

# END THE DEBATE: THE HINDU EDITORIAL ON THE LAW COMMISSION'S RECOMMENDATION ON SEDITION

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The [Law Commission's recommendation](#) that the [offence of sedition](#) be retained in penal law, albeit with some safeguards, flies in the face of current judicial and political thinking that the country may not need this colonial vestige any more. [Section 124A of the IPC](#), which describes sedition, seeks to punish speech or writing that brings or tries to bring into hatred or contempt, or excites or tries to excite disaffection towards, the government established by law. Its validity was upheld by the Supreme Court as far back as 1962, but with the reservation that it would be a constitutionally permissible restriction on free speech, only if the offence was restricted to words that had a tendency to incite violence or cause public disorder. However, legal experts have pointed out that the panel's report fails to consider how far free speech jurisprudence has travelled since then. While keeping pending sedition cases in abeyance last year, the Court had observed that "the rigours of Section 124A of IPC are not in tune with the current social milieu". The Union government, too, had decided to reexamine and reconsider the provision. The time has come to consider the provision in the light of recent principles to test the validity of any restriction on fundamental rights, especially free speech. Given its overbroad nature, the sedition definition may not survive such scrutiny.

The Commission has sought to address two concerns usually raised about sedition: its rampant misuse and its relevance to the present day. It has repeated the hackneyed argument that a law's misuse is no ground to withdraw it. However, what it has failed to consider is that its very existence on the statute affords great scope for its unjustified use, often with deliberate intent to suppress dissent and imprison critics. It is doubtful if a mere prior sanction requirement, as mooted in the report, or a mandatory preliminary probe, will lead to fewer sedition cases. Further, the panel has argued that the fact that something is a colonial-era provision is no ground to discard it. It has justified the need to keep sedition on the penal statute by citing the various extremist and separatist movements and tendencies in the country, as well as the "ever-proliferating role of social media in propagating radicalisation". This may not be a sufficient reason to retain it, as divisive propaganda, incitement to violence and imputations affecting social harmony can be curbed by other penal provisions. In fact, an effective legal framework against hate speech is what is needed more than one to penalise speech or writing that targets the government. Notwithstanding the report, the government should consider the repeal of the provision.

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