



Date: April 22, 2024

Subject: Petition Complaint urging action against Provocative, Unconstitutional, Unlawful and Anti-Minority Election Speech by PM Narendra Modi on April 21, 2022 in Banswara, Rajasthan

To

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Respected Sirs,

We at Citizens for Justice and Peace (CJP), are writing this complaint against the recent speech delivered by Hon. Prime Minister of India Shri. Narendra Modi, who is also a star campaigner of the Bharatiya Janata Party (BJP), in Banswara, Rajasthan on April 21, 2024, while campaigning for the General Elections to the Lok Sabha 2024. In the said speech, which has been widely reported in several sections of the media, the Prime Minister has abused his august office of representing 140 crore Indians by delivering a slur and hate-filled speech during his party's election campaign.

In this widely reported speech, Prime Minister Narendra Modi while referring to the Manifesto of the Indian National Congress (INC) has not only indulged in an obvious, even brazen manipulation but specifically, violated the ECI's Model Code of Conduct and Indian Law by uttering words that are crude and also are nothing short of targeted and communal slurs against the Muslim community. Such speech, especially during a high voltage election campaign, is not only violative of the Representation of People's Act, 1951 but also of the Model Code of Conduct for the elections. It is also inherently anti-Constitutional and in violation of penal sections of Indian criminal law.

In this speech PM Modi has insinuated that the Congress intends to survey, appropriate and distribute properties including gold and silver of common citizens to the members of the Muslims community. He has further invoked the “sale of every woman’s Mangalsutra” in a manner that can generate fear, anxiety and emotion.

CJP is filing this Petition/Complaint for violating many legal provisions and the MCC. We urge that such speech is debarred and the person making it prevented from such campaigning.

Speech that Promotes Harm and Disharmony

Sirs, this is a clear case of hate speech and aimed at instigating disaffection, spreading misinformation, peddling conspiracies and promoting violence against religious minorities. Promoting enmity between different communities/faiths, raising calls for violence and spreading misinformation to gain votes are in blatant contravention of criminal laws, election laws and the Model Code of Conduct, the principle of voluntary, free and fair elections and amount to corrupt practices from a man in a politically powerful position.

Extracts from PM Modi’s speech at Rajasthan’s Banswara on April 21, 2024:

“It says that if a Congress government is formed, everyone’s property will be surveyed, the amount of gold our sisters have will be investigated and calculated. Our tribal families have silver, which will be calculated. This confiscated gold and other assets will then be distributed.”

“Is it acceptable to you? Do governments have the right to confiscate your property which you have earned through hard work? The gold with our mothers and sisters is not for showing off, to their self-respect. The value of their 'Mangalsutra' is not in gold or its price but it is related to her dreams in life and you are talking about snatching it.”

“When their party was in power, they had said that they will distribute it to whom - Manmohan Singh's government had said that Muslims have the first right on the country's assets.”

“To whom will they (Congress party) distribute to after accumulating the property? They will give to people who have more children. They will give it to infiltrators. They will give your hard-earned money be given to infiltrators. Do you accept it?”

“This urban-naxal mind-set, my mothers and sisters, they will not even leave your 'Mangalsutra'. They can go to that level.”

(Timestamp: 35:00- 38:01 min)

[The said speech has been transcribed from YouTube page of PM Narendra Modi

URL: <https://www.youtube.com/watch?v=E8s9LkUoFzA>

The speech is also available at Bharatiya Janata Party- YouTube:

<https://www.youtube.com/watch?v=d1Yll0JbtzI>

Through the carefully calculated words uttered by PM Modi, there is a focussed attempt to polarise the voter which is in violation of every Constitutional premise that grants unlimited power to the ECI under Article 324 of the Constitution to ***conduct free and fair elections***. The legal basis and tenet of free and fair must also include an election that is not marred by the imbalance and bias caused by religion-driven prejudice that tilts the scale ominously against the marginalised minorities. The Representation of People's Act, 1951 under Articles 123(3) and 123 (3A) and 125 debars campaigners/ leaders and candidates from any “appeal to religious symbols” and any effort to “promote feelings of enmity and hatred between different classed of Indians on grounds of religion, race, community or language. In fact, the Honourable Supreme Court of India has debarred leaders of outfits from campaigning for six years under this provision.

The content of the PM's speech meet the criteria outlined herein. It promotes anti-Muslim sentiments and, coming from his position, legitimises an anti-minority divisive ideology amongst the people, that too during an election. There is also an element of crude religious profiling and also stigmatising an Indian religious minority with the use of words such as “infiltrators” and “those who have multiple children”.

Legal Violations

Model Code of Conduct

The polling for the General Elections has already begun. The speech delivered by PM Modi stand in violation of the following sections of Code of Conduct:

I. General Conduct

- (1) No party or candidate shall include in any activity which may aggravate existing differences or create mutual hatred or cause tension between different castes and communities, religious or linguistic.
- (3) There shall be no appeal to caste or communal feelings for securing votes. Mosques, Churches, Temples or other places of worship shall not be used as forum for election propaganda.
- (4) All parties and candidates shall avoid scrupulously all activities which are “corrupt practices” and offences under the election law, such as bribing of voters, intimidation of voters, impersonation of voters, canvassing within 100 meters of polling stations, holding public meetings during the period of 48 hours ending with the hour fixed for the close of the poll, and the transport and conveyance of voters to and from polling station.

Representation of People Act, 1951

Elections in India are regulated under the Representation of People Act, 1951. To ensure that women and men of high ethical values are elected as the representatives of the people of India, the RPA has laid down certain rules of electoral morality and prohibited certain acts which denigrate the purity of the elections. **Part VII of the RPA** classifies condemnable acts committed during elections into two categories: corrupt practices and electoral offences. The principal distinction between these two categories of proscribed acts is that while a wrong committed under corrupt practice can be brought before the courts only at the end of elections by way of an election petition filed in accordance with the provisions of Article 329(b) of the Constitution of India and

Part VI of the RPA, an electoral offence can be taken cognizance of and proceeded with as soon as the offence is committed as per the provisions of the Criminal Procedure Code, 1973. Further, while conviction for a corrupt practice entails civil disabilities like disqualification from voting and contesting elections for a certain period, conviction for electoral offence attracts criminal liability like imprisonment for a term which may extend to three years, or with fine, or both.

PM Modi stands in violation of the following sections of the Act:

123. Corrupt practices— the following shall be deemed to be corrupt practices for the purposes of this Act: —

(2) Undue Influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person 5[with the consent of the candidate or his election agent], with the free exercise of any electoral right: Provided that—

(a) Without prejudice to the generality of the provisions of this clause any such person as is referred to therein who—

(i) threatens any candidate or any elector, or any person in whom a candidate or an elector interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;

(b) A declaration of public policy, or a promise of publication, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause. [(3) The appeal by a candidate or his agent or by any other person with the consent of a candidates or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the national flag or 7 the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate: [Provided that no symbol allotted under this Act to a candidate shall be deemed to be a religious symbol or a national symbol for the purposes of this clause.]

(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the national flag or the

national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate

(3A) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.] 8[(3B) the propagation of the practice or the commission of sati or its glorification by a candidate or his agent or any other person with the consent of the candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

Explanation—For the purposes of this clause, “sati” and “glorification” in relation to sati shall have the meanings respectively assigned to them in the Commission of Sati (Prevention) Act, 1987 (3 of 1988).

125. Promoting enmity between classes in connection with election — Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India shall be punishable, with imprisonment for a term which may extend to three years, or with fine, or with both.

Indian Penal Code

The following offences under the IPC are applicable to the speeches made by PM Modi:

153A. Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.

153B. Imputations, assertions prejudicial to national integration

298. Uttering words, etc., with deliberate intent to wound religious feelings

499. Defamation

505. Statements conducing to public mischief

505. (2) Statements creating or promoting enmity, hatred or ill-will between classes

Vast Powers of the Election Commission of India (ECI) at Election Time

Nature & Scope of Powers under Article 324 of the Constitution

Article 324 of the Constitution provides that the superintendence, direction and control of the conduct of elections to Parliament are vested in the EC. The terms “superintendence, direction and control” are of wide amplitude and have been interpreted to include all powers necessary for the smooth and effective conduct of elections.

Therefore, under Article 324, the EC can exercise any power which is necessary to achieve the objective of free and fair elections, even if the Conduct of Election Rules, 1961 do not specifically spell out such powers. This was emphatically laid down in Justice Krishna Iyer’s judgment in **Mohinder Singh Gill v. Chief Election Commissioner, (1978) 1 SCC 405;**

(2)(a) The Constitution contemplates a free and fair election and vests comprehensive responsibilities of superintendence, direction and control of the conduct of elections in the Election Commission. This responsibility may cover powers, duties and functions of many sorts, administrative or other, depending on the circumstances.

(b) Two limitations at least are laid on its plenary character in the exercise thereof. Firstly, when Parliament or any State Legislature has made valid law relating to or in connection with elections, the Commission, shall act in conformity with, not in violation of, such provisions but where such law is silent Article 324 is a reservoir of power to act for the avowed purpose of, not divorced from, pushing forward a free and fair election with expedition. Secondly, the Commission shall be responsible to the rule of law, act bona fide and be amenable to the norms of natural justice insofar as conformance to such canons can reasonably and realistically be required of it as fair play in-action in a most important area of the constitutional order viz. elections. Fairness does import an obligation to see that no wrongdoer candidate benefits by his own wrong. To put the matter beyond doubt, natural justice enlivens and applies to the specific case of order for total re-poll, although not in full panoply but in flexible practicability. Whether it has been complied with is left open for the Tribunal's adjudication.

Therefore, Sirs, the Election Commission has inherent powers under Article 324 and even in the absence of MCC or the provisions of RPA, it has a duty to maintain a conducive atmosphere for holding free and fair elections. Once this power is mandated, any procedure to have it enforced is also part of that power. We urge therefore that in adherence to the powers granted by the Constitution of India, the ECI acts and acts promptly.

Further Jurisprudence on Corrupt Practices:

In **Abhiram Singh v. C.D. Commachen (Civil Appeal No. 37 of 1992; decided on January 2, 2017)**, a 7-judge bench decided whether the word 'his' under section 123(3) pertained to the identity of the candidate or his rival only (literal interpretation), or also extended to the identity of the voter/s (purposive interpretation). By a 4:3 margin, the court upheld the purposive interpretation of 'his' and thus proscribed any appeal pertaining to the identity of the candidate, his rival or the voter. This meant that electoral appeals to voters based on their religion is a "corrupt practice" which can result in declaring the election of the candidate as void and further disqualification for a period of six years.

Justice T.S. Thakur in his concurring judgment said,

"The State being secular in character will not identify itself with anyone of the religions or religious denominations. This necessarily implies that religion will not play any role in the governance of the country which must at all times be secular in nature. The elections to the State legislature or to the Parliament or for that matter or any other body in the State is a secular exercise just as the functions of the elected representatives must be secular in

both outlook and practice. Suffice it to say that the Constitutional ethos forbids mixing of religions or religious considerations with the secular functions of the State.” (Para 23)

In **Ziyauddin Burhanuddin Bukhari vs Brijmohan Ramdass Mehra [1975 SCR 453]**, the Supreme Court held thus,

“Our political history made it particularly necessary that these differences, which can generate powerful emotions, depriving people of their powers of rational thought and action, should not be permitted to be exploited, lest the imperative conditions for the preservation of democratic freedoms are disturbed.”

“As already indicated by us, our democracy can only survive if those who aspire to become people's representatives and leaders understand the spirit of secular democracy. That spirit was characterised by Montesquieu long ago as one of "virtue". It implies, as the late Pandit Jawaharlal Nehru once said, "self-discipline". For such a spirit to prevail, candidates at elections have to try to persuade electors by showing them the light of reason and not by inflaming their blind and disruptive passions. Heresy hunting propaganda on professedly religious grounds directed against a candidate at an election may be permitted a theocratic state but not in a secular republic like ours. It is evident that, if such propaganda was permitted here, it would injure the interests of members of religious minority groups more than those of others. It is forbidden in this country in order to preserve the spirit of equality, fraternity, and amity between rivals even during elections. Indeed, such prohibitions are necessary in the interests of elementary public peace and order.”

It further held,

“Therefore, candidates at an election to a legislature, which is a part of "the State", cannot be allowed to tell electors that their rivals are unfit to act as their representatives on grounds of their religious professions or practices. To permit such propaganda would be not merely to permit undignified; personal attacks on candidates concerned but also to allow assaults on what sustains the basic structure of our Democratic State.”

The above-mentioned are merely excerpts of some of the landmark judgements of the Supreme Court which run into pages and emphasize on upholding of secular character of the Constitution while holding that candidate for elections must at all costs avoid using any language that appeals to religion or that is against any religious community.

Sirs, it is also essential to highlight here that ahead of the current elections, the ECI had directed political parties, especially star campaigners, to maintain decorum while campaigning and refrain from making appeals on the basis of caste or communal politics or make false statements, which can mislead voters. Furthermore, the ECI had also stated that no activity, which may aggravate existing differences or create mutual hatred or cause tension between different castes or communities, religious and linguistic groups, should be attempted. While issued the said advisory to all political parties on March 1, the ECI had asserted that such that “stern action would be taken against direct or indirect MCC violations”.

It is necessary that such obvious and high voltage violative acts are evaluated and acted upon for what they are, not individual misdemeanours but concerted attempts to not only vitiate the social

and political atmosphere but also to intimidate voters as well as tempt them into indulging in a practice antithetical to the values promoted by our Constitution. The ECI's failure to take any action against such hate speech will only undermine its credibility and autonomy that has been safeguarded and upheld by a series of exemplary officers before you.

Point of Note:

In the April 21, 2024 speech, not only has the PM directly attacked the 20 percent population of India by deeming them to be “infiltrators”, he has also seriously defamed a former PM of India by distorting his words and the facts which are already available in the public domain. Manipulating facts, in his speech, PM Modi, has attributed words to former PM Manmohan Singh to the effect that “Muslims will have the first right to the resources of India.”

Incidentally, this complete misrepresentation had been clarified even back in 2006 when the BJP had attempted a similar diversionary criticism by claiming something similar. Notably, the speech in question was delivered at the meeting of the National Development Council by erstwhile PM Manmohan Singh on December 9, 2006. Quite to the contrary of what PM Modi, said about his precursor, PM Manmohan Singh, prime minister for a decade, PM Manmohan Singh had stated, ***"I believe our collective priorities are clear: agriculture, irrigation and water resources, health, education, critical investment in rural infrastructure, and the essential public investment needs of general infrastructure, along with programmes for the upliftment of SC/STs, other backward classes, minorities and women and children. The component plans for Scheduled Castes and Scheduled Tribes will need to be revitalized. We will have to devise innovative plans to ensure that minorities, particularly the Muslim minority, are empowered to share equitably in the fruits of development. They must have the first claim on resources. The Centre has a myriad other responsibility whose demands will have to be fitted within the over-all resource availability."***

By misrepresenting the speech and the inclusive and secular intentions of our former PM, the BJP star campaigner had posed a serious challenge to all the initiatives taken by the ECI to prevent fake news and fact check all forms of communication. By targeting a particular community using a pejorative language to seek votes by invoking religion and fear-mongering, it seriously undermines India's stature as the ‘Mother of Democracy’ in the world.

PM Modi's speech also stands in violation of all equality and non-discrimination provisions (secular and democratic values) enshrined in the Constitution of India and also amounts to the offences defined as “corrupt practices” under the Representation of the People Act, 1951. Further, approval of such hateful language that may alienate certain communities is at odds with egalitarian values enshrined in the Constitution of India and will only bring disrepute to India's position as a ‘Vishwa Guru’ in the comity of nations.

Sirs, India is a secular country and the Indian Constitution under Articles 14, 15, 19 and 21 clearly ensure a life of equality, dignity and without discrimination to all citizens irrespective of caste, faith, creed, ethnicity, or gender. Any statement that promotes boycott and discrimination on religious lines infringe upon the fundamental rights guaranteed to every citizen of India. It is important that defamatory and misleading statements, especially of this stature, are not made by leaders.



To conclude, the CJP, a human rights platform, is filing this Petition/Complaint for violating many legal provisions and the MCC. We urge that such speech is debarred and the person making it prevented from such campaigning.

Yours sincerely,

Nandan Maluste, President

Dolphy D'Souza, Treasurer

Teesta Setalvad, Secretary