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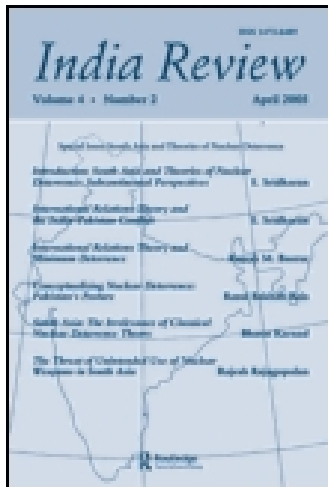
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State, Civil Society, and the Right to Dissent: Some Thoughts on Censorship in Contemporary India

VINAY LAL

The cultural critic and political psychologist Ashis Nandy, one of India's most well-known intellectuals, is no stranger to either controversy or censorship. Early last year, at the Jaipur Festival, an annual extravaganza of literary festivities that has acquired something of a reputation for breeding controversies, Nandy kicked up quite a storm when, in the course of a panel discussion on the future of Indian democracy, he declared that "it is a fact that most of the corrupt come from the OBCs, the Scheduled Castes, and now increasingly the Scheduled Tribes. And as long as this is the case, the Indian Republic will survive."¹ Not unexpectedly, the Dalits and their supporters immediately took offense; in less than 24 hours, Mayawati, the country's most formidable Dalit politician and then-Chief Minister of Uttar Pradesh, was calling for Nandy's arrest. Deploying a strategy that aggrieved activists, who often but not always belonging to Hindu right-wing groups, have had ample occasion to perfect over the last few years, some of his detractors succeeded in filing First Information Reports—a colonial-era legal innovation which sets the criminal law machinery into motion—from multiple locations, citing the Schedules Castes and Scheduled Tribes (Prevention of Atrocities) Act as well as Section 506 of the Indian Penal Code in defense of their view that Nandy engaged in criminal intimidation of Dalits and other minorities with intent to cause "grievous hurt" to them.²

Though many of Nandy's friends and admirers swung into action,³ and he was able to gain considerable relief from the Supreme Court of India, even many of his supporters were taken aback by his apparently callous denunciation of the Dalits. Some charged him, not for the first time, with being a closet upper-caste Hindu⁴; others averred that Nandy was too clever for his own good, and should have known that his remarks allowed for wide interpretive latitude. Did Nandy mean to say, for instance, that the Dalits and OBCs were more corrupt than other castes, or only that, considering the fact that they comprise a numerical majority, it should not come as a surprise that the majority of the corrupt should also hail from their ranks? Did Nandy suppose that in adding the rider, "and as long as this is the case, the Indian Republic will survive," his critics would understand that he was applauding Indian democracy since, with respect to corruption at least, it has at last become an equal opportunity employer? Does hermeneutic irony help to create a level playing field? Most commentators, friends and foes alike, ultimately summoned the argument that is inescapably present in every debate on censorship: if the very conception of human rights envelops various freedoms, among them

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the freedom of expression, such a right also necessitates the exercise of responsibility. Nandy, it was argued, has shirked his responsibilities, all the more egregious an error on the part of someone who both has immense visibility and has long claimed to echo the views of those—tribals, Dalits, villagers, women—who have been marginalized by the agendas of the developmentalist state.

The Indian Constitution, unlike the First Amendment to the US Constitution which gives wide if not unchallenged scope to the “freedom of speech,” is somewhat more restrictive in allowing “the freedom of speech and expression,” balancing this with the state’s responsibility to impose “reasonable restrictions” on such a freedom in the interest of “public order, decency or morality.” The framers of the Indian constitution, even as they were prepared to move radically beyond the constraints imposed by colonial rule, empowering Indians, to take one instance, with universal franchise, and issuing forth “directive principles of state policy” in an endeavor to produce a society embodying notions of social justice and the welfare state, were nonetheless hobbled by various artifices of colonial-era thinking. With respect to the question of freedom of expression, the argument that seems to have prevailed is that such a freedom could not be granted in its unrestrictive form in a country where literacy rates were appallingly low, education and moral grounding in the notion of a civic life was virtually non-existent, and “communities”—whether defined by religion, caste, or linguistic affiliation—not merely commanded unstinting allegiance but were far more likely to act vociferously in the promotion of their interests. Though Indian nationalists had offered a scathing critique of the communalist narrative of Indian history,⁵ and would have been wholly disinclined to accept the view, in the language of the colonial administrator Francis Younghusband, that in India “the animosities of centuries are always smouldering beneath the surface,”⁶ they were sensitive to the fact that “communities” could easily take offense at perceived hurts. Throughout the late colonial period, at least, there seemed to be far too many instances where a community had good cause to complain that its sentiments had been deeply wounded, whether such provocations had occurred in the form of “music before a mosque,” the slaughter of cows, a religious tint given to an ostensibly political demonstration, or the publication of an incendiary title.

By around 1900, as the editors of one catalog of banned publications have noted, “the two main categories of proscribed publications had been established: criticism of the British colonial government coupled with increasing demands for self-government, and expressions of communal conflict fuelled by inter-sectarian and inter-religious controversy.”⁷ Their catalog, drawing upon the records of the British Library and in particular the holdings of the India Office Collections, lists over 1600 publications sought to be proscribed by the British; the real number of banned publications was substantially larger, and included Gandhi’s *Hind Swaraj* (1909), which, notwithstanding the apparent British view of nonviolent resistance as much preferable to armed violence against the colonial state, was ordered forfeited by the Presidency Governments under Sec. 12 (1) of the Indian Press Act.⁸ The Government censor, in his concluding paragraph, remarked with what now seems extraordinary prescience that the author “advises all people not to cooperate with [the] Government. If this idea takes hold

of the mind of young inexperienced men, it might lead to systematic strikes among Government servants of various classes, as well as Public works such as Railway, Post, Telegraph, and so forth. Surely a very dangerous thought to the safety of Government. The sooner it is suppressed, the better.”⁹ It is, however, the second class of publications, which were feared to promote communal hatred and inter-sectarian conflict, which furnished the British with a yet greater argument for why their own presence was indispensable to the maintenance of peace in India. Here, the precedent seems to have been precipitated by the publication in 1924 of an Urdu pamphlet subsequently rendered into Hindi as *Rangila Rasula*, “The Colorful Prophet,”¹⁰ purporting to describe Prophet Muhammad’s affairs with women. This pamphlet prompted the Punjab Government to proscribe the work and bring charges against the Lahore-based publisher Rajpal under Section 153A of the Indian Penal Code for incitement of hatred against another community. Though Rajpal escaped with a warning from the Punjab High Court, which held that satirical writing against the deceased might well be deplorable but still fell under the purview of protected speech, the publisher stood condemned by some section of the court of public opinion and was murdered in April 1929: his assassin, writes Ayesha Jalal, was celebrated as a “*ghazi*, or holy warrior,” and henceforth this “esteemed title” was “respectfully affixed to the name of any Muslim who murdered a Hindu or a Sikh in defence of Islam.”¹¹

Many of the acts of censorship that have seriously compromised the free exercise of speech in India in the course of the last few years, bringing the country to the point of what Salman Rushdie describes as a “cultural emergency,”¹² stem precisely from such considerations. India became the first country to ban Rushdie’s *The Satanic Verses* in 1988, following wide and sustained demonstrations among Muslims who argued that the book was abusive in its treatment of Islam and deeply offensive to their religious sentiments.¹³ Not to be outdone, Hindus and nationalists of various stripes have gone on the offensive in recent years to reclaim their history and cultural heritage. The Government of Maharashtra invoked a ban in 2004 against the American scholar James Laine’s study of *Shivaji: Hindu King in Islamic India*,¹⁴ taking its cue from the cadres of the Shiv Sena who vandalized the Bhandarkar Oriental Research Institute on the grounds that this venerable institution had permitted Laine to consult manuscripts in its holdings. The hooligans and their supporters alleged that Laine had maligned Shivaji, the seventeenth century Maratha leader who is lionized by many Hindu nationalists as the first great figure of heroic resistance to Muslim tyranny. A similar case of “hurt sentiments” is said to explain the conduct of the Government of Gujarat, which imposed a ban in 2011 on Joseph Lelyveld’s *Great Soul: Mahatma Gandhi and His Struggle with India*.¹⁵ This sensitive and beautifully crafted study of Gandhi was falsely decried as having depicted Gandhi as a homosexual—not that Gandhi becomes a lesser figure if he had been a homosexual or bisexual; more to the point, little do its detractors understand that Gandhi’s experiments with sexuality had an intrinsic relationship to his understanding of nonviolence,¹⁶ and that he harnessed the power of femininity in his sustained critique of the regimes of colonial masculinity.¹⁷ Gujarat, of all places, has had to exorcise its native son: as the ascendancy of Narendra Modi, who has boasted proudly of his 56-inch chest, so amply demonstrates, the Gujaratis have all but accepted

the charge of Gandhi's assassin, Nathuram Godse, that a modern nation-state cannot live by the quaint principles of an effeminate old man.¹⁸

There are a great many questions that are posed, then, by what the writer Suketu Mehta has described as "India's speech impediments": "Writers and artists of all kinds are being harassed, sued and arrested for what they say or write or create. The government either stands by and does nothing to protect freedom of speech, or it actively abets its suppression."¹⁹ As Penguin India's "pulping"—an ugly word, sadly reminiscent of the bonfires of "degenerate" books and works of art in Nazi Germany—of Wendy Doniger's *The Hindus: An Alternative History*²⁰ suggests, the state now has to do no more than stand by idly while aggrieved citizens, similarly acting in the name of free speech, act vigorously to ensure what they deem to be their authentic cultural and religious patrimony. Emboldened by his success in procuring this craven submission from Penguin, Dinanath Batra, a school headmaster and foot soldier of the Rashtriya Swayamsevak Sangh (RSS) who brought suit against Penguin, has jubilantly declared his intent to free the country of the nefarious legacy of "the children of Macaulay and Marx."²¹ He has already struck again, eliciting from the major publisher Orient Blackswan an agreement that they will set aside for "comprehensive assessment"—shorthand for either pre-publication censorship, or voluntary withdrawal from the market of books found to contain "objectionable material"—such works as Megha Kumar's recently published *Communalism and Sexual Violence: Ahmedabad Since 1969*. Some have taken umbrage at Batra's boldness in purporting to act as a custodian of "true Hinduism." But such an objection perhaps betrays some uneasiness with the idea that the practitioners of Hinduism may often find academic interpretations of Hinduism unpalatable. The greater problem, of which Batra is most likely quite unaware, is that the very Hinduism he embraces is itself a largely nineteenth century phenomenon, cast in some fundamental respects in the template of Protestant Christianity. It is the voice of middle-class educated Hindu opinion, of which Batra is only a more aggressive and proselytizing representative, that we hear in his stated objection to NCERT textbooks: "They say they are fiction. *Ramayana* is history. They are great books. They are not myths. They are history."²² Neither Tulsidas nor Gandhi cared an iota for the idea that the *Ramayana* should be viewed as a work of history; nor is there anything in India's cultural and intellectual history to suggest that any Hindu before comparatively recent times, before, that is, the mid-nineteenth century, would have bothered much in attempting to delineate the *Ramayana* as an historical record. Quite to the contrary, the idea would have appeared preposterous. If Batra and middle-class Hindu opinion cannot so easily be countered, it is because most of his liberal-left critics are themselves firmly committed to discourses of history, just as they are complicit in the idea that "history" should rightfully be hegemonic over "myth."²³

To end at a place similar to the one from where I started, many of the issues that are most germane to the erosion of the ethical norms and cultural values that have long guided India are highlighted in the case that was brought against Ashis Nandy by the Gujarat Government in 2008. On January 8th of that year, Nandy penned an opinion piece for the *Times of India* entitled "Blame the Middle Class." Written in the aftermath of Narendra Modi's easy electoral victory, which saw him consolidate his

stranglehold over Gujarat's politics, Nandy opined that had Modi lost the election, it would have made little difference: "Modi had already done his job. Most of the state's urban middle class would have remained mired in its inane versions of communalism and parochialism and the VHP and the Bajrang Dal would have continued to set the tone of state politics." Nandy's article paints a grim picture of a state where the left has collapsed, the Gandhians have gone into hiding, the Muslims have "adjusted" to the reality of their second-class status, and academic and cultural institutions constitute an utter wasteland. Nandy followed it up with a devastating indictment of the entire Gujarati middle-class, suggesting that they had become alarmingly complicit with the development dictatorship put in place by Modi and his admirers: "Development in the state now justifies amorality, abridgement of freedom, and collapse of social ethics." The middle class in Gujarat, Nandy concludes, "has smelt blood, for it does not have to do the killings but can plan, finance and coordinate them with impunity."²⁴

A class that had smelt blood was bound to pounce on Nandy: in due course, the Gujarat government, aroused by the idea that Nandy had engaged in class warfare, incited hatred against Gujaratis, and made "assertions prejudicial to national integration" as defined by Sections 153A-B of the Indian Penal Code, put out a warrant for his arrest. We need not be detained by all the theatricals that were to follow, but it suffices to say that the Supreme Court, an institution which has not merely taken roots in India but pioneered new forms of judicial intervention, castigated the Gujarat Government for its "intolerance," rebuked it in the sharpest terms for picking a "soft target," and dismissed the case against Nandy.²⁵ Some people wonder whether such protections will continue to be available to dissenters under the new political dispensation. But should we repose all our trust in the institutions of the state? The idea of certain people acting as moral censors is rightfully repugnant. But should our only response be to reaffirm liberal values, issue calls for greater vigilance, and agitate for the strengthening of institutions and protocols that permit freedom of speech and expression? What might be the difficulties, for instance, in summoning the notion of "Hindu tolerance," considering that, as I have argued elsewhere, that idea has taken a solid beating, though of course for very different reasons, from both the left—which sees it as another assertion of Hindu vanity and supremacy—and the right, which sees "Hindu tolerance" as an invitation to continue to browbeat the Hindu into submission?²⁶ Ambedkar called for the burning of the *Manusmriti*, and his action in leading a crowd to do that is even now memorialized by several similar acts across the country every year on December 26th. Gandhi had his own litmus test: if there are passages even in a venerated text that are repulsive to one's conscience, reject those passages.²⁷ As India continues to struggle with these issues, the force of conscience may yet again have to be brought to do battle with the censors.

NOTES

1. See the transcript for Session 92, "The Republic of Ideas." Accessible via <http://www.jaipurliteraryfestival.org> (accessed 15 June 2014).
2. The phrase "grievous hurt" is part of the language of the law and appears in various sections of the Indian Penal Code.
3. Several dozen pieces, largely in support of Nandy, are collected together at ashisnandysolidarity.blogspot.com (accessed June 5, 2014). For a further more elaboration of my views, see "The Provocations of Ashis Nandy,"

- Times of India Crest Edition*, February 9, 2013, and “From the Ludic to the Ludicrous,” *Outlook*, January 29, 2013, both available at the aforementioned website.
4. See, for example, S. Anand, “The Nandy Bully,” *Outlook* (New Delhi). Accessible via <http://www.outlookindia.com/article/The-Nandy-Bully/283765> (accessed 5 June 2014).
 5. One of the more interesting and intellectually ambitious attempts of this kind was the report of the “Cawnpore Riots Enquiry Committee,” chaired by Bhagwan Das, and reprinted as *Roots of Communal Politics*, edited with historical introduction by N. Gerald Barrier (New Delhi: Arnold Heinemann, 1976).
 6. Francis Younghusband, *Dawn in India* (London, 1930), p. 144, cited by Gyanendra Pandey, “The Colonial Construction of ‘Communalism’: British Writings on Banaras in the Nineteenth Century,” in Ranajit Guha, ed., *Subaltern Studies VI: Writings on South Asian History and Society* (Delhi: Oxford University Press, 1989), p. 51.
 7. Graham Shaw and Mary Lloyd, eds., *Publications Proscribed by the Government of India* (London: The British Library, 1985), p. vii.
 8. Only the English translation of *Hind Swaraj* is listed as a proscribed publication in Shaw and Lloyd, *Publications*, p. 77; the original Gujarati edition is not mentioned. Yet the censor was the Gujarati interpreter to the Madras High Court; his report of March 15, 1910 is to be found in “The 1910 Banning of *Hind Swaraj*,” *Gandhi Marg* Vol. 15, No. 2 (July–September 1993), pp. 240–54.
 9. “The 1910 Banning of *Hind Swaraj*,” p. 254.
 10. Shaw and Lloyd, *Publications*, p. 83.
 11. Ayesha Jalal, *Self and Sovereignty: Individual and Community in South Asian Islam since 1850* (Delhi: Oxford University Press, 2001), pp. 295–96.
 12. Salman Rushdie, “A Cultural Emergency,” *Outlook* (February 1, 2013). Accessible via <http://www.outlookindia.com/article/A> (last accessed 17 June 2014).
 13. Hasan Suroor, “You Can’t Read This Book,” *The Hindu*, March 3, 2012. In the wake of the controversy, a great many writers in the West thought it perfectly apposite that one should think of Islam as a religion of rage. See, for example, Bernard Lewis, “The Roots of Muslim Rage,” *Atlantic*, September 1990; and Malise Ruthven, *A Satanic Affair: Salman Rushdie and the Rage of Islam* (London: Chatto & Windus, 1990).
 14. James W. Laine, *Shivaji: Hindu King in Islamic India* (Delhi: Oxford University Press, 2003).
 15. Joseph Lelyveld, *Great Soul: Mahatma Gandhi and His Struggle with India* (New York: Alfred Knopf, 2010).
 16. Vinay Lal, “Nakedness, Nonviolence, and Brahmacharya: Gandhi’s Experiments in Celibate Sexuality,” *Journal of the History of Sexuality* Vol. 9, Nos. 1–2 (2000), pp. 105–36.
 17. The most nuanced interpretation of this terrain remains Ashis Nandy, *The Intimate Enemy: Loss and Recovery of Self under Colonialism* (Delhi: Oxford University Press, 1983).
 18. Nathuram Godse, *May It Please Your Honor* (Delhi: Surya Prakashan, 1989). This is the text of Godse’s speech in his own defense at his trial for the assassination of Gandhi; quite predictably, the Government of India banned the speech on the grounds that it dishonored the “Father of the Nation” and misrepresented his role in the attainment of independence from colonial rule. It is reported that the audience was moved to tears at Godse’s speech. I cannot explore here the numerous ways in which Godse mirrors Gandhi, who was himself put on trial in 1922 and delivered a masterful indictment of British rule, or the complex politics behind the ban on Godse’s speech.
 19. Suketu Mehta, “India’s Speech Impediments,” *New York Times*, February 5, 2013. Accessible via http://www.nytimes.com/2013/02/06/opinion/indias-limited-freedom-of-speech.html?_r=0. (accessed 19 June 2014).
 20. Wendy Doniger, *The Hindus: An Alternative History* (New York: Penguin Global, 2009).
 21. “Children of Marx, Macaulay are Defaming Hinduism: Dinanath Batra,” *First Post*, June 6, 2014. Accessible via <http://www.firstpost.com/printpage> (accessed 19 June 2014).
 22. “Children of Marx.”
 23. For a greater exploration of these ideas, I invite the reader to turn to my *The History of History: Politics and Scholarship in Modern India*, 2nd ed. (Delhi: Oxford University Press, 2005).
 24. Ashis Nandy, “Blame the Middle Class,” *Times of India*, January 8, 2008. Accessible via <http://timesofindia.indiatimes.com/home/opinion> (last accessed 19 June 2014).
 25. “We Don’t Find Nandy’s Articles Objectionable; Supreme Court,” *Times of India*, July 1, 2008. Accessible via <http://ashisnandysolidarity.blogspot.com> (last accessed 1 July 2008).
 26. Vinay Lal, “Intolerance for ‘Hindu Tolerance’: Hinduism, Religious Violence in Pre-modern India, and the Fate of a ‘Modern’ Discourse,” in Kaspar von Greyerz and Kim Siebenhuner, eds., *Religion und Gewalt: Konflikte, Rituale, Deutungen (1500–1800)* (Gottingen: Vandenhoeck & Ruprecht, 2006), pp. 51–84.
 27. See Vinay Lal, “Gandhi’s Religion: Politics, Faith, and Hermeneutics,” *Journal of Sociology and Social Anthropology* Vol. 4, Nos. 1–2 (2013), pp. 31–40.