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Removing Fear: On Literary Freedom

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(This editorial is based on the article “Removing Fear: On Literary Freedom” which appeared in The Hindu on 7th January 2019.)

Freedom of expression is often considered a generalized thing, supposedly guarded by the Constitution, but in reality it extends only to a short distance of someone else’s feelings of outrage and hurt. **It is argued that literary freedom is taken for granted in democracies, but the forces that threaten or undermine literary freedom are always active.**

In recent times, several attempts to get books withdrawn, pulped or sanitised of offending content have achieved full or partial success in India.

For example, Wendy Doniger’s **The Hindus: An Alternative History** was withdrawn from circulation, and A.K. Ramanujan’s essay ‘**Three Hundred Ramayanas**’ was dropped from a Delhi University syllabus. Tamil writer Perumal Murugan’s **Madhorubagan** (One Part Woman) was withdrawn by the author under mob pressure but resurrected by a Madras High Court verdict.

In light of this, The Freedom of Literature Bill, 2018- a private members bill was introduced recently in Lok Sabha.

- This aims to remove provisions that can be misused to harass authors.
- The Bill suggested far-reaching amendments to various statutes to make it difficult for governments to ban books and to provide safeguards for authors and scholars from arbitrary and exhausting legal battles.
- The Bill envisages reading down [*to ‘read down’ simply means reducing the vigour of the law by giving it a restrictive interpretation and often striking down a few words (which are affecting the rights of individuals), instead of declaring the whole provision unconstitutional*] Section 295A of the Indian Penal Code that provides for imprisonment of up to three years for “deliberate and malicious acts intended to outrage religious feelings or any class by insulting its religion or religious beliefs,” as

well as Section 298, which is similar to 295A as it criminalises speech critical of religious organisations or religious figures, and therefore a major deterrent to free expression.

- Its objective — that “authors must be guaranteed the freedom to express their work without fear of punitive action by the State or by sections of society” .

Drawbacks

- The Bill argues that section 295A is a grossly misused section, often invoked in trivial ways to fool individuals, harass writers and curtail free expression and deserves to be scrapped. Sections that relate to the sale of obscene books and uttering words that hurt religious feelings are also sought to be omitted.
- However, it is unclear why Section 153A, which punishes those who promote enmity between groups on grounds of religion, race or language, and Section 153B, which criminalises words and imputations prejudicial to national integration, do not draw attention of the Bill.
- In the process of proscribing a book, the Bill proposes an improvement in the form of a temporary prohibition. Thereafter, the responsibility should be on the State government to approach the High Court to seek a permanent ban.
- Further, it favours the scrapping of the provision in the Customs Act to ban the import of books, but makes a public order exception.
- It wants to limit the bar on obscenity in the Information Technology Act to child pornography.

Private Members Bill

Private Members may also move a legislative proposal or Bill which he thinks fit to be there in the Statute Book. He may give notice of his Bill along with the text of the Bill to be drafted by him as the Secretariat may render only technical advice, if so desired, in drafting of a Bill by a Private Member.

- **Notice to introduce:** The period of notice of a motion for leave to introduce a Bill is one month, unless the Chairman allows the motion to be made at shorter notice.
- **Number of Bills permissible:** A member can give a maximum of three notices for introduction of Private Members Bills during a Session.
- **Listing for introduction:** A Private Member's Bill in respect of which notice of motion for leave to introduce has been given is entered in the List of Business for the day allotted for Private Members' Bills as the first item for the purpose of introduction.

Importance of Literary

- Literature has played an important role in history. It has been used and is still being used as a tool of promotion and information. At the same time, literature has played a

huge role in pretty much every major revolution in history.

- **Newspapers like Vande Mataram, founded by Bipin Chandra Pal in 1905, Jugantar Patrika founded by Barindra Kumar Ghosh, Abhinash Bhattacharya and Bhupendranath Dutt, 1906, and Harijan founded by Gandhi in 1932 sought to make Indian citizens not only socially and politically aware but also unite them for one common cause.**
- Pamphlets written and distributed across India provided critical information and served as propaganda against the British. However, many intellectuals of the time also considered it important to use fiction and poetry for a patriotic purpose and to create a nationalist discourse.
- Active participation in democracy- Literary somehow helps the citizens to actively participate in the smooth functioning and operation of democracy as it helps in proper decision making.
- Expression of beliefs and attitudes- in a country where there exists people of different religion, caste and creed; freedom of speech helps in proper expression of beliefs and attitudes.
- Literature provides various perspectives and constructive criticism which is one of the main components for a healthy democracy.
- **Open discussions will help the society to discover the truth and facilitate healthy and sound decision making, open discussions significantly help in the running of a democracy and other political institutions contained within.**

Status of Literary Freedom in India

- **Public order, national unity and social or religious harmony are the principles commonly invoked against the practice of literary freedom.**
- Threats to free expression, especially artistic freedom, in recent times mainly come from those claiming to adopt the interests of a particular religion or social group.
- India's democracy is nothing if not raucous. The huge array of newspapers and 24-hour television news channels are often vociferous in their criticism of politicians. But the media's determination to root out corruption in the past two years has prompted a backlash. Talk of more stringent regulation is mounting.
- At fault, many say, is a thin-skinned government that gives in to the demands of violent mobs, ostensibly to make political gains but in fact to suppress its critics.
- The government cites images which are insulting to one of India's many religions, saying that it could provoke unrest. It is therefore up to social media sites, the government says, to manually screen and censor all potentially offensive content or face prosecution.

Way Forward

- As a private member's Bill, the legislation has hardly any hope of passing, but it

reflects the contested terrain of freedom of speech and expression despite constitutional safeguards.

- Private Bills rarely become law, but they are useful in highlighting gaps in the body of law. Seen in this light, this private members bill is most welcome as a step towards removing or diluting penal provisions that inhibit literary freedom.
- “No freedom can be absolute,” and hence literary freedom would also need relevant checks and balances. But those checks and balances should not curtail our right to express ourselves.

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