

## **India, Nationalism and Sedition Debate: Media Trial of JNU Outrage**

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The contemporary debate between patriotic nationalism and the freedom of expression has sparked off in the wake of JNU students' union president arrest on the charges of sedition post the organization of a cultural program. The incident infuriated debate amongst the country's highest intellectuals, parliamentarians, journalists and many others across the globe over phrases such as "Nationalism", "Sedition" & "Freedom of expression" for such a vast and vibrant democracy. The present case study was done to emphasize comparable cases in the past and to help the public broaden their knowledge of the views of nationalism and the laws governing 'freedom of speech' and 'sedition' according to the Indian constitution. Through content analysis, various news articles were explored, with opposite standpoints, on the incident with related facts. The study aims to underline the difference between dissent against the ruling government and sedition that spells the fact that the existing colonial-era law needs to be amended. The medium that sustains the process of shaping and reshaping the consensus is largely media in its varied forms, but a medium like media shape one's thoughts, passions, and aversions towards significant political and socio-cultural entities as important as nation or nationalism is the debate here. It is answered through the case study which also questions the role of a media reporting on the treatment of such sensitive issues like Nationalism.

Keywords: Nationalism, sedition, freedom of expression, media reporting

The right to liberty and freedom of speech and expression are the oldest and most basic fundamental rights offered in a democracy and when it comes to the world's largest democracy of 1.25 billion, with innumerable religions, castes, cultures, languages, and dialects, there is bound to be a huge diversity in the thoughts and speech of people. A recent controversy in an Indian central university sparked off a furious debate amongst the country's intellectuals, parliamentarians, journalists, activists and many others across the globe to clearly define phrases such as "Nationalism", "Sedition" & "Freedom of expression" for such a vast democracy. The case study is a contribution to the ongoing debate about nationalism and the laws governing 'freedom of speech' and 'sedition' according to the Indian constitution. The study was done on the basis of data collected from various news articles with opposite standpoints on the controversy, historical facts, and incidents on similar backgrounds and the researcher's own academic views derived from them.

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Jawaharlal Nehru University is a central University in the capital of India. A few months ago, a cultural evening was organized by a few students and the Democratic Students' Union against the execution of Afzal Guru and separatist leader Maqbool Bhatt, and for Kashmiri's right to self-determination. The students organizing the event had pasted posters inviting people to gather for a protest march against the "Judicial killing of Afzal Guru and Maqbool Bhatt. The event came under the nation's critical scrutiny after a video was released on the online social media websites showing that "Anti-India" slogans like "War will continue till Kashmir's freedom, war shall continue till India's demolition", were reportedly raised in the protest meet. Following this was a series of events that included a war of words between the political parties on the issue of the government trying to suppress people's voices.

The central focus of the study is to figure out the conceptualization of Nationalism and the term anti-national gathers the view that there cannot be any single definition of this ideology and that an individual cannot be regarded as an Anti-National if the individual's thoughts are in contrast with others' views on nationalism. The recent JNU controversy blatantly lays down the fundamental contradictions in both social allegiances and cultural aversions that shape the political discourse around nationalism. This event was discussed and debated by various media houses in all print, audio, video and digital formats, thus affecting the framework to contemplate the idea nationalism.

The study clearly brings out the fact that the existing colonial-era law needs to be amended according to modern the 21<sup>st</sup> century and highlights the difference between dissent against the ruling government and sedition. The case study attempts to link the peaceful calls for secession of a state by its citizens, within its own boundaries and the fundamental right of freedom to speech send out a similar message from Supreme Court's past verdict's that the incitement of violence should be considered in such cases before charging the accused and making arrests.

## **Need of a Debate**

The recent JNU controversy that occurred has given us a good reason to debate aggressively on all these notions with our reasoning and ideas. The study proves to be useful in times of the people's intolerance towards others' contrasting views on any social topic which can act as a pest to destroy the very ideology of assimilation underlying our democracy. The study provides an enlarged view of the history of such similar cases that will help the people realize the true meaning of these terms in a modern free society.

The country has since witnessed frequent invocation of the sedition law to deal with free speech and expression. In the Balwant Singh v's State of Punjab case, two Sikhs accused raised slogans like "Khalistan Zindabad", "Raj KaregaKhalsa" (Khalsa will rule), and "Hinduan Nun Punjab Chon KadhKeChhadange, Hun MaukaAya Hai Raj Kayam Karan DA" (Hindus will leave Punjab, we will rule) which clearly undermined Indian sovereignty and government. In 2010, writer Arundhati Roy was sought to be charged with sedition for her comments on Kashmir independence and Maoists. On 10 September 2012, Aseem Trivedi, a political cartoonist, was sent to judicial custody till 24 September 2012 on charges of sedition over a series of cartoons against corruption and for insulting the Constitution. IPC Section 124 (a), Sedition, states that the law was put in by the British in 1870 and is still in use. According to the provisions of Section 124 (a) of IPC, any person who uses "words, signs or visible representation to excite disaffection against the government" can be charged with sedition and potentially sentenced to life. It is apparent that the law was enacted by

the British to meet their colonial needs. Article 19 of the Constitution of India states in Clause (1), Sub-Clause (a) that all citizens shall have the right to freedom of speech and expression. Clause (2) Nothing in Sub-Clause (a) of Clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said Sub-Clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offense.

After the recent JNU controversy, a bill has been introduced by Kerala MP, Shashi Tharoor in the parliament demanding an amendment to the sedition law. The government has approved this bill for discussion. The bill seeks to replace Section 124 (a) of the Indian Penal Code with a new provision which will implicate an individual for sedition only when it directly results in the use of violence or incitement to violence and results in the commission of an offense, which is punishable with imprisonment for life under the IPC, 1860". The bill states the amended provision will promote the freedom of speech and the right to express dissent against the government while ensuring safeguards against the use of words to incite violence,"

## **Constructing Nationalism through Media**

Media has played a prominent role in constructing and shaping the ideas of many social and political themes. One of the important themes one may choose to revisit residing in India is the concept of nationalism or the vigorous discussions that are poured in by many minds and mouths around and about 'nationhood', 'nationalism' and 'patriotism'. The medium that sustains the process of shaping and reshaping the consensus about the above themes is largely a media in its varied forms. But can a medium like media shape one's thoughts, passions, and aversions towards significant political and social-cultural entities as important as nation or nationalism? Contrary to the acceptance of most of the media institutions, theories of nationalism impose the whole weight of formation or the origins of nationalism to media, although not in its current shape but more primitive formats. Anderson (1991) theorizes the concept of the nation to be originated from what he refers to as print-capitalism, thereby defining a nation as nothing but 'Imagined Communities'. In his most acclaimed of scholarly works, Anderson demonstrates his arguments from the historical understanding of how the advent of print technology merging with the capitalist markets has proliferated the printed texts in vernacular languages, enabling a formation of a sense of community which is limited (has boundaries) and is imagined. It is referred to as imagined due to the lack of any kinship or interaction among the inhabitants, but the prevalence of a socially constructed and accepted sense of belonging or a partnership to the community at large (Anderson 1991).

Media right from its primitive forms has enabled and sustained the sense of community and has facilitated an implicit interaction (through newspapers and other printed materials) thus shaping the idea of community that is known to be referred as a nation. With the technological advancements in various fields and the creative destruction modes of markets, the social formations have been constantly subject to change and reform. The forms and impact of the media were also subject to drastic changes with time. Media has gradually risen to occupy one of the important positions in the modern state machinery as one of the Ideological State Apparatuses (Althusser 1965). Post the digital revolution, the proliferation and the reach of media had pursued an explosively exponential path both in its importance and influence. Gellner (2008) believed that nationalism is a

function of modernity which means that modernism is an inevitable form of modernity and he mentioned that ideas and society, both had changed in modern times and obtained some positions from which to understand these changes.

Media have increasingly embedded itself so deeply into the web of the human interactions and social perceptions in the modern world, thus constantly contributing and reshaping the understanding and perceptions of individuals in a community, towards the community and about the characteristics that make and transform the community. The boundaries of influence and impact of media, in its various forms, in the political realm can be observed to be rampantly poignant. From Social movements, in the contexts of Arab Spring to Occupy Wall-Street, to legislative campaigns, of austerity vote in Greece to secessionist movements in U.K., to executive and bureaucratic functionaries to popular vote and media trials, the role of media has become congruent with human participation. Within this broadly describable spectrum of scope and influence media can possess in shaping the individual and the community at large, we seek to construct the concept of nationalism pursuing a case study which is relevant, recent and rarely reticent. Media has no later than the eruption and examination of the issue, has termed the JNU event as a controversy.

Media in the contexts of JNU has starkly dawned a role of consensus welding machine in a trail posed by two sides. The unusual part, which no longer remains unusual, is that the media has without restricting its role to deliberations and as a platform for critical dialogue has represented a stand and thus channeling and shaping the discourses around the stand and thereby reshaping the very shape and structure of the subject under scrutiny, nationalism in this case. The representation of patriotic ethos clashed with the freedom entitled to every patriot to challenge particular prowess. The media with subtlety or lack of it, led and advertised a harsh criticism of the events occurred at JNU related to protests against hanging of terrorists or sloganeering against India and pro-Pakistan, but lacked the space to engage with the possibilities of an alternative viewpoints or democratic space to non-violently disagree or disapprove of the activities of the nation. The other polar end of the media voices, which has argued and championed for the freedom to disagree and disapprove failed to engage with the possibilities or limits of absolute freedom or notions of individual constraints in a collective.

## **Analyzing Media Contents**

Post the organizing of the cultural program at JNU in which slogans and remarks made by the participants stirred a controversy, it has been sensationalized further by the media and leading the public opinion into a discourse about some of the critical themes of political. In the contexts of JNU, the media houses have filed a complaint with police urging a probe or an immediate action. The police later confessed the source of video clipping was one of the media houses which had passed a judgment and quickly stated its stand instead of engaging itself and the other key involves in a dialogue. There are examples of images depicting ISIS and other terror groups besides the video footage of sloganeering in the event at JNU. These parallels were drawn at the discretion of the media houses, thus stimulating the viewer's mind with constant narratives through projection of different imagery and clipping (of ISIS or Separatists in J & K or of the plight of the army men, one of whom have martyred during his duty at the high altitude border) attempting to shape the public consciousness in a certain manner. Media has captured the reigns of legitimacy even before the State's police or ministry departments have officially confirmed to something. This phenomenon of lack of investigative procedurals or reporting mannerisms was

denounced and led one of the producers of the media house to resign from the particular media house stating reasons of guilt and unethical and prejudiced practices in journalism. The implications that were set forth by jumping the gun by media houses and declaring a stand by the anchors or of the ideology of their reporting has had severe consequences on the public debates and discussions putting the legal and democratic framework, pluralistic ethos, tolerance and cohesion levels with a test.

In the mass exchange of views, arguments, stands, and criticisms of social media to print and audio-video media, several important and fundamental concepts were put to reasonable doubt. Three primary concepts- nation, state and government have been totally reoriented and disfigured by the aid of media platforms. Clarity was compromised at the behest of endorsing or demonstrating one's stand over the issues of nationalism. Critical questions like the intersection or exclusion of the political concepts of government, state, and nation were hardly questioned or bothered to be emphasized on. Sensitive issues or rational discussions always pose certain levels of complexity, depth, and zones of gray. The Media's response has tried to channelize the plethora of possibilities, subjective dilemmas and intricate viewpoints into broad fixed categories which were often binary in nature. Discourses in the mainstream have not been around the complex or gray areas, questioning if nationalism permits oneself to be against the government? Or people who are against the state can still be in favor of nationhood? Or being excessively in support of a government can risk being nationalistic? And where does one place a constitution and rights amidst all this, as there is only a minimum denominator of agreement on the constitution as a whole, and there would be many acts and amendments which individuals would disagree with or intend to vote to reform or repeal it all together?

The discourses might not have explicitly contributed to the characteristics of nationalism per se, but have left many leads and paths to discover the contradictions that are eminent in a social formation like ours. Thumping on the initial uproar, it is the only media that can tackle or oppose the happenings on media, an alternative media sources serving its own ideological agendas have mushroomed catering to its own audiences alongside others contradicting the dominant imagination of the former. These oppositions in views published on media somehow enabled the focus on key political issues such as sedition law, their use, and misuse or inciting the right to self-determination or for that matter a more extreme case of disagreeing with one's imagination of a nation to an alternative imagination.

In the contexts of sedition law, the media has enabled a contradiction to resurface about what the constitution says which was the voice of a few newspapers and another a particular supreme court judgment which had a different interpretation of the sedition law, which was championed by few other social and digital media. The dominant narrative of most the newspapers was about the restrictions that were innate in the guarantee of the freedom of speech which is to restrict oneself from delivering something that is hate-filled, war-waging or insulting or incites violence. The right wing Hindu base which has conducted public demonstrations against the westernization, releasing press notes on occasions, use the same media platform to define nationalism (again a western concept) citing the implementation of colonial & the archaic western law of sedition. The counter-narrative debunking the prior, cites the court ruling, in the case of Shreya Singhal vs. Union of India, where it states that sedition cannot be imposed, however inconvenient or offensive the content of delivery (speech or writing) might be until there is a clear connection that is established between the content delivered and the incitement of violence or disturbance in the public order. The two extreme narratives have debunked each one's understanding of what is possible within nationalism and what is not, or how far do the limits of anti-nationalism can reach or how narrow can nationalism be curtailed too.

The other issue about the right to self-determinism encompasses many different issues acting as an umbrella term when used in the media, but not judiciously only to determine whether Kashmir is an integral part of India or not. Issues such as uniform code- article 370, violation of human rights, the legitimacy of AFSPA (Armed Forces (Special Powers) Act) in a democratic setup, or the need to restore order through force for greater stability, fighting the radical militancy that is disrupting public order are a few of the many issues and concerns discussed in media with reference to right to self-determination, not preparing for a referendum per se. In contexts of JNU, it includes one more recent issue of hanging of Afzal Guru which many people in the media have protested against the verdict stating circumstantial evidence and satisfying the collective consciousness. Here one can observe the role of acceptance-rebuttal, by sections of society, of the decisions of the State machinery, i.e. judiciary, through media intervening and thus redefine the implications of the idea of nationalism. The image or perception that is manufactured through media depicts a need for congruence of the citizens with state and state's actions; this agreement seems like a prerequisite for nationalism to be existent. Contrary to this and in reality there are nations without a State (E.g. Palestine or Kurds) or state machinery (monopoly over a legitimate use of force over a territory) and also nations without governments. The current debacle over media does highlight this element by a few of the non-dominant forces about the versions of nationalism opposing the functioning of state but not derailing the idea of nationalism.

Coming to the imagination of India, historically, the geopolitical imagination of the nation has been subject to innumerable changes. The imaginations of the nation all across the world are not static and rigid, but are dynamic and the possibility of a change is never wiped out as long as there is a possibility of human thought and action. Even within India, the political imagination of India had varied and does vary; this can be said by studying the various happenings and reporting over the media. The Rashtriya Swayam Sevak Sangh's (RSS) imagination of Akhand Bharat is geographically very different (includes Afghanistan to Bangladesh) from Maoists' imagination of India or a Dravida or Kashmiri's separatist's imagination of India, which again is different from the imagination of India that is prescribed by the constitution. The very involvement of the clause on self-determination opens up a window for the possibility of an alternative imagination of the geopolitical borders in a democratic framework. Amidst the plethora of possibilities of imaginations, preferably in a non-violent and pluralistic manner, discourses in media legitimize a few on the grounds of nationalism but discards other imaginations again on the grounds of nationalism. Content analyzing various media reports shows that the underlying premise in choosing between what constitutes nationalism and what doesn't also imply if diversity or homogeneity is prioritized in having a sense of nationalism. However, in any of such contexts, nationalism runs parallel to Tagore's warning on becoming a fetish; the recent discourses on media have in fact turned nationalism into a fetish!

## Conclusion

The case study comes up with a stand that any sedition charge should be a trial by the jury and not the journalist. Media coverages could be an eye opener in many issues, but the sedition charge should be the testimony of the court of law. It is for the judiciary, not media to decide whether the action was 'anti-national' based on proof and evidence. The fundamental question today is whether the media are sharing news or propagating nuisance? They should avoid playing the self-perpetuating mouthpiece of a country and its nationalism. We understand that free speech and a free press are fundamental to the

pluralist society like us, but the recent incident of anti-India sloganeering that led to an open house discussion in the entire country should be treated with more sensitivity and core Indian spirit. Freedom of speech as per Indian legal tradition allows within its ambit any form of criticism and people can critique the government. It is difficult to place any such protest or dissent rather hurriedly as 'anti-national.' At the same time, anti-nationalism has no place in India and JNU is not an exception. Anyone who justifies anti-India activities on own's soil should be punished according to law. Our educational institutions are the embodiment of our socio-political awareness and freedom, it is to understand that media campaigns to classify the university as a den of anti-national activity should be subscribed with utmost precaution. Our concept of nationalism is too open and liberal to accommodate different views and ideologies. For us, it is more about patriotism and pluralist democracy. It is absolutely demanding that that media needs to be more sensitive, the government respects its credibility and judiciary shows its dynamism as it had shown in the past, to retain this great nation as pluralist and progressive.

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