**Against the sedition law**

**The parliament should weed out the draconian offences and powers which have a colonial legacy and are inconsistent with fundamental rights.**

**[Muhammad Azhar Siddique](https://www.nation.com.pk/columnist/muhammad-azhar-siddique)**

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In the current era, Section 124-A of the Pakistan Penal Code, 1860 (PPC) is unacceptable in a democracy as it is a constraint on the legitimate exercise of constitutionally guaranteed freedom of expression and speech. As there is no legal justification for criminalising political dissent, this law must be construed to only penalise statements that incite public disorder. Section 124-A of PPC, which is commonly known as the “Sedition Law”, reads: “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.”

The phrase “the Federal or Provincial Government established by law” in section 124-A must be distinguished from criticism of a specific party or persons, not from the government. The charges levelled against Fawad Ch are unlawful and illegal as the ECP is neither the federal nor provincial government. Since the State machinery is essential in maintaining peace and stability, statements that fall under section 124-A ibid would disturb public order. However, the offense of sedition is constituted only when the words spoken have the tendency or intention to create disorder or disturb public peace by resorting to violence. But the words spoken by Fawad Chaudhry in the media talk against the Election Commission of Pakistan (ECP) have no tendency or intention to create disorder or disturb public peace by resorting to violence as ECP or its members are not “government or state”.

['India expanding settler-colonial project in IIOJK by grabbing Kashmiris' land'](https://www.nation.com.pk/12-Feb-2023/india-expanding-settler-colonial-project-in-iiojk-by-grabbing-kashmiris-land)

As per FIR, Fawad Chaudhry has been charged with sedition Under Article 124-A of PPC; with promoting enmity between different groups Under Section 153-A ibid; with giving statements conducing to public mischief under section 505 ibid and with criminal intimidation under section 506 of PPC. Fawad has been accused of threatening the chief election commissioner and other ECP members and of calling ECP a ‘munshi’. The FIR says Fawad warned the election commissioner, ECP members and their families that they will have to face if anything ‘unjust’ happened to his party. He is also accused of making hurdles in the process of election procedure. After his arrest, the capital police obtained his transit remand from a judicial magistrate in Lahore. Fawad Ch, who is also a Supreme Court lawyer, was produced handcuffed in the presence of at least “1,500 police personnel deployed” outside the courtroom. PTI thinks the charges of sedition are ‘baseless’. PTI says that ECP is not immune from criticism and that the act of political victimisation would endanger democracy in the country. On the other side, ECP complained that Mr. Chaudhry had ridiculed ECP which is a constitutional body. In its complaint, ECP terms the act part of a “well-thought-out conspiracy”. and claimed that “unknown people wrote threatening letters to the ECP”.

[President felicitates Iran on 44th anniversary of Revolution](https://www.nation.com.pk/12-Feb-2023/piaf-rejects-hike-in-power-gas-tariffs-fears-increased-energy-rates-to-damage-economy)

The police prosecutor sought Fawad Ch’s remand arguing that the investigation team required his custody to match his voice, conduct photogrammetric examinations and a forensic test of his mobile phone and laptop. Though the defence counsel objected, saying he did not deny his media talk contents, the court remanded him in police custody for two days. Meanwhile, the PML-N says its government does not believe in political revenge and victimisation but those threatening the officials of “constitutional bodies” would have to face the music. But a look at the relevant law, there is no mention of “constitutional body” in section 124-A of PPC rather it deals with statements against “the federal or provincial government”. PML-N leadership, also during its government, needs to understand that dissent and criticism of the government must not be construed as sedition as these are essential ingredients of robust public discussion in a democratic country. The country’s history regarding sedition cases reveals that in April 2004, District and Sessions Judge Chaudhry Asad Raza sentenced then PML-N leader Makhdoom Javed Hashmi to 23 years in prison on sedition charges. Javed Hashmi, then president of the Alliance for Restoration of Democracy (ARD), was convicted of sedition, rebellion and forgery at the Central Jail, Adiyala, Rawalpindi.

[Folk singer Bashir Baloch passes away in Quetta](https://www.nation.com.pk/12-Feb-2023/folk-singer-bashir-baloch-passes-away-in-quetta)

The sedition case was registered against him in the Secretariat police station in 2003 after he made a speech against former President Pervaiz Musharraf in the parliament. He was arrested on October 29, 2004, by Secretariat Police outside Parliament Lodges on the charges of spreading hatred in the armed forces. PML-N leaders had termed the outcome “the darkest chapter in the judicial history of Pakistan.” Hashmi was sentenced to 7 years of imprisonment but was released on bail in 2007, after serving 3 years and 9 months in jail. However, in June 2010, the Rawalpindi bench of LHC acquitted Hashmi in the sedition case. Justice Waqar Hassan Mir declared that no concrete evidence or witnesses were available to suggest Hashmi’s involvement in any act of sedition and acquitted him of the charges. Nevertheless, the facts mentioned in the FIR filed against Fawad are entirely different from those of Javed Hashmi. The latter had criticised the establishment but the former’s criticism was against ECP which is not a government. Also in October 2020, a sedition case was registered against former prime minister Nawaz Sharif and other PML-N leaders. Nawaz had accused the military establishment and other state institutions of meddling in the country’s political affairs. As a result, Nawaz and other PMLN leaders had been accused of committing sedition and criminal conspiracy through the speeches delivered at the opposition’s multi-party conference and the PML-N’s Central Workers Committee and Central Executive Committee meetings on September 20 and October 1 respectively.

[PPP to participate in bye-elections after intra-party consultation: Kaira](https://www.nation.com.pk/12-Feb-2023/ppp-to-participate-in-bye-elections-after-intra-party-consultation-kaira)

Nawaz had been accused of making hateful and provocative speeches under a well thought criminal conspiracy from London against Pakistan and its institutions to bring a bad name to the country. But in Fawad Chaudhry’s case, reasonable comments were passed against ECP members. In contrast with the PML-N attitude, the then PTI government had disowned the FIR which accused the PML-N leaders of sedition within hours after its registration. The law could not be abolished so far despite the fact that on February 2, 2021, the Senate Committee on Law and Justice unanimously passed the private members bill of Senator Raza Rabbani to omit Section 124-A of PPC. ExSenate Chairman Raza Rabbani introduced a Private Member’s Bill on June 8, 2020, to abolish Section 124A of PPC. The bill says this section is a part of the inherited colonial structure of governance that continues in Pakistan. This section was for the natives, who had to be kept under control lest they incited rebelling against the masters. This law served as a brutal occupying force and today is being applied with increasing regularity to crush political dissent and make the citizen submit to unquestionable obedience. The bill seeks to amend the British colonial-era sedition law. It states that Section 124-A of PPC is part of the inherited colonial structure of governance that continues in Pakistan. It states, “This section was for the natives who had to be kept under control lest they incited rebelling against the masters.” This law served as a brutal occupying force and today is being applied with increasing regularity to crush political dissent and make the citizen submit to unquestionable obedience, it further states. Interestingly, the same sedition law exists in the Indian Penal Code too as the law was introduced by the British in the sub-continent under their colonial rule in the region. But now, even the United Kingdom has abolished the arcane law. In India, as many as 326 cases were registered under the sedition law between 2014 and 2019 in which just six persons were convicted. According to the Union Home Ministry data, not a single case led to a conviction between 2014 and 2019. In its judgment reported as “1962 AIR 955”, the Supreme Court of India reasoned that the penalisation of sedition is a constitutionally valid restriction on the right to freedom of expression only when the words are intended to disturb public peace by violence.

[Shahid Abbasi says, “will go to home if Maryam awarded party Presidency](https://www.nation.com.pk/12-Feb-2023/shahid-abbasi-says-will-go-to-home-if-maryam-awarded-party-presidenc)

It affirmed that the impugned provisions are clearly a restriction on the right to freedom of expression, which is protected under Article 19(1)(a) of the Constitution. The restriction on the right to freedom of speech and expression is valid because the State may restrict speech in the interest of protecting public order. Again in 2021, two journalists who were charged with sedition, filed a writ petition at the SC challenging the constitutionality of Section 124A of the Indian Penal Code. They argued that the provision infringes on an individual’s rights to Freedom of Expression and that the restriction imposed by section 124A is not a ‘reasonable restriction’. They further claim that the precedent set by the SC in Kedar Nath in 1962 is archaic as it has not stayed abreast of current laws regarding safety, security, and public order. Last year, a two-Judge Bench of the Indian SC quashed the sedition FIR filed against late journalist Vinod Dua for his comments on Prime Minister Modi’s handling of the COVID-19 crisis. Justice UU Lalit held that while Dua had criticised the government, his comments could not be termed as seditious. The offence of ‘sedition’ under section 124-A of PPC definitely requires to be considered by the Parliament and apex court of the country having regard to the constitutionally guaranteed fundamental rights of free speech and the freedom of assembly and association. So, the parliament should weed out the draconian offences and powers which have a colonial legacy and are inconsistent with the fundamental rights enshrined in the Constitution.

Muhammad Azhar Siddique

The writer is an Advocate of the Supreme Court  of Pakistan  and Chairman of the Judicial Activism Panel