

FREEDOM OF SPEECH: The Paradox of its Exercise

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I had remained in hibernation with the exception of few and far apart anonymous scribbling here and there on selected issues judged to be pertinent at the time. My reservation emanated from two basic reasons. One is the obvious necessity to remain outside the fray as I am developing my own capacity in civil society capacity building, advocacy and organizational work. Second, I had felt that an open expression of support or criticism of policy will be counter-productive in an often heated, partisan, and toxic Diaspora discourse. Instead I had chosen to express my views directly through the appropriate channels and mediums. I should mention that I have had misgivings about certain policies of the government of Ethiopia, and yet, I have always been one who sees the glass as half full not half empty.

So you may ask, why not remain anonymous and still write? What changed? For one, despite the challenges ahead, the seeds of democracy have been planted in our country, and the roots have a firm grip. Important and measurable economic progress has been made and the policy frame work for future development appears to be on track. Most importantly, in the past few years the government and the party have increasingly exhibited the desire to solicit and listen to the people's opinions. Mistakes are readily acknowledged. These changes should be welcomed and deserve support.

Second, there appears to be ferocious and well orchestrated onslaughts to derail the progress made and discredit the achievements accomplished. These attacks have become vicious and frequent at a time when Ethiopia is prepared to hold its fourth national and regional elections. Obviously, these attacks are intended to incite violence and create disorder. This must be opposed categorically.

Having said this let me come back to the issue at hand. My deepest sensibilities and understanding of democratic values were recently caught in the crossfire between the Ethiopian government's threat to jam VOA Amharic program and the US Department of State's condemnation of that threat. The news, on the surface of it, incited an inner discomfort about interference with the freedom of speech by Ethiopian authorities. It was therefore, tempting to arrive at a certain conclusion regarding the government's tolerance for the media or lack thereof. Putting temptation aside, I feel it is important to revisit aspects of the concept of the freedom of speech and its parameters.

To begin with, the essence of free speech is the ability to think and speak freely and to obtain information from others through publications and public discourse without fear of retribution, restriction, or repression by the government. And through free speech, people could come together to achieve political influence, to strengthen their morality, and to help others to become moral and enlightened citizens.

Freedom of speech is the single most important political right of citizens, although private property is required for its operation. Without free speech, no political action or resistance to injustice and oppression would be possible. Without free speech elections would have no meaning at all. The policies of contestants become known to the public and they in turn

become responsive to public opinion only by virtue of free speech. Without this freedom it is futile to expect political freedom or consequently economic freedom. The end product of a democratic society is the freedom of speech.

On a more practical plane, freedom of speech serves many functions. One of its most important functions is that decision-making at all levels is preceded by discussion and consideration of a representative range of views. A decision made after adequate consultation is likely to be a better one which less imperfectly mirrors the opinions, interests and needs of all concerned, than a decision taken with little or no consultation. Thus freedom of speech is important at all levels of society.

Furthermore, freedom of speech is perhaps even most important for a government. A government which does not know what the people feel and think is in a dangerous position. The government that muzzles free speech runs a risk of destroying the creative instincts of its citizens. Freedom of speech is also important to governments because when criticisms of a government are freely voiced, the government has the opportunity to respond and to answer unfair comments and criticisms about its actions. On the other hand, when freedom of speech is restricted, rumors, unfair criticisms, comments and downright falsehoods are circulated by word of mouth. These have a habit of spreading across the length and breadth of the country through conversations and surreptitiously circulated writings. The government is in no position to answer to these views, because they are not publicly stated. It is in a government's interest to have criticisms in the public arena, where it can answer its critics and correct its mistakes.

The importance of freedom of speech to both the people and the government cannot be overemphasized. But both have responsibilities in the exercise of this important and inalienable right. A balance must be struck between the ability of individuals to be unrestricted in the free expression of thoughts and ideas, and the need to ensure that governments are able to efficiently carry out their function of administration, law and order, and preserving the rights of individuals vis-a-vis each other. In a civil society no right to freedom, how so ever invaluable it might be, can be considered absolute, unlimited, or unqualified in all circumstances. The freedom of the media which is an important element of free speech, for instance, like any other freedom recognized under the constitution has to be exercised within reasonable boundaries. The strength and importance of media in a democracy is well recognized. The existence of a free, independent and powerful media is the cornerstone of a democracy. Media is not only a medium to express one's feelings, opinions and views, but it is also responsible and instrumental in building opinions and views on various topics. However, there are always two sides to a coin. With this increased role and importance attached to the media, the need for its accountability and professionalism in reportage cannot be emphasized enough.

This therefore, raises a legitimate question. When does the government exercise the right to restrict freedom of speech without trampling upon those rights?

I am, for example, opposed to paternalism in general and that of government in particular. But I also believe there are certain instances when intervention is warranted. For example, if a public

official is certain that a bridge will collapse; he can stop people from crossing it. If, however, there is only a danger that it could collapse, the people can be warned but not coerced. The decision here depends on the likelihood of a serious outcome; the more certain the danger becomes, the more legitimate the intervention. If we were to take this metaphor to its logical conclusion therefore, it is entirely within its legal boundary for the government to limit, restrict and prevent certain of these rights. Oliver Wendell Holmes, the celebrated United States Supreme court justice in the *Schenk vs. US*. Ruling affirmed, that, “a government’s act to restrict is legitimate if the speech in question poses a “clear and present danger” — i.e., a risk or threat to safety or to other public interests that is serious and imminent.

In conclusion, was the government of Ethiopia right or wrong in making good on its threat, much less the threat itself? The answer to this will depend on the following fact. Though the Voice of America Amharic program had long standing bias against the current government, the government must present that the programming indeed presents a “clear and present danger”. Not being privy to such concrete information, it will be difficult for me to arrive at that conclusion at this time. However, I can confidently say, that the Prime Minister will not put the prestige and reputation of his good office on line, without having the information whose veracity and authenticity can be proven. Assuming that material evidence is present, the government therefore, is within its legal boundary to mitigate the danger posed by irresponsible reporting.

This will bring me to my second point i.e., the reaction of the US Department of State. The State department in its condemnation of Ethiopian government’s decision, stated that “... the decision to jam VOA broadcasts contradicts the Government of Ethiopia’s frequent public commitments to freedom of the press. We note that the Ethiopian Constitution states that all citizens have the right to freedom of expression “without any interference”. It is acceptable and it is within its right for the Department of State to raise concerns on issues it deems detrimental to democratic progress in any country much less with a friend, ally and important partner. It is clear, the long standing bilateral relations between the US and Ethiopia is enduring, vibrant, and based on mutual interest. Yet, the statement in relation to the VOA Amharic program can only be understood in the context of the State’s need to appease some of the opposition elements in Ethiopia, vocal Diaspora in the US, and their supporters in Congress. Otherwise, it is clear to any one that even under the 1st and 14th Amendment of United States Constitution, that guarantee to freedom of speech is understood to impose certain limitations to its exercise.

Without equating the relationship between Ethiopia and US to that of US and Hezbollah, I, as citizen, supported the US government’s decision in 2004 and in 2006 to ban Al Manar and Al Nour known to be the Hezbollah satellite television and radio station respectively primarily for their propaganda material. They were also designated as a “Specially Designated Global Terrorist entity”. In addition, France, Spain, Germany and other European countries, have imposed similar ban without designating Al manar or the Hezbollah as a terrorist organization. Their sole criterion was the content of the broadcasted materials which was deemed to contain

incitement of violence, racist and anti-Semitic programming. These steps taken by both the US and the European countries are indisputably within the bounds of guaranteed freedom of speech. It is done in the interest of protecting their citizens. Therefore, the benefit for the Ethiopian government to make such a legitimate decision should of course be accorded. This not, in any way is to suggest, that the government should have a free ride to trample on freedom of speech based on any flimsy excuse. When and where such concerns are raised, both by the government and other stake holders, the Department of State should take the allegations seriously, investigate them fairly. Should it establish transgression, it is then appropriate to take appropriate course of action. Otherwise, an attempt to gloss over the issue under the veil of lofty pronouncement can be nothing short of disingenuous. The need to appease should not be at the cost of promoting democracy or jeopardizing partnership. By the way, the State Department should find nothing new in the Diaspora and local opposition's assertion that everything the Ethiopian government does is evil. These extremists have their parallel in the US as well. It is called THE TEA PARTY, who also sees nothing good in the current US administration.