

Opinion Article

INTERROGATING EINSTEIN'S PROPOSITION FOR TOLERANCE AS A SAFEGUARD TO FREEDOM OF EXPRESSION

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Abstract

It was Albert Einstein, a world-renowned physicist who first said that laws alone cannot secure freedom of expression; in order that every man presents his views without penalty there must be a spirit of tolerance in the entire population. By this, he posited that the safeguards of law alone could not preserve, protect or assure the continued existence and respect for human rights, particularly, freedom of expression. On the contrary, recognition, respect and protection of the freedom of expression can only be achieved by a concerted effort of the citizenry to tolerate one another's differences despite the supremacy of their human rights. This is important even as the world continues to witness an exponential increase in the modes and mediums of expression both in person, and virtually. Even more so, as democracies continue to be threatened by State clamp down on free speech among the citizenry. This paper delves into Einstein's postulation by examining the concepts of human rights, freedom of expression, and tolerance; and underlining the need for the latter in the propagation and preservation of the former. The paper also examines the lawful and unlawful limits to the right to freedom of expression, and practical ways of achieving tolerance amongst the citizenry, in furtherance of the fundamental right to freedom of expression. The paper goes on to suggest different approaches to engendering tolerance in the citizenry and the expected outcome. The paper concludes by aligning with the postulation of Sir Albert that indeed, tolerance is a key ingredient for preserving and enforcing freedom of expression in Nigeria, and the world over.

Keywords: Fundamental Human Rights, Human Rights Law, Freedom of expression, Tolerance.

I. Introduction

Fundamental human rights are globally recognized inalienable rights of human beings. These sets of rights are deemed universal because most human cultures and societies from time immemorial possess traces and features of what is now known as the generally accepted body of human rights laws. Whilst these bodies of laws have undergone a lot of development over the years, their applicability and protection are still relatively contextual in different regions and countries of the world. One can therefore posit that the force of law is not sufficient to secure the protection and enforcement of human rights across the world. Rather, there is a need for sociocultural understanding and evolution of each right, and more especially, the right to free speech also known as freedom of expression.

Freedom of expression is a cross-cutting sociopolitical right which has the ability to affect other human rights within a society. Yet, this right is currently under assault across the world. In

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October 2016, the UN expert on freedom of expression reported that individuals seeking to exercise their right to expression face all kinds of government-imposed limitations that are not legal, necessary or proportionate.² It is perhaps for this reason that Einstein proposed an approach of tolerance rather than that of law alone when it came to the protection of free speech. Free speech can descend into two extremes, It is a given that one man's right stops just where the other's begin. Therefore, a right in one man arouses a duty in another, and vice versa. Identifiably, the human rights system in which freedom of expression lies, amongst other rights, first began to develop as a governmental drive for a unified system of human rights laws. As far back as the 1960s, governments across the world, by the instrumentality of international organisations such as the United Nations, the Council of Europe³ and the Organization of American States,⁴ began to develop and adopt key international and regional declarations and conventions on human rights. Likewise, protection bodies within the United Nations system and the European and American regional systems were established. Thereafter, non-governmental human rights movements began to emerge across the world. International human rights organisations such as Amnesty International, the International Commission of Jurists and the Human Rights Watch were formed to propagate the knowledge of human rights across the world, to advocate for the recognition and protection of these rights, and to openly denounce human rights violations. They also rose to the defence of victims of human rights abuse in different regions of the world. They derived their legitimacy and influence from the attention they garnered from the international press and governments, as well as public opinion. Always at the centre of their campaigns, however, was and is the right to freedom of expression. According to Albert Einstein,

‘Laws alone cannot secure freedom of expression; in order that every man present his views without penalty there must be spirit of tolerance in the entire population.’

Tolerance goes to the root of our humanity, just as fundamental human rights do.⁵ A functional society is one in which the rule of law is upheld, and fundamental human rights are respected and protected. Einstein, therefore, proposed that the spirit of tolerance be engendered in society, in furtherance of free speech.⁶ This paper interrogates Einstein's statement in the light of the conflicting extremes of lawful restrictions to freedom of expression, and repression of freedom of expression; and proposes tolerance as the way out of this conundrum.

² Emily Howie (2018) Protecting the human right to freedom of expression. in international law, *International Journal of Speech-Language Pathology*, 20:1, 12-15, DOI: 10.1080/17549507.2018.1392612 Accessed 15 January, 2022.

³ Frans Viljoen. International Human Rights Law: A Short Story. *United Nations/ UN Chronicles*. <https://www.un.org/en/chronicle/article/international-human-rights-law-short-history> Accessed 18 December, 2022.

⁴The Organisation of American States. *Icelandic Human Rights Centre*. <https://www.humanrights.is/en/human-rights-education-project/human-rights-concepts-ideas-and-fora/human-rights-fora/the-organization-of-american-states> Accessed 18 December, 2022.

⁵The Importance of Tolerance. 2017. *Global Council for Tolerance and Peace*. <https://gctpnews.org/the-importance-of-tolerance/> Accessed 18 December, 2022.

⁶Albert Einstein (2011). “Out of My Later Years: The Scientist, Philosopher, and Man Portrayed Through His Own Words”, p.14, *Open Road Media*.

II. Conceptual Clarification

II.1. Fundamental Human Rights

These are inalienable rights of all human beings, given rise to by virtue of being human. Human rights are basic rights and freedoms that all people are entitled to regardless of nationality, sex, national or ethnic origin, race, religion, language, or other status. They are necessary for us to live with dignity.⁷ Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination.⁸ According to Jack Donnelly, human rights are the rights one has simply because one is a human being.⁹ In the words of Boutros Boutros-Ghali (1993), “human rights are the irreducible human element, in other words, the quintessential values through which we affirm together that we are a single human community. As an absolute yardstick, human rights constitute the common language of humanity.”¹⁰

II.2. Human Rights Law

Human rights law is the set of laws created to protect and promote human rights domestically, regionally and universally. The United Nations (UN) has defined a comprehensive set of universally accepted rights and the mechanisms to promote and protect these rights and help member states fulfil their duties. This set of laws are premised upon the Charter of the United Nations and the Universal Declaration of Human Rights of 1945 and 1948 respectively.¹¹ The scope and content of human rights law continue to evolve to meet up with modern-day developments even as human societies continue to evolve.¹²

II.3. Freedom of Expression

Freedom of expression is also sometimes called freedom of speech. Although semantically, ‘expression’ connotes a more comprehensive concept than mere ‘speech’, this paper will use both ‘freedom of speech’ and ‘freedom of expression’ interchangeably. Liu Xiaobo, the Chinese Nobel Laureate, described freedom of expression as the basis of all human rights, the source of humanity and the mother of truth. According to him, to block freedom of speech is to trample

⁷ What are human rights? <https://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx>. Accessed 15th January, 2022.

⁸ United Nations: Peace, Dignity and Equality on a Healthy Planet. <https://www.un.org/en/global-issues/human-rights>. Accessed 12 January, 2022.

⁹ Donnelly, Jack, (2006) The Relative Universality of Human Rights (Revised) working paper no. 33, <https://www.du.edu/korbel/hrhw/workingpapers/2006/33-donnelly-2006-rev.pdf>. Accessed on 15th January, 2022.

¹⁰ Address by the Secretary-General of the United Nations at the opening of the World Conference on Human Rights <https://newsarchive.ohchr.org/AR/NewsEvents/Pages/DisplayNews.aspx?NewsID=7906&LangID=E> . Accessed on 15th January, 2022.

¹¹ United Nations: Peace, Dignity and Equality on a Healthy Planet. <https://www.un.org/en/global-issues/human-rights>. Accessed 12 January, 2022.

¹² Address by the Secretary-General of the United Nations at the opening of the World Conference on Human Rights. <https://newsarchive.ohchr.org/AR/NewsEvents/Pages/DisplayNews.aspx?NewsID=7906&LangID=E> . Accessed on 15th January, 2022.

on human rights, to strangle humanity and to suppress truth'.¹³ Indeed, freedom of expression can be described as the basis for a network of interrelated rights/freedoms including freedom of conscience i.e., the right to hold opinions regarding religion or other beliefs, as well as the right to assembly, demonstration and petition¹⁴. Freedom of speech is contained in the human rights provisions of most domestic laws and constitutions, regional laws as well as universal declarations, covenants and conventions. Article 19 of the Universal Declaration of Human Rights (UDHR) succinctly defines the right to freedom of expression as follows:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

In the same vein, paragraphs 2 and 3 of Article 19 of the International Covenant on Civil and Political Rights (ICCPR) of 1966 read:

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) for respect of the rights or reputation of others; (b) for the protection of national security or of public order (ordre public), or of public health or morals.

From the above, freedom of expression manifests in diverse ways such as freedom of opinion, freedom of information, freedom of the press and other media, freedom of artistic expression, freedom of academic and scientific research, and freedom to disseminate, distribute, impart and propagate these expressions. Expressions can take various forms, be it verbal expression, written form, drawings, paintings, print media, electronic media, news media, social media etc.

II. 4. Tolerance

Tolerance is respect, acceptance and appreciation of the rich diversity of our world's cultures, our forms of expression and ways of being human.¹⁵ The Merriam-Webster Dictionary defines tolerance as sympathy or indulgence for beliefs or practices differing from or conflicting with one's own.¹⁶ Tolerance is a most desirable social virtue which is advanced through openness and communication, as well as freedom of thought, conscience and belief. Tolerance has also been described as harmony in difference. Tolerance is the responsibility that upholds human rights, pluralism, democracy, harmony and the rule of law. It involves the rejection of dogmatism and absolutism and affirms the standards set out in international human rights instruments. Consistent with respect for human rights, the practice of tolerance does not mean toleration of

¹³Coonan, C. (2010) 'China Condemns 'Insult' of Award for Jailed Dissident Liu Xiaobo', *The Independent*. <https://www.independent.co.uk/news/world/politics/china-condemns-insult-of-award-for-jailed-dissident-liu-xiaobo-2101810.html> Accessed 18 December, 2022.

¹⁴Articles 10 and 11 of the Declaration of the Rights of Man and the Citizen respectively establish the freedom of conscience and of expression.

¹⁵ UNESCO's 1995 Declaration of Principles on Tolerance

¹⁶ Tolerance Definition & Meaning. <https://www.merriam-webster.com/dictionary/tolerance>. Accessed 15 January, 2022.

social injustice or the abandonment or weakening of one's convictions. It means that one is free to adhere to one's own convictions and accepts that others adhere to theirs.¹⁷ It connotes forbearance or readiness to put up with what one dislikes.¹⁸ The Preamble of the United Nations Charter states that the intention of its member states is "to practise tolerance and live together in peace with one another as good neighbours."¹⁹ According to UNESCO Director-General Audrey Azoulay, "Tolerance is an act of humanity, which we must nurture and enact each in our own lives every day, to rejoice in the diversity that makes us strong and the values that bring us together".²⁰ From the foregoing, one can surmise that tolerance bears moral, political and legal significance to the advancement of any society. It is a virtue that makes peace possible. Tolerance advocates for and fosters peace as opposed to war, and understanding as opposed to hostilities. It is a key ingredient in the enforcement and protection of the right to freedom of expression, as will be discussed later in this paper.

III. The Law as Security for the Freedom of Expression

The right to freedom of expression is adequately canonised in both domestic and international human rights law. Article 19 of the UDHR (1948) earlier cited, is one of the foremost declarations which protects freedom of expression. And seventy-four years later, the rights contained within the UDHR, including freedom of expression, are well protected in international treaties, regional human rights instruments and newly established domestic human rights laws.²¹ Due to this overwhelming rate of treaty ratification and its inclusion in the UDHR, freedom of speech is now considered to be a norm of customary international law.²²

Freedom of expression reinforces other human rights such as the right to freedom of thought, conscience and religion – it promotes and allows them to flourish. It is also closely linked to freedom of association – the right to form and join clubs, societies, trade unions or political parties with anyone you choose; and freedom of peaceful assembly – the right to take part in a peaceful demonstration or public meeting. Freedom of expression applies to all manner of expression and ideas, including those that are viewed as offensive by some segments of society. Therefore, while the law promotes freedom of expression, it also establishes certain proscriptions against some forms of expression. This suggests that this right is not an absolute one. Where the exercise of one's right would violate the rights of others, or in this instance propagate hatred, violence or discrimination or violence, the law will prohibit this.

However, this does not give room for arbitrary prohibition or restrictions of the fundamental right to freedom of expression; it rather serves as a safeguard to ensure the optimal and beneficial exercise of this right. Restrictions on freedom of expression must be expressly provided by law,

¹⁷ Tolerance, Harmony and Forgiveness. *Gandian Approach to Peace and Conflict Relationship*. Ignou-The People's University. P20

¹⁸ Rapp, C., & Freitag, M. (2015). Teaching tolerance? Associational diversity and tolerance formation. *Political Studies*, 63 (5), Pp 1031-1051.

¹⁹ United Nations. (1945). *Charter of the United Nations*. <http://www.un.org/en/charter-united-nations/>. Accessed 19 December, 2022.

²⁰ United Nations Educational, Scientific and Cultural Organization (UNESCO). (1996). International day for tolerance—November 16. <http://www.un.org/en/events/toleranceday/>. Accessed 15 December, 2022.

²¹ Triggs, G. (2011). *International law: Contemporary principles and practices* (2nd ed.). Sydney, Australia: LexisNexis Butterworths.

²² *ibid*

must clearly be in the interest of the general public and must be absolutely necessary for ensuring peace and progress in the society.²³

An expansive examination of Article 19 of the ICCPR reveals two things: a statement of the right itself and of the circumstances or instances in which its exercise may be restricted. For instance, every human being/citizen has a right to hold their own opinions and to express them freely without government interference. This means that they can express themselves through every lawful means possible such as through words, books, the internet, drawings, paintings, radio broadcast, and social media etc. They could also express themselves through demonstrations and public protests. Equally, they can receive communication from others through these means.²⁴ Restrictions to freedom of expression are permissible where the restricting authority can show that such limitation is lawful and necessary. The inalienable right to free speech/expression ceases to be absolute where it conflicts with state interest or public safety. In the following instances, the law permits the restriction of freedom of expression:

1. The protection of national security, territorial integrity (the borders of the state) or public safety.
2. Prevention of disorder or crime.
3. Protection of health or morals.
4. Protection of the rights and reputations of other people.
5. Prevention of the disclosure of information received in confidence.
6. Maintenance of the authority and impartiality of judges.²⁵

Thus, when expressing yourself freely, views or speech that could incite violence, hatred or put other citizens in harm's way may be prohibited. The subject of what is appropriate when it comes to restricting freedom of expression has faced a lot of controversy over the years. And this is not going away any time soon as societies continue to evolve, and modes and content of expression continue to develop and change.

IV. Lawful Restrictions Versus Encroachment & Repression of Freedom of Expression

Freedom of expression has always been at the centre of human rights activism across the world. The United Nations Human Rights Committee qualified freedom of opinion and expression as “indispensable conditions for the full development of the person”.²⁶ Since the Universal Declaration of Human Rights (1948), the right to freedom of opinion and expression has since been included and protected in all other relevant international human rights treaties. Free speech connects a string of other human rights and freedoms and can be a pointer to the prevalence of respect for human rights in any society. In legally restricting freedom of expression for any of the reasons listed earlier, the restricting public authority must be able to clearly show that the restriction is appropriate and is as necessary to address the challenge identified with the exercise of free speech. No more, no less. In *The Observer and The Guardian v United Kingdom*

²³Amnesty International: Freedom of Expression. <https://www.amnesty.org/en/what-we-do/freedom-of-expression/>. Accessed 12 January, 2022.

²⁴ Article 10: Freedom of Expression. <https://www.equalityhumanrights.com/en/human-rights-act/article-10-freedom-expression>. Accessed 12 January, 2022.

²⁵ Ibid.

²⁶UN Human Rights Committee. (2011). General Comment No. 34, Article 19, Freedoms of opinion and expression. UN Doc. CPR/C/GC/34. <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>. Accessed 15 January, 2022.

[1991],²⁷ The Guardian and the Observer newspapers published excerpts from Peter Wright's book *Spycatcher*. These excerpts included allegations that MI5 had acted unlawfully. The UK government sought and obtained a court order to stop the newspapers from printing and publishing further material until proceedings relating to the breach of confidential government information had been concluded. But when the book was published, the Guardian complained that the continuation of the court order infringed the right to freedom of expression. The European Court of Human Rights declared that the court order was lawful because it was in the interests of national security. However, it also said that this wasn't enough reason for the ban to continue once the book had been published, because the information was no longer confidential.

In 2011, the United Nations Human Rights Committee declared that all forms of communication are protected, including "political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching and religious discourse".²⁸ The ICCPR of 1966 also protects the "freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of a person's choice". This protects expression in all forms, including spoken, written and sign language, and non-verbal expressions through artworks.²⁹

In the cited case, while freedom of expression covers newspaper publications, publication of government secrets could lead to a breach of peace, a threat to sovereignty and potentially, war. As such, the restriction thereof is justifiable. However, in cases where such a publication could expose human rights abuse by the government, restricting the freedom of expression would be tantamount to tyranny and an undemocratic policy. Therefore, the line between lawful and beneficial restrictions of freedom of expression, and the suppression of free speech, is very thin. Free speech enhances transparency and accountability for human rights abuses; an abuse of freedom of expression can hence only be exposed and curtailed by the exercise of freedom of expression itself.

Equally worthy of note is the alarming rate at which governments across the world, even member states of the United Nations, are repressing free speech on domestic soil. In October 2016, the UN expert on freedom of expression reported that individuals seeking to exercise their right to expression face all kinds of government-imposed limitations that are not legal, necessary or proportionate³⁰. Identified targets of restrictions include human rights activists, pressmen, government critics, and private citizens. Governments have a duty to prohibit hateful, inciting speech, but many abuse their authority in order to silence peaceful dissent, by passing laws criminalising freedom of expression.³¹ They do so under the guise of counter-terrorism, national security or religion. In 2018 alone, at least 113 government critics were arrested by the Egyptian government for exercising their free speech to denounce their government's shortcomings. These critics were kept in detention without trial and eventually tried on trumped-up charges of

²⁷ [1991] ECHR 49

²⁸ UN General Assembly. (2016). Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, UN Doc. A/71/373, 55

²⁹ UN General Assembly. (2016). Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, UN Doc. A/71/373, 55.

³⁰ Ibid.

³¹ Freedom of Expression. <https://www.amnesty.org/en/what-we-do/freedom-of-expression/>. Accessed 16 January 2022.

terrorism.³² In Myanmar, Reuters journalists Wa Lone and Kyaw Soe Oo were arrested in December 2017 for investigating a massacre committed by officers of the Myanmar security forces in Northern Rakhine State. They were then charged with breach of official secrets and sentenced to 7 years imprisonment. They were later released after a public and international outcry against this repression of free speech by the government.³³

The travails of Abiri Jones, a Nigerian journalist, at the hands of security agents has been described as representing the height of Nigeria's state repression of free speech and press freedom.³⁴ Abiri, a newspaper editor was arrested on August 2016 on accusations of being part of a separatist group and carrying out terrorist activities. Abiri's family and colleagues however believed his arrest was in connection with a report he published which alleged that the country's military was planning a coup against President Muhammadu Buhari.³⁵ He was detained for two years without trial at first, and upon his release on bail, was subsequently rearrested twice and now faces criminal charges of terrorism, economic sabotage and fraud.³⁶ More often than not, journalists in Nigeria and across the world, bear the brunt of repression of free speech as their trade requires an amplified level of expression through voice, print and social media. Journalists and private citizens who are arrested, victimised and persecuted by the government for exercising their right to free speech are either left to rot in detention, or are charged with treason and terrorism. In August 2019 for instance, Agba Jalingo, a Nigerian journalist was arrested by the Cross River State government and charged with treasonable felony, terrorism and cybercrime for accusing the Governor of diverting public funds. He was later discharged and acquitted in March 2022.³⁷ In the same vein, the government through the military openly fired on innocent and unarmed protesters in October, 2020. This act followed a blatant rebuff of the citizens' protest against police brutality which had lasted for days despite the fact that Nigeria as a country has ratified the ICCPR and the African Charter on Human and People's Rights.³⁸

Other noticeable acts of repression of the freedom of speech across the world have manifested in form of increased levels of internet censorship and surveillance, (the Nigerian government recently banned the social media platform Twitter, for 222 days, following the deletion of a

³² Ibid

³³ Myanmar: Genuine press freedom must follow release of Reuters journalists.

<https://www.amnesty.org/en/latest/news/2019/05/myanmar-genuine-press-freedom-must-follow-release-reuters-journalists/>. Accessed 16th January, 2022.

³⁴ Nwachukwu Egbunike. 2019. How Nigeria uses the law to repress free speech: The case of journalist Jones Abiri. *Global Voices*.

<https://globalvoices.org/2019/07/17/how-nigeria-uses-the-law-to-repress-free-speech-the-case-of-journalist-jones-abiri/>. Accessed 19th December, 2022

³⁵ Fighting Impunity: Detained for Two Years, Journalist Jones Abiri Awarded Damages. 2018.

<http://www.mfwa.org/fighting-impunity-detained-for-two-years-journalist-jones-abiri-finally-acquitted-awarded-damages/>

³⁶ ibid

³⁷ Arbitrary Arrest and Detention of Journalists, Citizens Raise Human Rights Concern. 2022. Legist. *Policy and Legal Advocacy Centre*. <https://placng.org/Legist/arbitrary-arrest-and-detention-of-journalists-citizens-raise-human-rights-concern/> Accessed 20 December, 2022.

³⁸ Nigeria: Killing of #EndSARS protesters by the military must be investigated. 2021. Press Release. *Amnesty International*.

<https://www.amnesty.org/en/latest/press-release/2020/10/killing-of-endsars-protesters-by-the-military-must-be-investigated/>. Accessed 20 December, 2022.

hatred inciting tweet by the President of Nigeria from the platform)³⁹, an unlikely recourse to blasphemy laws, criminalization of various forms of hate speech, agitations for the protection of religions from defamation as a separate right.⁴⁰

V. Tolerance as an Additional and More Effective Safeguard to Freedom of Expression

From the beginning, it is evident that the law alone cannot safeguard the right to free speech. This is because the various instances of government clamping down on free speech have mostly been backed by law itself. Therefore, there needs to be a better way out, and as the great physicist posited, tolerance is the way forward. Tolerance facilitates an adherence to one's own convictions and the respect and acceptance of that in others. This means that one will not attempt to impose one's views on others.

The Charter of the United Nations affirms in its preamble that to practice tolerance is one of the principles to be applied, to attain the ends pursued by the United Nations of preventing war and maintaining peace. In its 1993 session, the UN Assembly declared 1995 the United Nations Year for Tolerance. On 16 November, 1995, UNESCO member states adopted the Declaration of Principles on Tolerance that provides a guideline to further strengthen the international principles of tolerance. In 1996, the 16th of November was officially declared the annual International Day of Tolerance.⁴¹ Tolerance as an approach to protecting freedom of expression must be employed from its multifaceted angles:

V.1. A Legal Approach to Tolerance

Freedom of expression is not an absolute right. In the exercise of this right, the interests of the state and the citizens, and that of citizen to citizen, continue to clash. As an easy but repressive way out, certain states and private sector actors adopt laws and regulations amongst other measures which unjustifiably restrict the right to freedom of expression, where it conflicts with their autocratic style. This only compounds the problem as it is done under the pretext of safeguarding national security or the protection of national or corporate reputation, but goes beyond what is lawfully permitted. Tolerance must come in. Tolerance theory posits that there is an inseparable link between social and legal constraints upon speech. According to Bollinger's theory, as legal tolerance for extreme speech increases, social tolerance for extreme speech will also increase.⁴² Laws enacted to safeguard freedom of expression or regulate it must give cognizance to differing opinions and views. They must contemplate government/citizen dissents and ensure that one is not sacrificed for the other. Government critics must be allowed to express themselves in a democratic atmosphere without fear of being clamped down upon by repressive legislation. There must as well be equal access to justice and fair hearing so that every man can

³⁹ Nigeria lifts ban on Twitter after seven months.

https://www.upi.com/Top_News/World-News/2022/01/13/nigeria-nigeria-lifts-twitter-ban/4641642094693/

⁴⁰Callamard, 'Is it Possible to Move the Debate on Freedom of Expression Out of the Cultural and Religious Spheres to the Spheres of Law and Politics?'. http://www.regjeringen.no/nb/dep/ud/kampanjer/refleks/innspill/menneskerettigheter/debate_freedom.html?id%4535398. Last accessed 13th January, 2022.

⁴¹ United Nations Educational, Scientific and Cultural Organization (UNESCO). (1996). International day for tolerance—November 16. <http://www.un.org/en/events/toleranceday/>. Accessed 15 December, 2022.

⁴² Tolerating Extreme Speech on Social Media. 2016. *Communication Currents*. <https://www.natcom.org/communication-currents/tolerating-extreme-speech-social-media> . Accessed 20 December, 2022.

have his day in court. The laws must facilitate an avenue for objective dialogue and negotiations where there is a fallout between citizens, or citizens and the government.

V.2. An Educational Approach to Tolerance

Laws are not sufficient to combat intolerance of the right to freedom of expression. There must be a consciousness of the existence of the right within the society. This can be made possible through sensitizations and campaigns, done locally and internationally. Right holders must be made to understand the extent and scope of their rights, and the accompanying duties. Mahatma Gandhi emphasised that education is the most effective means of engendering tolerance. The first step in tolerance education is to teach people what their shared rights and freedoms are, so that they may be respected, and to promote the will to protect those of others.⁴³

As the scope of the freedom of expression continues to widen to accommodate contemporary developments and modes and forms of expression, right holders must be taught tolerance towards differing/new expressions. The citizenry and the government alike, must learn to be open minded and respectful of emerging forms of sexual, ethnic, and socio-cultural expressions hitherto unknown to them. Tolerance can and must be imbued in right holders by way of education both formally and informally. Formally, by including it in school curriculums from primary to tertiary education levels. Informally, through sensitization walks, town hall meetings, social media campaigns, market outreaches, as part of workplace onboarding material etc.

V.3. Concerted Non-Violent Action as an Approach to Tolerance:

This approach hybrids the first two approaches. Even as the right to freedom of expression is a universal right, there is a need for concerted action in the form of campaigns, demand for accountability, public solidarity with victims of right repression, and grassroots mobilisation for change. Members of society are all part of the solution. Citizens must work alongside governments to drive the change that we want to see through positive action online and offline. Words must match our actions, weight must be thrown behind democratic governments, autocratic governments must be openly denounced, and freedom of expression abuses must be exposed, reported and prosecuted to logical conclusions. Tolerance must become society's watchword if this freedom will be preserved.

VI. Conclusion

Freedom of expression cannot be secured by law alone as Sir Albert Einstein has rightfully said. The entire society must be responsible for the security of this right. Laws are made by people to regulate them. Laws can therefore only do so much as people want them to. Consequently, people must approach law-making and enforcement with a mindset of tolerance. Free speech is the hallmark of democracy. Fear and shame are two potent tools for subjugating and repressing people. And these two thrive in the absence of tolerance. Freedom of expression cannot thrive in a society where citizens are afraid of expressing themselves out of fear or shame, fear of being sanctioned by the government, and shame of being crucified in the court of public opinion. As Grayling rightly opined,

⁴³ Tolerance, Harmony and Forgiveness. *Gandian Approach to Peace and Conflict Relationship*. Ignou-The People's University. P22

‘Both tolerance and free speech are fundamentals for any society aspiring to recognize and respect individual liberties and rights. Without free speech no other rights get a grip; if one is silenced, one cannot claim, assert or defend any of one’s other rights, or seek remedies for abuse of them. But a society in which free speech is central is a society that must of necessity be tolerant, because it will inevitably happen that, at some point, someone will disagree with or be offended by someone else’s utterances. That is an inescapable price of free speech. Only if there is agreement, both in principle and practice, among members of the same society that they will work to be tolerant about opinions, sentiments, attitudes, and the expression of all three, that are sometimes radically and even offensively different from each other, can there be social cohesion and free speech at the same time.’⁴⁴

Thus, right holders must exhibit tolerance in the exercise of their rights, and the fulfilment of the accompanying duty. As the world continues to seek to balance out competing interests in the exercise of this inalienable right to free speech/expression, tolerance stands out as the most effective pivot and a very efficient lubricant.

⁴⁴ Grayling, A.C.. (2007) *Tolerating Intolerance*. Sage Journals, vol. 36, 2: pp. 124-130. <https://journals.sagepub.com/doi/pdf/10.1080/03064220701334527> . Accessed 16th January, 2022.