

The Morals behind Restraining Rights and Freedoms: A Classical Overview

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Abstract

The main purpose of the analysis is to explore the evolutionary trends of the restraint to freedoms by both state and non-state actors. An effort is made whether the restraints were morally sound even during the absence of written law in the history and prehistory. This product is an outcome of historical research mainly based on doctrinal work. In writers view morality has been the principal steward to make fair restraints upon various form of freedoms. In the course different groups of elites imposed excessive restraints upon freedom to fellow human. Much of those restraints were directed to capture the wealth, power and serve the interest of ruling elites. The humanistic approach to rights and freedoms of the native communities sidelined with the reception of rights and freedoms evolved in the foreign soil. The Hindu and Buddhist scriptures witness the fact of suppression either in explicit or implicit form. The methods of spirituality and meditation to purify inner self that would prevent or make self-restraint of rights abuses were outlawed. The restraints are always expected to be fair, reasonable, ethical and moral in the eye of public. Proper scrutiny measures should be put in place to make surveillance upon restriction made against rights and freedoms. The struggles for freedoms are ever going and probably never ending and therefore that rest on the highest echelon of human mind. Its preciousness is not comparable and therefore humankind deserves any power to defend for freedom. The cost of freedom is immeasurable and also of its fair restraints.

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A Retrospect

The early observation indicates that there was hardly any limitation on the will and wish of human beings in primitive era. In view of Rousseau the natural human was an animal whose behavior was purely instinctive, any thought whatever was depraved. He did not have language except crying or yelling. The natural human was neither moral nor vicious (Sabine and Thorson, 1973, p 536). There was absence of rules regulating human activities and therefore human being was free to enjoy every freedom as equal to animals. The rights and freedoms were innate and indefensible (Sabine and Thorson, 1973, p 244, 488)

The right and freedoms were absolute and beyond limits. If restrained existed that was either by the action of nature, feral and enemy. Other constitutes the self-restraints caused by natural gift of individual fear, wills, love, emotions, heart and mind of human kind. The fear was probably the main restraining power that disallowed early human to involve in harmful activities at the instruction of nature. The human in the era of natural knowledge of fear, or in the absence of derivative knowledge, restrained self from hazardous acts like jumping down to cliff, trees and face violent feral etc. The natural bliss of fear, emotions, desire etc. injected in the heart and mind restrained human to move freely as the wind in atmosphere, lights in the sky and water in the seas. On the other hand hunger, desires, love, emotions and urges were unknowingly contributed to flourishing and extending freedoms in the natural era as well. Indeed early people were in the veil of ignorance (Rawls, 2000, p 136-141))

In fact human nature itself does not allow them to enjoying absolute or unrestrained freedoms, even if they are allowed to do freely whatever they want. Ancient Greek writer Aristophane' idea of abolition of marriage by introducing common wife/husband-ship recognized in around 390 BC (later Plato humorously said communism of wives) (Sabine and Thorson, 1973, p 38) deemed unacceptable as doing whatever s/he wants is neither a right nor any freedom. The practice was considered unsound and immoral that hammered upon the rights and freedoms of both men and women. Hence those free activities were not recognized as freedom. Like this most of all restraints upon rights and freedoms that exist today are made by human themselves for the sake of their wellbeing. When early human began to practice civility like living in group, caring kids and seeking safety from enemies as feral, storms, flood etc. they devised the rules and practices to bind themselves.

The advancement of human reason and rational helped develop many common forms of rules (Rawls, 2000, p.142-43). The reasons and rational were emanated by the god for human via the hands of nature. The advancement of reasons helped human setting moral and ethical rules and standards for them. They restrained many of their natural freedoms or immoral freedoms in

human eye, but being enjoyed by the animals (Sabine and Thorson, 1973, p 430, 531)). Indeed, the reason and rational made human being different than other animals.

Human reasons did consider unethical to the freedom to keep in bareness or nakedness. Considering unethical and immoral human began to cover their private parts with grasses, leaves, shoot bark etc. The practice unknowingly restrained their freedom to remain and move in bareness. In order of development human perceived '*freedom of jungle*' such as sexual relation among kin and relatives insensible and immoral. In the quest of morality, ethical, sensible and sound life human themselves restrained certain right and freedoms of early times. That was human who considered fair and reasonable to restrain own rights and freedoms, of course emanated by the nature. Despite it in academic terms reason is considered repulsive as that sets prudence against moral intuition.

John Locke assumes that in order of evolution human being devised the idea to live in group for the sake of safety, security and cooperation. Living in group system advanced the rule of leadership. The people began to choose their leader who would lead them and allocate the common work to group members. The leader advanced uniform rules and practices to manage group members. The group leader would consult the group members before rule formation and setting practices. The rules of practice were developed as per the need. The rules and practices restrained many freedoms which lacked limitations before. Many practice based freedoms that deemed unreasonable, irrational, insulting, undignified, unethical, insensitive, immoral were restrained (Sabine and Thorson, 1973, p 490, 494). As mentioned the practice of free bare life, killing or injuring other human, eating human excrete, sexual relation with kin and others were considered unreasonable and restrained. Apart from them many other freedoms with historical base were later extended with a view to mitigate harms in the society.

Era of Ideologues and further restraints

The growth and stretch of population in different locations changed the social, economic and cultural pattern of human life across. The prominent thinkers and ideologues appeared in the Indian, Chinese, European, Arab and Persian soils. Their works contributed a lot to streamline and advance the communities in social, economic, cultural and religious terms. Most of their concern was to make an ideal, fair, peaceful and humanistic society in their respective soils. The scriptures they contributed generally focused to guide for an ideal society based on peace, harmony and humanistic values including freedom.

The Vedas in India call for peace in all the dimensions of universe land, water and the sky. It also laid down rules that no one has right to disregard peace, harmony and humanistic values. The authors and pundits of wisdom interpreted Vedas and advanced other scriptures such as

Upanishads, Smirities, Puranas and immensity of other literatures. Most of those literatures state the need of right and freedoms for human and restraints upon them as well. Most of those scriptures were recognized in the form of law, and general people were obliged to abide by them (Galanter, 1997; DE Weyer, 2011, p 12).

Any person who disregards the rights and freedoms of others would be held liable. Rather the communities were considered responsible for creating guilty people alike rotten fruits. The liabilities were guided by the idea to correcting, improving and making realization of the impact of guilt than imposing harsh punishments to wrong doers. The form of liabilities would include enlighten, expiation, moral sanctions, forgiveness, healing, teaching, warning, truth making, labor, displacement, fine, ordeal and other sanctions of both visible and invisible forms (DE Weyer, 2011, p 12; Sharma, 2010, Chapter I). The idea of punishment is guided by the ideals of "*a liberated soul overcomes the world*".

A number of Hindu sages and gurus and Buddhist monk are of the opinion that inner peace, freedom of the inner self and inner purification would mitigate the abuse and violation of rights and freedoms. Major causes for the violation and obstruction of freedom under Hindu, Buddhist, Jain and Sikh spiritual sciences is the anger, rage, greed, lust, jealousy, hatred, avenge among others (Radhakrishnan, 1993, Chapter XIV). Those invisible elements endanger the right and freedoms of others which is not acceptable. As they are not visible, no proven fact of violation would be available to make them liable. However ramification of the impact of those invisible ills is not less harmful than the visible and physical ones.

To uphold rights and freedoms the violators, abusers or criminals should be restrained via penal system. Lord Manu son of *Swayambhu* conceptualized four kinds of penalties to those who commits crime or violates the rights and freedom of others. They are *Bakdanda* (warning), *Dhikdanda* (cursing or oral threats, *Arthadanda*(fine, compensation) and *Badhadanda* (bodily/corporal punishment). Any of them could be imposed based on the gravity of guilt. Additionally the expiation was also common on certain abuses relating to dignity, honor and reverence.

The sages like *Patanjali* and Lord Buddha encouraged mitigating ill intents via yoga and meditation practices for the purification of guilty person (DE Weyer, 2011, 366 Readings from Buddhism, p 23). The yoga, meditation and gen practices help to purify and cleanse their mind or spirituality. The people with purified mind and spirits may not involve in the evil action of violating the rights and freedoms. In their view this process cuts the roots of evil, hence branches and leaves are all automatically cut off for the making a good society. A pure mind or spirituality usually does not indulge in anti-social activities.

The scriptures have restrained freedom against abuse of rights by the regimes as well. The teaching of the Ramayana reveals that the sovereign, army and entire nation deserve the right to defeat another state against the violation of the right and freedom of woman in abduction (Sattar, 2012, p 234-241). Likewise the teaching of the Mahabharata reveals that *Dharma* or the right and freedoms of the people include fighting against the regime to defend the dignity and honor of victimized women and men (Radhakrishnan, (1993), Chapter I, Verses 46-47). It limits the absolute power of sovereign king through uprising and to restore dignity and honor of the nation and its entire population.

The freedom has never been free. The paradox is that enemy of freedom is the freedom itself. 'The brutal force of sea of liberty cannot keep self-respect in the lack of wave, observed in the context of *Draupadi's* abuse in Mahabharata. No one has the right to insult or make ill observation to the wise man and others. The human including the sovereign is not free to do injustice and destroy the glory of the state. The six enemies of freedom namely anger, greed, vanity, haughtiness and over joy should be restrained either by the individual self, or by making the rules (Rishal, 2011, Chapter VI). To be freed from these is greater of all the freedoms.

Theoretically the boundaries for freedoms are the rules, ethics and morality. The '*fear limits you, your freedom and your vision*' says Lord Krishna in Bhagvadgita (Radhakrishnan, 1993, Chapter I, verses 23-25). In the context of insult of *Draupadi* by *Kauravas*, the common wife of *Pandavas*, he went on to say that "*ill fame is worse than death*". Fighting for dignity and honor therefore is praiseworthy.

The French philosopher Voltaire writes, *those seeking freedom should keep captive of own desires. One seeking discipline would find the way to liberty or freedom*. One can ask how there is freedom in the state of captive desires? For Peter Marshall '*freedom is not power of doing what we want but the right to do what we ought*'. The greatest threat to freedom is the absence of criticism. Greatest enemy of freedom is freedom itself.

The undesirable/ anti-social freedoms may be restrained by self with spiritual ways as well, such as yoga and meditation. However, fair legal restraint is an essential component of freedom that helps to make freedom purposeful. The discipline should be made free and freedom must be made disciplined to all. The freedom, in the absence of discipline turns into threat to society. We expect salvage from freedom, not the ravage on economic, social and political life.

Earlier warfare and effects on Rights and Freedoms

The warfare in various parts of the world victimized the people and entire civic life. The disaster of the war of Mahabharata was over. During Confucius era (7th century BC) various Chinese nations were in war and skirmishes. Later Jingoish Khan launched war across and arrived to the

Persian region. Alexander was launching war to the East and arrived to west India. The Moguls invaded India and parts of South Asia. Persians and Russians were also in war. It seems to be the era of war as other minor and major conflicts were across all continents (Khanal, 2018, p. 51-53). The war is the deadly enemy of freedoms. The restriction on the enjoyment of rights and freedoms was common among civilians. This restraint was not by the law but by the situation. Civilian's life fell in chaos and distress. The voice of freedom was closed. Humanity was close to vanish.

The ravage of the WW-I and WW-II cast indelible mark in the head of the mankind across all the continents. The rulers, fighters and all the people realized that peace has no alternatives. Also they become aware that there are no greater values than freedom. Soon after the WW-I therefore the League of Nations was formed giving responsibilities to maintenance of peace. Likewise after the WW-II the United Nations was formed to ensure peace and rights and freedoms across the regions. The framers of the UN charter devised the idea that in the absence of peace there is no freedom, and in the absence of freedom peace may not be meaningful. The Charter therefore was indeed stood upon twin pillars- the peace and the freedom. In the course UN endeavored to take them alongside in its major performance and initiatives (Khanal, 2006, p 37).

The Religious Resurgence

The religious domination on the state administration was common in both East and West. The Indian subcontinent was under the influence of Hinduism and Buddhism. The influence of Buddhist ideals has had great place in India, China, Korea, Japan, Thailand, Cambodia etc. As a non-state actor Buddhists encourage for individual self-restraint of unworthy or harmful freedoms through meditation and Zen practices. That aims at ideal state and that may always be relevant in every situation everywhere.

Europe had already the influence of Christianity and Church was considered above the state. Islam had great influence in the Arab world and Persia. The Muslim invaded India and south East Asian states. The religious domination was relatively better than the environment of warfare. The religious rules were used to streamline different societies. To some extent they were successful. The influence of religious rules remains effective for centuries. Slowly they made the rules stricter and unfriendly to the rights and freedoms. Those rules indeed put forward many limitations on the rights and freedoms of the people.

The religious fanatics of different faiths deemed stricter who hardly pay respect to the rights and freedoms of people. Some fanatics claimed that they were divine representatives so in-charge of the state. The Bishops, Mohammad and Mullah declared themselves the head in the states.

Some Hindu monarchs claimed themselves the incarnation of God. Other Hindu monarch who usually performed their duties having advice of the saints and pundits too were also not really kind and sympathetic in terms of the rights and freedoms of the people.

By the thirteenth century there was a great tussle between the Church and the State. The people and politicians opposed the church and Bishops saying that they have no authority to run the administration of state. The running of administration is the work of the politicians so the Bishop should not interfere upon the affairs of the state. Finally they agreed to make division of power. Now the religious power should be exercised by the Church and the state administration should be run by the elected politician. They agreed the policy of non-interference by the government on religious affairs and non-interference by church on the affairs of the state for that we say the theory of secularism emerged in the West. One of the reasons of this tussle was restraining the civil rights by the Bishops and clergymen.

By the 17th century colonial process began from the West. During 19th century larger part of the world was under colonial administration of various western countries. The colonial administration was similar to authoritarian regimes. Everyone guess about the condition of the rights and liberties in an authoritarian form of administration.

The Muslim invaded India and damaged and destroyed much of Vedic scriptures and Hindu monuments followed by the governance run under Vedic rules. The Vedic scriptures provided good amount of social, economic and cultural rights and freedoms. Their target was to damage and destroy academia and eliminate the treasure of knowledge under Hinduism and Buddhism. The objective of the intervention was. The knowledge is the source of rights and liberties to stop creating, growing and advancing knowledge based on Hindu and Buddhist philosophy. Indeed the rights and liberties would foster in the environment of knowledge and intellectual exercise. Ancient resourceful University of *Nalanda* located near Patna, the capital of Bihar state of India was demolished by invading Muslim forces under the command of Bakhtiyar Khililji an Afghan army officer. The *Takshasila* known as *Taksila*, *Somapura*, *Bikramshila* and many other Universities were damaged and demolished with a view to end the source of native knowledge and implant their knowledge reshaping education system. It was like "*jostling on the head*". Once head is defunct one cannot do any good.

In the next phase England colonized India and began its administration. In the course of time the British Parliament abolished native Indian/Hindu law and introduced the law made by British authorities including English Parliament. People enjoying rights, freedoms and privileges under the native law called law of *Dharmasastra* declared unlawful (Derrett, 1999, p 85-87). The people remained in dilemma because they did not have native rights and freedom and for their

remedies. The main victims were the rights and freedoms as people restrained from age old freedoms.

The British began to introduce English law and offered rights and freedoms evolved in the western base. The remedies on their violation were made available by the courts formed under the influence of English law. They established the Schools, Colleges and Universities based on English curriculum. The remaining schools and colleges for Vedic education after Muslim intervention were either closed or harshly discouraged. The 'Jostling on the head' policy continued but in soft and intelligent way.

Some rights and freedoms were prescribed in law but common people had hardly access to enjoy them. The condition of restraint on the rights and freedoms was more serious than the restraint made by law. The shift upon the obstruction of rights and freedoms created in different way. The colonial territories across the world had similar situation. The intellectually backward territories in Africa, Latin America and rest had to suffer must (Khanal, 2018, p. 223-224). Criminalizing minor guilt or over criminalizing of guilt during colonial era was one of the policies to restrain freedoms.

Consolidating Rights and Freedom

The human civilization never freed from the struggle for rights and freedoms. The restraint on the rights and freedoms during frequent war of the history taught that legal arrangement and protection of rights and freedoms is unavoidable. The contemporary Western scholars began to work in this direction. The philosophers like Locke, Rousseau, Bentham, Mill and others wrote on the importance of rights and freedoms. Rousseau once said that '*man was born free but it has ever been in chain*' (Sabine and Thorson, 1973, p 540). Although Rousseau's social contract theory not only focused to freedom but also to reasonable restraint for a decent conduct of society. In the course legal instruments that include Bill of Rights, Petition of rights, Virginal Declaration and others issued with a view to ensure freedoms to larger number of people.

The Constitution of the US 1787 ensured rights and liberties to selected people. Later they provided rights and freedoms equally to all the citizenry making emancipation from slavery, voting rights to women and colored people etc. The British did the same as the emancipation from slavery and giving voting rights to the women. The French took broader initiative and the French National Assembly passed the Declaration of the Rights and Freedoms of the Citizens in 1789. The Declaration contained list of rights and freedoms available to the people (National Assembly of France, 1789). That becomes a great step forward for other countries across the world. In the course of development entire European world ensured the rights and freedoms to their citizenry.

However the condition of the most of the colonies in Africa, Asia and Latin America was different. People of the territories were not allowed to enjoy rights and freedoms until they acquired independence by the middle of the 20th century. Then they ensured rights and freedoms similar to their colonial master countries. During colonial rule people had to live in the state of oppression where rights and freedoms remained in confinement. Anyway they derived the western nature of rights and freedoms and deemed unable to promote and enlarge native freedoms. The rights and freedoms devised in the west become common to all in the absence of academic and intellectual advancement in the colonial territories.

Repression and Restraining Rights and Freedoms

In post-colonial era various countries were under authoritarian regimes. The countries declared independence but people could not remain free. People were disallowed to enjoy rights and freedoms by making the law. Authoritarianism was one of the greatest restraints of freedom. The countries like Argentina, Chile, Columbia, Venezuela and others in Latin America, Kenya, South Africa, Nigeria, Sudan and many others in Africa; Pakistan, Malaysia, Cambodia, China, North Korea and others in Asia lived long under repressive regimes. The regimes made restraints upon various rights and freedoms.

Constitutional and Legal Imperatives

As mentioned, human being cannot live in the absence of restraint of freedoms. The excessive freedoms on certain issues could be unreasonable, immoral and undesirable. Human do not intend to be publicly free on the issues of privacy, decency and self-interest. Additionally the state, through the law intends to restrain certain rights and freedoms. Those restraints are made for the public welfare, decency, morality and maintaining public order and those restrictions are commonly called as 'reasonable restriction'. Usually those restrictions have been made by the constitutions, the highest human made law of the country.

The constitution makers by the name of general people exercise power to restrain freedoms to ensure public welfare, peace and order etc. In the authoritarian nature administration and guided democracy the constitution makes broader limitation on the rights and freedoms. The constitution and law of those countries mainly limits on the right to free speech and expression, the right to information and voting or free election related rights. At times the 'free speech' would be criminalized.

The democratic constitutions put reasonable restriction on certain freedoms. The US federal constitution, oldest written constitution of the modern world does not contain explicit provisions on reasonable restriction. Nevertheless the State constitutions (of US) and law have made reasonable restriction related provisions. The Constitution of India (1950) allows Parliament to

make law to restrain rights and freedoms on a number of grounds. The grounds include the security of the state, friendly relation with foreign states, public order, decency, morality, contempt of court and defamation, incitement to an offence and sovereignty and integrity of India (Shukla, 1995, p 111-112).

The Constitution of Nepal (1972) allows the Parliament to make 'reasonable restriction' by law on rights and freedoms for different purposes. They include to protect sovereignty and territorial integrity, nationality, independence, harmony among the people, abolish caste based discrimination and untouchability, hatred on labor, defamation, inciting to commit crime, disruption upon public peace and morality. Additionally the state by law can restrict to maintain correlation between federal agencies, public peace/order, prevent spying against the state, treason, violence, rebellion and promote public health and morality. Constitution of the Kingdom of Nepal (1990) also made reasonable restrictions on similar nature of issues such as sovereignty, territorial integrity, maintaining harmony among people, sedition, defamation, and contempt of court, incitement to offence, public decency, morality, public interest and public health.

The Constitution of Nepal (1962) made number of limitations as a repressive constitution. They include to maintain peace and security of the country; peace and order; friendly relations with foreign countries; harmony and good relations among the people; social discipline and health. Additionally the limits against rights and freedoms could be made for economic interest; welfare and morality; protection of the children and women; prevention of internal conflict and external war; to prevent contempt of court and privilege of the national assembly; prevent to overthrow the constitution and existing law and to make abide by the fundamental duties of the citizens. This constitution compels to abide by the existing law whether they are fair or unfair. The 1962 constitution restrained all activities against the law. The law put much restraint on the right to free speech and expression under the press and publication law. Additionally some minor offences also held crimes against the state.

Restraining Freedoms- Nexus with Penal Law

The basic rights and freedoms are usually restrained by the penal law. This practice is prevalent worldwide. As mentioned the rights and freedoms may be restrained through just, fair and reasonable law. That is the essence of the rule of law and democratic values. The degree of fairness and reasonability of law may differ in diverse societies. However in repressive regimes many minor act and omissions are also criminalized which are supposed to be not criminalized in the prism of fair and reasonable law.

The law usually limits the right and freedoms of people. This practice is very old. In order to regulate the society and to make it better place to live, certain restraints are obviously essential. In Nepali context, in the 15th century the State issued a Code (probably first) entitled *Nyayabikasani* (commonly called *Manab-nyaya-shastra*) in BS 1436 (Lawyer's Club and UNDP, 2065 BS, p, I). The code has broader coverage of law on civil, criminal, social, religious, moral, nuptial, property and caste issues. In implicit terms most of the provisions of the Code make restraints on rights and freedoms. Indeed most of the restriction deemed to be reasonable in the context of the time period of application. Hundreds of laws of the state issued afterward have not really substantive difference on the issue of restraining rights and freedoms.

In the present context some countries have increased the period of detention and penalties in the process of criminal law reform. The rape law reform in India and elsewhere have increased the detention period under summary trial known as fast track system. Indeed that has direct link with the rights and freedoms of the suspect. Likewise in the process of terrorist related law reform, European countries including UK have increased the detention period during interrogation.

In some countries certain offences are considered severe whereas the same offence is not considered equally severe in other countries. The drugs related offences in the Philippines and Singapore are considered too serious whereas they are considered normal offences elsewhere. Recently a number of countries including India and various states in the US have reformed juvenile justice related law. The new law provides that children committing heinous offences are sent to the prisons from juvenile detention centers, once they attend the age of maturity (such as 18 years). This shows that person sentenced and detained as a child would be liable to stay in the juvenile detention center as well as adult prison for the same offence. Here no sentencing from the court of criminal jurisdiction is required to put into prison. The fairness of such law and practices are also in question.

Over Criminalization and Conservatism

Over the years scholars have raised the issue of over criminalization. In view of the US Heritage Foundation "over criminalization is the overuse of criminal law to address every societal problem and punish every mistake. That is unfortunate trend. The criminal law should be used only to redress blameworthy conduct that truly deserves the greatest punishment and moral sanctions." Prof Husak in his book entitled *Over- Criminalization* writes that the required factors to determine the conduct of criminals includes- a. no use of criminal law to prohibit "non-trivial or insignificant harm or evil, b. Criminal offence must target wrongful conduct of defendant c. punishment is justified only when the extent is deserved d. Burden of proof should go to the one creating offence e. to create crime - focus to the interest of the state and f. criminal

law should not be extensive in scope than necessary to achieve its purpose. Concerns are raised that various countries make limitation on the rights and freedoms without applying fair law and procedure. The practice is of course immoral, unethical and illegal as well.

The rights and freedoms are becoming more and more limited as minor act and omissions are being criminalized such as social media communications, photography without permits, limit crossing and others. In the recent times US administration is criticized of being intolerant on the rights of free speech, peaceful protest/assembly etc. against the atrocities in Gaza and elsewhere in Palestine. The students and others participated against those atrocities are expelled from the University and even from the country. The current US administration is much concerned about speaking against Jewish faith. Those restraints on rights and freedoms in the US soil were hardly imagined until recent past.

The usual and unusual efforts directed to limit the rights and freedom asks to reiterate Rousseau's observation that '*man was born free but it has ever been in chain*'. Simplifying criminal law, minimizing penalties and non-criminalizing minor guilt may help creating enabling environment for rights and freedoms. But the situation indicates that world is on the way of conservatism. A study by Fared Zakaria, a noted international media person shows that people enjoying more freedom in the Arab world and middle-east such as Iran, Iraq, Jordan etc. and few Asian countries deemed conservative in terms of enjoying rights and freedoms.

In France and some European countries the religious and cultural rights of immigrant students/population are less respected than before. It is because they do not comply French values. There are remarks that in terms of culture and religion, present day India is also moving towards conservatism. There are many comments that state is not sympatric on the religious and cultural issues of minority population. All those efforts and incidents would contribute to restrain rights and freedoms of common people.

Conclusion

Along the way, there had been long course of history that stood against restraint upon the rights and freedom. The world was under suppression of human upon fellow human. The formation of state system extended suppression as well. The Hindu and Buddhist scriptures as well witness the fact of suppression either in explicit or implicit form. The early physical and moral restraints are left behind. The methods of spirituality and meditation to purify inner self that would prevent or make self-restrain to rights abuses are outlawed.

Over the ages struggle for freedoms and suppression upon them underwent all along. The restraint upon rights and freedoms made by early human was mistreated in the consequent periods. Rulers deemed brave and worthy for restraining rights and freedoms than flourishing

and expanding them. This initiative was usually guided by the idea of greed, lust, ego and character to demonstrate self on the upper position as a ruler either of village, town, province or the state.

The factors responsible in restraining rights and freedoms increased with the development of society. The restarting powers now are more than the act of nature, enemy and feral prevalent in the pre historic days. The penal law that came to the surface played significant role for the restraint of rights and freedom. The constitutional norms followed by the practice of over criminalization by law extended various chains for restraints. But, there must be moral basis to restrain freedoms though law. Only morally sound law can restrain freedoms in a democracy. Morality is the essence and the law is the tool. Immoral law if restrains freedoms that is unfair, immoral and unlawful.

The societies tired by the foreign imposition of rules began to take out their hands. They began to choose the path of conservatism especially on the issues of religious, moral, cultural and social freedoms. Once democratic administrations began to defend particular faith restarting free speech, peaceful demonstration and sharing, the states deemed guided by the undesirable practices. These all the efforts were responsible to mitigate the precious worth and values of rights and freedoms.

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