

Impediment of Speech and Imbalance of Justice

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In March 2013 Gujarat Chief Minister Narendra Modi was invited by some pro-business, pro-industry students at an American university to give a keynote address via video conference. Several staff and students petitioned against the keynote address by the one who has been accused repeatedly in the murder of several thousands of his state's citizens, mostly Muslim men, women and children, ("We Have No Orders To Save You," Human Rights Watch, 2002 report on Gujarat communal violence), and "State- Sponsored Discrimination" against hundreds of thousands more in the decade that followed which has been documented by human rights organizations. The keynote address was cancelled amidst much recrimination about Modi's freedom of speech. Ironically, the chief minister has access and power to censor much of his own state's media, and uses media and communication to build his "personality cult" and to exonerate himself for the mass killings.¹

On the other hand, in November 2012 police in Mumbai arrested a 21 year old woman for complaining on Facebook about the shutdown of the city after the death of the political party Shiv Sena leader Balasaheb Thackeray. Another Facebook user was also arrested for "liking" the first woman's comment. The grounds for the arrests? "Hurting religious sentiments".² Mind you, the one who died was a politician!!!

What the above two examples present is that only those who have power and who are in power are entitled for the freedom of speech. But there is an almost systematic and continuous crackdown on free speech whenever it inconveniences the powers-that-be. Freedom of speech is highly qualified, subject to what the Indian government deems "reasonable" restrictions based on Article 19 (2) of the Constitution of India. The state can silence its citizens for any number of reasons, including "public order", "decency or morality", and "friendly relations with foreign states". Fali S. Nariman, Senior advocate

to the Supreme Court and a constitutional jurist, points out very rightly that the range of restrictions in the Article 19 (2) does not include public interest.³

In recent years, the Indian government has cast a watchful eye on the internet, demanding companies like Google and Facebook to prescreen content and remove items that might be deemed “disparaging” or “inflammatory”, according to technology industry executives there.⁴ This can be seen as a commentary on the gradual but consistent build up to the current climate in India that has facilitated the perpetuation of suppression of free speech of common people. It’s no wonder that today the world’s largest democracy is ranked a miserable 140th out of 179 countries in the Reporters Without Borders Press Freedom Index – falling nine places from last year (2012). Today Afghanistan and Qatar have a freer press than India.⁵

Indians must understand that free speech – the right to think and express one’s own ideas, convictions and opinions freely by words of mouth, writing, printing, painting or any other mode without hindrance or fear of punishment by the government – is at the core of the democracy. For democracy to work effectively, an informed citizenry is necessary. In order to be appropriately knowledgeable, there must be no constraints on the free flow of ideas and information. According to Meiklejohn, democracy will not be true to its essential ideal if those in power are able to manipulate the citizens by withholding information and stifling criticism.

What is engulfing the society is that certain powerful groups with vested interests who are driven either by fanaticism for their ideologies or by the lure of political mileage or by Greed-based capitalism are stifling the voice of the citizens through coercion and cruelty. As long as there is nexus between political class, plutocracy and corporate media, and a link between politicians and the vote bank, freedom of speech of common people is under threat.

On the other hand, free speech is also stifled by the government in the name of “security of state”. Although reasonable restrictions may be imposed on freedom of speech and expression in the interest of security of state, the term “security” is very crucial. The term “security of state” refers only to serious and aggravated forms of public order, e.g. rebellion, waging war against the state, insurrection and not ordinary breaches of public

order and public safety, e.g. unlawful assembly, riot. Thus, speeches or expression on the part of an individual which incite or encourage violence undermine the security of state.⁶

In the name of endangering the security of state, “the law often criminalises the disclosure of secrets by employees or agents of a government. However, international law recognizes that revealing official secrets is sometimes justified in the public interest. In particular it may be necessary to expose and protect against serious human rights violations, including overreaching or unjustifiable surveillance.”⁷ Often governments argue that any unofficial leakage of government policy is bad for security. But the question one needs to ask is: whose security? Of course the security that the ruling class is concerned about is the security of those in power. In other words, it means “security of their power”. The belief that their security is OUR security is the link that must be broken. And the belief that all government policies are for common good should be got rid of. At the core the primary interest of government is the perpetuation of power. Anyone who interferes with that perpetuation, even in the name of principle, is a “security risk”. The idea is that security equals the status quo. No one should dare to tinker with the status quo.

The false claim of the state is that it protects and promotes common good and democracy by doing whatever it does, and we don’t really need to know the details, and we should trust the political leaders and bureaucracy. Trust is indeed the only basis for supporting the government which hides its activities from its own citizens. But can we trust the state’s commitment to truth, law and democracy? Judging its actions, not words, which are heavily influenced by corporations since the dawn of neoliberal economic system and “free” market economy in early 1990s in India, is the key to deciding the issue.

With the ever increasing influence of corporations in every aspect of society, civic power has weakened dramatically. Citizens are made into consumers, to be entertained and fed with superficial distractions that are not really important for daily life. Democracy has turned into a façade of the corporate version of the “free” market, as the right to choose and consume manufactured products. The word “freedom” or “liberty” has been reduced

to mean the right to freely purchase goods that we often don't even need, or to choose which corporate sponsored political party to vote for. When democracy, freedom, politics, laws and idea of justice have got abstracted, people lose their relationship to what these words actually mean. Democratic principles such as free speech have become empty words. Unless we are directly affected by the first-hand experience of the deep injustice and inequality of society, people rarely think of the erosion of their rights as citizens.

The structures of power that exist are working to their own ends by extending their control over citizens without the latter's knowledge. As Elliot Sperber wrote, "If knowledge is power, then the lack of knowledge, or ignorance, amounts to a lack of, or exclusion from, power. As such, removing, obscuring, or hiding knowledge – in a word, secrecy – not only creates power, it produces powerlessness, weakness, and vulnerability as well."⁸ That's why secrecy is maintained by the state, so that people are ignorant about its activities. If people know the activities of the government and what is involved, the leadership becomes unpopular and there will be resistance to the decisions. Secrecy corrupts, just as power corrupts.

Acts of injustice are normally carried out in secret. Those in power will always try to appear to act justly. They rationalise the oppression of citizens with what appears to be sound reasoning. The rationale often put forth is that they are doing for the sake of "democracy" or "development" or "security of state". George Orwell once said, "Political language...is designed to make lies sound truthful and murder respectable, and to give an appearance of solidity to pure wind."⁹ The official rhetoric and the corporate media discourse veil the injustice and maintain the appearance of legitimacy. Once it is normalised within society, it becomes invisible and is not easily challenged. Large parts of the population remain unconscious of it and then quietly support it. History and the present day society are rife with examples of inherently unjust practices and their systematic normalisation. Caste discrimination, state violence for land and resource extraction and oppression of minorities and women are the NORMAL practices in the Indian society.

This normalisation of oppression and inequality is spreading throughout the world. Government secrecy helps veil the violence and inequality. When oppression is covered up, the citizens are kept in the dark about the consequences and effects on their own lives.¹⁰ When the scale of justice is so out of balance and the scale weighs one side over the other with obvious bias time and again, with the mainstream media functioning as a blatant mouthpiece of those in power with manipulation of truth, this broken scale of justice is normalised.

As the society is descending into tyranny with the broken scale of justice, courageous women and men, particularly those working for NGOs in India and around the world like WikiLeaks, exposed the secret activities of governments in order to rebalance the scale of justice. Whistleblowers pulled the curtain for the people to see the truth of increasingly lawless governments. Leaked documents have revealed key aspects of worldwide systemic oppression that is carried out through collusion between governments and transnational corporations. With the scales of ignorance being removed, oppressed public all over the world have begun to counter the drastically tilted scale of justice so weighed toward the powerful. Those indifferent to innocent human life and democracy are less angry at the political, bureaucratic and corporate powers' violence and threat to democracy than those who are sensitive to injustice and tyranny of the state. Attempts to be neutral in a situation where injustice is so rooted in society can lead to one becoming complicit in perpetuating the oppression.

Obviously those in and with power react violently against those who challenge the status quo. They discredit them by labelling them as pariahs, radicals or terrorists. The oppressed are presented as aggressors, unpatriotic and subversive. The state unleashes its violent power against those who try to restore democracy and justice by hunting them down and punishing.

Look at how the US, as a wounded venomous cobra, has started its malicious attack on its former CIA employee Edward Joseph Snowden for exposing its unlawful, criminal and undemocratic activities within US and in other nations. Snowden, in his courageous, principled expose, has brought out the spying programme of US' National Security Agency (NSA) that includes the accumulation of detailed phone records on

nearly every individual in the US, as well as a programme of Internet spying spanning the globe with close collaboration of major tech companies, including Google and Microsoft. This spying is clearly to establish or strengthen US' political, economic and military clout. Snowden refers this massive surveillance programme as "architecture of oppression" with limitless aims: "They are intent on making every conversation and every form of behaviour in the world known to them."¹¹ Sergei Nikitin, head of Amnesty International's Moscow office, said, "What he (Snowden) has disclosed is patently in the public interest and as a whistleblower his actions were justified. He has exposed unlawful sweeping surveillance programmes that unquestionably interfere with an individual's right to privacy."¹²

The true colour of self acclaimed leader and promoter of freedom, democracy and human rights is out in public gaze. Now it's clear than ever before that US' official enemy is not this country or that, not Al Qaeda or Taliban, not this religion or that, but the spread of peace and real democracy, and the demands for human and civic rights, all of which threaten the pre-eminence of the military-industrial complex and prevent the plunder by its multinational companies, which govern the US, irrespective of which party is elected.¹³

Snowden knew that he was taking on a mighty power. He stated, "That moral decision to tell public about spying that affects all of us has been costly, but it was the right thing to do and I have no regrets."¹⁴ He made clear that he fears for his safety as a result of his actions: "Yes, I could be rendered by the CIA. I could have people come after me. Or any of the third party partners. They work closely with a number of other nations."¹⁵ His fears are entirely justified, given the punishment meted out by the US government to whistleblowers like Bradley Manning for releasing to WikiLeaks evidence of massive criminality abroad.

The threats of the US establishment did not deter Snowden. He said that he was motivated by a desire to defend the public against a vast expansion of state power. "Allowing the US government to intimidate its people with threats of retaliation for revealing wrongdoing is contrary to the public interest. It's important to send a message to government that people will not be intimidated."¹⁶ He further said, "I can't in good

conscience allow the US government to destroy privacy, Internet freedom and basic liberties for people around the world with this massive surveillance machine they are secretly building.”¹⁷ He believed that the obligation to correct this wrongdoing of the state transcends the national obligations of obedience, as stated in the principle declared at Nuremberg in 1945: “Individuals have international duties which transcend the national obligations of obedience. Therefore, individual citizens have the duty to violate domestic laws to prevent crimes against peace and humanity from occurring.”¹⁸

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- ² Suketu Mehta, “India’s Speech Impediments.” http://www.nytimes.com/2013/02/06/opinion/indias-limited-freedom-of-speech.html?_r=0
- ³ Satarupa Sen Bhattacharya, “Is Free Speech an Indian Value?” <http://www.indiatogether.org/2013/apr/hrt-freedom.htm>
- ⁴ Suketu Mehta, “India’s Speech Impediments.”
- ⁵ Suketu Mehta, “India’s Speech Impediments.”
- ⁶ Dheerendra Patanjali, “Freedom of Speech and Expression: India V America: A Study.” http://www.indialawjournal.com/volume3/issue_4/article_by_dheerajendra.html
- ⁷ “Countries Should Consider Snowden’s Asylum Claim Fairly.” <http://www.hrw.org/news/2013/07/03/countries-should-consider-snowden-s-asylum-claim-fairly>
- ⁸ Kevin Zeese and Margaret Flowers, “Organized Resistance Brings Sweeping Change: Lessons for the US,” 5 July 2013. <http://www.alternet.org/activism/organized-resistance-brings-sweeping-change-lessons-us?paging=off>
- ⁹ Nazomi Hayase, “Julian Assange and Tilted Scales of Justice,” www.dissidentvoice.org, 16 February 2013. <http://dissidentvoice.org/2013/02/julian-assange-and-tilted-scales-of-justice/>
- ¹⁰ Nazomi Hayase, “Julian Assange and Tilted Scales of Justice.”
- ¹¹ Thomas Geist, “NSA Whistleblower Reveals Identity, Exposes US Government’s ‘Architecture of Oppression.’” <http://www.wsws.org/en/articles/2013/06/10/snow-j10.html>
- ¹² Jon Queally, “Snowden Calls Out for Justice and Support: ‘I Did What I believed Right’.” www.commondreams.org, 12 July 2013. <http://www.commondreams.org/headline/2013/07/12-1>
- ¹³ S.G. Vombatkere, “Edward Snowden’s Wake Up Call: Cyber Security, Surveillance and Democracy,” www.countercurrents.org, 21 June 2013. <http://www.countercurrents.org/vombatkere210613.htm>
- ¹⁴ Jon Queally, “Snowden Calls Out for Justice and Support: ‘I Did What I believed Right’.”
- ¹⁵ Glenn Greenwald, Ewen MacAskill and Laura Poitras, “Edward Snowden: The Whistleblower behind the NSA Surveillance Revelations,” *The Guardian*, 10 June 2013. <http://www.guardian.co.uk/world/2013/jun/09/edward-snowden-nsa-whistleblower-surveillance>
- ¹⁶ Thomas Geist, “NSA Whistleblower Reveals Identity, Exposes US Government’s ‘Architecture of Oppression.’”
- ¹⁷ Thomas Geist, “NSA Whistleblower Reveals Identity, Exposes US Government’s ‘Architecture of Oppression.’”
- ¹⁸ Edward Snowden, “What I Have Done Is Costly, But It Was the Right Thing to Do,” www.commondreams.org, 12 June 2013. <http://www.commondreams.org/view/2013/07/12-6>