of the Indian Penal Code that outlines the offence of sedition contravened the fundamental right to freedom of speech as enshrined in Article 19(1)(a) of the Constitution. In 1953, Kedar Nath, who was affiliated with the Forward Communist Party, was found guilty of sedition due to a speech he had given in Bihar. The appellant filed an appeal against the conviction to the Patna High Court, which subsequently dismissed the appeal. Subsequently, Kedar Nath filed a petition before the Supreme Court, contending the constitutional soundness of Section 124A of the Indian Penal Code. The Apex Court expounded that Section 124A solely penalizes expressions that are either aimed at or have the capacity to generate public unrest or instigate aggression. Consequently, the appeal of Kedar Nath was dismissed by the Court, thereby affirming the constitutional soundness of the charge of sedition. Kedar Nath was incarcerated for the duration of his remaining sentence (Tripathi 2021).

THE SCOPE OF SEDITION LAWS

Now that the debate around the law laid down by the *Kedar Nath* judgment has been resolved, we may move to the jurisprudence established in the first decade of the twenty-first century. It would appear that a new era has begun in India, one that lays stringent requirements on the country's Constitution in terms of the individual

[31] *Kedar Nath Singh v. State of Bihar*, above note 3.

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freedom it guarantees. It cannot be suppressed by improperly executing an outdated law or by adopting harsh steps that are disguised as acceptable boundaries. People of India, of the twenty-first century, are willing to challenge any authority that threatens the democratic system in which they were raised. Each nation's legal system should be an authentic reflection of the people who reside there. This raises one of the most crucial issues, namely how the colonial legacy of Section 124A is understood in the present day (Kumar and Guha 2017).

Sedition law has been the subject of substantial examination and opposition in recent years. Newspapers throughout the nation are flooded with reports of Section 124A being applied to a new accused, despite the fact that the courts have acquitted the bulk of previously accused criminals in similar circumstances, notwithstanding the fact that the principles established in the *Kedar Nath* judgment have been regarded as the key criterion for assessing the commission of sedition as a crime. Yet, this does not alleviate the considerable mental strain associated with being accused of the most serious crime imaginable, which is waging war against the State, nor does it diminish the amount of time or money spent on legal counsel in court (Kumar and Guha 2017).

The Chhattisgarh High Court heard the case of *Binayak Sen v. State of Chhattisgarh*,[32] which is largely acknowledged as the most infamous example of sedition in modern history. A number of individuals have expressed dissatisfaction with the verdict rendered by the High Court, which found the accused party culpable of sedition allegations. Amidst a period of escalating Naxalite aggression towards the State, the defendant was convicted of instigating sedition by orchestrating the dissemination of written correspondence alleging police brutality and disseminating Naxalite propaganda. As a consequence of the High Court's egregious disregard for the *Kedar Nath* standard of direct "incitement to violence", the law is frequently misapplied to link the accused with the Naxals and their crimes. After hearing the appeal, the Supreme Court unexpectedly overturned its decision (Venkatesan 2011) and authorized Dr Sen's release on bail. However, the court lauded the concept of "guilt by association" and stressed the significance of protecting freedom of expression (Venkatesan 2011).

The petitioner in the legal matter of *Gurjatinder Pal Singh v. State of Punjab* submitted a plea to the Punjab & Haryana High Court requesting the "annulment of the First Information Report (FIR) filed against him pursuant to sections 124A and 153B of the Indian Penal Code (IPC)".[33] The petitioner spoke at a memorial service for Operation Blue Star casualties, when he advocated for the creation of a buffer State between Pakistan and India called Khalistan. The individual opined that the Sikh community did not derive any worth or usefulness from the Constitution. The legal representatives of the petitioner proceeded to vocally express confident and forceful statements, while displaying unsheathed swords in an elevated manner. The High Court made reference to the precedent set by the Supreme Court in the case of *Balwant Singh v. State of Punjab*.[34] This case made it clear that singing slogans in jest without intending to instigate public unrest does not constitute a threat to the

[32]*Binayak Sen v. State of Chhattisgarh* (2011) 266 ELT 193.
[33]*Gurjatinder Pal Singh v. State of Punjab* (2009) 3 RCR (Cri) 224.
[34]*Balwant Singh v. State of Punjab* (1995) 3 SCC 214; AIR 1995 SC 1785.

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Government of India. This decision has far-reaching repercussions since it rules out the possibility that openly supporting secession and the creation of an independent State may be considered an act of sedition.[35] As a result, the initial report lodged against the defendant, commonly known as the First Information Report (FIR), was invalidated.

The decision rendered by the Apex Court in the case of *Balwant Singh v. State of Punjab* was subsequently embraced and upheld by the High Court of Chandigarh. In that particular case, the Supreme Court arrived at the determination that "the act of singing slogans in a nonchalant manner does not constitute sedition, as it does not explicitly incite violence or disrupt public order".[36] The allegations under Section 124A levelled against the accused were dismissed.

The judiciary has consistently ruled that criminal conspiracies and terrorist activities do not qualify as seditious acts. The case of *Md. Yaqub v. State of West Bengal*[37] involved an admission by the defendant of espionage on behalf of the Pakistani intelligence agency ISI. The individual in question would be directed by the agency to engage in activities that are deemed to be against the interests of the nation. The accused was indicted with the offence of sedition according to the provisions of Section 124A of the Indian Penal Code. According to the Calcutta High Court, the prosecution was unable to show that the activities of the accused were seditious or may have incited violence by using the elements of sedition as established in the case of *Kedar Nath*. As a result, the defendant was exonerated on account of the inability to meet the exacting criteria of proof.

The Kerala High Court, in the matter of *P.J. Manuel v. State of Kerala*,[38] upheld an advertisement that urged voters to refrain from supporting political leaders who have amassed wealth through exploitation of the underprivileged, in the forthcoming Legislative Assembly elections. The act of disseminating a poster serves as evidence that the interpretation of Section 124A should be contextualized within the intent and principles of the Constitution. The court made a noteworthy reference to Section 196 of the Code of Criminal Procedure which stipulates that a court is authorized to entertain a complaint alleging a crime against the State only if the Government has granted permission for such a proceeding.[39] The defendant was acquitted by the court on the grounds of insufficient evidence pertaining to the essential components of "incitement to violence" and "dissatisfaction with the government". The Kerala High Court has made an observation that necessitates an investigation into whether the act of disseminating or advocating for dissent, or even challenging the fundamental principles or framework of the government, can be ascribed to "inciting disaffection towards the government" in the context of a contemporary democratic society. The proper understanding and application of the sedition offence ought to be grounded in the fundamental tenets and objectives of the Constitution, rather than relying on the standards employed during the colonial period. The argument was supported by citing pertinent sources to demonstrate that

[35]*Partap Singh v. Union Territory of Chandigarh*, Cri Misc No. 11926-M of 1991.
[36]*Balwant Singh v. Punjab*, 1976 AIR 230.
[37]*Md. Yaqub and Aloke Biswas @ Bapi v. State of West Bengal* (2004) 4 CHN 406.
[38]*P.J. Manuel v. State of Kerala*, ILR (2013) 1 Ker 793.
[39]The Code of Criminal Procedure, 1973, Section 196.

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expressing slogans that promote the creation of a socialist society founded on the principles of classlessness would not be considered a seditious act that merits a penalty.[40] Furthermore, it has been noted that in accordance with Section 196 of the Code of Criminal Procedure, "it is obligatory for the government to grant explicit authorization for any complaint lodged for an offence against the State (under Part VI of the Indian Penal Code) prior to the Court's ability to take cognizance of said offence" (Venkatesan 2011). Consequently, it was concluded that the disputed conduct did not constitute sedition and subsequently invalidated the complainant's criminal accusations.

In the case of *Sanskar Marathe v. State of Maharashtra*,[41] the Bombay High Court exonerated cartoonist Aseem Trivedi from all accusations under Section 124A. Furthermore, the court has established specific protocols for the Maharashtra Police to adhere to when effecting an arrest for the offence of sedition. The Maharashtra government issued a circular expounding the rationale for invoking Section 124A in accordance with the aforementioned directives. However, the circular was subsequently retracted when the High Court was confronted with a constitutional contest to the Section (Rai 2014). As additional instances arise that elucidate the parameters of the sedition law, it is likely that the statute will be employed less frequently in cases where individuals have been falsely accused. However, contrary to expectations, the recent past has been characterized by a plethora of peculiar cases of alleged sedition, if not entirely obscured by them. Several cases, including the occurrence at Swami Vivekanand Subharti University in Meerut in March 2014, are deemed noteworthy and are referenced within this article.

Similarly, the legal precedent of *Sri Indra Das v. State of Assam*[42] determined that the accused had connections with the banned organization ULFA (United Liberation Front of Asom). There was an accusation of homicide against him, despite the lack of supporting evidence. Drawing upon the legal precedents established in the cases of *Kedar Nath*[43] and *Niharendu Majumdar*,[44] the Supreme Court rendered a verdict that precluded the prosecution of the accused on charges of sedition, ultimately leading to the granting of the appeal. The accused in the sedition charges were acquitted due to the stringent standard of evidence upheld by the courts in the cases of *State of Assam v. Fasiullah Hussain*[45] and *State of Rajasthan v. Ravindra Singhi*.[46] The judicial system concluded that "the prosecution had failed to provide sufficient evidence to prove that the defendant had committed acts of sedition".[47]

In a particular case, a cohort of 67 pupils from Kashmir were accused under Section 124A of "exhibiting solidarity with Pakistan during the Asia Cup game versus India" (Rashid 2016). The charges were filed against the individuals on the basis of India being the opposing team in the match against Pakistan. Aamir Khan, a

[40]*Alavi v. State of Kerala*, 1982 KLT 205; *Balwant Singh v. State of Punjab*, above note 34.
[41]*Sanskar Marathe v. State of Maharashtra*, 2015 CriLJ 3561.
[42]*Sri Indra Das v. State of Assam* (2011) 3 SCC 380.
[43]*Kedar Nath Singh v. State of Bihar*, above note 3.
[44]*Niharendu Dutt Majumdar and Ors. v. King Emperor*, above note 17.
[45]*State of Assam v. Fasiullah Hussain* (2013) 4 GLT 284.
[46]*State of Rajasthan v. Ravindra Singhi* (2001) 3 WLN 242.
[47]Ibid.

https://doi.org/10.1017/cri.2023.19 Published online by Cambridge University Press

notable personality in the Indian film sector in his capacities as an actor and producer, was accused of sedition subsequent to his comments on the subject of "intolerance" that is prevalent in the nation (Rashid 2015). The aforementioned statements received significant attention from the media regarding the case. The incident in question satisfies the conditions for a criminal act, due to the breach of legal statutes, utilizing the term in its most appropriate context. The only shared characteristic identified among these heterogeneous groups is their capacity to articulate their thoughts and ideas without any apparent sense of intimidation within the particular setting (Varma 2016).

SEDITION LAWS IN OTHER COUNTRIES

United States of America (Sedition Law, 1918, Alien Registration Act, 1940)

The basic principles of sedition legislation in the United States were established and are enforced by the Alien Registration Act of 1940 and the Sedition Act of 1918. The democratic system in the United States of America is largely considered to be among the most evolved and unfettered in the world. Many people think the First Amendment to the United States Constitution is very important because of all the ways in which it protects citizens' rights to free speech. One of the primary arguments for this is the First Amendment's clause that protects people's freedom of speech. This is a perfect example of how the First Amendment guarantees Americans the right to freely express themselves without interference from the government. Regulations that run counter to the values embodied in the First Amendment of the United States Constitution are explicitly forbidden.

The Espionage Act of 1917 was broadened by the Sedition Act of 1918 to include those whose communications during the war were deemed harmful to the running of the government. Expanding the definition of "espionage" as required by the Espionage Act of 1917 allowed for the aforementioned goal to be met.

The concept of free speech in the United States has undergone extensive examination during periods of military conflict throughout the nation's history. President Woodrow Wilson advocated for the enactment of novel legislation during the First World War that proscribed expressions contravening the fundamental tenets of the First Amendment. The legislative branch of the US government enacted the Espionage Act in close temporal proximity to the country's involvement in the war. The aforementioned legislation has rendered the act of transmitting data with the intention of obstructing the progress of military operations unlawful. After that, the Sedition Act was put into effect, establishing harsh penalties for a wide range of dissident utterances, including verbal attacks against the US government, the flag, the Constitution and the armed services. The law was written with socialists, pacifists and other opponents of military conflict in mind. Many anti-war protestors were prosecuted under various aspects of these Acts because the Wilson Administration believed they were necessary for the war effort. Although the Supreme Court at the time supported the aforementioned judgments, modern academics see these Acts as violating basic protections for the freedom to express oneself. Over the next decades, the Supreme Court shifted its focus, becoming more committed to defending the freedom of expression. Justices Oliver Wendell Holmes

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and Louis Brandeis published a series of landmark decisions in the 1910s and 1920s that laid the groundwork for the development at issue. In the 1960s, the Supreme Court adopted a more liberal view of its role in protecting the freedom of expression.[48]

Despite the attempts of legal experts to limit the scope of this sedition, a pattern of instances shows that it may continue to exist, but with diminished force. Despite the fact that experts in the field of law have exerted significant effort to precisely define this violation. One may claim that it has now reached the status of relic (Center for the Study of Social Exclusion and Inclusive Policy 2011).

The Supreme Court of the United States, in the notable case of *Schenck v. United States*, offered an elucidation of the Sedition Act of 1918, which established the "clear and present danger standard" as the yardstick for assessing the permissibility of restricting freedom of expression.[49] However, it is worth noting that the "poor inclination test"[50] was a prevalent assessment tool before the implementation of standardized examinations, particularly in the period of war from 1914 to 1918. The regulation in question resulted in the prohibition of all forms of expression. It is widely believed that the protection of free speech under the First Amendment does not extend to recently stigmatized concepts if it can be proven that the aforementioned communication caused substantial harm and presented an imminent danger.

Furthermore, the dissenting opinion of Justice Holmes in the case of *Abrams v. United States* served to "enhance the protection of the freedom of speech by broadening the scope of the statute to encompass Sedition cases".[51] This ruling broadened the extent of legal safeguard. The issue under consideration pertained to the permissibility, under the First Amendment, of circulating pamphlets that advocated for a work stoppage at manufacturing plants with the aim of impeding the production of equipment that could potentially be utilized to suppress individuals involved in the Russian revolution. According to the ruling, the Congress possesses the power to limit the expression of thoughts in the event of a distinct and immediate danger or the intention to cause such danger.

The constitutionality of the 1940 Alien Resident Act was challenged in the legal case of *Dennis v. United States*.[52] This landmark case established that the utilization of the First Amendment as a means to conceal the distribution of subversive propaganda is not permissible. The Supreme Court, in the significant ruling of *Brandenburg v. Ohio*, recognized a conspicuous differentiation between advocacy and incitement.[53] Nevertheless, solely the latter is not safeguarded against legal repercussions.

[48]National Constitution Center, "Espionage Act of 1917 and Sedition Act of 1918 (1917–1918)." *National Constitution Center*, retrieved 6 July 2023 (https://constitutioncenter.org/the-constitution/historic-document-library/detail/espionage-act-of-1917-and-sedition-act-of-1918-1917-1918).

[49]*Schenck v. United States*, 249 U.S. 47 (1919).

[50]*United States ex rel. Turner v. Williams*, 194 U.S. 279 (1904) and *Patterson v. Colorado*, 205 U.S. 454 (1907).

[51]*Abrams v. United States*, 250 U.S. 616 (1919).

[52]*Dennis v. United States*, 341 U.S. 494 (1951).

[53]*Brandenburg v. Ohio*, 395 U.S. 444 (1969).

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Through an analysis of US case law, legislative acts, and other legal documents, it is evident that the United States has demonstrated sagacity and served as a model for other democratic nations in achieving a judicious equilibrium between safeguarding free speech and retaining the sedition law in a modified form. The enforcement of sedition laws has been largely inconsequential in recent times, as their implementation has been absent for several decades and judicial authorities have consistently upheld the fundamental right to freedom of expression.[54]

United Kingdom

The 1275 "Statute of Westminster" is considered the predecessor of seditious law in the United Kingdom. As the King's authority was believed to be directly deriving from God, he was granted unlimited authority. The path to making seditious libel a criminal offence has been arduous until recently. *De Libellis Famosis*[55] was one of the earliest works to argue that the dissemination of seditious libel constituted a crime independent of the speaker's intent. Hence, it was one of the earliest works to introduce a criminal act. According to the judgment, as sincere criticism of the government might cause instability, a strict degree of restriction must be maintained. Cases of seditious libel in the United Kingdom were punished under both the Felony-Treason Act and common law. Since 1977, there has been debate on the legality of a seditious libel clause in democratic States. The Human Rights Act of 1998 reignited the controversy over whether seditious libel should be criminalized. While ultimately ineffective, it contributed to the cause of expunging libelous terms deemed subversive. In 2009, the prohibition of seditious libel was implemented as a result of the collective endeavours of all parties concerned. This is one of the primary reasons why seditious libel has gone out of favour. It was also brought to everyone's attention that these restrictions were created prior to the recognition of free speech as a fundamental human right. In addition, the consistent application of this concept has enabled a number of nations to sustain legal systems with ancient roots (Ali and Ghose 2022).

The evolution of sedition law in the United Kingdom has transpired over numerous centuries and has experienced noteworthy transformations. Sedition pertains to the action of instigating a revolt or opposition against the recognized governing body of a nation. The following is a concise summary of the historical development of sedition legislation in the United Kingdom:

- The early history of sedition laws in the United Kingdom can be traced to the medieval era, during which the monarchy aimed to safeguard its authority. The offence of sedition was deemed to pose a risk to the constancy of the realm, and legislative measures were implemented to penalize individuals who expressed dissent or conspired against the sovereign or the administration.
- The Treason Act of 1351, enacted under the monarchy of Edward III, established a legal definition of high treason. This definition encompassed various acts, including but not limited to regicide, conspiracy to commit

[54]Ibid.

[55]*The Case De Libellis Famosis*, 77 E.R. 250 (K.B. 1606).

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regicide, waging war against the monarch, and providing assistance to the monarch's adversaries. The aforementioned actions were deemed as the gravest transgressions against the monarchy and were subject to capital punishment (Hill and Whistler 2022).

- The Sedition Act of 1661 was implemented during the tenure of Charles II with the aim of mitigating potential dangers to the monarchy. The objective was to quell political opposition and establish legal consequences for any act of "slander or defamation" directed towards the monarch, his successors or the governing body (British History Online 2017).
- The Treason Act of 1695 established a differentiation between the crime of high treason and other related offences, such as sedition. The offence of sedition underwent a reclassification whereby it was no longer categorized as an act of high treason and, consequently, was subject to reduced legal consequences. Nevertheless, it continued to be regarded as a grave offence that warranted incarceration and other forms of penalties (British History Online 2019).
- During the nineteenth century, sedition laws were employed as a means of quelling political radicalism and social upheaval. During times of political turmoil, such as the Chartist movement and the Irish struggles for independence, the government endeavoured to limit expressions of dissent towards the monarchy and the State.
- The Sedition Act of 1870 was passed to simplify and unify the several sedition statutes that had previously existed. The definition of sedition was expanded to encompass any speech or action that aims to instigate violence against the government or encourage public unrest.
- The employment of sedition laws has been subjected to mounting censure over the years due to their employment in stifling political opposition and curtailing the freedom of expression. The offence of sedition was effectively abolished in England and Wales through the Coroners and Justice Act in 2009 (Feikert-Ahalt 2012). Analogous measures were implemented in Scotland during the year 2010.

It is noteworthy that although sedition laws have been abolished in the United Kingdom, other statutes, such as the Public Order Act of 1986, continue to proscribe the act of inciting racial or religious animosity, as well as actions aimed at fomenting hostility towards particular communities. The objective of these regulations is to achieve equilibrium between safeguarding the right to express oneself freely and curbing hate speech and instigation of violent behaviour.

Australia

The subject of sedition laws has been a matter of ongoing discourse, as it entails managing a nuanced equilibrium between preserving national security and upholding essential liberties such as the right to free speech. The present research article undertakes an investigation of the sedition law in Australia, with a focus on its historical antecedents, legal structure, ramifications for the right to free expression, and contemporary updates:

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- The inception of sedition laws in Australia can be attributed to the era of British colonial rule. The inclusion of sedition as a criminal offence in the Crimes Act of 1914 was motivated by the aim of suppressing political dissidence and safeguarding colonial power. The legislation has been subject to modifications in order to reflect the constantly evolving social and political landscape in Australia.
- The concept of sedition in Australia is defined by the country's legal framework as conduct or verbal expressions that instigate individuals to participate in violent behaviour, public unrest, or animosity directed towards the government or the broader Australian community. This encompasses the act of endorsing the subversion of the government, endorsing "the use of force against a particular group on the basis of their nationality, race, or religion, and promoting the use of armed resistance against the nation or its legal system".[56]
- The category of sedition offences is broad and encompasses a variety of actions, such as verbal or written communication and other modes of expression. The act of sedition may result in various forms of punishment, such as monetary penalties, incarceration, or a combination of both. Offences that are deemed aggravated may result in more stringent punishments.
- The tension between ensuring national security and protecting the right to free speech is at the heart of the current debate. The enactment of sedition laws in Australia has elicited apprehension regarding the possibility of impinging on the liberties of speech and expression. Critics contend that the expansive delineations of sedition infractions, in conjunction with subjective construal, have the potential to impede authentic political opposition and restrict communal discourse.
- The presence of sedition laws may have a "chilling effect" on the freedom of expression, causing individuals to engage in self-censorship and abstain from participating in vigorous political discussions to evade any possible legal repercussions.[57]
- The conformity of Australian sedition laws with international human rights standards, with a particular emphasis on safeguarding freedom of expression, has been a topic of examination. Several international entities and human rights advocacy groups have raised apprehensions regarding the probable consequences on this essential entitlement.
- The 2005 amendments to the aforementioned subject have been subject to criticism. The sedition laws in Australia were amended by the government in 2005, resulting in an expansion of their reach and more severe penalties. The proposed modifications encountered substantial opposition from organizations advocating for civil liberties, legal scholars, and the press due to their perceived capacity to encroach upon the right to express oneself freely (Saul 2008).
- In 2006, the government revoked specific provisions of the sedition laws following public discourse and scrutiny (Williams 2011). The legal offence pertaining to the act of "inciting violence" has been substituted with a

[56]Crimes Act 1914, No. 12, 1914. Retrieved 6 July 2023 (https://www.legislation.gov.au/Details/C2023C00023).

[57]See above note 4.

https://doi.org/10.1017/cri.2023.19 Published online by Cambridge University Press

provision that specifically addresses the act of urging terrorism. Nevertheless, the charges of sedition pertaining to the incitement of animosity and lack of allegiance towards the governing body were upheld.[58]

In conclusion, the sedition law in Australia embodies a nuanced equilibrium between safeguarding national security interests and upholding the fundamental right to freedom of speech. Despite the implementation of amendments and reforms aimed at addressing certain criticisms, apprehensions persist with regard to the possible inhibitory impact on public discourse. Continued deliberations and examination are imperative to ascertain that sedition legislation in Australia attains a suitable equilibrium, maintaining the integrity of national security while preserving essential liberties.

Malaysia

In 1948, the British implemented a law coinciding with the establishment of the autonomous Federation of Malaya, aimed at suppressing resistance to colonial governance. The aforementioned legislation persisted in the official records until the attainment of sovereignty in 1957, as well as the amalgamation with Sabah, Sarawak and Singapore which culminated in the establishment of Malaysia. The aforementioned legislation was initially implemented by the colonial administration of British Malaya in 1948 with the purpose of suppressing the indigenous communist rebellion. The aforementioned legislation renders speech with a "seditious tendency" unlawful, encompassing expressions that may incite "feelings of ill-will and hostility between different races" or "bring into hatred or contempt or to excite disaffection against" the government.

Section 3 of the Sedition Act of 1948 provides a definition for the term "seditious tendency", which bears resemblance to the English common law definition of sedition, albeit with adaptations tailored to the specific context of the locality.[59] In Malaysia, the sedition law is distinct in its application, as it can be employed to prosecute elected officials serving in the parliament. According to Article 149 of the Constitution of Malaysia, any legislation aimed at halting or preventing the six specific incidents or circumstances outlined in the article are deemed lawful, even if it contradicts any of the provisions stated in Article 10(1).[60]

The examination of sedition laws in Malaysia highlights a number of significant factors:

[58]Criminal Code Act 1995, Sections 80.2A–80.2B. The initial introduction of these transgressions was under the classification of "sedition" offences, according to the Anti-Terrorism Act (No. 2) 2005 (Cth) schedule 7, item 12. The National Security Legislation Amendment Act 2010 (Cth) part 2 was responsible for the modification of the aforementioned to their present state. The reason behind this can be attributed significantly to the disapproval of the sedition charges by the Australian Law Reform Commission (Australian Law Reform Commission 2006). Bronitt and Stellios (2006) discuss the issue of sedition, security and human rights in the context of law reform during the "War on Terror". They argue that the law reform was unbalanced and provide an analysis of the implications of such reform. Also see Gelber (2007).

[59]Malaysia's Sedition Act 1948, Section 3.

[60]Article 10(1) of the Constitution of Malaysia reads: "every citizen has the right to freedom of speech and expression".

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- The Sedition Act of 1948 was originally implemented within the historical context of British colonial rule as a means to suppress nationalist movements. Despite the political and social changes that have occurred since its inception, the law continues to be enforced, prompting inquiries into its applicability within a contemporary democratic framework (Article 19 2003).
- The Sedition Act's expansive and imprecise definition of sedition has been a topic of critique. The absence of well-defined limits creates room for subjective assessments, which may result in possible misapplication and discriminatory enforcement, particularly towards political dissidents and opposition members.
- The existence of sedition laws in Malaysia is believed to have a dampening impact on the exercise of freedom of expression. The act of self-censorship among individuals, in which they withhold their opinions and abstain from political discussions due to the fear of legal repercussions, can have a detrimental effect on democratic involvement and the promotion of vigorous public discourse.
- The application of sedition laws has exhibited a notable bias towards opposition politicians, activists, journalists, and proponents of minority rights. The implementation of selective enforcement has prompted apprehensions regarding the curtailment of opposing views and the utilization of legal mechanisms as a means of stifling detractors.
- The sedition laws in Malaysia do not meet international human rights standards. The expansive reach of legal regulations and their susceptibility to misuse are in opposition to the fundamental values of the liberty to express oneself, which are safeguarded by global agreements and covenants.
- There is an increasing agreement among legal experts, civil society organizations and human rights groups that the Sedition Act necessitates either substantial reform or complete repeal. These calls are motivated by the necessity to harmonize domestic legislation with global norms and safeguard essential rights and freedoms (United Nations News 2015).
- The Malaysian government has recognized the necessity for modifications and has declared intentions to substitute the Sedition Act with a legislation that concentrates on the regulation of hate speech. The proposed reforms suffer from a dearth of lucidity concerning their timeline and particulars, thereby creating space for doubt regarding their efficacy.
- The sedition laws in Malaysia have raised apprehensions regarding the extensive interpretation, discriminatory implementation, and inhibitory impact on the right to free speech, as a final point. An increasing agreement exists regarding the necessity of either repealing or modifying these laws in order to ensure adherence to global human rights norms and protect democratic values.

Uganda

The Uganda Penal Code Act specifies the legal provisions governing seditious intent and the offence of sedition, as outlined in Section 39 and Section 49.[61] According to

[61]Cap. 120, Laws of Uganda, 2000.

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Section 39, seditious intentions refer to the conscious aim of "provoking feelings of disloyalty or disdain towards the President, the Government, or the Constitution".[62] Furthermore, it encompasses a purposeful aim to instigate individuals to unlawfully endeavour to modify any material within the possession of the Government, to provoke disloyalty or generate animosity towards the administration of justice, and to undermine or advocate the undermining of the Government or the administration of a region. The expression of the Law mentioned above raises noteworthy legal issues when taking into account the stipulations delineated in Article 43(2) (c) of the Constitution.

Andrew Mwenda, a Ugandan journalist, "articulated several critiques of the President and the Ugandan government during his live radio broadcast".[63] According to the provisions outlined in Sections 39 and 40 of the Penal Code, the State has charged the defendant with the offence of sedition. The reason behind this was the deliberate intention of the speaker to provoke hostility and contempt towards the President, government and Constitution through their statements. The Constitutional Court nullified the sedition provisions of the Penal Code on the grounds that they contravened the right to freedom of expression.

The sedition law in Uganda has been the subject of critical analysis and discussion due to its potential implications on democratic principles and freedom of expression. The present study endeavours to conduct a thorough investigation of the sedition law in Uganda, encompassing its legal structure, historical backdrop, ramifications for the right to freedom of speech, obstacles, and effects on democratic principles:

- The legal framework pertaining to sedition in Uganda is predominantly regulated by the Penal Code Act of 1950. According to Section 39 of the Act, sedition is characterized as actions or expressions that advance violence, public unrest, or animosity or alienation towards the government or the State. The law in question encompasses a range of transgressions, such as the promotion of violent behaviour, the encouragement of insurrection, or the advocacy for the subversion of the ruling authority.
- Uganda's sedition laws have a long and storied history, dating back to the colonial era when they were used to suppress dissent and maintain government control. Since attaining independence in 1962, Uganda has undergone multiple modifications and adjustments to its sedition legislation, which signify shifts in political environments and preferences.
- The sedition law implemented in Uganda bears noteworthy consequences for the exercise of freedom of expression. Detractors contend that the expansive delineations and personal evaluations of sedition charges may result in preemptive restraint and an atmosphere of apprehension, impeding transparent civic dialogue and suppressing governmental opposition. Sedition charges have been levied against journalists, opposition politicians,

[62]Uganda Penal Code Act 1950, Section 39.

[63]Global Freedom of Expression, "*Mwenda v. Attorney General*, Consolidated Constitutional Petitions No. 12/2005 and No. 3/2006." Global Freedom of Expression, Columbia University. Retrieved 6 July 2023 (https://globalfreedomofexpression.columbia.edu/cases/mwenda-v-attorney-general/).

https://doi.org/10.1017/cri.2023.19 Published online by Cambridge University Press

and activists, thereby engendering a deterrent impact on the exercise of freedom of expression.

- The selective enforcement of sedition laws has raised concerns regarding the potential for government critics to be silenced and dissent to be suppressed. The ambiguous character of sedition charges provides the authorities with the discretion to construe the legislation in a way that may restrict valid forms of dissent and opposition. The practice of selective enforcement erodes democratic values and fosters a climate of apprehension that inhibits individuals from freely expressing their viewpoints.
- The conformity of Uganda's sedition law with international human rights standards has been subject to scrutiny and criticism. The utilization of vague and ambiguous terminology in sedition charges raises apprehensions regarding the safeguarding of the right to freedom of speech, as established in global human rights treaties. Various international organizations and human rights groups have urged for the modification or annulment of sedition laws to ensure their compliance with established norms.
- The limitations on political participation and the hindrance of an open and inclusive society are challenges to democratic values that are posed by sedition laws. The presence of such regulations has the potential to erode confidence in democratic establishments, hinder the unrestricted dissemination of knowledge and concepts, and limit the capacity of individuals to participate in vigorous political dialogue.
- There have been appeals from civil society organizations and human rights advocates for the reformation or revocation of sedition laws in Uganda. The authors contend that it is imperative to harmonize domestic legislation with global human rights norms, safeguard the fundamental democratic entitlement of freedom of expression, and prevent the misuse of laws to curtail dissident voices or quell political dissidence.

Freedom of speech and the promotion of democratic principles are both severely hampered by Uganda's sedition statute. The expansive scope of its definitions, discriminatory application, and possible inhibitory influence on open discussions among the general public give rise to apprehensions regarding its conformity with globally recognized human rights norms. In Uganda, the cultivation of a democratic society that values diverse opinions and enables vigorous political engagement necessitates the facilitation of open dialogue, the promotion of legal reforms and the protection of freedom of expression.

Hong Kong

The legal framework governing the sedition law in Hong Kong is established by the Crimes Ordinance, with particular reference to Section 9 and Section 10. These provisions prohibit the commission of acts and the dissemination of publications that are intended to incite sedition. According to these stipulations, sedition is comprehensively characterized as behaviour or discourse that endeavours to generate animosity, disdain or alienation towards the government or instigates others to engage in aggression or civil unrest:

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- Hong Kong's sedition statute has historical roots, dating back to the colonial period when the territory was under British administration. The primary purpose of its utilization was to quell opposition and uphold authority over the populace. Following the transfer of sovereignty to China in 1997, the sedition law was preserved and subsequently integrated into the domestic legal framework.
- The potential consequences of the sedition law in Hong Kong have generated apprehension regarding its potential impact on the fundamental right to freedom of expression. Detractors contend that the all-encompassing and imprecisely delineated transgressions are susceptible to subjective construal, engendering pre-emptive restraint and an atmosphere of apprehension. The enactment of laws has the potential to limit political opposition and impede the free exchange of ideas in the public sphere (Chau 2022).
- The recent introduction of the National Security Law (NSL) in Hong Kong has resulted in a further expansion of the legal framework concerning sedition. The NSL proscribes activities related to "secession, subversion, terrorism, and collusion with foreign entities".[64] While not overtly classified as sedition, these violations may encompass actions that were traditionally acknowledged as seditious behaviours.
- The utilization of the sedition law, in tandem with the NSL, has resulted in noteworthy consequences for the political milieu of Hong Kong (Amnesty International 2020). The utilization of this method has been observed to specifically aim at pro-democracy advocates, members of the press and persons expressing opposition towards the government, leading to detentions, legal actions and the suppression of opposing viewpoints. The legal framework has been a contributing factor to the creation of an environment that fosters political oppression and the gradual erosion of fundamental civil liberties (Tsoi and Wai 2022).
- The sedition law in Hong Kong has been the subject of international criticism due to its perceived violation of fundamental democratic principles and human rights. The erosion of freedom of expression, selective enforcement of the law, and its impact on Hong Kong's autonomy and the "one country, two systems" framework have been subject to raised concerns.
- The predicament of reconciling national security apprehensions with safeguarding civil liberties is exemplified by the sedition law implemented in Hong Kong. The preservation of national security is a valid consideration for any governing body; however, it is imperative to guarantee that legislation and its implementation do not unjustly impede essential liberties, such as the right to free speech and non-violent assembly.

Concerns about the effects on free speech and the local political atmosphere have been voiced in light of Hong Kong's sedition statute, which falls under both the Crimes Ordinance and the National Security statute. The expansive scope of its definitions, the subjective nature of its interpretations, and its potential consequences for those who express opposing views have engendered contentious

[64]National Security Law 2020.

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debate and garnered censure from the global community. Achieving equilibrium between safeguarding national security and upholding civil liberties is a multifaceted undertaking that necessitates meticulous contemplation and adherence to democratic values and human rights.

THE RIGHT TO FREEDOM OF SPEECH AND EXPRESSION *V.* SEDITION

Recently, the significance of Section 124A of the Indian Penal Code has significantly increased in a democratic and liberated society. It is unnecessary for individuals within a democratic society to sing from the same songbook in order to demonstrate their sense of unity. The regulation or production of affection through legal means is not feasible. Upon his arrest for inciting violence against the government, Gandhi made the assertion that an individual who harbours antipathy towards another individual or system should be granted the liberty to express such sentiments to the maximum degree feasible, provided that they do not intend, endorse or instigate violence (Bombay Sarvodaya Mandal and Gandhi Research Foundation 2021).

The Laws Enacted During the Colonial Era Serve No Function for Independent India

In modern and independent India, colonial laws have no place in society as they are a residue of the colonial era (Law Commission of India 2018:2). Many opponents of the law of sedition view it as a relic of British control that has no place in a democratic nation like India (Law Commission of India 2018:2).

Pandit Jawaharlal Nehru addressed sedition when he introduced the Constitution (1st Amendment) Bill in 1951. He stated, "Now so far as I am concerned, that particular section is highly objectionable and obnoxious, and it should have no place both for practical and historical reasons, if you will." We should eliminate it as soon as possible.[65]

Abuse by Governments and the Judicial System's Present Predicament

Disha Ravi, a climate activist, was charged with contravening Section 124A by disseminating a "toolkit" on social media that urged farmers to demonstrate against contentious agricultural regulations. However, the Delhi High Court has recently granted her bail. There is a contention that contemporary governing bodies may exploit Section 124A, utilizing it as a mechanism to stifle dissenting viewpoints or disapproving assessments of the State.[66]

The Supreme Court Justices, namely U. U. Lalit, Indira Banerjee and K. M. Joseph, "have served a notice to the Central Government, requesting a response to the petition filed by Kishorechandra Wangkhemcha and Kanhaiya Lal Shukla" of Manipur and Chhattisgarh, respectively (Scroll.in Staff 2021). The petitioners are challenging the constitutionality of Section 124A, which was invoked against them for their online comments and cartoons that were critical of the government. As a consequence of the

[65]"Parliamentary Debates - Third Session of the Parliament of India 1950-51" (*Lok Sabha Digital Library*). Retrieved 10 June 2023 (https://www.eparlib.nic.in/bitstream/123456789/760712/1/ppd_29-05-1951.pdf).

[66]*State v. Disha A. Ravi*, Bail Application No. 420/2021.

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aforementioned measures taken against the dissemination of Internet-based remarks and satirical depictions, a total of 48 signatories have contested the legitimacy of Section 124A.

In the case of *Aamoda Broadcasting Company Private Limited & Anr. v. State of Andhra Pradesh*,[67] the Supreme Court issued a stay of coercive measures under Article 32 against two television news networks called TV5 and ABN. The Andhra Pradesh Police have charged these networks with sedition due to their broadcasting of programmes that express criticism towards the Chief Minister and the State Government (Bajpai 2021). The stay of these measures was issued by the Supreme Court which stated:

> [We] are of the view that the ambit and parameters of the provisions of Sections 124A, 153A and 505 of the Indian Penal Code 1860 would require interpretation, particularly in the context of the right of the electronic and print media to communicate news, information and the rights, even those that may be critical of the prevailing regime in any part of the nation (Bajpai 2021).

The Himachal Pradesh Police Department "lodged a First Information Report (FIR) against journalist Vinod Dua" (Bhardwaj 2021) on charges of sedition (Section 124A) and public mischief (Section 505) in relation to a YouTube debate programme that he hosted in the preceding year. However, the Supreme Court invalidated the allegations against him in the case of *Vinod Dua v. Union of India*.[68] On the 30 March 2020 broadcast of his Hindi talk show, Dua made allegations that the "Prime Minister utilized fatalities and instances of terror as a means to secure votes, and that the Prime Minister garnered support through acts of terrorism" (Ananthakrishnan 2021). According to the pronouncement articulated by the bench comprising of Justices U. U. Lalit and Vineet Saran, the verdict of the Supreme Court in the matter of *Kedar Nath Singh* extends safeguard to every journalist. As part of its judgment, the court upheld the legality of Section 124A of the Indian Penal Code. However, the court observed that the restriction is limited to activities that entail "incitement to violence or the intention or inclination to incite public disorder or disturb public tranquillity".[69]

The verdict rendered by the Supreme Court in the matter of *Kedar Nath Singh* is often cited as a crucial legal precedent for the utilization of sedition in diverse cases, as it restricted the implementation of the provision to actions that result in "incitement to violence or have the propensity or intention to create public disorder".[70] However, despite this fact, legitimate authorities have been known to misuse the term "seditious" to label actions that do not actually pose a risk to the security of the nation. The constitutionality of Section 124A of the Indian Penal Code, which pertains to sedition, was contested in the Supreme Court case of *S. G. Vombatkere v. Union of India*.[71] The argument put forth was that this law imposes

[67] *Aamoda Broadcasting Company Private Limited & Anr. v. The State of Andhra Pradesh and Ors.* (2022) 7 SCC 437.

[68] *Vinod Dua v. Union of India*, 2021 SCC OnLine SC 414.

[69] *State v. Disha A. Ravi*, above note 66.

[70] *Kedar Nath Singh v. State of Bihar*, above note 3.

[71] *S. G. Vombatkere v. Union of India* (2022) 7 SCC 433.

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an unreasonable limitation on the fundamental right to free expression, as enshrined in Article 19(1)(a), and has a constitutionally impermissible "chilling effect" on speech due to its vague definitions of "disaffection towards Government etc.".[72]

> Dispute is that it is a colonial law and was used by British to suppress freedoms and used against Mahatma Gandhi and Bal Gangadhar Tilak. Is this law still needed after 75 years of Independence?

During the proceedings of the case that "challenges the constitutional validity of the law of sedition", the former Chief Justice of India, N. V. Ramana, posed the aforementioned inquiry to the Attorney General, K. K. Venugopal (Ojha 2021). According to the Chief Justice of India, "the conviction rate under this provision has historically been rather low". He argued that the provision was being misused. This paragraph's great power is comparable to a carpenter being given a saw to construct something, but instead of cutting down a single tree, he decides to level an entire forest. This is what occurs when such a provision is implemented. Continuing, he stated that all of these are issues that require examination.[73] In 2019, the National Crime Records Bureau revealed that out of 93 total sedition prosecutions in India, just one defendant was found guilty following a trial. In 30 of the 40 cases in which charges were filed, trials were concluded. According to these statistics, just 3.3% of sedition cases end in conviction.

The Chief Justice of India, Honourable Justice N. V. Ramana, highlighted Section 66A of the Information Technology Act, 2002 as another illustration.[74] Despite the *Shreya Singhal v. Union of India*[75] ruling, this section allowed for the arrest of individuals.

In this instance, it was ruled that Section 66A breached Article 19(1)(a) by chilling the right to freedom of speech, and it was noted that:

> A provision of law that forces people to self-censor their views for fear of criminal sanction violates the constitutional guarantee of free speech and as such it is unconstitutional . . .[76]

[72]See above note 4.

[73]Ibid.

[74]Information Technology Act 2002, Section 66A reads: "Punishment for sending offensive messages through communication service, etc.—

Any person who sends, by means of a computer resource or a communication device,

(a) any information that is grossly offensive or has menacing character; or

(b) any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will, persistently by making use of such computer resource or a communication device;

(c) any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages, shall be punishable with imprisonment for a term which may extend to three years and with fine."

[75]*Shreya Singhal v. Union of India*, AIR 2015 SC 1523.

[76]Ibid.

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Different laws provide considerable protection against both internal and foreign dangers. Both Justice A. P. Shah and Dr Subramaniam Swamy believe that existing procedures are sufficient to avert a breakdown in public order if Section 124A is removed (Singh 2021). Articles 19(2), 51A, 129 and 215; Sections 121, 122, 123, 131, 132, 141 and 153A; and the Unlawful Activities (Prevention) Act, 1967; the Contempt of Court Act, 1971; and the Prevention of Insults to National Honour Act, 1971 are a few among the 61 constitutional and statutory provisions that prohibit seditious activity designed to incite public disorder. According to Justice A. P. Shah, the underlying concept of sedition is tied to what he termed "parochial, egotistical, and narrow-minded nationalism", which he believed was responsible for a great deal of damage (Shah 2017).

CONCLUSION

If one adopts a global perspective, rules against sedition are relics of the past. This outmoded law does not belong in a contemporary constitutional democracy like India's. The fact that India still has a sedition law is an anomaly rather than the norm. In the sections before this one, a case has been made for the abolition of sedition laws. The sedition law in India was bequeathed from the United Kingdom, which has subsequently abolished this legislation. In recent years, there has been a significant transformation in the nature of politics in practically every part of the world. The majority of nations on the globe have already adopted a right-wing (majoritarian) political philosophy or are in the process of doing so. This form of politics is characterized by both the consolidation of power and the suppression of dissent (minority). This destabilizing phenomenon has also had a substantial influence on India. This has ultimately led to the deterioration of democratic institutions, which, in an ideal environment, would serve as a check on majoritarianism. In contrast, the manner in which the State responded to the recent demonstrations by filing sedition charges demonstrates that all constitutional norms and values have been disregarded. If India wants to rebuild its economy, and become a leader in the struggle for human rights, a healthy democracy in which citizens' views are heard and respected is an urgent must.

When we aim for such a democracy, a sedition law is a barrier because, historically, it has been utilized more often to quiet dissenters than to aid civilians. Hence, the legislation is rendered useless. The elimination of sedition laws in other nations, especially the United Kingdom, should serve as an example for other countries. To reiterate, disagreement, which is crucial to the operation of any democracy, must be cherished and protected. At least to some extent, if not entirely or significantly, a law governing seditious libel accelerates the decline of democracy. The 1951 address of Jawaharlal Nehru, in which he pushed for the repeal of the Sedition Act, is worthy of consideration. In the same talk, he also advocated for the removal of this "very distasteful and obnoxious" piece of legislation, claiming that doing so would be advantageous for both historical and practical reasons.

Considering the egregious abuse of the sedition legislation by numerous administrations that were found to be corrupt and mischievous, it can be thoughtfully concluded that an elimination or reduction (to the extent it becomes

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limited in its application) of this law may only be possible if it undergoes stern judicial scrutiny which can lead to attenuation of its application in the areas where it has become an instrument of unconstrained authority without any oversight. The issue that judges commonly encounter when determining how to decide on a case in which the "rights of the people" and the "demands of the state" must be weighed against one another has been addressed eloquently. The judges must establish a balance between the two contending interests in this case (Chagla 2018).

In reality, a judgment that the sedition statute is unconstitutional is a necessity of the moment. Notwithstanding the fact that the *Kedar Nath* decision was reached by just five judges, it is still the law of the land; therefore the Supreme Court might refer the case to a constitution bench of seven judges. This action will not only be a course correction, but it will also empower the public, resulting in an even stronger democracy. To further Indian legal framework and constitutional jurisprudence, Rule of Law should be the guiding light and Constitutional Liberalism can be the steadfast ideology to effect the change.

Considering the aforementioned circumstances, it is proposed that a revision be made to the existing legislation. It is recommended that Section 124A be preserved, provided that three prerequisites are met. Firstly, the perpetrator must hold a position of power. Secondly, the words in question must be interpreted within their appropriate context. Lastly, the utterances must possess the potential to incite violence or unrest.

RECOMMENDATIONS AND SUGGESTIONS

Narrowing the Scope of Sedition Law

In order to prevent the sedition statute from being used to silence criticism and disapproval of government acts, its scope must be narrowed. Only in cases where there is evident and explicit incitement of bodily harm or a deliberate attempt to foment social disturbance may legal actions be used. Criticizing the government or its policies should not be considered sedition unless there is a clear provocation to violence or the desire to provoke public disruption.

Reviewing Past Cases

A review of past cases where the sedition law has been used should be conducted to identify cases where the law has been misused to silence dissent and criticism of the government. The review should also identify cases where the law has been used to target journalists, activists and students who have criticized the government or its policies.

Decriminalization of Sedition

The sedition legislation and the related section of the Indian Penal Code are proposed for decriminalization and repeal. This archaic statute has no place in today's progressive society. If sedition were no longer a crime, people would be allowed to voice their opinions, even if they disagree with the government, and the right to free expression would be protected.

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Safeguarding the Right to Freedom of Speech and Expression

It is essential for the judicial system to take a more aggressive role in defending freedom of expression. The judge has an obligation to protect the legitimacy of the sedition statute by preventing it from being used to silence dissent and criticism of the government. It is imperative for the judiciary to guarantee the safeguarding of media personnel and journalists against sedition charges, particularly when they cover delicate topics such as political instability, human rights infringements and corruption. The judiciary has the authority to establish comprehensive guidelines pertaining to this matter.

Creating Awareness

It is important to educate the people on the sedition law and how its provisions affect free speech. Civil society organizations, media and academic institutions should organize workshops, seminars and public debates to educate the public about the sedition law and its implications.

International Standards

India must change its policies and laws to reflect universal human rights protections. Freedom of speech, including the right to criticize the government, is protected by international human rights standards. The current state of sedition legislation is inconsistent with widely accepted principles of human rights and must be changed.

Recommendations and Suggestions – Conclusion

There has been much debate and discussion over India's sedition statute for quite some time. Criticism has been levelled at the law because of its vague and all-encompassing provisions, which might be used to silence dissent and curtail free speech. A chilling effect on the media and self-censorship has developed from the abuse of the legislation to quash dissent and criticism of the administration. This article's suggestions are meant to prevent the sedition statute from being abused to stifle political opposition and criticism and to protect the fundamental human right to free expression. Decriminalizing sedition, restricting the scope of the act, promoting awareness and complying with worldwide human rights principles are all vital steps toward this goal.

Acknowledgements. The author would like to express gratitude to his teachers, family and friends for their diligent review of multiple drafts and unwavering support throughout the entirety of the process, as well as other numerous individuals also deserving of recognition. The author expresses gratitude towards the editorial team of the *International Annals of Criminology* for their unwavering guidance.

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https://doi.org/10.1017/cri.2023.19 Published online by Cambridge University Press

TRANSLATED ABSTRACTS

ABSTRACTO

El esquema fundamental de la Constitución de la India promueve antagonismos absolutos contra la disposición sobre sedición que tiene sus fundamentos en los principios arcaicos de la era colonial. Los comentaristas sobre la ley y la política de la India han expresado su preocupación de que la ley de sedición del país va en contra del peculiar marco constitucional libertario de la India. La inquietud de los acusados se ve intensificada por la redacción ambigua, vaga y poco clara de la Sección 124A del Código Penal indio. Este artículo examina la promoción judicial de la libertad de expresión en los casos de sedición como ley bajo los auspicios del artículo 141 de la Constitución de la India. Al investigar su ascendencia, el autor se propone arrojar luz sobre las circunstancias detrás de la concepción y establecimiento de la Ley de Sedición en la India colonial. Además, el artículo tiene la intención de analizar y examinar comparativamente los estatutos de sedición de la India y otros países, incluidos el Reino Unido y los Estados Unidos de América, con un énfasis integral en la filosofía y los fallos de las respectivas Cortes Supremas. El artículo concluye proponiendo que el estatuto de sedición arbitraria de la India debe ser derogado por ser redundante y en derogación de la brújula legal profesada del país, el "Estado de derecho".

Palabras clave ley de sedición; libertad de expresión; disidencia política; sedición y democracia; sedición y derechos humanos

ABSTRAIT

Le schéma fondamental de la Constitution indienne favorise les antagonismes absolus contre la disposition relative à la sédition qui trouve ses fondements dans les principes archaïques de l'ère coloniale. Les commentateurs de la loi et de la politique indiennes ont exprimé leur inquiétude quant au fait que la loi sur la sédition du pays va à l'encontre du cadre constitutionnel libertaire particulier de l'Inde. La trépidation de l'accusé est intensifiée par le libellé ambigu, vague et peu clair de l'article 124A du Code pénal indien. Cet article examine la promotion judiciaire de la liberté d'expression dans les affaires de sédition en tant que loi sous l'égide de l'article 141 de la Constitution de l'Inde. En enquêtant sur son ascendance, l'auteur propose de faire la lumière sur les circonstances de la conception et de l'établissement du Sedition Act dans l'Inde coloniale. L'article vise en outre à analyser et à examiner de manière comparative les lois sur la sédition de l'Inde et d'autres pays, dont le Royaume-Uni et les États-Unis d'Amérique, etc., en mettant l'accent sur la philosophie et les décisions des cours suprêmes respectives. L'article conclut en proposant que la loi indienne sur la sédition arbitraire soit abrogée car elle est redondante et contraire à la boussole juridique professée par le pays, la « règle de droit ».

Mots-clés loi sur la sédition; liberté d'expression; dissidence politique; sédition et démocratie; sédition et droits de l'homme

https://doi.org/10.1017/cri.2023.19 Published online by Cambridge University Press

抽象的
印度宪法的基本方案进一步反对以殖民时代陈旧原则为基础的煽动条款。 印度法律和政治评论员担心该国的煽动法与印度特有的自由主义宪法框架背道而驰。《印度刑法典》第 124A 条含糊、含糊和不明确的措辞加剧了被告的恐惧。 本文考察了在印度宪法第 141 条的支持下，煽动案件中言论自由作为法律的司法促进。 通过调查其祖先，作者建议阐明殖民地印度煽动法的概念和制定背后的情况。 文章进一步拟对印度与英国、美国等国的煽动叛乱法进行比较分析和考察，并全面侧重于各自最高法院的理念和裁决。 文章最后建议废除印度的任意煽动法令，因为它是多余的，并且有损该国自称的法律指南针“法治”。

关键词 煽动法；言论自由；政治异议；煽动与民主；煽动与人权

خلاصة
يعزز المخطط الأساسي للدستور الهندي الاعداوات المطلقة ضد حكم الفتنة الذي ترتكز دعاىمه على المبادئ القديمة للحقبة الاستعمارية. أشار المعلقون على القانون والسياسة في الهند مخاوف من أن قانون التحريض على الفتنة في البلاد يتعارض مع الإطار الدستوري التحرري الغريب في الهند. تتفاقم مخاوف المتهم بسبب الصياغة الغامضة والغامضة وغير الواضحة للمادة 124 أ من قانون العقوبات الهندي. تبحث هذه المقالة في الترويج القضاىي لحرية التعبير في قضاىا التحريض على الفتنة كقانون تحت رعاية المادة 141 من دستور الهند. من خلال التحقيق في أسلافه ، يقترح المؤلف تسليط الضوء على الظروف الكامنة وراء مفهوم وإنشاء قانون الفتنة في الهند الاستعمارية. تهدف المقالة كذلك إلى تحليل وفحص قوانين الفتنة في الهند ودول أخرى بشكل نسبي بما في ذلك المملكة المتحدة والولايات المتحدة الأمريكية وما إلى ذلك ، مع التركيز الشامل على فلسفة وأحكام المحاكم العليا المعنية. ويختتم المقال باقتراح أن قانون التحريض على الفتنة التعسفي في الهند يجب إلغاؤه لكونه زاىدا عن الحاجة ويتعارض مع البوصلة القانونية المعلنة في البلاد ، "سيادة القانون".

الكلمات المفتاحية قانون الفتنة; حرية التعبير; المعارضة السياسية; الفتنة والديمقراطية; الفتنة وحقو

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Cite this article: Yadav, V. 2023. The Sedition Conundrum in India: A Critical Examination of its Historical Evolution, Current Application and Constitutional Validity. *International Annals of Criminology* **61**, 188–222. https://doi.org/10.1017/cri.2023.19