

Research Report

Human Rights Commission Freedom of Expression



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Issue:	Freedom of Expression
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Introduction

Freedom is as fundamental to human race as breathing is. While the latter enables flow of oxygen, a must for any living being's existence; freedom is the precursor to change and betterment of the masses. From time immemorial human being has yearned and strived to attain freedom in all essence.

From this premise the enormity of the topic should be evident. The enormity vis-à-vis the relevance and scope of this topic. Hence, it wouldn't be an over-statement that under such a scenario it is rather easy to meander and fail to produce a paper which ends with a logical conclusion.

In this report it has been my effort to correlate the notion of *Freedom of Expression* and its impact on development of society in economic, political and cultural terms, world over. Since on examining various happenings over a long period a pattern emerges wherein peoples that have successfully attained this freedom, have experienced better quality of life.

Countries all over the world have enshrined this right of its people in their constitutions, charters and legislatures. United Nations in its Resolution 59(I), which was passed in the very first session of the UN General Assembly 1946, before any other human rights were declared or treaties were adopted stated that "Freedom of information is a fundamental human right and ... the touchstone of all the freedoms to which the United Nations is consecrated."

However, there is no such thing as unbridled freedom and hence all rights have to be handled with a sense of responsibility. The responsible use of this right as well is very important and thus strict limitations are placed on obscene, slanderous and inciting expressions or those that urge people to commit a crime.

General Overview

Case for freedom of expression

Freedom of expression is not only paramount for one's dignity but also in allowing a society to function in a productive manner. Citizens can neither implement their right to vote successfully nor participate in a variety of other activities, such as public decision making, if they don't have open access to information and ideas, and are unable to express their views

freely. John Milton, the excogitator English poet, argued that the freedom of speech was a versatile right which not only included the right to disseminate, or express information and ideas but also three additional diverse aspects: the right to seek receive and impart information and ideas. Josh Stuart Mill, the British philosopher, economist and civil servant, believed that freedom of speech is an integral part of our world, and without it, there can be no innovations in the all-important fields of science, mathematics, politics, and law. Locke and Milton, as in John Locke and John Milton, ardent advocates of religious freedom, also stressed the importance of the governments in preserving these rights.

Regional, national and international standards also acknowledge that freedom of speech, just as the freedom of expression, consists of all medium, be it in written, print, oral, art or in recent times Internet. Hence, the protection of freedom of speech not only includes the content, but the medium of expression too. In the present day, freedom of expression is accepted in the global and regional human rights law. This right is preserved in many covenants and documents of several organizations such as the International Covenants on Civil and Political Rights, European Convention on Human Rights and African Charter on Human and Peoples' Rights. This idea was first solidified in a proper form in the US Constitution, with the First Amendment stating that "Congress shall make no law... abridging the freedom of speech, or of the press".

Article 19 of the Universal Declaration of Human Rights (UDHR) adopted by the UN General Assembly states that "Everyone has the right to the 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 and regardless of frontiers."

Article 19 of the International Covenant on Civil and Political Rights (ICCPR) affirms

1. Everyone shall have the right to hold opinions without interference
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or print, in the form of art, or through any other media of his choice
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - a) For respect of the rights or reputations of others;
 - b) For the protection of national security or of public order, or of public health or morals."

The right to freedom of expression is extremely important to the media as it is the harbinger of the general right to freedom of expression for the masses. If the right to freedom of expression is violated, so is the freedom of association and assembly, as they go hand in hand.

Barriers to the right of Freedom of Expression



Despite such an overwhelming support advocating this freedom, curbs have been placed by various parties that impede the free flow of ideas, speech and thought. Historically even though churches and governments encouraged printing in many ways, mainly for the circulation of the Bible, governments established control over printers all over Europe, entailing them to have official licenses to produce and trade books. The main aim for this stipulation was to check works of dispute and criticism that were objectionable to the church and the rulers of the time.

In more recent times we have seen regimes in all corners of the globe that have curtailed this right of their citizens. Countries such as Afghanistan and Iran have seen emergence of religious fundamentalism as the views of only a certain section were allowed uncontested. The “Great Firewall of China” is an example of Internet censorship. The system runs by blocking content that is contrary to the view of political authorities. This censorship in China is carried out under a variety of laws and administrative regulations, as sixty Internet regulations have been made by the Chinese government. Businesses, organizations and provincial branches of state-owned ISPs vigorously implement censorship systems. .

In more recent times political and social upheavals witnessed in North Africa and the Middle East have had their roots in people being kept devoid of this fundamental right. Countries viz. Cuba, China, Myanmar/Burma, Iran, Saudi Arabia, North Korea, Turkmenistan, Syria, Vietnam and Uzbekistan actively engage in invasive Internet censorship according to the Reporters without Borders.

Responsible Freedom of Expression

For a matured and productive *free* society the right and duties and thereby freedom and responsibility of all stakeholders must be carefully balanced. As it is often said one person's right is another one's duty, mechanism should be in place to ensure that this equation is not altered. In this context if the views of some may stir up hate or intolerance amid other groups, then flow of such views should be curbed. For example, the employment of media to encourage genocide or racially motivated attacks as carried out by Radio Télévision Libre des Mille Collines in the Rwandan genocide in 1994. Hence, some countries and international bodies have introduced laws that ban hate speech as they conflict with other human rights. However, it is important that only extreme forms of hate speech are banned, or else counter viewpoints could not be voiced.

Also, role of education can't be undermined in this regard as no legislation can be effective until people at large abide by it. Education brings enlightenment and ability to filter unwarranted or negative ideas. It propels people to move away from radical and fanatical views points to a more accommodative and moderate opinion on issues of mass importance.

Positive outcome of Freedom of Expression

If we glance over the globe we see that countries that have fostered this right of their people have experienced higher growth in economic, cultural and scientific terms. People in these countries enjoy better quality of life and thus these societies see minimum social unrest and

chaos. Western and Northern Europe, United States, Singapore, India, South Africa and Australia are countries that fall in this category.

Whereas regimes that have limited free expression have been faced with constant civic, military and political unrest, little or no economic progress and concentration of wealth in the hands of a minority and given rise to political and religious dictatorships.

Timeline of other key events

- 5 BC** Ancient Athens' democratic ideology of free speech emerges
- 7 AD** According to Islamic ethics, freedom of speech first declared by the caliph Umar
- 1689** The English Bill of Rights grants 'freedom of speech in Parliament'
- 1789** Adopted during the French Revolution, the Declaration of the Rights of Man and the Citizen particularly avows freedom of speech as an absolute right
- 1948** Article 19 of the Universal Declaration of Human Rights (UDHR) adopted by the UN General Assembly provides for freedom of expression in Article 19
- 1966** The International Covenant on Civil and Political Rights (ICCPR) expands on the UDHR's articles and legally binds all the states that are its signatories and approved its requirements. This covenant entered in force in March 1976
- 1993** The office of UN Special Rapporteur on Freedom of Opinion and Expression is established. The rapporteur gathers information from governments, organizations and people who are being scrutinized for disrespecting and exercising their right of freedom of expression.
- 1996** Johannesburg Principles on National Security, Freedom of Expression and Access to Information espoused by a group of experts in international law and sanctioned by the UN Special Rapporteur in his annual report

Previous attempts to resolve this issue

The Global Internet Freedom Consortium, a consortium of organizations initiated in 2001, develop and deploy anti-censorship technologies for the Internet users in countries who have restricted Web-based information access.

Possible solutions

Having a right to express oneself is a right that should for all intents and purposes be endorsed to the maximum extent possible, given its pivotal role in daily matters. However, there may be some extreme forms of expression that need to be abridged for safeguarding the rights of others. Consequently, restraining the freedom of expression in such a situation is a balancing act.

By benefits attained through freedom of expression, regimes can achieve larger social good which is a goal they perhaps endeavor to get by chocking people's opinion. It's proven time and again that only opportunities of growth, peace and prosperity for all will ensure political and cultural stability in the world.

Appendix

http://en.wikipedia.org/wiki/Freedom_of_speech_by_country

<http://www.aclu.org/free-speech/freedom-expression>

http://en.wikipedia.org/wiki/Freedom_of_speech

<http://www.guardian.co.uk/media/2006/feb/05/religion.news>

<http://www.article19.org/>

<http://www.seop.leeds.ac.uk/entries/freedom-speech/#HarPriFreSpe>

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