



LEGALITY OF BOOK BANNING IN INDIA

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ABSTRACT:

Book banning is a kind of censorship proposed by governmental authorities, institutions, or private persons to prevent the dissemination of the material contained in a book by removing it from the public's view. All of this is being done because there are concerns about the book's substance. By trying to stop unauthorised reading and restricting people's freedom to read for themselves, this European practise of early modern Roman Catholic Counter-Reformation against both radical Catholics and early Protestants is unintentionally revived when books are banned. It also, has its roots in China where authors were assassinated for writing anything against the authority. Now, in India, the idea of banning books wasn't known until the British came in, and sustaining their dominance was the only goal. This was the motive behind the British government's colonial-era ban on any books or articles critical of them or casting doubt on their authority. In order to uphold British imperial power, writers and authors were frequently accused of "sedition" and imprisoned. However, to be able to express oneself creatively in writing or voice, India now grants us Fundamental Rights like Freedom of voice and Expression. If we make sure they don't interfere with the right of others to a tranquil life. Still, numerous publications that are prohibited in India cast doubt on this right to freedom that is given to all citizens of the nation; these works include "Adivasi will not Dance," "Lajja," and "Unarmed Victory." The right to freedom of speech and expression is significantly compromised by the prohibitions on these works. Book banning weeks is an initiative developed in several parts of the world to raise awareness about this behaviour of Central or state governments. Supporting this cause is necessary, it can be accomplished by standing up and speaking out against the unwarranted censorship and restrictions imposed.

KEYWORDS:

Book Banning, European practise, British colonial hegemony, Freedom of Speech and Expression, Book banning week.

Introduction:

In the words of Maximilien Robespierre, a French lawyer, statesman, and the hero of the French Revolution, "The secret of freedom lies in educating people, whereas the secret of tyranny is in keeping them ignorant."

However, for many years and ages, people have believed in the opposite. They feel, 'what's required, is to keep the public ignorant, or rather, keep them informed about the things only we want them to know. So as to favour, our own selfish or---most of the time---political gains. And one way of doing this is by letting people read only what we want them to read, and by limiting, their horizons to fulfill our own needs. All of it can be done by restricting the books and the content we don't want them to know about.' This is probably the thought process of every major or minor institution, agency, or government while banning books, movies, webpages, or web series.

Here, the attention of the reader, are drawn towards the various books, and content, that have been banned in India-The reasons behind them, the legality of book banning in India, the origin of it, the history attached to it, and all in all question relevance of it.

By definition, book banning is a form of censorship or stoppage, put forward, by governmental authorities, institution, or private individuals to stop the spread of content written in that book, by taking it off bookshelves and reading lists. All this is done because there are objections, regarding the content of the book. As written above book banning is not entirely a new concept it has been around for some time. But it first the European society.

As quoted by Harvey J Graff in his article, "Banning books is an effort, unknowingly, to resurrect the early modern Roman Catholic Counter-Reformation against both radical Catholics and early Protestants, which attempted to halt unauthorized reading, including curtailing the ability of individuals to read for themselves." Before this, between 259 to 210 BC, there was different way of stopping people from reading the unwanted content, which was by executing authors. The idea is, it is easier to prevent the authors from writing the unwanted content If, they are dead, in the first place. The reasoning behind this is that if authors are already deceased, it will be simpler to stop from creating unpleasant stuff. This was done in ancient China under the rule, of the first emperor of a unified China, Qin Shi Huang of the Qin dynasty. This was done to stop people from knowing anything that could possibly threaten their rule. For example, in 35 AD, the Roman emperor Caligula discouraged people from reading Homer's 'The Odyssey' because it could 'give them a taste of what it meant to be free'.

Many of the controversial works that have been banned throughout history are nevertheless regarded as classics today. People in the US demanded that the Harry Potter books be taken out of public libraries. The complaints were that there were portrayals of sorcery, witchcraft, and "actual curses and spells" in the text. Additionally, they objected to the characters' employment of "nefarious means" to achieve their goals. But thankfully, JK Rowling was not Avada kedavra'd for it, and she went on to write 7 books which were then also made into 8 blockbuster films. But from 2000 to 2009, Harry Potter books continued to be the most often challenged in public libraries in the United States. Even works by Shakespeare like 'Merchant of Venice' which portrays religious discrimination of Jews by Christian, in Venice, Italy; was a very controversial play and was banned in Manchester, Michigan and Israel.

Now for India, book banning was a foreign concept until the Britishers introduced it. The sole purpose was to maintain their supremacy. This was the reason that during the colonial rule, the Britishers banned all books or articles that were against them or questioned their authority. Many times, the authors and writers were charged with 'sedition' and put behind bars so as to protect the British imperial hegemony. This included many Indian nationalist and freedom fighters, like Mohandas Karamchand Gandhi. In 1927, Gandhi ji wrote a review of the book titled 'Mother India' by Mayo; which was published in the newspaper, 'Young India'. The book was about the backwardness of India, its religion and culture, and against the demand for freedom and self-rule by Indians. Gandhi ji in his article criticized the book and called it 'Drain inspector's report'. This book is banned in India. There were other articles he wrote against the British government and their rule in India. For which he was arrested and his articles were censored and removed from newspapers. Similar to what History has taught us this was done to quiet the raising voices.

However, in the new, modern, and democratic India, the Indian constitution provides some basic fundamental liberties to all, both individually and collectively. These are protected by the Constitution under the six justified categories of Fundamental Rights. Part III of the Constitution deals with Fundamental Rights in Articles 12 to 35. These fundamental rights are somewhat like the backbone of the constitution. And the citizens can as much as barge, into the Supreme Court of the country, if they feel, that their fundamental rights have been violated.

One of the aforementioned fundamental rights is, Freedom of speech and expression, which grants people the right to express their thoughts and opinions. This comprises written words as well as speeches made by writing, images, movies, or banners. If this is the case, why does the biggest democracy in the world, which grants its citizens the freedom to read and write whatever they like, impose writing and film bans? This is because even

freedoms have their restrictions. In a civilised community, freedom can never be fully unrestricted. This brings up the question of how much freedom can be restricted. It entails taking the restriction's nature into account. One way of doing this is, an independent judiciary ensuring that the freedom of expression doesn't harm the public interest, national security, public order and individual rights such as the right to reputation and the right of privacy. Therefore, the crucial question is whether censorship is acceptable and, if so, under what conditions. The judiciary in India has been crucial in ensuring and upholding the harmony between freedom of speech and expression and "reasonable restraint." One of the six aforementioned fundamental rights.

Article 19(1)(a), of the constitution of India states that, "all citizens shall have the right to freedom of speech and expression". The goal of this Article is to provide freedom to all of its citizens to voice out their opinion. However, the exercise of this right is, subject to "reasonable restrictions" being imposed under Article 19(2) of the Constitution of India. "THE ARTICLE 19 (2) states that nothing in sub clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence."

These reasonable restrictions are basically put forward, to ensure that having freedom of speech and expression, does not curtail with someone else's right to live a peaceful life. As sometimes one's speech can offend others' beliefs or opinion. And in a country like ours where diversity is at its peak and religion is a lifestyle, offense can easily be taken. And this often leads to people going way beyond to protect those beliefs. Which many a times lead, to riots and unrest in the society. Thus, limiting the freedom becomes a necessity to avoid these situations. The law used to ban books and prevent sale and spread of such books is Section 95 of the code of criminal procedure, 1973 under reasonable restriction to avoid any unrest in society.

And if these situations actually take place, section 153 A comes into action. The purpose of Section 153 A is to 'punish person who indulges in wanton vilification or attacks upon the religion, race, place of birth, residence, language, etc of any particular group or class or upon the founders and prophets of a religion. Under this, the person shall be punished with imprisonment which may extend to three years, or with fine, or with both.'

There are many examples of reasonable restrictions coming to force while, book banning in India

In 1955, 'Rama Retold' written by Aubrey Menen was banned and This book cannot be imported in India. It was a play, which was a spoof of the Ramayana. It was one of the first books to be banned in independent India. The American edition was simply called, 'The Ramayana'. This was seen as hurtful for the Hindu community.

In 2005, 'The True Furqan' by Al Saffee and Al Mahdee was Banned for purportedly mocking Islam. The book has been allegedly written by a Christian evangelical group to proselytise Muslims. The import of this book is strictly prohibited, as it hurts the sentiments of the Muslim community.

In 1989, the book 'Soft Target: How the Indian Intelligence Service Penetrated Canada' written by Zuhair Kashmeri and Brian McAndrew was banned because, the book claims that the Indian intelligence agencies penetrated the Canadian Sikh community, Royal Canadian Mounted Police (RCMP) and Canadian Security Intelligence Service (CSIS) to discredit the demand for a separate Sikh state. They called the Canadian Sikh community a 'soft target' for Indian agencies, which was easily manipulated to disregard their demand for a separate Sikh state. This ban was necessary because it undermined the national image and security.

The Price of Power by Kissinger and Nixon in the White House Seymour Hersh, was briefly banned for alleging Morarji Desai to be a CIA informer. The book claimed that Morarji Desai was paid US\$20,000 per year, starting from the time of Lyndon B. Johnson. Desai obtained an injunction for Defamation from the Bombay High Court for a temporary ban and sued for damages worth US\$5 million in US.

But the question is where should these limitations be stopped? where should we drawn the line? how do we know that this is a reasonable restriction, and this is undermining the right to freedom of speech and expression. And is rather, a violation of the freedom of speech and expression.

For example,

In 1970 the book, *Man from Moscow* by Greville Wynne was banned and this book cannot be imported in India. Greville Wynne was a courier for the British Secret Intelligence Service (MI6). The book was banned for 'purportedly misrepresenting Indian policies'. This book is majorly about two spies and their mission in Moscow. It is based on real-life story, and has details of the espionage system that the British and Russian governments didn't expect to be made public. But there is no mention of Indian policies, on any sites talking about the book. Not sure about the content of the book though-- haven't read it.

In 2017 the book, *'The Adivasi Will Not Dance'* by Hansda Sowvendra Shekhar was banned by the Jharkhand government. The particular reason for this circumstance was that it showcased the Santhal tribe in a bad light. It simply talks about the women's condition in patriarchal society, the poverty of the Santhals, crime, and damage caused by mining and sex work. The government's actions were widely criticized and so, under pressure from the public the ban on the same was removed.

In 1963, the book *'Unarmed Victory'* written by Bertrand Russell was banned. The particular reason given by the government for this, was that the book dealt with the Sino-Indian War and showcased the involved political leaders in poor light. What we can conclude from this is that anybody who as much as speaks, against the government or criticizes its actions has to be stopped.

In 2013 the book, *'Meendezhum Mandiyar Varalaru'* (Resurgence of Pandian History) by K. Senthil Mallar written in Tamil was banned by the Tamil government on the ground that, it may cause violence in the state. As the book claims that Dalit community called Pallar was among the rulers of Panda kingdom. Simply banning a book because it showcases a different idea of history, we had been reading is not fair.

In 2003 the book, *'Lajja'* by Taslima Nasreen was banned by the West Bengal State government as it pinpoints towards a sensitive issue, of Hindu-Muslim conflict that began in Bangladesh, after the demolition of the Babri Masjid in 1992 in Ayodhya, India. It talks about the minority Hindu community being victims, of riots, death threats and rapes in Bangladesh. It was for the first time, that a Muslim writer had written about the issues faced, by the minority Hindu community in Bangladesh. And because it upsets the sentiment of religious fundamentalists and there were objections against it the book was banned in Bangladesh. In fact, Taslima had to flee her home to save herself. But why, in an Indian state; and if, the ban was necessary why not do it in the entire country? Why should we be upshot, by an individual writing about the ills of her community of, her own country?

Is this reasonable restriction? The answer is no. This is the reason that for ban put forward by the West Bengal state government, for another book by Taslima Nasreen *'Dwikhandita'* the Calcutta high court in 20005 struck down the Ban. and so, it is the Indian judiciary that decides what is reasonable restriction, and what is not. It upholds the values of the Constitution. As long as there is an independent judiciary working in this country, the bans and censorships are always checked on by a watchful eye.

Conclusion:

And therefore, to stand by the lines, "Education is the key to unlocking the world, it is the passport to freedom" and it's important that the freedom is not meddled with, and that reading and education are allowed to one and all. For this purpose, there is the introduction of book-banning weeks. It was first initiated by the 'Association of American Publishers' to bring banned books "to the attention of the American public" after a "slew of books" had been banned that year. Since then, Books Week is an annual event celebrating the freedom to read. It is usually held during the last week of September; it highlights the value of free and open access to information. It brings together the entire book reading community — librarians, booksellers, publishers, journalists, teachers, and readers of all types including novel reading enthusiasts — in shared support of the freedom to seek and to express ideas, even those some consider unorthodox or unpopular. We urge our readers to support this cause

and fight for the freedom to read. This can be done, by coming forward and raising our voices against the unjustified bans and censorships of Central or State Governments on books, films or any sought of creative expression. It's time to come together to celebrate the passion of reading, gaining knowledge, and valuing our authors and writers.

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The History of Book Banning, By Harvey J. Graff | Dec 31, 2021

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