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# Hindutva and development: Socio-legal analysis of health

**Ajay Maherchandani**

Academic Tutor & TRIP Fellow, O.P. Jindal Global University, Haryana

**Abstract**---Development is a much abused term these days, thanks to the ‘Sangh Parivar’ government we have at the helm. I want to position myself as an observer - a class privileged, openly-gay, left leaning libertarian, law student and use my paper to unearth the methodology devised by the present-day government to marginalize vulnerable communities and repress people’s movements legitimately. By using the force of law, the government is trying to assert its domineering right-wing Hindu ideology over the people. I will assess how the government is trying to use law to legitimize its pro-development policies and to give it teeth. I believe in transgressing the conformist attitude of apologist law practitioners themselves and see the kind of legitimacy-seeking politics been played by the government. I will critique the definition that the Government has used to explain Development and its various processes. Also, I will connect how the use of law is a means to legitimize the cultural oppression, that in the end leads to marginalization and suppression of people’s movements. Finally, looking at the changing ways that Indian central governments have defined development, I wish to critique the idea of development that appears in the Indian context.

**Keywords**---Hindutva, development, law.

## Introduction

Hindutva as a distinct word was imagined and defined by Savarkar in the most extremist way as possible. It alienated the minority groupings of religions in the Indian subcontinent at that time (1923) and made an attempt to gather the various sects-castes-out castes of Hindus and give them a singular character. For Jaffrelot (2007: 85) the real charter of Hindu nationalism was written in ‘*Hindutva: Who is a Hindu?*’ by Vinayak Savarkar.<sup>1</sup> What he decidedly set-out to

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1 Vinayak Damodar Savarkar (1883-1966) was deeply influenced by the extremist politics of B.G Tilak. He was a Maharashtrian Brahmin, who spent 27 years in jail. First in Andamans island and then in Ratnagiri where he wrote *Hindutva: Who is a Hindu?* and

prove was that there some basic essentials to Hindutva – which is far from just adhering to Hindu religion. Hindutva embodied for Savarkar, a common nation (Rashtra), a common race (Jati) and a common civilization (Sanskriti). Savarkar writes with a fascist push and pull of historicity, making the Hindu way of life, a compelling urge to be followed by right-wing nationalists. He combines the Brahmana and the Chandal with a common culture and a common polity! Such claims are hugely mis-construed by Savarkar which not only mis-lead but also mis-represent certain narratives. Soon after the publication of this book, the Rashtriya Swayamsewak Sangh was founded in 1925 by, which considers Vinayak Savarkar as the fountainhead of its nationalistic ideology. Its ideals constitute, as claimed by Mishra (1980: 24) the upholding of Indian culture and civilizational values. Thus the RSS claims to be the gate-keeper of these non-traceable and mythical cultural values, as imagined by Savarkar. The RSS with other organizations such as the Bhartiya Janta Party (its political wing) constitute the Sangh Parivar. Saha (2004: 274) relates this representation of the Sangh Parivar as the Hindu nationalist movement.

### **The Sanghis**

The Sangh Parivar uses “Bharat” as the official name of India, as defined in the Consitution of India, 1949.<sup>2</sup> All things sanitized as Hindu, all words, phrases, meanings and terms given a deifying edge. So women become “mata and behen” for BJP leaders and caste-Hindu culture becomes Indian culture. Dr. Shyamaprasad Mookherjee went to meet the Sarsangchalak of RSS M.S Golwalkar in 1951 and thus the foundation of the political constituent arm of RSS was laid in Delhi. It sprang up against the Nehruvian ideology and progated the right-wing Hindu thought as a political party. It came to an abrupt end in 1977 with the formation of different political parties into the Janta Party as a united force against the Indian National Congress. The Janta Party split in 1980 and the Bhartiya Janta Party came into existence. The BJP has kept its roots alive as evident by the presentations given by its Union Ministers to the RSS functionaries on 4<sup>th</sup> Spetember, 2015. Narendra Modi, the Prime Minister reportedly stated that he was proud to be a “swayamsewak”. This is a very crucial link to how the BJP projects itself as a “development – pro secular” party, to what it hides beneath it. Its association with the RSS, as evident as this meeting shows us, throws a light on how the Hindu Nationalist movement has taken shape and form through the BJP. L.K. Advani in his concluding statement at the National Executive Meeting of the BJP on 18<sup>th</sup> September 2005 stated succinctly how the BJP leadership has had no ‘hesitation’ in consulting RSS functionaries. He emphasized that the decisions then taken by the BJP are independent from the opinion given by the RSS and its constituent Sangh Parivar members. It is in this tradition, that the present BJP Union government went to the RSS functionaries for discussion and presentations of issues. Advani further stated that RSS should further work in strengthening the ethical, moral and idealistic moorings of its workers as well as BJP functionaries. It came as no surprise when the Prime Minister paid floral

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was first anonymously published in Nagpur in 1923.

<sup>2</sup> The first article of the Constitution of India states “India, that is Bharat, shall be a union of states”. However the use of Bharat as the official name by Hindu nationalists stems from the fact that it has been quoted in the purans and and the Rig Veda.

tributes to the picture of Savarkar inside the Parliament on the occasion of his birth anniversary. This and various other things by the BJP is been viewed as having a right-wing undertone to it.

While conducting a basic observation of the BJP - Sangh's activities, the most elemental institution that has been targeted and swooped at is the legal structure of this country. The election to the 16<sup>th</sup> Lok Sabha was historic on many accounts. The National Democratic Alliance took 336 seats, making the BJP as the largest party at the centre.<sup>3</sup> With this, came the power to vote and legislate laws in the Lok Sabha through the majority share of its Members of Parliament. 11 out of 29 States in India have BJP governments, one of them which is Maharashtra. The BJP's nationalist movement is set out to color the country orange through its mis-use of law and legislature. It has a working legal cell, at the central and State level. A prominent example discussed in this paper is the Beef Ban by the BJP government in Maharashtra. The BJP is using the means of legislature for its Hindu nationalistic ends. The development hype takes a back seat when the 'cultural' strengthening takes shape, as claimed by the BJP 's 2014 Manifesto.

### **Beef: A Meaty Fare**

“Thanks a lot Hon President Sir for the assent on Maharashtra Animal Preservation Bill. Our dream of ban on cow slaughter becomes a reality now,” jubilantly proclaimed the Chief Minister of Maharashtra on his Twitter account after the assent was given by the President to bill passed by the BJP-Shiv Sena government in 1995 (Shaikh, 2015). The ‘dream’ of the BJP to ban cattle slaughter dislocates a huge section of citizens from availing their food rights. This cultural hegemony has a long historicity to it. The discourse alongside the beliefs and practices of culture and ‘doing’ culture through food evokes a passionate response from a cross-section of people. The Report of the National Commission of Cattle (2002) blows the lid off the secular-oriented approach to our independence struggle. Bal Gangadhar Tilak, M.K Gandhi, Madan Mohan Malviya, Rajendra Prasad, Purshottamdas Tandon assured the common citizens of bans on cow slaughter after achieving swadeshi governance, Lodha (2002a). Hindu leaders were together on the ban of cows. The inter-sectional representation can thus be graded. No voice from the Dalit Bahujans came into fore before Ambedkar wrote about the ills of Hindu caste system. The legal might of the State can be gauged by the primacy given to cattle issues. With the BJP coming into power, the legal-governance has tilted in favor of the Hindu right-wing nationalists. The State legislatures have powers under the seventh schedule of the Constitution of India in entry 15 for the prevention of slaughter and preservation of cattle. The Constitution of India (1949) in its Directive Principles of State Policy goes a step further and issues a cold call which declares. The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter of cows and calves and other milch and draught cattle.

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3        It is the largest majority government since 1984 and also the worst decimation of the Congress party with only 44 seats in its kitty.

The State here thus becomes into a hypocrite model, where it uses animals for scientific or economic gains but hides the fact that a chunk of people have different food choices to make everyday based on their economic and cultural locations. It is in a sense a moral duty, and not justiciable. The Supreme Court has been complicit in maintaining the cultural might of the State by regarding as constitutional, the total ban on slaughter of all cattle, irrespective of anything. It goes against the very fundamentals of liberty, equality and fraternity for all, as proclaimed in the Preamble of the Constitution. The Report of the National Commission of Cattle enumerates that excluding States of Arunachal Pradesh, Kerala, Meghalaya, Mizoram, Nagaland, Tripura and Lakshadweep, Lodha (2002b) – all other states and Union territories have some kind of restrictions and bans on slaughter of cattle in place.

Liberty? Yes, the article 48 and the SC and the President – all of them a cumulative of State authoritarianism and might are free to abuse and hold power over the food habits of millions in this country. The recent oppression of this might was felt by the Dalit Bahujans, SC/Sts, Christians, poor caste-Hindus and farmers when the Animal Preservation Bill was approved by the President on 2<sup>nd</sup> March 2015. The Maharashtra Animal Preservation Act, 1976 already had made illegal, the slaughter of cows. The new bill aimed to insert bull and bullock with the cow in the Act, and it succeeded. The current law further stops anyone from possessing any flesh of cow, bull or bullock slaughtered outside the State. The law also gives the Police, power to “enter, stop and search any vehicle...” for their satisfaction as to the compliance of this rule. The offense is a non-bailable and a cognizable one with the onus on the accused to prove their innocence. The accused if found guilty of possession or sale can be jailed for upto 5 years and fined Rs.10,000. This marks a crucial turn in the way, the State has become totalitarian and the space lost and made unavailable to the citizen through this law. The BJP government seeks to legitimize its veneration for the ‘holy’ cow and does it through its legislative might. A major contribution to this legitimacy is the communal violence against the untouchables since a long time by the upper caste Hindus. Ambedkar (1948: 30) enumerates the count of 429 communities, around 50-60 million people who were identified as untouchables. Ambedkar (1948 :72-75) digs deeper and reveals the extent of mis-interpretation that has led to the popular belief that caste-Hindus have always held cow to be sacred. He affirms that the correct view is that which he claims through citing the Satapatha Brahmana and Apastamba Dharama Sutra which were against the Hindus killing cow or eating beef in excess and not prohibitions against cow-killing. The BJP government in 2003, tried to erase certain sections of narratives which projected beef-eating practices in vedic rituals. Romila Thapar’s textbook Ancient India prescribed for class VI was thus questioned and so was Ram Sharan Sharma’s ‘Ancient India’ prescribed for class XI students. This and the legislative remote-control for the present BJP government is enough to subdue and repress the voices against such pro-caste Hindu laws. Ambedkar put forth a critical account as to how untouchability was related to food practices. The food hierarchy as experienced and observed was on the account of the distinction made between upper-caste communities who dominated the food hierarchy and gave little space for the others below the line. Kancha Illiah (2004) rejected the blindness of worshipping the cow as sacred and instead propounded the idea of worshipping the buffalo. So when Devendra Fadnavis proclaims his debt to the RSS for his values

and his nationalistic ideology, it becomes evident to question the Hindutva propaganda being propagated through law, such as the beef ban.

### **“Cultural Development”**

Another area where the BJP government is aiming to ‘develop’ and bring modernization is the tribal welfare sphere. The Sangh Parivar doesn’t approve of the name “adivasi” for the tribals, instead it claims the correct name for them - ‘vanvasi’. The RSS founded an organization named the ‘Vanvasi Kalyan Ashram’ in 1952 to further its Hindu hegemony over the tribals in the name of education. The BJP government proposes to do the same in the name of ‘development’. The term adivasi destabilizes Savarkar’s idea of Aryans and Hindus being the indigenous people of the country. Vanvasi is less problematic for them since it doesn’t seek to prove the existence of tribals, more than the name expresses. Adivasi means persons who have been living before anyone. Going through the same definition, and following the RSS ideology, the present BJP government represents the tribal community as “under-privileged” on its official tribal ministry website. The BJP’s central government’s 2014 manifesto spills the beans as to the intent of the governance model. Under the foreign policy unit they state ‘India will remain a natural home for persecuted Hindus and they shall be welcome to seek refuge here’. There is no provision under Indian law to allow or dis-allow any person from any religion to seek ‘refuge’. What the BJP manifesto projects is a kind of government which keeps its pro-Hindu biases open and exclusionary. They have dedicated an entire column on the ‘cultural heritage’, a common hegemonic exercise that the Sangh parivar prides itself in practicing. At the top-most level, the Ram Mandir issue gains prominence. The BJP reiterates that it will explore all kinds of possibilities to build the ram temple in Ayodhya.<sup>4</sup> It calls the Ganga ‘mukti dayini’ rooting itself on the belief of Hindus. The government proposes to do a ‘Clean Rivers programme’ based on the belief that Ganga needs to be cleaned because it holds cultural-emotional value for Hindus, thus denying the same right to be cleaned for the other water bodies. They all the more, proclaim that a legal framework will be created at the central level to promote and protect the cow and its progeny through the Animal Husbandry department. The Maharashtra BJP Manifesto opens with ‘Shatrapati ka Ashirwad, chalo chale Modi ke saath’. As is evident by the words, the Maharashtra government is aping the way led by Narendra Modi’s central government. The entire thrust to the voters is the publicity of the vikas – development done by the BJP at the centre. They elaborately give details for the development plans for tribals. Contextualising this to the anti-tribal activities been carried on by the RSS, the BJP plan will in turn just become a scapegoat to RSS’s ideology. They also plan to build a grand memorial for Shivaji in the Arabian Sea. A grand memorial will be built for Ambedkar at Indu Mills. Another grand memorial will be installed at the Maharashtra Bhawan of B.G. Tilak. He is known as the extremist ideologue of

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4 The issue revolves around the site claimed to be the birth-place of ram lalla, while there is a mosque at the same place. The Hindus allege that the mosque was built after a temple was demolished by Babur. The judgment to the title was pronounced by the Allahabad High Court which divided the land into 3 parts. A detailed debate from various perspectives is given in the Engineer, A. (2011). *Making sense of Ayodhya verdict: Towards efforts for a peaceful solution*. New Delhi: Vitasta Pub. . Also see Patwardhan, A. (Director). (1993). *Rama ke Naam* [Motion picture]. First Run Icarus Films.

Hindu nationalism who influenced Savarkar and many others towards a Hindu nationalist movement. It is ironic that the same government vouches to build memorials in the name Babasaheb Ambedkar, who was a fierce critique of caste-Hindus.<sup>5</sup>

## Conclusion

All this and more has created an atmosphere of exclusion and division. It is being fueled by the increased assertiveness of laws and norms that are pro-caste Hindus. More than any economic neo-liberal danger of developmental tactics, this cultural developmental module should be identified and rejected. Hindutva is permeating our institutions through legal practices. This cultural hegemonic practice, stealthily is eating away even the tit-bits of our democratic values of liberty, equality and fraternity.

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5 For a detailed understanding of Ambedkar's ideological impression on Hindu caste system; read *Annihilation of Caste*. Also, since this paper does not take into account the beef issue in its historical implications, D. N. Jha's *The Myth of the Holy Cow* is an informative read.

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