

SEDITION AND COVID AGITATION

YOU NEED TO KNOW THIS

Origins of Sedition

Sedition originated from the Treason Felony Act, 1848 in the United Kingdom. In 1870, the British government in India introduced sedition as an offence under § 124A of the Indian Penal Code, 1860. Sedition laws were enacted to prevent acts of exciting feelings of disaffection towards the government, but this disaffection was to be distinguished from disapprobation¹.

Judicial Perspective

In 1962, the constitutional bench of the Hon'ble Supreme Court had balanced the right to free speech and expression provided in Article 19(1)(a) of the Constitution of India as against the offence of sedition under § 124A of IPC². Almost six decades later, the Supreme Court is currently reconsidering the constitutionality of § 124A IPC³.

 Disaffection <i>The expression "disaffection" includes disloyalty and all feelings of enmity⁴.</i>	 Disapprobation <i>Disapproval of someone or something on moral grounds⁵.</i>
What amounts to Sedition? Anything said or done, which has a tendency to subvert the government by - <ol style="list-style-type: none">1. Inducing contempt or hatred;2. Inciting feelings of disloyalty and enmity;3. Causing public disorder;4. Disturbing public peace by resorting to violence;	What is legally accepted criticism? Any expression of disapproval which is intended to - <ol style="list-style-type: none">1. Criticize and comment on government measures;2. Obtain alterations of such measures in a lawful manner⁶;3. Question actions of the government without exciting hatred⁷;
 "The government has failed us miserably in handling the COVID situation. We must take up arms to fight the government and uproot it."	 "The government has failed us miserably in handling the COVID situation. We must demand for better governance."

Criticism of COVID Measures and Risk of Sedition:

There has been much criticism against governments for their acts and omissions in handling the pandemic. When expressing views publicly, one should be aware of the thin line between 'disapprobation' and 'disaffection'.

Data from National Crime Records Bureau indicates that there has been an increase in sedition cases by 160%, while the conviction rate has dropped to a meager 3.3% in 2019. When a statement is perceived to come within the scope of § 124A, the government is empowered to initiate prosecution for sedition.



References

1. Consultation Paper on "Sedition" published by Law Commission of India on 30th August, 2018
2. *Kedar Nath Singh v. State of Bihar* (AIR 1962 SC 995)
3. *Kishorechandra Wangkhemcha & Anr. v. Union of India*, pending before the Supreme Court in Writ Petition (Criminal) No. 106/2021.
4. Explanation 1 to § 124A of the Indian Penal Code, 1860
5. Definition of 'Disapprobation' in Oxford Advanced American Dictionary
6. Explanation 2 to § 124A of the Indian Penal Code, 1860
7. Explanation 3 to § 124A of the Indian Penal Code, 1860