THE LAWS OF SEDITION IN PAKISTAN: A CRITICAL ANALYSIS IN THE LIGHT OF CONSTITUTIONAL FREEDOMS AND INTERNATIONAL HUMAN RIGHTS LAW

A thesis submitted in partial fulfillment of the requirements for Degree of LLM in Human Rights Law.

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بسم الله الرحمن الرحيم

DEDICATION

This dissertation is dedicated to:

My dearest Parents

Mr. & Mrs. Muhammad Afzal Khan

For your unconditional love, endless prayers, and the countless sacrifices you made to see me succeed. You are the foundation of everything I am and ever hope to be.

"My Lord, have mercy upon them as they have cherished me in childhood." (Al-Asra : 24)

DECLARATION

I, Mr. Muhammad Waseem Afzal, Student of LLM (Human Rights Law) at International Islamic University Islamabad, (IIUI) with Registration No.375-FSL/LLMHRL/F23, hereby declare that this dissertation **"The Laws of Sedition in Pakistan: A Critical Analysis in The Light of Constitutional Freedoms and International Human Rights Law"** is my original work and it has not been presented in any other institution. Furthermore, I also declare that any secondary information in this dissertation has been duly acknowledged.

Student: **Muhammad Waseem Afzal**

Sign _____

Dated _____

LIST OF ABBREVIATIONS

ACHR	Asian Centre for Human Rights
AHR	Annual Human Rights Report
AI	Amnesty International
ECJ	European Court of Justice
ECHR	European Convention on Human Rights
HRCP	Human Rights Commission of Pakistan
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IHL	International Human Rights Law
IHRG	International Human Rights Group
OHCHR	Office of the High Commissioner for Human Rights
PECA	Prevention of Electronic Crimes Act
PLD	Pakistan Law Digest
PPC	Pakistan Penal Code
SCMR	Supreme Court Monthly Review
UDHR	Universal Declaration of Human Rights
YLD	Yearly Law Digest

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ABSTRACT

THE LAWS OF SEDITION IN PAKISTAN: A CRITICAL ANALYSIS IN THE LIGHT OF CONSTITUTIONAL FREEDOMS AND INTERNATIONAL HUMAN RIGHTS LAW

By

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Supervisor: Dr. Abdur Rauf Khatana

This thesis undertakes a critical examination of Law of Sedition i.e Section 124-A, Pakistan Penal Code in light of constitutional guarantees and international human rights standards. Originally inherited from colonial rule, this law criminalizes expressions that incite disaffection towards the government, often at the expense of citizens' fundamental rights. Through an analytical lens, this study interrogates whether the law aligns with the limitations permitted under Article 19 of the Constitution of Pakistan and the State's obligations under international covenants. The research explores how the vague language of Section 124-A PPC has enabled selective prosecution and been used as a political tool to overturn dissent.

This work, after comprehensive analysis, asserts that the existing form of law related to Sedition in Pakistan is not compatible with the democratic values. This study also calls for respect to freedom of expression and legislative protection against wrongful application of the power of State in suppressing this fundamental right. At the end, it recommends a comprehensive legal and policy redress, proposing that the sedition law either be repealed or re-enacted with substantial amendments in compliance with constitutional mandate and principles of international human rights. This work helps to equip lawmakers, judiciary and policy makers in protecting freedom of expression by limiting the scope of laws related to sedition in light of International Human Rights Law.

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Chapter 01

INTRODUCTION

1.1 THESIS STATEMENT

The sedition laws in Pakistan, which criminalize acts that incite "disaffection" towards the government, tend to violate the freedom of speech and expression as enshrined in the Constitution and International Human Rights Law, therefore require a critical legal analysis.

1.2 INTRODUCTION

The freedom of speech and expression is often regarded as the cornerstone and bulwark of democratic societies, a fundamental right that fortifies the exercise of all liberties. In Pakistan, however, this essential freedom faces significant challenges, particularly through the application of sedition laws which bring hatred, contempt, or excite disaffection towards, the Federal or Provincial Government embodied under Section 124A, Pakistan Penal Code, 1860[1] ("PPC"). This provision, originally inherited from colonial rule, poses a direct threat and is contrary to the fundamental rights enshrined under Articles 14, 19, and 19-A of the Constitution of the Islamic Republic of Pakistan, 1973 ("the Constitution")[2] and International human rights law. As honorable judge of Lahore High Court, M.A Shah held in a case[3] that the fundamental constitutional rights enshrine our democratic standards, and the real object behind the sub-constitutional statutes is to guard these constitutional ideologies.

The ambiguities inherent in Section 124-A PPC enable arbitrary enforcement, leaving individuals

[1] Pakistan Penal Code, 1860, Section 124A

[2] Fathma, Marha, and Zarak Swati. "Sedition Law in Pakistan: An Infringement upon the Right to Free Speech." LUMS Law Journal 10 (2024): 53.

[3] Dera Ghazi Khan Cement Company Ltd. v. Federation of Pakistan, PLD 2013 Lah 693.

vulnerable to selective prosecution based on governmental whims. This lack of clarity contravenes the internationally recognized policies of legality, which demands that laws be adequately precise to guide conduct and avoid misuse. While many countries have recognized the oppressive nature of sedition laws, leading to their repeal, Pakistan inherited it from the British, who have since revoked and repealed their own Sedition Act[4]. Pakistan remains an outlier, raising the critical question of why such archaic statutes persist in a purportedly democratic framework.

The sedition law incorporated in the penal code has included disloyalty and feeling of enmity to the expression disaffection towards the federal or provincial government. It is of utmost importance to distinguish between loyalty to the federal and provincial government, which is home to political parties, and loyalty to state. Otherwise, no less than half of the populace of Pakistan will come under the ambit of sedition at any one time.

This study intends to critically examine the implications of sedition laws on freedom of expression as well as speech in Pakistan, exploring their broader human rights ramifications and the pressing need for reform in line with global standards of justice and expression. It is pertinent to keep in mind that since the said law is strictly against the essence of the Constitution of Pakistan and the inherent rights provided therein, and is void in the light of Article 8 of the Constitution. The frequent use of the law of Sedition under Section 124A of the PPC by the government is unfair, unreasonable, and violates the freedom of speech and expression.

Furthermore, there is always a looming threat of Sedition law hanging over the critics of goernment. Hence, there is an urgent need to investigate this issue and make appropriate changes to stop further abuse of law and ensure fearless exercise of speech and expression and right of citizens to criticize the government. This study would help the policy makers, legislative organs, judicial authorities and academicians to bring in a just and fair position of law and protect the fundamental

[4] Umar, M. "A Review of Anti-Dissent Laws in India, Pakistan and Bangladesh." (2021).

right of citizens.

1.3 LITERATURE REVIEW

The scholarly analysis of Pakistan's sedition law remains limited. The existing literature, while accurately critiquing the law's vague and oppressive application, has yet to provide a comprehensive doctrinal examination of its specific textual inconsistencies. A significant gap thus persists in a systematic analysis that juxtaposes the provisions of Section 124-A against the precise frameworks of the Constitution of Pakistan and international human rights law, detailing the exact nature of their incompatibility.

In the book, "*Southern and Postcolonial Perspectives on Policing, Security and Social Order*[5]" the author explores the intersections of policing, security, and social order through the lenses of Southern and postcolonial contexts. In chapter 5 of this book, "*Crossing Red Lines: Exploring the Criminalization and Policing of Sedition and Dissent in Pakistan*" the authors analyze the enduring impact of sedition laws that originated during British colonial rule. They argue that these laws, designed to suppress political dissent and nationalism, continue to be wielded by the Pakistani state to silence critics, particularly in the face of civil society protests and movements advocating for marginalized communities.

Miss Marha Fatima and Mr. Zarak Ahmed Swati while writing the article *"Sedition Law in Pakistan: An Infringement upon the Right to Free Speech*[6]" discuss Pakistan's sedition law using former judge Professor Aharon Barak's test of proportionality indicates that Section 124A of PPC fails to meet the required standards. Its implementation acts as an authoritarian means to silence

[5] R.P Cavalcanti, Peter Squires, and Zoha Waseem. 2023. Southern and Postcolonial Perspectives on Policing, Security and Social Order. Policy Press

[6] Fathma, Marha, and Zarak Swati. "Sedition Law in Pakistan: An Infringement upon the Right to Free Speech." LUMS Law Journal 2024.

dissent under the guise of preserving public order. It reviews case laws concerning the right to free speech as outlined in various Pakistani constitutions, while also addressing contemporary events related to sedition laws.

In *A Constitutional Faith*[7]*, U.S. Supreme Court Justice Hugo Black* articulates his unequivocal interpretation of the First Amendment, asserting that freedom of speech prohibits the government from taking any action against individuals based on their opinions or the expressions of those opinions, whether spoken or written. He went further in saying that: “"In my opinion, the right to free speech entails that the government cannot take any action against its citizens, or, to use the language of the Magna Carta, work against them, because of their opinions or the opinions they express through the words they write or speak.[8] It's possible that this is a highly radical position, as some people would have you believe. But whatever I do, is following what to me, is the clear work of the First Amendment that Congress shall pass no law violating the freedom of expression or the press.[9]

Sedition in England: The Abolition of a Law from a Bygone Era[10]," Clare Feikert-Ahalt discusses the historical context and eventual repeal of sedition laws in England, highlighting their outdated nature in a modern democratic society. She emphasizes how these laws, originally designed to suppress dissent and protect the monarchy, became increasingly incompatible with contemporary values of free speech and expression. It points out the implications of this legal change for civil liberties, showcasing how the abolition reflects a broader trend toward enhancing individual rights and promoting open discourse. Feikert-Ahalt further argues that removing such

[7] Black, Hugo. A Constitutional Faith. New York: Knopf, 1968, 45

[8] Ibid

[9] Ibid

[10] Clare Feikert-Ahalt, "Sedition in England: The Abolition of a Law from a Bygone Era," In Custodia Legis: Law Librarians of Congress, October 2, 2012, https://blogs.loc.gov/law/2012/10/sedition-in- england-the-abolition-of-a-law-from-a-bygone-era/ (accessed October 2nd, 2024).

archaic laws is essential for a healthy democracy.

In a famous ruling, the Lahore High Court[11] declaring Section 124-A of the PPC as unconstitutional significantly addresses the fundamental right to freedom of speech and expression, enshrined in Articles 19 and 19A of the Constitution. The court emphasized that any restriction on speech must strictly adhere to the exceptions outlined in Article 19. The ruling underscored the government's role as a trustee of constitutional democracy, which necessitates protecting free speech as a foundation of the rule of law. Section 124-A, which criminalizes sedition, was found to infringe on both individual freedoms and press rights, creating a chilling effect that stifles dissent. The court noted that the vague terms "hatred," "contempt," and "disaffection" allow for subjective interpretation, enabling the government to suppress opposing viewpoints.[12]

The court highlighted the absurdity of potentially implicating a significant portion of the population under such vague accusations. This scenario threatens the very essence of a democratic society, where criticism on the elected government is indispensable for accountability and governance. Ultimately, the court ruled that Section 124-A is not only inconsistent with constitutional rights but also poses an existential threat to the press's ability to inform the public without fear of retribution. Appeal has been filed by the government against this decision[13]. Despite such a clear decision by the Court, the government of Pakistan is reluctant to go for legislative changes for reasons best known to the government itself. To fill the gap, in this thesis the gaps and reasons for not enacting laws in light of the supra mentioned judgment have been expressly discussed.

[11] W.P No.59599 of 2022 Haroon Farooq Versus Federation of Pakistan & others(PLD 2024 Lahore 637)

[12] Ibid

[13] Intra Court Appeal. No. 36563/2023 in W.P.No. 59599/2022, Lahore High Court

Currently, the Punjab government has submitted an intra-court appeal (I.C.A. No. 36563 of 2023) challenging the decision, arguing that Section 124 A of the PPC constitutes a rational limitation on freedom of expression as outlined in the Constitution. They have also requested a suspension of the ruling while the appeal is under consideration[14].

The Islamabad High Court, Islamabad in the case titled "Ali Raza v. Federation of Pakistan"[15], clarified the principles governing the cognizance of offences related to sedition, under Section 124-A of the Pakistan Penal Code. The court has expressly held that in order to invoke the above provision there are certain set of criteria which must be fulfilled and those are as follow: (a) the offense must incite hatred, animosity, or ill will amongst members of different religious, racial, linguistic, or regional groups or castes; (b) words, acts, or writings that disturb the peace of the State or undermine the government; (c) the offense must incite people to rebel and invade their territory; and (d) the Federal or Provincial Government, as well as any authorized person under law, must file a complaint after taking into account the pertinent details of the alleged incident and providing justifications (e) The government, or at least their direction, should be the ones to initiate, look into, and investigate the situation surrounding charges of sedition rather than private individuals agitating it. Criminal conspiracy is not available in this particular case because (f) it can only be considered if the other principle offence is proven to have occurred based on allegations made in the complaint in each case; since criminal conspiracy is not sedition, it is not available in this particular case; and (g) an authorized officer must provide justification before imposing any sanctions under Sections 196 and 196A, Cr.P.C. with speaking order[16]. It is pertinent to mention here that the Court has tried to limit the scope of the provision related to sedition but despite this judgment the use of sedition law has not been reduced. So, to fill this

[14] Ibid

[15] PLD 2017 Islamabad 64

[16] Ibid

gap this thesis has highlighted the reason for non-implementation of court decisions and has also provided some practical solutions. The decision cited above nontheless underscores the procedural safeguards in sedition laws and the equilibrium between the security of the State and individual rights in dissent contexts but the approach is beyond the boundaries of practicality.

The Pakistan's Apex Court addressed the issue of reasonable limits on the very right to freedom of speech and expression. The court established that such restrictions must be both lawful and reasonable.[17] The court established a standard for evaluating whether a restriction is fair by taking into account whether exercising one's right to free speech violates the rights of others, especially their freedom from annoyance and their right to privacy. This ruling underscore the delicate balance between protecting freedom of expression and safeguarding individual rights in the media landscape, reflecting the complexities involved in the application of sedition laws in Pakistan[18].

While pondering over the Anti dissent laws in South Asia, Professor Umar analyses in his article[19] that the law of sedition was originally made by the British Empire to suppress opposition of their subjects. This research work provides with the scrutiny of this law and its implication on the democratic system. The law of sedition being incompatible with the International Human Rights obligations has made it an easy tool for the governments to weaponize this law against political opponents or journalists.[20]

W.R Donogh's in his famous book, The History and Law of Sedition and Cognate Offences,

[17] Pakistan Broadcasters Associations v. PEMRA (PLD 2016 SC 692)

[18] Ibid

[19] Umar, M. "A Review of Anti-Dissent Laws in India, Pakistan and Bangladesh." (2021).

[20] Ibid

Penal and Preventive (1917)[21], gives an invaluable historical and legal perspective on the development of sedition laws in the subcontinent. He gives his analysis on the legal approaches of the British administration to curtail dissent, primarily focusing on the laws designed to limit freedom of expression through press restrictions, public order mandates, and preventive measures. His approach towards the early sedition statutes reveals the mechanisms employed by colonial authorities to suppress resistance, highlighting the penal and preventative measures rooted in the legal framework to discourage any challenge to British authorities. By documenting the colonial rationale and implementation of these laws, Donogh's work remains crucial in understanding the colonial remanning's that have influenced post colonial sedition legislation in the South Asia. His analysis aids in contextualizing current debates around sedition, as many aspects of this legacy continue to impact freedom of expression within the region's contemporary legal frameworks.

The misuse of this law and its stifling effect on freedom of expression and democratic values are also discussed by the author Vanshita Gupta in her piece "Is Sedition a Threat to Democracy?"[22] The law is still often used against government critics in spite of several significant rulings. In light of the fact that sedition offenses have been outlawed in the United Kingdom, the essay makes the case for reforms.

In addition, the article "An Analysis of Law of Sedition and Its Impact on Freedom of Expression (2014)"[23] by Joydip Ghosal, highlights how sedition laws, though meant to secure the state, often suppress free expression by curtailing dissent. Ghosal argues that these laws require reform to

[21] Donogh, W. Russell. The History and Law of Sedition and Cognate Offences, Penal and Preventives. Thacker, Spink & Company, 1917.

[22] Gupta, Vanshita. "Is Sedition a Threat to Democracy?" Issue No. 2 Indian JL & Legal Rsch. 5 (2023): 1.

[23] Ghosal, Joydip. "An Analysis of Law of Sedition and Its Impact on Freedom of Expression." Journal of Legal Analysis and Research 1, no. 1 (2014).

better balance national security with democratic rights, emphasizing the need to protect open discourse in a modern democratic society.[24]

Needless, to mention here that the above mentioned work although discuss sedition but the detailed analysis of this law in light of the constitutional guarantees is lacking. It is very important at this point of time to consider the law of sedition in light of the developments happened in the 21st century and the jurisprudence developed by the international frameworks.

1.4 OBJECTIVES OF THE STUDY

i. To examine whether Section 124A of the Pakistan Penal Code aligns with the reasonable restrictions on freedom of speech as outlined in Article 19 of the Constitution of Pakistan.
ii. To study and compare international legal frameworks and judicial interpretations of law of sedition in relation to freedom of speech, and to identify relevant lessons for Pakistan.
iii. To analyze that the sedition law is being used as a political tool to suppress legitimate dissent, thus violating fundamental rights.
iv. To explore and recommend possible safeguards that could prevent the misuse of the sedition law.
v. To assess whether it is necessary to reformulate or repeal the sedition law in light of the right to freedom of expression and speech.

1.5 SIGNIFICANCE OF STUDY

The offence of sedition has remained a significant issue in Pakistan, as state authorities have often been accused of misusing sedition provisions and other related laws, in violation of constitutional freedoms and international human rights law, on the pretext of safeguarding sovereignty, integrity, and security of the state. Political leaders, social activists, journalists, writers, students, and other

[24] Ibid

segments of society have faced arrests and detentions under the charge of sedition, frequently justified on the ground of maintaining "law and order." As a result, civil and political rights, particularly the fundamental right to life, liberty, and freedom of expression, have at times been curtailed in Pakistan's democratic framework.

The significance of this study lies in its critical examination of the law of sedition in Pakistan, highlighting its constitutional implications, and impact on democratic rights. By addressing these concerns, the research adds to the existing body of literature and contributes to the ongoing debate about the relevance, scope, and necessity of sedition laws in a modern democratic state.

1.6 RESEARCH QUESTIONS

1. Whether the concept of Sedition provided under Section 124A of the PPC, is within the reasonable limits of the restrictions that are imposed under Article 19 of the constitution of Pakistan?
2. How do various international legal frameworks and courts interpret and apply the principle of sedition in relation to the right to freedom of speech and expression? What lessons can Pakistan draw from these approaches?
3. Whether the law of sedition is increasingly being used in violation of the fundamental rights as a political instrument to suppress the legitimate dissent against the government?
4. What legal and institutional safeguards, including the reformulation or possible repeal of Section 124-A (sedition), are required to ensure its compatibility with the constitutional guarantee of freedom of expression?

1.7 RESEARCH METHODOLOGY

The research methodology adopted for this study is primarily doctrinal, supplemented by analytical and descriptive approaches. Doctrinal research has been employed to critically

examine Pakistan's sedition laws in the light of constitutional guarantees of freedom of expression and relevant international human rights standards. This method enables a structured evaluation of primary legal texts, judicial precedents, and statutory provisions, alongside scholarly interpretations. By analyzing case precedents and statutory laws, this research seeks to uncover the complexities of sedition's legal landscape and the rationale behind its enforcement in Pakistan.

The study is further based on both primary and secondary sources. Primary sources consist of constitutional texts, the Pakistan Penal Code, relevant case law, and international human rights instruments, while secondary sources include books, journal articles, and credible online materials. Judicial decisions from Pakistan and other jurisdictions provide comparative insights, thereby enriching the evaluation of sedition laws.

CHAPTER 2

UNDERSTANDING THE LAW OF SEDITION AND ITS THEORETICAL FOUNDATION

The Constitution of Islamic Republic of Pakistan, in its preamble, declares very clearly that Pakistan would be a democratic state and shall be a Federal Republic.[25] The famous German Philosopher, Immanuel Kant, suggests that the Republic State as a participating political process limited by respect for rights and is based on the principles of freedom, due process, and equality[26]. This stands in stark contrast to a despotic government, where decisions are imposed whether by a majority or a minority without regard for the rights of those who oppose or disagree with them or their decisions.[27]

The legal construct of sedition has long occupied a contested and complex position within constitutional jurisprudence. Its invocation often reflects a state's attempt to delineate the permissible limits of dissent, while simultaneously invoking concerns of national integrity and public order. Despite the transition of many postcolonial states towards democratic frameworks grounded in fundamental rights, sedition laws continue to exist in Pakistan's legal framework as instruments with profound implications for civil liberties particularly the right to freely express opinion through speech and expression.

[25]Constitution of the Islamic Republic of Pakistan*, 1973, Art. 1, https://na.gov.pk/uploads/documents/1333523681_951.pdf*

[26] Movahedi, Ali, Farid Azadbakht, and Iraj Ranjbar. "The Foundations of the Universal Declaration of Human Rights from the Perspective of Kant and Rawls with a Focus on Justice." Legal Studies in Digital Age 3, no. 4 (2024): 105-114.

[27] Osborne, Thomas. "Moderation as Government: Montesquieu and the Divisibility of Power." The European Legacy 28, no. 3-4 (2023): 313-329.

The contemporary submission of sedition laws in certain cases has sparked renewed debate over their relevance and compatibility with the principles of a modern constitutional democracy. With emerging bitterness and disagreements among the younger generation and public of the country in relation to the policies of the government or the enactments passed by the parliament, any denial to accede to or raising voice regarding discontentment is viewed as sedition. The people of Pakistan have been provided with the right to freedom of speech along with expression. The contrast here is that while the supreme statute i.e, the Constitution, provides the inhabitants of the country the right to express freely their voice and their point of view on matters including the policies of the State and laws enacted by the Government, and this expressly provided right is being taken away from the people of the country through Section 124A of the Pakistan Penal Code.

This chapter aims at the thorough examination of the law of sedition through a multidimensional lens. It, firstly, discusses the historical evolution of sedition, highlighting its roots in colonial governance and the mechanisms through which it was used to suppress political opposition. The discussion then goes into the detail that how it was made part of the legal framework of the subcontinent, and its subsequent inclusion in the legal structure of Pakistan through the statutory and constitutional landscape.

This chapter also contextualizes sedition within broader theoretical discourses on freedom of expression, exploring the justifications for restricting speech and the principles that underpin democratic engagement. It further analyzes the basis for imposing reasonable limitations and restrictions on free speech specifically in the interest of public order and interrogates the boundaries within which such restrictions may or may not be constitutionally legitimate.

By mapping the legal, historical, and philosophical dimensions of sedition, this chapter establishes the conceptual foundation for a deeper constitutional critique. It sets the stage for

subsequent chapters that will question the law's validity in light of Pakistan's constitutional commitments to fundamental freedoms.

2.1 GENESIS AND HISTORICAL BACKGROUND

This section explores the origin of the term "sedition" and traces its development through classical, colonial, and post-colonial contexts, setting the stage for a deeper examination of its relevance in modern democratic societies.

2.1.1 DEFINITION OF THE TERM SEDITION

The word sedition is taken from the Latin word seditio[28]. In classical Rome sedition was taken as "insurrectionary separation (political or military), dissension, civil discord, insurrection, mutiny.[29]

According to Black's Law Dictionary, Sedition means an agreement, communication or other preliminary activity aimed at inciting treason or some lesser commotion against public authority.[30]

Oxford English Dictionary defines sedition as "Conduct or speech inciting people to rebel against the authority of a state or monarch."[31]

As defined by Chambers, 21st Century Dictionary, sedition refers to public speech, writing, or actions that incite public disorder, particularly rebellion against the government.[32]

[28] Webster's New International Law Dictionary, 2nd ed. (1956).

[29] Manning, Roger B. "The origins of the doctrine of sedition." *Albion* 12, no. 2 (1980): 99-121.

[30] Black's Law Dictionary, 11th ed., ed. Bryan A. Garner (St. Paul, MN: Thomson Reuters, 2019)

[31] Oxford Latin Dictionary, "Oxford Latin Dictionary" (Oxford: Clarendon Press, 1968)

[32] Chambers 21st Century Dictionary, 2nd ed.

Sir James Stephen, in his Commentaries, on the Laws of England, defines sedition as conduct that either aims to or naturally results in the unlawful expression of dissatisfaction with the government or the prevailing social order.[33] This definition emphasizes the intent or consequence of actions that challenge or undermine governmental authority or societal stability, framing sedition as a deliberate or inherent disruption of lawful governance or societal harmony but it needs to be clear that a word or act is deemed seditious only if it is expressed or performed with the purpose of provoking sedition.[34]

Building on these definitions, it becomes clear that sedition is consistently associated with actions or expressions intended to challenge or disrupt established authority. However, while these descriptions effectively capture the core idea of incitement against the state, they tend to focus narrowly on the element of rebellion or unrest, without fully addressing the complexities involved in distinguishing between legitimate dissent and unlawful sedition. This lack of nuance can lead to broad interpretations that risk suppressing free speech and political opposition under the guise of maintaining social order. Therefore, a critical examination of sedition must consider not only the act of incitement but also the context and intent, ensuring that the protection of state security does not come at the expense of fundamental democratic freedoms.

2.1.2 HISTORICAL BACKGROUND OF THE CONCEPT OF SEDITION

The law of Sedition has a long history which goes back centuries, and the evolution of this law presents the complex dynamics between dissent, power, and the freedom of speech and expression. This law had been enacted with the purpose to restrict or suppress speech, actions,

[33] J. Stephen, A Digest of the Criminal Law (1887), cited in Law Commission of England and Wales, Working Paper No. 72: Second Programme, Item XVIII, Codification of the Criminal Law—Treason, Sedition and Allied Offences (London: Law Commission, 1977), 42.

[34] C. Kyer, "Sedition Through the Ages: A Note on Legal Terminology," University of Toronto Faculty of Law Review 37 (1979): 266, 267.

or publications that encourage rebellion or resistance against the elites who are in the power. If we turn the pages of history then we come to know that different nations have used the sedition laws to attain social stability and silence opposition. The law of sedition has a long history and it even goes back to the most ancient civilizations. For example, at the times of early Roman Republic, the Lex Terentilia of 454 BCE was enacted to push hard the political agitators who questioned the authority of the ruling class.[35] Likewise, in ancient Athens, regulations were imposed to forbid speeches and voices which were perceived against the state and its security.[36]

The First Statute of Westminster, introduced in 1275 is considered to be earliest legal measure in dealing with actions similar to sedition. This law was enacted shortly after King Edward I took the throne in 1272, following his participation in the last major crusade. This marked one of the earliest efforts by the English monarchy to establish rules aimed at controlling speech and behavior which could be considered as threatening to the government. This statute laid the groundwork for the development of sedition laws in the centuries that followed.[37]

When King Edward I took the throne, he inherited a kingdom plagued by widespread disorder and lingering administrative weaknesses from the early reign of his father, King Henry III. Much of this turmoil stemmed from longstanding ethnic and regional conflicts among the Normans, Saxons, and Celts, groups whose historical rivalries and cultural differences had weakened political cohesion. To address these issues, Edward called together a legislative council at Westminster in 1275, marking an important moment in the early development of England's parliamentary system. This gathering resulted in the First Statute of Westminster, a series of legal reforms designed to fix systemic injustices, improve governance, and make the judicial

[35] Rafael Domingo, Roman Law: An Introduction (Abingdon, Oxon, and New York, NY: Routledge, 2018).

[36] P. J. Rhodes, A History of the Classical Greek World, 478–323 BC, 2nd ed. (Chichester, West Sussex, U.K., and Malden, MA: Wiley-Blackwell, 2010).

[37] Statute of Westminster, 1275, 3 Edw. I, c. 34.

system more efficient. By formalizing laws and reinforcing institutional authority, the statute created a legal framework to punish actions that threatened public stability including conduct that would later be identified as sedition, even though the exact definition and legal scope of sedition was to be clarified in the years to come.[38]

In the Middle Ages, sedition laws became more distinct. England, for instance, left no stone unturned in implementing different statutes to protect and safeguard the Monarch's authority and supremacy. The Treason Act of 1351 was one of the instrumental legal statutes used to suppress dissent. It penalized acts such as imagining the death of the king, levying war against the monarch, or adhering to the king's enemies.[39]

The concept of sedition underwent significant development during the 16th century, largely in response to growing concerns among royal authorities and local administrators regarding potential threats to the monarchy. In its earliest form, sedition laws were crafted to safeguard the authority and stability of the Crown against rebellion or civil unrest. By the early 17th century, English case law had begun to articulate a more defined understanding of what constituted seditious conduct. This legal evolution culminated in the enactment of the Sedition Act of 1661, formally titled "*An Act for the Safety and Preservation of His Majesty's Person and Government Against Treasonable and Seditious Practices and Attempts"*[40]. The statute criminalized the act of expressing whether in writing, print, or speech any statements deemed hostile or defamatory toward the King. The doctrine of "Scandalum Magnetum" (Latin for 'Scandal of the magnates')

[38] J. N. Figgis, The Divine Right of Kings, as cited in William E. Conklin, "The Origins of Sedition Law," Criminal Law Quarterly 15 (1972–1973): 277, 289.

[39] Paul Knepper and Anja Johansen, The Oxford Handbook of the History of Crime and Criminal Justice (Oxford University Press, U.S.A., 2016)

[40] Lilienthal, G., and Nehaluddin Ahmad. "Sedition: a slippery slope argument devised to protect the state's magnates." *Commonwealth Law Bulletin* 44, no. 4 (2018): 588-606.

became the basis of the law of sedition, which prohibited slander or criticism of royalty, judges, or the press.[41]

In the United States of America, the First Amendment to the Constitution, ratified in 1791, enshrined the principle of free speech and limited the government's ability to curtail it. However, even in the young republic, sedition laws were enacted. The Alien and Sedition Acts of 1798, signed into law by President John Adams, were highly controversial. They criminalized false statements about the government, Congress, or the President, with the intent to defame or bring them into contempt.[42]

In the Indian subcontinent, the colonial administration actively sought to implement sedition laws to suppress nationalist movements[43]. Lord Macaulay initially proposed the inclusion of sedition in the Draft Penal Code of 1837. However, this draft was set aside for over two decades, and by 1860, the sedition provision was removed from the bill without any clear reason. It was only in 1870 that Sir James Fitz James Stephens formally introduced sedition as a criminal offense through a Special Act, adding Section 124A to the Penal Code[44]. This legal measure gave the British authorities broad powers to stifle the freedom struggle and crack down on those opposing colonial rule. Since then, this provision has remained the integral part of the Penal Code of Pakistan in shape of Section 124-A, PPC.

[41] The Origin of the Doctrine of Sedition," Albion: A Journal Concerned with British Studies 12, no. 2 (Summer 1980): 99–121.

[42] Granahan, Jack. "The Sedition Act of 1798 as a Federalist Legal Instrument." Brandeis University Law Journal 12, no. 1 (2025).

[43] Jan, Ammar Ali, and Zoha Waseem. "Crossing red lines: Exploring the criminalization and policing of sedition and dissent in Pakistan." In Southern and Postcolonial Perspectives on Policing, Security and Social Order, pp. 82-102. Bristol University Press, 2023.

[44] Joseph, Melissa. "Sedition: An Analysis of the Constraints of Freedom of Speech and Expression." Issue 2 Indian JL & Legal Rsch. 5 (2023): 1.

2.2 LEGAL FRAMEWORK RELATED TO THE LAW OF SEDITION IN PAKISTAN

The law of Sedition in Pakistan has played a complex role in maintaining equilibrium in between national security and the protection of free speech and expression. This law has been subject to changes through the different phases of history, reflecting the changing societal, political, and legal contexts in the history of Pakistan.

During the period of colonial rule, this law was specially enacted with the purpose to suppress dissent and limit those nationalist movements which were seeking independence from the British rule over the subcontinent. The British government in order to achieve its political motives introduced the Sedition Act of 1870, which aimed to suppress expressions of opposition to colonial authority and restrain the nationalist activities. This law criminalized speech, actions, or publications by bringing these under the ambit of seditious acts, leading to the imprisonment and persecution of many freedom fighters and individuals who voiced dissent against the colonial regime.[45]

The applicability of sedition law in Pakistan has been the subject of open debates and has faced severe criticism. Opponents of the law argue that these laws can be misused to suppress dissenting voices and curtail the freedom of expression guaranteed by the Constitution.

On the other hand, those who are in favour of this law argue that it is essential to preserve social order and protect the integrity and sovereignty of the nation. They contend that these laws serve as a deterrent against acts that threaten the stability and safety of the country. The impact of this law in Pakistan extends beyond legal and political realms. They have shaped the social and cultural landscape by influencing public discourse, activism, and the relationship between the

[45] Jan, Ammar Ali, and Zoha Waseem. "Crossing red lines: Exploring the criminalization and policing of sedition and dissent in Pakistan." In Southern and Postcolonial Perspectives on Policing, Security and Social Order, pp. 82-102. Bristol University Press, 2023.

government and the people. Sedition cases have attained public attention and sparked debates on the limits of free speech and the role of dissent in a democratic society.

The development in this regard in Pakistan reflects that the country complex journey from colonial rule to independence and its subsequent development as a democratic nation. As Pakistan continues to tackle with issue of dissent, national security, and freedom of expression, the examination and evaluation of sedition laws remain crucial in maintaining a delicate balance between safeguarding the State and protecting individual rights and liberties.

2.2.1 OFFENSE OF SEDITION UNDER PAKISTAN PENAL CODE

The offense of sedition in Pakistan is provided under Section 124A of the Pakistan Penal Code. Despite the fact that Pakistan has travelled through different phases in the field of International Human Rights Law and has been able to develop such a democratic governance where basic rights are protected by the constitutional provisions. The right to express oneself and hold an opinion is one of such rights but it is curtailed by a provision in the Penal Code which will be discussed in this section. This part critically examines the language, scope, and interpretative ambiguities of Section 124A, assessing its implications for civil liberties and its compatibility with constitutional and international legal standards. The provision is as follows:

> 124A. Sedition. *Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, the Federal or Provincial Government established by law] shall be punished with imprisonment for life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine. Explanation 1. The expression "disaffection" includes disloyalty and all feelings of enmity. Explanation 2. Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section. Explanation 3. Comments expressing disapprobation of the administrative or*

other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

2.2.2 ELEMENTS OF THE CRIME

To grasp the legal and constitutional issues surrounding the law of sedition in Pakistan, an examination of the singular terms used within the provision (section 124-A, PPC) is of utmost importance. The concept of sedition as provided in this section goes beyond a mere legal definition because it reflects deeper legislative intent, as well as ideological and political considerations. The whole phraseology of the provision has a bearing on its application and enforcement. The use of broad and open ended terms gives the law the ability to extend its reach far beyond the intent of the framers, frequently capturing expressions and actions that, in a democratic context, would be considered free speech.

Analyzing individual words demonstrates how the law transcends the boundaries of direct provocation to rebellion, encompassing even symbolic or passive forms of dissent. Words such as "whoever," "disaffection," and "visible representation" when interpreted permissively provide the government with a disproportionately large mechanism to silence dissent and social and political critique, manipulate the political scene, and police speech across the society. Furthermore, the effect of this law on participatory democracy is aggravated by not only punishing the act of sedition, but also its attempts or encouragement. This section therefore aims to unpack the key terms and phrases within Section 124A, offering a legal and critical interpretation of their meanings while evaluating their alignment or lack thereof with constitutional guarantees such as freedom of expression, particularly under Article 19 of the Constitution of Pakistan.

The first word with which the law starts and which is of prime importance is the term "whoever". It serves as a broad legal designation which brings every such individual who may commit the

offence of sedition. This term is not restricted to a particular class or category of persons rather it applies universally, including in itself all actors irrespective of their professional background, political affiliation, citizenship, or social standing. No matter who the alleged offender is, whether he belongs to the profession of journalism or is a writer, public speaker, political figure, or private citizen, the law does not differentiate between them and treat them equally accountable for their conduct that meets the legal threshold of sedition. This word refers to both seditious writers and those who use printed materials in a way that incites others to feel negatively towards the government of Pakistan.

Section 124-A also explicitly encompasses expressions conveyed through both spoken and written words, reflecting the comprehensive nature of communication protected under this provision. The inclusion of both verbal and written forms ensures that sedition is not limited to speech but also extends to any recorded or disseminated messages that may incite disaffection toward the government. This broad coverage recognizes the varied ways individuals communicate ideas and criticisms in contemporary society, including speeches, publications, broadcasts, and digital communications.

This dual reference underscores the intention of the legislature to prevent any evasion of the law through choice of medium, whether a seditious idea is spoken in a public forum or disseminated through written texts through the newspapers, pamphlets, or electronic media it remains subject to prosecution. This provision acknowledges the influential power of both oral and written language in shaping public opinion and political sentiments, thereby safeguarding governmental authority against expressions that threaten to destabilize constitutional order in the country.

The phrase *"by signs, or by visible representation, or otherwise"* expands the scope of sedition beyond verbal and written expressions to also include nonverbal modes of communication. This provision is deliberately inclusive to capture symbolic acts, gestures, images, or any other form

of expression that could be interpreted as inciting disaffection toward the government. In contemporary terms, this could encompass protests using banners, symbolic demonstrations, caricatures, posters, or even digital images shared via social media platforms.

By including the term "otherwise," in the provision the legislature acknowledges the evolving nature of communication methods and ensures that the law remains adaptable to new and unforeseen forms of expression. This broad language prevents individuals from evading responsibility simply by shifting from traditional speech or writing to more subtle or symbolic modes of dissent. Such an interpretation underscores the seriousness with which the state views act that may undermine its authority, emphasizing that sedition is not limited to direct statements but also extends to indirect or symbolic conduct aimed at fomenting hostility or contempt against the ruling class.

The phrase *"excites or attempts to excite disaffection"* captures both the act of actively stirring feelings of dissatisfaction or hostility against the government and the intention or effort to do so, even if the desired outcome is not fully achieved. This means that the law targets not only successful provocations but also any attempts aimed at generating disloyalty or resentment among the public towards the authorities.

Disaffection, as defined in the law, includes a broad spectrum of negative emotions such as disloyalty, resentment, or hostility[46]. By including the word "excites," the law emphasizes deliberate actions that provoke such feelings. The inclusion of "attempts to excite" reflects the preventative nature of the statute, aiming to intervene before disaffection can escalate into larger threats to public order or governmental stability.

[46] Agathocleous, Tanya. "Reading for the Political Plot: A Genealogy of Disaffection." *Criticism* 61, no. 4 (2019)

In practical terms, this ensures that sedition charges can be brought even when the person's efforts to undermine the government's authority have not yet fully materialized, highlighting the state's intent to curb early signs of political dissent that could jeopardize its rule.

Abetment in the context of sedition refers to any act of encouraging, aiding, or facilitating the commission of seditious behavior. This means that an individual does not need to directly express or incite disaffection themselves but may still be held liable if they assist, counsel, or promote someone else's seditious actions.

The law recognizes that sedition can be a collective effort, often involving multiple actors who contribute in various ways whether through planning, spreading inflammatory materials, or rallying support for anti-government sentiments. By criminalizing abetment, the statute aims to cover the broader network behind seditious activities, preventing indirect instigators from escaping accountability.

This provision underscores the proactive stance of the law against not only the principal offenders but also those who play a supporting role in undermining the government's authority. It ensures that the chain of influence leading to disaffection is effectively addressed and curtailed.

Section 124-A PPC specifically refers to the *"Federal or Provincial Government established by law"* as the subject against which seditious acts may be directed. Notably, the provision does not use the term "State." This distinction is not merely semantic carries significant legal and political implications that warrant critical examination.

The term "Government" in this context refers to the executive authority functioning under the Constitution of Pakistan, including ministers, administrative departments, and public functionaries at both the federal and provincial levels. These are transient political entities, subject to change through electoral processes and political transitions. By contrast, the "State"

represents a more enduring and abstract concept, comprising the permanent institutions of governance the legislature, judiciary, armed forces, and the constitutional framework itself. The State persists regardless of which party or individual is temporarily in power.[47]

The use of the word “Government” instead of “State” in Section 124-A implies that the law penalizes expressions of disaffection not against the foundational sovereignty of Pakistan, but against the ruling authorities who occupy public office at any given time. This raises serious concerns within a democratic framework. In any democratic society, the validity of the government arises from the will of the people, and it is both natural and essential for citizens to scrutinize, criticize, and even strongly oppose the actions of those in power. Political dissent, including the expression of dissatisfaction with governmental policies, is a fundamental aspect of participatory governance.[48]

Criminalizing disaffection towards a particular government conflates opposition with subversion. It risks equating democratic dissent with sedition, thereby chilling political discourse and suppressing legitimate critique. In a state that purports to uphold constitutional freedoms particularly the right to freedom of expression under Article 19 of the Constitution of Pakistan such a broad and vague standard creates a dangerous potential for abuse. It enables those in power to weaponize the sedition law against critics, journalists, activists, and political opponents under the guise of protecting state authority, when in fact, the criticism may be directed solely at policy failures or political mismanagement.

Thus, from a democratic and constitutional point of view, the use of "Government" instead of "State" in Section 124-A necessitates immediate reconsideration. Disaffection against a

[47] Sarah Sorial, “Can Saying Something Make It So? The Nature of Seditious Harm,” *Law and Philosophy* 29, no. 3 (May 2010): 273–305, https://www.jstor.org/stable/40783443

[48] Robinson, Edward Heath. "The distinction between state and government." *Geography Compass* 7, no. 8 (2013)

government that is by definition temporary and politically accountable cannot be made a criminal offence. Disaffection is not only in harmony with democratic principles but frequently essential to hold the government accountable, make it transparent, and bring about reform. Deeming it sedition negates both the democratic nature of the state as well as the rights of citizens.

2.2.3 INTERPRETIVE CLARIFICATIONS OF THE CRIME OF SEDITION

Section 124-A of PPC attempts to qualify and limit the application of its broad sedition clause through three explanations. On the surface, these explanations appear to preserve certain fundamental freedoms. However, a closer reading especially when situated within Pakistan's constitutional framework reveals that these qualifications are insufficient to safeguard the democratic right to free expression and, in fact, expose deep inconsistencies between the provision and Article 19 of the Constitution of Pakistan.

2.2.3.1 DISLOYAL OR HOSTILE SENTIMENTS COUNT AS DISAFFECTION

The initial explanation makes clear that "disaffection" encompasses disloyalty and "all feelings of enmity" towards the federal and provincial government. This definition is rightly seen as clearly broad and vague. In making a disposition of criminality of mere disloyalty or critical thinking, the law de facto criminalizes dissent. Under a democratic framework, disloyalty towards an incumbent government need not be a criminal offence; instead, it is the inalienable right of the citizens to criticize, challenge, and demand change. The employment of such open ended language sets the stage for arbitrary interpretation and encourages state encroachment. A provision that criminalizes subjective frames of mind like "disaffection" or "enmity" is not precise enough as required by constitutional norms and thus is not compatible with the rule of law.

2.2.3.2 PEACEFUL CRITICISM OF GOVERNMENT ACTIONS IS LAWFUL

This definition claims that criticism of government policy, if intended to achieve lawful reform and not inciting hatred or disaffection, is not sedition. Yet this so-called protection is full of flaws. The terminology assumes that the government itself will justly differentiate between "lawful disapprobation" and "incitement to disaffection." In reality, this differentiation is frequently confused by the executive officials responsible for applying the law. In a climate where criticism is consistently confronted by charges of anti-state activity, this provision fails to provide effective protection. Furthermore, the explanation continues to be subject to the general offence set out in the principal provision, and therefore does not adequately restrict application.

2.2.3.3 GOVERNMENT FUNCTIONING CAN BE CRITICIZED

Similarly, the third explanation allows for condemnation of official actions, as long as it does not involve hatred or disaffection. Once more, this clause provides only superficial protection. Really, condemnation of administrative ineptness or corruption is usually viewed as a challenge to the government's legitimacy, particularly in politically charged situations. The issue is not so much in the phrasing of the explanation, but rather in the overbroad language of the main provision which grants the state undue discretionary authority. Although the explanations seem to dilute the rigidity of Section 124-A, they fail to correct its inbuilt constitutional defects. The provision criminalizes expression of dissent and confuses criticism of the government with threats to national security or public order. This is essentially contrary to the constitutional promise of freedom of expression under Article 19. It is important to emphasize that the Constitution permits only reasonable restrictions on free speech, and these must be narrowly tailored to protect legitimate State interests, such as national security or public morality not the image or authority of a temporary government.

In a constitutional democracy, it is the right of the citizens and often their duty to hold the government accountable through criticism, protest, and advocacy for change. Section 124-A, even with its appended explanations, stands in opposition to this democratic ideal. The language of the provision is overbroad, its safeguards illusory, and its practical implementation incompatible with the spirit of constitutional freedoms. For these reasons, Section 124-A cannot be reconciled with the democratic values enshrined in Pakistan's Constitution and should be repealed or declared unconstitutional.

2.3 IMPLICATION OF THE CRIME WITHIN THE SCOPE OF FREE SPEECH AND EXPRESSION

Of all the fundamental rights, the cherished right to free speech and expression is alpha and omega for the realization of human rights. The history of this fundamental right dates back to some of the earliest recorded periods in human civilization.

The idea of raising of voice freely dates back to early Greece.[49] The phrase 'free speech' initially appeared around the end of 15th century BC. This phrase has been derived from the Greek term 'Parrhesia' which referred to free speech or to speak without fear or restraint.[50]

In Europe, the tension between religious control and political authority frequently placed freedom of speech at the center of debate particularly during the Reformation in the sixteenth century, which gave rise to Protestantism. A century later, in 1621, the English Parliament pushed back against King James I's efforts to limit speech, asserting certain freedoms in response.[51] The Enlightenment of the 17th and 18th centuries marked a major shift in thinking, as intellectuals began to regard free expression as a fundamental human right. Thinkers in England

[49] Saxon house, Arlene W. Free speech and democracy in ancient Athens. Cambridge University Press, 2005.

[50] Landauer, Matthew. "Parrhesia and the demos tyrannos: Frank speech, flattery and accountability in democratic Athens." History of Political Thought 33, no. 2 (2012): 185-208.

[51] Kerrigan, John Joseph. "The Political and Religious Thought of James I." (1970).

and France strongly advocated for individuals' rights to voice their opinions and take part in political life. These ideas played a crucial role in shaping the French Revolution, ultimately contributing to the 1789 Declaration of the Rights of Man.

During the Enlightenment, philosophers like John Locke and Voltaire advocated for freedom of expression and criticized oppressive sedition laws. Locke argued that individuals possessed natural rights, including the right to free speech, as long as it did not incite violence or harm to others.[52] Similarly, Voltaire, one of the best-known thinkers of the French Enlightenment, proclaimed, "*I may disapprove of what you say, but I will defend to the death your right to say it*."[53]

In all the independent nations of the world, the right to free speech and expression holds a key place among all the other fundamental rights. It is perhaps the reason that the framers of the constitution have explicitly included the right to speech and expression among the fundamental rights provided in chapter II of the Constitution of Pakistan.

The Constitution in its Article 19 provides every citizen the right to express oneself in the following words:

> "*Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, [commission of] or incitement to an offence"*

[52] Alison Guider, "Freedom of Expression and the Enlightenment," 2015, 8, https://egrove.olemiss.edu/hon_thesis/41/.
[53] Robert Corn-Revere, "'I Will Defend to the Death Your Right to Say It.' But How?," Litigation 43, no. 4 (2017): 40.

From bare perusal of the above referred article it reflects that the right to freedom of speech and expression is not unbridled rather subject to certain restrictions imposed by law. Although the restrictions have been specifically written down, the power elite and those in authority have always used such laws for political suppression of the opponent, bypassing the true spirit of the constitution. The reasonable restrictions need not to be contrary to the essence of the supreme law of the law i.e the Constitution.

2.4 THE REASONABLE RESTRICTIONS IMPOSED ON FREEDOM OF SPEECH AND EXPRESSION

Sedition law is a privilege for the politicians and a curse to free speech and the right to disagree. It is universally accepted that freedoms of speech and expression is not unqualified. The constitution is a distinct document which guides the connection between the State and its citizens. Of many fundamental rights, the freedom of speech and expression is not limited to any particular area of human interest. It can be exercised for political, financial, communal, cultural, scientific and other related purposes. At the same time such exercise of right should not be unqualified at the cost of other basic rights of people and any restriction on the freedom of expression must not jeopardize the right itself.[54]. No doubt the right to free speech and expression holds great value, but neither is absolute. There have been restrictions on such rights but in total alignment with the laws.

The restrictions mentioned above are the only factors where the legislature can make laws to restrict and constrain such rights. Any law enacted suppressing the freedom of speech and expression and does not fall within one of the exceptions provided in Article 19 of the Constitution cannot be termed as intra vires.

[54] UN Human Rights Committee, *General Comment No. 10: Freedom of Expression (Article 19)*, CCPR General Comment No. 10, 19th sess. (1983), para. 4.

2.5 CONCLUSION

The foregoing discussion has sought to unravel the intricate relationship between sedition laws and democratic constitutionalism, situating the law of sedition within its historical, philosophical, and legal contexts. What emerges is a complex picture in which the concept of sedition, far from being a relic of colonial jurisprudence, continues to cast a long shadow over contemporary legal and political discourse in Pakistan. While initially conceived as an instrument for preserving state authority and quelling rebellion, the persistence of Section 124A of the Pakistan Penal Code in the postcolonial era raises significant normative and constitutional questions.

This chapter has demonstrated that the origins of sedition are deeply rooted in authoritarian modes of governance where dissent was perceived as a threat to sovereign power. From Roman antiquity to British colonial rule, the invocation of sedition was rarely neutral; rather, it was employed to delegitimize political opposition and restrict free expression. Despite gaining independence and adopting the Constitution that explicitly guarantees democratic freedoms, Pakistan has retained this colonial-era provision in its penal code. As a result, the law of sedition, though now embedded in a formally democratic framework, continues to operate in ways that are often inconsistent with the values of open discourse and participatory governance.

An analysis of Article 19 of the Constitution of Pakistan reveals that while the right to freedom of speech and expression is constitutionally recognized, it is simultaneously subject to a range of vague and potentially expansive limitations. The elasticity of terms such as “public order,” “morality,” or “incitement to an offence” offers a wide latitude for state authorities to curb legitimate criticism under the guise of national interest. In this context, sedition law emerges not merely as a legal tool, but as a political instrument capable of suppressing dissent and insulating power from public accountability.

The theoretical perspectives outlined in this chapter reinforce the idea that freedom of expression is not merely a personal liberty, but a structural necessity for the functioning of a democratic society. Thinkers such as Locke, Kant, and Voltaire remind us that the legitimacy of state power derives, in part, from its willingness to tolerate opposition and accommodate divergent viewpoints. Any law that imposes a chilling effect on public discourse thus poses a danger not only to individual liberties but to the democratic fabric of the state itself.[55]

In conclusion, the continued application of sedition laws in Pakistan reveals a disjunction between constitutional ideals and legal practice. While the law ostensibly seeks to preserve state integrity, its frequent use against journalists, activists, and political opponents suggests a broader intent to police thought and opinion. There is, therefore, a compelling need to critically re-examine the place of sedition within Pakistan's legal system. A democratic state must distinguish between unlawful incitement and lawful dissent; failure to do so risks undermining the very principles upon which its legitimacy is founded.

[55] Ronald Dworkin, Freedom's Law: The Moral Reading of the American Constitution (Oxford: Oxford University Press, 1996), 199.

CHAPTER 3

THE LAW OF SEDITION AND INTERNATIONAL HUMAN RIGHTS LAW

The regulation of speech, particularly in its sedition aspect, has ever been a battleground of competing interests between the imperatives of state security and upholding the individual freedoms. The international law has long been a strong custodian of the freedom of expression and speech, viewing it as the building block of democratic society. Despite this acknowledgment, the freedom of expression has been constantly subject to curbs, some of which chip away at its very essence. The conventions and treaties of human rights have time and again reaffirmed the defense and promotion of the right to opinion without any fear of reprisal. This chapter examines the sedition law of Pakistan in the context of International Human Rights instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and regional instruments including the European Convention on Human Rights, the American Convention on Human Rights, and the African Charter on Human and Peoples Rights. The adoption of Resolution No. 59 (I), of the UN's 1946 in the General Assembly which proclaimed freedom of information an inalienable human right and the touchstone of all freedoms, also demonstrates the international community's commitment to the protection of free expression. Furthermore, the chapter also analyzes proposed United Nations agencies' policies and standards and investigates Pakistan's international human rights commitment, thereby analyzing the degree to which the country's sedition law conforms to or deviates from international norms. It would help in judging the harmony of Section 124-A PPC with elementary ideas of free expression, democratic government, and the rule of law by backed international society.

3.1 GLOBAL AND REGIONAL HUMAN RIGHTS FRAMEWORKS

At this point in order to evaluate critically the compatibility of Pakistan's sedition laws with international human rights standards, it is most important to comprehend first the international legal regimes that define and secure the right to freedom of expression. International conventions and charters have authoritative standards not just recognizing this right but also outlining permissible grounds for its restriction. The focus of this chapter is to examine how international documents enunciate the freedom of expression principles, in what circumstances states may restrict them, and on what criteria national laws, for instance, those dealing with sedition, are to be tested. The meticulous examination of such legal instruments will be the foundation for determining Pakistan's obligations in accordance with International Human Rights law.

3.1.1 UNIVERSAL DECLARATION OF HUMAN RIGHTS

The Universal Declaration of Human Rights (UDHR) was adopted in December 1948 after the end of notorious world wars.[56] This Declaration represents a breakthrough in the recognition and promotion of fundamental human freedoms. Ms. Eleanor Roosevelt who was chair of the drafting committee, while expressing his views on UDHR, termed it as the international Magna Carta for all mankind setting forth a common standard of achievements for all persons and nations[57]. The most relevant portion of this declaration is Article 19, which affirms: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media

[56] Baderin, Mashood A., and Manisuli Ssenyonjo. "Development of International Human Rights Law before and after the UDHR." In *International Human Rights Law*, pp. 19-44. Routledge, 2016.

[57] Black, Allida M. "Eleanor Roosevelt and the Universal declaration of human rights." *OAH Magazine of History* 22, no. 2 (2008): 34-37.

and regardless of frontiers"[58]. Such a clear and to the point language of this declaration has made the freedom of expression as a crucial base of democratic culture and individual dignity.

Article 19 in the UDHR clearly reflects the philosophical traditions that date back centuries. Many of the philosophers expressed their views on the concept of freedom and have come to the conclusion that certain rights cannot be infringed and the right to express one's view is among the most valued right. Many philosophers have cherished this right and among them John Locke, whose *"Letter Concerning Toleration"* (1689) focused on the sanctity of individual conscience[59], and John Stuart Mill, whose seminal work *"On Liberty"* (1859) expressed the discourse as a prerequisite for truth and societal progress, influenced the conceptualization of freedom of speech. J.S Mill asserted that "the peculiar evil of silencing the expression of an opinion would amount to robbing of the the human race."[60] This philosophical aspect related to the freedom of expression was not only included as one of the many rights but recognized as vital to the realization of all other rights.

The status of the UDHR in the arena of Human Rights lies not only in its articulation of principles but also in its greater influence on the subsequent binding treaties and national constitutions of the world. The legal scholar Louis Henkin has written very expressly in his work *"The Age of Rights"*, the UDHR was initially a non-binding declaration but as of now it has attained the position of customary international law by setting a global expectation for the safeguard of fundamental freedoms. This influence extends to the domain of sedition laws, where free speech must be carefully balanced against the need for public order. Within this boarder framework,

[58] Article 19 UDHR

[59] Locke, John. "A letter concerning toleration (1689)." *Treatise of Civil Government and A Letter Concerning Toleration* (1983).

[60] Mill, John Stuart. "On liberty." In *A selection of his works*, pp. 1-147. London: Macmillan Education UK, 1859.

sedition laws that impose broad, vague, or disproportionate restrictions on expression are seen as incompatible with the spirit of the UDHR.

Perusing Article 19 of this declaration reveals a remarkable clarity. It proclaims the right to freedom of opinion and expression without expressly subjecting it to limitations or qualifications. Unlike later international instruments that introduce the notion of "reasonable restrictions," the UDHR's original articulation of this right reflects an absolute commitment to the uninhibited flow of ideas and opinions.[61] Nevertheless, in practice, governments have often imposed unnecessary and disproportionate limitations on freedom of expression, in shape of sedition, invoking grounds such as national security or maintaining public order, but frequently driven by ulterior motives. Such measures are commonly used as tools to silence political dissent, suppress opposition voices, and entrench governmental power rather than genuinely safeguard legitimate public interests. This manipulation of legal frameworks not only contravenes the spirit of Article 19 but also threatens the very foundation of democratic society, where open debate and criticism are vital for accountability and progress.

The then Chief Justice of Pakistan, Muhammad Haleem aptly mentioning the Universal Declaration of Human Rights (UDHR) as a landmark document, stating that it is widely recognized as a "Magna Carta of humankind to be complied with by all actors in the world arena".[62] The laws of sedition in the background of Pakistan, and the principles enshrined in the UDHR provide a critical benchmark. The continuation of colonial-era statutes like Section 124-A of the Pakistan Penal Code raises serious concerns under the standards established by

[61] *UN Action in the Field of Human Rights* (New York: United Nations, 1983), UN Doc. ST/HR/2/Rev.2, UN Sales No. E.83.XIV.2, chap. II.

[62] "The Domestic Application of International Human Rights Norms," in *Developing Human Rights Jurisprudence: The Domestic Application of International Human Rights Norms, Report of a Judicial Colloquium* (London: Commonwealth Secretariat, September 1988)

international human rights law. The UDHR's emphasis on the universality, indivisibility, and interdependence of rights suggests that any law curtailing freedom of expression must be subjected to the most rigorous scrutiny to ensure that it does not undermine the democratic values that the global community has required to uphold since 1948.

3.1.2 INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

The ICCPR adopted by the General Assembly of United Nations in 1966 and entering into force in 1976, is one of the core international human rights treaties that seek to protect the fundamental freedoms and rights of individuals.[63] As a basic part of the International Bill of Human Rights, along with the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), the ICCPR provides legally binding obligations on its state parties. It offers a all-inclusive basis for the protection of civil and political rights, plus the right to life, freedom from torture, fair trial, freedom of belief, conscience and religion, and most importantly, freedom of expression. The Covenant reflects the belief that civil and political freedoms are crucial to human dignity and the growth of every individual, forming the foundation for the existence of democratic societies.

Many important provisions are contained in the Covenant which guarantees the most important fundamental rights and Article 19 is one of those important provisions which expressly guarantees the right to express one's opinion with out any fear of interference from any sector. Moving on to the second clause of the Covenant which ensures the freedom of expression either in shape of seeking receiving and imparting information and ideas of any kind through media or any other source. This broad and clear protection covers both the content and the form of

[63] Kessler, Jeremy K. "The invention of a human right: Conscientious objection at the United Nations, 1947-2011." *Colum. Hum. Rts. L. Rev.* 44 (2012)

expression, underlining its importance for personal development, political participation, and social progress. The dialect of the ICCPR underscores that freedom of expression is a cornerstone of free societies and should be encouraged and safeguarded as an essential human right.

However, the Covenant also accepts that freedom of expression is not an unqualified right. Article 19(3) offers that the exercise of the rights contained in Article 19 conveys distinct responsibilities and obligations, and for this reason it may be subject to certain limitations. The restrictions are permissible only if they are (a) backed by law, and (b) essential for respect of the rights or reputations of others, or (c) for the safeguard of national security, public order, public health, or morals.[64] Thus, the Covenant introduces a two-part test: the restriction must pursue a legitimate aim and must be necessary and proportionate to that aim. The Human Rights Committee, in the infamous General Comment 34 (2011), stressed that restrictions must not jeopardize the right itself, and must be construed strictly so as not to stifle freedom unduly.[65]

Critically analyzing these limitations reveals that while the ICCPR allows for restrictions, these are carefully crafted to be narrow and exceptional rather than broad and discretionary. The Covenant insists that restrictions cannot serve as a pretext for suppressing political criticism or dissent. The threshold for imposing restrictions is intentionally high to preserve the essence of freedom of expression. Overbroad or vague laws such as sedition laws risk these standards by allowing governments to stifle legitimate discourse under the guise of preserving public order. Therefore, although the ICCPR permits certain restrictions, it places the burden on states to

[64] Article 19, ICCPR

[65] O'Flaherty, Michael. "Freedom of expression: article 19 of the international covenant on civil and political rights and the human rights committee's general comment no 34." *Human Rights Law Review* 12, no. 4 (2012): 627-654.

demonstrate convincingly that each restriction meets the strict conditions of legality, legitimacy, need, and proportionality, safeguarding against abuse of state power in curtailing free speech.

3.1.3 EUROPEAN CONVENTION ON HUMAN RIGHTS

In England, where criminal legal system evolved through common law and statutes rather than a codified system, sedition held a prominent place until its formal abolition in 2009.[66] Traditionally, it encompassed three forms: publishing seditious libel, speaking seditious words, or conspiring to advance seditious intentions.[67] The earliest conceptualization came through the offence of seditious libel, which criminalized expressions critical of the monarchy. The Statute of Westminster 1275 was among the first legal instruments to penalize the spreading of false news that could incite discord between the monarch and the public.[68]

Under Henry VIII, treason laws already punished verbal attacks on the monarch, making a separate offence of sedition seem unnecessary. However, by 1628, it was acknowledged that mere words, absent any overt act, should not warrant charges of treason. This led to the Treason Act's revision and created a legal void that was later addressed by the Sedition Act of 1661.[69]

The political landscape began to shift significantly with the Bourgeois Movement and the Glorious Revolution of 1688. These events paved the way for a constitutional monarchy grounded in democratic norms and the rule of law. The Bill of Rights of 1689 formalized this

[66] Clare Feikert-Ahalt, "Sedition in England: The Abolition of a Law from a Bygone Era," *In Custodia Legis: Law Librarians of Congress*, October 4, 2012, https://blogs.loc.gov/law/2012/10/sedition-in-england-the-abolition-of-a-law-from-a-bygone-era/.

[67] James Fitzjames Stephen, *A History of the Criminal Law of England*, vol. 1 (London: Macmillan, 1883), 294.

[68] J.W. Hurst, Law of Treason in the United States of America 1425 (Greenwood Publishing Corporation, USA, 1971)

[69] D. Crassy, Dangerous Talk, Scandalous, Seditious and Treasonable Speech in the Pre-Modern England 7 (The Oxford University Press, New York 2010)

shift, restricting royal authority and affirming civil liberties such as free parliamentary speech, the right to petition, and legal equality elements that would later inspire the U.S. Bill of Rights.[70]

The movement to abolish seditious and criminal libel gained momentum through the efforts of civil rights organizations who emphasized that the very existence of such archaic laws undermined the spirit of open discourse.[71] In response to these concerns, the UK Parliament introduced the Coroners and Justice Bill in 2009. Amendment number 178 to the bill explicitly called for the abolition of the offences of sedition and libel under the legal system of England and Wales.[72] The proposal met with no significant opposition in Parliament, signaling a broad consensus that such laws had no place in a democratic society committed to upholding civil liberties.[73]

The European Convention on Human Rights (ECHR), ratified in 1950 under the auspices of the Council of Europe, stand as one of the most significant regional human rights treaties, worldwide. It was created in the post-World War II period, when Europe declared its will to protect individual freedoms and put an end to the relapse into authoritarianism.[74] At the center of the ECHR lies the awareness and safeguarding of civil and political rights, with Article 10 providing specifically for the right to freedom of expression. Article 10 (1) avers that any person has the right to freedom of expression, including the right to hold and express opinion and to

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[70] W.R. Donogh, A Treatise on the Law of Sedition and Cognate Offences in British India (Thakker, Spink and Co., Calcutta, 1911)

[71] Index on Censorship and English PEN, *The Abolition of Seditious Libel and Criminal Libel* (April 2009)

[72] "UK Government Abolishes Seditious Libel and Criminal Defamation," *Human Rights House*, accessed July 01, 2025, available athttps://humanrightshouse.org/articles/uk-government-abolishes-seditious-libel-and-criminal-defamation/.

[73] Lord Leste, *Sixth Marshalled List of Amendments to be Moved in Committee*, 8 July 2009, 178–79, http://www.publication.parliament.uk/pa/Id200809/ldbills/033/amend/ml033-vi.htm, accessed July 01, 2025.

[74] Bates, Ed. *The evolution of the European Convention on Human Rights: from its inception to the creation of a permanent Court of Human Rights*. Oxford University Press, 2010.

receive and communicate information and ideas without interference by public authority and regardless of frontiers. This strong defense of expression, though, is not unlimited.[75] Article 10(2) permits certain restrictions, subject to the proviso that they are "prescribed by law" and "necessary in a democratic society" in the interests of public safety, the prevention of disorder or crime, and other such reasons.[76]

The European Court of Human Rights, which provides that violations of the Convention, has construed Article 10 as ensuring freedom of open public debate above all in political matters.[77] The ECHR has also held consistently that any form of restriction of the right of speech and expression has to pass a rigorous three-pronged test of legality, legitimate aim, and proportionality in a democratic society. In this light, the sedition laws of countries like Pakistan, which criminalize vague notions of “disaffection” or “criticism” against the state, stand in stark contrast to the legal philosophy underpinning the ECHR. Unlike laws that are narrowly tailored to protect legitimate interests such as provocation to violence or hate speech, overly broad or politically motivated sedition statutes fail to meet the proportionality and necessity standards upheld by the ECHR.

3.1.4 AMERICAN CONVENTION ON HUMAN RIGHTS

The significant legislation of 20th century in the United States of America is the Sedition Act of 1918, which is considered as the contemporary understanding of the concept of sedition and has paved the way for the analysts to express the views in light of the international standards. Earlier to this Act there was Alien and Sedition Acts of 1798 which was primarily enacted by the

[75] Article 10 ECHR

[76] Ibid

[77] Gearty, Conor A. "The European Court of Human Rights and the protection of civil liberties: An overview." *The Cambridge Law Journal* 52, no. 1 (1993)

legislature at the times when there were tensions of the US and France. This Act was enacted to control the situation during the wartime by curtailing the voices of the opposition. These mentioned laws did not find much time to stay in the legal system of the US and were expired in the start of the 19th Century. The Sedition Act of 1918 criminalized the use of language deemed disloyal, offensive, or abusive toward the government. It also penalizes the voice which is raised against the military, particularly when such language was likely to incite public contempt or disrespect toward national institutions. This law remained in effect until 1921. Later, in 1940, another major legal development happened in the legal system of the Country in shape of introduction of the Alien Registration Act, more commonly referred to as the Smith Act. This legislation was of paramount importance as it redefined sedition, framing it as a criminal offense to advocate, support, or teach the necessity or legitimacy of overthrowing the federal or state government through force or violence. With this shift, the legal focus moved away from punishing critical or offensive speech and toward criminalizing active promotion of insurrection, thereby narrowing the scope of what could be considered seditious under U.S. law. So, with passage of time the scope of sedition became limited in the United States as the offense of sedition travelled from being abusive or offensive towards government to being offensive in promotion of insurrection to overthrow the government.

Under the framework of the Organization of American States, it was 1969 when the American Convention on Human Rights was adopted and is acknowledged as the Pact of San Jose, Costa Rica.[78] This convention serves as a foundational regional tool for the protection of civil and political rights across the continents of America. Article 13 of this convention explicitly ensures the right to freedom of thought and expression. It affords that every individual has the right to seek, obtain, and convey information and ideas of all types, either orally, in written form, in

[78] Bunge, Cesar Augusto, and Diego Bunge. "The San Jose de Costa Rica Pact and the Calvo Doctrine." *U. Miami Inter-Am. L. Rev.* 16 (1984)

print, or by any other system of communication. What distinguishes this convention from many other human rights instruments is its strong emphasis on safeguarding freedom of expression against prior censorship. In the second clause of Article 13 it has been reiterated that freedom must not be hindered by the prior censorship but may be subject to following imposition of liability but only in exceptional circumstances such as admiration for the rights or reputations of people, or the protection of safety of the State, maintaining public order, or protection of the public health and morals.

The Inter-American Court of Human Rights (IACHR) was emerged in 1979 with the aim to interpret the provisions of this Convention and in many instances the Court has interpreted Article 13 in a manner that ensures democratic openness and political pluralism.[79] In cases such as *Obligatory Membership in an Association Prescribed by Law for the Exercise of Journalism* (Advisory Opinion OC-5/85), the Court has expressed his firm view that freedom of expression is the main pillar of democratic society and must be protected even when the ideas expressed by the people of the country are even offensive or disturbing to the authorities.[80] When this approach is applied to sedition laws, this perspective becomes very relevant in like situations. Laws that criminalize vague or broad categories of speech, especially those aimed at silencing criticism of government officials often fail to meet the ACHR's strict tests of being proportionate and necessary. Therefore, laws like Section 124-A, which have historically been invoked to silence journalists, activists, and political opponents, would likely fall afoul of Article 13. The ACHR thus serves as a powerful counterpoint to repressive legal frameworks that seek to justify censorship and the suppression of dissent under the guise of national security.

[79] Carnota, Walter. "The Inter-American Court of Human Rights and Conventionality Control." *Available at SSRN 2116599* (2012).

[80] Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism (Advisory Opinion OC-5/85)

3.2 OTHER POLICIES AND STANDARDS ADOPTED BY THE UNITED NATIONS AGENCIES

In addition to the global treaties and convention, the UN agencies have also developed certain other standards in shape of instruments and declarations which holds great importance towards the right to freedom of expression, speech and holding opinions particularly towards the government. These standards are operational and applicable where the treaties and conventions do not directly apply. These instruments are not binding on the States but are considered as authoritative document which greatly influence the behavior of States in this regard. These non-binding instruments have also influenced the judicial system as courts have always considered them while developing any jurisprudence. The legislative reforms in many countries have also developed in light of such standards and any country who aims to enact laws relevant to the concept of freedom of expression or to curtail the law of sedition has always kept these standards in prime consideration.

One of the most notable among these instruments is the United Nations Human Rights Committee's General Comment 34 on Article 19 of the Covenant (ICCPR). It was adopted in 2011, and provides a detailed clarification of the scope and limits of freedom of expression under international law. It asserts that all forms of expression including political dissertation, comment on public affairs, debate of human rights, journalism, and artistic expression are protected and must not be violated.[81] Importantly, the Committee emphasizes that restrictions on speech must not be imposed for purposes such as suppressing political opposition or dissenting views. Vague laws such as those criminalizing dissent towards authorities in form of sedition are discouraged,

[81] O'Flaherty, Michael. "Freedom of expression: article 19 of the international covenant on civil and political rights and the human rights committee's general comment no 34." *Human Rights Law Review* 12, no. 4 (2012): 627-654.

as they often lack the legal precision required to satisfy the principle of legality under international human rights law.

The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has consistently warned against the misapplication of sedition and related laws by states to silence journalists, political activists, and opposition figures. In various thematic reports presented to the Human Rights Council and General Assembly, the Special Rapporteur has stressed in strong words for the repeal of sedition laws, emphasizing that these laws are frequently incompatible with the strict requirements of necessity and balance under the international law. For instance, in the year 2015 joint declaration with regional counterparts from European countries, American continents, and Africa, the UN Special Rapporteur reiterated that national security or public order concerns must not be used as blanket justifications for violating the right of expression, particularly where laws are vague, overly broad, or arbitrarily applied.

Another very important standard is the UN Plan of Action on the Safety of Journalists and the Issue of Impunity, by UNESCO. It primarily focuses on the safety of Journalists but at the same time this plan also recognizes the importance of unrestricted and safe media environment for upholding freedom of expression. It explicitly warns against criminal laws including sedition statutes that are applied to harass or intimidate media practitioners.[82]

These policies and instruments contribute to a comprehensive framework that strongly stand against the legal regimes allowing criminalization of speech without clear, narrowly defined criteria. They affirm that freedom of expression is not merely a formal right but a guarantee that must be protected at all times against both legislative overreach and executive misuse. For countries like Pakistan, where sedition laws continue to exist in broad and ambiguous terms,

[82] Papagiannis, George. "UN Plan of Action on the Safety of Journalists and the Issue of Impunity." (2015)

these UN standards provide a compelling blueprint for legal reform aligned with global human rights norms.

3.3 PAKISTAN'S COMMITMENTS TO INTERNATIONAL HUMAN RIGHTS

Being a state party to many international instruments including but not restricted to the International Covenant on Civil and Political Rights (ICCPR), Pakistan is under obligation to uphold the standards embodied in International Human Rights law, specifically the freedom of opinion and expression under Article 19 of the Covenant. Although Pakistan ratified the Covenant with minimal reservations, its sedition of law under Section 124-A continues to be in contravention of these obligations. The United Nations Human Rights Committee, in its definitive General Comment No. 34, interprets the permissible extent of restrictions under Article 19(3) of the Covenant. This comment explains that any limitation must be "provided by law," i.e., the legal standard must be well defined, accessible to the public, and specific enough so that people know what behavior is barred. Ambiguous or overbroad legislation that grants broad discretionary powers to governments goes against this standard. In addition, the principle of proportionality, as highlighted in Clause 34 of the same General Comment, mandates that any limitation on expression should be necessary, closely focused, and the least intrusive means available to pursue a legitimate goal. This is particularly important in democratic societies, where strong public discourse even if critical of political leaders is deemed indispensable. In Pakistan, Section 124-A makes criminal any speech likely to bring the government into "hatred or contempt" with no requirement to prove intent or likelihood of harming public order. This phrasing is imprecise and sweeping, falling short of the test of necessity and proportionality. International treaties such as the Johannesburg Principles on National Security, Freedom of Expression and Access to Information (1996) support such interpretations. According to the principles, limitations on expression on the grounds of the notion of security of State are justified only if they (1) are made precise by law, (2) reflect a real and ascertainable national security

goal, and (3) are required in a democratic society. In this setup, restrictions cannot be imposed merely to protect the government from criticism, save it from embarrassment, or stifle dissent. But in Pakistan, sedition laws have been used again and again to target journalists, activists, and political rivals, not because they are violent or pose a threat to national cohesion, but because they raise questions on the official narratives which are to be clarified by the authorities. Another very important global agreement is reflected in the 2019 Joint Declaration on Freedom of Expression by world and regional human rights institutions, such as the UN, OSCE, OAS, and ACHPR. These declaration calls upon the States to reform or abolish criminal laws that discourage public discussion, particularly those aimed at the individuals for speaking on matters of public concern. It calls for legal reforms that bring domestic systems in line with international norms of free speech. The persistent use of sedition laws in Pakistan particularly against journalists, scholars, and dissenting voices, is in explicit contravention of these universally accepted standards. Pakistan acknowledges its human rights obligation through treaty commitments as well as constitutional provisions, but the operation of Section 124-A is a retrogressive stance that negates those cherished values. The application of sedition to silence rightful criticism is not only contrary to international law but also against the democratic principles enshrined in the Constitution of Pakistan under Article 19, which provides for freedom of speech "subject to reasonable restrictions."

3.4 CRITIQUES OF PAKISTAN'S SEDITION LAW FROM AN INTERNATIONAL HUMAN RIGHTS PERSPECTIVE

Pakistan has been subject to criticism over its vague laws and particularly those laws which are part of the legal system since the colonial rule. Those who criticize the provision of sedition in Pakistan argues that this law is against the principles provided under international instruments to which Pakistan is signatory and is under obligation to follow and practice. From an international human rights perspective, the overly broad and vague language of the law such as

criminalizing "disaffection" toward the government fails the test of legality, necessity, and proportionality required under Article 19 of the ICCPR, which expressly guarantees liberty of expression. International observers have time and again asserted that the sedition law in Pakistan has often been misused to silence journalists, suppress political dissent, and intimidate civil society actors, rather than to address genuine threats to national security.[83] The Human Rights Institutions have time to time intimated the government of Pakistan that sedition law in its present form finds no place in the legal system. Pakistan is required to either reform or repeal the law of sedition in order to align itself with the international standards of human rights and protection of the right to express oneself.

The U.S. Department of State in its Country Report on Human Rights Practices in Pakistan highlights the excessive use of sedition laws to target journalists, including those based overseas.[84] The report reveals that how the authorities have initiated sedition cases against media professionals accused of inciting unrest or spreading dissent against the government. These actions are widely criticized for creating a climate of fear through threats, harassment, surveillance, and coercion. Such practices not only violate the rights of journalists but also undermine the commitments of Pakistan under international human rights frameworks to uphold freedom of expression and protect independent media as vital components of a functioning democracy.[85]

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[83] Australian Department of Foreign Affairs and Trade, *Country Information Report: Pakistan*, April 30, 2025 (Canberra: Commonwealth of Australia), https://www.dfat.gov.au/sites/default/files/country-information-report-pakistan.pdf.

[84] Ahmad, Imtiaz, Abdul Waheed, and Muhammad Danyal Khan. "Advancing Human Rights Through Parliamentary Mechanisms: A Five-Year Institutional Review Of The Senate Of Pakistan (2020-2025)." *Annual Methodological Archive Research Review* 3, no. 5 (2025)

[85] U.S. Department of State, *2023 Country Reports on Practices of Human Rights: Pakistan*, 2023, https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/pakistan/.

Amnesty international in its report in 2024 has showed grave concern that Pakistan has booked so many of the political protestors and journalist under the sedition law which is against their constitution and international standards.[86] International concerns have also been raised in different platforms where it has been reflected that although the Lahore High Court has termed the law of sedition as unconstitutional but despite the order of the Court the peaceful protesters, including political opponents and activists, have faced arrests and detention under the vague law of sedition.[87] The Carnegie Endowment for International Peace in its report has also expressly warned Pakistan that such vague laws which suppress the fundamental rights would make Pakistan prone to the international restrictions as these laws are clearly violating the right of citizens to express their view as guaranteed under the Constitution.[88]

3.5 CONCLUSION

This chapter has discussed in detail the international legal landscape which focuses on the concept of freedom of expression, with a more focus on how International Human Rights Instruments approach the issue of sedition. The International Covenant on Civil and Political Rights (ICCPR), the European Convention on Human Rights (ECHR), and the American Convention on Human Rights (ACHR) each affirm the centrality of free speech in democratic societies, while permitting only narrowly tailored restrictions. These instruments stress that laws curbing expression must meet strict standards of legality, obligation, and proportionality. Through the analysis of various UN declarations, comments, and soft law mechanisms, it

[86] Amnesty International, *Human Rights in Pakistan 2024*, report (2024), https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/pakistan/report-pakistan/, accessed July 04, 2025.

[87] Waseem, Zoha. *Inside the Punitive State: Governance Through Punishment in Pakistan*. Carnegie Endowment for International Peace, June 20, 2024. https://carnegieendowment.org/research/2024/06/pakistan-punitive-state-terrorism-police.

[88] Carnegie Endowment for International Peace, "Inside the Punitive State: Governance Through Punishment in Pakistan," 20 June 2024, https://carnegieendowment.org/research/2024/06/pakistan-punitive-state-terrorism-police.

becomes evident that there is broad international consensus against vague or overbroad sedition laws that stifle dissent or suppress political criticism.

Pakistan, as a signatory to the ICCPR and other international commitments, is bound to uphold these principles, yet its domestic sedition law under Section 124-A remains inconsistent with them. The continued use of this colonial-era provision to target journalists, activists, and critics not only contravenes Pakistan's treaty obligations but also undermines its constitutional promise of free speech.

CHAPTER 4

EVOLVING LEGAL AND JUDICIAL LANDSCAPE OF SEDITION IN PAKISTAN

This Chapter offers a detailed investigation of the constitutional, legislative, and judicial dimensions of sedition law in Pakistan, with a particular focus on Section 124-A PPC. It critically evaluates the constitutional validity of this provision in light of Article 19, which guarantees freedom of speech, and explores the extent to which sedition law aligns or conflicts with democratic principles and fundamental rights. This chapter will also discuss and examine the key legislative developments, including proposed amendments in the Parliament aimed at repealing or reforming the law of sedition, and analyzes how this law intersects with other legal frameworks. Furthermore, this chapter will assess judicial interpretations and case law from the domestic and international framework to illustrate evolving legal perspectives on the tension between the authority of the State and individual liberties. By comparing this law with the prevalent political and legal contexts, this chapter will also underscore the continued use of this law as a tool of political suppression, raising urgent questions about its place in a constitutional democracy.

4.1 CONSTITUTIONAL AND LEGAL FRAMEWORK

Pakistan emerged in the map of the World as an independent and sovereign State in 1947. The new established country was no longer subordinate to any foreign authority whether imperial or monarchical in its internal governance or external relations. The foundational aspiration behind Pakistan's constitutional development was to establish a democratic polity rooted in Islamic values, public representation, and the rule of law. The main objective was to ensure that

government and the ruling elites would derive legitimacy only from the will of the people rather than from any hereditary or colonial legacy.

The guiding principle of the State was that governance would be conducted by elected representatives accountable to it's citizens. The doctrine of popular sovereignty meant that all executive and legislative power would ultimately emanate from the people of Pakistan and the universal adult franchise would serve as the cornerstone of participatory governance.

The constitutional framework, as later articulated in the Objectives Resolution of 1949 and eventually embodied in the Constitution of 1973, sought to harmonize democratic governance with Islamic principles. The ideals enshrined in the Constitution were to guarantee equal rights, protect civil liberties, and provide opportunities for all citizens, while also maintaining law, order, and social harmony. However, this commitment to a democratic and inclusive state was intended to be realized not at the expense of freedom, but through its flourishing.

Under the Indian Independence Act of 1947, Pakistan was granted full legislative sovereignty. The dominion acquired the authority to repeal or modify any laws previously imposed under British colonial rule, including the Government of India Act, 1935. Section 6 of the Act conferred complete law making powers upon the new dominion, thereby nullifying the applicability of future British enactments unless specifically adopted[89]. This legal autonomy underscored the essential notion that Pakistan was no longer bound by colonial dictates and would henceforth determine its own constitutional trajectory.

Despite this framework, the remaining's of the colonial time laws are still in force and are raising serious concerns and questions of their compatibility with the democratic norms of the present World and the international laws. The law of Sedition, which are initially enacted for silencing

[89] Sec 6 Indian Independence Act of 1947

the people of subcontinent who if question the system of that time. This law was part of the system when human rights were not globally recognized as they are today. The democratic nature of Pakistan needs not to have such outdated laws which are inconsistent with its own constitution and the International Human right principles. These legal relics perpetuate a colonial mindset that commingles dissent with disloyalty, thereby undermining the very sovereignty and democratic freedoms that independence was meant to achieve.

4.1.1 CONSTITUTIONAL LEGITIMACY OF THE CRIME OF SEDITION

The fundamental rights in the democratic states are given primary importance and ever possible efforts are being made not to violate these rights in any form, whatsoever. The right to raise voice on the matters of public importance, openly criticizing the government and its policies, debate over the ambiguous laws and statutes, to write against the culprits and black sheep within the system who are threat to the basic Human Rights, is not to be considered as crime. Pakistan as a country has been emerged on the map of the world based on the popular views of the people where democratic norms are cherished and government is established by the will of the people. In country like Pakistan only having right to vote does not make it a true democratic state rather the view of people to the extend of criticizing, questioning, and demanding accountability from those who govern should be respected and practiced.

The Constitution of Pakistan in Article 19, assures that the right of freedom of speech and expression, is subject only to reasonable restrictions imposed by law in the interest of security, peace, decency, or morals, among others. This provision reflects the recognition that expression is not merely a private right, but a public necessity crucial for political discourse, social reform, and institutional transparency.

This fundamental right is significantly undermined by the continued enforcement of vague and ambiguous laws like the law of sedition law provided under the Penal Code, which criminalizes

expressions of disaffection, contempt, or hatred towards the government. Such a piece of legislation, inherited from the rulers of 19th century, comes in clear violation of the ideals of a democratic republic. Its vague terminology allows for subjective and politically motivated interpretations, often leading to the criminalization of dissent, especially in politically sensitive contexts.

While it is also clear that freedom of speech is not unqualified, any restriction must be rooted in a valid law, and more importantly, such a law must pass the test of being reasonable. In a constitutional democracy, laws that suppress criticism or restrict expression merely because they are inconvenient to the ruling establishment are not only unjust but also unconstitutional.

A law that penalizes views either written or through voice on the basis of perceived "disaffection" or "contempt" towards the government, without a distinct and present danger to public order or the security of the State, fails to meet the Constitutional threshold for imposing restrictions. In view of the above, the provision under section 124-A PPC is incompatible with Article 19 of the Constitution, both in principle and in practice. It is not a "reasonable restriction" but a relic used to suppress dissent, inconsistent with the obligations Pakistan has consented to under its own Constitution and International Human Rights norms.

Therefore, in a democratic society where legitimacy is only recognized by the consent of the governed, the existence of such a sedition law is not only an anomaly but a threat to democratic society. For Pakistan to genuinely uphold its constitutional values, the law of Sedition must either be repealed or radically redefined to ensure that criticism of the government no matter how sharp is never to be counted as a criminal offence.

In the constitutional framework of Pakistan, fundamental rights cannot be abridged by any executive orders, administrative circulars, or non-statutory instructions. Any such restriction must be with in the ambit of valid law enacted by a competent legislature, not merely

implemented through executive convenience. This distinction reinforces the foundational principle that rights cannot be sacrificed at the altar of expediency.

The Constitution this country does not clearly defines the term "reasonable restrictions", leaving its interpretation to the judiciary. However, for any limitation on a fundamental right to be valid, it must not only serve a legitimate constitutional objective but must also be proportionate, non-arbitrary, and fair in both form and application. The reasonableness of the restriction depends on the context, urgency, and necessity, and must be evaluated objectively, not based on the subjective perception of the government or its agencies.

In Pakistan's case, laws like Section 124A PPC, which criminalize vague and broad notions such as "disaffection" against the government, fail to meet this constitutional threshold. Mere criticism or public dissent unless it directly incites violence, insurrection, or poses a serious threat to state security cannot be justifiably punished under the pretext of maintaining public order.

The concept of "security of the State", as a ground for restricting speech, must be strictly interpreted. It should relate only to grave threats, such as rebellion, terrorism, or violent uprisings not peaceful protests or expressions of dissatisfaction with state policies.[90] Otherwise, there is a real danger that the sedition law will be misused to stifle legitimate political expression, eroding democratic freedoms and constitutional governance.

After the Constitution of Pakistan came into effect, questions were raised regarding the constitutional legitimacy of Section 124-A of the Code, which criminalizes sedition. In several legal discussions, parallels were drawn with Article 19 of the Constitution, which ensures the right to freedom of speech and expression. Divergent views began to emerge in judicial and

[90] Ben Saul, *Speaking of Terror: Criminalizing Incitement to Violence*, University of Sydney Law School Legal Research Paper No. 08/122, 9, http://ssrn.com/abstract=1277529.

academic circles. One prominent viewpoint argues that Section 124-A, to the extent that it penalizes individuals merely for expressing discontent or resentment towards the government, goes beyond the bounds of constitutionally permitted restrictions. It is seen as an unreasonable limitation on free speech, and critics contend that such a law does not align with the intent of Article 19, which allows only rational restrictions in the best interest of public order. Expressing dissatisfaction with the government, they argue, should not automatically be equated with threatening public order, and laws that criminalize such expression risk violating democratic principles and suppressing legitimate dissent.

4.1.2 Evolution and Scope of Article 19 of the Constitution of Pakistan

The freedom of expression began many years ago. Greeks were the ones who initially introduced it. They referred to it as "parrhesia," which is Greek for "free speech," "to talk," or "to speak openly." It has taken a long time for nations like England and France to recognize this freedom as a basic human right since the phrase first emerged in the fifth century B.C. Freedom of expression is still safeguarded under the English Bill of Rights, which was enacted in 1689. Similar to this, the French had ratified the Declaration of the Rights of Man and Citizenship during the time of the French Revolution in 1789[91].

4.1.3 Compatibility of Sedition Law with Democratic Norms

In the 21st century, human rights are widely regarded as the foundation of states, with many nations proudly identifying as democracies committed to individual freedoms. However, the continued existence and enforcement of laws like sedition broadly defined as inciting disaffection against the state raises serious concerns. These laws often serve to suppress dissent

[91] Freedom of Speech and Expression, Available at: Blog.ipleaders.in/freedom-speech-expression/ visited on June 07 2025

and restrict freedom of speech, standing in direct tension with the principles enshrined in international human rights instruments that guarantee free expression. This apparent contradiction prompts a critical examination: can sedition laws truly coexist with the core values of democracy, or do they fundamentally undermine the very freedoms democratic systems are meant to protect?

The essence of democracy lies in the freedom of thought, expression, and conscience rights that are not merely procedural but foundational. As John Milton profoundly stated, "Give me the liberty to know, to argue freely, and to utter according to conscience, above all liberties."[92] This declaration captures the spirit of democratic life, where open discourse and dissent are not threats but vital instruments of progress. Sedition laws, however, often criminalize criticism of the state, conflating disagreement with disloyalty. By punishing individuals for expressing views that challenge authority, such laws directly violate the liberties Milton champions and democratic systems are built to uphold.[93]

Dissenters have contributed the most dramatically and, at times, unexpectedly, to political, economic, and social development, even if the favored few make all policy decisions and decisions of national interest.[94] To allow dissent to exist and flourish legitimizes democratic societies where one can freely speak and express one's views unhindered and constitutionally

[92] Charles R. Beitz and Robert E. Goodin, Basic Rights and Beyond –Global Basic Rights (Oxford University Press, 2009) page 3.

[93] Witte Jr, John. "Prophets, Priests, and Kings: John Milton an the Reformation of Rights and Liberties in England." Emory LJ 57 (2007): 1527.

[94] Seana Valentine Shiffrin, 'Methodology in Free Speech Theory', Virginia Law Review, Vol.97, No.3, May 2011, page 549

guaranteed. The renowned American Jurist Oliver Wendell Holmes rightly said that dissent would allow critical voices to be heard within a larger marketplace of ideas.[95]

In the context of Pakistan, as long as this fundamentally undemocratic law, an inherited remnant of British colonial rule, remains part of the legal framework, courts in Pakistan are obliged to enforce it. However, a straightforward reading of Section 124-A of the Pakistan Penal Code reveals its incompatibility with the principles of democratic governance. The provision criminalizes any act whether expressed through speech, writing, signs, or other means that brings or attempts to bring hatred, contempt, or disaffection against the government established by law. Such a sweeping restriction on dissent suggests a mindset more aligned with authoritarianism than democracy. In a democratic system, it is both expected and constitutionally protected for opposition parties to critique the ruling government, mobilize public support, and seek to replace it through lawful means. Likewise, individuals and civil society groups disillusioned with government policies must be free to express their discontent, raise public awareness, and advocate for political change. The very essence of democratic discourse involves questioning authority and highlighting issues such as corruption, incompetence, or misgovernance. Under the current sedition law, however, even popular slogans calling for governmental change could technically qualify as seditious exposing a dangerous conflict between the law and democratic norms.

The most problematic features of the sedition law in its current form is that it erases the critical distinction between the *State* and the *Government*, a distinction central to democratic theory. The *State* is a permanent, sovereign entity that embodies the collective will, identity, and legal continuity of the nation. In contrast, the *Government* is a temporary administrative apparatus,

[95] Barbara J. Falk, 'Dissent Refracted'- The History, Paradoxes, and Utility of Dissent: From State to Global Action', in Ben Dorfman (ed.) (Peter Lang A.G. 2016)

formed through democratic elections and subject to change.[96] To conflate criticism of the government with an attack on the state is to undermine the very basis of democracy. In a healthy democratic order, citizens not only have the right but the responsibility to question, criticize, and even actively oppose government policies when they believe those policies are unjust, corrupt, or ineffective.

The right to dissent is not a threat to democracy rather it is the lifeblood of it. Robust political debate, peaceful protests, and opposition campaigns are legitimate democratic tools to hold governments accountable and initiate change. The misuse of sedition laws to silence criticism or dissenting voices effectively shields governments from scrutiny and disrupts democratic checks and balances. It fosters a climate of fear, discourages civic participation, and empowers authoritarian tendencies under the guise of protecting national unity or public order.

By equating government criticism with disloyalty to the state, sedition laws are weaponized to delegitimize opposition, suppress free media, and marginalize civil society. In the context of Pakistan, this has historically allowed various regimes both civil and military to suppress dissent and curtail freedom of expression, often portraying political opponents, journalists, or activists as enemies of the state. Such use of sedition violates the democratic principle that governments must remain accountable to the people, and that the people, through lawful and peaceful means, have the right to remove and replace those in power.

In sum, the failure to distinguish between criticism of the government and an attack on the state leads to the dangerous criminalization of democratic engagement. A reformed and rights

[96] Jessop, Bob. "The state: Government and governance." In Handbook of local and regional development, pp. 239-248. Routledge, 2010.

respecting legal framework must ensure that laws like sedition cannot be misused to silence the very freedoms that sustain a democratic society.

4.2 IMPACT OF INTERNATIONAL HUMAN RIGHTS LAW AND LEGISLATIVE DEVELOPMENTS IN PAKISTAN

Since Independence Section 124A of the Pakistan Penal Code has remained talk of the town but till date it remained in force and is still being used against political opponents, despite multiple attempts in Parliament to amend or abolish the provision through legislative reforms. The law makers have time and again agitated against this law for the reason that they themselves have also faced the misuse of the law in one form or the other specially when they were in the opposition. So, time and again this law has been subject to being repealed. The following legislative steps have been taken in the recent past.

4.2.1 THE CRIMINAL LAW (AMENDMENT) BILL, 2023

The Criminal Laws (Amendment) Bill, 2023, presented by Senator Fawzia Arshad, represented a significant legislative step toward the abolition of Section 124A of the PPC.[97] This provision has faced harsh criticism from the people of the country and the elected representatives of the people of Pakistan have time and again tried to remove such laws which are outdated and find no place in the 21st century. So, this bill was presented in the Upper House and proposed not only to remove this substantive offence from the PPC[98] but also to amend the Code of Criminal Procedure (CrPC) by deleting all corresponding procedural entries. The purpose of this bill was to provide no place to the offence of sedition in the legal system of Pakistan in any shape

[97] Senate of Pakistan, A Bill Further to Amend the Pakistan Penal Code, 1860 and the Code of Criminal Procedure, 1898: As Introduced in the Senate on 7 August 2023 (Islamabad: Senate Secretariat, 2023), https://www.senate.gov.pk/uploads/documents/1693197244_122.pdf.

[98] Ibid

whatsoever and make the World aware that Pakistan is moving in the right direction by curtailing those laws which are against the basic foundations and principles of the Human Rights.

While going through the Bill, it becomes clear that the Senator has presented a very comprehensive proposal in two distinct parts. The first clause/part called for the complete deletion of Section 124A from the Pakistan Penal Code, 1860. This would ultimately decriminalize acts previously considered seditious, such as expressing dissatisfaction towards the government policies or criticizing the acts of State institutions, in democratic societies, are protected forms of speech and expressing of views. The second clause sought to amend the Second Schedule of the CrPC, which outlines the procedural aspects of prosecuting criminal offences, including whether an offence is cognizable, bailable, or to be tried by which court of law. By removing the entries related to Section 124A, the bill aimed to prevent any future prosecution, investigation, or legal proceedings under the now defunct law.[99]

The statement of objects and reasons of the bill provided a strong justification for this legislative action. It highlighted the colonial origins of the sedition law, drafted by Thomas Macaulay in 1839 and enacted in 1870 during British rule. According to the bill, the primary purpose of this provision was to curb political dissent and reinforce the colonial administration's authority. Despite Pakistan's independence, the law continued to be used to silence critics, often targeting journalists, civil society members, and political opponents. The statement also referred to the 2023 judgment by the Lahore High Court in *Haroon Farooq vs. Federation of Pakistan*[100], which declared Section 124A unconstitutional for being inconsistent with Articles 19 and 19A of the Constitution, guaranteeing freedom of speech and the right to information.

[99] Ibid

[100] PLD 2024 Lah 637

Furthermore, the bill emphasized that although the judiciary had taken a bold step in declaring the provision *ultra vires*, legislative action remained essential to fully eliminate its presence from statutory law. The judiciary's decision may have immediate legal impact, but Parliament holds the ultimate authority to amend or repeal laws through formal legislative processes. This bill, therefore, was not just symbolic; it was a necessary legal measure to give full effect to constitutional rights and to respond to the misuse of sedition laws in recent decades.

In essence, Senator Fawzia Arshad's bill, which was passed by the Senate but has not yet become law, reflected a progressive move to bring Pakistan's legal system in line with democratic principles and international human rights standards. By proposing the elimination of both the substantive offence and its procedural enforcement mechanisms, the bill aimed to safeguard civil liberties, particularly the right to freedom of expression. It also signified a broader commitment to decolonizing the legal system and preventing the abuse of outdated laws for political purposes.

4.2.2 THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL, 2023

The Code of Criminal Procedure (Amendment) Bill, 2023, introduced by Senator Raza Rabbani on 13th November 2023, was a legislative proposal aimed at amending the Code of Criminal Procedure, 1898 a foundational procedural law in Pakistan.[101] The bill sought to omit Section 124A from Schedule II of the Code, thereby removing all procedural references to the offence of sedition. This amendment was directly linked to a parallel legislative effort to repeal Section 124A of the Pakistan Penal Code (PPC), which defined and penalized sedition. By eliminating sedition from the procedural framework, the bill aimed to ensure coherence and consistency across Pakistan's criminal statutes.[102]

[101] Senate of Pakistan, A Bill: Introduced on 13 November 2023 by Senator Raza Rabbani (Islamabad: Senate Secretariat, 2023), https://www.senate.gov.pk/uploads/documents/1699941878_750.pdf.

[102] Ibid

The Statement of Objects and Reasons clarified that this amendment was a technical and consequential step. Once the substantive offence of sedition was repealed from the PPC through a separate bill, it became necessary to remove its corresponding entry from the procedural code to avoid any ambiguity or contradiction in the law. Since, the second Schedule of the Code of Criminal Procedure provides us with the procedure of how the offences under the Penal Code are to be investigated, tried, and prosecuted. For this reason, striking out the provision related to sedition from the second schedule effectively removes any procedural basis for its enforcement.

The above mentioned bill carried legal and symbolic significance, as it reflected a broader shift in the legal system of Pakistan and political dynamics for the protection of freedom of expression and dissent. The law related to sedition is widely regarded as a tool of the colonial era which had faced criticism from legal experts, civil society actors, and International Human Rights organizations and activists for its potential misuse against journalists, activists, and political opponents. This proposed procedural amendment served as a necessary administrative follow up that gave effect to the repeal of sedition, ensuring the change was not merely symbolic but also functional in practice. Till date this bill has not taken the shape of an Act and still pending in the line to be presented before the lower house of the parliament.

4.3 INTERSECTION WITH OTHER LAWS

The law of Sedition in Pakistani legal system exists criminalizes various forms of speech, expression, and conduct deemed harmful to public order, integrity of the State, or communal harmony. While this law precisely targets disaffection toward the government, its vague, unclear and expansive language makes it wide open for considerable overlap with other statutory offences, both within and outside the Penal Code of Pakistan. These include but not limited to offences under Sections 153-A, 505, and 506 of the PPC, as well as special laws such as the Anti-Terrorism Act, 1997 (ATA), the Prevention of Electronic Crimes Act, 2016 (PECA), and

the Maintenance of Public Order Ordinance, 1960 (MPO). This part explores these intersections and their implications in the context of overlapping prosecutions, legal redundancy, and the potential for misuse. Thereby drawing a clear picture of such laws which are not clear and have been used as a tool for different motives.

At the core of these intersecting laws is the common objective of preventing disruption to public tranquillity, incitement to violence, or threats to state authority. Section 124-A penalizes attempts to bring into hatred, contempt, or disaffection the government established by law. Similarly, Section 153-A criminalizes speech that promotes enmity between different groups[103], while Section 505 addresses public mischief through statements that may incite the military to disobedience, spread fear among the public, or create inter-communal hostility[104]. Although each provision varies in scope and target, the operative language such as "words, spoken or written," "signs," and "intent to incite" creates a legal landscape where the same act can fall under multiple offences.

Pakistani courts have acknowledged this conceptual and practical overlap. In various cases, charges under Section 124-A have been accompanied by Sections 505 and 506 to maximize prosecutorial leverage. The Lahore High Court, in its 2023 judgment striking down Section 124-A, noted that the same objectives of safeguarding public order can be effectively addressed through other legal provisions, making sedition both redundant and prone to abuse.[105] Legal scholars have pointed out that the sedition law's ambiguous threshold criminalizing mere disaffection without any actual incitement to violence violates the principle of legality and due

[103] Section 153-A PPC, 1860

[104] Section 505 PPC, 1860

[105] PLD 2024 Lahore 637

process. This redundancy not only burdens the judicial system but also endangers free speech by enabling selective and politically motivated prosecutions.

4.3.1 OVERLAP WITH THE ANTI-TERRORISM ACT, 1997

Section 124-A of the Pakistan Penal Code (PPC), the sedition law, exists within a broader legal framework that criminalizes various forms of speech, expression, and conduct deemed harmful to public order, state integrity, or communal harmony. While sedition specifically targets disaffection toward the government, its vague and expansive language allows for considerable overlap with other statutory offences, both within and outside the PPC. These include offences under Sections 153-A, 505, and 506 of the PPC, as well as special laws such as the Anti-Terrorism Act, 1997 (ATA), the Prevention of Electronic Crimes Act, 2016 (PECA), and the Maintenance of Public Order Ordinance, 1960 (MPO). This section explores these intersections and their implications, especially in the context of overlapping prosecutions, legal redundancy, and the potential for misuse.

At the core of these intersecting laws is the common objective of preventing disruption to public tranquility, incitement to violence, or threats to state authority. Section 124-A penalizes attempts to bring into hatred, contempt, or disaffection the government established by law. Similarly, Section 153-A criminalizes speech that promotes enmity between different groups, while Section 505 addresses public mischief through statements that may incite the military to disobedience, spread fear among the public, or create inter-communal hostility. Although each provision varies in scope and target, the operative language such as "words, spoken or written," "signs," and "intent to incite" creates a legal landscape where the same act can fall under multiple offences.

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The ATA of 1997 was enacted to address acts of terrorism and sectarian violence, but its language has been expansively interpreted to include a wide range of expressions and activities.[106] Section 6 of the Act defines terrorism to include any act that creates a sense of fear or insecurity in society, disrupts public life, or threatens the stability of the state.[107] The scope of this definition permits considerable overlap with the objectives of Section 124-A of the Penal Code.

Sections 11-W and 11-X of the ATA explicitly criminalize the dissemination of material that incites sectarian hatred or promotes terrorist ideologies.[108] These sections target speech, publications, and sermons that encourage civil commotion, religious intolerance, or acts of violence. In substance, this overlaps significantly with the sedition law, particularly when speech

[106] Khan, Muhammad Asif, and Pervaiz Khan. "Defining Terrorism in National Laws: An Overview of the Definition of Terrorism in the Anti-Terrorism Act of Pakistan (1997)." *JL & Soc'y* 47 (2016)

[107] Section 6 Anti-Terrorism Act, 1997

[108] Section 11-W and 11-X Anti-Terrorism Act, 1997

critical of the government or state institutions is interpreted as inciting hatred or undermining national integrity.[109]

This overlap has become increasingly evident in politically charged cases, where sedition and terrorism charges are applied simultaneously. For instance, political activists and journalists have been charged under both laws for speeches made at rallies, social media posts, or public criticism of state agencies. The use of the ATA in such contexts raises serious concerns, as it imposes harsher penalties, limits bail rights, and shifts the burden of proof. Unlike sedition, which requires intent to incite disaffection, the ATA criminalizes a broader spectrum of conduct, including the mere dissemination of materials deemed harmful.

Judicial commentary has highlighted the risk of such overreach. In various high-profile cases, courts have dismissed ATA charges due to lack of evidence linking the accused to actual terrorist activities.[110] However, the initial invocation of the ATA often serves to intimidate dissenters, stifle legitimate criticism, and prolong pre-trial detention[111]. This convergence of sedition and terrorism laws illustrates how the state can weaponize overlapping legal provisions to suppress opposition and control public discourse.

4.3.2 OVERLAP WITH THE PAKISTAN ELECTRONIC CRIMES ACT (PECA), 2016

The Prevention of Electronic Crimes Act, 2016 (PECA) was introduced to address cyber related offences, but its provisions relating to online speech and expression intersect significantly with sedition. Section 11 of PECA criminalizes the dissemination of information that may advance

[109] Parvez, Tariq, and Mehwish Rani. An Appraisal of Pakistan's Anti-Terrorism Act. Washington: United States Institute of Peace, 2015.

[110] Ghulam Hussain v the State. Criminal Appeal 95 & 96 of 2019

[111] Imran, Muhammad, and Rao Qasim Idrees. "Anti Terrorism Legal Framework in Pakistan and Challenges before the Criminal Justice System." Pakistan Journal of International Affairs 3, no. 2 (2020).

interfaith, sectarian, or racial hatred.[112] More broadly, PECA includes penalties for producing or sharing content that is intended to incite violence, spread disloyalty toward the state, or harm public order.

The similarities with sedition are very clear in a sense that both the laws target speech and expression that challenge the authority of the state or threaten communal harmony. However, PECA extends the reach of state surveillance and censorship into the digital domain. Social media contents, online videos, and even private messages can be subjected to scrutiny and criminal investigation under PECA. The Federal Investigation Agency (FIA), tasked with enforcing PECA, has frequently initiated proceedings against journalists, activists, and ordinary citizens for content deemed offensive to state institutions.

In practice, sedition charges have often been accompanied by PECA offences, especially in politically sensitive cases against the journalists.[113] The cybercrime law has been used to block websites, shut down social media accounts, and justify arrests based on vaguely worded allegations.[114] Critics argue that PECA's provisions are excessively broad, lacking clear standards for what constitutes hate speech or incitement. This legal ambiguity, when combined with sedition, enables an expansive interpretation of criminal conduct, particularly when directed at dissenting voices.

[112] Section 11 The Prevention of Electronic Crimes Act, 2016.

[113] Aslam, Muhammad Awais, Abdullah Kanrani, and Muhammad Adil Shehroz. "Regulating Misinformation or Silencing Dissent? A Constitutional Analysis of the PECA Amendments 2025." *The Critical Review of Social Sciences Studies* 3, no. 1 (2025)

[114] Wajahat, Johar, Marghzar Tarana, and Seema Gul. "Vague Laws and Digital Censorship: The Constitutional Challenges of the Prevention of Electronic Crimes Act (PECA) Amendments, 2025." The Lighthouse Journal of Social Sciences 4, no. 01 (2025)

The judiciary has occasionally intervened to curtail these excesses, emphasizing the need for proportionality and respect for constitutional rights.[115] Nonetheless, the operational convergence between PECA and sedition continues to pose a grave danger to digital freedom of expression. The combined use of these laws creates a legal environment where online and offline speech is equally vulnerable to censorship and criminalization.

In a nutshell, the intersection of sedition with other laws such as the ATA and PECA reflects a pattern of legislative overreach that threatens fundamental freedoms provided under the Constitution of Pakistan. The redundancy and vagueness inherent in these provisions not only undermine legal certainty but also facilitate the misuse of law as a tool of political control. As Pakistan claims to be the country who leaves no stone unturned to uphold democratic values and protect the basic rights of its people, it is of utmost importance to reassess and reform these overlapping legal frameworks to make sure that only genuine threats to public order are penalized, while not compromising over the right to free speech and dissent.

4.4 THE ROLE OF JUDICIARY IN SHAPING THE LAW OF SEDITION AND EXPRESSION

The judiciary has the crucial role of defining the dimensions of constitutional freedoms and statutory restrictions, especially where the right to freedom of expression overlaps with government interests like national security, public order, and institutional integrity. In Pakistan, the judiciary has been instrumental in determining the limits of Article 19 of the Constitution, regularly deciding what amounts to fair dissent and what does not amount to permissible dissent but rather illicit sedition. Because of the ambiguity and colonial roots of the law of Sedition, judicial interpretation has become necessary in determining the extent, purpose, and application

[115] 2022 PLD 773 Lahore High Court

of these laws in a contemporary constitutional democracy. Courts are therefore often required to balance protecting fundamental rights with maintaining the sovereignty and stability of the State.

This part discusses how judiciary of Pakistan has been responsible for shaping free speech jurisprudence and the judicial understanding of sedition law. It gives analysis of the judicial trends in dealing with Article 19 and the qualified character of expression rights, followed by landmark judgments that have been dealing with the constitutionality and operational abuse of sedition legislation. In doing this, the section also engages comparative insights, dipping into foreign and international jurisprudence for comparative contexts about how other democracies courts have balanced similar conflicts between free expression and state interest. Here, from this vantage point, the judiciary is not just seen as a deferred interpreter of law, but a defender of constitutionalism and civil liberties in a time of legal overreach and political partisanship.

4.4.1 JUDICIAL INTERPRETATION OF FREEDOM OF SPEECH AND EXPRESSION

The Pakistani courts over the few decades have recognized in clear terms the evolving importance of the right of free speech and expression within the parameters of the modern constitutional framework. The Courts have not treated this right as a limited personal liberty, but the judiciary has started to portray this important right a vital instrument for institutional accountability, public engagement, and democratic legitimacy. By looking at how speech operates in public life whether through the press, civil society, or individual dissent the courts have stressed that meaningful participation in a democracy depends on open and protected communication. The rulings of courts discussed in this section reflect a shift toward a more rights oriented judicial approach that questions traditional constraints, especially when such limits are used to shield State power from analysis and scrutiny. Through these interpretations, the judicial system of Pakistan is gradually

reshaping the legal landscape around expression, setting boundaries for State overreach while affirming the indispensable part of free speech in nurturing a resilient democratic order.

SHAHID AKBAR ABBASI Versus The CHIEF COMMISSIONER, ISLAMABAD and 6 Others[116]

In this landmark ruling, the Islamabad High Court emphasized that freedom of expression is not just a constitutional right under Articles 19 and 19A but also a pre-condition for the existence of democracy and rule of law. The Court recognized that repression of speech, especially by means of intimidation or crimes against journalists, has the chilling effect of undermining public debate and encouraging fear and impunity. It noted that the sense of state complicity or indifference in such activities also increases the disintegration of civil liberties. By confirming that freedom of speech comprises the freedom to dissent, criticize institutions, and reveal the truth provided that it does not degenerate into hate speech or incitement to violence the Court made a strong message: national security is best protected through openness, responsibility, and the free exchange of information. This liberal interpretation supports the contention that sedition laws, if employed to suppress genuine criticism, stand in contradiction to constitutionalism and democratic government.

INDEPENDENT NEWSPAPERS CORPORATION (PVT) LTD AND OTHERS VERSUS FEDERATION OF PAKISTAN AND OTHERS[117]

In this breakthrough judgment, the Apex Court reaffirmed that freedom of expression, as protected under Article 19, is indispensable to the democratic process and the rule of law. The Court recognized that this right extends beyond mere personal opinion it encompasses the collective right

[116] P L D 2021 Islamabad 1

[117] P L D 2017 Lahore 289

of society to access diverse viewpoints and information from multiple, even conflicting, sources. A truly democratic society, the Court held, cannot function without a free and pluralistic media landscape capable of informing public opinion and shaping participatory governance. Attempts to stifle or monopolize such discourse, whether through restrictive regulations or suppression of dissenting media voices, were deemed incompatible with constitutional guarantees. The judgment emphasized that media freedom and the uninhibited flow of information are not only essential for self-governance but also for achieving stability through informed dialogue rather than suppression. By anchoring freedom of expression within the broader context of media plurality and regulatory fairness, the Court's reasoning provides a strong counterbalance to laws like sedition that may be invoked to silence opposition. It affirms that any legal restriction on speech must be narrowly tailored, proportionate, and consistent with the democratic imperative of transparency and public participation.

SHOUKAT ALI VERSUS GOVERNMENT OF PAKISTAN[118]

This decision gravely corrected the procedural irregularities in prosecutions on the charge of sedition. The petitioner, who is a very high-profile political figure, protested against the registration of an FIR under Sections 123-A, 153-A, and 124-A of the PPC on the ground that such a proceeding is unlawful in the absence of a complaint made by the concerned governmental agency. The Balochistan High Court supported this protest on the grounds that Section 196 of the CrPC unmistakably forbids courts from taking cognizance of offenses against the state, including sedition, except instituted by the Federal or Provincial Government or their duly authorized agents. The ruling emphasized that Section 196 is no formality but a material protection based on the principle that serious charges such as sedition frequently leveled in politically charged situations must be subject to prior government vetting. The Court deplored the police action as a flagrant

[118] PLD 2024 Islamabad 135

violation of procedural law and constitutional rights, particularly the right to liberty and fair trial. It also deplored the trend of successive FIRs filed in identical situations, calling it a blatant abuse of power and an act of disrespect to Supreme Court precedent. Finally, the proceedings were quashed, reaffirming the doctrine that charges of sedition need to be dealt with legal nicety and not used as an instrument of political persecution.

4.4.2 JUDICIAL INTERPRETATION OF LAW OF SEDITION IN PAKISTAN

The courts in Pakistan have remained in the limelight while expressing their bold views on such laws which are deemed to be against the spirit of the fundamental freedoms. The judiciary has specifically interpreted the law related to sedition in such a way that the provision must not violate the rights of people who raise their voice against those in power. Following important judgments of the courts have been discussed below to understand the role of judiciary in interpreting such like laws.

HAROON FAROOQ V. FEDERATION OF PAKISTAN AND OTHERS[119]

In famous judgment of the Lahore High Court where Section 124-A of the PPC was turned down, declaring it in contradiction to the constitutional values for violating the fundamental rights available in the Constitution in the shape of freedom of speech and right to information. The petitioner, in this case, argued that the sedition law, a colonial relic, was being used to suppress political dissent. The Court agreed with this argument of the petitioner, observing that the provision was fundamentally incompatible with the principles of a constitutional democracy and rule of law. The Court further held that criticism of the government, no matter how harsh, could not be criminalized unless it incited violence or rebellion beyond doubt, which the sedition law failed to narrowly define.

[119] PLD 2024 Lahore 637

This is a bold and progressive judgment. By declaring sedition unconstitutional, the Court has rightly challenged a provision that has historically been used to silence voices of opposition. In a democratic setup, the threshold for restricting speech must be extremely high. Sedition laws, in their vague and subjective wording, do more harm than good and risk criminalizing legitimate political discourse.

MUHAMMAD ULLAH ALIAS SAMSOOL AND ANOTHER V. SAADULLAH, S.I. AND OTHERS[120]

In this famous case, the High Court of Balochistan examined the legality of an FIR lodged against two political workers of the Pashtoon Tahaffuz Movement (PTM), who were accused of delivering provocative speeches against state institutions. The charges included sedition under Section 124-A PPC, along with other public order-related offences. The central query before the Court was whether the local police had the legal authority to register a case for sedition without the prior sanction or complaint of the Federal or Provincial Government, as mandated by Section 196 of the Criminal Procedure Code.

The Court found that the FIR contained vague and sweeping allegations without assigning specific roles to the petitioners. More crucially, it emphasized that under Pakistani law, the offence of sedition is non-cognizable and cannot be acted upon unless a complaint is filed by an authorized governmental body. The entire prosecution case was declared as unlawful for the reason that the procedural requirement was ignored. The Court came to the conclusion that the FIR was lodged while misusing the legal machinery, driven by mala fide intention to throttle political dissent, and thus the Court ordered for the quashement of all proceedings. This decision

[120] PLD 2024 Balochistan 142

reiterated the role of judiciary in safeguarding constitutional protections against the misuse of colonial era sedition laws.

MUHAMMAD AZAM KHAN SWATI V. INSPECTOR GENERAL OF POLICE, BALOCHISTAN AND OTHERS[121]

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MUHAMMAD ESSA ROOSHAN V. THE STATE[122]

In this case, the petitioner had objected to an FIR under Sections 123-A, 153-A, and 124-A PPC, offenses against the state. The Balochistan High Court held that the local police officers lacked

[121] PLD 2024 Balochistan 62

[122] 2021 PCr.LJ 1342 (Balochistan)

authority to make such a record in the absence of a complaint by the Federal and Provincial Government, as required by Section 196 CrPC. The Court again reaffirmed that such legal requirement is not procedural but mandatory. It asserted that failure to comply with this statutory protection rendered the entire investigation and prosecution illegal. The FIR was therefore quashed in order to avoid further abuse of legal process. This ruling reaffirms a uniform judicial approach: offences of sedition need to have strict procedural safeguards. When local authorities subvert these safeguards, it is not only legally error but an instrument of oppression in the making. In upholding procedural justice, the Court also protected democratic speech from discriminatory state action.

ALAMGIR KHAN V. THE STATE AND ANOTHER[123]

This case was taken to the Supreme Court, where the petitioner, who claimed to have given an inflammatory speech during a rally, was charged under Section 124-A PPC and others. The defense contended that the speech was given in reaction to personal trauma after his community's ordeal during the war on terror. The Court again stated that freedom of speech, though liable to reasonable restrictions, has to be interpreted in a liberal sense.

The court adopted a middle ground. It did not eliminate the charge of sedition entirely, but it recognized that political utterances in the heat of the moment, even if insulting, were not to be judged too stringently without trial.

For a polarized society, such equilibration in the highest court is necessary in order to keep the door open to free expression.

[123] 2020 SCMR 759

4.4.3 COMPARATIVE PERSPECTIVES: FOREIGN AND INTERNATIONAL JURISPRUDENCE

In the case *Abrams v. United States* (1919),[124] the U.S. Apex Court upheld the convictions of several immigrants from Russia booked under the Sedition Act of 1918 for dispensing anti-war leaflets opposing American intervention in the Russian civil conflict. The majority members of the Court decided that the pamphlets posed a "clear and present danger" to national security by attempting to disrupt the production of war materials during first World War. The judgment reflected a strict interpretation of sedition, endorsing broad state authority to suppress speech considered harmful to wartime interests, even if the speech was politically motivated or indirectly connected to the war effort.

However, what makes this case historically significant is the powerful dissent by Justice Oliver Wendell Holmes. Breaking from his earlier stance in *Schenck v. United States*,[125] Holmes argued that the defendants were punished not for their actions, but for their unpopular political beliefs. He contended that free speech should be protected unless it poses an immediate and direct threat of harm.[126] Justice Holmes's dissent introduced a more speech protective view, advocating that even radical or dissenting voices deserve constitutional protection unless there is a clear, intentional effort to incite illegal acts. This dissent laid the groundwork for future liberal interpretations of freedom of expression and began reshaping American jurisprudence on sedition and civil liberties.[127]

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[124] *Abrams v. United States*, 250 U.S. 616, 630 (1919).

[125] Schenck v. United States, 249 U.S. 47 (1919)

[126] Ibid

[127] Healy, Thomas. "The Justice Who Changed His Mind: Oliver Wendell Holmes, Jr., and the Story behind Abrams v. United States." *Journal of Supreme Court History* 39, no. 1 (2014): 35-78.

In another very important case, the U.S. Supreme Court's decision in *New York Times Co. v. Sullivan* (1964)[128] marked a major turning point in constitutional protections for free speech, especially where condemnation of public officials is concerned. In a unanimous ruling, the Court held that public officials cannot succeed in defamation lawsuits merely by showing that published statements were false; instead, they must prove "actual malice" that is, the speaker either knew the statement was not true or acted with irresponsible disregard for its truth.[129] This sharp standard was intended to protect open and vigorous debate on matters of public concern, recognizing that democratic societies depend on the freedom to critique governmental actions without fear of legal retaliation.[130]

This decision is particularly relevant when assessing sedition laws in a comparative context. While Pakistan's sedition statute still permits broad state authority to penalize speech deemed anti-state or critical of institutions, Sullivan reflects a contrasting jurisprudence that prioritizes the safeguarding of dissent. The ruling acknowledged that even harsh, inaccurate, or provocative speech must remain protected if democracy is to thrive. By shielding the press and individuals from punitive state responses to political critique, the case stands as a benchmark for how constitutional democracies can balance state interests with fundamental freedoms something Pakistan's sedition law continues to struggle with.

The last notable sedition related prosecution in England occurred in *R. v. Chief Metropolitan Stipendiary Magistrate: Ex parte Choudhary*, where an individual sought legal action against the writer and publisher of The Satanic Verses for seditious libel. The petitioner argued that the

[128] New York Times Co. v. Sullivan, 376 U.S. 254 (1964).

[129] Wasserman, Howard M. "A jurisdictional perspective on New York Times v. Sullivan." *Nw. UL Rev.* 107 (2012): 901.

[130] Ibid

novel had incited unrest and deepened communal tensions, particularly between Muslims and non-Muslims. However, the magistrate refused to issue summons, and the Divisional Court upheld this refusal on review. The court emphasized that sedition, under common law, required more than just promoting hostility among citizens it had to involve provocation to fierceness or defiance directed at the public officeholders and government.

The ruling became a breakthrough in establishing the narrow scope and limited application of the offense of sedition in modern English law. The court defined that words that cause public disturbance or offence would not in themselves constitute sedition unless directly related to the intent to cause disturbance for the governmental authority through violence. Following this case and in line with recommendations from the Law Commission, offence of sedition was legally abolished by the Coroners and the Justice Act of 2009.[131] Such legal development responds to a broad transformation in liberal democracies in favor of limiting the application of sedition laws and opting for free speech notwithstanding that it hurts controversy or triggers extremely strong emotional reactions.

4.5 CONCLUSION

At this point, it could be safely concluded that the national as well as the international jurisprudence has made it clear that those laws which are vague and have been enacted with the purpose to suppress those elements of society who dare to question the system finds no place in a true democratic setup. Time and again people have showed their concerns to the law which over turn the right of people to have and express their opinion. Certain initiates in shape of bills have been introduced in the Parliament but till date no law has been enacted declaring sedition provision as unlawful and against the principles of freedom. So, it is time to rethink over the

[131] Coroners and the Justice Act of 2009

approaches towards those initiates and to put over all possible efforts for the supremacy of human right over political likes and dislikes. It is never too late to ensure the application of human rights. All sector of society in their circle have to play their role to make Pakistan a true democratic state which keeps human rights at its top priority.

CHAPTER NO. 5

CONCLUSION AND RECOMMENDATIONS

5.1 CONCLUSION

The imprecise and sweeping language of sedition law continues to facilitate State excess, stifle dissent, and constrict the democratic debate. In spite of increasing judicial and academic disapproval, law continues to be an effective instrument of oppression. Pakistan needs to abolish this relic of a bygone era to become a rights respecting democracy.

The first chapter laid the foundation for this research by raising the salient tension between Pakistan's sedition law, Section 124-A of the Penal Code, and constitutional guarantees of freedom of speech and expression. With a critical literature review and well-defined research questions, the chapter established the central issue: colonial legacy of sedition continues to empower the state to suppress opposition under the veil of public order. The chapter also established the broader implications of such a legal provision on civic activism, freedom of the press, and democratic accountability. By setting out the methodological design analytical and comparative in nature the chapter established the foundation for a comprehensive critique of the sedition law's compliance with domestic constitutional principles as well as international human rights principles. Overall, Chapter 1 established the research as a critical intervention into the tension of balancing state interests and universal freedoms in a modern democratic order.

The second chapter was a historical, philosophical, and legal excavation of the law of sedition tracing its history back from ancient times throughout the period of British colonialism and into the contemporary legal code of Pakistan. It revealed that the very nature of sedition laws was necessarily repressive, both consolidating and suffocating power. Despite the development of Pakistan into a democratic state with a constitution that guarantees fundamental rights, Section 124-A PPC continues to echo colonial methods of repression. The analysis revealed the broad and

vague language of the law, such as phrases like "disaffection" and "contempt," which facilitate arbitrary application and political misuse. The chapter also revealed the constitutional dilemma between Section 124-A and Article 19 of the Constitution, allowing only narrowly defined and reasonable restrictions upon free speech. Pitting abstractions of democratic participation against the practical application of sedition laws, this chapter revealed the legal incoherence and democratic incompatibility of a law criminalizing opposition to a government, rather than safeguarding the integrity of the state. It concluded that the said law cannot exist alongside a healthy democratic culture and must be reconsidered critically.

Chapter 3 examined law of sedition in Pakistan in the light of International Human Rights instruments, including the UDHR, ICCPR, ECHR, and ACHR. These instruments necessarily perceive freedom of expression as the basis of democratic culture with only slender and well-defined exceptions. The examination concluded that Section 124-A fails international tests of legality, necessity, and proportionality necessary to permissible speech limitation. The chapter drew upon jurisprudence and policy pronouncements of UN organs and regional tribunals to articulate an international consensus that sedition legislation, especially that expressed in vague terms, imperils open debate and is widely used to suppress political opposition. In addition, it pointed to Pakistan's ICCPR obligations and the extent to which domestic law departs from these obligations. By situating Pakistan's legal practices within an international critique, this chapter concluded that the law of sedition is not only constitutionally suspect but also internationally unacceptable. It called for the immediate legal reforms in consonance with Pakistan's human rights commitments, reaffirming the need for domestic law to be in line with the universal commitment to protect and promote free expression.

Chapter 4 discussed the constitutional, legislative, and judicial aspects of sedition law in Pakistan and how the legal machinery has reacted to increasing concerns regarding misuse. The analysis showed that while the Pakistan Constitution guarantees freedom of speech under Article 19,

judicial interpretations consistently failed to have a consistent standard in balancing the right against concerns for public order. The chapter weighed significant legislative changes, including recent criminal law reforms, and critically analyzed how courts have dealt with the sedition clause in high-profile cases. In spite of certain progressive judicial remarks questioning the law's constitutionality and emphasizing its compatibility with democratic ideals, enforcement practices under the law continue to be politicized. In addition, the distinction between government and state so vital in a democratic state is frequently lost, and healthy political dissent is criminalized. Comparative analysis from foreign legal jurisdictions that have abolished or restricted their sedition laws further reinforced the regressive trajectory of Pakistan's approach. Finally, the chapter concluded that in the absence of robust legislative or judicial reform, Section 124-A will continue to pose a danger to constitutional freedoms and democratic accountability in Pakistan.

In the aftermath of the critical comments made during the course of the preceding chapters, it is evident that the sedition law of Pakistan in its present form is both constitutionally suspect and in conflict with International Human Rights norms. On these grounds, there is a compelling need for overall legal reform to make freedom of speech and expression guaranteed in letter and spirit and the ambiguous sedition law cannot be part of the legal framework of Pakistan in its present form. In this context, the following section provides a set of well-considered and practicable suggestions to prepare guidelines for legislative, judicial, and policy-level reforms in this context.

5.2 RECOMMENDATIONS

The significance of this research is that it examines the issues of the sedition law under Section 124-A of the PPC. It seeks to add to academic scholarship and act as a spur to advocacy and reform, thus providing greater guarantees of civil liberties in a context where state power is likely to conflict with human rights. The research seeks to enlighten policymakers, legal professionals, and civil society about the need for reforms in law that align with constitutional guarantees and

international human rights norms, such as the possible repeal of the sedition law, as has happened in other countries, because it is against provisions of the constitution, and to prevent frivolous and politically motivated prosecutions. Furthermore, the study aims to prevent the misuse of Section 124-A by law enforcement agencies by contrasting the Pakistani law of sedition with that of other countries to identify steps that can be taken. These are, as has been achieved in other states, the repeal of the law of sedition in the spirit of safeguarding citizens' rights to freedom of speech and expression, observing the need to balance national security interests and individual liberty.

Being very specific, at the very first instance, it is recommended that the Parliament should consider the vague language of the law of sedition and come up with a bill to repeal this provision which is against the Constitution and the international norms. Secondly, Article 19 of the Constitution be amended to the extent of the reasonable restriction mentioned therein. As there must be no ambiguity and restrictions must be clear to everyone. A comprehensive test for reasonableness must be formulated on the basis of necessity and proportionality.

To disagree and show dissent towards the government is the main aspect of true democratic system, therefore, any type of restriction on this aspect must be analyzed to avoid any type of unnecessary restriction.

Until the law is repealed it is strongly recommended to immediately redraft the specific provision i.e section 124-A PPC to remove the ambiguous terms like disaffection and disloyalty. Most importantly, this provision specifically mentions the Federal and Provincial governments which are to be deleted as politically elected government should be all fine with criticism in shape of disaffection through raising voice and criticizing them for their actions.

It is also recommended that the decision rendered by the Lahore High Court declaring the provision of sedition un constitutional be implemented in the true spirit and legislature to act accordingly.

The is recommended to introduce such a legal requirement that no sedition case is to be registered by the concerned authorities without prior approval of the Judge of the High Court.

It is also suggested that other laws including the ATA, 1997 and PECA, 2016 be revived and revised, so that, they may not be misused in the overlapping context.

It is need of the time to frame, develop and implement mandatory training programs for police and the judiciary focusing on constitutional freedoms, international human rights law, and the critical understanding of the legitimate criticism. Such training would enhance their understanding of the scope and limitations of free speech, enabling them to identify misuse of sedition laws and prevent arbitrary or politically motivated prosecutions.

It is also suggested to the legislature to enact new legislation for protecting and safeguarding the right to express the opinion freely and create distinguished remedies for wrongful prosecution under the sedition and other relevant laws.

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