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Judicial Interpretation of Sedition Laws in India: Emerging Trends and Case Law Analysis

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ABSTRACT: The sedition law in India, encapsulated under Section 124A of the Indian Penal Code (IPC), 1860, has been a focal point of legal and political controversy due to its colonial origins and its application within a democratic framework that guarantees freedom of speech and expression under Article 19(1)(a) of the Constitution. This research paper provides an in-depth analysis of the judicial interpretation of sedition laws in India, tracing the evolution of key judgments, such as Kedar Nath Singh v. State of Bihar (1962), and examining emerging trends in recent cases involving activists, journalists, and digital dissenters. It explores the tension between national security and individual liberties, highlighting inconsistencies in lower court applications, the chilling effect on democratic expression, and the law's questionable relevance in modern India. By comparing India's approach with judicial standards in other democracies, such as the United States and the United Kingdom, the paper argues for legislative reform or repeal of Section 124A to align with constitutional principles and international human rights standards. Recommendations include codifying judicial safeguards, introducing procedural protections, and fostering public awareness to ensure the law does not undermine democratic freedoms.

KEYWORDS: Sedition, Section 124A, Indian Penal Code, Freedom of Speech, Judicial Interpretation, Constitutional Law, Kedar Nath Singh, Democratic Rights, National Security, Law Reform.

I. INTRODUCTION

The law of sedition in India, enshrined in Section 124A of the Indian Penal Code (IPC), 1860, is a colonial relic that has persisted into the democratic era, sparking debates about its compatibility with the fundamental right to freedom of speech and expression guaranteed under Article 19(1)(a) of the Indian Constitution. Originally introduced by the British to suppress nationalist dissent, the law was designed to criminalize any act that incited "hatred," "contempt," or "disaffection" towards the government, with severe penalties including life imprisonment. Despite India's transition to a sovereign democratic republic in 1950, Section 124A was retained, raising questions about its relevance in a society committed to open discourse and individual liberties.

This research paper examines the judicial interpretation of sedition laws in India, focusing on landmark cases that have shaped its scope and recent trends that highlight its contentious application. The Kedar Nath Singh ruling (1962) established that sedition requires incitement to violence or public disorder, but inconsistent enforcement by lower courts and police has led to allegations of misuse, particularly against activists, journalists, and digital dissenters. Cases like those of Disha Ravi (2021) and Umar Khalid (2020) underscore the law's chilling effect on democratic expression, prompting calls for reform or repeal. By analyzing judicial trends and drawing comparative insights from democracies like the United States and the United Kingdom, this paper evaluates the law's impact and proposes reforms to align it with constitutional and international human rights standards.

The objectives of this study are to: (1) trace the judicial evolution of sedition law through key cases, (2) identify emerging trends in its application, (3) assess its impact on free speech and democratic dissent, and (4) propose actionable reforms. The methodology involves case law analysis, statutory interpretation, and comparative legal studies, with inspiration drawn from the socio-legal approach of the uploaded document on abortion law, though adapted exclusively to the sedition context.



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II. HISTORICAL CONTEXT AND LEGAL FRAMEWORK OF SEDITION LAW

The sedition law under Section 124A was introduced in 1870 by the British colonial administration as part of the Indian Penal Code, drafted under Lord Macaulay's guidance. Its primary purpose was to suppress growing nationalist sentiments and maintain colonial control. The law targeted Indian intellectuals, journalists, and leaders who criticized British policies through newspapers, pamphlets, or public speeches. The term "disaffection" was deliberately vague, encompassing any expression of disloyalty or enmity, enabling broad and arbitrary enforcement.

Early applications of Section 124A targeted prominent figures of the independence movement. In 1897, Bal Gangadhar Tilak was convicted for articles in his newspaper *Kesari*, which criticized the British response to the Bombay plague epidemic. His trial set a precedent for using sedition to silence influential voices, with courts interpreting even indirect criticism as seditious. Similarly, Annie Besant faced sedition charges in 1918 for advocating Home Rule, highlighting the law's role in curbing political activism. These cases established sedition as a tool of colonial repression, with minimal regard for free expression.

Section 124A defines sedition as any act—by words, signs, or visible representation—that brings or attempts to bring "hatred or contempt, or excites or attempts to excite disaffection" towards the government established by law. The punishment includes imprisonment for life or up to three years, with or without a fine. As a cognizable and non-bailable offense, it allows police to arrest without a warrant and detain individuals pending trial, amplifying its punitive impact. The law's vague terminology, particularly "disaffection," enables subjective interpretation, making it susceptible to misuse. The absence of a clear requirement for incitement to violence in the statutory text allowed colonial authorities—and later, post-independence governments—to target a wide range of expressions, from political criticism to satirical cartoons.

The adoption of the Indian Constitution in 1950 introduced a fundamental tension between Section 124A and Article 19(1)(a), which guarantees freedom of speech and expression. Article 19(2) permits reasonable restrictions on this right for reasons including public order, security of the state, and sovereignty. The retention of sedition law post-independence required courts to determine whether it constituted a permissible restriction or an unconstitutional infringement.

During the Constituent Assembly debates, critics like K.M. Munshi argued that sedition was incompatible with democratic freedoms, citing its colonial use to suppress dissent. However, proponents, citing post-partition instability, supported its retention to address threats to national security. This set the stage for judicial scrutiny to reconcile the law with constitutional guarantees.

The decision to retain Section 124A reflected the early Indian state's prioritization of stability over unfettered free speech. Communal violence, partition-related unrest, and regional insurgencies fueled arguments for maintaining strong legal measures. However, the law's colonial roots and vague wording raised concerns about its potential to undermine democratic principles, setting the stage for judicial reinterpretation.

III. LANDMARK JUDICIAL INTERPRETATIONS

The judiciary's role in interpreting sedition law began with early constitutional challenges. In *Romesh Thappar v. State of Madras* (1950), the Supreme Court struck down a state law banning communist publications, emphasizing that restrictions on free speech must be narrowly tailored to address imminent threats to public order. Though not directly about sedition, this case set a precedent for scrutinizing laws that curtailed expression.

Similarly, in *Brij Bhushan v. State of Delhi* (1950), the Court invalidated pre-censorship orders on a newspaper, reinforcing the primacy of free speech. These early rulings established that laws restricting expression must align with Article 19(2)'s reasonable restrictions, laying the groundwork for sedition's constitutional scrutiny.

The landmark case of *Kedar Nath Singh v. State of Bihar* (1962) is the cornerstone of sedition law's judicial interpretation in India. The Supreme Court upheld the constitutionality of Section 124A but significantly narrowed its scope. The Court ruled that sedition applies only to acts with a clear intention to incite violence or disrupt public order, emphasizing that



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mere criticism of the government, however strong, does not constitute sedition unless it poses a direct threat to the state's stability.

The Kedar Nath ruling sought to balance free speech with state security, aligning Section 124A with Article 19(2). By requiring incitement to violence, the Court aimed to prevent the law's misuse against legitimate dissent. This decision remains the authoritative standard for sedition prosecutions, shaping subsequent judicial interpretations.

Subsequent cases reinforced and clarified the Kedar Nath principles. In *Balwant Singh v. State of Punjab* (1995), the Supreme Court acquitted individuals accused of raising pro-Khalistan slogans, ruling that their actions did not incite violence or disrupt public order. The Court emphasized the importance of intent and impact, reinforcing that casual expressions of dissent do not meet the sedition threshold.

In *Common Cause v. Union of India* (2016), the Supreme Court issued guidelines reiterating that sedition charges must adhere to the Kedar Nath standard, urging lower courts and police to avoid frivolous prosecutions. This case highlighted ongoing concerns about the law's misuse, even decades after Kedar Nath.

IV. EMERGING TRENDS IN JUDICIAL INTERPRETATION

Recent sedition cases reflect a troubling trend of applying Section 124A to non-violent expressions, often ignoring the Kedar Nath threshold. In 2021, climate activist Disha Ravi was arrested for sharing a protest "toolkit" related to the farmers' agitation. The Delhi High Court granted her bail, noting the absence of incitement to violence, but the case highlighted the law's use to target digital activism. Similarly, journalist Siddique Kappan faced sedition charges in 2020 for reporting on the Hathras rape case, raising concerns about press freedom. Student activist Umar Khalid's arrest for anti-CAA protest speeches in 2020 further illustrates the law's application to political dissent.

These cases demonstrate a pattern of using sedition to silence critics, particularly on issues like agriculture reforms, citizenship, and social justice. The judiciary's response has been mixed, with higher courts often granting relief but only after significant delays, exacerbating the chilling effect on free speech.

Despite Supreme Court guidelines, lower courts and police frequently misapply Section 124A, filing charges for non-violent expressions without evidence of incitement. For instance, in 2019, a Karnataka schoolteacher was charged with sedition for a WhatsApp message criticizing the government's COVID-19 response. Such cases reflect a lack of adherence to Kedar Nath, with police exploiting the law's cognizable and non-bailable nature to detain individuals pending trial.

Lower courts often hesitate to grant bail in sedition cases, prolonging detentions and legal harassment. This inconsistency undermines judicial safeguards, as the Kedar Nath standard is not uniformly applied, leading to arbitrary prosecutions that erode public trust in the judiciary.

The Supreme Court's recent scrutiny of Section 124A's constitutionality signals a shift in judicial discourse. In *S.G. Vombatkere v. Union of India* (2021), the Court issued notices to the government, questioning the law's relevance in a democratic society. Justices expressed concerns about its colonial origins and potential for misuse, hinting at a possible re-evaluation. This case, still pending, reflects growing judicial awareness of the law's impact on free speech.

In 2022, the Supreme Court took a significant step by directing all state governments and Union Territories to refrain from registering new sedition cases until the law's constitutionality is reviewed. This interim order underscores the judiciary's recognition of the law's problematic application and its potential conflict with constitutional rights.

The rise of social media has introduced new complexities in sedition cases. Posts, tweets, and videos criticizing government policies are increasingly targeted, as seen in cases like Disha Ravi's. The law's vague wording allows authorities to interpret online content as seditious, even absent incitement to violence. This trend highlights the need for guidelines specific to digital expression, as the law's colonial framework is ill-equipped to address modern forms of dissent.



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V. CRITICAL ANALYSIS OF JUDICIAL TRENDS

The Kedar Nath ruling and subsequent clarifications aimed to limit sedition's scope, but their effectiveness is undermined by inconsistent enforcement. While higher courts often overturn frivolous sedition charges, the initial arrests and prolonged trials impose significant burdens on defendants. The low conviction rate—around 3% according to NCRB data for 2019—suggests that many cases are filed to harass rather than secure convictions, highlighting the failure of judicial safeguards at the ground level.

The Supreme Court's guidelines in Common Cause (2016) and its 2022 interim order are steps toward curbing misuse, but without legislative amendments or stricter enforcement mechanisms, these measures remain inadequate. The lack of accountability for police filing baseless charges further weakens judicial protections.

Sedition law embodies a fundamental tension between national security and free speech. The state's interest in preventing threats to stability is legitimate, but Section 124A's broad scope allows it to target legitimate dissent. Cases like Umar Khalid's demonstrate how the law is used to suppress criticism of policies like the CAA, framing political opposition as a security threat. This undermines the democratic principle of accountability, as citizens fear legal repercussions for expressing dissent.

The judiciary's role in resolving this tension has been pivotal but inconsistent. While Kedar Nath set a high threshold for sedition, lower courts' failure to apply this standard allows the law to be weaponized against activists and journalists. The judiciary must play a proactive role in ensuring that sedition charges align with constitutional protections.

The misuse of sedition law has a profound chilling effect on democratic dissent. Journalists, students, and activists, particularly from marginalized communities, face disproportionate targeting. For instance, sedition charges against tribal activists in Jharkhand for protesting land acquisition highlight how the law silences voices advocating for social justice. This selective enforcement exacerbates inequalities and undermines India's pluralistic ethos.

The law's impact extends beyond those charged, as fear of prosecution discourages public discourse. Social media users, wary of sedition charges for critical posts, may self-censor, limiting debate on critical issues like governance, human rights, and policy failures. This erosion of free expression weakens democratic accountability and public trust in institutions.

Section 124A's broad application conflicts with international human rights standards, particularly Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which requires restrictions on free speech to be necessary, proportionate, and narrowly tailored. The United Nations Human Rights Committee has criticized vague laws like sedition for their potential to suppress dissent, urging states to align with global norms.

Comparative judicial approaches, such as the U.S.'s *Brandenburg v. Ohio* (1969), which requires intent and imminent harm, offer a model for India. The UK's repeal of sedition laws in 2009 further demonstrates that democracies can protect security without such provisions. India's failure to reform Section 124A risks isolating it among democracies committed to free expression.

The U.S.'s *Brandenburg* test sets a high threshold for restricting speech, requiring intent to incite imminent lawless action. This contrasts with India's Kedar Nath standard, which, while similar, is less consistently applied. The UK's repeal of sedition laws reflects a recognition of their obsolescence, relying instead on targeted laws like the Terrorism Act, 2000. Australia's reform to focus on "urging violence" offers a balanced approach, narrowing the law's scope while addressing security concerns. These models highlight the need for India to either repeal or refine Section 124A to protect free speech.

VI. RECOMMENDATIONS FOR REFORM

To prevent misuse, Section 124A should be amended to codify the Kedar Nath principles, explicitly requiring proof of intent to incite violence and a direct link to public disorder. Vague terms like "disaffection" and "hatred" should be defined precisely to eliminate subjective interpretation. Australia's model of replacing "sedition" with "urging violence" provides a blueprint for such reform.



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Mandatory judicial approval for sedition arrests would curb arbitrary police action. Expedited trials and strict bail timelines would reduce the chilling effect of prolonged detentions. Training programs for judges and law enforcement should emphasize adherence to Supreme Court precedents, with penalties for frivolous charges to ensure accountability. Introducing procedural safeguards, such as requiring a preliminary inquiry before filing sedition charges, would limit misuse. A mechanism to review and dismiss baseless cases at the pre-trial stage could prevent harassment. These safeguards would align with the Law Commission's 2018 recommendations for stricter oversight.

Following the UK's example, India could repeal Section 124A, relying on existing laws like the UAPA or IPC Section 153A to address threats to public order. Repeal would eliminate the risk of misuse and affirm India's commitment to democratic freedoms, aligning with global trends toward decriminalizing sedition.

Public awareness campaigns should educate citizens about their free speech rights, countering the chilling effect of sedition law. Judicial training programs should focus on consistent application of Kedar Nath principles, ensuring that lower courts and police adhere to constitutional standards.

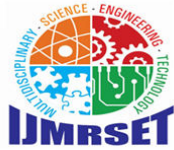
VII. CONCLUSION

The judicial interpretation of sedition law in India reflects a struggle to balance national security with democratic freedoms. The Kedar Nath Singh ruling established critical safeguards, limiting sedition to acts inciting violence, but inconsistent enforcement has allowed misuse against non-violent dissenters. Recent cases, from Disha Ravi to Umar Khalid, highlight the law's chilling effect on activism, journalism, and digital expression, undermining Article 19(1)(a). Comparative models from the UK, U.S., and Australia demonstrate that democracies can protect security without vague, colonial laws.

Reforming or repealing Section 124A is essential to align with India's constitutional values and international human rights standards. Legislative amendments, judicial oversight, procedural safeguards, and public awareness can curb misuse and foster a culture of open debate. The Supreme Court's ongoing scrutiny in S.G. Vombatkere offers hope for change, but sustained advocacy is needed to ensure that sedition law does not stifle India's democratic ethos. The future lies in a legal framework that prioritizes free expression while addressing genuine threats, ensuring that dissent strengthens, rather than threatens, democracy.

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