AMITY UNIVERSITY
RAJASTHAN

AMITY LAW SCHOOL (ALS)

LL.M Constitutional Law

List of students undertaking field project or research projects or internships.

Program Code	Programme name	Name of the students
121426	LLM(Constitution Law)	Abhishek Singh
121426	LLM(Constitution Law)	Akanksha Tiwari
121426	LLM(Constitution Law)	Akshansh Ankit
121426	LLM(Constitution Law)	Aman Anand
121426	LLM(Constitution Law)	Anukriti Ladecha
121426	LLM(Constitution Law)	Ashutosh Yadav
121426	LLM(Constitution Law)	Bharat Kumar Rohalan
121426	LLM(Constitution Law)	Ishrat Pirani
121426	LLM(Constitution Law)	Manda Akash
121426	LLM(Constitution Law)	Manisha Rani
121426	LLM(Constitution Law)	Monis Ahmad
121426	LLM(Constitution Law)	Neha Pal
121426	LLM(Constitution Law)	Niharika Chandak
121426	LLM(Constitution Law)	Nishtha Bajpai
121426	LLM(Constitution Law)	Nitish Sirohi
121426	LLM(Constitution Law)	Poorva Gupta
121426	LLM(Constitution Law)	Priyanka Sisodia
121426	LLM(Constitution Law)	Priya Modi
121426	LLM(Constitution Law)	Rama Shripad Kapil
121426	LLM(Constitution Law)	Ritu
121426	LLM(Constitution Law)	Sanya Jain
121426	LLM(Constitution Law)	Sudip Battula
121426	LLM(Constitution Law)	Umashankar Singh
121426	LLM(Constitution Law)	Vipul Tiwari

ANALYSIS ON DATA PROTECTION AND PRIVACY IN INDIA

In Partial Fulfillment for the Award of Degree

of

LL.M

AT

AMITY LAW SCHOOL

AMITY UNIVERSITY RAJASTHAN

JAIPUR

SUBMITTED BY

ABHISHEK SINGH

LL.M 2nd SEMESTER

CONSTITUTIONAL LAW

2020 - 2021

SUPERVISED BY

MR. PRATEEK DEOL

ASSISTANT PROFESSOR

AMITY LAW SCHOOL

CANDIDATE DECLARATION

I, **Abhishek Singh bearing enrolment no.A21542620014, 2nd Semester**, declare that the work in this dissertation titled "Analysis on data protection and privacy in India" is my original work and it has been written by me in the entirety. This dissertation is a record of bona fide research carried out by me under the supervision of **Mr. Prateek Deol, Assistant Professor**, who has duly acknowledged all the sources of information which have been in the dissertation.

SUPERVISOR CERTIFICATE

This is to certify that **Abhishek Singh** who is a bonafide student has **enrolment No.A21542620014, II Semester**. He is submitting this Dissertation entitled "**Analysis on data protection and privacy in India**" for awarding the degree of Masters in Laws . He has worked on the above mentioned topic under my constant supervision and guidance to my entire satisfaction and his dissertation is worthy of consideration for the award of Degree of Masters of Laws. This Dissertation meets the requirements laid down by Amity Law School, Rajasthan , Amity University, hence, I recommend this dissertation to be accepted for evaluation.

Name of Supervisor- Mr. Prateek Deol

Designation- Assistant Professor.

Amity Law School, Rajasthan.

VICTIMS OF SEXUAL OFFENCES AND JUSTICE DELIVERY SYSTEM: A STUDY IN INDIAN PERSPECTIVE

Dissertation Submitted in Partial Fulfillment of the Academic Requirement for award of Degree

of

MASTER OF LAWS (LL.M)

in

CONSTITUTIONAL LAW

AT

AMITY LAW SCHOOL,

AMITY UNIVERSITY, RAJASTHAN

SUBMITTED BY
Akanksha Tiwari
LL.M. (2nd Semester)
Constitutional Law
2020-2021
Amity University, Rajasthan.

SUPERVISED TO
Mr. Hemant Singh
Assistant Professor
Amity Law School,
Amity University,
Rajasthan.

DECLARATION BY THE CANDIDATE

I hereby declare that the dissertation titled **"Victims of Sexual Offences And Justice Delivery System: A Study In Indian Perspective"** submitted at **Amity Law School, Amity University, Rajasthan** is the outcome of my own work carried out under the supervision of **Mr. Hemant Singh, Assistant Professor (Law), Amity University, Rajasthan.**

I further declare that to the best of my knowledge, the dissertation does not contain any part of my work, which has been submitted for the award of any degree either in this University or in any other institution without proper citation.

Place: Amity University, Rajasthan Signature:

Date: Akanksha Tiwari

CERTIFICATE OF SUPERVISOR

This is to certify that the work reported in the LL.M. dissertation titled **"Victims of Sexual Offences And Justice Delivery System: A Study In Indian Perspective"** submitted by Akanksha Tiwari at **Amity Law School, Amity University, Rajasthan** is a bona fide record of her original work carried out under my supervision.

Place: Amity University, Rajasthan

Signature:

Date:

Mr. Hemant Singh

Assistant Professor, AUR.

A Study on the Global Panorama of Legal Matrix in Corporate Governance

In Partial Fulfillment for the Award of Degree

of

LL.M

AT

AMITY LAW SCHOOL

AMITY UNIVERSITY RAJASTHAN

JAIPUR

SUBMITTED BY

B. AKSHITHA

LL.M 2nd SEMESTER

CORPORATE LAW

2020 - 2021

SUPERVISED BY

DR. GOVIND SINGH RAJPAL

ASSISTANT PROFESSOR

AMITY LAW SCHOOL

DECLARATION

I, **B. AKSHITHA**, student of **LL.M – Corporate Law**, 2020-2021, Amity Law School, Amity University, Jaipur, Rajasthan hereby declare that this dissertation titled "**A Study on the Global Panorama of Legal Matrix in Corporate Governance**" is submitted to the Amity University in partial fulfillment of the requirements for the award of the LL.M Corporate Law. This thesis is a record of the original and independent work done by me under the guidance of Dr. Govind Singh Rajpal, Assistant Professor, Amity Law School, during the period of second semester and has not formed the part or basis for the award for any other Degree/ Diploma or a similar title to any candidate of this university or other universities.

Place: Jaipur B. AKSHITHA

Date: 10-05-2021

AMITY LAW SCHOOL

AMITY UNIVERSITY, JAIPUR, RAJASTAHAN

CERTIFICATE

This is to certify that this research report entitled "**A STUDY ON THE GLOBAL PANORAMA OF LEGAL MATRIX IN CORPORATE GOVERNANCE**" is an authentic record of work done by Ms. B. AKSHITHA, Enrolment No. A215120620026, under the guidance of Dr. Govind Singh Rajpal, Assistant Professor and submitted in partial fulfillment of the requirements of the award of LL.M- Corporate Law from Amity University during the period of 2020-2021.

Dr. Govind Singh Rajpal
(Assistant Professor)

Dr. Saroj Bohra
(Director, Amity Law School)

Place: Jaipur

Date: 10-05-2021

Gender identity crisis of LGBTQ and their socio legal status in India.

Dissertation Submitted in Partial Fulfillment of the Academic Requirement of Degree of

Master of Laws

(LL.M) in (Constitutional Law)

At

AMITY LAW SCHOOL, RAJASTHAN,JAIPUR

SUBMITTED BY

AMAN ANAND
LL.M-2nd SEMESTER
(CONSTITUTIONAL LAW)
ENROLLMENT NO-A21542620013

SUPERVISED BY

MR. HEMANT SINGH
ASSISTANT PROFESSOR

Amity University, Rajasthan

SP -1, kant kalwar, RIICO Industrial Area, NH- 11C,
Jaipur, Rajasthan 303007

Canditate Declaration

I, **Aman Anand bearing enrolment no.A21542620013, 2nd Semester**, declare that the work in this dissertation titled "Gender identity crises of LGBTQ and their social legal status in India" is my original work and it has been written by me in the entirety. This dissertation is a record of bona fide research carried out by me under the supervision of **Mr. Hemant Singh, Assistant Professor**, who has duly acknowledged all the sources of information which have been in the dissertation.

Supervisor Certificate

This is to certify that **Aman Anand** who is a bonafide student having **enrolment No.A21542620013,2nd semester**. He is submitting this Dissertation entitled " **Gender Identity Crises of LGBTQ and their Social legal Status in India**" for awarding the degree of Masters in Laws . He has worked on the above mentioned topic under my constant supervision and guidance to my entire satisfaction and his dissertation is worthy of consideration for the award of Degree of Masters of Laws. This Dissertation meets the requirements laid down by Amity Law School, Rajasthan , Amity University, hence, I recommend this dissertation to be accepted for evaluation.

Name of Supervisor- Mr. Hemant Singh.

Designation- Assistant Professor.

Amity Law School, Rajasthan.

CONSTITUTIONAL VALIDITY OF LAWS RELATED TO JUVENILE DELINQUENCY AND ITS LATER DEVELOPMENT

Dissertation Submitted in Partial Fulfillment of the Academic Requirement of Degree of

Master of Law (L.L.M) in (**Constitutional Law)**
At
Amity Law School, Jaipur

Submitted by

ANUKRITI LADRECHA

A21542620025

Under the Supervision of

PROF. (DR.) SAROJ BOHRA

Amity University Jaipur Campus. SP-1, Kant Kalwar, RIICO Industrial Area, NH-11C, Jaipur, Rajasthan, 303002

DECLARATION

I ,**Anukriti ladrecha** hereby declared that the dissertation entitled "*Constitutional Validity of Law related to Juvenile Delinquency and its Later Development"* submitted to the Amity Law School, Amity University Jaipur, Rajasthan for the award of degree of Masters of Laws (LL.M) is a record of original and independent research work done by me under the supervision and guidance of **Prof. (Dr.) Saroj Bohra, Amity Law School, Amity University , Jaipur Rajasthan** , and that the dissertation has not formed the basis for the award of any Degree, Diploma, associate ship, or other similar titles.

Place: Anukriti Ladrecha

Date: 10th May, 2021 A21542620025

CERTIFICATE

I hereby certify that this dissertation entitled "*Constitutional Validity of law related to Juvenile delinquency and its later development"* submitted for the award of degree of Master of Laws (LL.M) is a record of research work done by the candidate **Ms. Anukriti Ladrecha** during the period of her study under my guidance at Amity Law School, Amity University, Jaipur, Rajasthan , and that the dissertation has not formed the basis for the award of any degree, Diploma, Associate ship, Fellowship or other similar titles to the candidate. I further certify that this dissertation represents the independent work of the candidate.

Place: **Prof. (Dr.) Saroj Bohra**

Date: Professor Supervisor & Guide

TRIAL BY MEDIA: IMPLICATIONS ON ADMINISTRATION OF JUSTICE & CONTEMPT OF COURT

Dissertation

Submitted by

ASHUTOSH YADAV

In partial fulfilment for the award of degree

Of

MASTER OF LAWS

IN

CONSTITUTIONAL LAW

AT

AMITY LAW SCHOOL

AMITY UNIVERSITY RAJASTHAN

JAIPUR

Supervised By:

Prof. (Dr.) Saroj Bohra

Amity Law School

Amity University, Jaipur

Submitted By:

Ashutosh Yadav

LLM (Constitutional Law)

2020-2021

Enrollment No. A2154620029

Candidate Declaration

I**, Ashutosh Yadav** hereby declare that the work presented in this dissertation is a genuine work done originally by me under the closer guidance and supervision of **Prof. (Dr.) Saroj Bohra, Director (Law), Amity Law School, Amity University, Rajasthan,** following the stipulated guidelines and the same report has not been submitted elsewhere for the award of any degree. All sources of information referred in this work are acknowledged with reference to the respective authors.

Ashutosh Yadav

(Degree Candidate)

Supervisor Certificate

This is to certify that the dissertation entitled, **"Trial By Media: Implications On Administration Of Justice & Contempt Of Court",** submitted to Amity University, Rajasthan in fulfilment of the requirements for the award of the degree of LL.M, embodies to the best of my knowledge, a faithful record of original research work carried out by **Mr. Ashutosh Yadav** under my supervision and that this work has not been submitted in part or full for any degree or diploma of Amity University or any other university.

Prof. (Dr.) Saroj Bohra
(Supervisor)

JUDICIARY: A HIDDEN HOUSE OF THE CONSTITTUION

A DISSERTATION SUBMITTED TO AMITY LAW UNIVERSITY, JAIPUR IN PARTIAL FULFILMENTS OF THE ACADEMIC REQUIREMENT FOR THE DEGREE OF MASTER OF LAWS IN CONSTITUTION LAW

By

STUDENT NAME BHARAT KUMAR ROHALAN

ENROLLMENT NO. A21542620016

UNDER THE SUPERVISION OF

PROF MS SALONI BHATNAGAR

AMITY LAW SCHOOL, AMITY UNIVERSITY, JAIPUR

SP-1 KANT KALWAR, NH11C, RIICO INDUSTRIAL AREA, JAIPUR,

RAJASTHAN- 303007

DECLARATION

I, Bharat Kumar Rohalan, student of II Sem, LLM, Constitution Law, hereby declare that the dissertation titled "Judiciary: A Hidden House of Constitution" Which is submitted by me to faculty supervisor Ms. Saloni Bhatnagar at Amity Law School, Jaipur in partial fulfilment of the requirement for the award of the degree of LLM by Amity Law School, Jaipur. It is further declared that all the sources of information used in the dissertation have been duly acknowledged. I understand that the dissertation may be electronically checked for plagiarism by the use of plagiarism detection software to assess the originality of the Submitted work.

Place:

Date: **Bharat Kumar Rohalan**

CERTIFICATE

On the basis of declaration submitted by Bharat Kumar Rohalan student of II Sem, LLM, Constitution Law, I hereby certify that

The dissertation titled "Judiciary: A Hidden House of Constitution" submitted to the faculty supervisor Ms. Saloni Bhatnagar at Amity Law School, Jaipur in partial fulfillment of the requirement for the award of the degree of II Sem, LLM, Constitution Law by the Amity Law School, Jaipur has been carried out by him/her under my guidance and supervision

Prof/Dr/Me/Ms. **Pro/Dr.**

(Supervisor Signature) **Chairperson Signature**

Place:

Date:

Indian and Canadian Constitutions in Comparative Perspective

Dissertation Submitted in Partial Fulfillment of the Academic Requirement of Degree of **Master of Laws (LL.M)** in (**Constitutional Law)**

At

Amity University, Jaipur

SUBMITTED BY

Ishrat Pirani

Enrollment Number: A21542620005

UNDER THE SUPERVISION OF

Prof. (Dr.) Saroj Bohra

Principal Faculty

Amity University, Jaipur

SP-1 Kant Kalwar, NH11C,

RIICO Industrial Area, Jaipur,

Rajasthan- 303007

STATEMENT BY CANDIDATE

I wish to state that the work embodying in this dissertation titled **'Indian and Canadian Constitutions in Comparative Perspective'** forms my own contribution to the research work carried out under the guidance of Dr. Saroj Bohra at the Amity University Jaipur, Rajasthan. This work has not been submitted for any other degree of this or any other university. However, reference that has been made to previous works of others; it has been clearly indicated as such and included in the Bibliography.

Place: Mumbai

Date: 10th May 2021

_____

Signature of the Candidate

Ms. Ishrat Pirani

CERTIFICATE OF SUPERVISOR

This is to certify that the work reported in the L.L.M. dissertation titled **'Indian and Canadian Constitutions in Comparative Perspective'**, submitted by **Ms. Ishrat Pirani** at **Amity Law School, Amity University Rajasthan** is a bona fide record of her original work carried out under my supervision.

To the best of my knowledge and belief, the dissertation: (i) embodies the work of the candidate herself; (ii) has been duly completed; and (iii) is up to the standard both in respect of contents and language for being referred to the examiner.

Place: Jaipur

Date: 10th May 2021

_____

Signature of the Supervisor

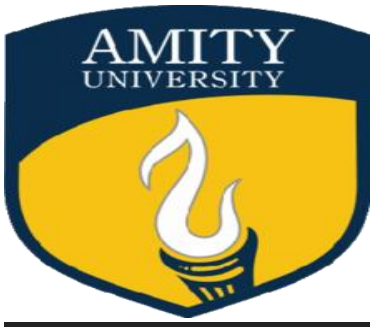
Dr. (Prof.) Saroj Bohra

"PRIVACY IN THE ERA OF SOCIAL MEDIA: REALITY OR MYTH"

A dissertation submitted to Amity Law School,Jaipur

in the partial fulfilment of the requirement for the degree of

LLM(Constitutional law)



Submitted By:

Manda Akash

A21542620015

LLM(Constitutional law)

2nd Semester

Under the Supervision of:

Mr. Hemant Singh

Amity Law School

Amity University, Jaipur, Rajasthan

CANDIDATE DECLARATION

The Researcher certify that the work embodied in this Synopsis is my very own bonafide work, Reseracher further hereby declare that she has followed all the principles of academic integrity and haven’t misrepresented any idea & data in my submission. All the ideas and references used in the research work are duly acknowledged to the best of my knowledge.

Date: 10th May 2021

Place: Jaipur

SUPERVISOR CERTIFICATE

This is to certify that the dissertation entitled “Privacy in the era of social media: Reality or Myth” is an academic work done by Manda Akash submitted in the partial fulfillment of the LLM at the Amity Law School, Amity University under my guidance and supervision. To the best of my knowledge, the information presented by him in the project has not been submitted earlier.

Signature of the Supervisor

Name- Manda Akash

Date- 10th May 2021

" RIGHT TO PRIVACY IN INDIA : ISSUES AND CHALLENGES"

Dissertation Submitted

In partial fulfillment for the award of degree

Of

Master of Laws (LL.M.)

AT

AMITY LAW SCHOOL

AMITY UNIVERSITY RAJASTHAN, JAIPUR

SUBMITTED BY

MANISHA RANI

LLM – 2ND SEMESTER

(CONSTITUTIONAL LAW)

BATCH : 2020-2021

ENROLLMENT No. : A21542620024

SUPERVISED BY

MR. HEMANT SINGH

ASSISTANT PROFESSOR

DECLARATION

I, **Manisha Rani** bearing Enrollment No. **A21542620024**, 2nd Semester, pursuing **LL.M** in **Constitutional Law** at **Amity Law School**, Amity University Rajasthan, Jaipur, do hereby declare that this topic is my original work prepared by me in partial fulfillment of the Academic Requirement of Degree of Master of Laws (LL.M in Constitutional Law) under the supervision of **Mr**. **Hemant Singh** (Asst. Professor of Law- Amity Law School).

Neither the said work nor any part thereof, has earlier been submitted to any University or Institution for the award of any degree or diploma. Further wherever any book, article, research work or any other work has been used to carry out this study, the same has been fully cited and acknowledged.

CERTIFICATE

This is to certify that Ms. Manisha Rani student of LL.M (Constitutional Law) has completed her dissertation, to be submitted in partial fulfilment of the requirement for the degree of Master of Laws bearing the title "RIGHT TO PRIVACY IN INDIA : ISSUES AND CHALLENGES".

It is further certified that this week work is the result of her own efforts and is fit for evaluation.

Manisha Rani

LL.M (Constitutional Law)

2020- 2021 Amity Law School

A21542620024

Mr. Hemant Singh

Assistant Professor

"RIGHT TO PROTEST: A FUNDAMENTAL RIGHT AND DEMOCRATIC VALUE"

Submitted in Partial Fulfilment of the Academic Requirement of Degree of **Master of Laws** (**LL.M**) in (**Constitutional Law**)

AT

AMITY LAW SCHOOL

AMITY UNIVERSITY, RAJASTHAN

Submitted By:
Monis Ahmad
A21542620018
LL.M 2ND SEMESTER (CONSTITUTIONAL LAW)
Batch: 2020-2021

Under the Supervision of:
DR. SAROJ BOHRA,
DIRECTOR,
AMITY LAW SCHOOL.

Amity University, Rajasthan

SP-1, Kant Kalwar, RIICO Industrial Area, NH-11C,

Jaipur, Rajasthan (303007).

DECLARATION

I, Monis Ahmad, student of II Sem, LLM, Constitution Law, hereby declare that the dissertation titled "RIGHT TO PROTEST: A FUNDAMENTAL RIGHT AND DEMOCRATIC VALUE" Which is submitted by me to faculty supervisor Dr. Saroj Bohra at Amity Law School, Jaipur in partial fulfilment of the requirement for the award of the degree of LLM by Amity Law School, Jaipur. It is further declared that all the sources of information used in the dissertation have been duly acknowledged. I understand that the dissertation may be electronically checked for plagiarism by the use of plagiarism detection software to assess the originality of the Submitted work.

Place:

Date: **Monis Ahmad**

CERTIFICATE

On the basis of declaration submitted by Monis Ahmad student of II Sem, LLM, Constitution Law, I hereby certify that The dissertation titled "RIGHT TO PROTEST: A FUNDAMENTAL RIGHT AND DEMOCRATIC VALUE" submitted to the faculty supervisor Dr. Saroj Bohra at Amity Law School, Jaipur in partial fulfillment of the requirement for the award of the degree of II Sem, LLM, Constitution Law by the Amity Law School, Jaipur has been carried out by him/her under my guidance and supervision

Prof/Dr/Me/Ms. **Pro/Dr.**

(Supervisor Signature)
Chairperson Signature

Place:

Date:

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Law of Sedition: A Comparative Study

Dissertation Submitted in Partial Fulfillment

of the Academic Requirement of Degree of **Master of Laws**

(LL.M) in **(Constitution Law)**

AT

AMITY LAW SCHOOL

AMITY UNIVERSITY RAJASTHAN

JAIPUR

SUBMITTED BY

NEHA PAL

LL.M 2nd SEMESTER

(CONSTITUTION LAW)

2020-2021

ENROLLMENT NO-

SUPERVISED BY

Dr. GOVIND SINGH RAJPAL

ASSISTANT PROFESSOR

Amity University, Rajasthan

SP-1, Kant Kalwar, RIICO Industrial Area, NH-11C

Jaipur, Rajasthan 303007

Candidate Declaration

I, Neha Pal bearing enrolment no.A21542620012, 2nd semester, declare that the work in this dissertation titled" Law of sedition: A comparative study" is my original work and it has been written by me in the entirely. This dissertation is record of bonfide research carried out by me under the supervision of **Dr. Govind Singh Rajpal, Assistant Professor,** who has duly acknowledge all the sources of information which have been in the dissertation.

Supervisor Certificate

This is to certify that Neha Pal who is a bonafide student having enrolment **NO. A21542620012, 2nd semester.**She is submitting this Dissertation entitled **" Law of Sedition: A Comparative Study"** for awarding the degree of Masters in Laws. She has worked on the above mentioned topic under my constant supervision and guidance to my entire satisfaction and her dissertation is worthy of consideration for the award of Degree of Masters of Laws. This Dissertation meets the requirements laid down by Amity Law School, Rajasthan, Amity University, hence, I recommend this dissertation to be accepted for evaluation.

Name of Supervisor- Dr Govind Singh Rajpal.

Designation- Assistant Professor.

Amity Law School, Rajasthan.

Acknowledgement

I would like to express my special thanks of gratitude to my **"Professor Dr. Govind Singh Rajpal"** for his guidance and support in completing my project.

I would also like to extend my gratitude to the Director " **Professor Dr. Saroj Bohra"** for providing me with all the facility that was required in completion of this dissertation.

Date: 10/05/2021 **Neha Pal**

(LL.M,Constitution Law)

Table of Content **Page No.**

List of Abbrevation

1) UDHR- Universal declaration of Human Rights.

2) U.S.A- United states of America.

3) ICCPR- International Covenant on Civil and Political Rights.

4) U.K- United Kingdom

5) ECHR- European Convention on Human Rights

6) Sec- Section

7) SC- Supreme Court

8) H.C.- High Court

9) A.I.R.- All Indian Reporter

10) Supra- quoted in Earlier pages

Table of Cases

28. King Emperor v. Sadashiv Narayan Bhalerao, L.R. 74 I.A. 89 (1947).

SCOPE AND LIMITATIONS OF THE STUDY

The scope of the study encompasses and reviews not only the Relevancy of Sedition Law in Indian Democracy but also the Law of sedition, of jurisdictions like New Zealand, United Kingdom ,& United States. The study mainly focuses on the sedition law and its Relevance that relates to the use of this Law by Government in the present scenario. Therefore, the entire study follows the "doctrinal method". The study is limited to the Relevancy of Sedition Law. Since the study's outcome and conclusion depends upon the review of existing literature and analysis of views, data available, and opinions of experts and reports available on this area, a few of the findings may ultimately be untenable as the authenticity of most of the findings and conclusions are not empirically tested.

HYPOTHESIS

The research carried on the following hypothesis;

After Sedition was dropped from the Constitution ,section 124A Of the Indian Penal Code should have ideally been declared void by the Parliament. But that did not happen because ruling parties and alliances across political ideologies were likely not interested in it as it helps them control, discipline and set right their opponents in the grab of ‘Rule of Law’.

OBJECTIVE OF THE STUDY

The objective of the study is to know:

- Primarily ,the origin and aim of sedition law in India.
- Secondarily, Whether sedition law is being practiced genuinely in India.
- Thirdly,Comparative study of Sedition law being practiced in India and other countries.
- Fourthly, analyze the misuse of this law by the government.

LITERATURE REVIEW

REVIEW OF BOOKS REFERED

1) Sedition in Liberal Democracies.
Author: Anushka Singh
Source: 1st edition, Year of publication: 2018
Published By : OUP India (5 January 2018)

Examining the relationship between sedition and liberal democracies, particularly in India, this book looks at the biography of sedition laws, its contradictory position against free speech and democratic ethics. Recent sedition cases registered in India show that the law in its wide and diverse deployment was used against agitators in a community-based pro-reservation movement, group of university students for their alleged 'anti-national' statements, anti-liquor activists and anti-nuclear movement, to name a few. Set against its contemporary use, this book has used sedition as a lens to probe the fate of political speech in liberal democracy. The lived reality of the law of sedition in changing anthropological sites is juxtaposed with its positivist existence. Anushka Singh uses a comparative framework keeping in focus the Indian experience backed by fieldwork in Haryana, Maharashtra and Delhi and includes a comparative perspective from England, the USA and Australia to contribute to debates on sedition within liberal democracies at large, especially in the wake of the proliferation of counter-terror legislations.

2)War over words
Author: Devika Sethi
Source: 1st edition , Year of Publication: 2019
Published by: Cambridge University Press; (23 may 2019)

Censorship has been a universal phenomenon through history. However, its rationale and implementation has varied, and public reaction to it has differed across societies and times. This book recovers, narrates, and interrogates the history of censorship of publications in India over three crucial decades - encompassing the Gandhian anti-colonial movement, the

Second World War, Partition, and the early years of Independent India. In doing so, it examines state policy and practice, and also its subversion, in a tumultuous period of transition from colonial to self-rule in India. Populated with an array of powerful and powerless individuals, the story of Indians grappling with free speech and (in)tolerance is a fascinating one, and deserves to be widely known. It will help readers make sense of global present-day debates over free speech and hate speech, illustrate historical trends that change - and those that don't - and help them appreciate how the past inevitably informs the present.

3) Art Attacks: Violence and offence - Taking in India,
Author: Malvika Maheshwari
Source: 1st edition, Year of publication:2018
Published by:. Oxford University Press: (5 nov. 2018)

Art Attacks tells the story of this phenomenon and maps the concrete political transformations that have informed the dynamic unfolding of violent attacks on artists. Based on extensive interactions with offence-takers, assailants, and artists, the author argues that these attacks are not simply 'anti-democratic' but are dependent in perverse ways on the very logic of democracy's functioning in India. At the same time, they have been contained, at least until now, by this very democratic system, which has prevented the spiralling of attacks into an outright condition of art plunder. Since the end of the 1980s in India, self-styled representatives of a variety of ascriptive groups—religious, caste, regional, and linguistic—have been routinely damaging artworks, disrupting their exhibition, and threatening and assaulting artists and their supporters. Often, these acts are claimed to be a protest against allegedly 'hurtful' or 'offensive' artworks, wherein its regularity and brazenness has led to an intensifying sense of fear, frustration, and anger within the art world.

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4)Criminal Dissent-Prosecutions under the Alien and Sedition Acts of 1798
Author: Wendell Bird
Source: 1st edition, Year of publishing:2020
Published by: Harvard University Press: (31 January 2020)

This book will be the definitive study of the Alien and Sedition Acts of 1798 for a very long time. For one thing, the author (who has written two related studies) has uncovered through unbelievable original research twice as many prosecutions under the Sedition Act as previous scholars. And his research itself, as revealed in 133 pages of notes, is a major contribution to the history of the Acts. The author does not just jump into the prosecutions; instead he first lays out the context by examining the Federalist and Republican contrasting views of government. He then focuses upon the Federalist allegations of "internal enemies." And then he executes a fine legislative history of the two Acts. The context in hand, the author moves on to the actual prosecutions. All 31 cases are listed in the convenient Appendix. His format in each case is to examine the defendants and how they got into trouble with the Federalist administration. He has included cases prosecuted before the Sedition Act was passed by relying upon the common law. The author then briefly recreates the trial, the respective legal arguments from each side (many involving the new First Amendment), and then how the jury decided, usually convicting. He devotes an interesting chapter to the prosecution of members of Congress. He looks at trials all over the country, including Boston, New York, Philly, and Richmond. His research discloses how the cases were selected and coordinated by Timothy Pickering, the Secretary of the Treasury. A key target were the owners of Republican newspapers. One of the most valuable chapters discusses the Virginia and Kentucky resolutions, authored by Jefferson and Madison. While vigorously attacked by the Federalists as subversive, in reality half the states passed the resolutions, Some failed prosecutions occurred, due to effective lawyering, and the author discusses them in a chapter. The author argues that there was no federal common law of crimes which could justify the Act. The author also demonstrates that virtually any speech or writing could be employed to institute a prosecution. And Federalist judges, such as CJ Chase, were happy to assist the prosecutions through distorted charges to the grand and trial juries. There is also a brief discussion of the Alien Act which allowed the president (Adams) to deport any non-citizen at will, though Adams used the Act sparingly. This is a substantial volume presenting 371 pages of text and 133 pages of notes. Some sections are dense and require concentration.

4) Law Relating to Press and Sedition

Author: Roy Rai Bahadur G.K.

Source: 2nd t edition, Year of publication: 2013

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Law Relating to Press and Sedition: 2nd Edition. Contents: Historical Evaluation of Press Laws Contempt in Relation to Newspapers and Other Writings Rules of Caution for the Journalists Telecasting, Cable Television Networks and Freedom of Speech Famous Cases on Sedition The Indian Press Act, 1910 The Press Council Act, 1978 and Rules The Press and Registration of Books Act, 1867 and Rules The Contempt of Courts Act, 1971 and Rules The Newspaper (Price and Page) Act, 1956 The Newspapers (Incitement to Offences) Act, 1908 The Cable Television Networks (Regulation) Act, 1995 and Rules The Copyright Act, 1957, Rules and Order The Dramatic Performances Act, 1876 The Indian Post Office Act, 1898 The Indian Telegraph Act, 1885 The Young Persons (Harmful Publications) Act, 1956 The Indecent Representation of Women (Prohibition) Act, 1986 The Indecent Representation of Women (Prohibition) Rules, 1987 The Protection of Human Rights Act, 1993 and Rules The Prasar Bharati (Broadcasting Corporation of India) Act, 1990, Rules and Regulations The Telecom Regulatory Authority of India Act, 1997 and Rules The Cinematograph Act, 1952 and Rules The Right to Information Act, 2005 The Prevention of Seditious Meetings Act, 1911 The Indian Penal Code Amendment Act, 1898 Criminal Law Amendment Acts The National Security Act, 1980 The Official Secrets Act, 1923 The Preventive Detention Act, 1950 The Unlawful Activities (Prevention) Act, 1967 and Rules The Prevention of Corruption Act, 1988 The Commissions of Inquiry Act, 1952 and Rules, The Extradition Act, 1962

REVIEW OF RESEACH PAPERS REFERED

- **Nivedita Saksena &Siddhartha Srivastava, "An Analysis of the Modern offence of Sedition"**In this paper, researcher make a case in favour of repealing the law of sedition. Through an examination of how the law has been interpreted and applied by the courts even after it was read down in Kedar Nath v. Union of India, it is argued that it is indeterminate and vague by its very nature and cannot be applied uniformly. Further, the law was enacted by a colonial autocratic regime for a specific purpose, which cannot extend to a post-independence democratically elected government. An analysis of the cases of sedition before the High Courts and Supreme Court show that the offence of sedition is increasingly becoming obsolete. Problems of public order, which the law purportedly addresses, may instead be addressed through other laws that have been enacted for that specific purpose

- .**Chitranshul Sinha, The Great Repression: The story of Sedition, Aug 2019.** The Author states that The Indian Penal Code was formulated in 1860, three years after the first Indian revolt for independence. It was the country's first-ever codification of offences and penalties. But it was only in 1870 that Section 124A was slipped into Chapter VI ('Of Offences against the State'), defining the offence of 'Sedition' in a statute for the first time in the history of common law. When India became independent in 1947, the Constituent Assembly expressed strong reservations against sedition as a restriction on free speech as it had been used as a weapon against freedom fighters, many of whom were a part of the Assembly. Nehru vocally opposed it. And yet, not only has Section 124A survived, it has been widely used against popular movements and individuals speaking up against the establishment. Narrain, S., "Disaffection and the Law: The Chilling Effect of Sedition Laws in India" Economic & Political Weekly, September 2016

- **C.I. Kyer, Sedition through the Ages: A Note on Legal Terminology,(1979) in the Law Commission Of New Zealand, 96 Report Reforming the Law of Sedition Wellington,New Zealand,March 2007.** The Report Recommended that the seditious offences contained in sec 81-85 of the Crimes Act 1961 should be repealed. The Bill enacting its recommendations received the Royal Assent on 30 October 2007.

- **R. K Misra (1966) Sedition law faced many challenges regarding their constitutional validity.** Where it was rejected by the Constitutional committee to declared unconstitutional by various High court."Freedom of speech is a fundamental liberty that imposes a stringent duty of tolerance. Tolerance is limited by direct incitements to violence In this paper,"The only reason that sedition continues able to survive as it was inserted under article 19(2) as restriction of freedom of speech and expression due to this in Kedarnath case it was declared constitutional valid. Due to this, it's required to check whether it is justified as the ground of restriction or not.

RESEARCH METHODOLOGY

As we all know 'Law' is a normative science that is, a science which lays down norms and standards for human behaviour in a specified situation or situation enforceable through the sanction of the state. What distinguishes law from other social science is its normative character. This fact along with the fact that stability and certainty of law are desirable goals and social values to be pursued, make doctrinal research to be of primary concern to a legal researcher. Doctrinal research, of course, involves analysis of case law, arranging, ordering and systematizing legal propositions, and study of legal institutions, but it does more; it creates law and its major tool (but not only tool) to do so is through legal reasoning or rational deduction. The present study is based on the doctrinal method of research. The researcher has drawn help from various books, Articles, Newspapers, Gazettes, report of commissions and committees and judicial decisions.

SCOPE AND LIMITATIONS OF THE STUDY

The scope of the study encompasses and reviews not only the Relevancy of Sedition Law in Indian Democracy but also the Law of sedition, of jurisdictions like New Zealand, United Kingdom ,& United States. The study mainly focuses on the sedition law and its Relevance that relates to the use of this Law by Government in the present scenario. Therefore, the entire study follows the "doctrinal method". The study is limited to the Relevancy of Sedition Law. Since the study's outcome and conclusion depends upon the review of existing literature and analysis of views, data available, and opinions of experts and reports available on this area, a few of the findings may ultimately be untenable as the authenticity of most of the findings and conclusions are not empirically tested. ..

Chapter 1

INTRODUCTION

"Criticism is not sedition.[1]

Sedition means conduct or speech inciting people to rebel against the authority of a state. Whoever, by words, either spoken or written, or by sings, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the Government established by Law. Shall be punished with imprisonment which may extend to three years, to which fine may be added, or with fine. It is a non-bailable offence. Some of the most sedition trials of the late 19th and 20th century involved Indian nationalist leaders. The initial cases that invoked the sedition law included numerous prosecutions against the editors of nationalist newspapers. The first among them was the trial of Jogendra Chandra Bose in 1891. Bose, the editor of the newspaper, Bangobasi, written article criticizing the age of consent bill for posing a threat to the religion and for its inevitable relationship with Indians. The most well known cases are the three sedition trials of Bal Gangadhar Tilak and the trial of Mahatma Gandhi in 1922. Gandhi was charged, along with Shankarlal Banker, the proprietor of young India, for three articles published in the weekly. The law originally drafted in 1837 by Thomas Macauly but was inexplicable omitted when the Indian Panel Code(IPC) was enacted in 1860. sec 124A was later inserted in 1870 by an amendment introduced by Sir James Stephen when a need was felt for a specific section to deal with the offence. Section 124A of the Indian panel code defines sedition as an offence committed when "any person by words, either spoken or written or signs, or by visible representation, or otherwise, brings or attempts to brings into hatred or contempt, or excites or attempts to excite disaffection towards the Government established by law in India".disaffection includes disloyalty and all feelings of enmity. However, comments without exciting or attempting to excite hatred, contempt or disaffection, will not constitute an offence under this section. A person charged under this law is barred from a Government job. They have to live without their passport and must produce themselves in the court at all times as and when required . The crime of sedition contained in section 124A of Indian Panel Code, 1860 has assumed importance recently after several high profile cases such as Arundhati Roy, Binayak Sen, Aseem Trivedi, etc. The law which was started by the British, who ruled India, as a way of controlling freedom fighters, has been criticized as archaic, abusive, draconian, a hallmark of dictatorship not, democracy. Serious questions have been raised regarding the validity of sedition law in democratic India. It is alleged that it is against the freedom of 'speech and expression

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[1] *SC quotes 1962 ruling.,l*

Nivedita Saksena & Siddhartha Srivastava, "An Analysis of the Modern offense of Sedition", Manupatra, 2015, p.123

Section 124-A, The Indian Penal Code ,1860

guaranteed to all citizens under Article 19(1)(a) of the Constitution and that it is being used by the Government to suppress dissent against it. The fundamental right to freedom of speech and expression under Article 19(1)(a) is subject to The crime of sedition contained in section 124A of Indian Panel Code, 1860 has assumed importance recently after several high profile cases such as Arundhati Roy, Binayak Sen, Aseem Trivedi, etc. The law which was started by the British, who ruled India, as a way of controlling freedom fighters, has been criticized as archaic, abusive, draconian, a hallmark of dictatorship not, democracy. Serious questions have been raised regarding the validity of sedition law in democratic India. It is alleged that it is against the freedom of 'speech and expression guaranteed to all citizens under Article 19(1)(a) of the Constitution and that it is being used by the Government to suppress dissent against it. The fundamental right to freedom of speech and expression under Article 19(1)(a) is subject to reasonable restrictions on the grounds mentioned under Article 19(2) of the Constitution. lt is coincidental to mention here that 'sedition' is not mentioned as one of the grounds of restriction on the freedom of speech and expression under Article 19(2). Notwithstanding, the restrictions of security of State, integrity and sovereignty of India, public order and incitement to offence are broad enough to cover the restriction of sedition. Five decades ago, the Supreme Court, while giving preventive interpretation to section 124A in Kedarnath v. State of Bihar ruled that crime of sedition requires evidence of incitement to offence and limited its application to acts involving intention to create disorder, or disturbance of law and order, or incitement to violence. However, the ruling has not prevented the use of sedition law as a trigger to silence and imprison human right activists, writers, media personalities, political dissenters who are ready to voice their criticism against the Government. The punishment for offence of sedition under section 124A is very high: up to life imprisonment. Many human rights activists, and legal experts are of the view that the law needs to be repealed as it has no place in democratic India, while others feel that it is necessary for the protection of national integrity. It is relevant here to mention the place of sedition law within the framework of international law. Freedom of speech and expression has been given the highest importance in several international instruments.

Article 19 of the International Covenant on Civil and Political Rights,1966(ICCPR) States:

- Everyone shall have the right to hold opinions without interference.
- Everyone shall have the right to freedom of expression, this shall include freedom of seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art , or through any other media of his choice.
- The exercise of the rights provided carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such are provided by law and are necessary.

A) For the protection of national securities or of public order,or of public health or morals.

B) For respect of the rights or reputation of others.

Article 19 of the Universal Declaration of Human Rights, 1948(UDHIR) states:

Everyone has the right to freedom of opinion and expression, this rights includes freedom to hold opinion without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 10 of European Convention on Human Rights Act,2003 (ECHR) states.

- Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.
- The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or the rights of others for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary.

England used the sedition laws stifle dissent against the crown or the officials of the Government. In its colonies also, similar laws were used to maintain their clasp on the authority. As the number of Britishers in India increased, they began implementing the English laws, so that they could be governed by their own rules and regulations. The task of enacting a criminal law for India was assigned to the legislature constituted under the charter act 1833. To achieve this task, a law commission was appointed under the chairmanship of Macaulay.

HISTORICAL BACKGROUND

For a better understanding a crime in a very real sense, one should attempt to finds its origin and then to study the political thinking cardinal key its inception into the body of criminal law. As Sir James Stephen States in his history the English criminal law commission adopted his Articles relating to seditious offences “Almost verbatim”. Stephen traced the first application of the offence of seditious conspiracy to the trial of redhead yorke in 1795. Several prosecutions for seditious conspiracy followed shortly thereafter. One of them the O’ Connell decision held that every sort of attempt by violent language to affect “Any public object of an evil charter” was a seditious conspiracy Needless to say “No exact or absolute definition has ever been given of objects which are to be regarded as Evil”. But criticism rebellion or incitement against the Government or the monarch was not something which started in 18th century. It uses to happen prior to that too. Consequently this case can’t be called as the origin. To find out the origin of the requisite of all three offences one must go beyond the French revolution period. The important precedent reflecting them appears to be De Libellis Famosis what came to be called Sedition in sixteenth century England was

mostly comprehended under the heading of treasonable words in the fifteenth century or under the doctrine of the Scandalum Magnatum if it involved peers or high crown officials? notwithstanding the court did previously treat Sedition did not appear as a separate legal crime until 1606. It appears in review that three major principles of the contemporary seditious offence can be found in 1606 star chamber decision of De Libellis Famosis In the case of De Libellis Famosis the accused published poems making fun of the Archbishops of Canterbury. As Sir James Stephen have stated subsequently in his book "Digest of Criminal Law" that "A seditious intention is an intention to bring into hatred or contempt, or to excite disaffection against the person of his majesty, his heirs or successors, or the Government and Constitution of the United kingdom, as by law established, or either house of Parliament, or the administration of justice or to excite his majesty's subjects to attempt otherwise than by lawful means, the alteration of any matter in church or State by law established or to incite any person to commit any crime in disturbance of the peace, or to raise discontent or disaffection among his majesty subjects, or to promote feelings of ill-will and hostility between different classes of such subjects It is quite clear that the intention behind the incorporation of this crime was to provide a preservation to the parliament monarchy and the church from insurgency. Until 1857 things were fine. In 1857 there was a lot of disloyalty. Correspondingly the period between 1860 and 1870 witnessed hectic activity on the legal front. The Indian Penal Code (IPC) put together in 1861. It was designed to ensure the suppression of Natives but the British felt that something was missing. Hence in 1870 they introduced Section 124- A. A popularly known as the Sedition law, makes it a crime to "promote through word or deed, disaffection against the Government". This law Legislate affection. It means that if you do not love the government, you could go jail. To begin with Section 124-A was used against newspaper who were not loving the Government sufficiently. Afterward it was used against Bal Ganga Dhar Tilak and Mohan Lal Gandhi. Tilak was found of guilty in 1916, despite a strong defence by Mohammad Ali Jinnah. throughout the trial Jinnah asked a question which has puzzled many. What is this "disaffection", he asked, "absence of affection". Gandhi was arrested a few years later. His opinion on Sedition was very clear. He called it "the prince among the political Sections of the Indian Penal Code designed to suppress the liberty of the citizen". Now since we now the real purpose of the law, hence we can also ascertain the jurisprudence involve in it. Earlier crown and churches were the governing authorities the law of Sedition as provided for in Section 124-A of the Indian Penal Code, has indeed had an exceptional history. This highly Controversial Sections did not form a part of the Indian Penal Code when it was enacted in 1860, although it was proposed to be included by the draft prepared by the Indian law commissioner in 1837. It is said that the Section 124-A was originally enumerated under Section 113 of Macaulay's draft Penal Code of 1837-39, but it was only in 1870 that the provision for Sedition was inserted by the Indian Penal Code (amendment) act. The law of Sedition was proposed in India in 1870 in riposte to increasing Wahabi activities between 1863 and 1870. It was modified in 1898; the frame work of this Section was taken from several sources The treason felony act (1848 Britain) the common law of seditious libel (Libel defamation in Permanent form) and English law pertaining to seditious words According to it whoever has cognition about the India's freedom struggle would be well acquainted of the British mistreatment of the law associated with Sedition. It is unsuitable to ponder over that the

British officials tried to crush the Indian freedom struggle with an iron hand and in retaliation to the protest against them some of the active instrumentalists of Indian freedom struggle were charged with Sedition. The first in a sequence of Sedition Cases against editors of National Newspaper was the trial of Jogindera Chandra Bose in 1891, followed with the trial of Bal Ganga Dhar Tilak he was tried under the law of Sedition. An another famous case related to Sedition is trial of Mahatma Gandhi who was an advocate of passive resistance and always abstained himself and his followers from adopting the violent methods was tried in 1922 along with Shankar Lal Banker the owner of young India for the Articles published in the magazine. Tracing down the history, the most famous use of Section 124-A of the Indian Penal Code was against the famous freedom fighters, Bal Gangadhar Tilak, in 1897. He was convicted under the Sedition law for making a statement regarding the killing of Deccan chieftain Afzal Khan by the Maratha Warrior-King Shivaji. Consequently his statement incited the murder of two British officers Similarly Mahatma Gandhi in 1922 was convicted under the same law in famous great Ahmadabad trial, in which Gandhi was charged with Sedition for "Spreading and inciting disaffection" against the British ruled Government. The main motive behind recalling all these past events is to put to the forefront that Section 124-A mainly intended to suppress and repress all those who pointed out the exploitative and illegitimate colonial Administration of Government. This certainty is not important in a democratic form of government which exists for the welfare of its people; such a law if interpreted in the strict sense would limit the fundamental rights of the citizen to express its views for or against the government. In 1946 a mention regarding the Sedition was made in the Bhagwati Charan Shukla Case 18 by a judge in the Nagpur bench whereby it was held that; "it is not Sedition merely to criticize Government however bitterly or forcibly that may be done, or to seek its overthrow by Constitutional means in order that another Government, equally Constitutional, may be substituted in its place in a constitutional way. It becomes Sedition only when the intention or the attempt is to induce people to cease to obey the law and to cease to uphold lawful authorities" This view brought out in the Case, Bhagwati Charan Shukla v. Provincial government in 1946, was again reiterated in by the Supreme Court in the landmark Case Kedar Nath Case A.I.R 1962 SC 955 whereby the chief justice B.P Sinha said that the "Comments however strongly worded Expressing, disapprobation of the actions of the Government without exciting those feelings which generate the inclination 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 measure or acts of government or its agencies so as to ameliorate the condition of the people".

MEANING OF SEDITION

Sedition is a disputable term that is rabidly and carelessly liberated about in today's societal dialogue. With a distaste for the Government's policies rising in the general populace, the expression of discontent by the youth is often tagged as sedition. All the same, many do not know what it actually constitutes. we shall look at the different aspects related to the crime of Sedition- understanding its essential elements as given in Section 124A of the Indian

Penal Code (IPC), 1860 and examining definitive important case laws that have led to the flourish and emplacement of this concept. We will also analyze the Constitutional validity of the law with the help of major judgments given by the court, and look at possible reforms that can be brought in it. Sedition refers to ostensible actions, pointing or speech by a person in oral or written form which expresses his or her discontent against the established Government in the state, with the aim to incite violence or hatred against it. sorted as a crime in India since 1870, it has been defined under Section 124A of Chapter 6th of the Indian Penal Code (IPC), 1860. This Section says that whoever, by spoken or written words, signs, etc. excites or attempts to excite hatred or disaffection towards the Government of India is said to have committed the crime of sedition. some of the main cases which have shed light on the meaning and application of this law.

Reg v. Alexander Martin Sullivan (1868)

In this case that was held in the United Kingdom, Fitzgerald, J. defined sedition as any practice, "by word, deed or writing", which intends to disturb the peace in a state and incite discontentment against the Government in the state and the laws of the empire. He said that the aim of sedition is to stir up opposition and rebellion in the state. It is an gesture of disloyalty against the state. He further added that sedition is a crime against society and is very similar to insurrection, frequently barely falling short of being sorted as the latter. This case acted as a founding stone in the establishment of sedition as a concept.

Queen-Empress v. Jogendra Chundra Bose and Others. (1891)

In this case, Jogendra Chunder Bose was accused of inciting rebellion through an article he had written in his own Bengali magazine named 'Bangobasi'. In this article, he had criticized the Age of Consent Act, 1891 which raised the legal age for sexual intercourse for women from 10 to 12 years. He called it "forced Europeanisation", criticising the interference of the British government in Hindu customs. While the Act itself was perhaps a boon for Indian society and was supported by reformers and women's rights groups, the question here was of sedition and inciting violence against the Government. "Disaffection" towards the Government was defined in this case by Chief Justice Petheram as "a feeling contrary to affection, in other words, dislike or hatred" and included disloyalty towards the Government. With regard to the fate of the accused in this case, Bose was released on bail and the case against him was dropped.

Queen-Empress v. Bal Gangadhar Tilak (1897)

This was the 1st case in which Section 124A was defined and applied. In this case, the advocate and prominent freedom fighter Bal Gangadhar Tilak was charged with sedition. He spoke against the Indian Civil Services Officer, who was the Plague Commissioner in Pune. Rand's plague control methods were considered tyrannical by many, including Tilak. His revolutionary speech stimulate other individuals to spread violence against the British, which ended with the death of two British officers. The court defined disaffection as the deception of affection. hence, it means "hatred, enmity, dislike, hostility, contempt and

every form of ill-will to the Government." The court further added that no man should excite or attempt to excite this kind of disaffection; he should not make or attempt to make anyone feel any kind of enmity towards the Government. With this in mind, the court convicted the freedom fighter of the crime of sedition and sentenced him to 18 months of brute imprisonment. Hence, he later secured bail in 1898.

The Constitution of India, 1950 grants us definitive Fundamental Rights, which designate our basic human rights and liberties which all of us are entitled to. One of these rights is the 'Right to Freedom of Speech and Expression', granted by Article 19(1)(a). This right isn't absolute though, and certain reasonable restrictions can be put on it in specific situations such as prevention of defamation of another person, maintenance of public order and decency, protection of the integrity of the nation, etc. which are mentioned in Article 19(2). One of the cases where the 'Right to Freedom of Speech and Expression' can be restricted is in the case of Sedition.

Sedition is an offence which is against the state as enumerated in the Indian Penal Code. The expression 'disaffection' includes disloyalty and all feelings of enmity. To Constitute an offence under Section 124-A of the Indian Penal Code it is not necessary that one should excite or attempt to excite mutiny or rebellion or any kind of actual disturbance, it would be sufficient that one tries to excite feelings of Hatred or Contempt towards the government. The essence of the offence of Sedition is incitement to violence mere abusive words are not enough and that 'Public disorder or the reasonable anticipation or likelihood of Public disorder is the gist of the offence'. In Kedar Nath v. State of Bihar the Supreme Court upheld the validity constitutional validity of the Section 124-A of the Indian Penal Code. It was held that only acts which constitute incitement to violence or disorder would be punishable under this section and acts not having such tendency are not punishable. Therefore Section 124-A of the Indian Penal Code does not violate Article 19(1) (a) of the constitution of India. Both successful and unsuccessful attempts to excite disaffection were placed on the same footing. So even if person had only tried to excite the feelings he could be convicted. Whether any disturbance or outbreak was actually caused by such attempt was absolutely immaterial. Other essential ingredients of the offence of Sedition are as followings:

(1) To solicitation people to rise against the Govt, or not to obey the lawful authority of the Government or to purl or resist the authority amounts to 'disaffection'. If a person incited the people to attain 'Swaraj' it was held that 'Swaraj' did not necessarily mean negation of the existing Government but its ordinary acceptance was home rule under the Government. Here upon it did not magnitude to Sedition.

(2) Disaffection may be excited in a Number of ways Writings of any kind, novel, story, drama, poem, may be used for Sedition. But the seditious writings if it remains in the hands of the author or unpublished does not constitute Sedition because publication of some kind is necessary. All the same this publication may be made in any manner, as for illustrations, by post. It can even take from of woodcut or curving of any kind.

(3) Not only the author of Seditious matter but also whosoever uses in any way words or printed matter for the purposes of exciting feelings of disaffection is libel. Thus the printer

the publisher the editor or the owner of the press of a seditious Publication is also libel like the author unless he proves that he was absent and was not aware of the contents of the paper. Nevertheless it is not defence to show that the seditious Articles are exclusively copied from foreign newspaper as items of New Section Re- publication of a seditious Article used as an exhibit in a case of Sedition is not equitable. accordingly an editor is libel for unsigned seditious letters appearing in Newspapers

(4) In considering the intention of the accused the time, the place, the circumstances and the occasion of publication, all are important. It is necessary to take into consideration the state of the country and of the public mind at the date of publication. As per the Indian law, Sedition is any form of speech action, writing that incites hatred against the established under and harm the systematic peace of the country. A seditious word written against the ruling government and authority is called 'Sedition libel'. Indian Constitution chapter 4th deal with offence against the state and Sedition charges under Section 124-A of the Indian Penal Code. The Punishment includes imprisonment for life and added fines Imprisonment can be for life or for three years based on the nature of Seditious charges. According to the Article 19(1) (a) of the Indian Constitution every citizen have the right to freedom of speech and expression. There is restriction which is imposed by the Constitution in the interest of public order and within the limit of permissible legislative interference with the fundamental right. Many Indians in the past have been charged under act. Prominent freedom fighters charged with Sedition law includes Balgangadhar Tilak and Mahatma Gandhi. Section 124-A of the Indian Penal Code was introduced by the British colonial government in 1870 when it felt the need for a specific Section to deal with the offence.

The modern definition of sedition

The constitutionality of Section 124A was again challenged before the Supreme Court which gave it the interpretation which is followed even today also. The court interpreted it following the lines of the case Niharendu Dutt Majumdar Vs. King Emperor and laid down that incitement to violence is to be considered as an essential element for an act to be seditious. Thus, sedition was to be seen as a crime against public tranquility and not a crime which was directed against the very existence of the state. There are six grounds in Article 19(2) and court was of the opinion that 'security of the state' could be the possible ground which could save the constitutionality of Section 124A. While interpreting the provision, the Apex Court applied the principle that when more than one interpretation may be given to a legal provision, it must uphold that interpretation which makes the provision constitutional. Any interpretation that renders the provision unconstitutional must be rejected. Thus, court laid down that even though the section does not suggest such a requirement on the face of it, it was held to be mandatory that any seditious act must be accompanied by an attempt to incite violence and disorder. The Court favoured the application of laws relating to sedition for the purpose of public peace and security of the state. Initially when the law was introduced, crown was the supreme powers and all the authority was rooted to the crown and the 'subjects' were under an obligation to owe personal allegiance to the crown but things have changed post-independence. Now, the authority is derived from the

constitution. Here, the government established by the law is different from the elected representatives and sedition is considered to be an offence which undermines or threatens the existence of this 'state'. Lastly, the courts have continuously emphasized on the point that words and acts that would endanger society differ from time to time. In S. Rangarajanvs. P. Jagjivan Ram the Court held that "the effect of the words must be judged from the standards of reasonable, strong-minded, firm and courageous men, and not those of weak and vacillating minds, nor of those who scent danger in every hostile point of view." Thus, it is indicative of the view that audience is also considered to be an important factor for labeling the act as seditious or not As the society changes and emerges at a continuous pace, the mindset of people also changes and hence it should be according to the mentality of the people and not just the words of the speech and plain reading of the bare act regarding the provision.

History of Freedom of Speech and Expression

Amidst the colonial era, the British tried to suppress the voices of Indians through various measures such as drafting of provisions relating to sedition under IPC, Vernacular Press Act 1870, Seditious Meetings Act, 1907. These restrictions became the driving force for inclusion of freedom of speech and expression as a fundamental right. The Constituent Assembly of India debated this right on December 1, 1948, December 2, 1948 and October 17, 1949. Article 13 (1) of the Draft Constitution ran as: Subject to the other provisions of this Article, all citizens shall have the right –

- *To freedom of speech and expression Proviso*: Nothing in sub-clause (a) of clause (1) of this article shall affect the operation of any existing law, or prevent the state from making any law, relating to libel, slander, defamation, sedition or any other matter which offends against decency or morality or undermines the security of, or tends to overthrow the state. Almost every member of the Constituent Assembly welcomed the inclusion of the right, but few members were against the proviso appended to the right. They argued that the citizens would be able to express freely, only in the absence of restrictions and putting restrictions of free speech was a British practice which should not be followed by free India. The concept of free speech date backs to ancient Greece. The term 'free speech' first appeared around the end of fifth century BC. The Term has been derived from Greek word 'Parrhesia' which means free speech or to speak candidly. Throughout European history, the concept of free speech was the bone of contention between the religion and politics. It continued to the reformation of sixteenth century that gave rise to new religious tradition of protestantism. King James I issued a speech restraint, but it led to a Declaration of Freedoms by Parliament in 1621. By the end of 17th century, the freedom of speech came to be known as a natural right.
- *In the 1789 Declaration of the Rights of Human* after the French Revolution, the freedom of speech was regarded as a valuable right. Few events down the line, recognizing the importance of free speech: In 399 BC, Socrates a philosopher was tried

for refusing to acknowledge gods recognized by the state. He was accused for propagating antidemocratic views. He was found guilty and was sentenced to death. In a Reply to the Jury, Socrates stated "If you offered to let me off this time on condition, I am not any longer to speak my mind…I should say to you, Men of Athens, I shall obey the Gods rather than you".

- *In 1215*, *Magna Carta* was signed, which later was regarded as the touchstone of liberty in England. In 1516, Desiderius Erasmus stated in his book, 'The Education of a Christian Prince', that "in a free state, tongues too should be free".
- In 1644, A pamphlet 'Aropagitica' was released by John Milton contesting against restrictions on free speech. John Milton wrote "He who destroys a good book, kills reason itself". In 1776, Section 12 of the Virginia Bill of Rights provided for the liberty of the press as an indispensable right. In 1789, Declaration of the Rights of Man provided for freedom of speech.
- *In 1791*, *The First Amendment of the United States Bill of Rights* guaranteed freedom of speech, prohibiting congress from enacting any law restricting free speech except by due process of law. The significance of freedom of speech and expression has also been recognized by various International and Regional Instruments: Article 19 of Universal Declaration of Human Rights provides for freedom of opinion and expression. It states that everyone shall have the right to hold opinions without interference and shall have access or disseminate the information by way of any medium. Article 10 of the European Convention on Human Rights provides for freedom of expression and freedom to freely impart information without any restriction by public authority. However, the article does not prohibit the requirement of license for broadcasting, television or cinema enterprises. The freedom under this article is not absolute and is subject to the restrictions imposed in the interest of national security, territorial integrity, public safety, health, morality or defamation or for keeping the judiciary impartial. Article 9 of the African Charter on Human and People's Rights provides for free expression of opinion. It states that everyone is entitled to freedom of free access to the information and further to disseminate it according to the law. Article 19 of International Covenant on civil and political rights, provides for expression of opinion without interference. It states that everyone is entitled to information and further to circulate it. However, this freedom is not absolute and is subject to laws restricting free speech in the interest of maintenance of public order, health or morality and defamation Article 13 of the American Convention on Human Rights provides for freedom of thought and expression. This right includes seeking, receiving or imparting information and to share ideas or opinions of any sort by way of writing, speech or through any other medium. This right is not subject to pre-censorship but is not exempted from the liability which can be imposed if it is inconsistent with the maintenance of public order, national security,

Concept of Freedom of Speech and Expression

The freedom of speech and expression is considered as one of the most valuable assets in a democracy. This right ensures that citizens to actively participate in the political affairs of a nation. When citizens of a nation express their views about various policies or actions of a state, this enables the state to improve upon the defects highlighted by its citizens. Freedom to express freely is not only a fundamental right but it is a moral right as it involves an aspect of duty in it. If a man is endowed with some idea and desires to express it, then he must express it because he owes it to his conscience and the common good. The moral right of free expression achieves a legal status because the conscience of the citizen is a source of the continued vitality of the state. But, this moral right to express freely is defeated if one is a liar, his speech is not warranted and is baseless. The moral right does not cover the right to be deliberately or irresponsibly in error. Freedom of speech and expression implies free exchange of thoughts, opinions and hassle-free dissemination of information and knowledge. This freedom includes right to share one's ideas and also of others, which can be done in any manner that is by publication, circulation and distribution of material containing ideas and opinions. Freedom of speech and expression is an umbrella right from which others rights such as right to be silent, right to be informed, the freedom of discussion, freedom to carry out demonstration, the right to criticize the government emerge. It has been observed that freedom of speech and expression is not an individual's right but this right is for the betterment of the community to be heard and be informed. The basis of freedom of freedom of speech and expression is 'Liberty of Thought' and this right is significant not only for the life of an individual but also for life of the community.The scope of freedom of speech and expression is very wide and presupposes the presence of second person to whom the opinion or thoughts are expressed.

THE ORIGINS OF SEDITION LAW

In the thirteenth century, the rulers in England viewed the printing press as a threat to their sovereignty. The widespread use of the printing press thus prompted a series of measures to control the press and the dissemination of information in the latter half of the century. These measures may broadly be categorized as the collection of acts concerning Scandalum Magnatum and the offence of Treason. While the former addressed the act of speaking ill of the King, the latter was a more direct offence "against the person or government of the King". The first category of offences, classified as acts concerning Scandalum Magnatum, were a series of statutes enacted in 1275 and later. These created a statutory offence of defamation, which made it illegal to concoct or disseminate 'false news' (either written or spoken) about the king or the magnates of the realm. However, its application was limited to the extent that the information had to necessarily be a representation of facts as the truth. Thus, truth was a valid defence to the act. The second category of offence was that of treason, subsequently interpreted as constructive treason. Essentially, treason was an offence against the State. It was understood that all the subjects of the rulers owed a duty of loyalty to the king. Thus, if any person committed an act detrimental to the interests of the rulers, they would be guilty of the offence of treason. Initially, the offence required that an overt act be committed to qualify as treason. However, by the fourteenth century, the

scope of the offence was expanded through legislation and judicial pronouncements to include even speech in its ambit. This modified offence was known as constructive creason. Despite the existence of the aforementioned categories of offences, the rulers faced many hurdles in curbing the expression of undesirable opinions about them. While the 'expression of fact' and truth acted as defence to the offence of Scandalum Magnatum, the offence of treason also had various safeguards. Only common law courts had jurisdiction over the offence. Further, it necessitated a procedure wherein one would have to secure an indictment for the accused before they faced a trial by the jury. Initially, the overt act requirement also acted as a complication while trying to secure convictions. However, with the expansion in the scope of the crime to include speech, this defence became unavailable. To overcome these procedural and substantive difficulties, the offence of seditious libel was literally invented in the court of the Star Chamber. The offence of seditious libel was first devised in the Star Chamber decision in de Libellis Famosis. In this case, the defendants had confessed to ridiculing some clergymen of high status. While drawing from the common law private offence of libel, the court eschewed the requirements thereof. Instead, it condemned the criticism of public officials and the government and stressed that any criticism directed at them would inculcate disrespect for public authority. Since the goal of this new offence was to cultivate respect for the government in power, truth was not considered a defence. It also evaded the various safeguards of the offences of Treason and Scandalum Magnatumthat it was modelled on. This judgment cited no precedent, as there was none. Previously, 'libels' were purely private actions for damages. Henceforth, the offence of seditious libel was used as a ruthless tool for the curbing of any speech detrimental to the government. Over the course of many cases, it came to mean slander or libel upon the reputations and/or actions, public or private, of public officials, magistrates and prelates, which sought to divide and alienate "the presente governors" from "the sound and well affected part of the subjects". If the speech published was true, the offence was only aggravated as it was considered more likely to cause a breach of the peace. By the 18th century, the crime of seditious libel was viewed as a harsh and unjust law that was used by the ruling classes to trample any criticism of the Crown. However, given its utility, it was seen as a convenient tool in the hands of the rulers. Thus, when a penal code was being drafted for colonial India, where the rulers had the task of suppressing opposition, it was only obvious that seditious libel would be imported into the territory of India. Like much of the Indian Penal Code, section 124A is a product of our colonial history, introduced by the British. Thomas Macaulay introduced sedition as an offense in the draft of the IPC in 1837, but it was omitted in the version enacted in 1860. British legislators considered this to be a mistake and believed that the Indian press needed to be kept in check to prevent the rise of a nationalist movement. Furthermore, they were afraid of the rise of Wahabism and greatly increased Wahabi activities in the late 1800s. As a result, the provision was re-introduced in the Code in 1870. Queen Empress v. Jogendra Chunder Bose was the first ever case brought about on the grounds of sedition. It was in 1870 that the British government enacted section 124A into the primary penal legislation. In a retrospective analysis, it is understood to have been so enacted to stifle anti-colonial voices of the time (pre- Independence). As a precedent, therefore, this section was used against various nationalist leaders, most notably against Bal Gangadhar Tilak and Mahatma Gandhi. The concern of having Sedition as a

restriction on the freedom of speech was not lost in the constitutional assembly debates. With a recent history of our prominent freedom fighters (virtually our heroes of independence) being charged and imprisoned under this law, the drafters of the constitution were cautious of the implications of the inclusion of sedition in the constitution and with just reason. After all, this basic right. Initially, the draft constitution did include 'sedition' as a foundation on which laws could be established upon for limiting the fundamental right to speech (restriction on freedom of speech). In the final draft, however, Sedition was eliminated from the exceptions under article 19(2). This was largely due to the initiative of eminent lawyer and freedom fighter, K.M. Munshi. , speaking for the deletion of the word "sedition," observed:"The public opinion has changed considerably since and now that we have a democratic Government a line must be drawn between criticism of the Government which should be welcome and incitement which would undermine the security or order on which civilized life is based, or which is calculated to overthrow the State. Therefore, the word sedition has been omitted. As a matter of fact, the essence of democracy is a criticism of Government"Deletion of the word "sedition" was also necessary, Mr. Munshi added, "otherwise an erroneous impression would be created that we want to perpetuate 124-A of the I. P.C." The move was unequivocally welcomed by all the sections of opinion in the Assembly" Contrary to the impassioned belief of Indians that post-independence, there would be a revolution with regard to freedom of speech and expression, within 15 months from the enforcement of the Constitution, the Government of India brought the first amendment to amend the Article 19 of the Constitution of India.

Sedition in Common Law

According to the definition of sedition by Sir James Stephen, as discussed above,the offence of sedition at Common Law consists of two elements – publication and a seditious intention. It is said to publish a libel, when it is exhibited, delivered, read or has been communicated to the other person other than the person libeled, provided the person publishing a libel has knowledge about its contents and meanings. On the other hand, "A seditious intention is an intention to bring into hatred or contempt or to excite disaffection against the person of Her Majesty, her heirs or successors or the Government and Constitution of United Kingdom as by law established, or either House of Parliament or the Administration of Justice, or to excite her majesty's subject to attempt, otherwise than by lawful means, the alteration of any matter in Church or State by law established, or to raise discontent or disaffection among Her Majesty's subjects or to promote feelings of ill will and hostility between different classes of such subjects." But, if there is an intention seeking alteration of the measures taken by Her Majesty or government, showing that Her Majesty has been misled or mistaken in taking those measures or the intention seeking removal of matters with a tendency to produce feelings of hatred and ill-will between classes of Her Majesty's subjects, was not considered as seditious intention. The definition of the offence of sedition in Common Law can be summed up as follows"Sedition consists in acts, words, or writings, intended or calculated, under the circumstances of time, to disturb the tranquility of the state, by creating ill-will, discontent, disaffection, hatred or contempt, towards the person of the King, or towards the Constitution or Parliament, or the government, or the established institutions of the country, or by exciting between different classes of the King's subjects, or

encouraging of them to endeavor to disobey, defy, or subvert the law or resist their execution, or to create tumults or riots, or to do any act of violence or outrage or endangering the public peace."In order to understand the meaning of sedition at Common Law, two important cases of Reg v. Sullivan, a trial for seditious libel and Reg v. Burns, a trial for uttering seditious words, needs to be considered. In the previous case, defendants Sullivan and Pigott were prosecuted in 1868, for publishing articles, alleged to contain seditious libel of a very dangerous character, against Her Majesty's government, in their newspapers- The Weekly News and the Irishman. Lord Fitzgerald, while addressing the Jury defined the term 'sedition'. He termed sedition as a crime against the society. According to Lord Fitzgerald, the term sedition is of a very wide connotation and encompasses all the acts, deeds or writings, with a tendency to induce the people to raise opposition against the government. The object of sedition is to excite insurrection and rebellion. Sedition refers to the disloyalty in action and includes within its ambit all activities, with a tendency to create public disorder, or lead to a civil war, to bring hatred or contempt against the Sovereign or the government. Lord Fitzgerald placed sedition very close to the offence of treason and observed that for those, who wish to fulfill their treasonable objectives, the easy way is to make use of seditious writings in their publications, which if go unchecked might lead to a revolution. On the other hand, words can also be seditious, might arise from a sudden heat, heard by a few and might not have the long lasting impression in comparison to a seditious writing. It was further observed in this case that the press has the absolute liberty to write and publish without censorship and without restriction which is a pre-condition for a civil liberty. But, on the other hand, there is also a responsibility of the press towards the society, to not to write and publish seditious writings, to promote insurrection and rebellion. In dealing with the question of seditious character of the writings published by the defendants, it was observed by the Lordship that in order to determine the seditious intention, surrounding circumstances along with the state of the country and the public opinion prevalent at the time of the publication are to be considered in making out the offence. The publication of the extracted articles, containing seditious libel from other newspapers was also included within the ambit of the offence. The only exception to this offence was to criticize the government only for the purpose of reformation of the measures taken by the government but then also, one should not use the language that would indicate contempt of the laws of the land. When a public writer exceeds his limit and uses his privilege to create discontent and disaffection he becomes guilty of sedition. During the trial of Pigott, learned Judge Baron Deasy, made few observations regarding restrictions on the freedom of press. According to learned Judge Baron Deasy, that no doubt press has the right to initiate discussion on any subject, but at the same time it has the duty to respect the existence of the form of government and not to overstep the limits of free discussion. The Jury found the defendant guilty of the charge of publishing seditious libel.The second important trial at Common Law, on this subject was of Reg v. Burns,which is considered as containing the comprehensive summary of the law. In this case, John Burns, in 1886, was indicted along with three others, for maliciously uttering seditious words to cause ill will among Her Majesty's subjects, and for carrying out a seditious conspiracy to achieve this objective. The indictment was in relation to the speeches delivered, by four defendants, on two accounts, one at Trafalgar square and other at Hyde Park. Both the events were followed by

disturbances, which were alleged to have been the immediate consequences of uttering seditious words by the four defendants. It was in evidence that after the delivery of the speeches in Trafalgar Square, 3000 to 4000 persons, mostly unemployed workmen, marched towards the west end. On their way a demonstration took place in front of Carlton Club, where the mob indulged in stonethrowing and a number of windows were broken. Similar incidents were reported after the speeches in Hyde Park. The Crown suggested that though the defendants did not directly instigate the disorderly behaviour by the mob, yet, the knowledge of the natural consequences of such language, used by them in their speeches, must be attributed to them. Justice Cave observed that in order to determine the seditious intention, surrounding circumstances must be considered, as what is seditious under certain circumstances, might not be so under other. Justice Cave also quoted few observations, relating to the general presumption that everyone is presumed to know the natural consequences of his acts, by Lord Tenterden in the case of Haire v. Wilson, In response to Edmund Burke's observations, a British supporter of French revolution Thomas Paine published his works titled as 'Rights of Man'. In his work, there were heated discussions relating to representative government and human rights and separation of church from state. Thomas Paine contended that popular political revolution was necessary when government no longer protects the rights and safeguard the interest of its people. Following the publications, the government issued a royal proclamation against seditious writings in 1792 which resulted in over 100 prosecutions for sedition in the 1790's which also included prosecution of J.S. Jordan, who was the publisher of 'Rights of Man'.Thomas Paine advocated for abolition of aristocratic titles as democracy is incompatible with the rule of primogeniture, low taxes for the poor, subsidized education for poor and national budget for allocation for military and war expenses.In order to suppress any kind of strike or suppress dissent against the government, the government used to enforce martial law. Winston Churchill was criticized for adopting such a measure but the law officers contended that such type of measures were necessary to maintain public order and moreover, soldiers were merely exercising their rights and duties as ordinary citizens.

At the end of World War I, the incitement to Mutiny Act, 1797, which was lying inoperative for more than 100 years, was brought to life to suppress the rise of socialist led militancy in the working class. The British Government made use of this law against the Young Communist Party of Great Britain, which was founded as a result of Russian Revolution of October,1917. The Police raided the national and London Headquarters of CPGB. Twelve of the CPGB's leaders were arrested and imprisoned under the charge of sedition for inciting others to mutiny under the Mutiny Act 1797. This Act was suppressed by incitement of Disaffection Act in 1934, which was enacted for prohibition and punishment for seducing any members in the armed forces to disobey their duties. Though substantially all the provisions were reproduced except one that Disaffection Act, 1934 also provided for summary prosecutions making prosecutions easier, both legally and politically. Till 1972, there were hardly any prosecutions under the 1934 Act. In 1972, it came to be used against the groups who were influencing soldiers to desert and join Irish Republican Army. The British Government used the law to suppress political and industrial turbulence within the country. Finally, in 2009 sedition as an offence was decriminalized in England

Origin of Sedition in India

The Anti-Sedition law was first formulated in India by British historian-politician Thomas Macaulay in 1837, but it was not included in the Indian Penal Code when the same was enacted in the year 1860. Subsequently, in 1870, Section 124A was added to Chapter VI of the IPC, which deals with offenses against the state. This was done as a response to the rising radical Wahabi movement, led by Syed Ahmed Barelvi. Moreover, people were increasingly demanding more autonomy and independence for India. This was against the interests of the British government. Therefore, it sought to curb people's speech and expression through this law. Some of the most famous sedition cases during the British Raj involved charges against the leaders of the Indian Independence Movement.

The first among them was the trial of Jogendra Chunder Bose in 1891, which we discussed above. There were many more cases against the speeches and newspaper articles written by Indians. The most well-known cases, however, were the three cases of Bal Gangadhar Tilak and the trial of Mahatma Gandhi in 1922. In this case, Mahatma Gandhi and Shankerlal Banker were accused of sedition for three articles published in the magazine 'Young India', which criticized the British government. Gandhi's powerful speech in court where he pleaded guilty to the charges against him led to a ruling in his favour. After Independence, the Constitution (First Amendment) Act, 1951 added the term "public order" to Article 19(2), which meant that a citizen's freedom of speech and expression could be put under legislative restrictions to maintain public order and stability too. Thus, sedition was recognized as a crime, though the then Prime Minister Jawaharlal Nehru was of the opinion that anti-sedition law held no place in free India. Since then, there have been numerous cases involving sedition where the courts have questioned its validity, but the Supreme Court in Kedar Nath Singh v. State of Bihar (1962) ruled in favour of this law. This continues to be the current stand of the court even today.

Essential Ingredients of Section 124A

Not every action of an individual, even if it expresses some sort of discontentment, can be classified as sedition. There are certain essential elements that such an action must include in order to be considered seditious. These elements can be derived from the explanation of sedition as given in Section 124A of the IPC. The first and foremost element of sedition under Section 124A is some act done by a person or a group of people- a gesture or sign, spoken or written words, etc. In a trial for sedition, the first thing that must be proved is that the person under trial actually participated in the act before checking if it was seditious or not. Without concrete gestures or words that can be traced back to the accused, a case for sedition cannot even exist against him. The essence of sedition lies in the intention of the person being accused. Such a person must have an active intention to create hatred, contempt, or disaffection towards the government in the minds of people. Disaffection has been specifically defined by

Explanation 1 under Section 124A, as all feelings of disloyalty and enmity towards the state. The intention of a person to spread hatred or disaffection can be inferred from the act or speech itself. Under the Section, the mere attempt to excite hatred is also punishable and so it is not necessary to check whether the person achieved this purpose or not. In case it is a speech, it should be studied as a whole, freely and fairly. On this basis, the intention of the speaker should also be judged. Words should not be taken out of context. Only if the speech advocated for a rebellion or action to overthrow the Government through dishonest or illegal means, with the use of violence or even the threat of violence, should that speech be included in sedition. The following case of Niharendu Dutt Majumdar v. King-Emperor (1942) was amongst the first where the court established this element as essential to the crime of sedition.

Niharendu Dutt Majumdar v. King-Emperor (1942)

In this case, the appellant delivered a speech in Calcutta on 13th April 1941, due to which he was accused and convicted of sedition and sentenced to "rigorous" imprisonment of 6 months along with a fine of Rs. 500. This ruling was challenged on the grounds that the appellant's speech did not amount to sedition. The court held that sedition essentially means a person's intention to promote public disorder or his reasonable anticipation that his words or actions will promote public disorder. Therefore, "incitement to violence or the tendency or the intention to create public disorder" is a crucial element of sedition. Regarding the facts of the case, it was held that the speech by the appellant did not exceed the legal limits of criticism of the Government and, therefore, could not be considered sedition under the Defense of India Act, 1939 (this Act was repealed in 1947).

Government Established by Law

The main principle behind sedition is that the Government established by law in a state should remain stable and there should be no such contempt towards it which could threaten the integrity of the state through a rebellion. Therefore, an essential element of the crime of sedition as per Section 124A is that the actions or words of the person should have expressed hatred towards the Government and it should incite disaffection and violence against the Government established by law in India. In the case of Kedar Nath Singh v. State of Bihar (1962) (which will be discussed in detail later), the Supreme Court noted for the first time, that the term "Government established by law" here does not mean "the persons for the time being engaged in carrying on the administration", but instead referred to the Government as "the visible symbol of the State". Expressing Disapprobation-Explanations 2 and 3 Three explanations have been given in Section 124A. Two of them-Explanation 2 and 3– attempt to explain what cannot be included in sedition. They say that comments which express a person's disapprobation i.e. disapproval or dislike of the measres or actions of the Government of India are not considered sedition if their only aim is to bring about a lawful change in the Government's policies, without wanting to excite hatred or contempt towards it. With the addition of these explanations to the IPC, the court has attempted to prevent a literal interpretation and application of Section 124A. These two explanations are extremely crucial, and Section 124A would be incomplete without them.

This is because they recognize a citizen's 'Right to Freedom of Speech and Expression', indicating that criticism of the state and its policies by the people is a fundamental part of a democracy and therefore, it cannot be snatched away. Constitutional Validity of Section 124A In post-Independence India, Section 124A has come under criticism many times on the grounds that it curbs our 'Freedom of Speech'. Many people have called it a tyrannic relic of the colonial times, questioning its existence in a free India based on the principles of democracy. Thus, critics have claimed that this provision of the Indian Penal Code stands in violation of the Constitution of India. However, what does the law have to say about this? the 1951 case of Tara Singh Gopi Chand v. the State, where the Punjab and Haryana High Court addressed the issue of Constitutional validity of Section 124A.

Tara Singh Gopi Chand v. the State (1951)

In this case, two pleas were pending against Tara Singh with regards to two speeches that he had given, one in Karnal and one in Ludhiana. One of the sections under which he was charged was Section 124A. He challenged this, saying that the very crime of sedition is inappropriate in India after the foreign rule has ended, and submitted that Section 124A should be declared void as it is in contravention of the 'Right of Freedom of Speech and Expression' guaranteed by Article 19 of the Constitution. The High Court agreed with the claim of Constitutional invalidity of Section 124A, and that it was a violation of the 'Fundamental Right to Freedom of Speech and Expression'. It struck down this provision and at the same time, quashed the proceedings against Tara Singh and ordered for him to be set free. The Allahabad Court passed a similar ruling in the case of Ram Nandan v. State (1959), where Section 124A was declared ultra vires of the Constitution. In the face of such sentiments against the Anti-Sedition law, the Government of India appealed to the Supreme Court. For the first time, the Apex Court addressed the issue of the legality of this colonial-era law in the case of Kedar Nath Singh v. State of Bihar (1962). Let's examine this case, which has proved to be one of the landmark cases relating to the concept of sedition.

Kedar Nath Singh v. State of Bihar (1962)

In this case, the appellant was charged with sedition for certain speeches that he had delivered. In his speeches, he called officials of the CID "dogs", and members of the Government "Congress goondas", whose election was a mistake by the people. He encouraged the audience to strike against the then Government and drive them out like the British. For this, he was convicted under Section 124A by a Magistrate's court in the state of Bihar. He appealed to the Patna High Court but his conviction was sustained. He then obtained special leave to appeal to the Supreme Court, where his main argument was that the restrictions imposed by Section 124A on the 'Freedom of Speech and Expression' of a person were beyond the ambit of the legislative power as given by Article 19(2). The Supreme Court noted that Article 19(2) of the Constitution, which imposes certain restrictions on the 'Freedom of Speech and Expression', was amended in 1951 to include public order. This means that any comment by a person which threatens to disturb public order or the security of the state is a crime against society and cannot be allowed. This is

what sedition does. The court said that sedition has been ruled as a crime to prevent the subversion of the Government by inciting contempt or hatred towards it, which can rock the very stability of the society. It, however, clarified that a citizen is allowed to criticise the Government so long as he does not intend to cause public disorder or violence. Hence, essentially, it sided with the ruling given in the previously mentioned case of Niharendu Dutt Majumdar v. King-Emperor (1942). Thus, Explanations 2 and 3 were added to Section 124A

EVOLUTION OF SEDITION LAW

Sedition is not mentioned as one of the ground on which restriction on the freedom of speech and expression may be imposed. The word Sedition has been a word of varying import in English Law, 150 years ago when holding a meeting or taking out a procession was considered Sedition. The term of Sedition is derived from the Latin word Sedition which in roman times meant an Insurrectionary Separation (Political or Military) Dissension, civil Discord, Insurrection, Mutiny. It needs to be adverted that the word 'Sedition' does not turn up anywhere in the Indian constitution and if an offence against the state as enumerated in the Indian Penal Code, in which Article 19 of the constitution holds great relevance. The contemporary discernment of Sedition in India encompasses all those practices, whether by words, deed, or writing that is reckoned to disturb the tranquillity of the State and lead ignorant person to debase the Government. Section 124-A of the Indian Penal Code defines as follows that '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 excite or attempt to excite disaffection towards the Government established by law in India shall be punished with 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. Today the law of Sedition in India has assumed controversial importance largely on account of change in the body politic and also because of the constitutional provision of freedom of Speech guaranteed as fundamental right. The law of Sedition as continued in Section 124-A I.P.C was also embodied in some other statutes however the general statement of Law was similar in all the provisions and could be gathered from Section 124-A I.P.C. The legislative History of this section of the Indian Penal Code dealing with Section of Interest. The draft prepared by the Indian law commissioners in 1837 contained a provision on the topic and it was proposed to include it in the Indian Penal Code.

Before 1832, the English law of "seditious libels" was actually quite expansive. A person could be con victed for sedition for saying anything that brought the government into "hatred or contempt" or even for merely raising "discontent or disaffection" against the government. In other words, it was not necessary for a person to say something that was actually likely to make people take up arms against the government. However, this changed after 1832. In his authoritative 19th century treatise on the history of English criminal law, Sir James Fitz james Stephen wrote that prosecutions for sedition in England since 1832 were "so rare that they may be said practically to have ceased". "In one word," he wrote, "nothing short of direct incitement to disorder and violence is a seditious libel." Ironically, Stephen was the Law Member of the Viceroy's Council who would introduce sedition into

the IPC. The original draft of the IPC was drawn up in 1837 by the Indian Law Commission headed by T.B. Macaulay. Section 113 of this draft made it an offence to "excite feelings of disaffection against the government". Macaulay's definition of sedition was not as broad as the pre-1832 English law of seditious libels. For instance, Macaulay did not make it an offence to excite hatred, contempt or ill will against the government, choosing only the vague word "disaffection" to describe sedition. However, Macaulay's draft did not reflect the current state of the law in England either, according to which only direct incitements to violence against the state were considered seditious. For some reason, Section 113 of Macaulay's draft did not make it into the final version of the IPC in 1860. The official explanation was that this was a clerical mistake. However, it is quite possible that Section 113 was omitted from the IPC in 1860 because it was incompatible with the contemporary law of sedition in England at the time. After all, the law codes of British India were prepared by the followers of Jeremy Bentham, who wished to enact similar codes back home in England. For them, the colony of British India was a laboratory where they could test how a code would function. They hoped that codes like the IPC would later serve as models or precedents for similar law codes to be drawn up in England itself. It is therefore plausible that the framers of the original IPC of 1860 left out Section 113 of Macaulay's draft because it did not reflect the existing state of the law of sedition in England and because its introduction into the IPC might have come in the way of the code being used to draw up a similar statute in England. An amendment was introduced to the IPC in 1870, and Section 113 of Macaulay's draft was inserted into the code as Section 124-A. There is some evidence to suggest that sedition was finally made an offence in British India because the colonial government feared a Wahabi uprising.

While introducing the amendment to the Viceroy's Council, Law Member Stephen made a specific reference to a man who had preached "jehad or holy war against Christians in India" and of how the man had been in the habit "for weeks and months and years, of going from village to village, and preaching in every place he came to that it was a sacred religious duty to make war against the Government of India". There were eight other men in Patna, said Stephen, who had been found to be engaged in similar activities. Later, in 1898, the Lieutenant Governor of Calcutta similarly said that it was "the Wahabi conspiracy and the open preaching of jehad or religious war against the government" in 1870 that had prompted the introduction of sedition into the IPC. Although it was the fear of an Islamic religious uprising that gave rise to the offence of sedition in British India, the first person to be convicted under Section 124-A was not a Muslim but a prominent Hindu nationalist, Bal Gangadhar Tilak. His newspaper, Kesari, had carried an article in which the Hindu king Shivaji was said to have awoken in heaven and lamented the existing state of affairs in India. "Alack! What is this?" the fictitious Shivaji was reported as having said in Kesari, "I now see with (my own) eyes the ruin of (my) country Foreigners are dragging out Lakshmi violently by the hand." Tilak was charged with sedition before the Bombay High Court, in Queen Empress vs Bal Gangadhar Tilak (1897). Justice Arthur Strachey delivered the charge to the jury in enormously broad terms. He said that sedition meant "the absence of affection", that it meant "hatred, enmity, dislike, hostility, contempt, and every form of ill will to the government". For Strachey, sedition also meant "every possible form of bad feeling to the

government", and the "amount or intensity of the disaffection" was "absolutely immaterial". It was not necessary for the accused person to incite "mutiny or rebellion, or any sort of actual disturbance, great or small" in order to be convicted. In other words, the pre-1832 English law of seditious libels now became the law of sedition in India. The IPC was amended in 1898, and Strachey's definition of sedition replaced Macaulay's in Section 124-A.

Chapter 2

Impact of the Sedition Law

Section 124A of the Indian Panel Code, originally introduced by the British Government (Sir James Stephen) in 1870. then British Government in india feared that muslim preachers (Wahabi movement) on the Indian subcontinet would wage a war against the government. Throughout the Raj, this section was used to suppress activists in favour of national independence, including Lokmanya Tilak and Mahatma Gandhi, both of whom were found guilty and imprisoned. While the united Kingdom abolished its own sedition law in 2010, the law continues to be enforced across the Indian subcontinent. The first known registered case under the section was in calcutta High Court in 1891; Queen vs. Jogendra chadra bose. Bose's article published in his own Bengali magazine "Bangbasi', criticized the age of Consent Act, 1891, describing it as "Forced Europeanisation". The sedition trial of 1897 against Lokmanya Tilak is historically famous. Tilak , a lawyer by training ,established and published two dailies-Kesari in Marathi in English; both being published from Pune. Tilak published reports of Shivaji celebration, as " Shivaji's Utterances"; this essay doubledas an attack on the colonial Government. Tilak again faced charges against sedition for two Kesari articles, titled " The country's Misfortune" (12 may 1908) and " these Remedies Are Not Lasting" (1908). he was again found guilty under the newly drafted section 124A, and sentenced to six years of imprisonment in Burma.

In 1922, Mahatma Gandhi three articles for Young India resulted into his and Shankarlal Banker's imprisonment under the sedition section. While appearing in court, Gandhi referred to section 124A as the " prince among the political sections of the Indian Panel Code designed to suppress the liberty of the citizen".

APPLICABILITY OF PROVISION OF SEDITION

Like much of the Indian Penal Code, section 124A is a product of our colonial history, introduced by the British. Thomas Macaulay introduced sedition as an offense in the draft of the IPC in 1837, but it was omitted in the version enacted in 1860.British legislators considered this to be a mistake and believed that the Indian press needed to be kept in check to prevent the rise of a nationalist movement. Furthermore, they were afraid of the rise of

Wahabism and greatly increased Wahabi activities in the late 1800s. As a result, the provision was re-introduced in the Code in 1870. Queen Empress v. Jogendra Chunder Bose was the first ever case brought about on the grounds of sedition. It was in 1870 that the British government enacted section 124A into the primary penal legislation. In a retrospective analysis, it is understood to have been so enacted to stifle anti-colonial voices of the time (pre- Independence). As a precedent, therefore, this section was used against various nationalist leaders, most notably against Bal Gangadhar Tilak and Mahatma Gandhi.The concern of having Sedition as a restriction on the freedom of speech was not lost in the constitutional assembly debates. With a recent history of our prominent freedom fighters (virtually our heroes of independence) being charged and imprisoned under this law, the drafters of the constitution were cautious of the implications of the inclusion of sedition in the constitution and with just reason. After all, this basic right of a person to free speech was one of the main ingredients that got us our freedom from oppressive foreign rule.Initially, the draft constitution did include 'sedition' as a foundation on which laws could be established upon for limiting the fundamental right to speech (restriction on freedom of speech). In the final draft, however, Sedition was eliminated from the exceptions under article 19(2). This was largely due to the initiative of eminent lawyer and freedom fighter, K.M. Munshi. , speaking for the deletion of the word "sedition," observed:"The public opinion has changed considerably since and now that we have a democratic Government a line must be drawn between criticism of the Government which should be welcome and incitement which would undermine the security or order on which civilized life is based, or which is calculated to overthrow the State. Therefore, the word sedition has been omitted. As a matter of fact, the essence of democracy is a criticism of Government" Deletion of the word "sedition" was also necessary, Mr. Munshi added, "otherwise an erroneous impression would be created that we want to perpetuate 124-A of the I. P.C." The move was unequivocally welcomed by all the sections of opinion in the Assembly"Contrary to the impassioned belief of Indians that post-independence, there would be a revolution with regard to freedom of speech and expression, within 15 months from the enforcement of the Constitution, the Government of India brought the first amendment to amend the Article 19 of the Constitution of IndiaIn India, what constitutes as 'Sedition' is highly debated. As per the Indian Penal Code, for an act to be called "seditious", As per the interpretation of the Court on Section 124-A of the Indian Penal Code, 1860 the following acts have been considered as "seditious" Raising of slogans against the government – example – "Khalistan Zindabad" by groups. Raising of slogans by individuals casually once or twice was held not to be seditious. A speech made by a person

must incite violence / public disorder for it to be considered as seditious. Subsequent cases have gone to further interpret it to include “incitement of imminent violence”. Any written work which incites violence and public disorder. Sedition found in other Laws The following are some laws which cover Sedition law:

Indian Penal Code, 1860 (Section 124A), The Code of Criminal Procedure, 1973 (Section 95), The Seditious Meetings Act, 1911 &, The Unlawful Activities (Prevention) Act (Section 2(o) (iii)). How legal mechanism sets in motion Sedition is considered as a high-value crime in the Indian Penal Code which is against the sovereignty of the country. It is a cognizable offence which allows arrest without a warrant and police can start the investigation without the permission of the court. There are some legal procedures regarding the charges of Sedition: Go to the Jurisdictional Police Station It is the person’s legal right to file a case against the person who is committing an offence against the state such as Sedition. A person can file the complaint with the nearest Police Station where such offence when committed. Lodging an F.I.R The First Information Report (F.I.R.) is a written document which is prepared by the police organizations when they receive any information about the cognizable offence. In the case of seditious offence, it is filed by the person who has come to know about such offence and also can be filed by the police officer How Police take Cognizance When any credible information is being registered by the complainant regarding the sedition offence, then it is the duty of Police Officer to take action for such complaint. Police have the right to arrest without warrant for such offence. There are some procedures when Police are able to arrest without warrant: When the seditious act is going on before the police inspector, District Magistrate or Executive Magistrate, then they can arrest such person without any warrant. If any information is received from another police officer for the arrest of the person committed a seditious offence, then the other police officer can arrest such person. F.I.R. when lodged against the person for the seditious offence. When a person who is being suspected of Sedition, then the police officer may arrest such person for the further investigation. Investigation After giving the information to a police officer in charge of a police station, the investigation is initiated. A magistrate can order a police officer in charge to investigate on cognizable offence such as Sedition. A magistrate is empowered to take cognizance upon receiving any complaint or upon a police report or upon information received from any person other than a police officer who is having knowledge of such offence is committed. A police officer may require to take the.. attendance of witnesses in writing. Charge Sheet After the completion of the investigation, police submits charge sheet which consists of F.I.R. copy, statement of the complainant, statement of witnesses etc.

Sedition: Disloyalty In Action “Sedition” has been described as disloyalty in action. The object of sedition law is to induce discontent and insurrection, and stir up opposition to the Government and bring the administration of justice into contempt. Sedition is a crime against the society as it involves all those practices that result in conduct disturbance in the state or to lead to civil war which contempt the sovereign and promotes public disorder. Defence Available to a Person Charged With Sedition To get the exemption from Criminal Liability, the following are the defence: That he did not make the sign or representation or not speak or write the words, or not do any act in question. He did not attempt into the contempt or attempt disaffection. Such disaffection should not be towards the Government. Sedition and Article 19(1)(a) of the Indian Constitution The Concept of Free Speech has attained global importance and all have supported it as a basic fundamental right of a human being. In India, such rights are provided under Part-III and Article 19 of the Indian Constitution. The said right has no geographical indication because it is the right of the citizen to gather information with others and to exchange thoughts and views within or outside India. Courts have been given the power to act as guarantors and protectors of the rights of the citizen. Article 19(1)(a) secures the ‘freedom of speech and expression’ but it has been bound by the limitation which has been given under Article 19(2) which states the permissible legislative abridgement of the right of free speech and expression. In Niharendu Dutt’s case, for sedition, the Federal Court had taken chance to interpret the Section 124A of the IPC in alignment with British Law. It had ruled that tendency to disturb public order was an essential element under Section 124A. The Privy Council held that the incitement to violence or a tendency to disturb public order was not necessary under section 124A. In Tara Singh v. State, the validity of Section 124A of the IPC was directly in issue. In this case, it curtailed the freedom of speech and expression, so the East Punjab High Court declared this section void. By the Constitution (First Amendment) Act, 1951, two changes were introduced relating to freedom of speech and expression, are: It considerably widened the latitude for restrictions on free speech by adding further grounds; The restriction imposed on Article 19(1)(a) must be reasonable. Therefore, the question now arises of whether Section 124A of IPC is in conflict with Article 19(1)(a) or not. It has been reflected by the following points: Section 124A of the IPC is ultra vires the constitution in as much as it infringes the fundamental right of freedom of speech in Article 19(1)(a) and is not saved by the expression “in the interest of public order”. As the expression “in the interests of public order” has a wider connotation and should not be confined to only one aspect of public order, then the Section 124A is not void. Section 124A IPC is partly void and partly valid. In Indramani

Singh v. State of Manipur, it was held that Section 124A which seeks to impose restrictions on exciting mere disaffection is ultra vires, but the restriction imposed on freedom of speech and expression covered under Article 19(2) can be held intra vires. In 1959, Allahabad High Court declared that Section 124A was ultra vires to Article 19(1)(a) of the Constitution. Indian Freedom Fighters who were charged with Sedition during the Freedom Struggle.

Mahatma Gandhi was charged with sedition Gandhiji had written three 'politically sensitive' articles in his weekly journal Young India, which was published from 1919 to 1932 so that he was jailed on the charges of sedition. He was sentenced to a six-year jail term. Three charges were imposed on him: Tampering with loyalty; Shaking the manes and Attempt to excite disaffection towards the British Government. He wrote the first part of his autobiography during his imprisonment- The Story of my Experiments with Truth- and about the Satyagraha movement in South Africa. He was released after two years as he was suffering from appendicitis. Bal Gangadhar Tilak was convicted under this [10] Bal Gangadhar Tilak was charged with sedition on two occasions, are:

Firstly, his speeches that allegedly incited violence and resulted in the killings of two British Officers for which he was charged with Sedition in 1897. He was convicted but got bail in 1898. Secondly, he was defending the Indian revolutionaries and called for immediate Swaraj or self-rule in his newspaper 'Kesari' for which he was convicted under sedition and sent to Mandalay, Burma from 1908 to 1914. Take on abolishing the law of sedition – Should the Indian legal system abolish the laws punishing seditious activities? In today's scenario, the sedition law expects that citizens should not show enmity, contempt towards the Government established by the law. There are some dark areas which lies between actual law and its implementation. Thus the laws need to amend those dark areas. In India, there are so many divisive powers acting together in which such laws are necessary evils in a country like India. It is the need for such law that those activities which are promoting violence and public disorder should be stopped Disaffection and the State A seminar titled with 'Azadi, the Only Way' was organized by the Committee for the release of a Political prisoner in Srinagar. The controversy arises when Sedition was charged against Arundhati Roy, Syed Ali Shah Geelani, Varavara Rao and others who spoke at the said Seminar. Media reported that the Central Government was not in favour of initiating proceedings in this case. There are reports though of cases having been filed in New Delhi. Intimidation of cases being filed in other parts of the country against Roy, Geelani and other who spoke at the seminar. Famous Trials of Sedition Jogendra Chunder Bose Jogendra Chunder Bose was an editor of Bangobasi. He

was charged with Sedition for voicing against Age of Consent Bill, 189 Cartoonist Aseem Trivedi

During a rally of Anti-Corruption crusader Anna Hazare in Mumbai, he had been accused of putting up banners mocking the constitution and posting the same on his website. He was charged under Section 124A of IPC, Section 66A of Information Technology Act and Section 2 of Prevention of Insults to National Honour Act. Kashmiri Students 60 Kashmiri Students were cheering for Pakistan in a Cricket Match against India. So they were charged with Sedition in March 2014. Folk Singer S Kovan He was charged with sedition for two songs criticising the state government for allegedly profiting from state-owned liquor shops at the expense of the poor. Binayak Sen He was a pediatrician by profession and was allegedly supporting Naxalites. For which he was charged with Sedition by Chhattisgarh Government. Akbaruddin Owaisi On December 22, 2012, he purported hate speech at Nirmal. He was slapped with the charge of sedition by the District Police of Karimnagar. Kanhaiya Kumar, Student of JNU. JNU Student Leader, Kanhaiya Kumar was arrested in February 2016 on the charge of sedition. He was arrested for inciting violence through unlawful speech, allegedly spread not all over India but also across the world. This arrest has raised political turmoil in the country by which academicians and activists protesting against this move by the Government. On March 2, 2016, the videos purporting to show this activity were found to be fake and he was released after three weeks in jail. Constitutionality of Law of Sedition in India Kedarnath Singh v. State of Bihar. It was held that the law is constitutional and covered written or spoken words that had the implicit idea of subverting the Government by violent means. With an intention to create public disorder, Citizens can criticize the Government as long as they are not inciting people to violence against the Government. Supreme Court upheld the validity of Section 124A, it limited its application to acts involving intention or tendency to create disorder, or a disturbance of law and order, or incitement to violence. Balwant Singh and Anr v. State of Punjab. After the assassination of Prime Minister Indira Gandhi, the accused had raised the slogan “Khalistan Zindabad” outside a cinema hall. It was held that two individuals casually raising slogans could not be said to be exciting disaffection towards the Government. Section 124A would not apply to the circumstances of this case.

Romesh Thapar v. State of Madras. The petitioner contended before the Supreme Court that the said order of banning his paper ‘Cross Roads’ by the Madras State. It has contravened his Fundamental Right of freedom of speech and expression conferred on him by Article 19(1) of the Constitution. The Supreme Court held that the Article 19(2) where the restriction has been imposed only in the cases where problem to public security is involved. Cases where no

such problem could arise, it cannot be held to be constitutional and valid to any extent. Supreme Court quashed the order of Madras State and allowed the application of the petitioner under Article 32 of the Constitution. The following acts are not considered seditious Improvement or alteration by lawful means with the disapproval of the measures of government. The strong words which are expressing disapprobation of actions of the Government and not encouraging those feelings which generate public disorder by acts of violence. To improve the condition of the people or to secure the alteration of those acts by lawful means without the feelings of enmity and disloyalty which involve excitement to public disorder or the use of violence. National Crime Records Bureau Statistics on Sedition When all the crimes are committed against the state or government, it disturbs public order. According to the data from 2014-2016 of NCRB, 165 people were arrested on the charge of sedition. During 2014, 47 cases were reported under sedition. Of the total sedition cases, Jharkhand and Bihar have reported 18 cases and 16 cases respectively. Besides, 5 cases in Kerala, 2 cases each in Andhra Pradesh, Assam, Chhattisgarh and Himachal Pradesh were also reported during 2014.According to the NCRB, the latest crime data shows the cases of sedition fell from 2014 to 2015. A total of 30 sedition cases were registered in 2015, less than in 2014. Tamil Nadu topped the list for committing the crime against state including sedition. Of the 6,986 cases were registered in 2016, 1,827 cases were reported from Tamil Nadu, followed by U.P. 1,414, Haryana 1,286 and Assam 343 cases. In the last three years across the country, 165 people were arrested on the charge of sedition. According to the reports of NCRB, 111 people were arrested in four state i.e., 68 in Bihar, 15 in Haryana, 18 in Jharkhand and ten in Punjab.

The Laws dealing with Sedition in India

The Indian legislature has provided for a gamut of laws that deal with the concept of sedition, along with Section 124A of the Indian Penal Code 1860, which are either related to this particular provision or a seek to criminalized ‘disaffection’ shown against the state. This section primarily outlines those provisions of law, present in the statute book that deals with the concept of sedition and its subsequent punishment.

Indian Penal Code (IPC), 1960

Section 124A forms the main section that deals with sedition in the Indian Penal Code. This section carries with it a maximum sentence of imprisonment for life.

Criminal Procedure Code (CrPC), 1973

The CrPC contains Section 95 which gives the government the power and the right to declare certain publications forfeited and thereby forfeit such material punishable under Section 124A but which may be done only if the conditions for validity of an order of forfeiture is fulfilled(i) that the Government has formed an opinion that the concerning document or material contains any matter and the publication of which is punishable under the mentioned sections and (ii) that the Government has stated in the order the grounds which has led to the formation of the opinion. In addition to this power, the government has the right to issue search warrant for the purposes concerning the forfeiture of such publications.

Unlawful Activities (Prevention) Act (UAPA), 1967

Supporting claims of secession, questioning or disrupting territorial integrity and causing or intending to cause disaffection against India fall within the ambit of 'unlawful activity' which is provided for and highlighted under Section 2(o). In addition, Section 13 provides for the punishment of unlawful activities and prescribes imprisonment extending to seven years including a fine. Prevention Of Seditious Meetings Act, 1911 The Seditious Meetings Act, which was enacted by the British a century ago to control dissent by criminalizing seditious meetings, continues to be on our statute books. Section 5 of the Act empowers a District Magistrate or Commissioner of Police to prohibit a public meeting in a
proclaimed area if, in his/ her opinion, such meeting is likely to promote sedition or disaffection or to cause a disturbance of the public tranquillity.

Conflict between the applicability of Sedition law & Article 19(1) (a)

This section of the paper focuses on whether the sedition laws are an anathema to the fundamental right of free speech and expression. This arises on account of the demands made by several public activists, who are in favour of re-examining the law on sedition in India. Article 19 provides for Protection of certain rights regarding freedom of speech etc, wherein sub-clause (a) of Clause (1) mandates that all citizens have the right to freedom of speech and expression. However, Clause (2) provides for reasonable restrictions on the exercise of this right and which may be done in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence. Freedom of speech is the bulwark of a democratic government. It is regarded as the first condition on liberty and the mother of all liberties. In a democracy, freedom of speech and expression opens up channels of free discussion of issues. It plays a crucial role in the formation of public opinion on social, economic and political matters. Therefore, it has been declared that over broad restrictions on freedom of speech and expression are invalid. On the other hand, Sedition, in the context of S.124A, in itself is a comprehensive term and it embraces all those, whether by word, deed or writing, which are calculated to disturb the tranquillity of the State and lead ignorant persons to endeavour to subvert the Government and laws of the country. But what is to be noted is that only the words which have the pernicious tendency or intention of creating public disorder or disturbance of law and order will the law step in The constitutional history and judicial precedence, as it stands today, mandates Section 124A to be constitutional and which is to be read in a manner as to ensure conformity with the Fundamental Rights. This was highlighted in the case of Indra Das v. State of Assam. Earlier, in 1950, Section 124A was struck down as unconstitutional being contrary to Freedom of Speech and Expression guaranteed under Article 19(1) in the case of Tara Singh v. State of Punjab. It was eventually in the case of Kedar Nath v. State of Bihar, where the Supreme Court overruled the 1958 judgment and held that the Sedition law was constitutional but at the same time observed that it must be narrowly interpreted and if given wider interpretation, it would not survive the test of constitutionality. Furthermore, although its constitutionality

remained intact, it limited its connotation and restrained its application to acts linking intention or propensity to create chaos or disturbance of law and order or provocation to violence. The Supreme Court clearly distinguished between unfaithfulness to the government and remarking upon the actions of the government without inciting public disorder by act of violence. Moreover, the Supreme Court highlighted in the case of Arup Bhuyan v. State of Assam, that speech and words that amount to "incitement to imminent action" can only be criminalized and that mere using of words that are distasteful do not constitute sedition and hence, cannot be punished. Although it is a well known fact that criminal sanctions are the most severe sanctions that society can impose on a person, it imposes the responsibility on the authorities to ensure that they understand the situation completely before imposing punishments that are restrictive to his freedoms or damaging to his reputation. But in the recent past, this particular provision has been misused to serve the interests of the Government as in the JNU incident (February 2016) where Kanhaiya Kumar, a student at JNU University, was arrested for voicing anti- national slogans but in actuality, they were organising a march to celebrate the death anniversary of Afzal Guru. Other such recent cases include the arrest of Aseem Trivedi for drawing cartoons that made a mockery of Indian Constitution and the National Emblem and Hardik Patel who spearheaded the protest with the demand of reservation or quota for the Patels in Ahemdabad. The arbitrary misuse of the offence relating to sedition does not end with IPC 1860 alone. In fact, the architecture of censorship is so skewed in its entirety, especially due to the operation of Section 95 of the CrPC 1973 which authorises State governments to forfeit copies of any newspaper, book, or document that "appears" to violate certain provisions of the Indian Panel Code, such as Section 124A (sedition), Sections 153A or B (communal or class disharmony), Section 292 (obscenity), or Section 295A (insulting religious beliefs). Under Section 96 of the CrPC, any person aggrieved by the government's order has the right to challenge it before the high court of that State. The key element of Section 95 is that it allows governments to ban publications without having to prove, before a court of law, that any law has been violated. All that Section 95 requires is that it "appears" to the government that some law has been violated. Once the publication has been banned, it is then up to the writer or publisher to rush to court and try and get the ban lifted. Therefore, this provides the government absolute authority and power to ban publications by way of a simple notification. Two such incidents have emerged on this account- the first was the Jharkhand government's decision to ban the Sahitya Akademi awardee Hansda Sowvendra Shekhar's 2015 book, The Adivasi Will Not Dance, for portraying the Santhal community "in bad light" and the second was an order of a civil

judge at Delhi's Karkardooma Court, restraining the sale of Priyanka Pathak-Narain's new book on Baba Ramdev, titled Godman to Tycoon, wherein the order was granted without hearing the writer or the publisher (Juggernaut Books). The order was on the ground that false facts were mentioned and it therefore damaged the reputation of Baba Ramdev. These incidents are a living testimony to the fact that Criminal law is structured in a manner that may prove to be detrimental to the interests of the public, if over regulation is permitted to be exercised by the government.

Chapter 3

SEDITION IN OTHER JURISDICTIONS

A lot of modern democracies, especially in Asia, can point to the British colonial legacy as the source of their sedition laws. Recent political developments in India and multiple countries across the world regarding the crime of sedition have once again given rise to a debate on the ethical and legal validity of criminalizing the act of sedition. To provide a comparative look at the different legal scenarios in the world, studies (anti)sedition laws in the United Kingdom, the United States of America, Newsland and Australia.In the 19th century sedition law was used by most countries as these laws were considered as a powerful tool to suppress the voice of the citizen against the government. Similarly, the British Empire enacted the sedition law in its colonies to get control over their territories. Even after the independence countries like India hold this law which was once hurdles in their own path of freedom. While most of the country repeal the law or minimized its effect so that it can't be further misused by the state even by a country like the UK. Whilst there are many countries that still have sedition laws, the general trend is certainly away from such laws, which are often remnants of colonial era political landscapes. In some jurisdictions, sedition has been repelled altogether. Where they remain these laws are not uncontroversial or uncontested, brushing up against national constitutions and human rights frameworks. In some cases, the scope of the law has been narrowed to a minimalist construction, prosecutions are rare, and punishments are often nominal. This next section is a brief outline of some of the contemporary approaches internationally to sedition

The Constitution of India, 1950 grants us certain Fundamental Rights, which represent our basic human rights and liberties which all of us are entitled to. One of these rights is the 'Right to Freedom of Speech and Expression', granted by Article 19(1)(a). This right isn't absolute though, and certain reasonable restrictions can be put on it in specific situations such as prevention of defamation of another person, maintenance of public order and decency, protection of the integrity of the nation, etc. which are mentioned in Article 19(2). One of the cases where the 'Right to Freedom of Speech and Expression' can be restricted is in the case

of Sedition. Sedition refers to overt actions, gestures or speech by a person in oral or written form which expresses his or her discontent against the established Government in the state, with the aim to incite violence or hatred against it. Classified as a crime in India since 1870, it has been defined under Section 124A of Chapter VI of the Indian Penal Code, 1860. This Section says that whoever, by spoken or written words, signs, etc. excites or attempts to excite hatred or disaffection towards the Government of India is said to have committed the crime of sedition.

INDIA

The Offence of Sedition in India would only be complete if the words spoken or written tend to incite people to violence or public disorder with the intention to take violent methods to overthrow the Government. In India the courts adopt the liberal interpretation of the crime of Sedition as established by English common law. Thus the liberal attitude of the Indian courts can be said to be reasonable one as it balances the exigent demands of the state with the Civil rights of the individual. Most of the charges for Sedition are dismissed. However there have been complaints that the Sedition laws in India have been used as a tool to suppress free speech. State agencies like the police have been used as a tool to suppress free speech and they arrested those people who champion the rights of the lower caste. The police have abused the laws by using them to prohibit peaceful meetings and protest organized by the Dalit Panther of India.Sedition is a political offence and thus politically motivated. The law of Sedition in India has assumed controversial importance largely on account of change in the Politic and also because of the Constitutional provision of freedom of speech guaranteed as a fundamental right. The Law of Sedition as contained in Section 124-A of the Indian Penal Code was also embodied in some other statutes Sedition 'inherited its definition from the original phrases of the 19th century jurist as an intention to bring into hatred or contempt or excite disaffection against the person of, her majesty, her heirs and possessors, or the Government established by law, or the either house of Parliament or the Administration of justice, or to promote feelings of ill will and hostility between different classes of subjects Sedition often includes subversion of a Constitution and incitement of discontent (or resistance) to lawful authority. Sedition may include any commotion, through not aimed at direct and violence against the Seditious words in writing are seditious libel. Sedition is one who engages in or promotes the interest of Sedition.

Typically Sedition is considered a subversive act and that may be prosecutable under Sedition laws vary from one legal code to another. The draft of Indian Penal Code related to Sedition was prepared by the Indian law Commission in 1837. The difference between Sedition and Treason consist primarily in the subjective ultimate object of the violation to the public peace. Sedition does not consist of levying war against a Government or of adhering to its enemies, giving enemy's aid, and giving enemies comfort. Nor does it consist in most representative democracies, of peaceful protest against a Government, nor of attempting to change the government by democratic means (such as direct democracy or Constitutional convention). Sedition is the string up rebellion against the Government in power. Treason is the violation of allegiance to one's sovereign or State, giving aid to enemies, or levying war against one's state. Sedition is encouraging one's State to rebel against their State, whereas treason is actually betraying one's country by aiding and abetting another State. Sedition laws somewhat equate to terrorism and Public order laws obviously the definition existed at a time in England that the Government resisted all attempts at opposing it. There is no doubt that the above idea has relationship with the concept of the divine rights of kings In recent times Sedition has been described as being quasi political in nature, in that it is designed to ensure stability and orderly Government. On one side Constitution give us the full freedom to Speech and Expression but on other side it restrict the freedom of Speech and Expression through the misuse of Section 124-A of the Indian Penal Code in the name of National Security. The perpetual problem is it seems to rise is that of striking a balance between individual freedom of expression and the Security of the State. Consequently there seems to be little or no activity that may fall within the ambit of the definition provided it has the tendency of causing disaffection for the Government. Every legitimate Government in existence has a law against Sedition. It is a basic principle of the survival of the Government that does not allow it to be usurped. In India the Courts have chosen to adopt the liberal interpretation of the Crime of Sedition as established by English common law. So the liberal attitude of the Indian courts can be said to be the reasonable one as it balances the exigent demands of the state with the Civil rights of the individual. Because of the liberal interpretation of the courts most of the charges for Sedition are dismissed. Generally in India the law of Sedition have been used as a tool to suppress free speech. The police have abused the laws by using them to prohibit peaceful meetings In India it is a matter of utter shame that even today how we clutch to our colonial past and their discriminatory laws which were crafted to boot lick a select few who ran the Government. In many other Countries the law of Sedition has no place or in other words it is demolished. When United Kingdom abolished

Sedition laws in 2010, Sedition became a big issue in India the same year as noted writer Arundhati Roy amongst others were sought to be charged with Sedition. She was advocating independence for the disputed Kashmir region. The term of the Section 124-A of the Indian Penal Code are so wide that much that may generally be regarded as justifiable speech would come within its term. The offence owes its gravity to the fact that it is calculated to Foster and promote popular discontent, and that such discontent leads to insurrection and revolution. At the same time no Government can safely place itself beyond criticism. Such restrictive legislation would defeat the very object it was intended to serve. Consequently the legislature recognizes that of the public to criticize its acts and measure and such criticism may be strong but not malignant nor should it be made a theme for exciting popular discontent against the Government. When the offence is committed by means of writings, or print or pictureit is termed seditious libel. The offence is a misdemeanour indictable at common law. In the Case of a seditious libel it is doubtful whether at common law the offence is complete when the libel is composed or whether it must be shown that it was also punished according to the authorities The first and most fundamental duty of every Government is the preservation of order, since order is the condition precedent to all civilization and the advance of Human Happiness. The duty has no doubt been sometimes performed in such a way as to make the remedy worse than the disease. In other words it also the fundamental duty of every State to maintain public peace and tranquillity in the State.

DEVELOPMENTS IN THE LAW POST INDEPENDENCE

After India attained independence in 1947, the offence of sedition continued to remain in operation under §124A of the IPC.62 Even though sedition was expressly excluded by the Constituent Assembly as a ground for the limitation of the right to freedom of speech and expression, this right was still being curbed under the guise of this provision of the IPC. On three significant occasions, the constitutionality of this provision was challenged in the courts. These cases shaped the subsequent discourse in the law of sedition. Following the decision in Niharendu Majumdar, 124A was struck down as unconstitutional in Romesh Thappar v. State of Madras, Ram Nandan v. State, and Tara Singh v. State65 (‘Tara Singh’). In Tara Singh, the East Punjab High Court relied on the principle that a restriction on a fundamental right shall fail in toto if the language restricting such a right is wide enough to cover instances falling both within and outside the limits of constitutionally permissible

legislative action affecting such a right. During the debates surrounding the first amendment to the Constitution, the then Prime Minister Jawaharlal Nehru was subjected to severe criticism by members of the opposition for the rampant curbs that were being placed on the freedom of speech and expression under his regime. This criticism, accompanied by the rulings of the courts in the aforementioned judgments holding 124A to be unconstitutional, compelled Nehru to suggest an amendment to the Constitution. Thus, through the first amendment to the Constitution, the additional grounds of 'public order' and 'relations with friendly states' were added to the Article 19(2) list of permissible restrictions on the freedom of speech and expression guaranteed under Article 19(1)(a). Further, the word 'reasonable' was added before 'restrictions' to limit the possibility of misuse by the government. In the parliamentary debates, Nehru stated that the intent behind the amendment was not the validation of laws like sedition. He described 124A as 'objectionable and obnoxious' and opined that it did not deserve a place in the scheme of the IPC.

POST-INDEPENDENCE CHANGE IN NATURE OF GOVERNMENT

It must be noted that the Court was still driven by the notion of sedition as a crime that affected the very basis of the State. It had thus been included under the section related to 'Offences against the State' in the IPC. The rationale for the criminalisation of such acts is generally that it fosters "an environment and psychological climate conducive to criminal activity" even though it may not incite a specific offence. Given that sedition is a crime against the state, one must take into consideration the changing nature of the State with time. At the time when sedition was introduced in the IPC, India was still a part of the British Empire and was ruled by the British monarchs. Since all authority emanated from the Crown and the subject owed personal allegiance to the Crown, it was considered impermissible to attempt to overthrow the monarchs through any means. Subsequent to the attainment of independence, however, all authority is derived from the Constitution of India, rather than an abstract 'ruling state'. The 'State' now consists of the representatives of the people that are elected by them through democratic elections. Thus, a crime that is premised on preventing any attempt to alter the government loses its significance. It is possible for governments to come and go without the very foundations of the State being affected. In fact, in Tara Singh, while striking down §124A as being ultra vires Article 19(1)(a) of the Constitution, the Court

drew a distinction between a democratically elected government and a government that was established under foreign rule. In the former, a government may come in power and be made to abdicate that power, without adversely affecting the foundations of the state. This change in the form of government has made a law of the nature of sedition obsolete and unnecessary. Lastly, it has also been emphasised that the courts must take into consideration the growing awareness and maturity of its citizenry while determining which speech would be sufficient to incite them to attempt to overthrow the government through the use of violence. Words and acts that would endanger society differ from time to time depending on how stable that society is Thus, meetings and processions that would have been considered seditious 150 years ago would not qualify as sedition today.This is because times have changed and society is stronger than before. This consideration becomes crucial in determining the threshold of incitement required to justify a restriction on speech. Thus, the audience must be kept in mind in making such a determination. In S. Rangarajan v. P. Jagjivan Ram104 ('Rangarajan'), the Court held that "the effect of the words must be judged from the standards of reasonable, strong-minded, firm and courageous men, and not those of weak and vacillating minds, nor of those who scent danger in every hostile point of view."105 It gives an indication of what sort of acts might be considered seditious, when it observes that the film in question did not threaten to overthrow the government by unlawful or unconstitutional means, secession or attempts to impair the integrity of the country.

ROMESH THAPPAR CASE v. STATE OF MADRAS 1950

Freedom of speech and expression is indispensable in a democracy. In Romesh Thappar v. State of madras, Pantajali sastri J. Rightly observed that: 'freedom of speech and of the press lay at the foundation of all democratic organizations,

for without free political discussion no public education, so essential for the proper functioning of the process of popular Government, is possible'. Article 19(1)(a) says that all citizens shall have the right to freedom of speech and expression. But this right is subject to limitations imposed under Article 19(2) which empowers the state to put 'reasonable restrictions on the followings grounds. Security of the state, friendly relations with foreign states' public order, decency and morality, contempt of court, defamation, incitement to Offence and integrity and sovereignty of India. In this case a Law banning entry and circulation of journal in a state was held to be invalid. The petitioner was printer, publisher

and editor of a weekly journal in English called “cross road" printed and published in Bombay. The Government of madras, in exercise of their Powers under Section 9(1-A) of the maintenance of public order Act 1949, issued an order prohibiting the entry into or the circulation of the journal in that state. The court said that there can be, no doubt, that freedom of speech and expression includes freedom of propagation of ideas, and that freedom is ensured by the freedom of circulation. Liberty of circulation is an essential to that freedom as the liberty of publication. Indeed without circulation the publication would be of little value. Restriction on freedom of speech and expression can only be imposed on grounds mentioned in Article 19(2) of the Constitution. A Law which authorizes imposition of restriction on ground of ‘public safety’ or the maintenance of public order’ falls outside the scope of authorized restriction under clause (2) and therefore void and unconstitutional.

Colonial Trials

These early trials were often justified as particularly apt for the Indian context. This thinly veiled racism followed the rhetoric of saving the impressionable and
restless natives from themselves. For example, the British author Edmund Candler’s novel presents a fictional account of the Indian political climate in the early Twentieth Century in Siri Ram Revolutionist. Candler’s protagonist, a Bengali dissident at the beginning of the twentieth century is portrayed, as Morton puts it, as a man who is “disaffected and suggestible.”Dissent was constructed, not as a reaction to English rule, but as a peculiarly Indian problem,
the natural condition of a society so large and diverse. The first sedition case, which came before the courts,was the trial of Jogendra Chandra Bose in 1891 before the Calcutta High Court. Bose, in his newspaper, Bangobasi, criticised a bill, which sought to (and later did) raise the age of consent from ten to twelve years. Bose claimed that the Hindu religion and society was “in danger of being destroyed.” Though the article did not contain a detailed analysis of the bill itself, neither did it contain a direct incitement of rebellion. The proceedings were dropped after Bose tended an apology. The three Tikal trials: The first of the trials of Bal GangadharTilak occurred in 1897. Tilak was liable as proprietor, publisher

and Editor of The Kesari for an allegorical article published in this newspaper. The article in question was an article entitled “Shivaji’s Utterances” and was about Shivaji killing Afzel Khan for the public good. A week later, after a reception in honour of the Diamond Jubilee of Queen Victoria’s rule which Tilak himself had attended, two British officers were murdered. This event invited an atmosphere of panic, fuelled by the British Indian media, who called for Tilak’s arrest. Although the murders were not technically relevant to the case, they had the effect of rendering more visceral, more immediate and less abstract the threat to public order and safety, which the sedition laws were intended curb. The crown claimed that Tilak had used the occasion of a Shivaji festival to undermine the British Government in India. Tilakchallenged the courts translations of the Marathi texts, a language that the majority of jurors did not know. In summing up, Tilak said to the jury that the articles “were not written with any seditious intention, and were not likely to produce that effect, and I do not think they have produced that effect on the readers of the Kesari, or would produce on any intelligent Marathi readers.” Judge Stachey, notorious for his anti-native stance and for misdirecting the Jury, presided over the case. The Privy Council upheld the guilty verdict of the Jury. The sentence was later commuted upon the proviso that Tilak would do noting by act or speech to incite disaffection for the Government. In 1908, Tilak was again tried for sedition. The trial again was in the wake of an attack upon British Indians. This time it was a bomb blast which was intended for a sessions Judge at Muzaffarpur, but which unintentionally killed the wife and child of an English barrister. Again, none of the jurors were native Marathi speakers; again the majority of jurors were English. Tilak was this time sentenced to six years imprisonment with transportation. The third of Tilak’s trials for sedition was in 1916. This time the offence was for attributing dishonest motives to government in three speeches that he had made criticising the bureaucracy. The Judge, Justice Bachelor, found that the speeches amounted to inciting disapprobation, but not to inciting disaffection (and thus were not seditious). Furthermore, although Batchelor J. explained that “disaffection,” and not advocacy of swarajya was seditious, it is difficult to how one may be able to propose the instituting of a new system, without exciting disaffection for, or at least dissatisfaction with the current one.

Annie Besant

Annie Besant was tried for a for the publication of the newspaper New India of material that had a tendency to provoke hatred against His majesty's Government. Besant, an English feminists and activist, was a staunch proponent of Indian home rule. In 1916 she published a number of articles criticical of the Government. Justice Stacheyordered that the deposit of her printing press be confiscated under S 4 (1) of the Indian Press Act 1910.

Mahatma Gandhi

In 1922, Mohandas Gandhi in was tried under Section 124A, along with Shankerlal Banker. They were charged with the writing and publication of three articles "Tampering with Loyalty", "The Puzzle and its Solution" and "Shaking the Manes", which were published in the newspaper, Young India. According to Noorani, the trial "failed to deflect Gandhi from the course he had decided upon. It succeeded only in highlighting his qualities – dignity and felicity of expression". Gandhi pled guilty and demanded that the judge give him the maximum punishment possible. He said that "to preach disaffection towards the existing system of Government has become almost a passion with me," that he was morally obliged to disobey the law and that he was proud to follow in the tradition of Tilak. Judge Strangeman sentenced him to Six years imprisonment. However, rather than stemming the tide of opposition, his imprisonment worked to increase his popularity.What these cases illustrate, is that far from moral condemnation of seditionists, their convictions in fact worked to increase the popularity of these figures and the struggle for Indian independence. The contemporary collective imagination has cast Tilak, Besant and Gandhi (though not uncontestedly) in the roles of national heroes, as brave and uncompromising advocates of home rule, not as criminals. One recalls the prophetic words of Tilak, after his conviction in 1908: In spite of the verdict of the jury, I maintain that I am innocent. There are higher powers that rule the destiny of mankind and it may be the will of providence that the cause which I represent may prosper more by the suffering than by my remaining free. The language works to link heroism and sedition. No doubt this also effects the formulation of the identities of current "seditionist." Media presentations often represent them as fearless and persecuted crusaders for freedom at the same time as legal discourses paint them as criminally dangerous proponents of rebellion. Surely, the historical context plays a foundational role in such constructions today.

KEDAR NATH SINGH v. STATE OF BIHAR 1962

In this case the Constitutionality of Section 124-A of the Indian Penal Code was impugned. Thus the court was required to squarely deal with the relationship between Sedition and the freedom of speech and expression. The Constitutional challenges arose out of a number of cases involved speeches that-in specific terms-called for an armed revolution to overthrow the Government. In 1962 the Supreme Court of India decided on the ambit and scope of Section 124-A of the Indian Penal Code. In the facts of Kedar Nath v. state of Bihar, the accused in the main of four appeals was a member of the forward communist party and made a harsh speech against the Government in the Power of the containing a good deal of violent language. Though it was not contended by the accused that his speech did not fall under the ambit of Section 124-A of the Indian Penal Code as construed by the Supreme Court, it became necessary to decide on the Constitutionality of Section 124-A of the Indian Penal Code particularly by the Supreme Court, it became necessary to decide on the Constitutionality of Section 124-A particularly and on the construction of the Section generally, in order to dispose of the other three appeals. Sinha, CJ, who delivered the Judgment of the court, examined the entire history of interpretation of Section 124-A of the Indian Penal Code. There was no doubt that provision of Section 124-A was violation of the right enshrined in Article 19(1) (a). The question was primarily whether the Section would be saved by bringing it under the ambit of the restriction enumerated in Article 19(2). The court weighted the conflicting meaning given to Section 124-A of the Indian Penal Code gives by the federal court and the Privy Council. Sinha, CJ accepted the necessity of having the Sedition. He favoured the presumption of Constitutionality that was created by accepting the view of the federal court. The court decided that was created by accepting the view of the federal court. The court decided that Section 124-A of the Indian Penal Code should make penal only those matters that had the intention or tendency to incite public disorder or violence. Therefore Section 124-A was held Constitutional. The restriction imposed on freedom of speech could be said to be in the interest of public order. In Kedar Nath Singh case court said that ‘every state , whatever its form of Government has to be armed with the Power to punish those who, by their conduct, Jeopardise the safety and stability of the state,

or disseminate such feelings of disloyalty as have the tendency to lead to the disruption of the state or to public disorder.' The Constitutional validity of Section 124-A of the Indian Penal Code by Supreme Court that the gist of the Offence of Sedition is that the words written or spoken have tendency or intention of creating public disorder and held the Section Constitutionally valid. The Supreme Court said that unless the accused incited violence by their speech or Action, it did not constitute Sedition, as it would otherwise violate the right to freedom of speech guaranteed by the Constitution. Despite this, it added, 'over the years various state Governments have disregarded the ruling and accused human rights Activists, journalists,

SEDITION TRAIL OF Dr. BINAYAK SEN CASE 2007

On 14th may 2007 from Bilaspur Dr. Binayak Sen was arrested. The second additional district and session judge of Raipur Sh. B.P. Verma convicted Binayak Sen for rigorous imprisonment on the 24 December 2010. The F.I.R was lodged on the 6th may2007, when Pijush Guha's arrest was shown. Dr. Binayak Sen was arrested under thecharge of Sedition. According to people's union for civil Liberties, since 2005 the Chhattisgarh Government has a growing record of 'crimes against humanity". Using excessive and unwarranted police Power in the name of resolving the Naxalite problem'. The PUCL (people union for civil Liberties) Chhattisgarh and other democratic rights Activists have been raising their voices and campaigning against the Salwa Judum and fake encounters in Chhattisgarh, of which there were 155 in 2005-06. In May 2007, PUCL publicity demanded a C.B.I enquiry into all extra judicial killings in the state since 2005. One instance is that of the supposed 'encounter death 'of 12 innocent Adivash youth in Santoshpur village by the Chhattisgarh police in March 2007. After a sustained campaign by PUCL the state Government was forced to order an investigation.

Koondankulam protests

Another application of the sedition laws has been mass arrests of protesters in Idinthakarai and Koodankulam in Tamil Nadu. Amidst protests over the safety of the Koondankulam power plant, the police have arrested up to 6000 people in

the months from September to December 2011 alone.59 They have been charged with sedition (under Section124A) and waging war against the Government (under Section 121) of the Indian Penal Code. Police officials say that the figures are inflated and that there is no doctrine of harassment. The arrested include political activists including those from The Peoples Movement Against Nuclear Energy (PMANE), and large numbers local villagers and fishermen who will be affected by the plant's opening. Some media reports have said that the use of sedition laws, rather than for example, terrorism laws, is a strategic practice to impose sanction and an atmosphere of fear in the region, without drawing unwanted media attention to the protests.Dr. Udayakumar, a representative of the PMANE has made claims that the power plant is unsafe, challenging the lack of consultation with the public and lack of transparency of the process. He was reported as saying that "It's an authoritarian project that has been imposed on the people." Udayakumar also said that he has declined to participate in some further talks, for the fear that he may be arrested. This is illustrative of the use of fear to silence protesters voices and to stop the open discussion of issues regarding the health of the local population and environmental welfare.

ASEEM TRIVEDI CASE ON SEDITION 2012

The arrest of cartoonist Aseem Trivedi has generated a lot of debate on the
Sedition Law in India and whether it is repugnant to the fundamental right of freedom of speech and expression guaranteed by the Constitution of India. In Aseem Trivedi case, it was being used to punish cartoon deemed insulting to the nation, including one that replaces the four lions of the Indian emblem with bloody hungry wolves and inscription "Satyamev Jayate" which mean truth always prevail with 'Bhrashtmev jayate' (which mean corruption alone prevails). Mr. Aseem Trivedi has also been accused of insulting national emblems and violating India's information technology Law. Aseem Trivedi cites named 'cartoonaganistcorruption.com' for displaying objectionable pictures and texts related to flag and emblem of India. Hence the Government suspended the domain name and its associated services'. One carton depicts the Indian parliament building as a toilet. At the right end of the cartoon, a little above the halfway line, there is a roller with toilet paper. To the left there is a pink flush, attached to a commode below with three files hovering over it. The commode looks like the Indian parliament. 'National toilet', says cartoon title, with this line beneath the sketch 'Isme Istamal hone wala toilet paper ko ballot paper Bhi Kehte Hain. After this he

made another cartoon in which 'mother India' wearing a tricolour sari, about to be raped by a Character Labelled 'corruption'. The title of the cartoon is 'gang rape of mother India.' Another cartoon shows politics and corruption in a sexual position to expose their immoral relationship. The line beneath the cartoon reads, "the immoral relationships are always harmful for a house hold.' He faced the serious allegations of insulting national emblem, parliament, flag and Constitution through his anti corruption cartoons. A case of Sedition filed against him in Beed district court Maharashtra. Additional charges were brought against him by the Maharashtra police in Mumbai for insulting India's National symbols, under state emblem of India (prohibition of improper use) Act 2005. Aseem Trivedi was arrested in Mumbai on 9 September 2012 on charges of Sedition, related to the content of his work. On 10 September 2012, chairmen justice Markandey katju of the press council of India, who is also a former judge of Supreme Court of India defended Aseem Trivedi saying that "he did nothing illegal' and in a statement, he maintained that arresting a cartoonist or any other person who has not committed a crime, is itself a crime under the Indian Penal Code, as it is a wrongful arrest and wrong full confinement. Aseem Trivedi has said that he would not apply for bail till Sedition charges against him are dropped. His bail was granted with a personal bond of rupees 5000 on the basis of an independent petition by a Lawyer, who also asked the court to remove the accusations of Sedition and the case, is still pending in a local court as to September 2012. Gandhi in his written statement before the British judge said during the trial when he was charged with Sedition that Section 124-A is the "prince among the political Sections of Indian Penal Code, designated to suppress the liberty of the citizens".

United Kingdom

The principal of sedition law can be traced from some of British oldest law, Such as Statue of Westminster 1275. Where Divine rights belong to the king which were not questioned. It was required to prove an intention to make the offense of sedition. Much like most of their laws, England set the judicial precedent for the concept of sedition in the form of the offense of seditious libel. The English "Star Chamber" court in 1606 defined seditious libel as a criticism of public persons, the government, or King. The consequences were barbaric by today's standards, but seemingly on par with the prevalent legal scenario. The intent of the libel and the actual damage suffered as a consequence of such libel was considered to be irrelevant. The truth was no defense to the offense either. The Church and the State being intrinsically linked and interchangeable to such an extent as to practically be considered one

and the same (even with different heads for both organs), seditious libel was equated to religious blasphemy. The history of seditious libel and this case, in particular, are telling examples of the underlying significance of making sedition a crime; questioning the State's authority is not condoned by the State. Sedition and blasphemous libel were liberally used by the State to curb questioning of authorities by civilians in the eighteenth and nineteenth centuriesIn the case of R. vs Sullivan, Fitzgerald J. defined sedition as "Sedition in itself is a comprehensive term and it embraces all those practices, whether by word, deed or writing, which are calculated to disturb the tranquillity of the State, and lead ignorant persons to endeavor to subvert the Government and the laws of the Empire. The objects of sedition generally are to induce discontent and insurrection and to stir up opposition to the Government, and bring the administration of justice into contempt, and the very tendency of sedition is to incite the people to insurrection and rebellion"However, British democracy evolved in the 20th century were the offenses of sedition dropped sharply with the time and 1970s was the last decade where any prosecution took place. The Criminal Justice and Immigration Act of 2008 abolished religious blasphemy as an offense while the Coroners and Justice Act of 2009 removed sedition as an offense, along with seditious libel.35 Therefore as the law now stands, sedition in any manner or form is not a criminal offense in the United KingdomDue to this United Kingdom law commission examine whether there is any necessity of sedition libel law in a modern democracy and following this law commission report in February 2010, they prepared a note on freedom and privacy that these laws violate article 12 of Human Right Act, 1998 also in contravention to the European Convention on Human rights. While repealing the sedition as an offense the parliament stated the reason that "offenses – from a bygone era when freedom of expression wasn't seen as the right it is today… The existence of these obsolete offenses in this country had been used by other countries as justification for the retention of similar laws which have been actively used to suppress political dissent and restrict press freedom… Abolishing these offenses will allow the UK to take a lead in challenging similar laws in other countries, where they are used to suppress free speech"Subsequently, the crime of sedition and seditious libel was abolished by Coroners and justice act, 2009. The primary consideration was the language of the offense which was archaic in nature and did not portray the real image of the present democratic nation. Which was used by the king or state to suppress the voices of the people.Secondly, Only 3 cases reported in the 1990s and there was no major case reported in recent years.Thirdly, Many countries already repealed the law or minimized the effect of sedition law for giving the right to freedom of speech and expression due to this many international

institutions pass the law due to this many provision of the statue was being violated such as article 12 of human rights act,1998 One may note that in the seven years since the repeal of criminal sedition, there has been no military coup or any attempts to destabilize the Government, nor has there been any internal warfare, rebellious uprisings or civil wars. But then again, one has to keep in mind that the United Kingdom is a stable democracy and not a fledgling one that was at risk of a rebellion or coup at any point of time in recent history The UK, Seditious libel was abolished under the Coroners and Justice Act 2010. This abolition the consequence of the laws contravention of the UK's Human Rights Act 1998 and the underlying rights of the European Convention on Human Rights which the HRA upheld. Prior to this however, the law was rarely engaged and the rule under ex parte Choudhury restricted the application of seditious libel to cases where there was a provocation to violence. However, the protection awarded by the ECHR does not extend to non-European nationals. In addition, the Terrorism Act of 2000 includes offenses such as "inciting terrorist acts" and "providing training for terrorist purposes at home or overseas." Sedition is the crime of inciting insurrection against the state. England Sedition Law criminalized speech intended to 'bring into hatred or contempt' or 'excite disaffection' against the monarch or the Government or to incite or encourage 'violence, Lawlessness, or disorder.' The Sedition Laws date centuries and were originally designed to protect the crown and Government from any potential uprising. The Laws prohibited any Acts, speech, or publications, or writing that were made with Seditious intent. This intent is broadly defined as 'encouraging the violent overthrow of democratic institutions.' A range of Actions that could be considered Seditious. If they are conducted with the intent to cause violence. The evolution of the Law of Sedition have the conflicting opinions surrounding it has been examined. However it cannot be assumed that Section124-A embodies the common Law as it stands in England or even elsewhere. What constitute Sedition differs not only in time but also in terms of place, in each case depending on particular circumstances that influence their development. Sedition in common Law consists of any Act done, or words spoken and written and published with a Seditious intention. A person may be said to have a Seditious tendency if they have any of the followings tendencies:

- To bring into hatred or contempt or excite disaffection against the sovereign or the Government and Constitution of the United Kingdom or either house of parliament.
- Excite sovereign's subjects to attempt or otherwise than by Lawful means the alteration of any matters in church or state by Law established.
- To incite person to commit crime in the disturbance of the peace,

- To raise discontent or disaffection amongst the sovereign subject,
- To promote feelings of ill-will and hostility between different classes of those subjects.

In layman's term and speaking extremely broadly, it means that you must not say or publish any words about the crown, Government, or the justice system, nor should you flash mobs, particularly if armed with flaming torches and pitch forks, to overthrow the aforementioned branches. The distinction between social classes appears to have been put forth as this offence disproportionately affected the nobility and upper classes that had greater access and knowledge about the work of parliament and the crown. The punishments for this offence were rather steep up to life imprisonment or fine. The earlier punishments were significantly more severe in which perpetrators would have their ears cut off for a first offence and recidivism was punishable by death.

In England the common Law on Sedition still exists. However the last conviction for Sedition occurred way back in 1909 where the printer of the Indian socialist was convicted for Sedition for calling for the independence of India. According to ministry of Justice Claire ward "Sedition and Seditious and defamatory libel are arcane offences from a bygone era when freedom of expression wasn't seen as the Right it is today. The existence of these obsolete offence in this Section had been used by other countries as justification for the retention of similar Laws which have been Actively used to suppress political dissent and restrict press freedom abolishing these offence will allow the UK to take a lead in challenging similar Laws in other countries, where they are used to suppress free speech." One thing which is important for Sedition in England is that there must be an incitement to disorder and violence. At least as far as publication against the Government and the Constitution are concerned, incitement to insurrection or disorder has been accepted as an essential ingredient of Sedition. However differences are drawn between free consent, criticism and censure and Sedition. Unlike in England in India only Seditious words have been brought under the preview of Sedition. Also only a particular species of Sedition in the common Law is Sedition in India namely disaffection, hatred or contempt or attempting to do so. The same status is not accorded to other common Law of Sedition such as inciting communal hatred as in England. The last prosecution for Sedition in the United Kingdom was in 1972, when three people were charged with Seditious conspiracy and uttering Seditious words for attempting to recruit people to travel to Northern Ireland to fight in support of republicans. The Seditious conspiracy charge was dropped but the men received suspended sentences for uttering Seditious words and for offence against the public order Act.

DEBATE ON SEDITION ACT

During the debates on the corners Act in the House of Lords, Lord Lester of Heme Hill noted that the common Law of Sedition had rarely been used in England over the course of the past Century. The last major case in England where there was an attempt to try an individual for Sedition involved the publication of Salman Rushdie's Book, the Satantic verses. The book was alleged to be a 'scurrilous attack on the Muslim religion' and resulted in violence in the U.K as well as a severance of diplomatic relation between the U.K and IRAN. An individual attempted to obtain a summons against Mr. Rushdie and his publisher, alleging that both parties had committed the offence of Seditious libel. Ultimately the application for the summons failed after the judges found that there was not a Seditious intent by either of the parties against any of the U.K democratic institutions. It can be easily discerned that the Law of Sedition in England is clearly wider in scope than the Law of Sedition in India. The Indian penal code contains various that correspond to the 5 heads in English Law that constitute a 'Seditious tendency'. However they do not attract similar punishments as the offence of Sedition. For instance, 'inciting person to commit crime in disturbance of the public peace' corresponds broadly to Section 505 of the Indian penal code entitled 'statements conducting to public mischief'. Promotion of feelings of ill-will and hostility between different classes of subjects' corresponds even more closely to sub-clause (c) of Section 505(1) and Section 505(2). However deciding on cases of this Nature depends greatly on the facts of each case. In R v. Caunt, the accused was the editor of a local newspaper. He published an article in the paper which was intended to be an attack on the Jews living in Britain. Towards the end of the 900 words article was the line- 'violence may be the only way to bring those (British Jews) to the sense of responsibility to the country where they live'. The jury however, upheld the Right of the press to free discussion, despite the unrestrained language used in the article in question. The jury accepted contention that the accused was not threatening violence but only issuing a 'warning'. In r .v. chief metropolitan stipendiary magistrate, EX P Choudhry, the Seditious writing in question was Salman Rushdie's controversial work the satanic verse. In fact of this case, one Abdul Husain Choudhry applied for judicial review of the order of the metropolitan magistrate refusing to issue summonses to the author and charged the author with blasphemy and Seditious libel. The book vilified the prophet Mohammed calling him a 'conjurer' a 'magician' and a false prophet' his wives and companions. The book also ridiculed and vilified the teaching of

Islam. The court had no doubt that such passages would deeply offended the Muslims of the United Kingdom. The proof of an intention to promote feelings of ill-will between classes of subjects does not by itself establish Seditious intention. The court held that there must not only be this ingredient but also the element of public mischief or the intention to incite violence, particularly against 'constituted authority'.

New Zealand

In New Zealand sedition was abolished in 2007, under the Crimes (Repeal of Seditious Offence) Amendment Act 2007. It was understood that the criminalization of dissenting views was not a useful or appropriate response, that it contravened the New Zealand Bill of Rights and that sedition in New Zealand bore a '"tainted history". 40 The New Zealand parliament also noted the vagueness of sedition, its irrelevance in the contemporary context, the appropriateness of other criminal law provisions to deal with cases of incitement to violence and importantly, the "chilling effect" that such laws have upon free speech. The British Common Law of sedition became the part of a New Zealand's Criminal Code in 1893 and it was set out again in the Crimes Act 1908. The definition of seditious intention in Section 118 of the Crimes Act, 1908 was more or less similar to the one in Crimes Act 1908 with certain differences.218 The seditious intention under the Crimes Act 1908 and the Crimes Act 1961 included an intention to raise discontent or disaffection amongst Her Majesty's subjects and also an intention to promote feelings of ill-will and hostility between different classes of subjects, but, the requirement of danger to public safety was not included in Crimes Act 1908. The Crimes Act 1908 provided two years imprisonment for speaking seditious words, publishing seditious libel or being a part of seditious conspiracy under Section 119. During World War I, the government of New Zealand issued a regulation as War Regulation Act 1914, which provided that "No person shall print, publish, sell, distribute, have in his possession for sale or distribution, or brings or case to be brought or sent into New Zealand, any document which incites, encourages, advices, or advocates violence, lawlessness, or disorder, or expresses any seditious intention". In 1951, New Zealand suffered a bit in the form of Waterfront strike, termed as the worst industrial strike in the history of New Zealand. The immediate cause of this strike was the post-war condition of the economy. In January 1951, the Arbitration court awarded a 15% wage increase to all workers covered by the Industrial Arbitral system. But, this did not apply to the waterside

workers, whose employment was controlled by the Waterfront Industry Commission. The shipping companies (mostly British owned) asked its workers to work overtime, which was refused by the waterside workers union, this resulted in a nationwide strike. In the wake of waterfront strike, sedition was also made a part of Police Offences Amendment 1951. Later, when it was repealed in 1960, the provisions relating to sedition were carried forward to the Crimes Act 1961. Section 81 to 85 of the Crimes Act, 1961 dealt with sedition law. The understanding of sedition was similar to the common law definition of sedition as New Zealand, being a colony of British, inherited this law from British. In New Zealand too, the offence of sedition involved causing of disaffection against Her Majesty, or the government of New Zealand, or the administration of justice, promotion of class hatred or incitement to public to demand alteration of policies of the government by unlawful means. In 2006, New Zealand abolished its sedition law as recommended by the Law Commission to control its misuse by the authorities.

UNITED STATES

In the United States of America as well, sedition was criminalized hundreds of years ago. The Sedition Act of 179840criminalized sedition for the main purpose to protect the nation from 'Spies and traitors'. Which was later repealed in 1820 afterward, the sedition act, 1918 come into picture which was aggressively used during the world war period which followed the communist ideology. Act survived the series of cases where constitutional validity was of the act was acknowledged.The United States of America thus criminalized speaking up against the Government and its various members including members of Congress and the President, merely a little more than twenty years after the inception of the country itself. A country which was born after a war of independence from Britain, whose citizens formed the original colonies that later evolved into the USA. A country that was formed by an act of rebellious warfare would naturally know the dangers of a violent uprising. The country later verged on the violent division of its territory after the southern states attempt to secede during the course of the American Civil War. The USA was also faster to abolish the crime of sedition that its parent country Britain. In 1919, Justice Holmes, with Justice Brandeis of the American Supreme Court held a dissenting opinion, one that has been largely appreciated, that the First Amendment to the American Constitution which guaranteed the right of free speech abolished the crime of sedition and seditious libel in the Abrams v. United States case. It is interesting to note that whenever the judiciary or the legislature has had to step in to alter

the concept of sedition, the backdrop is usually a progressive social movement. In one of the case while adjudicating the question regarding validity. Where the court laid down the 'Clear and present danger test' for limiting the scope."Words which, ordinarily and in many places, would be within the freedom of speech protected by the First Amendment may become subject to prohibition when of such a nature and used in such circumstances as to create a clear and present danger that they will bring about the substantive evils which Congress has a right to prevent." In the United States, the New York Times v Sullivan case set the golden standard on the free press, thereby allowing unrestricted freedom of the press to report on the growing civil rights movement in the country. The civil rights movement largely depended on the press to gather followers from the African-American community and eventually lead to the end of segregation and legal racism in the country. If the court had held in the case that opinions directly against public officials were not to be printed by the media, the outcome may have been delayed, to say the least. An important aspect of this judgment was that it established a standard of malice to be established in a case brought against a publisher for publishing content against a public official. In the case of Yates vs USA. Supreme Court narrow down the restriction on the freedom of speech and expression. Where court distinguish between "the advocacy to overthrow as an abstract from advocacy to action"In the United States, an attempt has been made to resolve the conflict, so far as the freedom of speech is concerned, by the application of the "clear and present danger" test enunciated by Mr. Justice Holmes in the famous case of Schenck v. United States and further refined and applied in a number of subsequent cases. The Supreme Court of India refused to import the doctrine of the clear and present danger when urged to do so in the case of Babulal Parvate v. The State of Maharashtra. The Supreme Court thought - and maybe rightly - that the doctrine will not be in keeping with our constitutional scheme. It is time that the judiciary evolved some formula towards reconciliation of the freedom of speech with the need for social Control While the crime of sedition has not been struck down in the USA, it is practically an obsolete offense now as multiple cases like the Sullivan case48 have made it abundantly clear that publishing anything against a public authority is not a crime and is protected by the First Amendment. Brandenburg v. Ohio laid down the limitations to such freedom and the essence of the judgment boils down to the rider that speech may only be considered to be an offense if it incites "imminent lawless action" Hence, Generally, USA Court provides wide protection to the freedom of speech and various doctrine are being practiced such as present danger test to protect the interest of the persons. In the USA, under Brandenburgv Ohio, the court said that advocating a doctrine of violence in abstract terms was not considered sedition, whereas

advocating immediate violence was. The prior, it was held was protected by the First Amendment and the distinction was the immediacy of the threat. This law operates under civil jurisdiction and there is a separate code governing military justice where both sedition and failure to supress sedition is punishable under a court marshal. The United States as an erstwhile British Colony, has a history of following common law practices but, with 1812 Federal Court verdict every Common law practice was declared invalid and imperative. Therefore, more or less in the United States, there has always been a codified legal system. In spite of the fact that the First Amendment to the United States Constitution provided wide protection to the right of freedom of speech, the government of the United States did suppress political opponents of government during six war related episodes: the conflict with France, Civil War, World War I and II, the Cold War and the Vietnam War. At the end of eighteenth century, during its conflict with France, the United States introduced the Alien and Sedition Act 1798. This Act made it an offence to make any false, scandalous and malicious writings against the government either house of congress or the President, with intent to defame or to bring them into contempt or disrepute; or to excite against them hatred of the good people of the Unites States, or to stir up sedition. This Act was repealed by President Jefferson but it was resurrected again during Civil War. President Abraham Lincoln passed an order suspending the writ of Habeas Corpus which led to the detention of several political opponents who opposed the policies of government through their speech and writings.In 1917, the government of United States enacted The Espionage Act which made it an offence to make or convey false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States or to promote the success of its enemies. History has shown that during the times of political disturbances, the governments have tried to suppress it by criminal prosecutions. In 1776, the Declaration of Independence was passed which provided for the basic rights such as right to revolt, right to life, liberty and pursuit of happiness. Two decades later, the United States Government passed the Sedition Act of 1798 in result of war with France. The Act prohibited on uttering, writing or publishing any material which has the tendency of defaming the government, the Congress or the President. David Brown was fined $450 and was sentenced to 18 months' imprisonment for protesting against this Act in the name of liberty. Stone concluded in his book that although the Sedition Act of 1798 was enacted as a measure to strengthen the nation in its war with France but in reality, provided strength to the Federalists in their war against the Republicans. This Act expired in 1801. The United States conceptualized the offence of sedition by passed the Sedition Act, 1918. It was an offence under Sedition Act, 1918 to utter,

print, write, or publish any disloyal, profane, scurrilous or abusive language about the form of Government of the United States, or the Constitution of the United States, or the military of the United States, or the Flag or the uniform of the Army or Navy of the United States, or any language intended to bring the form of Government or the Constitution or the military or naval forces or the Flag of the United States into contempt, scorn, contumely, or disrepute.Sedition Act, 1918 was repealed in 1921. Sedition as an offence was redefined in the Alien Registration Act, popularly known as the Smith Act, 1921. Under this act, it was an offence to advocate, abet, advise or teach the duty, necessity, desirability, or propriety of overthrowing or destroying the Government of the United States or the Government of any State, by force of by violence. This Act re-framed the offence of sedition as including not only use of contemptuous language against the government but also including the advocacy to overthrow the Government he United States Supreme Court has never overturned the sedition as an offence under the Smith Act but has imposed tougher standards to justify restrictions. The Last conviction under this Act was of Rahman, a cleric, who was prosecuted and convicted for a seditious conspiracy. This conviction was solely on the basis of a speech delivered by him without any overt act being done by him. This case arose a peculiar debate on religious freedom as a direct link was established between his speech and the acts carried on by his followers.Sedition is an offence also found place in the United States Code which was passed by the American Congress in 1926. The United States Code is divided into 54 Titles while it is difficult in England to find such kind of categorization of offences because of its uncodified nature, but in India, the United States, Australia there exists such categorization. This heading includes the offence such as Treason, misprision of treason, seditious conspiracy, rebellion or insurrection, advocating overthrow of government, registration of certain organizations which aim to overthrow the government, affecting armed forces generally or during war. In United States the offence of sedition continues to be in existence as the judiciary has been successful in striking a balance between the free speech guaranteed under the First Amendment of Unites States Constitution.

Chapter 4

LEGAL PERSPECTIVE OF SEDITION LAW

India, being a colony of the British in the past, has inherited quite a number of laws, which have time and again sparked a controversy. One such law is the law relating to seditious offences. Since independence, the governments have introduced certain amendments to the law relating to seditious offences, to make it withstand the constitutional test. However, this law has been used by contemporary governments to curtail or restrict freedom of speech and expression. In this chapter, whether the presence of sedition as an offence under the Indian Penal Code, 1860 (hereinafter referred to as IPC)restricts free speech isbeing discussed. The government justifies the law of sedition vis-a-vis freedom of speech and expression on the ground that dissemination of seditious material undermines the loyalty of citizens, that disloyal citizens jeopardise the government at law, and that a weakened government at law threatens the very fabric of state as well as public order and safety.

● *The Constituent Assembly Debate on Sedition*

The draft of 'Justiciable Fundamental Rights' prepared by Fundamental Rights Sub-Committee, drafted Article 8, constituting freedom of speech and expression with an exception that in the event of 'utterance of seditious' matter, the government has the power to restrict the speech.13Article 8 ran as: "Rights of freedom: There shall be liberty for the exercise of the following rights subject to public order and morality or to existence of grave emergency declared to be such by the government of the union or unit concerned whereby the security of the union or the unit, as the case may be, is threatened:-The right of every citizen to freedom of speech and expression, provision may be made by law to make the publication or utterance of seditious, obscene, blasphemous, slanderous, libelous or defamatory matter actionable or punishable". Mr.Somnath Lahiri, a member of the sub-committee disapproved in making edition a restriction on freedom of speech and expression. He observed that the freedom of speech and expression as a right has been framed from a police constable's point

of view and not from the point of view of a free and fighting nation. He feared that such a restriction, might be misused by government in power to suppress any voice against it. expression was debated again, when the interim report of the sub-committee was submitted before the Constituent Assembly. It was presented as Article 13 before the assembly, followed by extensive debate. Shri Damodar Swarup Seth, argued that such civil rights like freedom of speech and expression must be free from any restrictions such as libel, slander, defamation, sedition, otherwise the very purpose of granting such right would be defeated. Shri K.M. Munshi also defended the omission of the word sedition from the said article, observing that "the term sedition was of doubtful and varying import and did not fit in the phraseology of the article". He also suggested substitution of words which undermines the security of, or tends to overthrow, the state in place of sedition. Sardar Hukum Singh was also against the retention of word sedition in the said article. He argued the idea of retaining sedition as a restriction would take away the power of court to declare sedition law as unjust, wherever it finds so. Pandit Thakur Das Bhargava also supported the motion for excluding sedition from the said article and also proposed the addition of the word 'reasonable' followed by 'restrictions'. The rationale behind the addition of word 'reasonable' was to give power to courts to declare unconstitutional any restriction on freedom of speech and expression if it fails the test of reasonableness. Seth Govind Das argued that the very basis of adding Section 124A in the IPC was to prosecute freedom fighters, therefore, there shall be no place for such a law in fee India. T.T. Krishnamachari by supporting its exclusion from the said Article, observed That since the law of sedition has been used in the past, against our leaders, therefore, no Indian would recommend its retention as a restriction on freedom of speech and expressions.The Constituent Assembly had to face another issue relating to interpretation of the word 'sedition' if retained in the said article. The word sedition was widely interpreted as something connected with public disorder,being an offence against the public tranquillity. The confusion arose after the interpretation by the judicial committee of the Privy Council that sedition under the IPC, did not necessarily imply any intention or tendency to incite disorder. Therefore, the Constituent Assembly reached a consensus that instead of using the word 'sedition' some more general words such as 'undermines the security of the state' to be used as such words would include sedition as well. The Constituent Assembly decided to drop the express mention of sedition as a restriction on freedom of speech and Expression and Article 13 (2) was adopted with amendments and enumerated as Article 19 (2) in the Constitution, which ran as: "Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law in so far as it relates to, or prevents

the State from making any law relating to, libel, slander, defamation, contempt of court or any matter which offends against decency or morality or which undermines the security of, or tends to overthrow, the State".

- ***Sedition under Indian Penal Code, 1860***

The word sedition is appended to the section only as a marginal note and is not an operative part of the section.25Section 124A of IPC, constitutes two parts, with first one defining the offence and the other prescribing the punishment. Since its incorporation, the meaning and the scope of the offence has been the subject of controversy. The reason behind such controversy is the language used in defining the offence. The provision relating to offence of sedition makes use of certain words such as hatred, contempt, disaffection on one hand and on the other talks about disapprobation, without exiting such hatred, contempt and disaffection. The section also punishes the attempt to excite hatred, contempt or disaffection but is silent about how or when a person is supposed to do. In order to understand the scope of the section, it is essential to discuss its ingredients under Section 124A of IPC, which is as follows: Section 124A of IPC, provides that,

a) Whoever

b) by words, either spoken or written, or by signs, or by visible representation,or otherwise,

c) brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection

d) towards, the Government established by law in India shall be punished with 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.

- ***Abetment of Sedition***

Section 124A of IPC does not expressly provides for abetment of sedition. But Chapter V (Abetment) and Chapter IV (General Exceptions) of IPC was made applicable to section 124A of IPC by Section 13 of Amending Act XXVII of 1870. The Amending Act XXVII of 1870 also added the definition of an offence under Section 40 as 'a thing made punishable by the code', since, sedition is also punishable by

code, therefore, there was hardly any need to expressly apply Chapter V (Abetment) to Section 124A of IPC as Chapter V (Abetment) applied to all offences. Sections 107 to 120 under Chapter V deal with Abetment of offences. Section defines Abetment as instigating, conspiring with or intentionally aiding any person to commit an illegal act or cause an illegal omission. Analysing the above definition, Abetment can be committed in three ways by instigation, by conspiracy or by aid and assistance. The offence of abetment by instigation is complete as soon as the abettor has incited another to commit a crime. Consent of the person abetted is not relevant like the abettor is still liable even if the person abetted suffers from infancy or moral incapacity. The consequences are only material in order to determine the punishment. It is provided under Section 107 of IPC that in order to constitute an offence of abetment by instigation, it is necessary that the act abetted must be committed and further, the charge of abetment by instigation will be established even if the person committing the offence is not capable to commit it, or lacks the intention or knowledge required to constitute the offence. On the other hand, in case of abetment by criminal conspiracy under IPC, some overt act or omission must take place as a result of the conspiracy. The exhaustive definition of criminal conspiracy was laid down by Willes, J., was followed in subsequent cases, is as follows:"A conspiracy consists not merely in the intention of two or more, but in the agreement of two or more to do an unlawful act, or to do a lawful act by unlawful means. So long as a design rests in intention only it is not indictable".

The principles relating to criminal conspiracy were encapsulated in Chidambaram Pillai v. Emperor, in this case, a person named Subramania Siva was convicted for sedition in respect to delivering three speeches on 23rd and 25th of February and the last on 5th March, 1908. The other accused Chidambaram Pillai, who was present during first two speeches, was charged for abetment of sedition because the second accused organised a political programme in which the speech was delivered by the first accused. The crux of the speeches was 'how to obtain Swaraj'. While determining the guilt of the accused, the Appellate Court considered the circumstances in which speeches were made, the nature of abetment and the existence of conspiracy. An order to gather the meaning of word Swaraj, lordships took recourse to Beni Bhushan Roy v. Emperor and Tilak's Case and interpreted the term 'Swaraj' as 'Independence' or 'Self Government'.

- ***The Procedural Aspect***

Section 196 of the Cr.P.C. provides a procedure for initiating a prosecution under Section 124A of IPC Section 196 of Cr.P.C. states that prosecution for sedition must be initiated only after taking government's approval.Thus, it constitutes an exception to the general rule that any person, having knowledge of commission of an offence, may initiate proceedings in the court. The rationale behind such a policy is to prevent any false prosecution in such a serious offence. It is the administrative function of the government to sanction the prosecution for sedition, after considering facts of each case. The decision of the government may not be supported by any legal evidence but its decision needs to be supported by reasons, in case withholding the sanction. A preliminary investigation by a police officer not below the rank of inspector, may be authorized by the government where making a decision regarding sanction for prosecution. In Aveek Sarkar v. State of West Bengal118 the Calcutta High Court observed that procedure under Section 196 Cr.P.C. is mandatory. Further Section 190 of Cr.P.C.119 is the 'genus' prescribing the general procedure to be adopted while Section 196 Cr.P.C. is a 'specie' prescribing a special procedure to be followed in certain cases. In Arun Jaitley v. State of UP, the Allahabad High Court held that the Magistrate's action of taking cognizance suo moto under Section 124A of IPC was illegal. Section 190 (1)(c) of Cr.P.C., which provides that magistrate has the power to take cognizance of an offence on an information received except on police officer's information or upon his own knowledge of such offence, does not carve out an exception to Section 196 Cr.P.C. Further, it is clear from the words used in Section 190 that 'subject to the provisions of this chapter' (Chapter XIVconditions requisite for initiation of proceedings) which shows that Section 190 must follow the requirements of Section 196 Cr.P.C.122Punishment: The punishment for the offense provided under Section 124A of IPC, is three years rigorous imprisonment which may be extended to life imprisonment and fine can also be imposed. The severity of the punishment was also condemned by second Pre Independence Law Commission, headed by Sir John Romily in 1853 on the basis that the punishment for sedition in England was up to three years. Therefore, it was proposed that punishment in India for offence of sedition must be limited to five years and three years simple imprisonment to be provided as an alternative. But punishment for the offence of sedition remains unchanged till date. Great latitude is permitted in criticizing the Government but, as the explanation makes it clear, it is latitude

and not a license. The criticism may be trenchant and incisive but it must not exceed the limits of fair criticism.

- ***Preventive Measures***

The history of preventive legislation can be traced back to the year 1823. Sir A. Arbuthnot, a distinguished member of Legislative Council released a chronicle in the memory of Sir Thomas Munro, titled 'Danger of a Free Press in India', depicting the views of Sir Thomas Munro on the liberty of press in India.According to Sir Thomas Munro, the restraint on the press in India was very limited. It only covered writings which were against the government, religion and it was free in all other fields. Viewing the position of British control in India, if the press was not restrained then there was a likelihood of rebellion being posed by the native army. He further observed that in a country which is free from foreign administration, a revolution occurs at a gradual speed but this was not so in India as the control was with the Britishers, therefore, the spirit of freedom would sprung up at a very unstable place. He further stated that the free press might affect the views of native army against the British, who may revolt in future. The authority of controlling the press must be in the hands of the government rather than the Supreme Court. Such restrictions would not hamper the natural course of dissemination of the information among the natives, but would protect the natives against violence. Taking into consideration the dangers posed by the press, a "Rule, Ordinance and Regulation for the good order and civil government of the settlement of Fort William in Bengal" was passed on March 14, 1823 to restrict the setting up of printing press without license, and to restrict the dissemination of printed book and paper in some situations. The Regulation was made applicable to the territories under presidency of Fort William. Under the Regulation, a penalty of thousand rupees was imposed for establishing a printing press without license. The licensing authority, the local magistrate, had the power of grant, reject the application of license or withdraw the license. There was also a provision regarding mentioning of full details of the printer in the books, papers printed.On March 2, 1825, in Bombay a Rule, Ordinance and Regulation for preventing the mischief arising from the printing and publishing of newspapers and periodical and other books and papers by persons unknown, was enacted. This was succeeded by a Regulation for restricting the establishment of printing press and the circulation of printed books and papers passed on January 1, 1827. Sir Charles Metcalfe opined on April 17, 1835 that the above mentioned

restrictions must be repealed and substituted with more effective laws. He stated that press must be free only when its freedom is consistent with the safety and stability of the state. Another measure suggested by his law member Mr. Macaulay, was to replace the existing regulations with a uniform law relating to press throughout the India. He viewed that everyone should be at liberty to establish a printing press without taking previous sanction from the government but no one should be allowed to print or publish sedition or calumny.133 Therefore, the existing regulations were repealed by Act XI in 1835. The new Press Act was drafted keeping in consideration the statute 38 Geo. III, C. 78. The new Act contained only nine sections with first section only repealing the existing regulations. Section 2 provided that every publication must follow the rule mentioned in the Act to avoid imprisonment of two years and penalty of five thousand rupees under the Act, the printer and the publisher was also required to sign a declaration, mentioning the details of the premises of the printing press. Such a declaration was admissible in evidence to prove the responsibility of the printer or publisher in the publication of every periodical work. The provisions of the 1835 Act were adopted in the Press Act of 1867. During this period, there was no change in the regulations. Although, in 1857, the need for fresh restrictions on press was felt because of the result of revolt of 1857.On June 13, 1857, Lord Canning, as President gave a speech in the Governor General's Council targeting the press. He stated that under the garb of providing information to the natives, press had actually caused disaffection among the natives against the authority. By manipulating the facts, the press had been successful in bringing even the educated minds in contempt against the authority. Therefore, His Excellency demanded for more stringent control of the executive over the press. Lord Canning proposed the no printing press should exist without taking license from the government. The Governor General in council to be the licensing authority, to grant license on certain terms and conditions and in case of violation of any conditions, the license may be revoked. The bill was cleared and was operative for one year, as Act XV of 1857. In a way, this revived the licensing policy of the government without the registration policy already in force. This Bill in a way was quite similar to the restrictions under Regulation III of 1823.

- **T*he Dramatic Performance Act, 1876***

In 1867, the provisions of the 1835 Act were re-framed in the new press law as Act XXV of 1867. Part II of the 1867 act containing sections 3 to 9 and Part IV containing sections 12 to

15 were derived from the 1835 Act.138In 1870, the IPC was amended to include sedition as an offence and further to check seditious practices, the Dramatic Performances Act (XIX of 1876),139 to restrict seditious or scandalous performance on stage, was enacted. The Hon'ble Member also made a reference to the rule prevalent in England relating to dramatic performances. He continued that in England it was illegal to use any place or house for the public performance without taking sanction from Royal Letters Patent or without the Lord Chamberlain's license sanctioned by Justices of the Peace. Therefore, to empower the government to prohibit public dramatic performances which were scandalous, defamatory, seditions or obscene, the Dramatic Performances Act, XIX of 1876 was passed. This Act remained in force even after India attained independence in 1947. Many state governments also enacted similar acts to be applicable in their respective states to check seditious performances. In 1953, the Indian People's Theatre Association had to face a trial under the Act for their play called Nil Darpan and Nabanna.144The Dramatic Performances Act was a measure in the hands of British to restrict cultural expression. Dramatics like Upendra Nath Das, Amritpal Basu, Bhubanmohan Niyogi were imprisoned for depicting seditious plays. Section 3 of Dramatic Performance Act, 1876 provided authority to the local government to prohibit dramatic performances which in the opinion of the local government were scandalous, defamatory or had a tendency to excite disaffection against the government established by law in British India. After Independence, the words 'local government' and 'British India' were substituted with the 'state government' and 'India' respectively.

- ***The Vernacular Press Act, 1878***

In 1878, more stringent restrictions to check sedition, were imposed on the native press in the form of the vernacular Press Act. Sir Alexander Arbuthnot, while introducing the bill in the Governor General's Council explained its. Since the liberation of the press by Sir Charles Metcalfe in 1835, there was a change in circumstances like during these days, the number of copies of vernacular newspaper did not exceed three hundred in number and which exceeded in a considerable number by 1878. Therefore, the British feared loss of affection among its subjects, as the number of native newspapers disseminating seditious propaganda increased. It was felt that the law relating to check sedition under Section 124A of IPC and under the Press Act of 1867 was inadequate as the exemption contained in the explanation appended to Section 124A of IPC, saved those writings in which there was no intention to undermine the

authority of the government. Therefore, it was felt necessary that an amendment must be introduced in the Penal Code to penalize those who without exciting rebellion, corrupt the minds of the natives against the government.The Vernacular Press Act, 1878 was only applicable to the vernacular newspapers and not to the English Press. Such a measure was adopted because the British viewed writings published in vernacular newspapers as seditious. The rationale given for enacting such a law was that the privilege of writing freely is not absolute. It must respect feelings and reputation of others and in case of government, its framework or set-up must not be targeted. Evidence in support of the bill, targeting vernacular press, was submitted by the Advocate-General of Bengal, Sir Charles Paul, who divided the matter contained in the vernacular press into the following heads:-Seditious libel – by accusing government of robbery, tyranny, bias and deceit. Libels imputed on officers of government. Scornful examination on the justice administration. Libels attacking Europeans. Libels on Christian with a tendency to elevate religious enmity. Sir John Strachey also pressed for the introduction of such a rigorous measure as he mooted that the restrictions in the form of Vernacular Press Act did not suggest a restrain on the liberty to freely express opinions or liberty to discuss the policies of the government. He argued that the government was only against the unfaithful character of vernacular press, which strives to implant disaffection in the minds of natives against the British. His Excellency Lord Lytton encapsulated the debate by holding that considering the nature of content in the vernacular papers and its audience, who are less educated, ignorant, lacked experience, the enactment of such a preventive measure to check sedition was inevitable.

- ***The Indian Post Office Act, 1898***

The Act provided for the detailed procedure under Section 27A to D of forfeiture of post if it contained seditious content. The Act provided for detention of newspapers or any other articles, being transmitted through post, if it was suspected to contain seditious matter. After forfeiture, the notice of the same was sent to the addressee. Further, the State Government was empowered to examine the newspaper or the article detained. The aggrieved person could file for the release of the article to the State Government and if the State Government rejected the application then there was a provision to apply to the High Court for the release of the detained article. The procedure mentioned under Section 99D to F of the Cr.P.C. was to be followed by the High Court while deciding the application made before it. The Act also

barred the judicial scrutiny of the orders passed under Section 27B except by way of an application made to the High Court.The difference between the order of forfeiture under the Cr.P.C. and the Post Office Act, 1898 was that, in the former case, any seditious material in possession of any person was liable to be forfeited and in the latter case, only the seditious material in transit was liable to be forfeited.nThe Indian Post Office Act, 1898 prohibited the transmission of any material which was of indecent and seditious character.

- ***The Indian Press Act, 1910***

In order to provide for a general Press Law, without disturbing the penal and preventive law, already in existence, a bill was presented on February 4, 1910. The new Press Act covered not only newspapers but also the pamphlets, books, leaflets and any other type of document through with seditious content can be circulated. Sir Herbert Risley in presenting this bill clarified that the Bill's objective was not to create a policy of censorship and universal licensing. The Indian Press Act, (Act I of 1910) was 'An Act to provide for the better control of Press'. Under the Act it was necessary to provide a security of 500 Rupees or more than 2000 Rupees for keeping a printing press.190 It is also required under the Act, that the local government may require the security from the keeper of press, who had already made a declaration as required by Section 4 of Press and Registration of Books Act, 1867, before the commencement of the 1910 Act, to deposit security of five hundred to five thousand rupees as ordered by the local government. The above mentioned security was liable to be forfeited if the press published anything that caused hatred or contempt against the government. Further, The Criminal Law Amendment Act, 1908 was passed for speeding up the trial of offence relating to sedition and violence, and to prohibit unlawful associations passing danger to public peace. This was repealed by the Indian Criminal Law Amendment Repealing Act, 1929. Under the Act, the State Government had the power to declare any association as 'unlawful' if it dealt with activities causing public disorder, by way of notification. After the notification, an 'Advisory Board', constituted by Judges of High Court, had the power to sanction or cancel the notification. If the advisory board approved the notification for association then any person involved or who contributed to the association was held liable for punishment. The operation of the Press Act, 1910 was limited only to the cases where seditious content was disseminated in writing. The other ways by which sedition could be practiced, as mentioned under Section 124A of IPC, were outside its purview. As compared

to Section 108 of the Cr.P.C. its scope was narrow as the above said section covered oral as well as written sedition.Under the Vernacular Press Act, 1878, the executive had the authority to demand the security from the printer in case of publication of seditious content ant forfeit the same in case of further violation of the Act. The aggrieved could file an appeal before the Governor General in Council and there was no provision for filing an appeal in courts. The scope of Section 4 of the Press Act, 1910 was so wide that even the publications not directly violating the provision might attract the attention of the government.

- ***Defence of India Rules***

Rule 34 (6) sub paras (e) and (k) of the Defence of India Rules enacted under the Defence of India Act, 1939 penalised an act if it was intended to cause hatred or contempt or excited disaffection against the government established by law in British India. The provision of Section 124A of IPC was considerably reproduced here, but without the explanations did not affect the interpretation of Rule 34 (6) of the Defence of India Act, 1939, as it was observed that the purpose of explanation that the purpose of explanation was only to classify the provision. The Defence of India Act, 1939 and rules made thereunder were repealed by the repealing and Amending Act, 1947 (Act II of 1948).

- ***The Criminal Law Amendment Act, 1961***

The essence of the offence of sedition lies only in the fact that there was an intention on the part of speaker or author to use such words, which would likely cause public disorder under the English Law, questioning the authority or challenging the integrity of the territories, reduced to writing over which the sovereign exercised power under the category of seditious libel. In 1960, the Government of India, had to face a peculiar situation, when maps were published by Chinese, depicting Indian territories, as a part of China and some Indian supporters were advancing the righteousness of the Chinese
conviction. 205 Therefore, the Government of India enacted the Criminal Law
Amendment Act, 1961, which made the challenges to the territorial integrity of
India as criminal offence.206The word territory of India has been defined under
Article 1 of the Constitution of India. 207The word ‘Frontiers’ used in the section implies both sea and land frontiers. In order to safeguard the freedom of expression, it must be seen

that the challenge to the frontiers of India, such as is likely to pose threat to security of India. The place, occasion and the surrounding circumstances would also be consider red while making the speech or the writing, questioning the territorial integrity of India, as criminal. Section 124A of IPC punishes any form of speech, writing, representation bringing hatred or contempt against the government which is a representative of a State and Section 2 makes criminal any writing or speech targeting the abstract entity, the State itself. In a way Section 124A of IPC amended in substance by Section 2 of the Criminal Procedure Amendment Act, 1961. The difference between the two provisions is in terms of procedure. For the prospection under Section 124A of IPC, previous sanction of the government is required, but no such sanction is necessary under Section 2 of the Criminal Procedure Amendment Act, 1961. Under Section 3 of the Amendment Act, 1961, the Central Government was empowered to declare any area, adjoining Frontiers of India, as a notified area. Further under Section 4, the State Government had the power to forfeit any document which could disturb the public order, in the notified area.

- ***The Code of Criminal Procedure, 1973***

Section 95 and 96 of the Cr.P.C. replaced section 99A to G of the Criminal Procedure Code, 1898. Section 95 provides for the forfeiture of publications constituting an offence under Section 124A, Section 153A, 153B, Section 292, 293 or Section 295A of the Indian Penal Code. Section 96 provides that the aggrieved person may apply to High Court, for the release of the document forfeited, within two months from the date of order under Section. No other court has the authority to interfere with the order of forfeiture, except the High Court. Section 96 gives a detailed procedure for the application before the High Court. The application shall be decided by a special bench comprising of three judges (all judges in case High Court consist of less than three judges) and the decision shall be given according to the majority of the judges.

- ***Sedition vis-à-vis Freedom of Speech and Expression***

The line of reasoning against the law of sedition is based on the theory of free speech. Time and again, people have demanded the scrapping of such a draconian law as it stands in way of freedom of speech and expression. The Supreme Court of India, upheld the constitutional

validity of law of sedition vis a vis freedom of speech and expression in 1962 subject to certain limitations. The argument against the law of sedition is based on the fact that in a democratic set up, the citizens must be free to voice their opinions as this would eventually ensure their participation in the affairs of the government. Participation of the citizens is one of the important facet of stable democracy, therefore, this should not be restricted in case citizens hold different opinion from the government. The use of words like *WE THE PEOPLE OF INDIA and DO HEREBY ADOBT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION*, in the Preamble to the Constitution of India, reflects the status of citizens in this country.The Supreme Court struck down Section 66Aof the Information Technology Act, 2000 which was added by the 2008 amendment to the Act. The draconian section provided for the punishment of three years with fine for posting any message on social media which may cause annoyance, ill will, hatred or criminal intimidation. The court held the section being contradictory to freedom of speech and expression and declared it unconstitutional. The court held that the word 'public order' in Article 19 (2) of the Constitution does not include 'advocacy', but includes 'incitement' and that too having a direct nexus with public disorder.The extent of contradiction between the law of sedition and freedom of speech and expression, can also be analyzed from one more aspect that is by employing Austin's Speech Act Theory. According to this theory some words are so harmful in themselves that they should be restricted irrespective of the consequences.Austin in his book 'How to do Things with Words' (1962), he mentioned that every statement or declaration is tested on the basis of its 'Truth Value'. He opined that every statement includes the constative aspect (a mere statement) and performative aspect (a statement constitutes an act). Therefore, even a mere declaration includes an intention to perform some act. He further categorized speech acts into locutionary, illocutionary, perlocutionary acts. Locutionary act involves use of some sound, noise or grammer while making a statement. In Illocutionary act, the speaker performs an act while uttering words, like, 'I apologise' this phrase must itself be taken as an apology. Persuading or convincing statements are referred as perlocutionary acts, that is, the speaker tries to accomplish an act by making a statement. The essence of the theory points towards one notion that while determining the nature of an impugned speech, its truth value, intention of the speaker, his poise, conduct must be taken into consideration. Sometimes, the words are so harmful in themselves that it is imperative on the part of the state to restrict such words in the interest of public. Another author Sarah Sorial has supported the speech act theory and has concluded that any speech by someone in authority

and which suggest some violent action must not be protected. Incorporating the author's observations it can be concluded that the correct approach is to find a middle way to prevent contradiction between sedition and freedom of speech and expression. Incorporating the above discussed observations, it can be concluded that the speech can only be restricted firstly, if it is made by person in authority, secondly,the impugned words must be understood in the context in which they are used and thirdly, words must suggest a tendency to cause violence or disorder (as observed by Supreme Court in 1962).

Recent Events: Moment of Contradiction Between Sedition and Freedom of Speech and Expression The recent spate of events in the twenty first century has raised concerned about the misuse of section 124A of IPC by the governments in power to curb political dissent. There is a demand from various sections of the society to review the law relating to sedition or repeal it as it stands in a way of freedom of speech and expression. Sedition vis a vis freedom of speech and expression has been a hot topic for discussion in the wake of the following recent events. In 2002, a new trend of imposing mass charges of sedition emerged in Haryana. This was in relation to a protest made by Bhartiya Kisan Union (hereinafter referred as BKU) against the unfulfilled promise made by the Chautala government for providing free electricity to the farmers in Haryana. The protest was led by Gashi Ram Nain, a Jat farmer. He was arrested and booked for sedition for inciting the farmers to commit acts of violence and to make public officials as hostages. After his arrest, the protest took a new turn, it got worse and in retaliation the police opened fire at the protestors, killing few. The protestors demanded the release of Gashi Ram Nain and approximately protestors were charged with sedition. The Congress tried to take benefit of the situation and it was announced that if congress wins election in Haryana then Gashi Ram Nain would be released. The Congress came to power in 2009 and ordered the scrapping of charges against all the protestors and Gashi Ram Nain was also released. In 2005, on the anniversary of 'Operation Bluestar' the President of Dal Khalsa260, H.S. Dhami and his spokesperson were arrested and booked under sedition for raising slogans 'Khalistan Zindabad' and urging people to uplift the demand of Khalistan. They took the defence that police twisted the slogans and portrayed them as 'anti-nationals'.

In 2012, the charges were dropped as there was no sufficient evidence against the accused. In 2006, Krantikari Mazdoor Kisan Union (hereinafter referred to as KMKU), working for the rights of the Dalits in Haryana, launched a protest against the distribution of common land in the village Ismailpur in favour of the Dalits. KMKU members illegally took possession of the

land and it was also reported that seditious speeches were made. The local newspapers quoted one of the members of KMKU stating, “we will occupy lands on the lines of Maoists in Andhra Pradesh”. At this time, police intervened and tried to suppress the protest KMKU. There was a clash between the two and by evening protestors were arrested and charged during Haryana Assembly elections, members of Shivalik Jan SangharshManch, urged people of village Chhachrouli, district Yamunanagar, to abstain from voting in election. According to the police report, Pamphlets were pasted on the walls of the village with slogans ‘Jantakimukti Ka eh hi rasta, Maovad…Naksalbarilalsalam…Vote nahi do”. The police confirmed the presence of Moists people in the village and recovery of arms and amunitions, detonators, hand grenade. The police concluded that the preparation was being done for waging war against the state. The police arrested 19 people from the village and charges like sedition, offence of causing communal disharmony under the IPC and under the Representation of People’s Act and under the Arms Act. At hearing the defence counsel argued that charge of sedition was only imposed because under such charge it was difficult to get a bail. After serving three years in jail as under trials, all the accused were held to be not guilty of sedition as the only evidence against them, was the recovery of a pamphlet merely criticising the government.

In November 2010, noted writer and activist Arundhati Roy and 5-6 others were charged with Sedition by Delhi Police for allegedly having made anti-India remarks at an event organized in Kashmir.

Aseem Trivedi, a noted cartoonist was arrested in September 2012, based on a political activist’s complaint that his cartoons insulted the country. The charge was in connection to a cartoon he had made depicting the national emblem in support of the anti-corruption movement in the country. The sedition charges were scrapped by the Supreme Court in 2015.Anti-Nuclear activist S.P. Udayakumar faced several cases of sedition for protesting against Kudankulam Nuclear Power Plant in Tamil Nadu. Between September and December 2011 alone, the Tamil Nadu Government slapped sedition charges on 6,000 protesters/villagers at a single police station. The petition for revision of the law of sedition as its present version being violative of freedom of speech and expression, was filed by S.P. Udaykumar and Advocate Prashant Bhushan. It was urged in the petition that the Apex Court should intervene to make it mandatory to produce a reasoned order from the Director General of Police in case of arrest of a person on charges of sedition. But the petition was dismissed by the Supreme Court.

In 2012, In Bhagana, Haryana, the conflict between Dalits and their outcast by the Jat community of Haryana, led to levelling of charges of sedition against the Dalits. The dispute was relating to the ownership of 'shamilat lands' (common village lands). The government put into operation the Mahatma Gandhi Gramin Vikas Yojna under which government was to acquire these lands and redistribute to achieve certain purposes. In reality, the scheme was used as a platform by the Jats to acquire lands. The Dalits protested against the Jats which led to their social exclusion. They protested outside the secretariat and effigy of the Chief Minister was also burnt. The charges of sedition were imposed on six people protesting against the inaction of the government against the misuse of the scheme by the Jats.
The media covered the event at full length and after the public pressure mounted the government had to drop sedition charges against the six protestors.

Kanhaiya Kumar, the president of Jawaharlal Nehru University Student's Union along with his colleagues Umar Khalid, Anirban Bhattacharya and one other were arrested and charged with sedition by the Delhi Police for raising anti-India slogans in a student event organized within the Jawaharlal Nehru University. On 2nd March 2016, Kanhaiya Kumar was released on interim bail for lack of conclusive evidence. In January, 2019 , police has filed a charge sheet against him, under section 124A of IPC
In 2016, Former DU lecturer S.A.R Geelani arrested on sedition charges for raising anti-India slogans in Delhi Press Club. The slogans were part of the resentment against the hanging of Afzul Guru. On March 19, 2016 a delhi Sessions court granted bail to Geelani. Till date it is pending investigation and no charge sheet has been filed.
In June 2016, Karnataka state police registered a case of sedition on and arrested two police officers for demanding better wages and living and working conditions. They had threatened to go on leave protesting alleged 'harassment' by senior officials, lesser pay and absence of proper leave.

In 2018, three students of Aligarh Muslim University were booked for sedition for raising 'Anti-India' slogans, at a prayer meet for Manan Bashir Wani, Hizbul Mujahideen commander and an aluminous of the university, who was encountered by security forces in Kashmir.

In January 2019 seditious charges were pressed against Sahitya Akademi Awardee Assamese litterateur Dr. Hiren Gohain for protesting against the Citizenship (Amendment) Bill, and to

give recognition to Manipur People's Protection Bill, 2018.This bill proposes to regulate the entry and exit of those who do not belong to Manipur into the state.
In February 2019, a fresh case of sedition has been imposed on V. Shashidhar, the mastermind of Sepoy Mutiny of 2016, (he instigated the police constabulary to go on mass leave to press their demand for better wages)for posting on social media a post criticizing the state government of Karnataka for paying no attention to the conditions of police personnel.

In June 2019, Hard Kaur, a popular rapper, was booked for sedition for posting comments on social media, critical of Yogi Adityanath, the Chief Minister of Uttar Pradesh. She referred him as 'orange rapeman' and also defamed Rashtritya Swayamsevak Sangh chief, Mohan Bhagwat by calling him 'racist murderer'. She commented that Mohan Bhagwat was responsible for all terror attacks in India.

- ***Proposed Amendment Bills by Members of Parliament***

Shri Baijayant Panda, a parliamentarian, proposed a bill to amend section 124A of the IPC in 2012. In his proposed amendment the word 'bring' or 'attempts to bring' was replaced by 'advocates' and 'disaffection' was replaced by 'overthrow of the government' and apart from government, 'government institutions' were also in included. The element of mens rea was also explicitly included. The section also included an act of assassinating or kidnapping a government employee, which sound vague. However, the punishment for the offence was reduced to seven years. The Bill was introduced in 2012 in the Lok Sabha, but, lapsed as the Lok Sabha dissolved. The Draft Bill was as under;Section 124A. Whoever, knowingly or wilfully, by words, either spoken or written, or by signs, or by visible representation or otherwise, advocates the overthrow of the government or an institution established by law, by the use of force or violence or by assassinating or kidnapping any employee of such Government or institution of or any public representative or provokes another person to do such acts shall be punished with imprisonment which may extend to seven years , or fine or with both.

Dr. Shashi Tharoor, a parliamentarian, associated with Indian National Congress, presented a Bill in 2015 proposing amendment to section 124A of IPC The Bill incorporated the rule laid

down in by the Supreme Court in Kedar Nath's case in 1962. The Bill attached a proviso that the offence under the section will only be constituted if the alleged act results in 'incitement to violence' and 'commission f any offence' punishable with life imprisonment under IPC. The Bill proposes two explanations instead of three. No action was taken on the Bill and Dr. Shashi Tharoor recently in an article stated that Law Ministry informed the Parliament that no Bill for changes in Law of Sedition is under consideration. The proposed Bill was as follows; Section 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, the Government established by law in India, shall be punished with 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: Provided that the provisions of this section shall apply only when the words, signs, visible representation or any other action directly results in incitement of violence and commission of an offence punishable with imprisonment for life under this Code. Explanation 1.- Mere comments or signs or visible representation or any other act expressing disapprobation of the measures of the Government do not constitute an offence under this section. *Explanation 2*.- Mere comments or signs or visible representation or any other act expressing disapprobation of the administrative or other action of the Government, do not constitute an offence under this section.

- ***Recommendations of Law Commission***

Having discusses the legal perspective, it can be concluded that the language employed in defining the offence of sedition is not precise and needs more clarification. In the wake of it being used to dissent public opinion, people from all walks of life have started questioning its sanctity of sedition vis-à-vis freedom of speech and expression. In 1954, the Press Commission of India suggested the repeal of law of sedition and incorporation of new provision to deal with situations of violence as a result of expressions to change the system of government with foreign aid or without.The issue of reviewing the law of sedition was also taken up in 39th Report of Law Commission in 1968. The commission suggested that "offences like sedition should be punishable either with imprisonment for life or with rigorous or simple imprisonment which may extend to three years, but not more". In 1971, the Law Commission in its 42nd Report suggested amendment to section 124A of IPC These

were: Inclusion of Element of Mens Rea in the provision. Apart from the government inclusion of more authorities like the Constitution of India, Judiciary, Legislature against whom causing disaffection would be punishable. Seven years rigorous imprisonment and fine be fixed as a punishment for sedition instead of imprisonment for life or imprisonment of three years, or fine.Again in 1971, the Law Commission in its 43rd report, recommended that changes to be adopted as suggested in its previous report. The Law Commission in its 267th Report in 2017, also made a distinction between the 'sedition' and 'hate speech' on the ground that in order to invoke the provision of Section 124A of IPC, impugned speech must cause a threat to security of State and the sovereignty and integrity of India.

VOICE OF CONCERN

One of the major allegations regarding the existing sedition law is that it is often misused by the government to get political gains. According to the data accessed through NCRB from 2014 to 2016, 179 people were arrested on the charge of sedition but only two were convicted in three years. One conviction was procured by the Jharkhand Police in 2014 and the other by the Andhra Pradesh Police in 2016. In 2016, after the JNU controversy erupted with students being slapped with sedition charges by the Delhi Police, the MHA data states there was only one conviction in the entire year. In 2016, there were 35 cases of sedition registered, in which 48 persons were arrested. But, the document showed that only 26 were charge sheeted and only one person from Andhra Pradesh was convicted. According to the MHA, data for 2017 is not available at the National Crime Record Bureau (NCRB) has not compiled it yet. Given long investigations, low charge sheet rate, lengthy trials and much lower conviction rate, the process of pendency itself is used as a weapon of suppression by the state to harass and punish people accused of such offenses

According to NCRB Data of 2016

Murder -13,332 (convicted) 22,123 (acquitted) 37 % (conviction rate)

Unlawful

Assembly - 5,933 (convicted) 14,160 (acquitted) 29 % (conviction rate)

Robbery - 6,278 (convicted) 13,730 (acquitted) 31% (conviction rate)

Sedition 0 (convicted) 35 (acquitted) 0% (conviction rate)

According to NCRB data of 2015

Murder - 15541 (convicted) 23132 (acquitted) 40% (conviction rate)

Unlawful

Assembly - 4,118 (convicted) 15,681 (acquitted) 27% (conviction rate)

Robbery- 7283 (convicted) 12,730 (acquitted) 36% (conviction rate)

Sedition 1 (convicted) 11 (acquitted) 8% (conviction rate)

If we analyzed the data above mention, we broadly found two things. A number of cases registered is low and the Conviction rate is very low compared to other serious crimes. Firstly, in most cases, the idea of the authorities is to arrest the person without thinking of the course of action. Sometimes it was intended to torture the person and sometimes police has no option left except register of the case due to nature of the offense which makes it cognizable offense and police does not have any other option left. In most the cases even charge sheet was not filed even where charge sheet filed and the matter moves to court,"ultimately these cases do not stand in a court of law. In 2016, six sedition cases were dropped by the police for the lack of evidence and two were termed as false cases in final reports."The NCRB data tell us that a total of 179 people were arrested for sedition under

Section 124A of the IPC during 2014-16. However, by the end of 2016, the charge sheet was not filed for almost 80% of the cases and 90% sedition cases are lying pending in the court. In 2016, a trial was completed for only 3 out of 34 cases, with one conviction and two acquittals. In 2015, none were convicted and 11 were acquitted out of 38 against whom charges were framed. The question now arises as to why is the conviction rate so low. Mostly, it is because of political appeasement. Politicians let off people accused in the violence, largely keeping in mind the vote-bank politics

CRITICAL INFERENCES

- Some places, the law of sedition have been repealed without replacement;
- Prosecution for the offense of sedition has reduced due to this in many places it's become dead letter law such as in the UK which plays a crucial part in deciding whether there is any requirement of such offenses or not. Even in India only 2 conviction in 2015 and 2016;
- Even in Countries where law remains to exist on the statute book such as the USA which adopts an effect based test rather than a content-based test which was a focus on the effect of the words rather than words itself and various doctrine has been formulated to minimize the misuse of law such as clear and present test;
- Many countries have accepted recommendation given by their law reform commission like UK, USA, and Australia. Which provide details study regarding the actual situation of counties. Even in India law commission, many times (42nd, 43rd ,267th) suggest various reform in the sedition law which was neglected by the legislature such as include mens rea, fill the gap between the punishment, etc;
- Many International institution consensuses seem to have developed that offense of sedition should not exist. Although this provision does not bar any countries to have the offense if it is justified but still have importance and influence in lawmaking of any countries.

We saw complete legislative abolishment of sedition in the United Kingdom and judicial abolishment of the same in the United States of America, even though the UK is a common law country more so than the US. In Asia, we saw the history of sedition in India with the most prominent cases havebeen those that were filed against Mahatma Gandhi along with those against Tilak and Annie Besant. This may ostensibly come across as a portrayal of all

seditionists as freedom fighters fighting for the advancement of democracy. This is simply not true, as seditious behavior can have unexpected consequences. As seen in countries like Malaysia and erstwhile Church-State countries like Britain in the 1800s, religious blasphemy can be the cause of a lot of chaos. The underlying rider to any fundamental right is that one has the absolute freedom to enjoy such rights provided that the right of no other person is infringed in such exercise The collective good also matters and may be affected if sedition laws are removed. One has to keep in mind that it took more than 400 years for the UK to do away with sedition as a concept. While it is easy for critics to point westwards and claim that since democracy in the west does not penalize sedition, we mustn't either. This is simply not true because of the history that marks the removal of sedition as a crime and the political, geopolitical, cultural and economic factors that back such a decision. This is where the examples of Malaysia and Hong Kong come into place. Malaysia and Hong Kong represent the common form of socialist democracy prevalent in Asia and are thus more reflective of the general legal framework.

Chapter 5

Conclusion and Suggestions

The provisions of section 124A are very wide and strictly speaking they would cover everything amounting to defamation of the Government if one excludes from the meaning of that term and criticism in good faith of any particular measures or acts of administration. The language of 124A, if read literally,even with the explanations attached to it, would suffice to make a surprising number of persons in the country guilty of sedition. Meetings and processions are now held lawful, through 150 years back they would have been held to be seditious, and this is not because the law is weaker now or has changed, but because, the times have changed, society is stronger than before. India has attained Independence, and article 19(1)(a) of the Constitution of India guarantees to all citizens the right to freedom of speech and expression, subject only to reasonable restrictions as laid down in clause (2) of that article. It is well settled that in interpreting an enactment, the court should have regard not merely to the literal meaning of the words used, but also take into consideration the antecedent history of the legislation, its purpose and the mischief it seeks to suppress. It is also well settled that if a provision of law comes within the constitutional powers of the legislature by adopting one view of the matter and limit its application accordingly, in preference to the view, would make it unconstitutional. The Law of Sedition in other countries is by and large wider in scope than the Law of Sedition in India as embodied in Sec.124A. In India the scope of the offence is restricted to Seditious words and representatives, whereas in country like India includes Seditious Acts as well. Only certain types of words are constructed as Seditious in India. The category of Seditious words is wider in England. For instance, inciting communal tensions coupled with an incitement to violence amounts to the offence of Sedition in England whereas in India it is given the status of a lower offence. There may be a need to adopt the English Law and practice in this regard given the danger posed to the ideas of secularism enshrined in the Constitution by various religious fundamentalist groups of late. In the United States, the Law of Sedition grew in

response to particular challenges posed to the State. In addition to words and Seditious libel, membership to organization that incites violence or the overthrown of the state also raises the presumption of Sedition. However the Active participation in Seditious Activities has been held to be an ingredient of the offence by the American Supreme Court. The development of the Law of Sedition in America is a good illustration of how historical circumstances affect the developments of offence against the State. The Smith Act, an Act that deals with Sedition came into existence primarily to combat the communist 'threat' to the United States. As the threat to Communism receded, such Acts restricting the freedom of speech and expression lost the reason for their existence and were repealed. This thesis is borne out in other countries. Sec. 124A of the Indian Penal Code was not part of the original code and was introduced only later. After independence, there was a dramatic change in the interpretation of the Section. In recent times, most states have come face to face with the very real threat of global terrorism. They have done this by Enacting Laws to combat terrorism. In India his has taken form of the Prevention of Terrorism Act and in the United States it has taken the form of the *USA PATRIOT Act*. In both countries several doubts have been raised about restrictions imposed on the freedom of speech by these Acts. History may well illustrate that such restrictions are necessary in the changing circumstances. Chapter first is the Introductory Part which gives an outlook on law. The Indian parliament should immediately repeal the colonial- era Sedition Law, which local authorities are using to silence peaceful political dissent, Human Rights watch said today. The Indian Government should drop Sedition cases against prominent Activists such as Dr. Bianyak Sen, Arundhati Roy, and others Human Rights Watch said. "Using Sedition Laws to silence peaceful criticism is the hallmark of an oppressive Government," said Meenakshi Ganguly, South Asia director at Human Rights Watch. "The Supreme Court has long recognized that the Sedition Law cannot be used for this purpose, and India's parliament should amend or repeal the Law to reflect this." The International Covenant on Civil and Political Rights, which India ratified in 1979, prohibits restrictions on freedom of expression on National Security grounds unless they are provided by Law, strictly construed, and necessary and proportionate to address a legitimate threat. Such Laws cannot put the Right itself in jeopardy. "Peacefully speaking out against Human Rights violations in at the heart of free speech, not Sedition," Ganguly said. "The repeated misuse of the Sedition Law should be brought to a stop. Most of the democracies in the world have removed sedition offense from their statute books. The reason being – that it is an outdated law, more law of colonial times to oppress rather than deal justice, which suddenly seems to reveal its ugly head in the present generation which is rather unforgiving of

anything that curtails its fundamental freedoms. For far too long the laws of this land have been used as means of attacking the fundamental principles of democracy. It is to be remembered that this is not a judgment call on whether or not section 124A should be repealed. Rather, it is a call on whether 124A should remain as it is or whether the liberty of free speech and thought should be further subjected to the reasonable restriction. It appears that abolishment of laws that criminalize sedition is the ultimate and inevitable outcome in any modern democracy. What matters, however, is the path such democracy takes to get there. Organizations like Amnesty call for overnight removal of such laws, but it is also to be considered whether such countries are prepared for a lack of sedition laws. In countries where religious sentiments run high, tempers are frayed and relationships between different communities are tenuous at best, the State has to constantly work as a watchdog to ensure that conflicts within the country do not arise. To this end, some sedition laws are required. On the other hand, when political cartoonists are jailed and newspaper editors are tried for merely criticizing the Government, the Government has successfully crossed the line from being a democratic authority to a draconian one.I would like to conclude by answering the important question as to the need for Sedition as an offense. In India, we have a very comprehensive penal code which has rioting, affray, etc and many other laws to protect the law and order in the country. But I still believe that deleting the sedition law from the statute book is not a good solution. Sedition as the law had its origin in the colonial period with the objective of improvising and maintaining the colonial rule. In the previous chapters, we have discussed various aspects of sedition like constitutional validity, reading down of Most of the democracies in the world have removed sedition offense from their statute books. The reason being – that it is an outdated law, more law of colonial times to oppress rather than deal justice, which suddenly seems to reveal its ugly head in the present generation which is rather unforgiving of anything that curtails its fundamental freedoms. For far too long the laws of this land have been used as means of attacking the fundamental principles of democracy. It is to be remembered that this is not a judgment call on whether or not section 124A should be repealed. Rather, it is a call on whether 124A should remain as it is or whether the liberty of free speech and thought should be further subjected to the reasonable restriction.It appears that abolishment of laws that criminalize sedition is the ultimate and inevitable outcome in any modern democracy. What matters, however, is the path such democracy takes to get there. Organizations like Amnesty call for overnight removal of such laws, but it is also to be considered whether such countries are prepared for a lack of sedition laws. In countries where religious sentiments run high, tempers are frayed and relationships between different

communities are tenuous at best, the State has to constantly work as a watchdog to ensure that conflicts within the country do not arise. To this end, some sedition laws are required. On the other hand, when political cartoonists are jailed and newspaper editors are tried for merely criticizing the Government, the Government has successfully crossed the line from being a democratic authority to a draconian one. I would like to conclude by answering the important question as to the need for Sedition as an offense. In India, we have a very comprehensive penal code which has rioting, affray, etc and many other laws to protect the law and order in the country. But I still believe that deleting the sedition law from the statute book is not a good solution. Sedition as the law had its origin in the colonial period with the objective of improvising and maintaining the colonial rule. In the previous chapters, we have discussed various aspects of sedition like constitutional validity, reading down of sectiom 124A of Indian Penal Code, 1860, the judicial response in the past 18 years, etc.

Suggestion

The rampant misuse of the sedition law despite the judicial pronouncement in Kedar Nath limiting the scope of this law, suggests repeal of this law without further delay. The law is capable of being misused on the pretext of likelihood or possibility of disturbance to public disorder, to impose a form of political censorship. The lower courts and investigating agencies are arbitrarily using this law to silence even peaceful public dissent. The law is not needed because those elements of it that should be retained are covered by other offence. However, the need of the hour is to make our law more stringent to deal with those who through their poisonous words and ideas create rift between the different sections and religions in the country and the separatist forces operating from India and outside that keep on attacking the unity and integrity of India. The provision of sedition law in a country like India is a necessary requirement. There is a need to amend the provision of sedition under Indian Penal Code, 1860 and not repealing the section from the statute book. I strongly recommend that in a country like India where we consider diversity as our strength, sedition should be a mandatory provision in the statute book. In the light of Kedar Nath Case in which the apex court read down section 124 A of Indian Penal Code, 1860 the legislature should amend section 124 -A and make it, nation-centric rather than the government-centric. One of the ways is by removing the words ‘DISLOYALTY’ from the statute book. Otherwise, the

fair criticism of the government will always amount to sedition. Lastly, the amendment is required with regard to procedural aspects of 124A of the Indian Penal Code, 1860. There should be the power to conduct a preliminary inquiry by a police officer before registration of the case. To avoid political misuse of the provision. This would serve as a check against unnecessary harassment of persons wrongfully charged with 124A, while also ensuring a fair trial of those rightfully charged.. Supervisory Amendments: It is also suggested that for further supervision in cases of alleged Sedition, the investigation/arrest of the accused u/s 124 A, should be confirmed by a gazetted or senior officer of the State or district before such arrest is made to avoid other repercussions of an allegedly false charge, in addition to the powers and duties of the police as u/s 156 & 157 of the CrPC.

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Law of Sedition: A Comparative Study

Dissertation Submitted in Partial Fulfillment

of the Academic Requirement of Degree of **Master of Laws**

(LL.M) in **(Constitution Law)**

AT

AMITY LAW SCHOOL

AMITY UNIVERSITY RAJASTHAN

JAIPUR

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2020-2021

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Candidate Declaration

I, Neha Pal bearing enrolment no.A21542620012, 2nd semester, declare that the work in this dissertation titled" Law of sedition: A comparative study" is my original work and it has been written by me in the entirely. This dissertation is record of bonfide research carried out by me under the supervision of **Dr. Govind Singh Rajpal, Assistant Professor,** who has duly acknowledge all the sources of information which have been in the dissertation.

Supervisor Certificate

This is to certify that Neha Pal who is a bonafide student having enrolment **NO. A21542620012, 2nd semester.**She is submitting this Dissertation entitled **" Law of Sedition: A Comparative Study"** for awarding the degree of Masters in Laws. She has worked on the above mentioned topic under my constant supervision and guidance to my entire satisfaction and her dissertation is worthy of consideration for the award of Degree of Masters of Laws. This Dissertation meets the requirements laid down by Amity Law School, Rajasthan, Amity University, hence, I recommend this dissertation to be accepted for evaluation.

Name of Supervisor- Dr Govind Singh Rajpal.

Designation- Assistant Professor.

Amity Law School, Rajasthan.

RIGHT TO EQUALITY IN INDIA VIS A VIS RESERVATIONS WITH SPECIAL REFRENCE TO ECONOMICALLY BACKWARD CLASSES : CRITICAL ANALYSIS

Dissertation Submitted in Partial Fulfillment of the Academic Requirement of Degree of **Master of Laws (LL.M)** in (**Constitutional Law)**

AT

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Further wherever any book, article, research work or any other work has been used to carry out this study, the same has been fully cited and acknowledged

CERTIFICATE

This is to certify that **Miss Niharika Chandak** student of **LL.M (Constitutiional Law)** has completed his dissertation, to be submitted in partial fulfilment of the requirement for the degree of Master of Laws bearing the title **"Right to Equality in India vis a vis Reservation with special reference to Economically Backward Classes: A critical analysis".** It is further certified that this week work is the result of his own efforts and is fit for evaluation.

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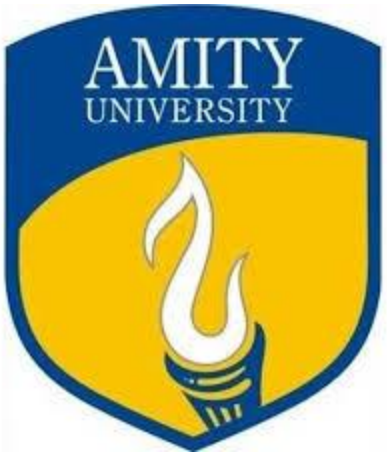
FREEDOM OF PRESS AND NATIONAL SECURITY – ANALYSING MEDIA LAWS WITH SPECIAL EMPHASIS ON INDIA AND US

Dissertation submitted in Partial Fulfillment of the Academic

Requirement of Degree of Master

Of Laws (LL.M) in (Constitutional law)



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DECLARATION FORM

The work I have submitted is my own effort I certify that any and all the material is this Dissertation that is my own work, has been identified and acknowledged. No materials are included for which a degree has been previously conferred upon me.

Sign Date- 10-05-2021

SUPERVISOR'S CERTIFICATE

This is to certify that the dissertation Entitled on: "FREEDOM OF PRESS AND NATIONAL SECURITY – ANALYSING MEDIA LAWS WITH SPECIAL EMPHASIS ON INDIA AND US", submitted to Amity University in partial fulfilment of the requirement of the LLM course is an original and bona fide research work carried out by Nishtha Bajpai under my supervision and guidance. Further, this work is fit for evaluation. This Dissertation has not been presented to any university or institution for award of any other degree or diploma.

Supervisor's Signature

DISSERTATION SUBMISSION

in partial requirement of the LL.M course

on

MINORITIES: ADEQUACY OF MEANING, TYPES AND LEGAL FRAMEWORK IN INDIA

under the supervision of

DR. ASHU MAHARSHI

(Faculty, Amity University Rajasthan)

by

NITISH SIROHI

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DECLARATION

I declare that the dissertation entitled **"**Minorities: Adequacy of Meaning, Types And Legal Framework In India**"** is the outcome of my own work conducted under the supervision of Dr. Ashu Maharshi, at Amity University Rajasthan, Jaipur.

I declare that the dissertation comprises only of my original work and due acknowledgement has been made in the text to all other material used.

Nitish Sirohi

Date: 10th May 2021

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This is to certify that the research work entitled **"Minorities: Adequacy of Meaning, Types And Legal Framework In India"** is the work done by Nitish Sirohi under my guidance and supervision for the partial fulfillment of the requirements of LL.M. degree at Amity University Rajasthan, Jaipur.

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CENTRE AND STATE RELATIONS: AN ANALYTICAL STUDY INTO THE AREAS OF IMBALANCES

A Dissertation Submitted in Partial fulfillment of the Academic Requirement of Degree of **Master of Laws (L.L.M)** in

(CONSTITUTIONAL LAW)

AT

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CENTRE AND STATE RELATIONS: AN ANALYTICAL STUDY INTO THE AREAS OF IMBALANCES

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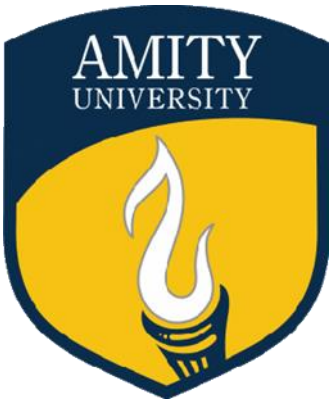

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CANDIDATE'S DECLARATION

I, Poorva Gupta the author of this 'Dissertation, solemnly declare that, the content of the present 'Report' entitled **"CENTRE AND STATE RELATIONS: AN ANALYTICAL STUDY INTO THE AREAS OF IMBALANCES"** are original and the outcome of my independent research. To the Best of my Knowledge and Belief no one has so far been awarded the degree of L.L.M. on the same topic.

I have completed the research work under the supervision of my guide **Dr, ASHU MAHARSHI** Associate Professor, Amity Law School, Amity University Rajasthan, Jaipur

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This is to certify that dissertation entitled **"CENTRE AND STATE RELATIONS: AN ANALYTICAL STUDY INTO THE AREAS OF IMBALANCES"**, submitted by Ms. Poorva Gupta for the award of the degree of Master of Law in Constitutional Law by Amity University Rajasthan, is a record of bonafide research work carried out by him under my supervision and the dissertation satisfies the requirements of the regulations to degree.

Signature of Supervisor

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RIGHT TO PRIVACY ON THE INTERNET IN THE AGE OF DIGITILIZATION: INDIAN LEGAL SCENARIO

Dissertation Submitted in Partial Fulfillment of the Academic Requirement of Degree of **Master of Laws (LL.M)** in (**Constitutional Law)**

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DECLARATION BY THE CANDIDATE

I hereby declare that the dissertation entitled **"Right to privacy on the internet in the age of digitalization: Indian legal scenario"** submitted at is the outcome of my own work carried out under the supervision of **Prof. (Dr.) Saroj Bohra, Principal Faculty, Amity Law School**

I further declare that to the best of my knowledge the dissertation does not contain any part of work, which has not been submitted for the award of any degree either in this University or any other institutions without proper citation.

Place: Jaipur

Date: 10th May, 2021

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This is to certify that the work reported in the LL.M. dissertation entitled **"Right to privacy on the internet in the age of digitalization: Indian legal scenario",** submitted by **Priyanka Sisodia** at **Amity Law School, Jaipur** is a bona fide record of her original work carried out under my supervision. To the best of my knowledge and belief, the dissertation: (i) embodied the work of the candidate herself; (ii) has duly been completed; and (iii) is up to the standard both in respect of contents and language for being referred to the examiner.

Place: Jaipur — Priyanka Sisodia

Date: 10th May, 2021 — A21542620021

White Collar Crimes In India - A Pragmatic Analysis

DISSERTATION SUBMITTED

IN PARTIAL FULFILMENT OF THE ACADEMIC REQUIREMENT OF DEGREE OF **MASTERS OF LAW** (LL.M) IN (**CONSTITUTIONAL LAW**)

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This is to certify that **Ms. Priya Modi**, student of **LL.M (Constitutional Law)** has completed her dissertation, to be submitted in partial fulfilment of the requirement for the degree of Masters of Law bearing the title '**White Collar Crimes In India - A Pragmatic Analysis'.** It is further certified that this work is the result of her own efforts and is fit for evaluation.

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MEDIA TRIAL AND ITS IMPLICATIONS ON ADMINISTRATION OF JUSTICE: A CRITICAL ANALYSIS

Dissertation Submitted in Partial Fulfillment of the Academic Requirement of Degree of **Master of Laws (LL.M)** in (**Constitutional Law)**

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Further wherever any book, article, research work or any other work has been used to carry out this study, the same has been fully cited and acknowledged.

CERTIFICATE

This is to certify that Miss. Rama Shripad Kapil student of LL.M (Constitutional Law) has completed her dissertation, to be submitted in partial fulfillment of the requirement for the degree of Master of Laws bearing the title **"Media Trial and its implications on Administration of Justice: A Critical Analysis"**. It is further certified that this week work is the result of her own efforts and is fit for evaluation.

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The summary of the constitution and the manifestation of the basic Structure principles: The Preambular Principles

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Dissertation – Synopsis Submitted in Partial Fulfillment of the Academic Requirement of Degree of **Master of Laws (LL.M)** in (**Constitutional Law)**

At

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I, RITU bearing enrolment no. **A21542620028** , 2nd Semester, **pursuing** LL.M in Constitutional Law at Amity Law School, Amity University Rajasthan, Jaipur**, do hereby declare that this topic is my original work prepared by me in partial fulfilment of the Academic Requirement of Degree of** Master of Laws (LL.M in Corporate Law**) under the supervision of** Ms. Sonali Bhatnagar (Asst. Professor of Law- Amity Law School).

Neither the said work nor any part thereof, has earlier been submitted to any University or Institution for the award of any degree or diploma.

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This is to certify that **Ms. Ritu** student of **LL.M (Constitutional Law)** has completed his dissertation, to be submitted in partial fulfilment of the requirement for the degree of Master of Laws bearing the title **"The summary of the constitution and the manifestation of the basic structure principles: The Preambular Principles"**. It is further certified that this week work is the result of his own efforts and is fit for evaluation.

Ritu

LLM(Constitutional Law)

2020-2021

A21542620028

Ms. Sonali Bhatnagar

Assistant Professor

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"FREEDOM OF PRESS AND THE SUPREME COURT: AN APPRAISAL"

In Partial Fulfillment for the Award of Degree
of
LL.M

AT
AMITY LAW SCHOOL
AMITY UNIVERSITY RAJASTHAN
JAIPUR
JUNE 2020-21

SUBMITTED BY
SANYA JAIN
LL.M
CONSTITUTIONAL LAW
SCHOOL
2020 – 2021
A21542620022

SUPERVISED BY
DR. ABHISHEK BAPLAWAT
ASSISTANT PROFESSOR
AMITY LAW

DECLARATION

I declare that the dissertation entitled *'"Freedom Of Press And The Supreme Court :An Appraisal"* is the outcome of my own research conducted under the supervision of Dr. Abhishek Baplawat (Assistant Professor) Amity Law School, Jaipur.

I further declare that to the best of my knowledge the dissertation does not contain any part of any work which has been submitted for the award of any degree either in this university or any other university.

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Place: Jhansi STUDENT NAME: Sanya Jain

Date: 10/05/2021 Enrol No. - **A21542620022**

Assistant Professor Dr. Abhishek Baplawat

Amity University, Jaipur

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Further certify that work is fit for submission and evolution.

I wish her all the success in life.

(**Dr. Abhishek Baplawat**)

A DETESTATION DISCOURSE

SUPERVISED BY PROF.SONALI BHATNAGAR

SUBMITTED BY SUDIP BATTULA

LLM2ND SEMESTER

(CONSTITUTIONAL LAW)
2018-2019

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AN EVALUATION OF RIGHT TO INFORMATION ACT 2005: PROBLEMS AND CHLLENGES IN ITS ENFORMENT.

AN STUDY WITH REFERENCE TO CACHAR AND KARIMGANJ DITRRICT IN STATE OF ASSAM.

DISSERTATION SUBMITTED IN FULFILLMENT FOR THE
AWARD OF DEGREE OF Master of Laws (LL.M)
At AMITY LAW SCHOOL, RAJASTHAN, JAIPUR

SUPERVISEDBY
MR. SHOBHITABHSRIVASTAVA
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DECLARATION

I, Umashankar Singh declare that this dissertation entitled *"AN EVALUATION OF RIGHT TO INFORMATION ACT 2005, PROBLEMS AND CHLLENGES IN ITS ENFORMENT, AN STUDY WITH REFERENCE TO CACHAR AND KARIMGANJ DITRRICT IN STATEOF ASSAM"* is my own work conducted under the supervision of MR. SHOBHITABHSRIVASTAVA, Ph.D. (Purs), LL.M., BBA+L.L.B., NET, Assistant Professor and approved by Committee. I further declare that to the best of my knowledge this dissertation does not contain any part of any work which has been submitted for the award of any degree either by this university or by any other university without proper citation.

Umashankar Singh

(UMASHANKAR SINGH)

(LL.M, Constitutional Law)

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Signature of Supervisor

Name of Supervisor

MR. SHOBHITABHSRIVASTAVA
Assistant Professor

Amity Law School, Rajasthan

SOCIAL JUSTICE IN INDIA IN THE ERA OF PRIVATIZATION WITH SPECIAL REFERENCE TO INTERPRETATION OF ARTICLE 12 OF THE CONSTITUTION OF INDIA

Dissertation Submitted to Amity Law School, Jaipur in Partial Fulfilment of the Academic Requirement of Degree of

Master of Laws (LL.M.) in **Constitutional Law**

SUBMITTED BY:

Vipul Tiwari

UNDER THE SUPERVISION OF:

Dr. Ashu Maharshi

Associate Professor,

Amity Law School

AMITY UNIVERSITY, JAIPUR

MAY 2021

DECLARATION BY CANDIDATE

I declare that the dissertation entitled "**Social Justice In India In The Era Of Privatization With Special Reference To Interpretation Of Article 12 Of The Constitution Of India**" is the outcome of my own work conducted under the supervision of **Dr. Ashu Maharshi** at the Amity Law School, Amity University Rajasthan.

I declare that the dissertation comprises only of my original work and due acknowledgement has been made in the text to all other material used.

Vipul Tiwari
(Signature & Name of Student)
Date: 10 May 2021

SUPERVISORS CERTIFICATE

This is to certify that **Mr. Vipul Tiwari** is pursuing *Master of Laws (LL.M.)* from Amity Law School, Amity University Rajasthan and has completed his Dissertation titled "**Social Justice In India In The Era Of Privatization With Special Reference To Interpretation Of Article 12 Of The Constitution Of India"** under our supervision.

To the best of our knowledge, this research work is found to be original and the undersigned's declares it suitable for evaluation.

Dr. Ashu Maharshi,
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Amity Law School, Jaipur