



## Sedition Law

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This article is based on **“Criticism is not sedition”** which was published in The Hindu on 7/10/2019. It talks about the relevance of Sedition law.

Recently, a lower court in Bihar directed the **filing of an FIR under section 124A (Sedition) of IPC against 49 eminent persons** who signed an **open letter** to the Prime Minister of India expressing concerns over mob lynching.

This court decision warrants an urgent and fresh debate on the need to repeal the sedition law.

### Historical Background of Sedition Law

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- Sedition laws were enacted in **17<sup>th</sup> century England** when lawmakers believed that **only good opinions of the government should survive**, as bad opinions were detrimental to the government and monarchy.
- This sentiment (and law) was borrowed and inserted into the **Section 124A of IPC in 1870, by the British.**
- British used Sedition law to **convict and sentence freedom fighters**. It was **first used to prosecute Bal Gangadhar Tilak in 1897.**
- Mahatama Gandhi, too, was later tried for sedition for his articles in Young India.

- The **Constituent Assembly** debated to include sedition as a ground for restricting free speech. However, this was successfully opposed for fear that it would be used to **crush political dissent**.
  - The Supreme Court highlighted these debates in 1950 in its decisions in **Brij Bhushan v the State of Delhi and Romesh Thappar v. the State of Madras**.
  - In these cases, the court held that a law which restricted speech on the ground that it would disturb public order was unconstitutional.
  - It also held that disturbing the public order will mean nothing less than endangering the foundations of the State or threatening its overthrow.
  - Thus, these decisions prompted the **First Constitution Amendment**, where Article 19(2) was rewritten to **replace “undermining the security of the State” with “in the interest of public order”**.

## Analysis of Bihar Court Judgment

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- In 1962, the Supreme Court decided on the constitutionality of Section 124A in **Kedar Nath Singh v State of Bihar**.
  - **It upheld the constitutionality** of sedition, but limited its application to “acts involving **intention or tendency to create disorder, or disturbance of law and order, or incitement to violence**”.
  - It distinguished these from “very strong speech” or the use of “vigorous words” strongly critical of the government.
- In 1995, the Supreme Court, in **Balwant Singh v State of Punjab**, held that mere sloganeering which evoked no public response did not amount to sedition.
- However, the Bihar lower court ignored these judgments of the Supreme Court.
  - Even if the letter is considered hateful of the government, if it did not incite violence, it is not seditious.

## Relevance of Sedition Law

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- Freedom of speech often poses difficult questions, like the extent to which the State can regulate individual conduct.
  - Since an **individual's autonomy is the foundation of this freedom**; any restriction on it is subject to great scrutiny.
- The constitution of India prescribes **reasonable restrictions that** can always be imposed on this right in order to ensure its responsible exercise and to ensure that it is equally available to all citizens.
  - **These restrictions are mentioned under Article 19(2)** of the Constitution of India i.e. interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.

- Sedition law helps the government to **curb secessionist movement** and other atrocity propaganda.

## Why sedition law should be repealed?

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- Sedition leads to a sort of **unauthorised self-censorship, for it produces a chilling effect on free speech.**
- It suppresses what every citizen ought to do in a democracy — raise questions, debate, disagree and challenge the government's decisions.
- Sedition systematically **destroys the soul of Gandhi's philosophy that is, right to dissent.**
- Jawaharlal Nehru, in Parliament, clarified that the related penal provision of Section 124A was "highly objectionable and obnoxious and the sooner we get rid of it the better".
- Even the **UK**, where the law originated, has already repealed it.

## Way Forward

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- The higher judiciary should use its **supervisory powers** to sensitize the magistracy and police to the constitutional provisions protecting free speech.
- The **definition of sedition should be narrowed down**, to include only the issues pertaining to the territorial integrity of India as well as the sovereignty of the country.
- **Civil society** must take the lead to raise awareness about the arbitrary use of Sedition law.

### ***Drishti Main Question***

Sedition leads to a sort of unauthorised self-censorship, for it produces a chilling effect on free speech. Comment.