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## THE SECOND GUJARAT CATASTROPHE

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In a world that really has been turned on its head, truth is a moment of falsehood<sup>1</sup>

### 1. THE RAPE CULTURE

The recent marathon Lok Sabha debate on governance in Gujarat, lasting for more than sixteen hours, marks an extraordinary dedication of quality political time and energy, rare in the Parliamentary annals. It was dominated by the demand of the ouster of Gujarat Chief Minister; a source of a tragic governance failure, his continuation in office, they maintained, ensured that the truth about Gujarat 2002 will never be found, the guilty never punished, and the violated deprived of rehabilitation, restitution and redress. Some fractions of the ruling coalition agreed but only through abstention. In contrast, the BJP defended Mr. Narendra Modi for his exemplary management of a violent and volatile situation; indeed, some incumbent Ministers maintained that but for this many more (minority) lives would have been lost, and unimaginable mischief and mayhem would have ensued. They insisted that Mr. Modi represented the best hope for the violated. The debate moved along the axis of demonisation and deification of the Chief Minister, with enormous human suffering merely providing a rhetorical trope in this narrative.

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<sup>1</sup> Guy Debord, *The Society of Spectacle* 14 (1995; New York, Zone Books, italics in original.)

Political discourse remains concerned with people's anguish but is in reality consumed by its own imperatives. It is then representative only in the meagre sense of providing a spectacle of competitive politics, where even Holocaustian sufferings of people get transacted only as so many modes of refurbishing dilapidated party and leadership credentials, fashioning, express and tacit, contingent political alliances, and managing privatisation of India's economy.

Representation becomes a process that articulates the agonies of governance, instead of voicing people's suffering. In this passage, the enduring truths of the suffering humanity become in practical politics just so many moments of falsehood.

Political realism counsels that no more may be expected of liberal democratic politics where the moral arithmetic must yield to the political arithmetic (practices of floor management and marshalling of final votes.) This can only produce the second best alternatives such as the package of aid and assistance that the Prime Minister announced towards the early hours of morning. The predictable failure of the opposition motion was also its moment of success; it failed the violated of Gujarat but serviced many instrumental ends and strategic alliances in the rough and tumble of Indian politics.

Far from serving the great expectations of transformation of social reality on the ground, the debate, in Lok Sabha and outside, again demonstrates a few salient cruel political truths. First, large-scale destruction of life projects of hapless Indian citizens through political violence remains a spectacular resource for doing competitive politics. Its truths therefore lie in the subjectivities of the violated, beyond the pale of objective proof. There exists no way nor would any be found by which governance failures/ complicity will be so

named; perpetrators identified and punished; and violence, violation, and suffering authoritatively verified. Second, because the enormity of violence and violation is thus rendered indeterminate by political debates, political practices may at best produce homeopathic palliatives, when what is needed is chemotherapy combating the carcinogenic practices of body politic. Third, such theatre unsurprisingly articulates the inner violence of Indian party politics in which Indian state emerges as unrechstaat (state without law), even (in Karl Jasper s phrase) verbereherstaat (criminal state.) The constitutional promise of a rechstaat, a rule of law state, now lives on only in the ruins of memory.

Even on the floor of the Lok Sabha, honourable leaders of the Nation were heard to say that those who reproach the BJP led coalition come with unclean and bloody hands; they too, in their ruling moments, presided over practices of politics of mass cruelty. This may be in some respects a historically pertinent, even accurate indictment. But it makes no moral sense whatsoever (see Section VI1 below.) The claim that each regime ought to be entitled to its own expanding quota of regime sponsored / tolerated collective political violence is unspeakably obscene. Such a justification for Gujarat 2002 marks the beginning of the end of Indian constitutionalism.

The way in which it stands articulated indeed matters. The incumbent Union Defence Minister, and the leader of the NDA, Mr. George Fernandes was heard to say, in some gory detail, and in effect, that women were not gang raped and multifariously violated for the first time in India. Despite his Chameleon -type qualities that bewilder many of his erstwhile socialist colleagues, Mr. Fernandes is not the type of leader from whom one quite expected such awful

rhetoric. Half-hearted apologies surely bound to follow will merely aggravate the hurt to Indian women thus caused.

We find variations on the same theme in other remarks. In distancing himself from the Defence Minister, the Home Minister says, in effect, that what really troubles him is not the fact that violence against women has been justified over last half century (Mr. Advani says that his retrospect is limited only to last four years) but that the burden of justification should now fall upon him in defence of a BJP ruled state. Gujarati violence troubles him because it perforates the BJP vaunted uplabdhi (achievement) of riot-free politicking and governance practices. Similarly, the Prime Minister, howsoever obviously tormented by the violence against women, remains careful to contest its scale; he conveys the impression that media and activist representation dramatizes the actual incidence.

And at the end of the day all those who voted (and abstained from voting) to defeat the motion unite to demonstrate that extraordinary violence against Indian women is not paramount for the agendum of governance. Indeed, women's bodies continue to provide necessary sites for the production of competitive party politics, not a problematic way of going about the business of governance.

The final message for the past, present, and future politically violated Indian women is that there is not much that constitutional governance can achieve except to normalize violence, almost as a social cost of doing democratic politics. This logic articulates what must be named as rape culture.

Rape culture signifies ways of doing party politics and managing governance in which brutal

collective sexual assaults on women remain enclosed in contrived orders of impunity. In an operative rape culture then women's right to be and remain human depend not on the normative necessity of law or constitution but on the sheer contingency of politics, law, and administration as well as of the ways of social protest and action.

Rape culture complicates achievement of women's dignity, integrity, and autonomy by naming violence against women as unfortunate not as unjust. Misfortunes happen; these invite commiseration and social / political altruism; even good governance cannot prevent these. In contrast, injustice arises out violation and suffering imposed by active agency; it summons action and struggle; and renders governance illegitimate. [Judith Shklar who develops this germinal distinction (1990) does not have rape culture in view.]

Rape culture structures political agency; decent and well meaning political actors, women as well as men, can achieve very little, despite subjective commitment, in terms of structuring governance as a form of sustained respect for women's rights as human rights.

Rape culture affects all state agencies and forms of articulation of state power, although it manifests differently depending on the authority and auspices. Gujarat 2002 thus presents an extraordinary spectacle in which the National Commission for Women in a much belated investigation sanitizes, through unfeeling prose, violence and violation of women. The relatively more engaged prose of the National Commission of Human Rights preliminary report is indeed exemplary but provides no real strategies against rape culture<sup>2</sup>. Similarly, the vaunted

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<sup>2</sup> Both emerge with the innovative suggestion that the police must visit the

judicial activism suffers a quietus: neither the High Court of Gujarat nor the Supreme Court of India, on their own (suo motu) summon the State Advocate General and the Attorney General of India to assist judicial invigilation of active law enforcement for the violated women. In this situation, police and prosecutorial agencies remain complicitly lackadaisical.

Rape culture also pervades institutions of civil society. The vernacular media (especially since December 6, 1992, and the carnage that followed), when not engaged in the politics of denial,

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rehabilitation camps and record the First Information Reports, women and human rights NGO should cooperate with this process, if necessary special courts should be appointed and expeditious trial be launched, and suitable long term law reform measures be enunciated and installed. These do not even acknowledge the available and highly specific narratives of violation already furnished (with names, places, dates) by activist reportage! Nor do these state agencies, unfortunately, at the end of the day, advance by even a centimetre, the cause of effective and equitable law enforcement.

It would be a mistake to equate the endeavours of the two commissions; after all, the National Commission on Human Rights was the first to speak to the situation, in ways that provided a ray of hope for concerted social action. Yet from the standpoint of those violated, the heart of darkness remains.

Incidentally, I do not burden this essay with sourcing the data on which I rely. Seminar 2002 offers a vignette; so do the websites of the People's Union for Civil Liberties and those (like that of Saheli) and the flurry of Open Letters addressed to the National Commission for Women (See Saheli, letter dated May 29, 02 : Baxi, Pratiksha letter dated 16 May 2002, on file with author)  
 \* . I urge interested readers to subscribe to the Aman Ekta Manch e-list for regular updates.

present brutal violence against women as a species of soft porn. The owners and operators of porn industry in India have promoted a culture in which gang rapists and murderers take live videos of events, which circulate in the grey markets. Leaders of public opinion look another way, while inaudibly murmuring against this moral decay. Captains of business and industry, leading educational and research institutions, varieties of godpersons and Hindu televangelists, cultural institutions and organizations, also remain complicit bystanders. Investigative journalism suddenly discovers its limits in exposing the events and agents of rape and murder.

Since the demolition of the Babri Masjid, and the sustained carnage that followed, rape culture has almost marginalized activist investigations and findings concerning women's violation in so-called communal riots. Gujarat 2002 carries this tendency ominously further because Hindutva women movements, and their cohorts, now begin to justify such violation as spontaneous and inevitable, even when not going so far as to explicitly name it as desirable.

Description of politics as constituting rape culture is indeed wounding. It triggers accusations of collective libel of the ruling formations. I remain aware that decent women and men in Indian political and social life will visit this phrase with polemical distortion. Indeed, I expect an eminent consensus among them proclaiming such a description as treasonously anti-national, tarnishing the fair name of Bharat that is now India. But I have no choice as a citizen save to act in fulfilment of my fundamental duties under Part IV-A of the Constitution and to appeal to co-citizens to do so. To aid this, I offer now a more concrete description of the rape culture.

What the BJP and its actively abstaining partners in the coalition are now asking frames the cruelty of discourse variously. How can any one conscientiously blame the Gujarat Chief Minister if so far only three First Information Reports alleging horrendous violation of women, have been filed? If people do not come forward, how can the administration be held responsible? If terrorized women survivors living in camps have other priorities than filing FIRs, what can the government do? What indeed can it do if, as some reports now suggest, the price that refugees are made to pay for a safe return to their homes is the coercive agreement imposed upon them by the dominant forces not to proceed with any legal action?

We all know that even if somehow the filings were now facilitated, proof will be hard to come by. The medical examination of women and their aggressors will take time and become infructuous by the time it takes. If witness memories fade, falter, and fail a few years down the road when effective trials begin, and witness intimidation grows nastily apace, what would, they ask, the mere exit of a Chief Minister achieve? Indeed, were the resignation of Chief Ministers to become an operative political norm, then all political parties will run out of candidates for that office, so pervasive are acts of organized political violence against Indian women citizens. Patriarchal governance then must do all it can, in a rape culture, to withstand citizen performances of naming and shaming.

In any case, the aggressors, if convicted, will eventually earn reprieve at the hands of vacillating appellate justices. This is how it has always been and this is how it will remain. And were special courts designated for expeditious trials, would the outcome eventually be any the different? How will these deal with evidentiary problems in any different way than

routine courts? Of course, activists are free to propose an agenda for law reform, but the Indian Law Commission will have to take its own time, and Parliament even longer, to legislate worthwhile proposals. Even when enacted, what can law reform bodies do anyway with the problem of delay in the administration of criminal justice? No matter how they may be induced by concerned activist constituencies to redefine offences and trial procedures, they have to, haven't they, to protect the due process rights of the accused? How can law reform address the structural inequity represented by a lackadaisical, poorly paid, and politically manipulable prosecution confronted at every step with the forensic brilliance of billionaire leaders of the Bar?<sup>3</sup>

These questions have been in search of an answer for past fifty years. In the meantime, serially and collectively violated women citizens remain bereft of any real prospect of legal and political justice. This is one aspect of what I name as the rape culture, which signifies the Male in the State (Wendy Brown, 1995). More sinister are the structured practices of governance, which deny as well silence women's sufferings. This crime against Indian women is a perfect crime in the sense that Jean Francois Lyotard (1988: 8) describes it:

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<sup>3</sup> The Opposition, now inclusive of abstaining NDA coalitional partners, presents itself, in acts of small political mercy, and for the time being, as more responsive, perhaps even representative, of voices of human, and human rights, violation. Yet this tender solicitude is at the same time performative of benign indifference. Chastising governance default / failure is one thing; moving beyond this to enforce here and now programs of human / social amelioration is another. As far as one can tell (from my Leamington based overseas viewing of Lok Sabha debates) very few concrete proposals emerged from the Opposition by way of here and now agendum of truth-finding and relief /rehabilitation. There is no trace of a suggestion for a programme of action to reverse the rape culture, the culture of impunity that allows rapists, murderers, arsonists, and looters to roam feely, even to the point of seeking nomination in the imminent Gujarat assembly polls, their being history sheeters and rowdies constituting a badge of potential political leadership!

It is in the nature of the victim not to be able to

prove that one has been done a wrong. A plaintiff is

someone who has incurred damages and who disposes of the means to prove it. One becomes a victim if one loses these means. The perfect crime does not consist in killing the victim or the witnesses but rather in obtaining the silence of the witnesses, the deafness of the judges, and the inconsistency (insanity) of testimony. You neutralize the addressor, the addressee, the sense of testimony; then everything is as if there were no referent (no damages.)

The political logic, fully on display, incarnates this perfect crime; that is why I name the political debate as marking the second Gujarat catastrophe, aggravating the first.

The task thus posed is historically difficult: we need somehow to convert the perfect into an imperfect crime, a crime that at least empowers victims to become plaintiffs. The difficulties aggravate when we attend to the newly instituted narratives of pride and honour.

## 11 GUJARATI ASMITA

Political calendar dictates the symbolic exploitation of May 1, marking the 43<sup>rd</sup> anniversary of the birthing of Gujarat as a State within the Indian Union. Ms. Sonia Gandhi and Mr. Narendra Modi seek, in their distinctive ways, to mobilize this memory, with a sure eye to the hustings. Undeterred by future pernicious consequences of their rhetoric, all political leaders now say that their goal is to achieve an enduring framework of social peace and tolerance in Gujarat.

Ms. Gandhi does two remarkable things. First, she invokes the forbidden name: Mahatma Gandhi. The only enduringly operative multiparty consensus permits invocation of his name only twice a year: January 31 and October 2, the day of assassination and the birthday. The consensus justifies itself because too frequent a remembrance of this hallowed name will surely destabilize governance! Second, she leads an all women s march against political violence in Ahemdabad, no matter the ways in which it may empower the violated women of Gujarat. Speaking from Porbander, Ms. Gandhi now summons us to recover Gandhiji s Gujarat and prevent it from becoming Nathuram Godse community and state. The various symbolic messages are, indeed, hard to decode.<sup>4</sup>

In turn, Chief Minister Narendra Modi, in a serious of brilliant tactical manoeuvre, appeals to Gujrati asmita (collective self

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<sup>4</sup> But any attempt to do this raises at least the following puzzles. First, the appropriation of the Mahatma here stands localized; whereas the extraordinary thing about him was that he translated his cultural identity into a national, even global, social biography. The Mahatma then can only be brought to Gujarat by corresponding but wholly unintended, and even dysfunctional, transformations in the ways of doing national politics. Second, the symbolic politics of the Mahatma, invoking Lord Rama unambiguously as summoning multicultural, even multicivilizational, social toleration and forms of human co-existence, has been made almost unrecognisable by the forces of Hindutva. The ram in Nathuram assassinated the body of Mohandas Gandhi; the latter day motley Ramsevaks in Gujarat and India now comprehensively assail his spirit. Total annihilation of the Mahatma is Hindutva s rajdharma. Third, we are constantly being reminded, even by some leading Gandhian Gujaratis, that the Mahatma was not a total pacifist and that he indeed justified uses of violence to the ends of communitarian self defence. This misrecognition of the Mahatma s creed is also constitutive of the invention of Hindutva as a civil religion. Fourth, his technology of civil resistance, especially through the invocation of social boycott now justifies the perfection of practices of politics of cruelty. Political symbol trading, thus, ordains future bloody costs to which partisan rhetoric remains supremely indifferent.

–recognition and pride in Gujarat.) Asmita provides a discourse of transcendence in the worst ever days of shame and sorrow for the entire State and the Nation. I offer below a limited (for reasons of space) analysis of excerpts from his speech that revives asmita by a series of carefully blended rhetorical devices.<sup>5</sup>

First, Mr. Modi reminds us that it is Gujarati asmita, created by swabiman/ atmagarauv (legitimate self and collective pride) and sahadat (martyrdom), which creates Gujarat. Note the causality entailed thus: the birthing of Gujarat was not an act of national state policy on linguistic state reorganization, nor did it mark merely aspirations for governance autonomy. Rather, the State emerged because of the stirring of a primordial identity; the sacred asmita brings it into being, not the profane logic of Indian state formative practices. The logic of authorship vests in an ineffable political, communitarian unconscious, now decipherable only by the Chief Minister, a personage who both monopolistically embodies and transmits the asmita, forbidding alternate constructions. We witness here a most profound enactment of what Pierre Bourdieu named as the language of power and the power of language.

Second, asmita is a longue duree history of atmagarauv, defined by specific itineraries of

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<sup>5</sup> It would also be extravagant to attribute to Mr. Modi the invention of this cultural production. The virtues of chauvinistic sub-nationalism were fully on display by the State handling of popular protest against the Sardar Sarovar dam. A multi-party Gujarat consensus emerged to prevent, in all manner of ways, any form of rational deliberation on the huge social and constitutional (human rights) costs. Freedom of speech, movement, and association were constructed as supreme sins: Amar Singh Chuahry, in a public speech a decade ago in Surat, compared anti-Narmada protests with sacrilege. He said such protests were similar to havan ma hadku nakhvo (lit. profaning a holy ritual by throwing bones in sacrificial fire.) This imagery in one swift foul stroke negated Indian constitutionalism

religious pluralism. The Chief Minister provides historic instances; Gujarat is the natural home (tirthastan) for the Parsees at Udwada; it welcomes the returning Haj pilgrims as if they had returned from a pilgrimage to char dhams (the summum bonum for sacred Hindu prerigrinology) ; even in these days 7000 Haj pilgrims were welcomed by inhabitants of about 800 villages, with a vajta- gajta (sort of sight and sound) reception. Roughly one thousand tazia processions were led; the Holi was inter- communally celebrated in about 18,000 villages. Pilgrims to the Ambaji temple, Dakor, and the Shivratri festival at Girnar attracted hundreds of thousands of people. Katlak utsvo lakho ni maidni ne ujjavya, kyan kashoo nahi banyu, says the Chief Minister (numerous celebration of festivals were enjoyed by hundreds of thousands of people without a single untoward incident.) Asmita provides then a rich sense of the composite culture of Gujarat, not either defaced or destroyed by the recent carnage.

He then moves to the events on a secular register. In these kapra (awful) days, he says, elections for local governance institutions were held with 75% voter turnout. The government further ensured, beyond the Supreme Court s ordering of popular expectations, that millions of school students were enabled to take final school examinations, even to the point of offering the opportunity to the minority community s students whose admission slips were destroyed by miscreants. Not sata sukh (joys of incumbency) but pursuit of asmita defines the ways of Gujarat governance.

Third, given these accomplishments of good governance, Mr. Modi appeals to national mahanubhavas (the notable honortaries, to evoke a Weberian idiom) to engage in pratiksha (aspiration, expectation of good governance performances) rather than ninda (condemnation) of

Gujarat and Gujaratis. These notables remain interested merely in post-mortem practices, but asmita offers narratives of a living Gujarat. Indeed (in an unmistakable reference to Justice Verma, the Chairperson of the National Human Rights Commission), Mr. Modi refers to the moteras (seniors, elders) who have lost their way (marga bhuliya) because vedna (social suffering) and its social therapy remain crucial. Gujarati asmita summons these misled moteras to contribute to tasks of restoration of social trust.

Fourth, asmita also entails denunciation of hinsa (violence, killings) that disgraces a sabbhya samaj, the civilized society but in ways different from aropnama (mere indictment), badboi (bad mouthing), and aprachar (misinformation / propaganda.) The tasks of shahyog (social cooperation that builds trust) go beyond these malignant exercises that now summon five crores of Gujaratis to combat this collective libel. They have to say with one confident voice to the whole world and humankind: tame jene chitro cho teva ama Gujaratna nathi (the way you portray us are not us, the real Gujaratis.) Indeed, the Gujarati asmita entails a renewed determination to identify and isolate anti-social elements, in a kind of Norton quarantine / delete anti virus modes. There is however no lab where irreparable viruses can be sent for further management!

The law, taking its own course, indifferent to any protected religious identity of perpetrators of violence, is a device of asmita: nyaya ne trajva badhu tolase (everyone and everything will be weighed on the scales of justice) and the guilty shall be punished. That above all will create vishvenu vatavarn, the climate of social trust and interfaith solidarity, constitutive of Gujarati asmita.

This is indeed great, even gifted, form of political rhetoric. But asmita is indeed a

Penelope's web. It is the most quintessential Houdini trick, with few rivals in contemporary Indian political production. Deliberative deconstructionist failures will only enhance the genocidal potential of this very well crafted political rhetoric. I name this as such because the asmita rhetoric stands so structured as to betray the Gujarat violated at every turn. The vaunted scales of justice (as Professor A. V. Dicey long ago reminded us) do not weigh the butcher's meat on diamond scales! <sup>6</sup>

Mr. Modi appropriates in the asmita discourse the iconic figure of Mohandas Gandhi, pliantly reincarnated through Hindutva discourse. More to the point, of course, is the invocation of Sardar Patel as prefiguring the pride of garavi Gujarat. He was after all the iron man of India who strove to put Gandhiji in his place, revived the glory of Somnath temple, integrated Junagadh and Hyderabad into the new Indian Nation, and resolutely questioned secularism of Nehru. There is no way to protect the asmita without charismatic attributes: Mr. Modi revels in his description as a Chotta Sardar, a pocket size equivalent of Sardar Vallabhbhai Patel. Of course, invoking Sardar Patel has wider Parivar uses. Mr. Modi is a Chotta Sardar only in relation to the

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<sup>6</sup> Already, Mr. Modi's party cohorts stand shocked by the arrest of one of their own in Godhra, the Kajol BJP taluka president Chnadrish Parmar (alias Kabhai Dada) for his alleged sponsoring of, on an eyewitness account, raping and then burning alive seven women of minority community in Eral village. The Gujarat BJP President, Mr. Rajendrasigh Rana, considers the matter most serious, but only in terms of some sure conspiracy behind the whole incident (The Asian Age, London, May 10, pp.1-2.) One ought not to prejudge the guilt by the enormity of such an allegation but the current Party responses remain entirely consistent with the notion that activation of criminal justice administration against political personages must always be viewed as a conspiratorial gesture. Fifty years of Indian political development testify to the unimpeachable fact that activation of law against political personages in itself constitutes an act of injustice; this indeed is the first foundational, constitutive condition of sustaining both the rape culture and the culture of impunity.

Yugpurush Lal Krishna Advani, upon whom has now fallen the mantle of being the historic Second Sardar, representing a mortal combat against the vaunted Nehruvian recomposition of Atal Bihari Vajpayee. The new name of the game among the Hindutva forces thus forges forms of solidarity between the 21<sup>st</sup> Century Indian Parivar Sardars. The appeal to Sardar, in the context of Gujarat politicking, is also an appeal to specific community vote banks.

The rhetoric of Gujarati asmita summons collective combat against the rest of India as being engaged in performative acts that defame and disadvantage peoples of Gujarat as a whole. Allegations of massive brutality against women are being now represented as libellous of Gujarati multitudes. Asmita translated as a principle of public administration and governance requires that these stories may never be forensically or judicially verified. The Partition discourse where (as noted insightfully by Urvashi Butalia, Ritu Menon, and Veena Das) provided a register for construction of women's bodies as sacred texts for national honour; very much in the same mode, today's Gujarat invokes asmita to silence violated women. Asmita then requires governance performance of the perfect crime. No credible proof of violence against women should be allowed to tarnish it. A culture based on serial violence signified by highest national incidence of dowry murders, and reiterative collective political violence (cruelly miscalled communal violence) against women can be proud of itself only through the celebration of its misogyny.

Mr. Modi's speech describes Gujarat violence as an act of collective lunacy (gandpan.) The answer to acts of insanity is the restoration of sanity; restoration of normalcy is the only antidote there is to the pathological. Collective violence is thus presented as a series of states

of diminished responsibility, divesting governance of rational ways of coping with it. A very violent effervescence may not be controlled; it has to be allowed to self abate, even in its most gory forms of orgiastic violence. Mr. Modi's critics then, it is being said, do not understand governance in a Newtonian mode, where every action invites its nemesis; the Gujarat government, on its own saying, allowed seventy-two hours before calling in the army. Presented as a record achievement in state management in tackling political violence in the history of modern Gujarat, even India, this delay is also represented as an act of statespersonship. A determined swift state action would then, by implication, only have aggravated collective lunacy, whose dispersal would have required higher, and exorbitant, quotients of state violence. Mr. Modi's critics are now placed under an onerous burden of constructing alternate efficient governance scenarios. Any rational failure to present these is foredoomed as planned violation of Gujarati asmita.

#### 111. NETWORKING ASMITA

Constructions of asmita occur within a network society (Castells; 1997) transcending national borders. People of Gujarati origins in this wide world now stand summoned to combat the malicious propaganda against Mr. Modi and Gujarat, of course in that order. For example, the United States based instant movement named as Overseas Friends of BJP now urges its constituents to remain determined in their struggle to honour Mr. Modi and Gujarat. The vice president of the organization, Mr. Rajesh Shukla, in a recent statement ( Letter from America, Gujarat Samachar, London, 11 May 2002, p.13) suggests that Mr. Modi is being maligned when he combats jihadi forces; all his critics by necessary implication aid and abet such forces.

Indeed, Mr. Shukla insists that Mr. Modi's timely action has saved more Muslim lives, a fact of considerable importance for any understanding of Gujarat 2002 governance. Overseas Gujarati communities (and I say this also on the basis of my own conversations in the United Kingdom and the United States) tend, for the most part, to agree thus making cross border sub-nationalism a powerful transnational carrier of *asmita*. (Incidentally, precisely, and not without notable success, the same strategy stood invoked in the debate over Narmada dam.)

The Internet provides many a resilient site constructing cosmopolitan versions of Gujarati *asmita*. All this is not without consequence to acts of human rights oriented foreign policy in the Whitehall and the White House (not to mention Euro Capital cities.) Expatriate Gujarati communities rank among them not just influential opinion-makers for the practices of multiculturalism but also remain powerful mobilizers of Euroamerican functional equivalents of vote banks. Not merely this: they provide the hardware (political campaign funding) in their adopted countries and through their status as tax-exempt charitable institutions funnel (to the VJP and its normative cohorts) funerary resources for Indian constitutional secularism. Overall, then the *asmita* networking has a material as well as influence-peddling base of some historic pertinence (see generally Bhatt and Mukta 2000; Mukta, 2000.)

*Asmita* also needs within nation networking beyond Gujarat. This is a somewhat difficult enterprise. For one thing, there is no way to translate the power of the vernacular press into languages of national mass media. For another, the rajdharma of BJP lead coalitional national governance entails construction of Gujarati *asmita* as an aspect of the *asmita* of Bharat that is India. Unguarded support for Gujarat *asmita*, however,

overloads the management of legitimation deficit for doing competitive national politics. That surely explains the attempt to pit the asmita of Bharat that is India by some talented and eminent BJP spin-doctors<sup>7</sup>.

The within nation dynamic of asmita also enlists loyalties of Gujarati (and Indian) Hindutva constituted women. The Gujarati sisterhood, on this project, should indeed marshal power setting historic limits to the Indian women's movement's pseudo-secularism. Indeed, many women activists, visiting Gujarat were besieged with questions that challenged their credentials.

The Parivar has, further since the demolition of the Babri Masjid, developed an effective repertoire for discomfiting hostile activism. Gentle interrogations concerning where we locate ourselves in the public space during the Operation Bluestar or what have we said or done concerning exiled refugee Kashmiri Pandits, living under equally horrendous conditions, tend

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<sup>7</sup> Viewers of Dr. L. M. Singhvi's performance on the Star TV *We, the People*, on May 5 surely know this form of negotiation. Dr. Singhvi (with whom Ms. Margaret Alva agreed on this point) says, rightly, in effect, that violence and violation of Gujarat constitutes a defacement and defilement of India as a whole. This rhetoric saying that it is an Indian tragedy, not just Gujarat's, is in truth a politically expedient and contingent mode of holding within some rhetorical constraint the asmita rhetoric. Governors of the nation already experience the legitimation deficit that sub-nationalisms cause to them. The spin-doctors of BJP engage here in multiple governance ruses.

At one level, the translation seeks to pre-empt devouring spread of Gujarati asmita that may otherwise carry considerable political costs for the practices of BJP national level governance. On a related but different plane, this move directs attention to bipartisan handling of Gujarat catastrophe in parliamentary discourse. If this is an Indian tragedy, as the Prime Minister said in the Lok Sabha debates, all national parties have to rise beyond considerations of competitive political gains; as a leader of the BJP he may not perform this feat alone. But were his call conceded, no real political debate will inform any specifically focussed Gujarat governance agenda!

to put activism in the current situation on the defensive<sup>8</sup>. This superficially dialogical demand for activist evehandedness now produces a chilling effect on Gujarat-oriented activism. Asmita s future historic role presents a powerful, even profound challenge, to the nascent forms of solidarity movements of all Indian women against the rape culture.

Within nation networking of regional asmitas is an integral aspect of Mr. Modi s inaugural leadership. The assorted regional parties that so uneasily cobble the national coalitional rule also have their own regional asmita to nourish in their own territories and fiefdoms. The failure of like-minded state satraps, who overlord the destiny of other sub-nationalisms in India, to remain rhetorically alongside with him puzzles Mr. Modi.

Naturally, Mr. Modi now works overtime to refurbish his sub-nationalist credentials, in ways that appeal to asmita overlords in Telugu Desam and other assorted identity based regional political formations. He does this rather brilliantly through various governance tricks, not at all unique to him. Did he not offer to resign, being in turn asked by the Goa BJP national conference to bear the agonizing burdens of leading Gujarat? What can he do if the Party

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<sup>8</sup> I speak from some direct personal experience. In response to a strongly worded public statement on the demolition of the Masjid, not merely the Organizer in a series of articles called for my elimination from public life but I had regular visitations from students and teachers who simply wished to dialog with me. It consisted in the same gentle interrogation of my public credentials. When I said to them that I had to issue the statement in my official role (usually I intervened as Professor of Law and citizen of India) because the University student, karmachari, and teacher union leadership had actually participated or espoused the demolition, they were unfazed and asked me what positions I had taken on Operation Bluestar and Kashmiri Pandits. It took me some time to grasp that these interrogations were subtly master- minded, in ways that any response I can make remained dialogically insufficient!

declines his noble gesture? And what can he do when the Party leadership one day says that he should remain in office and the next day also says that this insistence was perhaps mistaken! Should regional satraps, as matter of principle, favour the risk of dismissal every time a communal riot happens under their suzerainty? Should the opposition in their states be empowered to demand government dismissal in similar situations?

Is it then politically, even constitutionally, sagacious to authorize the national mass media/febrile activist sponsored discourse concerning human rights and the rule of law to endanger duly elected national and state governments? Should not the democratic response be focussed instead on reasonable regulation of mass media and of the communities of NGOs, who at best can be said to represent people in rather undemocratic modes? Should the national Parivar led coalitional rule be endangered, with uncertain prospects of future power -sharing, by the post-Godhra hype over Gujarat? His compatriots Chief Ministers are already beginning to respond to this hard, male message.

At issue always is the political question: should scores of, always alleged violated women, thousands of killed Indian citizens, the countless victims of frenzied looting, mayhem, and mischief be allowed to deter the wholesome state pursuit to reap the whirlwind of globalization? Should responsible governance management issue wrong signals to multinational investors and builders of global Internet cities, just because a few women have been brutally assaulted, raped, and murdered?

Various asmita versions present rapid economic development as a final solution to problems of social violence. Asmita, as Andhra Pradesh Chief Minister Naidu has now revealed is, after all, a

federal bargaining chip for ad hoc, bit still very real, reallocation of resources by the Centre to his State. No doubt, he with a marinating consistency, worthy of a master chef, continues to insist on the four core demands concerning Gujarat, including the dismissal of Mr. Modi! State satraps know well how to convert here and now human/ social suffering into governance empowering managerial languages of cooperative federalism. The moral high ground that Mr. Naidu occupies is then a rope of sand for the Gujarat, as well as the Andhra, violated. The politics of variegated asmitas of course stands estopped from any misrecognition, as carrying any creationist role in human, and human rights, violation.

#### V. ENUNCIATION OF PERNICIOUS PRINCIPLES OF GOVERNANCE

The Second Gujarat catastrophe ominously affirms some distinctive principles of governance that the first rather viciously enacted. No matter how politically incorrect the presentation of these may appear at this moment, social and human rights activists need to address the ways of production of the radical evil of this new governance principles and recognize the enormity of these principles.<sup>9</sup>

First, good governance now entails forms of respect for collective guilt and responsibility. Each harmed community, in principle, has access to this right to collective and at the same time to de-centralized violent self-help. The Hindutva logics, in reality, guarantee the enjoyment of this right to the dominant community. Good governance requires that the State machinery stand idly and cruelly by, in precipitate moments

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<sup>9</sup> The present article partly relies as also reworks some themes in my recent article((Baxi, 2002.))

of violent frenzy when people enact a communitarian human right to self-help to discipline and punish members of minority communities<sup>10</sup>. When minority community members are said to have perpetrated a Godhra -type incident<sup>11</sup>, the dominant Hindutva majorities enjoy an unscripted constitutional right to wreak vengeance, with considerable impunity. Mr. Modi's ways of governance, blessed now by the Parivar, fully entrench a right to collective vengeance and retaliation.

Second, this collective right stands constructed not just as vengeance but also as an anticipatory right to self-defence. Sufficient retaliatory violence does more than settle scores; it further constitutes a massive message for future deterrence. That deterrence reconstitutes both power and vulnerability (cf. Thmabiah, 1996: 285.). The might and the fury of the lonely crowds that constitute means and modes of violence remain haunted by a real, as well as cultivated, fear of future militancy by constitutional minorities. The scale of decentralized violence entailed in the exercise

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<sup>10</sup> Accordingly, vigilant care should be taken to transfer police officials and civil servants that obstruct the pogrom. A tender solicitude for the career advancement of the personnel offers the public justification. The Gujarat Home Minister (who incidentally confesses that he has not once visited the relief camp in his own constituency!) now asks us to believe (alongside with the Union Minister of Home Affairs my PC instantly translates this as Home affrays!) in the Union Cabinet) that the transfers were routine because several vacancies, marking prospects for promotion for concerned officials, had to be administratively catered to. Similarly, restoration of law and order requires the police to control communities of social and human rights activists, and activist mass mediapersons, protesting at the Sabaramti Ashram. Gujarat sub-nationalism must be spiritedly revived against the old Enemies like Medha Patkar, and her associates, always portrayed by the Party and the Government as the architects of the ruin of the State.

<sup>11</sup> Lesser triggers such as Hussein's paintings or the making of new wave movies like Fire and Water, selling of Valentine Day Cards, also authorize the Hindutva hooligans to retaliate.

of this right must then be sufficiently savage to inhibit prospects of future militancy and inculcate amongst the non-Hindus the production of belief that their bare life, biological survival [in the sense that the post-Foucauldian philosopher Giorgio Agamben (1995) memorably archives for us] depends on their acceptance of unmitigated, even brash, Hindutva dominance.

Third, the exercise of these unscripted rights must be, at the end of the day, limited by an inner political logic. Governmental bystanderism, providing congenial social environment for killing (Horowitz, 2001: 326-373) necessarily remains a finite public good. This means that collective violence on a large scale must remain an intensely brutal affair of a few days, replaced when necessary by sporadic violent acts. The schedule of enactment of this right is tacitly co-determined by the ruling formation and specific agents of violence<sup>12</sup>. No matter how this schedule works out, ruling formations should be able to swiftly begin the task of repairing legitimation deficit thus engineered.

The new technologies of governance necessarily stand conceived as a series of strategies for damage limitation. Note that the damage thus to be limited is not the damage caused to victimized and violated communities; rather, the strategies stand directed to limit the harm to the potential of practices of communalisation of governance<sup>13</sup>. The governance technology also

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<sup>12</sup> Later empirical studies will, no doubt, tell us more concerning the nature of codetermination when they identify in some detail how the Hindutva militia lent its organization and leadership acted in collaboration with the ruling party leadership in Gujarat.

<sup>13</sup> Given the intense national and international focus, state/governmental legitimacy now needs to be re-fabricated. The old ways of doing these are now already in place. Momentarily distressed Indian regimes have a perfect mechanism at hand, with a history of proven success, to time wrap political

requires that neither mass annihilation nor out of state mass migration (which may indeed cripple the invisible informal economy of Gujarat) result from the intense and brutal killings, rape, arson, and looting. Rather, new ways of governance must ensure two outcomes: [1] terrorizing inescapably localized minorities in ways that foster a permanent awareness of their radical insecurity thus curbing any potential for major retaliatory violence [2] ensuring that the impoverished minority communities continue to sustain the informal economy.

Fourth, this collective right should belong only to the newly imagined/ invented minorities, now constructed by the Hindutva logics very differently than the Indian constitution. According to the Parivar, the dominant numerical majority is now the minority, entitled to innovate collective self-protection. The Hindus, they say, are discriminated against in their own homeland (pitrubhoomi) by various secular acts of appeasement of the non-Hindus (Baxi, 1994.) The

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violence. This is the device of judicial commissions of enquiry that produce the appearance of the short-term rule of law oriented state action that in the long haul divests victims of any semblance of effective redress. Indeed outside this device, the practices of communalisation of governance will stand deprived of an important democratic resource.

The spectacular emergence of the National Human Rights Commission in the Gujarat situation, however, causes unforeseen difficulties for Chief Minister Narendra Modi. These are partly overcome by the politics of denial as well as of calculated compliance. The State must contest its preliminary findings. At the same time, calculated compliance also stands installed. A minority community member of legislative assembly is to supervise relief and rehabilitation; Mr. K.P.S. Gill is named inaugurally in the history of state politics, as a security adviser to the Chief Minister. This appointment carries mixed messages. On the one hand, the suggestion (already resented by senior Gujarat police officials) that the state police needs to be de-communalised and made more professional; on the other hand, to harness for Gujarat his notorious competence in dealing with cross-border terrorism. It is unlikely that Mr. Gill's services would be deployed to bring the guilty of Gujarat violence to book. It is wholly probable that his association will perfect strategies for ways of militarised governance in Gujarat

Parivar is more generous than Bal Thackeray construction of Hindus; only recently on a Star TV discussion (May 5, 2002) Thackeray distinguished the integrity of Shiv Sena by saying that the RSS had other elements within it; when pressed to specify he mentioned the Sindhis (Lal Krishna Advani was actually named.) Regardless of the internal difference structuring forms of purity of Otherness, the commonly shared Hindutva platform, encourages, mobilizes, and fully justifies the affirmation of the right to retaliation against constitutionally constructed minorities.

Fifth, technologies of Hindutva good governance has as its final end the ways of purification (suddhikaran or lustration as ex-communist regimes in Russia and central Europe now name this) of governmentality. Purificatory practices of politics of mass cruelty serve the cause of future Hindutva politics only when popular consciousness stands divested of all active residues of constitutional secularism. Governance becomes authentically representative of people only when invested with an arsenal of active political passion against a collectively personified enemy. Rajdharma (Mr. Modi understands most creatively Prime Minister Vajpayee's summons) signifies the emergence of the Hindutva rule-of-law conception, in which people's participation in governance must signify the purushartha (male, patriarchal praxis) of popular justice, the myriad violent ways of disciplining and punishing a hostage constitutional minority.

Sixth, Gujarat happenings demonstrate now all over again, the enactment of collective guilt and responsibility reconstructs the body of the Other not as an individual body but as a historical body, a body caught in our territory, an alien substance out of place, a metonymical representation of the community (Hansen, 1999:

214.) Desecration and destruction of that historic body, through horrendous acts of violence, expresses itself as a critical event but remains recognizable as a product of routine politics of the massification of national identities (Id., at 216.)

Violence against bodies that stand historically marked may then never be said to hurt the innocent. The Gujarati Bahens who prepared and launched so enthusiastically the desi Molotov cocktails (kakarass) against their erstwhile neighbours far from being pathological were indeed normal ; they were thus addressing historical bodies, acting as agents of a collective communal unconscious. How may, they ask, may mere acts and prose of governance address the spontaneous outbursts of collective political violence? The raising of this question defines, then, law and governance as addressed with two contradictory tasks: maintenance of the rule of law and authorizing acts of holocaust (cf. Agamben, 1995.)

#### V. INAUGURAL USES OF CONSTITUTIONAL FEDERALISM

The federal principle, design, and detail were addressed to create imaginative geographies of justice. Neither an imperial Centre, nor self-dissipating forms of regional (and local) specificity, thus stands legitimated by the constitutional vision and order. Indian federalism was envisioned not merely as a division of political spoils but as cooperative federalism in which governance, national, local, and regional was harnessed to the tasks of protecting rights and justice, and to secure a humane development. The chequered history of practices of Indian federalism (Austin, 1999: 553-630) now wholly perverts co-operative federalism. That vision inscribed on the design and detail of Indian federalism the protection of life and liberty of each and every citizen as a

paramount constitutional obligation on Indian state formative practices. It now authorizes the framing narratives that construct competitive political party quotients for inflicting legitimate violence on Indian peoples.

The Modi- Vajpayee articulations of rajdharma for Gujarat, 2002, incarnate conceptions of Indian federalism as comprising: [1] the excesses of Hindutva spoils, [11] a de-secularisation of Indian constitutionalism that now authorize Holocaustian practices of state politics, unredeemed by any constitutional oversight and unmindful of any regard for even a most minimal regime of human rights redress and rehabilitation, and [111] emplotting /mapping ever new geographies of injustice.

The former Prime Minister Narasimha Rao set the precedent during the demolition of the Babri Masjid and the ensuing carnage; scrupulous regard for federalism prevented him from doing anything at all amidst immense the cascading costs of physical and social death for an unconscionably large numbers of Indian citizens. This newfound virtue now stands awesomely expanded and entrenched.

It articulates the following principles perfecting the practices of communalisation of governance. First, administration of law and order remains a constitutionally designated State subject. The Centre has (outside, of course, the enthusiasm marking the convening of a Joint Session of Indian Parliament to rush through the terrorist anti-terrorist legislation: The Prevention of Terrorism Act) only minimalist range of constitutional obligations. Second, the Article 355 obligations (now a subject matter of a unanimous Rajjya Sabha resolution) signify only a series of practices that now normalize the pathologies of governance in Gujarat. In complete plain words, the Gujarat King may do no wrong!

The very same guy who ordained practices of mass cruelty is the person who now stands invested with tasks of social engineering. That is what good federalist practice now enjoins! Third, Gujarat has to be rebuilt as an engine of Indian economic development in an era of hyper-globalization. This means, in a nutshell, that we instantly perfect organized amnesia of mass atrocities and go on with business of development as if nothing ever happened! What happened is simply unfortunate but the Gujrati asmita now requires moving ahead with all that we now have.

We may, incidentally, note the differential response of the NDA coalitional deployment of federalism. When Chief Minister Jayalalithaa torments an ex-Chief Minister of Tamil Nadu, and an incumbent Union Minister of Commerce, the scrupulous regard for federalism stands eclipsed. The selfsame Union Defence Minister visits Chennai on a fact finding and troubleshooting mission, resulting in a hysteric protest at outrageous ill treatment of Mr. Karunanidhi, denied an air conditioner in the central jail! The Centre seeks to respond by giving a variety of time bound directions to the Tamil Nad Chief Minister; in a year s time, the same national government is now unable to work out its constitutional responsibilities under the very same constitutional provision! When thousands of minority communities people stand raped, mahymed, brutalized, and killed, federalism curiously entails scrupulous constitutional quiescence!

Hard to believe, but still violently true, the very same political formations (that now rule the Nation) that made possible the prose of the Sarkaria Commission Report on Centre- State Relations, and thrived politically on the activist judicial discourse in the Bommai Case, now urge federalism as a principle for abstention

when thousands of Indian citizens stand deprived of their minimal constitutional rights to life and livelihood.

Were we to ask: in what ways then does the political management in Gujarat 2002 constitute a radical break? the answer, I think, lies the deployment of federalism as a Shield and Sword for practices of mass cruelty epitomized by communalisation of governance.

The answer, generally, lies then in the refrain of a popular song of the Sixties: the answer my friend / is blowing in the wind.

#### V1 UNDERSTANDING VIOLENCE

The abovementioned six (or at least the first five) features may be faulted for presenting an over-rationalized reading of the Gujarat events, a reading that reduces all acts of individual agency to governance orchestrated performances. This indictment must surely also extend to a personification of the Gujarat BJP via the figure of Mr. Modi; surely, internal Party dynamics may lead to his eventual instrumental ouster, when his leadership is perceived as hurting its eventual electoral interest. Surely, alternate explanations abound and ought to be fully considered. We pause to notice some of these, however briefly.

##### [a] Spontaneity

The first such explanatory framework accentuates the Gujarat carnage as a spontaneous response to the tragic Godhra incident; it represents intense and awfully brutal violence as a pre-reflexive work of million outraged hands and bodies. The fact that such depiction may suit the regime purposes is then merely superstructural; the infrastructure of violence lies in unorganised spontaneity. On this view, violence

that appears organized on some reading of the events is in fact highly decentralized and chaotic, and quintessentially pathological. Mr. Rajiv Gandhi articulated this notion of seismological violence in the wake of assassination of Ms. Indira Gandhi; Mr. Modi now reintegrates the same theme. The key point here is that when the ground beneath their feet<sup>14</sup> rumbles and shakes political catastrophes acquire the character of natural ones. Post- Godhra violence then is almost akin to the Kutch earthquake the previous year. Governance amidst such critical events (in a the sense that Lyotard names these) remains simply insufficient, no matter how well intentioned or even efficient.

This reduction, this homology that equates social disasters with natural catastrophes poses a formidable challenge for human rights and social activism. Denunciation is simply not good enough. What needs to be demonstrated is not causation but the propensity for humane governance in the wake of such events. Measured by the quality of human rights oriented governance effort, Gujarat 2002 unfortunately, on all available narratives of victimized populations, fails its tormented humanity on both the catastrophic occasions.

#### [b] Collective Communal Unconscious

The second explanatory route maps the origins of violence in terms of narratives of communal consciousness, described as

the production of nationalist and communal identities and subjectivities at the level of everyday life. We need to analyze the identity effects engendered and shaped by everyday proximity and social relations between communities, by

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<sup>14</sup> With apologies to Salman Rushdie for the invocation of the title of his recent novel in rather unintended contexts

localised histories of violence and antagonism, and by the communal; forms of knowledge naturalized and sedimented over long stretches of time (Hansen, 1999: 203.)

This approach invites attention to the complex histories of historic time, in which community relations stand mediated by localized complex relationship between ideology, identity, and histories of violence. What then appears, on the first account, as spontaneous is in effect framed by history and is best understood as normal rather than pathological. This approach also faults state / governance centric approaches as being somewhat ahistoric.

#### (c) Instrumental Approach

A third approach looks at community-based violence in frankly instrumental terms. Violent actor intentionalities / subjectivities serve several rational and reasonable ends.

It, for example, addresses issues of coercive redistribution. Many social activists now suggest, that the so-called communal riots are, in a substantial part, planned land grab exercises, motivated by the desire to command highly valued scarce urban space in Ahmedabad, and other growth points in Gujarat; violent evacuation by dominant citizen action releases prime real estate from occupation by the subaltern peoples. Bapupura, in Ahmedabad, for example has as high a real estate market rating as Navrangpura; the migrant diamond industry entrepreneurs there make a quick kill by terrorizing migrant dalit and Muslim populations.

At the same time, violent subjectivities emerge as rational and reasonable, in terms of management and distribution of the resources of political power and influence. Asmita logics, as

noted, must invest violent social agency with the culture of impunity. Political party based and blessed militia outfits have resource reallocation / transfer uses transcending riot situations.

(d) Developmentalism

A fourth approach seeks to understand community-based violence in terms of histories of economic development / underdevelopment in ways that define both the problem and the solution. Following Arturo Escobar (1995), I name this as developmentalism, a series of ideological practices that mystify the failure of development. This failure is made manifest when we attend to the constitutionally conceived imagery of development as a process that disproportionately benefits the impoverished citizen masses.

Professor Yoginder K. Alagh reminds us that any serious -minded understanding must be located in the dual recognition that Gujarat as a powerhouse of industrial growth simultaneously marked by a neglect of a larger vision of development a neglect of the human factor (2002: 73.) If only this faultline were better, more creatively, managed (and civil society resources imaginatively harnessed in relief and rehabilitation) Gujarat will become a relatively violence free state. He urges a notion of Gujarat development as a major process of confidence building so that a large number of economic and social actors once again start functioning autonomously (Id. at 74.) For him, Gujarat-bashing is scarcely an answer; what matters is the return to developmental business as usual, for this alone holds the key to social peace, cooperation, and progress. Note that what is salient in this approach is the autonomy of a multitude of economic and social actors; governance is merely an island in these oceanic

circles. Confidence building then must conform to the archetype of minimal governance. It remains resolutely unfeminist; the problem that violence Gujarat 2002 names is simply violence, not violence against women.

Professor Alagh's prescriptions will work well when as in Godhra, in the long run, if not today (we must here recall that Godhra remained relatively free of violence even as Gujarat burned) where the minority community is numerically quite substantial. How a similar pattern of normalcy can be reproduced in sites with a more severe asymmetrical distribution of subordinated communities is not a question even posed on this sort of analysis. Nor do we quite know from Professor Alagh how to proceed in confidence building when Gandhinagar governance is both seen and experienced by affected communities and peoples as a socially violent agency.

(e) Psychologism

A fifth approach travels the royal road of psychoanalysis and social psychology. Ashis Nandy offers a diagnostic reading of inner fascism of Mr. Modi; Nandy clinically describes the latter's clear paranoid, and obsessive personality traits, manifest in his cool, measured (elaboration of) a theory of cosmic conspiracy against India that painted every Muslim as a suspected traitor and a potential terrorist (Nandy, 2002: 18.)

I am not sure what implications ensue. Had the Opposition before it this clinical data, would it have been more justified to seek psychotherapy rather than resignation? Should the Constitution be amended to require periodic psychiatric tests as precondition for holding public offices? Or should we construct psychoanalytical testing models in ways that may somehow prevent

circulation of schizo-parnaoid elites and leaders, no matter how all this may affront standard notions of plebiscitary democracy? Should, at a more routine level, the law relating to libel be suitably modified in ways that protect free psychiatric public speech? How do we guard against the battle of expert opinions in the deliberation of such a constitutional/ legal innovation? These are no flippant questions, at least from the perspectives of the here- and -now and the potential citizen victims of political catastrophes. I urge my distinguished friend Ashis to address these.

My frankly derivative reading of Sudhir Kakar (via Hansen, 2001: 205-210) suggests a different understanding of community -based violence that Nandy s. Kakar raises issues concerning the moral economy (as it were) of brutal violence. What is at stake in this reading are the truths and imperatives of a higher moral order [that] allow and justify extraordinary acts of violence (Hansen, 2001; 208.) Such moral orders constitute a stage in a larger societal (mal-) development and constitute inescapable pathologies in deeply religious as well as developing societies like the Indian (Id. at 209.) To say the least, on this register, state/ governance practices at worst provide triggers to communal unconscious; their role as independent explanatory variable remains rather minimal.

This sort of explanatory framework invites several pertinent interrogations. In the first place, we need to understand the inner order of violence that may be said to epitomise morality and ethics. To be sure, ethical codes remain complicit with the radical just war / jehadi/ dharma yudh appeals to individual moral virtue and summon the destruction, defacement, and defilation of the non- affinal religiously constituted Other. Against these, all religiously ethical orderings also construct imperatives that

urge peace, non-violence (ahimsa) and fellow-feeling (fraternity.) In either situation, construction of religious sensibility remains problematic, with important consequence to any urging of social therapeutics, diving the normal and the pathological.

Second, the underlying logic of stages of development (moral and social) misleads.

Developed societies, rather than offering radically understanding or alternatives, remain enclosed within not dissimilar trajectories of the violence of social exclusion. I must (for reasons of space) leave this thematic undeveloped, except to say that the different registers of social violence offer only a distinction of degree, not distinctions of kind.

Third, extraordinary violence, on this narrative, remains insufficiently oriented to what I here name as the rape culture. All violence is indeed violence. But orders of violence stand justified differentially when violent subjectivities articulate themselves on bodies and souls of women. Psychologically based narrative explanations require distinctly feminist understandings of the orders of political violence.

#### (f) The Specificity of the Political

A sixth approach assigns primacy to the political. Ashutosh Varshney accounts urban community based violence in terms of differential presence of civil society urban networks (Varshney, 2002<sup>15</sup>.) Asgar Ali Engineer indefatigably reminds us all along that what stands described thus masks the fact that the riot violence consists in politically caused/-triggered events. Paul Brass describes the Indian State as an institutionalized riot system

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<sup>15</sup> My citation to this important work is derivative, as I have not as yet had an opportunity to study this pioneering work.

(Brass, 1977.) Atul Kohli (1991) also archives the ways in which the formative practices of local microfacism present to political managers the difficulty of managing the dadas/ goons who bring them to power, who then claim just rewards of autonomous flourishing after they install governments. In his magisterial work, Donald Horowitz even as he reminds us (2001:28-42) of the poverty of theory explaining mass ethnic violence also alerts us to the need for a fuller understanding of political purpose-rationality that facilitate violence through conditions of uncertainty, impunity, and justification (Id., at 326, emphasis in original.)

All this points to a simple fact: communal violence remains a complex political production. We need new political vocabularies that describe this reality, ill served by descriptions of organized / complicit political violence either as riots or as communal violence. One way to accomplish this is to expunge the phrase communal violence / riots at least from activist / social theory discourse. And we need, as a matter of some urgency feminising practices of doing social theory of violent subjectivity.

The non -State/ governance centric explanatory approaches suggest that governance may aggravate, but does not emerge or remain, a principal causal factor. These immensely valuable accounts direct attention to the relative autonomy of agency of the civil society, and the psychodynamics of violent behaviour; and to stages of moral and economic development. In the process, most governance actors and practices stand divested of their historic, and histrionic, potency in framing politics of mass cruelty. These readings also reveal that epistemic communities (academia, mass media, the legal and adjudicative professions, and the policy actors) have diverse epistemic / cognitive choices to make in framing

the explanatory narratives. And the choices they thus make are fraught with deep implications for the violated Indian humanity confronted with the tasks of resuming life amidst its debris. For the future of social tolerance in India, I find appealing Bhikhu Parekh's plea that we embed our notions of our rich cultural and religious diversity in public values, sensibilities, and institutions (2002:26 at 31.)

For this reason, at least from the standpoint of the violated, I believe that the specificity and the autonomy of the political needs to be privileged, even if this means some surrender of the embarrassment de riches resulting from the alternate readings. No task, perhaps, is more pressing now for the epistemic communities than to understand violence in a way that empowers the violated to bear witness and speak to the state concerning the violence of governance desires, to acquire a dignity of discourse for the sufferings they voice and to demand integrity in governance. Social theory performances, like governance ones, need to be reflexive in a way that produces bodies of solidary knowledges, constructing in the process constructing a fellowship of suffering (Baxi, 1999.) Sheer scientism fails to respond the call made by the Eleventh Thesis, now obscured by the gurus of globalization.

## V11 JUSTIFICATION

This political form thrives on a perverse and parasitic construction of continuity, thesis. Chief Minister Narendra Modi (and his normative cohorts) asks us to believe that they are doing nothing new. What they have now done is the only way there is of doing Indian politics. The Congress Party performed similar principles and politics to a high degree in the Sikh genocide in 1984; in 1992 post-Ayodhya carnage Narasimha Rao idly stood by as if nothing of moment had happened. Governments of all political hues have

managed various communal riots the same way as the Modi government now seeks to manage Gujarat happenings. Its critics operate vote banks in no different ways than the Parivar now does. Despite the noble routine denunciation of politician/ criminal nexus or the police /goonda Raj (to the point of inconsequential rhetorical incorporation in President s Republic Day addresses to the Nation) in real life terms, even as late as the last 2002 round of state elections, political parties nominated, and people voted into power, notorious rowdies and history-sheeters. In the impending Gujarat elections, would the ruling party be morally wrong in impeccably repeating this sort of political feat?

I name this perverse for at least four reasons. First, Indian constitutionalism does not authorize massive, flagrant, and ongoing human, and human rights, violation by appeals to such histories. Of course, it authorizes free speech and expression and competitive political actors remain entitled to make comparisons by virtue of this right. But such of acts of free political speech, if at all appropriate, may not provide a complete and full basis for brazen violation of Ministerial Oath of Office, total renunciation of Article 51-A duties obligating all citizens to foster the composite culture of India and to ensure eradication of all practices derogatory of women, and the paramount obligation to administer political power in accordance with the provisions of the Constitution.

Second, the regime of governance duties that arise from customary and treaty-based human rights regimes that, among other things, prohibit genocidal governance, xenophobic political practices of discrimination based on religion, gender and class that result in social apartheid, and violation of women s rights as human rights.

The Hindutva performative logics deny relevance to these grammars of governance.

Third, past histories of moral failures in conducting just governance do not justify present and future intended and planned failures. Communalisation of governance remains profoundly violative of the constitutional rights, justice, and development texts.

I believe that our activist ways of reading Gujarat, as a new departure in the ways of doing politics must acknowledge some commonalities. We need to fully understand the fact that the rule of law in India also at the same time marks, and even thrives, on the constitution of the reign of terror. There exists an operational multi-party consensus in India that regards use of force and fraud in doing of politics as legitimate. Organized political violence against individuals or groups has become a way of doing politics.

At the same time, given the fact the Gujarat 2002 also marks a radical rupture in ways of governance activist praxis needs to develop capabilities to describe it as an epistemic break. That capacity stands, of course, enfeebled within the exigency of activist politics that must now find warming the thundering denunciation of the newly elected Rajjya Sabha member Laloo Prasad Yadav. His calls for a platform of solidarity of all voices of secularism remains seductive, until we recall that it does not quite help the Dalits of Bihar constantly butchered by various regime- tolerated upper caste Hindu militia outfits.

Gujarat, 2002, marks a transformation of the regimes of impunity. As now constructed by the BJP Goa Conference, appeals to majoritarian democracy now emerges as the best solvent of all indictments of state complicity in organized political violence. The message here caricatures

all notions of political representation and of minority rights. Buoyant Hindu majorities, in the wake of Gujarat violence, now stand invested with the power to retrospectively justify large-scale political mayhem, rape, looting, and murder. Anticipated / engineered plebiscitary verdicts stand touted as democratic versions that expurgate the Gujarat -type modes of ethnic cleansing! I am somewhat at a loss for historical analogues of such brazen democratic justifications, for such productions of Radical Evil.

India, unsurprisingly, lags woefully behind from South experiments at redressing such political productions. Unlike South societies and nations that resolutely confront issues of transitional justice (see Teitel, 2000; Naomi, 1995) and despite urging (Baxi, 1994), India has yet to produce its own variant of effective national truth and reconciliation, following models of El Salvador, Chile and South Africa; we have not (outside the realm of judicial activism) reproduced any wholesome discourse on reparation, restitution, and rehabilitation. The classic, and in so many ways inaugural, model of Indian constitutionalism stands thus severely denied of any sensible forms of mitigating fallouts of planned political catastrophes.

## VII. WHAT IS TO BE DONE?

This is indeed a formidable question. It transfers the historic burdens of reversal of communalisation of governance on to active citizens, the political paracommunities of social action. And this transfer is accomplished in terms of trade wholly unfavourable to social and human rights activist epistemic entrepreneurs and communities. On the one hand, these must engage in after-the-event forms of activism (wholly precious for the Gujarat violated); on the other,

they must discover virtues of social action reflexivity that generate before- the-event forms of activist intervention. In both these forms of social action, their tasks remain heroic: How to make human / social suffering programmatically legible to political actors in ways that significantly empower the violated masses of Indian citizens?

To pose the question thus is to invite some agonizing questions concerning the ontological robustness as well as the frailty of contemporary forms of social and human rights activism, a question that complicates their legitimacy by the very success of communalised governance that sediments the imagery of communal unconscious. Indeed, and in comparison, struggle for civil and democratic rights before, during, and after the internal Emergency of 1975-76 were relatively less formidable. At stake now are the very languages of human and constitutional rights and of inaugural constitutional conceptions of governance, development, and justice.

Clearly, the repertoire of identity resources and toolkits of social and human rights activists are threatened with depletion. Constitutional minorities under siege now find that that secular languages and performances of human rights and social activist moments do not speak to the situation presented by Gujarat, 2002. The task (and I rely here on many a distressed and anguishing communications I have already received from activist comrades who never thought of me as a Hindu activist or of themselves in the imagery of minority activists) emerges wholly differently.

Since minority activists stand deprived of any real means of political communication in these halcyon Hindutva era, the task remains enunciated in terms of good Hindus (Hindus as constitutionally defined, including Jains,

Buddhists, Sikhs, and even indigenous peoples in some respects) may now inveigh against the bad ones (the discourse in the Seminar 2002, partly provides tell tale narrative signatures on this score.)

A new kind of majority activist self – positioning stands now summoned, arrayed against the Hindutva forces and fields. The question put to activist members of the constitutional majority communities is this: How may they proceed post- Gujarat to reinvent human rights oriented rule of law and governance languages that resonate with growing sections of Hindutva humanity who regard constitutional secularism as a profound threat to their own identity and life projects?

Well, and conscientiously, may most of us, inevitably now identified as activists of the dominant constitutional majority communities, say that the first tasks consist of restoring peace. But that is what also the very violent political cabal also says! Well we may speak of healing the wounds, the very same language that the perpetrators also now invoke. For the violated of Gujarat, all these remain somewhat complicit phrase regimes, no matter what the activist languages, because political rhetoric has already stolen activist languages! No doubt, the violated look with a resolute aspirational integrity for to the activist, rather than governance, efforts at amelioration. But how may we deliver results in non- (or at least less) complicit modes, modes that can be actually put to work here-and -now and for the immediate future?

I do not know, quite frankly how fully to respond to this interlocution. But the issue remains urgently posed, not as marking any communal divide among activists but as a signpost of potency of activists constitutional birthed as a

Hindu to speak with those who have inverted this circumstance into a political identity, now cruelly named Hindutva.

To some extent, the struggle has already begun, though before Gujarat 2002, and not quite framed this way. I refer here to the campaigns against communalisation of school textbooks and other educational methods and materials. Post- Gujarat 2002, I also find warming that many activists have chosen to go to schools trying to explain to students why and how Gujarat 2002 happened and what ought everyone do to avoid its tragic recurrence. Even so, the characterization of the schools (and education generally) as ideological apparatus (by Louis Althusser, following Antonio Gramsci) rings cruelly true in a Hindutva constituted India.

Constitutionally birthed Hindus , and even those of faith, have hard, long, and at times bitter tasks laid before them to ensure that whatever else may education achieve for the future generations, it does not achieve the installation of a communal unconscious, permeable to xenophobia, intolerance, and discrimination. Equally important remains the task of installing a CEDAW<sup>16</sup> consciousness entailing respect for women s rights as human rights. On this plane, what is needed is not merely sporadic NGO activism, precious as it is, but a whole variety of sustained social movements directed to violence against women, where the causal linkage between serial violation (dowry murders, rape) and collective violation becomes legible for the new generations of citizens, activists, and rulers.

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<sup>16</sup> The universally subscribed United Nations Convention on the Elimination of All Forms of Discrimination Against Women.

Much more indeed can be said on this count but I desist, save to say that the Hindutva forces now require activist exertions to translate all education into human rights education (see for a narrative of the human right education itself as a human right, Baxi, 1998.)

The practices of naming and shaming remain under-exploited in many modes of social activism. Even if it may be correct to say that most political actors in India experience neither shame nor guilt, this does not hold true for all social strata. Accordingly, at the local level (where always action is) agents of hate speech, in all their habitats, need to be constantly exposed. These include a whole range of learned professions (including teaching and vernacular journalism, law and medical profession) and an assortment of official and political power holders. Nipping in the bud, as it were, the India wide active fostering of communal consciousness at local levels is far more complex and contradictory a task than filing still worthwhile social action petitions in courts or leading mass media public opinion campaigns. I do not know what future historians may say about it but the paradigm for this kind of action, at least for me, remains the PUCL report that specifically archived a compelling indictment of the agents of the Sikh massacre in 1984.

Equally crucial remains the task of presenting the voices of human / social suffering. Giving immediacy to the anguish of the voice, demystifying pain and suffering, revealing the social power of public lamentation (as Ranajit Guha, Veena Das, and Parita Mukta, have variously accomplished) remains as pressing a moral task of social theory as the attempts to delineate the formative causes of social and political violence in India.

The tasks before us then remain simply overwhelming. But active citizens seem to have little choice. Max Weber, long ago, described force as a social relation, which constricts the available range of social action. Hindutva is coercive precisely as this register. Countering it entails imaginative frames of social action that precipitate the diminishment of this coercive potential<sup>17</sup>.

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<sup>17</sup> I here add (further to my Seminar article) the following tasks, directed at reversal of logics of impunity, primarily through enlisting adjudication as an aspect of people's movement.

First, a simple writ of quo warranto (the citizen interrogation of why certain persons may hold public office in ways manifestly in contradiction with their constitutional oath of office and their Fundamental Duties) provides, it seems to me, one mode of reviving democratic discourse in these difficult, in a politically savage moment. We may not succeed but the attempt is still worthwhile, as it will at least require of the Union and State government some rather elaborate labours of justifying why the regime may constitutionally remain in office. Such writs may produce a more reasoned discourse concerning the content of democratic rule than the Lok Sabha debates.

Second, the Bommai Case, especially Justice Jeevan Reddy's Opinion, invites social action / public interest petitions requesting the Supreme Court of India to direct the President of India to consider the dismissal of Narendra Modi government. Article 356 authorizes the imposition of President's Rule when governance is not conducted in accordance with the provisions of the Constitution. At the very minimum, constitutional governance requires protection of bare life; that is, respect for the rights of citizens to live on, without invasion by regime sponsored / tolerated wreckage. Such state toleration / manifest complicity unarguably violates the Constitution. The technical issue, of course, remains presented by the requirement that the State Governor file a report; but in savage exceptional situation the Court and the President may innovatively mandate such a constitutional performance.

Third, there exists considerable scope for activating the Indian Penal Code against the Gujarat governors. Leaders, local and national, now need to be burdened with a defence against the criminal indictment for inciting communal enmity on the ground of religion. They also invite criminal prosecution on the offence of causing public mischief. Further, the offence of sedition that consists in the intention and the act of causing disaffection towards a lawfully elected government must be pressed against elected and governmental actors, who whether through acts of

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commission or omission, author such disaffection. Of course, the relevant provisions making conspiracy to commit unlawful acts ( acting in concert ) should be fully pressed in such public prosecutorial moves.

Fourth, transfers of conscientious civil servants and law enforcement officials who sought to arrest and abate governmental criminality (justified by the Gujarat Home Minister and the Union State Home Minister on the ground of routine promotion) need to be judicially reviewed; conscientious civil servants who have chosen to resign should be persuaded to rejoin the service; at the very least, all officials penalized for discharging their legal duties should be awarded exemplary damages.

Fifth, judicial modes directing immediate substantial interim relief should now be out in place, supplanting the State largess measures, whether announced by the Prime Minister or the Chief Minister. It is high time that the Supreme Court of India mandates a regime of instant and meaningful compensation and rehabilitation, in its Article 21 jurisdiction, protecting life and liberty, rather than proceed case by case. At least an in-place constitutional tariff for wanton human, and human rights, violation must now, post Gujarat, ought to be firmly in place. Such a normative regime must provide for exemplary constitutional damages as well.

Sixth, citizen social action litigation should seek, under the Commission of Enquiry Act the Supreme Court ordering of the setting up of a national commission of enquiry, presided over by a retired Chief Justice of India. The Act provides amply for such displacement, unarguable in such a context of monumental national holocaust.

Seventh, a whole charter of practical demands should mark our ceaseless social action quest for reinvention, or at least renovation, of politics, articulated in my Seminar article under the rubric of [1] a Mandatory Regime of Immediate Relief and Long Term Rehabilitation [11] construction of constitutionally ordained free-standing mechanisms for Fact-Finding; and [111] creation of effective means for perforating the culture of immunity through an innovated regime of prosecution and punishment (Baxi, 2002: 82-83.)

Eight, we need to ensure that various commissions (human rights commission, women s commission, minorities commission Scheduled and Cates commission, do not become obstacles to exercise and enjoyment of human rights. It is a matter of pure political good luck that the National Human Rights Commission performed as it did; and it, by the same token, is a constitutional misfortune that the National Women s acting belatedly found extraordinary ways of normalizing brutal violence against Gujarat women. We need to insist on non-partisan ways of composing these agencies by principles that fashion collegiums.

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