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**International Human Rights Day:**

**"Speaking Truth to Power":  
What Citizens need to do to Protect and Promote Human Rights  
"When Constitutional Institutions Fail to Protect Fundamental and Human Rights Fails, Citizens have to become more Vigilant, Vocal and Valiant"**

In the annals of contemporary Indian Human Rights history 2019 will be marked as the year when the Indian state - the government of India - exhibited its near total disdain for human rights and rule of law by committing, not by individual or localized acts of human rights abuse alone; in a dramatic manner, the Government exhibited its might in a colossal, huge, collective and fearsome manner its utter disrespect for constitutional values and ethics and that it considered fundamental freedoms and human rights as mere scraps of paper. Two events stand out for the sheer magnitude and scale of the egregious state action and what it indicates for the future of human rights in India.

First is the stealthy and sinister manner by which Art. 370 regarding special status for Jammu and Kashmir was abrogated on 5<sup>th</sup> August, 2019, putting with immediate effect an entire state of over 8 million Kashmiris in the Valley under lock down mode resulting in unimaginable misery to local people.

At an equally fearsome and hugely mind boggling manner was the completion under the supervision of the recently retired former CJI, Shri Ranjan Gogoi, of the NRC (National Register of citizens) process in Assam declaring over 19 lakh people as foreigners and directing their detention in Special Camps.

The completion of the state wide NRC exercise in Assam, exhibited the callousness, cruelty and heartless manner to which such a process will eventually degenerate into. Scores of distraught families found some members of the family declared as citizens and others as foreigners, pushing scores of people to commit suicide. On 31<sup>st</sup> August, 2019, the final list of people excluded from the NRC was published, showing 19,06,657 persons to be excluded. Even if it is argued that these persons have the right to appeal this finding, the sheer sense of insecurity and personal / family human tragedy this process has triggered is unprecedented.

The NDA Modi-Shah led government showed that the NRC exercise was not meant just for Assam but they intended to roll it out throughout the country as an exercise to find out foreigners. In real terms, the NRC exercise has been aimed at Muslims, and the announcement of nationwide NRC exercise has already sent shockwaves amongst the wider section of Muslim community across many states. A number of BJP led states like Karnataka and Maharashtra have already announced having detained people in special camps to be detained to Bangla Desh.

What is most worrying about these macro-level egregious forms of human rights abuse is the near total capitulation of all democratic and constitutional institutions meant to act as checks and balances to the State usurping or aggrandizing all powers to become a huge totalitarian or fascist state. No institution has been left untouched or uncompromised:

from the CBI to Enforcement Directorate, to RBI and the Election Commission, just about all institutions have been either forced to cow down or manned in such a way that they bow down to the power of the Government.

In this dismal scenario, the Constitutional Courts – the Supreme Court as also the High courts – envisioned by the Constitution framers as the sentinels of the Constitution, protectors of fundamental rights and meant to be a bulwark to protect citizens and communities from being crushed by the all-powerful state, have unfortunately not risen to the occasion.

Even in the face of credible information evidencing the largescale humanitarian crisis unfolding in Kashmir, and despite reports of widespread medical and mental health issues affecting thousands of people, the SC did not feel compelled to challenge the government's claim of normalcy and that people in Kashmir welcomed the shutdown. This when there was considerable evidence to the contrary before the court itself. Scores of mainstream political leaders, including 3 former Chief Ministers have been kept in confinement; yet the SC has not felt it an urgent issue of rights violation sufficient for it to intervene.

The acme of the Court's prevarication on conflicts concerning `majoritarian issues and politics came to the fore in the unanimous ruling of the 5-judge Constitution Bench in the Ayodhya – Babri Masjid case delivered on

09<sup>th</sup> November, 2019. What is baffling is that despite the Bench coming to an unanimous finding regarding the demolition of the Babri Masjid on 6<sup>th</sup> December, 1992 by remarking that "... the destruction and the obliteration of the Islamic structure was an egregious violation of law" the Court goes on to hand over the entire site to the Hindus for constructing a temple while directing the government to give a 5-acre plot of land in Ayodhya for constructing a mosque. While the aim to bring about a closure and conclusion to the Masjid-Mandir dispute is welcome, the reasoning adopted and other issues have raised more debate and dispute than resolving the issue.

Numerous other instances of mass human rights violations have regularly surfaced. These include recent reports that over 10,000 tribals have been booked for sedition in a few tribal districts of Jharkhand for challenging development projects in their areas. Sedition cases also came to be filed against 49 prominent writers, film makers and others who wrote to the Prime Minister against widespread hate crimes and intolerance in the country. Lynchings continue to be reported regularly from across the country. What stands out in many such instances of widespread rights violations is the partial and dubious role of the police, the protectors of law, who routinely and brazenly support the ruling government and its political groups. The custodians of law become emboldened to abuse the law with a sense of impunity because of the failure of

existing Constitutional and Democratic institutions, especially the Courts, to question them and demand accountability for abusing the law or violating the rule of law.

This then is the challenge before the human rights movement in India: of a situation highlighted by the failure of democratic institutions to enforce the rule of law. A higher responsibility now rests on us, as citizens, to be more vigilant and willing to speak truth to power; to assert that we will not remain quiet and mute spectators as the powers-that-be try to subvert and bend democratic and constitutional institutions.

We will have to continuously oppose the attempt of the Indian state to silence voices of dissent, democracy and human rights. We will have to be prepared to work continuously to enforce the rule of law and assert the primacy of fundamental rights and directive principles of the Indian Constitution. Ours is the task to build a transparent, inclusive, accountable, socially just and democratic way of life

The words of the former UN Human Rights Commissioner, Zeid Raad Al Hussein best illustrates the challenge before us,

"Ultimately, it is the law that will safeguard our societies – human rights law, binding law which is the distillation of human experience, of generations of human suffering, the screams of the victims of past crimes and hate. We must guard this law passionately, and be guided by it."

**V. Suresh**, General Secretary, PUCL National ☐

## Freedom or Slavery

N.D. Pancholi\*

When Prime Minister Mr. Narendra Modi on 8th August 2019, after turning almost whole of the erstwhile J&K State into a prison, was addressing the nation elaborating the benefits which now people of Jammu, Kashmir and Laddakh would receive as a result of the abrogation of article 370 of the Indian constitution which article, according to him, had proved an hindrance to the

development of that state, an anecdote cited by Atal Bihari Vajpayee in early 1977 in a public meeting began to replay in my mind. That context was the sudden and dramatic declaration on 18th January, 1977 by Mrs. Indira Gandhi, the then Prime Minister, announcing that general election to the Parliament would be held in March 1977. The 'Emergency' declared in the country on the

midnight of 25/26 June 1975 was continuing. More than one lakh political activists and their leaders who were in jail were being released. Opposition political parties hurriedly united to meet the challenge but they thought that they were not going to win as a little time was given to them for preparations, they lacked funds and many of their main activists were still in jail. Nevertheless Jayprakash Narayan,

their leader, put the choice before the people in simple terms: 'slavery or freedom'; 'authoritarianism or democracy'. Contrary to all suppositions, massive crowds began to throng the public meetings of the opposition. Then onward the opposition leaders made 'freedom' and 'democracy' main plank of their public speeches.

My replay was a public meeting in Chandni Chowk, Old Delhi. Atal Bihari Vajpayee, in his superb oratorical style, was narrating the anecdote: 'There was a dog in the village, looked weak and half fed. One day he wandered into a city. There he met a city dog who had a strong body, looked very weighty and healthy. The village dog asked how it was that city dog was so strong and weighty. The city dog proudly replied that he had a master who gave him milk, good food and took care of all his necessities. The city dog then asked the village dog why the latter was so weak. The village dog replied that in the village some time he got his food and some time he starved. On this reply the city dog invited the village dog to stay with him under his master who would look after him well. Suddenly the village dog noticed a strap around the neck of the city dog and inquired as to what was that for. The city dog replied that the strap was to enable his master to keep him chained whenever the master wanted and that many a time he was kept chained. On hearing this the village dog panicked and ran back to his village telling the city dog that he

was better off in the poverty of his village. The massive crowd cheered and clapped in approval of the village dog. The message was loud and clear: If there was to be a choice between 'development with slavery' and 'freedom with poverty', the people would choose the latter. Due to their loss of civil liberties the people felt suffocated and expressed their protests in various ways. One instance I must cite. Prabhakar Sharma, a sixty five year old Sarvodaya worker, immolated himself on 11 October, 1976 in protest at Surgaon outside Wardha in Maharashtra. . Before immolating himself he had sent a letter to Mrs. Gandhi giving reasons for his action in which he quoted Gandhi's words from Young India: "We must be content to die if we cannot live as free men and women."

As the election campaign developed, massive crowds attending public meetings of the opposition showed to where the wind was blowing. Mrs. Gandhi in her speeches tried to convey to the people that opposition was working at the behest of foreign powers which are inimical to India, that opposition movement under Jayprakash Narayan was a disruptive movement endangering India's stability, security, integrity and democracy, that her 20 Point Programme would lead to the economic development of the people and in such conditions civil liberties and democratic rights could be kept at the back seat. But her public meetings lacked crowds. The coterie of Sanjay Gandhi and

Bansi Lal felt perturbed and wanted to postpone the elections but Mrs. Gandhi firmly ignored them. She had realized that she was likely to lose the battle but nevertheless she squarely allowed her controversial decision of proclamation of 'emergency' to be tested through an electoral process where people were free to express their will. She lost and accepted her defeat in a dignified manner, but in the process she strengthened democracy.

Kuldip Nayar, in his book 'Emergency Retold' rightly remarked : "Whatever Mrs. Gandhi's compulsions, by deciding to go to the polls, she conceded that no system could work without the consent and concurrence of the people. In a way she paid tribute to their patience and suffering, because they were the ones who finally won –the illiterate, the poor, the backward.."

Mr. Modi and Mr. Amit Shah claims that the people of Jammu, Kashmir and Laddakh have happily welcomed the decision of abrogation of article 370. This of their claim will always remain unconvincing and unacceptable because the people of Jammu, Kashmir and Laddakh have not been given any opportunity to express their will on such claims. And will of the people can be ascertained only through their representatives duly elected in a free and fair elections which alone are an indispensable text of a legitimate system.

*\*N.D.Pancholi, an Advocate and Vice President, People's Union For Civil Liberties. □*

## **Building a Broad based Civil Liberties Movement**

**Rajni Bakshi\***

On 5<sup>th</sup> November, 2019, about 2000 Delhi police and their family members held a public protest against attacks on police persons by lawyers. Their action was perhaps a few years late.

Policemen ought to have protested when, in 2016, the student leader Kanhaiya was assaulted by lawyers

on the premises of the Patiala House Court on the way to being produced before a magistrate. The policemen escorting Kanhaiya also got jostled and took some punches.

Kanhaiya was the target but given the location and context of that incident the offense was essentially against institutions – in this case the

police force and the court – by citizens, most of them lawyers. The brazen nature of that attack, even as scores of cameras were recording every action, was a warning of the spate of lynching incidents that have been happening across India. In many cases of lynching the crime is made more horrific by the

perpetrators recording and sharing videos of their own brutality. These incidents are the tip of an iceberg that consists of brazen violations, by citizens, of the due process of law which is the foundation of all civil liberties.

Therefore, the time has come to re-think the core assumption that civil liberties are entirely or even largely the duty of the State and therefore civil liberties activism must only focus on offenses committed by the State and its agencies.

There are three major reasons for reflecting on this and reconsidering the duty frame of civil liberties.

One, there is growing evidence that the State and its agencies are becoming less and less accountable in upholding their duty. The checks and balances in our governance structure are also weakening. There is therefore an urgent need to engage citizens in demanding accountability from State agencies – regardless of the individual citizen's political preferences.

Two, there is an increase in violations of civil liberties by non-state actors – be they armed militants, randomly congregated lynch mobs, orchestrated perpetrators of hate crimes with direct or tacit support by those in power, or varied acts of intolerance. There is a tendency, within the civil liberties movement, to distinguish between violations by those who are fighting for the oppressed and those who are agents of a politics of hatred. While this distinction has moral merit it still leads us to a slippery slope and cannot be a justification for saying that some violations are at times 'understandable'.

Three, the urgent need to build a more broad based awareness calls for introspection on why 'ordinary' citizens don't relate to civil liberties issues in an active manner. Why does the civil liberties movement remain largely limited to activists?

Addressing these challenges is not easy. Historically, the civil liberties movement has been synonymous with a particular political position – for example, anti-caste, anti-patriarchy, anti-communal dissension, pro-working class.

This does not mean that we, as

advocates of civil liberties, are unwilling or unable to engage with those who may not agree with us on caste, class and religion politics.

Many colleagues in the civil liberties movement will challenge how this can be possible. How, you may ask, can anyone be a supporter of civil liberties without categorically condemning caste per se and patriarchy in all its forms?

These questions are important and require deep reflection within the movement – provided that our conception of what is 'best' does not become an enemy of the 'good'.

For example, it would be 'best' if we lived in a society where there were no hierarchical or discriminatory distinctions of caste, class and religion. However, since that is not the reality can we strive for the 'good' of reaching out to those who live in the vast in-between spaces that are the essence of India's pluralism.

For instance, there are people who still believe in caste as a form of community but are opposed to atrocities and humiliations inflicted in the name of caste.

There are people who are not ready for a full-scale rejection of patriarchy but do support equal rights for women in many spheres.

There are people who believe that a classless society is not possible, or desirable, but do want to end exploitation of labour.

At its inception PUCL was unique in having a membership that embraced these and many other shades of political position. In some cases, like in Andhra Pradesh during the 1980s, this led to a sharp difference with other civil liberties groups – primarily on the issue of Naxalite violence.

Today the magnitude of threats to the letter and spirit of democracy is such that building a broad based, multi-class, civil liberties movement has become an imperative.

The biggest barrier to this is that many of us believe that it is not possible to separate the politics of any conflict or situation, from its civil liberties challenges.

Kashmir is, at the moment, the most dire illustration of this. The PUCL analysis and condemnation of the manner in which Article 370 was abrogated was accurate and timely.

We must remain true to the statement we issued.

However, why should this stop us from reaching out to people who believe that the abrogation of 370 was necessary but are also disturbed by the human rights and civil liberties violations happening in the Valley.

If we say, or even imply, that anyone who does not condemn the abrogation of 370 is disqualified from speaking about civil liberties -- then we are actually helping the powers-that-be by almost deliberately isolating ourselves to the margins.

The onus of moving out of these margins is on us by reaching out to people with whom we disagree on political direction but may find common ground on basics – such as, no illegal detentions, no custodial torture, no arrests of minors, no curbs on freedom of expression and communication.

In order to do this we may have to introspect on the fixed images that, for good reasons, we carry in our mind. For instance, conventional civil liberties activism is about incidents in which the police are known or suspected to be the offenders. Police persons protesting against assaults on themselves could thus be ignored as just another 'law and order' issue – or worse, a taste of their own medicine.

However, a broad based civil liberties movement will aim to reach out to the human being, the citizen, behind the police person's uniform.

Above all, it is the duty of the civil liberties movement to distinguish the offence from the offender. Our mandate is to oppose and stop the offence while keeping open the possibility of redemption for the offender.

This is difficult to do if we aim to fight larger political battles from civil liberties platforms. On the contrary if political preferences are not a pre-condition for engagement with civil liberties we may find a much wider range of people willing and able to agree on the fundamentals -- unconditional right to life, liberty and dignity for all.

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## Surveillance and the Erosion of Privacy

Geeta Seshu\*

The disclosures of the secret installation of the spyware 'Pegasus' through Whatsapp on the devices of lawyers, human rights activists and journalists was met with outrage but after the initial furore, the issue has slipped away from public consciousness.

Pegasus is perhaps the tip of the iceberg and there are little or no details yet on the extent of the involvement of the military industrial complex in this surveillance. The Israel-based spyware maker NSO Group provided the technology whereby WhatsApp's video calling feature was used to install malware into an iOS or Android device. This could then be used to steal data from the device, from text messages, emails, audio etc.

WhatsApp and the Indian government traded accusations. The Facebook-owned company claimed it had told the government about the hack in May last year and again in September this year. In turn, the Indian government claimed ignorance, saying that WhatsApp's communication was too vague to understand! In the meantime, the data, the privacy and the security of around 121 persons, including prominent human rights activists and lawyers, was seriously compromised.

Across the world, Pegasus targeted around 1400 persons. It was also found in the phone of the slain Saudi journalist Jamal Khashoggi, according to the 'Hide and Seek' investigations by Citizen Lab, the laboratory which works on cyber security and research and is based in the Munk School of Global Affairs & Public Policy, University of Toronto.

Closer home, the targets included human rights activists like Nihal Singh Rathod (a lawyer representing some of the nine activists and lawyers who have been arrested since June 2018), dalit activists Rupali Jadhav and Degree Prasad Chauhan, Chhattisgarh-based lawyer Shalini Gera and human rights activist Bela

Bhatia.

The NSO group said the group had a policy of selling their extremely expensive software only to governments so as to prevent terrorism and crime. While the Indian government denied purchasing the software, it was clearly in the know of the use of Pegasus to target people in India. In May this year, the Computer Emergency Response Team (CERT-In) posted a vulnerability note on its website on the matter, taking it down when the issue blew up.

But now, Pegasus and spying seems to have been forgotten, till the next revelation. But the fact is, surveillance is here to stay.

For long now, we have been aware of the huge surveillance mounted by successive governments in India. In 2016, then Minister for Communications & IT, Ravi Shankar Prasad, told the Lok Sabha that the Central Monitoring System (CMS), which will 'automate the process of lawful interception and monitoring of mobile phones, landlines and the internet in the country', would be set up in a phased manner in Delhi and Mumbai.

NatGrid (the National Intelligence Grid), which has already been set up, is an intelligence database that contains sensitive personal information on all citizens, ostensibly to tackle terror attacks and aid investigations. The problem with such agencies is they are totally opaque. Forget about getting any information about their activities, even questioning their rationale is unheard of. For instance, in September 2019, NatGrid was tasked with collecting information of all citizens who flew on domestic carriers in specific domestic routes. A database is to be created of all such flyers from the Directorate General of Civil Aviation (DGCA), the airlines, and the intelligence agencies!

As it is, the airlines do share the data on international flyers with the Customs department but this watch

being kept on domestic passengers is a new one. Which sectors are 'problematic' and need extra watch is not specified and no prizes for guessing, given all the hotspots and conflict areas in the country!

For those engaged in a civil liberties movement, the struggle to demand accountability and transparency of law-enforcing agencies is a long one. The PUCL, which has been in the forefront of this struggle, had obtained a landmark judgement in the telephone tapping case in 1996. The judgement by Justice Kuldip Singh and SS Ahmad, arose from a PIL filed by PUCL in 1991 in the wake of news reports of telephone tapping of politicians. The petition had sought procedural safeguards to rule out arbitrariness and to prevent indiscriminate telephone tapping. The order clearly established that telephone tapping infringed the fundamental right to privacy and laid down some safeguards against the sweeping surveillance powers of the state.

The 1996 judgement, while stating that the right to privacy was not identified or defined clearly in the Constitution of India, maintained that 'the right to hold a telephone conversation in the privacy of one's home or office without interference can certainly be claimed as "right to privacy". Thus, the order said, 'telephone-tapping would infract Article 21 of the Constitution of India unless it is permitted under the procedure established by law'. Similarly, the right to freedom of speech and expression was guaranteed under Art 19 (1) (a) of the Indian Constitution and a person's freedom to talk on the telephone was an exercise of this right. 'Telephone-tapping unless it comes within the grounds of restrictions under Article 19(2) would infract Article 19(1)(a) of the Constitution,' the order clearly said.

Today, in the Internet age, it is time to revisit and review the judgement. In 1996, the Internet was just entering into Indian homes. Today, online communication with wifi and mobile phones, is in almost every

hand. With more and more communication through electronic devices, with the imminent increase in the use of devices controlled via artificial intelligence, concerns about privacy are paramount. The threat of surveillance by the state on every aspect of peoples' lives and the intrusion of the state and its regulatory mechanisms via Aadhar is already a very real one.

In December last year, the government authorized ten agencies to intercept, monitor and decrypt any information generated, transmitted, received or stored in any computer, a power already granted under Section 69 of the Information Technology Act, 2000 (and the 2008 amendment, along with the rules, - the Information Technology Procedure and Safeguards for Interception, Monitoring and Decryption of Information) Rules, 2009).

These agencies are the Intelligence Bureau, Narcotics Control Bureau, the Enforcement Directorate, Central Board of Direct Taxes, Directorate of Revenue Intelligence, the Central Bureau of Investigation, the National Investigation Agency, the Cabinet Secretariat (RAW), the Directorate of Signal Intelligence (in service areas of Jammu & Kashmir, North-East and Assam) and the Delhi Police Commissioner.

By this order, the earlier rules of intercepting any electronic 'communication' had been extended to any 'data' stored in any computer, which means that these

agencies can seize the device and all the data in it, privacy be damned. In January this year, PUCL had filed a PIL challenging this order (and the constitutional validity of Section 5(2) of the Indian Telegraph Act, 1885, read with Rule 419-A of the Indian Telegraph Rules, 1951, as well as Section 69 of the Information Technology Act 2000 together with the Information Technology (Procedure for Safeguards for Interception, Monitoring and Decryption of Information) Rules, 2009). The PUCL petition drew attention to RTI data that 7500-9000 orders for interception of phone calls and upto 500 orders for interception of emails were passed every month!

The other dimension of surveillance is the huge and untrammelled amount of data mining of citizens. From government bodies to corporate bodies to smaller commercial establishments, everyone has their hand in the till. There is no data protection law as yet and there is no clarity about whether critical and sensitive data should be stored in India or outside (the draft Data Protection Bill categorises 'Sensitive Personal Data' as personal information related to passwords, financial data, health data, sex life, sexual orientation, biometric data, genetic data, transgender status, caste or tribe, religious or political affiliation).

Today, every online transaction can be tracked, browsing histories are tracked and mined for advertising

and personal data is merrily sold by all and sundry. When humans become consumables, just about everyone, from the big corporations to small business establishments, are in the take. Its almost impossible to even trace the origin of the leak of data, leave alone penalize those responsible.

The 2017 Puttuswamy judgement has laid down the contours of infringements on privacy and strongly upheld the right to privacy as it advocated proportionality even in matters of national security. Pegasus is an indicator of the nexus between the government and a private body to spy on citizens. For a brief period, there was some push towards demanding transparency and accountability from both the government and the social media platforms that allowed this invasion. But even this has been overshadowed and pushed out of public view by other events. The challenge to build a strong and sustained campaign against all forms of surveillance in our lives still remains.

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## Undeclared Emergency for the Tribals in the Vicinity of “Statue of Unity” Crisis Area Rohit Prajapati and Krishnakant

For the benefit to and awareness of the society at large, it is pertinent to put on record as to what happened to the dissenting villagers and activists from October 29, 2019 onwards at the site and neighbouring areas of the “Statue of Unity” (SoU) in Kevadia, Gujarat, for the Thursday, 31 October 2019, visit of the Prime Minister Mr Narendra Modi.

In reality, the SoU statue and the related projects in the area, signify,

the miseries and exploitation of Narmada River, Downstream River and her Ecology, Ecological-Flow, Tribals, Downstream Villagers, Livelihood, Social and Environment Justice, Democracy, Forest and River Ecology, Natural Resources, Valuable Human Resources, Public Money, Police Power, Human Rights, Wildlife, Sanctuary, etc.

Since the commencement of the SoU Project in 2013, the then Chief

Minister, Mr. Narendra Modi, seems to have an undeclared open policy to subvert the constitutional norms, especially the livelihood of Adivasis and environment laws. The entire project has been divided into various sub projects for their phase wise implementation, hence paving the path for the private players to completely bypass the Environment Impact Assessments, Environment Clearances, and Social Impact Assessments.

As if the Statue of Unity” (SoU) area is now not part of India, and therefore, these Indian laws, viz.,

1. The Wildlife (Protection) Act 1972;
2. The Environmental Impact Assessment Notification 2006;
3. The Environment (Protection) Act 1986;
4. The Wetlands (Conservation and Management) Rules 2010;
5. The Solid Waste Management Rules, 2016;
6. The Water (Prevention and Control of Pollution) Act, 1974;
7. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, etc. – are not applicable. When we had earlier reminded about these lacunae, there was no response.

While the Statue of Unity Tourism Projects might be considered as a dream project, in reality, these projects are nothing but projects, which will rob the home, land and livelihood from the tribals, adversely affect the Narmada River, Shoolpaneshwar Sanctuary, biodiversity of the area, downstream river, and the ecology of the area.

The State has adopted a multifaceted approach of complete surveillance, intimidation, and censorship of the local villagers and some concerned citizens. These two groups of Indian citizens are either impacted by the SoU and related projects or are analysing their impacts on grounds of environment protection, livelihood of indigenous residents, and subversion of the constitutional mechanisms. In effect, it is the Government and State supported non-state actors who are constantly creating an atmosphere of terror so that the six + villages that will be affected by the SoU and related projects are vacated “voluntarily”. There are five major aspects that have now become a norm in Kevadia and in the SoU area, which violate all basic principles of human rights, freedom of expression, freedom of movement, etc. These are:

1. Any official visit of the Chief Minister, the Prime Minister and/or any politically significant individuals, leads to an atmosphere of undeclared curfew with a large deployment of police security personnel. This time, there were also senior officials from Gandhinagar and Delhi to create atmosphere of terror and intimidation, restricting the everyday life and routine movements of the local residents. Detentions, House Arrests, and Open Air Prison have now become a way of life for the locals, coupled with filing of false FIRs on trumped up charges and most villagers' houses under vigilance.
2. With the increase in government, official, and/or government sponsored visits taking place; restrictions for the local residents are also increasing. These local residents are unsure of their future, and these uncertainties are restricting their activities regarding livelihood, any repairs to their homes, or even building toilets; under the fear of their homes, land, and livelihood being usurped any day by the government. “We don't know if we are inside or outside,” said a local resident who was detained recently. The police now directs, informs, and/or threatens the local villagers to ensure that no “outsider”, meaning activist or non-resident critical person, is allowed to step in and around this area.
3. Press censorship has taken a new form here. Journalists, especially those who want to report on the ground situation have no access to immediate information; a situation is created where journalists are not allowed access to the area and kept away from those who are detained. There is no information blackout per se, but authorities ensure that no information is passed further.
4. The government has ensured complete dismantling of support system of the Adivasis

by way of systematically building up atmosphere of intimidation and terror in the area. When we question this, the top officials say, “We have to follow the dictates from the top – Delhi, we are not going by the law here.”

5. There is now an intimidating atmosphere 24 x 7 in the villages. Constant vigil is increasing and is compelling the locals to resort to self-censorship, with public support weaning away. Those who supported the locals earlier, now mention words of caution or ease away from the protest activity.

**We would now want to put on record the happenings on October 31, 2019:**

On the morning of 31 October, a few local Adivasi (men and women) including Lakhan Musafir, a supporter of the local residents, started walking alongside Narmada River, 5 + Kms. away from Statue of Unity with the locals, raising slogans, wearing paper caps which had slogans written on them and a few placards with slogans – ‘We will not leave our river, we will not give our land.’ There was no intention to disturb the official function at the Statue of Unity or to go towards the road to disrupt traffic or peace. The entire protest was happening in a peaceful manner. The Adivasis took the soil from the fields into their hands to say that they are protecting their lands and River Narmada. They held the soil in their hands while they were walking alongside the river through their private land.

Local Crime Branch (LCB) as well as Police officers who were instructed to not allow any protest got to know about this and they came and asked the Adivasi to stop. Even filming of the protest was not allowed and phones were forcefully made to be switched off.

At no point did any of the protesters push and shove the officers present. Instead, they cooperated with them peacefully when the police told them that they were being detained. In all 10 men and 40 women were arrested while

protesting peacefully.

They were taken to Narmada Police Headquarters JeetNagar at Rajpipla where already 8 activists were illegally kept in detention from the 30 October afternoon. These activists included Rohit Prajapati and Krishnakant (members of PUCL), and Dr Praful Vasava, Ramkrishna Tadvi, Shailesh Tadvi, Narendra Tadvi, Jikubhai Tadvi, and Naresh Tadvi.

Surprisingly, the police made the PUCL members to switch off their phones as soon as they were taken into detention on 30 October afternoon at 1.45 p.m. However, none of the other activists were asked to hand over phone or were disallowed use of the phone. Thus, the police was arbitrary in its behaviour.

While FIR (Sections - 143, 147, 186, 353, 504, 506 (1)) was filed against those men arrested protesting on 31 October, the women were let off without any case being registered. Subsequently, when the group was produced before the magistrate, on 1 November, court denied request for 5 days remand and granted bail to them. Again, the very same people were slapped with sec 107 and 151, kept in lockup for another night, and produced before the Garudeshwar Mamlatdar next day, 2 November, thereby illegally extending their custody. The mobile phones of Lakhan Musafir and Sudhamshu Mitra, researcher from Bangalore, were taken in custody on 30 October 2019, and returned on 1 November 2019, were again taken in custody and their phones

were not returned back after their release. They are asked to approach the court for that.

The activists who were detained on October 30, 2019, were produced before the Rajpipla, Kevadia, and Garudeshwar Mamlatdar on 1 November 2019 in the afternoon, i.e. more than 50 hours after the illegal detention and granted bail.

Throughout all of this, the Police officials continued to mention that '*these are orders from above and they can't do anything*'.

The arrested people demanded multiple times to get the lockup cleaned. They also offered to clean the lock up since it was dirty with gutka spitting on all sides and the toilet were dirty and unhygienic. After multiple requests, they finally got the lock up cleaned a bit.

Those who were arrested, demanded for a copy of the FIR multiple times. They were directed to fill an application for the same and that the copy cannot be given just like that. The police officials said they could check for it online. When asked if the Police officials can show how to access it, the detainees were verbally pacified but were not guided as to how to access the FIR online. No documents were given from the police at all.

Overall, it was an effort to keep the peaceful protestors in the lock up without any due process. Surprisingly the FIR states, "A group of ten men (against whom the FIR is filed) stood together, forming an illegal group started protesting against the police with their raised clenched fists,

threatening the police, and stating, "we will see you all". They prevented the police from carrying out their official duties, got into an altercation with the police and abused them." We would like to state unequivocally that these allegations are untrue and baseless.

Everybody knows that there was a posse of at least 8,000 – 10,000 police personnel with senior officials. How could ten unarmed, defenceless men, who were detained threaten, raise voices, abuse, and form an illegal association – is the moot question that needs to be recognized and answered by the authorities. Raising slogans for protecting river, forest, their land is no crime or offence.

The State has adopted new forms of intimidation and an atmosphere of extreme fear is increasing day by day. The Adivasis are practically living under the enigmatic surveillance and in Undeclared Permanent Emergency.

Having shared the above information, we ask the governments in power, the opposition, and the larger Indian society:

- A. Whether we were wrong in raising our dissent?
- B. Whether arbitrary and highhanded actions of the governments in power justifiable? and

What kind of development and India do we want to see and shape, now and in future? □

#### **PUCL Karnataka:**

*The following piece which puts together two key extracts from a recent PUCL Karnataka Report on Manual scavenging. The first extract calls upon the human rights movement to work towards ending such abuses and the second extract, highlights that a broader societal transformation can only be based upon a historic accounting of both Indian state and society for the crimes committed against those in manual scavenging. The section argues that there needs to be a commitment to remembering both the suffering inflicted upon the community as well as the heroic resistance of the community. - Arvind Narrain*

## **A Millennial Struggle for Dignity: Manual scavenging in Karnataka<sup>1</sup>**

In the Karnataka context, the PUCL-K has been working on the issue of persons in manual scavenging since 1995. PUCL-K has done 22 fact findings and brought 74 deaths of persons in manual scavenging to the attention of the state authorities. In spite of

this effort, Dalits continue to die while cleaning manholes.

In most societies, horrific deaths such as these would have engendered a form of self-examination, where the society looks at itself in the mirror and says "never again"! However, in the

Indian context, death has followed death, and society seems unable or unwilling to prevent these deaths. In fact the silence of Indian society to the spate of these continuing deaths itself constitutes the crime.

We extract below two parts of an exhaustive PUCL-K study. The first

extract calls upon the human rights movement to work towards ending such abuses and the second extract, highlights that a broader societal transformation can only be based upon a historic accounting of both Indian state and society for the crimes committed against those in manual scavenging. The section argues that there needs to be a commitment to remembering both the suffering inflicted upon the community as well as the heroic resistance of the community.

**Human Rights movement and sanitation work:** Ignoring the violence of society was always unconscionable in the Indian context, as the violence faced on grounds of caste and gender has its roots in societal stereotypes. In the 1990s, the emerging women's movement and the Dalit movement took the civil liberties groups to task for being indifferent to societal violence, and, in response, human rights groups began to change their position. Massacres of Dalits by dominant castes, which are an unfortunate, albeit essential, part of contemporary Indian history, be it in Kilvenmani (1968) Karmachedu (1985), or Tsundur (1991), only reinforced the point that a human rights group in India necessarily had to address societal violence, especially on grounds of caste and gender.

This dilemma on what was the proper provenance of human rights activism is not unique to India. In the US, for example, it was the pioneering work of Martin Luther King that advocated the expansion of the sphere of what was "human rights," beyond a traditional "civil rights" framework. In the final years of his life, the nationally renowned, Nobel Laureate Martin Luther King threw himself behind a local strike by sanitation workers in Memphis, Tennessee. The strike originated because two sanitation workers in Memphis were eaten up by a garbage composter, and these deaths were the final straw for the sanitation workers who had been agitating for higher wages and better work conditions. King lent his wholehearted support to the Memphis sanitation workers strike, because he was convinced that the civil liberties movement needed to

broaden its mandate to include matters of social and economic justice and encompass the demands of the poor. It was during this final phase of Martin Luther King's life that he broadened the mandate of the civil liberties to include advocacy on behalf of America's poorest citizens as well as his advocacy against the Vietnam war, which generated a fierce backlash. King was assassinated during his support of the sanitation workers' strike in Memphis on 4<sup>th</sup> April, 1968. King's point, which his assassin hoped to obliterate, was that for human rights to be relevant, one had to include both issues of social and economic justice.<sup>2</sup>

In the Indian context, while civil liberties groups have broadened their perspective to look at "caste atrocities," they have still not taken seriously the human rights violations committed on sanitation workers who are at the bottom of the hierarchies of caste and labour. This would mean that both caste and labour should become integral to the analytical framework of human rights groups, and the violation of human rights based on one's position at the bottom of the intersection of the caste and labour hierarchy should begin to matter. In short, the call is for human rights groups to demonstrate a "public conscience". In Ambedkar's words, 'Public conscience means conscience which becomes agitated at every wrong.... yet I have very seldom found anybody not belonging to the Scheduled Class taking up the cause of the Scheduled Class and fighting, and why? Because there is no "public conscience."<sup>3</sup>

**Memory, Truth and Non Recurrence: A Transformative Journey:** The fact that the practice of manual scavenging has continued over centuries is evidence of a deep rooted disregard and contempt for the human rights of sanitation workers. The continuance of this practice inspite of the coming into force of the Constitution and enactment of various legislations points to its deep roots in the Indian socio-economic structure. Indian society has enacted a willful forgetting of

the continuing state of humiliation that the practice of manual scavenging inflicts upon the sanitation workers in India.

Ambedkar captured what this meant in a poignant note titled "Frustration", which was both deeply personal as well as a form of collective reflection on what accounted for the feeling of hopelessness about the situation of the "untouchables".

The Untouchables are the weariest, most loathed and the most miserable people that history can witness. They are a spent and sacrificed people. To use the language of Shelley they are—

"pale for weariness of climbing heaven,  
and gazing on earth,  
wandering companionless  
Among the stars that have  
a different birth"

To put it in simple language the Untouchables have been completely overtaken by a sense of utter frustration. As Mathew Arnold says "life consists in the effort to affirm one's own essence; meaning by this, to develop one's own existence fully and freely, to have ample light and air, to be neither (. . . . .)\* nor overshadowed. Failure to affirm one's own essence is simply another name for frustration. Its nonfulfilment of one's efforts to do the best, the withering of one's faculties, the stunting of one's personality."

Many people suffer such frustrations in their history. But they soon recover from the blight and rise to glory again with new vibrations. The case of the Untouchables stands on a different footing. Their frustration is frustration for ever. It is unrelieved by space or time.<sup>4</sup>

Even as Ambedkar is outlining the reasons for frustration both individual and collective, we get a clue as to the path to the future. The way to break through collective frustration is by developing a sense of history out of which a possibility of a different future can arise. Its

only when your situation of domination is undimmed by either "space or time" that frustration is the inevitable condition of an existence, sealed and hermetic. The moment the condition of the "untouchables" become a part of historical time, with its vibrations and shifts, new possibilities emerge. The moment the condition of the untouchables can be seen within a global history of persecution and resistance, the gloom is relieved.

Ambedkar invokes Emerson's notion of a "plus condition of body and mind". Emerson meant that success is due to a combination of bodily faculties combined with mental faculties. In Ambedkar's rendering, the social environment deprives the "untouchables" of the "right to cultivate [their]..faculties" by forcing them to "labour so that another may abound in luxuries". It is the social environment which is the cause of "frustration". As he concludes:

We can now explain why the Untouchables have suffered frustration. They have no plus condition of body and mind. They have nothing in their dull drab deadening past for a hope of a rise in the future to feed upon.<sup>5</sup>

The past must be generative of a future. If the history of the "untouchables" is nothing but a "dull, drab, deadening past", then a leader must look elsewhere. In Ambedkar's note, "Frustration", we see the outline of a politics of hope based on the invocation of Shelly, Arnold and Emerson. It is the task of activism to cultivate an imagination which (like Ambedkar's poignant invocation of Shelly) climbs to the heaven and gazes on earth even if it has to "wandering companionless, among the stars that have a different birth." Ambedkar's note tells us that in the absence of a history of resistance of one's own community, one has to constantly broaden the idea of the collective self through the imagination which must be nourished by poets and writers as well as histories of resistance such as the resistance of the Jews in ancient times. It is only then that a path to the future will emerge. The

tragic suicide ( or what what has been more aptly called institutionalized murder) by Rohit Vemula in 2016, again speaks to the inordinate frustration of a young Dalit man while at the same time invoking a world which may have been.

As he put it in his suicide note:

"The value of a man was reduced to his immediate identity and nearest possibility. To a vote. To a number. To a thing. Never was a man treated as a mind. As a glorious thing made up of star dust. In every field, in studies, in streets, in politics, and in dying and living".<sup>6</sup>

In this bleak and difficult situation where does hope lie? In the context of the sanitation workers, hard as their condition is, there is an inspiring history of resistance which is slowly being unearthed, which must be built on. There is a need for a societal coming to terms with the nature and extent of the collective humiliation imposed upon sanitation workers and those in manual scavenging. One has to pay careful attention to histories of persecution and outline societal responsibilities for unacknowledged crimes which continue right into the present.

This must take the form of a "right to truth" to be realized by sanitation workers. The right to truth as per the United Nations has four components, truth, justice, reparation and guarantees of non-recurrence. To address the four dimensions, the United Nations Human Rights Council has appointed a Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence.

Society must firstly acknowledge the nature and gravity of violation of the rights of those in manual scavenging. One way of acknowledging the extent and gravity of violation is through the rendering of an apology by the state to those in manual scavenging. The apology is for the non fulfilment of a constitutional promise made in 1950, that all persons were born free and equal in dignity and rights. The continuance of the practice of manual scavenging is a violation of the right to equality and dignity and

the State must apologize for the same.

Apology only has meaning if the State takes steps to ensure that such violations do not recur. To ensure that violations do not recur, the starting point is the recognition of manual scavenging as a form of violation of human rights. Unfortunately, the reality of what sanitation workers go through is ignored by both wider society and the state. It is a form of wilful forgetting of the humanity of sanitation workers. To build a collective memory around issues society would rather forget requires a range of interventions by the state including the setting up of museums devoted to Dalit history and the history of sanitation workers, changes in educational curriculum, the erection of statues of sanitation workers as well as use of media to publicize the struggles of sanitation workers. All of which will go towards building a people's knowledge of the history of the oppression of sanitation workers as well as the resistance to that oppression as part of its heritage.

In India there is a long way to go as the heroic struggle of sanitation workers has been largely unwritten and hence remain unknown. In this context, one of the paths to building this history is the path breaking work of Tanika Sarkar<sup>7</sup> who has documented the struggles of Calcutta sanitation workers and Vijay Prashad<sup>8</sup> who has similarly documented the history of sanitation workers in Delhi.

Workers struggles in other parts of the world has succeeded in memorializing the otherwise invisible labour of sanitation workers. For example in Paris, the sewer men's union was successfully in lobbying the state to build a large monument in Pere Lachaise to "honour sewer men and other municipal workers who died from work accidents".<sup>9</sup> Today in Paris one can take a tour of the Paris Sewers or visit the Paris Sewer Museum to understand the labour that built Paris.<sup>10</sup>

Only by acknowledging and memorializing the wrongs of the past and recognizing the heroic struggles against injustice can a more just future be built. It is

imperative that we build a link between an unjust past and a more just future by acknowledging in full the complicity of both society and state in legitimizing and authorizing the continuation of the practice of manual scavenging. □

#### References:

<sup>1</sup>The whole report is available at [http://puclkarnataka.org/wp-](http://puclkarnataka.org/wp-content/uploads/2019/06/ManualScavengingReport_May-25-Final.pdf)

[content/uploads/2019/06/ManualScavengingReport\\_May-25-Final.pdf](http://puclkarnataka.org/wp-content/uploads/2019/06/ManualScavengingReport_May-25-Final.pdf)

<sup>2</sup>See Michael Honey, *Going Down Jerico Road: The Memphis Strike, Martin Luther King's last campaign*, W.H. Norton, New York, 2007.

<sup>3</sup>Narake Hari, ed, *Dr. Babasaheb Ambedkar Writings and Speeches*, Vol-20, pp.445-55.

<sup>4</sup>Vasant Moon, Ed., *Babasaheb Ambedkar: Writings and Speeches, Vol XII*, Mumbai, Govt of Maharashtra, 2014, p. 733.

<sup>5</sup>Ibid.

<sup>6</sup>Rohit Vemula, "My birth is my fatal accident", 17 January, 2019, *The Wire*, <https://thewire.in/caste/rohith-vemula-letter-a-powerful-indictment-of-social-prejudices> (Last accessed on 2.04.19)

<sup>7</sup>Ibid

<sup>8</sup>Ibid

<sup>9</sup>Donald Reid, op.cit. p.153.

<sup>10</sup>Durant Imboden 'Museum des égouts de Paris'<https://europeforvisitors.com/paris/articles/paris-sewers-museum.htm> (Last accessed on 25/10/2018) □

People's Union for Democratic Rights (PUDR)

## 90 Days of Lockdown in Jammu and Kashmir

5<sup>th</sup> November 2019 marks the 3-month lockdown of Jammu and Kashmir after the BJP government abrogated the special status of the state under Article 370 and 35A. The BJP government at the centre is projecting the transition into the new set up as absolute "normalcy". Fact findings conducted by various civil society groups point to a terrifying situation. The aim of the BJP government seems to be to suppress Kashmiris into surrendering their demand for self-determination by suspending their political rights and putting their livelihoods and social life at stake. We bring attention to critical findings during the last three months that raise questions on this state of "normalcy".

**1. Illegal Mass Detentions and Disappearances:** Over 4,000 people including political leaders of opposition parties, lawyers, ordinary people and at least 144 minors have been illegally detained, many under Public Safety Act, with no access to judicial recourse, all in the name of "national security". Reports have emerged of children as young as 9 years old having been detained. Many of the local level leaders and prominent citizens have been illegally and secretly transferred outside J&K jails. Friends and families continue to have no information on their whereabouts. Habeas corpus petitions, which under law demand immediate hearing as a fundamental right, even outside court hours if need be, have been deferred for two months

or longer by the J&K High Court. In some cases people have been released on the execution of a "community bond", that they will not participate in any activity or assembly or speak out in any way against the abrogation of Article 370.

**2. Daily Harassment:** People in Kashmir are forced to stay inside their houses and are harassed if found outside. Fact-finding teams have reported security forces' frequent harassment of young women in the streets including pulling off their niqabs. Most of the schools even after their formal reopening are devoid of students, bearing witness to parents who fear for their children's lives as pellet guns continue to be an everyday reality. Thousands of residents were evacuated from their homes and villages as retaliation against the attack on five Bengali migrant workers in Kulgam on 29<sup>th</sup> October. In order to hide its weakness instead of finding the truth behind the killing of migrant workers, the government is harassing local residents.

**3. No Access to Information or Communication:** With no internet, wi-fi and mobile phone services, people are unable to access various economic, social and health facilities. Only landline services and postpaid connections have been restored which covers a few thousand families. Most of the local newspapers and media houses within Jammu and Kashmir continue to be non-functional and the journalists can use the internet

for a meagre 15 minutes in the government established media centres.

**4. Breakdown of Economy:** Two mainstays of Jammu and Kashmir's economy have been tourism and apple cultivation and trade. The evacuation of tourists from Kashmir in early August and cancellation of the Amarnath yatra has caused a serious dent in revenues from tourism. The apple economy, which contribute to the 75% of India's production, with an annual turnover of Rs. 1200 crores too has been severely hit. With markets shut down and communication restrictions, farmers, pickers, packers, traders, truckers have all suffered, particularly in major apple-producing districts such as Baramulla, Kupwara, Shopian, Kulgam and Pulwama, cumulatively leading to a loss of over Rs.10,000 crores over the past three months.

'Normalcy' in J&K as being propagated by the BJP Government nothing but a sham disguising unprecedented crackdowns on civil liberties, disappearances, illegal detentions and sexual violence, a collapse of livelihood and movement, under conditions of enforced secrecy.

In this situation PUDR demands that:

1. The statehood of Jammu and Kashmir be immediately restored and no decision on its status and future be taken outside the will of Kashmiri people.

2. All political prisoners and all those detained under PSA be immediately released
3. The communication blackout be ended immediately.
4. The accountability of state functionaries be ensured, for continued violations of the civil liberties and human rights of the people of Jammu and

Kashmir.  
**Shahana Bhattacharya and Deepika Tandon**  
 Secretaries, PUDR  
 4<sup>th</sup> Nov 2019 ☐

Press Statement: 31<sup>st</sup> October, 2019

## **Killing of Migrant Workers & Others by Militants in the Kashmir Valley Condemned Citizens For Democracy Condemning Violence by Militant in the Valley**

*Citizens For Democracy* (CFD) is shocked to learn about the inhuman killings of five migrant laborers by militants on 29<sup>th</sup> October, 2019 in Kulgam in the South Kashmir. Another one is injured. The victims were poor, belonged to Murshidabad in West Bengal and had come to the valley to earn their livelihood. It is shocking that besides the said migrant laborers, the militants had killed four truck drivers, a trader from Punjab, and a migrant laborer from Rajasthan in the past two weeks. The total number of victims thus in this period is 12. This senseless cruelty and violence on the part of the militants must be condemned by one and all. The militants by their violent activities

are not only depriving the innocent persons of their civil liberties but also harming the cause of freedom and democracy in the valley. By such violent activities the militants are strengthening the repressive machinery of the state and providing a semblance of justification to the government to assume more and more arbitrary powers. Ultimately peaceful democratic people's movement alone can emerge victorious. Even if the government does not allow peaceful processions and demonstrations there are ample ways to register people's protests in peaceful ways. The militants have no justification to take the law in their hands which tantamount to bring more miseries and death to

the innocent people and is proving to be counter-productive to the people's movement.

We therefore urge upon all concerned to condemn such violence on the part of the militants and ensure that movement of the people for their rights remain entirely peaceful and non-violent. We also appeal to the state machinery to restore civil liberties and democratic rights of the people of Jammu, Kashmir and Laddakh to the same stage as they were before abrogation of article 370 which, in any case, require to be reinstated and respected.

**S.R Hiremath**, Chair Person;  
**N.D.Pancholi**, General Secretary;  
**Anil Sinha**, Secretary - *Citizens For Democracy* ☐

## **No to RCEP: India must Walk Out of Ongoing Negotiations is the Overwhelming Demand from Farmers and Movements Organisations**

**New Delhi, November 4:** The news that India is holding up the proposed the Regional Comprehensive Economic Partnership (RCEP) is clearly due to awareness created and pressure mounted by farmers' organisations, *People's Movements*, conscientious experts and concerned citizens. Rather than waking up at the eleventh hour the Modi Government should not have participated in the negotiations in the first place. This 16-nation Free Trade agreement poses a grievous threat to the lives and livelihoods of farmers, milk producers, workers, and toilers who sustain and nurture India's economy. Industry Associations, Trade bodies and the corporate interest behind them would, of course, support such an agreement. The

moot point is Free trade agreements are in no way "free" for farmers, Adivasis, Dalits, workers and others who live off their sweat and blood. It is a myth to believe that the 'rising tide of trade will lift all boats' or that trickle down works. Every serious research study and report has only shown the wealth gap is continuously increasing and wealth is only sucked upwards.

The last minute wake up of the Modi government, given its track record of working overtime for corporate interests may only be a ploy for damage control. This government has thus far proved that what it says and does with fanfare, it doesn't really mean to do, and what it really means to do it does slyly and in the darkness of the night. If the government is really serious it should hold consultations with

people and organisations whose lives and livelihoods will be affected.

Economy is already going through a downturn and creating extreme hardships with no jobs, continuing job losses, precarious agriculture production due to incessant rain and draughts. The RCEP negotiations under the pressure of China and other countries will flood the Indian market and will impact the small and marginal businesses and manufacturers and also hurt farmers, diaries, cooperatives and so on.

Today farmers groups and peoples movements held protest demonstrations across the country at nearly 500 places and sent a clear message that government of India must desist from signing anti people RCEP and withdraw from it

completely. National Alliance of People's Movements urges the government to listen and undertake steps to revive the economy and compensate the farmers and workers for crop loss and increase allocations for NREGA, ensure remunerative prices for farm and dairy produce and so on.

Numerous suggestions have been given by the coalitions of movements from time to time but government has failed to act on those. We condemn any move by the Prime Minister Modi to push India towards signing RCEP agreements.

**Medha Patkar, Narmada Bachao Andolan (NBA) & National Alliance**

*of People's Movements (NAPM); Aruna Roy, Nikhil Dey, Shankar Singh, Mazdoor Kisan Shakti Sangathan (MKSS), National Campaign for People's Right to Information, NAPM; Dr. Binayak Sen, Peoples' Union for Civil Liberties (PUCL) and others. National Alliance of People's Movements (NAPM) □*

**Note:** Over the last decade, we have been witnessing increasing attacks, including murderous assaults, on environmental activists and ecological rights defenders all across India. There is no shortage of ecological issues or environmentally destructive projects and practices in different parts of India. What is very worrying is that the governments, both Central and State governments, have been targeting anyone raising issues of environmental concerns, as anti-development, anti-growth and therefore anti-national. We witnessed some of the most ludicrous examples of misuse of draconian laws when the anti-sedition law of sec. 124A, IPC was invoked against school children of villages in Tirunelveli district of Tamil Nadu, who were holding placards raising concerns about the setting up in their area of the atomic power plant in Koodankulam in Tirunelveli district of Tamil Nadu. The amendment of the UAPA Act in 2019, permitting the government to name individuals as "terrorists" making it easier to dub environmental activists as anti-development, anti-growth and anti-national, and therefore to be arrested under both sec. 124A IPC as also under UAPA. It is in this backdrop that the agreement between the Office of the UN High Commissioner for Human Rights and the UNEP assumes importance. We are carrying below a statement issued by the Office of the UN High Commissioner for Human Rights.

## **UNEP, UN Human Rights Office Sign New Agreement, Stepping Up Commitment to Protect The Human Right to a healthy environment, 16<sup>th</sup> August, 2019**

- *UN Environment Programme and UN Human Rights chiefs formalise new partnership to protect environmental and human rights*
- *Strengthened cooperation aims to drive better protection of environmental human rights defenders and their families*
- *Agreement will seek to increase support for national implementation of human rights-based environmental policies*

GENEVA (16 August 2019) – As threats to individuals and communities defending their environmental and land rights intensify in many parts of the world, the UN Environment Programme (UNEP) and the UN Human Rights Office have prioritised efforts to promote and protect environmental and human rights with the signing today of a new cooperation agreement.

The heads of the two UN bodies agreed that although more than 150 countries have recognised the human right to a healthy environment in their constitutions, national laws and jurisprudence, or through regional agreements, significantly more work is needed to

inform policy-makers, justice institutions and the public on the various ways they can take action to uphold this right.

Strengthened cooperation between UNEP and the UN Human Rights Office will aim to drive better protection of environmental human rights defenders and their families, who frequently face violence – including killings and sexual violence, smear campaigns, and other forms of intimidation.

The partnership will also encourage greater acceptance by leaders and governments of the human right to a healthy environment pursuing efforts toward its global recognition. It will seek to increase support to national governments to promote human rights-based policies, particularly in terms of sustainable management of natural resources, development planning, and action to combat climate change.

The two organisations will now work more closely to monitor threats against environmental rights defenders; advocate for better protection; urge more effective accountability for perpetrators of violence and intimidation; develop networks of

environmental human rights defenders and promote meaningful and informed participation by rights defenders and civil society in environmental decision-making.

"A healthy environment is vital to fulfilling our aspiration to ensure people everywhere live a life of dignity. We must curb the emerging trend of intimidation and criminalisation of land and environmental defenders, and the use of anti-protest and anti-terrorism laws to criminalise the exercise of rights that should be constitutionally protected," UNEP Executive Director Inger Andersen said at the signing in Geneva.

"UNEP and the UN Human Rights Office are committed to bringing environmental protection closer to the people by assisting state and non-state actors to promote, protect and respect environmental and human rights. In doing so, we will move towards a more sustainable and just planet," she added.

"Our planet is being recklessly destroyed, and we urgently need stronger global partnerships to take action to save it," said UN High Commissioner for Human Rights Michelle Bachelet. "We call on

leaders and governments to recognise that climate change and environmental degradation severely undermine the human rights of their people, particularly those in vulnerable situations – including the generations of tomorrow.”

“We encourage every State to develop and enforce national legal frameworks which uphold the clear linkages between a healthy environment and the ability to enjoy

all other human rights, including the rights to health, water, food – and even the right to life,” she added. “We also strongly encourage greater recognition that the actions and advocacy of environmental human rights defenders are deeply beneficial to all societies. They must be better protected against the threat of violence and intimidation.”

Reports suggest that more than three defenders were killed across

the world every week in 2018. The latest death toll highlights the ongoing dangers facing those who are defending their environmental and human rights in the mining, logging, and farming sectors as well as other extractive industries.

**Courtesy: UN Office of High Commissioner for Human Rights.**

URL: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24895&LangID=E> downloaded on 23<sup>rd</sup> August, 2019 □

Courtesy: The Leaflet 14<sup>th</sup> November, 2019

## Highest Judicial Office Under RTI Purview: An examination of the Positives and Creative Tensions in the Constitution Bench's Opinion<sup>1</sup> Venkatesh Nayak\*

*“To be, or not to be, that is the question:  
Whether 'tis nobler in the mind to suffer  
the slings and arrows of outrageous (RTI applications) fortune,  
or to take arms against a sea of (information requesters) troubles  
and by opposing end (their right to know) them.”  
(with apologies to Shakespeare for a poor parody of his creative genius and Hamlet-  
the brooding Prince of Denmark).*

Unlike his contrarian predecessor, the present Chief Justice of India, Ranjan Gogoi has, in concert with four brother Justices, declared his august office, covered by the RTI Act. In its 15<sup>th</sup> year of implementation, this **unanimous opinion** of the Constitution Bench (CB) strengthens the transparency law in many ways and paves the way for bringing another constitutional authority, namely, the Governor of a State under its compass. That question of law opened up twelve years ago through an RTI application penned by a former Union Defence Minister when he was the Leader of Opposition in Goa. Although the appeal case itself has been dismissed and the applicant is no longer with us, the Apex Court is yet to constitute another Bench to answer this important question of law.

In the latest case that the CB has decided, the RTI applicant Subhash Chandra Agarwal's, the wait was not any less protracted. Three of his RTI applications, which formed the subject matter of the dispute are more than a decade old. Curiously, two of them have been referred back to the Apex Court's Public Information Officer (PIO) for making a decision in accordance with the expansive procedures laid down by the law and the principles of

interpretation explained by the Bench collectively and by Justices Ramana and Chandrachud, individually. Whether or not the information continues to have any currency, the RTI applicant will have to tell us. Will he move the Courts again this time on questions of fact, if the PIO rejects the requests after following due process, is a moot question. The struggle for transparency even in the judicial realm is not any easier than it is in the executive sphere, going by the experiences of millions of private citizens.

Leaving the facts of the three cases aside, the **common and individual opinions** penned by the Justices clarify several interpretational matters for the benefit of both the seekers and holders of information. However, in some respects, they also pose serious challenges to the already well-established understanding of the interplay between the right of access to information and the grounds for rejection of such access. In a couple of places, lay readers are likely to end up in confusion about the seeming divergence of views between the common opinion and the individual opinions of the Justices. In this piece, I hope to illustrate these issues in brief in order to encourage the readers to negotiate the 250-page long judgement to make their own

determination about the import of this judicial milestone of sorts.

Let us start with the many positives for which the judgement deserves unqualified appreciation. **First**, despite not intending it to be so, because the facts of the cases related to accessing information from a State institution, the explication of Section 2(f) is a very welcome jurisprudential development. While the first limb of the definition of 'information' brings within its scope a wealth of forms in which information may be held by a public authority, such as samples and models of materials used, in addition to conventional records, logbooks, reports, written opinion and advice, electronic data and emails, it also includes information that a public authority may access from any private body under the provisions of any other existing law.

The CB's conjunctive interpretation of the term 'information' and "right to information" which is "under the control" of a public authority clarifies that it has a duty to collect information about a private hospital, school, shop, hotel, firm or factory, under lawful authority of course, and furnish it to an RTI applicant in accordance with the Act's provisions even though such information was not held in material form in its records at the time of receiving the request. This

provision has not been used to the fullest and wherever attempts were made, PIOs often resisted the performance of such duties. This judgement is a potent tool in the hands of RTI applicants who would like to make private entities that are not directly covered by the Act, more transparent about their activities.

**Second**, both the **common and individual opinions** of Justice Chandrachud contain a very detailed discussion of how to interpret “public interest” in the context of disclosure of information which is rejected by a PIO by invoking one or more grounds listed in Section 8(1) of the Act. Readers familiar with the RTI Act will recall, ten clauses in Section 8(1) contain more than 30 grounds on which information sought by an RTI applicant may be legitimately refused. However, these exemptions are subject to a later clause that requires even such information to be made public if by so doing the larger public interest will be served better.

Justice Chandrachud's opinion, in particular, builds upon the gold standard of interpretation of how to balance competing public interests favouring transparency and continued confidentiality that Justice P. N. Bhagwati (as he then was) developed in *S. P. Gupta vs President of India & Ors.* in 1981. Not only is this portion of Justice Bhagwati's opinion highlighted for the benefit of the reader, a non-exhaustive list of factors that must be taken into consideration while performing such a balancing test is also underscored. Factors such as likelihood of disclosure causing embarrassment to the Government – a criterion that continues to guide the labelling of official records as “secret” or confidential” within the Government, or the RTI applicant's likelihood of misunderstanding or misinterpreting the contents of a record or the high seniority of the author of an official record are all irrelevant considerations for the purpose of applying the “public interest test”.

The Department of Personnel and Training which often loses no time in sending out circulars highlighting regressive interpretations of the RTI Act contained in occasional judicial pronouncements would do well to show similar enthusiasm in circulating these portions of the judgement to PIOs, First Appellate Authorities and Information Commissions. This will go a long way in shedding ossified practices of denying access to information on

such frivolous grounds.

**Third**, the **common opinion** consigns to the dustbin of history, the penchant of public authorities and even many an Information Commissioner to refuse to treat an individual's quest for justice by seeking information, as a matter of “public interest”. All five Justices have agreed that public interest has “no relationship with the number of individuals adversely affected by disclosure or the number of individuals wanting such disclosure. The decision will vary depending upon how the public interests in maintaining the exemptions will be balanced with those favouring disclosure depending upon the facts and circumstances of every case.

Some readers might scorn at this 'case-to-case' approach as it lends no fixity to the concept of “public interest” but that indeed is the inherent strength of the method. It is not based on treating an entire class of information as being exempt for all time to come. What matters ultimately is the effect of disclosure—the facts and circumstances of each case— will it harm a public interest already listed in the exemptions or be beneficial to the public interest or remain neutral. Only the first effect requires continued confidentiality. The common and individual opinion of Justice Chandrachud provides very useful guidance to public authorities in this regard, if only they were to read it intently.

Now moving on to the challenges and confusion that the judgement poses to the implementation of the RTI Act. Much has already been said and will continue to be said about the interface between the fundamental rights to privacy and to access information from public authorities—both being judicial discoveries as Part III of the Constitution does not make a reference to them at all. The CB has itself hoped that some of the tensions in the interplay of these two rights are likely to be resolved with the enactment of the long-pending personal data protection law. So also with the clarification of the conditions in which fiduciary relationships arise and become a brake on the drive for greater transparency. We will not dwell on these topics in any detail.

Perhaps the most deleterious impact of the **common opinion** on the RTI regime may be said to be the inclusion of “motive” of the RTI applicant as a relevant factor while administering the public interest test. The CB recognizes that the purpose

of the information seeker will have no relevance while making a decision on an RTI application but it will be a relevant factor while applying the public interest test to decide whether exempt information may be disclosed (para #79). This despite the CB recognising the existence of a bar on compelling an RTI applicant to disclose her or his motive while seeking information under Section 6(2).

Strangely, nowhere in the **common or the individual opinions** is Section 19(5) of the RTI Act even mentioned. Under this provision, the burden of proving why the requested information must remain exempt is on the PIO. The RTI Act does not place a corresponding obligation on the RTI appellant to explain motives for demanding access to information at any stage of the internal and external appeals. It is not clear whether this matter was brought to the notice of the Justices at all in the pleadings and written submissions.

This significant and embarrassing lapse is likely to embolden public authorities and Information Commissions to insist on a declaration of the purpose of seeking not just exempt information but eventually all information. It is very well known that decisions of PIOs and appellate authorities, not to mention several Information Commissioners, often raise this point when their obvious intent is to prevent disclosure of the requested information.

**Second**, the **common opinion** divests the PIO of the power coupled with a duty to direct disclosure of exempt information on grounds of public interest under Section 8(2) of the RTI Act. Instead, the CB has declared that this is a “discretionary power” exclusively vested with the “public authority” which the PIO represents (para #27). It is respectfully submitted, this interpretation creates two problems.

**First**, under Section 8(1)(j) of the RTI Act, the PIO is clearly vested with the power of making a decision to disclose personal information of an individual other than the RTI applicant (after following due procedure of third party interests are attracted as per the terms of Section 11 of the Act). That power coupled with duty cannot be taken away through judicial pronouncement unless the Court wants to supplant legislative intent, which it has always abhorred and avoided.

**Second**, the only clear finding on a question of fact in the entire case is the determination that the Supreme Court as established under Article 124 of the Constitution is one “public authority” and the CJJ’s office is part of the same public authority. So if the “public authority” is an institution, who, then in such an institution as well as in other similarly labelled institutions will wield the power to determine whether exempt information will be disclosed under the terms of Section 8(2) of the Act? The common and individual opinions are silent on this point.

**Next**, the explication in both the **common and individual opinions** of the manner in which competing public interests must be harmonized and the factors that will be relevant or irrelevant for the purpose of determining public interest in favour of disclosure or otherwise, clearly indicates that it is in the nature of a quasi-judicial function. Where is the scope for applying any “discretion” in matters where the competing public interests must be balanced? It is respectfully submitted that “discretion” will only colour the entire exercise with arbitrariness.

**Third**, with the deepest respect to the wisdom of the Justices, it must be pointed out that the **common and individual opinions** betray a contradictory approach with regard to the manner of application of exemptions. This point cannot be illustrated without delving a bit into the jurisprudential development around the manner of invoking of exemptions. If memory serves us right, the earliest explanation of how exemptions must be invoked is found in Justice Ravindra Bhat’s opinion in **Bhagat Singh vs Chief Information Commissioner & Ors.**, of 2007 when he served in the Delhi High Court. In that judgement, Justice Bhat (now elevated to the Apex Court) pointed out that exemptions listed in Section 8(1) of the Act, being exceptions to the general rule of transparency contained in Section 3 must be construed strictly.

In several other matters decided by the High Courts of Kerala, Madras and Calcutta, this interpretational rule was accepted. However, the Apex Court overturned that position in 2011 while deciding **Central Board of Secondary Education & Anr. vs Aditya Bandopadhyaya and Ors.**, (see slide 35 at this weblink). The Court said that the exemptions must not be treated as “fetters on the right

to information”, instead a harmonious approach must be adopted to balance these competing public interests. This position reiterated in **ICAI vs Shaunak H. Satya** delivered the same year and subsequent judgements of the Apex Court is also appreciated and explained in the common opinion of the CB. However, the individual opinion of Justice Ramana contains a discordant note as it gives currency to the approach several High Courts adopted between 2007 and 2011.

After lending his name to the common opinion, at para #23 of his individual opinion, Justice Ramana writes as follows:

“There is no doubt it is now well settled that exemption clauses need to be construed strictly. They need to be given appropriate meaning in terms of the intention of the legislature.”

In our humble opinion, this is also an area that needs some curative action from the Apex Court to avoid the embarrassment of contrary opinion being presented by a Justice at two different places on the same issue.

**Fourth**, both the **common opinion** (para #26) and the individual opinion of Justice Chandrachud (para #75) treat seven of the ten exemptions listed in Section 8(1) of the RTI Act as “absolute” in character where the PIO is barred from disclosing such information even if the larger public interest in disclosure outweighs the harm caused to the protected interests. Three exemptions relating to commercial confidence, trade secrets and intellectual property, information covered by a fiduciary relationship and the last clause which protects personal privacy are not absolute in so far as they are tempered specifically by public interest override clauses. In our humble opinion this characterization is not in accordance with legislative design and intent.

Most of the blame for this confusion must lie with the draftspersons and we the advocates of transparency who pushed Parliament to legislate without cleaning up the initial draft. The RTI Bill tabled in Parliament did not contain an omnibus public interest clause which now exists as Section 8(2) in the Act. Instead, Section 8(2) in the original Bill contained what is now a *proviso* underneath Section 8(1) which contains the noble principle that information which cannot be denied

to Parliament or a State Legislature cannot be denied to any citizen. Only clauses under Sections 8(1)(d), 8(1)(e) and 8(1)(j) whose contents are explained at the beginning of this paragraph were subjected to a public interest override clause.

The omnibus public interest override clause was inserted as Section 8(2) upon the recommendation of the Parliamentary Committee which vetted the Bill with copious inputs from civil society advocates, lawyers and academics. Due to the rushed passage of the final version of the Bill (on the last days of the Session of both Houses of Parliament), the draft was perhaps not cleaned up (the hard copy of the gazette notification of the Act contains at least two typographical errors even now). So the public interest override element stays in the three exemption clauses in addition to the omnibus clause as part of the law and is the source of this confusion.

However, a basic principle of interpretation of the law is that Parliament intended for every word and formulation to exist in the manner it is crafted and visible in the final text adopted and notified after Presidential assent. So the doctrine of harmonious construction comes to play to resolve any conflict between two or more provisions of law. It is respectfully submitted that characterising seven out of ten exemptions clauses as being “absolute” does not amount to harmonious construction but amounts to doing injustice to legislative intent. We hold this view for multiple reasons. **First**, if Parliament had intended for these exemptions to be absolute then the opening limb of Section 8(1) would have read- “The following information shall not be provided or disseminated” in the manner of Section 3(3) of Nepal’s **Right to Information Act** enacted in 2007. Several other countries place such a prohibition which can be realistically termed “absolute”.

The Indian RTI Act, however, takes a different approach. The opening limb reads “Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen...” In our humble opinion, this implies- a citizen cannot reasonably expect to get information covered by these exemptions as a matter of right- a principle which the **common opinion** also recognizes. However, that does not turn seven of these clauses into absolute exclusions.

**First**, Section 8(2) provides the exception to these exemptions- so they cannot be termed exclusions at all.

**Second**, Section 8(3) prohibits the invoking of seven out of ten exemptions for information that is more than 20 years old. This 20-year rule applies to five of the seven exemption clauses which the common opinion characterizes as absolute. So here again the characterization of these exemptions as absolute is not sustainable in our humble opinion.

Strangely, this important provision does not merit even a mention in either the common or the individual opinions of the Justices. Unless these confusions are cleared up through a curative petition, public authorities are likely to misuse this portion of the judgement to deny access to more and more information which was not the intent of Parliament in the first place.

Last, but without putting too much emphasis on it as it is most likely to be the handiwork of a negligent law clerk which went unnoticed, Justice Chandrachud's opinion contains a howler. The seminal paragraph where the citizens' right to know was discovered for the first time by another 5-Member Constitution Bench in **State of U.P. vs Raj Narain**, was authored by Justice K. K.

Mathew and not the then Chief Justice of India, Justice A. N. Ray as attributed in this opinion.

However, it must be acknowledged that despite the cautious manner in which the common opinion seeks to strike a balance between citizen's access to information about how judges are appointed (a point which has been remanded back to the PIO for afresh decision) and the need for ensuring the independence of the judiciary and preventing possible attacks on the reputation of candidates for judgeship in the constitutional courts, Justice Chandrachud mentions a non-exhaustive list of essential norms in regard to judicial appointments in his opinion.

Will the PIO reveal the norms that went into the elevation of certain judges over and above others, now that the RTI application has been remanded to him for fresh consideration remains to be seen. What objections will the individuals so elevated will pose to making this information transparent also becomes a matter of immense public interest? How effectively will the PIO apply the tests and the interpretative tools laid down by the **common and the individual opinions** remains to be seen as well?

At the other end of the spectrum of this creative tension characterizing

the adjudication undertaken by the CB is the anxiety expressed by Justice Ramana that RTI could become a potential tool of surveillance to scuttle the effective functioning of the judiciary.

With the deepest respect and in all humility it is submitted that RTI cannot be equated with the tools that empower the government to conduct surveillance over anybody- citizens and high public functionaries alike. The latter is abhorrent to human dignity and a violation of basic human rights and freedoms when attempted in an illegal and illegitimate manner.

The RTI Act contains adequate safeguards as noted by the Hon'ble Justices themselves that have convincingly until now and will in the future prevent disclosure of information that should legitimately remain under wraps. If not, these three cases would not have reached the Supreme Court's high table of justice.

*\*Venkatesh Nayak is Head, Access to Information Programme, Commonwealth Human Rights Initiative, New Delhi. Views are personal.*

*1<https://theleaflet.in/highest-judicial-office-under-rti-purview-an-examination-of-the-positives-and-creative-tensions-in-the-constitution-benches-opinions/>*

*@ 15.11.2019* □

**Courtesy:** Countercurrents, November 22, 2019.

**Note:** The following article is the 3<sup>rd</sup> and concluding part of a 3-part series introducing *The Bhagat Singh Reader* by Professor Chaman Lal. The 1<sup>st</sup> and 2<sup>nd</sup> parts appeared in *Countercurrents*, India, *Frontier*, Kolkata, India, and *New Age*, Dhaka, Bangladesh.

## **We Hold Human Life Sacred: Bhagat Singh Farooque Chowdhury\***

“We are next to none in our love for humanity. Far from having any malice against any individual, we hold human life sacred beyond words. We are neither perpetrators of dastardly outrages, nor, therefore, a disgrace to the country [...]” This was the statement by Bhagat Singh and B K Dutta in the sessions court, Delhi, on June 6, 1929. Asaf Ali read out the statement in the court on behalf of the revolutionaries facing trial.

The statement clarifies the revolutionaries' position further as they said:

“We humbly claim to be no more than serious students of the history and conditions of our country and her aspirations. We

despise hypocrisy, our practical protest was against the institution, which since its birth, has eminently helped to display not only its worthlessness but its far-reaching power for mischief.”

The revolutionaries were emphatic in making their position – *love for humanity, no malice against any individual, human life sacred, not perpetrator of dastardly outrages, despise hypocrisy, protest against the institution with its far-reaching power for mischief*. This statement, although known to all, needs reiteration. The need for reiteration of this position arises as to a section of today's political activists, human life

bears no value, rather, sectarian ideology values; as this section throws away humanity while practicing ideology and politics. Dastardly outrages are part of political activism of this section; and hypocrisy is one of the tools this section uses in propagating and practicing its ideology and politics. This section doesn't aim at institutions organized and kept active to torment humanity, torture people, loot people's resources, exploit labor, and perpetuate exploiters' rule, which ultimately keeps the system of exploitation intact. To this section, practicing lie is their morality, as this section doesn't look at exploitation, which uses lies to fool the exploited.

Nevertheless, no noble, from class point of view, cause, no ideology and politics of people, no political movement of the exploited is possible to organize on lies and hypocrisy, by sparing institutions of exploitations, by ignoring the question of exploitation – appropriation of surplus labor. This is the reason that makes Bhagat and Dutta's statement immemorial in history.

The statement is considered as, Professor Chaman Lal writes in his *The Bhagat Singh Reader* (Harper Collins Publishers India, Noida, Uttar Pradesh, 2019; henceforth *Reader*) one of the “classical political documents” of this subcontinent. He also considers it as one of the “most significant political statement from the Indian revolution and revolutionaries.”

However, this should be mentioned that the statement refers to ideals of many political figures including Shivaji, Kamal Pash and Lenin as equivalent; although that is not in reality. Lenin had proletarian class point of view, which is absent in some other cases. The reference to the ideals, it's understood, was from the standpoint of spirit – attitude for defiance, struggle, and challenge – in broader terms, perhaps, and not from specific political point of view.

The revolutionaries made another statement. Both of the two statements are considered as classic political documents from this subcontinent. These documents are essential to understand the development of political thought and political struggle in this vast land spanning from the Khyber to Kohima, Manipur. These are important documents in anti-imperialist struggle, and in the struggle for liberation of the people in this wide land; because, (1) imperialism has yet to be pushed back from this land rich with resources and with strategic position, and, (2) people are not liberated from exploitation. Black *sahibs* have replaced white *sahibs*, only. In cases, situation in areas of socio-economy and politics has deteriorated if compared to a number of aspects between the two – colonial and neo-colonial – periods. The

fundamental contradictions are broadly the same: between the exploited and the exploiters, between imperialism and the people.

A number of political forces ignore these contradictions as these forces don't find contradiction in life, in society. The reason behind their failure: Identifying contradiction in life, and consequently, in economy and politics, in areas of interests. A few don't admit the contradictions because of their ideology, which in ultimate analysis doesn't stand for the exploited. Moreover, a part of today's “staunchest” fighters are “fiercely” against one brand of reactionaries, one colored backward-looking forces, one type of repression; but they feel shy to look at the entire question of the exploitation and dispossession. They are scared to question the entire system of exploitation. They forget to search the root of all repression against all the exploited irrespective of color, caste and creed; and they, thus, join hands with another brand of reactionaries, with another color of sectarian and supremacist roaders, with another faction of imperialists, and, at times, shamefully, with intelligence agencies donning another cloak. Nevertheless, the crude “clever tact” gradually is exposed to political activists aware of basic questions related to contradictions in a society. That's the reason these “fierce fighters” don't look at the contradiction-question, but shout with questions of repressions to a single sect – an act of betrayal to the exploited people.

From this point, the documents are not only classic, but also essential learning material for today's learners of class politics. And, here, Professor Chaman Lal has done the splendid work – present the political documents. The *Reader*, thus, appears an essential book for political scientists and political activists/learners.

Bhagat Singh's call is still relevant if one looks at the reality gripped by exploitation in this land. In one of his political letters, documented in the *Reader*, the revolutionary writes:

“The youth will have to spread [the] revolutionary message to the far

corner of the country. They have to awaken crores [10 million=1 crore] of slum-dwellers of the industrial areas and villagers living in worn-out cottages, so that we will be independent and the exploitation of man by man will become impossibility.” (Message to the Punjab students' conference, October 19, 1929, p. 65-66).

The message was read out in the conference, chaired by Netaji Subhas Bose – a powerful political position – held on October 19, 1929 in Lahore; and it was published in the *Tribune* on October 22, 1929.

The message, addressed to “Comrades”, begins by telling about a significant political path – renounce adventurism. The first sentence says: “Today, we cannot ask the youth to take to pistols and bombs. Today, students are confronted with a far more important assignment. In the coming Lahore Session the Congress is to give call for a fierce fight for the independence of the country. The youth will have to bear a great burden in this difficult time in the history of the nation.” (*ibid.*)

The proposals – to the youth, to the Congress – reflect the reality of that time: The youth were the vanguard in political fight, or, the youth were considered in that way; and, it was the Congress that was considered as the main conveyer of the call to independence. Readers of the history of political fights, factional fights, within the Congress at different phases of the political organization are aware of the factional fights and the parties entangled in those fights. The organizers of the struggle for an exploitation-free society had to confront that reality – either make a compromise with the reality, or, ignore the reality, or, handle the contradiction-filled reality in a correct way; and all of these were tactical questions.

Bhagat Singh's last letter written to his comrades on March 22, 1931 tells the high moral ground, sense of dignity, allegiance and duties to the people, and the revolutionary spirit he held. The revolutionary, without any hypocrisy, writes:

“It is natural that the desire to live should be in me as well, I

don't want to hide it. But I can stay alive on one condition that I don't wish to live in imprisonment or with any binding.

"My name has become a symbol of Hindustani revolution, and the ideals and sacrifices of the revolutionary party have lifted me very high – so high that I can certainly not be higher in the condition of being alive.

"Today my weaknesses are not visible to the people. If I escape the noose, they will become evident and the symbol of revolution will be tarnished, or possibly obliterated. But to go to the gallows with courage will make Hindustani mothers aspire to have children who are like Bhagat Singh and the number of those who will sacrifice their lives for the country will go up so much that it will not be possible for imperialistic powers or all the demonic powers to contain the revolution.

"And yes, one thought occurs to me even today – that I have not been able to fulfill even one thousandth parts of the aspirations that were in my heart to do something for my country and humanity. If I could have stayed alive and free, then I may have got the opportunity to accomplish those and I would have fulfilled my desires. Apart from this, no temptation to escape the noose has ever come to me. Who can be more fortunate than me? These days, I feel very proud of myself. Now I await the final test with great eagerness. I pray that it should draw closer."

He concluded the letter by writing:

"Your comrade  
"Bhagat Singh".

The letter tells about a revolutionary, about the attitude and feeling to life, people and country revolutionaries should have. It's a lesson to all revolutionaries, to all aspiring to serve people. And, it's not only of that

period; it's of all periods in societies struggling for radical change, for totally altering exploiter-exploited equation – make all the exploited free from all forms of shackles. The shackles are not only of economic and political exploitation, but also of indignity and dishonor.

Bhagat Singh's letter to B K Dutt from Central Jail in November 1930 is an example of the revolutionary's idea and ideal:

"The judgement has been delivered. I am condemned to death. In these cells, besides myself, there are many other prisoners who are waiting to be hanged. The only prayer of these people is that somehow or other they may escape the noose. Perhaps I am the only man amongst them who is anxiously waiting for the day when I will be fortunate enough to embrace the gallows for my ideal.

"I will climb the gallows gladly and show to the world as to how bravely the revolutionaries can sacrifice themselves for the cause.

"I am condemned to death, but you are sentenced to transportation for life. You will live and, while living, you will have to show to the world that the revolutionaries not only die for their ideals but can face every calamity. Death should not be a means to escape the worldly difficulties. Those revolutionaries who have by chance escaped the gallows for the ideal but also bear the worst type of tortures in the dark dingy prison cells."

These utterances reflect the revolutionary's attitude to life, ideal and duty. The revolutionary, like his many comrades, was steeled in the fire of revolution.

Their struggle inside prison was exemplary, also. Bhagat Singh and his comrades, Chaman Lal writes in the *Reader*, carried on hunger strike for 110 days, which they began on June 15, 1929 demanding status of Political Prisoner. Jatindra Nath Das, Bhagat Singh's comrade, died on September 13, after 63 days of

hunger strike. The hunger strike was halted on October 4, 1929 after concrete assurance from the colonial British government and Congress leaders. But, the British government officials not only dishonored the commitment they made, but resorted to oppressing the revolutionaries in jail, and even in court. Bhagat Singh and many were injured after they were badly beaten by police between October 21-24 in court and in jail. That was imperialist civility and rule of law!

On February 14, 1930, hunger strike was again initiated to realize all the demands. This hunger strike was of two weeks.

These struggles are noteworthy not only in the context of this sub-continent, but also in the context of all other countries.

The *Reader* presents many important political documents – works of Bhagat Singh – necessary for learners of people's politics. A number of the works point out the position proletarians should proclaim. The manifesto of the Hindustan Socialist Republican Association (HSRA) declares:

"Revolution is a phenomenon which nature loves and without which there can be no progress either in nature or human affairs."

It characterized the Indian capital of that time:

"Indian capital is preparing to betray the masses into the hands of foreign capitalism and receive, as a price of this betrayal, a little share of government of the country."

The manifesto, then, presented a path:

"The hope of the proletariat is, therefore, now centered on socialism, which alone can lead to the establishment of complete independence and the removal of all social distinction and privileges."

It called upon the youth:

"Sow the seeds of disgust and hatred against British imperialism [...]"

The political document, at its conclusion, declared:

"The sovereignty of the

proletariat [...]"

The document is an example of the ideological position, orientation and worldview the HSRA held: For the exploited, for a society free from exploitation, oppose all exploiters including imperialism.

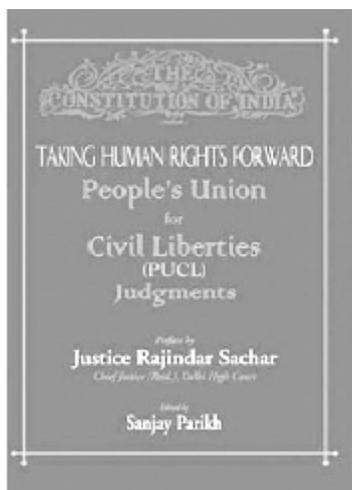
Chaman Lal writes in the *Reader*: "Two documents – the manifestos of the Naujawan Bharat Sabha (NBS) and the Hindustan Socialist Republican Association (HSRA) – are the most important ideological texts to understand Bhagat Singh and his comrades' struggle for Indian freedom from British colonialism. The drafts of both were written by Bhagwati Charan Vohra, with Bhagat Singh being consulted before they were finalized for publication."

Studying Bhagat Singh is essential for the study of politics, both of the

people and of the ruling elites, in this subcontinent. The *Reader* helps this study by presenting a lot of basic documents. Its appendices, if someone ignores rest of the volume, presents many facts documents and information required primarily for study of Bhagat Singh. The *Reader*, in its 616 pages, bears the hard labor Professor Chaman Lal has put to present Bhagat Singh. And, Bhagat Singh is neither a single revolutionary nor representing a single revolutionary organization oriented to proletarian ideal. Bhagat Singh represented a people's revolutionary aspiration, dream and political struggle in a historical period. The *Reader*, thus, is an important resource material to begin study of that struggle in that period, which is required for study of the present. □

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