

The Metalinguistic Dilemma of Freedom of Expression: Its Limits

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Abstract

Freedom of expression is an innate human right although its misuse has made it a controversial subject in every part of the world. It has been exploited in the context of hatred speech to malign different religions and races. It is being applied in negative manners to propagate aversion and hatred for specific ethnic or religious groups under the excuse that it constitutes one of the innate human rights an individual has to freely express any like or dislike as his/her own opinion. This research upholds that unbridled freedom of speech generates widespread inferiority complexes, violence and generally injustice and interferes with other fundamental human rights. This article aims to highlight different aspects of the subject especially freedom of speech from an international perspective, as well as draw guidelines for the safety and respect of all individuals alike, without consideration of gender, race, religious affiliation, ethnicity, etc. This study proves that all rights have limitations and freedom of speech should be no less. The reason for this is, while a person is, without any doubt, entitled to express his or her own opinion, these opinions should not interfere with the rights of others.

Keywords: Freedom of speech, hate speech, human rights, minorities, racism, ethnicity, religion, language.

1. Introduction

The Universal Declaration of Human Rights¹ lists the most basic linguistic rights of individuals briefly mentioned below:

Article 2 – All human beings regardless of their native language are entitled to the rights listed in the Declaration.

Article 10 – Every human being has the right to a fair trial, which involves the right to have an interpreter in the case an individual does not understand the language utilized in the criminal court proceedings or accusation. This

¹United Nations issued this declaration in 1948. See details, <http://watchlist.org/wordpress/wp-content/uploads/Universal-declaration-of-human-rights.pdf>.

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interpreter should translate the proceedings which include the documents of the court.

Article 19 – All human beings have the right to freedom of speech and expression and choose the language in which they express themselves.

Article 26-All humans have the right to receive an education in relation to the medium of instruction. The linguistic rights listed in the Declaration of Human Rights have applications in the public as well as the private arenas. Article 19 of the Declaration of Human Rights is worth discussing from a metalinguistic point of view.

For long, the linguistic right of freedom of expression has been considered a fundamental human right. It has its origin in the ancient Greek history. For the first time in the history of the world the British Parliament passed a Bill of Rights in 1689 declaring freedom of speech for members of the Parliament. It reappeared during the 1789 French Revolution which guaranteed freedom of speech as an inalienable right of every human being (Bossenga, 2010).

Since that time freedom of speech or expression has progressively been accepted in every democratic country of the world through the national constitution or the civil or penal codes as an innate human right. In any case, what people understand by freedom of expression and speech varies from person to person. Freedom of speech is usually utilized “as the right to say whatever one wants to say.” This is an extremely liberal definition, to put it lightly. It is of extreme importance to be able to have a free press, as well as an adequate access to information through internet, newspapers, television and other media, printed or electronic. In the democratic countries of the world freedom of expression and press is presumably an innate every day fact of those cultures. However, this has led in multiple occasions to an abuse of this right and freedom, where a particular religious or ethnic group was mocked and it resulted in terrible circumstances and consequences. It should be understood that this freedom or right should not be taken to a level where it may serve the purposes of disrespecting others.

In other words, freedom of expression should be limited by the respect and the rights of the rest of society. Several countries of the world such as Australia, USA, Canada and many other western countries, while proposing their bill of rights, have also proposed the statute of limitations. The United Nations has established a statute of limitations for many human and civil rights.

2. Limits to Freedom of Speech

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In the case of freedom of expression, the statute of limitations of the International Covenant of Civil and Political Rights states the permissible limits for freedom of expression:

1. Respect for the rights or reputations of others which include:

- a. Freedom from discrimination, freedom from cruel or degrading treatment, right of children to special protection, freedom from arbitrary interference with home, family, correspondence or reputation privacy, etc. All of these points are included in different articles of the ICCPR (International Covenant of Civil and Political Rights) and CRC (Convention of the Rights of the Child).
- b. Freedom from discrimination on the basis of race, color, sex, language, religion, political and other opinions, national or social origin, property, birth or other status.
- c. Freedom from cruel, inhuman and degrading treatment.
- d. **Right of children to special protection.**

2. Public Morals

3. Public Order

In this sense, while the limits seem to be clear not all nations of the world seem to have signed the treaties which ensure these limits.

In the case of Pakistan, the country has signed only five treaties which include:

1. International Convention on the Elimination of All Forms of Racial Discrimination: 1969. Signature: 1966, Ratification/Accession: 1966.
2. International Covenant on Civil and Political Rights: 1976.
3. International Covenant on Economic, Social and Cultural Rights: 1976.
4. Convention on the Elimination of All Forms of Discrimination against Women 1981.
5. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: 1987 (website, accessed 26-8-2015).

Interestingly, the United States, a developed country which belongs to the first world, self-proclaimed defender of human rights of all nations, has only signed 5 treaties, as compared to various African third world countries like Congo² which has signed 10 treaties, all of the South American countries which have signed more than 10 and in various cases more than 15 treaties.

² This is a country known for its multiple human rights violations.

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In any case the Constitution of Pakistan in its article 19 states:

19. Freedom of speech, etc.- Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defense of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, commission of or incitement to an offence(*The Constitution of the Islamic Republic of Pakistan*, website, accessed on 2014-03-14).

The Constitution of Pakistan restricts unbridled freedom of expression although it does not include a separate statute of limitations. However, freedom of speech is limited according to the Pakistan Penal Code, in its article 295. "Blasphemy against Islam is illegal in Pakistan."³In addition, many other countries such as India⁴and various European countries, etc. have set a statute of limitations within their own Constitutions or law system.

A good debate concluded on the American Bill of Rights. One group opposed it on the plea that American courts could protect individual rights of the American people, while the other group wanted assurance of basic rights through their mention in the Constitution. The US Constitution states:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances (US constitution, website).

Many shared reservations on the word 'peaceably' in the text 'right of the people peaceably to assembly.' They contended that this right of the people could be usurped any time by declaring it 'not peaceable.' Having checked even on the words used in the Bill of Rights, the Americans seemed very sensitive in the freedom of expression. Despite this sensitivity, the African-Americans and Red Indians were deprived of many of the basic rights (Sandhu: 2009).

³ Pakistan Penal Code. Article 295.

⁴*The Constitution of India*. (PDF). [http://india.gov.in/my-government/ constitution-india/constitution-india-full-text](http://india.gov.in/my-government/constitution-india/constitution-india-full-text) Retrieved 15 September 2015

3. Notorious International Cases of Abuse of Freedom of Speech

Freedom of expression and speech is possibly one of the most abused human rights. Some common cases of this type of abuse are the use of profanity as well as pornography. Freedom of speech should not be detrimental to society at large. Nevertheless, many cases have stirred the anger of entire societies and countries. We describe some of them here.

A few international cases of abuse of the right to free speech are the Danish cartoons of 2005 and 2006, the Charlie Hebdo case and others of the sort which enraged the Muslim world.

In fact, social media and the internet have contributed immensely to the propagation of this type of news. "For a given news article we discover social media utterances that discuss the article" (Tsakias et al., 2011). Hence, when there is a case of Islamophobia or an abuse of the freedom of speech in relation to Islam, not only the news item is discussed but the responses in the form of short messages come from all over the world. Social media, in fact, has become a platform of discussion as well as of solidarity towards support of a specific cause. "The extensive use of social media during recent major events (e.g. the Arab Spring and the Financial Crisis) shows that its use in these situations has become pervasive" (Štajner et al., 2013). So much so, than in many cases a user of Facebook or Twitter may learn about a particular issue not from the newspapers or television, rather through these mediums. "Many people, including scholars, advertisers and political activists, see online social networks as an opportunity to study the propagation of ideas, the formation of social bonds and viral marketing, among others" (Huberman et al., 2008). Fernback and Thompson explain it like this:

A virtual community is a community of people who have never met, who may be hiding behind false identities and who may meet in spaces that don't exist in substance. The strength of virtual communities is summed up as follows: 'Experientially, community within cyberspace emphasizes a community of interests, usually bounded by the topic under discussion, that can lead to communal spirit and apparent social bonding' (Fernback and Thompson, 1997 and 2000:70)).

From this point of view, it has been observed that a particular ethnic, religious or political group can get together in support of a common cause through these social media platforms. "Internet communication knows no national boundaries. Consequently, it allows the hate movement to extend its collective

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identity internationally, thereby facilitating a potential 'global racist subculture'" (Back, Keith & Solomes, 1998; Perry & Olson, 2009).

On the 30th of September 2005, the *Jyllands-Posten* newspaper published a set of cartoons which were considered blasphemous in most Islamic communities as they depicted pictures of Prophet Hazrat Muhammad (pbuh). Under Islamic law, aniconism is one of the most important traditions to follow. Nevertheless, for cultures where aniconism is not comprehended, such as some branches of Christianity (Catholicism in particular), these representations are neither blasphemous nor understood. After the adverse response of the Muslim world, the newspaper *Jyllands-Posten*, published a letter on 8th February, 2006 titled "Honorable Fellows of the Muslim World" by Carsten Juste, Editor-in-Chief. A paragraph of the letter reads:

Maybe because of culturally based misunderstandings, the initiative to publish the 12 drawings has been interpreted as a campaign against Muslims in Denmark and the rest of the world. I must categorically dismiss such an interpretation. Because of the very fact that we are strong proponents of the freedom of religion and because we respect the right of any human being to practise his or her religion, offending anybody on the grounds of their religious beliefs is unthinkable to us. That this happened was, consequently, unintentional. As a result of the debate that has been going on about the drawings, we have met with representatives of Danish Muslims, and these meetings were held in a positive and constructive spirit. We have also sought in other ways to initiate a fruitful dialogue with Danish Muslims.[...] Morgenavisen *Jyllands-Posten* takes exception to symbolic acts suited to demonise specific nationalities, religions and ethnic groups (*Jyllands Posten International*, 2006).

In other words, the newspaper was forced to apologize. In this case, freedom of speech was an expensive right to uphold for Denmark since many countries of the Muslim world organized an economic boycott against the country, which lost millions of dollars and provoked the resignation of the Interior Minister, Hassan Sabar (Allagui, website, accessed on 30th-9-2015). These boycotts were mainly arranged through social and electronic media.

Other cases of this sort occurred later, when the Swedish philosopher and cartoonist Lars Vilks on 18 August, 2007 published in *Nerikes Allehanda*, along with more insulting lines published irreverent cartoons of Prophet Hazrat Muhammad (pbuh). These sorts of depictions do not constitute artistic

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manifestation, neither freedom of expression. Rather, they are aimed to the targeting of a specific religious group and instead of promoting peace and understanding they incite violence (Genborg, 21 September 2011). The proof is that since then until today Lars Vilks has had to live under police protection (website, 30 September 2015).⁵

This is a list of the most recent cases:

- 30th September, 2005 – Danish cartoons-*Jyllands Posten* newspaper
- 9 February, 2006 –*Charlie Hebdo*, France reprints cartoons of *Jyllands Posten*.
- 18th August, 2007 –Lars Vilks publishes cartoons -*Nerikes Allehanda* newspaper, Sweden.
- September 2012- *Charlie Hebdo*, France publishes more cartoons.
- 14th September 2015 – *Charlie Hebdo* publishes cartoons mocking Syrian immigrants.

In many cases, including these ones, retaliation also occurs. The most recent of all, the *Charlie Hebdo* shooting (Urquhart, website, accessed on 30-9-2015)in January, 2015 is another instance of these types of cases. In this case the staff of the French newspaper was targeted and twelve employees of the newspaper died during the shooting. Riots broke out in various parts of the world, such as Niger, and in other countries there were violent demonstrations. Some countries also upheld peaceful demonstrations.

In any case, in spite of the fact that tragic events took place, the newspaper continued making fun of different ethnic groups and the Syrian refugees(*The Huffington Post*, 2015).Interestingly enough, the newspaper received the Secularist of the Year prize award for their response to the Paris shootings by the National Secular Society.

Nevertheless, the linguist and political writer Noam Chomsky understands that a negative action may result in a negative reaction. He stated:

Abrams is right in describing the Charlie Hebdo attack as “the most threatening assault on journalism in living memory.” The reason has to do with the concept “living memory,” a category carefully constructed to include Their crimes against us while scrupulously excluding Our crimes against them — the latter

⁵ Vilks to get police protection (16 September 2007).

<http://www.thelocal.se/20070916/8507> Retrieved on 30th-9-2015.

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not crimes but noble defense of the highest values, sometimes inadvertently flawed (Chomsky, website, accessed on 22-10-2015).

Far away from condoning any act of terrorism, it has to be understood that the response to the Charlie Hebdo's attacks has exposed a number of loopholes in the freedom of speech concept. Andre Oboler from the Online Hate Prevention Institute explains:

The response to the Charlie Hebdo attack has raised the need to better define and articulate what we mean by freedom of expression. A number of fundamental misconceptions and blind spots in the discussion on freedom of speech and its limitations have been exposed, and require clarification or refutation. A number of excellent points and analogies have also been made, and should be shared (Oboler, 2015: 5).

In fact, the matter at hand here is the collision of two fundamental human and civil rights; freedom of expression and freedom of religion.

4. Freedom of Expression in the Media Where Does it end?

We are the tools and vassals of rich men behind the scenes. We are jumping-jacks. They pull the string and we dance. Our time, our talents, our lives, our possibilities, is all the property of other men (Attributed to John Swinton, 1829-1901).⁶

The favorite occupation of the international press since the 911 event is the vilification of Muslims. In every newspaper of the world at any given point in time news are published which explain the horrible acts perpetrated by Muslims, *Islamists*, *Islamic fundamentalists*, *ihadists*, *extremists*, etc. The adjectives utilized in these news reports have become now part of the world's vocabulary, despite being opposed by the Muslim intelligentsia. This is being done to the effect that subconsciously, the word Muslim should evocate and be associated with all of the above mentioned adjectives. In fact, many people around the world do not differentiate between various types of Muslim. For many, a Muslim is equal to all of the above. We can say this is a product of the campaign against Muslims conducted by many television channels, newspapers and electronic media around the world. These are propagating the image of Muslims as cold blooded barbarian killers, ready to terminate

⁶ Attributed to John Swinton (1829-1901).

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anyone from another religion or culture. Denying this is unnecessary obviously. The community of the peaceful majority is ignored while discussing about the Muslim community at large.

This is not only being done against a particular religion but against complete countries. For example, many Muslim countries, such as Pakistan, have a terrible image in the outside world, for the large majority who has never visited these countries and may never visit. On the other hand, many foreigners have reported that they were scared to visit these countries, but when they arrived they could appreciate that the countries were nothing like they were told. An article that talks about this states:

Even though her family was against her going to Pakistan all on her own, Jioshvili did not waver in her resolve. She returned home to show them some amazing photographs from what became one of the 'safest' trips she had ever taken. She said, "I always stay positive, try to appreciate the traditions and culture where I go, smile a lot and I know that everything will be okay." Jioshvili said that despite what people had told her about the security situation in Pakistan, she found the people to be very friendly. "Actually, I felt very protected in Pakistan," she added (*The Tribune*, 2015).

In this case, freedom of press serves the purpose of demonizing a specific community or culture just because of a religious or cultural difference. This has been done with other races, communities and cultures in the past. For example, in the United States the African-American have suffered immensely to reach where they are today, with a black president in power. Freedom of speech against African-Americans is not being utilized in the United States anymore; that now receives another designation which is racism, which was achieved through decades of hard work of civil right activists who belonged to these communities. It hurt the African-Americans when the white Americans used to call the 'nigger' or even 'Negro' because they believed that they were Americans like others. (Sandhu, 2011).

Nevertheless, a report conducted by Otto Santa Ana about racial jokes in the American program hosted by Jay Leno during 2006, resulted on the fact that Leno had been indulging on a high degree of mockery of Latinos (Santa Ana, 2009). In any case, Leno's jokes have covered every political party, religious group, race, etc. Furthermore, in 2012 a group of American Sikhs sued Leno for a racial joke about a Sikh temple. The news report states:

In court papers filed in Los Angeles Superior Court on Tuesday and obtained by The Wrap, Dr. Randeep Dhillon, who does

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business as Bol Punjabi All Regions Community Organization, claims that Leno “hurt the sentiments of all Sikh people in addition to those of the plaintiff” with his joke. Dhillon further claims that Leno’s joke “clearly exposes plaintiff, other Sikhs and their religion to hatred, contempt, ridicule and obloquy because it falsely portrays the holiest place in the Sikh religion as a vacation resort owned by a non-Sikh”(Acharya, accessed on 30-9-2015).

Making jokes, as long as they are not offensive, could be tolerated. Nevertheless, Leno’s jokes go further than that. For example the following excerpt clearly expresses the dissatisfaction of the Sikh community in regards to Leno’s jokes:

Previously, in 2007 he called Sikhs ‘diaper heads.’ In 2010, he remarked, falsely so, in his monolog that President Obama could not visit Sri Darbar Sahib because of requirements of wearing a turban,” the petition reads. “Clearly, Jay Leno’s racist comments need to be stopped right here (Ibid).

It is very clear that freedom of speech should not go to the extent it did in this case. Furthermore, vilifying communities has become a sport of the media and vilifying the Muslim community in particular, has been at its peak since the 9/11 unfortunate events.

The line between freedom of speech and mockery, or insult of a specific race, religion or community needs to be better drawn not to allow the possibility of irresponsible and reckless behavior that can be later attributed to a reaction to freedom of speech. While curtailing freedom of expression should not be an option, the other spectrum of the matter, is as well dangerous, as in the cases mentioned above. The above stance should not apply only when Muslims are being vilified. Muslims as well as members of other religions, races, etc. need to respect the minorities living in their countries and ensure their safety as well.

An effective solution to this problem would be to create not only national but also international laws that prohibit hate speech. Waldron explains:

Hate speech regulation can be understood as the protection of a certain sort of precious public good: a visible assurance offered by society to all its members that they will not be subject to abuse, defamation, humiliation, discrimination, and violence on grounds of race, ethnicity, religion, gender, and in some cases sexual orientation (Waldron 2010: 1599).

5. The Harm of Discriminatory Expression

The racist or discriminatory behavior can manifest itself in different manners. From a metalinguistic perspective, as its own designation indicates, there exists an intrinsic relation with language, thus, this respect for the rights and reputation of others will include freedom from verbal and written discrimination, racist speech, be it verbal or written.

Robert C. Post (1991) listed various types of harm that racist speech produces. These can be translated to any discriminatory type of speech. These are:

a. **The intrinsic harm of racist speech**, which is based on the inherent wrongness of this type of expression because it goes against egalitarian values and in this sense, should be subject to regulation.

b. **Harm to identifiable groups** which casts contempt and mockery of a specific group of people and needs to be regulated for the prevention of any sort of harm to this particular group, be it due to race, religion, etc. According to Post, regulating this type of speech for a particular group would bring safety to all groups if the regulation is based on group defamation. On the other hand if the regulation is based on subordinate groups, the regulation will be directed towards the protection of groups which have been historically discriminated against.

c. **Harm to individuals**. This type of speech is based on defamation of individuals, invasion of privacy as well as intentionally triggering emotional psychological or torture (Post, 1991).

d. **Harm to the market place of Ideas**. Discriminatory speech needs to be considered an assault incoherent with the rights of respect and silences various sectors of the population.

e. **Harm to the Educational Environment**. Discriminatory speech in Universities can interfere with the natural progress of the educational activities, since the whole purpose of education is to value diversity, and treating all individuals with dignity.

Conclusion

The aim of this paper has been to put into context the fact that freedom of expression is simply the innate (civil) right to express ones thoughts, opinions or intellectual expression without regard of whether others agree with them or not and within the limits of the rights of others. An abuse of this freedom has

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historically brought with it problematic and retaliatory consequences which need to be avoided. "Language planning and reforms need to be able to yield benefits for the linguistic community at large rather than creating inconveniences for the speakers." (Maldonado García, 2015).

Upholding the dignity and respect of all peoples is fundamental to regional, national and international peace. Any expression which violates peace, respect and dignity of any person, race, religious group or any minority group in general etc. cannot be included in the definition of freedom of expression. Freedom of expression is a blessing but its abuse can carry serious consequences. Respecting the otherness of others is a core ethical value for peaceful international as well as national environments.

Intellectual writing is supposed to eliminate 'confusion' instead of 'creating confusion' and similarly, freedom of speech is supposed to create a congenial and friendly environment instead of creating controversy and hurt entire communities' feelings. Being insensitive to the cultural and/or religious idiosyncrasy of the members of other cultures and religions should not be sheltered under the umbrella of freedom of expression. The language utilized to address various communities, cultures, races, etc. needs to be carefully selected so as to not transgress on the rights of others.

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