

# Censorship Myths and Imagined Harms

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“Every idea is an incitement”  
- Justice Oliver Wendell Holmes

On November 28, 2003, the Left Front Government of West Bengal banned *Dwikhandita* (*Split in Two*, 2003) by Bangladeshi writer Taslima Nasrin. Chief Minister Buddhadev Bhattacharjee said: “I’ve read the book, not once but several times. I’ve discussed the contents with 25 people who matter and have finally decided to proscribe it”. The Home Secretary, Amit Kiran Deb, said that if the book were not banned, “it could ignite communal tension”.<sup>1</sup> After conducting nightlong raids, the Calcutta police triumphantly announced that they had seized all documentary evidence from the bookstores and publishers, including microfilms, floppies and all hard copies of the manuscript. Taslima responded by offering to put the manuscript on the net so that interested readers could download it and decide for themselves.

Most people would agree that, in the age of the internet, censorship could only be a symbolic gesture. The persistent reader/viewer will always find ways of accessing proscribed material. Censorship makes access difficult, not impossible. However, the one thing that censorship does ensure is that even the indifferent begin to take interest.

I personally believe that the fundamental right of freedom of speech and expression must be absolute in any democracy. When I make this statement, I am often considered to be a reckless libertarian who wants to inflict offensive and deviant speech on ‘normal’ people. On the contrary, I make this assertion knowing full well that this would also entail being subject to speech that would be hurtful and offensive to me. But that is the inevitable price. Article 19 should ideally protect not just speech that is full of hate on the speaker’s part, but also speech that maybe hateful to an audience.<sup>2</sup> To express what may be offensive to others, we have to hear what is offensive to us. If this logic sounds self-evident, we have only to do a consistency check on advocates of free speech. The Hindu Right that is now valiantly defending Taslima Nasrin’s right to free speech has deployed censorship strategies as an integral part of their Hindutva campaign. Conversely, the opponents of the Hindu Right’s censorship attempts have now decided to ban *Dwikhandita*! Various women’s groups at various times have demanded the erasure of a series of words and images.

A platitudinous abstraction that circulates during all censorship controversies is that “one must be careful not to hurt other people’s feelings”. This statement is a summary of mission impossible. There is no speech that hurts absolutely no one. If we were to ban sexist speech, for instance, what would we be left with? Perhaps only a handful of films from

the entire gamut of Bollywood, regional, art, parallel or whatever cinema. Even that handful would vanish were we to ban 'casteist' films! Freedom of speech and expression therefore is not so much a prophylactic to hurt but the commitment to be able to bear it. This does not mean that we become passive subjects of hate speech. It simply means that we circulate more speech. Counter speech and the expansion of spaces for more speech are the only ways to fight problematic, hateful or discriminatory speech.

In this essay, I would like to discuss the critical overlap between hate speech and sexual speech. The intersectionality of hate and sexual speech provides valuable insights into why sexual stigma becomes integral to hate campaigns. Feminists, in particular, need to pay careful attention to the implications of obscenity laws that promise to protect women but in practice end up punishing them.

### **Harmful Images and Words**

The mediascape of the nineties began with deep anxieties and affirmative engagement. The liberalization of the economy and the 'opening of the skies' catalyzed wide-ranging cultural transformations. Optimism around India partaking of the global community coexisted with anxieties around collapsing certainties. The rise of the Hindu Right during this time was therefore accompanied by frequent reminders that Indian culture and tradition were under threat by various marauding forces.

The new anxieties around the larger cultural transformations saw the enactment of new laws around speech and expression. In 2000, the Information Technology Act made, among other restrictions, the publishing of "obscene" electronic matter a punishable offence. Under this clause, "whoever publishes or transmits or causes to be published in electronic form any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave or corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished". The punishment could be imprisonment upto five years or a fine up to one lakh rupees. Another clause in the Act allows police officers and other officers to enter, search "any public place" and "arrest without warrant any person found therein who is reasonably suspected of having committed, or of committing or being about to commit any offence under this Act".

The BJP government introduced similar restrictions in the amendment of the Cable Television Networks (Regulation) Act (1995) and the Programme and Advertising Code in addition to bringing TV under the Cinematograph Act of 1952 which had hitherto been used to pre-censor feature films. The Advertising Code prohibits the telecast of cigarettes, tobacco, wine, alcohol, liquor and other intoxicants along with infant milk substitutes, feeding bottle or infant foods.<sup>3</sup> These laws were enacted notwithstanding existing laws that restrict 'obscene' speech. For example, Section 292 of the IPC prohibits 'obscenity,' which it defines as any visual or written material that is "lascivious or appeals to prurient interests" or which has the effect of depraving or corrupting persons exposed to it.<sup>4</sup> The Indecent Representation of Women Act (1986) prohibits indecency, which it defines as "the depiction of the figure of the woman as to have the effect of being indecent or is likely to deprave or corrupt public morality."

It is ironic that in a decade marked by vicious anti-minority propaganda, the majority of the censorship debates in the nineties have been around obscenity and vulgarity.<sup>5</sup> Responding to more transgressive images of women's bodies, the Hindu Right and feminists, albeit with different intentions, demanded the proscription of 'degrading' images. This only served to blur the crucial distinctions between sexism and sexual explicitness, coercion and consent. All sexual expression was being damned as 'degrading'. Historically, sexually explicit materials have always been the first targets of attack. Suppression of sexually explicit materials under obscenity laws has included literature on feminist issues like reproductive health, gay/lesbian issues, cliterodictomy, marital rape, health and safe sex issues.

The feminist debates around censorship emerged first from the pornography debate in North America. The 'radical feminist position' demands censorship of all pornography because it is believed to encourage a culture of rape and violence against women. In the eighties and nineties, this position found its strongest supporters in Catherine MacKinnon and Andrea Dworkin whose crusade for censorship took inspiration from slogans like "pornography is the theory and rape is the practice".

The anti-censorship feminist position, whose politics I share, draw attention to the difference between sexist speech and sexually explicit speech. We argue that by conflating sexual explicitness with sexism and misogyny, anti-porn feminists have failed to interrogate gender-based discrimination in 'respectable institutions' such as the family, religion and judiciary. By focusing exclusively on 'harmful images,' pro-censorship feminists have understood neither harm nor the complexity of images. Importantly, by framing sexuality within a discourse of violence, it has encouraged sexphobia and victimology. Anti-censorship feminists repeatedly draw attention to the overwhelming data that fails to show causal links between pornography and violence. In fact, the absence of causal links is evident from the work of the very researchers that radical feminists quoted in their 'anti-porn' campaigns. In the 1987 study by Donnerstein, Linz and Penrod, the authors conclude, "Should harsher penalties be levelled against persons who traffic in pornography? We do not believe so. Rather, it is our opinion that the most prudent course of action would be development of educational programmes that would teach viewers to be critical consumers of the media".<sup>6</sup>

MacKinnon and Dworkin advocated that victims of sexual violence should litigate and seek financial redress from producers and distributors of sexually explicit material. A version of this idea has also been played out in the Indian courts leading to mitigation of several sentences. The judgement in the *Phul Singh vs State*, (AIR, 1980 SC 249) reads, "A philanderer of 22, overpowered by sex stress in excess, hoisted himself into his cousin's house next door and in broad daylight overpowered this temptingly lovely prosecutrix of 24, Pushpa, raped her in hurried heat and made an urgent exit having fulfilled his erotic sortie".

This judgement by Justice Krishna Iyer reduced the sentence of a rapist partly on grounds that "modern Indian conditions" are drifting into "societal permissiveness what with proneness to pornos [sic]...sex explosion in celluloid and bookstalls, etc.". Similarly, in *Reepik Ravinder vs the State of Andhra Pradesh* (1991 Cr J 595), the sentence of a five year old girl's rapist was mitigated on grounds that he had "seen too many blue films".<sup>7</sup> Image blaming can easily turn the criminal agent into a victim and absolve the person of any responsibility for his/her actions. Instead of helping the woman, the 'porn-made-me-do-it' argument is only likely to harm her.

### **The Journey to Banning *Dwikhandita***

The demolition of the Babri Masjid in 1992 precipitated communal violence all over India and a Muslim backlash in Bangladesh. Best-selling Bangladeshi author Taslima Nasrin responded to the anti-Hindu retaliation in Bangladesh through a hastily written novelette titled *Lajja* (Shame, 1993) about a liberal Hindu family caught in the sudden and catastrophic communal backlash. Released in 1993, the book sold 60,000 copies before being banned by the Bangladesh government on grounds that it was inflammatory and likely to incite communal violence. The Council of Islamic Students declared her a heretic and demanded her arrest and public hanging. The attack intensified when an interview in *The Statesman* of May 9th, 1993, said that she had asked for a “thorough revision” of the Koran. Contending that the interview misrepresented her position, she issued a clarification to the newspaper on May 11th:

“My view on this issue is clear and categorical. I hold the Koran, the Vedas, the Bible and all such religious texts determining the lives of their followers as ‘out of place and out of time’. We have socio-historical contexts in which these were written and therefore we should not be guided by their precepts. We have to move beyond these ancient texts if we have to make progress. In order to respond to our spiritual needs let humanism be your new faith”.

Clarification notwithstanding, the reproduction of the May 9th interview in Bangladesh newspapers of June 4th changed her life forever. The Government, headed by Bangladesh National Party’s Khaleda Zia (whose allies have historically been Islamic fundamentalist groups), lodged a criminal case against Taslima under Section 295 (A) of the Bangladesh Penal Code for “outraging religious sentiments” with “deliberate” and “malicious” intent. The same clause in the Indian Penal Code was invoked against the cultural organization SAHMAT for allegedly depicting Ram and Sita as siblings in their exhibition *Hum Sab Ayodhya* after the demolition of the Babri Masjid. Similarly, it was used to demand artist M.F. Hussain’s arrest in 1996 for allegedly drawing the goddess Saraswati in the ‘nude’. Taslima had to flee Bangladesh and live as an exile.

I am often told, even by people who cannot read or write Bengali, that Taslima Nasrin is an overrated writer. It is also suggested that her books sell because of their explicit discussion of sex and sexuality. Future generations will agree that Taslima Nasrin is one of the most important figures in contemporary Bengali writing. Moving away from ornate and euphemistic rhetoric, Taslima deploys language that is direct, even ruthless. Her feminist politics emerges not out of victimology but rage. Her sexual explicitness is daring and unembarrassed. These traits are neither traditionally feminine nor desirable by Bengali canonical standards. Taslima’s writings assail the canon itself and urge the redefinition of ‘literary merit’. Her style is nowhere more evident than the autobiographical series that she started writing in exile. The first part, *Amar Meyebela* (*My Girlhood*, 1999), covers the first thirteen years of her life. *Utal Hawa* (*Wild Winds*, 2002) and *Dwikhandita* are the second and third parts respectively.

The West Bengal Government’s ban on *Dwikhandita* found unlikely allies in one section of the Bengali literati, including many advocates of free speech. Why did so many writers defend the ban? Do they really fear a communal conflagration? If such a fear is genuine,

then why has the Left Front Government never proscribed anti-Muslim hate literature that the Hindu Right routinely circulates in all states? Or does the discomfort lie somewhere else? Defending the ban, writer Dibyendu Palit says that “two points” require consideration: First, Taslima’s “delving into” the “sexual lives” of eminent literary figures in India and Bangladesh; and second, an appeal from some “Muslim intellectuals, who are not fundamentalists”, that the book be banned as it slanders “Prophet Mohammed and Islam” and is likely to “hurt religious sentiments”. The second consideration is commonplace but the first one is puzzling.

Why should a state government ban a book because it “delves” into the sexual lives of eminent literary figures? If “eminent figures” feel misrepresented, they can file defamation suits and battle it out in court. Why should this be any business of the State? Interestingly, every writer who supports the ban on *Dwikhandita* takes pains to discuss the offensiveness of the sexual content of the book. Writer Sunil Gangopadhyay says that he finds the sexual content of the book “distasteful” but supports the ban only on account of two pages that harshly indict Islam. Commenting on Taslima’s discussion of her sexual relationships with eminent writers, he says, “Everybody knows that adults enter a sexual relationship on the basis of an unwritten pact, which is why they close all doors and windows. If someone breaks that trust then it is a breach of contract and confidentiality which is not only distasteful but an offence”.<sup>8</sup>

This is not the first time that the ‘whore stigma’ has caught up with Taslima. During the controversy on *Lajja*, the media frequently painted her as a woman who smokes, drinks and indulges in sexual promiscuity. Clearly, the anxiety around “hurting religious sentiments” is only a ruse to disguise the moral indignation of Bengal’s cultural guardians. No one articulates it better than Taslima herself. In an essay titled *Shokol Griho Haralo Jaar* (The One Who Loses All Homes), Taslima writes, “I have become the target of a million arrows of indictment and I am sinking in a quagmire of insults and baseless allegations – all because I have spoken honestly. Honesty often does not go down well. If the honesty of *Amar Meyebela* and *Utal Hawa* was acceptable, then that of *Dwikhandita* is not. When in *Amar Meyebela*, I described how my childhood was exploited, people sighed and expressed their sympathies. When in *Utal Hawa*, I discussed how my husband abused me, people felt sorry. But when in *Dwikhandita*, I described multiple sexual relations with several men, I became the object of shame and disgust. The single reason is that as long as a woman is oppressed and helpless, weak and beset by misfortunes, she is worthy of sympathy and goodwill. But when the woman stops being helpless and oppressed and instead, stands upright and asserts herself and when, for her own emotional and physical independence, breaks the rotting norms of society, she is no longer liked. Instead she becomes reprehensible. I know this character of our society well and yet I did not hesitate to reveal all”.<sup>9</sup>

Taslima knows the wages of the “whore stigma”. By discussing what is ‘immoral’ and ‘obscene’, she has violated a certain ‘public order’. We may legitimately ask whether *Dwikhandita* was censored in the interest of public order or to impose a certain morality on public life.

### Whores and Goddesses

Hate discourses have historically resorted to the deployment of sexual stigma in order to demonize their 'other'. Charges of sexual deviancy and perversity become endemic to hate propaganda. During the controversy on *Fire*, the Hindu Right took great pains to show that homosexuality was alien to the Hindus but integral to the lives of Muslims.<sup>10</sup> In an indictment of *Fire*, K R Malkani narrates a story about how, after defeating a Hindu King, the "invader" Mahmud of Ghazni asked him to choose between Islam and death. The Hindu king replied that he could become a Muslim to save his life provided he was not asked to eat beef or sleep with a boy. Predictably, the Hindu King was denied his request and he finally chose to immolate himself!<sup>11</sup> Extending the same argument, Bal Thackeray offered to support the film if the names of the female protagonists were changed to Shabana and Saira instead of Radha and Sita.

Such sexual demonization is also evident in the controversies around Hussain's paintings. In October 1996, Bajrang Dal volunteers broke into the Herwitz gallery in Ahmedabad and destroyed a number of rare and acclaimed paintings by Hussain. The volunteers defended their actions by declaring that Hussain had painted the goddess Saraswati in the "nude" and thereby hurt "Hindu religious sentiments". Hussain was accused of aggravating communal tension by deliberately painting pictures offensive to Hindus. Regardless of the facts, the media perpetuated the same idea.

The details are significantly different. This was not a new painting but one made in 1976 and discovered recently by the Hindu Right through its reproduction in *Vichar Mimansa*, a BJP-backed magazine.<sup>12</sup> Responding to the complaint lodged by the Shiv Sena government, the Bombay police registered a case against Hussain under Sections 153-A (promoting enmity between different groups on grounds of religion, race, etc. and acting in a manner prejudicial to harmony) and Section 295-A (for perpetrating deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs).

In 1998, a lithograph entitled *Sita Rescued* was targeted as obscene because it showed Sita and Hanuman naked. Hussain had produced the lithograph in 1984 for Ramlila Programmes run by a Lohiaite socialist group. The VHP vandalized the exhibition in Delhi where the painting had been displayed. A Shiv Sena leader declared that Hussain "wants to strip our mother naked". BJP's Uma Bharti stated that "it is not only a question of Hindu sentiment but of women sentiment" [sic], and that she would have protested had Hussain painted "Marian or Khatija in the nude". She added that Hussain was a "pervert" who needed "psychiatric treatment". If Taslima carried the 'whore stigma' of excessive agency, Hussain had turned the goddess into a whore. Both carried the stigma of being sexual deviants who had "degraded" the image of women in society.

This idea is best evident in writer Iqbal Masud's attack on Hussain. Calling Hussain's "artistic depiction of Saraswati distasteful", he writes, "If Hussain faces himself...he will realize that his paintings caused serious hurt. He will realize that while he can afford to play around with Madhuri, he should leave Saraswati alone".<sup>13</sup> Clearly, beneath the degradation argument runs a strong 'woman-blaming impulse'. Therefore, bad girls get what they deserve – whether in life or in representation. This logic lies at the heart of the 'whore stigma'.

There is a long history of women being punished for having sexual agency. Anne McClintock has observed how, on the one hand, prostitutes are patronized and silenced as having inherent lack of agency – as coerced slaves and victims of “false consciousness” – while on the other they are castigated for having an excess of agency. Evidence of women’s sexual history is readily introduced during rape trials because our judiciary is still inclined to believe that whores can’t be raped. Besides, too much sexual agency deserves to be punished anyway. The central importance of consent in adult sexual relations continues to escape many. As Margaret Baldwin has remarked, “If ‘no’ means ‘no’, ‘yes’ should also mean ‘yes’”.

I can already hear some women protesting, “But I am not a whore”. Now try explaining that in a rape or child custody trial. The definition of a whore is as open to interpretation as words like ‘obscenity’, ‘vulgarity’, ‘depravity’, ‘prurient’, ‘distasteful’, ‘degrading’, and ‘objectifying’. Attempting to come to a consensus around these terms is like trying to separate pornography from erotica. The thin dividing line is in everyone’s head and in a different place. As the common saying goes, “What you like is pornography, and what I like is erotica”.

### Last Word

Among the censors of *Dwikhandita*, perhaps there are those who truly believe that the book could incite communal violence. Then these people should be consistent in their attempt to extirpate all books that could provide similar incitement. What better place to start than with religious texts because they contain passages that can easily be read as incitements to violence? Not to mention all propaganda material by the Hindu Right. If Dibyendu Palit’s ‘non-fundamentalist Muslims’ asked for Hindu Right propaganda to be banned in West Bengal, would the Left Front government comply? I have serious doubts. At this point in time, hate speech of the powerful Hindu Right is least likely to be proscribed. Throughout history, censorship has been used disproportionately to silence those who are relatively disempowered. It will always be speech on the margins, not the speech of the powerful that will be suppressed. It is for this reason that Taslima has written, “No, my writings have never caused catastrophic tragedies like riots. Whatever happens, happens only to me. The consequent punishment for my writings has to be borne only by me. It is my house that catches fire. I am the one who has to lose every home”.<sup>14</sup>

### NOTES

1. ‘Bengal Bans Taslima’s Book’, *The Statesman* (Saturday, November 29, 2003).
2. The right to freedom of speech and expression is protected under Article 19 of the Constitution. But according to the provisions of Article 19 (2), this fundamental right is subject to “reasonable restrictions”.
3. In order to ensure that censorship provisions are followed, the I&B Ministry under the BJP revived the Central Monitoring Cell on the Gurgaon-Mehrauli Road. About 120 staff members monitor TV programmes for “anti-India propaganda” and other violations.
4. Section 292 is based on an 1868 English decision called the Hicklin case. This decision has been approved and repeatedly applied by the Supreme Court of India.

5. See "The Troubled Existence of Sex and Sexuality: Feminists Engage with Censorship" by Shohini Ghosh in Christiane Brosius & Melissa Butcher eds., *Image Journeys: Audio Visual Media and Cultural Change in India* (Sage, 1999, Delhi).
6. Linz, D., E. Donnerstein and S. Penrod. "The Findings and Recommendations of the Attorney General's Commission on Pornography: Do the Psychological 'Facts' fit the Political Fury?" *American Psychologist*, 42 (1987).
7. In *Gauri Shankar vs. State of Tamil Nadu* (JT 1994, 3SC54), popularly called the Auto Shankar case, the Defence Counsel argued for a mitigation of sentence on grounds that he watched too many films "depicting sex and violence and illicit business and got misguided and ended up as a criminal" and therefore, makers of such films were 'vicariously responsible'.
8. "Government Decision to Protect the Innocent", Interview with Sunil Gangopadhyay, *Aaj Kal* (December 9, 2003). The translation from Bengali to English is mine.
9. *Desh* (December 17, 2003). The translations are mine.
10. *Fire* directed by Deepa Mehta, is a love story about two married sisters-in-law who fall in love with each other and have a relationship (1988).
11. Malkani, K R. "Any natural being will concede that homosexuality is unnatural", *The Times of India* (November 22, 1998).
12. Nagpal, Om. "Ye Kasai ya Chitrakar?" ("Is he an Artist or a Butcher?") in *Vichar Mimansa*. Accompanying the article was a photograph of the so-called 'nude' Sarawaswati that the editor V.S. Vajpayee had found in Dhyaneswar Nadkarni's book *Riding the Lightning*. It was a copy of this article that Pramod Navalkar handed over to the Bombay Police Commissioner.
13. *The Times of India* (October 13, 1996).
14. *Desh* (December 17, 2003).