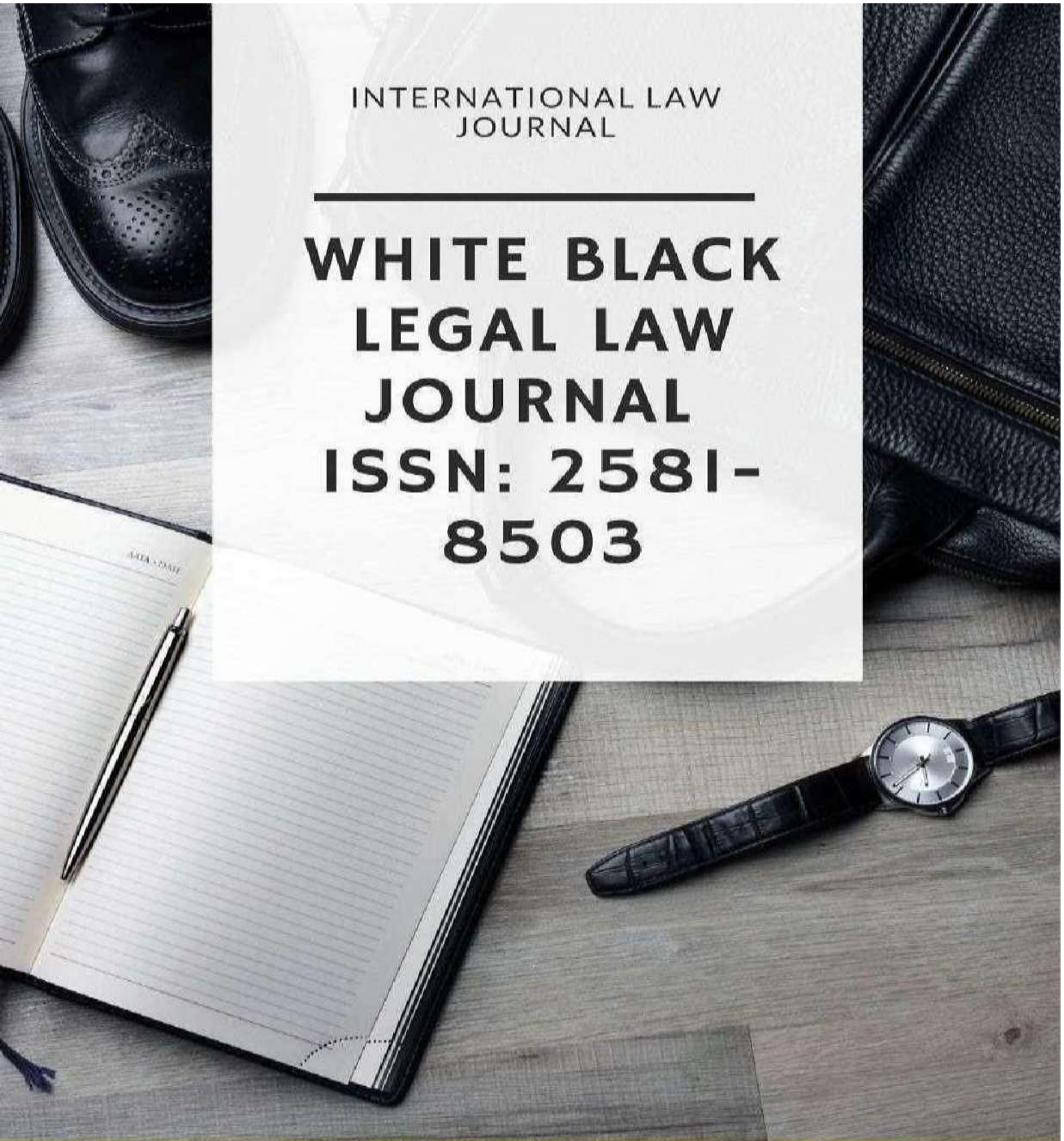




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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

BALANCING FREE SPEECH AND PUBLIC ORDER: A LEGAL PERSPECTIVE UNDER BNS ACT, 2023

AUTHORED BY - SHIVANGI ARORA

INTRODUCTION

The freedom of speech and expression is regarded as the first condition of liberty, occupying a preferred position in the hierarchy of liberties. Thus, it is well said that it is the mother of all liberties.¹ Freedom of speech and expression is an internationally recognized Human Right. Art.19 of Universal Declaration of Human Right (1948) and International Covenant on Civil and Political Rights (1966) guarantees the right to freedom of opinion and expression. Article 10 of the European Convention of Human Rights guarantees the right to freedom of expression, subject to certain 'formalities, conditions, restrictions or penalties' in the interest of public safety, for the prevention of disorder or crime... for the protection of the reputation or rights of others...'. Article 17 of the Convention prohibits abuse of the right by 'any State, group or person'. The Human Rights Council's Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, in the context of internet content, states that freedom of expression can be restricted on grounds like hate speech (to protect rights of affected communities), defamation (to protect the rights and reputation of individuals against unwarranted attacks), and 'advocacy' of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (to protect the rights of others).²

While it is necessary to maintain and preserve freedom of speech and expression in a democracy, also it is necessary to place some curbs for maintenance of social order. Both the Supreme Court of India and the USA have held that a restriction in order to be reasonable must be narrowly tailored so as to abridge only what is absolutely necessary.³ "The fundamental requirement of any society is the ability to protect itself against annihilation or subjection and the chief duty of any government is to safeguard the State and its institutions against external

¹ 'Report of the Second Press Comm, Vol I, 34-35'.

² Citizens for Justice and Peace, *Towards a Hate Free Nation: Handbook for Police & Administration (CJP, April 2024)*

³ MP Jain, *Indian Constitutional Law* (8th edn, LexisNexis 2018)

and internal attack."⁴ Fitzgerald states that the precondition of enjoying freedom is to ensure the security of State because "without such guarantee of stability the rest of the law, both civil and criminal, is for most part inefficacious". B.P. Sinha, C.J., observes in *Kedar Nath Singh* case⁵ : "Every State, whatever its form of Government, has to be armed with the power to punish those who, by their conduct, jeopardise the safety and stability of the State, or disseminate such feelings of disloyalty as have the tendency to lead to the disruption of the State or to public disorder. "

SEDITION AS A REASONABLE RESTRICTION UNDER ART. 19(2)

Notably sedition is not mentioned as one of the grounds on which restrictions on the freedom of speech and expression may be imposed. The word "Sedition" has been a word of varying import in the English Law. At one time in the past holding a meeting or taking out a procession or holding an opinion which will bring ill-will towards the government was treated as sedition. The interpretation has, however, now changed. The time is long over when mere criticism of government was sufficient to constitute sedition, for it is recognised that the right to utter honest and reasonable criticism is a source of strength to the community rather than a weakness.⁶

- **UNDER INDIAN PENAL CODE, 1860**

The offence of sedition, which was included in section 124A of the IPC in 1890, had been under intense public scrutiny for its use as a tool against expression of dissent. It was often alleged that Section 124A of IPC was harshly misused by the authorities to quell political dissent. The provision had invited stringent criticism on account of being invoked by various state governments against activists, detractors, writers, journalists, etc. seeking to silence political opposition by accusing the dissenters of promoting disaffection. The erroneous interpretation of the law on sedition by the police authorities also led to its misuse. The invocation of Section 124A of IPC in any case relied on how the police whimsically interpreted the language of this provision and the bearing that the alleged committed act had on public order.⁷ In a series of cases, from *Tara Singh* to *Kedarnath Singh* and more recently, *S.G. Vombatkare*, reflect the evolving constitutional interpretation of sedition, including significant changes brought by the 1951 amendment. This uncertainty in law relating to sedition

⁴ PJ Fitzgerald, *Criminal Law and Punishment* (Oxford University Press 1962) 83

⁵ *Kedar Nath Singh v State of Bihar* 1962 Supp (2) SCR 769

⁶ VN Shukla, *Constitution of India* (13th edn, Eastern Book Company 2017).

⁷ <https://www.manoramayearbook.in/current-affairs/india/2023/08/12/sedition-law-and-section-150.html>

necessitated re-examining of the law.

- UNDER BHARTIYA NYAYA SANHITA, 2023

The erstwhile law on sedition got annulled being “colonial” and “draconian”, and replaced by a law claimed to have undergone significant revision aimed at modernizing the law to safeguard the interests of the country. The Bharatiya Nyaya Sanhita Act, enacted on July 1, 2024, amidst several changes has repealed the sedition law and introduced a new provision with a wider definition of the offence and also the minimum punishment for the offence has been increased from three years to seven years. Another change implemented is the inclusion of the terms “electronic communication” and “financial means”, both of which are tools that can be used to excite secession, armed rebellion or separatism and penalised under Section 152 of the BNS.

In compliance with the Supreme Court's ruling and public demand, the government asserts to de-penalise Sedition law in India, however, in order to safeguard the sovereignty, unity and integrity of India, the new law penalises –

Acts endangering sovereignty, unity and integrity of India (Sec.152 BNS)⁸

The new provision, it needs to be said, is in the same vein as S. 124A of the IPC. It may not be labelled as ‘Sedition’, but the spirit of that provision has been retained and potentially, covers a wider range of acts which themselves suffer from ambiguity and vagueness in their current form, creating implications for its Constitutionality.⁹ While the word sedition has been removed in defining the offence in the BNS, the procedural law of The Bharatiya Nagarik Suraksha Sanhita (BNSS) retains references to ‘seditious matter’ (Sec127). This indicates that despite changes in the wording of Sec.152, it has essentially retained the crime of sedition and raises concerns whether sec.152, BNS will continue to be interpreted in light of sedition. While Sec. 152 has retained the modes of committing sedition, namely ‘by words...visible representation’, the prohibited actions have been replaced.

The BNS criminalises exciting or attempting to excite ‘*secession, armed rebellion or subversive activities, or encouraging feelings of separatist activities that endanger the sovereignty or unity and integrity of India*’. There has been an expansion in the

⁸ Bharatiya Nyaya Sanhita 2023, No 45 of 2023

⁹ https://p39ablog.com/2023/09/criminal-law-bills-2023-decoded-8-sedition-recast-implications-of-clause-150-of-the-bns-2023/#_ftn1

range of activities that could be considered as threatening the ‘unity and integrity’ of the country. The new law has also added new means of committing the offence by including ‘Electronic communication’ and ‘Financial means’, and the *mens rea* requirement of ‘purposely or knowingly’ committing such an act.¹⁰

The essence of the offence has changed from ‘Rajdroh’ (offences against the sovereign) with ‘Deshdroh’ (offences against the country), emphasizing acts that jeopardize India’s sovereignty, unity and integrity over the much-misused concept of sedition. *However, the section has taken care to indicate clearly that strong words under lawful means used to express disapprobation of the measures of the Government with the view to their improvement or alteration would not come within the section. Similarly, comments, however, strongly worded, expressing disapprobation of actions of the Government, without exciting those feelings which generate the inclination to cause public disorder by acts of violence, would not be penal*¹¹ The Union home minister Amit Shah, responding to a debate in the Parliament on the bills, said the current law (124A IPC) was aimed at protecting the treasures and the crown of British rulers. "The new law shifts its focus from the individual to the nation. Any activity will be considered treason only if it is intended against the integrity, sovereignty and unity of the nation and not just because it is against the government. Anyone can say anything against government, but if someone interferes with the country's flag, security, or property, they will go to jail."¹²

The question that needs to be answered is whether the import of erstwhile sec. 124A has remained intact amidst the changed phraseology. The afore stated question is attempted to be answered by analyzing the replacement of ‘Sedition’ with the newly inserted provision that seeks to penalise acts endangering the sovereignty, unity and integrity of India and to contrasts section 124A IPC with the vague and potentially overreaching language of Sec.152 of the BNS. There is an apprehension among scholars, jurists and academicians that the newly inserted provision covers a wider range of acts which by themselves suffer from ambiguity and vagueness in their current form, creating implications for its Constitutionality.

¹⁰ Ibid.

¹¹ KD Gaur, *The Bharatiya Nyaya Sanhita*, 2023 (9th edn, LexisNexis 2024)

¹² <https://www.hindustantimes.com/india-news/sedition-to-be-treason-amit-shah-explains-proposed-changes-to-criminal-laws-101703096211979.html>

DOES THE BNS ACT ENHANCE OR UNDERMINE THE CONSTITUTIONAL RIGHT TO FREEDOM OF SPEECH?

- Violation of Article 14 of the Indian Constitution

Vague and Broad Terms Used: Sec 152 BNS introduces phrases such as ‘excites or attempts to excite *subversive activities*’ and ‘*encouraging feelings* of separatist activities. Neither does the section define these terms nor is there any judicial guidance on their interpretation. The ambiguity and vagueness introduced by these terms render the clause Constitutionally questionable as violating article 14. The vagueness could lead to arbitrary and inconsistent application, which is contrary to the principles of legality and fair notice.

On the similar lines the apex court had rendered the IT Act,¹³ unconstitutional for violating fundamental rights under Article 19(1)(a) and Article 21. Observing that Section 66A is excessively broad and vague, which led to a chilling effect on the free speech. The terms "offensive" and "menacing" were not defined clearly, giving wide discretion to authorities and leading to potential misuse. The Court noted that the provision was not in consonance with the Constitution's guarantee of freedom of speech and expression, as it did not meet the reasonable restrictions test. The Court emphasized that while the state has a legitimate interest in regulating communication, the regulation must not be excessively broad or infringe upon fundamental freedoms in an arbitrary manner.¹⁴

Moreover, the object of harm in Sec.124-A of the IPC is the ‘*Government established by law*’. In the *Kedar Nath Singh* case, the Supreme Court defined the ‘*Government established by law*’ as the visible symbol of the State necessary for its continuity and stability, differentiating it from individuals engaged in administrative tasks. This clarity served to define the specific object requiring protection and indicated the level of harm necessary to constitute sedition. However, it has been amended under Sec.152 of the BNS Act as *India*. This broadens the scope of the offense, as it can encompass criticism of the government, public figures, or even society and communities in general. This vague definition puts question mark on the motives of the government. The vagueness in terms contrasts sharply with the precision required by judicial interpretations of Sec. 124-A. This vagueness can lead to arbitrary application, violating Article

¹³ *Information Technology Act 2000*, No 21 of 2000, s 66A

¹⁴ *Shreya Singhal v Union of India* W.P. (Crl.) 167/2012, 2015 SCC OnLine SC 248

14 of the Constitution.¹⁵

Blurring the Line Between Dissent and Sedition: In our Constitution freedom of speech and expression is the norm, and seditious words or acts being a (reasonable) restriction is an exception to the exercise of this right. Art. 19(1)(a) includes right to dissent, and it helps the democracy to grow. Public discussions, including dissents are encouraged. The Court emphasized that every person has a fundamental right to form his own opinion.¹⁶

In Kedar Nath judgement Supreme court had limited the scope of sedition by excluding from its scope criticism or comment against the Government and its measures in the strongest words possible. The law comes into action when an act is such that it incites people to violence against the Government or intend to create public disorder. The decision therefore clarified the scope of sedition with the aim to protect dissent from becoming a criminal offence. The court has shown a similar tendency towards protecting freedom of speech in *Balwant Singh v. State of Punjab*¹⁷. But there seems to be no such protection under the new law, as the provision lacks any explanation which seeks to delimit the operation of the law. The loose phraseology used in the new Act generalises the provision which is meant to operate in exceptional circumstances, and expands its scope beyond that of s. 124A as established by judicial precedents.

- Violation of Art. 19 of the Constitution of India

Every citizen of India must consciously be restrained in speech, and exercise the right to freedom of speech and expression under Article 19(1)(a) only in the sense that it was intended by the framers of the Constitution to be exercised. Article 19(1)(a) in its true content does not vest with citizens unbridled liberty to utter statements which are vitriolic, derogatory, unwarranted, have no redeeming purpose and which, in no way amount to a communication of ideas. Article 19(1)(a) vests a multi-faceted right, which protects several species of speech and expression from interference by the State.¹⁸

In the case *Shreya Singhal v. Union of India*,¹⁹ the Hon'ble court added another dimension to

¹⁵ https://www.livelaw.in/lawschool/articles/balancing-free-speech-national-security-critical-analysis-section-152-bhartiya-nyaya-sanhita-section-124-a-ipc-259465#_ftn1

¹⁶ Ibid.

¹⁷ (1995) 3 SCC 214

¹⁸ *Kaushal Kishore v State of UP and Others* (2023) 4 SCC 1.

¹⁹ (2015) AIR SC 1523

article 19 by invalidating section 66A of the Information Technology Act, 2000, having a far-reaching implication on the citizens of India. It not only gave supremacy to the freedom to speech and expression but also extended the rights of netizens to criticize and express their opinion freely in social media. The court also restrained the state from the arbitrary application of power in context to freedom mentioned under article 19 of the constitution.

RECENT RULING OF THE APEX COURT ON REGULATING HATE SPEECH

The law on sedition and hate speech has been contested as much for its application as it has been for its content. Between 2014 and 2020, there was a twenty-eight percent increase in the number of cases registered under section 124A. A significant number of cases were filed around protests against the Citizenship Amendment Act and the Farm Bills. Moreover, several cases of sedition were also filed against persons for ‘celebrating’ India’s loss to Pakistan in cricket matches in 2014, 2017, and 2021.²⁰

While discussing the preventive, remedial and punitive measures, the Supreme Court discussed in a case that mob vigilantism and mob violence have to be prevented by the governments by taking strict action. That rising intolerance and growing polarisation expressed through incidents of mob violence cannot be permitted to become the normal way of life or the normal state of law and order in the country.²¹

A batch of petitions involving hate speech incident, expressing the concerns about the manner in which TV Channels are functioning, the Supreme court took a strict action against offending anchors. Amish Devgan, a television journalist, faced criminal charges under various provisions of the IPC on the basis of his statements referring to a saint in Islam as an “invader, terrorist and robber who had come to India to convert its population to Islam” during a television programme hosted by him. The Court refused to quash the criminal cases against him, which affirmed the adequacy of existing criminal law to recognise hate speech, even if made accidentally or in error, as was claimed by Devgan.²² The Court observed that hate speech

²⁰ Abhinav Ravi, ‘Section 152 of the Bharatiya Nyaya Sanhita as Maintaining a Logic of Power’ (CCAL, January 2025) <https://www.calj.in/post/section-152-of-the-bharatiya-nyaya-sanhita-as-maintaining-a-logic-of-power> accessed 5 May 2025

²¹ *Tehseen Poonawala v Union of India and Others* (2018) 9 SCC 501

²² *Amish Devgan v Union of India* (2021) 1 SCC 1

constituted three elements – content, intent, and harm or impact – and that the content of a speech must be coupled with the intent of the speaker to incite or cause harm.²³

The Supreme Court on various occasions, especially since 2022, has asked government to curb and prevent the incidents of hate speech in public discourse including the electronic and other media. As the existing legal framework is not sufficient to prevent this phenomenon, the Supreme Court has, time and again, issued directions about the absence of offence of Hate Speech in Indian Criminal Law. However, although, the word Hate Speech has not been squarely defined in Indian penal law, India's Constitutional Courts have discussed this phenomenon, the ingredients of Hate Speech, the nuances and distinctions. In October 2022, while hearing a petition by journalist Shaheen Abdullah, Justice KM Joseph had slammed the Government that "why is the government remaining a mute spectator" and asked them to bring a law regulating media and hate speech. In *Shaheen Abdulla v. Union of India & Ors*,²⁴ the division bench of Justice Km Joseph and Justice Hrishikesh Roy, directed the directs Uttar Pradesh, Uttarakhand and Delhi Governments to take suo motu action against hate speech crimes without waiting for formal complaints irrespective of the religion of the offender.²⁵

Later, in 2023 this order of the Supreme court was extended to the entire territory of India. In *Ashwini Kumar Upadhyay v. Union of India*²⁶ the division bench of Justice KM Joseph and BV Nagarathna directed all States/UTs to register Suo moto FIR against Hate Speech irrespective of religion. The court added that when any speech or any action takes place which attracts offences such as Section 153A, 153B and 295A and 505 of the IPC etc., Suo moto action will be taken to register cases even if no complaint is forthcoming and proceed against the offenders in accordance with law.

CONTEMPORARY DEVELOPMENTS UNDER LAW OF SEDEITION

In the recent past three noteworthy developments regarding the crime of sedition have taken place. First, the Supreme Court placed S. 124A of the IPC in abeyance.²⁷ Second, the Law Commission of India in its 279th report recommended

²³ CJP Legal Research Team, (10 July 2024) <https://cjp.org.in/bns-2023-does-nothing-to-bring-in-a-nuanced-effective-understanding-of-hate-speech-making-its-prosecution-even-more-difficult/> accessed 8 May 2025

²⁴ Writ Petition (C) No 940 of 2022

²⁵ CJP Legal Research Team, 10, Jul 2024. available at: <https://cjp.org.in/bns-2023-does-nothing-to-bring-in-a-nuanced-effective-understanding-of-hate-speech-making-its-prosecution-even-more-difficult/>

²⁶ W.P. (C) No 943 of 2021

²⁷ (2022) 7 SCC 433

retaining the crime of sedition on the statute books.²⁸ Third, while introducing the new criminal law bills, the Home Minister proclaimed in the Lok Sabha that the crime of sedition has been done away with.²⁹

SEDITION LAW AT ABEYANCE

The constitutionality of Section 124A of IPC was challenged before the Hon'ble Supreme Court in *S.G. Vombatkere v. Union of India*³⁰. The Union of India assured the Hon'ble Supreme Court that it was re-examining S. 124A and the Court may not invest its valuable time in doing the same. Pursuant to the same and vide order passed on 11th May, 2022 the Hon'ble Supreme Court directed the Central Government and all the State Governments to refrain from registering any FIR or taking any coercive measures, while suspending all continuing investigations in relation to Section 124A. Further, it also directed that all pending trials, appeals, and proceedings be kept in abeyance.

The Court, in its discernment, acknowledged the widespread misuse of the law of sedition, recognising its impact on the right to free speech and expression by inhibiting healthy criticism and stifling dissent. The coercive powers conferred by the law over seemingly trivial matters were deemed contradictory to democratic and liberal principles. The Court emphasised the imperative need for a constitutional analysis of Section 124A, advocating for reforms to align it with democratic ideals. It underscored that restrictions on freedom of speech and expression must adhere to the criteria of reasonableness under Article 19(2) of the Constitution. In its observation, the Court acknowledged the delicate balance required between safeguarding national integrity and security and upholding the citizens' right to free speech, civil liberties, and democratic values. Recognizing the complexity of this balance, the Court called for a thorough review and rectification of the age-old law of sedition, rooted in the colonial era, to align with contemporary democratic concepts.³¹

In spite of the recommendations given by the Apex Court, the Union Government failed to acknowledge the seriousness and sensitivity of the growing issue of hate speech and seditious speech across the country.

²⁸ Law Commission of India, 'Usage of the Law of Sedition' (Law Commission of India Report No 279, 2023)

²⁹ <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1947941>

³⁰ (2022) 7 SCC 433

³¹

<https://lawbhoomi.com/s-g-vombatkere-vs-union-of-india/#:~:text=Vombatkere%20vs%20Union%20of%20India%2C%20the%20Supreme%20Court%20suspended%20the,infringement%20on%20freedom%20of%20speech.>

OMITTING THE WORD 'SEDITION':

- RATIONALE BEHIND OMISSION UNDER ARTICLE 19(2):

The word sedition was also proposed to be deleted during Constitutional Assembly debates from clause (2) of draft Article 13 (Article 19 of Indian Constitution). The rationale behind omitting the word sedition was explained by Shri K.M Munshi in the following words:

“The importance of this amendment is that it seeks to delete the word 'sedition' and uses a much better phraseology, viz. ‘which undermines the security of, or tends to overthrow, the State.’ The object is to remove the word 'sedition' which is of doubtful and varying import and to introduce words which are now considered to be the gist of an offence against the State. I was pointing out that the word 'sedition' has been a word of varying import and has created considerable doubt in the minds of not only the members of this House but of Courts of Law all over the world. Our notorious Section 124A of Penal Code was sometimes construed so widely that I remember in a case a criticism of a District Magistrate was urged to be covered by Section 124A. But the public opinion has changed considerably since and now that we have a democratic Government a line must be drawn between criticism of Government which should be welcome and incitement which would undermine the security or order on which civilized life is based, or which is calculated to overthrow the State. Therefore, the word 'sedition' has been omitted. As a matter of fact, the essence of democracy is Criticism of Government. The party system which necessarily involves an advocacy of the replacement of one Government by another is its only bulwark; the advocacy of a different system of Government should be welcome because that gives vitality to a democracy. The object therefore of this amendment is to make a distinction between the two positions...”³²

- IMPACT OF OMITTING 'SEDITION' UNDER THE BNS ACT, 2023

Under the present law it is argued that though the word sedition has been omitted from the provision but by replacing the word 'Sedition' with 'Subversive Activities' the pith and substance of both the laws remains the same, despite different names. The Oxford Dictionary defines “subversive” as “seeking or intended to subvert an established system or institution” and “subvert” as “[to] undermine the power and authority of (an established system or institution).”

A concern has been raised that the ingredients are broad enough to include legitimate protests

³² *Constituent Assembly Debates* (Vol VII) 40

and expressions of disagreement with the people in authority. Also, there have been ample of cases regarding sedition and its interpretation. However, the Court has not defined the term 'encourages feelings. Moreover, there is a huge difference in the intensity and gravity of public order and encouraging feeling. Hence, the restrictions made on the ground that it encourages feeling of separatist activities can be questioned on its reasonableness.

A STEP TOWARDS CERTAINTY OR ABSURDITY?

There had been several interpretations of S.124A since the decision of federal court³³ and subsequent judgement of the privy council³⁴ giving strict and liberal meaning to the provision respectively. Conflicting interpretation by the courts followed thereafter. Even after its Constitutionality was upheld, the law with regard to sedition did not settle until its repeal by the introduction of new criminal laws in 2023.

There is a sense of fear and unease that Sec 152 BNS is even more subjective and prone to abuse than Sec. 124A. The use of sedition under Section 124A had escalated in recent years (prior to the SC order) often targeting social media posts and being employed as a means to suppress protests. Rather than marking a departure from its colonial origin, Sec 152 of the BNS seems likely open to abuse, until clarity is introduced through judicial intervention. It has the potential to criminalise dissent and is therefore antithetical to the democratic ideals of the Constitution.

CONCLUSION

Through this research, the author has come to conclusion that though new definition has been given in the BNS Act, 2023 as per the necessity pointed out by the Apex court, but due to its vague and ambiguous terminology the same has been left for the Courts to interpret. Moreover, while the government asserted that the BNS no longer penalised acts of Sedition, the BNS essentially not only provides us with a more expansive scope of the erstwhile 'Sedition' law but also an enhanced punishment (7 years instead of 3 years)³⁵. While aimed at achieving similar goals, the **broad wording of "subversive activities"** raises criticism. Beside using a different phraseology, there is an apprehension that the provision could potentially be used to curtail legitimate dissent or protest against the government. The provision has also

³³ *Niharendu Dutt Majumdar v King Emperor* 1942 FCR 38

³⁴ *King-Emperor v Sadashiv Narayan Bhalero* 1947

³⁵ <https://www.lexology.com/library/detail.aspx?g=a1fcaa60-72fa-4315-bdbc-2679db761dac>

been criticised for its failure to delineate a specific entity against which harm may be done, for its failure to specify actions that constitute the offence, and for lowering the threshold of harm, perhaps rendering it even more ambiguous than the provision on sedition.³⁶

The act further regresses the existing laws and gives police authorities additional authority, rather than correcting the shortcomings of the preceding criminal laws. In a society where hate speech prevails in public discourse, the amendment act is not just lacking as a set of laws that will ensure prosecution but in fact may foster in an era that becomes conducive to the vulnerable victim communities being further targeted and subjected to criminalization.

Globally, the trend leans towards repealing sedition laws in favour of free speech, with countries like **UK and New Zealand** leading the way. There is a **need of finding a balance** between **national security and free speech and expression ensured to the citizens of India** through a **comprehensive review, clearer definitions, and stricter judicial oversight** to prevent misuse.³⁷ No doubt, the right to freedom of speech and expression is an essential right, but a qualified right. Even Milton, Locke and Mill admitted the inevitability of restrictions on this right. The inclusion of fundamental duties in the Constitution also implies that the freedom of speech and expression should not be so exercised as to contravene these duties.

³⁶ Ibid.

³⁷ <https://chahalacademy.com/sedition-law>