

ISSN: 2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

www.ijlra.com

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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

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Freedom Of Artistic Expression: A Critical Analysis

Auhtored By - Anindita C Bhaumik

Abstract:

Freedom of Speech and Expression is hailed as the mother of all rights, whose enjoyment is quintessential to the enjoyment of various other rights. Freedom of Speech and Expression, includes within its ambit various implied rights such as right to receive information, right to hold opinion, right to criticize, freedom of press and the plethora of rights associated with the same. This paper, however, is not focused on the abovementioned rights but rather on the right to freedom of artistic expression which is another implied right within the penumbra of Article 19(1)(a) of the Indian Constitution. Such said right although finds no explicit mention in any of the legislations of the Country, in a way, it can be said that it has taken the country by the storm. It would seem that the trend and the rate towards curtailing the freedom of artistic expression has not only indicates an upward trend but rather has also assumed, in a short span of time, which although owes its origin to a much earlier time, a rather bad form with worse implications. Such implications include impact on the exercise of the fundamental right, cultural right, as has been accorded vide various International Instruments, human rights and livelihood thereby deteriorating not just the democratic ideals but also the growth of the society. The paper is an attempt at understanding the relationship between artistic expression and freedom of speech and expression. Then the author maps out the various laws, both at the national and the international level providing protection to such said right. The author then critically analyses the status of the right in the current scenario which showcases the role of actors- State and Non-state and the poor condition of the artist, in India and across the world. This paper has been attempted with the objective of understanding right to Freedom of Artistic Expression and the possible solution to its abuse even with the presence of laws both at the national and the International levels. Given that censorship and religious fundamentalism happens to be the theme of the current time, perhaps stringent response and fresh laws on the same is the solution.

Keywords: Freedom of Speech and Expression, Censorship, Freedom of Artistic Expression, Cultural Right, Fundamental Right.

INTRODUCTION

Art is that form of expression, which although intangible from the point of definition holds the capacity to make one look at things from a different angle, with the same eye. Art is different for different people. Although art is not capable of being defined, but artistic work has been defined under the Copyrights Act, 1957. The associated rights of the artist that comes with such protection to art, however is not the subject of discussion. This paper does not delve in that, it only proposes to analyse and understand the freedom of artistic expression. The scope of the paper, however, does not delve with the same. Rather deals with the freedom of artistic expression as provided under the Indian Constitution, its analysis and understanding. The freedom of artistic expression does not find any explicit mention in any of the legal statutes of India or even in the Indian Constitution. But, only within the umbrella of Article 19(1)(a) which provides for freedom of speech and expression thereby deriving its legal validity.

Abovementioned is an idea to what entails an art. As mentioned, art has either been vaguely defined or nowhere defined, precisely, excepting art work. So, this entails that the art work, when original, which it mostly is, unless copied or not appropriately acknowledged, will be given legal protection and by virtue, the artist. Speaking of law and regulation, the discipline is concerned with the interests, welfare and as such the rights, duties and liabilities of the citizens and concerned actors. And, if art was to be a medium through which the mind of the audience, receiver or viewer was to be enriched by form of idea, feelings or emotions, then it can be said that each artist has their own unique way of communicating or using that medium notwithstanding the resultant impact of such art. However, it would seem that there has been increasing violation of artistic freedom. This paper is an attempt at understanding art, its expression and its regulation in the legal scenario with current backdrop of the society which poses factor hell-bent on being the bottleneck in the enjoyment of the right.

If art was to be a medium through which the mind of the audience, receiver or viewer was to be enriched by form of idea, feelings or emotions, then it can be said that each artist has their own unique way of communicating or using that medium notwithstanding the resultant impact of such art. This paper deals with such ways of expression of artistic work, which, in today's time, increasingly finds itself shackled on certain ground-breaking factors which, if continued will soon become the reality of the society and the same need be addressed so as to achieve the transformation in the society with which the fundamental rights have been incorporated in the Indian Constitution.

ART AND ITS LEGAL DEFINITION

It is quite difficult to put a certain understanding to the term 'art' for it is a creative endeavour, which some even may call an experience of the spirit- a pure one¹. So, how does one truly define it? One cannot define it, understand it-yes but give it a meaning, how? After all, it depends on the person who is viewer or the recipient, it is not just the eye but also how the mind interprets it². The emotive force that the recipient of such artistic work applies depends on psychological and personal factors such as age, culture, civilisation, gender³, whereby a link between our cognitive mind and our emotions, feelings or senses are established dictated by the ability of the person to reflect, accept differing perspectives and complex issues, experimentation and learning.

Now, we know that everything under the sun has an element of legality to itself. Art, in a similar manner is under the same banner as it is not just the creative expression of spirit but also, in modern times, a source of livelihood. Art as a source of sustenance can be objected to, because it is not just films, music, novels or paintings that are 'art'. In the opinion of the author, it may very well be said that anything, that has a creative touch to it, expressed in a unique manner, instilling some semblance of value, or emotion or some idea or even feeling in the recipient or viewer⁴ can be said to be an art. It is the perfect amalgamation of inspiration from nature, which remains a debatable concept till this day given the presence of ambiguities⁵ and imagination with the end result as a masterpiece transcending creation and its limits^{6 7}. Per the requirement of the topic at hand then, if one is to understand such freedom, law inevitably will have to dive into understanding what art is notwithstanding the fact that it is primarily concerned with the rights, interests and duties of the citizenry, at large and in this particular instance, of the parties before it⁸. At such a critical juncture when there exist different forms of art which makes it only difficult to define the same. So, how does law regulate it?

Law needs a precise definition as opposed to limited understanding and insights, which can apply to situations that have arisen and that is yet to come, subject to modification, which is

¹ Alfredo Casella, Otis Kincaid, What is Art?, 8, Oxford University Press, 1, 1, (1922).

² Mataichi Miya, What Is Art?, 217, The North America Review, , 829, 829, (1923).

³ *Supra* note 1.

⁴ Dr. Derek Fincham, How Law Defines Art, 14 J. MARSHALL REV. INTELL. PROP. L. 314, 314 (2015).

⁵ A.J. Close, Commonplace Theories of Art and Nature in Classical Antiquity and in the Renaissance, 30 JHI, 467, 467, (1969).

⁶ *Supra* note 4, 314.

⁷ *Supra* note 2, 830.

⁸ *Supra* note 6.

where the dynamicity of law, lies. As many attempts have been made at defining art- be it by lawyers⁹ ¹⁰ or philosophers¹¹, it hasn't led to concrete results as it still remains intangible. But for the purposes of regulating human behaviour and conduct vide the social contract, laws need to be in place to protect the rights and interests primarily, of the artist and the concerned stakeholders. To that effect, there are laws that provide legal protection and regulation to art, that too, through the artist, which brings us to the topic of research at hand- artistic work. To name few, it would be tax laws and custom laws¹², globally and in India, other than these, also intellectual property right laws in India dealing with the moral and the material rights of the artist.

Artistic work, per the definition so provided by the Copyrights Act, 1957 in Section 2(c), artistic work comprises of the following elements:

- i) Painting, sculpture, drawing which is inclusive of diagram, map, chart or plan, an engraving or a photograph whether or not it possesses artistic quality,
- ii) Work of architecture, and
- iii) Work including that of artistic craftsmanship¹³.

The above-mentioned definition shows that irrespective of artistic quality, an artistic work will be given protection if it is original. And that holds true for nobody can create the same piece twice. There is no stipulations or mandates in art, its creation and within the same lies, its evolution.

FREEDOM OF SPEECH AND EXPRESSION

Freedom of speech and expression has been enshrined in Part III of the Indian Constitution, which is often hailed as the Magna Carta, for it recognises the human rights that underlies and as such is inalienable to a human being. As stated and can be inferred, human rights and its evolution also has a close call with fundamental rights in the republic of India. India gained its independence in the year of 1947 and it was only in 1950 that India freed itself from the status quo of a dominion, implying derivation of power from London¹⁴.

⁹ *Supra* note 2, 829.

¹⁰ *Supra* note 4, 314.

¹¹ Jonathan Barrett, If Philosophers Can't Tell Us What Art Is, Can Officials?, 15 J. Australasian TAX Tchrs. Ass'n 13 (2020).

¹² Leonard D. DuBoff, What Is Art - Toward a Legal Definition, 12 Hastings COMM. & ENT.L.J. 303 (1989).

¹³ Copyright Act, 1957, No. 14, Acts of Parliament, 1957 (India).

¹⁴ Abhinav Chandrachud, Republic of Rhetoric: Free Speech and the Constitution of India, 1, Penguin Random House, (2017).

The aim with which India fought for Independence was not only to free itself from the clutches of tyranny and oppression, but also to bring about a system which is a step further from what was mostly happening during British Raj, the collaboration of Princes, upper castes and landlords, under the oppressive rule, imposing their will on the marginalised and oppressed¹⁵. In essence, post-India, as envisioned, was not only to bring a change in the social, political and economic landscape but also adopt the governing structure or governance that came in with the Britishers. The latter became evident with the division of powers between the Centre and the State and various provisions that cede power to the Centre and Emergency provisions. At the heart of all this, which deals with the notion of bringing change, lies the idea of the 'rights' of the people, inherent and inalienable to people. As stated, this recognition of human right found its mark vide Part III of the Constitution, entitled 'Fundamental Rights'.

The provisions of the Indian Constitution has been incorporated and adopted as per the needs of the society then and by keeping in mind the days, yet to come through intense discussion and deliberation. It was the realisation of the idea of right, equality and liberty that has formed the edifice of the governance system and the same has been amply portrayed in Fundamental Rights¹⁶. One among them is the 'Freedom of Speech and Expression'¹⁷, which has been hailed as the mother of all rights, deprivation of the same renders other rights violated as well¹⁸. This is because human beings are distinguished from other creatures in the world by virtue of their ability to think¹⁹. And the musings of the mind is communicated or expressed through language, which is considered as God's gift to mankind²⁰. If a person is stopped on arbitrary grounds and is punished for the same²¹, to voice out their thoughts, opinions or ideas, it lands a fatal attack on the very inherent value that is attached to being human. And, by virtue, it hampers the very foundation of democracy as people cannot voice out their needs, requirements, demands or criticisms to the government which was created to serve them, to begin with, landing a fatal blow to the notion of 'consent of the governed'²².

¹⁵ *Ibid.*

¹⁶ *Supra* note 14, 3.

¹⁷ India Const., article 19, cl.1 (a).

¹⁸ Ayush Kumar, Reasonable Restriction regarding freedom of Speech and Expression, 2 LAW Essential J. 255, 255, 257, (2021).

¹⁹ *Whitney vs. California* 247 US 214 (U.S).

²⁰ *Ibid*, 255.

²¹ Hashneet Kaur & Kritika, Freedom of Speech and Expression: An Overview, 3 INT'L J.L. MGMT. & HUMAN. 1072 (2020).

²² Soli J. Sorabjee, Freedom of Expression and Censorship: Some Aspects of the Indian Experience, 45 N. IR LEGAL Q. 327, 327, (1994).

The Constitution is the supreme document which was serving the twin role of continuing with what has been introduced by the Britishers and to change everything that undermined the value, dignity, liberty and the rights of the citizens. Now, as much as freedom of speech and expression and its recognition, in the larger scheme of things has been to bring a certain transformation- discovery and spread of truth (political or otherwise), the inopportune or arbitrary use of the restrictions end up skewing the delicate balance between stability and the notion of bringing about a healthy change, through social institutions which these artistic works are focused on. The first brush of speech and expression with imposition of restriction has been the laws for the regulation of Indian Press, then, specifically, the Vernacular Press Act, 1878 which is hailed as the most repressive of all laws introduced under the aegis of Lord Lytton²³. As such, as the foundation of a democratic society, it is pertinent that one is open to not only what is pleasant to one's belief or thoughts or for that matter, the aesthetics but also what is unpleasant and foreign²⁴ which may shock, offend or disturb the audience- which maybe the State or any other section of the population²⁵ to see and/or form different perspectives. From the abovementioned, it can very well be inferred that for the smooth functioning of the democracy, it is essential that the opinion of the citizenry is not only allowed to be voiced but that the same is well-informed implying within its ambit, the knowledge of truth and their ability to participate in decision making²⁶ ²⁷. For the growth of a healthy and perceptive democratic body polity, opinions, criticisms and differing perceptions of public in general need be encouraged instead of the same being stifled with charges²⁸.

However, such invocation is limited by the grounds as enumerated in Article 19(2) of the Constitution which provides for the grounds vide which such stated fundamental rights can be curtailed. It is the culmination of this common point, where these grounds as invoked by the State against the Citizens, who are to express their thoughts and opinions that need be analysed and understood when it comes to artistic work.

The grounds so provided under Article 19(2) of the Indian Constitution range from sovereignty and integrity, friendly relations with foreign states, defamation, incitement to an offence,

²³ Madhavi Goradia Divan, Facets of Media Law, 597, 2nd Edition, Reprinted 2018, (2006).

²⁴ *Supra* note 18, 258;

²⁵ *Supra* note, 327.

²⁶ *Supra* note 18, 258.

²⁷ Indian Express Newspaper vs. Union of India 1986 AIR 515.

²⁸ Life Insurance Corporation & Ors. vs. Prof. Manubhai D Shah & Cinemark Foundation, AIR 1993 SC 171.

security of the State, public order, decency or morality, contempt of Court among other²⁹. Now, if one is to trace their steps back to history, it would appear that, defamation, contempt of court, sedition and obscenity has remained steadfast in the grounds that are enumerated to curtail or undermine such said freedom. In fact, in British India, the right of the people derived from a common law, actually found its restrictions, in these grounds. But, later the same was added with the other enumerated grounds³⁰.

Herein, it can be easily inferred from above that artistic work which has only been granted legal protection, derives its validity from right of freedom of speech and expression and has been accorded the status of fundamental rights. There are certain key nuances that need be understood concerning freedom of speech and expression.

To begin with, speech means communication of thoughts and ideas using sound, as has been defined by Oxford Dictionary. Speech then, will include not only discussion and deliberation but also dissemination because, it is not just one's right to speak or but also the other's to spread awareness on a notion by spreading their opinion or thoughts and for others to listen. Expression on the other hand, is not merely expressing our ideas and thoughts across but also includes the right to receive information. Freedom of speech and expression, which when used collectively means, conveying or communication of ideas, opinions and thoughts to any person or body of persons- orally or verbally³¹. Speech and expression are intricately connected and as such they form an inherent right for an individual whose fulfilment is a must. When people come together, discuss and debate on matters important to them, allow others to speak, listens to the other person, it allows all participating to not only enjoy their right but ensure democratic participation³². Freedom of speech and expression includes within its broad umbrella, right to receive and impart information and holding opinion as well³³. Now, speeches and expressions may also be made using artistic work. Because it is not just using sound that conveys a particular idea across. Speech and expression includes within its ambit a wider scope including non-linguistic forms of communication.

²⁹ *Ibid*, article 19, cl. 2.

³⁰ *Ibid*.

³¹ Hashneet Kaur & Kritika, Freedom of Speech and Expression: An Overview, 3 INT'L J.L. MGMT. & HUMAN. 1072, 1075-1076, (2020).

³² Adrita Ghosh, Freedom of Speech and Expression: Relevance in Democracy, 2 Jus Corpus L.J. 752, 753 (2022).

³³ Association for Democratic Reforms vs. Union of India, AIR 2001 Delhi 126.

When it comes to expression, the form and the content is of particular importance as it is not just the manner of communication but also what is being communicated. And the same has been held in *In LIC v/s Manubhai D Shah*³⁴, wherein it was held that any activity that conveys a message or has a meaning is expression and the same is to be the content of such activity. Speech is communication using sound or audio-visual instruments whereas expression is how one communicates and what is being communicated. Such exercise of right can be in any form, be it printed or spoken or in this particular instance, a work of art. Vide Article 19(1)(a), a person is entitled to express by using words, gestures, writings, sign and even by way of silence³⁵.

Freedom of Artistic Expression

Now, that it has been established that speech includes not just words of mouth but also non-linguistic forms, artistic expression, as is understood from the term itself, is creative expression, other than just mere print of words as the latter is distinguished from the former on the grounds of art being a tool of making people feel and not mere arousal.³⁶ It is also regarded as something which is in the process of creation³⁷. It is difficult to define art or such related terms because, at large, it depends upon the interpretation of the person, which is subjective and doesn't necessarily carry with it that one meaning with which the same has been created or was intended by the artist³⁸. To quote John Keats, "Beauty lies in the eyes of the beholder". And the subjectivity has been aptly recorded in the judgment wherein the US Supreme Court was of the view that something which may be vulgar to one may not be the same to another³⁹. The freedom of artistic expression globally has had a dicey, sometimes even downward slope of a growth. In India, artistic expression and censorship on varied grounds has been recurring event, since long. Artistic expression has always attracted the ire of the population and sometimes even the State on the grounds of communal disharmony, hurting religious sentiments, obscenity and so on.

³⁴ 1993 AIR 171.

³⁵ Taruna Nayyar, *Cyber Bullying and Online Freedom of Speech and Expression in India*, 4 INT'L J.L. MGMT. & HUMAN. 2639 (2021).

³⁶ John Hospers, *The Concept of Artistic Expression*, 55 OUP on behalf of Aristotelian Society, 313, 315 (1954-1955).

³⁷ *Ibid*, 313.

³⁸ United Nations Human Rights Council (UNHRC) 23rd Session Report of Special Rapporteur in the field of Cultural Rights, Fareeda Shaheed (14 March 2013), UN Doc A/HRC/23/34, 9.

³⁹ *Cohen vs. California*, 403, U.S. 15 (1971).

Office of the High Commissioner for Human Rights (hereinafter referred to as OHCHR) through a collective report released by Human Rights Council has provided that a collective reading of the International Covenant on Economic, Social and Cultural Rights (hereinafter referred to as ICESCR) and International Covenant on Civil and Political Rights (hereinafter referred to as ICCPR) reflects freedom of artistic expression as a pivotal cultural right which includes the right to seek, receive and impart information⁴⁰ and ideas of all kinds⁴¹. This right just doesn't only provide for what entails artistic freedom but also goes onto bring within its boundaries the right of every person to enjoy such creative endeavour while imposing an obligation on the States to respect the freedom indispensable for creative activity. The same has been provided in Article 15(3) of ICESCR⁴² and Articles 19(2) and 27 of ICCPR⁴³. Apart from the two covenants, making it a cultural right, UDHR vide Article 27 also provides for the enjoyment of rights⁴⁴. Other key international standards providing for freedom of artistic expression include, Articles 13 and 31 of the Convention on the Rights of the Child inter alia charters and protocols on human rights.⁴⁵

A brief analysis of all the International instruments⁴⁶ would indicate that artistic freedom can be understood vide the following:

- i) Explicit provisions protecting the freedom of artistic expression
- ii) Implicit provisions
- iii) Other important provisions related to artistic freedom
- iv) Positive obligations on State.

These are the broad categories in which provisions can be found across all International Standards. The provisions on the International instruments so mentioned above, are explicit provisions that provide for freedom of artistic expression and creativity. And, it is also regarded as a cultural right. The implicit provisions are those which bring freedom of artistic freedom under the banner of right to freedom of expression or participate in cultural life without any explicit reference to art or creative activities. Other important provisions show a connection

⁴⁰ S.P Gupta vs. Union of India, 1981 Supp SCC 87.

⁴¹ United Nations Human Rights Office of the High Commissioner, Artistic Freedom: Special Rapporteur in the field of cultural rights, Office of the High Commissioner of Human Rights, UN Doc A/HRC/23/34, A/HRC/37/55.

⁴² United Nations (General Assembly), 1966, "International Covenant on Economic, Social and Cultural Rights". Treaty Series 999 (December): 171.

⁴³ United Nations (General Assembly), 1966, "International Covenant on Civil and Political Rights". Treaty Series 999 (December): 171.

⁴⁴ UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III).

⁴⁵ United Nations Human Rights Council (UNHRC) 23rd Session Report of Special Rapporteur in the field of Cultural Rights Fareeda Shaheed (14 March 2013), UN Doc A/HRC/23/34.

⁴⁶ *Ibid.*

between freedom of artistic expression with rights such as that of freedom of opinion, thought, conscience and religion, association, form and join trade unions, moral rights and the right to leisure. Positive obligations on the State has been provided under ICESCR and Arab Charter of Human Rights and UNESCO instruments by providing a conducive environment for the artists to participate and practice art coupled with providing suggestions for policies for the same.⁴⁷

As much as the international instruments on human rights provide for the rights, they also provide for the limitations putting a check on the exercise of absolute right and its misuse. It is the objective of law to ensure that there is neither an unfettered exercise of right nor its restriction. Article 19 and 20 of ICCPR provides, primarily for the grounds that enumerate the grounds under which, freedom of artistic expression can be curtailed. While Article 4 of ICESCR provides for the application of limitations which are in consonance with general public welfare and proportionate to these rights, articles 19 and 20 lays down certain parameters which cannot be violated under the guise of freedom of artistic expression. They include defamation, national security, public order, or morals and propaganda for war, communal disharmony, discrimination, hostility or violence⁴⁸ based on such form of expression, respectively and the same is covered under the Rabat Plan of Action⁴⁹. Be it the very act, incitement or assistance, any sort of expression indulging or inculcating a sense of racial superiority, hatred, discrimination, or financing of such acts against such people of race and ethnicity or race are punishable under article 4 of International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter referred to as ICERD)⁵⁰.

Critical Analysis

In the abovementioned sections, we have seen national standards coupled with the International instruments and standards which are in operation to protect and balance the right to freedom of artistic expression, with that of possible abuse of the right. A careful look at the history would reflect that artists have been at the receiving end of threats, violence, censorship- prior or

⁴⁷ *Supra* note 45, 4-5.

⁴⁸ United Nations Human Rights Council, 22nd Session Report of the United Nations High Commissioner for Human Rights, Office of the High Commissioner for Human Rights, (11 January 2013), UN Doc A/HRC/22/17/Add.4.

⁴⁹ *Supra* note 45, 7.

⁵⁰ UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, United Nations, Treaty Series 660.

otherwise, imprisonment and even deaths, in some instances leading to humongous loss of livelihood and the freedom of expression, in different stages of such exercise of right. The motivations for such restriction, censorship or its imposition in unnecessary instances has always been to suppress differing political debate or perspective leading to the creation of a nation state filled with hegemonic policies⁵¹. Now, a close look at all the laws would provide the following common grounds for restriction:

- i) Public order,
- ii) Public morality and decency
- iii) Defamation
- iv) Sedition
- v) Hurting religious sentiments

And the method used for imposing restrictions are either censorship, which used to be trend⁵² as prior-censorship, as could be seen in the case of censorship of Sanjay Leela Bhansali's movie *Padmaavat*, Abhishek Chaubey's *Uda Punjab*, now happens to be the trend or criminal charges against the person. Now, charges, whether be civil or criminal and in some instances administrative or even taking note of expression which is morally objectionable, through hue and cry, need be exercised with caution. This is because, such charges, censorship and stigma created by either State or Non-State actors⁵³ does not only end up affecting the right to such said freedom but also leads to self-censorship by the parties concerned- artist and those involved in the creation of the same⁵⁴.

Criminal charges in India majorly find its origin in the provisions of the Indian Penal Code under the guise of sedition⁵⁵, criminal conspiracy, national integrity, hurting religious beliefs, breach of peace, communal disharmony and offence in a place of worship⁵⁶. Public order⁵⁷, prior censorship⁵⁸ which may happen in the stage of publication, dissemination, production or even performance and hurting of religious sentiments⁵⁹ have now become the face of restrictions. More so, in 2018, major number of artists have faced persecution, death, imprisonment, violence, threats *inter alia*.

⁵¹ *Supra* note 45, 10.

⁵² *Maqbool Fida Husain v/s Raj Kumar Pandey*, 2008 SCC OnLine Del 562.

⁵³ *Supra* note 45, 10.

⁵⁴ *Supra* note 45,18.

⁵⁵ *Kedar Nath vs. Union of India*, 1995 (1) SCALE 521.

⁵⁶ Indian Penal Code, 1860, Act No. 45 of 1860, Acts of Parliament, 6th October (1860).

⁵⁷ *Brij Bhushan v/s The State of Delhi*, 1950 AIR 129.

⁵⁸ *K.A. Abbas v/s Union of India & Anr.*, 1971 AIR 481.

⁵⁹ *Supra* note 52.

Other than posing restrictions which truly are against the general welfare of the public, an environment which isn't conducive to art and its creative expression but rather is that of suppression, stigma and fear, in no way, is indicative of a country which upholds its democratic ideals and provides for the nurture and enjoyment of cultural rights. Artists are those people, who through imagination or in the above-mentioned cases through satire explore and bring about those notions of the society that need to be seen in a fresher perspective and embraced for the betterment of people. As such, such an attempt at suppressing and degrading their voice and their work, respectively, by not allowing them the opportunity to explore, as being 'Obscene', 'morally objectionable', 'hurting religious sentiments' is putting an obstacle in bringing out facets which need awareness and understanding, thereby bringing a shift in ideas, thought, perceptions leading to well-informed deliberation.

SUGGESTION AND CONCLUSION

The paper aims at understanding freedom of artistic expression in India, through its various legislations and the trends that have produced itself in the recent times. Art, which is a pure creative experience of the soul, is a cultural right that a person can and must enjoy and in keeping with the idea of State, every effort must be undertaken by the concerned actors to ensure the same. Artists does not only, through their imagination and creativity, bring something unique into the consciousness, but often than not, it also includes addressing certain notions of life, of society, of humanity- darker and not, which need be held before the curious eyes of the citizenry. It must be noted that such facet of expression is only aimed at discussion, deliberation and more so, awareness of certain situations and angles of instances. They not only refine our perspective but contribute to the growth of the economy. Art has played a major role in not only evidencing change but also bringing changes. At such point, casting them as being agents working against society acts in a counter-productive manner. Various laws although are in place and the watchdog of the nation, herein, India, is although more inclusive towards protecting the rights, there is perhaps a greater need to have certain and precise laws which may deal with the matter at hand, more effectively because religious fundamentalism and mindless censorship, despite the existence of laws, have started to take concrete shape in the country.