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RIGHT TO FREE SPEECH IN A CENSORED DEMOCRACY

ABSTRACT

"Liberty of Thought, Expression" is a phrase in the Preamble that speaks about Article 19(1), giving the Fundamental Rights to every citizen of the Freedom of thought and expression. Freedom of expression is a pillar of the country's democracy. Every citizen of India is entitled to fundamental human rights. A fundamental principle of democracy and essential to human dignity, it protects all human rights. Governments often misuse or take cover from laws to violate internationally accepted norms and standards of human rights. As a result of censorship, an orderly state is maintained, while information which may threaten the authorities is kept from the public. Public awareness has been controlled, morality has been monitored, and opposition has been silenced by censorship throughout history.

Keywords

Free speech, censorship, democracy, human rights.

INTRODUCTION

Censorship limits free speech while protecting undesirable information. Given how censorship limits people's capacity to express themselves, it is natural why people are so fiercely opposed to it. The necessity to filter some information available in today's society is accepted. However, much too much is being done by individuals who have no authority to infringe on the rights of others. Civilization's
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disagreements about what is good and wrong have always centred on these concepts. Everything in the media is muzzled by censorship in today's culture. From movies and music to television and even news broadcasts, most of the material seen today has been filtered in some way.

Despite its negative connotations, censorship can also have some positive effects. The dissemination of objectionable material that could cause social unrest is prevented by censorship, which also protects state security, upholds morality in society, forbids the spread of untrue beliefs or rumours, and limits access to harmful activities by prohibiting their public display, and serves several other purposes.

The denial of freedom of speech, expression, and knowledge is represented by censorship. Even though the Indian Constitution does not explicitly name movies as a form of expression, several court rulings have recognized them as such. While censorship may offer protection from objectionable content, it also restricts free expression. People's vehement opposition to censorship is understandable, given how it restricts their ability to express themselves. It is acknowledged that some of the contents made available in today's society need to be filtered, but much too much is being done by those who have no business interfering with other people's rights. What is considered suitable and wrong has always been a contention for civilization. Censorship stifles everything in the media in today's culture. Most of the media seen today has been filtered in one form or another, from movies and music to television and even news reports.

HISTORY

By limiting spoken words, printed material, symbolic messages, freedom of association, literature, art, music, movies, television shows, and Internet sites, censors aim to curtail freedom of thought and expression. First Amendment rights are at risk when the government suppresses speech.

The Act of controlling or forbidding speech, thoughts, or writings regarded as indecent, expressive, or too debatable is known as censorship.

The Constitution, the importance of freedom of speech and expression, incorporated Article 19(1), which protects that right. This privilege, however, was subject to some logical limitations.

After the Cinematograph Act of 1918 was repealed, a statute comparable to it, the Cinematograph Act of 1952, took its place. Regional boards were eliminated during the following few years, and a Central Board of Film Censors (CBFC, later known as the Central Board of Film Certification) was established. Under the Ministry of Information and Broadcasting's supervision, the Central Board of

Film Certification (CBFC) operates. Before a film from India is released, it grants it several certificates including Universal, Adults, and Parental Guidance.

The Indian media experienced severe restrictions during the emergency period. The Press Council of India Act was established in 1978. Under its remit, the Press Council of India was created. It aimed to maintain and raise the standards of Indian newspapers and news organizations while also protecting the freedom of the Press. The PCI has the authority to take allegations of misbehaviour by an editor or journalist or violations of journalistic ethics. The PCI's rulings are binding and cannot be challenged in Court.

While the Cinematograph Act regulates motion pictures, the Cinematograph Rules of 1983 control how movies are shown in public, and the Cable Television Network Rules of 1994 govern how movies are transmitted on television.

DIGITAL MEDIA

In India, which has a rapidly expanding internet population, major IT businesses like Facebook and Google have prospered. Now, India is considering adopting regulations limiting digital platform activity, joining other nations in this decision.

It was hypothesized that these modifications go against free speech.

The proposed set of regulations, which were released in late December and are still being discussed, would call for internet service providers to actively review user postings and communications to ensure that individuals do not transmit anything "illegal." The Indian government is making an effort to make internet companies responsible for the information on their platforms. This content can mislead users, cause misunderstanding, and even spark violence in India.

The Indian government is now requesting access to WhatsApp chats on Facebook. The messaging service is widely utilized nationwide by users to disseminate false information, pornographic material, and offensive material. The authorities could trace the origin of the offensive or bigoted content if they had access to WhatsApp communications.

WhatsApp will be required to cooperate with government agents to locate the source of illegal conduct on WhatsApp if the guidelines are implemented.

However, the new regulations would also bring forth something else: a system where technology corporations would suddenly act as the internet content censors. Before anything is posted, it would

be up to Facebook, Twitter, WhatsApp, or YouTube to decide what information is appropriate and what content is "unlawful."

Governmental ads should be pertinent to the government's legal and constitutional responsibilities as well as to the rights and entitlements of the people with "financial censorship". It should be factual and avoid portraying previously released items and policies as innovative. The ruling party's political agenda should not be promoted in the commercial material.

FILMS

Films are regarded as effective forms of interpersonal communication. Films have undergone a radical transformation with the growth and development of society and the advancement of science and technology. They have reached a broad audience by utilizing all available media. They have made a sizable contribution to the social and cultural advancement of the nation.

The Supreme Court affirmed the freedom of speech via movies in *Bobby Art International v. Om Pal Singh Hoon*¹, also known as the Bandit Queen case. It overturned the limits placed on the movie "Bandit Queen" screening due to its obscenity. In the *K.A. Abbas v. Union of India* case², the Supreme Court of India maintained limitations on public display under the Cinematograph Act, 1952, and dismissed a plea that questioned the Act's censorship powers. The Act was deemed sufficiently explicit to prevent the arbitrary exercise of its powers by the Court, which also determined that past censorship was within the bounds of reasonable limits on free expression. Lakshmi's NTR, a biographical by Ram Gopal Varma based on the life of NT Rama Rao, a former actor and Chief Minister of Andhra Pradesh, was banned at the time of the election (CM Chandrababu Naidu at that time), where following the entrance of his wife, Lakshmi Parvathi. Where RGV painted Chandrababu Naidu in a negative light in the movie.

Typically, the Indian government regulates the content for various reasons, including public morality, racial harmony, or cultural preservation. Due to the lack of laws and limitations, OTT platforms are particularly well-liked by artists since they do not impede the creativity of their work in the same way that theatres and television do. Because they may exercise more creative freedom on OTT Platforms than on traditional platforms, content producers are gravitating toward them. However, content on OTT platforms does not have the potential to upend social cohesion and the moral fibre of society

¹ Bobby Art International v. Om Pal Singh Hoon, 1996 4 SCC 1

² High Court of Madras, 2003 SCC Online Mad 880

owing to the absence of censorship. The most popular platforms, Netflix and Amazon Prime are growing daily.

PRESS

Press is another effective form of communication. In terms of constitutional freedom pertaining to expressing ideas and disseminating ideas and messages, both the Press and films have equal standing and rights. As is well known, the Constitution's Article 19(1)(a) protects freedom of speech and expression, which includes the Press. As a result, both of these media are governed by this constitutional clause. In a national emergency, the power of the Press was cut and only given after two or three days when the concept of "Censorship" was introduced and brought into force. Indira Gandhi mentioned that no freedom in the Press would be allowed in case of an Emergency. Very tough rules were imposed on the sector of media, where many people were also arrested and also the famous singer of that time, Kishore Kumar, was also arrested as he did not agree to sing in favour of the Congress Party.

In *S. Rangarajan v. P. Jagjivan Ram*³, it was also determined that censorship was constitutional. According to the Court, movies appeal to a broad audience that is typically not picky about what they see. It cannot be permitted to operate like newspapers and magazines in a free market. Therefore, prior constraint censorship is both essential and desired.

The Supreme Court also defended the dignity of the Press and the freedom it enjoys by overturning attempts to restrain it in a number of decisions. These cases include the *Bennett and Coleman case*⁴, the *Brij Bhushan case*⁵, and others.

CONCLUSION

Throughout democracy's history, freedom of expression, which is a fundamental component, has always been constrained in some way. The freedom of human rights is commonly recognized as the foundation of democracy. The splendour of democracy's architecture is owed to freedom of expression because it is the source of all democratic avenues. However, in democratic nations, the Press, social media, and films are some crucial means for exercising one's right to free speech, which is interfered with and influenced by government or outside forces. The conflict between the need for censorship and the right to free expression must be handled in a balanced manner.

³ *S. Rangarajan v. P. Jagjivan Ram* 1989 SCR (2) 204

⁴ *Bennett Coleman & Co. & Ors vs Union Of India & Ors*, 1973 AIR 106

⁵ *Brij Bhushan And Another vs The State Of Delhi*, 1950 AIR 129