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Judiciary Embarrassed Rajindar Sachar

The Supreme Court Collegium while taking understandable self pride for its open functioning when it put its Resolution dated, 8th October, 2017 on the website to the effect amongst other, "THAT the decisions henceforth taken by the Collegium indicating the reasons shall be put on the website of the Supreme Court, when the recommendations is/are sent to the government of India, with regard to the cases relating to.....elevation to the post of Chief Justice of High Court..." (emphasis supplied) would have still more enhanced its worth had it at the same time given the reasons for not appointing Justice Jayant Patel the senior most judge of Karnataka High Court as its permanent Chief Justice. To me this action of the collegium has with respect embarrassed the judiciary and reminds me of Urdu couplet, "The house got burnt with its own house lantern" is a loose colloquial translation of the Urdu couplet namely "*Ghar Ko Aag Lag Gai, Ghar ke Chirag Se*", which shockingly hit me when I read of resignation of Justice Jayant Patel of Karnataka High Court.

Justice Jayant Patel, while he was the acting Chief Justice in the Gujarat High Court, directed CBI investigation into Ishrat Jahan fake encounter case, which involved the name of Amit Shah, who was then the Home Minister of Gujarat and who is now the President of BJP. All of a sudden Justice Jayant Patel was transferred to High Court of Karnataka in February 2016.

The present Chief Justice of Karnataka High Court was due to retire on 09.10.2017. In usual course Justice Patel should have been made a permanent Chief Justice of Karnataka High Court. But suddenly the Supreme Court collegium orders his transfer to Mumbai High Court (where he would be 3rd in seniority) Hardly had this news made to the public, collegiums changed orders for his transfer to Allahabad High Court where he would be no 2.

One can appreciate Justice Patel's anguish and even more his resentment at this unexplained action of the collegiums, so he sent in his resignation to the President. Both Karnataka High Court and Gujarat High Court Bar Associations held protest and boycotted the courts for a day.

In order to justify the cancellation of transfer of Justice Patel to Mumbai High Court and then transfer to Allahabad High Court immediately thereafter a feeble explanation was got published in the newspaper that in Allahabad he would rank higher than he would have been in Mumbai High Court, (as if the injustice of being denied rightful claim to be the Chief Justice could in any way be lessened).

Justice Patel lived upto the reputation of sitting judges when notwithstanding this grave provocation he refused to answer questions as to the reason for his resignation, citing "institutional discipline".

We should be all praise for Justice Patel's dignified response. But this

question touches the serious issue of independence of the judiciary and the functioning of the collegiums system. Therefore uncomfortable questions must be asked by the legal fraternity, and those with all respect, must be answered by the collegium in detail because it is well established that the Bench and Bar are the two wheels of same chariot, and any deformity in either of them can only spell the ruin of administration and independence of the Judiciary. More so now that the collegium has decided to swing the pendulum to the other extreme of recording reasons why it has declined to promote the senior most judge to the office of Chief Justice and sharing it with the public.

May I in this case make a wild guess – could it be that the executive which was bent on harming Justice Patel felt that (in case of Justice Patel agreeing to go to Mumbai) he will at least be in more familiar surroundings, as there is a strong link between Mumbai and Ahmedabad. But as the viciousness of Modi government was determined to keep Justice Patel isolated, which he would be if he were to be sent to Allahabad, a place probably where he may not have gone throughout

his life. I feel sad that Executive could have been able to use such an influence on the collegium – may be I am mistaken. If so, a greater reason for the collegium to make those reasons known to public, especially to the Supreme Court Bar Association and other Bar Associations, (especially Karnataka High Court Bar Association.) and Bar Council of India.

This is not in any way provocation for confrontation with the collegium. It is only in recognition of the fact that this incident has shaken the whole Bar in India and all aspects of this case should be publically disclosed and discussed.

I would therefore suggest that Supreme Court Bar Association and Bar Council of India take the lead and jointly discuss out this matter with the Supreme Court collegium to prevent patent arbitrariness, which will make the Executive decision supreme thus harming irretrievably the independence of judiciary.

I hope the collegium does not take offence and make it a matter of undue superiority and take the stand that this matter, notwithstanding that it has disturbed the whole Bar of India, it will not discuss it with the Bar

because it is its sole privilege. May I in all humility submit that this assumption proceeds on the belief that the judges are immune to human frailties even while making non-judicial decisions (such as appointments and transfers). This self-glorification is not accepted even by members of the judiciary itself vide expostulation of Justice Frankfurter of the US Supreme Court that “all power is of an encroaching nature. Judicial power is not immune to this human weakness. It must also be on guard against encroaching beyond its proper bounds and not the less so since the only restraint upon it is self-restraint”.

The former Chief Justice AS Anand, reminded the judges that though “our function is divine, the problem begins when we start thinking that we have become divine”.

If I sound a bit harsh, I can only invoke the caveat of Justice Holmes of the U.S. Supreme Court, who said, “I trust that no one will understand me to be speaking with disrespect of the law because I criticize it so freely.....But one may criticize even what one reveres.....And I should show less than devotion, if I did not do what in me lies to improve it.”

Dated: 09/10/2017 □

Sectarianism Suppressing Democratic Right of Expression **Ram Puniyani**

Freedom of expression has been the core value which accompanied the struggle for India's Independence. The British did attempt to stifle the voices of dissent but the freedom fighters did see this as a crucial mechanism of rooting democratic ethos in the society. At heavy cost the major leaders had to face the wrath of British colonialist powers for upholding the foundation of a democratic society through freedom of expression. The same values got enned in our Constitution, with various articles and clauses upholding it.

What we are witnessing today is a stifling of dissent from the ruling party, the ruling ideology of

sectarian nationalism. The suppression of dissent and freedom of giving expression is not just through control of media and stifling of writers. Ruling party; through control of a section of media; is using heavy hand to control the free thinkers. One major and frightening phenomenon accompanying this attempt to muzzle the dissenting opinions has been to eliminate the thinker's writers physically.

We know that sometimes state can outright control the media, as happened during emergency. The censoring of media, raids on the publication houses had been resorted to by the authoritarian state. The current phenomenon is

slightly different. Here along with the heavy hand of the big brother watching, those inspired by the communal nationalism, are taking the law into their own hands, with full knowledge that the ruling party-state is with them and they can get away with their crimes of eliminating those thinkers and activists, whom they can't oppose at ideological level. By nature most of the ideologies which promote nationalism in the name of religion are grossly intolerant and indulge in the street violence and killing to promote the communal divides. The matching phenomenon to what we are witnessing in India is also seen in Bangla Desh, where those inspired by the Islamic nationalism

have been targeting the bloggers and have been physically eliminating them.

During last several years we have tragically witnessed the murders of the writers-social activists who have been upholding rational thought, those who have been opposing the hold of values which support caste, those who have been opposing the politics in the name of Hinduism. When Narendra Dabholkar was shot at, the trend began at the abominable level. Dabholkar was active in promoting rational thinking, and had formed Ansh Shraddha Nirmula Samiti (Committee for eliminating blind faith) in Maharashtra.

Govind Pansare, a dedicated saintly worker for human rights, was not only promoting rational thought, he was also opposed to sectarian nationalism, he promoted a rational version of Shivaji story, which presented him humane king, taking care of his subject irrespective of their religion and who in his administration had Hindus as well as Muslims. M.M. Kalburgi a rationalist scholar was opposed to the Brahmanical values and so talked to promoting Lord Basvanna's teachings of social equality, he also articulated that Lingyats should be regarded as religious minorities, away from the grip of Brahmanism dominated prevalent Hinduism.

In the sequence to this came the tragic murder of Gauri Lankesh, a fearless journalist, who opposed the politics of Hindu nationalism at grass root level, who supported the rights of religious minorities,

participated in the local communal harmony groups to oppose the politics being constructed around Baba Budan Giri and Id Gah ground. She was also for recognizing Lingayats as a religious minority. The impact of these activists was perceived as a threat, they were writing in regional languages and were perceived as a thorn in the flesh of divisive ideology. The pattern of their murders was similar, motor bike riders coming and shooting them. The investigations have so far not yielded much and except one worker of Sanatan Sanstha, ideologically close the dominant political tendency today, no arrests have been made.

As such these murderers are like tip of the iceberg. These murders are accompanied with the growing intolerance in the society, which has also led to killings beatings of Muslims-Dalits in the name of Holy Cow Beef. The killing of Mohammad Akhlaq, Junaid Khan and Una floggings has been the major incidents amongst the brutal acts unleashed by the growing intolerance in the society. While intolerance has grown gradually from last decade or so, during last three years in particular, there is a qualitative change in the nature of intolerance. How do we understand the growing communalization of society, worsening intolerance and killings of those standing for democratic norms?

In independent India first major act of ideological murder, killing for political goals, prompted by intolerance was murder of Father of

the Nation Mahatma Gandhi. Godse was the killer and RSS was banned. Saradar Patel, the then Home minister wrote to RSS chief Golwalkar, "As regards the RSS and the Hindu Mahasabha... our reports do confirm that, as a result of the activities of these two bodies, particularly the former (RSS) an atmosphere was created in the country in which such a ghastly tragedy became possible."- Sardar Vallabhai Patel, India's first home minister, on the assassination of Gandhi, in a letter dated July 18, 1948 to Shyama Prasad Mukherjee. (Sardar Patel Correspondence, Volume 6, edited by Durga Das)

The type of suppression we saw during Emergency of 1975 was the one imposed by an authoritarian state, now the present phenomenon is not just the one brought in by the state. State, since is being controlled by narrow nationalism is playing its role, but the deeper and more damaging part is the one brought in by the so called fringe elements, the storm troopers of the ideology motivated by communal hatred. The divisive ideology is creating Hate not only against the religious minorities but also against those who are trying to uphold democratic, plural and diverse values in society.

Diverse opinions, debated in an open spirit are the best guarantee for democratic society. The sectarian ideologies are opposed to democratic ethos and so they are pushing the intolerance worse possible levels. There is a need to protect the democratic freedom by combating communalism. □

PUCL Rajasthan:

Memorandum: Banaras Hindu University (BHU) Women Student's Agitation Issue

Jantar Mantar, Delhi
28.09.2017

Ms. Lalitha Kumaramangalam,
The Honourable Chairperson
National Commission for Women,
Delhi

Ms. Rekha Sharma,
Member, National Commission for
Women, Delhi

Sub: Continued Misdemeanors and Anti-women Attitude of the Vice Chancellor of Banaras Hindu University (BHU)

Dear Madam,

We are shocked that although a week has passed the NCW has not yet responded to the serious case of sexual assault that happened on the evening of 21st of September, 2017 in the BHU campus and the

brutal police attack that followed including the filing of false cases on the peacefully protesting women students. Being the premier and highest body for women in the country, we are surprised that there has been no intervention from the body, when the women students are running pillar to post for justice. As you may note, that the

administration at all levels did not take any action on the complaint filed by the survivor of sexual assault, which resulted in women students sitting in a protest to get an FIR lodged and also ensure that their outstanding demands of a sexual assault free and safe campus be heard and complied with.

Despite the non-violent protest outside the main gate of the BHU, which consisted of some of them shaving off their head and some sitting on hunger strike (without obstructing the passage of the University), with the plea that they be heard by the VC and their concerns be addressed immediately, in less than 48 hours the VC instead of talking to the students in a systematic fashion, used brutal ways to crush the protest.

As the several videos which are in the public domain show, that without any provocation the male policemen entered the campus, targeted the girl students and brutally beat them up. As if to teach the girls a lesson, they entered the girl's hostels and continued to play havoc and injuring the students with their *lathis*. They did not even spare the women teachers, the account of Dr. Pratima Gond, Assistant Professor of Sociology, MMV, BHU, clearly states, the merciless way in which the police attacked women.

Following which, in the early hours of the 24th of September, the students were pressurized by their respective hostel wardens to vacate the hostels. Those students who resisted, their parents were called up. Further those who stated their inability to leave the hostels, were locked inside. All these actions of the administration were done in the presence of heavy police force, converting the educational campus of BHU into a cantonment. Further to teach the protesting students a lesson FIRs were quickly lodged against 1200 students under IPC Section 148 (rioting with armed weapons), 307 (attempt to murder), 353 (criminal force to deter a public servant from discharge of duties), 332 (voluntary

causing hurt), 436 (destruction of immovable property), all of which are non-bailable and non cognizable offence.

The Vice Chancellor Mr. G.C. Tripathi, complicity with the above is shown by the fact that,

The incident of sexual assault suffered by the visual arts student was not addressed by him or his administration.

No Internal Complaints Committee (ICC) under the Prevention of Sexual Harassment of Women Act 2013 or GSCASH took cognizance of this incident. It seems the ICC has been defunct under this VC

An FIR was lodged almost 24 hours later, however, the University administration did not instruct the police to immediately act upon the evidence, which could have been obtained from the CCTV cameras near the place of the incident.

- o To date nobody has been nabbed nor has the student been provided with trauma counseling which is an imperative under the law.
- o It is clear that the police could not have entered the campus without the permission of the VC and the hostel wardens could not have pressurized the students to vacate the hostels without due instructions from the VC, however much the VC may indulge in double speak now.
- o The VC went on record to mention that this was not a case of sexual molestation but eve-teasing, which not only reduces the gravity of the crime, but also shows that the VC has not read the IPC amendments of 2013 and other special laws related to sexual violence.
- o The protest following the incident of sexual assault of the 21st September, was the culmination of a series of unheard grievances and complaints of the students for the last three years.
- o The students had raised issues of discrimination related to closure timing of 6 pm for girls in some hostels and 8 pm for

some other girls hostels, however, 10 pm is closure time for all the boys hostels on the campus.

- o Discrimination in provisioning of food offered in the hostels, particular non-vegetarian food.

The girl students were told not to raise the issue of sexual violence on the campus, as it would tarnish the image of *Shiv Nagari/Dharm Nagari* of Varanasi.

Forcing girls students to sign affidavits regarding non-participation in any kind of agitation or protest against the University administration.

Even before, the incident of 21st of September has settled down, it is public now that the BHU VC has pushed for the appointment of one Dr. O.P. Upadhyay who was convicted of sexual harassment by a Magisterial Court in Fiji as the Medical Superintendent of the campus based Sir Sunderlal Hospital.

To top it all, according to the Indian Express report of today, 27th September, 2017, Dr. Upadhyay has been quoted, stating that 'The University has taken a legal opinion in my matter, and it was decided that the decision of a Court abroad does not hold good in our country. Hence I was interviewed and selected by the Selection Committee. I was on study leave in Fiji and it was a case of extortion and because I resisted it I was falsely accused'. The VC instead of constituting an enquiry committee into this matter, keeping Dr. Upadhyay away from all public contact, particularly of women, appointed him as several months ago as the acting Medical Superintendent and is now regularizing his appointment.

As shown by the above, not only has the VC been brazenly and blatantly violating and turning a blind eye to all laws relating to security and the protection of women's autonomy, but also violating all UGC norms which are clear that no discrimination be allowed between the sexes in any University affiliated to it.

The Divisional Commissioner of

Varanasi in his report given to the Government of UP on the incidents taking place in BHU has categorically stated that the administration delayed in its response to the incident of sexual assault and mishandled the protest, clearly indicting the VC as the head of the BHU administration. In the light of all the above mentioned facts, we demand the,

- Arrest of all the criminals, responsible for the sexual assault of the girl student on 21st of September, 2017.
- Dismissal of the Dean of Students, Proctor and the Warden of all the hostels who allowed the police force to enter and abuse the girls and later forcibly vacated the hostels.
- Immediate removal of the VC, G.C. Tripathi and ensure that he is not appointed anywhere else in a responsible position in any other institution
- Withdrawal and closure of all

FIRs against the students and stopping all persecution of students in the future.

- Prevention of the appointment of Dr. Upadhyay as the regular Medical Superintendent of the campus hospital.
- Dismissal of the SP/DIG responsible for the police attack on students at the earliest.

Madam,

The need of the hour is to immediately constitute and send an independent committee of eminent people, chaired by an eminent woman to BHU in order to enquire into the matters of sexual violence, discrimination and the police assault of the 24th and subsequent persecution of students and submit a report. The independent committee from the Commission should hear the students, who have been denied a hearing for the last three years.

It is imperative that we all ensure that the campus of BHU is free from

all forms of discrimination and sexual violence of all sections of women on the campus including women students, teachers and staff.

In the hope, that you will respond and act immediately to our memorandum and send a committee to our campus at the earliest.

Yours in waiting,

On behalf of students of BHU and activists: Mineshi Mishra, Vijay Lakshmi, Ompal Meena, Shantanu Singh Gaur, Atul Yadav, Avinash, Deepak, Akash, Diwaker, Shivangi, Abhisheel, Aruna Roy, Abha Bhaiya, Dr. Nivedita Menon, Vrinda Grover, Aheli Chowdhary, Annie Raja, Kavita Srivastava, Harsh Mander, Swami Agnivesh, Prof. Satish Deshpande, Prof. Apoorvanand, Dr. Mary E John, Arundhati Dhuru, Maya Krishna Rao, Rakhi Sehgal, Suroor, Aparajita Raja,

Kavita Srivastava, President, PUCL Rajasthan ☐

PUCL Rajasthan:

Note: On 6th September, 2017, the Government of Rajasthan passed an ordinance adding a new Proviso to sec. 156(3) and 190(1) of the Criminal Procedure Code prohibiting the Judicial magistrate from ordering investigation or from investigation to proceed against Public Servant without prior sanction of the Government. A proviso to the proviso further made it an offence for anyone to make public the name of such public official until the sanction to prosecute had been ordered by the Government. A new offence, viz., Indian Penal Code, IPC was created by which any person making public names and identities of public servants can be imprisoned for 2 years or fine. PUCL Rajasthan issued a detailed statement on 21st October, 2017 opposing the Ordinance. We carry the full statement of the State Unit released in a Press Conference in Jaipur on 21st October, 2017.

PUCL Rajasthan Statement on Amendments to Criminal Law relating to Corruption

The Criminal Laws (Rajasthan Amendment) Ordinance, 2017 promulgated on 6th September, 2017, published on the 7th of September, 2017 in the Gazette is a sinister attempt of the Government of Rajasthan to abridge the fundamental right of speech and expression guaranteed under the Indian Constitution and to thwart the citizens right to access criminal justice system in cases of complaints against abuse of law by public servants by introducing 2 provisos to Sec. 156 (3) and Sec. 190 of the Code of Criminal Procedure and by inserting a new offence in the Indian Penal Code by way of introducing a new clause, Sec. 228-B, which makes an offence termed "disclosure of

identity of certain public servants".

The true intention of the Amendments introduced is to place an complete embargo or ban on a Judicial Magistrate before whom a complaint of having committed offences is made against any public servant, (including a Judge or Magistrate), from either ordering the police to investigate the complaint or worse, from any investigation being conducted against the said public servant (sec. 156(3) Criminal Procedure Code, new provision introduced) for acts done by them while acting or purporting to act during discharge of the official duties **except without the previous sanction of the government under sec. 197 CrPC.**

Very funnily, and perhaps exposing the motivated nature of the Government to somehow protect corrupt public servants and to win over them in support of the ruling party, is the amendment brought about to sec. 190 (1) of the CrPC directing that "no Magistrate shall order investigation nor will any investigation be conducted" which is a meaningless amendment as sec. 190(1) CrPC only provides for the Magistrate to take on file a private complaint filed alleging commission of an offence; this provision does not give power to the Magistrate to order investigation. This where is the need for this amendment?

We should point out that the amendments are superfluous and

unnecessary as the existing provision in sec. 197 already provides protection to public servants by making it mandatory for a court to take cognisance of an offence against public servant only after getting "prior sanction" of the government. The ominous intent in the amendment becomes clear when we notice that while sec. 197 uses the term "cognisance" the new amendment refers to the word "**investigate**".

The true and alarming intention therefore is to prevent at the very threshold, any possibility of 'investigation' being ordered by a Magistrate when clinching evidence is prima facie brought before the court. The amendment in a way exposes the scant respect the government has for the judicial system, for the entire criminal justice system is premised on the fact that judicial officers represent "trained judicial minds" who ensure implementation of criminal laws in an unbiased, independent and fair manner.

The truly diabolic and "chilling" effect or sinister purpose in the new amendment is exposed when we consider the same Amendment Act has introduced a new proviso to the proviso, stating that no one "shall print or publish or publicise in any manner the name, address, photographs, family details or any other particulars which may lead to disclosure of the identity of such public servants" until such time that the State Government has given sanction to prosecute. The Ordinance introduces a new offence, sec. 228-B of the Indian Penal Code, making it a criminal offence on the part of anyone who discloses identity of certain public servants and provides for 2 years imprisonment and fine, if convicted. The menacing import is very clear: to silence the media and to prevent the judiciary from exercising its judicial function of setting the criminal law in motion. In effect, what the Government cannot do by moving a Constitutional amendment to abridge the fundamental right of speech and expression the Government is

doing by the back-door, to make it impossible for people to seek justice against corrupt public servants.

Legally, the amendments to the CrPC and IPC brought through the ordinance, goes against the unanimous ruling of the 5-Judge Constitutional Bench of the Supreme Court in '**Lalita Kumari vs State of UP**' (2014) which clearly clarifies, that in case where the complaint against a public servant makes out a 'cognisable' offence, a FIR has to be lodged and investigation begun by the police officer. In cases where the alleged offences are non-cognisable or are about corrupt acts, then the Police officer or Investigation Officer (IO) in empowered to initiate a preliminary enquiry into the complaint, and in the event that a prima facie case is made out the police officer should place the complaint received and the report of the preliminary enquiry making out a prima facie case before the 'concerned court' and seek directions to obtain sanction to prosecute u/s 197 against the accused public servants.

This legal principle has been very succinctly summarised in the Circular of Government of Rajasthan, Home (Group-10) Department No. F.11(35) / Home – 10/2015 dated 24.08.2015. This Circular issued by the Addl. Chief Secretary, Home, Mr. A. Mukhopadhyaya very clearly summarises the legal position that when a non-cognisable offence is made out against a public servant, then the Prosecuting Officer of the concerned court after receiving the report from the Police Officer should bring the facts to the knowledge of the court about the public servant and the alleged offences and inform the court that no cognisance should be taken until and unless the requisite sanction under section 197 CrPC or Section 19 Prevention of Corruption Act is officially obtained and is on record.

Seen against this background it becomes explicitly clear that the Ordinance introducing

amendments to sec. 156(3) Proviso, Sec. 190(1) proviso, of CrPC and introducing a new offence, sec. 228-B, IPC are in reality meant to neutralise the Constitutional bench ruling in Lalita Kumari case (2014), its own Circular of 2015 by removing the power of the police to initiate even a preliminary enquiry where a prima facie case is made out based on the complaint. The effort is to defang the police and investigating authorities by removing powers vested with them by law to initiate even a preliminary enquiry. To make it doubly sure that the government will protect corrupt officials, the Ordinance removes the power of the Magistrate to take cognisance or give directions to the police to investigate offences where the facts in the complaint make out a prima facie case.

Globally it is now well recognised that the 'Right to Corruption-free governance is a fundamental right and a basic human right'. The Amendment institutionalises impunity and provides immunity to corrupt officials against even a preliminary enquiry when facts clearly establish an offence.

We would like to ask the Vasundhara Raje Government, as to why the need for an ordinance to keep everything under wraps. IS the intent of this ordinance to prevent the expose' of the faces of corruption in this Government or prosecute or probe any of the cases of corruption as a part of the run up to the election in 2018.

It is also important to note that the ordinance has not been uploaded as yet on either Home or the Law Department website. The Rajasthan Raj Bhavan (Governor's) website only provides a list of ordinances and Acts promulgated. However although the list has been last updated on the 11th of September, it has no update of ordinance number 3, which is the one discussed above. Although ordinance number 2 was also on Criminal Law (Rajasthan Amendment).

Interestingly the Governor's website has more than 24 press

notes on its website after the 6th of September, the date when the ordinance was promulgated, including greetings for *Karva Chauth* to the people of the state.

This press note has also not been put up on any website, neither law and justice, nor Home nor the police. It clearly shows that the intent was to suppress the

information from the public, leave alone holding pre legislative consultation, an imperative, issued as a GO by the UPA Government in 2014 January.

The only mention that this important ordinance gets is in a press note of the DIPR on the 8th of September.

The PUCL demands that the

Government immediately repeal this ordinance and not place it in the forthcoming State Assembly session for its passage to make an Act.

The PUCL will challenge this ordinance in the Rajasthan High Court at the earliest.

Kavita Srivastava, President; **Anant Bhatnagar**, General Secretary □

Editorial in *The Hindu*, 23rd October, 2017

Rajasthan's Ordinance Shields the Corrupt, Threatens the Media and Whistle-Blowers

The Rajasthan ordinance making it a punishable offence to disclose the names of public servants facing allegations of corruption before the government grants formal sanction to prosecute them is a grave threat to media freedom and the public's right to know. In recent times, the legislative mood is consolidating towards adding more layers of protection to officials from corruption cases. While no one can object to genuine measures aimed at insulating honest officials from frivolous or motivated charges of wrong-doing, there can be no justification for the Vasundhara Raje government to prescribe a two-year prison term for disclosing the identity of the public servants concerned. Section 228-B, the newly introduced Indian Penal Code offence that relates to acts done in the course of discharging official functions, is a direct threat to the functioning of the media and whistle-blowers. It is a patently unreasonable restriction on legitimate journalism and activism against venality. In addition, the Criminal Laws (Rajasthan Amendment) Ordinance, 2017 fetters judicial magistrates from

ordering an investigation without prior sanction, as an additional shield for public servants who already enjoy the protection of Section 197 of the Code of Criminal Procedure, and Section 19 of the Prevention of Corruption Act, 1988, which make prior sanction mandatory before a court can take cognizance of a case. It may even paralyse an impending probe, as no investigating agency can approach a sanctioning authority without gathering any material.

This is the first time a section prescribing punishment for disclosure is being introduced in India, though provisions barring investigation or prosecution without prior sanction are also in force in Maharashtra. However, the time limit for the sanctioning authority to act is 180 days in Rajasthan, and 90 days in Maharashtra. The Union government, too, has a set of amendments to the Prevention of Corruption Act pending since 2013, including a proviso for prior sanction. The Supreme Court verdict of May 2014 striking down a statutory provision for prior government clearance for a Central Bureau of Investigation probe against officials of the rank of joint secretary and above is the

touchstone against which the constitutionality of the pre-investigation sanction requirement will be tested. The court had observed that such a provision destroys the objective of anti-corruption legislation, blocks the truth from surfacing, thwarts independent investigation and forewarns corrupt officers. Anti-corruption legislation in India seems to be in a state of unacceptable flux. Amendments, including those redefining criminal misconduct among public servants so that bona fide decisions by officials do not result in corruption charges, are yet to be passed. The Lokpal Act is yet to be operationalised. It is time the Centre enforced a strong body of legislation that punishes the corrupt, protects the honest, and ensures time-bound public services and whistle-blower safety. Nothing less will behove a government ostensibly keen on bringing down the edifice of corruption.

Courtesy: The Hindu, <http://www.thehindu.com/opinion/editorial/unacceptable-fetters/article19901782.ece> @ 23.10.2017 □

Editor's Guild condemns the Ordinance: A Report from the Business Standard and Hindu

Withdraw Ordinance Protecting Public Servants: Editors Guild to Raj Govt. Letter says the ordinance 'is bent on bludgeoning the messenger'

The Rajasthan Government recently passed an ordinance protecting both serving and former judges, magistrates and public servants in Rajasthan from being

investigated for on-duty action without prior sanction.

The Editors Guild of India passed a statement against this ordinance and wants it to be withdrawn with immediate effect.

A letter signed by Raj Chengappa, President, Prakash Dubey, General Secretary and Kalyani Shankar, Treasurer, stated, "The Editors Guild of India is deeply concerned by the Rajasthan

Government's decision to make the Criminal Laws (Rajasthan Amendment) Ordinance 2017 into an Act in the current legislative session. The ordinance promulgated by the State Government last month was ostensibly done to protect the judiciary and the bureaucracy against false FIRs. But in reality it is a pernicious instrument to harass the media, hide wrongful acts by government servants and drastically curb the freedom of the press guaranteed by the Constitution of India. The Editors

Guild wants the Rajasthan Government to immediately withdraw the ordinance and desist from making it into law.

"Rather than taking stern measures to prevent and punish those who indulge in frivolous or false litigation, the Rajasthan government has passed an ordinance that is bent on bludgeoning the messenger. While the Guild has always stood for fair, balanced and responsible reporting of FIRs filed in courts of law, it believes that the remedy being employed by the Rajasthan

Government is draconian and gives it untrammelled power to even imprison journalists for reporting matters of public interest. The Guild requests the Chief Minister Smt. Vasundhara Raje to withdraw the harmful ordinance and prevent any Act from being passed that would endanger the freedom of the press."

Courtesy: Business Standard, http://www.business-standard.com/article/current-affairs/withdraw-ordinance-protecting-public-servants-editors-guild-to-raj-govt-117102200622_1.html @ 23.10.2017 □

The Ordinance is a “Pernicious Instrument” to harass the Media, the Editors Guild said in a statement

The Editors Guild of India has asked the Rajasthan government to “withdraw the harmful ordinance” that bars the media from reporting on accusations against public servants, judges and magistrates without its sanction.

The ordinance is a “pernicious instrument” to harass the media, the Guild said in a statement on Sunday night.

“The ordinance promulgated by the State government last month was ostensibly done to protect the judiciary and the bureaucracy against false FIRs.

“But in reality it is a pernicious instrument to harass the media, hide wrongful acts by government servants and drastically curb the freedom of the press guaranteed by

the Constitution of India,” it said.

The Rajasthan government had last month promulgated The Criminal Laws (Rajasthan Amendment) Ordinance, 2017, that seeks to protect serving and former judges, magistrates and public servants in the State from being investigated for on-duty action, without its prior sanction.

It bars the media from reporting on such accusations till the sanction to proceed with the probe is given by the government.

Rather than taking stern measures to prevent and punish those who indulge in frivolous or false litigations, the Rajasthan government has passed an ordinance that is bent on “bludgeoning the messenger,” the

Guild said.

While the Guild has always stood for fair, balanced and responsible reporting of FIRs filed in courts of law, it believes that the remedy being employed by the government is “draconian” and gives it “untrammelled power” to even imprison journalists for reporting matters of public interest.

“The Guild requests the Chief Minister Vasundhara Raje to withdraw the harmful ordinance and prevent any Act from being passed that would endanger the freedom of the press,” it said.

Courtesy: The Hindu, 23.10.2017, <http://www.thehindu.com/news/national/withdraw-harmful-ordinance-editors-guild-tells-rajasthan-govt/article19905078.ece> @23.10.2017 □

Interview with Colin Gonsalves, Senior Advocate, Supreme Court and winner of Right Livelihood Award, 2017

'We are in kalyug where rakshasas rule'

'The forces of good are on the run.'

'But dark times also challenge people to fight.'

'I believe Indians will rise against these dark times.'

Even as he was fighting against the deportation of Rohingya refugees in the Supreme Court came the announcement that **Colin Gonsalves**, founder of the Human Rights Law Network, had been named one of the four winners of this year's Right Livelihood Award, often described as the Alternative Nobel Prize.

The distinguished lawyer spoke to

Jyoti Punwani about his journey from IIT Bombay to fighting for the wretched of the earth in the apex court.

How did you switch from IIT to the law?

When I was in IIT, the situation was politically very turbulent.

The Jayaprakash Narayan movement was on as was the railway strike. This turbulence

percolated down to students.

A Marxist Study Circle was formed in IIT. It was an academic group where a lot of reading took place. For me, studying a dull and boring course, this was exciting, specially because we had some world class teachers in that study circle.

Why did you choose a 'dull and boring course' to study?

My father was an engineer and in

those days there was no counseling. A friend asked me to appear for the IIT entrance exam along with him. So I got into civil engineering. It was purely arbitrary.

But when you switched to law from engineering, surely your parents must have been upset.

My parents were very simple people. When I got a first class in my ICSE school leaving exam, they were pleasantly surprised.

My father didn't know what IIT was. Frankly, nor did I. They just went along with my decision.

I didn't become a lawyer immediately. I got involved in the housing rights movement. We used to have *morchas* against evictions, where I was arrested many times.

They (*his parents*) used to read about my arrest in the papers. And they must have guessed my finances weren't great -- I always took a bus, not an auto, my clothes were old...

I didn't live at home, I was quite a nomad, living at different activists' homes. But whenever I went home, they never asked what I was doing. I was an engineering graduate, but could never send money home. They never said anything about it.

How did you become a lawyer?

After two years in the housing rights movement, I went to meet (*trade unionist*) Dr Datta Samant. At that time I was living in a textile worker's chawl at Currey Road (*south central Mumbai*).

Dr. Samant spoke to me very roughly, implying: You middle class people come here to work for some time and then run away.

When he came to know I was a BTech he told me: 'Better go find a job, don't fool around.' But I was insistent, so finally he called his brother Dada Samant and said: 'What can we do for him?'

I had noticed many workers coming to them with their problems regarding lockouts, strikes. I suggested I could write letters for them. That's how I started.

I went on to participate in domestic inquiries (*against workers*) in at least 500 industrial establishments in Mumbai. It was a marvelous experience.

Then a judge in the industrial court told me that if I didn't become a lawyer I would have no career.

Did Dr Samant pay you?

The princely sum of Rs 500 a month

for working from 8 am till midnight. But those were the happiest days of my life.

You started off as a labour lawyer?

Yes, even today I do a lot of labour law.

I practised in the Thane industrial tribunal and then in the Bombay industrial tribunal, and then moved to the high court.

I stopped appearing exclusively for Dr Samant's workers only after his death.

Could you earn much?

I had many cases of Dr Samant's workers so I was able to lead a decent life.

Dr Samant started me off with Rs 500, but left me with a rich legacy both of experience and of clients. I'll remain eternally grateful to him.

He was my true guru. He taught me to see the world through the eyes of the working class. Only if you do that, can you do labour law meaningfully.

Dr Samant was much vilified, but he was one of the greatest trade unionists we've had.

His definition of militancy was correct -- that one should not believe in the law and the court while negotiating workers' demands. One must be a militant.

I have seen salaries of workers under him go up from Rs 400 to ten times that much just through negotiations.

When I see the salary scales today, some at pre-1980 levels and some even below the minimum wage, I feel all the gains of his period have been wiped out.

Explain: 'One must be a militant'.

Militancy is the right approach because in this country there is no respect for the rule of law and for working class people.

The inherent culture of domination lays down that working class people be treated with indignity. They must rise in revolt.

This is a fundamentally evil and unjust system.

What Dr Babasaheb Ambedkar said in 1942 (*in his speech at the All India Depressed Classes Conference*): 'Agitate, educate and organise' is still valid.

Those who see the legal system close up, specially, see that it is all *maya*.

It is deeply inequitable and actually

cruel for working class people. It needs such a radical overhaul that even the best of judges cannot think what kind of change is necessary.

So it will have to be changed only by people revolting against it.

Take a simple thing like a worker being terminated. He cannot approach the court directly, except in Maharashtra. He has to take permission from the Labour Commissioner before his case is sent to court.

So the Labour Commissioner's office has become a cesspool of corruption, with companies ready to pay so that cases don't go to court.

Now Modi is going to dismantle labour laws. I'm sure if that is done workers will rise in insurrection, just as we rose against the British.

There is little evidence of people rising in insurrection except maybe the Maoists.

There is lot of evidence in remote pockets where the media doesn't go. There are latent forms of insurrection -- you don't see it because the State is so repressive.

There is so much bitterness, anger and resentment among people that is ground for insurrection.

If the legal system is *maya*, why do you continue with your practice?

Even if it is an illusion as a whole, there are very kind judges who want to change the world and the system, in significant positions in all courts.

Some judges make PILs (*public interest litigation*) their own cause. And the judgment by a Supreme Court judge covers the whole country, while that by a high court judge covers an entire state.

So, public-spirited lawyers can do good work. The law is an area no human rights organisation lawyer should abandon.

Some cynics say that by using the law you are strengthening belief in the capitalist system. But within capitalism there are areas of combat possible.

In the legal system, decent results are possible.

You get great judgments, but what about the implementation?

There are varying levels of implementation.

The Right to Food judgment was implemented 70%.

The midday meal and Anganwadi schemes were about to close in 2000. Under IMF and World Bank pressure, the government had decided to close down the public distribution system.

Then came the PUCL case asking for legal enforcement of the Right to Food, and the Supreme Court's orders were implemented.

PDS coverage went from 14% to 70%. And in 2013 the Food Security Act was passed.

A lot depends on judges and the media. I tell sceptics -- and there is a breed of new law professors who are super sceptics -- as long as people are coming to you, people who have no lawyers to defend them, you must defend them.

If someone comes to tell you the bulldozer is coming to my house, will you tell him to fight the bulldozer by himself or give him a lecture on corruption of the judiciary? You would just take up the case.

Why did you move to Delhi?

When I was in Mumbai, the Human rights Law Network had only three or four offices. It was only after I came to Delhi that I could coordinate things and it could grow to 20 offices.

In Mumbai, the labour law field was stagnating because of the closure of factories and textile mills.

In Delhi, I started taking on environmental law and PILs. I found it to be a vibrant city of activists from all over the country.

So you don't subscribe to the view that young people today are no longer drawn to social causes like the previous generation?

No. A whole generation is coming up with different approaches, maybe not in the field of labour, but all branches: Environment, housing rights, minority rights, Dalit rights. I'm optimistic.

I believe we are in *kalyug* where *rakshasas* rule and the forces of good are on the run.

But dark times also challenge people to fight. I believe Indians will rise against these dark times.

As the Sikh activist Jaswant Singh Khalra said: 'Today when darkness with all its strength thrusts itself over the truth, if nothing else, a proud and noble Punjab is the light that will challenge it.'

He was just a *diya*, but if all activists become *diyas*, what will be the result?

Do you see any difference in the way the UPA dealt with human rights and what the NDA is doing?

There is an element of continuity between the two. The UPA also suppressed civil rights groups and NGOs. Its levels of corruption were astronomical and this affected all its programmes.

But the NDA has raised the level of repression enormously.

The amount of surveillance, suspicion and anger against those involved in civil rights and constitutionally protected work is very, very high. Fear among the people is also very high.

Those who don't see themselves as enemies of the State like me -- I'm just trying by bits and pieces to correct the system; or the hundreds of reform NGOs and people working for reform in their specialised areas -- we are all treated like enemies of the State.

Converting every social activist into an enemy of the State is the hallmark of this government.

Lynchings and hate speech, incitements to kill, are the hallmarks of this State.

Has all this affected the judiciary? The NJAC (National Judicial Appointments Commission) was shot down.

There is pressure to appoint judges of a particular political orientation. The NJAC would have fast-tracked the system of undermining the judiciary.

In two years the government would have appointed hundreds of judges. Now they have to do so in a decentralised fashion, go person by person.

You have recently taken up the Rohingya issue, before that you had taken on the AFSPA in Manipur. Do you get threats?

We get indirect threats.

Sometimes outside court someone walks up to me and says don't do this. I just tell them that I'm doing my *dharm*. It is my duty.

They expect hostility and anger; I don't have any.

I've found you have to listen to the other side and debate; people can then get logical answers to questions troubling them.

On the Rohingya issue, Subramanian Swamy in a debate with me on a TV channel raised security concerns. We have to take

these concerns seriously, we can't reply to them by just repeating, 'Oh this government has an anti-Muslim stand'.

I pointed out that 7,000 Rohingyas live in Jammu. There has been not a single case filed against them. The CM of the state says there are no cases, the police say there are no signs of radicalisation.

So who are these terrorists we are worried about? Can't you isolate and arrest them?

After the AFSPA judgment (*the Supreme Court ruled last year that every death caused by the armed forces in a disturbed area should be thoroughly inquired into*), I was accused by some army officers of supporting terrorists, and never condemning the killing of security forces by terrorists. Such judgments affect the morale of the forces, I was told.

I told the officers: If a terrorist tries to shoot you, and you shoot him dead, I'd be the first to pin a medal on you because you risked your life for the country. If a terrorist bombs a school he must be proceeded with within the boundaries of the law.

But to take someone on suspicion, torture him and then kill him in cold blood in a fake encounter... that cannot be supported.

Won't your morale be higher if you catch rogue elements of the army and police, I asked the officers. Then you would not only be a fighting force, but a moral force too. I found that debating with them helped me clear my mind too.

What do you see as the biggest obstacle to human rights?

It is all to do with the *kalyug* we are facing.

Under globalisation, capitalism has moved to a cruel stage. Money is equal to god, GDP is everything, and might is right.

In these circumstances, common people are deprived of all their rights, most of all, the right to live with dignity.

The hallmark of cruel capitalism is the violent discrimination of the poor.

The only solution then becomes revolution by the people. That is not a radical thought, it is just the simple solution.

Maybe it won't happen in my lifetime, but one day it will.

So many millions cannot live under such oppression for so long. □

Depraved Political Bureaucracy Under Trial

Abraham Chettiserry, Former Organising Secretary, PUCL Kerala

Inequality in all its forms has now become a political problem that ultimately leads to socio-economic incongruity in the global political economy. The Union Government led by Mr. Narendra Modi has been confronted with many issues relating to corruption and nepotism since they came into power. The consequences of Demonetization, Communal violence, GST, undue importance to cows by ignoring human values, corruption of BJP leaders and their family members etc. have created chaos as well as insecurity feelings among the people of India.

It is quite astounded to go through the news item regarding the decision of Amit Shah's son to file a Rs.100-crore defamation suit against a website that alluded to alleged irregularities of his company, Temple Enterprise Pvt. Ltd. It has been reported that the turnover of his company rose 16,000 times from Rs.50, 000 in 2014-15 to Rs. 80.5 crore in 2015-16. Here the roles to be played by the Directorate of Enforcement and

the Income Tax authorities are under suspicion since it is assumed that no step or measure they have taken to issue notice to the concerned for an investigation. The parochial attitudes of the Government authorities create derogatory imputation against them. The reticent gesticulations of the BJP leaders are incongruous. Another serious issue with regard to the credibility of the union government is their controversial decision to write off the exorbitant amounts of big corporate. State Bank of India had written off Vijay Mallya's 1,200 crores in dues. Brinda Karate, the veteran CPM leader alleged, "In the last three years, waiver of bank loans to the corporate sector touched Rs 6.8 lakh-crore. 70 per cent of loans waived were of corporate," Whether it is written off or waived, the small tax amounts honestly paid by the poor citizens of India are for the big corporate. It is also said that the SBI and its erstwhile associate banks alone have written

off Rs 27,574 crore in 2016-17, according to the RBI data on 'write offs' done by public sector banks. The RBI data is a terrible shock to a layman, for during 2013-14, write off figure was Rs. 34,409 crore that subsequently rose to Rs. 49,018 crore. So, the cumulative amount written off in the last five fiscals ending March 2017 was Rs. 2, 49,927 crore according to the RBI data.

Not merely the economic stability of the nation but all other areas such as political, secular and democratic domains, as inserted in the preamble to the Constitution of India, are also endangered. The political bureaucrats should realize the fact that the feeling of insecurity of the people will lead to resentment and pandemonium. Intrusion of fascism should be prevented with a view to strengthen the unity and integrity of the people of India, failing which we will be constrained to witness a disastrous end which will remind us of Adolf Hitler and Benito Mussolini. □

PUCL Karnataka: Gokarna Fact Finding Report:

Report of Fact Finding Exercise into Deaths of 3 Adivasis in Gokarna reportedly due to Starvation

The Context: The *New Indian Express* on 16th July 2017 carried a report that three members of a Dalit family died within 15 days in Gokarna district, due to starvation. It was further stated in the report that the deceased possessed BPL cards but did not get ration since April, as they did not have Aadhaar numbers, however, the District Commissioner denied that the death was caused due to starvation and said that excessive consumption of Alcohol by the three victims was the reason for the deaths.

Based on information provided in the News print pointing to a discrepancy regarding the deaths between the statements by the family members of deceased on the one hand and of the District Commissioner, on the other hand, a

PUCL fact-finding investigation was conducted by Mr. Narasimhappa, a member of PUCL-Bangalore on 29 July 2017.

The account from a news reporter: PUCL contacted Mr. Arun Kumar Huralimath the news reporter from Belhittal, Gokarna, on 17th July 2017, and inquired about the deaths that had occurred in the Dalit family. Arun stated that the deceased were the sons of Mrs. Nagamma Maru Mukhri and now she is survived by her 3rd Son, Ganapathi, and his wife, Nagamma Ganapathi Maru Mukhri, who is officially a member of the Gokarna Gram Panchayat. He said that the family had possessed 2 ration cards, an Antyodaya Anna Yojna card (AAY), of which the mother Mrs. Nagamma Maru Mukhri was the card holder, under which three

of her deceased sons were covered, while her 3rd Son, Mr. Ganapathi, was a BPL ration card holder, under which his children and his wife were covered.

He further stated that the family received ration only once in March 2017, and from April to July 2017, they didn't get any ration from the authorities, the reason they were denied is that they did not have Aadhaar card nor a coupon with them and due to this reason 3 sons died within a span of 15 days in the month of July.

Visit to Belehittala: PUCL visited Belehittala, Dandebhaga, Gokarna Gram Panchayats. According to 2011 census, 3038 families exist in this area with a population of 30,539 that includes 12 families from the SC community. The basic occupation of the Mari Mukhri

community, to which the deceased belong to, is coolie work, which includes cleaning caught fish, and working as farm labourers.

Details of the Nagamma Maru Mukhri family: The house of the deceased is about 50 meters away from the Gokarna beach, which is called Belehittalla. Nagamma Maru MukhriW/O Late Maru Mukhri belonging to the Mukhri caste, (SC) is one of the residents in Belehittalla, she had 4 sons: 1. (Late) Narayan Maru Mukhri (55 yrs), 2. (Late) Subbu Maru Mukhri (52 yrs), 3. Ganapathi Maru Mukhri (50 yrs), (Late) Venkataramma Maru Mukhri (46 yrs).

The third son of Nagamma Maru Mukhri, Ganapathi Maru Mukhri, is married to Nagamma (40 years), who has 4 children, Ganesh, Usha, Lambodara, and Bhavya. The wife, Nagamma is a member of Gokarna Gram Panchayat.

Condition of the House: Nagamma Maru Mukhri has been residing in a small hut for almost 60 years in Belehittalla (Dandembhaga). Next to her house is a small hut which has been converted as a temple. However, she is not the owner of this hut turned temple, but she has been maintaining the place. The hut has no basic facilities of electricity, sanitation and drinking water. The basic diet of the family is rice, fish curry, kochgi, and porridge.

The basic livelihood of the family is the wages they earn doing coolie work, which earns Rs 100-200. Along with this, Nagamma gets a pension of Rs 500 from the Government. The wife of Ganapathi Maru Mukhri also makes a contribution to the family, and being a member of Gram Panchayat, she earns Rs. 500 as salary. The 3rd Son, Ganapati has been allotted a sheet house by the Government; however the construction of the house is yet to be completed.

According to the Annual Income Certificate, bearing number RD2038738036230 provided by the Revenue Department, the Annual Income of the family is Rs11,000/-. However, what is to be noted here is that this certificate was issued only on 18/7/2017, which is just after the death of the three sons, and after these deaths

was reported in the newspapers.

Government Schemes: The Food and Civil supply and Consumer Affairs Department provided a ration card to Nagamma, i.e. an AAY card, bearing no. KUM12125786. The family is entitled to 35 kilos of rice every month according to the Supreme Court guidelines; however, the last time they got ration on the ration card was on 22nd November 2016 and 17th December 2016, as mentioned in the ration card. The quantity they got was 28 kilos rice, 6kg wheat, and 1kg sugar in 6 months. On 27th March 2017 again, 35 kilos of rice were provided. However they didn't get any ration for 6 months this year, except in the month of March, on the grounds that they have not linked their ration card with their Aadhaar card.

Ganapathi Maru Mukhri and his wife Nagamma Ganapathi Maru Mukhri have BPL ration card, under which 6 members of the family are covered, i.e. the husband, wife and their four children. The ration card no. is KUM14126035. This card is called Akshaya Anila Rahita Ration Card. 7 kilos rice per head was provided in the month of February 12, 2016, and in the month of November 12, 2016 they got 20 kg rice, 10 kg wheat and 1 kg sugar, as mentioned in the ration card. According to Nagamma Ganapathi Maru Mukhri, they were given only 15 Kilos after that, December 2016 to July 2017, around 8 months they were denied ration from the ration shop for not having linked the Aadhaar card with BPL ration card. In this family they have only 3 Aadhaar cards. Even though Nagamma Ganesh Mukhri is a member of the Gram Sabha, it is just tokenistic as she has not been assigned any primary responsibility in this position.

PUCL's Observations on the Panchnama: Smt. Nagamma Maru Mukhri stated that she had a ration card and got monthly ration, and that she never faced problem with getting food, when they received no wages. She mentioned that her sons were alcoholic.

However, the problem arose when the Food and Civil Supplies department demanded that Aadhaar card and ration card should be linked, as she and her

sons didn't have an Aadhaar card, therefore they faced the problem of starvation, since during this time they were not receiving the daily wages, too.

She mentioned that the death of three sons was due to the irresponsibility and negligence of the Food and Civil Department, Kumuta Taluk, and the Gram Panchayati authorities, and further mentioned that the reason for the death was that they had not been provided ration facilities to the family for last 7 months. According to a **Supreme Court decision in WP Civil 494/2012 dated 11/08/2015**, *'The fundamental rights and government schemes cannot be denied based on the ground that the citizen is not an Aadhaar card holder'*. There has been no FIR filed and no post-mortem conducted before the victims were cremated.

Local NGO's Statement: Mr. Kumar Gowda, President of Mahaganapathi Samaj Seva Sangh, stated that when they received information that 2 deaths took place within 6 days, they made a fact-finding report of the situation and came to the conclusion that the victims' family had no food to eat, and they died due to starvation. Therefore this NGO decided to provide rice, toor daal, coconut, potato, wheat and other items to the family. It was observed that the family had 2 ration cards and still they were not provided with any ration facilities.

Kumara Jeeva Hatigi, member of the same NGO, spoke about the death of Narayanna Maru Mukhri, and observed that he was not an alcoholic person, though he was epileptic. Sharadha Shetty, MLA, and Meghraj Naika, Tehsildar visited the house of Nagamma Mukhri and came to learn that they were not provided ration on the grounds that they were not Aadhaar card holders. The tehsildar's department applied for Aadhaar card and ration card on 15/07/2017, but the family has not received either of these documents.

Of the 4 sons of Mrs. Nagamma Muru Mukhri, 3 sons died within 15 days in the month of July, 2017. The Tehsildar and other local authorities visited the house of the victim and spoke to Nagamma and made the

following Panchnama.

- Subbu Maru Mukhri, aged 52 passed away on 2/07/2017. The reason for his death was that he didn't eat properly and was an alcoholic, as per the statement made by Nagamma Maru Mukhri.
- Venkataramma Maru Mukhri, aged 46, 8/07/2017, a similar reason of death was cited as per the statement by Nagamma Maru Mukhri.
- Narayana Maru Mukhri, aged 55, death dated 13/07/2017, was not an alcoholic but was a sick person and was always unwell. The reason was his death was that he was not eating properly.

Note: There was no post-mortem conducted and there was no complaint given regarding this.

PUCL'S MEETING WITH GOVERNMENT OFFICIALS

1. **Ration Shop owner:** Vivek is the owner of Gokarna Gram Panchayat Ration shop, situated in Vyavsaya Seva Sahkari Sangha #20 Gokarna 1, Kumuta Taluk, and register no. 123/1995. He provided the information that Nagamma Maru Mukhri's ration card was updated only in the month of March, 2017, when the ration was provided, but as per the list provided by the Food and Civil Department, the names of the victims and Nagamma Mukhri's name were not mentioned and the reason given was that the ration card and Aadhaar card had not been linked.
2. **Food Inspector:** Gutumane, Food Inspector, Kumuta Taluk, was contacted through phone and when the PUCL team questioned him regarding the stoppage of the ration to the family of the victims, the only reason given by the Food Inspector was that the Aadhaar card had not been provided by the victims or their mother.
3. **Taluk Level Officers:** On 29/7/2017, a Jan Adalat took place in Gokarna, during which time the PUCL team met the Revenue Inspector, Asst Commissioner, Tehsildar, Deputy Tehsildar, Public Health Doctor, and Gokarna Gram

Panchayat President and asked them about the deaths and the reasons for not providing the ration. The tehsildar stated that he was not aware about the deaths of the victims and he only came to know about it after the death of the 3rd son. He further shockingly stated that, "If the victims were really starving, then they could have approached *dharmchatra* (place where the food is served on charity)"!

The Revenue Inspector said that the reason for death was not starvation but the alcoholic problem of the victims and that the 3rd son died due to his poor health. After hearing about the deaths, the Assistant Commissioner promised that necessary steps will be taken and assistance from Social welfare department will be provided. The Public Health Doctor claimed that he was attending the victims for past three months and he has been asking them to have nutritious food and to avoid alcohol. However, when we inquired into the visiting report submitted at Anganawadi, it came to our knowledge that he had only visited their home twice, i.e. on 09/07/2017 and 13/07/2107.

Steps taken by Tahsildar

- 1) On 15/07/2017 a new application was made for ration card and Aadhaar card; however they have still not received the same due to technical snags.
- 2) The Tahsildar promised that he will provide Rs 5,000 for each of the victims for the cremation and the said amount will be provided through the state government, as they don't have any funds.
- 3) National Social Benefit Scheme will be provided to the victim's families
- 4) The house of Ganapathi Maru Mukhri will be provided with electricity.

PUCL's Observations

- Nagamma Maru Mukhri belongs to a Dalit community (Mukhri caste) and is a daily

wage worker, and her wages are the only source for the family income. For 7 months, from January-July, 2017, there has been no ration provided, even though she is a AAY card holder, and the only reason given was that the ration card and the Aadhaar card has not been linked.

- Ganapathi Maru Mukhri has not been provided the ration on the grounds that Aadhaar card has not been provided.
- Nagamma Maru Mukhri and their 4 children have been residing at Belehithla (Dandebaga), Gokarna Gram Panchayat, in a hut, but with no electricity and water supply. The land belongs to a private owner.
- Ganapathi Maru Mukhri was married and his widow is a member of Gram Panchayat, who gets a monthly Rs 500 (every sitting) as salary. She resides in a sheet house, provided by the Gram panchayat, but the house is not well equipped.
- After the death of the victims, no assistance with regard to house, water, toilet, ration, death compensation etc., was provided from the concerned authorities, as of 15 days, from the date of death. The only reason given was that they don't have an Aadhaar card.
- Kumuta Taluk office applied for Aadhaar card and ration card on 15/07/2017, but due to technical problems, the family has not yet received the documents.
- Food and Civil Supplies Department and Nodal office gave the statement that the deaths were caused due to an alcohol problem and the 3rd son died due to poor health and the ration was stopped due to their not having Aadhaar card.
- In WP (Civil) 494/2013 dated 23/09/2013, the Supreme Court has ordered that no government schemes be denied to a person for the mere reason that the person has no Aadhaar card.
- In WP (Civil) 494/2015 dated 11/08/2015, the Supreme Court has held that there

cannot be any delay in providing the government schemes on the grounds that the person has no Aadhaar card.

- All the evidence shows that the reason for the death of the victims was starvation, which was due to irresponsibility of the public authorities.
- While the present government has promised that Karnataka will be a hunger-free state, the deaths of the sons of Nagamma Maru Mukhri show that the government has failed in performing its duty.

Conclusion:

On the basis of our fact finding investigation, the PUCL team has reached the following conclusions:

§ These deaths took place principally because the victims were denied their entitled rations in violation of Supreme Court guidelines that mandate provision of rations despite absence of proper documentation. These deaths are unnatural and avoidable, and therefore criminal. In fact, the District administration has failed

to provide proper and dignified housing (including electricity, sanitation, and drinking water) to the victim's family in the last 60 years.

- § Equally, the Criminal Justice System is guilty because by projecting these unnatural deaths as due to alcoholism, it has failed to take cognizance of the fact that these deaths amount to death by negligence, a punishable offence under Indian Penal Code. The explanations offered by Deputy Commissioner and Tahsildar about Alcoholism amounts to victim blaming and evasion of their mandatory role to provide rations and the role of State administration in causing these deaths to happen.
- § The PDS has played a major role in causing these deaths due to mismanagement because of which universal access to food has been denied to eligible card holders. The State has been concerned overtly about plugging the leaks in PDS rather than ensuring universal access.
- § The State has projected Aadhaar as the sole nodal identification

system for the provision of all social benefits through biometric recognition as a prerequisite to access a variety of services provided by the State to its residents. This incident shows the failure and exposes the many of the deadly fallacies of the Aadhaar scheme, such as the unreliability of biometric recognition, and, in fact, becoming a hurdle for residents, especially the marginalised sections of society, to claim their entitlements.

- § The victims were daily wage earners and have been historically marginalised and vulnerable due to their caste status by the State and Indian society as a whole. They have been denied their fundamental right to life under Article 21 of the Constitution and its concomitants, such as right to housing, electricity, water and sanitation etc. The State's negligence in causing these deaths amounts to caste atrocity under the Act. □

India becoming Dangerous for Intellectuals, Social Activists

Pushkar Raj*

When journalist Gauri Lankesh was shot dead in front of her house early last month, quite a few writers and social activists in India must have felt a chill down their spines as the country steadily becomes a dangerous place for intellectuals.

Gauri was a journalist turned social activist based in Bangalore, the technological capital of India. She was the fourth activist to be killed in that region in as many years, whose killers have not yet been apprehended despite the fact that the opposition Congress party leads the government in Karnataka state.

There have been a spate of killings of intellectuals and writers in the country in recent years. Narendra Dabholkar, a rationalist activist, was killed in August 2013, after lobbying for social reform against superstitions such as black magic and child sacrifice. Govind Pansare, a left-wing politician and

author of the best-selling book *Shivaji Kon Hota*, was killed in February 2015 after being an outspoken critic of communalism in society.

In the same year, Kannada scholar M M Kalburgi, winner of a national literary award, was killed after many court cases were filed against him by several Hindu groups for hurting their sentiments. Apparently there were motives and patterns to these killings. But who could be the enemies and potential killers of writers and activists?

The strong suspects are people close to the ideology of Hindutva, for the simple reason that they have not kept their hatred of writers and activists a secret.

Kalburgi and Gauri had more than a dozen cases filed against them in different courts by Hindu fundamentalists of various names. Even in the aftermath of Gauri's death the Karnataka state

Bharatiya Janata Party (BJP) filed a defamation suit against the noted historian Ramachandra Guha for reasoning that Gauri's murderers came from the Hindu nationalist Sangh Parivar umbrella group. Social scientist Kancha Ilaiah has also received death threats and undergone physical attacks from groups sympathetic to the Hindu right.

This contempt for activists is corroborated by a statement by a BJP member of the Karnataka state legislature that if Gauri had not criticized Sangh Parivar member RSS (Rashtriya Swayamsevak Sangh), she would still be alive.

Furthermore, individuals followed by Prime Minister Narendra Modi on Twitter condoned the murder of Gauri in abusive language on which, while the prime minister maintained silence, the BJP issued a statement clarifying a

“principled” stand on why the supreme leader of the party continues to follow people who have been so vile in their conduct on social media. Modi follows 1,845 people on Twitter and is followed by 35 million.

Restricted by ideology: Ideologies, by definition and practice, restrict thought within bounds, so sometimes they tend to be highly irrational, for instance nationalism, fascism and communalism, to name a few. Hindutva too falls in that category. Its adherents have a fixed worldview rooted in myths and the *Manusmriti*, an ancient text similar to other religions' treatises.

On the contrary, a writer does not adhere to the boundaries of ideologies. He is rooted in the present, he seeks truth, challenging, explaining and expressing social reality through the art of writing and speaking. In the words of famous Nigerian writer Chinua Achebe, the writer creates “new values” for society.

Such new values and their creators are discomfiting for the status quo and its forces. So when Kanha Iliah through his research argues that Hindutva promotes social smuggling, or Kalburgi, backed by scholarly evidence, reveals a

disconnect between Lingayatism and Hinduism, Hindutva followers resort to intimidating, harassing and finally purging the intellectual.

Constitution under threat: When Jawaharlal Nehru wrote The Discovery of India in the 1940s, he underlined a set of new values on which the Indian constitution was later based, and it has been a shared ideology among Indians since the country became a republic and stands above any other affiliations.

Since independence, barring the Emergency of 1975-77, writers have been able, to borrow a phrase from Jean-Paul Sartre, to exist and express their freedom. They enjoyed freedom of conscience and fulfilled what he considered their “moral and ethical responsibilities of observing the social political moments, and to freely speak to their society”.

However, now writers in India are in double jeopardy. On one hand, society is so radicalized that as a social class they are perceived as a threat, and on the other, the constitution of the country is unable to protect them because those guiding its implementation do not fully believe in it. Addressing its lawyers' wing last week, RSS chief Mohan Bhagwat stressed that the

constitution should be changed according to the ethos of the country.

While thinking about the state of writers in India, one is reminded of the Turkish Nobel laureate for literature, Orhan Pamuk. In 2006, he was charged with “insulting Turkishness” for referring to the Armenian genocide of 1915-17, which the nationalist government denies. Those were the early days of Recep Tayyip Erdogan rise to power.

Today, many writers and journalists have left Turkey, and many of those who remain are either in jail or awaiting trial. With the Erdogan regime holding nearly total control over the media and restricting the Internet, in the words of Pamuk, the writer of Istanbul, “so many crazy, unacceptable things are happening”.

Will India become like present-day Turkey? It is a depressing but relevant question.

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Note: A unique satyagraha was launched in October, 2017 by Prasanna, well known theatre personality demanding that the Central Government impose 0% GST on hand made products as it was a sector which involved some of the most marginalised communities in India. The satyagraha attracted widespread support from people from different walk of life. As the issue was not very well covered in media, we carry below a statement issued on the day Prasanna broke his fast.

The Sathyagraha demanding 0% GST on Hand Made Sector is a Movement to Realise a Promise made in the Indian Constitution, 19.10.2017

Noted theatre and social activist Prasanna of Gram Seva Sangh has been on an indefinite fast –since 14th October 2017 demanding “Zero Tax” on handmade products. He took the decision of an indefinite fast as several actions nation-wide as part of the Sathyagraha demanding “zero tax” were not responded to by the GST Council of India.

The Sathyagraha has captured the imaginations of millions nation-wide and brought in a new awakening in the consumer. There is a growing collective demand to ensure India's governance keeps

the promises made in the Constitution of India and the Freedom Movement that there is active and willing support to sustain crafts people and such others who depend on their hands and skills in building the nation.

Dr. B.R. Ambedkar spoke extensively about the need for positive discrimination favouring handcrafting artisans and communities who are essentially rural, fisher folk, pastoral, artisanal, tribal and such other natural resource dependent communities. This was also in acknowledgment of the State's role in correcting a

major historical wrong committed against craftspeople who had been violently suppressed during British regime.

With the assurance of the Chief Minister of Karnataka Siddaramaiah that the Karnataka Government will support the Sathyagraha's demand that 0% GST is introduced on hand made products, Prasanna has broken his 6 days indefinite fast today in the presence of various elders and supporters by accepting tender coconut water from Veerabhadra Chennamalla Swamiji of Nidumaamidi Mata. The Chief

Minister in his 19th October letter to Indian Finance Minister Arun Jaitley has said that “imposition of GST on (handmade) products has had an adverse effect on the livelihood of such artisans engaged in producing such products”. He also said that the demands of the Sathyagraha “requires serious & urgent consideration and a positive resolution. This would not only benefit a large segment of our rural population but would also give a boost to rural employment and sustainability. I, therefore, urge you to take this issue on a priority basis in the next GST Council and decide favourably benefiting a large segment of rural artisans. I assure you of the Government of Karnataka's full support in this regard.”

Gandhiji promoted the *Charka* as the praxis of producing one's own essentials as the most profound act of sovereign existence, and that without damaging the Earth or causing injustices to others in one's life. The idea was to build a just economic system that was both ecologically sustainable and ethical. As a part of this movement for fundamental reform, the State was called upon to enable and empower communities who provided us with our daily needs with a wide range of hand made products, and which were produced without damaging the earth. Positive discrimination favouring handmade products by not taxing them would be the most fundamental support the State can extend to provide these highly marginalised communities with a chance to secure a dignified existence, all with their own labour, craft and skill.

In introducing GST on handmade products, the GST Council of India, which is a negotiated process of all States and the Union Government, has comprehensively ignored the critical importance of such positive discrimination favouring the handicraft sector. Instead, handmade products have been heavily taxed, ranging between 5% and 28% (the highest tax bracket). The result of this will be mass

impoverishment of the rural and informal sectors that support millions of livelihoods by making handmade products. Further, it will result in hand made products having no chance whatsoever of competing with mass-produced consumer goods, which are supported with a whole range of sops: such as easy credit supply, handsome tax breaks, easy and cheap access to natural resources, infrastructure, and also cheap labour. This discrimination favouring the industrialised class is producing an economy that is highly divisive, where a miniscule percentage are hoarding all profits, while the costs are borne by the rest of us. Besides, the impacts are being passed on to future generations as well. Such an economy is unsustainable.

Prasanna's Sathyagraha is a reminder to the State, and the public at large, that we must now stop hurting the handcrafting sector any further. His indefinite fast is a protest against such deliberate negligence and injustice, a movement in civil disobedience against our own elected Government that has become insensitive to the very people that placed them in power. This is a call to awaken the humanism in those who are now in power, and in all consumers, to ensure a just and ecologically sustainable society is made possible. This is also a call to refuse to pay unjust GST when buying handmade products and demand the GST Council introduces 'zero tax' on all handmade products in keeping with our Constitutional promise, especially that which is enned in Article 39:

- “(a) that the citizens, men and women equally, have the right to an adequate means to livelihood;
- (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- (c) that the operation of the economic system does not result in the concentration of wealth and means of

production to the common detriment;”

Background of the Sathyagraha:

The indefinite fast by Prasanna is an outcome of the Sathyagraha that was formally launched by Grama Seva Sangha at Bangalore Town Hall on 7th September 2017. In full public view, hand made products were sold without conforming to the GST regime, practicing civil disobedience against an unjust tax. Noted film maker and theatre director M. S. Sathyu, veteran freedom fighter and Gandhian H. S. Doreswamy, journalist Dr.Vijayamma, poet Mudnakodu Chinaswamy, singer M.D.Pallavi, Shashidhar Adapa, film actor Kishore, artist S.G.Vasudev and hundreds of others participated.

This civil disobedience movement continued from Hyderabad on 9th September, when activists of Gram Seva Sangh, Rashtriya Chenetha Jana Samakya and Dastkar Andhra were arrested. Undeterred by such police action, the movement spread.

In subsequent weeks, the movement spread across various centres of south India. This gained the support from Panditaradhya Swamiji, Sanehalli Matt at Sirigere (Karnataka). The Sathyagraha was supported in Tumkur and Sira towns by Yatiraju, Ramakrishnappa, Indiramma, Pandit Javahar, Tundoti Narasimaiah, Freedom Fighter Revanna, SIGNA and CMCA Volunteers and other likeminded people in.

On 24th September, a Padyatra was taken from Junajappana Gudde (ne of pastoral God Junjappa) to Arsikere Kasturba Ashram, a distance of 120 Kms. All along there were several exhaustive meetings with the farmers, artisans, jogappa's, Traditional medicine practitioners, etc.

At Arsikere, Panditaradhya Swamiji of Sanehalli Matt, Sree Kumar social Activist, Kulkarni, Weavers Union President, Poornima, Shivalinge Gowda MLA and various others joined the struggle which included blocking the Arsikere-Mysore road as an act

of civil disobedience. Activists were arrested, an FIR was filed and then they were released. The movement continued its march.

From Mysore, writer Devanuru Mahadeva, and various others joined the Satyagraha. From Challakere, Doddauarthi Karianna of the Amrit Mahal Kaval Hitarakshana Horata Samithi and All India Kisan Sabha endorsed the struggle.

Meanwhile, hundreds of letters and petitions were sent to various Chief Ministers, Union Finance Minister and the GST Council of India. On 9th October, a Gram Seva Sangh letter addressed to the Siddaramaiah, Chief Minister of Karnataka, and endorsed by various luminaries, explaining that "Zero tax on Handmade products would enable village producers to establish themselves in the urban market. It would liberate the poor from the debt trap and help them to lead a honourable material life." Extending the support to the Sathyagraha, Federation of Indian Handloom Organisations President Smt. Uzamma wrote to the Chief Minister in which she said said: "Arun Jaitely has announced small concessions to handmade products. These concessions are highly inadequate". She then urged the CM to get a resolution passed in the Karnataka Assembly "asking the GST Council to make all handmade products zero-taxed".

Endorsing the Sathyagraha, the Rashtriya Chenetha Jana Samakya stated in a letter to Arun Jaitely, Finance Minister of India that the Sathyagraha is "to protect the fruits of the labor of the rural poor. Their products have been taxed, while the machine products have been made attractive, by the Goods and Services Tax regime, (GST). To put it simply, good things have been made expensive and the bad attractive....By selling the Handmade, without either collecting or paying tax, we are protesting. This is a "Satyagraha". We shall gladly face punishment. But shall resist the unjust Law" imposing GST on handmade products."

Renowned social scientist Ashish

Nandy has led a panel of interdisciplinary experts from across India, at the request of Gram Seva Sangh, and prepared a detailed report on why 0% GST on hand made products is necessarily a just step. A list of over 200 products that deserve this support has also been provided to the Government and the GST Council. The committee includes noted film maker Shyam Benegal, handicrafts proponent Smt. Uzamma, social scientist Dr. A. R. Vasavi, Karnataka's former DGP Ajay Kumar Singh, and others.

Despite all these efforts, neither the Union Finance Minister nor the GST Council has made any commitment to accept this just demand. As a mark of protest against their silence, Prasanna launched an indefinite fast.

Overwhelming support for the Sathyagraha during the Indefinite Fast by Prasanna:

Veerabadhra Chanamalla Swamiji of Nidumamidi Matt, Bengaluru, blessed and launched the indefinite fast on 14th October as part of the Sathyagraha. He warned that a "great divide exists today in the country, between India and Bharat" and that "India is living at the cost of Bharat". **Shivakumara Swamiji of Tumkur Siddaganga Matt** has also extended unconditional support for the satyagraha.

H.D. Devegowda, former Prime Minister of India, visited Prasanna, endorsed his struggle, and requested him to break the fast saying "everyone's heart and mind has now been opened by this just struggle". Prof. **M.V. Rajeev Gowda**, Rajyasabha MP and National Spokesperson of Indian National Congress met with Prasanna during the hunger strike, extended his solidarity and promised that he would raise the need for the Congress party to support this just demand with the party's Vice president **Rahul Gandhi**. He was then joined by **Krishna Byregowda**, Karnataka's Agriculture Minister, and both assured that the Government of Karnataka would take a supportive stand on the issue. **Brijesh**

Kalappa, Congress spokesperson and **Tanveer Ahmed**, Janata Dal (S) spokesperson also joined the fast in support.

These solidarity actions were followed by a tweet from the Chief Minister of Karnataka, **Siddaramaiah**: "CMO is working with Prasanna to prepare the list of hand made products for advocating zero GST at the Council".

Supporting the Sathyagraha and the Hunger Strike by spending a day with Prasanna, noted film actor **Prakash Rai** said: "This is a Satyagraha not only for making rural life sustainable but also for restoring their belief in our governments. In line with this, our duty as producers and consumers is to give an impetus to the development of a healthy society that is environmentally responsible by encouraging the consumption of handmade products."

S.G. Siddaramaiah, Chairman Kannada Development Board called on Prasanna and expressed strong views on the crippling GST on Handmade products of toiling rural people. He added that after Gandhiji's Salt Satyagraha, Prasanna's campaign for the handmade products is a powerful moral stand in public domain.

T. M. Krishna, renowned musician and author has also supported the Sathyagraha saying: "While the capitalist world is always supported through huge sops and benefits, those working in the hand-made sector are ignored and relegated to the last pages of any economic initiative. They do not have the financial might to fight such unjust imposition of tax by successive governments. We speak of Swarajya and Swadesh but we are aggressively following a policy that will destroy the lives of those who have for generations lived in its spirit. We need to collectively oppose GST on handmade goods. This has to be STOPPED NOW."

Farmers leader Kadidal Shamanna, writer Prof. K Marulla Siddappa, Yogendra Yadav of Swaraj India, Smt. K.S. Vimala of Janvaadi Mahila Sangha, renowned actress Smt. Mallika Ganesh, social activist S.R.

Hiremath, Smt. Saroja Chandrashekar (Wife of Late M Chandrashekar, Karnataka State Minister), and various political leaders, social activists, writers and artists have come forward and joined the the Satyagraha by meeting with Prasanna during his indefinite fast. They have been joined by Abhay from the Grameena Kulikarmikara Sanghatane (Grakoos), Raichur, former Central minister and veteran Congress leader M.V. Rajashekar, S. G. Siddaramaiah, Chairman Kannada Development Board, sociologist Dr. Chandan Gowda, H.V. Anantha Subba Rao, State General Secretary, AITUC, Sirimane Nagaraju, G.R.Manjesh, Secretary (G), Karnataka State Devanga Employees Association, Sathi Sundaresh, Secretary, Communist Party of India, Smt. Jyothi A., State Convener, National Federation of Indian Women (NFIW), D. M. Trimurthy,

Karnataka Komu Sauharda Vedhike, writer Smt. Nemichandra, Member of the Legislative Council (MLC) M.D. Lakshminarayana, noted theatre personality and film maker B. Suresha, environmental expert Yellappa Reddy, writer Vitappa Gorantli, MLCs C.R. Manohar and Ramesh Babu, Doddauarthi Karianna of All India Kisan Sabha and Amrit Kaval Hitarakshane Horata Samithi and social activists from Tumkur Ugama Srinivas, R.V. Puttakamanna, P. Manjunath, Murali and Srinivas of the All Indian Bank Officers Confederation visited the Sathyagraha. The Sathyagraha has been endorsed by several mass organisations, federations, cooperatives, political movements, etc. They include Janapada Seva Trust, Karnataka, Komu Sovharda Vedhike, Karnataka Rajya Devanga Naukara Sangha, Lancha Mukta Karnataka, Dalit Student

Federation, Karnataka Janashakthi, Karnataka Vidhyarthi Sangatane, National Hawkers Federation, National Fishworkers Federation, National Alliance of Peoples Movement, Grameena Cooli Karmikara sangatane, Samudaya, Janata Dal (U), Janata Dal (S), Samajvaadi Party, Communist Party of India, Communist Party of India (Marxist), Congress (I), Rashtriya Swabhimani Andolan, Karnataka Gandhi Smaraka Nidhi, Karnataka Jyana vijyana samiti, SUCI, Sampoorana Kranti, Corruption-free Karnataka, Gandhi Bhavan, Jana Vadhi Mahila Sangha, All India Trade Union Congress, National Federation of Indian Women, Karnataka Rajya Devanga Naukarara Sangha, All Indian Bank Officers Confederation, Lancha Mukta Karnataka, Praja Science Vedhike, Ekta Parishad, Rashtriya Cheneta Jana Samakya, and several more. □

Can Science Survive the Onslaught Blind Faith? Ram Puniyani

"Why are students not taught that before the Wright brothers, an Indian called Shivkar Bapuji Talpade was the first to invent the airplane? This person invented the plane eight years before the Wright brothers. Are our students taught these things in IITs or not? They should be," These are the gems from our MHRD minister, Satyapal Singh while speaking at an award ceremony. Such utterances have matching policies which are influencing the direction of our research-teaching in the field of science and technology. Not too long ago, minister of Science and Technology Harsh Vardhan formed a high level committee to undertake research and to promote the benefits of Panchgavya. This Panchgavya is a mixture of cow's urine, dung, milk, curd and ghee (purified butter). IIT Delhi will be the nodal institution for 'research' in to this.

There are reports that MP government has plans to set up astro OPD (Out Patient Department), consultation centers, where the astrologers will be giving

the predictions about their illness to the patients. This is planned to be done under the aegis of the state sponsored institution in Bhopal. The Uttarakhand Government, in collaboration with AYUSH of Ministry of Health, has started the hunt for magical Sanjivani booti. This mythological herb was the one for which Lord Hanuman had to fly with the whole mountain as Lord Ram's younger brother, Laxman, had become unconscious. The prestigious IIT Kharagpur is not only planning to introduce Vastu Shastra in their undergraduate teaching program but also have a center for Vaastu Shastra, which is advising people to install the statues of Lord Ganesh and Lord Hanuman in front of their houses to ward off the evils.

These policies are the outcome of the understanding which the RSS inspired BJP leaders have. Just a couple of years ago, our Prime Minister Narendra Modi while inaugurating a Modern Hospital in Mumbai drew the attention of his audience to the great strides which India had made in the ancient

times. "We can feel proud of what our country achieved in medical science at one point of time. We all read about Karna in Mahabharata. If we think a little more, we realize that Mahabharata says Karna was not born from his mother's womb. This means that genetic science was present at that time. That is why Karna could be born outside his mother's womb... We worship Lord Ganesha. There must have been some plastic surgeon at that time, who got an elephant's head grafted on the body of a human being and began the practice of plastic surgery."

These magical-fictional things have been making their ways into the school books being introduced by BJP governments in different states. One Mr. Dinanath Batra's book Tejonmay Bharat is an example. The book teaches the students "America wants to take the credit for invention of stem cell research, but the truth is that India's Dr Balkrishna Ganpat Matapurkar has already got a patent for regenerating body parts... You would be surprised to know that this

research is not new and that Dr Matapurkar was inspired by the Mahabharata. Kunti had a bright son like the Sun itself. When Gandhari, who had not been able to conceive for two years, learnt of this, she underwent an abortion. From her womb a huge mass of flesh came out. (Rishi) Dwaipayana Vyas was called. He observed this hard mass of flesh and then he preserved it in a cold tank with specific medicines. He then divided the mass of flesh into 100 parts and kept them separately in 100 tanks full of ghee for two years. After two years, 100 Kauravas were born of it. On reading this, he (Matapurkar) realized that stem cell was not his invention. This was found in India thousands of years ago. (Page 92-93)

The mythology is becoming the basis of science. While mythology has beauty of a fiction; to regard it as true defies the scientific spirit, the spirit of scientific temper. On similar lines the assertion is that we had Television as Sanjay narrated the battle of Mahabharata to Vyas, or that since Lord Ram used

Pushak viman, so the aeronautical technology was in vogue. These defy all common sense. One has to know that to develop that level of such technology one needs advanced infrastructure in various disciplines of science. Such a development comes in to being only from eighteenth century onwards.

No doubt ancient India has massive contribution to science in the form of contributions of Sushrut, Charat and Aryabhat. But to regard that we had all science and technology in toe is an ideological manipulation to construct 'our' greatness'. Ideologues of freedom movement came to emphasis on scientific temper, which should be foundation of India and this got enned in our Constitution. Muslim Nationalism and Hindu nationalism saw history as that of great kings belonging to particular religion, and their scriptures having all the knowledge. Today Hindu nationalists occupying the seats of power are out to destroy the gains of scientific achievements during last seven decades and bring in

faith based fantasies in the area of scientific enquiry, knowledge and technology. This is a retrograde move.

It is precisely in protest against this that we saw scientists rational thinkers took to streets on 9th August to emphasize that pseudo science should not be permitted in the areas of research and scientific learning. These multicity protests also called for enhancement of budget for science and education. The distinction between science and pseudo-science is clear and obvious; science encourages being questioned and criticized, while pseudo science resorts to hearsay, faith and suppresses dissent. In a country where huge gains have been made due to scientific temper, it is pertinent that we uphold policies laid down in our constitution which calls for promotion of scientific temper. We need to bypass the utterances of the likes of Satya Pal Singh and his cabal as far as formulation of national policies of scientific research and education are concerned. □

A Plea for Justice – Women Reservation in Parliament and State Legislatures **Rajindar Sachar**

Mrs. Sonia Gandhi has written to Prime Minister Modi to get the women Reservation Bill passed in the parliament and is reported to have promised full support. This has led to war of words between Congress and BJP as to whose fault is it that this Bill has not been passed inspite of both parties professing their support for it. One is reminded of a picture in newspaper in March 2010 flashed in all newspapers where, one saw fiercest political opponents Mrs. Sonia Gandhi and Mrs. Sushma Swaraj in a happy embrace in the precincts of the Parliament. What was the occasion for this unprecedented spectacle and close bonhomie.

Though introduced by former Prime Minister Mr. Deve Gowda for the first time on 12 September 1996 in the Lok Sabha, no concrete action was taken by various governments to effectuate the legislation on

Women's Reservation Bill in Parliament and the state legislatures. Everyone expected the legislation to be passed immediately. In fact, Prime Minister I.K. Gujral promised his earliest priority in passing this Bill but nothing concrete happened.

When the UPA government came to power in 2004, it announced that the Act would be its first priority. But instead one had total silence on the Bill in the President's speech on the opening day of the Parliamentary session. This was an open and clear notice to the women activists that the Bill, which had been so proudly projected as a commitment to gender equality, has been quietly buried, and is not likely to be revived in conceivable future.

Thereafter the Women Reservation Bill was referred to Parliamentary Standing Committee but nothing happened till 2010, when women reservation bill or the constitution

(108 th Amendment Bill 2008) which was proposed to amend the Constitution of India to reserve 33% of all seats in the Lower House of Parliament of India, the Lok Sabha, and in all State Legislative Assemblies for women.

The Rajya Sabha passed the Bill on 9 March 2010. It was this event that made Sushma Swaraj and Sonia Gandhi embrace each other so emotionally. However, the Lok Sabha never voted on the Bill. The Bill lapsed after the dissolution of the 15th Lok Sabha in 2014.

Every time from 1998 to 2014, whenever Parliament met, women representatives were assured in all solemnity by each major political party that it hoped to pass the Bill in that very session. In reality, this was a tongue-in-cheek operation, because no further progress was made in the matter of women reservation.

The reality is that male chauvinism will never reserve seats for women because it will take away 1/3 of the present strength of parliament for

women. I therefore feel that way out can only be by increasing the strength of Lok Sabha to 750 and making 1/3 of seats to double member constituencies with one seat therein to be reserved for women. Of course the women will be eligible to contest from other than reserved seats and may therefore increase their number beyond 1/3 of the total parliament seats.

Thus, Lok Sabha membership can be easily increased to 750, with a provision that one woman candidate will mandatorily be elected from those double-member constituencies, and, depending upon the votes received, it may be that even both elected candidate could be women. This law was laid down by the Supreme Court decades ago in former President V.V. Giri's case. The same principle will apply in the case of elections to the state legislatures. Space in Parliament is not a problem. Shivraj Patil, once Union Home Minister, is on record in admitting that space is not a problem if Parliament decides to increase the number of seats.

The alternative of double member constituencies can be done by amending Article 81(2) of the Constitution by increasing the present strength, which can be easily done if political parties are genuine in their commitment to the Bill.

I know the Delimitation Commission has already marked the constituencies on the basis of single member seats. But I do not think it is necessary to redraw the constituencies to make it double.

By a rule of thumb the top one third of the constituencies having the maximum voters in each state could be declared double-member. If the legislators are sincerely genuine they could even submit an agreed list. At present, of course, a fresh process has again to be initiated in Parliament, because the previous Reservation Bill lapsed with the dissolution of the previous Lok Sabha in 2014.

In the just finished election propaganda in Uttar Pradesh, not

one party, including the so-called seculars, with the exception of the Socialist Party (India), included the item of reservation for women in their election manifestoes. Can such male chauvinism be allowed to exist in our country?

With the 2019 Parliamentary elections coming, is it not time for the women leadership in both the Congress and BJP, through Sonia Gandhi and Sushma Swaraj to jointly clench their fists and warn all the parties that they will no longer tolerate this injustice and neglect to continue? They may legitimately continue their differences on other subjects in the light of their own respective programmes.

Now that Sonia Gandhi has promised full support to the Bill, Modi who claims to stand for Swatch Bharat (which is a programme to enhance the dignity of the women in the country) cannot have any objection. His request to Mamata Banerjee and Mayawati should invoke immediate positive response from those leaders.

Any suggestion by opponents of the bill by creating hurdle by suggesting that women quota be further sub divided by reserving proportionate number of seats for OBC and SC women. Dalits separately is cheap trick to deny women a real share in power.

Let me point out that biggest supporter of Dalits and backward castes Dr. Lohia had opined that reservation for women was an instrument of social engineering – he could never have suggested splitting the strength of women's quota by further splitting them in sub quotas.

At present there are only 61 Women Members in Lok Sabha. The shame of discrimination against women and the masochist attitude of men can only be corrected by providing reservation for women's share in the legislatures – both in Parliament and State Assemblies.

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