

On Freedom of Speech and Censorship

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I was imprudent enough to bring back from a trip to New York a copy of the Universal Declaration of Human Rights, bought at the UN shop, which I gave to my then eight-year-old son as a present. For the following months, he persecuted me by 'claiming his rights' while making unreasonable demands, booklet in hand. While this is a lovely memory of a bright child, many of the demands I now witness being made by individuals - most often on behalf of their 'communities' in furtherance of 'rights' - are characterised by the same self-centred immaturity.

Beyond a certain age, individual 'free choice' within a group, be it family or society, needs to be confronted and balanced with the rights of others. In other words, human rights in general and freedom of expression in particular exist not in abstracto but in specific social circumstances that must be taken into account when it comes to exercising these rights.

The trend is to essentialise human rights today; it is therefore crucial to look into their historical and political construction.

Universalism vs the return of the divine

Human rights, historically, were constructed as protections of the powerless against abuses by the powerful. The *1689 Declaration of Rights* protects British citizens against the king's power. The *1789 Declaration of the Rights of Man and Citizen*, the brainchild of the French Revolution, with its corollary - secularism, defined as separation of state from religion - protects French citizens against the 'divine' power that the king derives from god, for it is the church that is crowning him on behalf of god. This literally makes him the representative of god on earth.

Hence, the development of secularism and the secular laws that are voted on - one man, one vote - by all (male) citizens, rather than decided upon by the king in the name of god. Unfortunately, women were not included, despite protests led by Olympe de Gouges - who paid with her life for her commitment to human rights for all.

The *1948 Universal Declaration of the Rights of Man* (which does extend rights to women, although they are seen as represented well enough by 'Man' in its title, but which leaves out the 'citizen') goes beyond a specific country to extend its jurisdiction to all human beings.

The *Universal Declaration* was drafted after the two extremely bloody world wars - in other words,

European-interest wars - although they involved 'colonial' troops while fighting also for domination over non-European territories. It was adopted by the General Assembly of the United Nations on 10 December 1948, in Paris at the Palais de Chaillot (hence the designation of 'Droits de l'Homme' (rather than 'droits humains'), which till today prevails in French), by resolution 217 (III) A. It was composed at the time by 58 member states, out of which 48 adopted the Universal Charter.

It was thus the responsibility of the newly formed United Nations Organisation (UNO) to guarantee these rights. The Blue Helmets were designed to enforce these rights internationally.

Universal rights today are highly contested and attacked as 'Western' values, even though several former colonies - today branded 'Third World' countries - were directly involved in drafting and conceptualising the Universal Declaration (1).

Fifty seven countries set up an international organisation that met and notably drafted an alternative Declaration of Rights in Islam, which was adopted in Cairo on 5 August 1990 (2). Although some of its provisions definitely contradict and prove incompatible with those of the Universal Declaration, it is clearly acknowledged and taken into account at the UN level.

This marked the return of the 'divine' that plagues and confuses human rights principles. And it sealed a de facto end to a universalist vision of rights. However, there is still little thinking done in regard to conflicting rights.

Human rights vs Politics

Of course, history has now taught us that in many instances, it is allegedly to protect the human rights of others that imperialist invasions have been perpetrated - as was the case in Afghanistan.

Moreover, I have lived long enough to witness the many instances where human rights principles have been trampled, betrayed and abandoned by those supposed to guarantee them; by governments of all shades and colours; by human rights organisations; by the 'independent' media; by liberal politicians and others. In fact, I cannot recall a time when human rights have not been instrumentalised by and subsumed to political interests. Let's look at some examples illustrating this point.

During the liberation struggle of Algeria (1954-62), after the peak of violations by the French colonial troops during what was dubbed the 'Battle of Algiers'(1956-57), human rights advocates (3) sent two thousand files on cases of 'disappeared' people at the hands of the French army - a clear case of extrajudicial killing - to the daily *Le Monde*. This paper was much-praised for its reliability, integrity and independence but it never published one line about these cases, although defence lawyers who had supervised the elaboration of these files said they could stand in court. *Le Monde* did not want to risk being banned by the pro-war French government for championing human rights.

More recently, during the 'war against civilians' in Algeria in the 1990s (5) that had an approximate toll of 200,000 victims, largely at the hands of extreme right Islamist armed groups (such as GIA, AIS, FIDA, MIA, and more), many citizens and specifically women belonging to women's rights groups begged international human rights organisations to report extensively on crimes committed by these 'non-state actors' (4).

This was in vain: one look at any of their annual reports (6) shows that those violations are barely mentioned, while crimes and violations committed by the state occupy the quasi-totality of the pages devoted to our country.

Moreover, in the late 1990s, the three founding members of the first Amnesty International section in Algiers were expelled from the organisation without notice, in response to a private letter they had written to the then Paris-based general secretary of Amnesty International. They had written to let him know how Algerian people felt about Amnesty's one-sided reports regarding the war raging in Algeria and its numerous civilian casualties. They were not even given a chance to meet and explain their concerns, nor did they receive a word of thanks for their years of dedicated work for the organisation. In this personal letter - I still hold a copy of it - they first remind the general secretary that they are faithful members of the organisation. They introduced themselves as: *'founding members, members of the executive bureau, coordinators and members of group 1 of the Algerian section of Amnesty'*.

They also indicate that they are merely sending 'some observations' in their 'personal capacity'. The observations are made with respect to a report on Algeria published by the organisation as well as the 'press release that announced the publication of the report'. Their first observation is that: *'This press release, which is aimed at informing large audiences nationally and internationally, clearly shows an unbalance in presenting the document itself.'*

The three founding members then go on to spell out the reason for the unbalance. By *'giving more space to some parts (state responsibility) and keeping silent about other parts (the action of armed terrorist opposition groups), this press release shows a lack of objectivity on the part of AI in its appreciation of the wave of violence that is shaking Algeria'*. And they conclude that *'this press release only reinforces the emphasis already existing in the report, of only condemning one of the parties in conflict'*.

They appeal to Amnesty's principle that *'partisan interpretations'* should be avoided. Like the head of Amnesty's gender unit ten years later, they point at *'the devastating effect that this press release had on public opinion in Algeria, including among those who till then were strong supporters of AI'*. They conclude: *'We feel compelled to inform you of the damaging consequences for the movement as well as for the struggle against violations of human rights that we have been waging till today in our country.'*

On 7 February 2010 the head of Amnesty International gender unit was suspended from her job (7). This was hours after the publication of an article in the UK paper *The Sunday Times*, where she made public - after two years of sending internal reports and analysis to her colleagues in vain - her concerns about Amnesty International's legitimisation of a former Guantanamo Bay detainee as a human rights defender. This man, Moazam Begg, moved from the UK to Pakistan with the declared intention to join the fundamentalist armed groups in Afghanistan. He has stated: 'The Taliban were better than anything Afghanistan has had in the past 25 years' (2007:214).

He was supported by Amnesty far beyond the defence of his fundamental rights not to be tortured and illegally detained. He was accompanied in person by Amnesty's general secretary during a European tour planned by Amnesty, where he had meetings with European heads of state and prominent political figures - also arranged by Amnesty. Begg was able to share his views with political elites while the woman who criticised the access he was given to such spaces was silenced.

The selection process that Amnesty, as well as other human rights organisations, uses to decide who to defend and who not to defend and the extension of its mandate to providing fundamentalists with a political platform - rather than just defending their fundamental rights - all amounts to taking a political stand.

In more recent times, not even the Paris massacre of the *Charlie Hebdo* journalists - whose only weapons were their free pens - not even Professor Samuel Paty's decapitation while teaching the

official curriculum on freedom of expression, had raised unequivocal support from human rights organisations, the media or politicians and democratic governments. The victims – just for having exercised their fundamental right of freedom of expression – were largely accused of having ‘provoked’ retaliation, of ultimate responsibility for their own assassination.

This is a far cry from how rights defenders on the ground understand ‘freedom of expression’. In the words of courageous Indian Muslim intellectuals and activists gathered on 26 October 2020 to reflect on freedom of expression and Paty’s murder:

We are here to condemn in unequivocal terms, no ifs and buts, not only the man responsible for this barbaric act but all those who had any role in the instigation of the crime as also all those who seek to justify it. We are here not just to condemn the slaying of Mr Paty, but also to demand the abolishing of apostasy and banishing of blasphemy anywhere and everywhere across the world. (8) A two-minute silence was observed at the beginning of the webinar as a mark of respect for the slain teacher described by Hassen Chalghoumi, an imam who leads prayers at a mosque in a Paris suburb as ‘a martyr for freedom of expression, and a wise man who has taught tolerance, civilisation and respect for others’. (9)

It is clear enough that human rights organisations pick and choose whose freedom of speech – and other human rights – they are going to defend. In that they fail in their commitments and their *raison d’être*.

A hierarchy of rights

Definitely, women are not high on the priority list of groups that human rights organisations are willing to defend.

For example, throughout the 1990s, armed fundamentalist groups in Algeria openly posted the names of targeted individuals on the doors of mosques – for combatants to take action against. They then issued press releases announcing in advance which specific categories of people (10) they would kill (they used the term ‘execute’, for they claimed to be both judges and executioners). The declared categories were as follows: ‘journalists’, ‘artists’, ‘intellectuals’, ‘foreigners’, ‘women’... Yes, in the fundamentalists’ own words, in their published ‘communiqués’: ‘women’. This is not a profession anyone could leave, as journalists or artists could; nor would there be a country to flee to, as foreigners could. In other words, as in Algeria, fundamentalists everywhere condemn to death women for who they are, not for what they do.

Armed fundamentalists did implement their plans as announced and then went on to publicly claim responsibility for the murders and assassinations they had perpetrated within the said categories. Among the estimated 200,000 victims during this period, there was a substantially high percentage of women (some say more than 50% but I do not have reliable figures) who were mutilated, killed, beheaded, slit, burnt, raped and taken to the fundamentalist camps to serve as domestic and sex slaves (11).

Can the demand that women be secluded, forbidden to learn or to work (as under the Taliban, then and now) or else executed if they transgress the orders, and that democrats, secularists and religious minorities be physically eliminated – can this be considered an ‘*opinion*’ at all? Does voicing this ‘*opinion*’ falls under ‘freedom of speech’? Is it not hate speech?

Can a human rights organisation promote – in any way – anyone who publicly supports political movements holding these ‘opinions’ (12)?

Clearly, women's rights came last in their list of rights to be defended, long after 'minority rights', 'religious rights' or 'cultural rights'.

Whose freedom of expression?

So, should we stand for freedom of expression, knowing that political forces, *including* human rights organisations that dare pretend that they are apolitical, will selectively apply it in ways that have been quite dissatisfactory? Human rights principles were designed as *tools* for greater social justice. Tools in and by themselves are neither good nor bad: it depends on whose hands they rest in. Various political forces (including the religious fundamentalist ones) invariably succeed in monopolising rights for themselves to achieve their political aims, while denying similar rights to their political opponents.

Catholic fundamentalists not only oppose reproductive rights for their followers, but they also deny these rights to others who don't share their faith; moreover, they also deny others the right to even speak about contraceptive methods and abortion. When they are in command in a country, they make laws in accordance with their beliefs and deny others who don't share these beliefs the right to even discuss the issue. For example, the law of 31 July 1920 in France (13) - a law passed under a government eager to comply with demands of the church to boost population growth after WWI - forbade not only the use, but also access to knowledge of contraception and abortion. Sharing this knowledge was deemed '*incitement*' to a crime (the law: '*réprime la provocation à l'avortement et à la propagande anticonceptionnelle*'). Anyone contravening the law could be sentenced to death. The last execution took place in 1943, during WWII. This law plagued French women's rights and freedoms until 1967, when it was abolished.

When in power Muslim fundamentalists also prevent free discussion of issues they deem 'un-Islamic' and severely punish by law those who exercise their right to have different opinions (freedom of conscience) and to express them (freedom of speech). Both can be punished by death sentence. They routinely reflect on their 'right' to kill the unbelievers, Jews, gays, atheists and others for blasphemy and apostasy. Ali Belhadj, vice president of the Islamic Salvation Front (Front Islamique du Salut or FIS) announced in advance on the eve of the 1991 elections in Algeria that should his party win the elections, there will be no more elections. He argued: '*If one has the law of God, why should one need the law of the people? One should kill all these unbelievers.*' The FIS won the first round of the elections, but the second round of elections was cancelled by the then government for fear that the FIS coming to power through legal means (elections) will end of democracy in Algeria. Many dictators in history, such as Hitler, came to power through elections and one could barely say it was for the greater benefit of democracy and human rights.

However, in the case of Algeria when elections were cancelled after Ali Belhadj's statement, it was the government that was deemed undemocratic by international human rights organisations. Meanwhile women's organisations, worker's unions and all democratic and progressive people in Algeria were taking to the streets, begging the government to urgently take this politically difficult decision.

In all circumstances and places where they exist, Muslim fundamentalists say and write that they have a right and duty to eliminate the untermensch (namely Jews, communists, free thinkers and gays). When they are in power, they issue edicts that officially allow for their physical elimination and murder. When they are not in power, they still perpetrate killings according to their doctrine, as has been seen - apart from within our own countries - in the UK and France again and again. Priests and churches have been attacked, synagogues and Jewish schools, secularists, writers, cartoonists,

journalists and women who did not conform to their dress and behaviour codes.

Muslim fundamentalists preach in advance what they later act upon and/or inspire others to act. By doing so they exercise their freedom of expression but deny others the same right and all other human rights as well.

In France, both the massacre of *Charlie Hebdo* journalists in Paris, the attack on a Jewish primary school in Toulouse (where three children and an adult were assassinated within the premises) and the murder of Professor Paty near Paris are good illustrations of the fact that the murderers were sometimes tutored by long-distance-Islamist writings and statements, and thus incited to take action against people – their victims – they had never seen before. The actual crimes are a direct consequence of their instigators and sponsors' freedom of expression.

Does this make me an opponent of freedom of speech? No. But it is increasingly hard for me to understand how honest liberal intellectuals continue to defend free speech unconditionally, refusing to even reflect on the fact that words – written or spoken – do have serious consequences in real life.

I do think we all have to take our responsibilities in the present situation where we cannot plead naiveté any longer, and we cannot rely on official human rights organisations to acknowledge the difficulties of the actual situations and think of ways to negotiate conflicting rights. The concept of hate speech is an attempt to limit the damages: someone cannot invoke rights to freedom of expression when they are publicly using it to incite violence against a person.

Rights are for protecting persons, not ideas or beliefs

French law makes a clear-cut distinction between attacking a person and attacking an idea: one cannot insult (hate speech) or attack a person; this will be dealt with in court. But one can insult, belittle, criticise or ridicule all the ideas and beliefs (including religious beliefs) of any given person. For secularism oblige, the state is no longer (since the 1789 French Revolution) in charge of protecting religions and negotiating with their representatives. The state's charge is its citizens and not their ideas and beliefs, which can be freely debated and contested.

This is different from the UK where a person's ideas and beliefs must be respected, regardless of their absurdity. This has led to an unbelievable confusion towards what friends in India call '*the industry of hurt sentiments*'. In the UK and its former colonies, which inherited the British concept of secularism as equal tolerance by the state of all religions, this redefinition of secularism is breeding communalism. This involves unequal rights for different categories of citizens through specific laws of personal status, and representatives of different religions competing for more recognition and privileges from the state. This breeds communalism.

Further, it is not ideas and beliefs that are debated any more, but exclusively the sentiments and feelings of those who hold these ideas or beliefs dear to their hearts and cannot take the fact that others don't share them and dare to say so. How far have we gone that hurt sensitivity can now lead to murder and justify it? And that this is done for the alleged furtherance of rights? As Kenan Malik wrote in '*Forgetting the Lessons of Free Speech Struggles*':

One of the ironies, though, is that many arguments used today to defend speech restrictions as protections for the powerless are often the same as those once used by the powerful to protect their interests from challenge. When the US abolitionist newspaper editor Elijah Lovejoy was murdered in 1837 by a pro-slavery mob in Illinois, a southern newspaper blamed him for his own death, as he had "utterly disregarded the sentiments of a large majority of the people of that place". A century and a

half later, we heard the same arguments in calls for the banning of *The Satanic Verses* or in claims that the Charlie Hebdo cartoonists were responsible for their own deaths, because they, too, had “disregarded the sentiments” of many Muslims (15).

In Salman Rushdie’s ironical words, in an interview with the *New Yorker* entitled ‘*On Censorship*’: *...to say nothing of poor, God-bothered Charles Darwin, against whom the advocates of intelligent design continue to march. I once wrote, and it still feels true, that the attacks on the theory of evolution in parts of the United States themselves go some way to disproving the theory, demonstrating that natural selection doesn’t always work, or at least not in the Kansas area, and that human beings are capable of evolving backward, too, towards the Missing Link* (17).

As a conclusion, denouncing an apocryphal quote from Voltaire

We love and cherish freedom of expression and freedom of conscience, which is a precondition to freedom of expression:

‘Imperfectly free, imperfectly breathable, but when it is breathable and free we don’t need to make a song and dance about it. We take it for granted and get on with our day. And at night, as we fall sleep, we assume we will be free tomorrow, because we were free today,’ Salman Rushdie also said in ‘*On Censorship*’ (above source).

However, we have to face the fact that free speech, this wonderful effort towards human emancipation, is only a tool. And it is now being appropriated, misused and perverted by political forces that aim precisely to do away with human rights for all. We see this with Muslim fundamentalists in Algeria attempting to win elections while intending to abolish them in future as soon as they take power.

What is to be done against the enemies of liberty when they use the very tools one designed to set everyone free?

French Enlightenment writer, historian and philosopher Voltaire is known for his criticism of the Roman Catholic Church – as well as his advocacy of freedom of speech, freedom of religion, and separation of church and state. He is often quoted as saying: *‘I disagree with what you say, but I will fight until death for you to have the right to say so’*. This quote is apocryphal; British author Evelyn Hall’s unfortunate misuse of quotation marks in her 1906 publication entitled *The Friends of Voltaire*, attributed to him her own appreciation of his writings...

No doubt that liberals and blind supporters of freedom of speech love this false ‘quote’: for them all ideas are equally respectable. Not for me. Not for those who die because young men and now sometimes women read or listen to terrifying ideas that deny the human rights of others – especially the right to live.

But Voltaire was too intelligent and witty to ignore or underestimate the damage done by the spreading of inhuman ideas such as ethnic or creed superiority over untermensch. We cannot plead naiveté. We know that the fiercest opponents to freedom of speech are using this very concept as a tool to spread their ideas in order to come to power – and then silence others.

Saint Just (1767-1794) – a very young French revolutionary, political philosopher, member and president of the French National Convention, Jacobin club leader – was a major figure of the French revolution. He was a close friend of Robespierre and served as his most trusted ally during the period of Jacobin rule (1793-94) in the French First Republic. Sitting in the Committee of Public Safety, he sent many opponents of the revolution to their deaths by decapitation, defending the use

of violence against opponents of the government. His motto was: *'no freedom for the enemies of freedom'* (pas de liberté pour les ennemis de la liberté). He was executed at age 27, just after the anti-revolution coup of 9 Thermidor (27 July 1794).

How does one negotiate between liberal freedom for all – whatever the costs and interests that it serves – a concept wrongly attributed to Voltaire, and the drastic silencing of the enemies of human rights advocated by Saint Just? Is there a space in today's thinking for going further in limiting hate speech?

At the very least, one should definitely be aware that human rights are nothing but a tool that can have devastating effects in the wrong hands, opposite to its intended effect.

I do not blame anyone for not having the perfect solution to this dilemma, but I do resent the good conscience with which, all in the name of human rights, some people are thrown to the beasts, left to die and rot under the boot of others.

Marieme Helie Lucas

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