

Inside :

PUCL's Stand on Violence (1)

ARTICLES, REPORTS, AND DOCUMENTS:

Dominance of Private Corporate Sector - Unacceptable Under the Constitution - Rajindar Sachar (2); Is 'Hindu' our National Identity? - Ram Puniyani (8); Secularism Revisited - Justice R.A. Jahagirdar (9); Justice Dave's Dream: Secular India's Nightmare? - Ridhima Sharma (17); On The Eve of Sri Mimroth Completing 75 Years of Life - D.L.Tripathi (19).

PRESS STATEMENTS, LETTERS AND NEWS :

CFD Statement on Cancellation of talks with Pakistan (4); PUCL Bihar: Expressing Shock at the Attack on a Peaceful Seminar (4); ABVP Forces Dalit Activist and Singer to Withdraw (4); Statement of Concern on SLAPP* Cases filed against Authors, Journalists and Publishers (5); Press Statement: The Rajasthan Amendments to Labour Law will create many more Bhopal's Gas Tragedies (6).

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PUCL's Stand on Violence

(It is being noted that there is some ambiguity amongst some of the PUCL members, the media and people in general, on PUCL's stand on the issue of violence. Following are two resolutions passed a few years back that clarify the organisation's stand on the subject. Resolutions passed by the PUCL Conventions on the issue of violence are being reproduced here to reiterate the PUCL's stand on the issue to remove all ambiguity- Mahi Pal Singh, Secretary, PUCL.)

Question of Violence

(a) Resolution of the National Convention held on March 7 1982, at Madras (now Chennai)

"The PUCL reaffirms its faith in the democratic way of life.

"It appeals to all to use to the utmost the agencies and methods available in an open society. Apart from other factors, violence, even for laudable objectives, will legitimise counter-violence by the State and other groups.

"It reaffirms that even those who have taken to violence are entitled to due process of law. We believe that this commitment is the very faith of an open society and also that adhering to this commitment is an effective way of converting all to the democratic and peaceful way of transforming our society."

(b) Statement adopted at the National Convention held at Pune on May 26 & 27, 1990

"With the increasing resort to violent agitations, terrorism, and insurrectionary and associated devices to attain political ends, and as a sequel the response of the state machinery the basic civil liberties and human rights of the great majority in the country are in jeopardy and are likely to get further curtailed by the State on the one hand and the perpetrators of violence on the other.

□ "The present state of affairs in Jammu and Kashmir, the Punjab, the North-east, and other parts of the country, especially in Andhra Pradesh and Maharashtra, range from virtual insurrection to organised terrorism. The late, hasty, panicky, inarticulate, and ad-hoc reactions of the governments, both at the centre and in the States, amount to unleashing measures, which not only aggravate the situation but, because of their very nature, constitute a frontal attack on residual civil liberties. Even with all the goodwill, which is not that widely prevalent among the law enforcing authorities, they may find themselves in an unenviable position of liquidating the rights of the citizen for what may appear to them and their mentors, a higher cause.

- "It must be recognised that such movements do not emerge without warning and without some cause and therefore a minimal mass base, and one of the main aims of such movements is to prevent the exercise on the rights by their adversaries. Not to generate advance signals of warnings and to respond to them promptly and the inability of the democratic body politic to resolve an issue involved within the democratic framework is a reflection, in general, on its inadequacies and, in particular, a failure of the State apparatus in the country.
- "The persistence of these trends over extended areas are a threat to the integrity of the country, to its nascent democratic polity, and to the very survival of civil liberties and human rights.
- "In this context, it should be specially noted that those indulging in violence, terrorism, and insurrection are not belligerents but citizens of the country and hence the principal objective of the State response should be to bring them into mainstream of democratic polity by neutralising the

effectiveness of their ill-conceived strategy.

- "The Convention therefore calls upon:

(i) The public and all political parties to demand creation of suitable institutional framework in order to resolve underlying causes in a peaceful and humane manner and where already violence and insurrection have raised their head, to organise masses to isolate the 'other' side, erode their bases, instill confidence among the community in their ability to combat unarmed the 'other' side. Without political mobilisation on a large scale, mere law and order approach to these problems will be woefully inadequate.

(ii) The Central and the State governments to initiate steps that will ensure the credibility, the integrity, and accountability of the government machinery at various levels not necessarily confined to administrative hierarchy, and

(iii) In the context of the specific situation in Jammu and Kashmir, Punjab, and other parts where sporadic terrorism is being witnessed,

to associate and involve credible persons from different parts of the country, not as decision-makers, in various organised ways with all the 'law enforcing' measures. This will mean their being live witnesses, sounding boards, and reviewing agencies in the case of arrests, detention, interrogation and firings. Similar arrangements should be made to facilitate reporting on the activities of the violent agitators, terrorists, and insurrectionists. These measures, which ensure continuous monitoring of developments should act more as effective deterrent than post-mortem of the traditional time consuming, judicial and quasi-judicial, agencies.

"The convention also calls upon all champions of civil liberties and members of the PUCL in particular, without identifying with any of the involved groups, to take vigorous and prompt initiative on these matters and act as catalysts in the creation of new institutions and fresh practices that will promote and consolidate their principal cause." ▫

Dominance of Private Corporate Sector - Unacceptable Under the Constitution

Rajindar Sachar

Now that the high sounding praise by Corporate Sector of Modi Governments maiden budget is less noisy, it is time to look at it impartially. The insidious pro rich Bullet Train, Project is an open declaration of anti labour, anti rural bias in the context of about 60% of rural areas being only able to use bullock cart type of transport. As it is, 14% hike in railwasy fare has already

demoralized the poor. The bullet train thinking is similar to Queen Marie Antoinette of France cynical remark who asked why should poor protest if they can't buy bread - let them instead buy cake.

The budget has out done UPA in its approach to Foreign Direct Investment which has been raised in one sweep from 26% to 49%, which UPA even though it wanted

to, could not do ironically because of the protest from amongst others BJP itself. Does it not show double faced-ness in politics which Dr. Lohia used to lament by emphasizing the morality angle, namely the absence of approximation between words and deeds.

The policy on Public Sector Banks has been left dubious. The market

is interpreting it as a gradual device to privatize banks and even reducing public Banks equity to less than 51%. This thinking in BJP Government is bound to lead to massive protest amongst public which still remember the vast damage done by private banks to serve the need of their private owners in 1969 and were saved since then only by nationalization of banks and prohibiting private banks which were mainly owned by owners of Industry. Such a ban is on sound principle of avoiding conflict of private business interests from those of public interest in sound banking.

More surprisingly government is planning to go ahead to off load 5% in ONGC shares for Rs. 17,000 crore notwithstanding the protest by ONGC that the government will suffer loss and will not be able to realize its potential value. That Modi Government considers a policy of disinvestment of public sector almost as a religious compulsion is quite evident when almost within weeks of taking over, the finance Ministry has started exercise to selling residual government stake of 49% in HZL and Balco just as earlier UPA Government had decided to sell the two PSA to the common election fund donor of both the parties but because of certain circumstances could not finalize it. There is a real danger of Modi Government going all out to dismantle public sector and hand it over to private oligarchy, even when this action is violative of Article 39 C of our constitution which mandates "that the operation of economic system does not result in the concentration of wealth....." I feel strongly that unless a determined combined effort by all leftist parties and Trade Unions as urged by Socialist Party (India) is taken throughout the country, public assets are in danger of being given almost gratis to the big business lobby which has so liberally contributed to Modi Campaign.

But a more serious attack on the poor farmers has been announced by Modi Government to amend New Land Acquisition Act 2013, which was passed by UPA Government but with full support of BJP. This bill was the result of culminating struggle by scores of trade union and farmer's organization of Narmada Bachao Andolan led by Medha Patkar and legally assisted by Sanjay Parikh. This New Act was a radical change from old Act which permitted land to be acquired for Private Corporations (a provision not to be found either in USA or UK legislations). Modi government wants to delete the consent clause which requires 70% affected parties consent if land is required for Private Public protect and 80% in case of private persons and also the compensation package, which is in accord with international covenants; such a dilution will be illegal and would be massively resisted.

One would have expected that the misstatement by Minister for Minority affairs that Muslims are not a minority would have been sought to be assuaged in Modi first Budget by making adequate provision for the development of Minorities i.e. Muslims, Christians. But one is disappointed. One would also have expected some special provision for recruitment for Minority especially the Muslims in the police. No doubt it is a hangover from the UPA government, but must the minorities continue to suffer intentional neglect both under UPA and now under BJP government. I should have thought that Modi would clutch at this opportunity if he wanted to show his impartiality. I am referring to the Report "Strategy for making police force more sensitive towards minority sections prepared by three Director Generals, of Maharashtra; of U.P.; of Tamil Nadu along with Intelligence Bureau, which has concluded that there is a trust deficit amongst Muslims, who see the Police as Communal biased and insensitive...." The report

emphasized that the "poor representation of the Minorities in the police forces has contributed to this distrust and suspicion". That the worrisome gap of Muslims in the police force is no

conjecture was clear when U.P. Government during Muzaffar Nager killings was asked by PUCL in 2013 (which had sent an enquiry team to enquire into killing therein) to post Muslim inspectors in dominant Muslims area as a reassurance as had been recommended years back by a High Powered Committee set up by Central Government in 2005. Information was however given that it was not possible because Muslims were only 4% in the police and only 1% as inspectors (as against a population of 18% in U.P. a state- which has been ruled by apparently secular parties - can hypocrisy in politics go any further). The above report had called for urgent action at Director General's conference held in 2013 (during UPA) but no action was taken - sad that the Minorities find themselves orphaned both under supposedly secular UPA or Modi government which is openly backed by RSS Communalism.

FDI in retail is being brought back and such is the unabashed contempt for public opinion that even the mild provision that 30% sourcing should be from within India which is compulsory at present may be dispensed with - a total surrender to foreign capital by BJP contrary to its earlier position. If Modi had enquired from President of Brazil, she would have enlightened him about the role played by her predecessor President Lula who boldly fought against "foreign capital" domination and also that one of the fundamental principles of Brazils constitution is the "Social value of Labour." Will Modi rethink and revise the development model being contemplated for India which can only damage the country.

Dated: 01/08/2014 □

New Delhi's Decision to Cancel Foreign Secretary Level Talks with Pakistani Part Deplored

Citizens For Democracy deplores the decision of India for cancelling the Foreign Secretaries level talk between India and Pakistan which was scheduled to be held on 25th August 2014 in Islamabad. The reason for cancellation is trivial and a non-issue. This decision is a significant drift in the foreign policy which shows that Modi government has decided to follow a policy of aggressive nationalism which insists that Kashmir is a part of India irrespective of the wishes of the people of Kashmir. This kind of nationalist approach has attachment to the land of Kashmir and not to the people of Kashmir. This decision flies in the face of what Narendra

Modi had declared in his independence speech that he wants to govern by consensus, not by majority. He also called upon the SAARC countries to join hands to fight poverty. The disproportionate military expenditure incurred by both countries i.e. India and Pakistan, as a result of continuous animosity over the issue of Kashmir is a continuous drain on the economic resources of both the countries and one of the major causes of growing poverty of their respective people. Poverty cannot be fought by flexing muscles on hollow nationalist slogans. The present government should be wise enough to know that no solution reached by India and Pakistan will

work out satisfactorily unless it is acceptable to the majority of the people of Kashmir. This policy of aggressive nationalism will further increase the alienation of the people of Kashmir.

Therefore Citizens For Democracy urges upon the present government to approach the issue of Indo-Pakistan relation in a sensible manner keeping in view the larger interest of the people in the region, and not to be swayed by jingoism which will earn for it only disdain and contempt of the civilized world, besides being disastrous for India in many respects.

N.D. Pancholi, General Secretary, Citizens For Democracy (CFD) □

PUCL Bihar:

Press Release Expressing Shock at the Attack on a Peaceful Seminar

PUCL Bihar in its weekly meeting held on 25-04-2014 expressed shock at the attack on a peaceful seminar being held in A N Sinha Institute of Social Studies on 24th May. The seminar started on schedule and after the presidential remarks of Prof Santosh Kumar, Prof D.M. Diwakar completed his presentation, when A.B.V.P activists came in shouting slogans and carrying flags, banners etc. They forced their entry into the hall and in a quick movement broke the mike, pulled down banners and other things. Professor Diwakar tried to reason with them and even asked them to present their viewpoint before audience. However, they were bent on breaking up the seminar. The police along with

others present there pushed them out with difficulty. But they kept on creating disturbance from outside with provocative slogans. One of the slogans was: "if you want to stay, you must say Vande Mataram".

The seminar was to discuss the arrest and detention of Prof. Saibaba of Delhi University and the implications in terms of Human Rights. The opinions being expressed were an attempt to understand civil liberties better and to expand the idea of freedom guaranteed in our Constitution. Apparently the attempt to disturb the seminar was pre-planned, and meant to silence not only protests, but also dissent or even open discussion of any kind on such issues.

Bihar PUCL condemns the attack unequivocally as it is an attack on the very idea of freedom guaranteed in our Constitution. We expect both the State government and the new incumbents at the Centre to ensure that citizens can enjoy their fundamental rights under the Constitution without fear, including freedom of speech and expression within the limits prescribed by the law of the land. It is the duty of the governments to keep in check elements encroaching upon such rights, whatever be their affiliation or ideology. We demand that appropriate action is initiated against those responsible for such acts of intimidation and vandalism.

Philip Manthra, President, Bihar PUCL □

ABVP Forces Dalit Activist and Singer to Withdraw: August 14, 2014

Sheetal Sathe was arrested on charges of backing Naxal Activities

Alok Deshpande

The Akhil Bharatiya Vidyarthi Parishad (ABVP) has forced St. Xavier's College here to retract an

invitation extended to Dalit activist and singer Sheetal Sathe. Ms. Sathe was arrested in April 2013 for

allegedly supporting Naxal activities and later granted bail.

She was invited by the organisers

of St. Xavier's annual festival, 'Malhar', to participate in a panel discussion on 'The invisibility of caste' on Thursday. With the ABVP threatening to disrupt the festival if she was allowed to attend, the organisers withdrew the invitation on Wednesday.

An ABVP delegation visited the

college a few days ago and warned both the management and the students against inviting Ms. Sathe. "She is an anti-national. Such people should be barred from entering colleges because they will influence the youth. If the college sticks to its stand, we will close down Malhar," Yadunath Deshpande,

ABVP's Mumbai organisational secretary, told The Hindu.

Clamping down on such programmes was "in the national interest," he claimed.

Ms. Sathe is a member of the Pune-based radical cultural group Kabir Kala Manch.

Courtesy The Hindu, Mumbai □

Statement of Concern on SLAPP* Cases filed against Authors, Journalists and Publishers

We, the undersigned condemn the threats of defamation cases served on authors, journalists and now as publishers in writing. We have read the book "Gas Wars: Crony Capitalism and the Ambanis" co-authored and published by Paranjay Guha Thakurta and the review article "Ambani ki dukaan?" 'by Sucheta Dalal, Managing Editor of moneylife magazine website and her messages on twitter and we found nothing defamatory either in the book or in the articles and tweets. The impeccable credentials of Paranjay Guha Thakurta and Sucheta Dalal have been exemplary for Indian journalism in the era of paid news, embedded journalism and draconian corporate control over media. We note that both the book and the article are based on information that is readily available to everybody in the public domain. We are outraged by the assault on freedom of press and public interest through threatening letters. The attempt to intimidate journalists who report truth which commercial czars is quite reprehensible. We express our support to the authors and publishers in question who have exercised their right to free expression enshrined in Article 19(1) (a) of the Constitution of India. The day such voices are silenced that would be a black day for Indian journalism and democracy. We have observed that the authors have been fair to Late Dhirubhai Ambani, Mukesh Ambani and Anil Ambani and their companies, by providing their version of events and

circumstances.

Among other issues, the core issue that this scholarly and rigorously referenced book and the articles in question raise is: who all are colluding with to deprive present and future generations of Indians of their claims of the natural resources of the country? We have pondered over the questions like: "If gas price is low as per correct production rate then, why should Indians pay higher price of gas? Who wants Indians to pay price of Indian natural resource as per US price rate?" We observe that the legal notices from Mukesh Ambani and Anil Ambani and their companies through their lawyers will have us accept that raising such questions is defamatory. While delivering the speech at the award of Nobel Prize for Literature in 2005, Harold Pinter said, "I believe that despite the enormous odds which exist, unflinching, unswerving, fierce intellectual determination, as citizens, to define the real truth of our lives and our societies is a crucial obligation which devolves upon us all. It is in fact mandatory. If such a determination is not embodied in our political vision we have no hope of restoring what is so nearly lost to us - the dignity of man." Paranjay Guha Thakurta, his co-authors and Sucheta Dalal and her colleagues have done their duty as citizens, writers and as purveyors of truth.

This undemocratic act by these richest persons of our country and the artificial persons-the companies-

they run is totally unacceptable, deplorable and constitutes an illegitimate advance against citizens' rights.

Signatories:

1. **Prof. Jayati Ghosh**, JNU, Delhi; 2. **Prof Ramsharan Joshi**, former VC, M.C.N. University of Journalism, Bhopal and journalist; 3. **Githa Hariharan**, Writer; 4. **Garga Chatterjee**, Indian Statistical Institute; 5. **Seema Mustafa**, Editor, The citizen <www.thecitizen.in>; 6. **Prof. Ayesha Kidwai**, JNU, Delhi; 7. **Arun Kumar**, Former Member, Press Council of India (XIth Term), General Secretary, Bihar Working Journalists Union, Member, National Executive Committee and Indian Journalists Union; 8. **Prof. Kamal Mitra Chenoy**, JNU, Delhi; 9. **Siddharth Varadarajan**, Journalist & Former Editor, The Hindu; 10. **Prof. (Dr) Mohan Rao**, JNU, Delhi; 11. **Wilfred Dcosta**, Indian Social Action Forum (INSAF); 12. **Mitali Saran**, Writer & Columnist; 13. **Subhash Gatade**, Author and Human Rights Activist; 14. **Dr. Malem Ningthouja**, Campaign for Peace & Democracy, Manipur; 15. **Irfan Engineer**, Director, Institute of Peace Studies and Conflict Resolution, Mumbai; 16. **Mukul, Dube**, Writer, Photographer and Social Activist; 17. **Gautam Navlakha**, Human Rights Activist & Journalist, Delhi; 18. **Omair Ahmad**, Author; 19. **Trupti Shah**, Activist, Gujarat; 20. **Himanshu Thakkar**, South Asia Network on Dams, Rivers and People (SANDRP); 21. **Chittarooma Palit**, Narmada Bachao Andolan; 22. **Kamayani Bali Mahabal**, Feminist and Human Rights Activist, Mumbai; 23. **Faisal Khan**, National Alliance of People's Movements; 24. **Yashwant**, Editor, <http://bhadas4media.com/>, NCR; 25.

Pushpraj, Journalist and Author of Nandigram Diary, Patna; 26. **Rohit Prajapati**, Activist, Gujarat; 27. **Xavier Dias**, Editor, Khan Kaneej Aur Adhikar (Mines, Minerals & Rights), Jharkhand; 28. **Prithvi Raj Sharma**, Founder Member of Indian Community Activists network (ICAN); 29. **Dilip Simeon**, Historian and Author of Revolution Highway, Delhi; 30. **Gopal Krishna**, Researcher, Journalist and Social Activist, ToxicsWatch Alliance (TWA); 31. **Dr Babu Rao Kalapala**, Scientist; 32. **Dipak Dholakia**, Citizens' Solidarity--Forum for Water and Sanitation (CS-FWS); 33. **Kiran Shaheen**, Memoirist and Activist; 34. **Sudhir Pattnaik**, Writer and Media Person, Bhubaneswar; 35. **Sankara Narayanan**, Social Activist; 36. **Noor Zaheer Zaheer**, Writer and Researcher; 37. **Preeti Sampat**, Anthropologist, City University of New York; 38. **Persis Ginwalla**, Social Activist, Ahmedabad; 39. **B.R. Bapuji**, Professor (Retired), University of Hyderabad; 40. **M. Thimma Reddy**, People's Monitoring Group on Electricity Regulation, Hyderabad; 41. **Shweta Tripathi**, Social Activist; 42. **R. Subbarao**, former Senior DGM, BHEL, Secunderabad; 43. **Sagar Rabari**, Jamin Adhikar Andolan, Gujarat (JAAG); 44. **Krishnakant**, Social Activist, Gujarat; 45. **Ashok Tankashala**, Journalist and Writer, Hyderabad; 46. **Dr Paresh R. Vaidya**, Scientist; 47. **Roger Moody**, Writer & Researcher; 48. **E. Theophilus**, citizen, Uttarakhand; 49. **Leo Saldanha**, Environmental Activist and Author; 50. **Soumya Dutta**, Environmental Activist, Author & Educator, Convenor - Climate & Energy, Beyond Copenhagen; 51. **Nityanand Jayaraman**, Writer and Social Activist, Chennai; 52. **Jai Sen**, CACIM, Delhi; 53. **Souparna Lahiri**, Independent Researcher; 54. **Ravindranath**, River Basin Friends, Dhemaji, Assam; 55. **Gautam Mody**,

General Secretary, New Trade Union Initiative; 56. **Lalit Surjan**, Chief Editor, DeshBandhu, Raipur, Chattisgarh; 57. **Narayan Jee Choudhary**, Social Activist, Bihar; 58. **Sukla Sen**, Writer & Social Activist; 59. **Ranjan Panda**, Social Activist, Odisha; 60. **Shriprakash**, Film maker, Jharkhand; 61. **Stan Swamy**, Jharkhand Bachao Andolan; 62. **Ramaswamy R Iyer**, former Secretary, Government of India; 63. **Rabin Chakraborty**, Retired Teacher, Calcutta University; 64. **Vidyadhar Atkore**, Member, Western Ghats Forum, Bangalore; 65. **R.Selvam**, Co-ordinator, Tamil Nadu Organic Farmers Federation, Erode District, Tamil Nadu; 66. **Rajendra K Sail**, Social Activist, Chhattisgarh; 67. **Dr. Gabriele Dietrich**, NAPM; 68. **Suresh Bhat B**, Citizen, Mangalore; 69. **YP Chawla**, Researcher, Writer, Advisor, Electricity Regulation; 70. **Charles Chasie**, citizen; 71. **Dr. S. Jeevananda Reddy**, citizen; 72. **Dr Sudhirendar Sharma**, Director, Ecological Foundation; 73. **Prakash Louis**, Indian Social Institute, Bangalore; 74. **Murli Manohar Prasad Singh**, Editor, Naya Path, Janwadi Lekhak Sangh; 75. **Rekha Awasthi**, Janwadi Lekhak Sangh; 76. **Ramesh Sharma**, Social Activist; 77. **M K Tayal**, Social Activist; 78. **Gourinath**, Social Activist; 79. **Krishna Soni**, General Secretary, Avartan Theatre Group, Hyderabad; 80. **Rajendra Ravi**, Social Activist; 81. **Sujit Patwardhan**, Parisar, Pune; 82. **Pallav Kumar**, Researcher; 83. **Shree Prakash**, SUM Net India; 84. **Bharati Sinha**, Communications Director, Greenpeace India; 85. **Afroz Alam 'Sahil'**, Editor (Investigation), www.beyond headlines.in; 86. **Anil Sinha**, Deccan Herald, New Delhi; 87. **KM Bhai**, Social Journalist, Kanpur; 88. **Pankaj Chaudhary**, Poet, Assistant Editor, Forward Press; 89. **Surendra Grover**, Media Durbar; 90. **Mangalesh**

Dabral, Poet; 91. **Sanjeev Kumar**, writer; 92. **Ranjana Bisht**, journalist; 93. **Ramesh Sharma**, INSAF; 94. **Varun Shialesh**, Writer; 95. **Subhash Gautam**, Journalist & Research Scholar; 96. **Sudha Bharadwaj**, Trade Unionist and Human Rights Lawyer, Bilaspur, Chhattisgarh; 97. **Ulka Mahajan**, Sarvhara Jan Andolan; 98. **Mukta Srivastava**, Shoshit Jan Aandolan; 99. **Dr Dinesh Kumar Mishra**, Noted River Biographer And Environmentalist; 100. **Soumik Banerjee**, Researcher & Practitioner, Sundarpahari, Godda, Jharkhand; 101. **Pankaj Bisht**, Writer and Editor, Samyantar; 102. **Qaneez Sukhrani**, Social Activist, Pune; 103. **Fulan Bhattacharji**, Citizen, Tripura; 104. **Nandita Dutta**, Citizen, Tripura; 105. **Suchitra Sarkar**, Citizen, Tripura; 106. **Balaji Pandey**, Director, Institute for Socio-Economic Development, Bhubaneswar; 107. **Manoj Misra**, Yamuna Jiye Abhiyaan, Delhi; 108. **Udayashankar Chaturvedi**, Scientist; 109. **Asit**, Writer & Activist; 110. **Dr. Anant Phadke**, Pune, Shramik Mukti Dal, (Democratic); 111. **Ashok Jain**, former Chief Engineer, DVC; 112. **Ritu Khanna**, Translator; 113. **Gurmeet Singh**, Satnam, Author Jangalnama; 114. **Nand Kumar Kashyap**, citizen, Bilaspur, Chhattisgarh; 115. **K. Ashok Rao**, President, National Confederation of Officers' Associations (NCOA) & Patron, All India Power Engineers Federation (AIPEF); 116. **Prathmesh Mishra**, Architect, Bilaspur; 117. **Ravi Singh**, citizen and environmentalist, Agra; 118. **Walter Mendoza**, Indian Network on Ethics in Climate Change; 119. **John Dayal**, Delhi, India; 120. **Narendra Aniket**, Writer & Journalist; 121. **Anita Rego**, citizen, India; 122. **Shama Zaidi**, citizen, India; 123. **Sunrita Sen**, citizen, India.

* *SLAPP stands for Strategic Litigation Against Public Persons* □

Press Statement: New Delhi, 31 July 2014

The Rajasthan Amendments to Labour Law will Create Many more Bhopal's Gas Tragedies

The Rajasthan government's decision to amend the Factories Act has turned the clock back two centuries for what are acceptable conditions of work in a factory.

The amendment seeks to raise the

floor for mandatory registration, of an establishment engaged in a manufacturing process, under the Factories Act from 10 workers to 20 workers. This means that factories employing 19 or less workers would

not have legally binding responsibility for the safety of their workers inside the factory. The amendment also undermines the legal protection on hours of work, a weekly off and other rights to decent

working conditions.

The struggle for universal coverage under what came to be the Factories Act in many countries was waged first in the 19th century. The amendments proposed by the Rajasthan Government thus take us back two centuries. Following the 1984 Bhopal Gas Tragedy, the Factories Act 1948 was significantly amended to ensure that employers had higher accountability for workers' safety and health hazards. The amendment to the Factories Act in Rajasthan comes with amendments to the Contract Labour (Regulation and Abolition) Act 1970, **the Apprentices Act 1961 and critical clauses of the Industrial Disputes Act 1948.**

The amendment to the Contract Labour Act will raise the floor for application of the Act to an establishment that employs 50 or more contract workers (from the present 20 or more as applicable country-wide). In an environment that widely acknowledges severe under reporting by small and medium enterprises and allows multiple factory licences at the same address, effectively allowing factories within factories, these amendments would in effect allow factories with employment of a 100+ workers to operate entirely outside the protection provided under the Factories Act and the Contract Labour Act.

The amendment to the Apprentices Act provides for a 'sharing' of apprentice compensation between employers and the state government, the freedom of employers to terminate apprentices during the apprenticeship and including apprenticeships under categories of temporary and contract workers. Today apprentices are being employed in large numbers in manufacturing to keep wages low and deny workers their legitimate right to freedom of association and collective bargaining. The amendments are aimed at providing a legal cover to this practice. While the government talks of creating skilled and

employable workers this amendment effectively puts skilled workers out of the definition of workers and places them in the category of apprentices.

The effort of the Rajasthan's BJP Government to change the basic framework of labour law in the country is further concretised and its scope widened in the proposal to amend Chapter VB of the Industrial Disputes Act 1948 (IDA). The provisions of Sections 25 of the IDA imbue accountability of employers in employment of workers in establishments with 100+ workers wherein they are required to obtain prior permission of government if they wish to close down the establishment or reduce the number of workers employed. The ID Act lays out clearly the conditions under which an establishment covered under Chapter V B can apply for lay-off, retrenchment or closure, two of which clearly being (i) genuineness and adequacy of the reasons for such action by the establishment and (ii) interests of employed workers. The Government of Rajasthan seeks to raise the floor for coverage under chapter VB from establishments employing 100 workers to those employing 300 workers without providing any rationale based on changes in industrial practice or manufacturing processes over time. By implication all establishments employing 299 or less workers will now be governed under Chapter V A which does not require government approval for termination, retrenchment or layoff of workers or closure of establishment.

The amendments to the ID Act include a detailed definition, of what constitutes 'go slow' in an establishment in Schedule V - Unfair Labour Practice. If workers are retrenched, laid-off or terminated for executing a 'go slow', that includes 'work to rule' and the failure to achieve 'fixed or average or normal level of production or work or output', the amendment proposes that the workers will not be eligible for any compensation. Taken along with the amendment to Chapter VB the

definition of 'go slow' can open the way to retrenchment without compensation and therefore increase the fear of victimisation which today is a palpable threat against the right to form or join unions. The present amendments will also repeal a progressive Rajasthan addition of 1958 wherein the definition of workmen included contract workers. The exclusion of contract workers in computing the number of workers on the rolls of an establishment will make it easier for employers to show their employment numbers below the 299 threshold. The amendments will raise the threshold from 15% of trade union membership to 30% of membership within an establishment for a trade union to be able to demand recognition, thereby significantly eroding trade union rights and paving the way for employer promoted unions. Every one of these amendments represents a fundamental attack on rights of workers to protest unfair labour practice routinely committed by employers.

The amendments proposed by Rajasthan's BJP Government are most of all in violation of Article 254 of the country's constitution - upheld through judicial review - which clearly sets out that the power of states to legislate changes, in variance with rights protected by national legislation, are limited to removing difficulties or for easier explanation unless state legislation enhances the rights of citizens.

The framework of development over the last two decades has involved a competition for investment between states through the provision of concession to capital in the form of land grants, tax holidays and in the case of Gujarat even unsecured loans of large sums of monies at virtually no interest have been handed out to private companies. The actions of the Government of Rajasthan now stretch to providing a lower regulatory employment framework that will force down wages and therefore intensify competition between states on this count too.

For over two decades, the labour rights implementation machinery has been in complete disrepair as far as workers rights are concerned. Furthermore provisions such as prior permission from government under Chapter VB of IDA come through automatically unless government declines permission. The fact remains that in the present environment retrenchment or closure has only been resisted where a democratic union has been able to militate the rights of its

membership. Vast numbers of workers are defenceless in the absence of unions.

The actions of the BJP government in Rajasthan are not innocent and restricted to Rajasthan alone. Its action is in tandem with the aggressive efforts of the Union Government, including through the Union Cabinets approval to the Factories Act and Apprentices Act yesterday. This represents a political attack on industrial workers and their fundamental right to form or join

unions to defend their rights to safe work places and secure employment.

The New Trade Union Initiative opposes the amendments and calls upon all sections of the working class to build a sustained opposition to them. In pursuance of this the NTUI shall respond to all calls that are already in place to build the widest coalition of trade unions and social movements to defend these fundamental rights of workers.

Gautam Mody □

Is 'Hindu' Our National Identity?

Ram Puniyani

From the decade of 1980 the identity based politics has come to the fore in our Country. The Shah Bano issue, the Ram Temple imbroglio and the Rath yatras, brought to fore the issues related identity, the first major casualty of this politics was the demolition of Babri Masjid. Around that the notion that we are a Hindu nation propped up in a serious way and also that 'we are all Hindus' came to the fore. Lately with Modi-BJP getting simple majority in the parliament, this formulation is being asserted more powerfully. Around 1990 Murli Manohar Joshi, the then BJP President, said that we are all Hindus, Muslims are Ahmadiya Hindus, Christians are Christi Hindus and Jains-Sikhs-Buddhists are also Hindus as such. Sikhs, Jains and Buddhists are regarded as sects of Hindu pantheon by RSS. It is another matter that when the earlier RSS Sarsanghchalka, K. Sudarshan, said that Sikhism is not a religion as such but is a mere sect of Hinduism, there were massive protests in Punjab.

With Modi at helm, the RSS combine is going hammer and tongs in asserting that all Indians have to call themselves as Hindus. Keeping this in mind, in tune with 'when asked to bend you crawl' the Goa Deputy Chief Minister Francis Desouza, a member of BJP, said that Christians are Christian Hindus. The RSS Supremo Mohan Bhagwat went on the reiterate that "The entire world recognizes Indians as Hindus

therefore India is a Hindu state. This is a very simple thing, if inhabitants of England are English, those of Germany are Germans and USA is Americans, all those who live in Hindustan are known as Hindus." Mixing up Hindu with Hindutva, an altogether different category; he stated that "The cultural identity of all Indians is Hindutva and the present inhabitants of the country are descendants of this great culture," To articulate the political agenda behind all these assertions, Goa's Co-operatives Minister Deepak Dhavalikar (BJP) told the assembly that India could well be on the way of becoming a "Hindu nation", with Prime Minister Narendra Modi at the helm.

The whole rigmarole of Hindu, Hindutva, Hindu Rashtra is very deliberate and a part of political agenda. These three terms have to be seen in a historical context. The claims about Hinduism have to be seen in today's context. The evolution of the term Hindu has a long journey. Over a period of time its usage has changed. Its use for political goals; political adaptation is Hindutva and Hindutva's political goal is Hindu Rashtra (Nation). These terminologies have been neatly packaged by the Sangh combine, as part of Nationalism, which they believe in.

It is interesting to note that till 8th century the scriptures called as Hindu scriptures do not have the word Hindu in them. This word

Hindu as such came into being with the Arabs and Middle East Muslims coming to this side of the continent. They called the land on east side of Sindhu as Hindu. Thus the word Hindu began as a geographical category. So even today in some parts of the World, especially in West Asia, India is referred to as Hindustan. Mr. Bhagwat is wrong to say that we are referred to as Hindustan all over. It is only in Saudi Arabia and West Asia, that the word Hindustan is prevalent. In Saudi even today the Muslims going for Hajj are referred to as Hindi and In Saudi Arabia the discipline of arithmetic in their language is called Hindsa (Coming from Hind).

It was later that religious traditions prevailing in this part started being called as Hindu religion. The notion that there was a prevalence of a Hindu culture here is a pure ideological construct. The Indus valley civilization had its own features distinct from the other parts. The Aryans were initially a pastoral society, and then they went for settled agriculture and formation of Kingdoms. The native Adivasis had their own culture. The Brahmanical and Buddhist traditions were again very distinct, the litmus test here is the belief in caste system, Brahmanism holding to birth based graded hierarchy and Buddhism opposing the same. The assertion that a homogenous culture prevailed is a total myth. We know that culture

Contd. on Page No. 11

Secularism Revisited

Justice R.A. Jahagirdar

(Since the BJP led government has taken over at the centre, the forces of Hindutva have started raising their communal agenda. On more than one occasion, Mohan Bhagwat, the RSS supremo, has said that Hindustan (and not 'Bharat' as the Constitution calls us) means the land of the Hindus and all those living in it are Hindus. A few days after asking why all Hindustanis (Indians) should not be referred to as "Hindus," the Rashtriya Swayamsevak Sangh (RSS) Sarsanghchalak again on Sunday, 17th August, minced no words in stating that "Hindutva is the identity of India and it has the capacity to swallow other identities." "We just need to restore those capacities," he added. More than one minister in various BJP governments in the States has said that the Modi government will lead the nation towards the formation of the 'Hindu Rashtra'. The forces of intolerance have become more aggressive and the secular fabric of our multi-cultural society has come under serious threat. Hence the debate on the secular character of our country, as mandated by our Constitution, has again begun afresh. It has become all the more important for us to understand what secularism really means and how we can protect it.

Late Justice R.A. Jahagirdar, a leading Radical Humanist like Justice V.M. Tarkunde, both of whom valued secularism as an essential ingredient of a truly democratic society, gave three important lectures on Secularism. As part of the ongoing debate, we are going to publish all the three lectures. The following is the first one, which was delivered as the Eighth Smt. Bansari Sheth Memorial Lecture delivered under the auspices of The Asiatic Society of Bombay on Wednesday, 26th April 2000 - Editor).

Discussion on a wide scale has been taking place on the subject of Secularism in India after 1965. This coincided with the publication of the pioneering book of Prof. Donald Smith of Princeton University. The book was "India as a Secular State". (Princeton University Press, Princeton, 1966). Round about the same time, 12 essays contributed to a Seminar organised in November 1965 by the Indian Law Institute were published in a book titled "Secularism: Its Implications for Law and Life in India". The contributors of the essays included outstanding intellectuals - the then Chief Justice of India, two Judges of Allahabad High Court and an eminent Jurist. Later in 1968, another book of essays by different thinkers was published. The book was edited by Prof. V.K. Sinha and published by Lalvani Publishing House, Bombay.

In 1956, Prof. Abid Husain's book "The National Culture of India" (National Book Trust, New Delhi) was published. That book did not attempt any discussion on Secularism but the Foreword to the book written by Dr. S. Radhakrishnan, then Vice-President of India, contains the following observation:

"It may appear somewhat strange that our Government should be a secular one while our culture is rooted in spiritual values. Secularism here does not mean irreligious or atheism or even stress on material comforts. It proclaims that it lays stress on the universalisation of spiritual values

which may be attained by a variety of ways."

Subsequently in February 1970, Mr. P.B. Gajendragadkar, the then Vice-Chancellor of Bombay University, delivered K.T. Telang Endowment Lectures on "Secularism and the Constitution of India", which has been published in a book form in 1971 by Tripathi, Bombay. These lectures are full of erudition and deal in great details with Hinduism and other related subjects. The questions that would be discussed in the lectures had been posed initially as follows:-

"Is the new society which we want to create a Secular Society? Is the Sovereign democratic republic of India a Secular State? What are the distinguishing features of Indian Secularism as contemplated by our Constitution?" (p. 1. emphasis mine) Secularism - in my opinion and I will try to demonstrate that - cannot mean different things in different countries. Further Mr. Gajendragadkar says (p.2):

"The word 'secular', like the word 'religious' is amongst the richest of all words in its range of meaning. It is full of subtle shades, which involve internal contradictions, and of those contradictions the conventional dictionary meaning can scarcely give a correct view."

The later discussion in India has been coloured by this view.

I have great objection to this meaning given to the word 'secularism'. In the first place it says that there is an

Indian type of secularism; secondly it says, the word 'secularism' contains internal contradictions and that thirdly you cannot understand the meaning of these contradictions because no dictionary can help you in this regard. In other words, the word 'secular' has only subjective meaning and every one can use it in any way one likes. I wish to demonstrate that -

There is no such thing as Indian Secularism and English Secularism - there is only one secularism which has universal meaning;

There are no internal contradictions in the concept of secularism and if there are any contradictions, they are between secularism and non-secular practices;

There is a well-established and widely accepted dictionary meaning which has stood unaltered for a period of nearly a century and half since 1851 when George Holyoake coined that word and gave it an explicit meaning.

The discussion that has taken place on a wide scale and over a period of years - decades - and the large literature that has been published have addressed themselves to the question: what meaning should be given to secularism in India or to Indian secularism. Some have argued, quite frankly, that secularism as historically understood, does not suit India. Taking liberty with the alleged flexible meaning of the word, you can talk of Hindu or Aryan or even Vedic secularism or Islamic secularism. As a result, the discussion of this subject in India has

become skewed. I wish, in all humility, to point out that all this distortion of the word is not necessary and if we find that a particular state of affairs does not fit in the concept of secularism correctly understood, change the state of affairs, not the meaning of the word, or use a different appropriate word. When words of a certain kind have been in use, to employ those words as signs of new meanings is to be guilty of counterfeiting. New verbal signs can always be found for new meanings (see p.284 of Reason, Social Rights and Democracy by Sidney Hook, 1991 Prometheus Books).

The meaning of the word secularism is not shrouded in any mystery. It is not an ancient or archaic word having been used by Chaucer or Shakespeare.

A beginning may be made with the dictionary. The Oxford English Dictionary (OED Vol.IX 1978) states that Secularism is the doctrine that morality should be based solely on regard to the well-being of mankind in the present life to the exclusion of all considerations drawn from belief in God or in a future state. OED further points out, rightly, that it was George Holyoake (1817-1906) who gave this name to the definitely professed system of belief.

Earlier OED gives the meaning of the word 'secular' as "belonging to the world and its affairs as distinguished from the Church and religion".

George J. Holyoake, to whom has been credited the coinage of the word secularism, was an Owenite and had founded in 1846 a weekly called "Reasoner" for the propagation of Owenism. In an issue of "Reasoner" in 1851, he issued a statement of secularist doctrine proclaiming - science as the true guide of man; morality as secular, not religious, in origin; reason the only authority; freedom of thought and speech; that owing to the 'uncertainty of survival' we should direct our efforts to this life only.

There was, in the latter part of 19th Century in England, a debate as to whether atheism, the denial of the existence of God, was an essential

element of secularism. It may be mentioned here that Holyoake himself was not a theist. In 1841, in a public meeting, provoked by a heckler, Holyoake had asserted that England was too poor a country to have a God and that it would not be "a bad idea to put Him on half-pay" (i.e. retire him) and had been for this blasphemous utterance sentenced to six months' imprisonment.

George Holyoake and Charles Bradlaugh were two leading secularists and atheists of England in the 19th Century. Holyoake was no less an atheist than Bradlaugh, though they did not agree on the question whether atheism was a necessary ingredient of secularism. Holyoake thought, ignoring God was enough; for Bradlaugh, denial of God was essential. In March 1870 there was a public debate between Holyoake and Bradlaugh on this subject and Austin Holyoake chaired the meeting. I do not for the present intend to go into that controversy.

The texts of the speeches of Holyoake and Bradlaugh in this debate have been published. I am taking the liberty of referring to the speech of Holyoake for gathering the correct connotation of the word secularism which word, after all, was coined by Holyoake. He says:

"If you desire a brief summary, which may be given in a few words, of what the principles to which I have adverted point to, so far as meets the object of this discussion, I would state them thus: 1. Secularism maintains the sufficiency of secular reason for guidance in human duties. 2. The adequacy of the utilitarian rule which makes the good of others, the law of duty. 3. The duty nearest at hand and most reliable in results is the use of material means tempered by human sympathy, for the attainment of social improvement. 4. The sinlessness of well-informed sincerity. 5. The sign and condition of such sincerity are free thought expository speech..."

Holyoake points out that to maintain sufficiency of reason is absolutely indispensable. He accepts that this is a heretical position and therefore the secularist, standing apart, does not include himself among Christians,

does not need to profess Christianity [See "A Second Anthology of Atheism and Rationalism", Ed. Garden Stein, Prometheus Books, Buffalo, N.Y. 1987 p.348]. It must follow from this that an adherent of Christianity, or of any other religion, cannot be a secularist.

Enunciating its principles, The National Secular Society (of England) declared that "the promotion of human improvement and happiness is the highest duty. That the theological teachings of the world have been, and are most powerfully obstructive of human improvement and happiness. ..." [Ibid. p.363].

I am obliged to burden this talk with some more quotations because they are from books of knowledge to which contributions are made by eminent scholars in the field.

Encyclopaedia Britannica says that secularism is "a movement in society directed away from other worldliness to life on earth". In the medieval period there was a strong tendency for religious persons to despise human affairs and to meditate upon God and the other life. The Encyclopaedia further points out that secularism arose as a reaction to this tendency during European Renaissance when man began to show more interest in human cultural achievements and the possibilities of fulfillment of his personality in this world. It may be added that from Renaissance three streams flowed - Secularism, Humanism and Rationalism - the last one getting particularised only in the 18th Century.

Renaissance persuaded the scholars to study man as a citizen of this world. That led to humanism. It also necessarily gave birth to a desire or an urge to study this world. This gradually led to rationalism and science. The word secularism was not born in Renaissance but the idea was born - as a reaction to the futile, fruitless attitude prevalent all through the medieval ages of indifference to human affairs and of contemplation of the other world.

Encyclopaedia of Social Sciences (Vol.XX, p.264, 1960 Edition) [ESS] explains:

"If secularism is defined as the attempt to establish an autonomous sphere of knowledge purged of supernatural, fictitious presuppositions, its modern origins are to be traced to the later Middle Ages of Western Europe. The distinction drawn up by the scholastics between faith and knowledge while it left room for revealed theology, was also capable of evaluating in a type of philosophical

or natural theology which placed its chief emphasis on the truths perceptible by human reason - a broad category which subversed not only all physical knowledge but even metaphysical knowledge of God".

The ESS points out that the ideal of human and social happiness proclaimed by the French Revolution has continued to influence subsequent generations of political and social workers. It is further

pointed out that this has to some extent moulded the temper of some religious groups who are now compelled to accept that mankind shall strive by the most enlightened methods to establish social justice and welfare.

Even the Encyclopaedia Britannica points out that in the latter half of the Twentieth Century some theologians have been advocating Secular Christianity by suggesting that

Contd. on Page No. 12

Contd. from Page No. 8

is always evolving through interaction which is due to migrations and mobility.

The term Hindutva emerges in late 19th century with the rise of communal politics in opposition to the nascent Indian National Movement. When Indian National Congress was formed in 1885, the Muslim Feudal classes and Hindu Feudal classes opposed it and both articulated their own communal ideology. The one coming from Hindu communal stream was vaguely called Hindutva. This was brought to the fore prominently by Savarkar in 1924. Savarkar also defined Hindu as one who regards this land as Holy land and father land, keeping Christians and Muslims out of the definition of Hindus. Hindutva as per him is a total Hinduness, common race (Aryan) Culture (Brahminic) and the land spread from Sindhu to sea. He also conceptualized Hindu Rashtra, as the goal of Hindutva ideology. This goal of Hindu Rashtra was picked up by RSS from 1925. The goal of Hindu Rashtra was opposed to the goal of Indian National Movement, which aimed at secular democratic India.

There are also assertions that we all should call ourselves as Hindus, since it is a 'way of life' common to all the people living here. This is a clever trick to deceive. Many a Muslim communalists similarly say that 'Islam is a way of life'. Religion alone is not the 'way of life'; way of life is much broader and includes language, local-regional cultural nuances, which cannot be uniform. Religion, again is not monolithic, and

is a part of way of life, not the other way around. The matter as to what are we as a political entity had been a subject of extensive debate in the Constituent Assembly and the conclusion was to call this country as 'India that is Bharat', a religion neutral term. Today Hindu is not a regional-'national' identity; it is primarily a religious identity. The subtle trick in calling everybody Hindu is to first talk of geographical identity, common ancestor and then to say that since we are all Hindus, the Hindu scriptures, Gita, Manusmriti are all our national books, cow is our National animal; we all have to worship Ram etc.

This is not an innocuous step. In the beginning 'we are all Hindus, then so we are a Hindu nation and then follow the dictates coming from Hindu holy seers or self proclaimed custodians of Hinduism. The position of Constitution is very clear that Hindu is a religious identity and India is a national identity. Surely RSS never had anything to do with either the freedom movement or belief in the Indian Constitution so in pursuance of its agenda, in contrast to Indian Constitution, which gives us the Indian identity, RSS wants to impose Hindu identity.

What will happen in the next step become clear from the following discussion which transpired in the RSS training camp, which gives us the inkling of the agenda of RSS in the long term. Let's see the statement of RSS worker Joshi, couple of decades ago, "During a question-and-answer session, a volunteer asked Yadavrao Joshi, then the head of Sangh workers

across all of south India, "We say RSS is a Hindu organization. We say we are a Hindu nation, India belongs to Hindus. We also say in the same breath that Muslims and Christians are welcome to follow their faith and that they are welcome to remain as they are so long as they love this country. Why do we have to give this concession? Why don't we be very clear that they have no place if we are a Hindu country?" Joshi replied "As of now, RSS and Hindu society are not strong enough to say clearly to Muslims and Christians that if you want to live in India, convert to Hinduism. Either convert or perish. But when the Hindu society and RSS will become strong enough we will tell them that if you want to live in India and if you love this country, you accept that some generations earlier you were Hindus and come back to the Hindu fold."

(<http://www.caravanmagazine.in/reportage/rss-30#sthash.GmBGCZLQ.dpuf>)

So what Sangh Combine had been aspiring for the last nine decades is being asserted with bigger authority with Modi Sarkar at the center. What Bhagwat of RSS is saying and his followers are speaking on the TV debates is a clear violation of the values of the Indian Constitution. So where are we heading is a question which all the citizens have to become aware and stick to what we have gained through freedom movement epitomized in our Constitution. That needs to be saved and protected from the sectarian motivated agenda. □

Contd. from Page No. 12

Christianity should not be concerned only with the sacred and the otherworldly. The power of secularism is derived from its close connection with science, and in the union of social and scientific secularism, the movement begun in Renaissance has been gathering momentum and finds its logical climax.

The Social Science Encyclopaedia (Ed. Adam Keeper & Jessica Keeper - Routledge & Kegan Paul 1985, p.737) points out that secularisation refers to the displacement of religious beliefs, rituals and sense of community from the moral life of society. The major institutions of society became legitimated by secular ideologies and formal legal doctrines rather than by religions. It was the philosophy of enlightenment that provided the pivotal impetus towards the thoroughgoing secularisation.

At the root of secularism is the principle that the society should be founded on principles devised by rational inquiry into the universal nature of human social life. The ESS has cited other authors who have pointed out the other facets of secularism. For example -

The rational principles of social organisation are antithetical to religious traditions based upon faith; The moral authority of ideologies independent of religious ethics was established for evaluating economic, political stratifications and other social arrangements;

Despite their rootedness in European culture, secular ideologies have taken on moral authority in many civilisations around the globe, somewhat in the manner of world religions.

Let me enumerate some of the propositions that emerge from the discussion so far or that are necessary to understand what follows:

Secularism is a system of social organisation and education which believes that religion has no part to play in the problems and events of every day life.

A culture is seen as secular when its acceptance is based on rational and

utilitarian considerations rather than on reverence and veneration.

A secular society is one that engenders in or elicits from its members readiness to change customary orientation towards or definition of values regarded as essential in that society.

Secularism on the part of the individual means a rational state of mind which refuses to recognise the arbitrary authority of any individual or any book.

In the context of "State" or "Society", secularism means an endeavour on the part of State or Society to modernise the societal values and thus a policy of not being influenced by beliefs or values of any one or other religious group.

The next step in the discussion is to study the American experiment which correctly interprets and practices Secularism. Let me hasten to add that the word secularism is not to be found in the Constitution of U.S.A. But the doctrine is embodied in it. The thirteen colonies of England in North America issued a Declaration of Independence on 4th July 1776. The U.S. Constitution drafted by the Philadelphia Convention was ratified in 1789. Article VI, Section 3, of the Constitution reads as follows:-

"The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States." [Emphasis provided]

Two things in this Article stand out prominently. First, any person about to enter a public office need not necessarily swear in the name of God; it is sufficient if he makes a solemn affirmation. We in India may not be able to appreciate the significance of this provision; our Constitution has always contained this provision. But it was a path-breaking enactment in the eighteenth Century. In England, even in 19th Century, Charles Bradlaugh was not allowed to take seat in the House of

Commons though his constituency repeatedly elected him - in fact five times. The reason - he was an atheist. Bradlaugh agreed to take the prescribed oath but the House said that he would not be allowed to take the oath because he was an atheist. This was in the latter half of the nineteenth century. Bradlaugh ultimately took the oath and his seat after getting elected again in July 1886 - this time no member of the House raised any question.

It should be noted here that Bradlaugh had at one stage made the following declaration:

"Any form I went through, any oath that I took, I shall regard as binding upon my conscience in the fullest degree, and I would go through no form and take no oath unless I meant it to be so binding."

It was only under the Affirmation Act of 1888 that the atheists could take seats in the Parliament by solemnly affirming rather than swearing in the name of God - more than 100 years after the U.S. had so provided.

(For a detailed discussion of Charles Bradlaugh's Parliamentary fight, please see my "Charles Bradlaugh: The Infidel M.P." published by Scientific Temper Promotion Trust, 1986).

The second important thing about Article VI(3) is the fact that a person of any religious persuasion can hold any public office in U.S.A. because no religious test is required of such a person. A religious test is a test demanding the avowal or repudiation of certain religious beliefs. In 1961 the U.S. Supreme Court held that a State constitutional requirement requiring a belief in God as a qualification for office was unconstitutional. [Torcaso v. Watkins, 367 US 488 (1961)]. In this judgment, the phrase 'Secular Humanism', which became very popular later, was first used by Justice Hugo Black. Roy Torcaso, who had been appointed as Notary Public by the Governor of Maryland, was refused commission on the ground that he refused to affirm that he believed in God. In an action brought by Torcaso, Justice Black held that the Plaintiff was entitled to the protection of the First Amendment. Justice Black mentioned that secular

humanism is one of a number of religions like Buddhism "which do not teach what would generally be considered a belief in the existence of God. (Ref. 'Religious Liberty and the Secular Society' by John M. Swomley, Prometheus Books, p.117). No oath - only affirmation.

A person of any religious belief or of no religious belief can hold a public office.

However, during the two hundred years of the U.S. Constitutional history, there is no known case of any President making a solemn affirmation. In 1962, neither earlier nor later, a Christian not belonging to any Protestant denomination was elected the President of the United States. No non-Christian has been so elected so far. I should, however, add that many non-Protestant Christians and non-Christians have occupied other positions - some of them with great distinction. Justice Felix Frankfurter is a notable example.

Then came the First Amendment, by which the following provision was added to the Constitution in 1791:

"Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition to government for a redressal of their grievances." (Emphasis added)

The clause to which emphasis has been provided (by me) is the clause which is relevant for our discussion. The word secularism has not been used in the American Constitution. But the First Amendment is a repudiation of religion as an authority in the governance of the country. The case law that has been developed in the U.S.A. on this subject has been vast and makes very interesting study. This is not the place to enter into a detailed study of this subject. However, I must refer to some landmark judgments of the Supreme Court of U.S.A. which has throughout taken a consistent view in this matter. Initially some theorists were of the view that the establishment clause only prevented preferential treatment to any religion or religions and did not

prohibit the use of religion in public life. However, subsequently, by a series of judgments the Supreme Court of the U.S.A. has held till today that the U.S. Constitution debar the U.S. Government and the State Governments, the Congress and the State Legislatures from having any connection with any religion.

In 1801, Thomas Jefferson was elected President. In a letter which he wrote to a group of Baptists he asserted that it was the purpose of the First Amendment to build "a wall of separation between Church and State". It is this total separation between the Church and the State that makes the American Constitution politically a secular Constitution, though the words 'secular' and 'secularism' are not found in it. In 1879, more than 70 years after the Jefferson letter, the U.S. Supreme Court accepted that statement by Jefferson as "almost an authoritative declaration of the scope and effect of the amendment" [Reynolds v. U.S. 98 U.S. 145 (1879)]

Some landmark judgments of the U.S. Supreme Court should now be considered. In 1947, the Supreme Court by the thinnest margin held as constitutionally valid the provision of free transportation by the State of New Jersey to children of parochial schools. This has been justified on the ground of provision of such a facility to school children as a safety measure on highways (Everton v. Board of Education, 330 US-1947). However, in the same judgment the following words of warning were written:

The 'establishment of religion' clause of the First Amendment means at least this:

Neither a State nor the Federal Government can set up a Church; Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another;

Neither can force nor influence a person to go to or remain away from Church against his will;

Neither can force a person to profess a belief or disbelief in any religion;

No person can be punished for entertaining or professing religious beliefs or disbeliefs, for Church

attendance or non-attendance;

No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever forms they adopt to teach or practice religion;

Neither a State nor the Federal Government can openly or secretly, participate in the affairs of any religious organisations or groups and vice versa.

(Emphasis added)

(For American Law and the Constitution, I have relied mainly on Edward S. Corwin's "The Constitution and What it Means Today".)

The following other propositions have been established by the other decisions handed down by the U.S. Supreme Court:

It is not separation of Church and State to permit religious instruction in the State's tax-supported school buildings even to willing children whose parents have requested for it.

A "released time" programme under which religious instruction takes place off the school ground is permissible because the State is not hostile to religion.

Recitation of even non-denominational prayers is not permissible in a State-aided school because it gives preferential treatment to those who believe in religion or God as against those who do not so believe.

The so-called science of creationism is not a science at all; it is teaching of the Bible which is not permissible (Bible can be studied but not taught).

The Court has taken a view that statutes involving excessive entanglements of State with Church in the matter of implementation would be invalid. Therefore -

a statute providing salary supplements to teachers in secular subjects in non-public schools operated for the benefit of parochial schools; and

a statute providing reimbursement to non-public schools for teachers' salaries and instructional material used in the teaching of secular subjects

were both held invalid as they involved excessive entanglements of

State with religious matters.

In *Engel v. Vitale* (370 US 421; 1962) even optional prayers in aided schools were held to be unconstitutional. There was a furious reaction to this decision. There were countrywide demands that the judges should resign; if they did not, they should be impeached. The majority decision was delivered by Justice Hugo Black who was a devout Baptist and Sunday school preacher. He was denounced as a Communist and an atheist. This case illustrates the detachment from personal view that the judges display in their work.

Black was in his younger days a member of Ku Klux Klan and anti-Black. As a judge of the U.S. Supreme Court he was a strong desegregationist. Carl Sagan has pointed out that as a member of the Ku Klux Klan, Black wore white robes and intimidated the blacks; as a member of the Supreme Court, he wore black robes and intimidated the whites. (on p.431 of 'The Demon haunted World', Random House, New York).

Kennedy, who was then the President of U.S.A., called upon the Americans to accept the decision which was 'welcome reminder to every American family that we can pray a good deal more at home and attend our Churches with a good deal more fidelity and we can make the true meaning of prayer more important in the lives of all of our children'. ("The First Freedom" by Net Hentoff, Delacarte Press, New York, p.156.)

There are some only of the several propositions handed down by the Supreme Court which clearly show that no part of the money belonging to the State can be applied directly or indirectly for a religious purpose - however small it may be. This is in my opinion true secularism though that word had not yet come in vogue at that time.

I must hasten to mention here that secularism enshrined in the American Constitution is not the result of a movement for secularism. Provision for secularism was made to prevent any religion or any sect gaining a more advantageous position than another. America is inhabited by a large number of Christian

denominations which were not always tolerant of each other. Different sects were in dominant positions in different States. In order to avoid conflicts among the different denominations and in order to avoid the dominance by any one denomination, the State was prohibited from having anything to do with religion in any manner. A French visitor to the U.S.A. found that in that country there were a dozen sects but only one sauce. Americans are not secular, but U.S.A. has a secular Constitution.

After noticing that in America secularism was established practically without any fight or controversy, one must turn to France where secularism came to be established firmly after a gradual conquest of the ground. Europe had been ravaged for a long time by religious persecutions and wars. That was in fact the main reason why many Europeans migrated to the New World. France had been the arena for the oppression of different Protestant sects. Only two years before the Revolution i.e. in November 1787, the existence of non-Catholics was recognised by an edict. But Louis XVI specified that the Roman Catholic Church alone would continue to enjoy public worship in France. Non-Catholics continued to have civil and political disabilities.

Then the Revolution took place on 14th July 1789. The Roman Catholic Church was too strong to be swept away easily. Secularisation in France took place in stages. The Declaration of Rights of Man and Citizen stated in Article 10:

"No one is to be disquieted because of his opinions, even religions, provided their manifestation does not disturb public order established by law."

First, in 1789 December, all non-Catholics (save the Jews) were freed from civil and political disabilities. The Constitution of September 3, 1891 abolished the disabilities of Jews. The first stage was to basically remove the disadvantages associated with religion.

Certain revolutionary groups became active proclaiming the supremacy of reason.

"The cult of eternal Reason is the only one worthy of a free and enlightened nation."

"We shall revere only Reason; Equality and Liberty are our gods."

"Let us erase superstition's yoke to the last trace. Let Reason take its place, Reason which is heavensent." Among these and other slogans, Goddess Reason was worshipped. National holidays, not based upon religions, were declared. The Church was not abolished but the Roman Catholics accepted the position that Church was in the State and not the State in the Church.

I will indicate briefly the different stages of secularisation.

The State took over from the Church the registration of births, deaths and marriages.

Education system was overhauled and the teaching institutions were removed from the control of the Church and put under the authority of the State. Between 1801 and 1804, the Civil Code, a comprehensive one, was introduced - this marked a complete break from the authority of the Roman Catholic Church over French legislation. The Preamble to the Code proclaimed that there exists a universal and immutable law and "it is nothing else than natural reason in so far as it governs all men".

The overall political and social situation that was thus created has been described by the French word *laicite* for which, scholars say, there is no English equivalent. One dictionary "Dictionnaire de la Langue Francese" by Petit Le Robert describes '*laicite*' as the principle of separation of civil society and religious society, the State exercising no religious power and the Church exercising no political power. This does not adequately convey the idea of secularism but for the purpose of this talk I will use the word '*secular*' for '*laicite*' and secularisation for '*laicization*', the process of making secular.

The general framework contained three characteristics -

The State no longer ensures the salvation of the people;

The State involves itself only with the citizens' common earthly interest;

The State considers itself not to be in a position to impose specific religious doctrines.

To be sure, religion was not ignored. In fact the purported religious needs of the citizens were recognised and the State paid stipends to ministers of recognised religions.

The second stage of secularisation in France is marked by the passing of a law of separation of State and Church on 11th December 1905. Before that happened, certain other events took place in the process of secularisation. The law prohibiting work on Sundays was repealed. The provision for divorce was introduced. Distinction between the burial grounds of different religions was abolished. The reform of the educational system has already been mentioned.

The Act of 1905 provided that the Republic neither recognises nor pays nor subsidises any religion. This meant in practice the denial of the usefulness of religions recognised earlier. Between 1905 and today several developments took place which at one time weakened the fabric of secularism (laicite) and sometimes strengthened it. These ups and downs reflected the social and political fluctuations in France. The debate goes on mostly in the field of education. Religions are studied today but are not taught. In the French Republican School, it is said, one does not learn to believe, but to reason.

From what has been said about the birth and growth of secularism, in France it is seen that it is a product of social and political development. 'Laicite' in France is being subjected to new challenges during the last decade and a half. This is primarily due to the immigrant population of Muslims from the erstwhile French Colonies in North Africa. The Islamist groups are seeking a special status in the Secular Republic.

The episode involving the headscarves which arose in 1989 provides a typical example of this challenge. The principal of a school (in Creil), himself an immigrant from the Caribbean, forbade three Muslim girls from attending the classes with the headscarves worn purportedly to conceal their hair - an action which

he justified on the ground of laicite. The then Minister of Education, who later became Prime Minister, tried to work out a compromise by suggesting that the children and their parents should be persuaded not to wear the scarves while attending the classes and if they are not persuaded, they should be allowed in the school. "Munich of the Republican School" shouted the secular intelligentsia of the country.

Then there are several issues springing up from this and similar incidents. The educational institution is totally a secular institution - is it not entitled to insist that patently religious symbolism should not be displayed in its premises? To the progressives and non-religious, the headscarf symbolised the subservience of woman. Moreover, it created separateness in a group of students. They insist that when a person comes to France as an immigrant, he enters not only a country but also a history and a culture.

In a still later incident, sometime in 1994, the then Minister advocated that prohibition of 'ostentatious insignia' be included in the school regulations. The problem rests there and has not been resolved to the satisfaction of either party. The French have, in a poll conducted, expressed their view that fanaticism, submission and rejection of Western values were characteristic of Islam. What is the religious composition of French population? No one knows, because the census does not record the religion of the French citizen. It appears that secularism, like democracy, needs constant vigilance. (For an excellent account of the French experiment, see *Two Thresholds of Laicization* by Jean Beubarot in *"Secularism and Its Critics"*, Ed. Rajeev Bhargav, OUP 1998).

Secularism in America, which entered the Constitution through the first Amendment, got firmly entrenched by judicial decisions - thanks to the initial interpretation given to it by Thomas Jefferson. The idea of separation of Church and State in France was the product of the Revolution and has been fortified by social, cultural and political developments.

I must now turn to another country where secularism has been thrust upon the people by one who was for all purposes a dictator but where it has been subsequently supported and sustained by the population. That is Turkey. The Chief Executive of Pakistan, General Musharaff, within few days of his capturing power, declared that his role model would be the Turkish Secularist reformer, Mustafa Kamal Atatürk. There is in some minds a lurking feeling that Kamal Pasha was basically a good Muslim who brought about reforms in Turkey. Khaled Ahmed, the editor of Friday Times of Lahore, has, in an article contributed to "On the Abyss" (2000, Harper Collins), stated as follows :-

"Atatürk had been admired by the founder of Pakistan, Mohammed Ali Jinnah. The first book he gave his daughter Dina in the 1930s was a biography of the Grey Wolf. Poet Muhammad Iqbal, considered the philosopher of the State in Pakistan, had supported the secular experiment of Atatürk in Turkey in his famous 1929 English Lectures." (page 85)

The lectures referred are "The Reconstruction of Religious Thought in Islam" delivered in 1929. They were first published in London in 1931 but the book has been out of print for a long time (Those who are interested in the subject will be glad to know that it is now available having been republished recently by Kitab Bhavan, New Delhi).

I was a little surprised by the reference to Muhammad Iqbal, a known anti-liberal and anti-secularist, as an admirer of Kamal Pasha. I was naturally driven to check the original. Iqbal, in his lecture on "The Principle of Movement in the Structure of Islam" (One of the lectures delivered in 1929 and included in "Reconstruction of Religious Thought in Islam") has, at some length, discussed what is known as Ijtihad in Islam i.e. literature. Referring to the line of thought of the Nationalist Party in Turkey, he points out, correctly, that the point of supreme interest of that party was the State and not religion and that party emphasises the separation of Church and State. The assimilation of the theory of separation by the Turkish

Nationalists is, according to Iqbal, misleading inasmuch as it suggests a dualism which does not exist in Islam. He endorses the view of Said Halim Pasha, of the Religious Reform Party, which said that Islam - the world of Islam - is one and it has no fatherland. Said Halim Pasha had further said that modern culture based on national egoism is another form of barbarism - a view Iqbal commends. There is no admiration anywhere in these lectures of Kamal Ataturk. The only thing which Iqbal accepts is the vesting of Caliphate in an assembly - a body of persons - which was done by the Turks initially. Even this had become irrelevant by the time Iqbal delivered his lectures. Having abolished Sultanate on 1st November 1922, Kamal proceeded to abolish Caliphate itself on 3rd March 1924 and on the same day Ministry of Religious Affairs and Religious Schools was abolished. Continuing the narration of events, Kamal proceeded to ban fez cap, suppress religious brotherhoods and close down sacred tombs as places of worship. In 1926 February, new Civil Law Code was adopted which, among other things, made it impossible for a Muslim to summarily divorce his wife. Kamal had, however, given Talaq to his wife in August 1925. Therefore, when General Musharaff declared that his role model would be Mustafa Kamal Ataturk, the religious parties were stunned into silence. Qazi Hussein Ahmed of Jamaat-e-Islam said: "How can Ataturk, who destroyed the Islamic ideology, be the ideal of a Pakistan ruler? Those who are making such senseless statements to make God angry and America happy should learn a lesson from the fate of Nawaz Sharif".

Let me briefly refer to the experiment of Turkey under Mustafa Kamal Pasha. After the break up of Ottoman Empire following the First World War, the institution of Caliphate became incongruous. I will avoid the tortuous and bloody events that preceded the rise to power of Kamal Pasha who, in 1924, abolished the Caliphate. Earlier Indian Muslims in cooperation with Gandhi had agitated for the protection of the Caliphate and against the threat of its abolition. It is

also necessary to note that Kamal had become distrustful of Indian Muslims because the then Aga Khan and the former Judge Amir Ali sent a joint letter to Kamal Pasha protesting against the treatment given to the Caliph and asking him to treat the Caliph with dignity and respect. In this letter they claimed that they were speaking on behalf of millions of Indian Muslims. Kamal Pasha was firmly against Turkey being entangled with Arabic countries or with India. For this reason and also for the reason that he wanted no religion in public affairs, he refused to become Caliph himself when beseeched to do so by, among others, Indian Muslims.

What did Kamal Pasha then do? He proceeded to secularise the Turkish society and State. By this time he had become a dictator having throttled the opposition in the National Assembly. He attacked the fez cap which was associated with Turkish Islam. Wearing a fez cap was made a criminal offence. Nehru rightly points out that the fez cap was inoffensive and when it was banned, riots broke out and they were ruthlessly suppressed. "It sounds rather silly to attach so much importance to a headdress. What is much more important is what is inside the head, not what is on top of it" (Glimpses of World History by Jawaharlal Nehru, p.708).

I will only enumerate some other steps taken by Kamal Pasha for secularising Turkey.

He encouraged the wearing of European dress - he himself wore European suits and a hat.

All monasteries and religious houses were abolished and their wealth confiscated for the State.

Muslim religious schools were abolished and State non-religious schools were started.

Shariat Law was replaced by Swiss Civil Code, the Italian Penal Code and German Commercial Code.

Polygamy was abolished.

A Society for the defence of women's right was established; purdah was abolished and women were persuaded to enter into the professions.

Latin script replaced Arabic script.

Turkish language was purged of Arabic and Persian words, partly because those words could not be written in Latin script.

All this undoubtedly made Turkey a strong State compared to other Muslim nations. Some of the changes made have endured to this day. Turkey is even today a secular State. A woman wearing skirts, Ms. Chiller, had for some time been the Prime Minister of Turkey.

But the secularism of Kamal Pasha was based upon dictatorship and was not brought about by discussion and persuasion - a course Nehru would have adopted. In the ordinary course, a system which has been imposed upon people with force would be overthrown by the people at some stage. But the secular state has survived for 60 years after Kamal Pasha's death. Of late, Islamic Fundamentalism is raising its head in Turkey but the Turks who have tasted the fruits of secular life are not accepting a course which may lead them to an Islamic State. It may, therefore, be regarded that the majority of Turks have accepted secularism. Despite a couple of coups, Turkey has now retained the democratic framework.

Digressing slightly I wish to refer to another Muslim ruler. Some historians think that Akbar's was also a secular State. Akbar's confused religiosity has been equated with secularism by some historians. He received members of Jesuit Mission to find answers to his theological doubts. On the promptings of a flattering theologian, Akbar promulgated what has been described as "Infallibility Decree" under which the Emperor alone could with finality decide any question concerning the Muslim religion. Akbar also partly indulged in the rituals of as divergent religions as Zoraastrianism and Jainism. At one stage he propounded a new religion called Din-e-Ilahi (Faith of God) which by necessary implication rejected the claim of Mohamed being the seal of prophethood. By no stretch of imagination this could be called secularism. (See Oxford History of India by Vincent Smith, 4th Edition,

edited by Percival Spear, p.346 et seq.)

S. Gopal rightly points out that his marriage with a Hindu Princess, partaking of "Gangajal" etc., showed, apart from his love of Hinduism, his anxiety to hold his empire together and to prevent his Hindu subjects from becoming restive. His "Sarvadharam Samabhav" made him worship Virgin Mary and other deities on different days according to rites of different religions - thus infuriating the followers of Islam which prohibited idol worship. (A Historical Perspective of Secularism in India by S. Gopal, pp.7 and 8, People's Reporter Publisher, Bangalore).

A brief reference to the position in England should be in order. In England there is a close alliance between the Church and the State. The Church of England became independent of the Pope in the Sixteenth Century and is the official Church of England. The monarch of England is the head of the Church. Though there is religious freedom in England, the Church of England has a special status inasmuch as the monarch of England must join in communion with the Church of England. A Catholic or any one who marries a Catholic cannot be the monarch of England. It is probable that a Catholic may not even be Lord Chancellor.

The Church of England by certain internal measures can constitute a General Synod consisting of clergy as well as laity and this assembly can put forth proposals regarding religious matters -- such as communion, baptism etc. These proposals do not have the force of law unless the Parliament has approved them by a

simple resolution and have received the Royal assent thereafter. This is a simplified account of the relationship between the Church and the State in England. (For a detailed discussion, see 'Constitutional Law' by E.C.S. Wade and Godfrey Phillips). The Established Church in Scotland is the Presbyterian Church and the General Assembly of that Church is the supreme legislative and judicial body.

The provisions touching the form of worship are of the authorship of the Church but become binding only under the authority of the Parliament, which may consist of Christians of any denomination, non-Christians and atheists. To this limited extent it can be said that there is no theocratic polity in England.

It is time we turn to the Constitution of India. Is the State envisaged under the Constitution a secular State? Is there a wall of separation between the State and religions? Our twin-sister State - Pakistan - is an Islamic Republic. Pakistan's Constitution proclaims that sovereignty over the entire world belongs to Allah. No law which is repugnant to Holy Quran and other sacred books can be enacted by the State.

It is contended by many that India is a secular State because -

no particular religion is prescribed as the State religion;

no preferential treatment is envisaged for any religion or for people professing any religion;

the right to worship is given to followers of all religions.

It is further stated that active or direct promotion or propagation of any religion by the State is not provided for in the Indian Constitution. But is it prohibited?

Equality before law (Article 14), prohibition of discrimination on the ground of religion (Article 15) and equality of opportunity in public employment or for holding any public office (Article 16) are all healthy provisions indicating democratic and secular credentials of Indian polity.

Let us now turn to other relevant provisions.

Article 27 provides that "no person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any religion or religious denomination". (Emphasis provided)

This Article is only a ban against the State from collecting taxes, part or whole of which could be utilised for the promotion of any religion. Two consequences follow from this. First, if there is no direct connection between a tax and the promotion of religion, the ban does not come into force. Amounts from the general exchequer can be appropriated for religious purposes. Secondly a tax may be levied for the religious and spiritual upliftment of the citizens and the proceeds can be utilised for the promotion of all religions - a la Akbar.

This is good news for 'Sangha Pariwar'. Ram Temple can be constructed at Ayodhya, with, partly at least, the heap of funds from the State exchequer. Haj pilgrims' tours may be subsidised; contributions can be made to Waqf Boards; payment of stipends to Imams may be considered, as the Supreme Court itself has suggested. A secularist may only bemoan that there is no total prohibition against the use of State funds for religious purposes.

.... *To be continued in the next issue..* □

Justice Dave's Dream: Secular India's Nightmare?

Ridhima Sharma*

At a conference at Gujarat University's Convention Hall on August 2, Supreme Court judge Justice Anil R. Dave commented, "Had I been the dictator of India, I would have introduced the Gita and Mahabharata in Class 1. That is the way you learn how to live life. I am

sorry if somebody says I am secular or I am not secular. But we have to get good things from everywhere."

The statement received strong criticism from the liberal, progressive quarters of the country. The grounds on which the

proponents of secularism opposed or expressed their anxiety towards Justice Dave's view were, however, different. While some were alarmed at the possibility of religious texts gaining currency in and through educational curriculum (though this is obviously not the first time such

fears were felt), the others argued that teaching Gita "doesn't go against Indian secularism. Teaching Gita alone does." At the heart of this conflict, I believe, lies a greater disagreement- a disagreement on what is truer in the spirit of secularism? Is secularism a religious or anti-religious? Or does it embrace all religions and all forms of religious expression and articulation? Christophe Jaffrelot, for instance, argues, "Far from being a religious, irreligious or anti-religious, this principle (secularism) is on the contrary, perfectly compatible with religiosity. But, recognizing the importance of religion in the public space, the state intervenes in favour of all religious communities. It thus subsidizes all kinds of religious activities, including pilgrimages for Sikhs (to Pakistan) and Hindus (like the one to Amarnath in Jammu and Kashmir). (Jaffrelot 2014). Others argue that religion, inherently and intrinsically, is oppressive in character and one has to step outside the framework of religion to achieve equality. A case in point is Ambedkar's famous quote, "Inequality is the soul of Hinduism." For Ambedkar then, discarding the Hindu religion was central to his vision of a democratic, egalitarian ethos.

Whatever be one's idea of 'secularism', the introduction of a text like the Bhagwat Gita in the school curriculum is a suggestion worth being anxious about. This is not just because of the sanctity associated with religious texts but the sheer lack of a critical approach that has come to be characteristic of our education system. And this lack of critical thinking is only likely to be heightened in the case of texts as revered as the Bhagwat Gita. Furthermore, the idea of "getting good things" that Justice Dave made a reference to, needs further probing. Often, hierarchies of caste and gender that are the breeding ground for oppression and discrimination have been glorified as markers of Indian tradition and in fact posited as the only acceptable

definition of 'Indian culture'. If the Bhagwat Gita were to become a classroom textbook, will it be at all open to debate and scrutiny? Or will it be shoved down the throats of children as the sole pills of wisdom and virtue? In a country where 'religious wisdom' is supposed to be treasured and elevated to the degree that it is over and above debate or discussion of any kind, the odds of the latter happening are way more. Therefore, the worth of the Gita as a text apart, when placed in context of the pedagogical modes adopted in most schools, the teaching of the Gita comes across as a dangerous proposition.

At this point, it would be useful to understand why teaching of the Gita necessitates a critical attitude in the first place, why it may not be (much to the horror of Justice Dave) the ultimate beacon of inspiration.

While it is true that the Bhagwat Gita is one of the most revered religious books, has been acceptable to people of any different religious denominations and is said to have inspired the likes of Gandhi, Tilak and Aurobindo, it has also been critiqued severely by Ambedkar. Ambedkar's views on the Gita are found in his unpublished book 'Revolution and Counter Revolution in Ancient India'.

For Ambedkar, the "Bhagwat Gita is neither a book of religion nor a treatise on philosophy. What the Gita does is to defend certain dogmas of religion on philosophic grounds. It is a philosophic defence of the counter-revolution" (Pandit 1992). He describes the 'counter-revolution' as one undertaken by Brahmins to restore and uphold Brahmanism, in response to the moral, social and political revolution caused by Buddhism. He further explains, "This philosophic defence will be found in Chapter 2 verses 2 to 28. The philosophic defence of war offered by the Bhagwat Gita proceeds along two lines of argument. One line of argument is that anyhow the world is perishable and man is mortal. Things are bound

to come to an end. Man is bound to die. Why should it make any difference to the wise whether man dies a natural death or whether he is done to death as a result of violence? Life is unreal, why shed tears because it has ceased to be? Death is inevitable, why bother how it has resulted?...Another dogma to which the Bhagwat Gita comes forward to offer a philosophic defence is Chaturvarnya... It offers a philosophic basis to the Chaturvarnya by linking it to the theory of innate, inborn qualities in men... The third dogma for which the Bhagwat Gita offers a philosophic defence is the Karma Marg. By Karma Marg, the Gita means the performance of the observances, such as Yajnas as a way to salvation" (Italics mine).

The reason why I dwell on Ambedkar's critique of the Bhagwat Gita at length is that these are precisely the kind of voices that are likely to be erased if the Gita were to be taught in the classroom; these are precisely the narratives that will be pushed aside to the margins of what is regarded as 'knowledge'. The veracity of these opinions aside, the fact that they will not even make it to classroom discussions (or worse, will be villainized) is what is threatening to a democratic and secular fabric. While this is a larger structural problem relating to the ways in which dominant notions of knowledge and history have been constructed and even though, it will not be unique to the teaching of the Gita, it will definitely have far-reaching implications on students' understanding of their religion and that of 'others'. So, while Gandhi's admiration for the Gita will perhaps be included in the syllabus, Ambedkar's critique of it will most likely be completely sidelined. The reason for this is two-fold: the general importance accorded to Gandhi in the curriculum as opposed to Ambedkar and the intent to posit the Bhagwat Gita as the all-knowing, flawless, ultimate word of authority.

In a similar vein, there have also been feminist commentaries on the Gita. In an oft-quoted passage of the Gita, Arjun, while expressing his fears about fighting the battle, articulates the consequences of untold killing. He is anxious that a state of absolute lawlessness shall prevail and women would deteriorate. What would follow is 'Kulakshaya' i.e. diminishing of the clan. The nature of this 'diminishing' becomes clearer when he says that the deterioration of women would entail inter-caste marriages and an upheaval of the class and caste structures. What is implied is that inter-caste marriage is one of the

most pernicious acts a human being can commit and that it is usually committed as a result of the degradation of women. In addition, women are presented as having no agency of their own and depending on their fathers, husbands and sons at various stages of their lives.

It would not be wrong to argue that ideas such as the above can be used by conservative forces to posit certain notions about what a 'cultured' or 'traditional' Indian woman is like and to demonize the slightest deviation from these norms.

Thus, one's biggest fear regarding the introduction of the Gita as part

of school curriculum should be the threat that it poses to a vision of equality, democracy and secularism, regardless of what our understanding of 'secularism' may be. This is primarily because a religious text of that stature when brought to the classroom is likely to obfuscate all possibilities of a critical discussion and further marginalize voices and narratives that anyway have a history of systematic oppression and discrimination.

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On The Eve of Sri Mimroth Completing 75 Years of Life

D.L. Tripathi*

On his 75th birth anniversary on April 10, 2014 -the day is being observed as 'DALIT UTTHAN DIVAS'. This would be an humble Tribute to this distinguished Dalit Social Leader-who has devoted more than a quarter century of his life to the cause of the downtrodden, exploited, deprived and voiceless people by creating in them awareness of their rights and working for their upliftment. Shri P.L. Mimroth, President of "DALIT MANAVADHIKAR KENDRA, JAIPUR" is associated with various human rights organizations at national level. A man with indomitable spirit and strong commitment to the cause has raised the issues of Dalit atrocities and discrimination at all levels including at the international level while travelling abroad. At this joyous moment we warmly greet and congratulate him and wish him a

very long active life.

Baba Saheb Ambedkar a founding father of the Indian Constitution -too remained classified as untouchable and suffered humiliation. He revolted against the system. His contribution to eliminate discrimination and its humiliating impact by dominant caste system is widely known. It is to be noted that Caste system existing since centuries is the reality of Indian life. It does not persist in Hindus only but also is very much prevalent in other religions such as Muslims, Christians, Sikhs and Buddhists etc. as well. We observe and realize that predominant caste system is the main impediment in eliminating discrimination and degraded living of DALITS.

Our democratic Republic gave us a wonderful Constitution. In the last more than six decades time

innumerable steps to ameliorate living conditions of Dalit Community have been taken. So many laws, Commissions and Apex Court judgments have been there to impart justice and eliminate discrimination but the existing situation has not changed materially - the struggle for Equality remains constant and consistent. The National Crime Records Bureau's statistics depict the phenomena prevailing in the society where thousands and thousands of Dalits are the victims of atrocities-torture and violence- Dalit women pass through untold miseries. Cases of Rape, kidnapping & abduction and cases of domestic violence are the everyday casualties. Cases of dowry deaths are no less. Custodial torture is a routine. Sometimes death under Police custody takes place while

Contd. on Page No. 20

Organisational Queries

We receive from time to time queries/requests from new members regarding the PUCL identity card and also regarding the privileges of the **Life** members and **Patron** members as compared to **Annual** members. The three types of membership, i.e., **Yearly**, **Life**, and **Patron**, do not represent a hierarchy of membership. All members are equal. Life membership and Patron membership simply afford an opportunity to those who desire to contribute some extra money to the PUCL to strengthen its financial position. No membership carries any privilege. All members shoulder the burden of fulfilling the aims and objects of the PUCL. The PUCL does not issue any identity cards to its members as they are not supposed to take initiative independently.

V. Suresh, National General Secretary, PUCL □

Contd. from Page No. 19

torturing them to confess the committing of the crime.

Our experience as jury in a Peoples' Tribunal on Torture in July 2008 is quite revealing. On the part of the Police the complaints of inaction persisted. The FIRs were not registered. The victims were called at Thana and kept under custody without showing their entry in Rojnamcha. They were forced to confess the crime and also asked to give money (bribe) for any relief. Supreme Court directives and D.K. Basu guidelines were not followed. Land grabbing by influential community is very much alarming. In any dispute relating to land, traditional kachcha way to their lands is denied to them. In one or the other way they are forced to quit the possession of the land and leave the village. Police only helps those who are powerful. We found that majority of victims were from marginalized groups-Dalits, Tribals, poor and minorities. The casteist and classist bias of Police mindset remains the guiding factor while entertaining any complaint from the victim. Despite Apex Court 2006 judgment and framing of new Rajasthan Police Act 2007 the people friendly police remains a day dream.

At the social level they are still discriminated. The job of scavenging has not stopped despite 1993 Act prohibiting and punishing it. Untouchability is still found in practice mostly in rural areas. The children in school are treated differently as degraded. There are numerous examples of exploitation, deprivation and discrimination. The impact of Khap Panchayat mindset of ostracizing or killing the intercaste married couples is also seen recently in Rajasthan in another way when a 19 year old girl in Pali District refused to accept her childhood wedding /engagement the JATIPANCHAYAT restrained the girl's family from attending any social

function and even purchasing grocery items from the shops in the village and ordered that the girl and family members including her parents be socially ostracized and also imposed fine of Rs. 63000/- on the family-the case is registered in police now. The communities particularly in rural areas remain in grip of inhuman customary traditions and social injustice. Much has been done to empower them and draw them in main stream of public life yet much remains to be done.

In the scenario what I wish to suggest is that moral values and human rights education are the basic necessities of our body politic from the very kindergarten schools to graduation level with different courses. That can save and strengthen our unity and integrity, provide fraternity, harmony and brotherhood by understanding the rights of each other and not grudging the provisioning of equal opportunities to all human beings.

On our part the human rights - Dalit Adhikar Kendra units must be created at the grassroot level. Their primary job must be to arouse awareness about the rights and duties, impart knowledge of various welfare schemes and participate in their effective implementation and take up their grievances on urgent level. I do not have any illusion about success of our organisational efforts.

-----Eleanor Roosevelt rightly said: "The Future belongs to those who believe in the beauty of their dreams."

Education is the greatest weapon to fight and achieve the desired results. It's a long-way struggle which we have to continue.

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