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## ABOUT US

“Journal of Unique Laws and Students” (JULS) which shall provide law students, young lawyers and legal professionals to deliberate and express their critical thinking on impressionistic realms of Law. The JULS aims to provide cost free, open access academic deliberations among law students and young lawyers. The ISSUE III of Volume I focuses on three themes i.e. (i) Arbitration Law (ii) Competition Law, and (iii) Criminal Law.

The journal strives to contribute to the community with quality papers on a vast number of legal issues and topics written by authors from various groups that have been reassessed and revised by our editorial team to reach the highest possible standard.

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## PREFACE

On looking at today's scenario, there are numerous issues to know about. Our journal's Issue III of Volume I has work on three crucial themes namely *Criminal Law*, *Arbitrational Law* and *Competition Law*. We would like to express our deep appreciation of the co-operation of the contributors, who so willingly devoted their time and energies.

We have tried to cover these wide topics with the relevant research and landmark judgments. We have used standard of words for the explanation, evenly attempted to clear the concepts and presented captivating writing to the readers. The works also contains some suggestions in respective fields.

The views expressed in the articles are purely and solely of the authors and the entire team of the Journal has no association with the same. Although all attempts have been made to ensure the correctness of the information published in the articles, the Editorial team shall not be held responsible for any errors that might have been caused due to oversight or otherwise. It is up to the rest of us to help make the journal a success story in the next several years.

## FOREWORD

As a member of the Advisory Board of Journal of Unique Laws and Students (JULS) which seeks to support student dynamism in action, I take pride in writing this very brief Preface to **Issue III of Volume I** of the Journal. Through this sturdy student-led initiative, the Journal provides young lawyers and law students of the opportunity to deliberate on legal issues of contemporary interest and to express their well-researched conclusions in the form of double-peer reviewed articles.

In this issue of the JULS I am happy to see a wide array of articles on *Alternate Dispute Resolution (ADR)*, *Arbitrability*, *Competition Law*, *Juvenile Delinquency*, *Gender Crime*, *Cybercrime*, *Criminalisation of Politics*, *Sedition and Witness Protection*. Laws and legal systems are dynamic in nature and laws evolve or are enacted to suit the changing needs of society. Young lawyers and law students can contribute to this dynamic process and even recommend law reform or analyse existing laws including case law. Young lawyers can also contribute to society as civil society activists engaged in efforts to improve the quality of law and its administration. The inculcation of critical thinking, which is one of the main objectives of the JULS, can no-doubt stand in good stead to young lawyers in moulding their future careers.

While I am happy that the very first issue of the inaugural volume of JULS was a tremendous success and its wide array of articles on diverse topics were well received by the legal fraternity, I take this opportunity to thank the contributors of articles as well as the vigilant and hardworking Editorial Board and my colleagues in the Advisory Board for the high standards achieved. In this Foreword, I take the opportunity to thank the publisher for coming out with another issue of JULS almost in time despite the trying conditions in which lawyers work and law students are placed, and I am glad that JULS through its on-line presence, is able to contribute immensely to this process of dissipation of legal knowledge and skills.

**Justice Saleem Marsoof PC**

**Judge of the Supreme Court of Fiji**

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## EDITOR'S NOTE

Unique Law was established in the month of April 2020 and cheerfully brings **Volume 1 Issue III** of **Journal of Unique Laws and Students (JULS)**. This journal has become a successful climb in reaching to our goal of gaining visibility in the academic front and becoming a great platform in education community.

The journal aims to present merit papers on the numerous legal issues and these topics are authored by various groups of individuals that have been reappraise and emended by our team of editors to attend the highest possible excellence. These research papers, case analysis and shortnotes are the result and we feel privileged to have been able to act as editors.

We thank to all our authors for their obedient submission to the third issue of the Journal by Unique Law and also for their productive cooperation with the editorial team to garnish their work with perfection. We would also like to express our gratitude to our diligent editorial board, whose restless support and commitment made this Journal's Issue III a success.



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## SEDITION LAW: A FRIEND OR FOE?

Authors: Aryan Data\* Khushi Gupta\*\*

*“Above all other rights give me the freedom to know, to speak, and to debate according to conscience.”*

-John Milton

### **ABSTRACT**

*Freedom of opinion and expression is essential for the entire development of a person. They are the foundation of any free and democratic society. Because it gives meaning to life, freedom of speech and expression is the first and basic human right, the basic condition of freedom, and the mother of all rights. However, when exercising freedom of speech, questions often arise, such as how far the state can regulate individual behavior. Personal autonomy is the cornerstone of basic freedom; therefore, every constraint is strictly evaluated. However, this right can always be appropriately restricted to ensure that it is used correctly and that all people have equal access to it. Section 124A of the Indian Penal Code of 1860 defines sedition as a criminal offence. The importance of this part in an independent and democratic country is a hotly debated topic. This article looks at sedition and why it cannot be compared with Article 19 (Right of Freedom of Speech and Expression) of the Indian Constitution. It also raises the issue of application in a democratic world where freedom of speech and expression is regarded as the mother of all rights, and compares India's sedition legislation with those of Australia, the United Kingdom, and the United States of America, as India's sedition law viewpoint Different from other countries.*

**Keywords:** *Freedom of speech and expression, fundamental rights, democratic society, sedition, Indian constitution.*

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## **INTRODUCTION**

In an orderly community, freedom of speech cannot be absolute, and this raises important questions about the legal boundaries that restrict freedom of speech. The nature, scope, and extent of restrictions, duration, and the availability or lack of effective dispute resolution mechanisms are factors that need to be considered. In democracies, freedom of speech is essential to the formation of public opinion on social, political, and economic issues.<sup>1</sup> Liberals describe freedom of speech as the ability to think and speak without government censorship, without fear of being punished or restricted. It is called basic human rights, natural rights, and many other titles.<sup>2</sup> The rights of all Indians to freedom of speech and expression are also protected by the Indian Constitution.<sup>3</sup> Therefore, it includes the right to express your thoughts and opinions on any subject in any way (including oral, written, or printed). Therefore, it can include freedom of speech and the right to disseminate or publish information.<sup>4</sup> Since personal autonomy is the basis of fundamental freedoms, every restriction should be carefully reviewed.<sup>5</sup> This right can always be appropriately restricted to ensure that it is exercised responsibly and is equally available to all.

## **FREE SPEECH AS A LEGAL PHILOSOPHY AND ITS CONSTITUTIONAL VALIDITY**

There are two paths for Indian freedom of expression.<sup>6</sup> The "**moral paternalistic**" approach did not initially give people much freedom because they believed that people were perishable and inherently violent. In addition to being more conciliatory and tolerant in his "**freedom and autonomy**" approach, he also views the individual as an entity capable of making his own decisions; it recognizes a person's intelligence and imposes fewer restrictions on it.

Similarly, Dworkin cited two reasons as the basis of his argument for freedom of speech.<sup>7</sup> The opportunity to discuss and express oneself freely initially promoted good politics and at the

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<sup>1</sup> Associated Press vs. U.S., 326 US; see also UOI vs. Naveen Jindal, (2004) SC 1559.

<sup>2</sup> Dharam Dutt vs. Union of India, AIR 2004 SC 1295.

<sup>3</sup> Chintaman Rao vs. State of Madhya Pradesh, AIR 1951 SC 118

<sup>4</sup> Radha Mohan Lal vs. Rajasthan High Court, AIR 2003 SC 1467

<sup>5</sup> State of Madras vs. VG Row, AIR 1952 SC 196.

<sup>6</sup> Gautam Bhatia, *Offend, Shock, or Disturb: Free Speech under the Indian Constitution*. 1st Edn., Oxford University Press, USA., 2016

<sup>7</sup> Levin, Abigail. "Pornography, Hate Speech, and Their Challenge to Dworkin's Egalitarian Liberalism." *Public Affairs Quarterly*, vol. 23, no. 4, 2009, pp. 357–373. JSTOR, [www.jstor.org/stable/40441541](http://www.jstor.org/stable/40441541) (Last visited 3 Aug. 2021, 13:36 pm)

same time played a controlling role in worse politics; however, this technology requires a basic understanding of the concept of freedom of speech. Second, the broader reason is the fair distribution of autonomy, as well as equal knowledge and respect for their freedom to express themselves freely.

He went on to say that moral agency is the cornerstone of a democratic society, and moral agency depends on the freedom of speech. Each of us should have the same opportunity as moral agents to influence the moral atmosphere of our common culture.

## **SEDITION**

Section 124A of the Indian Penal Code, 1860, provides provisions for the crime of Sedition.

### **MEANING AND DEFINITION**

When a person verbally or otherwise incites or attempts to incite hatred or contempt of a legitimate government, the crime of sedition under section 124A of the Indian Penal Code is committed.<sup>8</sup> Sedition is simply an infraction against public tranquility, and There are two types of public tranquility offenses, roughly speaking.

- a. Those accompanied by violence, include tranquility disturbances of significant numbers or a wide local region;
- b. Those who don't go along with violence but tend to cause it, such sedative remarks, seditious conspiracies, etc. These two actions endanger national security.<sup>9</sup>

### **1. WHAT DOES NOT CONSTITUTE SEDITION?**

Use radical strategies to express opposition to government policies in order to improve or change them through legal means. It emphasizes that expressing opposition to government activities, but not arousing emotions, leading to the hope that violent acts will incite public disturbances should not be regarded as sedition.<sup>10</sup>

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<sup>8</sup> Ins. by Act 27 of 1870, s. 5 and subs. by Act 4 of 1898, s. 4, for s. 124A

<sup>9</sup> Brij Bhushan and Ors. vs. The State of Delhi, AIR 1950 SC 129

<sup>10</sup> Kedarnath Singh vs. State of Bihar, 1962, AIR 955

In terms of sedition, the case of Balwant Singh against Punjab in 1995 is also worthy of attention. After the murder of former Prime Minister Indira Gandhi, the three chanted slogans.

The Supreme Court stated that “the slogan that two people appear accidentally once or twice alone cannot be construed as an attempt to incite or create hostility or dissatisfaction on the part of the government”.<sup>11</sup>

As long as you do not cause hostility and disloyalty that may lead to public riots or the use of force, criticize government actions, or do not consider implementing policies for hate speech, as long as you do not use force.

## 2. WHAT ARE THE MAIN COMPONENTS OF SEDITION?

An important ruling by the Indian Supreme Court in *Romesh Thappar vs. the State of Madras*<sup>12</sup> states that Laws ruling that freedom of speech and expression do not fall under *Article 19 (2) of the Indian Constitution* unless they violate national security or may overthrow the Indian government. The Supreme Court also found that in *Romesh Thappar's case*, restrictions on freedom of speech and expression were imposed due to threats to national security and escalating forms of public disturbances endangering national security, rather than minor peace-breaking acts that only affected the local area.

The Punjab High Court ruled in *Tara Singh Gopi Chand vs. State*<sup>13</sup> held that Section 124 A is unconstitutional because it violates Article 19(1) (a) of the Constitution.

According to Delhi High Court's ruling in *Kanhaiya Kumar*<sup>14</sup>, While exercising the right to freedom of expression in accordance with Article 19(1) (a) of the Constitution, it is important to take into account the basic obligations of every citizen under Article 51A of Part IV ("Fundamental duties" section) the Supreme Court ruled, Section 124A cannot be interpreted as determining the crime of sedition under section 124A.<sup>15</sup>

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<sup>11</sup> Balwant singh vs State of Punjab, 1995 (1) SCR 411

<sup>12</sup> Romesh Thapar v. State of Madras, AIR 1950 SC 124

<sup>13</sup> Tara Singh Gopi Chand vs. The State, AIR 1951 Punj. 27

<sup>14</sup> Kanhaiya Kumar v. State, NCT of Delhi 2016, 227 DLT 612

<sup>15</sup> Kedarnath Singh vs State of Bihar , 1962 AIR 955

1. In order to seek relevant behavior, violent means must be used to destroy the government.
2. In addition, the action must be aimed at or at least likely to cause dissatisfaction or disrupt public order through the use of force, and it must be encouraging.

### 3. **WHY CAN'T INCITEMENT BE COMBINED WITH THE RIGHT TO FREEDOM OF SPEECH AND EXPRESSION?**

Since the government can only be held accountable through free debate and open discussion in a democratic environment, democracy is built on the basis of free debate and open discussion.<sup>16</sup> In order to allow democracy to flourish, the Supreme Court stated that freedom of speech and expression are "basic values and necessary conditions" stipulated by the Constitution.<sup>17</sup> Freedom of speech not only contributes to the balance and stability of a democratic society but also continuously provides people with a sense of accomplishment.<sup>18</sup>

### **WHY SEDITION CANNOT GO HAND IN HAND WITH THE FREEDOM OF SPEECH AND EXPRESSION?**

- **The remarkable balance between sedition and freedom of speech is incredible**

Article 19 (1) (a) of the Indian Constitution stipulates freedom of the press as a fundamental right. According to Article 19(2), if freedom of speech affects public order, decency, morality, or national security, the state can choose to regulate freedom of speech. Indian law cannot equate citizens' right to freedom of speech with the state's power to supervise them. The restrictions on freedom of speech are exceptions rather than rules. The prosperity of democracy is inseparable from a keen legislative vision, diligence, and the excellent guidance of public opinion and the media.

In *Vinod Dua's case*,<sup>19</sup> another court case not only overturned the FIR against him but also cited the Supreme Court's 40-year ruling that a journalist cannot be arrested for

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<sup>16</sup> Maneka Gandhi v. Union of India, AIR 1978 SC 597.

<sup>17</sup> *ibid* para 8

<sup>18</sup> Ministry of Information & Broadcasting, Govt. of India v. Cricket Association of Bengal, AIR 1995 SC 1236

<sup>19</sup> Vinod dua v. Union of Inoda and ors, Writ Petition (Criminal) No. 154, 2020

criticizing the government alone, provided that he did not use violence against him. The government promotes or incites hatred between groups. With reference to the High Court's decision in *Kedar Nath Singh v. Union of India* in 1962, the bank claimed that according to the concept of the decision, every journalist has the right to be protected. The maid ruling that upholds freedom of speech, freedom of expression, and press responsibility as the fourth pillar of democracy is considered to be India's *Vinod Dua V. Union of India*.

- **Critique alone is not sedition**

If a person does not approve of administrative actions or other actions of the government but does not incite or attempt to incite hatred, contempt, or disgust, this provision is not violated.

Including two Telugu-speaking journalists arrested for disseminating anti-government comments made by dissidents of the ruling YSR Congress Party in Andhra Pradesh under Section 124A of the Indian Penal Code (IPC).<sup>20</sup> The ABN Andhra Jyothi petition stated that since the YS Jaganmohan Reddy government took power in the state, the channel "has become a target of the state government and has been suspended at the request of the ruling party/state government."

According to Bar and Bench, the broadcaster requested "a suspension of follow-up investigations and ordered the prohibition of the police from taking coercive action against the petitioner's company, his news broadcasting company or his employees" and "suspended the investigation".

- **It is rendered invalid due to its ambiguity**

The wording of Section 124A of the IPC is vague: *"Anyone who hates or flouts the provisions of Indian law through words, whether oral or written or through signs or visual representations or other means, will be punished indefinitely. Imprisonment. Infidelity and all hostility."*

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<sup>20</sup> Amoda Broadcasting Company Private Limited v. The Union of India, Ministry of Information and Broadcasting, Writ Petition (Criminal) No. 17389, 2014



According to the Supreme Court's decision in *Shreya Singal v. Union of India* (2015),<sup>21</sup> the ambiguity of the legislation may be a sufficient reason for repeal.

In *Grayned v. Rockford*,<sup>22</sup> The U.S. Supreme Court pointed out that "inaccurate regulations may cause innocent people to get into trouble due to insufficient disclosure." Such rules entangle innocent citizens and even the police, forcing them to make false accusations under the sedition law.

There is no doubt that Section 124A of the IPC casts a wide enough net to trap dissidents, dissidents, media critics, political opponents, and civil society leaders who play an important role in a healthy democracy.

- **Sedition is not covered by Article 19 (2) of the Constitution**

According to Article 19(2) of the Constitution of India, the basic right of freedom of speech can only be restricted to "reasonable limits" and hatred is excluded. The Constituent Assembly unanimously decided not to use sedition as a basis for restricting freedom of speech. Incitement to hatred was first listed in Article 13 of the draft constitution, which is the same as the current Article 19. On the urging of *Seth Govind Das, KM Munshi, and TT Krishnamachari*,<sup>23</sup> The Constituent Assembly agreed not to make hate speech an exception to freedom of speech.

It was concluded in the case of *Ram Nandan v. State*<sup>24</sup> Section 124A of the IPC is unconstitutional because it violates the right to freedom of expression under Article 19(1), and is not protected by Article 19(2) because the restriction on interference with freedom of expression in Article 19(2) is substantive and serious.

However, it should be noted that this case was decided before Article 19(2) of the Constitution was amended.

- **Assessment of propinquity and ancestry**

Supreme Court rules in *Odyssey Communications (P) Ltd v Lokvidayan Sanghatana*<sup>25</sup> Citizens have the freedom to watch movies on Doordarshan, and Article 19(1) of the Constitution protects this freedom as a basic right. They said that the series titled "Honi

<sup>21</sup> Shreya Singal versus Union of India, AIR 2015 SC 1523

<sup>22</sup> Grayned v. City of Rockford, 408 U.S. 104 (1972)

<sup>23</sup> CONSTITUENT ASSEMBLY OF INDIA – VOL. X, Page No. 1 & 3  
Constituent\_Assembly\_Debates\_On\_10\_October\_1949\_Part\_Ii.PDF

<sup>24</sup> Ram Nandan v. State, AIR 1959 All 101

<sup>25</sup> Odyssey Communications (P) Ltd v Lokvidayan Sanghatana, 1988 AIR 1642

Anhonion" about Doordarshan promoted superstition and blind faith among the audience. Despite the petitioner's best efforts, he failed to prove that his actions hurt the public. On the other hand, the court held that the expression "for the benefit" rather than "for support" implies a "very broad" field of protection, extending to behaviors that "prone" to chaotic public order, rather than just doing so; the court then distinguished between "unconscious insults" and "intentional and malicious" insults and found that the latter was protected. This part was approved by the court. The purpose is to prevent complete arbitrariness and to comply with the appropriate standards of Article 19(2) of the Supreme Court. The Central Prison Superintendent, *Fatehgarh vs. Dr. Ram Manohar Lohia, 1960*,<sup>26</sup> there must be a causality test and some sense of intimacy.

#### 4. CONTEMPORARY APPLICATION AND USAGE OF SEDITION LAWS

The court's method of enforcing the law is inconsistent. Even if no formal law enforcement standards have been established, the causes are diverse, and the Pakistan cricket team has been supported in one game.<sup>27</sup> Criticize popular yoga experts in China and like a Facebook page<sup>28</sup>, asking a question about the militants in Jammu<sup>29</sup>, and so on are recent cases where some people were accused of inciting rebellion and often sentenced to jail.

The case that led to immediate legal condemnation was the Kanhaiya Kumar case, in which a leader of the JNU student community was accused of inciting rebellion for his slogan about Afzal Guru on campus. It was strongly criticized by the media and the masses. Those accused of making hate speech will lose their passports, be expelled from the government, and be required to appear in court regularly and pay attorney fees. In most cases, the allegations are rarely confirmed, but the trial itself becomes a punishment.

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<sup>26</sup> Fatehgarh vs. Dr Ram Manohar Lohia, 1960 AIR 633

<sup>27</sup> New Delhi Television Ltd, <https://www.ndtv.com/meerut-news/outrage-over-sedition-charges-against-students-who-cheered-pakistan-553043> (Last Visited on 6th Sept. , 2021, 8pm)

<sup>28</sup> Times Of India, <https://timesofindia.indiatimes.com/city/kochi/Facebook-like-case-No-evidence-of-sedition-govt-tells-HC/articleshow/18254753.cms?from=mdr> (Last Visited on 6th Sept. , 2021, 8:10pm)

<sup>29</sup> India Today, <https://www.indiatoday.in/india/north/story/kashmir-university-lecturer-released-125863-2011-01-02> (Last Visited on 6th Sept. , 2021, 8:12pm)

According to the National Criminal Records Bureau, only 47 incidents of sedition were recorded in nine states in 2014. Some of these incidents did not lead to or encourage violence. Because of these cases, 58 people were arrested and only one was sentenced by the government.

In August 2014, the Kerala state authorities accused seven young men (mainly students) of inciting a rebellion, accusing them of refusing to play the national anthem in the cinema.

Musician S Kovan was arrested in Tamil Nadu in October 2015 for two songs criticizing the state government and accusing them of exploiting the poor through the state liquor store.

In 2012 and 2013, 23,000 men and women protesting nuclear power projects in Tamil Nadu were arrested and accused of “waging war against the country” and inciting hatred. Of these, only 9,000 were arrested for incitement.

As a result, each of these incidents was charged and arrested, but there was no evidence that violence was really encouraged. The current thinking is that even raising the issue of violations of people’s rights that lasts for a decade is disloyal and violent. Rather than expressing yourself on a controversial topic, it is better to say that it essentially conveys a message: It is best not to express yourself, so as not to hurt the feeling you have never seen.

Arbitrary laws are likely to be misused. Space for disagreement and dialogue is the basic feature of a healthy civil society. When the government acquiesced and unilaterally declared that there was only one side of the problem, the weakening of this foundation had already begun.

## **5. SEDITION LAWS IN INDIA AND OTHER COUNTRIES: A COMPARATIVE STUDY**

### **• IN AUSTRALIA**

The Crimes Act of 1920 was the first comprehensive law to include sedition. According to these rules, convictions do not require subjective intent and encourage violence or public disturbances, which are beyond common law standards. According to the Hope

Commission established in 1984, Australia's concept of sedition should be consistent with the Commonwealth.

In 1991, the Gibbs Commission re-examined the riot regulations. However, the conviction for sedition should be limited to acts of inciting violence to undermine or undermine the authority of the Constitution. According to Section 80.2 and Article 80.3 of the 1995 Criminal Law, inciting the masses as a criminal offence and defense were included in Annex 7 of the 2005 Anti-Terrorism Law (No. 2) in 2005. According to the Australian Law Reform Commission (ALRC), the use of the term hate speech is considered inappropriate when defining the crimes included in the 2005 amendment.

ALRC's recommendations were implemented in the 2010 National Security Legislation Amendment Act, which deleted the term "riot" and replaced it with the term "promoting violent crime".

- **IN UNITED STATES**

The U.S. Constitution prohibits states from enacting laws restricting First Amendment rights to freedom of speech. The Sedition Act of 1798 made sedition a criminal offence in the United States. In 1820, the law was repealed. In 1918, the US Congress re-enacted the "Sedition Act" to defend the interests of the United States in the First World War.

However, in the following decision, the restrictions on freedom of speech are carefully explained. In *Yates v. U.S.*,<sup>30</sup> the Supreme Court separated claim overturn as an abstract concept from claim action.

The law does not allow explicit restrictions on speech, but there are many concepts that can prevent the spread of hate speech. To give a few examples, "reasonable hearing test", "hazard test" and "combat language". However, in the case where the main concern is the procedural focus of case law on freedom of speech, the concept of deterrence has been recognized and has been most widely and clearly expressed.

- **UNITED KINGDOM**

The crime of sedition can be traced back to the Westminster Act of 1275 when it was believed that the king was the holder of divine authority. In order to show that hate speech is committed, it is necessary to consider not only the authenticity of the speech

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<sup>30</sup> *Yates V. United States*, U.S. 1957; 354:298

but also the intention of the speaker. The crime of sedition was originally aimed at stifling the speech needed to oppose respect for the government.

The **De Libellis Famous**<sup>31</sup> This case was one of the first cases in which seditious defamation was classified as a crime, true or false. The case strengthened the concept of seditious libel in the UK. The reason for this decision is that real government criticism is more likely to undermine government authority and create unrest, which requires greater restraint. The global trend is mainly to support freedom of speech and oppose sedition.

When the British Ministry of Justice abolished sedition in 2009, the then Secretary of State for Justice argued that "sedition" and "seditious and defamatory defamation" was old accusations that date back to the fact that freedom of speech is still not widely the age of respect. Over the years, other countries have been abusing the country's outdated laws to justify the maintenance of similar laws. These laws help suppress political differences and restrict the country's freedom of the press against similar laws in other countries. These laws help suppress freedom of speech.

## 6. IS SEDITION BEHAVE STILL RELEVANT IN TODAY'S WORLD?

The recent application of sedition laws in several cases has raised new concerns about the non-democratic nature and applicability of these provisions in today's constitutional democracy. Unfortunately, these rules last longer than colonial rule. The implementation of sedition laws by several Indian courts shows how outdated these laws are for today's culture and have made many recommendations for their application. In a democratic society like India, everyone has the basic right to freedom of speech and expression. Although sedition laws allow reasonable restrictions on these rights, the scope of these laws is the most important.

In our country where the rule of law prevails, it is against the constitution to indiscriminately accuse someone of sedition.

Since sedition laws rarely lead to legal proceedings, let alone convictions, public discussions about arrests have become extremely relevant to investigations. When it comes to accusations of colonial sedition, nationalism serves as a defense. Today, however, it is used to accuse individuals of inciting rebellion due to such appeals from

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<sup>31</sup> 77 Eng, Rep. 250 KB, 1606

the state; citizens try these cases without trial. Activists, intellectuals, and other members of society who express disagreements are increasingly being labeled "anti-national," and sedition laws have played a key role in this regard.

Because of the law and the discourse on nationalism that it generates, the language of human rights and citizenship is the country's direct right to speak. Due to sedition laws, human rights defenders are often targeted. Under the Sedition Act, many human rights activists have been accused of ties to the Naxalite movement since the *Vinayak Binayak Sen Pijush Piyush Babun Guha vs. State of Chhattisgarh*.<sup>32</sup>

Adivasi human rights activist Upendra Nayak was arrested on the same charge in 2018, and the public has received little attention. He has been committed to combating the Maoist subordination fraud allegations against Adivasis in Orissa. The Naxalite movement often defends arrests for riots, even if they are not based on violent behavior in the movement. Binayak Sens' possession of Naxal literature is considered a destructive inflammatory act because of his ideological affinity for the movement.

The existence of the dichotomy between citizens and the state is crucial because it means that the rights of citizens may harm the honor and integrity of the state.

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<sup>32</sup> Vinayak Binayak Sen Pijush Piyush Babun Guha Vs. State of Chhattisgarh, 2011(266)ELT193(Chhattisgarh)

## **CONCLUSION**

Since the implementation of the British sedition law, there have been inconsistencies, and the applicability in all cases is ambiguous and inconsistent. Since it is used to suppress people when it suits their interests and weakens their power, its applicability initially remains imprecise and unknown. It is used as a weapon to achieve political goals by suppressing speech that challenges state power.

In addition, the court failed to provide a clear understanding of the crime. In recent years, the implementation of hate rules has become so erratic that it has sparked widespread controversy. Although our hate policy was introduced in 1960, it is still used as a harassment strategy. Over the past 50 years, Indian culture has developed rapidly, and individuals have shown “tolerance” for actions that may be called “incitement to violence”. The nature of the government has also changed, and its representatives have a new understanding of the government.

The rationale for using it to maintain law and order is no longer legitimate as hate speech is now used to address local issues and concerns that can broadly be viewed as defamation of elected officials. It is different from other countries such as Australia. Although the law has been repealed in other countries due to its arbitrariness, it is still legal in India. The ruling party abused the sedition law to punish those who stood up for the opposition. A person who expresses an opinion on a particular subject cannot be persecuted for inciting hatred unless his words incite the public to oppose the government.

The law can only be implemented after a thorough analysis of the motivations and results of a particular point of view. Although the protection of national security is necessary, it should not be used to stifle freedom of speech. As part of a flourishing democracy, dissent and criticism are a necessary part of a heated public debate on political issues. In order to avoid unreasonable restrictions, every restriction on freedom of speech and expression must be carefully reviewed.