

INTERNATIONAL JOURNAL OF LEGAL STUDIES AND SOCIAL SCIENCES [IJLSSS]

ISSN: 2584-1513 (Online)

Volume 3 | Issue 5 [2025] | Page 714 - 717

© 2025 International Journal of Legal Studies and Social Sciences

Follow this and additional works at: <https://www.ijlsss.com/>

In case of any queries or suggestions, kindly contact editor@ijlsss.com

FROM SECTION 124A TO SECTION 152: INDIA'S UNFINISHED BATTLE WITH SEDITION

- D. Chandana¹ & D.B.S. Chaitanya²

INTRODUCTION

Sedition law, which was designed in the colonial era to suppress political dissent rather than govern. Freed from the servitude and long oppressive governance, but still, a few laws haven't disappeared as our constitution framers retained them to safeguard the sovereignty and integrity of the nation. However, the critical question here is whether the sedition law still fits in today's democracy. Though the law aims to protect the nation from dishonesty and prevent it from destabilization, it goes beyond that. Witnessing a chilling effect on political dissent, even where no disharmony is incited, exposes a lack of clarity in the law, which raises a deeper issue of whether the sedition law balances national security and the constitutional guarantee of freedom of speech granted under Article 19, or is it misused to curb political dissent. To understand it better, let's look into the definition of Sedition law in the Indian Penal Code, 1860.

AGE OLD SEDITION LAW OF INDIA SECTION 124A, IPC

Whosoever, by words, signs, visible representation, or otherwise, brings or attempts to bring hatred or incite disaffection which threatens the government or state, constitutes an offence called Sedition under [section 124A of IPC](#), which shall be punished with life imprisonment, imprisonment for a term of 3 years, or fine.

The word disaffection indicates "disloyalty and all feelings of enmity" against the national security. Due to the broad scope of the law, it is often misused, raising concerns about legal abuse. The Indian Constitution grants freedom of speech and expression to its citizens under [Article 19\(1\)](#); however, [Article 19\(2\)](#) imposes several restrictions on the previous article to safeguard national security. Sedition law, which penalizes the incitement or attempts to incite violence against the

¹ 2nd year student, Damodaram Sanjivayya National Law University

² 4th year student, Gujarat National Law University

state, is the sole purpose of its creation. But if the law is used to penalize for mere criticism and political dissent, it raises a concern where reasonable restriction end and political suppression begin, which is not only against the natural law principles but also violates the fundamental rights granted by the constitution.

SECTION 152 OF BNS: PROGRESS / POLITICAL TOOL

The decades-long criticism, misuse, and judicial scrutiny sparked a debate regarding the fitness of the law in a democratic nation. The turning point in this debate came in [*S.G Vombatkere vs Union of India*](#), which made a historic pause by the court to section 124A of the IPC by recognizing its misuse and clash with the freedom of speech with its overbroad language. The misuse of sedition for political criticism and dissent poses a greater threat to the citizens' freedom of speech by discouraging them from exercising their right. Instead of targeting the incitement of violence against national security, the law has been used to silence the voices of dissent. Restrictions are allowed on the freedom of speech under Article 19(2); the vagueness of the sedition law goes beyond these restrictions by targeting political dissents, which don't incite any disharmony or threat to national security. The court has acknowledged the violation of [Article 21](#), which grants the right to life and personal liberty, by observing the prolonged trials and arbitrary arrests without any justification. With the [abeyance](#), the court has proved that national security cannot be used to silence democratic voices.

In response to it, the government of India has replaced the Sedition law with the title, [“Act endangering Sovereignty, unity and integrity of the nation”](#) under [section 152](#) in Bharatiya Nyaya Sanhitha. But does this reform address the concern of abuse of process, or is it just a repackaged one of the previous laws? Incorporating new terms remains an unsettled question. Under section of 152 of BNS, a person whoever, by words, signs, visible representation, digital communication, or by use of financial means excites, secession or armed rebellion or subversive activities, or encourages separatist activities which endangers sovereignty and integrity of the nation shall be punishable with imprisonment with or without fine, imprisonment which may extend to seven years which was recommended in the [279th Law Commission of India](#) with or without fine.

The words like subversive activities and digital communication suggest that an attempt to modernize the law, where dissent thrives online. However, the more inclusion results in a broader scope and introduces vagueness, which again can be an abuse of process, and the pressing question is whether the new version of the sedition law distinguishes legitimate dissent/ criticism and activities that threaten national security.

Though BNS has modernized the law, it still holds the previous roots of the sedition law under the IPC. The similarities are striking, where both laws react to the critical actions against the state, and vagueness still exists, similar to the previous law, which can again be used for political convenience. The differences, however, lie mainly in the language used in BNS, such as "rebellion activities" or "subversive activities," and the inclusion of online communication has broadened the scope of the law compared to the previous one. Another major distinction is related to punishment, where it was life imprisonment or imprisonment for 3 years in the IPC, now increased to imprisonment for life with or without fine, or punishment extended to 7 years with or without fine.

JUDICIAL SCRUTINY & FREE SPEECH CONCERNS

The age-old sedition has undergone scrutiny several times. In [*Kedarnath Singh v. State of Bihar*](#), the Supreme Court upheld Section 124A, holding that free speech is fundamental but curtailed when it poses a threat to the security and integrity of the State. The principle in the Kedarnath case was further affirmed in [*Vinod Dua v. Union of India*](#), that a citizen can exercise his right to freedom of speech to condemn the government functionaries as long as it doesn't create any public disorder. The restriction on the freedom of speech is allowed when the condemnation of the government functionaries is made with the intention to create disloyalty and enmity against the state.

The lawmakers felt relieved with the introduction of Section 152 in the BNS as a replacement for the colonial sedition law. However, its broad scope hasn't removed the ambiguity it holds, which enabled the misuse of section 124A. The over broadness of this section still allows discretion to authorities to use it against legitimate criticism and suppress freedom of speech rather than safeguarding democracy, raising doubts whether the broadness of Section 152 will fit and uphold the essence of freedom of speech in this democratic society.

In [*Shreya Singhal v. Union of India*](#), the Supreme Court ruled that [Section 66A](#) of the Information Technology Act, 2000, was unclear, overbroad, and violated Article 19(1)(a) of the Indian Constitution. The Court emphasized that rules that punish lawful expression in the name of regulation cannot endure in a democracy. On the other hand, Section 124A (sedition) suffers from the same concerns of misuse, colonial precedence, and vagueness. But the Court still maintained it in *Kedarnath Singh v. State of Bihar* by limiting its speech to cases that incite violence or threaten public order. This prompts the question: if 66A was turned down for inconsistency, why is sedition, which has nearly identical problems, still allowed to exist?

In *Shreya Singal vs UOI*, the Supreme Court struck down Section 66A due to its vagueness and overbreadth, as it punished legitimate online expression, which is contrary to democratic principles. Surprisingly, a similar concept, “digital communication,” was inserted in BNS under section 152 to update the Sedition law to fit in a modernized and digital society, which only penalizes the speech that incites violence or that threatens the public order, grounds permitted under Article 19(2). Due to the narrow scope and precise nature of the provision, it illustrates a realignment of the law to bridge a balance between free speech and the genuine threat in the digital sphere.

HOW OTHER COMMON LAW NATIONS HANDLED SEDITION LAW

In most democracies, sedition is history. In India, it is still the present. While many common law nations, such as [the United States](#) rarely invoked it since the early 20th century, narrowed by courts to apply only when speech poses a threat of violence. [The United Kingdom](#), which introduced the concept of sedition and sedition law to the world, repealed it in 2009, declaring it obsolete and inconsistent with free speech, and [Australia replaced sedition in 2010](#), targeting offences against incitement to violence. While these countries have abolished or limited the scope of sedition laws, India has taken a different track. In contrast to its predecessor (section 124A), Section 152 restricts the offense to speech that disturbs the peace or incites violence. In an effort to update colonial law, this change strikes a careful balance between preserving sovereignty and allowing for free speech in a democratic nation.

CONCLUSION: THE REAL TEST OF SECTION 152

The Supreme Court and the Parliament could have approached the Sedition law differently. Despite the court being well aware of the Section's inflexibility in the current scenario, having witnessed its misuse. Perceiving all these, the lawmakers introduced Section 152 of BNS, rather than reforming it, repackaged the Sedition law with broader terms and harsher punishments, leaving a greater room for speculation. The vagueness still reminds the age-old sedition law resulted in the misuse of legitimate dissents. Courts and governments must decide whether it protects India's unity or becomes another tool to silence criticism and dissent. The real test of Section 152 is not in its words, but in whether it silences voices or safeguards them. The Supreme Court was assigned to [review the validity](#) of Section 152 of BNS, which deals with Sedition, after several contentions that Section 152 is a repackaged version of Section 124A Sedition provision.