



Mains Practice Question

Q. The sedition law has been used as a muzzling mechanism and is a weapon against the constitutional spirit of modern democracy. Critically examine. (250 words)

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Approach

- Give brief introduction of Section 124A.
- Give argument against sedition law to show it is used as a weapon against the constitutional spirit of modern democracy.
- Provide argument in support of sedition law.
- Give conclusion.

Introduction

- The section 124A of Indian Penal Code 1870 is a colonial era provision which covers sedition charges against government.
- Human rights activists and supporters of free speech argue that this section is draconian and should be scrapped

Body

Sedition law a weapon against constitutional spirit of modern democracy

- **Against free speech:** It stifles the democratic right of people to criticize the government. The right to freedom of speech which includes the right to dissent has been enshrined as a fundamental right under Article 19 (1)(a). In **Shreya Singhal v. Union of India**, the Supreme Court recognized that the right to freedom of speech and expression is “a cardinal value and of paramount importance” to safeguard India’s democracy.
- **Against Dissent:** It has been used arbitrarily to curb dissent. In many cases the main targets have been writers, journalists, activists who question government policy and projects, and political dissenters. In **Kedar Nath Singh v. State of Bihar**, a Division Bench had laid down the criterion stressing that a necessary component of sedition involves rebellion or use of arms, in conjunction with demand for separation from or dismemberment of India. The draconian nature of this law—non-bailable, non-cognisable and punishment that can extend for life— has a strong deterrent effect on dissent even if it is not used.
- **Abolished in Western liberal democracies:** The UK repealed sedition as a crime over a decade ago for being violative of the right to free speech. The UK acknowledged that sedition was a product of a bygone era and had no place in modern society when freedom of speech is considered an integral part of a meaningful democracy.
- **Enormous consequences for wrongly charged:** National Crimes Record Bureau shows that conviction rates for sedition are low, the negative impact of simply charging an individual are enormous. Once a case of sedition is filed, the individual is forced to give up his/her passport; becomes ineligible to apply for government jobs; and, would have to make multiple visits to the courts and bear the legal costs of proving his/her innocence, in addition to the damage done to the individual’s reputation in society.

- Other legislation exists to deal with unlawful activities and armed movements. The court drew a clear line between expressing dissatisfaction about measures and acts of the government and engendering disloyalty to the country. There is no need to criminalize spoken or written words.

Need of Sedition law

- **Internal security threats:** India still faces grave security threats like Naxalism and Insurgency in several states, these threats are also present at ideological level e.g. ideas promoting Left extremism and secession, to curb these threats Sedition law is required.
- The court had significantly reduced the scope of Sedition law to only those cases where there is incitement to imminent violence towards overthrow of the state. Thus there is no need to scrap the act as it can be utilized against genuine threats against nation.

Conclusion

Constitutional spirit of modern democracy involves freedom of speech and 124A has chilling effect on this constitutional right. The court guidelines given in various decisions wrt to sedition law and free speech may be coded formally to eliminate the abuse of sedition law.

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