

# SEDITION AND ITS ROOTS IN RUDENESS AS AN OFFENCE

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The state recently arrested actor Chetan Kumar and remanded him to 14 days in judicial custody, before granting him bail and threatening to revoke his overseas citizenship, for his tweet on Hindutva. File | Photo Credit: The Hindu

On March 30, the [Lahore High Court annulled the offence of 'sedition'](#) in the Pakistan Penal code. Embarrassingly, around the same time in India, the police registered a series of complaints in Delhi and in Ahmedabad, and also arrested several people, including owners of the printing presses involved, for posting anti-government (and specifically, anti-Modi) posters across town. The detainees were not accused of 'sedition,' but were booked for criminal conspiracy to cause public mischief and to deface public property. The printing press is alleged to have breached some provision of the [Press and Registration of Books Act, 1867](#).

The law that was struck down in Lahore is almost identical to India's [Section 124A](#), which seeks to criminalise words that bring "into hatred or contempt, or excite disaffection" towards the government established by law. In India, too, a challenge is pending before the Supreme Court. [The law is in abeyance](#), although not formally struck down. Yet, the logic of the law of sedition, which demands reverence to established ideas and to those who espouse them, survives. Pakistan has a thriving practice in the use of the law of blasphemy, exercised usually on its poorest citizens. India, which is secular and does not criminalise blasphemy, has a near approximation in the "hurting of sentiments." The state recently arrested actor Chetan Kumar and remanded him to 14 days in judicial custody, before granting him bail and threatening to revoke his overseas citizenship, for his tweet on Hindutva. It would seem that while constitutional courts are examining the validity of the law of sedition, its defining logic has already leaped forward and transplanted itself into several different provisions of law that criminalise speech.

Editorial | [Frozen sedition](#)

Socially, we have always understood *badtameezi* (rudeness) not so much in terms of the contents of speech, but rather more in terms of who spoke and to whom. An older person could have been railing at a sullen teenager but the *badtameezi* occurs only when the teenager answers back. At my old-fashioned school in Patna, answering back was amongst the gravest of sins. This understanding of ill-mannered or offensive speech applies in the same hierarchical

way to all manner of social relationships. It's always the security guard at the gated apartments, the domestic worker, or the street vendor who is *badtameez*. [A book called *Dancing to the Precipice* suggests that the French had recognised this understanding of *badtameezi* as being contributory to inequality of status. After the French Revolution, the more polite form of 'you', which is *vous (aap)* was proscribed. It became obligatory to use *tu (tum)*, since it was believed that it would lead to more fraternity, and consequently to more equality.]

Of course, modernity and capitalism have long been imagined to break such hierarchies. We might imagine that *badtameezi* in fact flourishes in our commercially driven TV studios. I would argue though that while that may be true in form, it is not true in substance (like much of capitalism's ostensible challenge to social hierarchies). These debates, in fact, reinforce social and political power.

The state (through its officials) has appropriated for itself a station quite at the top in the hierarchy of social positions. Thus, the lowest state functionary addresses the citizen in the most commanding voice, as if that were the natural order of things. In edgy encounters between citizen and state authority, who would ever imagine the shoving-commanding post-colonial policeman as disruptive, or describe him as *badtameez*? Law-and-order issues arise only when the policeman is challenged — when the citizen heckles the policeman, or bangs at the barricades — but never in the policeman's own arbitrary commands to the citizenry.

In present times, this relationship of power and its attendant courtesies (of normalisation, of endorsement) is more explicitly extended to political power, and to all the ideas that such power supports. The use of law, unless checked by the constitutional courts, often tends to mirror these social-political relations of power. It is increasingly mirroring it now.

The practice of prosecuting speech offences borrows from an understanding that 'offensive or disruptive speech' emanates from those who are either inferior in established social/political hierarchies, or outsiders to the reigning narrative of the time. Consequently, offences are framed mostly against those who challenge political or social power and its attendant narratives. Theoretically, anybody may be prosecuted for defacement of public property, irrespective of the contents of the graffiti. In the event, prosecution usually follows the logic of *badtameezi*, or sedition, focusing mostly on content.

We have always had a problem of entrenched hierarchical relations, most prominently in the form of caste. Our understanding of violence (and sexual violence) is mediated by this understanding. But for those hierarchies to be now reflected in law, in a way that speech is made prosecutable depending on whom it targets, points to the entangled relationship of law and society. What else would explain the variance in the political and legal perception of certain statements as defamatory, while others form popular political sense and continue unmediated: all terrorists are Muslim; all beneficiaries of reservations lazy. We often see prosecutors vociferously attacking certain speech as grave and damaging to someone's reputation while tolerating other violent speech as innocuous. Of course, the courts do not always endorse the prosecutors' views, and sometimes even call out the power play.

The Supreme Court pronounced judgment in the *Media One* case, which addresses the logic of sedition (and of *badtameezi*). It struck down the Ministry of Information and Broadcasting's decision to not renew the broadcast licence for the channel on grounds that their programming was 'anti-establishment', and was a threat to national security. The Court said that "the critical views of the channel, Media One, on policies of the government cannot be termed anti-establishment. The use of such a terminology in itself represents an expectation that the press must support the establishment. The action of the Ministry of Information and Broadcasting by denying security clearance to a media channel on the basis of the views with the channel is

constitutionally entitled to hold produces a chilling effect on freedom of speech, and in particularly on press freedom.” And further, that “the restriction on the freedom of the press compels citizens to think along the same tangent. A homogenised view on issues that range from socio-economic policy to political ideologies would pose grave dangers to democracy.” The Court specifically decried the cavalier manner in which the state uses ‘national security’ as a catch phrase to censor speech. “The state is using national security as a tool to deny citizens remedies that are provided under the law. This is not compatible with the rule of law [...] we also hold that national security claims cannot be made out of thin air.” The judgment speaks to the mutating, resettling logic of the law of sedition. In that sense, it is even more important than a mere striking down of Section 124A. Only if it is a continued engagement, of course.

### ***Shahrukh Alam practises law at the Supreme Court of India***

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