

## Human Rights from Indian Perspective Reference with Freedom of Expression

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### Abstract

*This paper is an attempt to understand the outlook on human rights from Indian perception and specially their eyes on freedom of speech. Human Rights are the rights a person has simply because he or she is a human being. All persons hold human rights equally, universally, and forever. "All human beings are born free and equal in dignity and rights. Equal dignity of all persons is the central tenet of human rights. Human rights are essential for the physical, mental, moral and spiritual upliftment of human personality. One element that is central to the concept of protection individual is the important of state activity in relation to individual. Relation between state and individual provides the key basis for the protection of individual and their rights. Living in a democratic country freedom of speech is a treasure of individual right. For progress there must be freedom to speak, freedom to write, freedom to criticize, and freedom to dissent unless there is freedom ideas cannot grow. The Economist believes the right to free speech should be almost absolute. However, whereas Rousseau's the social contract theory stress that man is a social being, he cannot be permitted to exercise this freedom in a manner which may damage the society.*

**Keywords:** Human rights, Free speech, Equality, Culture, Society.

### Introduction

Human Rights are generally defined as the rights, which every human being is entitled to enjoy and to have protected by virtue of being a member of the human species. Especially Right means something that is morally correct or demanded. Indian constitution is a very pious document and has very supreme and unique position in country's political arrangements. Which came into force on 26 January 1950, is amongst the most comprehensive constitution in the world. It contains 448 Articles divided into 26 parts and 12 schedules. The preamble, part III of the constitution consisting of Fundamental Rights, part IV comprising Directive Principles and Part IV(A) containing Fundamental Duties, constitute the human rights frame work in our Constitution. The preamble outlines the basic structure of the constitution and sets out the aims and aspirations of the people that have been translated into various provisions of the constitution. It is a declaration of the rights and freedoms that India seeks to secure all its citizens and the basic type of government and polity to be established. Freedom is inconceivable without free speech. All citizens shall have the right to freedom of speech and expression. Article 19(1) guarantees six fundamental freedoms that are applicable throughout the territory of India.

- Freedom of speech and expression
- Freedom to assemble peacefully without arms
- Freedom to form associations and unions
- Freedom of movement
- Freedom to reside and settle in any part of India

- Freedom to practice any profession or carry on any occupation, trade or business

None of the rights are absolute and are subject to 'reasonable restrictions' in the larger interest of the community as well as of the state. The restriction on these freedoms is provided in clauses (2) to (6) of Article 19 of the Indian Constitution. The freedom of speech and expression guaranteed by Article 19(1) (a) of the constitution can be limited by way of reasonable restrictions under Article 19(2) in the interest of the sovereignty and integrity of India, the security of the state, public order, foreign relations of state, defamation, contempt of court, commit an offence. The individual's freedom of speech has therefore to be harmonized with the public interest. Means freedom of speech and expression should not be used in a manner that offends public morality, or used to spread propaganda that is harmful to the sovereignty of the nation.

### **Objectives**

- To fathom the idea of human rights and study the Indian senses on freedom of expression.
- To observe the difference of human rights from Indian and Western perspective

### **Importance of Study**

India one of the largest democratic country and comprehensive constitution in the world. With rich traditions and values. Mostly since from the Indus valley civilization paying great honor to its culture. Living in an era of global world people always ruminates of their choice. Specifically they debate that for development there must be absolute freedom. In addition, some says that unless there is freedom ideas cannot produce. However, whereas our constitution gave no individual have rights to hurt people feelings especially groups (Religion, Caste, Political, etc.). In this picture study focused on the idea of human rights both perspectives from Indian and western, broadly referred on freedom of expression, also study suggests and finds that what are the things can be changed and needed.

### **Western Philosophy of Human Rights**

Universality is one of the essential characteristics of human rights. By definition, human rights are rights that apply to all human beings and are therefore universal. All human beings are holders of human rights, liberated from what they do, where they come from, where they live and from their national citizenship, their community, etc. The expression of "Human Rights" in the sense of Universal Declaration of Human Rights adopted by the General Assembly of United Nations in 1948. The universality of human rights has sometimes been challenged because they are a Western notion, part of a neocolonial attitude that is propagated worldwide.

A study published by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1968 clearly showed that the profound aspirations underlying human rights correspond to concepts — the concepts of justice, an individual's integrity and dignity, freedom from oppression and persecution, and individual participation in collective endeavors — that are encountered in all civilizations and periods. Today, the universality of human rights is borne out by the fact that the majority of nations, covering the full spectrum of cultural, religious and political traditions, have adopted and ratified the main international human rights instruments. Post-colonial critics argue that universal human rights are expressive of

western cultural particularity and contest the idea of rights as universally applicable. The debate often turns on the idea that, though rights are said to have universal validity, they originate in the west and some sense express western interests.

Also argue that human rights abridgement from differences of power though their formally egalitarian framework. The Western, mainly liberal protestant roots of the Human Rights Declaration are well known. The Western world has known of the struggle for citizens' rights since the Middle Ages.' This struggle for concrete rights, rooted in the practices and value system of a particular nation or country, is felt with greater urgency after the French Revolution. To end, there are points in cultural practices where conflict may exist between human rights and cultural values. In some instances there needs to be positive actions to eradicate such violations while in some there needs to cohesion and reduction in claims to build the bonds of community. The cultural values on their however does not form the thrust of the universalism debate. The debate is more focused on States and respect for human rights and individual freedom. Prof. Osaitynski, in restoring the universality of human rights we should disconnect two ideas, the universality of human rights from universality of the philosophy of human rights. I would like to suggest that a more practical approach where the ideologies should not be formulated by states alone. The voice of the people, the civil society within these non-western states should be added to the debate. The philosophies and ideologies are a coat that should be shed off both by west and non-west. No one will agree to been tortured as part of his cultural heritage. No culture, tradition, ideology or religion can today speak for the whole of humankind, let alone solve its problems.

### **Indian's Vista on Human Rights**

Human Rights are the rights given to all human beings by nature to fulfill their wants (needs, desires, wishes and requirements).The concept of Human Rights is as ancient as human civilization. The history of humankind is marked by efforts to ensure respect for the dignity of human beings. Every human being possesses certain basic, inherent and inalienable rights. Human rights are essential for the physical, mental, moral and spiritual upliftment of human personality. Since the days of the Indus Valley Civilization, Indian culture has been the product of a complex of diverse cultures and religions that came into contact with the enormous Indian sub-continent over a very long stretch of time. As *Jawaharlal Nehru* notes, there is "an unbroken continuity between the most modern and the most ancient phases of Hindu thought extending over – three thousand years." The Indian idea aware the individual, the society and the universe as an organic whole. Everyone is a child of deity and all fellow human beings are related to one another and belong to a universal family. In this environment, *Mahatma Gandhi* remarks, "I do not want think in terms of the whole world. My patriotism includes the good of humankind in general. Therefore my service to India includes the service of humanity."

#### **➤ Free Speech in India**

In a democracy freedom of speech is a valuable individual right. For progress, there must be freedom to write, freedom to speak, freedom to criticize and freedom to dissent. Freedom of speech and expression includes the right of every citizen to criticize the judiciary an institution and its functioning. Since democracy is an exercise in collective self-governance by and through the elected representatives of the people, it is obvious that they should project the aims and aspirations of the people

and be responsive to them. In India, people's freedom was chained with orthodox values.

As *Hasan Suroor* notes, who is afraid of the writing the word? Almost everyone it seems, from the state to cultural and religion groups. In spite of being a free society, we have a long of history of literary censorship. The traditional opponents of freedom of speech — religious fanaticism, plutocratic power and dictatorial states — are thriving, and in many respects finding the world a more comfortable place in the early 21st century than they did in the late 20th,” the book argues. This is best illustrated by the continuing campaign of harassment and intimidation of Salman Rushdie over ***The Satanic Verses***, published over 20 years ago. The ugly scenes witnessed at the Jaipur Literature Festival where he was prevented from making an appearance or even addressing it through a video link despite the fact that the book is already banned in India and he has not broken any Indian law are a chilling reminder of what we are up against.

For example, portraying *Jesus Christ as a gay* person may be acceptable in the West today, but to depict religious figures of Hinduism or Islam as gay would be very unacceptable in India and May probably lead to religious riots and violence. This is because people in India are much more religious than in the West. Therefore, when we consider the Salman Rushdie issue we must keep this point in mind. In ***'Satanic Verses'*** Rushdie has certainly attacked, even though by insinuation, Islam and the Prophet. Such sensationalism may have earned Rushdie millions of dollars, but it has deeply hurt Muslim sensitivities. Since man is a social being, he cannot permit to exercise this freedom in a manner which may damage society. (See *Rousseau the Social Contract*) For this reason that Article 19 (1) (a) of the Indian Constitution, which grants freedom of speech and expression (which has been interpreted by our Supreme Court to include freedom of the press) to all citizens, has been made subject to Article 19 (2) which says that the right granted by Article 19 (a) (a) is subject to reasonable restrictions in the interest of the security of the State, public order, decency, morality etc.

### **Suggestions and Findings**

Mostly in western societies, individual rights are absolute and community rights are limited or nonexistent, in India the situation is the opposite while individual rights are not respected, community rights are more Valuable and Worshipped. Some times in India lot of restrictions and values was pulling the people's ideas down, good to practice sometime absolute freedom so that ideas will shine and people they can also contribute something to society which may lead to change in the system also improvement and development will take place. It is a long and depressing list that in India since from the independence bunch of books was banned those are uncountable. The idea that one's freedom of speech must not cause 'harm' to others. We can say India one of the largest free country with huge immigrants came from overseas, mostly western countries. For this reason there is great diversity in India with multi group's religious, caste, ethnic and language. In this context absolute freedom will not work effectively, only works that can keep India together with secularism giving equal respect to all the people – this policy was already placed in our constitution. In this context I would like to add that, *J S Mill 'On Justice'* pointed out 'The freedom to criticize and express all ideas is a stranger to every dictatorship on the planet. The one thing we know for sure about freedom of speech is that the more it is practiced in a country, the less oppressed the people. This includes the freedom to criticize

everything, including the state itself. It also includes the right to support any idea, however repugnant that idea might be to you or me.

Therefore, it is clear that such freedoms are a good thing. However, how do we reconcile this right to support any idea with the ambiguous notion that freedom of speech must not impinge on the *fundamental freedoms* of others? (Discuss).

The Economist's believes that the right to free speech should be almost absolute and argues that without freedom ideas cannot grow. To conclude this show with the some additional stuff and facts, always freedom should build something, which is helpful to society also to make and lead the people in a precise way, it should not destroy the culture, values, ethics which was given by our founding fathers. Especially freedom should not 'hurt the religious sentiments', in India people are more orthodox in practicing their own deity. In this situation sometimes, they are equipped to sacrifice themselves for their creator. 'Sometimes success leads to creating more problems, means people always think of their choice and says freedom should not resisted with values thinks that giving more freedom is achievement and successive. However, additional and absolute freedom sometimes leads to failure, uncontrollable and uncontainable. So freedom should be limited and restricted with specific boundaries, especially depends on their own culture. Freedom is the right to do things without hurting others. As *Rousseau* detailed "Man is born free, and everywhere he is in chains. One man thinks himself the master of others, but remains more of a slave than they are." Think and discuss whether to follow Mill or Rousseau?

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