



WE THE PEOPLE – NEWSLETTER

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The Right to know 'History' in its True Light: Exploring the Bane of Censorship

*The last two months have thrown up enough newsprint (both journalistic and academic) over Wendy Doniger's book **The Hindus: An Alternative History**. This is certainly not the first time that history has come under the scanner and especially when it goes against notions of 'conventional readings'. As citizens, it is our right to know various versions of history since only a nuanced perspective helps us analyse and reflect on society and politics. The following write up is an incisive piece on how censorship takes away the fundamental right to express, seek information and build ourselves as responsible citizens.*

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http://ideasforindia.in/article.aspx?article_id=259

The assault on free expression is gathering momentum in India, the latest victim being Wendy Doniger's book, 'The Hindus: An Alternative History'. An ironically named outfit called Shiksha Bachao Andolan Samiti (Committee to Save Education) filed a lawsuit in a Delhi court claiming it was offensive to believers. Penguin is recalling the book as part of an out-of-court settlement.

In an unrelated development, Home Minister Sushil Kumar Shinde issued vaguely sinister threats to "crush" elements of the electronic media for spreading "false propaganda" against the Congress party.

The list of scholarly texts and works of art or literature that have succumbed to the fury of fundamentalists keeps getting longer. James Laine's biography of Shivaji suffered a similar fate, Rohinton Mistry's richly textured novel 'A Fine Balance' was withdrawn from the curriculum by Mumbai University, just as A K Ramanujan's exquisite essay '300 Ramayanas' was purged from Delhi University's reading list, both under pressure from ultra-nationalist or religious groups.

The Great Indian Censor

India's cultural watchdogs will not tolerate any discourse that does not conform to their own simplistic, puritanical view of faith, history and tradition. A recurrent complaint against the offending texts is that they discovered sexual motifs in Indian mythology and scripture. Such earnest intolerance is not the exclusive domain of Hindu fundamentalists. A rationalist was hounded into exile recently for demonstrating that the "miracle" of holy water dripping from a crucifix was actually capillary action from a clogged drain. The current era of censorship goes back to the ban on Salman Rushdie's 'Satanic Verses', which offended Muslims. The Great Indian Censor is an equal opportunity suppressor.

Some of the defenders of the latest atrocity have proudly proclaimed that they waged their battle peacefully in the court room. This is a half-truth. The strategy is usually two-pronged, employing both Public Interest Litigations (PILs) and hoodlums.

While Ramanujan's essay was being fought in the courts, the litigant's ideological brethren vandalised the university's history department, no doubt contributing to the academic council's capitulation. Anyone familiar with the fates of MF Hussain, Tasleema Nasrin or Mira Nair's film 'Water', understands the threat of violence that lurks underneath the legal notices. It is disingenuous to pretend otherwise.

India's illiberal speech laws

Having said that, Wendy Doniger is right that India's illiberal speech laws must be counted as a big part of the problem. Article 19 of the Constitution, which guarantees freedom of speech, curtails it heavily by allowing "reasonable restrictions" on grounds of "public order, decency or morality", among other things. Article 295(A) of the Indian Penal Code (IPC), which was invoked against Doniger's book, makes it a criminal offence (punishable by up to three years in prison) to "outrage religious feelings of any class".

Lest anyone forgets to keep their tongue in check, these warnings and sanctions are echoed obsessively throughout the IPC: in sections 124, 153, 292 and 293 (in an amusing, ostrich like clause that mirrors the cognitive dissonance of our cultural warriors, section 292 exempts "ancient monuments" from the charge of displaying lascivious material!). Reporters without Borders currently ranks India 140th out of 180 countries in terms of press freedom, behind Afghanistan and only marginally ahead of Myanmar.

People have argued, quite correctly in my opinion, that many of the works that have come under attack are actually worthy readings – loving and thoughtful explorations of Indian culture that appear malicious only to the most jaundiced and ignorant eyes.

To present a defence based on the merit of the censored material is to concede the most important principle that is at stake here.

Free speech is a meaningful right only if it protects all kinds of speech, not just those of high literary or scholarly merit. It should protect even ignorant, prejudiced or hurtful expression. It makes no sense to enshrine the tautology that we will tolerate speech that we are willing to tolerate. The right to take offence is fundamentally incompatible with the right to speak freely. Some Indian liberals have a tendency to come down on the side of censorship when offended parties involve minorities, lower castes or marginalised communities, or when the speech in question defends the indefensible, like Gandhi's assassination. This is a myopic position and harmful to the values it tries to protect.

The First Amendment of the American constitution is the correct guide in this regard. Some landmark First Amendment cases defended speech that was disreputable or unpopular, like Larry Flynt's pornographic parody or the anti-semitic rally in Skokie, Illinois. It is true that the right is not absolute – there are laws against libel or false advertising – but they are narrowly defined with a very high burden of proof on the prosecution, according to the Supreme Court. The European tendency to sometimes make free expression subservient to perceived public interest (for example, criminalising Holocaust denial or introducing headscarf laws in France) should not be the gold standard.

Why protect speech?

Free speech is often supported because it is seen to produce good results – flourishing of ideas and innovations, well informed voters or responsive policy makers (Amartya Sen argued that famines tend not to occur in democratic open societies because news of a crisis spreads fast).

The problem with a purely 'instrumental' view of free speech is that it allows suppression when speech poses a real (or even imaginary) threat to social welfare. India must abolish its hate speech laws. Social discord is no grounds for censorship. There are three good arguments to support this position.

The first argument is misuse. An analogy may be apt here. Consider the popular ethical conundrum of the ticking time bomb scenario. Wouldn't you be willing to torture a terrorist to find the location of a time bomb that is about to blow up the world? The answer is "yes, of course" but one should add: what does that have to do with anything? The question isn't what is right in extreme (and extremely unlikely) scenarios but what kind of power the State can be trusted with.

As a matter of public policy, if we are debating restrictions on free speech, we are talking about a systemic choice, not a particular application. We must judge it by the likely consequences that will arise when such powers are placed in the hands of political actors. What has happened in India in the last few decades is a clear illustration of how speech control invariably ends up as a tool serving the powerful, which is why democracies must deny such powers to their governments.

India's most divisive politicians, who exploit people's prejudice to reap a harvest of money and votes, still go about their own merry way. Repressive legislation like Section 66A of the Information Technology (IT) Act is unleashed instead on those who are not in organised politics. It muzzles innocuous comments, artistic expression, dissent and criticism.

It allows the arrest of school girls for wondering on Facebook why Bombay (renamed Mumbai as a nod to linguistic chauvinism) should be paralysed by Bal Thackeray's death. Thackeray's own relentless hate speech (against Tamils, Muslims, Biharis and sundry "outsiders") never attracted such sanction. It leads police to a professor circulating a political cartoon, while the ruling party's Members of Legislative Assembly (MLAs) get away with issuing barely veiled threats at opponents in election rallies. Censorship in India has not produced peace and goodwill, only collateral damage.

My second argument is reverse causation. As we seal lips, cowering at the prospect of intolerance and violence, we sow the seeds of the very things we are afraid of. As we tie up and dumb down our discourse, we shed our capacity for nuance, complexity, analysis or irony. We encourage the prickly sensibilities that we are trying to assuage.

The climate of soft censorship prevailing in India has led to the explosive growth of an outrage industry. No Bollywood blockbuster can be released today without some obscure and offended group throwing a tantrum over some imagined insult. Every year the Jaipur literary festival descends into a political brawl.

The latest episode involved Ashish Nandy's trenchantly egalitarian observation that the privileged classes often define corruption to leave out nepotism and networking – unfair means in which they have a comparative advantage. An out-of-context line, endlessly recycled on TV, painted him as an anti-dalit bigot and attracted the ire of a lynch mob as well as the Prevention of Atrocities Act! We are now a nation capable of uttering only platitude and pabulum in public.

My third argument is very simple, indeed axiomatic. It doesn't matter what the outcome is. Free speech is a beautiful thing, the same way the forest is more beautiful than the garden. Throughout history people have recited poetry and yelled obscenities, blown kisses and given the finger, sung sweet serenades and shouted stupid slogans, expounded scientific truths and muttered dark prophecies at street corners. This Tower of Babel is our heritage. This infuriating, discordant din needs no justification other than itself. The ugly word is part of the aesthetic.

Censorship is an attempt to tame humanity. It is more abhorrent than anything it silences.

Civic Action Toolkit: Citizens' Responses to Governance and Action

This Republic Day was indeed very special for us as we could bridge the gap between conversations and actions. We, the People has recently developed a Civic Action Toolkit (CAT), a manual for citizens that equips us with tools to engage with governance structures. During its launch on 25th January, 2014, the toolkit generated amazing interest among citizens' groups and individuals and there was significant coverage of the same in the Mumbai edition of Hindustan Times (HT) on 26th January 2014.

Kunal Purohit's well manicured article in HT on the CAT evinced scores of e-mails requesting for the toolkit and we are still overwhelmed with requests. In some cases, citizens have not just responded, but have also opened up with specific situations in the civic domain that they wish to address.

There are two things that emerge from this response: (1) we are surrounded with citizens who are disturbed with the state of affairs in the country (2) we have enough responsible citizens committed to action.

However, the realisation is that most of these citizens are not equipped to deal with issues they wish to address and this brings up the continuous need for citizenship education across segments of the society. It must be reckoned that citizenship education does not stop with knowing the values in the preamble or holding discussion sessions to build awareness. It implies integrating all the above with concrete action that results in effective outputs and shifts that impact the functioning of governance structures.

The fundamental behind citizenship education is to bring about a change in approaching citizens' participation from conflict to one that involves working together with people in the government in order to resolve issues of concern. The Civic Action Toolkit is a great step in this direction and it engages with citizens in a meaningful and simple manner.

Right now, we are also seeking feedback to the first draft of the toolkit and we will appreciate if our readers wish to go through the toolkit and suggest improvements. You can mail us for a soft copy at the following e-mail id:

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Excerpts from Civic Action Toolkit (CAT)

The following steps will outline the process that goes into engaging with a civic issue at the various levels in governance.

- 1. Identify the Issue**
- 2. Identify the Laws / Rules/Government Orders / Judgements on the Issue**
- 3. Identify the different departments and authorities related to the issues**
- 4. Gather as much information as you can related to the issue**

Useful Tip

Please remember that all documents related to any arm of the state is always in the written form.

To be implemented, all laws, rules or orders must be in the form of written documents.

It is important to make written complaints and maintain copies of the same