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## Law of Sedition in India before and after Independence

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**Abstract**

British government introduced Law of Sedition in 1870 by making an amendment in Indian penal code 1860. British colonial government introduced sec, 124A in 1870 to suppress Wahabi Movement led by Syed Ahmed Bareilvi. The term “disaffection” includes disloyalty and all feeling of enmity. The first case under this section was registered, in 1891, when the editor of a newspaper called bangobasi was booked for criticizing an “age of consent bill” after issued an apology charges against him were dropped. Tilak and many other national leaders were prosecuted under this section on the basis of Strachey’s interpretation. Mohan das Karam Chand Ghandi was brought to court for his articles in young India magazine. After independence in Kedar Nath case, a constitutional bench of supreme court examined the question how far the offence as defined in section 124A of IPC is consistent with the fundamental right guaranteed by article 19(1)(a). Aseem Trivedi a cartoonist was an sent to jail for his cartoon Titeled as ‘gang rape of mother India’ and a cartoon shows India’s nation emblem, the Ashoka lions, with foxes rather the lions. In the inscription on the emblem, the words ‘Satyameva Jayate’ are replaced with Brashtamev Jayate and danger sign. In this case Bombay high court held that a citizen has a right to say or write anything critical about the government, or its measures as long as it does not incite violence or intended to disrupt public peace.

**Keywords:** Wahabi Movement, British Colonial Government, IPC 1860, Disaffection, Bal Gangadhar Tilak Case, Kedar Nath, Aseem Trivedi

**Introduction**

**Origin of sedition in India**

British government introduced Law of Sedition in 1870 by making an amendment in Indian penal code 1860. The purpose of this amendment was to suppress “Wahabi Movement” of 19<sup>th</sup> century. British colonial government introduced sec, 124A in 1870 to suppress Wahabi Movement led by Syed Ahmed Bareilvi <sup>[1]</sup>.

**Provisions in Indian penal code 1860 are:**

1. 124A. Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, (2) the government established by law in (3) India, a (4) shall be punished with (5) imprisonment for life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

- **Explanation 1:** The expression “Disaffection” includes disloyalty and all feeling of enmity.
- **Explanation 2:** Comments expressing disapprobation of the measures of the government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.
- **Explanation 3:** Comments expressing disapprobation of the administrative or other action of the government without exciting or attempt to excite hatred, contempt or disaffection, do not constitute an offence under this section <sup>[2]</sup>.

**Prosecution under this Section during British Colonial Rule**

The first case under this section was registered, in 1891, when the editor of a newspaper called bangobasi was booked for criticizing an “age of consent bill” the jury could not reach a unanimous verdict and the judge after he issued an apology charges against him were dropped <sup>[3]</sup>.

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The trail that changed the effect of section 124A was that of Bal Gangadhar Tilak in 1897. The British government claimed, according to an article in the economic and political weekly, that Tilak's speeches on the killing of Afzal Khan by Shivaji, had prompted the murder of two British officers in Pune. Newly promoted the justice James Stanchey presided over this trail and broadened the scope of sec124A by equating disaffection" to disloyalty. " He interpreted that the term "feeling of disaffection "meant hatred, enmity, dislike. Hostility contempt and every form of ill will towards the government, after Tilak and many other national leaders were prosecuted under this section on the basis of Strachey's interpretation <sup>[4]</sup>.

In 1922, Mohan das Karam Chand Ghandi was brought to court for his articles in young India magazine, Gandhi famously denounced the law against sedition in the court. "Section 124A under which I am happily charged, is perhaps the prince among the political section of the IPC to suppress the liberty of the citizen".

### Effects on Section 124A after Independence

In Kedar Nath case, a constitutional bench of supreme court examined the question how far the offence as defined in section 124A of IPC is consistent with the fundamental right guaranteed by article 19(1)(a) of the constitution and observed that 24 it has not been questioned before us that the fundamental right guaranteed by Art. 19(1)(a) of the freedom of speech and expression is not an absolute right. It is common ground that the right is subject to such reasonable restrictions as would come within the purview of douse (2), which comprises (a) security of the State, (b) friendly relations with foreign States, (c) public or, (d) decency or morally, etc., etc. 144th reference to the constitutionality of s. 124A or s. 505 of the Indian Anal Code, as to how far they are consistent with the requirements of douse (2) of Art. 19 with particular reference to security of the State and public order, the section, it must be noted, penalises any spoken or written words or signs or visible representations, etc., which have the effect of bringing, or which attempt to bring into hatred or contempt or excites or attempts to excite disaffection towards the Government established by law. Now, the expression "the Government established by law" has to be distinguished from the persons for the time being engaged in carrying on the administration. "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 offence in section 124A has been characterized, comes under Chapter VI relating to offences against the State. Hence any acts within the meaning of s. 124A which 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 tendency to public disorder by the use of actual violence or incitement to violence. In other words, a, written or spoken words, etc., which have implicit in them the idea of subverting Government by violent means, which are compendiously included in the term 'revolution, have been made penal by the section in question. But the section has

taken care to indicate clearly that strong words used to express disapprobation of the measures of Government with a view to their improvement or alteration by lawful means would not come within the section. Similarly, comments, however strongly worded, expressing disapprobation of actions of the Government, without exciting those feelings vs. ICH generate the intimation to cause public disorder by acts of violence, would not be penal. In other words, disloyalty to Government established by law is not the same thing as commenting in strong terms upon the measures or acts of Government, or its agencies, so as to ameliorate the condition of the people or to secure the cancellation or alteration of those acts or measures by lawful means, that is to say, without exciting those feelings of enmity and disloyalty which imply excitement to public disorder or the use of violence <sup>[5]</sup>.

In another case Aseem Trivedi a cartoonist was an sent to jail for his cartoon Titled as 'gang rape of mother India' and a cartoon shows India's nation emblem, the Ashoka lions, with foxes rather the lions. In the inscription on the emblem, the words 'Satyameva Jayate' are replaced with Brashtamev Jayate and danger sign. In this case Bombay high court held that a citizen has a right to say or write anything critical about the government, or its measures as long as it does not incite violence or intended to disrupt public peace <sup>[6,7]</sup>.

So this colonial law is still in existence and there are lots of cases in which citizen of India booked even after independence.

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