

From Chains To Change: India's Journey From IPC 124(A) To BNS 152

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ABSTRACT

This study presents a critical examination of India's sedition legislation, which is one of the most debatable topics in the Indian framework since its inception in 1870. The research investigates Section 124A¹²⁶ of the Indian Penal Code, 1860 ("IPC") and its successor, Section 152¹²⁷ of the Bhartiya Nyaya Sanhita, 2023 ("BNS"), through multiple analytical lenses. It is seen that initially, the Sedition Law was crafted by British authorities to suppress the voices of our great freedom¹²⁸ fighters, including Mahatma Gandhi, Bal Gangadhar Tilak, Bhagat Singh, etc, who faced charges of Sedition several times during their period. Even post-independence, the Sedition Law continues to prevail, and even today, it is misused numerous times, due to which the topic of Sedition never fades from the limelight of news headlines.

This comparative legal assessment demonstrates that though BNS has removed some of the problematic terms present in the IPC Section, such as disaffection but, it has also raised further concerns relating to increased punishment to 7 years to life imprisonment along with some conceptual challenges associated with some undefined parameters such as separatist activities and national unity.

This article also evaluates some of the landmark case laws, particularly the Supreme Court's (SC) 2022 moratorium on sedition prosecution, which highlighted the misuse of unlimited powers given to the government, which infringes the right to freedom of speech and expression of various journalists, activists, and political opponents.

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¹²⁶ Indian Penal Code, 1860, § 124A, No. 45, Acts of Parliament, 1860 (India).

¹²⁷ Indian Penal Code, 1860, § 152, No. 45, Acts of Parliament, 1860 (India).

¹²⁸ Vaibhav Yadav, *The Sedition Conundrum in India: A Critical Examination of its Historical Evolution, Current Application and Constitutional Validity*, 61 INT'L ANNALS CRIMINOLOGY 188 (2023).

Ultimately, this article questions whether India's change in sedition law represents meaningful progress towards reconciling state unity and Sovereignty along with protecting individuals' fundamental rights or merely acts as a symbolic modification to the outdated colonial legislature.

ORIGIN

The origin of this law can be traced back to a British historian and politician, Thomas Babington Macaulay, who first drafted the provision in 1837 as part of the IPC¹²⁹, which was an effort to codify and organize laws. It was in Section 113¹³⁰ of IPC 1837, that this concept was first introduced. However, this provision was excluded when the IPC was formally enacted in 1860. It was just in 1870 after the 1st amendment¹³¹ by Sir James Stephen¹³² (then law member of the Governor-General's Council) that the concept of Sedition was inserted under Section 124 sub-clause A of IPC 1860, criminalizing disaffection towards the government established by law.¹³³

APPLICATION OF LAW PRE-INDEPENDENCE

The British authorities used this law as a powerful weapon to suppress the voices of those who tried to speak against their colonial rule. Twenty years after the inception of this law, 1st hearing of the Sedition law came into existence in 1891 in the Calcutta High Court in the case of *Queen Empress v. Jogendra Chunder Bose*¹³⁴. Bangobasi magazine's owner, printer, manager, etc., all were charged and punished under sedition law for printing an article that criticized the British government's decision to increase the legal age for obtaining consent in sexual activities.¹³⁵ Bal Gangadhar Tilak was charged with Sedition twice in 1897¹³⁶ and 1908¹³⁷. In

¹²⁹ S Krishnan & Ekta Sehra, *The position of sedition laws and the freedom of speech and expression in India: A critical analysis*, 8 INT'L J. LEGAL STUD. & RES. 163 (2022).

¹³⁰ Draft Penal Code Prepared by the Indian Law Commission, 1837, § 113, in 7 THE WORKS OF LORD MACAULAY: SPEECHES AND ESSAYS 107 (Longmans, Green & Co. 1898).

¹³¹ Indian Penal Code Amendment Act, 1870, No. 27, Acts of Parliament, 1870 (India).

¹³² Police-Executive Relationship in Pakistan (2003-2007), SCRIBD (n.d.), <http://www.scribd.com/doc/38750711/Police-Executive-Relationship-in-Pakistan-20032007> (last visited Aug. 10, 2025).

¹³³ *Section 124-A IPC: Where to Draw the Line?*, SCC ONLINE BLOG (Oct. 3, 2017), <https://blog.sconline.com/post/2017/10/03/section-124-a-ipc-where-to-draw-the-line/> (last visited Aug. 10, 2025).

¹³⁴ *Queen-Empress v. Jogendra Chunder Bose*, (1892) ILR 19 Cal 35.

¹³⁵ Rachana Singh, *A Study of Sedition Law under IPC*, 1(14) J. CONTEMP. VIRT. PROCS. & JURIS. (2023), <https://jcvpj.iledu.in/wp-content/uploads/2023/07/VII14.pdf> (last visited Aug. 10, 2025).

¹³⁶ *Queen-Empress v. Bal Gangadhar Tilak & Keshav Mahadev Bal.*, 1897 SCC OnLine Bom 3.

¹³⁷ *Emperor v. Bal Gangadhar Tilak*, 1908 SCC OnLine Bom 48.

his 1897 case, the Bombay High Court broadened the concept of Sedition and included ‘Disloyalty’ too as a part of Sedition. Hence, in 1897, he was charged with Sedition for publishing an article that called for the British Raj to be overthrown. In 1908, too, he was charged with a similar case. Even our great freedom fighter M.K. Gandhi ji was charged with Sedition¹³⁸ in a famous case also referred to as the “*Great Trial of 1922*”¹³⁹ for his comments expressed in the journal ‘Young India’ in which he, suppressing the nature of this law, has emphasized the fact that affection [towards the government] cannot be manufactured. Not only this, many more Indian freedom fighters and great authors, such as Annie Besant, Jawaharlal Nehru, Bhagat Singh, etc, were charged under the Sedition law before Independence. It was used as a tool to muffle the voices¹⁴⁰ of freedom fighters and nationalists. But in 1942, in a landmark judgment of *N.D. Majumdar v. The King Emperor case*¹⁴¹, the Federal Court of India¹⁴² tried to redefine the definition of Sedition. In its judicial interpretation, the court stated that only acts of resistance or lawlessness that result in either public disorder or a reasonable anticipation or likelihood of causing public disorder would be categorized and punishable under the sedition law. Hence, mere criticism of government authorities is not sufficient to lie under the offense of Sedition until and unless it is coupled with the acts that led to or are likely to lead to tangible disruptions and public tranquility. However, this relatively narrow interpretation was subsequently overturned by the Privy Council in 1947,¹⁴³ just before India gained Independence. The Privy Council’s reversal reverted to a broader understanding of Sedition law, which placed greater emphasis on securing government authority regardless of actual public disorder. This judicial decision reflects the ongoing tension between maintaining absolute authority and emerging democratic principles, which would later form the basis of India’s constitutional framework. This decision has ultimately restored the broad and subjective viewpoint of sedition law, which was earlier used by British authorities to suppress the voices of Indian nationalists and freedom fighters.

POST-INDEPENDENCE SCENARIO

¹³⁸ Thressiakunju Francis, The Extraordinary Law and Civil Liberties in India, 4 Indian J. L. & Legal Rsch. 1, 8 (2025), <https://3fdef50c-add3-4615-a675-a91741bcb5c0.usrfiles.com> (last visited Aug. 10, 2025).

¹³⁹ Queen-Empress v. Bal Gangadhar Tilak, Cr. Case No. 45 of 1922 (Sessions Ct. Bombay, Mar. 18, 1922).

¹⁴⁰ RIJUL SINGH UPPAL, *SEDITION* 45 (Routledge 2024).

¹⁴¹ Niharendu Datta Majumdar v. Emperor, 1939 SCC OnLine Cal 153.

¹⁴² Agnibh A. & Kritika Kabra, *Free Speech, Hate Speech, and Sedition Law: Dilemmas in India’s New Penal Code*, 58(2) INDIAN JOURNAL OF PUBLIC ADMINISTRATION 261 (2023).

¹⁴³ King-Emperor v. Sadashiv Narayan Bhalerao, AIR 1947 P.C. 82.

As soon as India gained Independence in 1947¹⁴⁴, debate on Sedition and its compatibility with Article 19 (1)¹⁴⁵ started to arise. Sardar Vallabhai Patel, who was tasked with heading the Fundamental Rights subcommittee, has inserted Sedition as an exception, which led to a rigorous debate¹⁴⁶ in the constituent assembly. However, because of its colonial roots and high potential for misuse, Sardar Vallabhai Patel also faced refusal by the constituent assembly. But the judicial judgment in the case *Romesh Thappar v. State of Madras*¹⁴⁷, also emphasized the exclusion of Sedition as an exception to freedom of speech and expression was specific. Here, it was established that sedition law does not put a restriction on freedom of speech and expression. The SC, in this case, clearly stated that any restriction will not come under the purview of sedition law until and unless any speech and expression clearly threatens the security or tends to overthrow the State.

JUDICIAL INTERPRETATION OF IPC SECTION 124(A)

In the year 1950, during India's transition to a republic, the Punjab and Haryana court issued a significant judgment in the case of *Tara Singh Gopi Chand v. The State*¹⁴⁸, in which Section 124(A) of IPC was declared unconstitutional. According to Justices Weston and Khosla, a state where political ideologies and ruling parties change over time, a law like Sedition is no longer needed, and they stated that this law clearly violates freedom of speech and expression.

In 1958, a question arose in the case *Sabir Raza v. The State*¹⁴⁹ Before the Allahabad High Court,¹⁵⁰ whether criticizing the government, members of parliament, or government policies falls within the safeguard of freedom of speech and expression, even if it disrupts public order. The court in the present case asserted that disturbing public order does not equate to overthrowing the government, and hence, it cannot be subject to penalties under Sedition law. A year later, Allahabad High Court categorically declared Section 124(A) of IPC as unconstitutional and concluded that this section imposed restrictions on freedom of speech that

¹⁴⁴ Indian Independence Act, 1947, 10 & 11 Geo. 6, c. 30 (U.K.).

¹⁴⁵ INDIA CONST. art. 19, cl. 1(a).

¹⁴⁶ LOK SABHA SECRETARIAT, CONSTITUTIONAL ASSEMBLY DEBATES: OFFICIAL REPORT, vol. VII, 1–2 Dec. 1948; vol. X, 16–17 Oct. 1949.

¹⁴⁷ *Romesh Thappar v. State of Madras*, AIR 1950 SC 124.

¹⁴⁸ *Tara Singh Gopi Chand v. The State*, AIR 1951 Punj. 27.

¹⁴⁹ *Sabir Raza v. The State*, Cri. App. No. 1434 of 1955 (Dated Feb. 11, 1958).

¹⁵⁰ Shrestha Chaurasia, *CONSTITUTIONALITY OF SEDITION LAW UNDER IPC AND IMPORTANCE OF AMENDMENT UNDER BNS*, LAWFOYER (Aug. 10, 2025), <https://lawfoyer.in/constitutionality-of-sedition-law-under-ipc-and-importance-of-amendment-under-bns/> (last visited Aug. 10, 2025).

did not align with the public interest. This case¹⁵¹ evolved around Ram Nandan, an agricultural labor activist who was charged with Sedition for criticizing the Congress government's failure to address extreme poverty and urging farmers to form an army, if necessary, to overthrow the government. The court, in this case, stated that mere potential public disorder does not justify curtailing the fundamental right of freedom of speech and expression.

After this case, the questions related to the constitutional validity of Sedition law came into limelight and increased. So, in 1962, SC had an opportunity to ascertain the validity of Section 124(A) of IPC in the Kedarnath case¹⁵². In this case, the constitutional bench of SC overturned the previous judgments of all HCs and ascertained that Sedition is the legitimate exception under freedom of speech as long as it does not incite any violence. In the present case, Kedar Nath was a member of the Forward Communist Party of Bihar who faced Sedition charges for his speech criticizing the Congress government and its handling of Vinobha Bhave's land redistribution efforts. Justice Sinha delineated the extent of applying Sedition, asserting that disloyal expressions towards the government, conveyed forcefully, do not amount to Sedition until and unless they amount to public disorder by acts of violence. The judgment held that *"Government established by law' is the visible symbol of the State. The very existence of the State will be in jeopardy if the government established by law is subverted. Hence, the continued existence of the government established by law is an essential condition of the stability of the State. That is why 'sedition,' as the offense in Section 124-A has been characterized, comes under Chapter VI, relating to offenses against the State. Hence, any acts within the meaning of Section 124-A that have the effect of subverting the government by bringing that government into contempt or hatred or creating disaffection against it would be within the penal statute because the feeling of disloyalty to the government established by law or enmity to it imports the idea of a tendency to public disorder by the use of actual violence or incitement of violence."*¹⁵³

The court, in this judgment, differentiated between the government established by law and the individuals currently responsible for managing the administration. Additionally, the court also highlighted the balance between freedom of speech and expression and the power of legislation to restrict these rights where needed. Hence, with this judgment, it was made very clear that

¹⁵¹ Ram Nandan v. State of U.P., AIR 1959 All. 101.

¹⁵² Kedar Nath Singh v. State of Bihar, 1962 Supp. (2) S.C.R. 769.

¹⁵³ Brij Bhushan Sharan Singh v. Unni Krishnan, 1970 AIR 810.

the government symbolizes the State and its stability is vital for national security, and so Section 124(A) of IPC penalizes acts inciting hatred and disaffection against the government, i.e., the State. This was the reason that this section was placed under “CHAPTER VI of IPC, OFFENCES AGAINST THE STATE.”

In 1955, a two-judge bench of the Supreme Court in *Balwant Singh v. State of Punjab*¹⁵⁴ upheld the judgment¹⁵⁵ given in *Kedar Nath v. State of Bihar Case*.¹⁵⁶ In 2016, Common Cause, an NGO engaged in addressing public issues, lodged a writ petition¹⁵⁷ challenging the constitutional validity of Section 124(A). The petition accused that this law is misused by government authorities to quell dissent and is used against various journalists, activists, and critics. It argued that Kedar Nath’s judgment had been disregarded. However, the SC, under the division bench led by Justice Dipak Misra, argued that guidelines outlined under the Kedar Nath case are adequate and there is no need to reexamine.

However, in the subsequent years, it was seen that many cases filed were dismissed, but only after prolonged inconvenience and legal harassment of individuals. It was noticed that a major junk of these cases that were filed were against journalists, activists, and critics. However, despite many judgments emphasizing the same, attempts by the government to misuse the same continued. It was only in 2022 that SC noticed its rampant misuse as a ‘tool for harassment,’ chilling free speech. This led to the Supreme Court in *SG Vombatkere v. Union of India*¹⁵⁸ to suspend all pending sedition trials and directing that no new FIR be filed under Section 124(A) of IPC until the government re-examines this law. The court stressed the requirement of actual incitement to conduct violence and not merely criticism of the government, which will fall under Sedition charges. This interim order also reflected the growing judicial skepticism about law misuse to suppress dissent.

Following the SC’s pause on Sedition cases, Law Commission of India published its 279th report¹⁵⁹ which recommended Indian Government to retain existing Sedition laws under

¹⁵⁴ *Balwant Singh & Anr. v. State of Punjab*, AIR 1995 SC 1785.

¹⁵⁵ *Anuradha Bhasin v. Union of India*, Writ Petition (Criminal) No. 298 of 2019 (India), (Jan. 10, 2020).

¹⁵⁶ *Kedar Nath Singh v. State of Bihar*, 1962 Supp. (2) S.C.R. 769.

¹⁵⁷ *Common Cause & Anr. v. Union of India*, (2018) 5 SCC 1.

¹⁵⁸ *S.G. Vombatkere v. Union of India*, (2022) 7 SCC 433.

¹⁵⁹ LAW COMMISSION OF INDIA, REPORT NO. 279: USAGE OF THE LAW OF SEDITION (May 2023).

Section 124(A) of IPC, 1860 with certain amendments¹⁶⁰. The report heavily emphasised the judgement of *Kedar Nath case*¹⁶¹ and upheld its validity. After some time, on December 12, 2024, Union Home Minister Amit Shah announced the introduction of 3 new criminal laws replacing old British-era criminal law, which will be effective from July 1, 2025¹⁶².

TEXTUAL COMPARISON: IPC SECTION 124(A) V. BNS SECTION 152

Section 124(A) of IPC criminalizes Sedition with the objective of protecting the Sovereignty of the nation. It deals with the attempt to bring hatred, contempt, or excitement of disaffection through communication, symbol, or observable depiction towards the government, which is legally constituted in the country. It is categorized as a non-bailable, cognizable offense that is punishable with imprisonment of 3 years to a lifetime. Under this section, disloyalty and feeling of enmity are also covered under disaffection. Furthermore, explanations 1 and 2 of this section clarify that any actions done with the intention not to cause hatred, disaffection, or content but to bring out altercation to government policies and done via lawful means do not amount to a violation of this section.

The BNS, which replaced the IPC of 1860, introduced Section 152 as a replacement to Section 124(A) of the IPC. The major overhaul in this new section is that the word Sedition is not mentioned; instead, it is covered under the umbrella heading of 'Acts endangering sovereignty, unity and integrity of India.'¹⁶³ It includes two additional modern means by which Sedition can be done, namely the use of electronic communication and financial means. According to this section, whosoever either by words, written, spoken or by signs or by visible representation, or by electronic communication or by use of financial means, or otherwise, excites or attempts to excite, secession or armed rebellion or subversive activities, or encourages feelings of separatist activities or endangers Sovereignty or unity and integrity of India; or indulges in or commits any such act shall be punished with imprisonment for life or with imprisonment which may extend from seven years to life imprisonment, and shall also be liable to fine.¹⁶⁴ This section has also raised the minimum punishment from 3 to 7 years. The significant difference

¹⁶⁰ Ishan Ranjan, *Sedition Laws of India: An Analysis of the 279th Law Commission Report*, 6 INT'L J. L. MGMT. & HUMAN. 2920, 2921 (2023).

¹⁶¹ *Kedar Nath Singh v. State of Bihar*, 1962 Supp. (2) S.C.R. 769.

¹⁶² Press Information Bureau, Launch of Three New Criminal Laws, Press Release No. 153202 (July 1, 2024).

¹⁶³ *Explained: What Is Section 150, Which Will Replace Sedition Law*, NDTV (Aug. 10, 2025), <https://www.ndtv.com/india-news/new-laws-new-criminal-laws-ipc-explained-what-is-section-150-which-will-replace-sedition-law-4289349> (last visited Aug. 10, 2025).

¹⁶⁴ MyInd Staff, *Amit Shah Introduces Three New Bills in Lok Sabha to Overhaul Colonial-Era Criminal Laws*, MYIND MAKERS (July 19, 2024, 3:03 PM), <https://myind.net>.

is that the old section talks about contemplation or hatred against the government, whereas this section talks about contemplation and hatred against the Sovereignty and integrity of India. The new law not only covers new threats, such as electronic communication and financial threats to anti-national activities, but on the other hand it also covers specific crimes, such as secession, armed rebellion, separatist activities, and threats to the Sovereignty of India, replacing vague terms such as disaffection present in old criminal law. This makes the section up to date with the current challenges that were not present in the previous law. It also states the explicit requirement of intent by introducing ‘purposefully or knowingly’ as a threshold aiming to prevent arbitrary arrests for casual criticism.

SEDITION LAW IN OTHER COUNTRIES

Most of the countries, especially developed countries, have either repealed or have significantly limited the scope of Sedition law due to concerns regarding misuse and violation of freedom of speech and expression¹⁶⁵. Even the country from whom India inherited the Sedition law, the UK has itself repealed it in 2009 through the Coroners and Justice Act, 2009¹⁶⁶ under Gordon Brown’s Labour government, but sadly, it still exists in India and is used many times as a weapon by the government against journalists or activists. Other countries like Australia [through the Crimes (Repeal of Seditious Offences) Amendment Act¹⁶⁷, 2007], Singapore [through the Seditious (repeal) Act 2021¹⁶⁸], New Zealand (in 2008¹⁶⁹), Scotland in 2011¹⁷⁰, and many more have also repealed their sedition laws because of increasing concerns of its misuse. There are also some countries, such as Germany and Spain, who never had any Sedition laws.

On the other hand, there are still countries with prevailing sedition laws, but in the subsequent years, it has been noted that most underdeveloped countries or countries funding terrorist activities rampantly use Sedition laws against individuals as a weapon. Some of such countries include Pakistan¹⁷¹, Malaysia¹⁷² and African nation which includes Kenya¹⁷³, Ghana, Nigeria,

¹⁶⁵ Ram Nandan v. State, AIR 1959 All. 101.

¹⁶⁶ Coroners and Justice Act 2009, c. 25, § 73 (Eng.).

¹⁶⁷ Crimes (Repeal of Seditious Offences) Amendment Act 2010 (Cth) (Austl.).

¹⁶⁸ Sedition (Repeal) Act 2021, No. 30, Acts of Parliament, 2021 (Sing.).

¹⁶⁹ Crimes (Repeal of Seditious Offences) Amendment Act 2007, No. 39, § 4 (N.Z.).

¹⁷⁰ Criminal Justice and Licensing (Scotland) Act 2010, asp 13, § 51 (Scot.).

¹⁷¹ Haroon Farooq v. Federation, (Lahore High Court Mar. 30, 2023) (Pak.).

¹⁷² Sedition Act 1948, Act 15 (1948) (Malay.).

¹⁷³ Penal Code, Cap. 63, § 77 (Kenya).

Uganda¹⁷⁴, Malawi¹⁷⁵, and Swaziland¹⁷⁶. There are also countries that have stringent sedition laws because of a lack of democracy, which includes countries such as China¹⁷⁷ and Hong Kong¹⁷⁸.

Some democratic countries, such as US¹⁷⁹, Australia¹⁸⁰ and even India¹⁸¹, also had sedition law which still prevails, but the scope of the same has been limited so as not to infringe on people's right to freedom of speech and expression.¹⁸²

FUTURE PROSPECTS

The transition from Section 124(A) of IPC to Section 152 of BNS has been a great evolutionary step towards democracy out of colonial, oppressive and highly debated law. Section 152 will evolve and shape with time and hence several factors will determine its evolution such as judicial interpretations and political climate. The discretionary application, which was a huge problem under Section 124(A), could still prevail despite its narrowed scope if judicial restraint prevails, allowing authorities to perpetuate the same patterns of exploitation and misuse, especially towards the legitimate critics and political activists raising voices for marginal communities. Other factors, including the political climate surrounding the national security discourse of the Nation, will also determine the extent of this law. This section can be rarely used for serious and threatening acts threatening the security and integrity of India, or be a very often-used act used to suppress dissent and ideological propaganda. Hence, the actual fate of this act will come forward only after its implications and judicial interpretations.

¹⁷⁴ Uganda Law Revision (Miscellaneous Amendments) Act 2023, §§ 39–40, 50 (Uganda).

¹⁷⁵ Penal Code (Amendment) Bill 2022 (Malawi).

¹⁷⁶ *Adv. v. King*, (Queen's High Court of Swaziland, Sept. 16, 2016) (Swaz.).

¹⁷⁷ Criminal Law of the People's Republic of China (promulgated by the Standing Comm. Nat'l People's Cong., July 1, 1979, rev. Mar. 14, 1997), arts. 102–103 (China).

¹⁷⁸ Crimes Ordinance, (Cap. 200) §§ 9–10 (H.K.); Law of the People's Republic of China on Safeguarding National Security in the Hong Kong S.A.R., arts. 20–23, June 30, 2020, Standing Comm. Nat'l People's Cong. (P.R.C.).

¹⁷⁹ 18 U.S.C. §§ 2384–2385 (2018) (criminalizing seditious conspiracy and advocating the overthrow of the U.S. Government).

¹⁸⁰ Criminal Code Act 1995 (Cth) § 80.2, repealed by Crimes Legislation Amendment (National Security) Act 2010 (Cth) sch. 1.

¹⁸¹ Bharatiya Nyaya Sanhita, No. 45 of 2023, § 152, Acts of Parliament (India) (replacing Indian Penal Code, 1860, § 124A, effective July 1, 2025).

¹⁸² Tanvitha Reddy K., *Evolution of Sedition Law in India and Implications of Section 150 of the New Bharatiya Nyaya Sanhita*, THE AMIKUS QRIAE, <https://theamikusqrae.com/evolution-of-sedition-law-in-india-and-implications-of-section-150-of-the-new-bharatiya-nyaya-sanhita/> (last visited Aug. 10, 2025).