
FROM MACAULAY TO VOMBATKERE AND BEYOND: THE TRANSFORMATION OF SEDITION LAW IN INDIA AND CRITICAL APPRAISAL OF SECTION 152 BNS

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ABSTRACT

This paper explores the origin, evolution and transformation of sedition law in India, from its colonial beginnings under Macaulay to the recent replacement of Section 124A IPC with Section 152 of the Bharatiya Nyaya Sanhita. It critically analyses how the new provision seeks to protect India's sovereignty, unity, and integrity while examining whether it truly marks a departure from its repressive colonial past. Although Section 152 introduces clearer mens rea requirements and covers modern forms like electronic communication and financial means, it contains vagueness and overbreadth through undefined terms such as "subversive activities" and "encouragement of separatist feelings." These ambiguities raise serious concerns about the potential misuse of the law to stifle legitimate political dissent and criticism of the government.

1. INTRODUCTION

The conflict between freedom of speech and the protection of state sovereignty remains a central concern in democracies. In India, this conflict is mediated through Article 19(1)(a)¹, which guarantees freedom of speech and expression, subject to reasonable restrictions under Article 19(2)². The legitimacy of restrictions imposed by the state depends upon their precision, necessity, and proportionality, particularly when they regulate political dissent and criticism of the State. As Kant says “*When religion or legislation seeks exemption from critical examination, it awakens just suspicion and cannot claim sincere respect.*”³ This becomes particularly relevant in examining, Section 152, BNS,⁴ (hereinafter Section 152), which replaces the offence of sedition under Section 124A IPC⁵, (hereinafter Section 124A), Although framed as a reform, however terms such as “*subversive activities*” and “*encouragement of separatist feelings*” raise concerns about overbreadth and potential to restrict freedom of speech. This study examines the transformation of sedition law through its historical development, the framework under Section 152, and a comparative analysis with Section 124A, to assess whether Section 152 BNS operates as a substantive doctrinal shift or merely a subsumption of the offence of sedition.

2. EVOLUTION AND TRANSFORMATION OF SEDITION LAW

2.1. English Origins and the Conceptual Foundation of Sedition

One of the Britain’s oldest laws on Sedition is Statute of Westminster 1275 when the King was considered the holder of Divine right.⁶ A more structured articulation of offences against the State appeared with the Treason Act, 1351⁷. While treason addressed direct and overt threats to the sovereign, sedition gradually emerged as a distinct and lesser offence aimed at expressions that undermined governmental authority. Its foundation was significantly shaped through the doctrine of seditious libel. Initially Sedition was created to prevent speeches inimical to a

¹ India Const. art. 19, cl. 1(a).

² India Const. art. 19, cl. 2.

³ See, Immanuel Kant, *Critique of Pure Reason* 100–101 (Paul Guyer & Allen W. Wood eds. & trans., Cambridge Univ. Press 1998).

⁴ Bharatiya Nyaya Sanhita, No.45 of 2023, § 152.

⁵ Indian Penal Code, No. 45 of 1860, § 124A.

⁶ Index on Censorship & English PEN, *A Briefing on the Abolition of Seditious Libel and Criminal Libel* 5 (Apr. 2009, rev. July 2009).

⁷ See, Treason Act 1351, 25 Edw. 3 Stat. 5, c. 2, § II (Eng.) (declaring it treason to “compass or imagine the death” of the King, Queen, or their eldest son and heir, provided it is provably attained by open deed).

necessary respect to government.⁸

The *De Libellis Famosis*⁹ was one of the earliest cases wherein seditious libel, was made punishable. Later, the Criminal Libel Act 1819¹⁰ made statutory provisions for the seizure, confiscation and destruction of all seditious materials.¹¹ Sedition was defined by *Fitzgerald J.* in *R. v. Sullivan*.¹² Its objects are to stir up discontent, provoke opposition to the Government, bring the administration of justice into contempt, and ultimately incite the people to insurrection and rebellion.

2.2. Evolution of Section 124A In British India

The origin of sedition into Indian criminal law rooted in Colonial Governance. Sedition was initially drafted as Section 113 in Macaulay's Penal Code (1837). As per Sir James Stephens, due to an oversight that Sedition was omitted from the earlier draft of IPC.¹³ Its eventual insertion as Section 124A in 1870 reflected a conscious legislative response to growing anti-colonial mobilisation, particularly in the aftermath of the Revolt of 1857 and subsequent political movements challenging British authority. Colonial authorities considered existing provisions, such as the Treason Felony Act, 1848¹⁴, inadequate to address emerging forms of political dissent expressed through press and public speech. Section 124A thus functioned as a specialised instrument for suppressing expressions of "disaffection" against the Government established by law. *Queen-Empress v. Jogendra Chunder Bose*¹⁵, and *Queen-Empress v. Bal Gangadhar Tilak*¹⁶, were the two early interpretations of the courts. Post Tilak judgement

⁸ William T. Mayton, —Seditious Libel and the Lost Guarantee of a Freedom of Speech 84 Colum.L. Rev. 91 (1984).

⁹ *De Libellis Famosis*, 77 Eng. Rep. 250, 251 (Star Chamber 1609) (holding that truth is no defense to libel, as even true criticism of government officials should not be made in an ordinary course of law in a settled state of government, and analogizing libel to poisoning on the ground that it is secret, difficult to defend against, and injures a person's reputation, which is more precious than life, thereby justifying severe punishment).

¹⁰ Criminal Libel Act 1819, 60 Geo. 3 & 1 Geo. 4 c. 8 (UK).

¹¹ *Supra* note 6

¹² *See R v. Alexander Martin Sullivan*, (1868) 11 Cox C.C. 44, 47 (defining sedition as a crime against society closely allied to treason, encompassing words, deeds, or writings intended to disturb the tranquillity of the State, incite discontent or insurrection, and bring the government or administration of justice into contempt).

¹³ Walter R. Donogh, *A Treatise on the Law of Sedition and Cognate Offences in British India* 1 (Thacker, Spink & Co. 1911).

¹⁴ The Treason Felony Act, 1848

¹⁵ *See, Queen-Empress v. Jogendra Chunder Bose*, (1892) 19 I.L.R. Cal. 35 (holding that "disaffection" under Section 124A IPC denotes hatred or hostility towards the Government, while distinguishing it from mere criticism or disapproval).

¹⁶ *See, Queen-Empress v. Bal Gangadhar Tilak*, ILR (1898) 22 Bom I 12. (per Strachey J.) (expanding the meaning of "disaffection" to include "hatred, enmity, dislike, hostility, contempt and every form of ill-will" towards the Government, thereby giving the provision a broad and repressive scope).

*Ramchandra Narayan*¹⁷, sought to refine this standard, while *Amba Prasad*¹⁸, maintaining the central emphasis on loyalty to the State. Over time, interpretation of *Niharendu Dutt*,¹⁹ evolved to link the offence more closely with public disorder rather than mere disaffection, which was overruled in *Sadashiv* judgement.²⁰

2.3. Section 124A Post-Independence

The transition of India into a sovereign democratic republic necessitated a fundamental recalibration of sedition law to ensure its compatibility with the fundamental right to free speech guaranteed under Article 19(1)(a). During Constituent assembly debates KM Munshi deliberately avoided incorporating “sedition” as an explicit ground of restriction, favouring more precise and limited categories tied to State security,²¹ a position that was subsequently endorsed by other members of the Assembly.²² Allahabad High Court in a judgement declared the said law unconstitutional²³. The definitive constitutional test for sedition arrived in *Kedar Nath Singh v. State of Bihar*²⁴, where a five-judge bench of supreme court overturned earlier trends of invalidation and upheld the constitutionality of the law, the Court held that *constructive criticism of the government is not seditious in nature*, aligning the law with the “reasonable restrictions” permitted under Article 19(2). In *Balwant Singh v. State of Punjab*²⁵, the Court ruled that the intent of speech must be considered before labelling anything seditious. It held that raising slogans like “Khalistan Zindabad” did not constitute sedition because there was no evidence of violence occurring despite the slogans being raised in a public place. In

¹⁷ See, *Queen Empress v. Ramchandra Narayan*, ILR (1898) 22 Bom 152 (broadly defining disaffection while excluding mere disapprobation)

¹⁸ See, *Queen Empress v. Amba Prasad*, ILR (1897) 20 All 55 (limiting protected criticism to loyal expressions that do not subvert authority).

¹⁹ See, *Niharendu Dutt Majumdar and Ors. V. Emperor*, AIR 1942 FC 22 (holding that sedition requires incitement to public disorder or a reasonable likelihood thereof, and not mere criticism of the government).

²⁰ See, *King-Emperor v. Sadashiv Narayan Bhalerao*, AIR 1947 PC 82 (disapproving *Niharendu Dutt Majumdar v. King-Emperor*, AIR 1942 FC 22, and holding that § 124A IPC must be construed according to its plain statutory language, without importing any requirement of incitement to disorder).

²¹ K. M. Munshi, *Constituent Assembly Debates*, vol. 7, at 730 (Dec. 1, 1948) (Lok Sabha Secretariat ed., 6th reprt. 2014) (arguing for the omission of the term “sedition” from Draft Article 13 (corresponding to present Article 19) and proposing instead narrowly tailored restrictions relating to security of the State, reflecting a conscious departure from the broader colonial understanding of sedition).

²² Rohini Kumar Chaudhari, *Constituent Assembly Debates*, vol. 7, at 762–63 (Dec. 2, 1948) (Lok Sabha Secretariat ed., 6th reprt. 2014) (congratulating the House for dropping the word “sedition,” describing it as responsible for misery and delay in independence, and supporting the amended article).

²³ See, *Ram Nandan v. State of Uttar Pradesh*, AIR 1959 All 101 (holding that § 124-A of the Indian Penal Code is ultra vires Article 19(1) of the Constitution as it is neither in the interests of public order nor a reasonable restriction under Article 19(2), and therefore void).

²⁴ *Kedar Nath Singh v. State of Bihar*, 1962 SCC OnLine 6

²⁵ *Balwant Singh v. State of Punjab* (1995) 3 SCC 214

*Vinod Dua v. Union of India*²⁶ the Supreme Court quashed FIRs filed against against journalist Vinod Dua for criticizing the government's COVID-19 mismanagement. The Court ruled that, journalists have the right to strongly criticize government policies without committing sedition, provided they do not incite violence. In *S.G. Vombatkere v. Union of India*²⁷, a 3-judge bench directed both the Central and State Governments to keep all pending trials, appeals, and proceedings under Section 124A in abeyance. In its prima facie view, it observed that the stringent provisions of Section 124A IPC were inconsistent with the present-day social context and were designed for a colonial era rather than a modern democratic society.

The *Law Commission of India* proposed in its report,²⁸ To prevent misuse of Section 124A IPC, that an FIR should not be registered without prior procedural safeguards. A police officer of at least Inspector rank must first conduct a preliminary inquiry within seven days to determine whether a prima facie case exists and whether there is credible evidence. The officer must record reasons in writing for their findings. Thereafter, prior approval from the Central or State Government should be obtained before registering the FIR.

However, after this a major shift took place i.e., the enactment of the new criminal laws²⁹ where the legislature opted to repeal Section 124A IPC and introduce Section 152 BNS as a restructured provision aimed at safeguarding act endangering sovereignty unity and integrity of India. This legislative shift reflects an attempt to balance state security concerns with evolving constitutional standards on free speech.

3. COMPARATIVE ANALYSIS WITH SECTION 124A

Section 152 has replaced the colonial-era sedition law under Section 124A.

This chart provides a concise comparative analysis between the two provisions in a tabular format, highlighting the key differences and improvements in the new law.

Features	Section 152	Section 124A
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²⁶ *Vinod Dua v. Union of India*, (2023) 14 SCC 286

²⁷ *S.G. Vombatkere v. Union of India*, (2022) 7 SCC 433

²⁸ Law Commission of India, *Usage of the Law of Sedition*, Report No. 279, ¶¶ 10.2–10.3, at 77–88 (Apr. 2023).

²⁹ The Bharatiya Nyaya Sanhita 2023, The Bharatiya Nagarik Suraksha Sanhita 2023, The Bharatiya Sakshya Adhinyam, 2023.

Title	Acts endangering sovereignty, unity and integrity of India	Sedition
Focus	Focuses on threats to the Nation secession, armed rebellion	Focused on protecting the Government established by law
Mens Rea	Explicitly requires acts done "purposely or knowingly"	No explicit mention of specific intent or knowing in the text
Modes of Offence	Includes words, signs, electronic communication, and financial means	Limited to words (spoken or written), signs, and visible representations
Specific Acts	Secession, armed rebellion, subversive activities, or separatist feelings	Bringing hatred, contempt, or exciting disaffection toward the Government
Punishment	Life imprisonment or punishment upto 7 years plus fine	Life imprisonment to which fine may be added or punishment upto 3 years to which fine may be added or fine

These textual changes appear progressive on the surface, but their real impact needs closer scrutiny.

4. SECTION 152 BNS: A CRITICAL APPRAISAL

The shift from Section 124A IPC to Section 152 BNS is presented as a reform, yet its constitutional character depends on whether it dismantles the colonial logic of sedition or merely rearticulates it in modern statutory language. This concern is not merely theoretical, as judicial engagement with Section 152 BNS has already reflected a cautious approach, wherein the Supreme Court has confined its consideration at the threshold stage to the question of constitutional validity of the provision, by issuing notice to the challenge to its vires.³⁰ It is to be noted that, under Article 19(2), *Sovereignty and integrity of India*³¹, *Security of the State*³²,

³⁰ See, *Abhisar Sharma v. Union of India*, Writ Petition (Criminal) No. 338 of 2025, (Sup. Ct. India Aug. 28, 2025) (order issuing notice limited to challenge to the vires of § 152 of the Bharatiya Nyaya Sanhita, 2023).

³¹ The expression "sovereignty and integrity of India" was inserted into Article 19(2) by the Constitution (Sixteenth Amendment) Act, 1963, § 2.

³² See, e.g., *Superintendent, Cent. Prison, Fatehgarh v. Ram Manohar Lohia*, AIR 1960 SC 633, (holding that "public order" refers to disturbances of less gravity than those affecting the "security of the State," and is

*Friendly relations with foreign countries, Public order*³³, *Decency or morality*³⁴, *Contempt of court, Defamation*³⁵, *Incitement to an offence*, are the only ground to restrict freedom of speech. The constitutional validity of Section 152 must therefore be assessed within these narrowly defined parameters.

4.1. From Regime Protection to State Integrity: A Change in Language, Not in Reach

Section 152 replaces phrase “*Government established by law*” with “*sovereignty, unity and integrity of India,*” ostensibly aligning the offence with restriction under Article 19(2). This reflects a shift from regime protection to State protection in formal terms. However, risk remains that criticism of governmental policy may still be interpreted as threatening State integrity, thereby continuing the historical conflation of dissent with disaffection. For instance, In *Abhishek v State of Himachal Pradesh*³⁶, where the Court held that mere posting of slogans, without a proximate nexus to incitement or public disorder, does not prima facie constitute an offence under Section 152. The case nonetheless illustrates that the provision may be invoked on tenuous grounds, indicating a tendency toward broad application in practice.

4.2. Extension of the offence to digital and financial modalities

Section 152 expands the modalities of commission by expressly including electronic communication, and financial means. This reflects legislative responsiveness to contemporary forms of mobilisation and misinformation, but it simultaneously broadens the field of criminal liability. When applied to criticism or dissent, sedition ceases to regulate public disorder and begins to intrude into the domain of personal beliefs and autonomy of thoughts, protected under

confined to localised breaches of public peace and tranquillity); *see also, Dr. Ram Manohar Lohia v. State of Bihar*, AIR 1966 SC 740, (explaining the gradation between “law and order,” “public order,” and “security of the State” as concentric circles, with “law and order” being the widest, “public order” the intermediate, and “security of the State” the narrowest and most serious category).

³³ *See, e.g., Romesh Thappar v. State of Madras*, 1950 AIR 124 (defining “public order” as a state of tranquillity prevailing among members of a political society as a result of internal governmental regulation); *see also Brij Bhushan v. State of Delhi*, AIR 1950 SC 129 (holding Section 7 of the East Punjab Public Safety Act, 1949 unconstitutional and void on the same reasoning).

³⁴ *See, K. A. Abbas v. Union of India*, 1971 AIR 481 (explaining that restrictions based on “decency or morality” under Article 19(2) must not treat all depiction of sex, violence, or other such elements as immoral per se, and that the decisive factor is the manner in which the material is presented and whether it tends to offend accepted standards of morality in a manner that is corrupting or obscene rather than artistic).

³⁵ *See, Subramanian Swamy v. Union of India*, (2016) 7 S.C.C. 221 (upholding the constitutional validity of Section 499 IPC and Section 199 CrPC insofar as they relate to criminal defamation under Article 19(2) as a permissible restriction on the ground of “defamation”).

³⁶ *Abhishek v State of Himachal Pradesh*, 2026 SCC OnLine HP 240

the right to privacy.³⁷ Such an expansion may extend the reach of criminal law into expressive conduct, thereby increasing the likelihood of a chilling effect on criticism, political opinion, and dissent against governmental policy. Such capability may have a stultifying effect on dissent and difference of opinion, which no democracy can afford.

4.3.Vagueness in Statutory Language: A Constitutional Defect

The expression “*subversive activities*” introduces a structurally indeterminate standard. As defined in Black’s Law Dictionary, “Acts directed toward the over-throw of the government, including treason, sedition and sabotage.”³⁸ In this sense, sedition is not displaced but subsumed within a broader and more elastic category, thereby expanding the scope of penal liability. As there is no statutory definition for the same, then from a constitutional standpoint, such indeterminacy implicates the doctrine of void for vagueness, which requires criminal offences to be defined with sufficient clarity so that individuals can reasonably understand the prohibited conduct. The U.S. Supreme Court has consistently enforced this doctrine, holding in *Connally v. General Constr. Co.*³⁹, that a law is unconstitutionally vague if persons of common intelligence must necessarily guess at its meaning and differ as to its application, and reaffirming in *Winters v. New York*⁴⁰, that vague standards in speech-regulating statutes risk arbitrary enforcement and the suppression of protected expression. Even Indian Supreme Court relying on this addressed the concerns of vagueness. In *State of Madhya Pradesh v. Baldeo Prasad*⁴¹, the Supreme Court invalidated a provision for failing to define “goonda,” Similarly, in *Harakchand*⁴², vague regulatory provisions were struck down for conferring unguided discretion.

³⁷ See, *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1 (nine-Judge Bench unanimously recognizing the right to privacy as a constitutionally protected fundamental right under Articles 14, 19, and 21).

³⁸ Subversive Activities, Black’s Law Dictionary 1430 (6th ed. 1990).

³⁹ See, e.g., *Connally v. General Constr. Co.*, 269 U.S. 385, 391 (1926) (stating that a law is unconstitutionally vague if “men of common intelligence must necessarily guess at its meaning and differ as to its application”).

⁴⁰ See, *Winters v. New York*, 333 U.S. 507, 515 (1948) (holding that a statute regulating expression is void for vagueness where it lacks ascertainable standards and risks punishing protected speech).

⁴¹ See, *State of Madhya Pradesh v. Baldeo Prasad*, [1961] 1 S.C.R. 970, 979–80 (striking down §§ 4 and 4-A of the Central Provinces and Berar Goondas Act 1946 as the vague, inclusive definition of “goonda” provided no objective criteria and conferred unguided discretion on authorities).

⁴² See, *Harakchand Ratanchand Banthia v. Union of India*, (1969) 2 SCC 166 (striking down § 27 of the Gold Control Act as terms like “region,” “anticipated demand,” “suitability,” and “public interest” lacked objective standards, conferring wide and unguided discretion in licensing).

While in *A.K. Roy*⁴³ and *Kartar Singh case*⁴⁴, not struck down the laws but acknowledged the constitutional necessity of procedural safeguards to constrain vagueness and overbreadth. The principle reached its most emphatic articulation in *Shreya Singhal v. Union of India*.⁴⁵ A similar concern arises in the challenging of the 6 April 2023 amendment to Rule 3(1)(b)(v) of the IT Rules, 2021, where the Bombay High Court⁴⁶ struck down the rule for using vague and overbroad terms such as “fake, false, or misleading.” The phrase “*encourages feelings of separatist activities*” exacerbates this defect by criminalising emotional or ideological tendencies rather than concrete acts, without requiring any incitement to violence or public disorder.⁴⁷ This elides the distinction between advocacy and incitement, dispensing with the requirement of incitement to imminent lawless action and thereby extending penal liability to protected speech. Likewise, the clause targeting acts that “*endanger sovereignty, unity and integrity of India*” remains overbroad in the absence of a proximate nexus to public disorder, risking the inclusion of protected political speech. Thereby failing to distinguish between protected political expression and punishable threats of violence. Taken together, these expressions create a zone of interpretive uncertainty that enables expansive and subjective enforcement. The resulting indeterminacy not only raises concerns of constitutional overbreadth but also produces a chilling effect on political expression, undermining the guarantees of free speech.

4.4. Mens Rea as a Formal Safeguard

Section 152 introduces an explicit mens rea threshold by requiring that the act be done “*purposely or knowingly,*” which, on its face, strengthens doctrinal clarity and narrows strict liability concerns. However, given the breadth of the underlying prohibited conduct, the mens rea safeguard may not operate as a meaningful constraint in practice. In *Tejender Pal Singh v. State of Rajasthan & Anr*⁴⁸, the Rajasthan High Court held that Section 152 BNS cannot be

⁴³ See, *A.K. Roy v. Union of India*, [1982] 2 S.C.R. 272, 325–26 (India) (reading down § 3 of the National Security law as the phrase “prejudicial to the maintenance of supplies and services essential to the community” was undefined and vague, enabling arbitrary detention and violating Article 21).

⁴⁴ See, *Kartar Singh v. State of Punjab*, (1994) 3 SCC 569, ¶¶ 130–31 (India) (observing that vague laws lacking clear standards deny fair notice and enable arbitrary enforcement and cautioning that the impugned definition could be misused to prosecute even innocent association).

⁴⁵ See, *Shreya Singhal v. Union of India*, (2015) 5 SCC 1 (striking down § 66A of the IT Act and § 118(d) of the Kerala Police Act as vague and overbroad restrictions on speech, violative of Art. 19(1)(a) and not saved by Art. 19(2)).

⁴⁶ *Kunal Kamra v Union of India*, 2024 SCC OnLine Bom 3086

⁴⁷ See, *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969) (per curiam) (holding that advocacy may be proscribed only where it is directed to inciting or producing imminent lawless action and is likely to produce such action).

⁴⁸ *Tejender Pal Singh v. State of Rajasthan & Anr*, [2024: RJ-JD:34845]

used to suppress legitimate dissent and must be invoked only where there is mens rea.

4.5. Absence of Explicit Incitement Threshold

The Supreme Court in *Kedar Nath Singh v. State of Bihar* (supra) limited sedition to cases involving incitement to violence or public disorder, and whether the speech has a proximate and reasonable tendency to incite such disorder must be assessed objectively.⁴⁹ Comparatively, U.S. jurisprudence has drawn a careful distinction between punishable threats and protected political speech.⁵⁰ Section 152 does not explicitly incorporate an “*incitement to violence*” requirement, instead criminalising acts that “excite” secession or armed rebellion. However, the Himachal Pradesh High Court has emphasised that Section 152 BNS is not triggered by the content of expression alone but requires the coexistence of mens rea and a *proximate tendency to incite violence* or disturb public order.⁵¹ The “objective tendency” standard evaluates speech not on actual consequences but on whether, from the standpoint of a reasonable person, it possesses a tendency to produce public disorder. This construct, however, rests on an abstraction. It assumes a stable and reasonably predictable audience response, whereas the impact of speech is often mediated by fluctuating, emotionally charged, and context-dependent group dynamics. The limitation is not that the test is unworkable, but that it may, in certain cases, overstate the causal nexus between expression and disorder by relying on a simplified model of audience behaviour.

5. CONCLUSION

A law that penalizes disaffection without requiring incitement to violence risks transforming the State from a regulator of conduct into an architect of thought. Such a transformation echoes the totalitarian impulse—where the State does not merely prohibit actions but prescribes beliefs, emotions, and loyalties. Excessive state control weakens individuals and progress. As J.S. Mill

⁴⁹ See, e.g., *State of Bihar v. Shailabala Devi*, (1952) 2 SCC 22 (holding that a publication may be restricted only if, read as a whole in a fair and liberal manner, it has a tendency to incite violence in the mind of a reasonable reader); see also *S. Rangarajan v. P. Jagjivan Ram*, (1989) 2 SCC 574 (holding that the effect of speech must be judged from the standpoint of reasonable, strong-minded persons and not hypersensitive individuals, and that the State cannot restrict expression on the basis of anticipated hostile audience reaction).

⁵⁰ See, e.g., *Watts v. United States*, 394 U.S. 705, 708 (1969) (distinguishing true threats from protected political hyperbole); see also *Virginia v. Black*, 538 U.S. 343, 359 (2003) (defining “true threats” as serious expressions of intent to commit unlawful violence).

⁵¹ See, e.g., *Farooq Ahmad v. State of H.P.*, 2025 SCC OnLine HP 3370 (holding that § 152 BNS requires the presence of mens rea, and is not attracted in the absence of any intent to incite violence or a proximate tendency to disturb public order); see also *Suleman v. State of Himachal Pradesh*, 2025 SCC OnLine HP 4004 (holding that mere expression such as “Pakistan Zindabad,” without intent or tendency to incite violence or public disorder, is insufficient to constitute the offence).

said, Excessive state control weakens individuals and progress.⁵² The transformation from Section 124A IPC to Section 152 BNS represents a formal reconfiguration of sedition law rather than a complete doctrinal rupture. The real danger lies not in silencing speech, but in normalizing a political culture where citizens internalize limits on thought itself. If the boundaries of “offensive speech” remain unclear, individuals may refrain from criticizing the government even where such criticism is permissible. The constitutional legitimacy of Section 152, therefore, ultimately depends on its judicial interpretation being firmly anchored to the standards of incitement and proximity developed in constitutional jurisprudence.

⁵² See, John Stuart Mill, *On Liberty, Utilitarianism, and Other Essays* 111-112 (Mark Philp & Frederick Rosen eds., Oxford Univ. Press 2015) (“a State which dwarfs its men, in order that they may be more docile instruments in its hands even for beneficial purposes—will find that with small men no great thing can really be accomplished”).