

What Do We Do About The Thackerays?

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Before we proceed with this paper it might be worth understanding the genesis of Shiv Seva and the Bal Thackeray, Udhav Thackeray and Raj Thackeray phenomena. In Maharashtra politics, in keeping with the politics of intrigue which has pervaded our polity since the post Nehru era, it began with Vasant Dada Patil and S. K Patil practising their own brand of intrigue, Indira Gandhi using shady tactics to cut Y.B. Chavan down to size, Vasanthrao Naik encouraging Bal Thackeray to create the Shiv Sena as a counter to Datta Samant's militant trade unionism and then Vilasrao Deshmukh promoting the revolt of Raj Thackeray to cut the Shiv Sena down to size. Each one of these monsters created by Frankenstein, like Bhindranwale in the Punjab, has ultimately ended up with devouring its own creator. That is being experienced in Maharashtra today.

Bal Thackeray is a curious combination of a xenophobe and a Fascist whose agenda is anti-Muslim, anti South Indian, especially those from North and South Kanara Districts of Karnataka, with an inbuilt hostility to Article 19 of the Indian Constitution, especially clauses (d), (e), and (f) which guaranteed the Fundamental Right to move freely throughout the territory of India, reside and settle in any part of India, practise any profession or carry on any occupation, trade or business. The latest target of the Shiv Sena and its offshoot, the Maharashtra Navnirman Samiti (MNS) is the people from Bihar who have migrated to Bombay for employment. Earlier it had been people from Uttar Pradesh, especially Eastern Uttar Pradesh, who were the targets. In the process when we attempt to engage with Pakistan in sports, culture, performing arts or in people- to-people exchange, this is strongly resisted by Shiv Sena and MNS.

Whereas the right to peaceful assembly and the freedom of speech and expression are guaranteed by Article 19, neither Shiv Sena nor MNS believe in any form of peaceful protest. Section 504 IPC totally prohibits intentional insult or provocation which can lead to breach of the peace and perpetrators are liable to both imprisonment and fine. The entire tenor of every speech of Raj Thackeray, when talking of the Biharis, is in direct violation of section 504 IPC. What is more, both Shiv Sena and MNS freely indulge in offences under sections 505 and 506 IPC, that is, criminal intimidation, as also section 350 IPC, the use of criminal force, section 351 IPC, that is, assault and section 352 IPC which punishes assault or criminal force. The threat to force Biharis out of Bombay, to drive out businesses run by Udupi restaurant owners, *chaka jam* and *rasta roko andolans* are all criminal offences. Unfortunately all these activities go unchecked by the Police and, therefore, every occasion on which the Police does not take appropriate action encourages wrongdoers such as the Thackerays to become even more aggressive. Under section 23 of the Police Act of 1861 and similar provisions in the Police Act of various States it is the duty of every police officer to prevent the commission of offences and public nuisances, to maintain the public peace and, under section 31, the Police is required to keep order on the public roads and streets, as also other places of public resort. Under section 32 of the Police Act the Police is required to regulate assemblies, processions, etc., in order to ensure that streets are not obstructed, the citizens are not inconvenienced and the normal tenure of life remains undisturbed. Under Chapter X Cr.P.C. it is the duty of the Executive Magistracy and the Police

to maintain public order and tranquility, disperse unlawful assemblies, remove nuisances, issue suitable prohibitory orders and jointly take all necessary steps to ensure public peace. Under section 151 Cr.P.C. the Police can arrest any persons who is likely to commit a cognisable offence and under Chapter VIII the Executive Magistracy and the Police enjoying magisterial powers can bind over a person to keep the peace, to be of good behaviour and generally to act in a lawful and proper manner. Thus the Police is fully armed under law to deal with the likes of Raj Thackeray and ensure that public order is maintained.

Is this being done? The answer is a resounding no. The Police and the Magistracy are both guilty of not doing their duty and the excuse they offer is that political interference obstructs them in doing their duty, firm action can lead to widespread rioting by hooligans led by groups such as MNS and the Shiv Sena and, therefore, the Police is buying peace through inaction. It is almost as if the only use of police rifles is to be part of 'shastra puja' at Dusserah. Meanwhile the city is held to ransom and citizens going about their lawful duty are subjected to threat, actual violence and the possibility of losing everything they own.

One cannot help making a comparison with the manner in which the Nazi Party grew during the last days of the Weimar Republic in Germany. Storm Troopers called the SA did violence against any citizen who opposed Hitler, clashed with the Police, which increasingly stopped taking action and ultimately such an environment of intimidation was built up that Hitler was able to garner enough votes to form a government. His first act was to use Parliament to pass the Enabling Act which gave him the right to govern by decree. Soon thereafter Parliament was history and Hitler was the undisputed master of Germany. Because Bal Thackeray frequently states that he does not care for the Constitution, if he were to win power he would attempt to create a dictatorship. The Indian Constitution gives complete freedom of speech and expression; it does not give the freedom to convert our democracy into a dictatorship. The Preamble to the Constitution mandates a sovereign, socialist, secular, democratic republic and this mandate is immutable. Shiv Sena and MNS who have contempt for democracy have no place in our republic. They must be suppressed and if Raj Thackeray advocates that Biharis or anyone else should be thrown out of Bombay, then the only place for Raj Thackeray is a jail, where his incarceration should be of a sufficiently long period for him to reflect on his mistakes and reform himself. Unfortunately both the Central and State Government are weak, indecisive and cowardly. It is because of this that bullies flourish.
