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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

WHETHER THERE IS RIGHT TO OFFEND **RELIGIOUS BELIEFS?**

AUTHORED BY - NAVEEN KUMAR MEENA & A PRERNA MAHENDRA

I. OVERVIEW:

The debate regarding right to offend religious beliefs has become a burning issue recently due to Charlie Hebdo attack because they depicted cartoons of Muhammad on their satirical magazine. Many people argued that it has been happening in France from a really long time because of tension between Muslims and other people. It is to be noted here that the issue is not limited to Muslim in France. However it is widespread all over the world- Salman Rushdie's fatwa by Muslims, M F Husain was also given threats of killing by Hindu extremists etc. This issue is seen as two conflicting rights: Freedom of expression and Freedom of religion. It is difficult to draw a line between two rights but giving threats of killing, book burning etc but some extremists takes this debate to some other level and include them in the garb of hate speech.¹ This clash of two rights have to be solved by an approach which carefully examine the issue case by case and look for the value & background of the speech and the 'harm' caused.²

J S Mill has also given 'harm principle' as a very liberal defence to Freedom of expression which means that interference in other people's liberty of action can be justified only when it is for prevention of harm to others.³ There is no other justification on which one can interfere in an individual's liberty.

Researcher has chosen the case of M F Husain in this project and it relates to artistic freedom of expression. It can't be denied that art has its own aesthetic value and its qualities has to be perceived in different manner because it appeals to senses. There are many unanswered questions in this debate but one thing is clear that freedom of expression can exist in our society only if we can protect the rights of people to express their opinion what we disagrees with. Indian scenario is altogether different in these case because of its multi-religious nature which have to maintain its democracy and secular character.

¹ Jerney Waldron, RUSHDIE AND RELIGION, Liberal Rights, p.124.

² Puja Kapai and Anne S Y Cheung, HANGING IN BALANCE: FREEDOM OF EXPRESSION AND RELIGION, 15 Buff. Hum. Rts. L. Rev. 41 2009, p.345.

³ J S Mill, ON LIBERTY, On Liberty and other Writings, Stefan Collini (ed.), 1989., p.23.

Research Question:

Whether there is right to offend religious beliefs in today's democratic liberal society?

Whether Mill's defence of freedom of expression is truly apt in present society?

II. HARM PRINCIPLE AND HUSAIN'S CASE:

Our liberal edifice of the society should be ashamed of the fact that a great artist and a true world citizen had to die in enforced exile because as a weak state we were unable to defend our citizen. Husain soaked influence from various themes and religion including Hindu mythology.⁴ In Husain's case he was being targeted by Hindu extremists because he drew nude pictures of Bharat Mata and Hindu deities. He went through torture & harassment because his work was destroyed, his home was damaged, and many criminal complaints were filed against him. Though Supreme Court gave the judgement in his favour but didn't look into the torture and harassment anticipating riots.⁵ The question here is a jurisprudential one but political scenario during Husain's affair can't be ignored. There are defence for creative work should be protected but this is not the most persuasive argument because it is seen as prejudice which put the interest of few *literati* above the interest of Muslim's community.⁶ Other defence is of democratic society⁷ but it needs to be noted that this is a difficult argument to make and it is uncertain which opinion will be important to such democratic political process.

The most persuasive argument is one which is made by J S Mill is that if an individual is really want to possess his true beliefs then we should allow these true belief to be examined.⁸ Mill had a non-distributive idea of liberty which was highly neglected in today's liberal ideology.⁹ However concern in Husain's affair is not the same as Mill's because he had fear of the imposition of one single belief to the society. However we are concerned with a society of various beliefs who are asking for right to be offended. It is not to say that it doesn't have a liberty concern. Mill's argument of examining true beliefs might not work where people have claim of revelation.¹⁰

⁴ HUSAIN'S PASSAGE THROUGH INDIA, VOL XLVI NO.25, Economic and Political Weekly, p.34.

⁵ POTRAIT OF A CITIZEN, Vol XLV No 10, Economic and Political Weekly, p.55.

⁶ Simina, ARTISTIC FREEDOM AND ITS LIMITATIONS, 2 Rom. J. Comp. L. 9 2011, p.443.

⁷ Srinivas Burra, DECRIMINALISING CREATIVE OFFENCE, Vol XLIX NO 40, Economic and Political weekly, p.23.

⁸ J S Mill, ON LIBERTY, On Liberty and other Writings, Stefan Collini (ed.), 1989, p.24.

⁹ MILL ON HARM AND OFFENCE, Routledge: Taylor and Francis group, p.44.

¹⁰ Parekh, RUSHDIE AND REVELATION, Free speech, pp.28-48

Mill's defence for freedom of expression is based on utilitarian ground that truth has to be examined and exchange in marketplace of ideas. He has given suggestion to justify freedom of expression that importance of different point of view will support intellect and judgement.¹¹ The shift from truth to capacity is much more acceptable because examining religious belief is not a creative option. There are religions which place their religious beliefs as supreme and examining them against truth will create tension in society. There can be danger of error and mistake in the marketplace of ideas.

Harm principle is the most liberal defence to freedom of expression one can ever give and fullest liberty should be pushed till logical limit rather than social embarrassment.¹² The standard which equate harm to offence in present world covers M F Husain's case also where there was no direct physical harm. Mill has made this distinction clear in his theory that harm can be understood as an action of an individual which directly invade the rights of another individual. His famous Corn Dealer example¹³ shows the extent of the word 'harm' distinguishing between expressing views by press/media and by angry mob. In Husain's case if there had been a positive instigation of causing harm or mischievous act then that would be counted as harm directly invaded.

In this case Hindu extremist took offence through the painting but it is to be noted that Mill never included offence as an exception to the freedom of expression. We might have negative feelings or opinion about somebody's work but that doesn't give us a right to stop them from doing their work unless it actually harm us.¹⁴ Hindu extremists might not feel comfortable looking at nude picture but they should move on and should avoid such situations. Harm principle can only be used only when some action is hindering your development as progressive beings.¹⁵ In this case progressive development of Hindus was not being hindered but it was counterproductive which means that banning Husain's painting will cause harm to his interest as a progressive beings.

Customary Morality (trial and error) has been one of the main ideas behind punishing harm through public moral disapproval but it comes under criticism when such disapproval treats

¹¹ J S Mill, ON LIBERTY, On Liberty and other Writings, Stefan Collini (ed.), 1989, p.25.

¹² J S Mill, ON LIBERTY, On Liberty and other Writings, Stefan Collini (ed.), 1989, p.25.

¹³ Ibid.

¹⁴ Richard Moon, THE SCOPE OF FREEDOM OF EXPRESSION, 23 Osgoode Hall L.J.331 1985, p.246.

¹⁵ J S Mill, ON LIBERTY, On Liberty and other Writings, Stefan Collini (ed.), 1989, p.27.

offensive action as harmful actions.¹⁶ Therefore customary morality can't be the right and just guide to utility. This is the reason why two freedoms collide in all these cases of right to being offended. Customary morality can never be true in a multi religious society like India because some people will always have problem with something. Many religious moralities doesn't make a difference between harm and offence, i.e- some actions are disgusted by their existence itself. Mill has posed a question to people who equate harm and offence through a situation¹⁷ where people are not allowed to eat pork because of their religion and if one person wants to eat pork she can't make a case of religious intolerance because Hinduism doesn't make eating pork compulsory. One can protest against the ban on pork only by saying that they don't have good reason to stop her from eating pork. However these examples can't cover the cases where harm has been done by social custom, e.g. Sati. This case was being treated as hate speech case and can it be justified through harm principle is a debatable question in present liberal democracies. There are serious worries for hate speech laws being used to protect right to being offended and due to many political reason people in power use these laws to defend their beliefs.¹⁸

The painting was not a direct attack to invade right to religious freedom of Hindus. Mill has argued that in the first instance the harm had been done but in this case paintings were made long back but due to political reason extremists came in light after many years to protest. Mill's exception about public indecency¹⁹ was targeted to sexual acts done in public but in this case it can be said that even Mill makes the exception of public indecency.

III. THE INHERENT DIFFICULTY OF ART:

Art deserves protection because there is inseparable connection with freedom of thought whereas other kinds of expression have relevance with respect to marketplace of ideas. It is an accepted view that personal self-expression comes prior in the hierarchy of human rights.²⁰

Artistic freedom of expression and artistic blasphemy has a great history of prioritising religious sensitivity over art cause tension in society throughout the world. In today's secular

¹⁶ J S Mill, ON LIBERTY, On Liberty and other Writings, Stefan Collini (ed.), 1989, p.25.

¹⁷ Will Cartwright, JOHN STUART MILL ON FREEDOM OF DISCUSSION, Richard Journal of philosophy 5 (Autumn 2003), p.102.

¹⁸ Abraham H Foxman, VIRAL HATE: CONTAINING ITS SPREAD ON THE INTERNET, Christopher Wolf (ed.), p.212.

¹⁹ J S Mill, ON LIBERTY, On Liberty and other Writings, Stefan Collini (ed.), 1989, p.33.

²⁰ Simina, ARTISTIC FREEDOM AND ITS LIMITATIONS, 2 Rom. J. Comp. L. 9 2011, p.447.

society blasphemy laws can't because it favours only Christianity and therefore there have been shift from blasphemy laws to religious hatred laws. Such offences are covered by slippery slope argument between freedom of religion and freedom of expression. There is no certainty about free speech turns out to be hate speech and such laws should not criminalize any kind of belief unless by doing so it actually prevent harm to others. Many a times this hatred is against people who possess the beliefs (Husain as Muslim) and therefore religious hatred laws also face the same problems as blasphemy. Christens in England or the US would not react in the same manner as Hindus reacted to M F Husain because of customary morality and political reasons too.

The quality of art is that it doesn't end with artist's mental process but it includes other individuals also. Creation of art is a symbol of emotion which includes communication of the representation of expression.²¹ Communication is the most fundamental component of art because artists have to convey his intention behind the painting and preventing him to that will injure his freedom of expression. This is the reason why artistic freedom is the most difficult area because it includes personal nature in the form of expression.²² When religious hatred legislation hampers artistic freedom of expression it takes their livelihood from them because artists rely on freedom of expression for their creativity.

There are inherent difficulties with conceptions of art because it never remains static and it changes from society to society, from generation to generation. In present world effect upon viewer is given as much importance as artist creativity and shock has become a valid response to art work.²³ Salman Rushdie has made it clear that such art forms has become shock not because they were shocking but they were new to society.²⁴ The very essence of democracy is that it protects not just who agree with majority but who disagree also. When judges are given task to decide whether an art form is offensive to religious belief then it becomes difficult because he is nowhere in the position to decide religious belief unless he himself carry those beliefs.²⁵ It is the same argument when Indian SC is asked to decide the scope of essential

²¹ Richard Moon, THE SCOPE OF FREEDOM OF EXPRESSION, 23 Osgoode Hall L.J.331 1985, p.359.

²² Ellen Wiles, A RIGHT TO ARTISTIC BLASPHEMY? AN EXAMINATION OF THE RELATIONSHIP BETWEEN FREEDOM OF EXPRESSION AND FREEDOM OF RELIGION, THROUGH A COMPARATIVE ANALYSIS OF UK LAW, 6 U. C. Dublin L. Rev. 124 2006, p. 144.

²³ Nathan J. Marasigan, THE INHERENT DIFFICULTY OF ART: AN ANALYSIS OF ARTISTIC EXPRESSION AS A FUNDAMENTALLY PROTECTED RIGHT, 86 Phil. L. J. 971 2011-2012, p.221.

²⁴ LuAnn Bishop, Write Salman Rushdie ponders the effect of fear on free societies in this 'frontier time', Yale Bulletin & calendar, March 8, 2002, p.455.

²⁵ Ibid.

practices of religion.

Another difficulty comes when art work is being commercialized because then it opens up other alternative to hinder freedom of expression. This artistic freedom can't be limited to legal syllogism because people burn the paintings, stop buying them will be other tactics to stop artist from continue his work. It seems to suggest that art has special protection but when it comes to reality they don't even get the normal protection which any speech gets.

IV. STRIKING THE DIFFICULT BALANCE:

Right to manifest religious beliefs lies on the thin line between freedom of religion and freedom of expression, which is why it raises problems concerning the content and treatment of the right.²⁶ On the one hand freedom of expression has values such as free communication, growth of knowledge and marketplace of ideas etc. Autonomy justification is related to art which is important virtue of a human freedom. There is a special value attached to art because it re-imagined views of the society where we live or re-produce the ideas which we hold about lives.²⁷ Freedom of expression has to be checked by various many values such as Democracy, Autonomy and Communication.²⁸ Communication is the one value which needs to acknowledge other people in the freedom of expression. When people communicate there is an importance given to both- speaker and listener. Communication requires a special protection under any law of the land because social interaction is important in a liberal democratic society.²⁹ To say that protecting these interests is important would mean that speaker must not be prevented from speaking to those people who wish to hear them.

The right to freedom of religion has normative justification too, e.g. code of morality, self-evident good, spiritual value, personal autonomy etc.³⁰ In a liberal secularized society prioritizing religious hatred legislation in human rights claims is not justified because it

²⁶ Dmitry Kuznetsov, FREEDOMS COLLIDE: FREEDOM OF EXPRESSION AND FREEDOM OF RELIGION IN RUSSIA IN COMPARATIVE PERSPECTIVE, 2 Russ. L.J. 75 2014, p.56.

²⁷ Anthony Fisher and Hayden Ramsay, OF ART AND BLASPHEMY, Ethical Theory and Moral Practice, Vol.3., no.2 (Jun., 2000), pp. 137.

²⁸ Puja Kapai and Anne S Y Cheung, HANGING IN BALANCE: FREEDOM OF EXPRESSION AND RELIGION, 15 Buff. Hum. Rts. L. Rev. 41 2009, p.234.

²⁹ Professor Richard Moon, THE SOCIAL CHARACTER OF FREEDOM AND EXPRESSION, 2 Amsterdam L. F. 43 2009-2010, p.44.

³⁰ Ellen Wiles, A RIGHT TO ARTISTIC BLASPHEMY? AN EXAMINATION OF THE RELATIONSHIP BETWEEN FREEDOM OF EXPRESSION AND FREEDOM OF RELIGION, THROUGH A COMPARATIVE ANALYSIS OF UK LAW, 6 U. C. Dublin L. Rev. 124 2006, p.146.

hampers civil liberties, equality, tolerance, social inclusiveness.³¹

Under Indian Constitution and International law freedom of expression is not an absolute right but it has controversial limitation. On the other hand freedom of religion is a protected fundamental right but its contents and extent is not specified anywhere. This is the main reason why it has become so difficult to resolve the dispute between secular libertarians and the faithful believers.³² To strike a balance between two rights we have to take a contextualized approach where the position of targeted group and attacker has to be seen to secure the interests of people.

India is a plural society which is characterized by various religious beliefs and the way how people of that society is important to note here. The idea of 'respect for beliefs' is better than the idea of 'not offending people religious beliefs'.³³ People in a plural society may disagree about rules of conduct but they all agree on legitimacy of a plural society. When case like M F Husain come in society then enduring attack on Muhammad will be a mere compromise and it is not right because it doesn't represent a principled basis consensus.³⁴ As a religious community people want that there should be some limit on people's behaviour when it comes to cherished religious beliefs. However there is no reason why a non-Muslim or irreligious person should also limit himself as he doesn't belief in that religion.³⁵ One can't make assumption that everybody will take those beliefs as truth.

The principle of 'respect for beliefs' is a right based notion³⁶ and argue that people are entitled to respect from fellow citizens. The idea of respecting beliefs means that people who feel wronged should ask for remedy through other means³⁷ and it should not be done by curbing other people's belief or freedom of expression. The principle should have concern only with the manner how other's beliefs are treated and it should not go into matter of belief because

³¹ Ibid.

³² Rex tauati Ahdar, THE RIGHT TO PROTECTION OF ELIGIOUS FEELINGS, 11 Otago L. Rev. 629 2005-2008, p.332.

³³ Srinivas Burra, DECRIMINALISING CREATIVE OFFENCE, Vol XLIX NO 40, Economic and Political weekly, p.45.

³⁴ Ibid.

³⁵ Lucy Vickers, IS ALL HARASSMENT EQUAL? THE CASE OF RELIGIOUS HARASSMENT, The Cambridge Law Journal, Vol. 65, No.3 (Nov.2006), pp. 579.

³⁶ J. L. Mackie, 'CAN THERE BE A RIGHT BASES MORAL THEORY?', Jeremy Waldron, (ed.) Theories of Rights, p.168.

³⁷ THE NEW ASSAULT ON ARTISTIC FREEDOM, 18 Student Law, 18 1989-1990, p.34.

that can create problems again in the Right to religious freedom.³⁸ People can acknowledge the wrong/offence caused to a religious community even though they don't believe in the same.

When we talk arguments from offence the basic concern is- 'belief of people that should be respected' but in the idea of 'respect for beliefs' doesn't force people to accept other people's belief as a truth.³⁹ Hence the object of respect is individuals who hold these beliefs rather than beliefs itself. Making offence as a ground to object is a utilitarian character which can't be justified in a plural society⁴⁰. People might be offended by genocidal concentration camps but objecting to such camps by citing the offence will be a very baseless reason.

One popular reply to people objecting M F Husain's painting can be that they needn't see the paintings if it offends their religious beliefs. However there are many other strong reason to support Husain's case such as the protest will be counterproductive because they are increasing the number of people who have been offended.⁴¹ There is no justifiable reason that why paintings should be banned because doing that would not remove the remarks of paintings from people's consciousness. The freedom of citizens of country can't be at mercy of such a subjective criteria because there might be a religious group who is tolerant to such ridicule but does that mean they will not be entitled to protection because they didn't object to such work⁴². Therefore such subjective standards are not acceptable and everybody (including atheist) should be treated equally. They should not suppress any matter relating to their religion to have a full-fledged engagement with all ideas present in world.⁴³ It helps religious communities to give reasons for their religion as Mill argued that they can justify their position in such opportunities.⁴⁴

The painting can't be seen as a case of blasphemy because in earlier times the judging criterion was aestheticism and there so no word like blasphemy in Pali or Sanskrit language.⁴⁵ It shows

³⁸ Peter Jones, RESPECTING BELIEFS AND REBUKING RUSHDIE, British Journal of Political Science, Vol.20, No.4 (oct., 1990), pp.415.

³⁹ Ibid.

⁴⁰ Deepali Ann Fernandes, PROTECTION OF RELIGIOUS COMMUNITIES BY BLASPHEMY AND RELIGIOUS HATRED LAWS: A COMPARISON OF ENGLISH AND INDIAN LAWS, 45 J. Church & ST. 669 2003, p.44.

⁴¹ Srinivas Burra, DECRIMINALISING CREATIVE OFFENCE, Vol XLIX NO 40, Economic and Political weekly, p.32.

⁴² Ibid.

⁴³ Jeremy Waldron, RUSHDIE AND RELIGION, Liberal Rights, p.125.

⁴⁴ J S Mill, ON LIBERTY, On Liberty and other Writings, Stefan Collini (ed.), 1989, p.34.

⁴⁵ Sadanand Menon, M F HUSAIN: WHEN THE NATION LOSES ITS OWN NARRATIVE, Vol. XLVI No. 25, Economic and Political weekly, p.22.

the clear intent of targeting Muslim because of political reasons. Freedom of expression should not be curbed in the name of problems and complexities of transformation from oligarchy to social justice⁴⁶ because this freedom provides a platform to society to progress and develop. The irony is that in situations where government suppress freedom of expression is the area where freedom of expression is more needed.⁴⁷

V. RIGHT TO OFFEND RELIGIOUS BELIEFS- INDIAN SCENARIO

India is different from other countries because it is a multi-religious society where blasphemy laws can never stand due to its secularized nature. In India freedom of expression is guaranteed by Article 19(1)(a) of the Indian constitution⁴⁸ and it has certain limitation which were amended by the First Amendment Act⁴⁹ to prohibit the misuse of this right to the extent of spreading violence and hatred in society. It was a kind of comeback of colonial regime to curb freedom of speech and expression. The act of banning is seen as gagging dissent under the umbrella of reasonable restriction mentioned in freedom of speech and expression. These restrictions are operated through sec. 153A and 295 A of Indian Penal Code⁵⁰ and it includes prevention of speech, written words or acts, visible representation, signs if it outrage religious beliefs. These provisions were enacted to prevent any kind of hate speech that creates enmity between groups. In India under the garb of hate speech all kinds of book or any art work is also criminalised.⁵¹ The basic criticism is that it doesn't make a difference malicious done work and literary or art work. There is a need to separate creative work from hate speech. It is true that such creative ideas may not be acceptable to all but banning them will lead to attack on any form of dissent to the majority views. Therefore concept of absolute freedom is necessary which means anything which is found offensive in any form will be defeated through counter expression, and not by silencing them.⁵² It is called 'marketplace of ideas' where only truth will prevail at the end.⁵³ This idea is in the line of J S Mill's liberal view about freedom of expression. In India, hate speech related sec. 295 A was introduced during colonial times to maintain religious

⁴⁶ George Devenish, FREEDOM OF EXPRESSION: "THE MARKETPLACE OF IDEAS", 1995 J. S. Afr. L. 442 1995, p.54.

⁴⁷ Emerson, THE SYSTEM OF FREEDOM OF EXPRESSION (1970), The uncloistering of Virtue, 1978 SALJ 363, p.145.

⁴⁸ Constitution of India, 1949.

⁴⁹ First Amendment Act, 1951.

⁵⁰ Indian Penal Code, 1860.

⁵¹ Srinivas Batra, DECRIMINALIZING CREATIVE OFFENCE, Vol XLIX NO 40, Economic and political weekly, p.321.

⁵² Ibid.

⁵³ Jill Gordon, JOHN STUART MILL AND THE "MARKETPLACE OF IDEAS", Social theory and practice Vol.23, No.2 (Summer 1997), pp.235.

harmony but now it has become an unwanted colonial imposition. There is prevention provision for hate speech in International arena for the protection of human rights.⁵⁴ India hate speech law also seek legitimacy from this human rights discourse and ban any literary or art work under that umbrella. It is important to have absolute freedom in artistic and creative works but hate speech.

Since one of the components of criminal justice system is its objectivity, the acceptance of religion as a criterion to penalize will be a subjective category⁵⁵ and it will deviate from the objective of criminal law and lead to social division in the society. In India invoking offence principle is being justified by the requirements of public order. We should make a distinction between justified and unjustified public order by looking at case by case approach.⁵⁶

There is a need to make distinction between hate speech and free speech in society like India. Mill's argument of marketplace of ideas (which include hate speech too) has a fundamental problem that it assumes opposing interest.⁵⁷ In other words there may be opposing view but it doesn't come out in society where majority has upper hand. Even though opposing interest speaks it will end up being a match where accusation and allegation have to be exchanged which will end up in flame of more hatred towards each other.⁵⁸ There is not sufficient time gap to make counter argument because religious hate crimes react immediately. In India hate speech laws are needed and it should not be misused.

VI. CONCLUSION:

Religious belief should be open to discussion and criticism because there is an advantage of free speech which helps in social reform. In India religious discussion helped exploring customs prevalent in society which were barbaric in nature. Thus, for example when customs like Sati/Dowry lead to discussion it end up creating a prohibitive legislation in place. the

⁵⁴ Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination

⁵⁵ Deepali Ann Fernandes, PROTECTION OF RELIGIOUS COMMUNITIES BY BLASPHEMY AND RELIGIOUS HATRED LAWS: A COMPARISON OF ENGLISH AND INDIAN LAWS, 45 J. Church & ST. 669 2003, p.49.

⁵⁶ Emerson, THE SYSTEM OF FREEDOM OF EXPRESSION (1970), The uncloistering of Virtue, 1978 SALJ 363, p.54.

⁵⁷ Jill Gordon, JOHN STUART MILL AND THE "MARKETPLACE OF IDEAS", Social theory and practice VOL.23, No.2 (Summer 1997), pp.235.

⁵⁸ Deepali Ann Fernandes, PROTECTION OF RELIGIOUS COMMUNITIES BY BLASPHEMY AND RELIGIOUS HATRED LAWS: A COMPARISON OF ENGLISH AND INDIAN LAWS, 45 J. Church & ST. 669 2003, p.94.

practice of dowery still exists but legislation created a deterrent effect.

In M F Husain's case one need to understand that his paintings didn't harm anybody and it was his way of expression. Art should be given its due respect and destroying his paintings injure his livelihood, art and many other virtues which he deserves to have as a citizen of India. Targeting paintings after 10 years can be seen as a step from the upper caste Hindu to build a masculine country out of Hindutava ideology through the policing of sexuality of female.⁵⁹ This debate has gone beyond the colliding two freedoms and it has taken a furious form.

Religion is a very subjective criteria to penalize anybody and it can't be used to harm other human rights claims. Respect for beliefs should be there but it doesn't mean that one should compromise with his freedom while protecting others. In countries where blasphemy laws exist, should focus on protecting people from religious hatred rather than curbing other people's freedom of expression. Freedom of expression is an important right in today's world because everybody has a right to disagree. If people give threat of killing to individual who is disagreeing then we are going towards a life which should not be lived by any human being.

⁵⁹ Monica Juneja, RECLAIMING THE PUBLIC SPHERE, HUSAIN'S PORTRAYALS OF SARASWATI AND DRAUPADI, January 25, 1997, Economic and political Weekly, p.10.