

EXPLAINER: SEDITION AND ITS DISCONTENTS

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

An Indian flag hangs near the London landmark Big Ben in Parliament Square in London. File Photo. | Photo Credit: [AP](#)

The section deals with the offence of sedition, a term that covers speech or writing, or any form of visible representation, which brings the government into hatred or contempt, or excites disaffection towards the government, or attempts to do so. It is punishable with three years in prison or a life term. "Disaffection", it says, includes disloyalty and feelings of enmity. However, it also says expressing disapproval of government measures or actions, with a view to getting them changed by lawful means, without promoting hatred or disaffection or contempt towards the government will not come under this section.

Sedition was introduced in the penal code in 1870, a decade after the Indian Penal Code came into force. It was a colonial law directed against strong criticism of the British administration. Its most famous victims included Bal Gangadhar Tilak and Mahatma Gandhi. Gandhi called it "the prince among the political sections of the IPC designed to suppress the liberty of the citizen".

Two high courts had found it unconstitutional after Independence, as it violated the freedom of speech and expression. The Constitution was amended to include 'public order' as one of the 'reasonable restrictions' on which free speech could be abridged by law. Thereafter, the Supreme Court, in *Kedar Nath Singh v. State of Bihar* (1962) upheld its validity. At the same time, it limited its application to acts that involve "intention or tendency to create disorder" or incitement to violence. Thus, even strongly worded remarks, as long as they do not excite disloyalty and enmity, or incite violence, are not an offence under this section.

In recent times, the resort to this section is seen as disturbingly frequent. Activists, cartoonists and intellectuals have been arrested under this section, drawing criticism from liberals that it is being used to suppress dissent and silence critics. Authorities and the police who invoke this section defend the measure as a necessary step to prevent public disorder and anti-national activities. Jawaharlal Nehru University students and activists, Assamese scholar Hiren Gohain and Manipur journalist Kishorchandra Wangkhem are prominent among those booked in recent days. Wangkhem has also been detained under the National Security Act.

Liberals and rights activists have been demanding the scrapping of Section 124A from the statute books, arguing that it has no place in a democracy and that it is being invoked even in cases where there is no incitement to violence or tendency to create public disorder. It is argued that the provision is "overbroad", i.e., it defines the offence in wide terms threatening the liberty of citizens. The Law Commission released a consultation paper last year calling for a reconsideration of the section. It has pointed out that Britain abolished it more than a decade ago and raised the question whether a provision introduced by the British to put down the freedom struggle should continue to be law in India.

Pakistan's identity crisis, going back to the debates since its creation, remains unresolved

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