International Journal of Interdisciplinary Cultural Studies
ISSN: 2327-008X (Print), ISSN: 2327-2554 (Online)
Volume 20, Issue 1, 2025
https://cgscopus.com/index.php/journals

THE GHOST OF SEDITION IN A DIGITAL REPUBLIC: ANALYZING ITS RELEVANCE IN THE AGE OF SOCIAL MEDIA AND ALGORITHMIC DISSENT

Sheetal Chauhan, Research Scholar, Amity University Madhya Pradesh

ABSTRACT

In an era where political discourse is increasingly shaped by social media and algorithmic curation, the age-old charge of sedition has found unsettling new relevance. *"The Ghost of Sedition in a Digital Republic"* interrogates the evolving dynamics of state power, dissent, and digital expression. In the rapidly evolving digital landscape of the 21st century, the boundaries between dissent, free speech, and subversion have become increasingly blurred. India's repeal of the colonial-era sedition law, Section 124A of the Indian Penal Code (IPC), 1860, through the enactment of the Bharatiya Nyaya Sanhita (BNS), 2023, and its replacement by Section 152, "acts endangering sovereignty, unity and integrity of India", signals both continuity and change. While the term "sedition" has been formally discarded, this paper argues that its spirit persists through the broader and technologically attuned language of the new statute. This examines the legal and political transformation of sedition in India in the context of social media, algorithmic content moderation, and state surveillance. It explores how Section 152 of BNS interacts with online dissent, especially where automated systems and opaque algorithms influence what is visible, amplified, or suppressed. By analyzing recent case studies, legal trends, and judicial responses, the article demonstrates that the structural vulnerability to suppress dissent remains intact, albeit reconfigured for the digital age. It contends that a constitutional democracy must move beyond the sedition mindset to embrace dissent as a cornerstone of both offline and online citizenship. Hence, this research argues that unless accompanied by genuine reform, the so-called decolonization of law risks becoming a semantic sleight of hand.

Keywords: Sedition, Digital Republic, Algorithmic Dissent, Social Media, Free Speech, Censorship, Content Moderation, Surveillance, Algorithmic Bias, AI Governance, Political Repression

International Journal of Interdisciplinary Cultural Studies
ISSN: 2327-008X (Print), ISSN: 2327-2554 (Online)
Volume 20, Issue 1, 2025
https://cgscopus.com/index.php/journals

INTRODUCTION

The legal architecture of sedition in India traces its origins to Section 124A of IPC, 1860, a colonial relic designed by the British to stifle nationalist sentiment and preserve imperial authority. The provision criminalized speech that incited "disaffection" toward the state, with terms so vague they encompassed even peaceful criticism of government policies. Despite gaining constitutional democracy post-independence, India retained this draconian law, often defending it as necessary for safeguarding national integrity. In *Kedar Nath Singh v. State of Bihar* (AIR 1962 SC 955), the Supreme Court read down the scope of the law to acts involving "incitement to violence" or "tendency to create public disorder," attempting to constitutionally align it with Article 19(1)(a), which guarantees freedom of speech. However, in practice, the sedition law has continued to be employed against journalists, students, political dissenters, and civil society actors, often without the evidentiary threshold of incitement being met. Its legacy has proven not only resilient but increasingly potent in the age of digital expression (S., 2022).

With the proliferation of social media and algorithmic communication, dissent in India has undergone a profound transformation. Platforms like Twitter (now X), Facebook, and YouTube have enabled real-time political mobilization, crowdsourced resistance movements, and decentralized public discourse. Digital spaces have amplified voices historically excluded from mainstream media, including marginalized communities and youth activists. However, these gains are threatened by both state-led digital surveillance regimes and privately controlled content moderation systems, which together pose a new form of suppression, not through overt prohibition, but via invisible curation, chilling effects, and algorithmic silencing. This dynamic raise serious constitutional questions about the scope and substance of free speech in a networked democracy, where dissent is increasingly born and dies online (Nayyar, 2023).

The BNS, 2023, ostensibly intended as a decolonial reform of India's criminal law, purports to eliminate the sedition law by repealing Section 124A IPC. However, its replacement, Section 152 of BNS, which penalizes acts endangering the "sovereignty, unity, and integrity of India", raises fundamental doubts about the genuineness of this legislative shift. While the term "sedition" is omitted, the functional language of Section 152 remains sufficiently broad and vague to capture similar speech acts that were previously criminalized under the old regime. The provision explicitly includes electronic communication and financial means, thus, expanding state control into the digital and economic dimensions of political expression. In effect, Section 152 may represent not a doctrinal break with colonial jurisprudence, but a rhetorical substitution that modernizes sedition under the guise of national security (Jayasawal, 2023).

This convergence of ambiguous statutory language with technological apparatuses of control, such as algorithmic policing, metadata surveillance, and AI-driven content moderation, poses an existential threat to constitutional dissent. The Indian state's capacity to label protest as subversion and criticism as anti-nationalism has grown exponentially, precisely at a time when public discourse is most reliant on digital spaces. The real danger lies not just in the text of Section 152, but in its embeddedness within a techno-legal infrastructure that enables mass censorship without due process or transparency. In this context, the central legal and normative question becomes whether BNS, 2023 signifies the end of sedition, or whether it has simply rendered it more palatable, programmable, and pervasive in the age of digital governance (Shrivastav, 2023).

COLONIAL LEGACY OF SEDITION IN INDIA

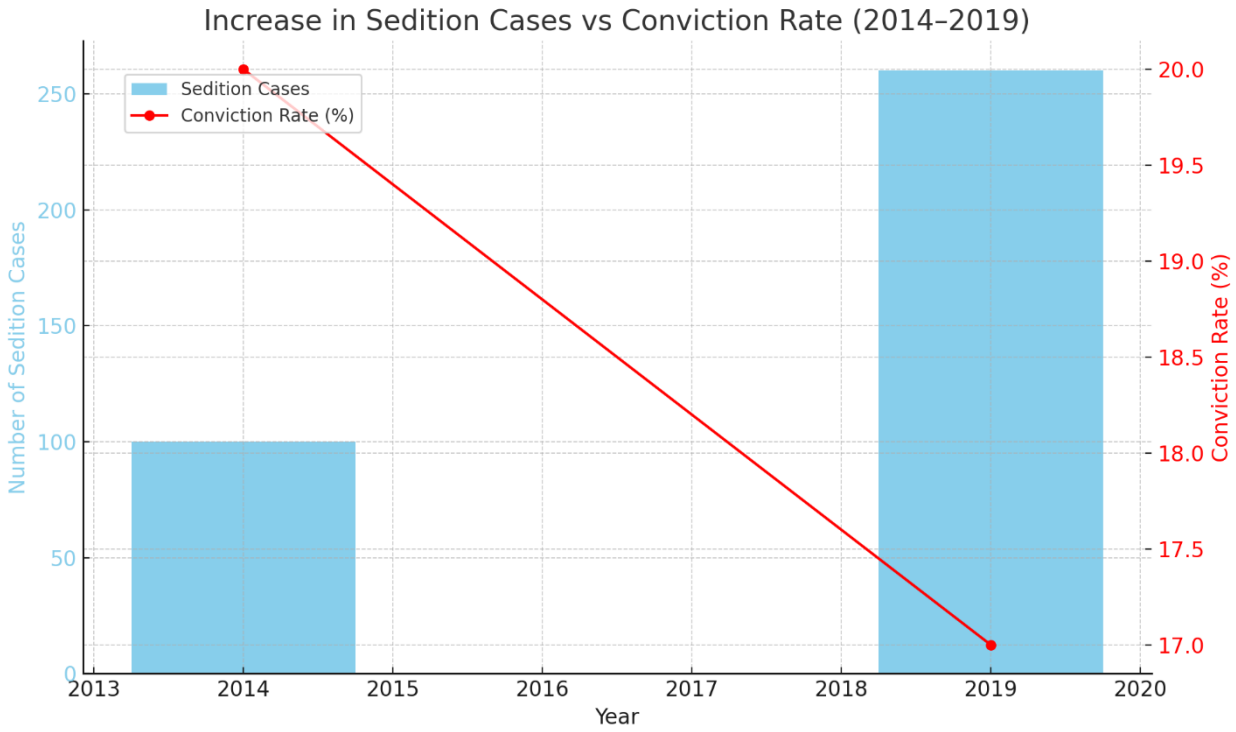
Section 124A of the IPC, which criminalized sedition, was introduced in 1870 by the British colonial government. Although Thomas Babington Macaulay had drafted a provision on sedition in 1837, it was omitted from IPC, 1860. The insertion of Section 124A was primarily aimed at suppressing dissent against colonial rule, particularly in the wake of the 1857 uprising and the rise of nationalist sentiments. The provision defined sedition as any expression that brought or attempted to bring into hatred or contempt, or excited or attempted to excite disaffection towards the government established by law. Notably, prominent freedom fighters such as Bal Gangadhar Tilak and Mahatma Gandhi were prosecuted under this section. Tilak faced sedition charges in 1897 and 1908 for his writings in 'Kesari', while Gandhi was tried in 1922 for articles in 'Young India', where he described the law as "the prince among the political sections of the IPC designed to suppress the liberty of the citizen" (Ranjan, 2023).

Post-independence, Section 124A's compatibility with the Constitution of India became contentious. Article 19(1)(a) guarantees the right to freedom of speech and expression, while Article 19(2) permits reasonable restrictions in the interests of, among other things, public order and the security of the state. The seminal case of *Kedar Nath Singh v. State of Bihar* (AIR 1962 SC 955) addressed this tension. The Supreme Court upheld the constitutionality of Section 124A but limited its application to acts involving incitement to violence or intention to create public disorder. The Court emphasized that mere criticism of the government, without incitement to violence, did not constitute sedition.

Despite the judicial safeguards established in *Kedar Nath Singh*, the application of Section 124A in contemporary India has been a subject of concern. Data from the National Crime Records Bureau (NCRB) indicates a significant increase in sedition cases in recent years. For instance, between 2014 and 2019, there

International Journal of Interdisciplinary Cultural Studies
ISSN: 2327-008X (Print), ISSN: 2327-2554 (Online)
Volume 20, Issue 1, 2025
https://cgscopus.com/index.php/journals

was a 160% rise in the number of sedition cases filed, while the conviction rate remained low (NCRB, 2020), as shown in graph 1 hereinbelow.



Graph 1

Source: NCRB

This trend suggests a potential misuse of the provision to stifle dissent and target individuals critical of the government. The broad and vague language of Section 124A has been criticized for enabling its application in situations that may not involve any incitement to violence, thereby having a chilling effect on free speech. Legal scholars, human rights activists, and various civil society organizations have called for the repeal or amendment of Section 124A, arguing that it is a relic of colonial-era laws that is incompatible with democratic values. The Law Commission of India, in its 2018 consultation paper, questioned the necessity of retaining the sedition law, especially when other laws are available to address threats to public order and national security. Critics argue that the provision's vague terminology allows for its misuse against political opponents, journalists, and activists, thereby undermining the fundamental right to freedom of expression (Patnaik, 2021).

The BNS, 2023, presents itself as a long-overdue rupture with colonial legal frameworks, particularly through the ostensible repeal of Section 124A of IPC, the infamous sedition provision. However, this legislative maneuver appears more cosmetic than substantive. Section 152 of the BNS, titled "Acts endangering sovereignty, unity and integrity of India", resurrects much of the operative language and intent of the erstwhile sedition law, albeit with updated terminology. The phraseology in Section 152 is arguably broader than its predecessor, encompassing not only verbal or written expressions but also electronic communication and financial transactions, thereby expanding the net of criminality in the digital and economic spheres of dissent. While "sedition" as a term has been expunged, its functional apparatus has been fortified and modernized under the guise of national security (Upadhyay, 2023).

A closer jurisprudential scrutiny reveals that Section 152 fails to incorporate the essential constitutional safeguards laid down in *Kedar Nath Singh*'s case, where the Supreme Court sought to confine sedition only to acts involving incitement to violence or intention to create public disorder. The new provision makes no reference to "violence" as a threshold requirement, instead criminalizing the excitation of "secession" or "subversive activities", terms that remain undefined and dangerously open to discretionary interpretation. The legislative silence on mens rea standards and lack of a clear proximate harm requirement risks undermining the doctrine of proportionality, a cornerstone of free speech jurisprudence under Article 19(1)(a) of the Constitution. As such, Section 152 reintroduces vagueness into the criminal law, inviting misuse by state actors and potentially failing the tests of legality and necessity under Article 19(2) (Kapoor, 2021).

Moreover, the shift from "disaffection" under Section 124A of IPC to the broader and more abstract notion of "subversive activities" in Section 152 obfuscates the distinction between protected political expression and punishable incitement. In the digital age, where dissent often takes the form of social media posts, memes, satire, or transnational advocacy, this vague threshold is particularly perilous. The inclusion of "electronic communication" and "financial means" within the ambit of the offence effectively criminalizes a wide spectrum of online activities and support mechanisms, from tweeting criticism of government policies to crowdfunding for protest-related legal aid. This extension threatens to bring constitutionally protected speech under the shadow of penal sanction, especially in an environment where political criticism is increasingly framed as a threat to sovereignty (Patel, 2021).

In effect, Section 152 appears less as a repudiation of sedition and more as its algorithmically-enhanced reincarnation. The law seems tailored to accommodate contemporary forms of dissent rather than to emancipate the republic from the colonial logic of speech suppression. The preambular promise of BNS to

"modernize and decolonize" is compromised when the new legal architecture merely retools the same coercive powers for a digital society. Thus, Section 152, while facially distinct from its colonial predecessor, functionally performs the same role, regulating allegiance, policing narratives, and deterring dissent. It may rightly be described as "sedition by another name", perhaps more insidious because of its illusion of progress.

DISSENT IN THE AGE OF ALGORITHMS

In contemporary India, the digital public sphere, dominated by platforms like Twitter (X), Facebook, and Instagram, has emerged as the most potent site for civil dissent and democratic mobilization. From the Arab Spring to India's Shaheen Bagh protests and the 2020–21 farmers' agitation, hashtags and viral content have enabled previously unheard voices to pierce mainstream discourse. These platforms have redefined the geography of protest, allowing digital sit-ins, campaigns, and solidarity movements to transcend physical and jurisdictional boundaries. The architecture of these platforms, decentralized, participatory, and immediacy-driven, has become foundational to political expression. However, this very decentralization also invites new forms of scrutiny and suppression, especially when digital dissent collides with state interests in preserving "order," "sovereignty," or "national security" (Dash, et. al., 2021).

Beneath the surface of this vibrant digital engagement lies the opaque machinery of algorithmic gatekeeping. Algorithmic recommendation systems, governed by proprietary, non-transparent code, determine which voices are amplified and which are buried. These algorithms prioritize engagement, often at the expense of truth or dissenting viewpoints, creating echo chambers and silencing unpopular or oppositional discourse. In this environment, dissent may not be criminalized outright but instead rendered invisible through shadow-banning, automated downranking, or de-platforming. The constitutional right to free speech under Article 19(1)(a) becomes illusory if algorithmic architectures, operating without due process or accountability, selectively distort or suppress public expression. The use of AI-driven content moderation, while nominally aimed at curbing hate speech or misinformation, can be weaponized to flag critical commentary as "harmful," "inciteful," or "unreliable", with little recourse for the speaker.

The state's intervention in this digital landscape further complicates the normative balance between liberty and security. India has increasingly resorted to coercive digital tactics: internet shutdowns, platform blocking, and extra-judicial takedown notices. According to the Software Freedom Law Center and other watchdogs, India has led the world in internet shutdowns for several consecutive years. These shutdowns often occur in regions of political tension, such as Jammu & Kashmir or during large-scale protests, and are justified in the name of public order. Yet, they effectively constitute a prior restraint on speech, contrary to the principles laid down in *Shreya Singhal v. Union of India* (Writ Petition (Criminal) No. 167 OF 2012). where the Supreme

Court invalidated vague speech restrictions under Section 66A of the IT Act. When connectivity itself is severed, no algorithmic neutrality or speech protection can function.

The legal superstructure enabling these interventions, most notably the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, entrenches state control over digital speech under the guise of accountability and ethics. These rules empower the executive to direct intermediaries to take down content without judicial oversight, raising serious concerns about due process and overreach. The traceability requirement under Rule 4(2), for example, compels end-to-end encrypted platforms to break encryption, undermining both privacy and freedom of expression. The state, by demanding proactive monitoring and compliance from intermediaries, effectively deputizes private platforms into instruments of censorship. In this paradigm, the algorithm is no longer merely a technological filter but a regulatory actor shaped by state imperatives, eroding the constitutional architecture that safeguards dissent (Sachdeva, N., & Kumaraguru, P., 2014).

THE PERSISTENCE OF THE SEDITION MINDSET

Despite the ostensible decolonial intent of the Bharatiya Nyaya Sanhita, 2023, Section 152 continues to reflect a statist obsession with maintaining ideological conformity under the guise of protecting "sovereignty" and "integrity." The discourse surrounding "anti-national" behavior has increasingly conflated disagreement with disloyalty, fostering a legal and political culture in which dissent is not merely contested, but criminalized. The shift from Section 124A of the IPC to Section 152 of the BNS has not extinguished this punitive impulse; instead, it has rearticulated it in broader, more technologically responsive language that includes speech, electronic communication, and financial means, effectively expanding the net of state surveillance and intervention. The invocation of national unity in Section 152, devoid of precise definitional limits, permits discretionary and often arbitrary interpretation by executive authorities, thus enabling a chilling effect that deters both civic engagement and journalistic scrutiny (Dutta, 2017).

The language of contemporary political rhetoric increasingly positions dissenters, particularly those operating in digital spaces, as internal adversaries. Political leaders and institutional narratives frequently deploy labels such as "urban Naxal," "tukde tukde gang," or "anti-national" to delegitimize critiques, especially when voiced by student activists, journalists, or minority-rights advocates. This narrative has been weaponized through the legal system, where charges under sedition-like provisions (now under Section 152) are filed preemptively, often without evidence of incitement to violence, but merely for expressing contrarian views or mobilizing online campaigns. For instance, individuals like Disha Ravi and Umar Khalid were subjected to punitive legal action under the previous sedition regime for digital expressions of protest, and the post-2023 period has shown similar trends under BNS 152, albeit under a different lexical guise. These cases demonstrate not only

continuity in repressive strategy but also the evolving interface between law enforcement and digital surveillance, raising grave constitutional concerns regarding proportionality, necessity, and procedural fairness (Ghosh, 2018).

The judiciary's role in this evolving landscape has been inconsistent and at times ambivalent. While the Supreme Court's temporary suspension of sedition prosecutions in 2022 signaled a moment of constitutional introspection, the advent of BNS has reintroduced legal uncertainties that civil society and litigants are once again contesting. Lower courts, often operating under political and public pressure, have been hesitant to dismiss charges at the threshold, leaving accused individuals in prolonged legal limbo. Simultaneously, public interest litigation and interventions by constitutional scholars have reignited debates around the doctrine of "clear and present danger" and the necessity of judicially enforced guardrails on vague national security legislation. Civil society organizations and press freedom advocates continue to demand the repeal or judicial reading-down of Section 152, arguing that it fails the tests of precision, minimal impairment, and least restrictive means mandated by the Supreme Court's jurisprudence on Article 19(1)(a). In this sense, the "ghost of sedition" persists not only in statutory text but in the ideological framework of governance, where constitutional fidelity often yields to political expediency.

CONCLUSION

The legislative shift from Section 124A of the Indian Penal Code to Section 152 of BNS, 2023, while ostensibly a move toward decolonizing the legal framework, fails to exorcise the normative and operational specter of sedition that has long haunted India's democratic ethos. Although the term "sedition" is conspicuously omitted, the substantive content, characterized by vague and expansive formulations such as "subversive activities" and "exciting secession," coupled with inclusion of digital and financial expressions, perpetuates the same coercive potential under a modernized guise. This linguistic cosmeticize, in effect, re-legitimizes the state's discretionary power to criminalize dissent under the pretext of safeguarding sovereignty and integrity, concepts that remain undefined and susceptible to politicized interpretation. In a digitally mediated republic, where speech is algorithmically distributed and state surveillance is algorithmically amplified, Section 152 does not merely inherit the repressive legacy of sedition but adapts it to contemporary technological realities, further eroding the safeguards of Article 19(1)(a) of the Constitution. Thus, the so-called legal reform risks entrenching a digital architecture of censorship and fear, unless judicial scrutiny and legislative precision reclaim the primacy of democratic dissent over nationalist dogma.

REFERENCES

- Dash, et. al., (2021). Insights into incitement: A computational perspective on dangerous speech on Twitter in India. *arXiv preprint arXiv:2111.03906.* https://arxiv.org/abs/2111.03906.
- Dutta, N. (2017). Sedition laws and their implications on political discourse. *Journal of Political Science and Public Policy, 5*(4), 301–320.
- Ghosh, A. (2018). The colonial legacy of sedition laws in India: A historical perspective. *Oxford University Press*.
- Jayasawal, S. (2023). The law of sedition in India: A critical analysis in light of freedom of speech guaranteed under the Constitution. *Journal of Scientific Research and Technology, 1*(2), 11–15. https://doi.org/10.5281/zenodo.7950272.
- Kapoor, T. (2021). Sedition law: A comparative view in India with other countries. *Thematics Journal of Law, 1*(1). https://thematicsjournals.in/index.php/tjl/article/view/110.
- Nayyar, T. (2023). Sedition law in India: Judicial interpretation and the need for reform. *International Journal of Law Management & Humanities, 6*(4), 74–95. https://doij.org/10.10000/IJLMH.115335.
- NCRB. (2020, September 15). *Sedition cases increased by 160% in India between 2016 and 2019, NCRB data shows*. Scroll.in. https://scroll.in/latest/971963/sedition-cases-increased-by-160-in-india-between-2016-and-2019-ncrb-data-shows.
- Patel, M. (2021). Analyzing the law of sedition in India. *International Journal of Law Management & Humanities, 4*(3), 647–663. https://doij.org/10.10000/IJLMH.11525.
- Patnaik, A. (2021). Sedition: Whether a justified law or not? *International Journal of Law Management & Humanities, 4*(3), 1037–1053. https://doij.org/10.10000/IJLMH.11567.
- Ranjan, I. (2023). Sedition laws of India: An analysis of the 279th Law Commission report. *International Journal of Law Management & Humanities, 6*(3), 2920–2925. https://doij.org/10.10000/IJLMH.115155.
- Sachdeva, N., & Kumaraguru, P. (2014). Online social media and police in India: Behavior, perceptions, challenges. *arXiv preprint arXiv:1403.2042.* https://arxiv.org/abs/1403.2042.

- Shrivastav, V. (2023). Critical analysis of the sedition law in India: In contradiction with freedom of speech: Case study. *Journal of Constitutional Law and Jurisprudence, 5*(2). https://lawjournals.celnet.in/index.php/Jolj/article/view/1114.

- Upadhyay, A. (2023). Critical analysis of the sedition law in India: With freedom of speech. *International Journal of Law Management & Humanities, 6*(2), 2440–2450. https://doij.org/10.10000/IJLMH.114657.

- x, S. (2022). Time to Abolish Sedition Law in India. *International Journal of Science and Research (IJSR)*, *11*(8), 510–512. https://doi.org/10.21275/mr22806100740.