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Do the Arts Speak Truths?

Censorship and Counter-Censorship in the Liberal Realm

Arindam Dutta

On 1 January 1989, the theatre artiste and communist party activist Safdar Hashmi was badly beaten up by ruling Congress Party goons on the outskirts of Delhi while performing, with his street-theatre troupe Janam, his propagandist play *Halla Bol* (Raise Your Voice). He succumbed to his wounds later that day; he was thirty-four. The furious popular and media reaction that ensued was of a scale unprecedented, then as now, in terms of public reactions to the death of an artist in independent India.¹ (That is if we, of course, disregard popular film stars.) Thousands of people took to the streets with hundreds of theatre troupes, artists, and groups of artists spontaneously producing and staging agitprop works that flooded the public sphere, while newspapers and magazines relentlessly excoriated the Congress Party and its government for the intolerance it had long fostered amongst its ranks. Not everybody who protested had known Safdar or were communists, but his death nonetheless became a national flashpoint in the declining years of a four-decade political monopoly of India's party of independence – what Rajni Kothari had, sometime ago, named the 'Congress system'.²

An institutional platform began to shape itself in this tumult, the Safdar Hashmi Memorial Trust, or Sahmat, as large numbers of Indian intellectuals and artists, some communist, but mostly non-communist sought to make common cause in their disillusionment with India's ruling power arrangements. As the outrage from January ebbed into the summer heat of 1989, the core Sahmat group in Delhi began to consider more strategic issues around which to mobilise – in a more systematic way – the energy, dedication, and goodwill that had surfaced over the past few months. The topic that they settled on for their first campaign, in retrospect, for all its apparent radicalism and antinomianism, may

1 Newspapers and journals reported this event on their front pages in virtually all Indian language publications. A selective compilation of this reportage is available in *Safdar*, Sahmat, New Delhi, 1989.

2 Rajni Kothari, 'The Congress "System" in India', *Asian Survey*, vol 4, no 12, December 1964

also be described as a liberal staple of the political universe: censorship. In so far as this topic involves the complex, often violent, dynamics of ‘taking offense’, within the liberal universe the question of censorship also carries with it a certain non-partisan air of inoffensiveness in the bourgeois public sphere, in that no faction likely sees its interests advanced by the blanket proscription of free speech. In that sense, the early focus of Sahmat on expressive freedoms in the general sense also signalled its clear intent to evade any particular factional agendas to hold on to the ecumenical cohort that had gathered around it.

The offending bastion to which Sahmat turned its attention and energy, as well as to test its mettle was an old, colonial-era law that had long been the *bête noire* of the theatrical community: the Dramatic Performances Act, a law promulgated in 1876 (under Britain’s Prime Minister at the time, Benjamin Disraeli) amongst a raft of similarly restrictive measures instigated at that time – such as the Vernacular Press Act of 1878, on media, public speech and ‘seditious’ acts – all of which had survived unscathed, like the bureaucracy in which its prerogatives were vested, through the animated debates and provisions on free speech within the constitutional debates in independent India, and remained in regular use. The provisions of the Act allowed the administration to edit or censor forms or expressions in theatre that were likely to disrupt public order, ‘of a scandalous or defamatory nature’, or, more widely, that were ‘likely to deprave and corrupt persons present at the performance’.³ The power to prosecute under this law fell to the District Magistrate (or DM), a crucial cog in the Indian state’s system of executive powers.

The 1876 Act gave the DM power, on the basis of his own interpretation of a theatrical or literary text, to authorise police to ‘enter and arrest and seize’ all personnel associated with an offending play as well as their props and costumes. Any theatrical performance was required to obtain a public license, satisfying the DM’s office that it would adhere to its stipulations. After independence, constitutional provisions regarding freedom of expression led to multiple court rulings striking down the use of the law, but the act remained on the statute books, as did the executive functions of the DM’s office. In principle therefore, the DM’s refusal to provide permission for a performance or exhibition could be challenged in the courts – and case law in India had devolved to increasingly progressive positions, striking down arbitrary acts of official censorship – but such judicial resolution typically took years if not decades. In the immediate, short-term, performing artists remained exposed to the DM’s arbitrary powers of discretion and censorship, subject to the latter’s personal proclivities that could range from individual whimsy, bureaucratic expediency, political sycophancy, or sheer ideological predisposition. For performances or events involving substantial capital inputs, such as theatre, the consequence of such arbitrary exercise of power could well be financial ruination; this was a key reason for the bulk of theatre productions in India pursuing what they considered safe, non-controversial repertoires.

Sahmat’s campaign against the 1876 Act took the form of a festival of street theatre, Chauraha, (the first All India Street Theatre Festival, 13–15 September 1989), celebrating Safdar’s primary *métier*, at which dozens of troupes were invited to perform. In the catalogue issued for

³ The Dramatic Performances Act, 1876; Act No 19 of 1876, 16 December 1876

the occasion, theatre doyen and Sahmat activist Rati Bartholomew recounted the history of the Act and drew attention to various instances and the abundant scope for its official abuse, given its broad remit to ‘withhold license [against theatrical performances] on grounds of indecency; offence to personalities, any nation, community, followers of any religion; sedition and promoting hostile feelings between different classes’.⁴ Bartholomew paints an impression of this colonial origin as ipso facto a sign of its illiberal, despotic tendency, thereby rendering its continuation and active use in the post-independence era as an atavistic, absolutist vestige. This account of colonial suppression is dutifully followed up by an account of postcolonial suppression, read through the censorship of the communist-identified Indian People’s Theatre Association (IPTA) and the Progressive Writers’ Association in the 1940s, and of left-identified playwrights such as Utpal Dutt during the Maoist uprising of the 1960s and 1970s.⁵ It was therefore essential, Bartholomew – and Sahmat – argued, to dispense with the Act altogether:

It has been claimed that the presence of an act in the statute books is not an issue. Rather, it is the use of the various provisions which is important. There, in so far as the provisions of the Dramatic Performances Act have been infrequently invoked it is of little consequence. We believe otherwise. *The procedure set out under the Act imposes censorship. The very presence of such an Act is designed to dampen creative expression...* what is required is concerted united action – a movement – to repeal the D. P. A. all over the country.⁶

This ‘anti-statist’ radicalism nonetheless obfuscates an important distinction that needs to be made if we intend to look at the Safdar story more carefully. The Indian state had not, at least directly, censored Janam’s play; on the fateful day of his murder and in the last moments of his conscious life, Safdar had, along with his colleagues, run *towards* the police station to seek safety, and not away from it.

It is quite the norm in political activism and cultural studies alike to regard censorship in terms of a ‘vertical’ relationship between the state and its subjects. In this respect, the state’s supervening authority – amenable to ‘capture’ by different mass-phenomena, the bureaucracy, the demotic mob, corporate media – produces a barrier against the freedom of citizens to act, speak or behave as they wish. In the process, the ancient claims of natural law are brought in to confront the artifice of government and the social contract in what amounts at best to a kind of political romanticism: we speak, or should speak, ‘freely’, or so we think, and we assume the recipients of our speech are people just like us, wedded to truth, to rational argument, to freedom of expression, and to tolerance. Their opinions may differ from our own, but equally, as rational subjects they may be expected to change their minds based on a better argument. Thus, within the liberal critique of censorship there remains a fair deal of naivety about whether what one considers ‘free speech’ is ‘natural’ or ‘contractual’ in character. At the linguistic level, one retains a certain organicism about the pure transmissibility of speech forms: ‘truth’ appears therein as a universally readable semiotic emission unconditioned by societal or institutional mediation, hanging

4 Quoted in Rati Bartholomew, ‘On the Dramatic Performances Act: Censorship on Theatre’, in *Sahmat, Chauraha 89: All India Street Theatre Festival*, Sahmat, New Delhi, 1989

5 Bartholomew offers us the following note circulated to district officers in Bengal in 1949, giving them a free hand to restrict IPTA and PWA activists wherever they should seek to perform: ‘It is likely that some organizations, such as the All India Peoples Theatre Association and the All India Progressive Writers’ Association with communist affiliations and leanings may be organizing public dramatic performances, songs, etc... any attempt... made by them should be stopped by the District Magistrates as far as possible by the use of the Dramatic Performances Act 1876... No previous reference need be made to the Provincial Government.’ Express letter 511/13 Pr. S/100/49, 7 June 1949, from the Secretary to the Government of West Bengal (Home Press), as quoted by Rati Bartholomew, ‘On the Dramatic Performances Act’, op cit.

6 Bartholomew, *ibid*

above or prior to the social contract and the norms of government. In art discourse, this naivety often takes the form of exhorting artists to ‘speak truth to power’, eliding in the same breath the following question/s: Do the arts speak truth? What kind of truth is spoken in fiction? And is it truth that is censored *in* fiction or art, or something else?

Sahmat’s exhortation to abolish the 1876 Act was not unlike other movements for free speech in that it left unresolved these problems intrinsic to art practice, focusing rather on a statutory arrangement that spoke to more general conditions of state power. In the heady environment of 1989, with Perestroika in the air and the imminent fall of the Berlin Wall, and given what in India appeared to be the decline of the Congress system, a certain waft of anti-institutionalism and anti-statism may not have felt out of place.

As Michel Foucault stated: practices of truth and freedom appear as *responses to*, and as *expressions of* institutional arrangements, and in a crucial sense represent the a priori legitimation of these institutions.⁷ In what follows, I attempt, however briefly, to demonstrate that the question of censorship and art in the context of arguments about liberal government in post-independence India, far from presenting to us the image of some distant, autonomous state descending from on high upon some prelapsarian, natural world of the citizenry, speaks rather to constitutive contradictions both in the very composition of the Indian state in particular and liberal political theory in general. The ‘vertical’ staging of the state as a censorious, supervening entity in liberal theory represents, I argue, a stratagem to cover a critical and crippling lacuna at the very core of liberal thought. In liberal philosophy, ‘horizontal’ negotiations between sub-state, corporate entities or associations are privileged in resolving conflicts of interest and resource allocation as opposed to the state’s adjudicative powers. As a consequence, rather than produce a history of coeval existence between interest groups, in the modern period these negotiations of interest within avowedly liberal states have tended to resolve themselves in the form of successive, but incessant, contests over the control and capture of the state – which is to say, its self-constituted power to say *no* – by factions or coalitions of different kinds. In effect, the abyssal insistence on negotiation within liberal philosophy sets up the conditions for its own subversion.

The consequences for a critique of censorship and of art practice in this context is not so distant as one would imagine. Quite in contrast to the image of the artist as a lone individual holding up the torch of truth or representing some idealistic epitome of the citizen, in the Indian context as in others, it is important to understand art practice and artists within liberal polities as necessarily immured within corporate or factional forms of legitimacy, indistinct from, say, shopkeepers, lawyers or farmers, which moreover is the *only* frame of legitimacy that liberal political philosophy accords them.

Consider, then, the following passage, written at about the same time as Sahmat’s Chauraha, whose stridency would even appear to mirror Sahmat’s own:

We would like to make a point about dramatic performances. Theatre activity is generally nourished by the National Theatre of the country, professional theatre groups of different kinds and a variety of amateur

7 ‘The important thing here, I believe, is that truth isn’t outside power or lacking in power; contrary to a myth whose history and functions would repay further study, truth isn’t the reward of free spirits, the child of protracted solitude, nor the privilege of those who have succeeded in liberating themselves. Truth is a thing of this world; it is produced only by virtue of multiple forms of constraint. And it induces regular effects of power. Each society has its regime of truth, its “general politics” of truth – that is, the types of discourses it accepts and makes function as true; the mechanisms and instances that enable one to distinguish true and false statements; the means by which each is sanctioned; the techniques and procedures accorded value in the acquisition of truth; the status of those who are charged with saying what counts as true.’ Michel Foucault, ‘Truth and Power’, in James D Faubion, ed, *Power: Essential Works of Foucault 1954–1984*, Volume 3, Robert Hurley et al, trans, The New Press, New York, 2000, p 131.

organizations. One of the relics of British rule in our country is the statutory imperative of a license from the police and the magistracy to enact dramatic performances, the issue of which is preceded by a scrutiny of the script. *This amounts to pre-censorship which has no place in our democracy and must go.* We recommend accordingly... The statutory imperative of a licence from the police and the magistracy for enacting dramatic performances, and the rules regarding prior scrutiny of scripts, which amount to pre-censorship, must be given up... [and below a certain price-level] dramatic performances should be exempted from entertainment tax.⁸

One finds these enunciations nestled not within some activist screed or artist manifesto, but in the ‘Report of the High-Powered Committee Appointed to Review the Performance of the National Akademies and the National School of Drama’, aka Haksar Committee, chaired by one of the late Indira Gandhi’s most favoured civil servants and empanelled by the Ministry of Human Resources Development (HRD) under Rajiv Gandhi. One may well consider this ironic, given that antipathy to the Rajiv Gandhi administration’s heightened curbs on media freedoms was a driving factor for the large, popular support behind Sahmat’s formation; a further irony rests in the fact that it was owing to depositions made by Sahmat members and its constituency to the Haksar Committee that language such as the above was specifically appended to its report.

Indeed, what strikes one on scrutinising the series of official government reports on culture and arts in India since the 1950s onward is the fact that *every one* of these reports – from the Akademi Seminars of the 1950s to the Homi J Bhabha Committee Report of 1964, to the 1972 Justice G D Khosla Committee Report – include similar language on repealing censorship norms and the 1876 Act. The conundrum for the putative conflict of censorship and rights expression in the first fifty years of Indian independence is not that of an adamant state constitutionally disinclined to cede freedoms to its citizens and artists. Quite like similar problems encountered in the field of commerce and industry, the real problems of legitimacy for artistic expression in liberal frameworks appear in the state’s attempt to define rights and privileges vis-à-vis specific spheres of activity. A paradox thereby emerges wherein in apportioning a certain right, the state is also called to *define* the work and form of work to which this right is apportioned: inevitably, the juridical definition of a freedom inevitably amounts to a restriction, thus producing the terms for a new cycle of censorship and subversion. The substantive question regarding free expression should be rather to ask why, despite insistent and continuous avowals by the state to shore up ideals of free speech, it structurally fails to realise this.

Take again, for instance, the following:

In the opinion of the Seminar, the Dramatic Performances Act of 1876 is wholly out of place in the present context and should be repealed.⁹

This is item no 1 of the multiple demands put forth by the Drama Seminar, officially hosted by the Government of India under Nehru in 1956 as a prelude to the creation of the various Akademis

8 Haksar Committee, Report of the High-Powered Committee Appointed to Review the Performance of the National Akademies and the National School of Drama, Department of Culture, Ministry of Human Resources Development, Government of India, New Delhi, 1990, p 48, p 57

9 The proceedings of the Drama Seminar have been republished as Jayant Kastuar, ed, *Indian Drama in Retrospect*, Sangeet Natak Akademi/Hope India Publications, New Delhi, 2007, p 404

dedicated to the arts. Indeed, so many of the dramatists present at this seminar – many of them with avowed left or communist leanings, Balraj Sahni, Ebrahim Alkazi, Sombhu Mitra, Dina Pathak, and who would have an emeritus role in the future Sahmat – protested against the 1876 Act, that an irritated Mulk Raj Anand asked participants ‘not to waste any more time of this Seminar’ discussing the subject.¹⁰ In the rosy flush of independence, warmed by Prime Ministerial backing and by the prospect of new institutional power, the participants could only imagine that the demise of the Act was but a foregone conclusion.

In the discussions, it becomes evident that at least one transformative element that had interposed itself since the 1940s had been the Constituent Assembly debates. ‘In a true democracy, the theatre is not merely a diversion’, opined Sahni. Rather, in this ‘true’ spirit of politics that is a non-politics, theatre and the arts serve as a circumscribed ‘arena of polemics’ where ideological conflicts can safely happen, where arguments can rationally confront each other without explicit arrogation of interest. The arts thus offer the apotheosis of a parliament, their reflective content rendering them the very image of sovereign deliberation. Given this new-found sovereignty, the 1876 Act may at best be considered a ‘convention... I call it convention because there is no law which demands submission of play-scripts to the police... It is not only obnoxious but *ultra vires* of the Constitution’.¹¹ The old laws, with the colonial state as perpetrator, may no longer be regarded laws: the new constitutional framework makes this legality moot, subject to reconsideration from a radically opposed view of interest and disinterest. Art is the headland of this continent, this yet to be discovered kingdom of right.

Sifting carefully through the entirety of the proceedings, however, one becomes aware of a significantly different dynamic driving the discussion on censorship as opposed to the question of rights as one would assume. There are, to be sure, the myriad absurdities encountered in the execution of the law and the behaviour of the police, absurdities which perhaps could begin to be written off as the deleterious hangover of the colonial era began to be erased under the shadow of a new constitutional framework.

For one, many of the respondents were genuinely mystified as to the ideological rationale behind the Act, recounting a litany of absurd encounters with the police. Kisses were objected to, even if the kiss in question – as the Parsi theatre’s Adi Marzban was at pains to emphasise – was not of the ‘un-Indian’ kind between man and woman, but of the ‘Indian’ kind between mother and son. Balraj Sahni, who devoted a substantial part of his talk to censorship, reported that, for an adaptation of Nikolai Gogol’s *Inspector General*, his troupe, the Juhu Art Theatre, had to obtain no less than ten licenses:

10 Kastuar, *ibid*, p 238

11 Ahindra Chowdhuri, ‘The Professional Theatre in Bengal’, in Kastuar, *Indian Drama in Retrospect*, *op cit*, p 91

12 Balraj Sahni, ‘Traditional and New Drama’, in Kastuar, *Indian Drama in Retrospect*, *op cit*, pp 307–308

for the script, for the theatre, for selling tickets, for using mikes on the stage, for distributing handbills, so on and so forth... [one new regulation stipulated that] no female artist above the age of sixteen can appear on the stage unless the premises are enclosed by a wall at least ten feet high!¹²

What was particularly galling was pre-censorship of plays that had no *political content*. Playwrights who had gone out of their way to source and translate what they presumed were politically inoffensive plays from

the Sanskrit classics and from Somerset Maugham, Shakespeare, Marie Corelli and George Bernard Shaw described harassment that owed more to perfunctory official behaviour rather than any actual reading of the texts. Balraj Sahni (sometime faculty at Santiniketan, volunteer at Gandhi's Wardha Ashram, and acquaintance of Harold Laski, T S Eliot, and John Gielgud) narrated at length his experience with a particular CID inspector, who, irritated at having yet one more task on his plate amongst 'far more important things to do [than] read a wretched drama performed by some cranky amateurs', berated him for these infantile pursuits and for wasting his own, as well as everybody else's time.¹³ With neither the time nor inclination to read the play, the inspector asked Sahni home late in the evening, taking him out to a *halwai's* to drink milk at 9 pm, where Sahni proceeded to read the script, upon which the tired officer promptly fell asleep and began to snore. He awoke, two hours later, somewhat apologetically, and gave his assent the following day.

However, not one respondent recounted a specific instance where disapproval of *actual political content* was the basis for censorship. What we have, insistently and repetitively been told, is the assertion of a negative cause-and-effect, 'billiard-ball' relationship: censorship restricts creativity – *not politics*, mind you, but creativity. The paradox grows richer if we consider Rati Bartholomew's reference to the 1940s police orders in Bengal against IPTA performers. In the 1956 Drama Seminars, the actual IPTA members (for example Sombhu Mitra) present at this state-sponsored event, with first-hand experience of that era, make *no mention* whatsoever of these events. In the Drama Seminar politics remained firmly offstage; we could even say that the participants went out of their way to affect a kind of non-political visage. 'I am not a political person,' stressed K M George.¹⁴

Why this Reticence, this Ideological Self-Effacement?

One particular reason the Bartholomew/Sahmat Chauraha manifesto might be described as carrying out a subtle elision of its own is that the principal attacks against the IPTA in the late 1940s, and which led to its demise, had come from a 'purge' within the Communist Party of India itself, and not from the state. Given that context, it is not surprising that ex-IPTA figures were all too happy to escape into the *embrace* of the state.

This ecumenical embrace of multiple political allegiances, particularly those aligned with the communist movement, in the 1950s, can be attributed to the ecumenism of the Nehru government itself, which – as the variety of ideologues in the Akademi Seminars easily demonstrate – sought to bring within its purview a wide gamut of political attitudes. Nehru's own accommodative persona and his personal stewardship of the Akademi appeared to link the project of 'culture' to the work of national modernisation and mobilisation, holding out to the artists present at these events the prospect of institutional involvement at the core of the nation-building project itself. Given the revolutionary air of the proceedings, as I argue below, the prospect of new institutional privileges appeared to outweigh more hardened demands for the rights of

13 Sahni, *ibid*, pp 306–307. For a memoir on the lives of Balraj Sahni and Bhisham Sahni, see Kalpana Sahni, *Balraj and Bhisham Sahni: Brothers in Political Theatre*, Sahmat, New Delhi, 2012.

14 Discussion following K M George's presentation on 'Malayalam Drama and Theatre', in Kastuar, *Indian Drama in Retrospect*, op cit, p 247

expression, which in any case the new constitutional frameworks were believed to eventually secure.

Nehru himself however professed a good deal of ambivalence regarding the balance between a personal ethos of tolerance on the one hand, and the insistence on the primacy of law on the other. Here is his introduction at the Film Seminar of 1955, the first in the Akademi series:

[I have been asked to say] something about censorship. Now this is a difficult subject so far as I am concerned, because I start with a certain presumption against censorship; I am, I am sorry to say, still affected considerably by my old nineteenth-century traditions in regard to such matters. So I do not take favourably to too much restriction or too much censorship. On the other hand, it is quite absurd, it seems to me, for anyone to talk about unrestricted liberty in important matters affecting the public, to leave people to do what they like. Suppose, as might well happen, that the production of the atomic bomb became cheaper and simpler. Well, are we going to allow, in the name of full liberty of the individual, everybody to carry an atom bomb in his pocket?¹⁵

Most critical, Nehru argued, was the need rather for an intimate critical discussion between those affected by a law and the lawmakers themselves: in order to do so, it therefore would be necessary for a given constituency to mutually associate and cohere their demands succinctly. In the first, Hindi part of his speech, Nehru had begun by saying,

It is good that those *who are most associated with this work* meet amongst themselves and consult mutually. Because this is indeed how complex questions (*pechida sawalon*) can be illuminated.¹⁶

If we read carefully what follows, it becomes clear that Nehru's address continually bobs across a certain line, a conjectural borderland between the competing prerogatives of private interest ('those most associated with this work') and the state ('The State has to interfere to some extent. To what extent is another matter.'). This dialectic is foregrounded, first of all, by Nehru's *dual* status as both Prime Minister and the President of the Sahitya Akademi (India's National Academy of Letters). He continued: 'It is not always easy to draw a line between the Prime Minister and the President of the Sahitya Akademi.' (But one must nonetheless persevere, since nothing will make one resign from either position: the dialectic must be resolved within the body of the prince, not outside it.)

15 Jawaharlal Nehru, inaugural speech at the Film Seminar. The proceedings have been republished as R M Ray, ed, *Indian Cinema in Retrospect* [1956], (Speeches of the 1955 Film Seminar, Delhi, 27 February 1955), Sangeet Natak Akademi, New Delhi, 2009, p 26.

It is quite a number of years since I have been connected with Government, but those years have not completely suppressed my personality... I do not take kindly to *too much* regulation and regimentation... *to too much protocol*.

Particularly when this concerns art – 'music, dance, literature, and the like' – which is a 'thing of the spirit'. It should be allowed to 'grow with as little interference as possible'. Government should not be

16 Nehru, *ibid*

too much of a judge even of people's morals, *if I may say so* [ie, not categorically]... there is a large latitude or freedom of the individual for things to develop.

Once again, it is a matter of measure, of latitude, of relaxed prerogatives, and of the degree of influence that any individual expression may carry. 'Creative arts must be allowed, encouraged to grow'. Such is art. *Media*, however, is a different thing. That is where things grow too much – beyond the precinct of the interest of the individual to a collective one or the masses as such – therefore potentially challenging the socialising mechanisms of the collective that is the nation itself; and particularly where children are concerned: these horror comics, for instance, which were sent as a birthday gift to his grandson. Nehru echoes here many an American parent:

I was horrified looking at it that anyone, much less my grandson, would have that kind of literature to read... [Thus] I am absolutely clear in my mind that [horror comics] should be repressed ruthlessly. (Applause.)¹⁷

Everything depends on the fraught link, the power of 'influence', between reproduction and reproducibility, between genetics and genre and gender. Mass reproducibility – newspapers, periodicals, drama and film – renders the cast of its effusions particularly critical, since it is a question of '*moulding* the people of the country, the new generation, *my* grandson'. In media that have widespread influence, the government 'must be intimately concerned'. Particularly abhorrent, therefore, are films that preach violence, 'the war mentality', regarding prohibitions on which the state would have no compunction: 'Well, the Government of India would come down upon it with a big thump and stop it. *There is no use telling me that you are interfering with the liberty of the individual.*' The loosened hand can also be clenched, made into a fist: the police will wage real war against the cinematic depiction of war. In the putative openness of a certain, private liberality – both of the sovereign and his subject – there remains a certain boundary: a warning or stipulation surrounding every mandate for debate and for a given interest group to deliberate and press for its rights: 'So I say there are limits [even if they cannot be prescribed in advance]'. The real question, Nehru asserts, is *where* the prerogative for these rights of proscription, these disputes over interest and the adjudication of offense are to be placed, and under what conditions they are to be exerted:

In what manner [censorship is to be imposed] is a different matter. The main principles [of the limits of expression] must broadly be agreed to, whether it is Government or whether it is the Film Seminar or the producers. *There may be and there is bound to be difference of opinion as to where the lines are to be drawn. It may be, these lines are not absolutely fixed. They may vary from time to time.* Well, it is a matter to be considered and discussed and then to be decided – nothing to get excited about and shout at each other about. [Author's emphasis]¹⁸

This is key: liberal deliberation about censorship must also censor itself, eschew nervous effusion, comport itself with a certain reserve, a sedateness commensurate with rational interest given that in this arrange-

17 Nehru, *ibid.* Horror comic books first made their appearance in the United States in the early 1940s and became hugely popular (for example the *Tales from the Crypt* and *The Walking Dead* series), until concerns about their lurid content, and their putative links with the rise of juvenile delinquency in the 1950's led to the creation of the comic book industry's self-regulating Comics Code Authority (1954), which led to a temporary eclipse of the genre, only to resurge in the 1970s. The Comics Code Authority forbade scenes of 'unique details and methods of crime... Scenes of excessive violence... brutal torture, excessive and unnecessary knife and gun play, physical agony, gory and gruesome crime... all scenes of horror, excessive bloodshed, gory or gruesome crimes, depravity, lust, sadism, masochism... Scenes dealing with, or instruments associated with walking dead, or torture'. Wikipedia, https://en.wikipedia.org/w/index.php?title=Horror_comics&oldid=704163961, accessed 2 March 2016.

18 Nehru, *ibid.*, p 29

ment the boundaries of the permissible depend on the outcome of a certain *bargaining*.

Indeed, *none* of the attendees in any of the seminars questioned or criticised this inherent threat to liberty posed by the liberalism of the Great Leader. Behind the putative tolerance of the Nehruvian persona or perhaps precisely *because of* this staging of a personal tolerance, the inherent conflict of right is elided, ducked in the transition from colonial to postcolonial state. There are literally no takers for free speech absolutism. (Perhaps this is understandable; this generation above all had borne witness to the genocidal events of Partition, one of the most violent examples in human history of what mobs and the power of ‘rumour’ could do, untempered by the state.) In the Film Seminar, therefore, we find no reference whatsoever to the profoundly retrograde Cinematograph Act of 1952 that, amongst other things, banned kissing scenes as a ‘corrupting’ Western influence.

And yet, the deliberations stay far from merely advocating a position of constitutional reserve; quite to the contrary, if we read carefully, the attendees almost unequivocally echo the Nehruvian perspective, which is to say, *not to question the necessity of censorship per se, but rather to reanimate the figure of the censor by investing it in a different body, a different persona*. Consider the tenor of the following deposition: it is clear that what most jarred these figures was not so much the fact of curbs on ‘freedom of expression’ and speech per se, but the uncouth philistinism of the *ex officio* administrators who were saddled with the decision-making power to allow or disallow cultural events. The Gujarati playwright Chandravadan C Mehta stated:

I will give you another instance to show the wisdom of the guardians of law and order. Uday Shankar was to dance in Surat, when the necessary license had to be obtained. The police inspector said in Hindi, ‘Let him come and dance before me so that I may find if there is anything objectionable’. It is needless for me to remind you that Uday Shankar is one of the seven eminent Indian artists to be nominated by the Government on the General Council of the Sangeet Natak Akademi which holds this seminar.¹⁹

Again and again, we get this sense of *lèse-majesté*, a humiliation inflicted not just on the sovereignty of art, but on the class of persons to which the artist aspires (and from which she comes). We get more than one indication that class was at play on both sides, on the side of the police as well as the artists. The police would not issue him a license, the Kannada writer Adya Rangacharya reported, unless he reported to the police station in person. When asked as to his credentials, Rangacharya told the police inspector that he was a professor in a government college. ‘Why [didn’t] you say [so] in the first place?’ the inspector responded; ‘he asked me no more questions, treated me to tea, and issued the license without looking at the script’.²⁰

The most strident in terms of this class contempt of this aspiration to artistic hauteur we find in Mulk Raj Anand himself, Cambridge-educated fellow-traveller of the Communist movement, and sometime hanger-on with the Bloomsbury set:

19 Discussion on Marathi and Gujarati theatre, in Kastuar, *Indian Drama in Retrospect*, op cit, p 209

20 Adya Rangacharya, ‘Kannada Drama and Theatre’, in Kastuar, *Indian Drama in Retrospect*, op cit, p 221

This house has over and over expressed in unambiguous terms that the [1876] Act, and the pre-censorship of play-scripts by the police should be given safe burials to clear the atmosphere from their polluting stench and stink.²¹

Anand particularly appears infused with a Nehruvian disgust of subalternity: the liberal intellect writes about untouchability and the deprivation of the poor, the plight of the great ‘masses of the people’ and their uplift; it is quite another thing when one of them becomes a constable.

The debate on censorship must therefore be seen as part and parcel of a broader negotiation and jockeying for new institutional and class-defined prerogatives. In other words, we might say that the Akademi Seminars had not been convened to abolish officialdom in cultural policy, despite all the fulsome venting of indignation and fuming about rights and privileges. Quite to the contrary, what had brought them there was the opportunity to craft, and to commandeer, a *new officialdom* of independence, one ostensibly *as* a contrast to the old colonial hackery, but a bureaucracy nonetheless, infused with its own sovereign remit, on the model of the other non-Constitutional bodies (such as the Planning Commission), to wield authority over the undefined territory of ‘culture’.

In the newly independent state, the professors and artists would thus ascend to wield decisional power, one that would not negate the ultimate absolutism of the state, but that would nonetheless trump the petty moralities and callous manoeuvres by which boorish local police officials and crass district magistrates would presume to lord it over the refined tastes of the Uday Shankars of the world. Art would have its own feudal estate, protected against both the democratic crowd (its pulp literatures) and its loutish controllers: cultural discernment must pass from the lowly DM to these aspirant officers, the new adjudicators of a (non-bureaucratic) bureaucracy that would continuously take upon itself the negotiation of the values of art in terms of the modernising fervour of the state’s liberal elite and its pertinence to a prelapsarian, non-democratised indigenous ‘culture’.

In effect, what the seminar respondents were demanding was not a removal of controls but a shift in their operation.

I can appeal to the Sangeet Natak Akademi to use all its influence with the Government and secure the annulment of that obnoxious law of 1876. It should agitate *for the formation of local committees composed of intelligent and responsible citizens for the purpose of censoring plays.* [Author’s emphasis]²²

Indeed, the question of competence is key to this gambit for power. While art portends to speak about the masses, the masses cannot be trusted with the liberalism that allows for its fruition. Only art may judge art, both with regard to what it is not, and to what it is. Each Akademi, in the image of its feudal precursors, should be established as if an autonomous estate, composed of its own independent circle of peer review and valuation, and invested with rights that neither mob nor magistrate may infringe.

21 Kastuar, *Indian Drama in Retrospect*, op cit, p 238

22 Sahnii, ‘Traditional and New Drama’, in Kastuar, *Indian Drama in Retrospect*, op cit, p 308

The creation of an autonomous estate for the film community was what had driven the creation of the S K Patil-led Film Enquiry Committee of 1952, whose purpose was not the creation of new censorship norms per se but to offer the film fraternity an opportunity to create a cartel that would undertake the task of monitoring itself. In divesting censorship control from government to cartel, and in undertaking to rationalise the film sector into a formal, centrally-monitored and supported 'modern' industry, the Committee had proposed in exchange a series of inputs from the state, from creating new financial, export, and raw-stock manufacturing firms to the abolition of various duties, customs and police restrictions on cinema.²³ The eventual failure of this process has been attributed, as in the case of other industries, to the immaturity of Indian capitalism – in the film arena this was composed of a rag-tag group of new financial investors riding on the back of war-time profiteering and a burgeoning black market in commodities – and the lack of a coherent market. That the Film Seminar was the first to be convened amongst the arts was not coincidental: almost all its participants, and a good number of the Drama Seminar had deposed before it.²⁴ Both its format and participants' inputs aimed towards ongoing deliberations on the Patil Committee recommendations.

Given that prospect of autonomy, with the film director V Shantaram, who had served on the Committee, the entire anti-censorship argument above is thus turned on its head. It is precisely because censorship has been entrusted to unqualified police and officials with too many other responsibilities that censorship may remain *all-too cursory, unable to achieve the ends that it is supposed to achieve*. In the end, it is the artist/producer herself who must take on the work of censoring themselves in the ways that only they can, willingly sensitive to the repercussions of their output and truly responsible for the ends to which political subjecthood and their political masters and paymasters charge them. Simply put, the artist/producer must be a better and more acute censor than a mere hack tasked to do the job, if only to better defend their own precinct:

Even if [the film producer] were purely a businessman, he has certain social obligations, certain social responsibilities. If a dealer in medicines palms off bogus injections for real ones, he is duping the public. . . The producers who sell motion pictures are also bound not to sell pictures which are injurious or harmful to society. . . The process of pre-censorship thus acts as a preventive force and compels the film producer to remember his social responsibility. But the censorship itself [sic] is not perfect; and at best it is a negative precaution, preventing the film producer from indulging in harmful and injurious ventures. The censorship, however rigidly, it may be enforced, cannot guarantee that a picture which has passed its test will be in keeping with the cultural and social responsibilities of the producer. For a picture which has nothing objectionable from the point of view of the censors, may have many things objectionable from the point of view of culture and art; and similarly, in spite of all the censors' precautions, the picture may still exert a baneful influence on the public. Indeed, from the criticism often leveled against our pictures by national leaders, it appears that our pictures, duly certified by the censors, have been doing a lot of harm to society. This itself illustrates my contention.²⁵

23 Among the major recommendations of the Patil Report were: '1) Setting up of a government-funded film financing corporation to help talented and 'genuine' film-makers. 2) Founding of an "Institute of Film Art" for the training of film technicians, directors and actors. 3. Setting up of a Film Council of India with proper representation of the industry to regulate and supervise the growing industry. 4. Formation of an Export Corporation for Indian films to foreign countries with concentration of people of Indian origin. 5. Manufacture of raw film in India, as also film equipment. 6. Institution of annual cash awards for films of outstanding merit as an incentive. 7. Abolition of octroi duties, internal customs duties, police charges, etc. 8. Creation of two categories for censorship certificates for films – "U" for unrestricted universal exhibition and "A" for adult films.' See V S Gupta and Rajeshwar Dyal, eds, *National Media Policy*, Concept Publishing, New Delhi, 1996, p 36.

24 S K Patil et al, Report of the Film Enquiry Committee, Government of India Press, New Delhi, 1951

25 V Shantaram, 'The Responsibility of Indian Film Producers Towards the Public for Entertainment Films', Fourth Session, 1 March 1955, of the Seminar on Cinema, in Ray, *Indian Cinema in Retrospect*, op cit, p 89

Censorship becomes more and more necessary as pecuniary motive increasingly determines art's form and need, threatening to break out of the path of social virtue as it were. Which is to say art must be curbed whenever it threatens to slip out of the market-making boundaries that the state will allow. With both added benefits and added state intervention on the anvil, the Film Seminar would make frequent mention of these proposed changes, with some urging that the industry adopt a 'continuous [series] of meetings with small groups of legislators to talk things over'.²⁶

Censorship is merely *one* of the items in this agenda for talking things over. Given the nature and the quantity of investments involved, it is not that the artistic product espouses any particular 'truths' that the government may restrict as such, and whose exposure might unhinge the public firmament. In the realm of cinema, where large capital costs are involved, here rather the question of censorship becomes a kind of negative opportunity cost or unproductive production function, an inconvenience that the artist/producer may happily trade in, in exchange for other, potential conveniences afforded by the state. In the realm of economic vantage, kowtowing to censorship, to the diktats laid down by the state, so long as the norms are made clear, is not contradictory to the opportunity for a general formalisation of artistic practice and production, so long as this formalisation brings with it the opportunity to have one's business risk mitigated by the greater largesse of, and protection by, the state – a largesse explicitly couched in the form of a moral, modernising demand.

To conclude, as we have seen, in the Akademi discussions, the argument for culture posed itself in the form of a demand for institutional stewardship, albeit in the cause of liberal nation-building. In the process, the prospect of an obdurate insistence on rights of expression are displaced into an arena for political bargaining, quite in the image of the parliamentary ethos that the new constitutional framework sought to instil. Thus, on the one hand, artists and cultural performers are putatively promised a new institutional domain to define their realm of activity, while on the other negotiations as to rights are pushed, as in Nehru's framing above, into the fullness of time, contingent on the vicissitudes of history and its ever-changing lines of interest. Censorship remains, in the liberal post-colony as in the liberal colony which preceded it, a fungible domain, subject to – and ever vulnerable to – new turns in the social contract.

We forget often that art itself represents, at its core, a domain of censorship. 'Critical' art practice subsists entirely in the question of what is, and what is not, art, and it is entirely through this dynamic of inclusion and exclusion that institutions such as museums, galleries, and university departments of studio art and art history define themselves. In the context of the Akademi Seminars in 1950s, post-independence India, it is as if this bi-faceted rubric of expression and censorship is refracted through the new institutional impetuses of the nascent, liberal state, producing a license for new forms of practice even as it seeks to better define its bounds.

Almost four decades later, this bi-faceted element or ambivalence would remain etched in the Haksar Committee Report. If, as we have seen above, on the one hand there is the Committee's disposition to rid governmentality of the arbitrary exercise of police powers, the brief *for*

26 Shri R. M. Seshadri, 'Distribution, Exhibition and Publicity of Motion Pictures in India', in Ray, Indian Cinema in Retrospect, op cit, p 196

culture also mandates a renewed faith in curatorship and control, guarding against a civilisational dissolution which may vitiate the social contract itself:

[Culture must not fall] prey to the laws of ‘mass culture’ produced for the market like any other mass-produced consumer goods. . . We must also be on guard against any surrender to *vulgar* and *populist* forms of artistic endeavor. [Author’s emphasis]²⁷

And for that matter, Sahmat’s founding deed of trust, written in the maelstrom of dissent following Safdar’s murder, is hardly devoid of a similar, censorious, paternalism. Sahmat’s objectives, the deed goes, was to:

perform dramas and hold other cultural shows to educate the masses, and in particular those living in rural and working class areas, to help them free themselves from the shackles of orthodoxy, narrow-mindedness, communalism, exploitation and become free and progressive citizens of India. [Consequently, the Trust seeks] to *oppose and counter decadent cultural inroads in the [sic] society*. [Author’s emphasis]

Despite the air of anti-statism, the activist work remains infused with the spirit of a ‘statist utopia’.²⁸ And, much as in the seemingly revolutionary ferment of the 1950s, this new revolutionary fervour would also unwittingly replay the foundational ambiguity of the liberal social contract, seeking to stage its cultural activism in the direction of a ‘horizontal’ stewardship. As Sahmat’s subsequent history would show – which I explore in a book-length elaboration of the issues considered above²⁹ – the unmediated anti-statism of its early formation would prove singularly vulnerable to the tenor of political and social conflicts of the 1990s. The foremost attacks on expressive freedoms in the period to follow would come *from* civil society, not *against* it. The conceptual challenges that Sahmat would muddle through in its activism at a grass-roots level would also present a test case for our times for more lucid explorations into the questions of how, and from whence, rights devolve, if not from the state.

27 Haksar Committee, Report of the High-Powered Committee, op cit, p 11, paragraph 2.12, p 152, paragraph 9.4

28 Partha Chatterjee, *Nationalist Thought and the Colonial World: A Derivative Discourse*, Oxford University Press, Delhi, 1986

29 See Arindam Dutta, *The Liberal Arts after Liberalization: Sahmat 1989–2014*, (forthcoming)