

- Surya's prosecution and conviction of A&B **violated** their rights under article 19 of the ICCPR

A. A&B's broadcast is not considered as incitement to hatred and violence

0. A six-part threshold test was proposed for defining restrictions on freedom of expression and for the application of article 20 of the ICCPR. We will tackle two elements which are the content and the context.

1. The content of Una's speech was not inciting

0. "The content of the speech constitutes is a critical element of incitement." According to GUNDUZ v. TURKEY the applicant was calling to set up a regime based on sharia and stated 'Of course, that will happen' adding that 'regime based on sharia would be established not by duress, force or weapons but by convincing the people.' However, the Court considered that the mere fact of defending sharia, without calling for violence to establish it, cannot be regarded as incitement and decided that this speech is protected under freedom of expression.

0. In the present case, on one hand, Surya first broadcast aimed at stopping the practice of wearing blindfolds in public since it is considered as a core contradiction with the worship of the sun, on the other hand the broadcast did not call for violence to stop this practice instead the sun prince said 'go shine a light on Suryans who have adopted the andha blindness' which is not considered as an actual act but a metaphor for enlightening and persuading them. Consequently, the broadcast initiated by A&B cannot be considered as incitement.

0. Moreover in Belkacem v. Belgium, the applicant stated that "They are even dirtier than animals" and calling on Muslims to fight them, teach them a lesson and make them beg

for their lives the court considered the speech as incitement to violence. On the contrary the broadcast initiated by A&B in which a group of masked individuals their leader tore off the blindfold of a person in the street without any resistance from the blindfolded person and did not contain any violent words such as 'fight' and beg for their lives' which was considered as incitement to violence by the court. Consequently, the content of the broadcast did not incite to violence against the andha philosophy adherents.

1. Context

0. Furthermore, "Analysis of the context should place the speech act within the social and political context prevalent at the time the speech was disseminated". "The context may be characterised by frequent acts of violence against individuals or groups based on prohibited grounds in order for an expression to be considered as incitement."

0. In our present case, 2% of the Suryans adopted the andha philosophy which indicates tolerance toward this belief and Surya first did not agree to this philosophy consequently it demanded the government to enact a new law regulating proselytism. Thus, the context did not include any violent acts against andha adherents.