

SEEKING OFFENSE:
CENSORSHIP AND THE CONSTITUTION OF DEMOCRATIC POLITICS IN
INDIA

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Commentators have frequently suggested that India is going through an “age of intolerance” as writers, artists, filmmakers, scholars and journalists among others have been targeted by institutions of the state as well as political parties and interest groups for hurting the sentiments of some section of Indian society. However, this age of intolerance has coincided with a period that has also been characterized by the “deepening” of Indian democracy, as previously subordinated groups have begun to participate more actively and substantively in democratic politics. This project is an attempt to understand the reasons for the persistence of illiberalism in Indian politics, particularly as manifest in censorship practices. It argues that one of the reasons why censorship has persisted in India is that having the “right to censor” has come to be established in the Indian constitutional order’s negotiation of multiculturalism as a symbol of a cultural group’s substantive political empowerment. This feature of the Indian constitutional order has made the strategy of “seeking offense” readily available to India’s politicians, who understand it to be an efficacious way to discredit their competitors’ claims of group representativeness within the context of democratic identity politics. The findings of the project have important implications for theories of ethnic party politics and the literature on the relationship between democracy, liberalism and the accommodation of cultural diversity. It also points to the need to rethink the relationship between India’s past and present.

BIOGRAPHICAL SKETCH

Ameya Balsekar was born and raised in Mumbai, India. He received a Bachelor of Arts in Development Studies from Brown University in Providence, RI, in 2003.

To my parents. For everything.

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LIST OF ABBREVIATIONS

BJP: *Bharatiya Janata Party* [Indian People's Party]

BSP: *Bahujan Samaj Party* [Oppressed People's Party]

CAD: Constituent Assembly Debates

CPI(M): Communist Party of India (Marxist)

CPI: Communist Party of India

CSF: Catholic Secular Forum

IJP: Indian Justice Party

MP: Member of Parliament

NCP: Nationalist Congress Party

NCSC: National Commission for Scheduled Castes

RPI: Republican Party of India

SC: Scheduled Caste

ST: Scheduled Tribe

CHAPTER ONE

INTRODUCTION:

THE CONSTITUTION OF DEMOCRATIC POLITICS IN INDIA

On October 5, 1988, India became the first country in the world to ban Salman Rushdie's now infamous novel, *The Satanic Verses*. The decision came in the wake of some members of Parliament belonging to the Muslim community warning the Prime Minister, Mr. Rajiv Gandhi, about the likelihood that the book would incite India's Muslim minority to violent protest. It turned out that banning the book didn't prevent rioting: the disputed Muslim-majority region of Indian-administered Kashmir erupted in violent protest on February 13, 1989, followed by rioting in Bombay (now Mumbai) city on February 24, with both events ostensibly incited by Rushdie's blasphemous novel. Meanwhile, on January 14, 1989, the United Kingdom saw its first anti-Rusdhie protests setting off a chain of violence that included bomb blasts and large protests in London. The United States too saw its share of protests and violence against the book: a large protest of "thousands of Muslims" took place in New York City on February 26, 1989, and two bookstores stocking the book in Berkeley, California were firebombed two days later. However, of these three democracies, it was only in India that the book was banned. It continues to be banned until today.¹

The Satanic Verses has not been the only book to face the ire of India's censors. In recent years, the work of noted artist M.F. Husain has been routinely targeted by Hindu nationalist groups, ostensibly for his "insulting" and "offensive"

¹ This discussion draws exclusively on Appignanesi and Maitland, eds. 1990. *The Rushdie File*. Syracuse: Syracuse University Press.

depictions of Hindu goddesses. It was these very groups who burned down the set of Deepa Mehta's film *Water* when it first began filming in the northern Indian city of Varanasi, in what some writers have referred to as evidence of a growing tendency toward mob censorship.² However, it is not just mobs of religious nationalists playing the leading role in India's "age of intolerance". The work of controversial Bangladeshi novelist Taslima Nasreen has routinely been censored by the Communist government in the state of West Bengal and the author was physically attacked in the southern Indian city of Hyderabad by members of the state legislative assembly.³ A noted actress in the southern Indian state of Tamil Nadu was targeted for "insulting Tamil pride" when she responded to the results of a national survey of Indian women's sexual habits by suggesting that Indian men ought to stop expecting their brides to be virgins.⁴ Arundhati Roy's Booker Prize winning novel *The God of Small Things* was targeted for censorship in the socially progressive state of Kerala, ostensibly for injuring public morality.⁵ And more recently, a film titled *Aaja Nachle* [Come, Let's Dance] was banned in three states because one line in one of the films songs was deemed to be offensive to the Dalit community, former "untouchables" in the Hindu caste hierarchy.

What makes the practice of censorship in contemporary India particularly interesting is that all the events cited above have taken place during a period in which Indian democracy has been said to be "deepening"; a time when previously

² See "Water hangs fire in Varanasi as Mehta awaits Jaitley" in *The Indian Express*, February 2, 2000. Available online at: <http://www.indianexpress.com/ie/daily/20000202/ina02057.html>. Last Accessed on: July 9, 2009.

³ See "Taslima Nasreen: Controversy's Child" on BBC News Online, November 23, 2007. Available online at: http://news.bbc.co.uk/2/hi/south_asia/7108880.stm. Last Accessed on July 9, 2009.

⁴ See "The Khushboo Case File: Reverse Culture Jamming" by Tushar Dhara in *The Sarai Reader* 2006: *Turbulence*, pp 388-400. Available online at: http://www.sarai.net/publications/readers/06-turbulence/04_tushar_dhara.pdf. Last accessed on: March 20, 2009.

⁵ See "Under Fire, but India is in my blood" by Peter Popham in *The Independent*, September 21, 1997. Available online at: <http://www.independent.co.uk/news/world/under-fire-but-india-is-in-my-blood-1240454.html>. Last Accessed on: July 9, 2009.

subordinated social groups have come to participate more actively in politics (Jaffrelot 2003; Frankel 2000). The apparent disconnect between democracy and liberal philosophical precepts in Indian politics would not strike most political theorists and historians of ideas and particularly puzzling. “Democracy” has historically been understood as the “rule of the many” (often interpreted as the majority) while the freedom of expression, understood as part of a larger liberal political project, is concerned with the protection of the individual from tyranny, whether of arbitrary government or the majority. In the realm of ideas, then, liberalism and democracy seem to be in fundamental tension with each other.

However, it is hard to imagine democratic institutions functioning effectively in the absence of the freedom of speech. This particular civil liberty is consequently deemed to be essential to the emergence and entrenchment of political pluralism or “polyarchy” as conceptualized by theorists like Robert Dahl (1971). It is for precisely this reason that even minimalist conceptions of democracy in empirical political science include the freedom of speech and expression as a key indicator of democratic consolidation (See Diamond 1999; Reuschemeyer, Stevens and Stevens 1992; Collier and Levitsky 1997; Diamond and Plattner 2001). A growing body of work by scholars like Fareed Zakaria (1997; 2003), Russel Bova (2001), and Larry Diamond (1999) has concerned itself with the reasons for the rise of “illiberal democracy”. The question of the conditions under which plural democracies or established “polyarchies” do or do not protect the freedom of speech is therefore of significance to anyone concerned with the larger question of the conditions under which the “liberal-democratic project” may begin to unravel.

Commentators frequently suggest that India is going through an “Age of Intolerance”. As prominent political columnist, Vir Sanghvi, noted in a column in the English language daily, *Hindustan Times*:

“such is the climate of intolerance in today’s India that it is almost impossible to write a book or make a movie without having to cope with a mob of protestors who claim that you have offended their community/caste/religion/region/ city/ grandparents/favourite pets.”⁶

There is a dearth of good data on censorship in India, but over the approximately 15 months that this author was in the field, there were 69 censorship events reported in four Mumbai newspapers alone. That is an average of just over one censorship event a week.⁷ The lack of data suggests the use of caution when making any trend statements, although suggestions have been made that the country is witnessing a “growing tendency of intolerance”, a sense which is heightened in light of a large number of instances of “mob censorship” in recent years.⁸ But regardless of whether the incidence of censorship and intolerance is increasing or not, what is evident is that deepening democracy has certainly not led to the repeal of the numerous laws in India

⁶ “Age of Intolerance” by Vir Sanghvi in *Sunday Hindustan Times*, Mumbai, February 17, 2008, page 10.

⁷ See Appendix A for a list of events. A “censorship event” is defined as either a government or state agency placing an official ban on a book or film; or mob action such as an attack either on individuals like authors, journalists or artists, or on movie halls, newspaper offices, etc. It is important to note that this is likely to be a conservative estimate for two reasons: First, the data was collected from only four newspapers in the city of Mumbai: *The Times of India*; *The Hindustan Times*; *The Mumbai Mirror*; and *The Sunday Express*. A lot of events taking place in other parts of the country may well have been ignored by the Mumbai press. Second, “censorship” has been very narrowly defined here as attacks on creative expression. The appendix does not include cases of laws in states restricting religious conversions; mob attacks on couples in inter-faith marriages or on individuals converting their religion; legal restrictions on women working “night shifts”; attacks on “Dalits” or former untouchables in the Hindu caste hierarchy; and numerous laws restricting nightlife in cities like Mumbai and Bangalore, all of which were instituted between May 2007 and July 2008. Needless to say, a more expansive definition of censorship would increase the length of the list considerably.

⁸ Supreme Court of India Justice Markandey Katju, quoted in “Growing Intolerance” by Soli Sorabjee, in the *Sunday Express*, pg. 7, March 30, 2008. Also, see Zakaria (2003), page 106.

that facilitate state censorship, many of which date from the colonial era.⁹ In fact, since the 1980s, new censorship rules and laws have been formulated, such as the Indecent Representation of Women (Prohibition) Act of 1986 which expanded the censorship powers of the state, this time to prevent “insults” to “the dignity of women” from the publication of “obscene” images.

Controversies around the alleged offensiveness of books or films in India sometimes elicit the quip: “it’s all politics”. This project is an attempt to understand how claims of offense and censorship came to be such an integral part of Indian politics. How can we explain the apparent persistence of illiberalism in the wake of India’s deepening democracy?

In the pages that follow, it will be argued that the reason why censorship has persisted (and possibly even broadened its scope) in India is that having the “right to censor” has been established as a sign of a cultural group’s substantive political empowerment in the Indian constitutional order’s particular negotiation of socio-cultural diversity. Consequently, seeking offense has come to be seen by political entrepreneurs as a particularly efficacious strategy through which to demonstrate the incumbent elite’s neglect of the group they claim to represent.

⁹ These are Sections of the Indian Penal Code, in particular S.144, dealing with seditious materials; S.153A, dealing with speech or written materials with the tendency to incite hatred or violence; S. 292, dealing with obscenity; and 295A dealing with the the incitement of religious hatred. Also, Section 95 of the Criminal Procedure Code, which authorizes the state to preemptively impound materials that it thinks are likely to disrupt public order and morality. These will all be discussed in greater detail in later chapters.

The Role of Censorship in Identity Politics: A Quest for Explanations

It is one of the contentions of this project that one of the reasons why censorship has persisted in India despite deepening democracy is that demanding censorship of offensive materials has come to be an important strategy for political entrepreneurs seeking to make a mark in an increasingly competitive electoral arena. To the extent that one accepts the argument that censorship in India is an integral part of democratic identity politics, the notion that India may be going through an “age of intolerance” would not strike many scholars of Indian politics as particularly surprising. As Peter de Souza and E. Sridharan put it: “The tendency toward centrism no longer exists as strongly as it did earlier. Parties are no longer shy of being explicitly based on ascriptive identities...more ‘ethnicized’ and more ‘extreme’ in terms of ethnic outbidding or upping the ante ...” (de Souza and Sridharan 2006, 26). Political extremism in India is frequently attributed to the proliferation of weakly organized political parties, increasing political competition, and the inability of the state to meet the growing demands on its limited resources (Kohli 1990). However, this literature is relatively silent on the question of why ethnic appeals with a particularly illiberal content – namely, the demand for the restriction of free expression – would come to be deployed as part of political strategy in democratic politics.

This question is significant given the apparent variation across democratic countries with respect to the use of illiberal electoral appeals in the wake of political competition. For instance, Michael Coppedge (1993) has noted that increasing electoral competition in countries like Mexico led local political strongmen to show far greater respect for individual rights. Similarly, writing about indigenous political parties in Latin America, Donna Lee Van Cott (2005) notes that these parties have

brought new issues such as “the value of recognizing and respecting cultural diversity” onto the agenda, even as they have tended to moderate their demands over time (Van Cott 2005, 228-229). The association between increasing political competition, identity politics, and illiberal political appeals is consequently not as obvious as one might expect. So how can we explain the deployment of illiberal political demands in democratic identity politics in India?

The search for a satisfactory answer to this question is complicated further by the fact that identity politics in India, as in most poor democracies, is often described as being organized along clientelistic exchanges of material resources. India is frequently described as an example of “patronage democracy”, a type of democratic regime in which politicians and voters engage in an exchange of favors: voters elect “patrons” into office on the condition that they will provide them with access to “patronage” – jobs, services, or other material resources – in return (See Kitschelt and Wilkinson 2007; and Chandra 2004). Such “clientelistic” relationships are deemed to be particularly conducive to ethnic mobilization as, under conditions of incomplete information, an individual’s ascriptive identity becomes a basis upon which to establish trust. In such contexts, as competition for office increases, political entrepreneurs are expected to “employ every imaginable strategy of attracting constituencies, subject to a general budget constraint” (Kitschelt and Wilkinson 2007, 32-33).

And yet, this association between clientelistic patterns of politics and ethnic extremism does not appear to be so obvious when we look at the broader literature in comparative politics. For instance, J.K. Birnir (2007) suggests that identity-based politics may serve to stabilize democracy in the longer-term by serving to socialize new citizens into the democratic political process. Similarly, Eric McLaughlin (2007)

notes that although voting in South Africa frequently takes place along ethnic cleavages, it is, more often than not, “ethnically benign” taking place without the active generation or fanning of animosities (McLaughlin 2007, 451).

Further, even if one were to assume that the relationship between clientelism and extremism was everywhere evident, this does not tell us very much about why *particular kinds of ethnic demands* – namely, symbolic or emotional appeals rather than material appeals – come to be deployed in the arena of identity politics over others. It is significant that the literature on ethnic clientelism and patronage democracy assumes that ethnic identification on the part of both voters as well as politicians is primarily instrumental. As Kanchan Chandra notes, identity is “not...valuable in itself” (Chandra 2004, 11). Ethnic appeals are expected to “work” only when they include explicit references to distributive issues (Wantchekon 2003) and voters are expected to identify with groups strategically, based upon calculations of which particular grouping is likely to reap the largest material benefits (Posner 2007). In such a context, making a demand for the censorship of an offensive book or film is not expected to be particularly efficacious, given that it does not contain any explicit reference to distributive issues.

Although the phenomenon of censorship in India has received relatively scant attention in the literature on Indian politics, a spate of high-profile censorship events since the 1990s has led some scholars to pay attention to the issue. The first and most widely accepted explanation for the contemporary incidence of censorship in India is the rise of the Hindu nationalist *Bharatiya Janata Party* [Indian People’s Party (BJP)] since the mid 1980s. For instance, Nandana Bose (2009) notes that “The 1990s was marked by a gradual alignment of the right-wing nationalist agenda with the historically existing regulatory concerns of the state over the deleterious ‘effects’ of

cinema on vulnerable audience, resulting in an unprecedented ‘censor wave’” (Bose 2009, 22). However, such accounts ignore the fact that it is not only Hindu nationalist groups who demand censorship in India. As the opening section of this chapter showed, the ideological range of the actors who demand censorship in the wake of offense is broad indeed, suggesting the need for a more encompassing explanation of the phenomenon.

Arguments such as those made by Bose are part of a larger body of work that tie the rise of the “right-wing nationalist agenda” to contemporary social and economic trends associated with globalization, such as the spread of satellite television (For example, see Oza 2006). So Ratna Kapur (2001), for instance, notes that “contemporary cultural controversies” precipitated by women’s “sexual assertion” are the reason why “hysteria about culture is sweeping the country. Everywhere cries of Indian cultural values being in danger are heard” (Kapur 2001, 337). But such accounts ignore the fact that what qualifies in policymakers’ minds as “sexual assertion” has changed drastically over time; for instance, many of India’s first parliamentarians in 1953 condemned the depiction of “village belles...going round the well singing love songs” in Hindi language movies at the time as being “obscene” and against Indian cultural values.¹⁰ In short, scholars like Kapur neglect the fact that what qualifies as “sexual assertion” is, in effect, entirely relative and time-dependent and cannot be said to be a feature of the contemporary era alone.

However, the biggest problem with existing studies of censorship is the relatively scant attention they pay to the history of the phenomenon in India. For instance, they neglect the work by scholars like Charu Gupta (2000) who have demonstrated that similar “moral panics” and demands for censorship took place quite

¹⁰ Violet Alva, Member of the Rajya Sabha [the Upper House of Parliament], in *Council of States. Official Report*. Vol III No. 37. Tuesday, April 28, 1953, pp 4265-4266.

frequently in India as early as the 19th century. Even when scholars do acknowledge the long-standing practice of censorship in India, their focus has generally been on censorship in the contemporary era, thereby neglecting the larger questions of how and why the censorship demand came to be a part democratic political strategizing in India. The long history of censorship in India's democratic history is significant because it points to the need for a more deep-rooted explanation that an exclusive focus on the contemporary manifestations of the phenomenon cannot adequately address. Although the contemporary incidence of censorship demands may well be precipitated by proximate factors, the fact that these demands are regularly acknowledged by incumbent elites as worthy of redress suggests that they enjoy a degree of political legitimacy and resonance in democratic politics that cannot be explained merely with reference to proximate factors alone.

From Political Culture to Political Strategy: The Strategic Uses of Illiberalism

Scholars like Bova (2001), Zakaria (1997) and Diamond (1999) who study questions relating to the correspondence between liberalism and democracy cross-nationally, have tended to explain persistent illiberalism in younger democracies by referring to some version of arguments about their "political culture". In his "large-N" analysis, for instance, Bova finds that the association of political pluralism with the protection of individual liberty is contextual, dependent upon "the specific cultural context of the West", where "the Enlightenment emphasis on natural rights, the individual and liberty" is most highly developed and entrenched (Bova 2001, 66-67).

But Bova's argument displays a long-standing weakness of cultural arguments more broadly in that it does not explicitly point to where one ought to look to find a

country's political culture. His argument appears to refer to relatively enduring psychological proclivities held by all (or at least a majority of) individuals within a particular polity. However, as the work of scholars like Rogers Smith (1993) amply demonstrates with respect to that most "liberal" of states, the United States, such an assumption is extremely problematic. Indeed, a historically sensitive analysis of the process by which Enlightenment ideas arose in Europe would likely find that these ideas have never gone unchallenged or uncontested and, till today, coexist with strong communitarian tendencies in many European countries. Notably, Bova refers specifically to India as exemplifying the liberal shortfall in a consolidated democracy in the non-Western world and attributes this primarily to its "deeply rooted culture" (Bova 2001, 73). And yet as Amartya Sen (2005) has demonstrated, India has had a long tradition of tolerance and respect for cultural dissent.

A blanket assumption about the illiberalism of Indian political culture on issues relating to free expression also glosses over the significant intra-country variation on the issue in the contemporary era. Censorship in India frequently appears to be random and arbitrary, rather than a manifestation of a uniformly and systematically illiberal political culture. So a Hindi language film titled *Lajja* [Shame], released in 2001, which contained a number of dialogues and scenes with which Hindu nationalists would be expected to take substantial issue with only elicited a protest in one city in India, Bhopal, even as prominent members of the Hindu nationalist government in New Delhi at the time were reported to be making plans to attend a screening of the film to celebrate the end of the parliamentary session.¹¹ Similarly, the *Shiv Sena*

¹¹ *Lajja* included a scathing critique of the character of the Hindu deity Ram and his behavior towards his wife Sita in the epic *Ramayana*. Ram has been an important symbol around which the Hindu nationalists have mobilized violent agitations since the 1980s. See "Cake with the icing" in *The Telegraph* online, September 2, 2001. Available online at: <http://www.telegraphindia.com/1010902/editoria.htm>. Last accessed on: April 17, 2009. Also, "Protest against *Lajja*" in *The Hindu*, September 4, 2001. Available online at: <http://www.hindu.com/2001/09/04/stories/0104000g.htm>. Last accessed on: April 17, 2009.

[Shivaji's Army], a neo-fascist party based primarily in the western state of Maharashtra vandalized a movie theater screening the Oscar winning film *Slumdog Millionaire* for its apparent insult to Hindus in early 2009 only in the small neighboring state of Goa.¹² Further, some censorship events such as the arrest of a student-artist in the city of Vadodara in 2007¹³ and the more recent attack on the home of a prominent journalist in the city of Thane near Mumbai spurred some high profile protests in the city.¹⁴

This is not to suggest that Bova's argument is wrong. Indeed, a number of scholars have pointed to India as an "outlier" among "consolidated" democracies when it comes to the protection of liberal freedoms.¹⁵ But this is to suggest that rather than relying on essentialist arguments about a society's political culture, closer attention needs to be paid to the conditions under which liberal (or illiberal) strands of a country's political culture are more or less likely to triumph *in politics*.

One of the most significant shortcomings of political cultural arguments is that a society's cultural-psychological proclivities are often described ex-post, imputed from political outcomes and policies, thereby neglecting the politics and the process by which governments come to adopt illiberal (or liberal) policies. Analyses like

¹² See "Shiv Sena protests screening of Slumdog Millionaire" in *Daily News and Analysis* online, January 23, 2009. Available online at: <http://www.dnaindia.com/report.asp?newsid=1224434>. Last accessed on: April 17, 2009.

¹³ See "Moral Police Hit Vadodara, Art Student Lands in Jail" in *Hindustan Times*, May 11, 2007. Available online at: <http://www.hindustantimes.com/StoryPage/StoryPage.aspx?id=8f2213c7-4b12-4e48-9b7c-40302cd7a968&&Headline=Vadodara+art+student+lands+in+jail>. Last Accessed on: July 9, 2009.

¹⁴ See "Scribes protest sedition charge against editor, Loksatta attack" in *The Indian Express*, June 13, 2008. Available online at: <http://www.expressindia.com/latest-news/Scribes-protest-sedition-charge-against-editor-Loksatta-attack/322379/>. Last Accessed on: July 9, 2009.

¹⁵ The country's relatively weak performance with respect to the protection of individual liberties has been noted by a number of scholars such as Diamond (1999) and Beer and Mitchell (2006), although this body of work tends to attribute this to human rights abuses in politically unstable parts of the country, such as Kashmir and the North East, rather than to widespread censorship in the rest of the country.

Bova's, in effect, assume that non-western democracies lack any substantive pluralism because all individuals and groups within these countries are assumed to agree on some underlying less-than-liberal principles; an assumption that is neither theoretically sound nor empirically substantiated.

It would be entirely unrealistic to assume that all groups within a plural society share liberal (or illiberal) values. Indeed, nothing in the literature on pluralism would lead us to this assumption. Theories of political pluralism assume that groups, both liberal *and* illiberal, compete for political influence within the context of democratic institutions. The question, however, is when and why particular kinds of groups and particular kinds of political demands are more likely to dictate policy than others. Why, for instance, did pro-censorship feminists in India manage to get parliament to pass a stricter censorship law in the mid 1980s, while their anti-censorship counterparts failed to get a hearing? Answering such questions does not require that we dismiss political culture arguments altogether. However, it does require that we add nuance to such arguments by being more sensitive to the question of why particular kinds of demands and causes acquire greater political potency in particular democratic contexts than others.

A growing body of literature has begun to look at "cultures of rights" across different democratic countries, seeking to understand "why certain actors and frames are more prominent in public discourse than others" (Ferrée, Gamson et al 2002, pp 62). Scholars like Manfred Berg and Martin Geyer (2002) and Ian Shapiro (1986) have suggested that "rights talk" has to appeal to "'an objective moral order' that confers legitimacy on the claims made by individuals or social groups" (Berg and Geyer 2002, 4) and that questions inherent in such "rights talk" such as who is entitled

to what and on what basis all depend upon making an appeal to “some conception of the good” (Shapiro 1986, 16-17).

The idea that certain kinds of appeals carry more political currency than others, and may therefore be drawn on strategically by actors seeking access to the corridors of power, builds upon arguments made by authors like Ann Swidler (1989) who conceived of “culture” as providing political actors with a “tool kit” of “strategies of action” rather than merely defining the ends they pursue. For Swidler, according to this conceptualization, (political) culture “does not influence how groups organize action via enduring psychological proclivities implanted in individuals by their socialization. Instead, publicly available meanings facilitate certain patterns of action, making them readily available, while discouraging others” (Swidler 1989, 283). For instance, when a women’s rights activist in Mumbai was asked why she thought pro-censorship feminists won out against their anti-censorship counterparts in the 1980s, she noted that in Indian politics appeals to morality always triumph.¹⁶

This reconceptualization of (political) culture as a source of strategies of political action rather than an enduring psychological proclivity gets us away from the essentializing tendencies of much of the literature on political culture more broadly conceived. But it still leaves us with questions about where we ought to begin our search for these “cultures of rights.” Even if one was to agree that different states evolve different “cultures of rights” which provide political actors with different “strategies of action”, where might these “tool kits” of strategies come from?

Constitutions and Cultures of Rights: The Rushdie Puzzle

¹⁶ Interview with FA in Mumbai, June 20, 2008.

There is a consensus within the literature in comparative politics that democratic institutions and in particular formal constitutional arrangements contribute to long-term democratic stability (For instance, see Reynolds 2002; Lijphart 1999; Weingast 1997). Specific electoral institutions for power sharing, for instance, are thought to create incentives for politicians in ethnically divided societies to be more willing to work within the democratic framework. Building on this literature, this project argues that, in a long-standing democracy, the “culture of rights” underlying these constitutions may also shape the content of demands or electoral appeals that appear in democratic politics; that is, the philosophical principles embodied in constitutional documents may shape the praxes of politics in long-standing, or “consolidated” democracies.

It is useful here to go back to the pattern of protest and censorship of *The Satanic Verses* with which this chapter began. It was noted that India, Britain and the United States all witnessed extensive protest by Muslim groups against the book’s blasphemy. However, this apparent cross-country demonstration of Muslim anger against Rushdie’s blasphemy masks at least one important and under-appreciated difference in the way the controversy played out in these three democracies. This refers in particular to the demands that Muslims voiced across these cases. While Muslims in the UK and India had demanded that their respective governments impose a blanket ban on the book, the Muslims who protested in New York City had a very different set of demands. One of the organizers of the protests said that the protesters had three basic demands:

"We want to recall the book from the market. We want an unqualified public apology from the author and publisher to the Muslim community. And we

want to have a commitment from the publisher not to publish any foreign-language edition."¹⁷

Why did offended Muslim minorities demand government action in the United Kingdom and India to protect their faith from blasphemous writings, while only directing their demands to publishers and bookstores in the United States? This question, reframed, asks why one particular minority group that wanted one particular blasphemous book to disappear, articulated this demand very differently across national borders.

The different articulations of censorship demands across the United States, the United Kingdom and India align in interesting ways with these countries' particular constitutional prescriptions regarding free expression and protection of religious groups from blasphemy. It is, of course, well known that that the Constitution of the United States strictly prohibits government restrictions on free speech and, as Stephen Feldman (2008) has noted, the Supreme Court has itself taken an increasingly liberal position on the issue since the 1940s.¹⁸ Censorship of books and works of art in the United States has typically been local and has tended to take the form of community exclusion of offensive works from local public libraries. In contrast, Muslim demands for government intervention in the United Kingdom can only be understood in light of the fact that the country had a common law statute that gave the state the power to prosecute blasphemy against the Anglican Church until as late as 2008, one that had

¹⁷ Zaheer Uddin, co-chairman of the American Muslims Action Committee, quoted in "New York Muslims Pledge More Protests on Rushdie Book" by Sarah Lyall in *The New York Times*, February 27, 1989, Section A page 13, New York edition. Available online at: <http://www.nytimes.com/1989/02/27/world/new-york-muslims-pledge-more-protests-on-rushdie-s-book.html?scp=2&sq=satanic%20verses,%20protest%20new%20york&st=cse> . Last Accessed on April 8, 2009.

¹⁸ As Feldman (2008) notes, the ability of the government to suppress even political dissent has been progressively limited by the United States Supreme Court since the 1940s.

last been upheld in a court case as late as 1977.¹⁹ There were no equivalent protections granted to minority religions in the United Kingdom. For Muslims, the demand for a ban quickly became part of a larger demand for the creation of a similar law protecting Islam from blasphemy.

Similarly, India, as this project will demonstrate, has had a long tradition of state action in the proscription of offensive writings and films.²⁰ This is manifest in laws like Section 295 of the Indian Penal Code, which makes any speech, writing or representation that is intended to “outrage the religious feelings of a group” by “insulting its religion or religious beliefs” punishable with up to three years in prison. It is also more broadly evident in the expansive Article 29 of the Indian Constitution which grants to “any section of citizens...having a distinct language, script, or culture of its own...the right to conserve the same”.²¹ Echoing these constitutional norms, Syed Shahabuddin, the Indian Member of Parliament who had first demanded a ban on *The Satanic Verses* noted in an open letter to Rusdhie that the government in India was “the custodian of the dignity of all our people”.²²

What this cursory, cross-country examination suggests is that the ways in which Muslims within these different countries understood the role of the state in the

¹⁹ See “Blasphemy laws are lifted” by Martin Beckford in *The Telegraph*, May 10, 2008. Available online at: <http://www.telegraph.co.uk/news/1942668/Blasphemy-laws-are-lifted.html>. Last Accessed: July 14, 2009.

²⁰ In fact, as late as December 1986, there had been a spate of protests by Muslims in the southern state of Karnataka against a fictional short-story in a local English daily called “Muhammad the Idiot”, despite the “Muhammad” in question not having anything in common with the Prophet other than his name. The Government ordered a judicial inquiry, had the writer of the story and the editor of the newspaper arrested under S. 153 of the Indian Penal Code for trying to incite inter-group hatred and violence.

²¹ As will be demonstrated in greater detail in Chapter Five, this group right was conceptualized as entailing explicit state support and facilitation for the realization of cultural conservation and protection. It is important to note that “culture” was intended by the framers of the Constitution to include religion.

²² “You did this with satanic forethought, Mr. Rushdie” by Syed Shahabuddin in *The Times of India*, October 13, 1988. In Appignanesi and Maitlad (eds).1990. *The Rushdie File*. Syracuse: Syracuse University Press.

proscription of offensive writings, as well as the ways in which the elites in control of the states in question understood these roles, are mirrored in each country's constitutional ideas regarding the protection of free expression, the protection of religious groups and the role of the state in their realization, pointing to the potential utility of a closer analysis of how the ideas embodied in democratic constitutions may shape patterns of political action. The pattern of Muslim protest against *The Satanic Verses* suggests that in established democracies, constitutions and constitutional law may be good places to begin our search for "cultures of rights" and may serve as the source of what Swidler (1989, 283) called "publicly available meanings [which] facilitate certain patterns of action, making them readily available, while discouraging others."

Multicultural Arrangements as Tool-Kits of Strategies

The Rushdie affair is merely one manifestation of a broader challenge that confronts the vast majority of democracies in the world today, namely, the need to accommodate socio-cultural diversity. In the decades since the end of World War II, democracies all over the world have been forced to confront the challenges posed by growing social and cultural diversity within states that were created for the purpose of giving expression to the political will of allegedly distinct and homogeneous nations. Demands for civil rights, equal status before the law, and cultural sensitivity made by groups that were not traditionally defined as a part of the "nation" have featured prominently in the politics of countries across the western world. For liberal democratic regimes in the advanced industrial countries of Europe and North America, the negotiation of difference required a fundamental re-thinking of the liberal philosophical foundations that these polities were ostensibly built upon. Increasing

diversity has forced countries like France, for instance, to confront questions concerning the extent to which this “liberal” state actually supports its citizens’ freedom of religion or genuinely views its citizens as equal regardless of race.

The Rushdie Affair embodies precisely this tension, illustrating the ways in which different liberal democracies go to different lengths to accommodate the demands of religious and cultural minorities, particularly when it comes to placing restrictions on the freedom of expression of their citizens. Karen Bird (2000), for instance, notes that the United States and France have gone to very different lengths to limit “hate speech” targeted at minority groups, depending upon whether the states have a history of the promotion of substantive equality. Ruud Koopmans and Paul Statham (1999), in a more broadly conceived study, classify European democracies according to their particular “citizenship regimes,” based on whether citizenship rights in the polities concerned are based on blood or territory and whether they are assimilationist or pluralist in their responses to cultural diversity (Koopmans and Statham 1999, 660-661).

However, as Will Kymlicka (1996, 6) notes, western democracies, in which socio-cultural diversity was at least in part the result of *voluntary* immigration, may not feel as compelled to accommodate cultural demands, as many of the world’s younger democracies that emerged out of colonialism in the wake of World War II as “multinational states” with high levels of diversity already existent within their borders. These new polities were, from their very inception, socially and culturally diverse, a fact that posed a number of challenges to the political stability of states that often already faced organizational and financial weaknesses. Needless to say, these countries have had a very different negotiation with cultural diversity. The challenges that diversity posed to political stability were multiplied in those countries which

attempted to institute democratic regimes as they transitioned out of colonial rule. The resulting rarity of democracy in the post-colonial world led scholars like Dahl to note that “sub-cultural pluralism” or socio-cultural heterogeneity poses one of the greatest challenges to long-term stability of polyarchy (Dahl 1971, 108), and has fostered a large body of literature that seeks to provide “models” for new polities seeking to establish democratic regimes in the face of social and cultural diversity (Lijphart 1999; Reynolds 2002).

Much of the literature has concluded that a lot hinges on the ways in which democratic states “manage” their diversity, with some institutional arrangements being thought to be more conducive to democratic stability and consolidation than others (For instance, see Dahl 1971, Lijphart 1999, Reynolds 2002, etc). But, institutional stability is, in its turn, likely to produce a particular kind of “rights talk” and a particular “tool kit” of strategies as certain norms come to be established as having the “authority of habit, normality and common sense” (Swidler 1989, 281). The longer a culturally diverse polyarchy survives with a particular institutional arrangement, the more likely it is that its constitutional order will give rise to a particular kind of “rights talk.” In line with such arguments, this project argues that the censorship demand that is deployed so frequently as a strategy in Indian politics is a manifestation of the country’s particular response to its socio-cultural diversity.

Democratic regimes have tended to be classified as either “liberal” or “consociational”, depending upon whether, as in the latter category, constitutional arrangements explicitly decentralize authority to constituent ethnic or cultural groups within state borders. However, scholars have acknowledged that the reality is significantly messier, with some, like Sammy Smooha (2001) recommending the addition of two new categories: the first is the “multicultural democracy”, in which

“minorities are granted minimal collective rights to preserve their cultural heritage and to use their languages in schools and other public bodies” (Smootha 2001, 16) with the United Kingdom, South Africa and the Netherlands as examples; the second is the “ethnic democracy” which institutionalizes the dominance of one ethnic group, with Israel and some of the Baltic states like Latvia and Estonia being examples.

The current project’s concern with questions of censorship leads to a particular focus on the classification of democracies based on the relative prioritization of the rights of groups and those of individuals in their negotiation of diversity: to what extent are cultural groups permitted to place restrictions on individual liberties in the interest of group preservation within any given multicultural arrangement?

This project draws on a distinction made by Andrea Baumeister (2000) between *thin* and *thick* forms of multiculturalism. According to Baumeister, thin multiculturalism is an arrangement under which cultural groups are granted rights to cultural preservation, but are not allowed to coerce individual members in order to do so. That is to say, individual must acquiesce voluntarily to a group’s cultural norms and always have the option to leave or defect. By contrast, thick multiculturalism is an arrangement under which cultural groups are entitled to place restrictions on the autonomy of their members in the interest of the groups’ cultural protection, with direct or indirect facilitation by the state. This project argues that India’s multicultural arrangement is primarily *thick multicultural*. This thick multiculturalism is embodied in Article 29 of India’s Constitution which grants extensive group rights to cultural protection to “any section of citizens...with a language, script or culture of its own.” As will be discussed in greater detail in Chapter Five, there is strong evidence to suggest that India’s founders conceived of these cultural rights as entitling minority

cultural groups to restrict the autonomy of individual members in the interest of cultural preservation.

However, Baumeister's distinction between thin and thick multiculturalism does not capture another aspect of India's multicultural arrangement. More specifically, India's negotiation of cultural diversity also contains elements of what this project will refer to as "*Gandhian multiculturalism*": the notion that *all individuals*, regardless of group membership, ought to accept limits on their autonomy out of respect for all groups' cultural sentiments. It is probably best to quote Gandhi himself when thinking about what exactly Gandhian multiculturalism entailed:

"The unity we all desire will only last if we cultivate a yielding and a charitable disposition towards one another. The cow is as dear as life to a Hindu; the Mussalman [Muslim] should, therefore, voluntarily accommodate his Hindu brother. Silence at his prayer is a precious thing for a Mussalman. Every Hindu should voluntarily respect his brother's sentiment. This, however, is a counsel for perfection. There are nasty Hindus as there are nasty Mussalmans who would pick a quarrel for nothing. For these, we must provide Panchayats [village governments] of unimpeachable probity and imperturbability whose decisions must be binding on both parties. Public opinion should be cultivated in favour of the decisions of such Panchayats so that no one would question them"²³

Notably, however, Gandhian multicultural entitlements were not granted to all groups equally. What is particularly interesting about the preceding quote from Gandhi is that it granted these rights to the respect of group sentiment only to Hindus and Muslims.

²³ Mahatma Gandhi in "Khilafat – Chance of a life-time of unity" in *Young India*, May 11, 1921. Compiled in Judith Brown (ed) *Mahatma Gandhi. The Essential Writings*, pp 191-2.

This is partly because of the context in which Gandhi wrote these words, given the increasing tensions at the time between India's two largest religious groups and Gandhi's own attempts to build a cross-religious coalition to challenge British authority. One of Gandhi's earliest articulations of a multicultural accommodation of cultural sentiment for Indian society was, therefore, shaped decisively by his own political interests, as well as his perceptions about which groups posed the greatest threat to peace and unity in India. In short, the Gandhian multicultural arrangement was *inherently* informal, based on particularistic and contextual accommodations of difference rather than universalist precepts.

It is one of the contentions of this project that this particularistic accommodation of groups' cultural concerns has had significant effects for democratic politics in the country since independence. However, the informality of the Gandhian multicultural arrangement does not make it unique. For scholars like Pierre van den Berghe (2002), "multicultural democracy" is by definition an informal negotiation between state elites and cultural groups and what sets it apart from the consociational model is the fact that it seeks to accommodate cultural differences "without making it official" (van den Berghe 2002, 438). A growing body of literature in comparative politics has begun to distinguish between formal and informal institutions, arguing that informal institutional arrangements, conceived of as particularistic arrangements (O'Donnell 2001) and "socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels" (Helmke and Levitsky 2004, 727), often play a decisive role in shaping political outcomes.²⁴ This

²⁴ Written constitutions are frequently studied as "formal" institutions, defined as "rules and procedures that are created, communicated, and enforced through channels widely accepted as official...[including] state institutions (courts, legislatures and bureaucracies) and state enforced rules (constitutions, laws, regulations)" as well as "the official rules that govern organizations such as corporations, political parties and interest groups" (Helmke and Levitsky 2004, 727). Informal institutions, by contrast, are defined as "socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels" (Helmke and Levitsky 2004, 727).

distinction between the formal and the informal is relevant and decisive for the argument being made in this project.

This disjunction between formal principles and informal practice that is a feature of India's multicultural negotiation was particularly evident in the country's censorship policy. As will be demonstrated in Chapter Six, the Gandhian multicultural "right to censor" was not granted equally to all groups in practice. Rather, in the early years after India's independence this right was reserved for the politically dominant Hindu revivalist elites, who sought to preserve and rejuvenate *India's* "superior" culture and civilization through the creation of censorship rules consistent with their "cultural sentiments". The fact that censorship was, in principle, conducted in the name of *Indian*, rather than Hindu, cultural sentiment is significant. It meant that politically dominant groups were granted the right to determine what was and was not consistent with "Indian culture".

Consequently, in India, censorship out of respect for a group's cultural sentiment in effect is a manifestation of that group's substantive political empowerment and the acceptance as an equal stakeholder in the "Indian" cultural community. Neglect of a group's cultural sentiment, on the other hand, could be taken as a mark of their disempowerment and political marginalization. In sum, although the claim of offense does not contain any direct reference to material or distributional issues – those driving forces, according to the literature, of voter choice – it does *imply* that the offended group has been neglected by those in power. It is precisely for this reason that seeking offense has come to be seen as a particularly potent political strategy in identity politics in India.

Methodology and Chapter Outlines

India forms the focus of this project primarily because it is frequently referred to in the relevant literature as either representative of the liberal shortfall among non-western democracies or as an “outlier” among established or consolidated democracies on its human rights record (Beer and Mitchell 2006; Diamond 1999; Bova 2001). The nature of the questions being asked as well as the lack of well-kept records of bans across India’s states has meant that this project uses an exclusively qualitative methodological strategy. The sources of data and evidence include electoral data, archival materials dealing with the constitution-making process, debates within India’s parliament, judgments of India’s Supreme Court on civil liberties cases, newspaper reports about particular censorship events, the writings, personal recollections and biographies of important political figures, and thirty eight one-on-one interviews with members of political parties, journalists, filmmakers, social activists and members of India’s “censor board” among others collected during fourteen months of fieldwork. The ways in which these data sources have been used will be discussed in greater length in the chapter outlines below.

As was mentioned previously, the regular deployment of symbolic appeals in the Indian electoral arena poses a particular puzzle for theories of patronage democracy, given that voting patterns in these models are understood to be determined exclusively by material considerations. But if that is the case, why do politicians in India deploy the claim of offense so frequently? Chapter Two titled “The Role of Symbolism in Patronage Democracy” draws on interview data with politicians and activists to understand their own reasons for the deployment of the claim of offense in the political arena. Based on one-on-one interviews and an examination of media reports of two censorship cases, the chapter proposes four “hypotheses” regarding the

political uses of the symbolic demand in a patronage democracy: In particular, it argues that symbolic appeals serve as substitutes as well as complements for the disbursal of patronage, useful to all political parties to signal their credibility as future providers of patronage to their clients. Second, the chapter argues that mobilizing party cadres around emotional issues provides India's personalistic political parties with a way to maintain their attachment to the party despite weak internal organizations. Finally, it argues that for under-represented groups seeking to enter into a clientelistic relationship, mobilizing against offensive materials allows them to signal their credibility as a vote bank for politicians.

Chapter Three titled "Uncovering the Patterns of Offensiveness: The Case of *Aaja Nachle*" is an attempt to see whether the hypotheses developed in the previous chapter can shed some light on the patterns of censorship in the controversy surrounding the Bollywood musical *Aaja Nachle* in late 2007. Notably, the film was only banned in three of India's thirty two states and Union Territories, raising questions about the reasons for this variation. Through an examination of electoral data and media reports, this chapter argues that the pattern of variation appears to be largely consistent with the hypotheses in Chapter Two. However, contrary to expectations, high levels of anti-incumbency alone do not determine incumbent action. Rather, the intensity of competition for the vote of the offended group appears to be decisive.

The rest of the chapters address the larger concern of the project with the question of how a *particular kind of symbolic appeal*, namely the claim of offense, has come to be a part of the available tool-kit of strategies in democratic identity politics in India. As was mentioned previously, it is one of the contentions of this project that a long-standing democracy's negotiation of diversity, as manifest in its constitutional

order, is an ideal place to begin an examination of its praxes of identity politics. However, constitutions are themselves products of particular historical, social, and political contexts and are not objectively determined statements of principle.

Chapter Four, therefore, seeks to place India's constitutional order in a broader political historical perspective. In particular, it traces the development of India's national movement and its political strategies over the sixty years of active politics that preceded Indian independence in 1947. The chapter argues that as early as the first decade of the twentieth century, the anti-colonial political space came to be monopolized by cultural revivalists and the social orthodoxy. By 1947, Hindu cultural revivalism, a set of ideas which sought to reclaim a lost authentic Hindu past through the moral regeneration of Hindu society, had come to be entrenched in Indian politics. This was buttressed by strategies used by Congress leaders like Mahatma Gandhi which explicitly subordinated the freedoms of individuals to broader cultural and spiritual concerns with the revival of Indian civilization as well as the "sentiments" of religious groups, in line with the emerging discourse of "Indian secularism". By the time of Indian independence, Congress strategies of appealing to cultural revivalist sentiment seem to be so firmly entrenched that even its *class* competitors, such as the Communist Party of India and the regionally concentrated Justice Party began to adopt and adapt these strategies in their attempts to compete with the Congress juggernaut. Strategies that are in evidence in contemporary Indian politics were also in evidence in the pre-independence era, demonstrating one of the broader areas of continuity across these periods.

Chapter Five, titled "Revivalism, Riot and Realpolitik: Negotiating Diversity at India's Founding" is an attempt to understand the source of India's particular multicultural arrangement as manifest in the proceedings, documents and

communications of the Constituent Assembly of India, which met between May 1946 and December 1949. The chapter suggests that the partition of the subcontinent had a profound impact on the content of India's constitution, leading India's founders to place tougher restrictions on individual liberties while also making them more cautious and pragmatic in their dealings with religious minorities. In particular, it makes the following arguments: First, in the wake of partition, individual liberties were severely compromised and made subject to law as laid out by legislative majorities. Second, for precisely the same reasons, minority cultural rights were relatively expansive in principle and, in particular, allowed for the state facilitation of intra-group coercion or what Baumeister called "thick multiculturalism". However, these group rights were granted selectively, depending upon the extent of the threat that the group was deemed to pose to public order and to the legitimacy of the Assembly in its claims to represent all strands of Indian opinion. Finally, the chapter argues that the most expansive rights to cultural preservation were granted to Hindu revivalists, who were entitled to impose Hindu religious concerns with the banning of cow slaughter, for instance, on all individuals in society in a sign of the constitutional order's incipient "Gandhian multiculturalism".

Chapter Six, titled "Whose Sentiment Counts? Realizing the Potential of Gandhian Multiculturalism," demonstrates the ways in which the hierarchy of multicultural entitlements in the Indian founding order manifested themselves in the state's censorship policy. In particular it argues that early censorship policy was dominated by the concerns of a small, and primarily Hindu revivalist, national elite that used the censor board to impose its concerns with re-shaping individuals into "moral" beings. Notably, however, censorship policy was frequently framed in terms of the needs of "Indian" – rather than "Hindu" – culture and society. This disjuncture

between official policy and informal practice is significant because it meant that the right to censor, although claimed by a formally a-political state, was in practice appropriated by politically powerful cultural groups. As the Indian state began to accommodate diversity during the mid-to-late 1950s, this “right to censor” was subsequently demanded by newly mobilized cultural groups, thereby perpetuating the notion that the right to censor is a vital component of a group’s broader political empowerment.

Finally, in conclusion, after recapping the primary arguments made in the project, Chapter Seven speculates on the sources of continuity and change between India’s past and present, while also suggesting the ways in which the findings contribute to the larger theoretical and empirical literature in comparative politics. In particular, it argues that this project’s re-reading of India’s founding order allows for the development of an appreciation for the significant continuities between the so-called “Nehruvian” era of the early 1950s and the contemporary “Hindutva” era characterized by militant and assimilationist nationalism and identity politics.

CHAPTER TWO

THE ROLE OF SYMBOLISM IN PATRONAGE DEMOCRACY

On January 5, 2004 a mob of over 150 “activists” of the Sambhaji Brigade attacked the Bhandarkar Oriental Research Institute (BORI) in the city of Pune in the state of Maharashtra, destroying reams of historical manuscripts and archival materials in the process.¹ The research institute had been targeted because American historian, James Laine, had acknowledged the institute and some scholars associated with it for aiding him in his research for his latest book project. The book in question, *Shivaji: Hindu King in Islamic India*, had created a furor among local intellectuals of the Maratha caste for revealing the motivations behind official histories of the life of the local medieval emperor. The Sambhaji Brigade is led by a (then) member of the Hindu Nationalist *Bharatiya Janata Party* [Indian People’s Party](BJP), Mr. Udayanraje Bhonsale, a losing candidate in the 1999 elections, whose position within the BJP was precarious given his alleged involvement in the murder of a political opponent and his dalliances with other parties, in particular the Nationalist Congress Party (NCP) a member of the ruling coalition government in the state.²

The leaders of the Sambhaji Brigade alleged that Laine’s book was an attempt to defame and insult the emperor who members of the Maratha caste, the most politically influential caste group in Maharashtra, regard as a local hero and cult figure. However, Bhonsale’s organization wasn’t the first to defend Shivaji’s honor.

¹ “Maratha activists vandalise Bhandarkar institute” in *The Times of India*, January 6, 2004. Available online at: <http://timesofindia.indiatimes.com/articleshow/407226.cms> .

² See “Politics of a Ban” by Anupama Katakam and Nandagopal R. Menon in *Frontline*, Vol 23, Issue 3, February 2006. Available online at : <http://www.hinduonnet.com/fline/fl2303/stories/20060224002609300.htm>

Less than two weeks before the incident, on December 22 2003, activists in Pune belonging to the *Shiv Sena* [Shivaji's Army], a regional chauvinist party, had physically assaulted a prominent Sanskrit scholar who had been acknowledged in Laine's book.³ But even the Shiv Sena had been beaten to the cause. As early as November 2003, many prominent local historians and the local BJP Member of Parliament, Mr. Pradeep Rawat had issued statements demanding the withdrawal of the book on the grounds of its "offensiveness".⁴ In fact, on November 21, 2003 and over a month before the first physical attack by the Shiv Sena, Oxford University Press had apologized and withdrawn the book from the Indian market.⁵

In response to the protests, politicians across the political spectrum and prominent ministers in the ruling coalition government, while condemning the violence, justified the actions by issuing statements such as: "We condemn the attack and also distorting of the history of Chhatrapati Shivaji. The government is seeking legal opinion to ascertain if any action can be taken against the author and also whether the book can be banned."⁶ Despite Oxford University Press having

³ See "Scholar destroys own work on Shivaji" by Manjiri Damle, in *The Times of India*, December 27, 2003. Available online at: <http://timesofindia.indiatimes.com/articleshow/385489.cms> .

⁴ See "Scholar destroys own work on Shivaji" by Manjiri Damle, in *The Times of India*, December 27, 2003. Available online at: <http://timesofindia.indiatimes.com/articleshow/385489.cms> . Also, see "Rape of Culture Leaves City in Shock" by Ketaki Ghoge, in *The Indian Express: Pune City Newslines*, January 6, 2004, page 1. Available online at: <http://cities.expressindia.com/fullstory.php?newsid=72489> .

Interestingly enough, in the run up to Valentine's Day in 2003, Mr. Rawat had participated in a show in which he spoke out against "cultural police" who have routinely attempted to disrupt Valentine's Day celebrations in cities like Mumbai. Mr. Rawat is reported to have said, "'I truly believe that nobody needs to take the burden of preserving one's culture and nobody has the right to decide the 'limits' . What comes out of this kind of discipline is hypocrisy and a compulsion for people to wear a mask.'" Clearly, Mr. Rawat's beliefs about personal liberty are not quite so firmly held. See "Struck by Valentine, this BJP MP hails love" by Vinita Deshmukh, in *The Indian Express*, February 13, 2003. Available online at: <http://www.indianexpress.com/oldstory.php?storyid=18403>

⁵ Ibid.

⁶ Statement at a press conference by Home Minister in the State of Maharashtra and member of the NCP, Mr. R.R. Patil, reported in: "MSS chief's clout keeps govt away" by Shailesh Gaikwad, in *The Indian Express*, January 8, 2004. Available online at: <http://www.indianexpress.com/oldstory.php?storyid=38796> .

voluntarily withdrawn the book, the Congress-NCP coalition government proceeded to impose an official ban while also initiating criminal proceedings against James Laine for “Wantonly giving provocation with intent to cause riot...” and “Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony”⁷. And as elections of May 2004 approached, the Congress-led government’s tirades peaked with talk of initiating an extradition process to get Laine to be prosecuted in India.⁸

The unfolding of events in the James Laine case would probably not surprise most scholars of Indian politics who have come to identify the arena of party competition with ethnic extremism. However, the fact that ethnic politics so frequently takes the form of *symbolic* appeals to emotional causes does raise some questions for theories of “patronage democracy” and ethnic clientelism.

As discussed briefly in Chapter One, the term “patronage democracy” refers to a pattern of electoral politics particularly evident in poorer democracies in which politicians provide their “clients” with access to resources such as jobs in state-run enterprises or government bureaucracies in exchange for their votes. Political clientelism is deemed to be complementary to ethnocultural mobilization. As Kitschelt and Wilkinson (2007) note, ties of shared ethnicity are particularly conducive to clientelistic political arrangements, and increases in democratic political competition in the context of clientelistic or patronage democracy go hand-in-hand with ethnocultural mobilization (Kitschelt and Wilkinson 2007, 32-34). The authors note

⁷ Sections 153 and 153A of the Indian Penal Code. The vast majority of censorship cases are tried under these two sections.

⁸ See “India seeks to arrest US Scholar” on BBC News. Accessed on February 11, 2009. Available online at: http://news.bbc.co.uk/2/hi/south_asia/3561499.stm

that as competition for the vote increases, “politicians will move to employ every imaginable strategy of attracting constituencies, subject to a general budget constraint” (Kitschelt and Wilkinson 2007, 32-33). Scholars of ethnic clientelism tend to emphasize the instrumentality of ethnic identification, arguing that identification with a particular ethnic group merely provides voters with a way to secure material benefits, rather than having any value in itself (Chandra 2004, 11), and consequently expect ethnocultural mobilization to revolve around issues relating to jobs and the distribution of material resources.

Models of patronage democracy suggest that ethnicity matters in these contexts only because voters in such electoral contexts are likely to see “co-ethnic” candidates as more credible sources of future patronage (Chandra 2004). Given information shortages, a candidate’s ethnicity becomes a signal of her reliability as a source of material resources or patronage after the election. All else being equal, therefore, voters in such contexts are expected to vote for their “co-ethnics”. However, the instrumental nature of ethnic identification means that, when given a choice between two or more candidates belonging to the same ethnic group, voters will always vote for the candidate with greater resources at her disposal. Given this understanding of the dynamics of identity politics in patronage democracies, the regular deployment of *symbolic* appeals in Indian politics, as illustrated in the example above, poses a bit of a puzzle. This is because such appeals, such as claims of “offense” and demands for censorship, do not contain any explicit reference to material or distributive issues and consequently would not be expected to be particularly efficacious in the context of a patronage democracy.

Scholars of political parties’ strategies have tended to differentiate between symbolic and material appeals. While the broader comparative literature does not

argue for the ineffectiveness of the symbolic appeal, it does tend to focus on material or distributive appeals given that so much of the literature emphasizes the importance of “economic voting” – the idea that voters tend to be attentive to economic or material issues when casting their vote (see Lewis-Beck and Stegmaier 2000). Symbolic appeals in electoral politics – to the extent that they are studied at all – tend to be seen as “also ran” strategies, functioning, if at all, as appeals to less “sophisticated” and less rational voters (Brader 2006, 3). The literature, consequently, says very little about the role that symbolic appeals play in patronage democracies, reflecting Weeden’s (2002) observation that “existing political science frameworks either fail to take notice of rhetoric and symbols, which means they have no account of the work symbols do, or make claims about symbols that are unwarranted or untested empirically (that they generate “legitimacy” for example)” (Weeden 2002, 724)

However, it is not only the regular deployment of the symbolic appeal in democracies like India that poses a puzzle for theories of ethnic clientelism. It is also the fact that these appeals are frequently deployed even by patronage-rich candidates and parties, actors who, according to these models, ought to have no need to deploy these marginal strategies. Yet, as the unfolding of events in the James Laine case suggest, the incumbent Congress party felt the need, not just to respond to its opponents’ symbolic appeals, but also to up the ante, going so far as to demand that Laine be extradited to India to be tried on criminal charges. This suggests that symbolic appeals may play a more significant role in patronage democracies than existing theories would lead us to expect.

This chapter consequently takes Weeden’s criticisms seriously and seeks to understand the role that symbolic appeals play in the context of a patronage democracy, as articulated by the political players who actually deploy them. What

role do the political actors who make demands for censorship ascribe to these symbolic demands?

The chapter argues that political elites, both established and aspiring, understand symbolic appeals to “emotional” issues as having high levels of political efficacy even in the context of patronage democracy. The precise role that these symbolic appeals play, however, depends on who is deploying them. In particular, symbolic appeals serve two functions: First, for parties without access to significant channels of patronage, they are understood to function as *substitutes* for the provision of material incentives to potential voters. However, the evidence also suggests that symbolic appeals may serve as substitutes for another important weakness of some political parties. More precisely, they allow personalistic political parties to maintain cadre loyalty and attachment to the party. In this *internal* arena, the symbolic appeal serves as a substitute, not for material incentives, but for participatory linkages between party elites and lower level party members, thereby compensating for political parties’ internal organizational weaknesses.

Theories of patronage democracy assume that ethnicity matters in clientelist politics because it serves as an information shortcut in situations in which voters are uncertain of a candidate’s trustworthiness or credibility as a future source of patronage. This credibility is assumed to be established by incumbents’ past records of resource distribution. However, if this is the case, the regular deployment of symbolic appeals by patronage-rich political incumbents poses a particular puzzle, because patronage-rich incumbents have the opportunity to establish themselves as reliable sources of material resources prior to an election. Indian incumbents’ frequent accommodation of claims of offense therefore points to the possibility that symbolic appeals may serve, not just as a substitute, but also as a *complement* to the distribution

of material resources within the context of a patronage democracy. More specifically, they may perform a *signaling function*, allowing candidates to signal their credibility as reliable sources of patronage to voters *after the election* by demonstrating their emotional attachment to the ethnic group in question.

The question of how actors establish their credibility is important in the context of patronage democracy. As Kitschelt and Wilkinson (2007) note, the clientelistic relationship involves a non-simultaneous exchange of favors: voters have to be reasonably certain that if they vote for a candidate today, s/he will uphold her end of the bargain and provide them with access to patronage in the future. Similarly, candidates have to be reasonably certain that incorporating a particular ethnic group into her patronage network today will translate into a strong show of support at the ballot box at the next election. The question of how candidates may establish their credibility has been addressed above. However, the literature does not provide us with many suggestions of how voters – the recipients of candidate’s patronage – may establish *their* credibility in the political arena. Through an examination of the mobilization of Christian groups in Mumbai against the film *The Da Vinci Code*, this chapter argues that for groups that are under-represented in the electoral arena, mobilizing around symbolic issues such as an “offensive” film allows them to demonstrate their ability to act *as a group*. They are consequently able to signal *their* credibility as a reliable “vote bank” for politicians, one that is likely to respond favorably at the ballot box when given access to channels of political patronage.

The Function of the Symbolic Appeal in Patronage Democracy

In April 2007, when the Bombay High Court stayed all criminal proceedings against Laine and ordered that the ban on his book be lifted, the Shiv Sena once again took up arms and vandalized a branch of the Oxford Bookstore in the city of Mumbai, claiming that legislatures had the power to overturn judicial decisions and had done so in the past.⁹ The leader of the Shiv Sena, Mr. Bal Thackeray, reportedly ordered party members to “burn all copies of James Laine’s book.”¹⁰ When asked why his party chooses to routinely organize violent protests around issues relating to the insult of the emperor Shivaji, a Shiv Sena Member of Parliament (MP) replied that “we have to keep party workers engaged”, adding that cultural controversies are “emotional issues” and that “voters respond to emotional issues”¹¹ This suggests that leaders of political parties, see symbolic appeals to “emotional” issues as valuable tools with which to keep party members occupied as well as to galvanize their support bases, particularly as elections approach.

The Shiv Sena MP’s explanation for why his party needed to rely on these strategies is significant. He said that leaders of other parties like the Congress and the NCP have strong rural roots and a consequent hold on agricultural industries in rural

⁹ See “Bookshop owners under Thackeray threat” in, *The Tribune*, April 30, 2007. Available online at: <http://www.tribuneindia.com/2007/20070501/nation.htm#11> . Accessed on: February 11, 2009. Also see “Sena against Court intervention” in *The Times of India*, April 29, 2007. Available online at: <http://timesofindia.indiatimes.com/articleshow/1974279.cms>. Last accessed on: April 19, 2009. The statement, published in the Shiv Sena mouthpiece *Saamna*, also noted that courts were frequently swayed by public sentiment, and said that it ought to be no different in this case. Incidentally, the Government of Maharashtra appealed the court’s decision. The case went to the Indian Supreme Court in New Delhi which, in a controversial decision that was eventually reserved, offered to lift the ban on the book if Laine expunged the “offensive” paragraphs. Interview with PAS, Mumbai, January 14, 2008. This will be addressed in greater detail in Chapter Six.

¹⁰ See “Burn Liane’s Book, says Shiv Sena” by Neeta Kolhatkar in *DNA. Daily News and Analysis* online, April 29, 2007. Available online at: <http://www.dnaindia.com/report.asp?NewsID=1093580>. Last accessed on: April 19, 2009.

¹¹ Interview with BKR, Mumbai, May 26, 2008. This explanation for the use of cultural strategies backs up the findings of Thomas Blom Hansen who saw benefits accruing to parties like the Shiv Sena through what he calls “the politics of permanent performance” (Hansen 2001).

areas through which they are able to channel money from state subsidies into jobs for their political supporters. He argued that the Shiv Sena, being a primarily urban party, does not have the same degree of access to channels of patronage with which party workers could be “kept occupied” during non-election years.¹² This frank admission of the compulsions of maintaining political support are informative because they point to one important function that symbolic appeals serve in the context of a patronage democracy: symbolic appeals are understood to function as effective *substitutes* to material appeals for political parties and candidates that do not have access to extensive resources, thereby allowing smaller parties to remain competitive despite their budgetary constraints.

The Shiv Sena leader’s stated belief in the efficacy of symbolic appeals to the wider electorate poses a particular challenge for theories of patronage democracy. Although the potential for ideational or emotional issues such as concerns with “self-respect” and “group status” to matter in politics is often brought up in studies of ethnic politics more broadly (Horowitz 1985, 143; Van Cott 2005), it is curiously absent from much of the literature on ethnic clientelism and patronage democracy. Notably, much of this literature allows almost no room for the efficacy of emotional appeals, emphasizing the fact that voters vote for co-ethnic candidates either with the intention of gaining access to state resources or, if at all, out of concerns with *individual* status that may be derived from an association with a powerful patron-politician (Chandra 2004 11). In such a situation, when there are two or more co-ethnic candidates competing for the vote, voters would be expected to vote consistently for the one with the most established and abundant patronage network (Chandra 2004).

¹² Interview with BKR, Mumbai, May 26, 2008.

The consequences for smaller ethnic parties of such a conceptualization are relatively obvious: the minute mainstream parties begin to field co-ethnic candidates, the resource-poor ethnic party is likely to fail and, presumably, eventually disappear altogether.¹³ The Shiv Sena MP's explanation for his party's deployment of symbolic electoral appeals points to the possibility that these form part of a counter-strategy by which newer or smaller parties may continue to remain competitive, despite the attempts made by larger parties to field co-ethnic candidates.

However, the possibility that the symbolic appeal is intended only as a substitute for the disbursal of material incentives comes up against an important "hole" in the Shiv Sena MP's explanation for his party's deployment of the symbolic appeal. Although his assertion of the Shiv Sena's lack of patronage resources in rural areas might explain the party's frequent appeals to emotional causes, it is important to note that much of the Shiv Sena's most extreme censorship activities are concentrated in Mumbai, a city in which it has long established itself in electoral politics, particularly at the local level.¹⁴ In fact, the Shiv Sena has dominated the Greater Mumbai Municipal Corporation, the richest municipality in the country, for over a decade. It would not be difficult to imagine that this provides extensive opportunities for the party's candidates to distribute patronage to potential supporters. But how, then, can we account for the party's continued deployment of the symbolic appeal?

¹³ One of the challenges facing this body of literature is the question of how party failure ought to be gauged. Indeed many studies devise their own measures of this crucial variable (See, for instance, Chandra 2004, Meguid 2008).

¹⁴ The description of the Shiv Sena as an "urban party" was used by the interviewee himself. Interview with BKR, Mumbai, May 26, 2008.

The Internal Uses of Symbolic Appeals: Overcoming Organizational Challenges

It is significant that the MP explicitly noted that the symbolic appeal to emotional issues was important not only to sway voters in the run up to elections, but also to keep “party workers” “engaged” with the party. This statement draws our attention to a crucial missing element in much of the literature on ethnic parties, namely, their internal organization. Scholars like Chandra (2004) and Meguid (2008) do pay attention to the internal organization of *mainstream* parties when trying to assess their ability and willingness to adopt a smaller ethnic party’s platform. However, the internal organization of smaller *ethnic* parties themselves is almost entirely ignored. Although Chandra (2004) does acknowledge the importance of internal party democracy for *all parties* seeking to accommodate newly emergent groups, she doesn’t say very much about how the internal organizational compulsions of parties may determine their behavior in the broader political arena.

Paying attention to the internal organization of parties is particularly important given that scholars like Lawson (1990) have long suggested that “what parties do within the broader arena is determined at least in part by what they have been doing – and how they have been doing it – in the relative privacy of their own houses” (Lawson 1990, 108). De Souza and Sridharan (2006) note that most political parties in India are notoriously internally undemocratic, and this is particularly true of smaller regional parties like the Shiv Sena which tend to be little more than personality-dependent family organizations (de Souza and Sridharan 2006, 25, 31).

The broader literature on party-constituent links has coalesced around the assertion that a party’s internal organization is a strong influence on members’ attachment to it. For instance, party structures which encourage substantive grassroots participation in decision-making, through what Lawson (1976) calls “participatory

linkages,” are believed to create strong party identification even if the party in question lacks coherent stands on policy issues (Roberts, manuscript, 25). It appears then that party identification is closely tied to the type of linkage a party offers, which is in turn dependent upon the nature of internal party organization.

According to Roberts, parties built around personal loyalties are often “highly inorganic or uninstitutionalized...[and] lack an organizational life or purpose independent of their leader, and the role of adherents is more plebiscitary than participatory” (Roberts manuscript, 30). If participatory linkages are likely to generate strong party identification, the superficial linkage mechanisms provided by personalistic political parties in India could be expected to generate what could at best be classified as weak and volatile party identification, an expectation that is confirmed by a number of interviewees with respect to parties like the Shiv Sena.¹⁵

For the personality-driven political parties in India – both patronage-rich and patronage-poor – the ethnic linkage strategy has proven to be a readily available substitute. Ethnic parties would fall under what Lawson (1988) refers to as communitarian organizations – organizations that explicitly claim to represent one particular group. Since the communitarian organization’s *raison d’être* lies in its claims to represent that one group, Lawson (1988, 25) suggests that party elites will talk of little else. Without constantly re-affirming this ethnic link, the party will most likely lose its relevance. Ultimately, communitarian organizations are based on the politicization of a particular social cleavage. According to Roberts (manuscript 16), “the manner in which...political agents cleave the electorate is intimately related to the ways they attract and organize social constituencies...Different cleavage structures have corresponding modes of political association and social linkage.” Following from

¹⁵ Interview with BKR, Mumbai, May 26, 2008; Interview with JK, Mumbai, August 27, 2007; Interview with SA, Mumbai, August 27, 2007; Interview with KA, Mumbai, October 14, 2007.

this, one could argue that for ethnic parties that mobilize individuals along ethnic cleavages, an individual's partisan identification is little more than her ethnic identification.

As the Shiv Sena MP's arguments suggest, ethnic party responses to the instability of partisan identification in India have resulted in (among other things) the use of direct mobilization of constituents, often targeting individual freedoms in the course of making "emotional appeals" to group sentiment. Lower-level members of the Shiv Sena themselves noted that they felt a particularly strong bond with co-workers in the course of participating in protests and rallies.¹⁶ This echoes Hansen's (2001, 62) argument that "the Shiv Sena needed, and still needs, populist and violent street politics to attract its human capital". In a sense, the performance of the act of vandalizing a bookstore or movie theater becomes a goal in itself, creating a cause around which potentially distracted party workers may reassert their ties to each other as well as to the party. In these situations, the deployment of symbolic appeals may allow political parties with weak internal organizations to maintain the loyalty of their cadre even in the wake of political competition.

This suggests that, rather than merely being substitutes to the disbursement of material resources in the wider electoral arena, symbolic appeals against "offensive" materials may well serve as substitutes for internal democracy within personalistic political parties. Indeed, the longevity of the Shiv Sena – the party has survived for over four decades, despite being little more than a family-run firm – suggests that this is likely to be the case. The apparent efficacy of the symbolic appeal, however, suggests that, contrary to the assumptions of theories of patronage democracy, identity may well have value in itself. Scholars have long argued for the importance of "moral

¹⁶ Interview with HS, Mumbai, October 16, 2007; Interview with JK, Mumbai, August 27, 2007.

outrage” as a motivation to action (Moore 1959; Herring 1988), and the identification of an “insulting” or “offensive” book or film seems to have proven to be an invaluable tactic for political parties in India. As one lower level member of the Shiv Sena asserted, “no Marathi person can tolerate an insult to Shivaji”.¹⁷

Emotions and Voting Decisions: Symbolic Appeals and Mainstream Party Incumbents

However, if identity does have some value to members of political parties, is it possible that it has no innate value for voters, as theories of patronage democracy would lead us to expect? Although it is beyond the scope of this project to determine whether emotional issues have an effect on voter choice, the available evidence does suggest that political elites *believe* that emotions matter even within the context of patronage democracy. This is particularly evident in the fact that even well-established, catch-all, and patronage-rich parties like the Congress and NCP felt the need to match the Sena as it raised the heat on the issue of Laine’s book on Shivaji, despite their joint control over both the state *and* national governments at the time. As mentioned before, the government went so far as to officially ban Laine’s book even after the publishers had voluntarily withdrawn it from the market, and even demanded Laine’s extradition from the United States to India.¹⁸

¹⁷ Interview with JK, Mumbai, August 27, 2007

¹⁸ In fact, Mr. Bhosale, one of the leaders of the Sambhaji Brigade which was behind the attack on BORI, was officially inducted into the Congress Party’s Maharashtra Unit in April 2006. Possibly in anticipation of his switch in parties, the Congress led coalition government in the state of Maharashtra banned another one of Laine’s books titled *The Epic of Shivaji* earlier that year in January, 2006. Incidentally, this particular book was published as early as 2001, two years before *Shivaji: Hindu King...*, and a full 5 years before it was eventually deemed to be “offensive”. Further, there are no reports of any protests against *The Epic of Shivaji*, suggesting that this was a unilateral move on the part of the “mainstream” Congress-led government in the state. See “In the name of Shivaji – Udayanraje

If emotional appeals to symbolic issues serve only as a substitute for the lack of material resources, what purpose do they serve for patronage-rich incumbents?¹⁹ The question of why incumbents would deploy these symbolic strategies poses a particular challenge for the literature on ethnic clientelism. The clientelist relationship is a two-way street: the candidate promising patronage and the target group promising to vote for the candidate in exchange for material benefits. As Kitschelt and Wilkinson (2007) have noted, clientelistic accountability represents a transaction, the exchange of a citizen's vote in exchange for direct payments or access to employment, goods, and services (Kitschelt and Wilkinson 2007, 2). As democracy becomes more competitive, clients or voters have more options of political patrons, increasing their bargaining power vis-à-vis candidates. However, even in such situations, incumbents with a previous record of patronage disbursal are expected to be far more secure in their positions, given that voters already know that they are reliable patrons (Kitschelt and Wilkinson 2007, 8).²⁰ The incumbents' tendency to match weaker competitors' symbolic appeals, therefore, poses a particular puzzle for such theories: If they already have an advantage in the form of an established record of patronage distribution, why would an incumbent need to deploy this "substitute" strategy?

Bhonsale quits BJP to join Congress" by Satyajit Joshi, in *The Hindustan Times*, Mumbai edition, April 6, 2006. Also "Politics of a Ban" by Anupama Katakam and Nandagopal R. Menon, in *Frontline*, Vol. 23, Issue 3, February 2006. <http://www.hinduonnet.com/fline/fl2303/stories/20060224002609300.htm> . Accessed on February 11, 2009.

¹⁹ Of course, these patronage-rich parties are acknowledged to have many of the same internal organizational weaknesses as smaller ethnic parties like the Shiv Sena (Hasan 2006). It is, therefore, likely that accommodating emotional issues serves an internal function for these parties too. However, the statutory nature of many these responses – instituting official bans rather than mobilizing party members to vandalize bookstores – appear to be designed to appeal to a wider audience as well.

²⁰ This, of course, assumes that incumbents actually lived up to their end of the bargain during their tenure in office. As Nooruddin and Chhibber (2008) note, incumbents who do not prove to be reliable sources of patronage are more likely to be voted out of office than those who do. The question of the effect of an unreliable incumbent will be addressed in greater detail in the following chapter.

One possible answer is provided by the growing literature on “economic voting” and the effects of incumbency in Indian elections. The question of whether incumbents have any electoral advantage over non-incumbents in elections in India has produced a large body of work. Of particular relevance to the question being asked here is the conclusion in this literature that incumbents appear to face a particular *disadvantage* in Indian elections (Nooruddin and Chhibber 2008; Uppal 2009). In short, incumbents, despite their extensive resources, are faced with the reality that the disbursal of patronage today does not guarantee a vote in the election tomorrow. This is likely to be particularly so in contexts of increasing competition for the vote, as a number of resource-rich candidates enter the political fray. This implies that, at every election, both incumbents and non-incumbents may be in the same boat, with *all parties and candidates* having to assure voters of their reliability as *future* patrons.

In his study of ethnic clientelism in Benin, Wantchekon (2003) argues that voters only vote for co-ethnic candidates when these candidates’ make *credible* commitments for the disbursal of patronage after the election (Wantchekon 2003, 401, 421). However, Wantchekon does not say very much about how a candidate’s credibility may be established, particularly in contexts in which her past record does not appear to guarantee continued support or reelection. In such situations, upping the ante on a symbolic issue may provide even patronage-rich incumbents with a way to signal that credibility, by emphasizing their emotional bond to their target ethnic group. In such a situation, the symbolic appeal, particularly given the belief in its political efficacy, appears to serve as an important *complement* to the provision of material incentives. In particular, it serves as a signal to highly mobilized groups of voters of a candidate’s commitment to the group and, consequently, the likelihood that s/he will be a responsible patron in the future.

While the dynamic laid out above would explain why political parties may find it politically advantageous to demand the censorship of offensive materials, it does not tell us the whole story. Indeed, many claims of offense and demands for censorship seem to emerge from within “civil society”. For instance, in February 2009, the Salon and Beauty Parlour Association based in the city of Mumbai demanded that the name of the Bollywood film *Biloo Barber* [Biloo the Barber] be changed to “Biloo Hairdresser” because it was claimed that the word “barber” is a derogatory term.²¹ The film’s producer, Bollywood superstar Shah Rukh Khan agreed to change the film’s title to *Biloo*, although he held that he did not believe that the word “barber” was offensive.²² The absurdity of the controversy led many to suggest that it was a publicity stunt by the superstar who is known to be particularly media savvy. However, as the following discussion with respect to the controversy around the 2006 film *The Da Vinci Code* suggests, claims of offense by civil society groups may often have deeper seated political motivations.

The Utility of Symbolic Appeals for Under-represented Groups: Mumbai’s Christians against *The Da Vinci Code*

The James Laine controversy unfolded in a situation in which a number of parties were competing for the vote of a single ethnic group. That is, in a situation in which political parties, rather than voters, were under pressure to prove their

²¹ See “Controversy over Biloo Barber”. Available online at: http://in.movies.yahoo.com/news-detail.html?news_id=44342. Last Accessed on: June 12, 2009.

²² See “Barbers are Creative People: SRK” by Mark Manuel, in *The Times of India*, February 13, 2009. Available online at: <http://timesofindia.indiatimes.com/India-Buzz/Barbers-are-creative-people-SRK/articleshow/4118212.cms>. Last Accessed on: June 12, 2009.

credibility as future sources of patronage. However, in cases in which a “new” or previously politically under-represented group seeks to gain membership into a clientelistic network, the balance of power is reversed. It is now the group that needs to establish itself in the political arena as a *credible source of votes* for the candidate or party willing to include it in a clientelist/patronage network. As will be illustrated below in an example of Christian protests against the film *The Da Vinci Code* in Mumbai, mobilization around symbolic issues such as “offense” or “insult” allows a group to signal its ability to act politically *as a group*, thereby signaling their own credibility as reliable vote banks for potential political patrons.

Christians in India have come under increasing attack from the Hindu right in recent years. The organized violence against the small religious minority community in states like Orissa and Karnataka in 2008 is only the most recent manifestation of a more deep-seated hostility, particularly due to missionaries’ attempts to convert lower-caste Hindus to the Christian faith. Christians have the highest literacy rate among all India’s religious groups, partly due to the vibrant social role played by the Church and its affiliated institutions. However, the community remains relatively politically disempowered in a number of states, as the unresponsiveness of state governments to recent violent attacks against the community amply demonstrate. It is in this context of Christians’ political disempowerment that *The Da Vinci Code*, Ron Howard’s movie based on Dan Brown’s novel, was readied for an all-India release in May 2006.

Even before the movie was approved for release, India’s Censor Board had invited representatives of the Christian community to a pre-release screening of the movie in order to determine whether or not any parts of the film were likely to offend India’s roughly 25 million Christians, reflecting a long-standing policy of the government which has routinely been upheld by the judiciary. Fortunately for the

country's movie-goers, the invitees decided that the movie was fit for release so long as the distributors, Sony Pictures, placed a prominent disclaimer at the beginning of the movie stating the film was a work of fiction.²³ However, despite the Censor Board subsequently green-lighting the film, there were murmurs within the Christian community about a mere disclaimer not being a sufficient measure, and a number of states placed outright bans on the film in a pattern that activists claimed corresponded with the political and economic power and influence of the local Christian community.²⁴

In the city of Mumbai in Maharashtra, a group called the Catholic Secular Forum (CSF) staged a prolonged and extended hunger strike against the film, claiming that it was offensive and defamed the Christian faith. A founding member of the CSF, Mr. Joseph Dias, was at the forefront of the protests and had gone on record at the time demanding nothing less than a nation-wide ban on the film.²⁵ Catholics in the city had staged two demonstrations in a week making similar demands. However, the government of Maharashtra after first reporting that it was “studying the issue”,²⁶ remained curiously silent and the film continued to be screened in the city and the state as usual. When asked about his assessment of the reasons for the failure of his protest, Mr Dias commented that the Christian community has tended to be “taken for granted by left, right, and everything in between”.²⁷ The reasons for Christians' lack of political efficacy were understood as being due at least in part to their general

²³ Interview with Fr. M.P., Mumbai, December 22, 2008.

²⁴ Interview with Fr. M.P., Mumbai, December 22, 2008; Interview with J Dias, Mumbai, December 23, 2008. Many state High Courts eventually overturned the bans citing the Censor Board's prior approval. However, informal censorship continued in some states like Andhra Pradesh, Kerala and Tamil Nadu.

²⁵ Mr. Dias is quoted on the BBC World Service news as saying “The film must not be screened in India. It is a gross misrepresentation of the Church and Faith”. BBC News. Available online at: http://news.bbc.co.uk/2/hi/south_asia/4759111.stm . Accessed on February 10, 2009.

²⁶ “Maharashtra govt examining demand seeking ban on ‘Da Vinci Code’” in *Outlook India*, June , 2006. http://www.outlookindia.com/pti_news.asp?id=390333. Accessed on February 10, 2009.

²⁷ Interview with J. Dias. Mumbai, December 23, 2008.

unwillingness to use violence as a political strategy as well as the fact that the community itself is internally divided between a number of different sects and denominations.²⁸

The way this relatively politically disempowered group understands the interests and calculations of government officials and what it takes to be politically efficacious in the context of Indian democracy are particularly telling. For Dias, mobilizing Christians against *The Da Vinci Code* had three larger goals that went well beyond the fact of the film's apparent offensiveness: the protest was a way to unite the community across denominational lines, to make members of the community more politically aware, and, perhaps most importantly, to make political parties aware that "we are a majority in some pockets [of the city] and so they should give us representation and tickets".²⁹

The way to achieve this last goal was to show the political class the community's "utility and nuisance value".³⁰ By staging high profile agitations and "presenting issues in a non-traditional manner" which "creates controversy," Christian lay groups and individual activists believe they will be able to establish themselves as important political actors who could be of use to political parties, and potentially tip the scales in close electoral races.³¹ These controversies therefore serve the dual purpose of galvanizing an internally divided community while also politicizing it, thereby making it a potentially important electoral constituency or "vote bank" for political parties.³²

²⁸ Interview with J. Dias, Mumbai, December 23, 2008. Interview with Fr. M.P., Mumbai, December 22, 2008.

²⁹ Ibid.

³⁰ Interview with J. Dias, Mumbai, December 23, 2008.

³¹ Ibid.

³² When asked about his subsequent attempts at having offensive movies banned, Mr. Dias couldn't think of a single campaign run by the CSF since the *Da Vinci Code* controversy that had not resulted in

The example of Christians' mobilization against the *Da Vinci Code* provides some indication of what the claim of offense has come to represent in Indian politics. Under-represented groups that claim offense seem to understand the strategy as drawing attention to their larger political marginalization and demonstrating their worthiness as clients for politicians willing to empower them more substantively. This idea, that the identification of the existence of offensive materials represents a group's political marginalization, appears to have been adapted by politicians. For aspirants to office, making a censorship demand may be a way to point to an incumbent's failure to substantively empower the target group. Similarly, for incumbents, responding proactively to a censorship demand from society may be understood to be a way to make up for distribution short-falls or merely to demonstrate continuing representativeness in the wake of growing competition.

“The Country Itself”: Understanding Mainstream Party Constraints

But this larger symbolism of the censorship demand may also explain the often extreme nature of mainstream party responses to such controversies, particularly when the offended group is politically influential. This is a particularly important point to highlight because the literature on ethnic clientelism and ethnic party politics more generally has consistently argued that mainstream parties have an “upper hand” in what is conceived of as an unequal battle with smaller ethnic competitors (Chandra 1999, Meguid 2008, Kitschelt and Wilkinson 2007). For instance, in her study of the unequal competition between niche and mainstream parties in Western Europe,

either an outright ban, the cutting of “offensive” portions of movies, or the revoking of the Censor Board's certification. Among the movies that faced the CSF's ire were *Sacred Evil*, *Sins*, *Elizabeth: The Golden Age*, and *Naughty Nun*. Most notable about the censorship of these other movies is that there was no need for the CSF to stage a public protest against them. Apparently, the *Da Vinci Code* protests had begun to have their desired effects.

Meguid (2008) notes that every mainstream party can choose from three potential responses to the raising of an “ethnic issue” by an ethnic party: accommodative, adversarial, or dismissive. All else being equal, an accommodative stance is expected to marginalize an ethnic party by transferring issue ownership to the mainstream party and reducing issue salience over time; an adversarial stance is expected to buttress an ethnic party by allowing it to retain issue ownership; finally a dismissive stance is expected to decrease issue salience by taking the ethnic issue out of broader political debate.

All mainstream parties are expected to react strategically to the introduction of an ethnic party into the party system. If a mainstream party is electorally threatened by the ethnic party, it is likely to be accommodative, adopting the latter’s issues and consequently marginalizing its new competitor; on the other hand, if a mainstream party does not feel threatened by the ethnic party in question, it could merely ignore the ethnic issue (adopt a dismissive stand), with the expectation that both the issue and the party will die a quiet death. But what if adopting a “dismissive strategy” with regard to an ethnic competitor’s cause *isn’t even an option* for a mainstream party? The question is important in light of studies of the rise of the radical right in western European democracies which point to the selective accommodation (and dismissal) by mainstream parties of these new parties’ issues. In particular, it has been found that mainstream parties in these countries have tended to accommodate causes linked with the preservation of national cultures (such as banning headscarves or curbing immigration, for instance) while dismissing the radical right’s economic agenda (Minkenberg 1998; Schain 2002; Williams 2006).³³ Similarly, in cases such as those discussed in Chapters Two and Three, India’s Congress Party not only felt the need to

³³ Williams suggests that this may well be because “what people fear perhaps more than the economic conditions that confront them is the loss of their identity, ... culture and values” (Williams 2006, 4-5).

“accommodate” the issues, but explicitly upped the ante. This dynamic suggests that there are some issue areas – which in the Indian case include claims of group offense and demands for censorship – that are seen by elites as more politically potent and therefore harder to dismiss without suffering political costs.

Meguid points out that even when mainstream parties do have a real choice in terms of deciding which strategy to adopt, the strategy may not always lead to the conclusions as predicted in her model. In particular, she suggests that “the political and economic climate in which competition occurs cannot be ignored...Contextual factors can mitigate and even erase the effects of mainstream party behavior. In these instances, the likely culprits are not just the sociological characteristics of a country, but also *the country itself*.” (Meguid 2008, 81-2. Italics added). Perhaps the apparent constraints faced by mainstream parties in India could similarly be explained with reference to these “contextual factors”. But this requires clarifying exactly what these contextual factors may be and what it may be about “the country itself” that explains the nature of these constraints. Meguid explains the inability of the Spanish case to fit her model as possibly being due to “unmeasured aspects of the Spanish political environment” (Meguid 2008, 81-2). Although it is difficult to argue with any certainty on issues such as these, one could imagine that the larger political symbolism of the claim of offense is one of these “unmeasured aspects” of the country’s political environment; and one that may be particularly constraining for a “catch-all” mainstream party in power at the center.

But if this is true, it points to another reason why seeking offense may be seen as such an efficacious strategy by smaller and resource-poor political parties. If mainstream parties like the Congress are constrained by the Indian “political environment” to accommodate a censorship demand, it may allow a small party to

claim the credit for “forcing” the mainstream party to accede to its demand, thereby raising its stature as a group representative, and possibly sending out a deliberately misleading signal to voters of the party’s influence over its mainstream competitors and national politics.

Conclusions

The present chapter was an attempt to understand what role, if any, the symbolic claim of offense might play in political contexts in which voting is deemed to take place based primarily on material considerations. It argued that political elites, both established and aspiring, understand symbolic appeals to emotional issues like the offensiveness of a book or film to be efficacious political strategies even within the context of so-called patronage democracies. However, in addition to being merely a *substitute*, also-ran strategy for new or resource-poor political parties, the symbolic claim of offense serves an important role for internally weak political parties, whether patronage-rich or patronage poor seeking to maintain cadre loyalty and attachment.

For patronage-rich incumbents, acceding to symbolic demands for censorship serves as a signal of their continuing commitment to their supporters, possibly being understood as a way to defeat anti-incumbency. And finally, for under-represented groups, mobilizing around claims of offense is understood as a way to demonstrate their ability and willingness to act *as a group*, thereby allowing them to signal their credibility as a vote-bank for politicians looking to expand their voter base.

The preceding discussion suggests the following “hypotheses” regarding the emergence and redress of claims of offense: First, claims of offense and demands for censorship are likely to be made by resource-poor, and politically marginal political

parties and elites. Second, outside the realm of parties, they are likely to be made in contexts in which the “offended” group is relatively socially and politically marginalized. Third, given anti-incumbency effects across India’s states, all incumbents would be expected to respond to censorship demands in their attempts to defeat anti-incumbency. However, we could expect incumbents to be particularly responsive to such claims when there is growing competition for the vote of the “offended” group, or when the group has been neglected economically and politically.

The following chapter looks at the pattern of events in a controversy surrounding one film, a Bollywood musical titled *Aaja Nachle* [Come, Let’s Dance]. The film was banned in only three of India’s thirty two states for being offensive to the Dalit community, former “untouchables” in the Hindu caste system that have a presence in a vast majority of India’s states, and consequently presents some interesting variation on both the emergence and redress of censorship demands. It therefore provides an opportunity to see if the hypotheses that have been laid out based on the present discussion hold up in an unrelated case.

CHAPTER THREE

UNCOVERING PATTERNS OF OFFENSIVENESS:

THE CASE OF *AAJA NACHLE*

When Madhuri Dixit, the actress who had once held sway over Mumbai's "Bollywood" film industry in the 1980s and 1990s, announced her "comeback" in a musical entitled *Aaja Nachle* [Come, Let's Dance] after a five-year hiatus, the Indian media were understandably a-buzz. "The Queen is Back" screamed the June 2007 cover of *Filmfare* magazine as the date of the film's release approached. Once the soundtrack of the film was released in October 2007, the songs from the movie were playing practically around the clock on radio and television. In the run-up to the movie's release, the film's producers spearheaded a veritable media blitz during which India's proliferating news and entertainment channels seemed to be falling over themselves to get an interview with the star; and entertainment shows began to groom women to look and dance like Madhuri did in the movie's title song.

However, on November 30, 2007, the day of the movie's nationwide release, a relatively unknown political party called The Indian Justice Party (IJP) staged a protest against the film. The party's leader, Mr. Udit Raj, claimed that one line in the movie's title song was deeply offensive to the Dalit community [formerly "Untouchables"] and demanded an immediate ban on the movie. The lyric in question went "There is tumult in the neighborhood; even the cobbler is calling himself a goldsmith"¹

¹ In Hindi: "Moholle mein kaise maara maar hai, bole mochi bhi khud ko sonaar hai." To put the line in context, in the verse in question, the female lead says that she had made the mistake of standing on

In Hinduism's traditional caste hierarchy, professions were very closely tied to caste status, and cobblers, by virtue of working with the hides of dead animals and Hinduism's holy cow in particular, were deemed to be ritually unclean and therefore "untouchable". The goldsmith, on the other hand, is considered to be ritually clean and enjoys a marginally higher caste status. Seen in this light, the lyric was understood to be mocking the Dalits' desire for upward mobility and was subsequently deemed to be offensive to the community.

In response to Raj's protest, the state of Uttar Pradesh, ruled by prominent Dalit politician Ms. Mayawati, promptly instituted a state-wide ban on the film. Mayawati subsequently wrote a letter to the Prime Minister in New Delhi demanding that the film be banned across the country for "humiliating" the Dalit community.² Suddenly, over a month and a half after the release of the movie's soundtrack, it was almost impossible to find a Dalit politician who was not condemning the lyric and the filmmakers. "This is ill-informed, insulting and insensitive" said Member of Parliament and member of Mayawati's *Bahujan Samaj Party* [Oppressed People's Party](BSP) Mr. Rajesh Verma.³ The film was subsequently also banned in the neighboring states of Punjab and Haryana. However, none of India's 29 other States or Union Territories imposed a ban on the film.

the terrace of her home wearing a gold nose ring [*nathni*], following which there was a line of suitors (there is tumult in the neighborhood), with even cobblers posing as goldsmiths. In India, the gold nose ring has been seen as enhancing seductiveness of a woman, and had been used in some communities' traditions to symbolize a new bride's virginity.

² Mayawati's *Bahujan Samaj Party* [Oppressed People's Party] (BSP) is noted in much of the literature on Indian politics as the part responsible for rejuvenating the Dalit political movement in India (See Jaffrelot 2003 and Sudha Pai 2002). It is the foremost Dalit party in the country today, with its power concentrated in India's most populous state of Uttar Pradesh (U.P.) but with its presence expanding nation-wide.

³ Quoted in "Aaja Nachle almost trips – on a caste line" in *The Sunday Express*, December 2, 2007.

The preceding chapter drew on interviews with actors who have made claims of offense and demands for censorship to lay out some possible hypotheses of the conditions under which censorship demands are likely to emerge and be redressed. In particular it made three main conclusions: First, claims of offense and demands for censorship are likely to be made by resource-poor, and politically marginal political parties and elites. Second, outside the realm of parties, they are likely to be made in contexts in which the “offended” group is relatively socially and politically marginalized. Third, given anti-incumbency effects across India’s states, all incumbents would be expected to respond to censorship demands in their attempts to defeat anti-incumbency. However, we could expect incumbents to be particularly responsive to such claims when there is growing competition for the vote of the “offended” group, or when the group has been neglected economically and politically.

The case of *Aaja Nachle* presents us with some very interesting variation. First, as has already been mentioned, only three states in India deemed it to be necessary to impose a ban on the film. And second, of these three states, only two, Punjab and Uttar Pradesh, actually saw active protests against the film, while the government of Haryana banned the film preemptively. But there is also a curious *lack* of variation that becomes evident in that there is no instance of a state government *not* responding to a demand for censorship with a ban on the film.

The present chapter is an attempt to see if the hypotheses about the dynamics of censorship politics in India developed in the Chapter Two fit with the evidence in the *Aaja Nachle* case. Given the methodological challenges of working with just one case, however, the following analysis is intended more as a search for patterns than a quest for explanations. In what ways do the states in which the film was banned differ from those in which it was not? Was the one state in which the film was banned

preemptively somehow different from India's other states? The chapter looks at structural features, electoral data, and media reports of official statements and events surrounding the banning of the film in order to get a sense of the conditions under which both the claim and redress of offense seem to emerge. In doing so, it is also an attempt to see whether the hypotheses derived from the preceding chapter can provide a deeper understanding of the unfolding of events.

The Structure of Anti-Incumbency: Understanding Incumbent Responses to Aaja Nachle

It has already been mentioned that only three of India's 32 states and Union Territories ever banned *Aaja Nachle* for being offensive to Dalits. Given that the discussions in the previous chapter referred repeatedly to questions of electoral interest on the part of incumbent governments, the first question that needs to be asked is whether the size of the "offended" group is correlated with patterns of government bans across India's states. Table 1 lists the patterns of censorship of *Aaja Nachle* for all states in which Dalits comprise at least 10% of the population. Right at the outset it is evident that the mere fact that a state has a large proportion of Dalits is not enough to determine whether or not a state government decided to ban the film. So Himachal Pradesh, with Dalits comprising over 24% of the state's population, was curiously silent during the controversy. Although it is certainly true that all the states in which the movie was banned are at the higher end of the scale in terms of proportion of Dalits in their population, the fact remains that this structural variable alone cannot

explain variation in censorship patterns across “high Dalit population” states, pointing to the need for a more fine-tuned exploration.⁴

Table 3.1: States with at least 10% of their population belonging to the “Dalit” community in descending order of proportion (All Data as per the 2001 Census)

State	Dalits as % of population	Banned <i>Aaja Nachle?</i>	Dalit Literacy Rate (State avg)	Dalit Relative Literacy Index ⁵	Rate of Atrocities against Dalits ⁶
Punjab	28.8%	YES	56.22% (69.65)	0.807	2.4
Himachal Pradesh	24.7%	NO	70.31% (76.48)	0.919	5.668

⁴ States in which large proportions of the population do not speak Hindi (the language in which the movie was made) have been included in this table. This is partly because a large number of books and films have been banned across India’s states in the past regardless of language. Additionally, Hindi language movies are frequently released in southern Indian states like Andhra Pradesh and Kerala, sometimes with subtitles.

⁵ The “Relative Literacy Index” is calculated as the ratio of the Dalit literacy rate to the average literacy rate in each state as per the 2001 census of India. As the value gets closer to 1, the assumption is that there is greater structural equality across caste groups, and more specifically between Dalits and the rest of a state’s population.

⁶ The Rate of Atrocities against Dalits is calculated as the number of atrocities against Dalits per 100,000 *Dalits* in each state for the year 2007. The values have been calculated based on data reported in the annual report “Crime in India 2007” published by the National Crime Records Bureau, Ministry of Home Affairs, New Delhi. The atrocity rate in the report was calculated as atrocities per 100,000 *individuals*, but one could argue that this potentially lets states with larger populations and smaller proportions of Dalits off the hook. The values in the report were divided by the proportion of the state’s population that were Dalits in order to get the “Rate of Atrocities” values listed here.

Table 3.1 (Continued)

West Bengal	23.01%	NO	59.04% (68.64)	0.860	0.019
Uttar Pradesh	21.14%	YES	46.27% (56.27)	0.822	15.61
Haryana	19.3%	YES	55.45% (67.91)	0.816	5.181
Tamil Nadu	19.00%	NO	63.19% (73.45)	0.860	13.684
Uttaranchal	17.8%	NO	63.40% (71.62)	0.885	4.494
Chandigarh	17.4%	NO	67.66% (81.94)	0.825	0
Tripura	17.3%	NO	74.68% (73.19)	1.02	1.15
Rajasthan	17.1%	NO	52.24% (60.41)	0.864	38.011
Delhi	16.9%	NO	70.85% (81.67)	0.867	0.5

Table 3.1 (Continued)

Orissa	16.5%	NO	55.53% (63.08)	0.880	20.606
Karnataka	16.2%	NO	52.87% (66.64)	0.793	19.753
Pondicherry	16.1%	NO	69.12% (81.24)	0.850	14.906
Andhra Pradesh	16%	NO	53.52% (60.47)	0.885	25.625
Bihar	15.7%	NO ⁷	28.47% (47.00)	0.605	19.108
Madhya Pradesh	15.1%	NO	58.57% (63.74)	0.918	39.735
Jharkhand	11.8%	NO	37.56% (53.56)	0.701	15.25
Chhattisgarh	11.6%	NO	63.96% (64.66)	0.989	18.965

⁷ *Aaja Nachle* was not released in Bihar at the same time as it was in the rest of the country. This was not because of an official ban on the film, although in the wake of the controversy, the government of Bihar did issue a notice to the film's distributors directing them to ensure that the offensive lyric was removed prior to its release in the state. See: "'Aaja Nachle'. Cut objectionable reference: Bihar" in The Tribune, December 5, 2007. Available online at: www.tribuneindia.com/2007/20071205/nation.htm#18. Last accessed on April 11, 2009.

Table 3.1 (Continued)

Maharashtra	10.2%	NO	71.90% (76.88)	0.935	10.78
ALL INDIA	16.2%	NO	54.69% (64.84)	0.843	16.666

To use the language of necessary and sufficient conditions, it appears that although a “high” proportion of Dalits seems to be a necessary condition for a ban to be instituted, it is certainly not a sufficient condition. A pattern does begin to emerge, however, when we consider relative literacy levels of the Dalit community in “high Dalit concentration” states. The variable “Dalit Relative Literacy Index”, calculated as the ratio of the Dalit literacy rate to the average literacy rate in each state, is intended as an admittedly imperfect measure of the degree of Dalits’ socio-economic marginalization in individual states.⁸ As Figure 3.1 shows, among states with higher proportions of Dalits (approximately 19% emerges as a cut-off point here), *Aaja Nachle* was eventually banned in those states where Dalits tend to be relatively less literate than the average individual. That is, the states of Himachal Pradesh (H.P.) and West Bengal (W.B), despite being above the critical population level, have higher relative literacy rates than the other three states in the “high population” category, namely, Uttar Pradesh (U.P.), Punjab and Haryana. The figure suggests that governments of states in which the size of the “offended” community exceeds some

⁸ It should be noted here that the rate of atrocities against Dalits, another possible measure of Dalit exclusion which would connote a more actively anti-Dalit social/political environment, doesn’t appear to correspond with either the proportion of Dalits or the patterns of censorship. This suggests that the relative literacy deprivation may be getting at something more substantive and subtle in the relationship between Dalits and the state apparatus in these states.

“critical value” (in this case, approximately 19%) *and* in which this community is relatively more deprived when compared to the rest of the state’s population feel some structural pressures to implement bans when offense is taken.

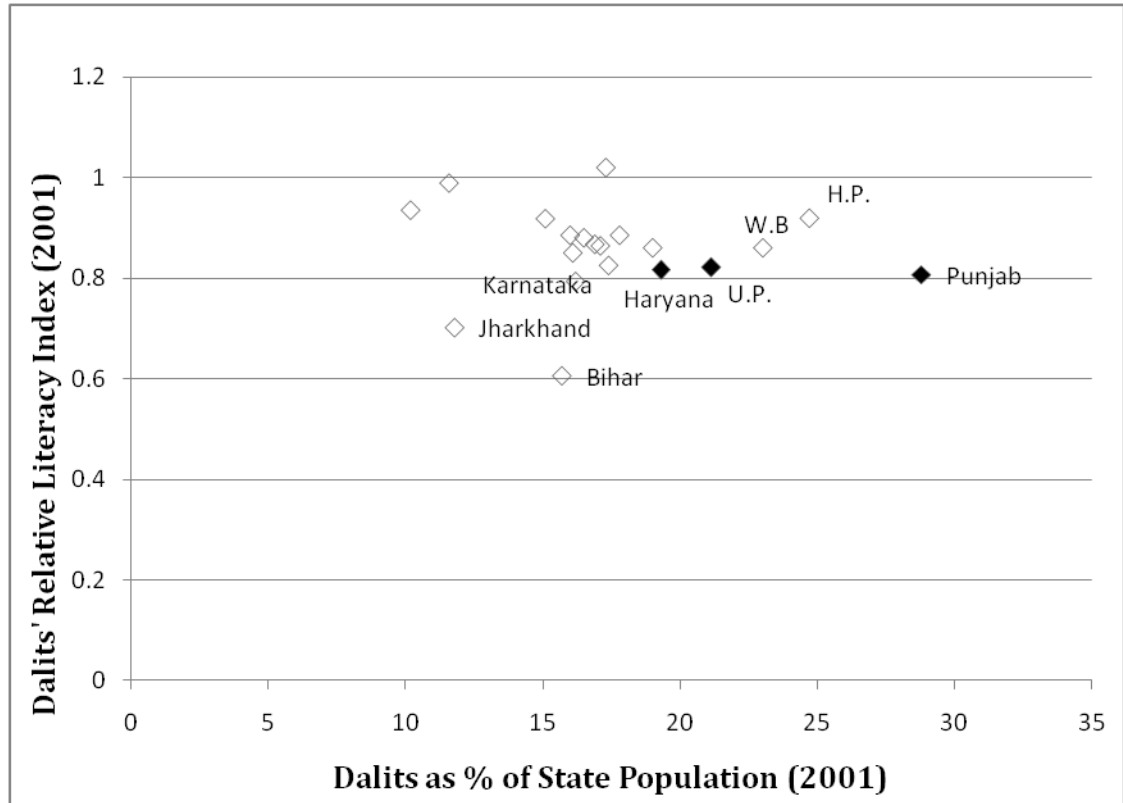


Figure 3.1: Dalits’ Structural Position Across States (as per 2001 census). Black data points indicate states in which *Aaja Nachle* was banned.

Such a pattern would make sense in light of the discussion in the previous chapter. It was suggested there that incumbent governments are likely to respond to emotional issues in order to overcome the strong anti-incumbency factor that is evident across the vast majority of India’s states. That said, there is still unexplained

variation here. Although the anti-incumbency effect could explain why there is complete correspondence between the emergence of protest against the film and the implementation of a ban (this pattern occurred in two states: Uttar Pradesh and Punjab), it doesn't explain why the state of Haryana decided to ban the film *preemptively*, before any sign of protest, and why the state of West Bengal, for instance, did not. This points to the likelihood of variation in the pressure on incumbents across these states that a simple reference to the offended group's marginalization does not address. Notably, in none of these states are Dalits completely on par with the rest of the state's population; so why do incumbents in some states deploy the "banning strategy" to deflect from a group's marginalization while others do not?

Nooruddin and Chhibber (2008) have pointed out that although at an all India level the anti-incumbency effect is quite substantial, the size of this effect varies considerably across India's states. Of direct concern for the present discussion, they note that West Bengal in particular appears to have regularly bucked the anti-incumbency trend, with incumbents seeing, on average, a small *increase* in their share of the vote across elections (Nooruddin and Chhibber 2008, 1076). This is evident in the fact that, at the time of *Aaja Nachle*'s release, the state had been under the rule of the Communist Party of India for an uninterrupted thirty years. As Yogendra Yadav has pointed out, "The Left Front has performed consistently well among Scheduled Caste constituencies and secured a higher vote share among Dalits than the rest of the population."⁹ The government of West Bengal's decision to ignore the controversy altogether could, therefore, be understood in light of the fact that the Communist

⁹ See "The many faces of Dalit politics" in *The Hindu*, May 7, 2009. Available online at: <http://www.thehindu.com/2009/05/07/stories/2009050759971400.htm>. Last Accessed on: June 11, 2009.

incumbents in the state were relatively secure in their belief in the continued support of their scheduled caste constituency. Further, as Yadav notes, the Communists' Dalit supporters in the state have been mobilized along *class* rather than caste lines, with the result that opposition parties have tended to focus their attention on trying to discredit the governments' economic policies or on mobilizing the state's substantial Muslim community, rather than around issues of Dalit caste identity.¹⁰ West Bengal's silence on the issue suggests that variations in anti-incumbency may influence government responsiveness, with incumbents in relatively stable states like West Bengal being less likely to be pro-active as these controversies unfold in the rest of the country.

Variations in Incumbency Effects, Variations in Responsiveness

The previous section has suggested that the lack of activity in West Bengal can be understood in light of the state's peculiar electoral dynamic when compared with most other states in India. The other four "high Dalit presence" states, on the other hand, are acknowledged to be significantly more electorally volatile, with incumbents being regularly voted out of office. Given this relatively high anti-incumbency factor in all the four states, one would expect governments in every one of these states to be particularly attentive to Dalit offense and therefore likely to implement a ban on *Aaja Nachle*. However, as Table 1 has already shown, only three of these four states banned the film, with Himachal Pradesh remaining curiously silent as the controversy unfolded. Furthermore, of the three states that did impose a ban Haryana imposed a preemptive ban on the film before any protest could take place in the state, while Uttar Pradesh and Punjab waited for protests to take place before taking a similar action .

¹⁰ Indeed, the Communists in West Bengal have been very willing to target the work of authors like Bangladeshi novelist Taslima Nasreen, who is particularly outspoken in her criticism of Islam.

A pattern does begin to emerge when we take a closer look at the strength of anti-incumbency across these states. In particular, Haryana and Himachal Pradesh are acknowledged in the literature as being among the most electorally volatile states in the country, with consistently strong anti-incumbency effects (Nooruddin and Chhibber 2008, Yadav and Palshikar 2009). Uttar Pradesh and Punjab on the other hand are classified as having “moderate” anti-incumbency effects (Nooruddin and Chhibber 2008, 1075-1076). This classification by Nooruddin and Chhibber (2008) does begin to provide some perspective on the question of why incumbents in the states of Uttar Pradesh and Punjab may have waited for public protest to take place before imposing a ban on the film. Perhaps, given the “moderate” anti-incumbency effects in the two states, the governments may not have felt extensive pressure to place a pre-emptive ban on the film.

However, it still leaves one puzzle unresolved. Haryana and Himachal Pradesh, two states with very high levels of electoral volatility, were both being ruled by the *same party*, the mainstream Congress Party at the time of *Aaja Nachle*'s release. However, in Haryana, the Congress government chose to ban the film *preemptively*, without any sign of public protest, while the same party's government in Himachal Pradesh remained silent right through the controversy. The puzzle is heightened by the fact that Himachal Pradesh was due to go to the polls just a few weeks after the release of *Aaja Nachle*, a situation which ought to have made the Congress government particularly sensitive to offensive materials. This unresolved puzzle points to the need to take a closer look at whether there are features of the electoral environment in these states that their classification as high anti-incumbency states may not capture.

Electoral Dynamics and Patterns of Censorship

It was suggested in the previous chapter that incumbents may be particularly sensitive to symbolic appeals under conditions of increased political competition for the vote of the “offended” group. While it is usually difficult to measure the degree of competition for the vote of a particular ethnic group with any real accuracy, electoral rules in India make the degree of competition for the *Dalit* vote a little easier to assess. Electoral rules “reserve” a number of constituencies in every state exclusively for candidates belonging to the so-called “scheduled castes”, the official nomenclature for the Dalit community. This means that in these constituencies, *every* candidate in the electoral fray must be a member of a “scheduled caste”. Taking a look at the dynamics of electoral competition within these reserved constituencies is therefore an ideal way to get a sense of the extent of competition for the Dalit vote in a particular state.¹¹ However, since absolute values do not necessarily give us a good sense of how intense electoral competition in these constituencies has been over time, Table 3.2 lists the *changes* in competitiveness in reserved constituencies between the last two elections in these four states in order to get a sense of whether competition for the Dalit vote had increased or decreased in the run-up to the *Aaja Nachle* controversy.¹²

¹¹ This is primarily because constituencies are designated as “reserved” exclusively for candidates belonging to Scheduled Castes or Tribes based on the concentration of these groups. Of course, this is not a fool-proof measure, particularly because it is not entirely clear whether there is a particular concentration that serves as a cut-off point. That said, to the extent that all the candidates do belong to the Scheduled Castes, it serves as a relatively good proxy for intra-group electoral competition.

¹² All the electoral data in this section has been drawn from the records of the Election Commission of India. Available online at: <http://eci.nic.in/>.

Table 3.2: Changes in Competition for the Dalit Vote in “High Dalit Presence” States across the previous two Assembly (State-level) elections

STATE (Party in Power in November 2007)	Change in average number of candidates per reserved constituency (1)	Change in average number of candidates per <i>Competitive</i> reserved constituency (2)	Did protests take place against <i>Aaja</i> <i>Nachle</i> ?	Was <i>Aaja</i> <i>Nachle</i> banned?
Uttar Pradesh (BSP)	+ 0.262	-0.16	YES	YES
Himachal Pradesh (Congress)	-1.5	-0.07	NO	NO
Punjab (BJP-Akali Dal)	+0.448	-0.25	YES	YES
Haryana (Congress)	-0.235	+0.06	NO	YES

Competition across the previous two state-level elections in each state is measured in two ways: First, the change in the average number of candidates competing per reserved constituency; and second, the change in the average number of *competitive* candidates per reserved constituency. The “average number of candidates per constituency” value is more or less self explanatory and is calculated by dividing the total number of candidates running in all reserved constituencies in a state by the total number of reserved constituencies in that particular state.¹³ An increase in the average number of candidates per constituency over time suggests that more Dalits candidates are aspiring to political office over time.

According to India’s electoral rules, candidates have to pay a monetary deposit if they want to contest an election. If a candidate does not get at least one-sixth of the total vote polled, s/he has to forfeit the deposit. Forfeiture of a candidate’s deposit, therefore, can be used as an indicator of her lack of competitiveness in an electoral race. In order to exclude such candidates who may not be much of an electoral threat, column 2 measures the change in “average number of *competitive* candidates,” still calculated as the average number of candidates per reserved constituency, but excluding candidates who forfeited their electoral deposits.¹⁴ Here, a positive value, implying an increase in the number of competitive candidates over time, suggests that competition has *substantively* increased over the last two elections, with the Dalit vote being spread more thinly among more candidates. A negative value, on the other hand,

¹³ Assume a state has ‘C’ reserved constituencies, a number which remains constant across two elections held at times t and (t-1), where t is the most recent election prior to the controversy and (t-1) is the previous election. If N_t and N_{t-1} represent the total number of candidates who competed in reserved constituencies at times t and t-1, then the change in the average number of candidates per reserved constituency is calculated as: $[N_t - N_{t-1}] / C$.

¹⁴ Using the same symbols as before, if X_t and X_{t-1} represent the total number of candidates in reserved constituencies who forfeited their deposits at times t and t-1, then the change in average number of *competitive* candidates per reserved constituency is calculated as: $[(N_t - X_t) - (N_{t-1} - X_{t-1})] / C$.

suggests that the Dalit vote in the state is becoming increasingly concentrated, distributed among fewer competitors.

Electoral Competition and the Variations Across Congress-Ruled States

As mentioned in the previous section, Haryana is unique among the four states in this analysis because it was the only state which imposed a ban on *Aaja Nachle* preemptively, that is, before any sign of public protest. Interestingly, Haryana is also the only state in Table 3.2 in which SC reserved constituencies have witnessed an increase in the number of competitive candidates over time. This suggests that in the run up the release of *Aaja Nachle* in Haryana, the vote in reserved constituencies was becoming more thinly distributed across candidates (See Column 2). One might surmise that in this context of tighter electoral contests, marginal gains and losses in voter support might be decisive in shaping electoral outcomes. Seen in this light, the government of Haryana's preemptive ban on the film could even be said to be expected. Presumably, it could not afford to let members of the opposition seize upon the issue.

This reading of the electoral data is confirmed by a closer examination of the dynamics of politics in Haryana in the run up to *Aaja Nachle*'s release.¹⁵ As has already been noted, Nooruddin and Chhibber (2008) have pointed out that Haryana is the second most electorally volatile among India's 15 "major" states. Adding a degree of complexity to this story is the fact that the Congress Party in the state is routinely faced with defections from dissident members who manage to compete successfully,

¹⁵ This section draws heavily on "Lal's Last Gambit" by Ramesh Vinayak in *India Today*, December 6, 2007; and "The many faces of Dalit politics" by Yogendra Yadav in *The Hindu*, May 7, 2009. Available online at: <http://www.thehindu.com/2009/05/07/stories/2009050759971400.htm>. Last Accessed on: June 11, 2009.

and later make hard bargains to form post-election coalitions with their former party organizations. For instance, in the run-up to the 2005 Assembly election in the state, it was reported that the Haryana state Congress organization “tops the list of faction-ridden state units”, prompting a special visit by the Party’s national leadership in an attempt to placate dissidents.¹⁶

However, in the run-up to the release of *Aaja Nachle*, the State Party organization received a particularly worrying jolt. Merely a week before the release of the film, one of the most prominent lower caste leaders of the Congress Party, Mr. Bhajan Lal, decided to defect to form a new political party which he called the *Haryana Janhit Congress* [Haryana People’s Welfare Congress]. Lal had a long-standing rivalry with the Congress Chief Minister in the state, an upper-caste Jat named Bhupinder Singh Hooda after the latter was hand-picked by the Party’s central leadership in New Delhi to head the state government in Haryana. Yadav notes that the majority of the Dalit vote in the state has remained steadily within the Congress fold, “without [the Party] having promoted a Dalit leadership or pro-Dalit policies.”¹⁷ For instance, Hooda was widely perceived to be a pro-Jat leader, particularly in light of his equivocal response to a series of hate crimes against Dalits that took place earlier in 2007. The Party’s electoral hold over Haryana’s Dalits was consequently believed to be due to Bhajan Lal’s influence and stature as a non-Jat leader in the state, rather than because of the party’s pro-Dalit policies.

As it turned out, it was in the week of *Aaja Nachle*’s release that Lal formally announced the formation of his new party, declaring that he would hold a mammoth

¹⁶ See “Sonia meets Haryana Candidates Today,” and “Cong Rebels ignore Bhajan’s Warning” in *The Tribune*, January 19, 2005. Available online at:

<http://www.tribuneindia.com/2005/20050119/haryana.htm#3>. Last Accessed on: June 12, 2009.

¹⁷ See “The many faces of Dalit politics” in *The Hindu*, May 7, 2009. Available online at: <http://www.thehindu.com/2009/05/07/stories/2009050759971400.htm>. Last Accessed on: June 11, 2009.

political rally in Chief Minister Hooda's home constituency on December 2, 2007, the Sunday of the film's opening weekend. One can imagine that, as far as Hooda and the Congress Party in Haryana were concerned, the release of *Aaja Nachle* was well-timed indeed. The banning of the film appears to have been used as a way to shore up the Party's credentials among their Dalit supporters in the wake of an internal organizational crisis, while also preventing Bhajan Lal from making any gains by creating a controversy.¹⁸

Although it appears that proximate factors may have had a larger role to play in the censorship of *Aaja Nachle* in Haryana, it is important to recognize that Bhajan Lal's defection may well be representative of a larger trend in the state's politics in which defections mean that prominent former-Congressmen with established clientelist networks are able to remain competitive and erode incumbent vote share in the process. Furthermore, in contrast to Haryana's increasingly close electoral races in constituencies reserved for Scheduled Castes, Himachal Pradesh, the other Congress-ruled state appears to have seen a decline in competitiveness over time (column 2). So despite high levels of anti-incumbency in both states, the closeness of the electoral race in Haryana may imply that incumbents do not lose elections by a particularly large margin, thereby making even small gains and losses in voter support potentially decisive factors in electoral outcomes.¹⁹

¹⁸ Notably, the state government's official statement said that there was "heavy resentment and anguish among the people belonging to Scheduled Caste community [sic] over some objectionable utterances in the film allegedly demeaning their caste and thereby hurting their sentiments. Therefore the possibility of violent protest and clashes leading to breach of peace and law and order situation in the state with resultant damage to public life and property could not be ruled out." See "Now, Haryana bans *Aaja Nachle*" in *The Times of India* online, December 1, 2007. Available at: <http://timesofindia.indiatimes.com/articleshow/2587954.cms>. Last accessed on: April 11, 2009.

¹⁹ Additionally, in contrast to the situation confronting the Congress Party organization in Haryana, the Congress in Himachal Pradesh appears to have been relatively internally coherent in 2007. It had been confronted with an internal crisis in the late 1990s when an important leader, Sukh Ram, was expelled from the party in the wake of a major corruption scandal. But he was later re-admitted into the Congress in 2004 after the party's decisive electoral victory in the state in 2003. By the time *Aaja Nachle* released

Electoral Competition and Protest

If Haryana has witnessed increasingly close electoral races in reserved constituencies over time, the other three states in Table 3.2, Uttar Pradesh, Punjab, and Himachal Pradesh had not. On the contrary, reserved constituencies in each of these three states saw declines in competition over time. However, this masks an important difference across these three states. Notably, Uttar Pradesh and Punjab have witnessed increases in the average number of candidates running for election over time. Since only Dalit candidates are allowed to contest from reserved constituencies, this increase in the number of aspirants to power suggests that these two states have witnessed increasing levels of Dalit political activism over time. That is, Dalits in these two states have increasingly been attempting to compete in elections outside the fold of the major political parties. However, these attempts have tended to be unsuccessful. Yadav, for instance, notes that the Mayawati's *Bahujan Samaj Party* [BSP] in Uttar Pradesh has come to secure about three quarters of the state's Dalit vote, suggesting a dramatic concentration of electoral power with one party even as numerous aspirants make attempts to vie for the vote.²⁰

Under such circumstances, one can imagine that newer and resource-poor political outsiders use symbolic appeals to make up for their lack of resources and/or

three years later, those divisions seem to have been settled; Sukh Ram had announced his retirement from active politics and his son was a member of the state legislative assembly on a Congress Party ticket. Finally, the comparatively higher socio-economic status of Dalits in Himachal Pradesh in comparison to that in Haryana may have led the Party to feel significantly more confident about the continued support from this group.

²⁰ See "The Many Faces of Dalit Politics" by Yogendra Yadav in *The Hindu*, May 7, 2009. Available online at: <http://www.thehindu.com/2009/05/07/stories/2009050759971400.htm>. Last Accessed on: June 12, 2009.

experience. That is to say that such an electoral environment provides a strong incentive for a “disappointed aspirant” to actively seek out opportunities to raise her public profile, with extra-institutional mobilization being the only (and yet, possibly the ideal) avenue through which this can be achieved. This can be illustrated most specifically in the Phagwara constituency in the state of Punjab; the location of the *only* protest against *Aaja Nachle* reported from the state. Here, the last two state elections were held early in 2007 and before that in 2002. In 2002, 70% of the candidates who contested in the constituency ended up forfeiting their deposits with the two biggest political parties, the Congress and the BJP together accounting for just under 72% of the vote. By 2007, these two parties had increased their joint tally to almost 85% of the vote, with 75% of the candidates forfeiting their deposits.²¹

Such an admittedly simplistic analysis begins to throw light on some of the dynamics that were described in the previous chapter. First, it suggests that government responsiveness to claims of offense seems to be strongly correlated not just with the strength of anti-incumbency but also with the intensity of competition for the vote of the “offended” group. Second, it suggests that electoral contexts in which there are increasing numbers of “disappointed aspirants” for a group’s vote are more likely to see protest against offensive materials. The rest of this chapter takes a closer look at the unfolding of events in the weeks following the release of *Aaja Nachle* in order to get a sense of how these dynamics play out on the ground.

²¹ All data are from the records of the Election Commission of India.

Intra-Dalit Competition in Uttar Pradesh: The Systemic Compulsions of Ethnic Clientelism

Uttar Pradesh is the only state in India where a party that was formed explicitly to further the cause of the Dalit community has actually gained political power. Although the first stirrings of Dalit mobilization began in India even before independence, it was only in the late 1980s that Dalits' political assertion is believed to have come of age when the Bahujan Samaj Party (BSP), founded by Kanshi Ram, achieved its first major electoral victories. As mentioned in the previous section, the BSP today has cornered roughly three quarters of the Dalit vote in the state, a sign of its dominant position as a Dalit party in Indian politics.

A number of contemporary Dalit political leaders had their first taste of politics through Kanshi Ram's BSP, which is part of the reason why the party is often credited with generating a degree of political consciousness in the community (Chandra 2004; Ram 2008). Kanshi Ram had made it a point to form extra-party organizations, such as a trade union for government employees belonging to the religious minorities and Scheduled Castes and Tribes, upon which his party built its first electoral successes. However, even before Kanshi Ram's death in 2006, the party is noted to have been run relatively dictatorially, a trend that some have suggested has continued under his handpicked successor, a Dalit woman named Mayawati, who controlled the party when *Aaja Nachle* was released.²²

As chairperson of the National Federation of SC/ST Organizations, Udit Raj, the leader of the Indian Justice Party (IJP) is presumed to have access to a large network of Dalit activists who are believed to buttress his political standing, although

²² See "Empowering Builder" by Yogendra Yadav in *The Indian Express*, October 10, 2006. Available at: <http://www.indianexpress.com/news/empowering-builder/14344/1> Last Accessed on: June 11, 2009

this support network has not translated into major electoral successes. Raj has arguably spent his entire political career to date engaged in attempts to discredit Mayawati's claims of being the great "Dalit hope" and has been more than willing to use symbolic politics to do so. The political rally at which he announced the formation of the Indian Justice Party was itself replete with political and religious symbolism as he publicly converted to Buddhism in New Delhi in November 2001. He has frequently argued that by refusing to repudiate Hinduism – the religion that was the cause of Dalits' marginalization – Mayawati was actually allowing for the persistence of the exploitative caste system, rather than working for its abolishment.²³

A connected but more damning critique has also been provided of Mayawati's readiness to form political alliances with more established and upper-caste dominated parties like the Bharatiya Janata Party (BJP) and the Congress, with her political opponents within the Dalit movement suggesting that this demonstrates her desire for political power at any cost rather than her concern with Dalit emancipation. Notably, part of the reason for Mayawati's success in the 2007 elections in Uttar Pradesh was her willingness to form a "rainbow coalition" of caste and religious groups, cutting across many social and cultural boundaries in the state.

That Mayawati believed the Indian Justice Party, and Udit Raj more specifically, to be a political threat was evidenced in the fact that she frequently took it upon herself to organize political rallies in parallel with Mr. Raj's planned public meetings, as in the city of Nagpur in October 2006, and has consistently felt the need to respond to his accusations regarding her conversion to Buddhism in order to justify

²³ See "Mass Conversion by Dalits" by V. Venkatesan in *Frontline* Vol. 18, Issue 23, November 10-23, 2001. Available at: <http://www.hindu.com/fline/fl1823/18231340.htm>. Last Accessed on: June 11, 2009.

her own stand.²⁴ The banning of *Aaja Nachle* in Uttar Pradesh can only be understood as a part of this larger dynamic of competing claims for credibility among different Dalit parties and politicians. The protest by the Indian Justice Party appears to have been a part of Raj's larger political strategy to claim credibility as a leader who was genuinely concerned about the ending of discrimination of Dalits. And the *timing* of Mayawati's ban as well as her subsequent letter to the Prime Minister demanding a nation-wide ban on the film can only be understood in light of the IJP's attempt to challenge her position as the most credible and promising Dalit political leader.

The imperatives facing Udit Raj and the Indian Justice Party in their competition over the Dalit vote against Mayawati's BSP ought to be fairly clear. The analysis of electoral data in previous section has already pointed to the fact that it is increasingly difficult for new aspirants to power to make a mark in the state of Uttar Pradesh. Furthermore, as a relatively resource-poor party without direct access to state office or patronage, the Indian Justice Party faces a dilemma similar to any other resource-poor political formation in the context of a clientelist democracy. In a non-ethnicized party system, the IJP would probably have disappeared just as quickly as it emerged on the Indian political scene. However, as discussed in chapter two, the ethnic dimensions of clientelistic democratic competition provide resource-poor parties with other ways in which to maintain the interest of their party cadre in the absence of access to political spoils. In particular, by re-affirming the ethnic dimensions of intra-party ties, these parties can go for longer periods without seeing the same rates of attrition of membership as one might expect.

²⁴ See "Won't Convert Till Made PM" in *The Times of India*, October 15, 2006. Available at: <http://timesofindia.indiatimes.com/articleshow/2171934.cms>. Last Accessed on: June 11, 2009. Conversion to Buddhism has been seen as a way for Dalits to escape the oppressive caste system while still owing their allegiance to an "Indian" religion. The practice of conversion to Buddhism was first used as a political tool by prominent Dalit politician B.R. Ambedkar in the early years following India's independence.

In fact, as mentioned previously, symbolic politics on cultural issues has become the hallmark of the IJP, with the bulk of its mobilization taking place around the organization of rallies for the mass-conversion of Dalits, usually to either Buddhism or Christianity. In such a situation, a high profile target like *Aaja Nachle* may be viewed as a way to buttress the party in the wake of an electoral debacle in Uttar Pradesh earlier in 2007 in which 120 of the party's 121 candidates forfeited their deposits.²⁵ When asked by a prominent television news channel about Mayawati's decision to ban the film in Uttar Pradesh in response to his protest, Mr. Raj responded, "Mayawati took up this issue this evening because she thought I could not get more publicity [sic]."²⁶

But in all this, it is important not to forget Mayawati's own organizational compulsions. In response to the IJP's protests and their own party government's ban, BSP workers in the city of Lucknow are reported to have gone on a rampage in movie theaters that had already been screening *Aaja Nachle*, assaulting customers and forcibly removing them in the midst of a showing. As was proposed in chapter two, this is likely due to Mayawati's own compulsions as the charismatic leader of a party that began as an explicitly Dalit party and gradually broadened its electoral base in an attempt to come to power. When called out on her Dalit credentials, she saw it fit to "mobilize the troops" to confront the challenge to her credibility.²⁷

²⁵ The Indian Justice Party won just 1.47% of votes polled in the seats it contested and only 0.43% of votes polled in the state as a whole in 2007. Most of its candidates brought up the rear in a list of up to 15 candidates per constituency. There were some notable exceptions such as Rakesh Kumar Verma in Dariyabad, Ram Gopal in Siddhaur (SC reserved), Rakesh Kumar Verma again in Masauli who lost to the winning BSP candidate by just 5000 votes. Some of his best-performing candidates have been poached from other parties in the state, such as the Samajwadi Party.

²⁶ Interview with Rajdeep Sardesai on CNN-IBN, December 1, 2007. Transcript available at <http://in.movies.yahoo.com/news-detail/13944/Man-Aaja-Nachle-row-comes-clean.html>

²⁷ Ibid

This isn't to deny the possibility that offense may genuinely have been taken to the lyric in question. It is merely to suggest that ethnic parties with weak or faltering bases of support may have the incentive to *actively seek offense* to serve the dual purposes of rallying party workers, while also raising their own profile as credible representatives of the offended group. The potential consequences for free expression need not be spelled out.

Epilogue: Facing the Music

In response to Mayawati's ban, the producers of *Aaja Nachle*, Yashraj Films, issued a public apology on December 1, 2007, saying that no offense was intended by the lyric in question and that the lyricist had used the word "cobbler" to denote a profession rather than a caste group. Yashraj Films also agreed to edit all the prints of the movie and also to recall all music CDs so that the offensive lyric could be expunged.

On the same day, the issue was raised in the Indian Parliament in New Delhi with Members of Parliament Ramdas Athavale belonging to the Republican Party of India (RPI) and Mohammed Salim of the Communist Party of India (Marxist) (CPI-M) demanding the initiation of criminal proceedings against the producers and lyricist. The Congress-led coalition government declared that it was the prerogative of the states to decide whether or not the film deserved to be banned, but claimed that since the producers had apologized and agreed to expunge the offensive lyric from the song it did not appear necessary to pursue the issue any further. The Minister of Information and Broadcasting, Mr. Priya Ranjan Dasmunshi, however, did reiterate that "[The]

Government's policy is that nothing should be done in the country which will offend any community, caste or religion."²⁸

Mayawati seemed to agree with the Congress's stand. She accepted the producers' apology and lifted the ban on December 2, 2007. Punjab and Haryana followed suit. However, one politician, Mr. Athavale, was not placated. On the very day that Mayawati accepted Yashraj Films' apology, he issued a statement saying that the apology and expunging of the line were not sufficient measures: "You cannot commit a crime and then apologize believing that the society will forgive you. The law of the land has to be implemented and examples have to be set so that people refrain from hurting the sentiments of...communities in the name of artistic freedom." Athavale demanded that the film's director, producer, and lyricist be booked under the Atrocities Act for "hurting the sentiments of 25 crore [250 million] Indian citizens from the weaker sections".²⁹ Athavale also demanded that the Indian Censor Board be reformed so as to include representatives of a wider range of communities.

As late as December 19, over two weeks after the much-hyped film had already been declared a box office debacle, Athavale's RPI staged a protest in his native state of Maharashtra demanding the dismissal of the chief of the Indian Censor Board as well the arrest and prosecution of the film-makers.³⁰ Why was an unconditional apology enough for Mayawati and the Indian Justice Party, but not enough for Ramdas Athavale?³¹ This takes us back, once again, to the realm of intra-group ethnic party competition. Mayawati's Bahujan Samaj Party (BSP) had held

²⁸ Lok Sabha Debates. December 1, 2007.

²⁹ Ramdas Athavale, quoted in "Lyrics row: RPI leader still upset" in *The Times of India*, December 3, 2007.

³⁰ "Ramdas Athavale Demands Tagore's Resignation" in *Mumbai Mirror*, page 2, December 20, 2007.

³¹ It is important to note that Indian intellectuals, although united in their belief that the lyric was, in fact, offensive to Dalits, were divided on whether the offense was intentional. As prominent Indian social scientist Yogendra Yadav remarked to the Times of India (December 2, 2007), "I am sure they did not mean to offend anyone. But we unconsciously use words that are casteist".

what turned out to be a particularly successful rally in the city of Mumbai in Maharashtra as late as November 25, 2007. The faction-ridden RPI under Athavale's leadership had long been the only Dalit party of any (albeit minor) consequence in the state of Maharashtra, and Mayawati's entry into state politics was widely expected to eat into Athavale's already fractured support in the state. Given that Mayawati had already begun expanding her base in Maharashtra by poaching members of the RPI, Athavale could well have been in need of a cause with which to rejuvenate his party cadre.³² It was therefore very much in his interest to up the ante in Maharashtra, the state in which he had the most to lose from Mayawati's apparently meteoric rise to power in Uttar Pradesh earlier that year.

The RPI subsequently vandalized a movie theater in the city of Pune in January in the run up to Athavale's planned a rally in Mumbai city on February 17, 2008. Mayawati's entry into Maharashtra politics even stimulated talk with the RPI's seventeen factions to unite in the face of the BSP's electoral threat.³³ Furthermore, later in the year, Athavale threatened the producer of an animated mythological film *Dashavatar* with "dire consequences" if a scene in which the Buddha was depicted as one of the incarnations of the Hindu deity Vishnu was not removed. The filmmakers were made to organize a "special screening" for the RPI, after which the party gave its "clearance" for the national release of the film.³⁴ It didn't occur to anyone to ask why a political party which had only won a seat in one electoral constituency in the previous election had been allowed to claim extra-governmental authority as an informal censor.

³² See "Maya's March" in *The Sunday Express*, page 5, January 6, 2008.

³³ See "Dalit factions may join hands against Maya" in *The Hindustan Times*, March 4, 2008, page 7, Mumbai edition.

³⁴ See "RPI appeased after portion on Buddha cut from film" in *The Times of India*, June 13, 2008, page 5.

The Ethnic Mainstream: The Congress Party and Dalit Politics

This case raises particular questions about a mainstream party's (in this case the Congress Party's) responses to censorship demands from newly mobilized identity groups. As discussed previously, the Party's governments in the states of Haryana and Himachal Pradesh reacted very differently when it came to imposing bans on *Aaja Nachle*. This variation in responses at the state level fits in with arguments made previously about the compulsions facing incumbents in contexts of increasing political competition. However, as it turned out, the "mainstream" Congress Party played a clever game at the *national* level as the *Aaja Nachle* controversy unfolded. In fact, it went even further than Ramdas Athavale, formally interrogating people associated with the film even after they offered their unconditional apology.

On December 3, 2007, despite state bans being revoked across the country, the National Commission for Scheduled Castes (NCSC), a quasi-judicial body dealing with cases of atrocities against Scheduled Castes, decided to probe the incident further. In a notable expansion to the list of "accused" made by the RPI, the NCSC demanded to have a hearing with actress Madhuri Dixit, who Athavale had specifically let off the hook saying that "the controversy has nothing to do with her".³⁵ As late as December 20, 2007, the NCSC demanded a written apology from the chief of the Censor Board and demanded that the Ministry of Information and Broadcasting "appoint an advisor in the [Censor Board] for censoring scripts."³⁶ As it happens, the

³⁵ It is interesting to note that the actress had apparently spoken to Athavale on the telephone and offered to hold a free public performance in his constituency on her next visit to India (the actress lives in the United States) as a quid pro quo for him withdrawing his opposition to the film. See "Mad about – not at – Madhuri. Actress dials, politicians fall head over heels" by Rashid Kidwai, in *The Telegraph*, December 4, 2007. http://www.telegraphindia.com/1071204/asp/frontpage/story_8626962.asp

³⁶ "Sharmila Tagore told to give written apology over Aaja Nachle song" by Narendra Kaushik in *Mumbai Mirror*, December 20, 2007, page 2.

NCSC at the time was staffed by senior members of the Congress Party Mr. Buta Singh, a Dalit-Sikh leader from Punjab, and Mr. N.M. Kamble, the head of the Congress Party in the state of Maharashtra. It seems that it was the mainstream Congress party that won the game of one-upmanship.³⁷

Conclusions

The present chapter was an attempt to assess whether the hypotheses derived from the previous chapter regarding the conditions under which censorship demands are likely to emerge and be redressed fit into the pattern of events in an unrelated case. The preceding discussion points to the following conclusions: First, claims of offense are likely to emerge in electoral environments in which there are an increasing number of patronage-poor parties and/or “disappointed aspirants”, especially in contexts in which the vote of the offended group is becoming increasingly concentrated with one or two political parties over time. Second, mobilizing around offense gives *all* parties, but especially personalistically organized ethnic parties, an opportunity to “rally the troops”, allowing them to maintain cadre loyalty despite organizational weaknesses. Finally, for patronage rich incumbents, acting on claims of offense serves two distinct strategies: it may serve as a *substitute* for the provision of material resources, allowing them to communicate their concern for the offended group even when the group has generally been neglected; and second, it may serve as a *complement*, signaling continued commitment to the group in the face of strong anti-incumbency effects.

³⁷ Notably, this occurred in parallel with the expansion of the Party’s flagship National Rural Employment Guarantee Scheme (NREG) under which individual citizens are entitled to at least 100 days of work if they are unemployed. This was seen as an important program to buttress the party’s support amongst poorer sections of Indian society, of which Dalits form the largest part.

However, this still leaves the larger question about how symbolic appeals with a particular content come to become a part of the praxis of identity politics. It was suggested in Chapter One that the answer may lie in the way in which a democracy negotiates its social and cultural diversity. It was also suggested that a long-standing democracy's constitution may be a good place to begin a search for its multicultural arrangement. However, even though Constitutions are believed to embody the principles that underlie a democratic polity, it is important to recognize that all Constitutions are also products of the particular historical, social, and political contexts in which they are formulated, with their content determined as much by historical and conjunctural factors as by principle. The following chapter, therefore, presents a history of Indian society and politics in the colonial era in order to provide a sense of the context in which India's Constitution came to be framed.

CHAPTER FOUR

INDIAN POLITICS IN THE COLONIAL ERA:

THE POLITICAL ENTRENCHMENT OF CULTURAL REVIVALISM

The previous chapter suggested that looking at principles embodied within a democratic constitution is a potentially useful exercise when trying to discern how particular kinds of political strategies and symbolic appeals come to be deployed in the electoral arena. However, it also pointed out that a Constitution is as much a product of particular historical and conjunctural events as it is a statement of founding principles. Therefore, in order to understand the larger implications of a country's constitutional order, it is essential to place the matrix of constitutional principles in their historical context.

The present chapter is an attempt to place the Indian constitutional order in historical perspective through a discussion of patterns of Indian politics under British colonial rule, beginning in roughly 1757, when the British East India Company made its first territorial conquest in Bengal with the Battle of Plassey, thereby making the transition from merchants to colonialists. The chapter will make the following main arguments: First, that the patterns of censorship politics evident today appear to have had deeper roots as a wide range of political partisans in the colonial era came to believe in the ability of cultural and religious revivalist appeals to elicit a positive response from both colonial India's restricted electorate as well as its mass public. Second, it argues that this consensus emerged partly out of developments in the socio-cultural arena, but also by conscious strategizing as politicians "learned" from the experience of both their predecessors and their contemporaries about what kinds of

strategies were most likely to pay political dividends, subsequently deploying them in their contests for power and influence.

Further, under the influence of Hindu revivalists who glorified ancient Hindu custom and tradition and influential leaders like Mahatma Gandhi, ideas about the importance of the moral regeneration of the individual and the protection of culture and tradition for the “national project” came to be widely disseminated as the Indian national movement began to acquire a mass character and incorporate broader sections of society into its agitations. By the time India became independent there was, in essence, a political consensus on the importance of these goals. It was a consensus which, as will be demonstrated in Chapter Five, came to be expressed in the country’s constitutional order.

British Policy and the Indian Response: Orientalism, Anglicism and the Birth of Hindu Revivalism

The early years of the East India Company’s rule in India beginning with the Battle of Plassey in 1757 were met with a marked ambiguity in Britain. Government and “public” opinion had reservations about the costs of building a new empire, particularly in a part of the world so different from their own.¹ These reservations translated into a distinctive India policy referred to in the scholarly literature as “Orientalism”, whereby early colonial rulers cultivated bases of support among traditional social and religious elites in an attempt to overcome what they saw as important impediments to the establishment of British rule in India. The Orientalist era

¹ As late as the 1770s, a “Secret Committee” formed by the British government in the wake of expansionist tendencies of the Company representatives in India noted that “to pursue schemes of conquest and extent of dominion, are measures repugnant to the wish, the honour, and the policy of this nation” (Marshall 1993, 65).

was marked by British attempts to establish *continuity* with the past, with continued patronage to established social and religious leaders and institutions and the adoption of “native” languages and customs by the new rulers. However, it also incorporated some distinctively modern elements, such as formal government-sponsored educational systems and the establishment of British-style courts of law.

But these “modern” features were also made to conform to Orientalist policy with education being provided to the social elite in languages like Persian, Arabic and Sanskrit and the study of religious scriptures like the Vedas and the Koran. Further, Company courts followed Hindu or Muslim religious laws, encoded for the British by traditional (and, more often than not, conservative) religious elites. Orientalism, for all its essentialization of native culture and religion, was characterized by a particular respect for traditional Hindu philosophy especially as manifest in religious scriptures like the Vedas and Upanishads. As Marshall has argued, even as the British saw Hindu society and its practices as being corrupt and depraved, “Hindu moral teaching was sometimes commended” (Marshall 1970, 20), with early influential writers like John Howell (1767) waxing eloquent about the “rational and sublime” teachings of Hindu scriptures and the “genuine piety” shown by the priestly Brahmin caste (Marshall 1970, 27). Further, and significantly, early writers also explicitly identified parallels between Hindu and Christian philosophy, thereby encouraging the British public to give a “sympathetic hearing” to Hindu philosophy and its teachings (Marhsall 1970, 38).

For the early colonial administrators, then, a respect for religious custom and tradition was driven both by ideology as well as by practical politics. This was manifest in early government policies of “non-intervention” in religious affairs of their

Indian subjects and the explicit prohibition of missionary activity and government funding of English education in the decades immediately following 1757.²

By the 1780s, however, the political environment in Britain was beginning to change. The rise to political prominence of Christian Evangelicals, and particularly the so-called “Clapham sect” led by members of the *haute bourgeoisie* like William Wilberforce, began to have a dramatic influence on the way the British public and parliament came to perceive both themselves as well as Indian custom and religion, with important implications for the British government’s role in India. In Britain, the rise of the Evangelicals sparked movements for greater government probity and moral uprightness and these had spillover effects for the East India Company as news of Company servants’ exploits in India came to be increasingly publicized (Viswanathan 1988, 87).³

The Evangelicals brought with them an alternative to the Government of India’s Orientalist policies – referred to in the literature as “Anglicism” – arguing that the British government had a responsibility to spread Western knowledge, language and religion in order to enlighten its colonial subjects and thereby justify its presence in the subcontinent. The evangelical desire to save the souls of “natives” in India led to a growing demonization of Indian (and particular Hindu) custom and tradition, and

² Even though Orientalists saw the spread of Western knowledge among the “natives” as fundamentally desirable, they believed that this could only be achieved through the “grafting” of these ideas into the study of native language and tradition thereby making it more accessible and acceptable to traditional elites in India.

³ The moral dimension of British self-perception and purpose is evident in the impeachment trial of William Hastings, former Governor General of India, in 1785-86, on charges of corruption and the waging of “unjustified wars” in India. At the helm of the impeachment proceedings was conservative “Whig” parliamentarian Edmund Burke, a long-time critic of British colonialism in India.

the portrayal of Indians as being under the thumb of tyrannical local elites, thereby justifying both spiritual as well as physical “liberation” of the natives.⁴

As mentioned before, contemporary Hindu custom had always been deplored in Britain, but in the new political and social context, missionary reports of natives’ moral depravity and ignorance put new pressures on the colonial government to act. For instance, Chairman of the East India Company, Member of Parliament and prominent Evangelist, Charles Grant (1746-1823), pointed to the practice of Sati [widow self-immolation] “as an indicator of the backwardness and degradation of Hindu society” and used the existence of the practice to demand a more far-reaching British colonial presence in the subcontinent (Major 2007, xxxiv). Similarly, missionaries spoke at length about the moral profligacy and sexual depravity of Indian society, as evidenced in things like works of art and women’s dress, arguing that the spread of English language and Christianity would provide “an enabling and civilizing agency for the improvement of the natives” (Gupta 2000, 94-95; also see Metcalf 1994). Anglicists began to criticize the government’s temerity when it came to the reform of native custom and tradition, advocating a more aggressive policy of social and cultural transformation.

It was under Governor General William Bentinck (1828) when Anglicism finally triumphed over Orientalism in British colonial policy, in a period that saw a

⁴ These ideas came to the fore in the 1790s, after the Third Mysore War, when the British under Governor General Cornwallis defeated the rebellious native ruler of Mysore, Tipu Sultan. The portrayal, in the British press, of the vanquished Tipu as a fanatical tyrant supported by the French pushed public opinion in favor of the war effort and, according to Marshall, marked the beginnings of a shift in British receptivity to the idea of a British territorial empire in the sub-continent: “The effusions provoked by the Third Mysore War suggest that the British were coming to see themselves not only as a great military power in India, but as a people of justice and moderation. Victory was a triumph for British humanity as well as for British arms.” (Marshall 1993, 71-72)

dramatic expansion of English language education at the cost of “Oriental studies”, and with important interventions in the religious life of Hindus in particular with the abolition of Sati in 1828. The growing importance of Anglicism in government policy was buttressed by the first stirrings of reformist impulses among sections of the Indian elite. The Sati Abolition Act of 1828, for instance, was the brainchild of Indian reformer Ram Mohun Ray, a Bengali Brahmin with an “Oriental” education who had acquired fluency in the English language through a private tutor.

It is important to keep in mind that despite its increasingly Anglicist leanings the Government maintained that it followed a policy of non-intervention in religion and culture of the natives. Legal restrictions on religion and practice were permitted only in the event that the practice in question did not have scriptural sanction and that it was an infringement on the civil rights of colonial subjects. Early Hindu reformist discourse was, subsequently, shaped in peculiar ways both by its proponents’ Oriental education as well as by the conditionality of Government intervention in tradition. For people like Ray, justifying legal reform and government intervention required making appeals to scriptural authority and by identifying the practice of Sati as a latter day perversion of a morally and ethically pure antecedent Hindu philosophy.⁵

The adoption of these strategies is significant because they gave even ostensibly “reformist” or “progressive” movements within Hinduism a paradoxically conservative hue, legitimizing rather than challenging the authority of religious scriptures.⁶ This strategy was widely adopted by other “reformist movements” within Hindu society right through the 19th century, often with an added element of cultural

⁵ A similar strategy was used by local proponents of bans on other “popular” religious practices such as the predominantly southern Indian practice of “hookswinging” where a man was suspended from a height for close to an hour and a half by metal hooks inserted into his back in attempts to appease a local goddess (See Dirks 1997).

⁶ For example, Lata Mani (1998) argues that the debate between opponents and proponents of Sati was over tradition rather than the rights of women.

or religious revivalism, with Orientalist-inspired appeals to a glorious Hindu past that was in danger of being lost after centuries of internal rot and foreign domination.⁷ In effect, then, reform movements never actually critiqued Hindu philosophy *per se*, but merely labeled their targeted practices as perversions of classical Hinduism. Furthermore, and in stark contrast with developments during the Protestant Reformation, reform movements in 19th century India did not seek to save *individual* souls, but sought to save the Hindu “religion” and “community” itself from enemies both external as well as internal.⁸

As the 19th century progressed and Anglicist educational policy began to produce its first native graduates, Hindu custom and tradition came in for more damning critiques, this time not so much from foreign missionaries as from Anglicized Hindus. Early graduates from Bombay University (instituted in 1858), for instance, became some of the foremost “reformers” of the time, pushing for reform on issues such as the rights of widows, property rights of women, and child marriage. The Hindu orthodoxy, which had already been marginalized by the Europeanization of the administration and saw their authority as the exclusive interpreters of Hindu religious texts being increasingly eroded, began to brace itself for a fight.⁹ It is particularly worth noting that even more than the British, Hindu elites began to focus on the

⁷ This was true of almost the full range of early social reform movements among Hindus from Ram Mohun Ray to Swami Vivekananda to the Arya Samaj under Swami Dayananda Saraswati. See Jones 1994.

⁸ For instance, the focus on the eradication of the caste system, a factor which lends movements like the Arya Samaj their “reformist” hue, wasn’t due to any deeply held belief in the equality of all, but rather on the acknowledgment that caste divisions had weakened Hindu society from within, leaving it open to attrition through foreign conquest and missionary activity.

⁹ Under Anglicist policy, traditional elites came to be increasingly marginalized as government patronage began to be diverted to western educational initiatives, and government administration came to be staffed by Englishmen rather than Indian social elites. This latter policy was evolved under Lord Cornwallis, who understood the reasons for moral and financial depravity among Company officers as being the result of extended contact with immoral and depraved natives. He sought to reform the administration, insulating English officers from Indians by removing many of the traditional elites from government service (Viswanathan 1988, 89).

“betrayal” of their own members as the most important challenge facing the community. As one early conservative commentator argued, “Against foreign enemies we might contend with some hope of success, but what shall be done when traitors within set fire to the citadel?” (Tucker 1976, 326).

The belief among the Hindu elite that internal “weaknesses” of Hinduism and the Hindu community had been responsible for the subjugation and corruption of Hindu society at the hands of Muslims and Europeans led to a growing recognition of the importance of “unity” and internal conformity for its regeneration.¹⁰ Anglicized sections of the elite and the “debauched” lower classes represented the foremost threats to the survival of Hinduism, and revivalist doctrine sought to consolidate the faith by controlling these “traitors within”. By the last quarter of the 19th century, Hindu revivalist movements had come to be firmly entrenched, particularly in the northern and eastern parts of the subcontinent, and drew on almost all sections of Hindu society, and in particular, all sections of the Hindu elite for their support. As it turned out, it was only a matter of time before their ideas began to work their way into the realm of nationalist politics.

¹⁰ For instance, Gupta (2000) notes that Hindi literary movements in North India in the mid-to-late 19th century increasingly adopted the missionary program for the eradication of immorality, often petitioning government to proscribe explicitly sexual and “obscene” pornographic materials and foreshadowing an important element of later pan-Indian nationalism. Moral (and particularly sexual) profligacy came to be understood as the cause of Hindu society’s contemporary weakness, and revivalist movements at the time sought to channel the energies of the youth in more nationalist directions (Gupta 2000, 98).

Social Reform and Nationalist Politics: The Early Years of the Indian National Congress

The previous section discussed how colonial policies shaped developments within the social and cultural realm in India both directly and indirectly. However, it is important to keep in mind that these developments had important *political* effects, creating what became the first generation of Indian politicians. Both Anglicized Hindu reformers as well as the Hindu orthodoxy that they targeted frequently drew the colonial state into their disputes, particularly to the extent that reformers sought an active role by the colonial state in legislating substantive social change in India. This made the process of social reform *inherently* political both in its genesis and its effects. However, there was a more broad-based move, particularly among urban Indian elites, reformist as well as conservative, toward political activity.

By the early 1880s, English-educated Indian middle classes in the major port cities like Calcutta, Bombay and Madras were beginning to form regional political associations to agitate for greater rights, access to job opportunities, and equal treatment under the colonial administration.¹¹ The Indian National Congress, formed in 1885, conceived of itself as an essentially secular platform for the coordination and communication of Indian middle classes' economic and political demands to the colonial administrators and was committed to keeping questions of social and cultural reform out of the purview of the organization (Sisson 1988, 6).

¹¹ This appears to have been stimulated at least in part by the "Ilbert Bill controversy": In 1883, Viceroy Lord Ripon proposed the progressive "Ilbert Bill" by which Indian justices in colonial courts of law would be permitted to have jurisdiction over Europeans. While urban Indians welcomed the Bill, it was bitterly opposed by the European community in India and was ultimately still-born (Shukla 1960, 79-81). The events galvanized the Indian urban elites and led to a push for the creation of a pan-Indian organization to represent their interests and on December 28, 1885, the Indian National Congress met for the first time in the city of Bombay.

However, even as the Congress met in Bombay for the first time, a number of its members were beginning to get involved in an emerging controversy around the question of reform of Hindu marriage custom. According to orthodox Hindu custom, a girl had to be married before she reached puberty, often leading to premature widowhood and even death from childbirth or (often forced) sexual intercourse. As early as 1878, a progressive-dominated organization in the city of Poona had raised the issue as part of a wider program of social reform. A push for the institution of a legal Age of Consent was thwarted by conservatives in 1884. However, after a lull in activity, a news report of the death of an 11 year old bride from injuries sustained on her wedding night reignited the controversy in 1890. Social progressives like Justice Ranade vigorously pursued the issue with the government which finally passed the Age of Consent Act of 1891 (Wolpert 1961, 46-50).

The controversy not only widened the rifts between Anglicized social reformers and the Hindu orthodoxy, but it also began to create rifts within the Congress as differences emerged with respect to the organization's relationship with the colonial government. It is important to note that reformers themselves were not in agreement about the strategies that ought to be used in the pursuit of social reform. Some, like Gopal Krishna Gokhale and Justice Ranade believed that as long as the demand for reform came from within Indian society, it was legitimate to ask the British government to institutionalize the reform in the form of new legislation. Others, like Bal Gangadhar Tilak, believed that it was unacceptable to ask a foreign ruler to legislate reforms for Hindu society and that reforms should be adopted by individuals on a voluntary basis. These differences in their approaches to social reform had come to be mirrored in the Congress organization. The Congress soon came to be divided among "moderates" like Gokhale who sought to work with the government in

instituting both social change and political reform, and the “extremists” like Tilak who saw cooperation with the imperial government on any issue whatsoever as unacceptable and traitorous to the national cause (Wolpert 1961, 46-50).

The emerging tensions within the Congress organization ushered in a new era of political competition and mobilization that, as will be demonstrated, proved to have a lasting impact on Indian politics well after independence.

Intra-Congress Competition and Political Strategy: Recognizing the Value of Cultural Revivalism

The Indian National Congress was, at first, only an annual forum which was attended by various regional organizations. Competition for influence was focused on the capture of these local organizations but with the ultimate goal of controlling the Congress itself. Up until the 1890s, the ‘moderates’ – conservative as well as reformist – dominated not only the National Congress, but also its various regional affiliates. Their dominance of the Congress organization’s decision-making structure and the routine stonewalling of extremist demands on a wide range of issues led extremist leaders like Tilak, BC Pal, and Lajpat Rai to usher in an era of unprecedented public mobilization in a dual attempt to marginalize and delegitimize moderate leaders while also establishing themselves as influential political actors who enjoyed widespread public support. Given the relatively uncoordinated nature of the Congress ‘organization’, the vast majority of this mobilization was regionally concentrated, aimed at regional political rivals and the capture of prominent regional organizations.

In their attempts to wrest control over the Congress organization through mass mobilization, ostensibly “reformist” but staunchly anti-colonial leaders like Tilak and

Pal began to tap into the discourse of Hindu revivalism. But given their regionally concentrated political goals, the extremists began to “decentralize” Hindu revivalist discourse in their attempts to mobilize regional bases of political support, frequently pandering to local social orthodoxy. For instance, Tilak, focusing on the Bombay Presidency in western India, concentrated his efforts in trying to delegitimize the Bombay moderates, many of whom were Anglicized urban elites belonging to the Zoroastrian religious community. Tilak’s strategy began with referring to Zoroastrians as “foreigners to Hindus” (Wolpert 1962, 49) and mobilizing public opinion around a regional Marathi-speaking identity glorifying regional culture and mythology, and creating cults around local historical figures like the medieval emperor Shivaji.¹²

Further, particularly in the wake of the Age of Consent controversy, the moderate reformers’ keenness to work with colonial rulers meant that the extremists’ anti-colonial discourse found an invaluable ally in Hindu conservatives. By the early 1890s, therefore, the anti-colonial political space came to be dominated by the social and religious orthodoxy and popular understandings of “self-rule” or *swaraj* came to be closely associated with a discourse of religious and cultural revivalism. The unwillingness (and inability) of moderate politicians to generate mass support for their stand meant that a new generation of young Indians had been socialized into politics by the extremists and their revivalism-infused anti-colonial discourse.

In their attempts to gain control over the moderate-dominated Congress, the extremists, even those with reformist impulses, trained their guns on moderate social

¹² Tilak was able to capture the Poona Sarvajanik Sabha (PSS) from Bombay Presidency reformists like Ranade and Gokhale by 1895-1896. However, when the reformers left the organization to form their own Deccan Sabha in 1896, the government de-recognized the PSS as a “worthy political body”; It was in this context that Tilak inaugurated high profile public celebrations of the coronation of Shivaji, medieval regional emperor who had always been valorized regionally for stopping the advance of the Mughal empire during his reign. It was at this time that Shivaji became a central figure of regional Maratha cultural revivalism, a “cult” that political parties in the region frequently appeal to till this day.

reformers as a way to galvanize their conservative-revivalist bases of support, launching a systematic campaign of demonization and silencing. Moderate reformers' public meetings to garner support for the Age of Consent Bill were frequently broken up and vandalized by Tilak's supporters, even as Hindu policemen stood by (Wolpert 1962, 56-57) and their annual meeting, the National Social Conference, which was always held in parallel with meetings of the Indian National Congress, became the target of "verbal and physical attacks" (Wolpert 1962 72). Significantly, appeals by social reformers like Ranade to "moderate" politicians within the Congress for greater support to the reformist cause were met with "tardy and equivocal" replies (Wolpert 1962, 76). It appears that the moderates had also become increasingly aware of the political appeal of Hindu revivalist nationalism. Genuine liberal and reformist discourse, then, came to be sacrificed at the altar of politics by both extremists *as well as moderates* in their attempts to control the Congress organization.

As is evident from the example above, many "moderate" politicians (excluding the social reformers) were also willing to pander to social orthodoxy and cultural revivalism as and when the need arose. In fact, even before the founding of the Indian National Congress, at least one future "moderate," Surendra Nath Banerjea of Bengal, had explicitly *created* a cultural controversy around an issue that could easily have gone under the public radar. Banerjea first rose to political prominence in Bengal in 1883, by instigating a large protest against a judge who had demanded that a Hindu idol be brought to court as evidence in a case. Through his newspaper, *The Bengalee*, Banerjea accused the judge of insulting the Hindu faith and was subsequently arrested and imprisoned for contempt of court. As early as 1883, Banerjea, who publicly acknowledged that he was *not* religiously orthodox, perceptively recognized the

political capital that could accrue to a politician who sided with the orthodoxy. As he noted in his autobiography regarding the mobilization around the issue:

“These were demonstrations not confined to the upper ten thousand or educated classes: the masses joined them in their thousands. Hindu feeling had been touched. A Hindu god had been brought to a court of law; and whatever the legal merits of the case might have been (and with these the general public do not usually trouble themselves), the orthodox Hindu felt, rightly or wrongly, that there had been an act of desecration...I suffered as a ‘defender of the faith’... That one with my views and convictions could stand forth in defence of the cherished feelings of my orthodox countrymen and should suffer for it, was deemed to be an act of no mean merit” (Banerjea 1925, 78-79, 82)

The recognition of the value of religious sentiment to political entrepreneurs, then, had a long and well-established pedigree within the Congress organization, even as its most powerful leaders sought to keep the Congress free from intrusions of popular controversies relating to religion and social reform, to focus on ostensibly economic and governance issues.

The 1905 Partition of Bengal and the Radicalization of Nationalist Sentiment

Although both moderate and extremist politicians were willing to play on cultural revivalist sentiments for their political advantage, they continued to differ fundamentally on their underlying loyalty to the British crown. The moderates believed that they could appeal to British liberal sentiment to get the political reforms they desired, while the extremists believed that the moderates’ strategy of making

petitions to the colonial authorities were worthless without backing them up with some credible threat of sanctions.

However, the British government's move to partition the eastern province of Bengal along religious lines in 1905 radicalized both moderates and extremists and represents one of the early "critical junctures" in the history of the Indian nationalist movement. It sparked what may well be the first mass-based political campaign in the country as politicians made a conscious decision to use the force of numbers to push for the reversal of government policy. Further, and more importantly, it was in the course of this campaign that the previously tacit acceptance of the use of religious and cultural appeals came tumbling out into the open, along with the strategy of the "boycott" and the coercion of individuals in the pursuit of collective causes.

First, and possibly most importantly, the Bengali agitation appears also to have made the first articulation of what became known in Indian political circles as the "linguistic principle" when the predominantly "moderate" Indian Association in Calcutta passed a resolution accusing the government of "dividing the Bengalee-speaking race" and attempting to "interfere with the social, intellectual, moral and industrial advancement of the vast population concerned" (Johnson 1973, 231-2). The appeal to linguistic nationalism was buttressed by explicit appeals to religious sentiment made by both moderates and extremists in Bengal during the anti-partition agitation.¹³

¹³ For instance, Johnson (1973) notes that "Hindu audiences... were encouraged to support the movement by being told that English sugar was polluted with the bones and blood of cows in the course of its manufacture. The argument was taken up by the *Amrita Bazaar Patrika* [a prominent regional newspaper] which added Liverpool salt and English cloth to the list, and, for the benefit of its Muslim English-reading subscribers, included the guts of pigs in the process of manufacture. Religious authority was also invoked to support the agitation. [Attempts were made] to persuade Pundits [Hindu priestly caste] to preach *swadeshi*" (Johnson 1973, 232-233)

But what is interesting is that even leaders like Ashwini Kumar Dutt, who did not use religion in his campaigns, actively played with the idea of the social boycott and religious “excommunication” of individuals who “refuse to listen to the voice of reason and are determined to act against the wishes and sentiments of all their neighbors” (Johnson 1973, 247). As the “moderate” Banerjea notes of his own boycott campaign focused in the city of Calcutta:

“Their enthusiasm was roused to a pitch such as I had never before witnessed. It was positively dangerous for a schoolboy or a college student to appear in a class or a lecture room in clothes made of foreign stuff...” (Banerjea 1925, 196)

This is particularly important to keep in mind, as much of the existing literature on the conflict between moderates and extremists portrays the extremists alone as being influenced by cultural and religious revivalism and indulging in mass mobilization along those lines. In reality, however, both “parties” made selective and opportunistic appeals to cultural revivalism and religious orthodoxy dictated primarily by their *political needs* and both were willing to use strategies of social coercion in order to achieve their goals and enforce conformity.

As mentioned before, the partition of Bengal became a watershed moment in the Indian national movement by radicalizing at least the Bengali “moderates” like Banerjea, but also by radicalizing public opinion against the British. The agitation also provided younger extremist politicians from the province like Bipin Chandra Pal and Aurobindo Ghose who were looking to gain a foothold in the Congress organization with a valuable “cause” with which to marginalize more established regional politicians like Banerjea by exposing their compromises. As Johnson notes, “Bengali leaders had to keep pace with the extremists in order to retain some support” since “no

Bengali could be other than an extremist in his own province while it lay cut in two parts” (Johnson 1973, 261, 262).

The partition of Bengal also provided an important cause to extremists in other parts of the country like Tilak, who gradually began to bring the strength of their public support to bear on Congress proceedings.¹⁴ The increasing rift between Bombay moderates and extremists, particularly in the wake of the 1905 partition, ultimately led to a split in the Congress in 1907, with the extremists leaving the organization en masse after incidents of violence at the annual meeting in the town of Surat.¹⁵ The politics of aggression had made its first explicit forays into the Congress organization.

From the Split to Gandhi: The Institutionalization of Cultural Revivalism

In the years following the ‘Surat split’, the Congress organization appears to have stagnated under the dominance of the moderates, even as mass mobilization by some extremist leaders and new political entrants like Annie Besant continued and even expanded outside its organizational purview. The establishment of the activist and propagandist Home Rule Leagues by Besant and Tilak after 1914-15 further expanded the base of extremist or “nationalist” politicians into parts of British India that had remained largely untouched during the previous era of nationalist political activity.

¹⁴ By 1906, even Congress old-timer and staunch loyalist and moderate, Dadabhai Naoroji was forced to make a call demanding “swaraj” or “self-rule”. In a strategic move aimed at maintaining Congress unity in the face of mounting pressure and dissent from extremist leaders, Naoroji kept his definition of “swaraj” fairly vague, allowing extremist leaders to interpret it as they pleased and to claim victory for their cause.

¹⁵ Apparently, a member of the audience threw a shoe at Surendranath Banerjea and Pherozeshah Mehta, and prominent “moderates” were shouted down by groups of extremists in the audience.

By 1915, with the death of prominent “moderates” like PM Mehta and Gokhale, the extremists came to be re-admitted into the Congress organization. The reunion was, however, tenuous and short-lived, and by 1918 it was the moderates who had quit the Congress in a dispute over whether the organization ought to cooperate with the government over new electoral reforms that were to be instituted from 1920. By 1919, therefore, the extremists were finally in control of the Congress machinery. Without delving too deep into historical detail, it is important to note some of the important political developments of the 1914-1919 period in the Indian National movement.

The Home Rule Leagues had their ideological roots in the Theosophical society, essentially an Anglo-American Hindu revivalist organization that professed the spiritual superiority of Hinduism and Indian tradition. The League was a network of linguistically organized regional branches, an organizational strategy that derived from its founder, Annie Besant’s belief that Indian politics “should be based upon the revival of ancient literature and language” (Kumar 1981, 64). Its agitational-propagandist style, and Besant’s aggressive campaigns for “Home Rule” for Indians saw the organization attract a young and activist generation, sections of which had already been mobilized along similar lines by regional extremist leaders like Tilak and Bipin Chandra Pal.

By the time Mahatma Gandhi made his first forays into Indian politics around 1919, important political developments were taking place in India. In particular, the period saw two major developments: first, were the beginnings of political liberalization through an expanded franchise and considerable decentralization under the Montague-Chelmsford reforms of 1919; and second was the parallel emergence of new competitors in the party system as the predominantly rural peasant castes began to

mobilize against the Brahmin-dominated Congress organization. The challenge before Gandhi was not only to establish himself as a leader of consequence in Indian politics (and, more specifically, in the Congress), but also to devise a way for the Congress to make the most of the emerging political circumstances.

For the British, the electoral reforms were a strategic response to the agitations launched by the Home Rule League through most of the second decade of the 1900s. They represented both an attempt to placate an increasingly restive colonial populace as well as a calculated strategy to bring an emerging rural elite into active cooperation with the government as a counter to the apparently expanding appeal of the Congress and Home Rule League. The task before the Congress was to build on the Home Rule League's incipient organizational structure so as to expand the Congress's base of support as a counter to both government and party competitors' attempts to gain the political allegiance of the "dominant rural strata" (Low 1977, 2).

Like so many aspiring leaders before him, Gandhi turned to the political strategy that he understood the best: the cultural appeal. In his dramatic rise to the helm of the Congress organization, Gandhi not only co-opted the Home Rule League's organizational network, but also made concrete attempts to form new bases of support which could help him in his struggles against more established party leaders. Gandhi's first attempt at peaceful mass mobilization in 1919 was essentially still-born in the wake of violence, leaving him in an "embarrassing position" vis-à-vis established Congress leaders including Tilak and Besant who had staunchly opposed his strategy of passive resistance (Gordon 1973, 128). In the wake of the failure of his first non-violent *Satyagraha* ["Struggle for truth"], Gandhi had to resurrect his reputation both among activists who were disappointed with his decision to call off the movement as

well as among established leaders who were now even more skeptical than before of the value and effectiveness of his methods.

Gandhi's strategy was to co-opt the extremists' support base among Hindu revivalists; he had already attended the launch of the Hindu revivalist organization "Hindu Mahasabha" in 1915 and participated in various cow-protection events over the years, eventually becoming a prominent figure in the Hindi literary society in 1919 (Gordon 1973, 132).¹⁶ Meanwhile, he also allied himself with Muslim religious leaders who were increasingly estranged from the largely loyalist Muslim League party in the wake of the allies abolishment of the Turkish Caliphate after World War I. By bringing Hindu and Muslim religious conservatives together, Gandhi managed to wrest control of the party organization at the 1920 Calcutta Congress.¹⁷

He immediately sought to placate rural elites by pushing for the reorganization of the provincial Congress committees along linguistic lines, in a move that was designed to counter government attempts at decentralization within the existing provincial boundaries. The use of a program of regional linguistic cultural nationalism was also an important tool with which to eat into the support base of new political parties like the "Justice Party", a self-consciously loyalist "non-Brahmin" party that sought to mobilize lower caste groups against the Brahmin-dominated Congress.¹⁸

Historians of India's freedom movement have noted that the various groups that the Congress's national leadership courted frequently joined the movement for

¹⁶ The protection of the cow from slaughter was a hot-button issue in Hindu revivalist discourse.

¹⁷ It is interesting to note the parallels between the tactics used by Gandhi's supporters at the 1920 Congress and the extremist strategies of the early 1900s. Akbar notes that "leaders like Besant were shouted down" by Gandhi's supporters and that "anti-Gandhi leaders [including Jinnah] were booed off the rostrum" even as Gandhi sat by and watched. (Akbar 1988, 138-140)

¹⁸ The Justice Party drew primarily on rural elites in south India who had benefited from British economic policies and now aspired to more "respectable" jobs in the government civil service that they quickly found were monopolized by upper-caste groups like Brahmins.

their own reasons, reflecting local issues, local concerns and personal political calculations rather than the larger concern for “swaraj” or self-rule. They consequently refer to the movement as a “rag-tag coalition of groups” rather than a coherent and coordinated national struggle for freedom. However, it is evidence of Gandhi’s political skill that he formulated a national manifesto that was both broad enough (and vague enough) to allow a wide variety of interests to hitch their wagons to the Congress horse.¹⁹ It is to this program for national regeneration that we now turn.

Gandhian Philosophy and Strategy: Culture, Morality and the Subordination of the Individual

As much as historical accounts have increasingly revealed Gandhi’s skill as a politician, there are important reasons to believe that he did, in fact, strongly believe in many of the (sometimes conflicting) values he espoused. As a young law student in London, Gandhi came to be introduced to the Hindu faith through the Hindu revivalist Theosophical Society, an organization whose views appear to have stuck with him well after he left Britain. Yet, he did also study other religious doctrines and was an ardent follower of the prominent “moderate” social reformer Gokhale, even as he appeared to support the extremist stand on the need to take a stronger stand against the colonial government. In many ways, then, Gandhi appears to be a composite product

¹⁹ For instance, Jawaharlal Nehru noted that Gandhi was “delightfully vague” about what the term *swaraj* [freedom/self-rule] really entailed (quoted in Akbar 1988, 143). The word *swaraj* had been an important rallying call for the nationalist movement since the time of the partition of Bengal in 1905, although its precise policy implications morphed depending on the leader who used the term. Gandhi continued in this tradition of lack of clarity. This allowed Hindu revivalists, socialists, and lower caste groups to inject their own meanings of the term, based on their own needs. This served the purposes of all the groups concerned. Smaller groups were able to claim prestigious links to the Congress, while the Congress was able to use smaller allied organizations for their own political mobilizations.

of the political, cultural and ideological movements taking place in India in the 19th and early 20th centuries.

In his book, *Hind Swaraj* [Indian Self-Rule], Gandhi laid out in fair detail his social and political philosophy, a set of ideas that do not appear to have changed very much over the years of his involvement in Indian politics. *Hind Swaraj* was, at its root, a romantic critique of modernity. Gandhi criticized modern politics for lacking a “high and earnest purpose” and an “appreciation for culture more than potatoes” (Parel 1997, xlvi). It is for this reason that Gandhi saw religion and politics as inseparable; it was because he believed that religion, as a moral and ethical system, was essential for responsible politics.

Gandhi’s desire to resurrect an appreciation for an Indian cultural ethos in the minds of his followers is well-documented. This desire was, however, built on foundations that closely resembled Hindu revivalist discourse and possibly explains why Hindu conservatives felt so comfortable having Gandhi at the helm of the Congress organization, at least initially. His belief in the corrupting influence of Western modernity and culture is reflected in passages where he extols India’s resistance to cultural change:

“I believe that the civilization India has evolved is not to be beaten in the world. Nothing can equal the seeds sown by our ancestors...India remains immovable, and that is her glory. It is a charge against India that her people are so uncivilized, ignorant and stolid, that it is not possible to induce them to adopt any changes. It is a charge really against our merit. What we have tested and found true on the anvil of experience, we dare not change. Many thrust their ideas upon India, and she remains steady. This is her beauty...” (Gandhi 1997, 66-67).

The way to make sure India continued to remain steady was to “touch all Indian languages with the spirit of patriotism”, a deeply held belief that fed into his reorganization of the Congress along linguistic lines in 1920 (Gandhi 1997, 103fn). The challenge, according to Gandhi, was that even as western civilization encouraged Indians to be self-critical, it simultaneously propagated a “godless” “immorality”, leading to the spiritual degeneration of Indians and the consequent neglect of their cultural and spiritual heritage (Gandhi 1997, 71). This led to a renewed focus on the regeneration of the individual as this was understood to be the ultimate source of a larger national spiritual regeneration (Parel 1997, lxii).

Once again, the nineteenth century Hindu revivalists’ concern with the regulation of individual morality in the larger interest of the nation appears to have found its most persuasive advocate in Gandhi. It was this idea that was behind the vast majority of Gandhi’s more high-profile campaigns, such as the use of the spinning wheel as well as mass campaigns for prohibition, through which he was able to target the British as the source of the corruption of Indian morals through the propagation of the use of alcohol and other intoxicants. However, the most explicit articulation of Gandhi’s ideas about the position of individuals relative to cultural groups is made in his “note to the British” where he says:

“We consider our civilization to be far superior to yours. If you realize this truth, it will be to your advantage; and if you do not, according to your own proverb, you should only live in our country in the same manner as we do. You must not do anything that is contrary to our religions. It is your duty as rulers that, for the sake of Hindus you should eschew beef, and for the sake of Mohammedans, you should avoid bacon or ham...The common language of

India is not English but Hindi. You should, therefore, learn it. We can hold communication with you only in our national language” (Gandhi 1997, 114)

It was this aggressively assimilationist streak in Gandhian philosophy that endeared him to the supporters of former “extremists” like Tilak, thereby allowing him to rise quickly through the Congress ranks. This policy came to be reflected in the Nehru Report of 1928, discussed at greater length in chapter five, which allowed for the assimilation of a linguistic minority by a regional linguistic majority.

However, as is evident from the quote above, Gandhi’s was a more broad-based nationalism, one that recognized Indian society as consisting of a variety of religious and cultural groups, rather than merely as a Hindu civilization. The “note to the British” is interesting because it listed Islam as one of “our religions” explicitly acknowledging that Muslims were as much an integral part of Indian society as Hindus. This was primarily because Gandhi was concerned as much with larger issues of “Indian” national unity as with narrow issues of Hindu cultural revivalism. In particular, his proposed restrictions on British activities were extended to all individuals in India, advocating that Hindus and Muslims accept restrictions on each other’s activities in the interests of their “sentiments”:

“The unity we desire will only last if we cultivate a yielding and a charitable disposition towards one another... the Mussalman should, therefore, voluntarily accommodate his Hindu brother... Every Hindu should voluntarily respect his brother’s sentiment. This, however, is a counsel for perfection. There are nasty Hindus as there are nasty Mussalmans who would pick a quarrel for nothing. For these, we must provide Panchayats [village governments] of unimpeachable probity and imperturbability whose decisions

must be binding on both parties. Public opinion should be cultivated in favour of the decisions of such Panchayats so that no one would question them”²⁰

It was this Gandhian version of “multiculturalism” that, as will be argued in the following chapters, appears to have served as a reference point in identity politics in India, in that, it is the individual who is expected and directed to show her tolerance and respect for cultural groups through enforced conformity. It is also notable that although he did not believe in the necessity for a “state” or a legal system in the modern sense, Gandhi’s opinions on the role of government in the enforcing of mutual respect of sentiment was easily adapted by India’s more modernist and statist founders into the creation of an activist and interventionist state. As will be argued in the following chapters, this norm came to be “democratized” over time as more groups, beyond just Hindus and Muslims, were granted the “right” to have their “sentiments” accommodated by individuals with active state support.

The Entrenchment of Congress Strategy: Learning and Emulation by Congress’s Competitors

By the mid-1920s, Gandhi had established himself as a charismatic leader with “mass appeal” by successfully tapping into and encouraging cultural revivalist sentiment, both regional and religious, across India. The Congress Party’s electoral victories at this time amid political liberalization and growing competition only served to entrench the Gandhian strategy of the cultural revivalist appeal as the most likely to pay electoral dividends. This is evident in the fact that two political parties that were opposed to the Congress and that were formed explicitly to represent particular *class*

²⁰ Mahatma Gandhi in “Khilafat – the chance of a life-time for unity” in *Young India*, May 11, 1921. Compiled in Judith Brown (ed) *Mahatma Gandhi. The Essential Writings*. Pp. 191-2.

or *economic* interests, the Justice Party in the Madras Presidency, and the Communist Party of India (CPI) quickly adopted similar tactics in the face of electoral decline.

The Justice Party in South India: From Economic Opportunity to Cultural Revivalism

The Justice Party was formed in the city of Madurai in the erstwhile Madras Presidency in 1917. It has already been mentioned previously that the Justice Party was formed at least in part in response to the Home Rule agitations. For non-Brahmins, the prospect of the replacement of a British administration by an upper-caste Brahmin administration was a threat, particularly since Brahmins had already monopolized so many government jobs that educated individuals belonging to rural lower castes aspired to. The Justice Party has sometimes been referred to as a “lower-caste” party but, as Washbrook has suggested, this wasn’t an identity-based party as much as a class-party. In fact, the party had its roots in a progressive movement that sought to encourage individuals belonging to lower castes to use western education as a way to rid themselves of Brahmin dominance in the spheres of economics and politics. So even as upwardly mobile rural elites identified Brahmins as a barrier to upward mobility, their political activism was targeted very explicitly at opening up economic opportunities for themselves rather than to demolish Brahminical religion altogether. Further, the Justice Party’s support base was activated by the flow of patronage to cliques of rural elites rather than through cultural appeals (Washbrook 1973).

In the early years of electoral reforms beginning in 1920, the Justice Party thrived politically, due in part to the Congress Party’s vacillation on whether or not to contest elections. By 1920, however, Gandhi had incorporated the Home Rule

League's linguistic organizational structure into the Congress and a new era of participatory expansion, often using cultural-revivalist propaganda had begun to incorporate large sections of the Justice Party's ostensible electoral base into Congress activities. The Justice Party immediately began to decline, a trend that was cemented with the routing of the party in the 1925 elections, when the Congress-allied Swarajya Party under C. Rajagopalachariar decided to enter the electoral arena.

Among the Gandhian Congress's early non-Brahmin activists in Madras was E.V. Ramaswami Naicker, the son of rural peasant artisans who had made a name for himself locally as an activist politician of social reformist leanings. Naicker rose rapidly within the regional Congress organization until he quit in 1925 in the face of Brahmin animosity in response to his campaign to open Hindu temples to "untouchables" (Hardgrave 1965, 25-6). Naicker then founded the Self-Respect movement that advocated women's equality, the abolishment of the caste system and the rejection of the dominance of north Indian "Aryan" Hinduism. After a period of imprisonment for sedition in the early 1930s, Naicker joined the Justice Party, which was already in deep crisis in the wake of Congress participation in electoral politics.

Notably, Naicker's social and political commentary incorporated many of the same themes and concerns of Hindu revivalism as well as Gandhian Congress policy. For instance, one of his major critiques of Hindu religious doctrine was to question the moral character of Hindu deities like Ram, as well as the fidelity and faithfulness of his wife, Sita, two individuals that were held up in Hindu mythology as "ideals" for human beings to emulate. The use of a moral critique of Hinduism's paradigms of human virtue demonstrates an underlying acceptance, or at least the strategic deployment, of Hindu revivalism's obsession with moral character and sexuality (Naicker 1972).

Naicker played up the racial differences between the “Hindu” Aryan North and the authentic southern “Dravidian” culture that had been corrupted by the advent of the “barbaric” Aryan Brahmins into southern societies. His advocacy for a revival of ancient Tamil or “Dravidian” culture essentially adopted many of the arguments put forward by Theosophists and Congress leaders like Annie Besant and Gandhi himself. By adopting Congress programs of regional cultural revivalism and taking them just a little step further, Naicker was easily able to out-play the Congress at its own game, especially because he wasn’t constrained by a pan-Indian party organization.

Naicker and the Justice Party got the perfect cause when the Brahmin-led Congress ministry in Madras passed a new law in 1937 making the study of Hindi (the “national language”, according to Gandhi) compulsory in the Madras presidency. The Justice Party launched a violent agitation against the Aryan-Brahmin assault on Dravidian culture. Rajagopalachariar quickly changed the policy, making the study of Hindi optional in schools, but the damage had been done. By the end of 1938, the Justice Party was advocating a separate state of “Tamilnad” that would remain under the British Raj as the only bulwark against “Aryan” attempts to subvert Dravidian culture (Hardgrave 1965, 27).

The campaign against Hindi gave the Justice Party a new lease of life, one that has continued till this day in the state of Tamil Nadu in South India, where no “national” party has been able to make any significant inroads. The Justice Party’s strategic adoption and inversion of the Congress Party’s political discourse and strategy is discussed here to illustrate two important points: First, Naicker, as a former Congressman, appears to have taken Congress mobilizational strategies with him to the Justice Party, using them, in turn, to beat the Congress at its own game. Second, the success of Naicker’s campaign demonstrates the deep-seated *acceptance* of so

much of Hindu revivalist (and Gandhian) discourse about the importance of “morality”, “chastity” and fear of “sexual perversion” even among individuals and groups that were ostensibly rallying against it. Connected to this, the success of the Justice Party in its new *avatar* as the *Dravida Kazagham* [Dravidian Federation] after 1944 demonstrates the widespread popular acceptance of the so-called “linguistic principle” as was first institutionalized by leaders like Besant and Gandhi.

As mentioned before, historians have argued that, rather than representing a *kulturkampf*, the Justice Party campaigns were “more about economic rivalries among small cliques...Cultural labels served as convenient covers for the combatants, but the labels had little substance” (Spodek 1979,696). While this may certainly be true for political elites in the Justice Party (although it may be questionable in the case of leaders like Naicker), it is important to think about *why* “cultural labels served as convenient covers”, particularly because this appears to be one of the points of continuity between pre- and post-independence politics in India.

But it is also important to remember that these labels were not used consistently right through the life of the Justice Party. An explicit appeal to Tamilian regional nationalism (and the adoption of Hindu revivalism’s concern with morality) was made when the Justice Party was at its political nadir in the wake of an overwhelming electoral defeat at the hands of the Congress in the 1937 elections. So even as we think more closely about why culture became such a convenient cover for “baser” political interests, it is equally important to keep in mind that political elites drew on such “covers” strategically, when their political support and prospects for political survival were especially low.

The Justice Party’s political choices over time serve to demonstrate that phenomena that political scientists have identified as peculiarities of *contemporary*

Indian politics in fact have deeper historical roots, demonstrating a degree of continuity with the past that is often ignored. The following example of Communist Party strategy in the years leading up to and immediately following independence demonstrate that these strategic considerations impelled even parties that were driven by a distinctly materialist world-view.

The Communist Party of India: The Culture of Class Conflict

The state of Kerala in the south-west of India is widely known as the “outlier” among Indian states, particularly on social indicators such as literacy, access to healthcare, the status of women, and economic equality. This outlier status is attributed to the early mobilizational and electoral successes of the Communist Party of India in that state, where the Communists formed the first popularly elected Communist government anywhere in the world in 1957, just ten years after India attained independence.

The experiences of the Communist Party in Kerala are particularly interesting for the argument being made in this project for two reasons: The first is that most of the earliest leaders of the Communist Party in Kerala had been members of the Congress Party until at least 1938. The second is that it was the Communist Party that spearheaded the movement to form the state of Kerala as a linguistically homogenous administrative unit with Malayalam as the official language, beginning in the year 1942.

What is today the state of Kerala did not exist as a single administrative unit before 1956. During the colonial era, it consisted of two “princely states”, Cochin and Travancore, which were under British tutelage, and the region of Malabar, that fell

under direct British rule under the Madras presidency. In the Home Rule era, a Malayalam linguistic cell was established in the Malabar region and struck deep roots in the area. It was one of the more active areas even during the early years of the Gandhian era.

By 1938, however, the tensions between socialists and Gandhians in the “Kerala Provincial Congress Committee” were growing considerably, particularly as Gandhi’s unwillingness to make any decisive moves against landlords became increasingly clear. In that year, a section of left-leaning Kerala Congressmen began a program of propaganda outside the Congress organization, and ultimately broke away completely to form the Communist Party of India in 1940, which was promptly banned by the colonial government. This was the era of World War II, a war which the Congress had steadfastly refused to support without British assurances that India would be repaid for its loyalty with decisive moves toward independence once the war was over. The Communists had initially supported the Congress withholding of support, but changed their minds when the Soviet Union formally joined the war effort in 1942.

In the wake of Communist support for the Allied forces, the ban on the party was lifted in 1942, but, as Namboodiripad, one of the most prominent Communist ideologues of the time noted, a number of Communist Party members and sympathizers became alienated from the party in the wake of what they saw as a compromise with the colonial regime:

“The right-wing bourgeois leadership of the national movement, which had always appeared to the rank and file anti-imperialists as compromising, now assumed the role of uncompromising fighters against imperialism, engaged in a last-ditch battle with the enemy; while the Communists who had always been

regarded to be the best fighters appeared as compromisers. The hitherto solid unity of the left elements was thus broken, a section of the leftists allying themselves with the right-wing Congressmen” (Namboodiripad 1952, 152)

Namboodiripad’s account suggests that the Communist Party organization was in the throes of a crisis, as all its major organizational-offshoots faced splits, with independent “nationalist” wings forming in the face of the communists’ compromise with colonial authorities. The crisis appears to have led to a high level of introspection within the party, with leaders looking for a way to reclaim their credibility as a mass party worthy of popular support. As he noted in his 1952 account,

“Various mistakes were no doubt committed in assessing the anti-imperialist content of the 1942 upsurge...The essence of these mistakes consisted, no doubt, in the under-estimation of the national factor in working out the tactics of revolution, in *the failure to realize that the Communists in a colonial country can fulfil their class tasks only if they take proper account of the fact that national aspirations are the decisive political factor in a colonial country*” (Namboodiripad 1952, 154; emphasis added)

The apparent recognition by Communist leaders of the indispensability of the acknowledgement of “national aspirations” in competitive politics in India was a key step in the evolution of the Communist Party. By the end of 1942, the Party had launched the “Aikya Kerala” [United Kerala] movement, demanding the formation of a Malayalam-speaking linguistically homogenous province by uniting the princely states of Cochin and Travancore with the Malabar region of the Madras presidency. The Party had decided to take “national aspirations” seriously, and the strategy appears to have worked. They followed similar strategies in Telugu-speaking areas at around the same time and, just in case that proved to be insufficient, they also tapped

into Hindu revivalism's "moral-panic" about overt sexuality by denouncing heterodox writer Sadaat Hasan Manto's novel *Bo* (c. 1944) for being obscene and sexually explicit (Kumar 1997, 134).

According to Nossiter, an "important source of support for the CPI [in Kerala] was its identification with the movement for a linguistically defined Kerala state and the associated Malayali cultural renaissance." The party fanned Malayalee nationalism through newspapers, pamphleteering, and the establishment of "reading rooms" across the region staffed by "communist party sympathizers" who stocked books with communist-sympathetic themes. (Nossiter 1982, 94-95). By virtue of its own stated policy of encouraging regional linguistic revivals, the Congress was forced to respond, and by 1946-47, it had organized a "United Kerala Committee". The Congress went a step further than the Communists, however, demanding that the boundaries of Kerala include Tamil-, Tulu- and Kannada-speaking areas in the north and south that had supposedly once been under the rule of the last "Malayali" empire in the region. Where the Communists were merely demanding a union of Malayalam-speaking areas, the Congress essentially upped the ante, playing with what was essentially an imperialist-nationalism, demanding a province of "Akhandha Kerala" [Greater Kerala] as a way to meet the Communist's "United Kerala" challenge.

As it turned out, the conflict over the boundaries of the proposed Kerala state reflected the electoral interests of the two parties, as the Congress support base was strongest in the non-Malayalam majority areas of Travancore, Coorg, and some areas north of Malabar. With the coming of independence the policy of linguistic provinces was deliberately ignored by national leaders like Nehru and Patel who were fearful of unleashing divisive tendencies in the wake of partition. After the first general elections of 1952, it became clear to the Communists that the chances of gaining power required

that the Aikya Kerala demand be revived. It was at this time that Namboodiripad published his monograph “The National Question in Kerala” (1952) in which he tapped quite explicitly into regional cultural revivalism and drew (selectively) on local mythology to make a case that Malayali culture and history showed strong affinities to the communists’ economic and social program in yet another overt attempt to use cultural arguments to buttress the communist cause (Namboodiripad 1952, 23).²¹

According to Nossiter, this reflected a policy decision on the part of the Communists to “to swing the CPI from a limited conception of the ‘united front of leftist forces’ to the broader (and more flexible) notion of the ‘national democratic front’ which would incorporate the national bourgeoisie...*The soundest course was to proceed cautiously with a programme on which all progressive and patriotic forces could agree, including the national bourgeoisie*” (Nossiter 1982, 109-110; emphasis added).

The program on which a diverse set of political forces could agree on was one that was enshrined within India’s new constitution to be discussed in greater detail in the following chapters: the idea of the rights of a cultural group to develop “according to its own genius”. According to Communist Party propaganda, the implementation of communist policies would merely be a part of the revival of a long-suppressed (but not forgotten) aspect of Malayali culture. It is, of course, to the credit of the communists like Namboodiripad that they constructed and propagated a conception of Malayali identity that was inherently inclusive of all caste and religious groups and did not target an “ethnic” other in the way that the Justice Party/Dravida Kazhagam did when

²¹ For instance, Namboodiripad summarily dismisses the myth of *Parasurama*, which claimed that local Brahmins were migrants from other parts of the country, while he supported the historical aspects of the myth of *Mahabali*, in which he found “evidence” for the existence of a “primitive communism” in pre-historical Malayali culture (Namboodiripad 1952, 23-23). He concluded that “It becomes clear that pre-historic Kerala was a country of primitive communism” (Namboodiripad 1952, 23)

faced with an electoral challenge from the Congress at around the same time. In doing so, they incorporated both the cultural rights as well as the broad-based social and economic rights of the Indian Constitutional document into their political program, an effort that many political entrepreneurs both at the time and since do not appear to have concerned themselves with. However, the strategy of arguing for the existence of an inherently egalitarian and “communistic” Malayali culture through a selective appeal to regional mythology once again demonstrates the extent to which political elites in India, regardless of their political leanings, recognized the efficacy of the cultural appeal *with a particularly revivalist content* in the Indian electoral environment.

Conclusions

This chapter has demonstrated the ways in which political appeals to cultural revivalist sentiment were firmly entrenched in Indian politics by the time the country gained independence in 1947. British responses to Hindu tradition and practice led groups within Hindu society to internalize both the laudatory responses of Orientalism as well as the moralistic critiques of Anglicism as they attempted to reclaim a lost golden age of Hinduism.

Suruchi Thapar Bjorkert (2006) has argued that as early as the beginning of the 20th century “nationalist discourse...centered on the dichotomy of the ‘inner’ and ‘outer’ domains...The outer domain represented...the [external] world dominated western science, technology and methods of statecraft, while the inner or spiritual domain represented the true identity of the Indian people...Whereas in the material domain the colonizers had subjugated the colonized non-European people...the

spiritual domain, which embodied the culture of the nation, had to be protected... Tradition was seen not only as a legitimating source of national identity, but also as a way of differentiating between the indigenous culture of the nation and the influence of the alien imperial culture” (Thapar-Bjorkert 2006, 48).

The wide-appeal of Hindu revivalist movements, particularly among urban Hindus, encouraged the earliest political entrepreneurs to tap into those sentiments as early as the last quarter of the nineteenth century, a practice that came to be emulated and progressively “decentralized” by future generations of politicians as they battled for political influence in various regionally focused political and social organizations as well as for control over the Indian National Congress. Over time, then, cultural revivalism was brought, through the Congress, to almost every part of India, in the realization of Gandhi’s vision of infusing “Indian languages with the spirit of patriotism” (Gandhi 1997, 103).

Political liberalization, the expansion of the electorate, and increasing political competition served to bring cultural appeals more firmly into the arena of popular politics, and the Congress’s regional and national competitors soon found that the adoption of cultural revivalist strands of Congress strategy had to be a component of any counter-strategy. An outright rejection of revivalist sentiment was not an option. The Congress’s stunning electoral victories in 1937 pushed parties like the Justice Party and the Muslim League to make much more explicit appeals to regional and religious revivalist sentiment in an appeal to counter the Congress’s apparent dominance. Newer parties like the Communists also soon recognized the political dividends that came from the strategic use of cultural revivalist causes in times of crisis.

There is evidence to suggest that even liberal and reformist leaders like India's first Prime Minister Nehru recognized the political costs of opposing the revivalist social program. For instance in May 1928, Nehru was reported to have said "I always feel irritated when anybody talks of our immortal past... Much is said about the superiority of our religion, art, music, and philosophy. But what are they today? Your religion has become a thing of the kitchen, as to what you can eat, and what you cannot eat, as to whom you can touch, and whom you cannot touch, whom you could see and whom not" (Akbar 1988, 189). This comment met with an uproar not only among Hindu conservatives but even within the Congress. Twenty years later, in the Constituent Assembly, Nehru appeared to have climbed down from his position claiming that "If India had not stood for something very great, I do not think that India could have survived and carried on its cultural traditions... It carried on its cultural tradition, not unchanging, not rigid, but always keeping its essence"²²

He also censored his own book *Glimpses of World History*, when a fellow-Congress politician pointed out that intellectuals in Maharashtra were angered by a passage in the first edition (released in 1934) in which he said that some of the acts of the much-mythologized medieval emperor, Shivaji, "lower him in our estimation". The passage was removed, with profuse apologies, in subsequent editions of the book (Kumar 1997, 431).²³ Even his staunch opposition to Hindu conservatives appears to have wavered in the years after independence. Nehru was bitterly opposed to his daughter's decision to marry a man from the minority Zoroastrian religious community

²² Jawaharlal Nehru in Constituent Assembly Debates Vol IV, July 22, 1947, pp. 741.

²³ Similarly his positions on prostitution appear to have changed dramatically over the years. As Chairman of the Allahabad municipality in 1923, Nehru had argued that the abolishment of prostitution was "unrealistic" and suggested policies aimed at the welfare of prostitutes instead (Akbar 1988, 168). But in 1947, he didn't publicly voice support for the only delegate in the Constituent Assembly who spoke out against articles in the Constitution aimed at the abolishing prostitution.

and only agreed to the wedding on the condition that her husband Feroz, would be converted to Hinduism according to Hindu revivalist rites (Akbar 1988, 301).

In short, politicians from across the political spectrum in India came to acknowledge and exploit the apparent electoral appeal of cultural and moral causes. The upshot of these developments was that generations of Indian voters were mobilized into politics along explicitly revivalist lines, where concern with cultural protection, public (and private) morality, and the need for individual conformity to social and cultural norms dominated political campaigns as well as broader political discourse. Ideas about anti-colonialism and independence came to be dominated by issues relating to cultural, spiritual, and civilizational regeneration. Further, strategies of silencing and coercion had come to be widely used in the realm of political competition, as politicians with a wider popular base frequently used the force of numbers to silence their opposition.

CHAPTER FIVE

REVIVALISM, RIOT AND *REALPOLITIK*:

NEGOTIATING DIVERSITY AT INDIA'S FOUNDING

“There is hardly any place where his influence has not been felt and felt well indeed. That influence has permeated our life to an extent which probably we do not ourselves quite appreciate and fully realize; and the greatness of the Mahatma lies in this, that as time passes, as ages pass, the influences which he has exercised not only on our lives but on the current of world history will be more and more appreciated and more and more realized”

- Rajendra Prasad,
First President of India,
Constituent Assembly,
August 28, 1947¹

The Constitution of India is, more often than not, described as representing a largely western and liberal-minded elite consensus. However, such representations gloss over the wide variety of views that were represented in the Constituent Assembly during its sessions between May 1946 and November 1949. Within the Congress itself, in addition to the more secular-minded leaders like Jawaharlal Nehru and Maulana Abul Kalam Azad, there were Hindu revivalists and conservatives, represented by the likes of K.M. Munshi, Rajendra Prasad, and Vallabhbhai Patel. Non-Congress points of view were represented by the likes of prominent Dalit politician B.R. Ambedkar, who was made head of the Drafting Committee; there were also Communists like Somnath Lahiri, socialists like Professor K.T. Shah, “independent” Gandhians such as B.H. Khardekar, and representatives of various religious groups, a number of whom were elected through “separate electorates”.

¹ In CAD Vol. V, pg 287

Many of these members were given important positions on committees appointed by the Assembly, in a sign that serious attempts were made to accommodate, or at least give a hearing to, non-Congress points of view (Chaube 2000, 97-98).

However, regardless of the range of ideologies represented in the Assembly and its various committees, one would be hard pressed to trace their direct translation into the Constitution because of two important facts: First, the Constituent Assembly functioned simultaneously as India's first legislature at a time of tremendous administrative challenges; and second, it was composed primarily of *politicians* who, as the previous chapter has argued, appeared to see revivalist cultural appeals as efficacious political strategy.

A fact that is not acknowledged often enough is that the Constituent Assembly acted simultaneously as a national legislature from 1947 until the first general election in 1952, frequently debating constitutional principles in the morning and matters of administration in the afternoons. In such a context, none of India's founders were insulated from the ground realities of governing a large, poor and, especially at the time, disorderly country. As will be discussed in greater detail below, the seemingly uncontrollable religious violence that surrounded the partition of India led to very explicit compromises by all factions within the assembly but, in terms of the interests of this project, none more consequential than those made by India's liberals. As Nehru noted in a 1961 interview to journalist Norman Cousins, "you don't have to try very hard if you want to catch me in an inconsistency. This is the occupational disease of any philosopher who finds himself in the position of an operating leader" (Akbar 1988, 507).

The liberal agenda was compromised further by another fact: that the vast majority of India's founders, including Nehru himself, were politicians. India's

founders are frequently portrayed as being largely unrepresentative of the mass of Indians and disconnected from popular opinion, and this is not entirely untrue. Although the majority of members were elected indirectly from among popularly elected provincial legislatures, they were certainly not elected on a universal adult franchise. That said, however, the vast majority of them were active members of the Indian National Congress, with a long history of involvement in politics and protest during the colonial era. Furthermore, these were politicians who faced the prospect of contesting an election on universal adult franchise in a political arena which, as the previous chapter has described at length, appears to have been dominated by the Gandhian appeal to cultural revivalist sentiment.

But no single fact influenced the content of India's constitution more decisively from the standpoint of this project than the partition of India. The widespread religious violence, and particularly the apparent impotence of state authority in its wake, had a profound impact on the minds of India's founders. The events created doubts in the minds of the framers about the ability of the new state to maintain law and order without the explicit cooperation of the feuding communities. While they believed that the state had the capacity to exercise its authority over the individual, the members of the Assembly were unsure that it could do so equally effectively over communities. The present chapter focuses on how these realities translated into a rather peculiar negotiation of India's cultural diversity. First, it argues that, particularly in the wake of partition, individual liberties were severely compromised and made subject to law as laid out by legislative majorities. Second, for precisely the same reasons, minority cultural rights were relatively expansive in principle and, in particular, allowed for the state facilitation of intra-group coercion. However, these group rights were granted selectively, depending upon the extent of

the threat that the group was deemed to pose to public order and to the legitimacy of the Assembly in its claims to represent all strands of Indian opinion. Finally, the chapter argues that the most expansive rights to cultural preservation were granted to Hindu revivalists, who were entitled to impose Hindu religious concerns with the banning of cow slaughter on all individuals in society in a sign of the constitutional order's Gandhian multicultural leanings.

Partition and the Liberal Compromise

Even a cursory reading of India's Constitution makes it evident that the individual and her liberty are hardly accorded a pride of place in the document. Despite a fairly lengthy and comprehensive list of individual fundamental rights that include the freedom of speech and expression, the freedom to reside anywhere in the country, and the freedom of association, the vast majority of commentators and experts agree that "the liberty contemplated by the constitution is ordered liberty" (Chitale and Appu Rao 1979, 9). In fact, far from seeing these liberties as comprising a set of intrinsic or natural rights of man, the Indian founding order envisioned these individual fundamental rights to be what the head of the Drafting Committee, B.R. Ambedkar, referred to as "a gift of the state".² The result is that all the individual "fundamental rights" are made subject to security of the state, public decency and morality, public order, and/or general public interest in the constitution itself, all of which, notably, it was left to legislatures to define.

² Ambedkar's exact words were: "fundamental rights are the gift of the law. Because fundamental rights are the gift of the state it does not follow that the state cannot qualify them" (CAD, Vol. VII, 40)

These limits that were placed on fundamental rights did not go uncontested. As K.T. Shah, a vocal member of the non-Congress opposition noted, “there is, in my opinion, no chapter more painful to read, no chapter more disappointing in this Constitution, than that dealing with the Fundamental Rights and Civil Liberties of the people.”³ However, these criticisms were invariably dismissed by the more influential members of the assembly such as member of the drafting committee and prominent lawyer, T.T. Krishnamachari, who retorted, “fundamental rights are intended only for the people who represent a certain class of persons usually called the vested interests. It is the vested interests that are afraid of the future parliament elected on adult suffrage which might want to democratize, socialize, and equalize...”⁴ Individual liberties were seen by some as an elitist defense against democratizing forces.

But individual freedoms were not restricted only for ideological reasons. Earlier draft lists of fundamental rights had allowed for far fewer constitutional restrictions on individual liberty. However, events beyond the Assembly walls appear to have sealed the fate of individual liberties in the discussions. The violent partition of the subcontinent, which led to the displacement and murder of millions of innocents in the course of devastating outbreaks religious conflict, left a profound impact on the minds of India’s founders, regardless of their ideological leanings. In internal communications, delegates noted that the violence that accompanied the partition of the sub-continent in 1947 pointed to the need to place greater restrictions on individual liberties “though such a provision may to some extent neutralize the effect of the fundamental rights guaranteed under the constitution”.⁵ It is then not surprising that

³ In CAD Vol. XI, 620

⁴ In CAD Vol. XI, 958

⁵ Alladi Krishnaswami Ayyar in letter to key framer BN Rau dated April 4, 1947 in Shiva Rao, Vol 2, 143

delegates like the Communist from Bengal, Somnath Lahiri, noted that “many of the fundamental rights have been framed from the point of view of a police constable.”⁶

Collective Rights: The State’s Facilitation of Group Preservation

Article 29 of the Indian Constitution, one of two “cultural and educational rights,” provides that “Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script, or culture of its own shall have the right to conserve the same”. There are two aspects about these rights to which most legal experts refer: First, unlike clauses relating to freedom of speech or freedom of religion, this right applies explicitly to *groups* rather than individuals. Further, unlike individual liberties, this group right is *absolute*, not subject to any restrictions whatsoever, either by the legislature or the judiciary. There is, however, one more aspect of these cultural and educational rights that is less widely acknowledged – the fact that these have been conceptualized as requiring positive or facilitative action by the state.

In his “Notes on Fundamental Rights” circulated to members of the Constituent Assembly in September 1946, the chief framer of the draft Constitution, B.N. Rau, made an explicit distinction between rights which merely require that the state abstain from prejudicial action, and those which require “positive action by the state” (Shiva Rao, Vol 2, 33-34). Rau suggested that the latter category of rights ought to be placed in a section of the Constitution called “The Directive Principles of State Policy” – a collection of goals which all future governments ought to aspire to, but would not be accountable for in a court of law. Rau was concerned primarily with the practicality of giving all citizens something like a fundamental right to work given the new Indian state’s financial and administrative weaknesses.

⁶ In CAD Vol. III, 404

Significantly, Rau suggested that the protection of culture, language, script, etc of different communities be placed in the same category as the right to work. He understood them as requiring positive action on the part of the state and therefore suggested that they be a part of the non-justiciable directive principles of state policy. (Shiva Rao, Vol 2, 34). For Rau, one of the principle drafters of the Indian constitution, cultural rights, by definition, required active agency on the part of the state for their recognition.

However, against Rau's advice, the members of the constituent assembly did not place cultural rights in the section on Directive Principles, choosing instead to make them justiciable fundamental rights belonging to "any section of citizens in India". The granting of these rights to cultural communities was not without precedent. In fact, Khilnani suggests that democracy was introduced into India when liberalism in Britain was at its most collectivist. He argues by the end of the 19th century (around the same time that the Indian National Congress was founded) colonial understandings saw Indian society as "composed of permanently feuding 'communities' that had each to be represented and paternally protected by the British Raj (Khilnani 2004, 21). Later, in 1931, the All India Congress Committee passed a resolution which declared that the "culture, language, and script of minorities of different linguistic areas shall be protected" (Shiva Rao, Vol 2, 337), reflecting and broadening the scope of the colonial government's own beliefs about the state and its relationship to cultural communities in India.

Indeed, the members of the constituent assembly were themselves elected under separate or "communal" electorates instituted by the British colonial government. Each delegate therefore, represented a specific religious community, and even where they were elected in the so-called "general category", it is evident from the

proceedings that they saw themselves as representing various linguistic groups.⁷ There is ample evidence to suggest that the delegates shared the British colonial government's beliefs about the necessary relationship between state and communities. For instance, K.T. Shah, in a memorandum on minority rights circulated to the entire assembly, wrote:

“The term ‘minorities’ in this connection refers not to political minorities, but those *fixed and unchanging entities* distinguished by religion or nationality, culture or language, which make small grounds in the midst of larger populations. They have fundamental differences regarding the ways of life which *demand special safeguards and protection with reference to those items which they prize specially, namely religion, culture or language. Rights of minorities are not of the individual, but of the group...*” (Shiva Rao, vol 2, 38-39, Italics added)⁸

The proceedings of the Assembly indicate that, in many respects, the debates on constitutional clauses often took the form of an inter-group negotiation.⁹ As mentioned previously, there was significant pressure on the Indian National Congress to prove that the Constituent Assembly genuinely represented all strands of Indian opinion. However, in addition to concerns with their legitimacy, there is ample evidence to suggest that India's founders saw the satisfaction of minority demands as vital to the maintenance of peace and stability. For instance, a prominent Christian

⁷ For instance, when passing a resolution on the national flag, every representative got up and claimed allegiance on behalf of her/his group/community. (CAD, Vol IV)

⁸ It is important to note that Shah was an educationist and a socialist and not a member of the Congress Party. His views on the issue demonstrate the widespread acceptance of such a view even outside Congress circles.

⁹ For instance, Chairman of the Minorities Sub-Committee, Dr. H.C. Mookherjee noted that prominent Congress leader and Gandhian, K.M. Munshi was “running from one group to another” to coordinate their demands (CAD, Vol V, 208)

representative and Congressman, Dr. HC Mookherjee, noted that “it is necessary for the sake of peace, for the sake of future progress of the country that every attempt should be made to meet the wishes of the minorities” (CAD, Vol V. 208). These sentiments were echoed time and again during the course of the House proceedings.¹⁰

The House did not rely on words alone. The “Ad hoc committee on Fundamental Rights, Minorities, etc” a body created with the explicit purpose of drafting the sections of the constitution dealing with these issues was dominated by members of various religious and caste communities, with a minority of members (12 out of 50) belonging to “general sections”. In talking about the composition of the committee, Nehru said, “...the voice of the minorities and the representatives of excluded and tribal areas will preponderate in this committee...So this committee will fully reflect the opinion of the minorities and the backward tracts and will, I hope, be able to reach decisions which will fully secure their position and ensure the protection of their rights” (CAD, Vol II, 310). In fact, it was the sub-committee on minority rights that included the two cultural and educational rights in the fundamental rights section of the draft constitution, a move which was allowed to stand even though some other members questioned its practicality (Shiva Rao, Vol 2, 206, 279). Further, decisions made by the committee were often pushed through the House on the grounds that since a particular community had accepted a certain clause, the House ought not to have anything to add.¹¹

¹⁰For instance, Govind Ballabh Pant: “the question of minorities everywhere looms large in constitutional discussions (310)...unless the minorities are fully satisfied...we cannot even maintain peace in an undisturbed manner. So all that could be done should be done... We have subordinated every other consideration in order to secure contentment and satisfaction” (CAD, Vol II, 311)

¹¹ For instance, Patel would put forward a motion on Anglo-Indians and say, “This is an agreed solution so far as the Anglo-Indian community is concerned and I do not suppose anyone can make an amendment to this because as the community is satisfied with the proposal and as the Advisory Committee has accepted it unanimously, I recommend this for acceptance of the House” (CAD, Vol V, 239). This strategy was used successfully multiple times in the session.

While the procedures of constitution-making do provide some circumstantial evidence regarding the way India's founders understood the nature of cultural and educational rights of groups, there is still a need to substantiate these claims using more direct evidence about the content of these rights.

The Sub-committee on Minorities circulated a questionnaire to all its members regarding what they believed minority rights ought to encompass. Their responses are informative when thinking about the "original intent" of India's framers. For instance, the prominent Dalit Congressman, Jagjivan Ram, in his response, noted that "fundamental rights should include provisions for the protection of the language, culture, etc, of the minorities" and safeguards must protect "*religious and racial minorities ... from destruction*" (Shiva Rao, vol 2, 330-334, Italics added). The committee also solicited "memoranda" from various communities regarding the same issues. Every single memorandum made a call for "protection" or "preservation" or "development" of the community in question. The colonial government's belief that Indian society consisted of various communities that need paternalistic protection from government appears to have been widely accepted. A particularly informative memorandum from the Jain community (a community that was not represented through the separate electorate system) said that:

"The community has been declining in numbers...[and] their ancient culture and civilization will need special care and protection...The denial of minority status to the Jains will mean their death warrant as a distinctive cultural group especially when all other minorities are going to be recognized." (Memo from Jain representatives sent in March/April 1947 in Shiva Rao, Vol 2, 375)

This particular memo provides clear evidence of what minority status *meant* in terms of the relationship between the state and the group in question. The assumption

is that cultural communities cannot survive without the help of the state, and that attaining minority status is the way to ensure state support. Furthermore, being classified as a cultural minority meant that the state had to do everything in its power to ensure that your group would survive as a distinct entity. One delegate interpreted the clauses as follows:

“I do feel there is provision in this constitution wherever there are such classes or linguistic communities or sub-communities, *the state shall provide all facilities to them*. If the state were to deny that, the state will not be discharging their duty. I am quite clear that the Constitution has made provision to that effect” (R.K. Sidhwa in CAD, Vol VII, 906, Italics added)

B.R. Ambedkar, one the primary framers of the constitution, confirmed R.K. Sidhwa’s interpretation by arguing that the wording of the clause as it stands in the constitution today frees minorities from a reliance merely on the goodwill of the state.¹² This appears to confirm that the conceptualization of cultural rights was intended to ensure positive action on the part of the state, making it a group entitlement (CAD, Vol VII, 923).

The Content of Group Rights

Scholars like Mahajan (2008) have noted that “the Constitution did not adopt a proactive approach. That is, it did not direct the state to ensure that the culture and language of these communities survives and is protected, yet it assumed that the minorities would like to ‘conserve’ their culture and identity. In other words, it legitimized the desire of minority communities particularly to preserve their culture” (Mahajan 2008, 308). This suggests that these collective rights didn’t go quite as far as

¹² Note the contrast with his view of individual liberties as the gift of the state.

this project suggests that they did. However, Mahajan (2008) also notes, somewhat contrary to this earlier assertion, that Indian conceptions of secularism placed “certain obligations” on the state with respect to religious communities, without saying very much about exactly what these obligations were.

One of the primary reasons why the existing discussions of group rights fail to recognize just how far these rights went in placing obligations on the state is that they tend to view these group rights exclusively as rights accorded to *religious* minorities. While the status of religious minorities was certainly a fundamental concern for the members of the constituent assembly, it is extremely important to think about the state’s approach to other cultural groups and what that can tell us about the ideas that animated conceptions of group rights in India at independence. In fact, as is evident in K.T. Shah’s definition of minorities quoted previously, India’s founders understood the term “minority” to include not only religious groups but also language, aboriginal and previously subordinated caste groups.¹³

The status of linguistic groups and the preservation of their languages, scripts and cultures was of as much, if not more, concern to India’s founders as was the status of religious minorities. It is significant that the earliest attempt by Indian politicians to create a constitution for free India (what came to be called the “Nehru Report” of 1928) paid significant attention to the rights of linguistic groups. This report explicitly acknowledged “the linguistic principle” for the reorganization of the provinces of British India. It is worth quoting one passage at length:

¹³ Just to refresh the memory, K.T. Shah noted that: “The term ‘minorities’ in this connection refers not to political minorities, but those *fixed and unchanging entities distinguished by religion or nationality, culture or language, which make small grounds in the midst of larger populations*. They have fundamental differences regarding the ways of life which demand special safeguards and protection with reference to those items which they prize specially, namely religion, culture or language. Rights of minorities are not of the individual, but of the group...” (Shiva Rao, vol 2, 38-39. Italics added)

“If [a province] happens to be a polyglot area difficulties will continually arise and the media of instruction and work will be two or even more languages. Hence, it becomes most desirable for provinces to be regrouped on a linguistic basis. *Language as a rule corresponds with a special variety of culture, of traditions and literature.* In a linguistic area all these factors will help the general progress of the province...The mere fact that the people living in a particular area feel they are a unit and desire to develop their culture is an important consideration even though there may be no sufficient historical or cultural justification for their demand. *Sentiment in these matters is often more important than fact.* Thus we see that the two most important considerations in rearranging provinces are the linguistic principle and the wishes of the majority of the people” (Nehru Report 1928, 62-63. Italics added)

There are a few important points that need to be highlighted for the purposes of this discussion. The first is that the document sees linguistic diversity as fundamentally problematic both for the state and for society. It suggests that progress can only be achieved through linguistic homogeneity. Secondly, it entirely ignores the ground realities of mixing of various linguistic groups in “linguistic areas”, a feature which was particularly true of the more industrialized provinces of Bengal and Bombay. Finally, it explicitly endorses a view of linguistic majoritarianism where a linguistic majority is allowed to form a linguistic province and then impose its own language on linguistic minorities living in that province. The underlying assumption here is that linguistic communities can only “develop their culture” if they have control over of a state administration. Explicit state support and the imposition of a majority group’s language on linguistic minorities are therefore assumed to be imperative for a community’s cultural survival as well as for administrative

convenience. The consequences of such a conception of group rights will be discussed in greater detail below.

As mentioned before, scholars have tended to look only at religious groups in their analyses of the meanings and implications of the collective rights in India's constitution. They have subsequently suggested that the granting of group rights to cultural preservation was more a grudging acceptance of the limits of state capacity rather than evidence of the members' active interest in protecting cultural groups from destruction. It is very likely that rights were granted to Muslims quite grudgingly, particularly given the atmosphere that surrounded India's partition in 1947. However, as is evident in the proceedings of the assembly, questions of cultural rights were targeted as much (if not more) to linguistic and cultural groups than to religious groups. Taking note of this important fact allows for a more accurate understanding of how these collective rights were actually conceived.

This project argues that the obligations of the state to cultural groups went much further than merely facilitating religious practice or not preventing the use of one's language. As will become clearer below, there is evidence to suggest that India's founders saw the state as a guarantor of the survival and perpetuation of groups and their cultures, with very specific consequences for the liberties of individuals. In particular, the cultural and educational rights granted formally to "all sections of citizens of India" allowed for the entrenchment of "thick multiculturalism" – a political arrangement under which the state became party to the attempts of groups to restrict the autonomy of their individual members in pursuit of group preservation.

There is strong evidence to suggest that various groups interpreted the clauses on minority rights as ensuring that individuals would not easily be able to defect from the group. The state should do nothing that could encourage an individual to leave the group to which s/he is deemed to belong. Negotiations between Congress leaders and

Sikh delegates are particularly informative in this regard. Sikhism is essentially an egalitarian religion, a religion that grew in popularity in north-west India partly due to its repudiation of the oppressive Hindu caste system, and particularly the practice of “untouchability”. However, when the framers were contemplating affirmative action for former untouchables belonging to the Hindu community, Sikh leaders demanded similar measures for former untouchables who had converted to Sikhism. While these leaders could have justified these demands on claims of economic backwardness, they chose another line of argument. Vallabhbhai Patel, while accepting their demands, noted that Sikh leaders “feel that if these Scheduled castes who have been converted to Sikhism are not given the same benefits as the scheduled castes have been, there is a possibility of their reverting to the Hindu scheduled castes and merging along with them” (CAD, Vol VIII, 271)

A reasonable conclusion one can draw from the preceding discussion is that community rights were intended to obligate the state to preserve and protect a cultural community by preserving not only its language, script, and culture, but also its membership.¹⁴ This latter conclusion is supported not only by the discussion of Patel’s negotiations with Sikh leaders but also from discussions regarding the provision of state aid to minority-run educational institutions. Delegates were concerned that religious minority-run educational institutions may compel children belonging to other faiths to attend religious instruction in the minority faith. They, therefore, had a clause that preempted this possibility. What they explicitly allowed, however, was for minority run educational institutions to compel children belonging to their own faith

¹⁴ For instance, delegate S. Nagappa, early in the framing process said, “I would request all the members...to...work for the benefit of all communities, for the homogeneity of all communities...” (CAD, Vol II, 322)

or sect to attend religious instruction, *even when these institutions were provided with state aid* (CAD, Vol VII, 884). The implications of this for individuals' choice regarding their religious education ought to be immediately evident, but will be discussed at greater length below. The bottom line is that the founders made the state a party to the coercion of individual members within cultural groups.

This conclusion is further confirmed by discussions that talked about the state's obligation to "develop" cultural communities. This occurred primarily in discussions about conflicts around the recognition of regional languages. (CAD, Vol VII, 905-923). A number of delegates who had actively supported calls for the linguistic re-organization of states believed that the articles on cultural and educational rights would satisfy their demands. As one delegate put it,

"the article 23 [now Article 29] gives an assurance to the minorities that their languages will be guarded, the minorities will be able to conserve their own languages and not only conserve, but a definite development can also be made by them. The minorities will find no discrimination made in the matter of government aid for the protection and development of their languages... I think the voice that has risen in India about the immediate re-districting of provinces on linguistic basis will be consoled to a large extent" (Mihir Lal Chattopadhyay in CAD Vol VII, 905)

The Selective Grant of Minority Rights

Articles 29 and 30 formally obliged the state to facilitate the "development" and preservation of all cultural, linguistic and religious groups equally. The state was not permitted to discriminate between different minority groups, for instance, when granting state aid to their educational institutions. However, despite the expansive

nature of these rights of groups to cultural preservation, they were not granted equally to all communities in practice; rather, these entitlements were to be enjoyed only by groups that were “recognized” by the state. So the founders drew up a list of “official languages” that were eligible to receive state patronage in their own linguistically organized provinces, while others were left to fend for themselves. For instance, even as languages like Marathi and Malayalam were granted official status, others like Konkani and Udipi with their roots in roughly the same geographical regions were ignored for many decades. Similarly, religious minorities like the Jain community, whose memorandum was quoted previously, were repeatedly denied minority status, despite being a distinct religious faith.¹⁵

As will be discussed in greater detail in the following sections, the granting of group recognition, at least in the 1947-1950 period revolved primarily on questions of “public order” and “national unity”; the recognition of groups was predicated on the extent to which a rejection of their demands was likely to lead to outbreaks of rioting and violence or to a decline in the legitimacy of the Constituent Assembly. The extensive rioting in the wake of partition between Hindus and Muslims virtually guaranteed that Muslims were granted recognition. Similarly, it was the regional concentration, long history of political mobilization, and threat to boycott the Constituent Assembly by the Sikh community that led to the granting of special privileges with respect to “Sikh untouchables”. The Jains, by contrast, were regionally dispersed and internally divided between two primary sects, leading to a lack of coordinated political action and, consequently, political neglect.

What this meant, in effect, was that collective rights to cultural preservation were granted only to communities that were politically mobilized and influential at the

¹⁵ The Jain community had to wait until December 2008 before it was granted status as a national minority. Prior to that, it had been granted the status in some states in India, beginning in the 1980s.

time of the founding. It is significant that all the languages recognized as official languages at independence were the languages that the Indian National Congress had used in order to broaden its mass appeal in the pre-independence era. The representatives of these language groups within the Congress Party had since become very demanding, routinely pressing demands for their separate homelands where they would be allowed to flourish or develop.

In fact, as early as the 1920s, the Congress Party made it its own prerogative to decide which language groups ought to be granted linguistic provinces of their own. For instance, the Nehru report, despite its permissive language regarding which linguistic groups ought to be granted their own territorial homelands, ended the issue by saying that “we who talk of self-determination on a larger scale cannot in reason deny it to a smaller area, *provided of course this does not conflict with any other important principle or vital question*” (Nehru Report 1928, 63. Italics added). The authors of the document were, however, silent on what these principles and questions were. The arbitrariness of the conditions for Congress Party recognition for linguistic groups is further evidenced by the fact that while some demands for linguistic provinces were initially rejected by the Nehru Committee because of their “small area” (such as the demand for a Malayalam speaking state), other demands (such as the demand for Kannada speaking state) were deemed “sufficiently large” (Nehru Report 1928, 63-64). Notably, as was discussed in detail in Chapter Four, the Congress quickly changed its stand on a Malayalam-speaking state of Kerala once the Communist Party in the region began using the issue as a mobilization strategy to support its own flagging political fortunes.

It is vitally important to consider what this selective recognition of groups entailed for the relationship between the state and communities in Indian politics. It opened up opportunities for previously neglected groups as well as counter-elites to

mobilize cultural nationalist sentiment against the state's neglect of its constitutionally mandated obligation to protect and "develop" a group's culture. It was only through the establishment of what the Christian activist in Mumbai referred to as a group's "nuisance value" that a community could gain state recognition and the constitutional entitlements that came with it.

The Cultural Rights of Majorities: Hindu Revivalism in the Founding Order

If the granting of group rights to minorities was conditional on perceptions of their threat to public order and the extent of their political mobilization, it seems to be highly unlikely, given the electoral arena in the run-up to independence, that the cultural concerns of majority Hindu community would have been ignored altogether. In fact, proponents of the Hindu revivalist agenda in the assembly had received a boost by the decision to partition India. The Constituent Assembly had met for the first time in May 1946 before the partition of the subcontinent was a settled fact. In the interests of keeping the country together, the Assembly's earliest Objectives Resolution, announced by Nehru in the opening session, proposed a number of measures that were designed to assure Muslims of their security in what would have been a Hindu majority country. These included a particularly decentralized federal structure, separate electorates for religious minorities, and a compromise solution on the future country's "national" language. However, once the decision to partition India was taken in June 1947, Hindu revivalists began to demand a re-think. As R.V. Dhulekar, a long-time Congressman and, notably, a former member of the revivalist Home Rule League, noted:

“we find that India has now been divided into two and we have to see whether the Constituent Assembly should stick to the views it adopted at the time of its

inception or whether it should change them. ... The first thing that we have to note in the proceedings of the past few months is that we promised in the Objectives Resolution, which was moved in the House, that the people residing in India would be protected in every way and their culture, language and civilization would be fully safeguarded... In my opinion, it is necessary now to change our point of view and I think it necessary to amend the resolution that we have passed” (CAD Vol. IV, 549)

The call was echoed by others, such as the noted Hindu conservative and a key Gandhi confidant, K.M. Munshi, who asserted that “we are now a homogenous country” (CAD Vol. IV, 545). Even when it was not overt, the revivalist influence was pervasive in the Assembly. Nigam (2008), for instance, notes that Muslim speakers were frequently ridiculed and marginalized in the course of proceedings. However, aside from the more rabid sections of revivalists, there was a strong strand of concern with the protection and preservation of “Indian” culture, civilization and spirituality. For instance, the prominent women’s rights activist, writer and Gandhian, Mrs. Hansa Mehta noted that “we have great traditions to maintain, traditions that made India so great in the past. It is the duty of every man and woman to preserve these traditions so that India may hold her spiritual supremacy over the world.”¹⁶

The delegates in the assembly had particular ideas about the source of India’s past greatness as well as the sources of its more recent failures, and saw the reclaiming of an endangered spiritual-cultural core as the secret for the restoration of India’s status as a leading nation. Nehru, for instance, attributed the “survival of India” to the survival of the “essence” of its cultural traditions (CAD Vol IV, 741). The vast

¹⁶ In CAD Vol. V, 10

majority of the delegates, therefore, saw the constitution as a valuable tool with which to reconstitute all Indians in line with this cultural essence.

It went beyond placing restrictions on the actions of individuals to prescribing an *active* role for the state in *re-shaping* individuals so as to build a morally upright and spiritually sound society. The spirituality of the Indian nation, which Gandhi had exalted as the source of India's greatness and superiority, was to be rejuvenated with the help of the modern state apparatus. In effect, individuals were to be fundamentally re-shaped so as to conform with dominant conceptions of what it meant to live a moral life.¹⁷

Notably, there are only three delegates on record who brought up the possibility that this could degenerate into the protection of orthodoxy. The vocal leftist economist and independent, K.T. Shah, in a written memorandum to the sub-committee on fundamental rights, warned that:

“champions of the established order would find much in the new thought at the time which might be considered by them as open to objection on grounds of public morality. If this is not to degenerate into a tyranny of the majority, it is necessary either to define more clearly what is meant by the term ‘morality’ or to drop this exception altogether” (Shiva Rao, Vol 2, 157)

Another was B.R. Ambedkar, who noted on December 17, 1946 that “fundamental rights are subject to law and morality, but both are determined by Executive of the day and makes the position of rights uncertain.”¹⁸ It was barely two years later that Ambedkar, now Chairman of the Drafting Committee, dramatically

¹⁷ An early court case dealing with what morality meant in the Constitution decided that the word morality “has reference to that morality which the *law* makes it its concern to maintain” (Chitale et al 1970, 452)

¹⁸ In CAD Vol. I, 100

changed his line, referring to individual liberties as “gifts of the state.”¹⁹ Ambedkar’s turnaround is particularly intriguing given that he was not a member of the Congress Party (he had, in fact, been a bitter critic of Gandhian ideology and politics), although he had won election to the Assembly with Congress support. It also points to the likelihood that there was a degree of unspoken pressure within the Assembly on issues like public morality. In the third instance, when during a debate about whether the state ought to have the power to sanction public amusements in the interests of morality, one delegate, the independent, leftist H.V.Kamath, declared that “you cannot legislate people into moral beings”²⁰, a Congressman, Brajeshwar Prasad, retorted: “[Mr. Kamath’s] political doctrines are a strange mixture of individualism and philosophical anarchism. Both these doctrines have no place in our life.” (CAD, Vol IX, 931).

A particularly revealing exchange took place between delegates KM Munshi and Mahavir Tyagi. In a discussion of restrictions on freedom of expression, KM Munshi read out a clause containing his proposed amendments to the restrictions on free expression. Mahavir Tyagi misheard and asked, “May I take it that the word ‘morality’ has been taken out?” Munshi tellingly replied, “I read the word morality... The House will not permit me to do anything of the sort” (CAD, Vol VII, page 730-731). Further, when one lone delegate rose to suggest that the legalization of prostitution would allow for its effective regulation so as to prevent the spread of disease as well as exploitation that is born of driving the business underground, a prominent Congressman and Hindu revivalist observed that:

¹⁹ Ambedkar’s exact words were: “fundamental rights are the gift of the law. Because fundamental rights are the gift of the state it does not follow that the state cannot qualify them” (CAD, Vol. VII, 40)

²⁰ In CAD Vol. IX, 915

“at a time when we are directing our efforts to raise the moral standard of society and want to create a new social order based on morality, I am surprised to find that there are even now persons amongst us who want to retain the institution of prostitutes. We, who have worked under the leadership of Mahatma Gandhi for the last 30 years had formed new ideas about the standard of morality and had expected that...we would try to create a new moral order in which such institutions as prostitutes, bars and gambling would become extinct” (Seth Govind Das, CAD, Vol IX, 957)

However, it was not only in the overt concern with public morality that the revivalist agenda entered India’s founding order. Indeed, this was one point on which representatives from many religious groups could agree.²¹ Rather, it is evident in clauses such as that which made Hindi the “national” language for all of India.²² One could argue that the revivalist influence is also evident in the fact that the extent of accommodation of minority cultural rights varied so greatly across religious minorities and linguistic groups, the latter being seen as still within the largely Hindu cultural fold. However, it is evident in its most overt and potentially repressive form in one of the Directive Principles of State Policy, Article 48, which encouraged the government to adopt a law banning cow slaughter, a Hindu revivalist concern dating back to the mid-19th century, and one that Gandhi also appears to have cared about deeply.

The Directive Principle on cow slaughter went further than the rights granted to any religious or cultural minority in that it allowed governments to impose a Hindu

²¹ For instance, Christian delegate Rev. JJM Nichols-Roy: “public morality needs to be protected by government and righteousness needs to be exalted” (CAD, Vol I, page 116).

²² “Hindi Nationalism” had been one of the important political platforms of Hindu revivalists, with many proponents within the Congress and the Assembly, such as Purushottam Das Tandon and Govind Ballabh Pant.

religious tenet on all citizens, regardless of their religious affiliation. Consequently, it introduced yet another level of inequality in the allocation of group rights, setting a precedent whereby groups that were powerful and politically influential enough were understood to be entitled to place limits on the rights of *all* citizens in India, a mark of what this project refers to as “Gandhian multiculturalism”.

As was discussed in the preceding chapter, Gandhi had long recommended that Hindus and Muslims abstain from performing any action that hurt the sentiments of the other. He noted that the “unity we desire” was dependent upon the cultivation of this mutual respect and suggested that, since that voluntary abnegation was a “counsel of perfection” governing bodies be established to enforce compliance. The Indian Constitution began to comply with one half of Gandhi’s plan in that it allowed for the constitutional protection of Hindu sentiment. For minorities like Muslims, on the other hand, similar protections were conditional upon the expression of anger and the ability to generate public disorder in the wake of offense.

In a revealing exchange that took place within the Constituent Assembly, some Muslim members took issue with the fact that the state had reserved the right to legislate changes to religious personal laws in the larger interests of social reform. In response, Ambedkar, the Chairman of the Draft Committee noted:

“No one need be apprehensive of the fact that if the state has the power, the state will immediately proceed to execute or enforce that power in a manner that may be found objectionable by the Muslims or by the Christians or by any other community of India...Sovereignty in the exercise of that power must reconcile itself to the sentiments of different communities. No government can

exercise its power in such a manner as to provoke the Muslim community to rise in rebellion. I think it would be a mad government if it did so”²³

Conclusions

This chapter has sought to understand the development of India’s particular multicultural arrangement as it evolved in the early days of the country’s independence. Through an examination of the proceedings of India’s Constituent Assembly as well as communications exchanged amongst its members, it has argued that India’s negotiation of diversity was shaped by two factors: the first was the violent partition of the subcontinent; and the second was the apparent political entrenchment of (Hindu) cultural revivalism. The two factors are themselves not entirely unrelated. Indeed, the partition of India may well have proved to be decisive. It buttressed Hindu revivalists, both the more moderate as well as the extreme, who went so far as to declare that India had now become a “homogeneous” country. A homogenous, “Indian” culture could now flower with the help of the state that was freed of the obstacles created by intransigent Muslim demands. However, the violence that surrounded partition led all members in the Assembly, even the most committed of Hindu revivalists, to accept compromises that would otherwise have seemed distasteful. Among the principles that were compromised, and central to the broader concerns of this project, were those relating to the liberties of individuals, which came to be made subject to the whims of legislative majorities fearful of public disorder.

The document that emerged from this process was, consequently, a rather peculiar multicultural arrangement. According to formal Constitutional principle, the state claimed to represent all Indians and all cultural minorities were entitled to equal

²³ In CAD Vol. VII, 781-2

privileges, as articulated in Article 29. In practice, however, these rights were granted unequally, determined by the threat the group posed to the Assembly's concern with public order and the legitimacy of the founders' claim that the Assembly represented all shades of opinion within Indian society. But the granting of cultural rights was also determined by revivalist concerns with the preservation and revitalization of "homogenous" Hindu culture and spirituality. Because the revivalist agenda appeared to have an upper-hand in electoral politics, Hindus were granted the most extensive privileges by the Assembly, allowing for concerns with their "sentiment" to place limits on the liberties of *all citizens* of India, as evidenced in the restrictions in the interest of public morality on individual freedoms, in the cow slaughter clause, and in the anointing of Hindi as India's "national" language.

The political preponderance of Hindu concerns with the protection of Indian civilization and spirituality meant that they quickly became enmeshed with state policy. This is particularly evident, as the next chapter will demonstrate, in the realm of state censorship policy as the individual freedom of speech and expression was made subject to public order, decency, and morality as defined by legislative majorities. This served to expand the realm in which concerns of the Hindu political elite were allowed to infringe upon the liberties of *all citizens* in India. The ability to legislate cultural sentiments into state policy, in effect, has become a mark of a group's political empowerment. In the wake of increasing pluralism, emerging elite groups, rather than challenge the practices of incumbents have chosen to adopt them, demanding similar concern from the state apparatus. In short, although as Austin (1966) noted, India's Constitution cannot be said to be particularly "Gandhian", it did contain the seeds of Gandhi's approach to multiculturalism. Contemporary trends in censorship demand-making in India, far from representing the triumph of "Hindutva" politics, may well represent the broader-based adoption of the strategic appeal to

Gandhian multiculturalism. The probability that the Gandhian multiculturalism was politically motivated rather than the result of a deeply held commitment to Gandhian principles more broadly is buttressed by the observation of a prominent non-Congress Gandhian, B.H. Khardekar. Khardekar noted with disdain during the proceedings of the Constituent Assembly:

“What do you think is the essence of Gandhism? The essence of Gandhism is love, toleration; its essence is non-violence, search for truth and all these important things. The externals of Gandhism or the outward trappings of Gandhism are *khaddar* [home-spun cloth] and prohibition. Unfortunately, the followers of Gandhi, some of them, have been giving more importance to the outward trappings...than to the essence of it”²⁴

This selective and strategic adoption of what Bhargava refers to as “vulgar Gandhianism” had important spill-over effects in the politics of the Indian republic, particularly in the state’s negotiation of the liberties of individuals relative to the cultural rights of groups. It is to an examination of the evolution of Gandhian multiculturalism in the Indian state’s censorship policy that we now turn.

²⁴ B.H. Khardekar in CAD Vol. VII, pp 557.

CHAPTER SIX
WHOSE SENTIMENT COUNTS?
REALIZING THE POTENTIAL OF GANDHIAN MULTICULTURALISM

The previous chapter has argued that India's Constituent Assembly laid the foundations of a particular negotiation of cultural diversity whereby the state undertook to preserve and develop cultural communities through the preservation of their language, script and culture. Placing restrictions on the liberties of individuals in pursuit of this goal of cultural regeneration was not considered particularly problematic in light of the fact that these liberties were thought to be "gifts of the state" rather than pre-existing natural rights that the state was morally obliged to protect. However, the Constitution of India also established a hierarchy of cultural rights: As is evident in clauses legitimating laws banning cow-slaughter and, to a lesser extent, the regulation of individual morality, it created a realm in which the liberties of *all citizens* could be made subject to Hindu revivalist sentiment.

Censorship in India was never explicitly made the prerogative of a particular cultural or religious group. Like anywhere else in the world, it was the prerogative of the state. As Khilnani (2005) notes, the Indian constitutional order made individual liberties subject to the state's purposes. However, this leaves the important question of how the state's purposes are formulated and understood unaddressed. State censorship was understood by India's first parliamentarians as having a constitutive role in the shaping of "ideal" citizens who were morally upright and infused with an appreciation of India's "superior civilization". As Lilavati Munshi, member of India's Upper House of Parliament and wife of noted Hindu revivalist K.M. Munshi, noted during a debate on new censorship rules in 1953:

“We have to think in terms of our own nature, our own genius, our own ideals, of the ideal nation that we want to build, and that is why it is important that, when we choose our censors, we choose people who want to make the films... a means of helping this country once again to become a land of culture for which India once was so famous. If we want to build India, we must build it culturally, and the film itself is one of the greatest forces for the spreading of culture, and we must reorient the whole thing, our rules and regulations, everything, from that point of view”¹

This chapter is an attempt to look at how the state’s purposes in the arena of censorship policy, as well as the conceptualization of “Indian culture” that these purposes represented, evolved over the years since 1947, adapting to emerging dynamics in the arena of popular politics. In particular, it argues that the predominance of Hindu revivalism in electoral politics in the early post-independence years translated into a powerful influence on early censorship policy in India. Revivalist concerns, particularly with “obscene” and “morally degrading” trends and the “objectionable” portrayal of Hindu deities in Indian cinema translated into the formulation of censorship policy in the so-called “Nehruvian” era of post-independence Indian politics. However, it is important to note that this influence of the state’s censorship policy almost always took the form of appeals for the protection of “Indian” rather than “Hindu” culture and morality. This discursive trope is significant because it highlights the significant disjuncture that existed in this policy arena between formal principle and informal practice.

¹ Rukmini Devi Arundale in *Council of States. Official Report*. Vol III No. 37. Tuesday, April 28, 1953, pp 4209. Italics added.

The state in India, as is evident in the Constituent Assembly debates, was projected as representing *all* Indians, regardless of their cultural or religious affiliations. Roy (2007), for instance, goes so far as to claim that “India since its foundation as a sovereign nation-state in 1947 has been represented in terms of its intrinsic and inalienable subnational diversity – nationhood called up as a mosaic of ethnocultural fragments” (Roy 2007, 7). More significantly, she notes that

“the State [was] imagined as a neutral institutional entity located at a safe distance from the rough and tumble of politics, and imbued with the unique ability to address the many needs and problems of citizens, subnational groups, and the nation as a whole” (Roy 2007, 20-21).

The notion of the state’s neutrality is important because it implied that the state’s censorship policy would represent the interests of a “composite” “Indian” culture that was defined by its inherent diversity. However, formal constitutional principle frequently came up against the realities of political practice. It has already been argued that the granting of group cultural entitlements was predicated on the state’s recognition, which was in turn shaped primarily by *realpolitik*.² Censorship policy was one arena in which this disjuncture between formal policy and informal practice was most evident, primarily because it allowed some groups’ cultural concerns to impinge on the freedom of expression of all Indian citizens.

As the following discussion will demonstrate, the political power of Hindu revivalists in the early 1950s translated quite explicitly into a particular set of censorship “guidelines” and, consequently, shaped the “state’s purposes” in this policy arena. Further, in the mid-to-late 1950s, as political power in India gradually moved

² Roy (2007) also notes that not all groups were recognized as being equally constitutive of “Indian” identity, with regionally concentrated linguistic and cultural groups being included and religious minorities being excluded.

away from the central government and toward linguistically re-organized provinces, more and more groups began to demand the equalization of what could be called the “right to censor”. In short, having a group’s “cultural sentiments” represented in official censorship policy came to be seen as an important symbol of its substantive political empowerment. The symbolic significance of contemporary demands for censorship and claims of offense can only be understood in light of this larger understanding of the entitlements that came with a group’s political influence. It is in this context that claiming state neglect of a group’s “sentiment” allows for the discrediting of incumbents’ larger claims of representativeness.

However, before an argument can be made about how censorship out of respect for group sentiment came to represent that group’s political empowerment, the prior question of how the state came to be viewed as a guardian of a group’s cultural sentiment in the first place must be addressed. It was already discussed in Chapter Four that Gandhian multiculturalism provided for a governing authority to enforce individual conformity to a group’s cultural sentiment. But this still leaves the question of how Gandhi’s ideas came to become a principle of *state* practice, especially given the fact that, despite references to local community governments, Gandhian philosophy explicitly rejected the notion of the modern state.

Censorship Demands in Colonial India: The Case of Mother India

The British colonial government had always reserved the right to proscribe materials thought to militate against its interests in India. However, as Barrier (1974) notes, the zeal with which it pursued the program of proscription varied over time, depending upon perceptions of internal and external challenges. In 1898, in the face of growing militancy within the incipient national movement in the country, it introduced Sections 124 and 153 to the Indian Penal Code. The former allowed for the

proscription of “seditious” materials while the latter allowed for prosecution of speeches and writings inciting “class hatred”, both of which were intended to protect Britishers from the strident criticisms of Indian nationalists. But the Colonial government was also concerned with violent conflict between religious groups and frequently banned “particularly virulent” materials that were likely to instigate violence and rioting (Barrier 1974, 6-7, 59-60).

It was in the summer of 1927 that a book called *Mother India* written by American journalist Katherine Mayo was published first in the United States and then in Britain. *Mother India* contained a scathing critique of Hinduism, condemning Hindu society (and Hindu men in particular) for its inherent sexual perversion and moral depravity, as manifest in the plight of its child brides. The book created a storm of protest in India which lasted for over a year. As a report in the *New York Times* observed:

“it has whipped Hindu India into a frenzy. The pages of the Indian press bristle with denunciations of the book. No week passes without an indignation meeting called to register protests against it. It has been the indirect cause of scores of libel actions...An outcry has been raised for the proscription of the book in India.”³

Indian representatives in the Central Legislative Assembly made persistent and vocal demands that the colonial government proscribe the book in light of “the resentment that has been caused among the public.”⁴ What is particularly interesting about the demand for a ban on *Mother India* is that, as Barrier (1974) points out, it was among the only times that Indian representatives in colonial era legislatures *demand*

³ See “Book by Miss Mayo rouses Hindu India” in *The New York Times*, October 6, 1927, page 6.

⁴ Congressman and Hindu, Mr. K.C. Neogy, in *Central Legislative Assembly Debates*, September 20, 1927, Vol. IV No. 65, pp. 4655-4656

rather than opposed Government censorship.⁵ So why did *Mother India* create such a stir?

Mother India, for all its overtly racist and prejudicial overtones, appears to have been swept up in the larger current of colonial-era politics. In 1922, the colonial government had withdrawn a number of its strict censorship laws in the wake of political liberalization in India, a move which made banning a publication next to impossible, except on grounds of sedition. But the 1920s was also a time of increasing religious extremism, particularly in North India as extremists among all religious communities regularly used accusations of government bias to instigate militancy and violence. It was in this context that a controversial tract titled *Rangila Rasul* [The Merry Prophet] was published by a Hindu bookseller named Rajpal in 1924. *Rangila Rasul* mocked the Prophet Mohammed, paying particularly close attention to his sexual affairs and generated extensive animosity among Muslims, prompting the government to initiate criminal proceedings against Rajpal under Section 153A of the Indian Penal Code for “inciting religious hatred”.⁶

However, at the end of the three year trial, an Indian Christian justice in the Lahore High Court acquitted Rajpal on the grounds that Section 153A was intended “to prevent attacks on a community ‘as it exists at the present time’ and not to stop ‘polemics against deceased religious leaders’” (Barrier 1974, 101). A wave of Muslim protest prompted the government to pass a new law in August 1927, Section 295A, which made it an offense to “insult the religion” or “outrage the religious beliefs of any class”. Despite its faith-neutral language, the context in which the law came to be framed led a number of Hindu Members of the Legislature to accuse the Government

⁵ Barrier notes that “The most dramatic confrontation [between Indian legislators and the colonial administration on the issue censorship] came, not over what the British did, but what they did not do – ban Kathernie Mayo’s *Mother India*” (Barrier 1974, 97fn).

⁶ This discussion of the events surrounding *Rangila Rasul* draws heavily on N. Gerald Barrier (1974), pp 100-102.

of making concessions to Muslims (Barrier 1974, 102). The first references to *Mother India* appear in the Central Legislative Assembly on September 19, 1927, the *very day* that Section 295A was passed (Thursby 1975, 70). However, the book was never banned. The perceived discrimination appears to have been seized upon by Hindu extremists with Gandhi reportedly expressing concern that the protests were “in danger of being overdone” (Emilsen 1987, 74-75).⁷

In a sign that the government’s unwillingness to proscribe the book was increasingly being seen as an abdication of its responsibility toward its colonial subjects, one Member of the Legislative Assembly asked pointedly, “Is not the good name of the people of India a matter of concern for the Government?”⁸

Scholars who have studied the *Mother India* controversy have noted that it marked a pivotal moment in the evolution of the Indian national movement. Sinha (2000), for instance, notes that “the massive controversy over *Mother India* was itself an important event with long-term implications for the future development of modern nationalism as well as of middle-class feminism in India” (Sinha 2000, 1). Given this broader significance of this controversy, it does not appear unreasonable to conclude that it may also have had long-term implications for the way the role of the state in the protection of group sentiment came to be understood.

“Public Sentiment” in Censorship Policy in the “Nehruvian” Era

Jawaharlal Nehru, India’s first Prime Minister, was no revivalist. Even when he did make references to the “essence” of India’s “cultural tradition”, he always made it a point to remind his audience that a part of this tradition was its openness to outside

⁷ Notably, even though Gandhi famously criticized the book for being “a drain-inspector’s report” he did not support the demand for its proscription and even used it to prod Hindu conservatives to accept social reforms targeted at the improvement of the status of women. (See Emilsen 1987; Sinha 2000)

⁸ Member of the Central Legislative Assembly, K.C. Neogy, on September 20, 1927. Quoted in Field (1929), pp 262.

influences.⁹ However, Nehru was also a politician, and one who, at least in the early years after independence was very much under siege from Hindu conservatives through most of the 1950s, regardless of his personal popularity (Akbar 1988, PAGE). This is evident in the fact that, even in the wake of a massive victory for the Congress Party in independent India's first general election with adult suffrage, he appointed a conservative, Dr. B.V. Keskar, to the position of Minister of Information and Broadcasting, the ministry with control over the formulation of the state's censorship policy. Among Keskar's early policy initiatives was the imposition of a complete ban on the playing of popular film music on state-owned radio because of its corrupting influence. It was a move which brought him widespread acclaim from many of India's early parliamentarians.¹⁰

In 1952, just before that first general election, the government of India passed the Cinematograph Act of 1952 which was plugged as a "dignified effort to model an effective medium of healthy entertainment, national culture and mass education" (quoted in Bose 2005, xiv). In a significant move for the argument being made here, the Government abolished regional censor boards that had been established during the colonial era, establishing one Central Board of Film Certification (popularly referred to as the "Censor Board") in its place, whose duty was to monitor and rate films prior to public exhibition so as to ensure that they were suitable for Indian audiences.

By 1953, the Nehru government felt the need to give the Central government additional powers of censorship, as the limitations of the existing Act became increasingly evident. As the Minister for Information and Broadcasting, Dr. B.V. Keskar explained to Parliament:

⁹ Nehru in CAD Vol. IV, pp 741.

¹⁰ See Parliamentary Debates. Council of States. Official Report. Vol III No. 37. Tuesday, April 28, 1953, pp 4265-4266.

“Now we found after going through the Act very carefully, that there was no provision by which we could suspend the working of any film even for a day...Now this brought the fact before us that there are occasions when it is absolutely essential for Government to have power to stop the exhibition of any particular film immediately, and, as the Act exists now, it is not possible for us to do so.”¹¹

The “occasions” that Keskar referred to were apparently numerous instances of provincial governments protesting against the approval the Censors granted to various “provocative” films that were “against state governments.”¹² On April 25, 1953, the Cinematograph (Amendment) Act 1952 was introduced (and passed) in the lower house of parliament, the Lok Sabha [House of the People], following which, it went to the upper house, the Rajya Sabha [Council of States] on April 28, 1953. Among other minor provisions, the new Amendment gave the executive the power to impose a ban on a film for up to two months even after it had been passed by the newly instituted Censor Board. According to member of Parliament, T.T. Krishnamachari, who introduced the Bill in the Lok Sabha,

“The whole thing has arisen because it often happens that some such thing escapes the attention of the censors. Some particular passage might cause a lot of complication and an injury would be done to public sentiment... There may be an innuendo or a reflection on certain groups of people which may have missed the Board of Censors. It is only in such cases, when new facts come to

¹¹ In *Council of States. Official Report*. Vol III No. 37. Tuesday, April 28, 1953, pp 4193-4.

¹² Lilavati Munshi in *Council of States. Official Report*. Vol III No. 37. Tuesday, April 28, 1953, pp 4199. Among the films temporarily banned in the wake of state government objections was the Hindi language film, *Barsat*, which the government of Kashmir deemed to be derogatory to Kashmiri people.

light, when urgent action is called for Government propose to take action [sic]”¹³

The conceptualization of the role of government as the guardian of “public sentiment,” therefore, appears to have carried over from the colonial era. It is interesting to note, however, which group of people the government of India was concerned about in this particular instance. As it turned out, the move to formulate the amendment was precipitated by a complaint against a film titled *Peking Express*, which released in India around the end of 1952. According to Keskar,

“At that time we had protests from the Government of China and its representatives here that the film was highly derogatory to the people and culture of China who were shown in a very unfavourable light and that it was a libel on the them [sic]. Therefore the Government of India took steps to see the film. We had the film examined by competent persons and we also came to the conclusion that the film was really derogatory to the people of China...”¹⁴

The idea that the government ought to have the power to stop the screening of a film in India if it was found, even by Chinese government, to be “derogatory” and tantamount to “group libel” did not meet with any opposition. And yet this justification highlights the fact that early Indian censorship policy was motivated by the interests of a small national elite, concerned with national reputation and

¹³ T.T. Krishnamachari in *House of the People Official Report*. Vol IV, No. IV, Part II, Saturday April 25, 1953, pp 5125. It is interesting to keep in mind that Krishnamachari was one of the members who recommended curtailing fundamental rights in the draft constitution in light of the events of partition. See Chapter Y.

¹⁴ In *Council of States. Official Report*. Vol III No. 37. Tuesday, April 28, 1953, pp 4192-3. The film *Peking Express*, made in 1951, was an adaptation of the film *Shanghai Express*, and depicted a group of travelers escaping the clutches of Chinese communists as well as members of the Chinese underworld, in the wake of the 1949 revolution.

perceptions about India. As freedom fighter and member of the Congress Party, Violet Alva noted with disdain about Indian films of the time:

“we shall always see our village belles sex-starved – *paniharis* going round the well singing love songs. These films showing sex-starved village belles will be shown to foreigners. What a picture you are presenting to foreigners!...The racketeers in the industry show to the foreigners something which is unnatural in Indian life. I have never seen village belles going around a well singing love songs as we hear them singing in our films”¹⁵

However, alongside this concern with India’s reputation, there was a strong cultural revivalist streak evident in Parliament. For the legislature’s revivalist contingent, the debate quickly morphed into questions of whether or not the Censor Board was doing enough to protect Indian society from moral degradation and corruption. In fact, most of the representatives who spoke during the debate strongly condemned the censors for not doing enough to check the proliferation of “obscene” images on the silver screen. As Lilavati Munshi, a prominent proponent of a stricter censorship regime, noted in the Rajya Sabha:

“Foreign films, from any country, are allowed to be exhibited. They show drinking, gambling, dancing and many other inappropriate things. You allow films like this to be screened but then say that we shouldn’t copy them. Our filmmakers say that if we do not copy those movies then we can’t make ends meet. Women’s bodies are shown in such filthy ways that are inappropriate for our country. When our people watch these movies, they copy what they see...I

¹⁵ Violet Alva in Parliamentary Debates. Council of States. Official Report. Vol III No. 37. Tuesday, April 28, 1953, pp 4265-4266.

wonder why these movies, which are not worthy of our country, are allowed to be screened here at all?”¹⁶

The vast majority of parliamentarians in 1953 voiced strong support for greater government intervention in the process of censorship, particularly of films, and all of them were concerned with the compromising effects the “proliferation” of “obscene” images on Indian society and culture. The primary cause of concern was with the allegedly bad influence of western culture and norms of behavior, a concern that had been expressed by the earliest cultural revivalists in the nineteenth century. The broad-based acceptance of this idea of the need to protect Indian culture, society and spirituality from the decadence and commercialization of the west is reflected in the fact that even parliamentarians like K.K. Basu who were critical of giving such sweeping powers to the executive, still noted that the standards of films showed a “definite deterioration” and identified American movies in particular for depicting “many things against our national feeling and our national events”.¹⁷ The idea was put succinctly by one of the most vociferous proponents of a pro-active censorship policy, Violet Alva who, even as she noted that there were some very good foreign films, promptly added that “the Hollywood type of film generally does harm to us as a nation.”¹⁸ Notably, Alva was not a Hindu; she was a protestant Christian from the then province of Bombay, a Gandhian and a journalist. Her position on the issue points to the fact that the concern with “morality” was not the preserve of Hindu conservatives alone.

¹⁶ Lilavati Munshi in *Council of States. Official Report*. Vol III No. 37. Tuesday, April 28, 1953, pp 4202-4203. Note: The speech was made in Hindi and translated by the author.

¹⁷ K.K. Basu in *House of the People Official Report*. Vol IV, No. IV, Part II, Saturday April 25, 1953, pp 5126-5127.

¹⁸ Violet Alva in *Council of States. Official Report*. Vol III No. 37. Tuesday, April 28, 1953, pp 4256.

What is particularly interesting about these debates is that even as parliamentarians condemned filmmakers for not keeping “public sentiment” and Indian culture in mind when making their movies, they still acknowledged that the movie-going public watched these movies quite happily, blatantly ignoring the ways in which this reality clearly contradicted their claims of representing public opinion and sentiment on the issue. As member of the Rajya Sabha, Professor R.D. Sinha Dinkar, noted with respect to objectionable “religiously themed” movies:

“There is a united voice in the country today that the effect of films is bad and everyone’s eyes are now on the government and the censors. But the government and censors cannot be fully responsible. There are some things they can do. The rest has to be done by the people. *Films which portray Hindu deities so crudely are watched quite happily by Hindus without the slightest irritation.* They pay movie makers so that they can do more disrespect of the gods...”¹⁹

From the very beginning, then, censorship in India was more about imposing *elite* views of decency, propriety and morality on the public, but *in the name of the public itself*. Censorship in India, as anywhere else, was about packaging of a particular set of elite interests and values as representing “public sentiment”, even when these interests, as the complaints against religiously-themed movies demonstrate, were not based on any explicit articulation of public opposition.²⁰ Nevertheless, members of both houses of parliament claimed to be speaking in the

¹⁹ Professor R.D. Sinha Dinkar in *Council of States. Official Report*. Vol III No. 37. Tuesday, April 28, 1953, pp 4218-9.

²⁰ Other cases - such as the temporary ban imposed on the Hindi film *Barsat* by the government when the government of Kashmir complained that “the picture depicted the Kashmir people in a very wrong light” - were also discussed during the sessions, with members of parliament using these instances to suggest that state governments ought to be given more authority to act when they found films to be “objectionable”. See Begum Aizaz Rasul in *Council of States. Official Report*. Vol III No. 37. Tuesday April 28, 1953, pp 4269.

interests of “Indian society” and “the nation” as a community whose core values needed to be preserved in the wake of the assault of a corrupting and morally depraved western commercialism, demonstrating the extent to which ideas of cultural revivalism and the role of the state in facilitating this process was widely accepted across the political spectrum at the time of the founding, as discussed in the previous chapter.²¹ The goal for almost every single representative who spoke during the debate was to mould Indian society and public opinion so as to *create* a greater sensitivity to the need to protect tradition and culture.

The most important way to achieve this was to make sure that members of the Censor Board were more in tune with elite conceptions of Indian culture and spirituality and therefore equipped to take on their transformative role in Indian society. In fact, the Board quickly became a target of the Hindu elite. From the very beginning of the debate, it was criticized for being too westernized and cosmopolitan in its outlook. One representative and former member of the Board remarked that her erstwhile colleagues were “big/important people [“*bade log*”] who, even when they get the time to watch movies, tend to watch English language movies.”²² These criticisms of members of the board quickly led to demands for the body to be, in effect, “nativized”, in order that the “real” cultural traits of India were reflected in its cinema:

²¹ For instance, S.M. Mazumdar of the Communist Party of India, noted: “Today, whatever differences we may have, if we all are for guarding the best traditions of the Indian culture and our best heritage and if we stand for peace, then irrespective of party affiliations we should be aware of this problem”; adding later that “It is a question of outlook of upholding our traditions, Indian culture or Indian heritage...these bad films are the cause of the deterioration of our national cultural forms they are the cause of the deterioration in the fields of dance and music...[I]t is necessary for Government to tackle the problem” in *Council of States, Official Report*. Vol III No. 37, April 28, 1953, pp 4212; and 4215-6.

²² Lilavati Munshi in *Council of States, Official Report*. Vol III No. 37. Tuesday, April 28, 1953, pp 4199. [Hindi]

“Who are the people who certify our films? Who are our censors? Are they chosen from amongst those who represent the real culture of our country? ... It is not possible for the modern mentality to censor our films properly, because the modern mentality is based upon the Western outlook.”²³

By the mid-1950s, according to Derek Bose (2005), the Censor Board was already paying attention to the demands of India’s first representatives.²⁴ The increased vigilance of the censors quickly elicited a reaction from filmmakers, with the Bengal Motion Pictures Association issuing a statement in 1954 stating that:

“...we deplore any attempt on the part of anyone to exploit the lower emotions of man but we cannot agree that the female anatomy should be tampered with to please the neo-moralist that is the Indian film censor....The common boy or girl does not pay as much attention to the dress or contour of a woman as the censors do”²⁵

Notably, the idea that censorship policy should conform to India’s cultural heritage has been regularly voiced by the Indian Supreme Court in as late as 1989 in so-called “landmark” anti-censorship judgments such as the decision which overturned a ban on the Tamil-language film titled *Oru Oru Gramathile* (1989). In that case, the judges ruled that:

²³ Rukmini Devi Arundale in *Council of States. Official Report. Vol III No. 37. Tuesday, April 28, 1953, pp 4209. Italics added.*

²⁴ They appeared to pay particularly close attention to actresses’ “busts” on screen, demanding cuts even when the woman in a scene was supposed to be dead. For example in the Telugu language film entitled *Pempudu Koduku* (Foster Child) one of the censors’ notes said: “delete the close up of Sundai’s busts when she is lying dead on the bed” (Quoted in Bose 2005, xvii). Other films, particularly western films such as *Snows of Kilimanjaro* that were set in Africa and tended to show bare-breasted women were banned outright, ostensibly for “fail[ing] to portray the people of Africa in proper perspective” (Quoted in Bose 2005, xvii-xviii).

²⁵ Quoted in Bose 2005, page xviii.

“The Censors Board [sic] should exercise considerable circumspection on movies affecting the morality or decency of our people and cultural heritage of the country. The moral values in particular should not be allowed to be sacrificed in the guise of social change or cultural assimilation. Our country has had the distinction of giving birth to a galaxy of great sages and thinkers... Besides we have the concept of ‘Dharm’ (righteousness in every respect) a unique contribution of Indian civilization to humanity of the world. These are the bedrock of our civilization and should not be allowed to be shaken by unethical standards. We do not, however, mean that the censors should have an orthodox or conservative outlook... All we wish to state is that the Censors may display more sensitivity to movies which will have a markedly deleterious effect to lower the moral standards of those who see it”²⁶

Political Pluralism and the Pluralization of Censorship Authority

In 1956 the national elite had finally given in to the persistent demands for the reorganization of India’s states on a linguistic basis in the wake of persistent protest and the death of a prominent Gandhian activist who had vowed to fast until the government decreed the formation of a separate province for Telugu-speakers in the (then) Tamil dominated Madras state in southern India.²⁷ And by 1959, the Censor Board, which had been centralized under the Cinematograph Act of 1952, began to be decentralized, with Regional advisory boards being set up in Bombay, Madras and Calcutta.

²⁶ S. Rangarajan v. P. Jagjivan Ram [1989 SCR (2) 204], page 10-11 of 21.

²⁷ For a detailed and informative account of the process by which India’s provinces were reorganized into linguistic states, see Robert D. King. 1997. *Nehru and the Language Politics of India*. Delhi: Oxford University Press.

The fact that the decentralization of censorship policy occurred in parallel with the reorganization of India's states along "cultural" lines ought not to be surprising in light of the discussion in the previous chapter. Indeed, the linguistic principle voiced as early as 1928 in the Nehru Report had noted that the goal of the linguistic reorganization of states was to allow regional cultures to develop "according to their own genius". However, the national elite in New Delhi were unwilling to let go of the power to censor. The central government reserved the exclusive right to make appointments to regional boards, despite a number of demands in Parliament to grant the power of appointment to state governments. As one member commented:

"I want to stress that regarding the nomination of regional advisory councils, it is but proper that the State Governments are consulted. It is really sad and disappointing that the State Governments would have no say in the matter. Without the consultations with the State Governments, the proper functions that are contemplated under this Bill cannot be fairly and justly fulfilled."²⁸

What becomes evident early on in the debates is that representatives from what were now linguistically organized states adopted the language that was used by Hindu conservatives during the debates of 1953. As one representative from the southern state of Kerala noted:

"I am only pointing out for the consideration of the minister that so far as the choice of persons for these advisory panels is concerned, let us do it in consultation with the respective State Governments. Supposing a Malayalam film is to be adjudged – I am taking the case of Malayalam because I come from a Malayalam country – and the advisory panel consists of Tamilians or

²⁸ Shri Sampath in Lok Sabha Debates Second Series Volume XXIV, No. 24, December 18, 1958, pp 6165

Northerners, then the genius of the Malayalam language cannot be understood by them; and there is every likelihood of those persons coming to a wrong conclusion”²⁹

The official justification for retaining central government control over appointments to the Censor Board confirms Roy’s assertions that the state in India was portrayed as a neutral, a-political arbiter and mediator in the face of the country’s inherent cultural diversity. As Keskar, back in his second term as Minister of Information and Broadcasting, noted:

“The regional centers are not there in all the states. For example, there are only three regional centres, namely, in Madras, Bombay, and Calcutta. If we consult only the state government in whose territory the regional centre is located, that also will not be very fair. The persons in the panel even today are taken on the basis of their knowing the various languages, and it would be certainly helpful to us and convenient also, if we could get suggestions in regard to the names, form also the state governments as from other sources and we shall certainly take steps in that behalf.”³⁰

In the face of growing pressures from regionally concentrated sub-national groups, the national government portrayed itself as the guarantor of a fair distribution of the right to censor across all recognized cultural groups. Notably, even though the establishment of regional advisory boards and the central government’s retention of the right to appoint of members were justified as a way to make censorship more receptive to the “genius” of linguistic minorities in the states, one of the main purposes of the amendment was to strengthen central government control over censorship by

²⁹ Lok Sabha Debates Second Series Volume XXIV, No. 24, December 18, 1958, pp 6144

³⁰ Lok Sabha Debates Second Series Volume XXIV, No. 24, December 19, 1958, pp 6449

transforming what used to be informal directives or guidelines into legal clauses that were subject to sanction and punishment.³¹ Furthermore, the Amendment of 1958-59 also gave the central government “revisional powers” that allowed them to override the proceedings of either the central or the regional censor boards.³² The formal “decentralization” of censoring authority, therefore, masked attempts at greater centralization. In short, even as regionally concentrated linguistic communities’ “equal right to censor” was formally acknowledged by the national elite in the wake of the official recognition of linguistic provinces, this right was granted conditionally and almost entirely on the latter’s terms.

There is no better illustration of this pattern of group recognition than the accommodation of demands from sections of the women’s movement in India for what came to be the Indecent Representation of Women (Prohibition) Act in the 1980s. It was in the early years of that decade that women in India began to mobilize in large numbers around issues such as the procedures by which cases of rape were tried in courts of law. However, as part of this larger drive for greater political attention to the realities of women’s social and legal status, sections of the women’s movement also mobilized against the “obscene” representation of women in the media.

By the early 1980s, women’s rights groups had begun to mobilize against sexual imagery in the media and films more broadly, with protests against films like *Satyam Shivam Sundaram*, *Red Rose*, and *Pati Parmeshwar* for their “derogatory”, “insulting” and “demeaning” portrayal of women. Their efforts led to the promulgation of the Indecent Representation of Women (Prohibition) Act of 1986 by Rajiv Gandhi’s Congress government which, although it was focused on the portrayal

³¹ Lok Sabha Debates Second Series Volume XXIV, No. 24, December 19, 1958, pp 6124-6125

³² Lok Sabha Debates Second Series Volume XXIV, No. 24, December 19, 1958, pp 6446

of women in the print media, was quickly adapted and incorporated by the government into the Censor Board's "guidelines".

These debates in the Indian parliament around the Bill are significant because, as late as the 1986 there does not appear to have been a single parliamentarian who actively opposed the idea behind the law, even though there was some opposition on procedural grounds. Although the parallels with the debate from 1952 at the beginning of this chapter are impossible to miss, there were also some subtle shifts. For instance, Dr. Phulrenu Guha a veteran Congress leader and Gandhian noted that:

"it is a very laudable bill which is to protect the value of culture. ... Nowadays, sir, in the name of culture we find that fashion, freedom of expression, obscenity, nudism and sex have become rampant. Unless firm steps are taken to curb the indecent manifestation, the value of our society and the dignity of women would be ruined further. ... The image of woman is the image of the society. So it is not concerning women only but the society as a whole... We should not forget that it concerns society as a whole"³³

The arguments for the censorship of "obscenity" that in the 1950s were made in the name of cultural protection came to be broadened to include the "dignity of women" in the 1980s. For India's parliamentarians, protecting the dignity of women was understood as part of the larger political project to protect Indian culture and society from moral decay and corruption. For instance, Aladi Aruna alias V. Arunachalam noted that,

"The object of the bill is laudable which is to protect the traditional values of our culture and legacy... Encouragement of nudism and relaxation in our moral values have damaged our society further. Unless firm steps are taken to curb

³³ In *Lok Sabha Debates*. Vol 23, No. 26, December 9, 1986, pp. 195.

the indecent...and derogatory manifestation, the traditional values of our society, of our civilized society, and the dignity of women would be impaired considerably. It is not merely protecting the dignity of women at large but safeguarding the previous values of a cultured society.”³⁴

Further, representatives of women’s organizations at the debate explicitly compared the state’s neglect of women’s “right to censor” to its stated willingness to accommodate similar demands made by cultural groups. One of the proponents of the Bill, Ms. Ela Bhatt, explicitly put the comparative neglect of issues relating to the portrayal of women in the media relative to the attention paid to other group’s sentiments to these groups’ willingness to take an aggressive stance in the face of offense. In addition to noting that “Public display of the women’s body is the most blatant kind of indecency”, Ms. Bhatt also added that:

“By showing women in stereotype roles of mother, housewife and wife only they show women as unequal to men. They treat women as lesser beings...*If any other community had been portrayed so negatively and insultingly, people would have been up in arms, but when it comes to women even progressive newspapers and magazines do not shy away from demeaning women purely for the sake of profit.*”³⁵

The Bill passed in parliament and became law in 1987. However, what is notable is that Ms. Bhatt’s proposed amendment to the Bill, that the depiction of women in “servile” ways be included in the definition of “indecent representation” was expressly *rejected* by parliament, demonstrating the ways in which just like in the

³⁴ In *Parliamentary Debates. Rajya Sabha Official Report*. Vol. CXL, No. 7, November 12, 1986, pp. 212-213.

³⁵ *Ibid.*

case of linguistic groups in the 1950s, women's demands for the "right to censor" were ultimately subordinated to the interests of, this time, the conservative elite.³⁶ This selective grant of women's rights organizations' demands for new censorship rules is significant because it demonstrates the limited receptivity to such demands by groups that do not fit in with the dominant discourse of the state. Indeed, it is important to keep in mind that there was strong opposition to the Bill from other sections of the women's movement who saw the new law as giving the government yet another means to regulate female sexuality. However, as one activist who, at the time, supported the new legislation noted in retrospect, "the group that talks about morality always wins".³⁷

Religious Groups and the Right to Censor

The idea of restricting individual speech and expression in the interest of the sentiments of religious minorities has a long history in Indian law. Section 295 of the Indian Penal Code, discussed previously, explicitly prohibits "insults" to religion with "deliberate and malicious intent" and was held to be constitutional as early as 1957 in *Ramji Lal Modi v. State of Uttar Pradesh*.³⁸ Although S. 295 can be read as providing religious minorities with some version of the right to censor, it is significant that judicial interpretations of the law have tied its protections to a desire for public order, mirroring the considerations of India's founders when they were deliberating the issue of the rights of these groups. In *Ramji Lal Modi*, for example, the justices noted that:

"Insults to religion offered unwittingly or carelessly or without any deliberate or malicious intention to outrage the religious feelings of that class do not come within the section. It only punishes the aggravated form of insult to

³⁶ Ibid. pp, 278. Italics added.

³⁷ Interview with FA in Mumbai, INSERT DATE.

³⁸ 1957 AIR 620.

religion when it is perpetrated with the deliberate and malicious intention of outraging the religious feelings of that class. *The calculated form of insult is clearly to disrupt the public order...*³⁹

Protection against offense was therefore made conditional upon violent mobilization by the group concerned. Section 153A of the Indian Penal Code, another law that allows for the prosecution of speech or expression that incites “enmity” among different groups is, likewise, predicated on the likelihood of that enmity resulting in violence.⁴⁰ The tying together of the proscription of offense with the threat of violence and the disruption of public order was reiterated again in 1976, in a case involving the Hindi language translation of Tamil nationalist Periyar’s *Ramayana: A True Account*:

“The state in India is secular and does not take sides with one religion or other prevalent in our pluralistic society. It has no direct concern with the faiths of the people but is deeply obligated not merely to preserve and protect society against breaches of the peace and violations of public order but also to create conditions where the sentiments and feelings of people of diverse or opposing beliefs and bigotries are not so molested by ribald writings or offensive publications as to provoke or outrage groups into possible violent action. Essentially, good government necessitates peace and security and whoever violates by bombs or books societal tranquility will become target of legal interdict by the state.”⁴¹

³⁹ *Ramji Lal Modi v. State of UttarPradesh* [1957 AIR 620], pp 6 of 6. Italics added.

⁴⁰ section 153A which deals with the “promotion of enmity” between two or more groups (not necessarily religious) has had an incredibly flexible *mens rea* requirement in which “a person is presumed to intend the natural [that is, violent] consequences of his act” [Gopal (1969) 72 Bom LR 871 (SB)]. It is interesting and important to note that this was a case dealing specifically with an account of history. It was ruled that even a truthful account of history could be prosecuted under S. 153A if it was written “in ways that could cause trouble”.

⁴¹ *State of Uttar Pradesh v. Lalai Singh Yadav*, 1975 ACC 376, pp 4 of 10.

The recognition among activists and political groups of this legal precedent is evident in Christian activists' belief that the state was more responsive to offenses to Muslims because "they are more aggressive".⁴² Campaigners for the rights of the Jain religious minority also noted that the community's religious commitment to *ahimsa* or non-violence was one of the major reasons why they were not as successful as Muslims when it came to getting governments to acquiesce to their concerns.⁴³ The threat of public disorder in the face of offense has led the Supreme Court to pass judgments that go quite clearly against established precedent. For instance, in the case of James Laine's *Shivaji: Hindu King in Islamic India*, the court reserved its judgment and told the author's counsel that they would lift the ban on the book on the condition that the offensive portions were expunged, *even though the State government had not met the required criteria for banning the book under S. 153*.⁴⁴

In the run-up to the release of *The Da Vinci Code* in 2006, a number of governments imposed bans on the film under S. 295A, on the grounds that it was offensive to Christian beliefs and that it was likely to threaten public order. As was discussed in Chapter Two, Christian activists understood the pattern of the bans to coincide with state-level patterns of Christians' political and economic influence, with states such as Kerala, Goa, and Tamil Nadu, among others, imposing bans on the film. However, when Sony Pictures contested the ban in a number of these states, they were invariably lifted. One of the judgments, made in the High Court in the state of Andhra Pradesh, noted that "the Constitution does not confer or tolerate such individualized,

⁴² Interview with JD and MP in Mumbai, December 22 and 23, 2008. Another interviewee, a Supreme Court advocate, pointed out that the Supreme Court was unlikely to *ever* lift the ban on Salman Rushdie's *Satanic Verses* for exactly the same reasons.

⁴³ Interview with BP in Mumbai, January 15, 2009.

⁴⁴ Interview with PAS in Mumbai. To prosecute anyone under S.153 for the promotion of enmity among different groups, it is incumbent upon the state to explicitly name the groups in question. For various political reasons, this was not done in the James Laine case, and so the case ought to have been dismissed. However, the constant threat of violence and controversy surrounding the book appears to have led the supreme court to overlook this legal infraction.

hyper-sensitive private censor intrusion into and regulation of guaranteed freedoms of others.”⁴⁵

Significantly, while the Judge talked at length of the significance of the freedom of speech and expression for a democratic society, he also pointed out that one of the reasons why the state government’s ban was unconstitutional was that the Censor Board had already passed the film.⁴⁶ The existence of the Censor Board has been an important factor in judicial decisions on censorship. More specifically, the existence of the Censor Board as a pre-release vetting and certifying authority has been a major reason why judges have routinely struck down governments’ attempts to impose bans on films after they have received a green signal from the censors. So, in response to an appeal from the government that it sometimes needed the power to impose a ban on a film after its release in order to respond to “public outrage”, a bench of the Supreme Court ruled in 1991 that:

“We fail to understand the apprehension expressed by the learned counsel that there may be a law and order situation. Once an Expert Body has considered the impact of the film on the public and has cleared the film, it is no excuse to say that there may be a law and order situation. It is for the concerned state government to see that the law and order is maintained. In any democratic society there are bound to be divergent views. Merely because a small section of the society has a different view from that taken by the Tribunal, and choose to express their views by unlawful means would be no ground for the executive to review or revise a decision of the Tribunal. In such a case, the clear duty of

⁴⁵ See “High Court quashes AP ban on film” in *The Hindu*, June 22, 2006. Available online at: <http://www.hindu.com/2006/06/22/stories/2006062211990100.htm>. Last Accessed on: June 15, 2009.

⁴⁶ *Ibid.*

the Government is to ensure that law and order is maintained by taking appropriate actions against persons who choose to breach the law”⁴⁷

The Judiciary’s consistently tough stand on post- Censor certification bans has led governments to encourage regional Censor Boards to appoint “advisory panels” which consist of members of the community likely to be offended by a film to a special screening in order to consider their recommendations.⁴⁸ The Supreme Court is not oblivious to the fact that members of the Censor Board are not always attentive to the government-issued guidelines. For instance, in 1979, while dismissing a case relating to a demand for a post-certification ban on the film *Satyam, Shivam, Sundaram*, the Court ruled:

“Prosecutions like this one may well be symptomatic of public dissatisfaction with the Board of Censors not screening vicious films. The ultimate censorious power over the censors belongs to the people and by indifference, laxity or abetment, pictures which pollute public morality are liberally certificated. The legislation meant by parliament to protect the people’s good morals, may be sabotaged by statutory enemies within. Corruption at that level must be stamped out.”⁴⁹

It appears then that despite concern for public order and outrage, the established legal precedent with respect to imposing a ban on a film after it receives Censor certification has placed constraints not only on governments, but on justices

⁴⁷ Union of India v. K.M. Shankarappa [Appeal (Civil) 3106 of 1991], page 3 of 3.

⁴⁸ Cinematograph Act of 1952.

⁴⁹ *Raj Kapoor s/o Prithviraj Kapoor v. Laxman s/o Kishanlal Gavai* [1980 AIR 605], page 6 of 6. The court went on to add that “The board, alive to its public duty, shall not play to the gallery; nor shall it restrain aesthetic expression and progressive art through obsolete norms and grandma inhibitions when the world is wheeling forward...”

too. However, the courts have compensated for this handicap by frequently demanding that the Censor Board appoint representatives from a particular group when that group goes to court with complaints against an offensive movie. For instance, when the Mumbai-based Christian group, the Catholic Secular Forum, went to court to demand a ban on the film *Sacred Evil* (2006), the Court directed the Censor Board to organize a special screening *for activists belonging to the Forum* before granting the film certification. It appears that the Catholic Secular Forum had a veto in the case as the film was never released in India. Since that time, one of the primary members of the Catholic Secular Forum said that he could not think of a single instance when the group made a demand either for a complete ban on a film or for the excision of an “offensive” scene or dialog that was not enforced by the Censor Board.⁵⁰

It is important to keep in mind, however, that the legal precedent for this approach to censorship policy was set in arenas beyond the freedom of speech *per se*. More importantly, it represents the democratization of other judicial decisions which upheld similar entitlements to the majority Hindu community. For instance, in 2004, the Supreme Court upheld a law in the State of Uttar Pradesh that banned the sale and consumption meat, fish, and eggs around the Hindu shrine of Rishikesh on the grounds that “most people in Rishikesh come for religious purposes and members of several communities are strictly vegetarian”⁵¹ This move to protect the sentiments of Hindus itself had a legal precedent in the upholding of various “anti-conversion laws” in states like Madhya Pradesh and Orissa by the Supreme Court in the 1970s.⁵²

⁵⁰ Among the movies that faced the CSF’s ire were *Sacred Evil*, *Sins*, *Elizabeth: The Golden Age*, and *Naughty Nun*.

⁵¹ *Om Prakash and others v. State of Uttar Pradesh and others* 2004(3) SCC 402.

⁵² *Yuritha Hyde v. State* [(1973) A. Or. 116] and *Rev. Stanislaus v. M.P.* [(1977) 2SCR 611]. These laws placed severe restrictions on the ability of Christian missionaries to proselytize and convert individuals to Christianity. It is important to keep in mind that missionary activity had been a major bone of contention for Hindu revivalist movements since the 19th century. Similarly, various laws restricting cow slaughter have been upheld as Constitutional over the years, despite placing severe restrictions on predominantly Muslim butchers’ rights to livelihood.

By 2008, the Supreme Court had also upheld a law in the state of Gujarat that banned the production and sale of meat (and, as the court itself acknowledged, in effect, banning the consumption of meat) for a nine-day period during a religious festival of the minority Jain community, on the grounds that “since India is a country of great diversity, it is absolutely essential if we wish to keep our country united to have tolerance and respect for all communities and sects.”⁵³ The court went on to argue that

“These days, unfortunately, some people seem to be perpetually on a short fuse, and are willing to protest often violently about anything under the sun on the grounds that a book or painting or film etc has ‘hurt the sentiments’ of their community. These are dangerous tendencies and must be curbed with an iron hand. We are one nation and should respect each other and have tolerance”⁵⁴

However, with a distinctly “Gandhian multicultural” logic, the court put the onus of tolerance and compromise on individuals rather than on groups, ruling that “In a multicultural country like ours with such diversity, one must not be over touchy about a short restriction when it is being done out of respect for the sentiments of a particular section of society.”⁵⁵

Conclusions

This chapter has attempted to demonstrate how the incipient Gandhian multiculturalism that is evident in the Indian constitutional order – and as manifest in the “right to censor” – began to realize its full potential in the years after

⁵³ Hinsa Virodhak Sangh v. Mirzapur Moti Kuresh Jamat and Others. [Civil Appeal No. 5469/2005], page 11 of 14

⁵⁴ Ibid, page 13 of 14

⁵⁵ Ibid, page 14 of 14

independence. It has argued that the “right to censor” out of respect for group sentiment came to be progressively “decentralized” since the mid 1950s as politics in India has become more pluralistic and more competitive.

The “right to censor” was established as a legitimate group entitlement well before the formulation of India’s constitution, however. The present chapter noted that it had deeper roots going back to the colonial era when high profile controversies like those surrounding publications like *Rangila Rasul* and *Mother India* led to the dissemination of the idea that the state had a responsibility to protect the sentiments and reputation of its citizens. Since the 1950s, linguistic groups, religious groups, women, and most recently lower caste groups have all, to a greater or lesser extent been incorporated into the state’s censorship regime.

As Roy (2007) has argued, the state in India has long positioned itself as the a-political unifier of India’s cultural diversity. However, this diversity was acknowledged and recognized almost exclusively on the elites’ terms. So all groups were only recognized if they posed a distinct threat to public order or if they fit into the larger community of “Hindus”. Groups that could do neither were left to fend for themselves. Having “the right to censor” has consequently been established as a signifier of a group’s substantive political empowerment and its acceptance as a full and equal member in the “composite” Indian culture. Demands for censorship in the wake of group offense are, in effect, components of a larger demand for political equality. It may not be the offensiveness of a book or film itself, but what the existence and public circulation of offensive materials implies about the offended group’s political status in India that has allowed “seeking offense” to become such a potent political strategy in the country’s democratic politics.

CHAPTER SEVEN

CONCLUSION

In his book titled *The Future of Freedom*, Fareed Zakaria, the author who was among the first to use the term “illiberal democracy,” makes a special reference to the evolution of democracy in India. In particular he notes that “India is a genuinely free and freewheeling society. But looking under the covers of Indian democracy one sees a more complex and troubling reality. In recent decades, India has become something quite different from the picture in the hearts of its admirers. Not that it is less democratic: in important ways it has become more democratic. But it has become less tolerant, less secular, less law-abiding, less liberal. And these two trends – democratization and illiberalism – are directly related” (Zakaria 2003, 106). This project has sought to understand the reasons for this apparent resurgence of illiberalism in Indian politics in an era of increasing democracy, with a particular focus on the issue of censorship.

The need for a closer examination of this phenomenon was justified in Chapter One on the grounds that Zakaria’s somewhat blunt association of democratization with illiberalism is tempered by evidence from countries such as Mexico, Romania, Bolivia and South Africa which suggests that increasing political competition that is associated with democratization need not deterministically lead to increasing illiberalism (Coppedge 1993; van Cott 2005; McLaughlin 2007; Birnir 2007). The preceding chapters have argued that the persistence of censorship in India is at least partly due to the fact that having the “right to censor” has come to symbolize a group’s substantive political empowerment in the Indian constitutional order’s negotiation of socio-cultural diversity. Consequently, seeking offense has become a useful strategy for political entrepreneurs looking to discredit political incumbents’ claims of group

representativeness and attempting to establish themselves as actors of consequence in the political arena. Consequently, although Zakaria is right to identify increasing political competition with the exacerbation of illiberalism, this association has deeper roots in India's political history than he acknowledges and is not simply a contemporary manifestation of the tyranny of the majority.

This project has consequently focused on the question of how and why the strategy of seeking offense has come to be a part of the tool-kit of political strategies available to politicians in India. Chapter Two drew on media reports and interview data to uncover the role that the symbolic strategy of seeking offense plays in a political context in which electoral outcomes are said to be determined primarily by material considerations. It was an attempt to understand how actors who deploy the strategy of seeking offense understand the function that the strategy serves, particularly given that theories of political economy of ethnicity routinely suggest that identity has no innate value to voters (Chandra 2004, 11). The chapter concluded that the symbolic claim of offense is understood to serve a number of different functions in the context of clientelistic or patronage democracy, depending upon who is deploying it. For small, patronage poor political parties and candidates, the symbolic appeal serves as an apparently efficacious *substitute* for material or distributive strategies, allowing such parties to last longer than much of the literature would lead us to expect. However, these appeals also serve vital *internal* functions for India's personality-driven political parties. In particular, they allow charismatic political leaders to "keep party workers engaged" with a party that may not otherwise provide them with avenues of substantive participation in decision-making. Finally, given India's particularly strong incumbency *disadvantage*, it was argued that the symbolic appeal

provides even patronage-rich incumbents with a way to signal their credibility as sources of patronage and other material benefits after the election.

However, the chapter also noted that political parties are not the only actors who mobilize against offensive materials. Using the case of a Christian lay organization's mobilization against the film *The Da Vinci Code*, it was argued that mobilization against offensive materials allows politically under-represented or marginalized groups to galvanize an internally-divided community, and consequently signal their credibility as a "vote-bank" for politicians who incorporate them into their patronage networks. The fact that claims of offense are used by groups to symbolize their broader political marginalization in democratic politics points to one reason why the strategy may be particularly potent in identity politics: it is one way in which political outsiders may discredit incumbents' claims of group representativeness. The findings of Chapter Two suggest that symbolic and material strategies in democratic politics may be much more closely tied together than much of the literature on party politics assumes; but they also suggest that, contrary to the assertions of much of the literature on the political economy of ethnicity, identity may well have value in itself, if for no other reason than that politicians in India *believe* that it does.

The findings of Chapter Two suggested a number of hypotheses regarding the conditions under which demands for censorship were likely to arise in democratic politics in India as well as the conditions under which these demands were likely to be redressed by incumbent politicians. These were as follows: First, claims of offense and demands for censorship are more likely to be made by resource-poor and politically marginal political parties and candidates. Second, outside the realm of parties, they are likely to be made in contexts in which the "offended" group is relatively socially and politically marginalized. Third, given anti-incumbency effects across India's states, all

incumbents would be expected to respond to censorship demands in their attempts to defeat anti-incumbency. Chapter Three attempted to see if these hypotheses applied to an unconnected case, the banning of a Bollywood musical called *Aaja Nachle* [Come, Let's Dance] in late 2007 on the grounds of its offensiveness to the Dalit community, former "untouchables" in the Hindu caste hierarchy. The censorship of *Aaja Nachle* was interesting because it was only banned in three of India's thirty two states and Union Territories. The unfolding of events in the case of *Aaja Nachle* largely aligned with the hypotheses generated from the cases discussed in Chapter Two. However, the case also led to the addition of nuance to these hypotheses, by demonstrating that incumbent responsiveness to an emerging controversy was more a function of competition for the vote of the offended group rather than merely the result of anti-incumbency effects. More specifically, the chapter demonstrated that in states with tighter electoral contests, incumbents may unilaterally impose a ban on a film, without even waiting for protest to emerge in the state in question.

Having identified some of the conditions under which the censorship demand is deployed and redressed as an electoral strategy in democratic identity politics in India, the rest of the project was an attempt to understand how seeking offense came to be a part of the "tool kit" of strategies available to Indian politicians. The need for an explanation for this phenomenon was justified on the grounds that the association between identity politics and illiberal political strategy that is manifest in India does not appear to be natural, obvious or self-evident when examined in a broader comparative perspective.

Among the critiques that this project offered of existing explanations for censorship in India was that their almost exclusive focus on censorship in contemporary era neglected the continuities between the present and the past. Chapter

Four consequently took a step back into colonial India to demonstrate how illiberal political strategy and the generation of cultural controversy were routinely deployed by politicians across the political spectrum well before independence, partly in response to the colonial administration's evolving social and cultural policies. As early as the late 1890s, anti-colonial and nationalist discourse had come to be closely tied to cultural revivalism, with political strategies during mobilizations such as those against the 1905 partition of Bengal frequently forcing conformity from individuals in the pursuit of group goals. The advent of Mahatma Gandhi on the political scene around 1919 only buttressed the popular political conception of the efficacy of the cultural revivalist appeal in Indian politics to the extent that, by the 1940s, even the Congress Party's *class* competitors were routinely deploying cultural revivalist appeals in the political arena.

Chapter One had suggested that a long-standing democracy's particular negotiation of diversity, as manifest in its constitution, may produce a particular "culture of rights" which privileges certain kinds of political demands while discouraging others. However, as Horowitz (2002) has argued, constitutional designs are, more often than not, improvisations and practical responses to historical and contemporary events. Chapter Five demonstrated that Horowitz's assertions accurately describe the unfolding of events in the Indian Constituent Assembly. In particular, it argued that the horrific violence surrounding the partition of India in 1947 as well as the more long-term entrenchment of cultural revivalist sentiment in Indian politics had a profound effect on the way in which India's founders negotiated the country's inherent socio-cultural diversity. In particular, it argued that this context in which the Indian Constituent Assembly met led to extensive restrictions being placed on the liberties of individuals. These restrictions on individual liberties were justified on the

grounds that, contrary to much liberal philosophy, civil liberties were “gifts of the state” rather than natural rights. Further, relatively extensive rights were granted to cultural groups because, in the wake of partition, India’s founders recognized that the country’s stability depended upon the placation of cultural sentiment. However, these group entitlements, although expansive and universal in principle were granted selectively, depending upon the group’s political prominence, its alignment with a broader (Hindu) revivalist program, as well as the degree of the threat the group’s potential disaffection posed to the legitimacy of the Constituent Assembly. As a result, although all groups were entitled to state support for cultural development and preservation, these rights were granted selectively to some groups but not to others; they were granted more extensively to Sikhs, for instance, than to Muslims or Christians. Furthermore, the cultural concerns of Hindus over-rode (and partly determined) the grant of all other cultural rights. This was partly due to the fact that the Hindu revivalist agenda received a boost in the wake of partition, but also because items on the revivalist agenda, such as the demand for a ban on cow slaughter, allowed for the imposition of Hindu revivalist precepts on *all* individuals, regardless of group membership.

Chapter Six demonstrated the ways in which the unequal grant of group entitlements in India’s Constitutional order was reflected in the state’s censorship policy in the years after independence. It argued that early censorship policy, although implemented by an ostensibly a-political and identity-neutral state apparatus in the name of “Indian” society and culture, in practice reflected the cultural concerns of politically dominant and influential groups. In the early 1950s, censorship policy was dominated by Hindu revivalist elites’ concerns with the corruption of Indian culture by western influences as well as “obscene” Indian cinema. As new cultural groups came

to be empowered with the linguistic reorganization of states in the mid-to-late 1950s, they began to demand that the “right to censor” be decentralized. This right of cultural groups to impose restrictions on the liberties of individuals has been frequently upheld even by the Indian judiciary, as justices have ordered that representatives of cultural and religious groups be granted representation on the Indian censor board whenever a film is deemed to be potentially offensive and likely to create a breach of public order. In short, the evolution of Indian censorship policy since independence reflects the gradual equalization and decentralization of Gandhian multicultural group entitlements, whereby the state apparatus enforces individual conformity to the sentiments of cultural groups.

Re-thinking shifts in Indian Politics: The Constitutional Order and Contemporary Developments

The Constitution of India is not the first place scholars would begin their search for the roots of censorship practices in contemporary democratic politics. Indeed, beginning with the work of Granville Austin (1966) much of the scholarly literature on India’s constitutional history has tended to coalesce around the argument that the document itself is, despite all its internal tensions, liberal in nature (See, for instance, Austin 1966; Bhargava 2000, 2008; Mahajan 1998, 2008; Khilnani 1999, 2005). Given this agreement about the philosophical underpinnings of the Indian constitution, Bhargava notes that “the fact that [the idea of individual rights] has not gone deeper [in India] requires explanation” (Bhargava 2000, 35). In short, India’s contemporary “age of intolerance” and the larger trend toward political extremism are usually seen as being in fundamental tension with the Indian constitutional order. The conclusions of this project, therefore, go against much of the literature on the nature of

the Indian constitution, by suggesting that India's founding constitutional principles have played an important role in shaping patterns of (illiberal) political action in the years since independence.

Re-thinking the philosophical foundations of India's founding order also allows for the recognition of the continuity between India's past and present beyond the realm of censorship policy. As has been mentioned previously, the dominant trend in the literature on Indian politics has been to see India's founding order as representing a liberal, secular consensus that was somehow divorced from popular politics. It is a thesis that has led a number of recent studies on Indian politics to see the contemporary incidence of religious intolerance and drives for cultural conformity as challenging India's founding principles (Kohli 1990; Corbridge and Harriss 2000; Hasan 2005; Nussbaum 2007). For instance, authors such as Zoya Hasan (2005) and Atul Kohli (1990) suggest that the rise of identity politics and political fragmentation has "damaged" the Constitution (Kohli 1990, 6) or put "the whole constitutional legal order...in difficulty" (Hasan 2005, 15).¹

Arguments such as these reflect a broader tendency in the literature toward the periodization of post-independence politics in India (For instance, see Corbridge and Harriss 2000, Kohli 2002, Ray and Katzenstein 2005; and Yadav and Palshikar 2006). The contemporary rise of Hindu nationalism in particular is understood to represent a dramatic shift. So Yadav and Palshikar (2006), for instance, note that the "transition from the Congress system to the post-Congress polity was neither gradual nor smooth. It was the product of a systemic shock, a cataclysmic transformation... This period was

¹ To the extent that some scholars have begun to take a closer look at these principles and their political consequences (such as Hansen 2000), they have often looked only in passing at one particular source of tension (such as individual versus group rights) without providing a whole lot of evidence to support their contentions. This has often opened their arguments to undeserved and flippant dismissal. For instance, see Bhargava's (2008) rebuttal of Hansen's contentions about the relative priority accorded to individuals and groups in the Constitution.

marked by a fundamental reconfiguration of the party political space.” They go on to argue that the rise of Hindu nationalism in particular has “altered the terms of the political discourse. It has pushed the secular democratic character of the nation-state into an arena of contestation” (Yadav and Palshikar 2006, 99, 101).

The findings of this project suggest that the shift to the “Hindutva” political era may not be as dramatic as much of this literature suggests. In doing so, they build on a small but significant body of work by scholars like Hansen (2001) and Roy (2007) who have begun to identify the roots of contemporary Hindu nationalism in the secular discourse of India’s “Nehruvian” past. A study of Nehruvian era censorship policy suggests that these continuities may, in fact, be more overt than the existing literature suggests.

Censorship and the Formality of the Informal in the Indian Constitutional Order

This project suggests that part of the reason for the relative neglect of the Indian Constitution’s illiberal characteristics is that much of the literature has chosen to focus on the realm of written constitutional clauses, consequently ignoring the interpretations that many of India’s founders gave to these ostensibly liberal tenets. The tendency to focus on the Constitution’s written clauses is shared by much of the literature in comparative politics which sees constitutions as “formal” institutions that are enforced by official organs of the state, consequently placing them in opposition to “informal” institutions: unwritten rules that are enforced primarily “outside officially sanctioned channels” (Helmke and Levitsky 2004, 727). This focus on the Constitution as written word has meant that scholars look at the list of Fundamental Rights in the document and, while acknowledging the way they have been restricted in

the document itself, suggest that their existence reflects the significant liberal leanings of India's founding order. But this neglects the important fact that was noted in Chapter Five, namely, that these rights were described in the Constituent Assembly by no less the head of the Drafting Committee, B.R. Ambedkar, as "gifts of the state" rather than as "natural rights", marking a significant and under-appreciated departure from liberal principle.

Taking a closer look at the "original intent" behind ostensibly liberal constitutional clauses allows for a more accurate understanding of what these written words actually implied to India's founders. But incorporating publicly available interpretations of written (formal) constitutional clauses into analyses of a country's constitutional order requires that the apparently clear heuristic distinctions between the "formal" and the "informal" institutional arenas be challenged. Scholars like Helmke and Levitsky tend to focus on constitutions as sources of formal rules of the game, such as the separation of powers between legislatures, executives and judiciaries, or electoral rules where there is likely to be a high degree of clarity in written constitutional clauses; however, it is unclear that the same degree of clarity exists once we move into the realm of civil liberties and philosophical principles embodied in constitutions, which are much more open to influences from the "informal" realm over time even when enforced by state institutions. For instance, Feldman (2008) has argued that Supreme Court justices in the United States were heavily influenced by political developments in the public sphere as they gave the First Amendment increasingly liberal interpretations beginning in the 1940s. Scholars like Jon Gould go to the extent of suggesting that when it comes to constitutional principles like the freedom of speech, "informal understandings of speech rights have as much, if not

more, sway in ordering civil speech norms than do judicial interpretations” (Gould 2005, 44).

One could posit, therefore, that with respect to civil liberties clauses, as with the negotiation of cultural diversity, the boundaries between the formal and the informal rules of the game are frequently fuzzy, with the two more often than not being mutually constitutive. The blurring of the distinction between the formal and informal arenas in the Indian case is exacerbated by the fact that much of the country’s negotiation of diversity and individual liberty took place at its founding, in a Constituent Assembly in which the distinction between the formal and the informal can hardly be said to have been well-established. In such a context, formal procedures and informal arrangements frequently overlapped, to the extent that leaving the negotiation of diversity and individual liberty to the informal arena became one of the formal rules of the game.

The paradoxical formality of the informal in India’s negotiation of diversity is also evident in censorship policy and practice in India. For instance, Section 5(3) of the Cinematograph Act of 1952 posits, somewhat vaguely, that “The [Censor] Board may consult in such manner as may be prescribed any advisory panel in respect of any film for which an application for a certificate has been made.” The membership on such “advisory panels” has frequently included members of cultural or religious groups who the Board (or the government) believes are likely to be offended by a particular film. The vagueness of this “guideline” is significant; it is for precisely this reason that politicians like Ramdas Athavale, mentioned in Chapter Three, could use a demand for the formal representation of Dalits on the Censor Board as a way to outbid his political competitors in the wake of the controversy around *Aaja Nachle*.

The formality of the informal in Indian censorship policy was similarly evident when, in December 2007, the Minister of Information and Broadcasting in the governing center-left coalition, Mr. Priya Ranjan Dasmunshi, told parliament that “[The] Government’s policy is that nothing should be done in the country which will offend any community, caste or religion.”² Notably, neither Dasmunshi, nor any written constitutional clause to date, has laid out any formal standards by which offensiveness is to be determined.

Liberalism and Illiberalism in Indian Politics

It is not the intention of this project to argue that Indian politics allows no space for the freedom of expression or for public debate. Indeed, as was mentioned in the preceding chapters, there is significant evidence of genuine pluralism, public debate and liberalism within Indian society. Further, and as was noted in the introduction itself, one other thing that this project does *not* argue is that Indian politics allows no room for liberal politics, or even that illiberalism always or inevitably triumphs in the political arena. What it *does* argue, however, is that the Indian constitutional order’s illiberal elements have provided powerful ammunition to conservative, revivalist, or illiberal sections of the political elite, making the task for any liberal or “progressive” opposition that much harder. For instance, in as early as 1958, a number of members of parliament decried attempts by the central government to tighten censorship rules by transforming the “guidelines” of the preceding years into punishable offences. In response, Mr. B.V. Keskar, the then Minister for Information and Broadcasting stated that:

² Priya Ranjan Dasmunshi in the Lok Sabha, December 1, 2007.

“we must remember that in this matter the Constitution itself recognizes censorship. It is in the schedule and the Central government has been considered the proper authority regarding this matter. The Constitution also recognizes the right to put reasonable restrictions in the interest of various subjects important to the community, which for the sake of clarification, we have mentioned in a clause of the Bill itself”³

But it is also important to note that the Indian Constitutional order more broadly speaking is not composed exclusively of clauses on cultural rights and (restricted) freedoms of individuals. This project has emphasized these particular aspects of the constitutional order because they have tended to be neglected in much of the literature on the subject and because they are relevant to the more specific phenomenon under examination, namely, the use of censorship demands in democratic identity politics. Similarly, the Indian national movement cannot be said to be defined exclusively by cultural revivalism. For instance, in response to the controversy surrounding the book *Mother India* in the late 1920s, discussed briefly in Chapter Six, Gandhi actually encouraged debate and reform on issues like the status of women in Indian society (Emilsen 1987, 74-75). Similarly, it is impossible to neglect the fact that Nehru, along with a significant section of Congress leaders, was socially progressive and committed to the promotion of social and economic equality. The Constitution’s non-justiciable Directive Principles of State Policy, while containing Hindu revivalist elements such as the declaration of the desirability of a ban on cow slaughter, also contains clauses that encourage the state to provide free education and ensure a minimal standard of livelihood to all Indian citizens. So what happened to this strand of Indian politics?

³ Lok Sabha Debates Second Series Volume XXIV, No. 24 – December 19, 1958, pp 6424

One could posit that although these other strands of politics have not disappeared, the policies that emerged from the Constituent Assembly made these broader concerns with the welfare of individuals conditional on group membership. For instance, economic benefits were not granted to all of India's poor, but only to the poor belonging to particular caste or religious groups. Members of so-called "scheduled castes" who convert out of the Hindu tradition consequently lose their entitlements under the country's affirmative action programs even though the fact of their religious conversion does not change the reality of their social and economic marginalization. Such policies, reflecting once again a concern with maintaining the size and strength of the Hindu "community," have facilitated the continued marginalization of poorer sections of religious minorities like Muslims and Christians, who have routinely been ignored by the state's affirmative action programs.

The fact that individual rights and entitlements were conditional upon group membership also provides a possible reason for the perpetuation of the politics of identity as opposed to class in the years since Indian independence. If access to state support is conditional upon the identity group one belongs to, it is in the interest of individuals to organize along identity-based cleavages in order to make demands on the state, because that may be the only language that state institutions understand. The Indian state's selective receptivity to individual demands was evident most obviously in a 2009 Supreme Court decision that responded to eunuchs' (transgenders) demands for state support to compensate for their social and economic marginalization with the question: "What are *kinnars* [transgenders]? A caste, or a community?"⁴

⁴ In "Transgenders get sympathy from SC, but no relief" in *The Times of India* online, February 17, 2009. Available online at: <http://timesofindia.indiatimes.com/India/Transgenders-get-no-relief-from-SC/articleshow/4138450.cms>. Last accessed on: February 17, 2009. The petitioner, Sonam Singh, was asking for an economic rehabilitation package similar to that given by the state to historically marginalized groups referred to as "scheduled castes" and "scheduled tribes".

Of course, this is not to suggest that change is impossible or even unlikely. Indeed, there are already signs that India's social pluralism is beginning to be reflected in the country's politics. For instance, the transition from a relatively closed society to one in which *Baywatch* could be watched daily in the comfort of your own home has occurred in parallel with important shifts within the Indian public sphere. It is interesting, for instance, to note that some of the women's rights activists who helped to usher in the Indecent Representation of Women Act in 1986 today campaign vociferously against the Indian state's attempts to target "bar dancers" – women who dance, fully clothed, at bars targeted at low and middle income customers – for the obscenity and immorality of their actions. Similarly, the English language print media, a large section of which actively supported a ban on *The Satanic Verses* in the late 1980s, today decry attempts at censorship almost reflexively.

Aside from events in the cultural sphere, the 1990s have also produced a spate of movements for what could be called secular citizenship-enhancing rights: the right to work, the right to education, and the right to information – rights that are guaranteed explicitly to individual citizens, in theory, regardless of group membership. As has already been noted, many of these rights were always a part of the constitutional order, but as non-justiciable "Directive Principles of State Policy" for which the state was not accountable in a court of law. The era of liberalization has produced movements both at the rural grassroots as well as in urban metropolises for the transformation of these principles into concrete and justiciable rights to which all Indian citizens are entitled, and for which the state will be held accountable. Such mobilization has the potential (even if in the very long term) to lead to a paradigmatic shift in the relationship between the individual and the state in India, where access to public services and

resources may no longer be dependent upon ascriptive identity or attachment to a political patron.

Furthermore, generational effects and debates within the public sphere may also stimulate changes in political perceptions of public opinion on issues such as the enforcement of individual conformity to traditional cultural norms. For instance, if one looks close enough, it is possible to identify the beginnings of a subtle shift in political party strategy over the years. In the early 1990s, when Hindu fascism was at its height, the Shiv Sena party in Mumbai began a campaign against Valentine's Day on the grounds that it was corrupting Indian culture by encouraging young people to mingle across the sexual divide. As the years have gone by and a younger generation of voters has become decisive in electoral contests, however, the party has begun moderating its stance, encouraging Indianized versions of the celebration,⁵ even as opposition parties in the city began mobilizing their cadres to *prevent* the Sena's cadre from attacking or harassing couples on Mumbai's streets.⁶

In a similar vein, persistent efforts by gay rights activists in India to push for the repeal of Section 377 of the Indian Penal Code, which criminalizes consensual homosexual sex, led the Delhi High Court to declare in July 2009 that the law is inconsistent with constitutional principles of equality and personal liberty. Notably, the court's decision was based on the recognition of homosexuals as a group that was entitled to benefit from the Indian constitution's commitment to "recognize, protect, and celebrate diversity."⁷ However, while demonstrating consistency with founding principles in this respect, the judgment also made a significant departure from the

⁵ See "Thackeray suggests Indian version of V-Day" in *Times of India*, February 13, 2006. Available online at: <http://timesofindia.indiatimes.com/articleshow/1413273.cms>. Last Accessed on July 14, 2009.

⁶ See "Valentine's Day: It's Shiv Sena vs NCP in M'ashtra" by Shiv Kumar in *The Tribune*, February 11, 2009. Available online at: <http://www.tribuneindia.com/2009/20090212/nation.htm#1>. Last accessed on July 14, 2009.

⁷ Naz Foundation v. Government of NCT of Delhi and Others, WP(C) No. 7455/2001, pg 65

original intent of India's founding order with respect to its conceptualization of the sources of individual liberties. Far from thinking about individual rights as "gifts of the state", Justice S. Muralidhar noted that

"fundamental human rights ...belong to individuals simply by virtue of their humanity, independent of any utilitarian consideration. A Bill of Rights does not 'confer' fundamental rights. It confirms their existence and accords them protection"⁸

This final case is yet another instance of how the informal arena frequently shapes and informs developments in the formal arena, demonstrating some of the reasons why even though India's founding order has profoundly shaped patterns of politics in the country in the years since independence, it has not entirely blocked off avenues for the expression of social pluralism in the country's politics. However, to the extent that illiberal principles continue to be entrenched in constitutional-legal discourse, one might expect that change is more likely to take place in response to pushes from civil society rather than from unilateral initiative on the part of India's political elites.

The Lessons from the Indian Experience

It was argued at length in Chapter Five that India's particular negotiation of diversity was primarily a product of historical and conjunctural factors rather than the result of a general psychological proclivity towards illiberalism. It reflected the interests of elites who confronted daunting administrative challenges in the form of widespread disorder and violence as well as the prospect of an election based on full

⁸ Ibid, pg. 98; An appeal against the court's decision, on the grounds that it injured public morality, was accepted by the Supreme Court of India within a few days after this judgment was passed.

adult franchise for the first time in history. It was in this context that India's founders formulated the particular hierarchy of individual and cultural rights that characterizes the Indian founding order. This underlying desire for stability in the face of overt challenges to the capacity of the state to maintain order can hardly be said to be a feature unique to the Indian founding.

Indeed, as was mentioned in the opening chapter, this is a challenge that has confronted the vast majority of what Kymlicka (1996) refers to as "multinational states" that emerged out of colonialism in the decades following the end of the Second World War. This raises the question of what lessons, if any, the Indian case can provide for new or aspiring democracies in the so-called developing world that are confronted with the reality of seemingly unmanageable socio-cultural diversity. The arguments in the preceding chapters have frequently drawn upon particularities of the Indian case: Indian society's particular experience with colonialism and the subsequent politicization of questions of social and religious reform; the political entrenchment of a particular set of ideas regarding the importance of cultural protection and revitalization; and the political strategizing of prominent politicians in the face of electoral competition. Such arguments appear to militate against generalization or even the generation of "lessons" for other new democracies considering moves to institutionalize rights to cultural protection.

To the extent that one is still concerned with the implications of the adoption of particular models of multiculturalism, however, the Indian experience does suggest that the goal of long-term democratic stability may sit only uneasily with the quest for the institutionalization of respect for individual liberties. An extensive body of literature in the sub-field of political philosophy has developed around the Rawlsian notion of "political liberalism," the idea that democracies may be able to

accommodate their social and cultural diversity without compromising liberal principles. It is essentially a search for “a political common ground” (Forst 2004, x) in the face of an often extreme diversity of moral points of view within single polities. Notably, the primary concern of the political liberal project is with the stability of the liberal democratic order (Gray 2000; Young 2004). The stated reason for this focus on stability is that it is deemed to enable *individuals* to “have the opportunity to pursue and realize their chosen vision of the good life” (Young 2004, 4). The idea of political stability as allowing individuals to pursue their desired ends freely, and as therefore inherently desirable, goes back to the Renaissance ideas of thinkers like Machiavelli. Even scholars who find fault with the Rawlsian project for various reasons, see peace and stability as necessary and important goals (Gray 2000, Klosko 2003). Without denying the importance of stability, this study’s findings about the Indian experience with multiculturalism suggest that scholars of political liberalism ought to pay closer attention to the precise conditions under which such an accommodation of diversity is more or less likely to meet these high expectations.

This project suggests that much may hinge on the content of cultural rights to which groups are entitled as well as the context in which diversity is negotiated. The co-constitution of the formal and informal in the realm of civil liberties and multiculturalism suggests that proponents of group rights to cultural protection ought to pay close attention to the history of the polity concerned, with a particular focus on the ways in which questions of cultural protection and the roles and responsibilities of individuals in their respective cultural communities are discussed in the public sphere prior to the granting of formal recognition of group cultural rights. In contexts in which local cultural politics is imbued with a particularly revivalist or supremacist fervor, as was the case in pre-independence India, making the state responsible for

cultural protection and preservation is likely to severely compromise the liberties of individuals. The only way to counter these tendencies may be to redefine the state's relationship with individual citizens, as the case on the rights of homosexuals cited above has done in India. Unless the grant of cultural rights takes place alongside the recognition of an active role for the state in the protection and encouragement of individual liberty, the consequences of their adoption are more than likely to be illiberal.

However, it is unclear exactly how much agency a country's founders have when it comes to making these kinds of choices regarding the allocation and content of individual and group rights. Indeed, perhaps the single most significant lesson of the Indian case is that it is unrealistic to talk of "models" of constitutions or multicultural arrangements that can simply be transported from one context to another. As Horowitz (2002) has argued, every constitutional negotiation involves improvisation and adaptation to proximate and historical circumstances rather than the blind adoption and application of "models" or ready-made institutional designs. In India, it was the political-historical context in which cultural rights were negotiated that led to the institutionalization of "thick multiculturalism" and "Gandhian multiculturalism" as well as the hierarchy of multicultural entitlements across different types of groups. The historically contingent association of political autonomy with cultural revival that was such an important part of nationalist discourse in India exercised significant influence on decision-making within the country's Constituent Assembly. Along with the violent partition of India in 1947, it led the resulting document to be imbued with its peculiarly illiberal content with respect to the relative prioritization of individual and group rights.

In short, constitutional orders and the patterns of democratic politics that they engender may well be path dependent, the product of historically contingent choices rather than coherent political and philosophical visions. To the extent that we seek explanations for phenomena like democratic stability and consolidation or the association (or lack thereof) between democratic practice and liberal principle, it behooves us to pay attention to the context in which these choices were made in the past, as well as the reasons why what were once historically contingent choices may continue to be made well after the passing of a democracy's founding moment.

APPENDIX: CENSORSHIP EVENTS IN MUMBAI NEWSPAPERS

Date published	News Source	State, City	Target	Group	Party Affiliation (if any)	Action/justification
8-Mar-07	HT	Tamil Nadu, Chennai	Exhibition of paintings on Aurangzeb	Muslim organizations	Unknown	paintings depicted Mughal emperor killing Hindus and destroying temples
27-Apr-07	HT	Rajasthan Jaipur	Richard Gere and Shilpa Shetty	Jaipur Police	Bharatiya Janata Party	kiss on cheek with intention "to assault Indian culture"
28-Apr-07	Sunday Express	Maharashtra, Mumbai	"Shivaji: Hindu King in Islamic India" by James Laine	Shiv Sena	Same	"defames Shivaji"
10-May-	NDTV	Tamil Nadu,	"Dinakaran" newspaper;	Dravida Munnetra	Same	opinion poll with

07		Chennai	3 burnt alive	Kazhagam (DMK)		unfavorabl e findings
11- May- 07	HT	Gujarat, Vadodara	Chandramo han, Artist and Student	Akhil Bharatiya Vidyarthi Parishad	Bharatiya Janata Party	"offensive" paintings
11- May- 07	HT	Gujarat, Vadodara	Chandramo han, Artist and Student	Vadodara Police	Bharatiya Janata Party	"offensive" paintings
15- May- 07	HT	Kottayam , Kerala	Jeo Baby, student of Mass Communica tions	St. Joseph's College of Communic ation	NA	student film project on homosexua lity
4-Jun- 07	Mumbai Mirror	Maharash tra, Kalyan	Orkut - social networking site	Shiv Sena	Same	postings that were derogatory to medieval emperor Shivaji and Shiv Sena chief Bal Thackeray
8-Jun- 07	HT	Maharash tra, Thane	Orkut - social networking	Thane Police	Congress/ NCP	postings that were derogatory

			site			to medieval emperor Shivaji and Shiv Sena chief Bal Thackeray
10-Jun-07	Mumbai Mirror	West Bengal, Kolkata	"Bow Barracks Forever"; dir: Anjan Dutt	Anglo-Indians	NA	believed that actors' use of abusive language would spoil the image of the community
13-Jun-07	HT	Maharashtra, Mumbai	"Dev Kari Love" , drama/play	Shiv Sena	Same	title of the play deemed "vulgar" and hurtful to Hindu sentiments
13-Jun-07	TOI	Maharashtra, Mumbai	ad hoardings depicting Hindu gods	Shiv Sena	Shiv Sena	depicting Hindu deities in "poor

			in jeans			light"
17-Jun-07	Mumbai Mirror	Maharashtra, Mumbai	"Macho" Underwear advertisements on bus-stop	Bharatiya Janata Party and Police	BJP and Congress/NCP	"obscene"
22-Jun-07	HT	Andhra Pradesh	Christian Missionaries	Government of Andhra Pradesh	Congress	proselytization in Hindu pilgrimages spot
22-Jun-07	Mumbai Mirror	All-India	"Jaati Todo, Bharat Jodo"; dir: Shiv Khera	Censor Board of India	Congress/UPA	critical of caste-based reservations
25-Jun-07	TOI	Chhattisgarh, Raipur	"Red Swastik", dir: Vinod Pande	Bajrang Dal	Bharatiya Janata Party	"holy symbol being insulted"
29-Jul-07	HT/Sunday Express	Maharashtra, Mumbai	"Jashn-e-Azadi"; dir: Sanjay Kak	Mumbai Police	Congress/NCP	"we had information that the film is objectionable"

31-Jul-07	HT	All-India	"Lux Cozy" and "Amul Macho" Underwear advertisements	Ministry of Information and Broadcasting	Congress/UPA	"indecent, vulgar and suggestive"
9-Aug-07	HT	Andhra Pradesh, Hyderabad	Taslina Nasreen, Bangladeshi author	Majlis-e-Ittehadul Muslimeen (MIM)	Same	"offensive" writings
12-Aug-07	TOI	Andhra Pradesh, Hyderabad	Taslina Nasreen, Bangladeshi author	Government of Andhra Pradesh	Congress	"promoting enmity between different groups on the grounds of religion, race, or language"
17-Sep-07	HT	Maharashtra, Madampur	Library	Bajrang Dal	Bharatiya Janata Party	stocked "Ramayant il Satya" ["The Truth About the Ramayana"

23-Nov-07	HT	West Bengal	Taslina Nasreen, Bangladeshi author	Government of West Bengal	Communist Party of India (Marxist)	"offensive" writings
1-Dec-07	Mumbai Mirror	West Bengal, Kolkata	"Dwikhandita" by Taslima Nasreen	Government of India	Congress/UPA	Nasreen deletes "offensive" portions of her autobiography
1-Dec-07	TOI	Uttar Pradesh	"Aaja Nachle"; dir: Anil Sharma	Government of Uttar Pradesh	Bahujan Samaj Party	lyrics of a song offensive to Dalit community
2-Dec-07	Sunday Express	Punjab	"Aaja Nachle"; dir: Anil Sharma	Government of Punjab	BJP/ Akali Dal	lyrics of a song offensive to Dalit community
2-Dec-07	Sunday Express	Haryana	"Aaja Nachle"; dir: Anil Sharma	Government of Haryana	Congress	lyrics of a song offensive to Dalit community

3-Dec-07	TOI	Bihar	"Aaja Nachle"; dir: Anil Sharma	Govern- ment of Bihar	Bharatiya Janata Party	lyrics of a song offensive to Dalit community
15-Dec-07	HT	Maharash tra, Mumbai	Jatin Das, painter	Mumbai police	Congress/ NCP	exhibition of nudes
19-Dec-07	TOI	Tamil Nadu, Chennai	Sushmita Sen, Bollywood Actress	Public Interest Litigation, Madras High Court	Unknown	"lewd comments" on acceptabilit y of pre- marital sex
21-Dec-07	TOI	All-India	Television News Channels	Ministry of Informatio n and Broad- casting	Congress/ UPA	regulation of "sting operations" on politicians
22-Dec-07	TOI	Gujarat, Vadodara	"Taare Zameen Par", dir: Aamir Khan	Sardar Patel Group	Unknown (likely, BJP)	Khan had been critical of a dam project in the state

24- Dec-07	HT	New Delhi	M.F. Husain exhibition	Bajrang Dal	Bharatiya Janata Party	"obscene portrayal of Hindu goddesses" in previous work
25- Dec-07	HT	Bihar	Ravi Kishen, actor	Sunil Kumar, MLA; Bihar Jharkhand Motion Picture Association	Bharatiya Janata Party	support to Mithun Chakraborti
25- Dec-07	HT	Bihar	Mithun Chakraborti, actor	Sunil Kumar, MLA; Bihar Jharkhand Motion Picture Association	Bharatiya Janata Party	personal rivalries
27- Dec-07	HT	Jammu and Kashmir	Dancing troupe of Kashmiri girls	Muzzafar H.Baig, Deputy Chief	Congress/ PDP	"girls dancing...i s neither permitted in

				Minister		Kashmiri culture nor by our religion[Islam]"
28-Dec-07	HT	New Delhi	M.F. Husain exhibition	Shiv Sena	Same	"mocking religious sentiments in the name of art"
7-Jan-08	Mumbai Mirror	New Delhi	Taslina Nasreen, Bangladeshi author	Government of India	Congress/UPA	"offensive" writings
10-Jan-08	HT	Uttar Pradesh, Muzzafarpur	Australian Cricket players	Sudhir Kumar Ojha	Unknown	depicting themselves as Hindu god "Hanuman"
2-Feb-08	TOI	Maharashtra, Mumbai	Sanjay MG, lecturer at VJTI (university)	Bharatiya Kamgar Sena	Shiv Sena	reading poem with "objectionable content" about medieval

						emperor Shivaji
18- Feb-08	HT	Uttar Pradesh	"Rani" by Jaishree Misra	Govern- ment of Uttar Pradesh	Bahujan Samaj Party	novel was insulting to 19th century queen of Bundelkha nd region
18- Feb-08	TOI	Gujarat, Ahmedab ad	"Jodhaa Akbar", dir: Ashutosh Gowarikar	Rajput community	Unknown	ransacked cinema halls
18- Feb-08	TOI	Bihar, Patna	"Jodhaa Akbar", dir: Ashutosh Gowarikar	Rajput community	Unknown	ransacked cinema halls
18- Feb-08	TOI	Haryana, Gurgaon	"Jodhaa Akbar", dir: Ashutosh Gowarikar	Rajput community	Unknown	ransacked cinema halls
23- Feb-08	HT	Madhya Pradesh	"Jodhaa Akbar", dir: Ashutosh Gowarikar	Govern- ment of Madhya Pradesh	Bharatiya Janata Party	"law and order"

23- Feb-08	TOI	Rajasthan	"Jodhaa Akbar", dir: Ashutosh Gowarikar	Govern-ment of Rajasthan	Bharatiya Janata Party	"law and order"
23- Feb-08	TOI	Punjab	"Jodhaa Akbar", dir: Ashutosh Gowarikar	Govern-ment of Punjab	BJP/ Akali Dal	"law and order"
23- Feb-08	TOI	Haryana	"Jodhaa Akbar", dir: Ashutosh Gowarikar	Govern-ment of Hayana	Congress	"law and order"
27- Feb-08	HT	New Delhi	Dept. of History, Delhi University	Akhil Bharatiya Vidyarthi Parishad	Bharatiya Janata Party	inclusion of essay "Five Ramayanas" in syllabus
27- Feb-08	HT	New Delhi	"Shivaji: Hindu King in Islamic India" by James Laine	Supreme Court of India	NA	offered to lift ban if offensive passages were removed
29- Feb-08	HT	Maharashtra,	"Jodhaa Akbar", dir:	Rashtriya Swayamse	Bharatiya Janata	attacked cinema

		Sangli	Ashutosh Gowarikar	vak Sangh (RSS)	Party	halls
1-Mar-08	HT	Uttar Pradesh	"Jodhaa Akbar", dir: Ashutosh Gowarikar	Govern- ment of Uttar Pradesh	Bahujan Samaj Party	"offensive" to Rajputs
2-Mar-08	HT	Uttar Pradesh	"Jodhaa Akbar", dir: Ashutosh Gowarikar	Govern- ment of Uttar Pradesh	Bahujan Samaj Party	"law and order"
29- Mar-08	Mumbai Mirror	All-India	"Khuda Ke Liye"; dir: Shoaib Mansoor	Islamic community representati ves and Censor Board of India	Congress/ UPA	"preachy dialogues" were cut
1-Apr-08	Mumbai Mirror	All-India	"Jannat"; dir: Mahesh Bhatt	Censor Board of India	Congress/ UPA	use of the word "prostitute" in the movie previews
3-May-08	Mumbai Mirror	West Bengal	"Whose Land is this Anyway?",	Govern- ment of West	communis t Party of India	critical of the governmen

			dir L. Mukhopadhyay	Bengal	(Marxist)	t's land allotment to industry
3-May-08	Mumbai Mirror	West Bengal	"This Land is Mine"; dir: L. Mukhopadhyay	Government of West Bengal	Communist Party of India (Marxist)	critical of the government's land allotment to industry
7-May-08	TOI	Tamil Nadu, Chennai	"Dasavatham", dir: KS Ravikumar	Sri Vaishnava Dharma Samrakshak Society	Unknown	"objectionable scenes"
13-May-08	HT	Maharashtra, Mumbai	"Bombay Stock Exchange"; "Bombay Hospital"	R.R. Patil	NCP	use of "Bombay" in the name
19-May-08	TOI	All-India	"Shaala Aahe Shikshan Nahi" by H. Kulkarni	All India Fed. Of Elementary Teachers	Unknown	critical of teachers in govt. schools

29-May-08	TOI	Maharashtra, Mumbai	"Ambedkarache Khare Swarup": V. Satpute	Mumbai Police	Congress/NCP	"committing an act intended to outrage the religious feelings of any class by insulting its religious beliefs"
1-Jun-08	TOI	All-India	Use of lions, tigers, monkeys, etc in films	Animal Welfare Board of India	Congress/UPA	animal protection
2-Jun-08	The Hindu	Gujarat, Ahmedabad	Bharat Desai, Prashant Dayal, journalists	Ahmedabad Police Comm: OP Mathur	NA	"sedition and treason"
5-Jun-08	Mumbai Mirror	Maharashtra, Mumbai	Bombay Andhra Mahasabha and Gymkhana	Mumbai Police (Matunga)	Congress/NCP	use of "Bombay" in the name
5-Jun-	TOI	Maharashtra	"Sarkar	Maha-	Same	demanding

08		tra, Mumbai	Raj"; dir: Ram Gopal Varma	rashtra Navnirman Sena (MNS)		special screening
6-Jun-08	TOI	Maharashtra, Thane	Kumar Ketkar, journalist	Shiv- sangram Sangathana	NCP	satirical editorial
6-Jun-08	TOI	Maharashtra, Thane	"Aamhi Paachpute"; drama/play	Hindu activists	Unknown	satirizing Hindu epic, <i>Mahabharata</i>
7-Jun-08	HT	New Delhi	Sanjay Kapoor, art auction supervisor	Delhi Police	Congress	selling MF Husain paintings
13-Jun-08	TOI	Chandigarh	"Singh is Kinng" dir Anees Bazmee	Sikh Brother- hood Inter- national	Unknown	depiction of a Sikh with trimmed beard and "improper turban"
13-Jun-08	TOI	Maharashtra, Pune	"Dashavatar", animated film	Republican Party of India	Same	depiction of the Buddha as incarnation

						of Hindu deity Vishnu
17-Jun-08	HT	Maharashtra, Mumbai	MTV office	100 Sikh youth	Unknown	"offensive" advertisement
19-Jun-08	TOI	Ahmedabad, Gujarat	Ashish Nandy, academic	Government of Gujarat	Bharatiya Janata Party	critical OP-ED column
19-Jun-08	HT	Maharashtra, Ulhasnagar	"Karaan Ki Talaash" by Hiro Shevkani	Suresh Kukreja	NA	"obscene language"
1-Jul-08	HT	New Delhi	"International Community"	Ministry of Tourism	Congress	critical travel advisories
4-Jan-09	TOI	Maharashtra, Mumbai	Oxford Bookstore, Mumbai	Mumbai Police	Congress/NCP	"advised... to remove books and CD's related to Pakistan"
6-Jan-09	TOI	Maharashtra, Mumbai	Nitai Das, painter	Hindu Janjagruti Samiti	Unknown (likely, BJP)	unidentified deity depicted in

						the nude
14-Jan-09	TOI	Maharashtra, Mumbai	Shakeel Siddiqui, Pakistani stand up comic	Maharashtra Navnirman Sena (MNS)	Same	Pakistani citizen
23-Jan-09	TOI	Maharashtra, Mumbai	"Karachi Sweets"; shop	Maharashtra Navnirman Sena (MNS)	Same + Police	"Pakistani name"
24-Jan-09	TOI	Maharashtra, Mumbai	"Deshdrohi", dir: Kamal Khan	Govt. of Maharashtra/ Mumbai Police	Congress/ NCP	threat to "law and order"

Abbreviations for Sources:

TOI: Times of India

HT: Hindustan Times

NDTV: New Delhi Television

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