

## SEDITION LAWS: THEN AND NOW

Paritosh Prakash\*

*“Section 124A, under which I am happily charged is perhaps the prince among the political sections of the Indian Penal Code designed to suppress the liberty of the citizen. Affection cannot be manufactured or regulated by the law. If one has no affection for a person, one should be free to give the fullest expression to his disaffection, so long as he does not contemplate, promote or incite to violence.”<sup>1</sup>*

### SEDITION: THE OUTDATED LAW OF INDIA

Sedition refers to the writing or uttering of words or doing acts intended to bring the state into hatred or contempt or to excite disaffection against the established government. The British Government in order to maintain the continuity of rule in India enacted a number of laws to restrain public to rebel against the British rule. The offence of sedition was amongst these offences. Sedition law in India, like most of the criminal law in India, is a reflection of the Victorian legacy left behind by the British and is indicative of the colonial mind set of British. It was incorporated in the Indian Penal Code in 1870 and was repeatedly used to oppress the Indian freedom fighters and the national struggle for freedom before independence.

Most of the democratic countries have already considered Sedition laws to be laws of the old age. The United States rarely uses it countries like Britain, Australia and New Zealand have already repealed it. Our Penal Code still contains the unlovely vestiges of Victorian moralism and imperial autocracy and is full of many laws which are redundant and contrary to the spirit of Indian democracy.

India has set great examples by repealing some of the archaic laws such as decriminalizing gay sex in 2018. It has also scrapped of adultery which was a law containing gender bias. It is time for it to bring strict amendments to its law containing sedition so that it gets rid of any undemocratic element that it might contain. Often sedition charges are like legally sanctioned intimidation and such a practice cannot be practices in a democracy like India where there is freedom of speech and expression. The same should be done immediately in order to get rid of

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\* Research Scholar @ Department of Law, School for Legal Studies, Babasaheb Bhimrao Ambedkar University, Lucknow; Email: paritosh.keswani@gmail.com

<sup>1</sup> Samak Halarnkar, *Gandhi Would Approve*, Available at: <https://www.hindustantimes.com/columns/gandhi-would-approve/story-SC2mNYGrN5PqsQxoHyNIPM.html>, (Accessed on: June 21, 2021)

the colonial hangover of India and rejoice its ideals of freedom of speech and expression thereby protecting its legal and political culture.

The same is in consonance with the International Agreements i.e. International Covenant on Civil and Political Rights and it sets forth internationally recognized standards for the protection of freedom of expression. Misuse of Sedition and arbitrary slapping of charges are not in consonance with India's International commitments and arbitrary charges are inconsistent with India's commitments.

India is the largest democracy of the world and the right to free speech and expression is an essential ingredient of democracy. The expression or thought that is not in consonance with the policy of the government of the day should not be considered as sedition

To highlight few incidences, in February 2020, a 14-year girl stood up on a stage in Bangalore and began a speech with the words "Pakistan Zindabad". She was promptly arrested. Earlier that month, in Kashmir, three students were arrested for raising pro-Pakistan slogans. None of these situations corresponded with the condition of exciting disaffection against the Government established by law but still attracted the heat of Sedition. The law of Sedition needs more crystallization so that it is not used as a vindictive measure by the Government against its criticism but rather used in its true sense against those who attempt to disturb the law and order.

### **LAW OF SEDITION: A COLONIAL TOOL**

In the UK, where sedition law came from, it was used to punish those who expressed contempt or dissatisfaction against 'his majesty', i.e. the King of England. In the UK, the sedition law was abolished in 2009 by the Coroners and Justice Act and the then Justice minister of UK stated that "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. Freedom of speech is now seen as the touchstone of democracy and the ability of individuals to criticize the state is crucial to maintaining that freedom."<sup>2</sup> British colonial rulers incorporated it in the Indian Penal Code to punish colonial subjects who spoke against the policies of the British Monarch. The sedition law, along with other draconian legislations such as Vernacular Press Act and the Newspapers (Incitement of Offences) Act, were used to suppress activities of Indian freedom fighters and to

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<sup>2</sup> Prasun Sonwalkar, *Sedition Law in UK abolished in 2009, continues in India*, Hindustan Times, (Available at: <https://www.hindustantimes.com/world/sedition-law-in-uk-abolished-in-2009-continues-in-india/story-Pkrvylv6J0T3ddY8uqvKsO.html> (Accessed on: April. 11, 2021, 2:06 PM))

instil fear among those who criticised the government.<sup>3</sup>

The colonial powers had penned down sedition more than a century and half ago to use it as a weapon to silence free speech and subjugate religious minds. Its prohibition upon spreading disaffection against the government, and the manner of its use, makes it clear that it was enacted to preserve the reputation of the colonial government in the eyes of its subjects. It was intended to indict any speech that as much as questioned the moral superiority of the government.

## HOW OUR CONSTITUTION MAKERS THOUGHT ABOUT IT

During the debates in the Constituent Assembly the founding fathers, in view of their bitter experience of the application of the sedition law by the British colonial regime, there were serious opposition against the inclusion of sedition as a restriction on the freedom of speech and expression under the then Article 13 of the Indian Constitution. Such a provision was considered as a shadow of colonial times that should not see the shadow of the day in free India. The Constituent Assembly was unanimous in having the word ‘Sedition’ deleted from Article 13 of the draft Constitution. In the words of Shri M. Ananthasayanam Ayyangar “It should be the fundamental right of every citizen in the country to overthrow the government without violence by persuading people, exposing faults in the administration and so on”<sup>4</sup>. Shri K.M. Munshi also opposed the inclusion of Sedition under Article 13 as a reasonable restriction and stated that we should give the power to the people to criticize the government and public opinion should drive the government. However Sedition as a criminal offence (as it was included in the Indian Penal Code in 1870) continues to be in our statute books owing to the political whims and fancies at play. Even though the inclusion of Sedition in the constitution was vehemently opposed, no attempt was made by any subsequent governments to remove it from the Indian Penal Code so as to decriminalize it. Though the Section 124A has fallen before the judiciary several times for scrutiny and a clash between Article 19(1)(a) of the Constitution of India, 1950 and Section 124A of the Indian Penal Code, 1860 had been put to rest through different interpretations by the judiciary. Section 124A came for consideration for the first time before the Supreme Court in the case of *Romesh Thapar v. State of Madras*<sup>5</sup>. The Court ruled in this case that unless the freedom of

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<sup>3</sup> Prabudh Singh, *A Higher Threshold should be set for Prosecution under Sedition Law*, The Wire, Available at: <https://thewire.in/law/a-higher-threshold-should-be-set-for-prosecution-under-sedition-law> (Accessed on: April 11, 2021, 2:19 PM)

<sup>4</sup> Constituent Assembly of India, 2<sup>nd</sup> December 1948; Constituent Assembly debates Official Report, Vol. VII, Reprinted by Lok Sabha Secretariat, New Delhi, Sixth Reprint 2014.

<sup>5</sup> AIR 1950 SC 124

speech and expression threatens the 'security of or tend to overthrow the State', any law imposing restriction upon the same would not fall within the purview of Article 19(2) of the Constitution.

## JUDICIAL SCRUTINY

### *Pre-Constitutional Incidents*

It was a matter of privilege for Indian freedom fighters to be behind bars under the charges of 124A, as said by the Father of the Nation.

- **QUEEN EMPRESS v. JOGENDRA CHUNDER BOSE<sup>6</sup>**

It was in the year 1892 that the first recorded State trial for sedition took place. In this case an article was published which was said to be a seditious one and since the author of the article was unknown the publisher of the article was charged with sedition. The court in this case laid down the difference between 'disaffection' & 'disapprobation' and stated that disaffection is a feeling contrary to affection (dislike, hatred or enmity) while disapprobation means disapproval. The court also laid down the definition of the offence of sedition "If a person uses either spoken or written words calculated to create in the minds of persons to whom they are addressed, a disposition not to obey the lawful authority of the government or to subvert or resist that authority and if he does so with the intention of creating such a disposition in his bearers or reader's mind, he will be guilty of the offence within the section". It was held that in order to find out the intention, the article should be seen as a whole and not in a piecemeal manner.

- **QUEEN EMPRESS v. BAL GANGADHAR TILAK<sup>7</sup>**

In this case the colonial courts expanded the scope of the offence and mere attempts to incite feelings of disaffection were seen as sedition. In this case in the Shivaji coronation festival in Maharashtra certain speeches were delivered urging the people to follow Swarajya by the freedom fighters. Controversy arose when these speeches were published by Bal Gangadhar Tilak in his newspaper 'Kesari' (Tilak was the Editor, Publisher & Proprietor) in an article "Shivaji's Utterances" which had resurrected 17<sup>th</sup> century's iconic Hindu Maratha king Shivaji and recorded his putative statements at the existing state of affairs in colonial India, right after which two British officials were murdered. The court in this case defined the offence of Sedition

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<sup>6</sup> (1892) ILR 19 Cal 35

<sup>7</sup> (1897) 22 BOM. 112

in the following words “The offense consists in exciting or attempting to excite in others certain bad feelings towards the government. It is not the exciting or attempting to excite mutiny or rebellion or any sort of actual disturbance, great or small. Whether any disturbance or outbreak was caused by these articles is absolutely immaterial.” Bal Gangadhar Tilak was convicted of Sedition but was later released on bail.

- **EMPEROR v. BAL GANGADHAR TILAK<sup>8</sup>**

In December 1907 at the Surat Session, the Congress got split into moderates and extremists. Tilak was the leader of extremists. On 30 April 1908, Khudiram Bose and Prafulla Chakravarty threw a bomb at a vehicle in which they believed Douglas Kingsford, session's judge at Muzaffarpur, was being carried. It, however, killed the wife and daughter of an English barrister. This led to a series of arrests and media campaign against the Anglo-Indian press for being 'extremist'. On 24 June 1908, Tilak was arrested from Bombay on a charge of sedition and 153A IPC in respect of two articles carried in Kesari on 12 May and 9 June 1908. The article dated 12 May was titled 'The Country's Misfortune' and that of 9 June has titled 'These Remedies Are Not Lasting'. His house in Poona was searched by the police that found a postcard with the names of two books on explosives written on it. The Chief Presidency Magistrate of Bombay declined an application for bail and the sanction for the prosecution was swiftly granted and Tilak was committed to stand trial at the High Court of judicature at Bombay. The judge in this case was none other than the person who defended Tilak in the 1898 trial. Tilak argued that those articles are a critique on the tyrannous bureaucracy rather than the tyrannous British rule. The special jury comprised of seven Europeans and two Indians. Indian jurors returned a verdict in favour of Tilak while the European jurors rendered a verdict against Tilak and he was awarded Transportation for 6 years to Burma which was commuted to simple imprisonment later.

- **TRIAL OF MAHATMA GANDHI (1922)**

The Sedition law became more famous after the father of our nation, Mohandas Karamchand Gandhi, was jailed under the charges of sedition. Mahatma Gandhi was arrested by the British police on March 10 in 1922 for writing three 'politically sensitive' articles in his weekly journal Young India, which was published from 1919 to 1932.<sup>9</sup> It was during this time only that the Non-Cooperation movement was at its peak and the British Government believed that it was

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<sup>8</sup> (1908) 10 BOM LR. 848

<sup>9</sup> Kumar Rajeev, *Evaluation of the law of Sedition in India*, The World Journal of Juristic Polity (2018).

because of Gandhi's articles that the Chauri-Chaura incident took place. Three charges were imposed on Gandhi, they were tampering with loyalty', 'shaking the manes' and 'attempt to excite disaffection' towards the British government. He was awarded imprisonment of 6 years. His trial gained popularity because Gandhi himself pleaded guilty and said that it was a 'privilege' to be charged with sedition and if left free he will again do it. He said that "affection can't be manufactured or regulated by law and people should be free to express their disaffection toward the government so long as they aren't inciting violence"<sup>10</sup>

• **MRS. ANNIE BESANT v. THE ADVOCATE GENERAL OF MADRAS<sup>11</sup>**

In 1914, Annie Besant purchased a printing press which published a newspaper Madras Standard whose name was later changed to New India. The Press & Registration of Books Act, 1867 was in force at that time and it provided that a compulsory declaration should be filed before a magistrate by every press and such declaration was filed before the Chief Presidency Magistrate who accepted it without security but later in 1916 a security of Rs. 2000 was demanded which was paid. From 1916 onwards a series of articles were published criticizing bureaucracy, reservation of railway compartments for Europeans and Eurasians, One was a reproduction of an article published in *The Herald*, London, under the headline, 'The price of liberty'. Another was by Bipin Chandra Pal about the assassination of Superintendent of Police Basanth Kumar Chatterjee of Calcutta. One criticised the demand made on Bal Gangadhar Tilak for a security bond of Rs.40,000 on charges of sedition, when he was about to go abroad to prosecute his suit against Sir Valentine Chirole. Taking exception to these articles, Governor-in-Council of Bombay issued an order on June 29, 1916, under the Defence of India Rules, 1915, prohibiting Annie Besant from entering, residing or remaining in the Province of Bombay. The order was published by Annie Besant in *New India* on July 10, 1916, under the headline, "Ave Caesar" followed by another set of articles. The Governor-in-Council issued a declaration under Section 4 of the Press Act, forfeiting the amount of Rs.2000 deposited by Annie Besant in respect of the New India Printing Works, Madras, and ordering the forfeiture of all copies of *New India*.

Annie Besant moved two motions, one against the order of the Chief Presidency Magistrate dated May 22, 1916, demanding security, and another challenging the government order directing forfeiture of the security deposit and copies of the newspaper. In the former, C. P. Ramaswamy Aiyar appeared for Annie Besant. In the latter, she appeared in person and made a passionate

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<sup>10</sup> Dutta Saptarishi, *Sedition in India: A Quick History*, The Wall Street Journal (Sept. 14, 2012).

<sup>11</sup> (1919) 21 BOMLR 867

plea for the freedom of the press before a Special Bench of the Madras High Court. But the Bench dismissed the petitions; the Privy Council upheld the decision.

### ***Post-Independence Incidents***

- **KEDAR NATH SINGH v. STATE OF BIHAR<sup>12</sup>**

This landmark case was decided unanimously by a constitution bench consisting of five Supreme Court judges headed by Justice Bhuvneshwar. In this case, the Appellant was Kedar Nath Singh, a member of the Forward Communist Party in Bihar, who accused the Congress of corruption, black-marketing and tyranny and targeted Vinobha Bhave's attempts to redistribute land. He talked about a revolution that would overthrow capitalists, zamindars and Congress. Many parliamentarians were referred to as "dogs" and Congressmen were referred to as "goondas". The appellant was convicted before a Magistrate in the Trial Court under Section 124A and 505 of the Indian Penal Code for delivering a seditious speech and intending to disturb public tranquillity. The convicted persons appealed to the High Court of Patna, which was heard by the late Mr. Justice Naqui Imam alone. He upheld the convictions and the sentence and dismissed the appeal. In the course of his judgment, the learned Judge observed that the charge against the appellant was nothing but a vilification of the Government; that it was full of incitement to revolution and that the speech when taken as a whole was certainly seditious. It is not a speech criticizing any of its measures. He held that the offences both under sections 124A and 505(b) of the Indian Penal Code had been made out. The case was then heard by the Supreme Court by Special Leave. It involved two main legal issues:

1. Whether the sections 124A and 505 of the Indian Penal Code are ultra vires in view of the provisions of Article 19(1)(a) of the Constitution?
2. Whether the intention or tendency to create disorder, or disturbance of law and order, or incitement to violence is required to constitute the offence of sedition?

In its decision, the Supreme Court distinguished clearly between disloyalty to the government and commenting upon the measures of the government without inciting public disorder by acts of violence. The Court upheld the constitutionality of the sedition law, but at the same time curtailed its meaning and limited its application to acts involving intention or tendency to create disorder, or disturbance of law and order, or incitement to violence. The judges observed that if

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<sup>12</sup> AIR 1962 SC 955



the sedition law was to be given a wider interpretation, it would not survive the test of constitutionality. Though, the Supreme Court upheld the constitutionality of sedition law in this case but it has limited the scope of the said law.

- **STATE OF CHATTISGARH v. DR. VINAYAK BINAYAK SEN & OTHERS**<sup>13</sup>

It was alleged that Dr. Sen was acting as a courier between one of the Maoist leader serving imprisonment and one Piyush Guho because he frequently visited the prison, to which he argued that while he was in the prison he was under the constant surveillance of the authorities and all the conversation were in Hindi which the authorities could hear and understand. Further there was a vigilante attack on a village in which some people were killed which was criticized by Dr. Sen and he was termed as a sympathizer of the Maoists. Dr. Sen also claimed that the Government through the practice of Salvajudum was trying to acquire lands of the indigenous tribes and use it for more economic purposes. Some unsigned letters were also found in Dr. Sen's house written by Piyush Guho under the letter head of PUCL. He was arrested and charged with sedition on the grounds that he was involved in direct action to overthrow the government. The trial court convicted him and awarded him Life imprisonment to which he went in appeal to the High Court where his appeal was rejected. He went in appeal to the Supreme Court of India where his appeal is still pending. Soon after his conviction 22 noble laurettes wrote letters to the Government of India stating that whatever was happening with Dr. Sen was wrong. Currently Dr. Sen has been allowed bail by the apex court.

- **ARUNDHATI ROY CASE (2010)**

Arundhati Roy along with one Syed Ali Shah Geelani and Others were booked on the charges of Sedition by Delhi Police for giving an 'Anti-India' speech at a Seminar 'Azadi-The only way' as she spoke on the status of Kashmir. She stated in her speech that Kashmir along with 4 other states has never been an integral part of India and it is a historical fact. The FIR was registered after a petition was filed by one Sushil Pandit in a local court who claimed that she is inciting people to secede from India. This case garnered enough attention because Roy is a renowned author around the globe and her statements were taken seriously by the government as well and asked her to take her statements back to which she claimed her right to self-determination as well as of the Kashmiris. The case is still pending in the court.

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<sup>13</sup> AIR 2011 Cri. Appeal 20.



- **SANSKAR MARATHE v. THE STATE OF MAHARASHTRA & ANR.**<sup>14</sup>

Aseem Trivedi, a well-known cartoonist was part of the movement 'Cartoons against Corruption' and two of his cartoons which were alleged to have insulted the National Emblem as well as the parliament of India were displayed at Anna Hazare's movement against corruption after which the petitioner, a Mumbai based lawyer filed a Public Interest Litigation alleging that the cartoons drawn by Trivedi are seditious. The high court, while disposing of the PIL against embattled cartoonist Aseem Trivedi, said that people cannot be charged with sedition for simply criticising the government. A division bench of chief justice Mohit Shah and justice NitinJamdar observed: "Citizens have the right to say or write anything criticising the government and its measures as far as it does not incite violence or create problems in law and order."

- **KANHAIYA KUMAR & UMAR KHALID CONTROVERSY**

This case happened in 2016 where the students of Jawaharlal Nehru University, Delhi organized a debate competition in order to condemn the hanging of Afzal Guru who on the basis of circumstantial evidence was convicted and hanged to death. When the student body sought the permission to organize the event the university administration first allowed but later on some grounds denied the permission. The organizing committee went ahead and organized the event in which Anti India slogans were alleged to have been raised. The campus of JNU being an open campus, several students from outside were also present who came to attend the event but Controversy arose when during the event slogans such as "Bharat tere tukde honge, Inshallah Inshallah" were raised after which police arrested Kanhaiya Kumar & Umar Khalid, the President and the Vice-President of the JNU Student Union respectively on complaints of Bharatiya Janta Party, Member of parliament Mahesh Giri and the ABVP under the charges of Sedition. Also a disciplinary enquiry was initiated against several students by the University. When Kanhaiya Kumar was presented before the Patiala House Court he was assaulted by some miscreants dressed as Advocates grievously injuring Kumar. A six-member Supreme Court-appointed panel later confirmed that the policemen present at the Court were responsible for the security lapses, and further stating that police allowed 2 persons to enter the court room, and continued to let the assault take place, in direct violation of the SC direction on Kanhaiya's safety. Owing to the punishments awarded to them by the disciplinary committee of the University the students locked down the campus and demanded justice. This matter was decided

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<sup>14</sup> 2015 CriLJ 3561

by Delhi High Court who stated that they will set aside the punishment provided the students resume attending the classes and allowing the University to function normally. In the findings the court found that Kumar was not involved in raising Anti-India slogans rather the slogans were raised by some masked outsiders and even in the separate magisterial investigation appointed by Delhi Government no evidence was found of Kumar's involvement in raising Anti-India slogans. Kumar was later granted interim bail for 6 months by the Delhi High Court, conditional on a 10,000 rupee bail bond and an undertaking that he would not "participate in any anti-national activity".

### **USE OF SEDITION LAWS IN THE CURRENT POLITICAL REGIME**

It is only since 2014 that the NCRB has been collecting separate data on sedition cases. In 2014 the number of cases was 47 which increased to 70 in 2018. It has been pondered that the existing Government is enthusiastically using these laws as a tool to curb sedition.

Article 14's database<sup>15</sup> claims that 96 percent of the Sedition cases were filed against the critics of Government since 2010 and were registered after Modi's election in 2014. 75 percent of the total cases were pertaining to the alleged 'critical' and 'derogatory' comments made against our Prime Minister Shri Narendra Modi or against the Chief Minister of Uttar Pradesh i.e. Yogi Adityanath.

According to database by Article 14, six sedition cases were filed during farmers protest, twenty two of them have been filed in the aftermath of the Hathras Rape case and twenty five of them in connection with the anti CAA protests and twenty seven after the Pulwama terror attack. Those against whom these charges were filed included a range of people from opposition leaders to students to activists and what not.

### **CONCLUSION & SUGGESTIONS**

The Fifth and the Fourteenth Law Commission of India, which have taken a thorough review of the Indian Penal Code in 1971<sup>16</sup> and 1997<sup>17</sup> have offered a couple of proposals for reform of far

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<sup>15</sup>Aditya Sharma, India's Absurd Sedition law, Available at: <https://thediplomat.com/2021/03/indias-absurd-sedition-law-and-what-it-enables/>, (Accessed on April 11, 2021)

<sup>16</sup> Law Commission of India, 'Forty-Second Report: The Indian Penal Code', Government of India, 1971, Available at: <http://lawcommissionofindia.nic.in/1-50/Report42.pdf> (Accessed on April 11, 2021 at 9.35 PM)

<sup>17</sup> Law Commission of India, 'One-Hundred and Fifty-Sixth Report: The Indian Penal Code', Government of India, 1997, Available at: <http://lawcommissionofindia.nic.in/101-169/Report156Vol1.pdf> (Accessed on April 11, 2021 at 9.35

reaching consequences in the offences relating to sedition.

Delving into the law relating to sedition as outlined in s 124A of the IPC, the Fifth Law Commission has identified three major defects in it.

- First, s 124A, because of ‘the pernicious tendency or intention underlying the seditious utterance’, has not been expressly related to the interest of the integrity or security of India or of public order.
- Secondly, s 124A does not take into account ‘disaffection towards: (a) the Constitution; (b) the Legislatures; and (c) the administration of justice, even though disaffection towards all these would be disastrous to the security of the state as disaffection towards the Government of India.
- Thirdly, the punishment provided under s 124A is ‘very odd’ as it could be either imprisonment for life or an imprisonment for the period up to three years only, and nothing in between. With a view to removing these defects, the Commission suggested that s 124A be revised as under:

**124A. Sedition----** *Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, excites, or attempts to excite, disaffection towards the Constitution, or Government or Parliament of India, or the Government or Legislature of any State, or the administration of justice, as by law established, intending or knowing it to be likely thereby to endanger the integrity or security of India or of any State, or to cause public disorder, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.*

**Explanation 1:** *The expression disaffection includes feeling of enmity, hatred or contempt.*

**Explanation 2:** *Comments expressing disapprobation of the provision of the Constitution, or of the action of the Government, or of the measure of the Parliament or State Legislature, or of provisions for the administration of the justice, with a view to obtain their alteration by lawful means without exciting or attempting to excite disaffection, do not constitute an offence under this section.<sup>18</sup>*

The Commission also felt that insult to the book of the constitution, the national flag, the

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<sup>18</sup> Law Commission of India, ‘42<sup>nd</sup> Report: The Indian Penal Code’, Government of India, 1971, Para 6-19 <http://lawcommissionofindia.nic.in/1-50/index1-50.htm> (Accessed on April 11, 2021 at 8.35 PM)

national emblem, the national anthem, be made punishable as disrespect to these things are not only unpatriotic acts but are also likely to cause disturbance of public order. Accordingly, it recommended insertion of a new section (124B) in the IPC. The proposed section reads:

**124B. Insult to the book of the Constitution, National Flag, National Emblem or National Anthem.**-----*Whoever deliberately insults the book of the Constitution, the national flag, the national emblem or the national anthem, by burning, desecration or otherwise, shall be punished with imprisonment of either description for a term which may extend up to three years, or with fine, or with both.*

Both the proposals for reform found place in the Indian Penal Code (Amendment) Bill 1978<sup>19</sup> and received support from the Fourteenth Law Commission. However, the latter Law Commission, recalling that the Prevention of Insults to National Honour Act 1971, was enacted in pursuance of the recommended s 124B, mentioned above, felt it unwarranted to have the proposed s 124B in the IPC. It, therefore, recommended its deletion from the 1978 bill.

Speaking in 1951, Jawaharlal Nehru—India’s first Prime Minister—expressed concern about the country’s sedition law, a provision of the Indian Penal Code designed to punish individuals or organizations engaging in acts that were deemed to be against the interests of the state. Calling the law “highly objectionable and obnoxious,” Nehru warned that the sedition law, a holdover from the days of the British Raj, “should have no place...in any body of laws that we might pass.” Taking it a step further, he concluded that “The sooner we get rid of it the better.”

Today, the law not only still exists, but is readily used by the government to suppress freedom of speech. More worryingly, as the Central and state Governments battle a series of corruption scandals, the sedition law is desperately pulled out of the bag to silence government criticism and civic resistance. The continuing existence and exercise of India’s sedition laws have raised serious questions about whether democratic principles are being sufficiently upheld in the ‘world’s largest democracy.’ This law is archaic, pernicious and contradictory to democracy – and it needs to be amended, controlled so that it does not kill democracy.

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<sup>19</sup> The Indian Penal Code (Amendment) Bill 1978, Cl48 [lawcommissionofindia.nic.in/reports/report210.pdf](http://lawcommissionofindia.nic.in/reports/report210.pdf) (Accessed on April 11, 2021 at 9.15 PM)