

The Violence of Democracy

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Abstract: *This paper seeks to examine the relation between democracy and violence. It will first offer an historical overview of the emergence of democracy in relation to three major political events: the English civil war from 1640-1660; the American war of independence and the drafting of the Bill of Rights; and the French Revolution. It will propose that, apart from the fact that each of these struggles was marked by large-scale and protracted violence, they also shared a common discourse – the discourse of rights, understood proprietorially. The paper will argue that the emergence of democracy as articulated through this discourse of proprietorial rights was, in turn, closely related to the emergence of the contemporary form of the nation-state, and that, consequently, it is founded on a paradox: the discourse of the nation (or nationalism) has been historically an exclusivist one, while the discourse of democracy seeks, by definition, to be inclusive. It will argue that the colonial moment served on the one hand, to disseminate the discourses of nationalism and democracy; while on the other, it complicated the paradoxical relation between them further, when the discourse of rights (integral to both) often emphasized community rights over individual rights, at least in colonial South Asia. The contours of community, then and since, have been overwhelmingly determined by the personal law system and the communal patriarchates. Given that, this paper will argue that the tensions between the exclusivism of such communalisms and the inclusivism of the democratic discourse leads inevitably to the production of cultures of violence. It will conclude by questioning the sustainability of a rights-based understanding of democracy.*

Keywords: democracy, communal identify, violence, individual and civil rights, minorities, citizenship

Introduction

This paper intends to explore the dynamics between violence and democracy.¹ It is often said that ‘democracy’ as a term has been applied and invoked in relation to so many different political forms and practices that its actual analytical usability is almost nil. Nevertheless, as I will argue in this paper, however ‘democracy’ is conceived of, all its various, even contradictory formulations share a widely held, ‘commonsensical’, even somewhat simplistic

premise: that violence and democracy are antithetical to each other. This premise is often articulated in platitudes, e.g., that “there is no place for violence in a democratic society” – that reflect certain assumptions about both violence and democracy – such as that violence is inherently irrational, and democracy inherently rational; or the Weberian thesis that the state is defined by its monopoly over legitimate force, which implies that any violence by a non-state actor is necessarily illegitimate; and so on.² This paper aims to engage with some of those assumptions – why they are made, what purpose they serve, their political implications – in the course of examining the dynamic noted above. It will argue that this almost universal premise, that democracy and violence are antithetical to each other, is actually an integral element of a larger culture of violence. That culture generates this premise as both critique and defence of itself – the critique *is* the defence, insofar as the critique distances itself (the critiquing society) from itself (the critiqued society). The paper will then examine how this plays out in the context of India.

The Idea of Democracy

The history of democracy as we, in the post-colonial present, have inherited it, is indelibly marked by what is commonly referred to as the ‘west’. Put another way, ‘democracy’ is an idea that has its historical roots in ancient Greece, subsequently to resurface millennia later, as part of the process of nation-state formation in Western Europe and North America, from the seventeenth century onward. The question of whether or not there were other democratic political formations and/or practices elsewhere in the world during this time is of little more than academic interest, since the pertinent template for us today, is the Euro-American form noted above, and which I will elaborate on briefly below. This form has disseminated through the globe largely through the process of colonisation but also through other means – revolutionary, adoptive, adaptive, even through (paradoxically) imperial/militaristic intervention, as for instance with the ‘Democratic Republic of Congo’. As I noted above, this evolutionary process has been studied and discoursed on by a host of scholars from every hue of the political and ideological spectrum, and needs little reiteration (see for instance, von Holdt 2014; Schwarzmantel 2010; Keane 2004). Here, I wish to dwell briefly on the relation between democracy, violence, the discourse of rights and the notion of the nation.

The emergence of the discourse of democracy in modern times can be traced back to three major political events: the English civil war from 1640-1660; the American war of independence and the drafting of the Bill of Rights; and the French Revolution. Each of these epochal events was fundamentally transformative of the political and social domains they occurred in – but they are related in other, more significant ways too. First, they were all marked by bloody and prolonged violence, ending with some form of democratisation of the polity (albeit of varying stability and to varying degrees) – a point we will

return to shortly. Second, they all centred on a discourse of *individual* and *civil* rights which, for the first time, sought to establish rights as belonging to the individual subjects of a state, and not just to a privileged few within it, or to the state itself in relation to its subjects. Intrinsic to this were the prior history of the Reformation (dating back to the early sixteenth century) and the gradual de-linking of the Church from the State (from about the middle of the seventeenth century); but as important was the casting of these rights in a language of proprietorship – as inalienable possessions of the individual (male) subject (see MacPherson 1962).³

The language of proprietorship is particularly significant because it indexes the changed and changing composition of the relevant societies. This changing composition may be summed up (albeit rather baldly) as the gradual and increasing presence in economic and political power of the mercantile and professional classes, who were accruing and consolidating private capital from outside the traditional feudal elites (Jha 2012). The requirement of statutory protection through legal rights for this capital acquisition and accumulation was however not just at the level of the individual subject. The imperial conquest and colonial policies that were initiated in this period served the interests of precisely these emergent classes, for whom it then became necessary to try to control and direct the formulation and administration of these policies – in other words, to have a real say in governance. It is at this point (around the early eighteenth century) that the discourse of rights begins to turn into an instrument for demanding and ensuring democratic participatory governance – i.e. collective governance through public debate and consensus rather than through individual or privileged fiat. It is thus not coincidental that the ideation of the nation-state as a coherent collective with common interests emerges in this period as the ideology of nationalism. It is not coincidental that the modern nation-state as an effect of these interests is chartered in and through the language of democracy.

This brings us to the third point of similarities in the three cases noted above, which is in essence a paradox: unlike earlier mobilisations under the sign of collective identity – say for instance Anglo-Saxon resistance to Norman conquest in the early part of the second millennium, or internecine conflicts between the Gothic tribes, some centuries later – the ideology of nationalism was founded on a notion of abstract, universal and anonymous equality, but *within a defined and identified collective*. It is important to understand this development clearly: what we are witnessing in these epochal moments is the articulation and implementation of the paradoxical idea that democracy can (and should) be exclusive. For instance, the Commonwealth established by Cromwell through the English Civil War was never intended as extending to a true commonwealth of all English subjects, let alone non-English ones; the American Declaration of Independence explicitly claimed ‘unalienable rights’ on the principle that ‘all men [*sic*] are equal’, but the Bill of Rights and the

Constitution that followed would nevertheless guarantee these only to Americans (and, in practice, further excluded blacks, women and the ‘original’ aboriginal Americans); the French Revolution could turn into the Reign of Terror precisely because ‘liberty’, ‘equality’ and ‘fraternity’ – the last in particular a most telling term, bespeaking an exclusively male and national collective, and in this sense already undoing the intent of the first two terms – were not available to those determined as being outside the national collective. Thus, (assuming that inclusiveness is a characteristic of democracy) the very important principle of determining who to include and conversely, of who to exclude (with equal attention to both) is then not a function of the democratic ideal *per se* but a product of its articulation in and through the ideation of the nation.

Some clarifications are required before we proceed. In one sense, democracy has historically always contained this paradox: from the exclusivity of the citizenship that was required to participate in democracy in ancient Greece, to the instances noted above, to the blatant irony of the National Democratic Socialist Party of ante-bellum Germany, to the ‘special’ status of Kashmir in the Indian political system – the instances abound – democracy has always been limited and/or exclusive. To remark on it here is then not so much to suggest a particularly new perspective, as to focus on some historical consequences of the flow of its dynamics, specifically its intimate evolutionary association with two processes: the emergent discourse of rights and the more contemporary ideation of the nation-state. Indeed, this particular conjunction hinges on the question, ‘Who is entitled to the nation-state, and why?’, a question that emerged in the transition from feudalism to capitalism in the European context, precisely because *the nation and the state were themselves emerging as resources to be claimed – i.e., as contested forms of capital*. Thus, in the discourse of ‘rights’ that underlies the discourse of ‘democratisation’ in this context, ‘rights’ too are conceptualised as a form of legal capital, to be acquired by the claimants, not given automatically. In other words, when democracy is invoked within the architectonics of the modern nation-state, (a) its fundamental proposition of equal, participatory and consensual governance for all citizens,⁴ is its political and ideological justification, and yet (b) its application is determined by the cultural logics – customs, beliefs, sentiments, mythologies, rituals – of nationalism; and (c) its historically inherent principles of exclusivity then serve to generate a contestational politics of identity (intra- and/or inter-state).

The second clarification is related to possible defences of democracy, along the following lines: (a) that there cannot be any other practice of democracy but in and through the exclusivist structure of the nation-state; yet conversely (b), that the ideal democratic system that would be truly inclusive, universal and egalitarian cannot exist within the global dispensation of separate nation-states. Again, (c) that democracy by definition is a form of rule, and

therefore has to be executed, implemented and maintained through institutions of administration – i.e., a state, which is by definition an exclusive body within a given society; yet (d) that, because it is the function of states to maintain economic, social and territorial control, they cannot extend democratic rights to individuals or groups that threaten this function, and therefore democracy cannot be blamed as flawed for what is essentially an issue of state function. It is evident that these are all related arguments, each with some degree of legitimacy – the degree being set by the extent to which they also contradict each other. To my mind, the contradictoriness is itself a sign of the problematic history of democracy, and may be summed up simply as stemming from the attempt to realise an abstract universal ideal within the contingencies of historical circumstance. Hence the frequent qualification of democracy into its varieties – revolutionary, socialist, liberal, capitalist, nationalist, representative, etc. These qualifications then become the implicit and/or explicit principle of exclusion.

There is a third clarification I seek to make before proceeding. The paradox drawn attention to in the argument above seems to suggest an underlying, even inbuilt contradiction in the concept of democracy, especially when it is sought to be realised within a specific historical context. Further, there is an implicit suggestion, particularly in the instances I have offered, that democracy is dogged by violence precisely because of this contradiction – that, in other words, rather than serving to end violence, every attempt to realise democracy within the political form of the nation-state seems to serve only to perpetuate violence in one form or another. This is an important consideration; but in order to address it fully, it is necessary to return to our narrative of democracy itself, to understand the concept and its dynamics fully before we interrogate its logical and historical feasibility. In order to do so, I will turn now to the specific paths that democracy has adopted in the South Asian – primarily the Indian – context.

Indian ‘Democracy’: Origins

The language of democracy, its attendant discourses of rights and the idea of a national community that can claim those rights, were all introduced into the South Asian region through the colonial encounter. One of the most powerful transformations of South Asian polity and society wrought by this encounter was the complete overhaul of cognitions of the separations of space, of the meanings of public and private spaces, and their juxtaposition in political terms. Sudipta Kaviraj has noted how the state in pre-colonial India was never as central to the lives of its subjects as it came to be under and after colonisation (1999, 142ff). Prior to the interventions of the colonial state, the dynamic between the public and the personal was arguably much more localised, determined largely by the organisation of power and hierarchies, both geographically (at the respective levels of the village, province, kingdom, etc. in

specific regions) and communally (in terms of the specific, locally available relations between castes and religious communities), and between these communities and the particular dispensations of the local (princely or *nawabi*) state (Kaviraj 1999; Dumont 1970; Heesterman 1985). It would not be inaccurate to characterise this organisation of the flow of power as held and maintained by the codes of a cultural regime, rather than an administrative bureaucracy. In contrast, the political dispensation evolving in the West that we briefly sketched earlier, and that was introduced into the subcontinent by the British from the eighteenth century onward, was already fundamentally inscribed by the emergent discourses of liberal individualism, secularisation and the public-private dichotomisation of the social and political realms (Kaviraj 1999; Taylor 1993; Fox-Genovese 1991; Horwitz 1982), embedded in and shaped by the structures of an administrative bureaucracy, and the dynamics of an evolving capitalist economy. This political dispensation was an early form of what was to emerge as liberal democracy in Britain. By the time the British government began to exercise direct administrative power in India – i.e. from 1858 onward – this political dispensation was already emerging as liberal democracy in Britain, containing some crucial constituent elements like elections to a parliament, representational governance, political parties, inalienable rights, equality before the law (at least notionally), etc.

Many of these ideas began to permeate into the colonies of the empire, partly through native intellectuals and leaders who had studied the colonial master and began interrogating empire in the same language of rights that had facilitated it in the first place – but, in some ways more significantly, also through British imperial administrative policies themselves. For instance, the British administration, as part of the pragmatics of establishing political and administrative hegemony, began a process of identifying communities in religious terms, the differences established through separate personal laws drawn up in consultation with the respective communal elites, thereby also separating these personal laws from public or civil and contractual laws (Mani 1987; Newbigin 2009). In effect, the entire cultural bureaucracy referred to above was codified in the form of the personal laws of each community; and since these laws mostly concerned women and property, it was effectively also the codification of the individual communal patriarchal cultures into a multiplicity of communal patriarchates. In essence, the personal laws guaranteed the rights of the communal patriarchate to govern the community. The principle of inclusion/exclusion which was central to the formation of the communal patriarchates, thus became integral to the codification of personal laws too – *but paradoxically, as part of a move towards a more representative (and hence more democratic) system of governance.*

Community organisations (and sometimes individuals) could seek modifications in these laws or fresh legislation, provided they could demonstrate either communal authority, and/or numerical support, as

representing their community. The goal was limited representative participation in governance – getting the native elite to rule the communities of India on their behalf – by allowing communal patriarchies a degree of power over their communities in return for the same communal elites mediating for the British with their respective communities (Zavos 2000; Guha 1989; Aloysius 1999). While the idea of representative participation in the colonial administration never did really take hold – because of the limited scope of the proffered participation, as well as of opposition to the principle of separate communal electorates – the concomitant ideas of communal representation and collective public action in a ‘neutral’ public space of debate, discussion and dissent proved enormously popular and quickly grew and spread across the country. This is not to suggest that imperial governance was itself democratic – it was far from it – but that the constituent discourses of democracy took firm hold on South Asian soil, (a) as a (probably completely unanticipated) by-product of the administrative measures of the British; and (b) not by overcoming and/or replacing the older, feudal patriarchates, but paradoxically, by reinforcing them through codifying them into personal law.

Fundamentally related to this process was the evolution of nationalist discourses. Even as the discourse of rights began to enter into political play in the organisation of the indigenous elites, it took shape as communal rights rather than as individual rights, as in the case of Europe. Although the notion of the nation emerged in Europe as being in essence defined along racial, ethnic, religious and/or linguistic lines, especially as Romantic nationalism, it also had to engage with the other emergent discourse of the nation – that of a community of individuals with a common history, common interests, and with equal and absolute rights and obligations in relation to the state. Most significantly, this community was conceived of as constituted, in principle, by equal individuals – or more specifically, of individuals who were in principle equal before the state. In contrast, in the subcontinent it took shape through communal identities along religious and caste lines, with community rights forming the basis of representation in the political system. These communities were constituted of individuals steeped in unequal relations, both within the communities and in relation to the state. This is not to imply that inequalities did not exist in Europe, or even on a lesser scale; they did, but were just organised differently – only, the difference in question was the monumental one of colonialism. The permeation of the discourse of rights in the Indian context was therefore shaped by the necessities and vicissitudes of colonial confrontations, between communities themselves, as well as between communities and the colonial state.

The nature of the public-personal dichotomy was thus qualitatively different in the Indian context, marked not by secularisation and the demands of liberal capitalism, but by the extension and entrenchment of upper caste, upper class patriarchies into communal patriarchies. The aim was as much to

construct and consolidate communal identity as to gradually secure hegemonic control, through the very process of communal representational politics, over the public sphere of economic, industrial, bureaucratic and professional modernisation that was also under way under colonialism – in fact, the first was perceived as a necessary condition for the second. The efflorescence of religious reform organisations and caste organisations from the late nineteenth century onward (see Zavos 2000), laying claim to rights and privileges on behalf of the communities they allegedly represented, indicates the extent to which the nationalist discourse in the subcontinent was actually fragmented into multiple nationalisms. While the mainstream nationalist movement led by the Indian National Congress (INC) tried hard to at least officially maintain a secular, non-communal nationalist spirit, in fact its leadership and upper echelons were overwhelmingly constituted of upper caste Hindus, many of them strongly traditionalist, and as many openly sympathetic to, if not direct votaries of, Hindu nationalism. This was the single most important reason for the formation of the Muslim League as well as of lower caste mobilisations by BR Ambedkar and others, who felt with some justification that the INC was democratic only in form, and not in substance (see Vijayan 2012).

The implications of this process are of some significance. In the entire development of the democratic discourse and its concomitant nationalist discourses, the issue of rights was a highly charged and fraught one. For instance, women's rights to education, property, even life (in the case of upper caste widows), were bitterly fought over between reformers and traditionalists, indexing the extent to which individual rights and what were understood as the cultural rights of the community could become deeply conflictual. However, it is worth noting that there was no extended industrial capitalist economy as in Europe (specifically Britain) that was even more exploitative of its female labour than of males, leading to women mobilising for and demanding their civil and economic rights (Fox-Genovese 1991; Cockburn 1992). Rather, whatever reforms were achieved were not only confined to a very small number of upper caste women, nor in response to women mobilising and demanding their rights on a large scale, but were undertaken by sections of upper caste patriarchy in response to perceptions of 'Hinduism' as a decadent, corrupted religion that severely ill-treated its women – in other words, as a sign of the modernisation of the community. Lower caste claims to basic civil rights too were similarly bitterly fought over, leading to the famous stand-off between Gandhi and Ambedkar over separate electorates, which the latter eventually was pressurised into conceding, in the face of Gandhi's fast unto death (Aloysius 1999). In both instances, the cultural paramountcy of the (upper caste male) community was clearly – and forcefully, even violently – established over the rights and claims of the (lower caste and/or female) individual – *even as this paramountcy was articulated in the exact same language of rights*. Evidently then, the discourse of rights did not emanate out of this socio-historical dynamic, but was instead transplanted and 'translated' into meeting the specific demands of an intense

colonial struggle for power. I am not here engaging with the question of the importance or validity of the discourse of rights (a complex question in itself) but simply highlighting its peculiar evolutionary path in the subcontinent; in what follows I will attempt to briefly chart this course of transplantation and its consequences.

Indian ‘Democracy’: Cultural Contours

After 1947, a major objective of the newly independent nation-state, headed by Jawaharlal Nehru, was modernisation – not just in industry, technology and the economy, but in its social and civic life – a *cultural* modernisation, if you wish, most evident in the state’s official, emphatic promotion of ‘a scientific temper’ (Chatterjee, 1993 [1986], 131ff). As such, the new state sought to present itself to the international community as a multi-ethnic, multi-religious and yet secular nation, a nation whose conceptions of nationality and citizenship did not depend on religion, language, caste or gender, but one that guaranteed the rights of all its various citizens on the ‘rational’ basis of the doctrine of universal and fundamental rights that it had inherited from the British. It was important to present itself as a nation that would not be torn apart by sub-national and/or ethnic and/or communal conflicts, because it officially and statutorily maintained the sovereignty of the principle of universal rights for all its citizens. This was done through the adoption and implementation of constitutional electoral democracy, modelled almost wholly after the British Westminster form. The motive however was not just some form of national vanity, the ostentatious political announcement of an *arriviste* to democratic modernity: the nationalist elite, under the leadership of Jawaharlal Nehru and Vallabhai Patel, recognised the importance of national unity for development and economic growth, and Nehru at least genuinely believed that this could be best achieved through an accommodative and inclusive political system – i.e. through the adoption of liberal democracy. That is, social and economic modernity could only be achieved through adopting a modern political system (Khilnani 1997).

However, as we have seen, the chosen system was itself the product of a particular historical dynamic, which had not – and could never be, in the same terms – played out in the subcontinent. In its ‘translation’ into the socio-cultural discourses of the subcontinent, it was consequently consistently marked by a three-way tension between the sanctity of individual rights and the safeguarding of community rights, both in relation to the claim to rights of other communities, however all these were interpreted. This was particularly true of religious communities, as indexed by the extended controversy over the passage of the Hindu Code Bill in the 1950s (Sinha 2012); but it was also true of linguistic communities, as witnessed by the massive and violent controversy over what was seen as the ‘imposition’ of Hindi as the national language, in the 1950s and early 1960s; and it was again the case with issues of caste and gender, as with the continuing controversy over reservations for lower castes, in

governmental, administrative and public sector occupations, and for women in parliament.

It has been argued that, in a context of widespread and increasingly disproportionate disparity in the distribution of wealth and resources, the allocations of and entitlements to the same would necessarily be contested fiercely, state interventions to even out these disparities (through affirmative action policies for instance) would necessarily evoke hostility (Hardgrave and Kochanek 2008, 8-10; Sastry 2009).⁵ Whether or not this is the case, the argument does serve to draw our attention to the fact that in the subcontinent, the invoking of the principles of democracy by contesting claimants to them, has been done, *not* as a consequence of their (assumed or real) violation(s) per se, but as the redress for (assumed or real) violation(s) of community rights, thus inexorably drawing the discourse of democracy into a politics of identity, rather than into the politics of inequality, injustice or oppression. That is, 'democracy', in the case of India, has increasingly come to signify the equality of communities, rather than individuals, in relation to the state.

Democracy 'Lost in Translation'?

In one sense, this was perhaps inevitable, given that democratic ideas and concepts in the subcontinent took hold on a terrain that was already multi-ethnic, multi-linguistic and multi-religious. In contrast, the discourse of democratic politics in Europe was deployed to protect and promote the interests of emergent, and consequently relatively homogeneous middle classes with more or less common socio-economic interests and concerns.⁶ The nationalist leadership in India had in fact hoped that the democratic process would help to overcome the problem of heterogeneity, by instituting citizenship as *the* national identity over and above other identities – but this was not to be. This is not to suggest that the discourse of individual civil rights does not exist or is not operational in the Indian socio-polity, which is therefore completely at the mercy of communalist discourses: Rajeev Bhargava (2002) has rightly taken issue with Sunil Khilnani and others for implicitly or explicitly arguing this. But it is nevertheless true that individual civil rights usually come into force only in matters of civil and contractual law, and are frequently subverted and/or subsumed by the processes, if not the claims, of community rights. The case of Shah Bano is one well-known instance of this (A.M. 2003); but it was foregrounded most dramatically in the farcical process of investigation and prosecution that was undertaken by the Gujarat government following the communal carnage of 2002, when, in case after case, every principle of natural justice and equality before the law that is fundamental to the democratic process was openly flouted, in the Hindu nationalist government's bid to protect the Hindu perpetrators of the violence against Muslims.⁷ It illustrated explicitly the extent to which perceived and alleged community rights may be openly asserted even when they are patently against constitutional law.

This is an important point, because it opens out some of the tangled knots surrounding the issue of democratic rights in the Indian subcontinent. In the appropriation of the language of rights to entire communities – by treating the community as the most significant social unit rather than the individual – a singular and crucial slippage has occurred which persistently obstructs the democratic process. The electoral process perpetuates and encourages this treatment, in the campaign methodology of cultivating ‘vote-banks’ or constituencies by political parties. In this, the issues and concerns of individual communities, invariably framed in the language of rights, take shape as affecting them because of *who* they are, rather than just and rectifiable issues in their own right: the causes of the wrongs (assumed, alleged or real) became more important than the wrongs themselves. The matter is complicated by issues like affirmative action policies which sought, and continue to seek, to rectify the consequences of centuries of oppression and exploitation (whether on caste or gender lines) through positive discrimination. This is an apparently paradoxical application of the doctrine of rights, but only if we assume universal equality to begin with – which is not, and has never been the case historically. It is important to note that the doctrine of rights at the heart of the concept of democracy makes this assumption, which is one of the problems of its application in contexts with somewhat extreme states of social and economic disparity. In such contexts, with the advantage of hindsight, it seems almost inevitable that the historically oppressed and marginalised sections would appropriate the language of rights as collectives, reinforcing their claims through the strength of numbers, rather than as individuals. It seems almost inevitable that political parties would resort to vote-bank politics – in many instances, in fact, explicitly organise around issues of community identity – in ‘translating’ the discourse of rights to meet perceived community needs, rather than issues in general.

Further, it is clearly noticeable that this process of community appropriation of the language of rights is not dependent on *which* specific community undertakes the appropriation, but is part of the general ‘translation’ of the discourse of rights into the subcontinent. While community identities, along with their substantive constituents, grow, change and morph into other identities over long periods and in different contexts, the process of appropriation continues irrespective of these changes. The outstanding example of this is the gradual process of fragmentation of the larger political parties into smaller, more locally oriented parties, with more clearly defined constituencies, each using the same language of rights to articulate its individual agenda. This is particularly true of the seventies, the late eighties and the late nineties, with the Congress-I regaining lost ground briefly in the intervening periods. It is evident again in the establishment of coalition politics at the centre in the eighties, while the constituent parties of the coalition remained locked in rivalry in the states, thus indicating the extent to which identity politics could be malleable, even manipulable, in the complex dynamics of representative

electoral democracy. It is also indicative of the perpetual incompleteness of the triangular dynamic of identity politics – democracy – nation-state, insofar as the viability and stability of democracy depends on the equilibrium arrived at between the autonomy of the state and the rights of the nation (constituted of these multiple communities and their cultural identities) as well as the rights of the individual (the abstract subject of the state). To reformulate the triangle more accurately then, democracy relies on the equilibrium between state-community-individual.

However, as noted above, the second of these terms, ‘community’, is shaped by the communal patriarchy of personal law. This implies that as long as communities proclaim the supremacy of community rights over universal and fundamental individual rights, and assert these even in the face of contravening civil laws, the discourse of rights will remain a fraught, and indeed perilous, one for democracy. There has long been an awareness of this; there have been repeated attempts to legislatively prevent it by proposing a uniform civil code, with which to replace the multiple personal laws that, in some ways, manifest the country’s heterogeneity in legal terms. This has however never managed any degree of success so far, partly because of alarmist visions of a uniform civil code infringing on the rights of individual communities, and partly because it would undercut the very basis of power of the various communal patriarchies. Consequently no political party has the will to promote the issue in any serious way – with the ironical exception of the Hindu nationalist Bharatiya Janata Party (BJP), which seeks essentially to impose the Hindu civil code as the uniform civil code of the country. As importantly, the severe economic inequalities and disparities that mark social relations, within and between communities, raises serious doubts about the viability of a uniform civil code functioning as an instrument of democratisation.

The Illusions of Rights-Based ‘Democracy’

By now it should be clear that the discourse of ‘democracy’, at least in postcolonial India, is founded on the sanctity of (communal rather than individual) ‘rights’: thus, there are constitutionally guaranteed fundamental rights, civil rights and democratic rights, which nevertheless can run foul of the communal rights guaranteed through personal laws. This discourse of ‘democracy’ will be, and is, at its weakest in two seemingly opposite but actually almost identical scenarios: the first is, when individual communities in a multi-community nation-state proclaim their customary rights as above and prior to those constitutionally guaranteed by the nation-state. In this case, the triangle state-community-individual falls apart because of the complete disavowal (of the validity) of the discourse of universal rights that is supposed to be guaranteed by the ‘democratic’ state.⁸ The second is, when a particular communal identity aspires and attempts to represent the nation itself, narrowing the gap between community identity and national identity,

proclaiming the (alleged) needs of a specific community as the needs of the national community, and replacing the discourse of universal rights guaranteed by the nation-state with the notion of rights – such as they are – enshrined in that community's customs and traditions. Such is the case with Hindu nationalism, which seeks to collapse the triangle of state-community-individual into the single dimension of the Hindu nation-state.

In a multi-ethnic, multi-religious, multi-lingual context, characterised, most importantly, by highly levels of economic inequality, the survival of this kind of 'rights'-based 'democracy' depends on the stability of the triangle noted above – on the continued maintenance of a tension between the identity of the state and the multiple identities that constitute its heterogeneity (on the one hand), as well as with its individual subjects (on the other). In an ideal democratic socio-polity, this tension would manifest as the ceaseless negotiations between individuals, community identities and the nation-state within the terms of the inviolability of fundamental rights and the supremacy of national civil and democratic rights. In actual practice, it invariably takes form either as the violent assertion of community rights – of which we have already listed several instances earlier – or the punitive violence of the state, in its imposition of what it sees as its right to maintain the law (or sometimes both, when the state is dominated by the majority community, as happened in Gujarat in 2002). Evidently then, because this particular conception of 'democracy' (which also happens to be the most pervasive and hegemonic understanding of it), is founded on the principle of 'equality of rights', rather than on say, the principle of the 'equitable distribution of resources and opportunities', it is most vulnerable to collapse when the rights claimed are equally 'right' or legitimate, and equally contested – often violently.

It must be noted, parenthetically, that we are here defining violence as not just an event attached to a discourse but a discursive event in itself, with discursive and actual consequences. The implications of such an understanding of violence are, inevitably, far-reaching, raising questions about the violation of rights inherent in an exclusivist conception of the nation-state, of citizenship, of the maintenance of national borders, consequently of the legitimacy of armed forces, and of the earlier-mentioned right of the state to perpetrate violence, and so on – but this is not the space to go into a detailed discussion of these issues. In what follows therefore, I will merely indicate some of the directions in which these arguments will lead us.

Let us return now to the point we had noted earlier in the paper – that historically democracy appears to perpetuate violence rather than end it. It is clear that within the contradictory logics of the nation-state – as being a right that can be claimed, as well as being itself a claimant of rights; and as being simultaneously inclusive and exclusive – the dynamic of democracy will always be a limited and fraught one. The nation-state as the site of the playing out of identities is always vulnerable to being appropriated by any one or more of

those identities, and consequently of becoming *ipso facto* a claimant to the discourse of rights. It is when the state thus appropriates the discourse of rights and functions as an actor within the dynamic of democracy – when the state claims rights of an equal or superior order to those of its subjects – that its ‘democratic’ credentials begin to implode. The question here is not whether the state as a political entity should not or cannot claim (or have) rights, but whether ‘democracy’ as a practice should, or even can, be viably founded on a discourse of ‘rights’. As we have seen, when it is, it is immediately rendered vulnerable to its own ironies and contradictions, becomes prey to its own principle of inclusion/ exclusion, and hence unleashes the very violence that it is supposed to keep in check.

Conclusion

There are issues that arise out of the preceding arguments that, for reasons of space, I have left untouched, to be addressed in future work. For instance, in the scenario of multiplying identities as a possible strengthening of democracy that I have noted above, the very important question arises of the relation between this process of multiplication and market forces that encourage multiplicity as essential to (consumer) choice: rather than enable democracy, would not such a process then render it even more subservient to the market by encouraging the commoditisation of identity, thereby initiating a fresh process of social, political and economic disparity? There is no easy answer, partly because it is a question addressed to a hypothetical situation; but hypothetically speaking then, an intensification of identity politics is also likely to result in an increase in alliance politics, intra- and inter-nationally – and evidence of the latter is already increasing globally, in the formation of political blocs centred around economic interests: the European Union, ASEAN, SAARC, the G-8, even the World Social Forum, etc. Likely, even this identity politics will then become more and more defined by the economic interests fundamental to those identities, than by issues of, for instance, communal grievance. But these can only be tentative speculative remarks on what is essentially a project in itself.

What is clear is that the idea of the *nation*-state – which is the dominant form of the state today – as an entity designed to cater to the needs, rights and privileges of a specific people, exclusively, is an idea that is no longer consonant with the principles of democracy (however understood) – if it ever was. Ideally, the state should only serve as the facilitator and executor of the democratic discourse, and not become yet another claimant of rights within (or without) its terms. But the strength of the Weberian thesis – that the state is defined by its monopoly on legitimate force – indicates the extent to which we tacitly grant the state the right to perpetrate violence, as if (a) because it is perpetrated by the state it is automatically legitimate (which in one sense it is, because the legitimacy or illegitimacy of any violence is ultimately decided by the state); and (b) the state and the nation are separate entities, with the state imagined as the

agent authorised to preside over the nation. In actual fact, of course, the state is neither separate from the nation, nor does it possess a subjectivity and agency that is autonomous of the nation. In actual fact, the state is no more than the institutional technology – the apparatus, in Althusser’s words (Althusser 1984 [1971]) – through which (national) power is exercised by the dominant community of the nation. And since the dominant community of the nation is, as we have seen, drawn and defined by its patriarchy, the exercise of power as ‘legitimate force’ by the state is, in effect, no more than the legitimation of the violences committed by that patriarchy (Gabriel & Vijayan 2012, 304). To rephrase an old Marxian prophecy then, true democracy will arrive not with the withering away of the state, but with the disintegration of the (patriarchal cultures of violence of the) nation.

Notes

- ¹ Karl von Holdt (2014) has attempted a similar examination of the relationship between democracy and violence in the South African context, and offered a theory of ‘violent democracy’ as a way to understand how democracies work in contexts of deep inequality and ethnic strife. My arguments below have some points of agreement with his, but move in a different direction, as will shortly become evident.
- ² This would of course apply to all states, not just ‘democratic’ ones; but the fact that it applies to ‘democratic’ states too does not detract from the implication that ‘democracy’ and violence are antithetical. It only implies that violence is antithetical to other forms of governance too, besides the ‘democratic.’
- ³ While women’s rights were already being sought and contested for by early activists like Mary Wollstonecraft, the subject of the state as the possessor of rights was to remain of masculine gender and upper class origin, by law and convention, till the late nineteenth century.
- ⁴ This can be obtained in the currently hegemonic understanding of ‘democracy’ articulated in a document like the Inter-Parliamentary Union’s *Democracy: Its Principles and Achievements* (Union, 1998)
- ⁵ See Rudolph and Rudolph (1987), Corbridge and Harris (2000), Pavan Verma (2002), for different perspectives on this argument.
- ⁶ See Barro (1999). It is also of considerable interest that we may be witnessing a reverse flow of the impact of multi-cultural contexts on the operations of democracy, in the growing tendency toward identity politics in Western societies – but this is not the space to elaborate on that.
- ⁷ There are many other examples of such privileging of community rights over the law of the land: the defensive outrage of upper caste Hindus in support of *sati* (widow self-immolation on the husband’s pyre) cases like that of Roop Kanwar, in 1988; the repeated and widespread attack on couples celebrating Valentine’s day; the regular demand for dress codes for women in colleges and universities; attacks on Dalit villages and villagers perceived to be challenging upper caste dominance or customs; and most tellingly, upper caste mobilisation against reservations for lower castes under the banner, ‘Youth for Equality’.
- ⁸ This is best illustrated by the versions of Islamic orthodoxy that succeeded in overturning the Supreme Court ruling on Shah Bano’s entitlements to maintenance. For a discussion of this and other cases, see Zoya Hassan (1994).

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