



Law Commission calls for re-think on sedition clause-Consultation paper invites public opinion on doing away with Section 124A

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Highlights

- Dissent and criticism of the government are essential ingredients of a robust public debate in a vibrant democracy, the Law Commission of India said.
- The Commission, which is the Centre's topmost advisory body on laws, headed by former Supreme Court judge, Justice B.S. Chauhan, published a consultation paper recommending that it is time to re-think or even repeal the provision of sedition (Section 124A) from the Indian Penal Code.

Right to free speech

- The Commission has invited public opinion on the prospect of either redefining or doing away with Section 124A in the "largest democracy of the world, considering that right to free speech and expression is an essential ingredient of democracy."
- The Commission said an "expression of frustration over the state of affairs cannot be treated as sedition."

Safety valve

- The consultation paper was published a day after the Supreme Court lashed out at the government, saying "dissent is the safety valve of democracy".
- "For merely expressing a thought that is not in consonance with the policy of the government of the day, a person should not be charged under the Section... If the country is not open to positive criticism, there lies little difference between the pre- and post-Independence eras.
- Right to criticise one's own history and the right to offend are rights protected under free speech.
- While it is essential to protect national integrity, it should not be misused as a tool to curb free speech," the Commission said in its consultation paper.
- "In a democracy, singing from the same songbook is not a benchmark of patriotism. People should be at liberty to show their affection towards their country in their own way," the Commission said.
- It said "every restriction on free speech and expression must be carefully scrutinised to avoid unwarranted restrictions."

- But the Commission has also posed the query that if contempt of court invites penal action, should “contempt of government” also attract punishment.
- The Commission asks whether it would be “worthwhile” to rename Section 124A and find a “suitable substitute” for the term ‘sedition’.

Additional Info:

Law Commission of India

- Law Commission of India is an executive body established by an order of the Government of India.
- Its major function is to work for legal reform.
- Its membership primarily comprises legal experts, who are entrusted a mandate by the Government.
- The Commission is established for a fixed tenure and works as an advisory body to the Ministry of Law and Justice
- The first Law Commission was established during the British Raj era in 1834 by the Charter Act of 1833.
- After that, three more Commissions were established in pre-independent India.
- The first Law Commission of independent India was established in 1955 for a three-year term.
- Since then, twenty more Commissions have been established.
- The terms of reference of the Law Commission include the review and repeal of obsolete laws, the examination of existing laws & the revision of central Acts of general importance.
- Justice Balbir Singh Chauhan, a former judge of the Supreme Court was appointed Chairman of the 21st Law Commission on 10 March. The 66-year old Justice Chauhan is currently heading the Cauvery River Water Disputes Tribunal.
- One of the key issues pending before the Law Commission is a call on amending the Indian Penal Code (IPC) amid allegations of abuse and arbitrary use of the law.

Sedition

- It means to conduct or speech inciting people to rebel against the authority of a state or monarch.

What is Sedition law and what does it say in the Indian Penal Code:

- Section 124-A in the Indian Penal Code, named 'Sedition', explains sedition in wide and magnanimous terms
- It says '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 life imprisonment
- The explanations which the Indian Penal Code gives are that 'the expression 'disaffection' includes disloyalty and all feelings of hate
- It also says that comments that express strong disapproval of 'the measures of the Government, with a view to obtain their desired modifications by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offense under this section.'

- According to the section 124-A, comments expressing strong disapproval of the 'administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offense under this section.'
- The law was originally drafted by Thomas Macaulay.
- It was not a part of IPC in the 1860s and was even dropped from the law. It was introduced in the IPC in the year 1870.
- Many Indian freedom fighters, including Mahatma Gandhi and Bal Gangadhar Tilak, were charged with sedition during freedom struggle.
- When the first amendment was introduced, which also included detailed limitations on free speech, the then Prime Minister Jawaharlal Nehru was categorical in his belief that the offence of sedition was fundamentally unconstitutional.

Modern Times

- Besides Kanhaiya Kumar, Patidar leader Hardik Patel was slapped with sedition charges
- In the year 2014, some of the Kashmiri students were charged with sedition for supporting Pakistan in a cricket match between India and Pakistan.

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