

Words save lives: India, the BJP and the Constitution

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India, the world's largest democracy, is in danger. Fundamentalists, religious fanatics and a corrupt government have combined to threaten its future as a constitutional, democratic state. The challenge to its secular rule of law echoes and reinforces contests elsewhere around the world.

The gruesome violence [1] of February 2002 and subsequent months – the massacre of 58 Hindus on a train in the western state of Gujarat, followed by widespread pogroms of Muslim communities across the state – are distressing enough. What makes them even more sinister is that they have been seen as an opportunity by the Bharatiya Janata Party (BJP), which leads the governing coalition in New Delhi. Taking advantage of the fact that it also controls the state government in Gujarat, it sought to advance its agenda of polarising Hindus against Muslims in India by calling for state elections there (see an earlier article [1]).

India is a secular society whose Constitution [2] enshrines the principle that the country belongs equally to all its citizens. In pursuing the ideology of a militant *Hindutva* (an exclusively Hindu-centred definition of 'Indianness'), the BJP is undermining this basic principle. After the trauma of February, the party aggressively pushed for early state elections in Gujarat, calculating that a rich electoral harvest could be reaped from the communal tensions that the carnage provoked. This gamble was designed as part of a larger political strategy to pave the way for a militant *Hindutva* (Hindu nationalist) line that would replace the fuzzy agenda of the current coalition in New Delhi.

The BJP plan went awry. A meticulously worded order of the Election Commission (EC), a constitutional body with sole responsibility to conduct free and fair elections, ruled that conditions were not yet appropriate for elections in Gujarat. The argument of the commission was premised on a fundamental democratic principle: that every vote is equally valuable, and that the overall political climate must allow each vote to be cast peacefully and fairly.

The large-scale displacement of people, especially victimised minorities, and the pervasive fear that still haunts riot-affected areas had rendered the electoral roll gravely defective. The commission argued that elections could be held only after the revision of the roll. It rightly claimed that, at this juncture, political mobilisation, an integral part of the electoral process, would inflame passions and shatter the fragile peace in the state.

Several leaders of the BJP were furious with the Commission and began a campaign of slander against the Chief Election Commissioner, J.M. Lyngdoh. The Gujarat Chief Minister, Narendra Modi, hurled insult after insult against the Commissioner. Boundaries between the party and the government blurred. Lal Krishan Advani, the newly appointed Deputy Prime Minister, said that the job of the EC was to *hold* elections, not to *stop* them.

All this was expected. But more striking is that the BJP also felt compelled to challenge the order on the grounds that it was unconstitutional. A couple of days later, the BJP cabinet

referred the order of the EC to the President. In turn, he referred it to the Supreme Court. Mercifully, the Supreme Court declined to interfere with the EC's decision to postpone elections. Last week's massacre of over thirty Hindus at a temple in Gandhinagar, the capital of Gujarat, is further evidence of the validity of this judgment. By the skin of its constitutional teeth, India was saved from gross moral impropriety and perhaps, from even greater tragedies.

Liberal democracy constrains militant nationalism

Amidst widespread relief, a question worth addressing remains: why did the BJP condemn the order as unconstitutional? Why was it not content with hurling abuses at the Commissioner? I believe this shows that, whether they like it or not, the rules of liberal democracy continue to constrain political strategies and to set boundaries on the language and rhetoric of Hindu nationalists in India. Despite the pessimism and gloom, liberal democracy continues to be part of the operating principles of Indian society and polity. As a result, Hindu nationalists still feel obliged to legitimise their actions in terms of its normative, value-laden vocabulary.

Every society has an ethical identity, a collective self-awareness constituted partly by the values and principles to which it aspires, and by which it judges its own practices and institutions. No matter how fiercely contested this professed and projected ethical identity of Indian society is, it is still shaped partly but significantly by the language of freedom, equality, rights, justice, secularism and democracy.

The field of discourse created by the Constitution – that is, the way its formal, coded principles set the standard for everyday political communication – continues to hem in Hindu nationalists. They are forced to remain on constant alert, to rebut inimical assessment by defenders of the Constitution and to meet the challenge posed by such critics. They have to respond and to convince them that key normative terms, the lynchpin of the Constitution, should also be used appropriately to redescribe acts that are mistakenly believed to be constitutionally illegitimate.

When acts of Hindu nationalists are condemned as violations of secularism, democracy or rights, they can respond in either of two ways. They can say, 'so what?' or 'who cares?' Or they can assert that their acts do *not* violate rights, democracy or secularism because these terms are not what they are routinely understood to mean but connote something different, something hitherto never brought to light. And, when understood properly, in the manner in which they see them, their acts are consistent with rights, secularism and democracy. In short, they can say, 'Look here, contrary to your claim, I believe in rights and am a true upholder of secularism, a supporter of democracy.'

Why does the BJP use the language of the Constitution?

The double-speak of the BJP is spectacular and well known. The question is: why do they speak in different voices? Do they really have a motive to legitimise their acts by using the normative vocabulary of the Constitution?

I believe they do, and that they do this for three reasons. Firstly, the residual power of the Constitution in embodying the basic values that the society is committed to – no matter how mauled, abused, or neglected in practice – still retains instrumental value even for *Hindutva* forces. It left room for these forces to grow in the past and, even now, it continues to give that space for the enlargement of their agenda.

Secondly, visibly ascendant social forces, such as the Dalits (the 'Untouchable' castes), support the Constitution, and Hindu nationalists cannot afford to ignore them. The language of rights and democracy remains a living force in India partly because, in a distinctive yet amorphous way, it

remains a precondition for improving the life prospects of oppressed Indians. In small but important ways, it empowers ordinary people and captures the aspiration of those left out of the 'development' process.

A comparison may be instructive here between the moral language of the Constitution and the power and prestige associated with the English language. English no longer has the status that it once enjoyed in post-colonial India. Quite unlike the past, automatic privilege is not bestowed on its speakers. But it is clear enough that it still begets enormous material benefits.

Much the same may be true of the Constitution. It no longer has the halo around it, which the makers of the Constitution thought it should possess. But designed to accord opportunity and a life of dignity to everyone, it has immense practical utility. People may not care about the high theory that surrounds the Constitution but straightaway they understand how it helps improve their lot.

The BJP, the soft mask of the hard right, is an electorally driven, vote-sensitive party, looking for moral hegemony and legitimacy across diverse groups. Wherever possible, it uses the language of the Constitution to further its political ends. In the moral climate provided by the Constitution, the BJP cannibalises these values to legitimate its behaviour.

The third reason why the BJP uses the language of the Constitution to justify its acts relates to the nature of the Indian middle class, the fulcrum of the BJP. The Indian middle class does not act in defiance of the Western world but rather in the hope of being properly recognised by Western eyes. A party dependent on this class behaves in quite a different way from a party led, say, by an Ayatollah Khomeini. Since the language of rights and democracy is an important constituent of international norms, it cannot easily be shrugged off. Those who seek recognition by the West must legitimise their actions by this discourse. In the globalised world to which they aspire, they have to suffer a global gaze – hence Advani's apology for Gujarat during his recent visit to the UK.

When I say that Hindu nationalists possess a motive to legitimate their actions by using the normative vocabulary of the Constitution, I do not mean to suggest that this vocabulary is really taken seriously by them, that they uphold constitutional values or even that they act out of mixed motives, combining paramount, sectional interests with a half-hearted belief in a smattering of constitutional principles.

I speak of a situation where acts are guided neither wholly nor partly by professed constitutional principles. Everyone, all relevant parties, shares the view that political actors do not really follow the principles they profess. Their acts can blatantly violate democratic principles; indeed they are frequently intended to do so. Yet, a need is felt by some in the BJP that an appeal to others must be made in a language that is alien to their own ideological ancestry.

From double-speak to double-bind

Straightforward manipulation is involved here. The aim of Hindu nationalists is to alter the ethical identity of Indian politics and society. With as much sham sincerity as can be mustered, this real motive is camouflaged by public proclamations that actions condemned by ideological opponents can simply be redescribed and all disapproving judgement prevented thereby. Because they are interested in the public acceptance of their actions, they are forced to adopt a rhetorical device, compelled to use the language of the Constitution, to talk and sometimes even behave as if the professed norm, value or principle is part of their motivation. They must profess that their acts conform to the values and principles of the normative tradition of the Constitution.

Cynical and unscrupulous as this is, and undoubtedly ideological in the worst possible sense, it recoils on Hindu nationalists. By adopting this rhetorical device they frequently limit themselves only to those acts that can be so legitimated – a point made for different political agents in a different context by the noted theorist, [Quentin Skinner](#) [3]. Despite all the manoeuvres and atrocities, it is extremely difficult, if not impossible, for them to sustain policies that can never be accorded this legitimacy.

The consequence for Hindu nationalists, such as the BJP, is severe. It is not just that they cannot even covertly legitimise the kind of ferocious violence perpetrated in Gujarat. More than this, the need to legitimate their actions before the public requires them to forsake many other tempting violations of constitutional order. In India, the language of the Constitution is a weapon of security and protection; it saves lives.

Words are not mere ‘pieces of paper’. They become effective when believed in and powerful when institutionalised and made legitimate – whatever cynical politicians may hope. Only when a society abandons adherence to the core, shared meaning of its founding codes is all lost. As long as Hindu nationalists continue to publicly legitimise their actions in terms of the normative vocabulary of the Constitution, many potentially dangerous actions are inhibited. Therein rests the slim hope held out to the Indian polity.

Today, as sources of political authority drafted in national constitutions and international agreements, conventions and institutions, such as the United Nations, also come under threat, what happens in New Delhi and Gujarat is no longer – if it ever was – a matter for India alone.

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