# INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION

## [ISSN 2581-9453]

**Volume 7 | Issue 2**

**2025**


*© 2025 International Journal of Legal Science and Innovation*

Follow this and additional works at: https://www.ijlsi.com/

Under the aegis of VidhiAagaz – Inking Your Brain (https://www.vidhiaagaz.com)

This Article is brought to you for free and open access by the International Journal of Legal Science and Innovation at VidhiAagaz. It has been accepted for inclusion in International Journal of Legal Science and Innovation after due review.

In case of **any suggestion or complaint**, please contact **support@vidhiaagaz.com.**

**To submit your Manuscript** for Publication at **International Journal of Legal Science and Innovation**, kindly email your Manuscript at **editor.ijlsi@gmail.com.**

# Law of Sedition in Other Countries: A Comparative Study

URVASHI TYAGI[1] AND URVASHI TYAGI[2]

**ABSTRACT**

*The word Sedition has been derived from the Latin word "seditio" meaning "going apart." Sedition essentially means any person who by making use of words either spoken, written, or signs or by visible representations tries to incite violence in the society against the Government. Whoever tries to create discontent in the minds of people against the Government and provokes them to incite violence, have committed sedition and can be held under Section 124Aof the Indian Penal Code. Sedition law aims to punish those who incite disaffection, hatred, contempt towards the government established by law. The law of Sedition was based on the Treason Law of British, which made any act of hate and disloyalty towards the Crown or queen punishable. Even after Independence, many countries like India, Australia, USA, Malaysia, Hong Kong, New Zealand, Canada and African countries like Nigeria, Uganda, Malawi, Kenya and Swaziland are prosecuting people under this British era law. This paper studies and discusses the Sedition law in various countries and highlights how few have given away with this law while few countries apply the amended version of this law. The countries discussed below are mainly countries which were ruled on the principles of Monarchy but after the International conventions these countries have accepted the democratic principle. The main aim of discussing these countries is to highlight how though being party to the International conventions these countries are still carrying the colonial law in their statute books. This research paper discussed the recommendations given by Law Commissions in these countries for amendment of the law. This paper further attempts to discuss the right of free speech in each of these countries and how Sedition can be a valid restriction. The chapter ends with a comparative analysis of these countries with Indian Sedition law.*

## I. INTRODUCTION

The UN General Assembly adopted the Universal Declaration of Human Rights to guarantee fundamental rights to every individual. The aim was to provide fairness and freedom which belonged to the entire human race which could not be taken away anytime. Few of the rights included were freedom of speech and expression, right to life, liberty and privacy, freedom

[1] Author is a Research Scholar at Baba Mastnath University, Rohtak, Haryana, India.
[2] Author is an Assistant Professor at Baba Mastnath University, Rohtak, Haryana, India.

© 2025. International Journal of Legal Science and Innovation [ISSN 2581-9453]

from torture etc.

The UDHR applied to all people worldwide, and many nations have used the rights and freedom provided in UDHR in their Constitution and legal framework. Many countries like the USA, Australia, India, China, and the United Kingdom accepted the principles of UDHR and inculcated them in their Constitution.

One of the important rights which UDHR guaranteed was freedom of speech and expression.

Article 19 of the Universal Declaration of Human Rights, 1948 and International Covenant on Civil and Political Rights, 1966 (ICCPR) states that everyone has the right to freedom of opinion and expression, and it also includes the right to hold an opinion, seek to receive information and ideas through any media and regardless of frontiers. At the same time, Article 19 (3) ICCPR also provides the rights that carry special duties and responsibilities, and restrictions can be imposed on grounds of reputation, protection of national security, and public order.

Article 10 of the European Convention on Human Rights Act, 2003 also provides similar freedom but at the same times agrees that this freedom comes with responsibility and lawful restrictions or penalties can be imposed on the grounds of National security, public order, safety and protection of health and reputation of the people in general.

Thus, while exercising political freedom, such as freedom of expression, assembly and association on the grounds of national security, public disorder, and protection of a person's reputation, such rights will be subjected to restriction. It is also provided that any limitation should be in accordance with the domestic law and must be necessary to achieve the respective aims and national interests in a democratic society.

The grounds of restrictions need to be as per the Human Rights recognized in the ICCPR and the other International Human Rights instruments. It is also provided under Human Rights the States will be violating Article 19(3) if they do not ensure that treason or Sedition laws are narrowly applied. It also provides that restriction should not suppress or withhold from the public information or should not prosecute journalists, researchers, environmental activists, human rights defenders, or others for having circulated such information.[3]

UDHR and its guidelines have recognized Sedition provided that this law should not be applied to suppress constructive criticism and for circulating information. But if we study the present scenario of Sedition law, a British relic has been misused in many countries even though these

[3] UNITED NATIONS https://www.un.org/en/about-us/universal-declaration-of-human-rights visited 28/08/2020

countries are party to International conventions.

Sedition law aims to punish those who incite disaffection, hatred, contempt towards the government established by law. The law of Sedition was based on the Treason Law of British, which made any act of hate and disloyalty towards the Crown or queen punishable. Even after Independence, many countries like India, Australia, USA, Malaysia, Hong Kong, New Zealand, Canada and African countries like Nigeria, Uganda, Malawi, Kenya and Swaziland are prosecuting people under this British era law.

This paper studies and discusses the Sedition law in various countries and highlights how few have given away with this law while few countries apply the amended version of this law. The countries discussed below are mainly countries which were ruled on the principles of Monarchy but after the International conventions these countries have accepted the democratic principle. The main aim of discussing these countries is to highlight how though being party to the International conventions these countries are still carrying the colonial law in their statute books. This Chapter has also discussed the recommendations given by Law Commissions in these countries for amendment of the law. This paper further attempts to discuss the right of free speech in each of these countries and how Sedition can be a valid restriction. The chapter ends with a comparative analysis of these countries with Indian Sedition law.

## II. FREEDOM OF SPEECH AND EXPRESSION IN INDIA

The Indian constitution guarantees freedom of expression under Article 19(1). The provision explains that every citizen shall have the right to freedom of speech and expression. Freedom of speech and expression means the right to express one's own convictions and opinions freely by words of mouth, writing, printing, pictures or any other mode. Consequently though freedom of speech and expression is an important aspect of an individual’s growth it is restricted when it leads to disturbance, danger and unrest in the country.

Article 19(2) of the constitution further specifies the purposes or grounds in interest of which or in relation of which reasonable restrictions can be imposed on freedom of speech and expression. The first pre-requisite for curtailment of freedom of speech and expression is that the restriction imposed must have the authority of some law[4] to support it.[5] Law means valid law be it statute, a statutory rule or a statutory notification or regulation.[252] It is only thereafter that the question arises whether the restrictions imposed are reasonable and permissible.

Fundamental Rights cannot be restricted by a mere executive order or an administrative

[4] INDIA CONSTI. Art 13(a)
[5] Bennett Coleman & Co. & Ors vs Union Of India & Ors 1973 AIR 106, 1973 SCR (2) 757

instruction or a circular or a resolution or regulation which is without any statutory basis. Orders or regulations or instructions which purport to restrict any fundamental right must have been made in the exercise of the legislative power of the state and not in the exercise of its executive power.[6] Furthermore, not only the law restricting the freedom should be reasonable, but rules or orders made on the basis of that law should also be reasonable.[7]

The meaning of 'reasonable restriction' is not defined in constitution. The test of reasonableness depends upon each individual statute which is called in question and hence, no abstract standard or general pattern of reasonableness can be laid down as applicable in all cases. Thus the meaning of reasonableness will differ according to the six rights guaranteed under Article 19(1) being restricted by the law.[8] The factors that should be kept in mind while imposing restriction is the purpose, extent, urgency and the prevailing conditions at the time and duration of the restriction. [9] The court in Golak Nath case observed that the standard of reasonableness is flexible and varies with time, space, and condition and from case to case. It is very much necessary that the reasonable restriction has to be determined as per general interest of the public and not from view point of the person upon whom the restrictions are imposed or upon abstract consideration.[10]

One can understand from the above discussion that though reasonable restriction though has no absolute definition it is necessary that the reasonable restrictions are in proper balance and they should not be arbitrary or excessive in nature. The limits should strictly balanced between freedom guaranteed u/a 19(1) and social control permitted by the sub clause (2) to (6) of Article 19.[11] Consequently, the restraint need to be obligatory only after determining the sensibleness of a statute and it is necessary that the nature of restriction and procedure prescribed by the statute for enforcing the limitation on the individuals freedom.[12]

We also need to realize that the court will be called to establish the reasonableness of the limitation and not the law which permits such restriction. Hence it may also happen that at times the law may be reasonable but the restriction imposed by it may not be reasonable.[13]

[6] Edwar Mills Co Ltd Beawar v. State of Ajamar, AIR 1955, SC 25 TO 31 and Narsing Pratap Sindh Deo v. State of Orissa, AIR 1964 SC 1793, at 1796, 1964(7) SCR 112.
[7] Oudh Sugar Mills Ltd v. Union of India AIR 1970 SC 1070 at 1072.
[8] State of Maharashtra v. V.G. Row, AIR 1952 SC 196
[9] State of Madras, Bishambhar Dayal v. State of U.P 1982 SCC 39, and Indian Express Newspaper v. Union of India (1985) I SCC 641, 691.
[10] Hanif Quareshi v. State of Bihar 1958 AIR 731, 1959 SCR 629
[11] Dwarka Prasad Lakshmi Narain v. State of UP, AIR 1954 SC 224, 227
[12] Kishan Chand Arora v. Commr. of Police AIR 1961 SC 705
[13] N.B. Khare v. State of Delhi AIR 1952 SC 196, 200

© 2025. International Journal of Legal Science and Innovation [ISSN 2581-9453]

Under Article 19(2), Article 358[14] and Article 359[15] the state has power to make a law imposing restriction on the exercise of the right to freedom of speech and expression 'in the interest of the security of state'. The grounds on which the freedom of speech and expression are curtailed are security of state, friendly relations with foreign state, public order, decency and morality, contempt of court, defamation, incitement of offence, sovereignty and integrity of India.

## III. SEDITION A FEDERAL CRIME: AN AMERICAN EXPERIENCE

History of Sedition in the US occurs before the first amendment, which prohibited laws that imposed restrictions on the establishment of religion, free exercise of religion, free speech, and freedom of the press, peaceably assembling or restricting petition for a government redress grievance.

The amendment was based on two ideologies, prohibiting pre-censorship or licensing, and that no laws shall be made to limit freedom of speech and press. With the commencement of war with France, the US enacted a series of laws intended to combat the Jacobinisma revolutionary far-left political movement during the French Revolution, which inspired radical groups in England and America. The US Congress, under the Federalist Party, enacted the Alien and the Sedition Act 1798 consisting of 4 parts.

The first three parts dealt with aliens and gave overriding powers to the executive to expel any alien out of the country construed as a threat. This meant the French people in America were

who influenced by the Republican ideas and were staunch critics of President Adam's administration.[16]

The fourth part punished conspiring with an intention to oppose any measures of the government of the United States, or delay in operation of any law of the US or to threaten any person holding office under the government. The law was mainly used against the members of the opposition, writers and journalists. [17]

The Sedition Act of July 1798 punished conspiracies which intended "to oppose any measure or measures of the government." Going further, the act made it illegal for anyone to express

[14] INDIA Consti. Art 358

[15] INDIA Consti. Art 359

[16] John Adams (October 30, 1735[a] – July 4, 1826) was an American statesman, attorney, diplomat, writer, and Founding Father who served as the second president of the United States, from 1797 to 1801. Before his presidency, he was a leader of the American Revolution that achieved independence from Great Britain, and he served as the first vice president of the United States. Adams was a dedicated diarist and regularly corresponded with many important figures in early American history, including his wife and adviser Abigail Adams, and Thomas Jefferson.

[17] Alien and Sedition Acts of the United States 1798

‘any false, scandalous and malicious writing’ against Congress or the president. Additionally it punished any spoken or published words that had "bad intent" to "defame" the government or to cause the "hatred" of the people toward it.

This law allowed facts to defend and empowered the jury to decide whether the defendant has bad intent. Punishment was six months to five months imprisonment and a fine of up to $5,000.

The act was opposed as it violated the right to free speech and expression. The act was expired in 1801.[18]

The Sedition Act of 1918 was passed during WWI primarily to clamp down upon the general disapproval of the war and the military. The act prohibited speech related to war. It was also illegal to incite disloyalty within the military or use language that would subject disloyalty towards the government, the Constitution, the military, or the flag. It also made advocating strikes among the labour class and supporting countries at war with USA punishable. Violation of these provisions would lead to twenty years in prison and a fine of $10,000. The law was repealed in 1921.[19]

In 1940, the Alien Registration Act, or ‘Smith Act’, was passed, which made it a federal crime to advocate or to teach the desirability of overthrowing the United States Government or to be a member of any organization which does the same. It was often used against communist party organizations.

The act punished overthrowing or destroying any government through prints, issues, circulations, distributions of writings, teaching or advocating overthrowing the USA's government by force or violence. Organizing or helping to organize an assembly of persons to overthrow the government was also punishable. A member of such assembly was also held liable under this provision. Such subversive activity was punished for 20 years and fined and denied employment for five years by the federal government.

Further, the act deported such persons who continued to be members of such associations, which aimed to overthrow the government. The law is still a part of federal law though unused since 1961. In the present scenario, Sedition law in the USA can be found in the federal law against seditious conspiracy in Title 18 of the U.S. Code (which includes treason, rebellion, and similar offences), specifically 18 U.S.C. § 2384.

[18] CONSTITUIONAL RIGHTS FOUNDATION https://www.crf-usa.org/bill-of-rights-in-action/bria-19-4-b-the-alien-andSedition-acts-defining-american-freedom.html visited 20/09/2020
[19] FIRST AMENDMENT ENCYCLOPIDIA https://www.mtsu.edu/first-amendment/article/1239/Sedition-act-of-1918 visited 20/09/2020

According to the statutory definition of Sedition, 'it is a crime for two or more people within the jurisdiction of the United States to conspire to overthrow or destroy by force the government of the United States or to level war against it; to oppose by force the authority of the United States government; to prevent, hinder, or delay by force the execution of any law of the United States; or to take, seize, or possess by force any property of the United States contrary to the authority thereof.'[20]

## IV. FREEDOM OF SPEECH AND EXPRESSION UNDER AMERICAN CONSTITUTION

The Bill of Rights guarantees freedom of speech and expression through its very first sentence. The first amendment has restricted the Congress from making laws in respect of religious establishment or restricting freedom of speech or press. The SC of the United States has created doctrine of freedom of speech through balancing of various rights and interests.

The right of speech in United States is essentially the work of the SC. The SC progressively imposed the right to speak one's own mind and this right also encompasses the right to dissent and the right to disagree. In United States freedom of expression is a freedom that only exists as far as it does not conflict with other laws. The sanctions are sometimes civil and sometimes criminal—the distinction is based on the nature of the wrong caused, either private or public. It is the severity of the bad tendency that determines the crime or the offense, depending on whether it tends to cause harm to others (calumny, libel, or slander), to disturb the peace and public order (Sedition or defamation), or to attack morals (obscenity) or religion (blasphemy).[21]

Thus, the Constitution of USA clearly forbids obvious restrictions on free speech but hate speech and test of reasonable listeners, present danger test, fighting words are examples on the grounds of which free speech has been restricted.

## V. SEDITION TRIALS IN THE UNITED STATES OF AMERICA

*Schenck v. the United States*[22] it was observed that the first amendment does not protect speeches that show a clear and present danger resulting in a crime. The matter belongs to the period of WWI when the federal government had imposed recruitment in army services. In collaboration with Elizabeth Baer, to oppose this imposition the Socialist Party in Philadelphia authorized General Secretary Charles Schenck to print and distribute 15,000 leaflets to the public.

[20] CORNELL LAW SCHOOL https://www.law.cornell.edu/uscode/text/18/part-I/chapter-115 visited 20/09/2020
[21] Elisabeth Zoller, *The United States Supreme Court and the Freedom of Expression*, ILJ. Vol. 84:885 32 pages
[22] *Schenck v. United States,* 249 U.S. 47 1919

The order of such recruitment was considered as violative of the Thirteenth Amendment prohibiting involuntary compulsion, and thus the draft was unconstitutional and hence was not be obeyed. Schenck and Baer were charged under the Espionage Act of 1917, which punished the acts that undermined the war efforts and thus were convicted of violating this law. They appealed because the statute violated the text of the First Amendment. The jury, in this case, held that the courts need to support the government during wartime even when constitutional rights are at stake. Whether the speech has 'clear and present danger' can be understood from the distribution of the leaflets, which tend to interrupt the recruitment service in the army.

The first person to be charged and tried under the Sedition Act of 1798 was the Republican Congress Representative Matthew Lyon of Vermont.[23]He campaigned for re-election when a grand jury in October 1798 charged him for publishing letters with the intent and design to defame the government and President Adams. The charge cited a published letter that Lyon wrote before the passage of the Sedition Act.

In this letter, Lyon criticized Adams as a person with selfish greed for power who was not concerned with public welfare and was only interested in taking hold of power. The other charges against Lyon were for promoting Sedition through publicizing a letter in which the poet Joel Barlow[24] blamed Adams and the Senate for the diplomatic crisis with France. Charles Marsh, the federal district attorney representing the government, called witnesses to establish that Lyon had written the letter and that it had been published after the enactment of the Sedition Act. Other witnesses testified that Lyon read the Barlow letter at several campaign rallies.

In his defence, Lyon argued that the Sedition Act was unconstitutional and that he had demonstrated no intent to undermine the government. The judge, in this case, observed that there was no question whether Sedition law was constitutional or not. The judge further held that the published and forfeited publication facts were true, and thus the question was whether the language used was seditious or not. Within an hour, the jury returned a verdict of guilty.

Lyon was sentenced to four months in prison and a $1,000 fine. After initially being denied pen and paper in jail, Lyon wrote a widely publicized trial account. While still in jail, Lyon

[23] Vermont is a state in the northeastern United States, known for its natural landscape, which is primarily forested.
[24] Joel Barlow (March 24, 1754 – December 26, 1812) was an American poet and diplomat, and French politician. In politics, he supported the French Revolution and was an ardent Jeffersonian republican. He worked as an agent for American speculator William Duer to set up the Scioto Company in Paris in 1788, and to sell worthless deeds to land in the Northwest Territory which it did not own. Scholars believe that he did not know the transactions were fraudulent. He stayed in Paris, becoming involved in the French Revolution. He was elected to the Assembly and given French citizenship in 1792. In his own time, Barlow was known especially for the epic poem Vision of Columbus (1807), though modern readers rank The Hasty-Pudding (1793) more highly.

won the reelection to the US.[25]

In April 1800, Thomas Cooper, a prominent lawyer, journalist, and scientist in Northumberland County, Pennsylvania, was tried in Philadelphia for libel against the United States president Adams. Cooper had been charged under Sedition Act and faced a fine of up to $2000 and a possible two years in prison. A supporter of Jefferson,[296] Cooper, was known as an opponent of the government, as he believed in individual liberty and the separation of powers. Cooper had applied two years before for a federal position as an agent of American Claims. It is thought that after this incident, Cooper's hatred and opposition towards the government and its policies grew.

After this incident, Cooper published in his Gazette how President Adams imposed Sedition

Act on France due to his hostility towards them. The charge against Cooper was filed on November 2, 1799, noting, among other things, that Cooper was "a person of wicked and chaotic nature." Cooper appealed and was released on bail of $1000 pending an April trial. The trial began on April 19, 1800. Cooper defended himself and took detailed shorthand notes of the proceedings. All of the documents, transcripts, and supporting documents, along with Cooper's later comments, were published in pamphlet form almost immediately following the trial's outcome.

Cooper, in his argument, criticized the party politics for infringing upon the law and how the President had appointed the judges and district attorneys involved, and the violation freedoms of the press and political speech freedom. Cooper's Defence failed, and he was convicted. He was fined $400 and served six months in prison.[26]

James Callender was a controversial political writer who had fled his native Scotland to avoid prosecution for his radical political writing. In the USA, he was a political writer and was prosecuted under the Sedition act. The Republican leaders supported him. In the USA, he wrote newspaper items critical of the administrations of George Washington and John Adams and a pamphlet that exposed an extramarital affair by Alexander Hamilton. After the passage of the Alien and Sedition Acts in 1798, Callender, who had moved to Richmond by this time, published another pamphlet critical of President Adams.

In the spring of 1800, he was tried and convicted for Sedition in Richmond and served nine

[25] FREE SPEECH CENTER https://www.mtsu.edu/first-amendment/article/1442/matthew-lyon visited 23/09/2020 [296] Thomas Jefferson was an American statesman, diplomat, lawyer, architect, philosopher, and Founding Father who served as the third president of the United States from 1801 to 1809. He had previously served as the second vice president of the United States between 1797 and 1801.

[26] THEIR OWN WORDS http://deila.dickinson.edu/theirownwords/context/0017.htm visited 23/09/2020

months in jail. When Jefferson was elected president in 1801, Callender expected to be rewarded with a political position. When he was not, he turned on his former ally, accusing the president of having fathered children by his enslaved servant Sally Hemings. Callender purchased part ownership of the Richmond Recorder newspaper, but quit after quarrels with his coeditor.[298]

## VI. CRIME AGAINST THE CROWN: AN OVERVIEW OF THE ENGLISH VICTORIAN LAW

The idea of Sedition saw its origin in England, which later served to be a model law for various statutes on Sedition worldwide. In 2009 England became one of the few countries to abolish the offence of Sedition. The Sedition law in England was an offence that criminalized three kinds of acts: publication of seditious libel, utterance of seditious words, and conspiracy to do a show in furtherance of seditious intention.

These three offences of Sedition were mentioned within the Treason law, the Common law regarding seditious libel, and the law as to seditious words. The oldest form of Sedition was that of a libel, i.e. broadcasting in any form, either published or written against the monarch, idolizing the king's divine right, which was first expressed in the Statute of Westminster 1275. The parliament enacted this Statute in 1275, which penalized the ‘telling or publishing’ of any false news or tales whereby discord or occasion of discord or slander may grow between the king and his people or the great men of the realm’. cThe history of Sedition in England is unclear as no particular statute is available for reference. It is said that the original meaning of Sedition was contrary or violent party strife, self-evident of a breach of peace. In short, the offence comprised all those libels and slanders that would detach the rulers from their subjects. The trials of Sedition mostly involved cases of attack on private persons in authority, like magistrates the public officials and were heard by the Star Chambers.[27]

In 1606, an overboard definition of Sedition was given by the Star Chambers in the *De Libellis Famosis* decision. The Chamber defined Sedition as speaking of seditious words, publishing certain libels, and conspiring with others to incite hatred or contempt for persons in authority. The truth and inaccuracy of defamation were immaterial. The Star Chamber ruled, first, that a libel against a private person might be punished as a crime, on the theory that it might provoke revenge and, hence, a breach of the peace. Second, the Star Chamber held that a libel against the government might also be punished criminally and was especially serious because "it

[27] The Star Chamber was an English court which sat at the royal Palace of Westminster, from the late 15th century to the mid-17th century, and was composed of Privy Counselors and common-law judges, to supplement the judicial activities of the common-law and equity courts in civil and criminal matters. [303] 77 Eng. Rep. 250 (K.B. 1606) (Coke).

concerns not only the breach of the peace but also the scandal of government." Third, although the statute of 1275 had insisted upon proof of falsity, the Star Chamber ruled that the truth or falsity of the libel was immaterial under the common law; thus, even a true libel of government could be the subject of criminal prosecution.

The rationale of the Star Chamber decision was straightforward: If the government is to govern effectively, it must command respect and allegiance of the people. Since any utterance critical of government necessarily undermines this respect and allegiance, it must inevitably tend, however remotely, toward disorder. Moreover, a true libel is especially dangerous, for, unlike a false libel, the dangers of truthful criticism cannot be defused by mere disproof.

Thus, an oft-quoted maxim after 1606 that "the greater the truth, the greater the libel." The potential benefits to be derived from bringing governmental shortcomings to light were not seen as sufficiently valuable to justify the exclusion of true libels from the reach of the criminal law. The Star Chamber's open-ended formulation of the crime opened the door to essentially unchecked suppression of dissent. The crimes against the monarch in those days were tried essentially under the treason laws. Treason was one of the oldest defined crimes in England and has been a statutory offence since 1351, which criminalized the imagination of the

Monarch's death or members of royalty, levying war against it or aiding people who do so. The concept of treason had two parts; first, the killing of the King and the second part was a betrayal of the king. Sedition was commonly associated with the latter part connected with the offence of treason by words.

In 1534, under Henry VII,[28] a statute for the crime of treason by words was created based on the principle that treason is based on language. Sedition as an offence was read along with the offence of treason by words. The need for a separate category for the violation of Sedition was not felt during those times. With time the concept of treason was refined. It was increasingly being stated that an offence that involved a grave act of levying war against the monarch cannot

[28] Henry VIII (28 June 1491 – 28 January 1547) was King of England from 1509 until his death in 1547. Henry is best known for his six marriages, and, in particular, his efforts to have his first marriage (to Catherine of Aragon) annulled. His disagreement with Pope Clement VII on the question of such an annulment led Henry to initiate the English Reformation, separating the Church of England from papal authority. He appointed himself the Supreme Head of the Church of England and dissolved convents and monasteries, for which he was excommunicated. Henry is also known as "the father of the Royal Navy," as he invested heavily in the navy, increasing its size from a few to more than 50 ships, and established the Navy Board.[1]
Domestically, Henry is known for his radical changes to the English Constitution, ushering in the theory of the divine right of kings. He also greatly expanded royal power during his reign. He frequently used charges of treason and heresy to quell dissent, and those accused were often executed without a formal trial by means of bills of attainder. He achieved many of his political aims through the work of his chief ministers, some of whom were banished or executed when they fell out of his favor.

be criminalizing mere words under the same name. For the crime of treason to be penalized, it needed to be expressed in acts. Thus the statute regarding treason by words was repealed in 1628. Series of treason trials were conducted, which also helped to achieve a more definite conception that meant an offence against the king and state's safety and well-being.[29]

## VII. TREASON AND FELONY LAW IN ENGLAND

The concept of Sedition saw its origin in England, which later served to be a model law for various statutes on Sedition across the world. The major regulation regarding Sedition in England was Treason And Felony Act 1848. The Treason Act 1795 also known as the Treasonable and Seditious Act was one of the two acts introduced by the British government in the wake of the stoning of King George III[30] on his way to open Parliament in 1795; the other being the Seditious Meetings Act 1795. The above act made it high treason to 'within the realm or without the compass, imagine, invent, devise or intend deaths, destruction, or any bodily harm tending to end or of the King's person. This was derived from the Sedition Act of 1661, which had expired. The 1795 Act was originally a temporary Act which was passed when Geroge III died, but it was made permanent by the Treason Act 1817. This act made it high treason to assassinate the Prince Regent. It also made permanent the Treason Act 1795. This had been due to expire on the death of George III. The provisions were similar to Treason Act 1795, but one change made by section 1 of Treason Felony Act 1848 repealed the concept of Treason provided under the previous Act of 1795.[31]

### SEDITION IN THE UNITED KINGDOM

In England common law of Seditious Libel offence was used to prosecute offence of Sedition. The law prosecution by the British Crown was in 1947 of a newspaper editor for publishing article written on hostility toward or discrimination against Jews as a religious or racial group. [32] The offence of Sedition was abolished in England under the Coroners and Justice Act, 2010. The grounds for abolition of the law were that the law violated the basic Human Rights. Though the law of Sedition was abolished, the Terrorism Act, 2000 also included offences which incited terrorist and provoked training and motive of terrorism at home as well as overseas.

[29] REPORTS WITHOUT BORDERS, https://rsf.org/en/India visited 23/09/2020

[30] George William Frederick 4, June 1736-23rd January 1820 was king of Great Britain and King of Ireland from 25th October 1760 until the union of the two countries on 1st January 1801, after which he was King of the United Kingdom of Great Britain and Ireland until his death in 1820. He was concurrently Duke and Price-Elector of Brunswick Lineburg in the Holy Roman Empire before becoming King of Hanover on 12th October 1814.

[31] Treason Felony Act 1848

[308]Treason Act 1351

[32] R v. Chief Metropolitan Stipendiary Magistrate Ex parte Choudhury, 1991 1 ALL ER 313

In UK there was no proper definition that explained the offence of Sedition. Sir James Stephens explains in his 'Digest of Criminal law' that a seditious intention was an intention to bring hatred, enmity and disaffection against the Crown, his legal heirs and also against his successors. The offence also included exciting disaffection against the Government, Constitution, houses of Parliaments and even administration of justice. The offence of Sedition included activities which were against the Church or State and also involved acts that provoked other people to commit disturbance of peace and order. Creating ill-will and hostility between people of different classes was also considered under the offence of Sedition. However, the offence of Sedition did not include acts that were aimed to show the defects or mistakes in the measures of the Government and which aimed reforms by lawful means.

Stephens referred Littledale J. and emphasized that the conviction of a person for the offence of Seditious Libel is only possible if the court is satisfied that the accused has used physical force as a way to obtain justice. In short he has explained that Seditious libel will be applied only when there is an act that excites people to rebellion and subvert the authority apart from lawful means. [330] In order to convict a person for Seditious libel the accused must encourage violence against the Crown or the Government. Intention to promote feeling of ill-will and hostility does not establish seditious intention but there should be actual violence or disturbance against the authority. [331] Stephens in his 'Digest of Criminal Law' has explained that while determining the intention was seditious or not every person will be responsible to understand the consequences of his action or his conduct. [332] The confusion regarding the definite explanation of Sedition in England continued and the law was finally abolished in 2009. [333]

**FREEDOM OF SPEECH AND EXPRESSION IN UNITED KINGDOM**

The English law has not recognized Freedom of speech and expression. The common law enacted laws for press and curtailed their freedom and kept a check on English newspapers and periodicals. Rather one can say that freedom of expression never enjoyed any constitutional status.

As a result of the Human Rights Act of 1998 recognition of the right of free speech has been changed drastically. Under this legislation, the right to freedom of expression guaranteed by Article 10 of the European Convention on Human Rights (ECHR or "Convention") is protected by compatibility with the right if possible.[33] The courts too are under the obligation to follow the principles of Human Rights and also to develop laws in conformity with the Convention

[33] Convention for the Protection of Human Rights and Fundamental Freedoms art. 10, Nov. 4, 1950,213 U.N.T.S. 221, 230. "European Convention on Human Rights" is a commonly used alternative title for the Convention and is the name that will be employed throughout this Article.

Rights. Thus one can say that the country which was a pioneer in introducing the law of Sedition to the world has now abolished it from its statute books. Moreover the United Kingdom z as a country though were not having constitutional statute which guaranteed the freedom of speech and expression, yet the country has accepted the International Conventions on freedom of speech and expression and also it is mandatory for the courts in United Kingdom by abide to these principles of Human Rights and not develop any laws that will counter the Convention Rights.

## VIII. COMPARATIVE ANALYSIS OF SEDITION LAW

From the above discussion, we can understand that the law of Sedition was majorly introduced by the British in many countries. Even though the English who introduced this law have abolished it, we can see that many countries, including India, still have this law in their Statute books. The further discussion will be about how the law differs from the Indian law based on the provision and case laws of the countries discussed above.

### INDIA AND ENGLAND

Sedition has its origin form Treason Law of England. Treason was a crime against the Crown or his heir or successors. The crime of Treason was considered as felony in England. As the British expanded their empire, they imported this law in different forms to their colonies. Sedition law was introduced by the British mainly to suppress the voices against them. India being one of such British colonies had a strong nationalist movement which was against the British. To suppress this movement the British decided to introduce Sedition in India. The law of Treason was a serious crime and mainly included acts which were intended to excite subjects against the crown or his successors or his heirs. The law was used to punish those who created discord between the Crown and the subject. Primarily, Treason was an act that included telling or publishing false news or tales whereby discord or occasion of discord would grow between the King and his people.

When the British arrived in India it was a monarchial country. Rebellion against the king was a crime and was punishable with death. But there was no uniformity in the laws that prevailed in India and every region or kingdom had its own rules and regulations. The British in order to establish a uniform legal system decided to introduce a legal system based on the legislation back in England. Sedition was one of the legislations which prevailed in England, though it had no exact definition but was considered as offence under the head seditious libel. Anything written against the Crown which would lead to discord amongst the king and his subject was considered punishable. The law of Treason punished even acts that aimed to reform or correct

the mistakes of the Crown or his administration. Thus the law of Treason was completely suppressive and did not give any chance to the citizens to show any sort of discontent. On the contrary the provision of Sedition in India was mainly enacted to suppress the antiBritish voices and punished acts that lead to hatred, contempt, and disaffection against the government, i.e., the government which was representing the crown. The provision of Sedition, though similar to the English provision, did not penalize acts which aimed to reform the government's mistakes.[375]

The law of Sedition in England was first used in 1606. An overbroad definition of Sedition was given by the Star Chambers in the De Libellis Famosis case. In this case, Sedition was explained as speaking of provocative words, publishing certain libels and conspiring with others to incite hatred or contempt against persons in authority. The truth and inaccuracy of libel were immaterial. Any criticism of the ruling authority authorities was forbidden. Similarly, in the first case of Sedition in India, it was held that Sedition consisted of writing seditious libel and did not cover punishment for publishing such writing. The jury, in this case, has further observed that an elaborative explanation of the term disaffection and called it an extensive term that does not necessarily point to direct incitement to rebel. In this case, the meaning of disaffection was explained as without affection, attachment, friendship, regard, love or goodwill, to dislike, having dishonesty. In this case, the jury also explained that the term Sedition was used for people unhappy with the government and who did not show their discontent by evident acts. Further, in this case, it was held that the jury is under the duty to collect the intention from the writing charged under Sedition and study the words and examine whether terms used are to cause or excite disaffection or likely to induce Sedition.

Thus from the above discussion, one can realize that the Sedition in England was a more stringent and ancient concept. It was related to the King and his reputation. No one was allowed to give his or her opinion in any way regarding the King and matters related to him. Thus, even a fair idea was brought under the scope of Sedition in England. Similarly, the application was implemented in India by the British, and the provision was used liberally to curb the voices of the Indians. The pre-independence trials were most pronounced by anti-native judges who successfully interpreted the provision of Sedition to suppress the citizens' voices.

The law of Sedition was finally repealed by the British in 2009, and they argued that there was no place for such outdated law, which infringed the basic and natural right of free speech and expression. As far as India is concerned, the country still carries the British era law with absolutely no amendments or changes. It has been in controversy as it infringes the basic right of freedom of speech and expression.

© 2025. International Journal of Legal Science and Innovation [ISSN 2581-9453]

**UNITED STATES OF AMERICA AND INDIA**

In the USA, the provision of Sedition was earlier found in the Alien and Sedition Acts, 1798. There was a series of four laws passed by the U.S. Congress during the war with France. These laws restricted the activities of the foreign residents in the country and limited the freedom of speech and press. The act banned the publishing of false or malicious writings against the government and the inciting of opposition to any act of Congress or the President and practices forbidden by the state statutes and the common law but not by federal law.

When one compares this provision with the Indian provision, we can see that the Indian provision was exclusively introduced to curb the nationalist movement in British India. While the American Sedition law aimed to save the country from the interference of foreigners, especially during the war it also limited freedom of speech and expression. The provision of Sedition in the U.S. also bans the publishing of false or malicious writing against the government and also inciting opposition to any act of Congress or the President. If one sees the Indian provision of Sedition it too punishes those who excite or attempt to excite disaffection against the government established by law.

Thus, in US Sedition is considered a serious crime similar to India and is punishable with 20 years imprisonment if the act is against the lawful authority and aims to overthrow it. In India, after Independence, Sedition was criticized by the framers of the constitution. Similarly in the U.S. Sedition provision was also criticized by the Republican minority, on the grounds that Sedition Act violated the First Amendment of the Constitution, which protected freedom of speech and press. But the Federalist majority argued that freedom of speech must be balanced with an individual's responsibility for false statements.

Likewise, during the constituent assembly debate in India, many framer's were against the inclusion of Sedition as a reasonable restriction on freedom of speech provided in the Indian Constitution. The law was considered vague, and the framers expressed fear of misuse. But one can see that though the provision of Sedition was not included in the reasonable restrictions on Freedom of speech and expression, the main ingredient of the offence that is 'Public order', has been included as one of the grounds of limitation in the Indian Constitution.

## IX. CONCLUSION

From the above discussion, we can understand how Sedition law prevails globally. The colonial rulers have given this law to many countries, and many still have them in their statute books. One can also see that a few countries like Australia, Malaysia, and the United States of America have amended the provision of Sedition according to the need of the time. The British, who

introduced this law, have repealed the law way back in 2009. African countries like Ghana, Kenya, and Swaziland, under colonial rule for a longer period, have also rightly recognized the need for repealing this colonial-era law. International conventions have also provided guideline's that Sedition and Treason need to be applied narrowly and supported its application on public order, security of the state, etc. But the irony is that majority of the countries are misusing this law, which has led to a controversy about whether the law contradicts the fundamental right of free speech and expression. Thus from the above discussion my hypothesis that the law of Sedition violates the International Instruments on human Rights has been proved.

*****

© 2025. International Journal of Legal Science and Innovation [ISSN 2581-9453]