The murder of the anti-superstition crusader Narendra Dabholkar points to the society’s intolerance of criticism against religious beliefs and practices. The rampant misuse of Section 295A of the Indian penal code, which penalises “deliberate and malicious acts intended to outrage religious feelings”, needs to be curbed. Unless space is provided for constructive and rational criticism, social reforms to stamp out regressive and evil practices cannot be undertaken.

The murder of renowned rationalist Narendra Dabholkar on the streets of Pune on 20 August, 2013, was a wake-up call for the nation. While out on his morning walk, two unidentified assailants on a motorcycle fired at him from close range near the Omkareshwar bridge. As the news of his gruesome murder spread, spontaneous demonstrations took place across Maharashtra. In his home town Satara, thousands came out to pay tribute to this leading light of the anti-superstition movement who had taken on many a self-appointed godmen. The all-party bandh called the next day was near complete with willing participants closing their businesses and shops. The chilling effect of the premeditated murder reverberated throughout the state. Witnessing the public outrage, the state cabinet hastily promulgated an anti-superstition ordinance based on the “Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman Evil Practices and Black Magic Bill”. Dhabolkar had been relentlessly campaigning for the adoption of this bill, which has been languishing in the assembly for many years.

The Anti-Superstition Crusader

Although Dabholkar’s reformist ideas often led to confrontation, he always sought compromise and reconciliation. Firm in his conviction, he was altogether non-violent in his approach. He met his shrill and abusive opponents with calm and sober arguments and said that “in the struggle to end ignorance he did not need any weapons”. Though Dabholkar had lately received several death threats and hate mails from some Hindu extremist groups, he refused to seek police protection. Who would have imagined that this mild mannered and soft spoken man would end up getting murdered in cold blood?

Though Sanatan Sanstha, a Hindu extremist organisation, suspected of murdering Dabholkar, denied its role in the murder, its ideologue Jayant Athvale in the organisation’s mouthpiece Santhan Prabhath diabolically wrote “it’s God’s grace to die in a manner in which
Dabholkar died. It is better than dying of a prolonged illness or suffering from pain induced by surgical procedures”.

Dabholkar was a versatile man with a medical degree and a keen interest in social reform. Perhaps, the tenacity with which he pursued the anti-superstition bill for many years came from his training as a kabaddi player. His district team won not only the coveted Ashwini Kumar Bhoir Gold Cup, but he also represented India in a match against Bangladesh in a kabaddi tournament. Inspired by the Socialist labour leader and social reformer Baba Adhav’s “One village, one drinking water well” campaign, Dabholkar quit his lucrative medical profession to undertake social work and cultural reform. He opined that the caste is at the root of inequality in the Indian society, and without a cultural revolution equality was not possible. He strived for the annihilation of the caste system. Just days before his death, Dabholkar appeared on a television panel discussion on the role of caste panchayats in the context of the murder of a girl by her own father in Nashik, as she had dared to marry outside her caste.

In the past thirty years there has been a marked increase in use of religious and sectarian identities for political gains, emergence of irrational cults in the name of religion and the glorification of obscurantist practices in the name of culture. This has provided the ideological basis for, at times, brutal unscientific actions in both public and personal domains. Discrimination based on caste, gender and ethnic identities perpetuated on the basis of irrational beliefs and superstitions is still widely prevalent and is on the rise. In no small measure, the privatisation of electronic media has also had the undesirable effect of providing a platform and visibility to the forces responsible for the spread of irrationality and undermining of the scientific temper.

Open to Misinterpretation: Section 259A

Article 51 A (h) of the Constitution of India urges every citizen “to develop the scientific temper, humanism and the spirit of inquiry and reform”. However, this endeavour is becoming not just difficult but dangerous and, at times, lethal as in the case of Dabholkar. When intolerance rules the roost, not just taking on superstitious practices, but even activities such as bringing out large number of people to watch the “total solar eclipse”, or a critical appraisal of public policies becomes problematic.

The murder of Dabholkar compels us to ruminate over two dilemmas; free speech versus reasonable restrictions in the light of the section 259A of the Indian Penal Code (IPC), and the contending claims of cultural relativism and social reform.

Indeed as hate speeches silence the minorities and are inimical to democracy, some form of reasonable restrictions appear incumbent. Hate speeches create a volatile situation leading to communal violence. This in turn leads to the ghettoisation of minorities and prevents them from from participating effectively and freely in the democratic process with confidence. In the worst case scenario, as in Rwanda or in Nazi Germany, hate speeches
may lead to physical elimination of a section of the population on the basis of religion, race, ethnicity, caste, gender or sexual orientation. In a plural society, such as ours, it is necessary not only to respect the different religious beliefs; feelings and practices of all but also protect these from scurrility, vilification, ridicule and hate. However, drawing the line between a hate speech and a rational “condemnation” of practices or religious views is disputatious.

Akin to the hate speech law in the IPC is the contentious section 295A. Lord Macaulay avowing that “I am not a Mussulman; but if I were a judge in India, I should have no scruple about punishing a Christian who should pollute a mosque”, inserted section 295 that criminalises the actions of “whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons”. But a provision under this section which outlaws “deliberate and malicious acts intended to outrage religious feelings of any class” has become a bone of contention. Far from protecting social and communal harmony, section 295A has a history of abuse and arbitrary imposition.

The Supreme Court in the light of the freedom of speech guaranteed under the section 19 of the Indian Constitution, in the “Ramji Lal Modi vs State of Utter Pradesh” stated that “295A does not penalize any and every... insult to or attempt to insult the religion or the religious beliefs' but ...it penalizes only those acts [or] insults to or those varieties of attempts to insult the religion or the religious beliefs of a class of citizens, which are perpetrated with the deliberate and malicious intention of outraging the religious feelings of the class”. The court made a distinction between intentional insults that clearly had a “calculated tendency” to “disrupt the public order” and “insults to religion offered unwittingly or carelessly or without any deliberate or malicious intention”. Yet history is replete with instances of abuse and harassment of those who take up cudgels against superstition and the so called godmen.

Abuse of Section 295A: Some Examples

Take the case of two young women in Mumbai who were recently arrested for posting an innocuous comment on Facebook which described the reaction of the city to the death of Shiv Sena leader Bal Thackeray as disproportional. The police booked them under the notorious 295A of IPC. It is another matter that the case was dropped and the officers responsible for the arrest were suspended for overreacting. How can we expect democracy to flourish and thrive if one cannot boldly express contentious views without fear or threat?

Or take the case of Sanal Edamaruku who for now more than a decade along with his colleagues from the Indian Rationalist Association has been promoting reason and humanism. He and members of his innovative "Rationalist Reality Theatre" group visit villages dressed as godmen. They perform "miracles" before the audience who think that they are actually witnessing miracles performed by holy-men. Then suddenly the activists pull the curtain revealing the scientific basis behind the so called miracles. The intention of
such activities is to inculcate scientific temper.

Recently, Edamaruku and his colleagues investigated the alleged miracle of water dripping from the statue of Jesus Christ at the Catholic Church of Our Lady in Vile Parle, Mumbai. After establishing that the cause was just a leaky pipe with water travelling up the statue by capillary action, Sanal appeared on prime time Mumbai TV to debunk the so called miracle. Next day, seventeen complaints were filed against him at various police stations all invoking section 295A of the IPC. Having been denied anticipatory bail and fearing pre-trial imprisonment, Sanal sought refuge in Europe. Most likely Sanal will be discharged of all the accusations levied against him, but it is absolutely certain that he will spend the next several years chasing lawyers and visiting courtrooms.

In February 2010, Hulikal Nataraj, a school teacher and rationalist, in a TV interview had stated that the so called miraculous divine Jyothi at the Sabarimala Ayyappa temple was a human creation. This allegedly hurt the sentiment of a Bajarang Dal activist on who’s complaint a non-bailable arrest warrant was issued against Nataraj. However, a Karnataka High court judge H N Nagamohan Das not only quashed the case but also indicted the entire system by summoning the home secretary to the court. As a result the increment of the sub-inspector who had attempted to arrest Nataraj was withheld.

When Tamil Nadu Science Forum, an organisation committed to popularisation of science, wanted to arrange for a public viewing of the annual solar eclipse in 2011, and cook and eat food during the eclipse in defiance of the taboo, the police gave their permission reluctantly to hold the event. Rationalist campaigner Narandera Nayak had a brief brush with section 295A when he contended that the cow urine was just like the urine of any other animal and there is nothing sacred about it. When the Kannada movie actress Jayamala allegedly visited the Sabrimala temple violating the taboo, which forbids women in the menstruating age bracket to enter it, the same provision was invoked. The ludicrous extreme to which this provision could be abused is apparent from the reported arrest of Kartik, a youth, who’s crime was to reply to an Hanuman Jayanthi greeting with a comment that “there is no god”. He was taken in police custody on the grounds of “hurting religious sentiments” invoking section 259A.

It is as if anyone can take offense to anything nowadays. Pandering to such intense sensitivity could become counter-productive. Liberal criticism helps expose notorious practices within a religion that may violate human rights. As history has shown evil practices such as Sati or dowry were severely condemned by social reformers even in the face of opposition from groups defending these customs. Subsequently, legislations prohibiting these practices were adopted. No social reform would have been possible if we were intolerant to criticism, or prohibit condemnation of religious and cultural practices. The freedom of religion implies tolerance of offensive or dissenting views. Stifling criticism and rational disapprobation impinges upon the freedom of speech on the one hand and potential reform on the other. There is no right to be not offended.
As the "reasonable restrictions" on free speech in reality are no longer applied in a reasonable way, a chilling atmosphere stifling free speech and thought is created. It is evident that the public sphere is getting more and more stifled with the recurrent abuse of the section 295A.

Though the misuse of section 295A is rampant, its off-hand repeal may be prove to be counterproductive given the fact that hate speeches calculated to raise passions are a reality. Even the severest condemnation by rationalists of some religious practices is inspired by humanism and may at best inspire reform and at worst a conspiracy of silence. But the underlying intention of a hate speech is neither reform nor is the motive humanism. Free speech has to be balanced with other requirements for the democracy to work.

Perhaps the urgent need is to recast section 259A on the model of hate speech laws of Canada, South Africa and European Union, and balance the need for critical examination of religion and all cultural practices with the need to protect minorities (religious, cultural, ethnic and sexual orientation etc.) from ridicule and hate.

**Cultural Pluralism vs Rationality**

Cultural pluralism poses another dilemma. If the French are to be condemned for adopting domestic laws prohibiting the wearing of a veil and branded as intolerant to cultural sensitivities, then can one take offence to the public display of religious symbols, figures, images and artefacts in government offices, religious ceremonies in institutes and religious invocations during inaugurations of scientific conferences? A number of acts such as these, including taking of the miniature rocket to the temple at Tirupati for blessings, are accepted in the name of culture.

This then raises some serious questions? Why ban the sale of amulets, magic stones, talismans, bracelets and charms when we are not ready to ban the sale of “astrological stones”; why ban animal sacrifice for the appeasement of gods or spirits when we are not ready to ban let’s say, brahminical rituals? Do these bans subtly display discrimination, subtly place neo-vedantic religion on a pedestal while demeaning the practices of other cultures? What would be the rationale behind demarcating legitimate religious and cultural practices from ones that need to be prohibited?

Indeed it looks “cool” to be defending the culture or practices of the underdog, however dreadful these might be. But on the ground, when poor and marginalised families fatalistically resort to talisman and charms rather than organise themselves to demand their entitlements, cultural relativism does not seem so charming. When traditions trample human rights, discriminate on the basis of gender and caste, they suddenly appear not so glorious.

A relook at the concept of scientific temper and reform is an urgent task. This cannot be brushed aside as an archaic or a Nehruvian idea. In a multicultural and a pluralist society such as ours, if we need to abjure violence and promote democracy, then we need to engage
with these questions intensely and immediately.