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Freedom Team of India

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Come on, liberals: Let's change India!

Freedom of expression: a great challenge for India

Sanjeev Sabhlok

British liberal philosophers were perhaps the first to advocate freedom of expression, none more eloquently than J.S. Mill in his 1859 essay, *On Liberty*. India imbibed some of these ideas during British rule. And despite the corruption rampant in the Indian press – where news can be readily purchased – we do have a broadly free press.

But we never internalised the idea of liberty. Salman Rushdie's *Satanic Verses* was banned (among many other books since independence). The screening of *Da Vinci Code* was prohibited. Our governments failed to protect Deepa Mehta during the making of her film, *Water*, and D.N.Jha was similarly forced to publish his book, *The Myth of the Holy Cow*, outside India. Our governments readily cave in to the flimsiest threat from our millions of rabid fundamentalists.

I'm not suggesting that anyone has absolute freedom of expression. That's not what I'm saying. All I'm suggesting is that India has to do *far more* if it wants to become a free society. The examples below will illustrate how this can be done.

Electoral funding limits

Even a cursory understanding of the concept of liberty will make clear to us that imposing arbitrary limits on electoral funding is incompatible with liberty. Citizens of the free society must remain free to conduct any legitimate activity, and in doing so to spend any amount they wish. We must remain free to fund the religion of our choice or to advertise our products. So too, nothing should prevent us from spending any amount on our preferred political party or candidate. After all, freedom of belief in ideas is the most fundamental of all freedoms.

But socialists see red with such a suggestion. They rush in with paternalistic arguments to prevent people from supporting a political philosophy of their choice. They tell us that the Indian voter is a fool, highly susceptible to political advertising. But in reality the Indian voter displays greater maturity and wisdom than our socialist intellectuals. The Indian voter is smart enough to listen to all sides (and even take unsolicited gifts from the wealthier candidates) but vote, in the secrecy of the polling booth, for his own choice.

Setting whimsical limits on electoral expenses is also an act of hypocrisy, for such limits, we know, are invariably violated – *particularly* by our major political parties. These totally corrupt parties not only use crores of rupees of black money but billions of dollars of foreign funds, stashed away in Switzerland. Fraudulent accounts are then lodged and they pretend that they have spent within the limit! What a fraud on democracy! Utter hypocrisy.

In brief, all limits of expenditure on political activity must be abolished. Instead, mechanisms to strongly enforce the disclosure of political receipts and expenditures must be put in place. In addition, reforms detailed in my book, *Breaking Free of Nehru* (<http://bfn.sabhlोकcity.com/>), are needed. If clean money promotes political ideas, even socialism, then we will have nothing to fear. It is only hypocrisy, use of foreign funds, fraud, and corruption that we must be afraid of. Let there be honesty. And freedom of expression.

Flag burning

Now consider someone who, upon being convinced that his freedoms have been trampled upon, burns the national flag in protest. Doesn't attack anyone, just burns the flag. Is that a crime?

Certainly it is, in India. The *Prevention of Insults to National Honour Act*, 1971 provides for imprisonment of up to three years, or fine, or both, for anyone who, in public view, mutilates, defaces, defiles, disfigures, destroys, tramples on, or otherwise brings the National Flag into 'contempt'. But I believe this position is entirely contrary to liberty.

I do not make this assertion lightly. I claim that our flag must be defended with our own life. But on the other hand, no citizen is likely to take the extreme step of burning the flag, casually. Such an act signals that something is seriously wrong. We would be better off as a nation if we investigate the *cause* of the unrest, instead of focusing on the incident of flag burning.

More importantly, we must take a serious lesson in liberty from the US which has *ruled out* the criminalisation of flag burning. In 2006, an amendment to the US Constitution was proposed by someone to prohibit flag burning. But the US Senate *rejected* this amendment.

Senator Daniel K. Inouye, who lost an arm in World War II, fighting for USA, said that flag burning 'is obscene, painful and unpatriotic', ... '[b]ut **I believe Americans gave their lives in the many wars to make certain that all Americans have a right to express themselves** – even those who harbor hateful thoughts.'¹

Such unequivocal commitment to freedom is what America teaches us. Our heart goes out to America for clarifying the standard of liberty even on such an evocative issue. Hundreds of its own soldiers die in wars to protect the American flag, but these very same soldiers insist on defending the right of their fellowmen to *burn* that flag. That is why they fight for. For freedom. The true flag we must fight for is the flag of freedom. The national flag must subordinate its claims to those of liberty.

Artistic 'license'

It has become fashionable these days for artists and writers, claiming artistic 'license', to brazenly insult Islam, Christianity, Hinduism and other religions. But they are wrong in doing so. They have no such license. While an analytic critique of a religion is fine, vilification and abuse of a religion is *not*.

¹ Reported in the *Washington Post*, June 28, 2006, [<http://www.washingtonpost.com/wp-dyn/content/article/2006/06/27/AR2006062701056.html>]

Artists must stop being stupid. They must exercise self-restraint. In no way are they special, or exempt from the laws of the land. Everyone's liberty is subject to the same standard of accountability.

But what about those artists who refuse to exercise self-restraint? What can be done about them? Should we ban their work or kill them? Clearly not! Three things must happen in the free society, as outlined below.

First, we must develop a thick skin. As they say, 'Sticks and stones may break my bones but words will never hurt me'. We must tolerate others' opinions, no matter how tasteless.

Second, an offensive piece of art can constitute a *civil* offence. The plaintiff in such a case will need to prove that he tossed and turned in bed for, say, five hours because of the offensive art. The court would compensate the plaintiff for the value of this lost sleep. Class-action suits could also be lodged against the offending artist.

But third, no matter what happens, there can *never* be any cause for violence being used against the artist. The government *must* put behind bars anyone who browbeats an artist. Even stupid artists deserve to be protected.

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Let's be clear about this, though, that *no* existing major political party in India will step forward to defend our liberties. They are more interested in forcing socialism or Hindutva down our throat. A political platform focused on the defence of our freedoms is therefore desperately needed. The Freedom Team of India (<http://freedomteam.in/>) is working towards such a platform. Please join or otherwise support FTI. Become a Freedom Partner!

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