

Freedom of Speech and Expression : Where It Should Be Restricted

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INTRODUCTION

The crushing of the newborn is an expression of his reaction to the outer world. The desire for expression is inspired by the feelings, fantasies and contemplation of a person and is in line with their own potential. Aspiration to express your feelings or your opinion sometimes becomes so strong that when people are alone, they start talking to themselves. But the question of innocence or maladministration of the expression arises only when the expression takes the form of a dialogue - between individuals or groups. The exchange of ideas is associated with the beginning of human civilization. The exchanges of ideas are the personal development of human beings, the socialism of society is also made of it and it also develops. By the way, rarely the full freedom of expression was given in the history of civilization, although in every era the authorities have been making such claims. Freedom of expression is meant to be of two types of dialogue- one by the media, informational and publication of views or opinions at the other person's level.

There is no doubt that, with the independent spread of information, all the nations advance on the path of progress - especially in economic and scientific contexts. And, in the democracy, the 'press' has been called a whip, which closely monitors all political misdeeds, gives democracy the right direction. The press plays a dual role in democracy-on one side it plays a proactive role in the formation of a creative tendency and publicly introduces the government and, on the other hand, it acquaints the public with the policies and programs of the government. If the policies and programs of the government are in national and social interest, then the government gets public support through the press. However, there is a possibility of any kind of prejudice

on the presentation of the information whether it is political or ethnic or social bias. From this, sometimes 'news' is declared maliciously motivated. The issue of censorship or editorial regulation on the press is mainly arising on issues which are most likely to be criticized by the government's policy. And also The Supreme Court was in the favor of freedom of expression in most of the cases on the freedom of expression. One of them, The Supreme Court has canceled Section 66A of the IT Act to be made in connection with objectionable comments on social media. The court termed it² as a violation of the freedom of expression received under Article 19 (1) of the Constitution. After this decision, the police could not immediately arrest the accused for any alleged offensive remarks made on social media including Facebook, Twitter. The court pronounced this important verdict on the complaint filed against social media on complaints of misuse of this controversial law related to the freedom of expression³. But the complete freedom of expression is not anywhere in the world. Our Constitution also gives freedom of expression, but with some 'instructions' that the effect of that expression should not fall on the unity, integrity and sovereignty of the country; Social system or cordiality should not be repressed, there should be no contempt of court and expression should not be malicious⁴.

APPLICABILITY OF 'THE 19(1)a' IN INDIA AT THE PRESENT TIME

The right to speech and Freedom of expression is not fully applicable in India. Because day by day we can see very easily of infringement of the right to speech and freedom of expression. It's a most example of JNU student Gurmahar korr who was twit about the death of the soldiers on the boundary of the country. And said that I have also lost of my father in the battle. When we can

solve the matter by the negotiation then why do we not try to solve the matter with the help of it? Why we have always first choice fight to resolve the disputes. And last she was suggested with her expression that we should choose the path of negotiation and mediation to resolve the disputes other than fight. After that she used to face of the opposed and also declared of her thought against the country by the many of people from the all over India. And now day's very famous example is 'Padmavati movie' which's screening by 'Sanjay Lila Bhansali'. Padmavati movie opposed by the 'Karni Sena' and also by 'Rajputi Samaj' and said that Padmavati movie is insult of the our mother 'Padmavati' After that changing in 26 episode in the full movie and also change the name of movie 'Padmavat' from 'Padmavati' released by Central Film Certification Board and allow to release the movie with name of 'Padmavat' after that the government of Rajasthan and Gujarat ban on the releasing of movie in their states. But on 18th jan 2018 Supreme Court held that the government of any state cannot be ban on the releasing of the 'Padmavat movie'. Because the movie makers prove that this movie has maked on the creation of Malik Muhammad Jayshi's Padmavat⁵. Finally when we saw the stand of Government on this movie we find out that the freedom of expression is in the danger because the government of Gujarat and Rajasthan pass a notice to ban on movie their states after when the movie passed by Central Film Certification Board. Even when we look the stand of Supreme Court on this movie we find out that right to speech and freedom of expression is safe.

As defined by Laski "Democracy is a Government by discussion" could be successful only when there is effective participation of the people in the Government. For this the people need be educated".

It is defined by Krishna Iyer J. "This freedom is essential because the censorial power lies in the people over and against the Government

and not in the Government over and against the people".

RESTRICTION ON FREEDOM OF SPEECH AND EXPRESSION

The freedom of speech and expression guaranteed by Art.19(1)a of the Constitution of India and also some reasonable restriction given under Art.19(2) of the Constitution in the favor of sovereignty and integrity of India, the security of state, friendly relation with the foreign state, public order, decency and morality, or in the relation to contempt of the court, defamation or incitement to an offence. But now the abuse of Art 19 (2) has increased a lot, if a person raises any question about any issue, then every person wants to take his thoughts into his defamation issue and take away his freedom of expression. It is only a few days ago that a major issue is of Jai Shah's company. In this case, a story was published by a news editor about the corruption of the company of Jai Shah in the Wire magazine. In this story, it has been said that Jai Shah's company (who was the son of BJP President Amit Shah) had progressed 1600 times in a year, which had reached 50000 to 80 crore, but against Jai Shah, Had been sued. However, the story published in the telegram does not insult the company's owner Jai Shah but raises some questions about the company's progress, so we can say that if every person sues the media, then media could not be free. The media should be free to do their work properly, such as finding the truth, democratic values and government policies. That is also very important to have independent media to communicate properly.

Nobody can support anybody to give abuse or give freedom to insult anyone. But adopting a regulatory measure on the arguments of a person's thoughts, ideas and assumptions is a difficult task. All people think that their views are free, but will it be advisable to give freedom of expression to all these independent ideas? If a person's thoughts are against social beliefs and

beliefs and it has had adverse effects on social health, then certainly the expression of such ideas should be banned. But the question arises here that all the ideas of Buddha, Mahavira, Jesus Christ, Prophet Mohammad etc. were unfavorable towards social insight, and then what should be the attitude towards adverse thoughts? There is no harm in their expression, but criticism made to spoil social harmony can be banned so that we should give each one the opportunity to keep our point of view.

CONCLUSION

Generally speaking, the main opposition of the liberals and progressive thinkers around the world is against the attack on the freedom of artistic expressions. Whether it is in the form of a ban on literature or in the form of a sensor on the film or in any other type of artistic expression. There is probably no two opinion in it that there should be a ban on the expression of vulgar obscenity and cruel violence. But no restriction on the rest of the other ideas or assumptions is appropriate - the artist should be prepared and the viewer should be allowed to choose between them. In this entire dispute of freedom of expression, supporters of complete independence are considered to be 'wide minded, and its opponents are backward, conservative and narrow minded.' Definitely, the people of both classes today are conservative. Forgetfulness for complete freedom, forgetting the expression to be just one-sided, and the opponents give their emotions so much importance that they become the throat bone for them. The biggest problem today is that no one is going to adopt a negotiating stance - either an idea is completely proved wrong or completely correct. Both sides of the dialogue run in two parallel streams, there is no possibility of convergence. Either fatwas of death are released in opposition or long-pending debate in support. Man is losing his tolerance everywhere today. The liberal view of freedom of expression sometimes makes a very naïve

population fascist, makes communal people-misguides. Of course, such a trend must be curbing. It should be a logical approach to your thoughts and beliefs, like we love our brother-friend so much; it is a good thing; But when they get into a fight with someone else, listening to another's side does not dominate the love. If such an approach is kept in mind for our thoughts, then there will be no dispute. Indeed, religious conservatism and intellectual conservatism-both are obstacles in the healthy expression of thoughts. A person should be careful about his expression. For example, humans do not try to walk on the sea or fall into the well using their right to walk; In the same way, he should not use his right of expression to make himself immoral or cunning. If such a tendency develops within a person, then different governments of the world will be able to devote more time to the development of human resources. Expression of innocence or malpractices of freedom can never be clearly-absolute-cannot be fulfilled. The norms which are appropriate and relevant in today's date, they should be appropriate and relevant even tomorrow - it is not necessary. Ideas change, approach change, social norms change, and this work can also be done through the freedom of expression-they should be taken in a normal way and it is probably the right thinking that change always brings improvement.

(Endnotes)

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- 3 Supreme Court rejects Section 66-A of IT Act, law related to objectionable post, NDTV India(January 18, 2018, 10:54pm), <https://khabar.ndtv.com/news/india/freedom-of-speech-online-section-66-a-is-struck-down-by-supreme-court-749110>,
- 4 THE INDIAN CONST. art. 19, cl.2.
- 5 Padmavat will be release in full country, Amar Ujala (Jan19, 2018)
- 6