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The Horizen of Rights Must Widen

Mahi Pal Singh

In the past several years now, we have been receiving only negative news – big corruption during the UPA government's rule and then steep rise in the prices of essential commodities, various instances of intolerance of dissent and people belonging to other religions, particularly Muslims, softened stance towards hate-mongers belonging to the Hindutva fold, beating up and killing of people belonging to Scheduled Castes and Muslims suspected of having/carrying 'beef' by the so-called 'Gau Rakshaks' and other Hindutva groups etc. etc. during the present NDA government's rule. In spite of wild claims of development being the agenda, nothing has been done to alleviate the sufferings of the people or to empower them. During the UPA government's rule several things had taken place which empowered the people. The most important was the passage of the Right to Information Act 2005 because of which people started getting their ration cards and other things done besides exposing corruption in government departments. The second big thing was the passage of the Free and Compulsory Education Act which converted the provision in Article 45 of the Directive Principles of State Policy into the legally enforceable Right to Education. The third act which gave some relief to the rural poor was the introduction of Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), the most innovative rural employment guarantee scheme, because of which the unemployed rural people started getting some work and wages to sustain them.

Recently a positive news has come. A draft National Health Policy has been proposed by the Ministry which will soon be put up before the Union Cabinet for approval. The draft policy advocates a National Health Rights Act which will make health a fundamental right of every

individual which was a much needed reform looking at the poor health facilities in rural areas as well as semi-urban areas. This Act, when passed, will certainly give relief to the poor people who cannot afford expensive private treatment even in extreme cases and keep languishing for want of medical aid and ultimately die.

The second good news came when in a landmark interim judgment, the Supreme Court on Friday, 22nd July 2016, said that the large-scale killings in Manipur in the guise of self defence while dealing with insurgency or militants was unacceptable. It said that if members of the armed forces are deployed and employed to kill citizens of the country on the mere allegation or suspicion that they are the 'enemy', not only the rule of law but also democracy would be in grave danger. A bench of justices Madan B. Lokur and Uday Lalit gave this ruling on a PIL filed by Extra Judicial Execution Victim Families Association alleging 1,528 fake encounter deaths in Manipur in the last decade and demanding a probe by a special investigation team. If any death was unjustified, there is no blanket immunity available to the perpetrator(s) of the offence. No one can act with impunity, particularly when there is a loss of an innocent life, the judges said. The bench also observed that living under the shadow of a gun that can be wielded with impunity is unsettling and demoralising, particularly in a constitutional democracy like ours. The court also said that there is no war or war-like situation in Manipur but only an internal disturbance, within the meaning of that expression in the Constitution – nothing more and nothing less.

The court further noted that: Each instance of an alleged extra-judicial killing of even such

a person (an ‘enemy’ as defined in section 3(x) of the Army Act) would have to be examined or thoroughly enquired into to ascertain and determine the facts. It said that even while dealing with the ‘enemy’, the rule of law would apply. If there have been excesses beyond the call of duty, those members of the Manipur police or the armed forces who have committed the excesses would be liable to be proceeded against in a court of law, and not necessarily by the army in court martial proceedings. Court Martial proceedings by a military court generally tend to favour the personnel of the armed forces as was seen in the Pathribal case in the Anantnag district of Kashmir in which five people were killed by the 7th battalion of the Rashtriya Rifles in its Operation Swift in March 2000. Because of allegations of a fake encounter, the case was handed over to the Central Bureau of Investigation which stated in its report submitted to the Supreme Court in 2012 that it was a case of “cold-blooded murder”. But the case was sent back to a military court of inquiry, which closed it in 2014 stating that there wasn’t enough evidence to establish a case.

As per the observation of the Court, the failure of the government in restoring normalcy in an area cannot be a reason to keep AFSPA in force there for prolonged periods. In a sharp observation, the court remarked that “...normalcy not being restored cannot be a fig leaf for prolonged, permanent deployment of the armed forces, as it would mock at our democratic process and would be a travesty of jurisdiction...” conferred by law.

The court’s ruling justifies the demand of the civil liberties groups like PUCL and PUDR in the country who have been demanding the repeal of the draconian AFSPA (or its state level variant State Security Act) and action against the rogue personnel of the armed forces because it has resulted in the killing of hundreds of inno-

cent citizens and rapes of women, not only in Manipur but also in Kashmir and Chhattisgarh, at the hands of the personnel of the armed forces and they have gone unpunished because of the impunity clauses in the Act. The court will hear further the case after four weeks and may give its ruling on the withdrawal of the Act from the state. There is no doubt that the decision of the Court will be helpful in protecting the civil liberties and life of the people in the affected areas and widen their democratic freedom.

However, in another case, the Apex Court’s judgement came as a shocker. The Supreme Court in its judgement dated 5th July 2016 refused to entertain a joint petition by six persons, acquitted by it in the 2002 Akshardham terror attack case, seeking compensation for their ‘wrongful’ arrest, prosecution and incarceration for almost a decade. The judgement was passed by the bench of Justices Dipak Misra and R. Banumathi rejecting the plea by advocate KTS Tulsi who said that they were persecuted through fabrication of evidence by the Gujarat police, resulting in their spending a decade behind the bars. The Court observed that acquittal by the court did not automatically entitle those acquitted to compensation and that awarding damages would set ‘a dangerous precedent’. By acquitting the accused because it saw through the fabrication of evidence, the Supreme Court undoubtedly restored their freedom. But the accused did not get full justice as they neither got compensated though the state had brazenly violated their right to life and liberty in spite of their being innocent nor were those who fabricated false evidence against them punished. The accused have, no doubt, the option of going the National Human Rights Commission for compensation and they may even succeed in getting it after a few years. The painful part of the Court’s judgement is that

(To be Contd....on Page - 41)

A tribute to Isak Chishi Swu, the erstwhile Chairman of the National Socialist Council of Nagalim, by Nandita Haksar.

First person: When Naga leader Isak Chishi Swu cooked me some soup

Nandita Haksar

The man who crossed over to China and took up arms against India before agreeing to the peace process was a kind and gentle person.



The immediate reaction of the Naga public and the Indian media to the death of Isak Chishi Swu, the 87-year-old Chairman of the National Socialist Council of Nagalim (Isak-Muivah) was that it could have an adverse effect on the peace process.

But I was surprised at the depth of my own feeling of personal loss. It was like losing a father – a father who looks after you and protects you even when you are grown up and have a family of your own. The presence of the father is a source of constant comfort and reassurance and as long as Swu was alive, even when he was in the hospital lying in a precarious condition, there was a feeling that we were somehow safe and things would somehow work out.

It was with this feeling of personal loss that I

accepted the invitation to speak at the Condolence meeting held at the Nagaland House in New Delhi the day after Isak Swu died.

The I of the I-M

The most powerful and moving testimony was from Thuingaleng Muivah, the General Secretary of the NSCN-IM - the M in the IM – and considered the prime minister of the Government of the People’s Republic of Nagalim. He reminded those present that he and Isak Swu had been in the movement since the 1950s when they joined the Naga National Council under the leadership of Angami Zapu Phizo.

Swu was appointed the foreign secretary by the Naga Federal Government – he participated in the peace process in 1964 in that capacity. The peace talks failed and it was then that the two leaders made contact with China. Swu had led batches of Nagas through the thick wet jungles that separate Burma from India – an area called by the Naga insurgents as Eastern Nagaland.

In an interview some years ago with Swu's wife, I heard the account of how they walked through the jungles, crossing streams and being pursued by both the Indian and Burmese armies. At the end of the day, they would find their clothes full of leeches and spend an hour killing them and getting ready for the next day's march, often without food.

On one occasion, they came across a wild boar – he came sniffing around but went away. I asked why the boar had not attacked them and Swu replied with a twinkle in his eyes: "We smelt of the jungle."

Swu was welcomed by the Chinese and took arms training from the People's Liberation Army but he did not give up his deeply held Christian faith and persuaded the Chinese to build a church for the Naga insurgents.

Armed and trained by the Chinese, the Naga army took on the might of the Indian army and thus began the Indo-Naga conflict. The Indians thought they would be able to suppress the Naga movement with military might. Naga villages were burnt down, men tortured and women raped. The intolerable conditions led to a section of the Naga National Council signing a peace accord during the emergency in 1975.

Swu and Muivah condemned the Shillong Accord and by 1980 they decided to split from the Naga National Council and form the National Socialist Council of Nagaland. By Nagaland they meant all the Naga inhabited areas in India and in Burma. In India, the Naga inhabited areas included the entire state of Nagaland, four districts of Manipur, parts of Assam and Arunachal Pradesh.

In 1982, the NSCN had their first major ambush in Namthiok in Ukhru district of Manipur when they blew up a convoy of the Indian army in which many soldiers lost their lives.

From then to 1995, the two leaders had to face many challenges – from the Indian army, Indian intelligence agencies and within their own organisation. It was remarkable that the two, Swu and Muivah stuck together and faced each challenge without compromising their values or objective of having an independent, sovereign Nagalim.

Then in 1995, the Indian government under PV Narasimha Rao sent feelers to the NSCN leaders and finally Rao met the two leaders in Paris where he said India was prepared to see the problem as a political problem and was ready for peace talks. It was the political maturity of the two Naga leaders that they accepted the invitation and by 1997 the talks began in right earnest.

Muivah retraced much of this history and paid tribute to his comrade of more than five decades. He said Swu, older by several years, had always understood him and they had never had any occasion to differ politically.

'Calm and patient'

Several men from the Indian intelligence community were present to offer their condolences. National Security Advisor Ajit Doval offered a wreath, while former Chairman of the Joint Intelligence Committee and Interlocutor in the Indo-Naga talks, RN Ravi, praised Swu for his statesmanship and patience and said he hoped the peace process would soon conclude with an Accord. Swaraj Kaushal, advocate, who was involved in the peace process in the early stages, said that when he was first asked to negotiate he had found Muivah much more inclined to get angry and they had so many fights that they became friends. But it was the calm and patient Swu who helped establish trust. He said a solution could not just emerge from a microwave but it was also not something that we could put in the deep freeze and forget about.

Messages of condolence have been pouring in from political leaders such as Sonia Gandhi to the chief minister of Nagaland and bureaucrats involved in the peace talks, such as RS Pande and K Padmnabhaiah.

Bharat Bhushan, the journalist who had interviewed the two Naga leaders at the time of the ceasefire in 1997, recalled that Swu said that the peace process was not only about politics but had a higher spiritual significance. Swu told Bhushan that he believed that Indians were not born to kill Nagas. They would have to be friends and he deeply believed in the peace process.

Every single speaker remembered Swu as a kind, gentle person, a “perfect gentleman” was how MP Neiphiu Rio described him. N Ravi said he felt he was in the presence of a deeply spiritual being when he talked to the Chairman of NSCN.

Uncle Isak

Swu’s eldest son spoke on behalf of the family. He said since both his parents had been fighting in the jungles, all the four children were brought up in Eastern Nagaland – that is, Burma. The only time they had all come together was in 2000 when the entire family met and lived together.

I remember Swu had told me in an interview that he got news of the birth of his son while he was imprisoned by a rival Naga faction with a death sentence hanging over his head. He had got a secret message coded in Biblical language from his wife. But he had not told me that he never met his children till they were grown up. He would never speak of his personal problems or pain.

I met Swu on many occasions to interview him. But it was only later that I got to know him more – and he became Uncle Isak. That was the time when the Indian intelligence agencies played their dirty tricks and arrested Muivah when he was coming for the talks. It

was said the arrest was a result of the rivalry between the different agencies. I had gone to Bangkok in my capacity as a lawyer to represent Muivah.

My dearest memory is when my husband Sebastian [Hongray] and I shared a meal with Uncle Isak and Uncle Muivah in a Bangkok mall. They took us to their favourite restaurant where they served the Mongolian Pot – wide variety of fish and meat with vegetables being brought raw so that we could choose what we wanted and put it in the boiling soup in front of us. The problem was that the morsels had to be deftly picked up with chopsticks and I did not know how to use the chopsticks. To save me embarrassment, Uncle Isak picked up pieces of meat and fish and cooked and served the dish to me. It was rather like a mother hen feeding her chick! The thing is I did not feel at all awkward.

In 2011, Sebastian and I set off to travel all over the North East and we had gone to tell Uncle Isak and Uncle Muivah about our intentions. Uncle Isak immediately said he would say a prayer for us. I remember telling Sebastian that despite being such a vehemently agnostic person, I felt his prayers had kept us safe throughout the 15,000 kms drive.

On one occasion Uncle Isak’s guard said that he had escorted him to church while they were in Thailand. He was horrified to see that he had signed the register with his large, generous handwriting – his full name and his designation as Chairman of the NSCN. We had smiled at Uncle’s naivety. But looking back it was a reflection of a man who was always himself – true to his political and religious beliefs. It was just a simple reflection of his enormous integrity. It is his moral and spiritual authority which the NSCN or the Naga national movement will find hard to replace.

Courtesy Scroll.in Jul 07, 2016.

Travesty of justice

WITH all due respects to the Gujarat High Court, I beg to differ with its judgment that the firing by Ehsan Jafri provoked the mob to kill him. I knew him and he was a staunch Congressman. The Gulbarg Society massacre was the doing of local Gujarati leaders hoping to parochialise the people.

When Jafri was surrounded by the Hindu mob, he rang me up, seeking my help to rescue him from the frenzied crowd he had around him. I rang up the Home Ministry in Delhi and told them about the telephone call. They said they were in touch with the state government and were “watching” the situation. As I put down the telephone, the bell rang again and Jafri was at the other end, beseeching me to do something because the mob was threatening to lynch him. His cry for help still resounds in my ears.

I admit I could not do anything beyond ringing up the ministry once again. Therefore, the court’s verdict that Jafri provoked the crowd is misplaced. It is a travesty of justice. But then the Bench is not to blame because it has to go by the evidence placed before it. The prejudiced police had neither done their job, nor homework thoroughly, and so the court had come to the conclusion that the provocation came from Jafri.

I hope the matter will come up before the Supreme Court and the real facts may emerge for the knowledge of the wider public. This is important because the general impression is that Jafri was to blame. The tragedy is that even the judges have now been taken in by the sordid job done by the police. India is a pluralistic state and it is ruled by the Constitution which Hindus, Muslims, Sikhs and Christians in the Constituent Assembly together had adopted.

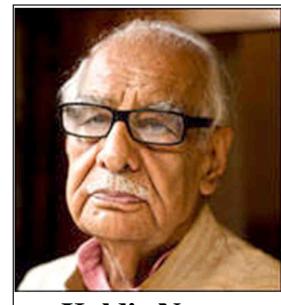
It goes to the credit of leaders of the national struggle that they adopted a secular constitution although the population of Hindus was an

overwhelming 80 per cent. The Hindu Mahasabha which gave birth to the Jan Sangh could not even return 10 members to the Lok Sabha. The party has, in fact, improved its position and today commands a majority in the House on its own. It has 262 seats in the Lok Sabha, guaranteeing it a clear majority. Close allies like the Shiv Sena have added to its strength.

What plagues India is that the government apparatus reflects the ideology of the party in power. This applies as much to Congress as to the BJP. Even the communists are not innocent. How we reconcile these shortcomings with the rule of law is the biggest problem that the nation faces. Since all political parties are culpable, there doesn’t seem to be any light at the end of the tunnel.

Unfortunately, the main onslaught today is against the minorities and the marginalized. If the rule of law is not maintained, all members of the society are vulnerable and will be victims one by one. The enemy phobia will be sustained. Today the Muslims are to blame; tomorrow it will be the turn of some other members of society. Where will it end? There is no option from the rule of law.

Fortunately, some activists are still trying to bring democracy back on the tracks, but the atmosphere has become so polluted that their job looks tremendous and almost impossible. Ultimately, parliament is the arbiter. The nation will have to see that it elects such people who have faith in the rule of law and the Constitution which came into being from 1950.



Kuldip Nayar

In fact, there were many options before the Constituent Assembly. Adviser B.N. Rao, who had gone around the world to see various systems in operation, placed before the advisory committee of the Constituent Assembly the presidential form of government pursued by America and the one followed by France. Jawaharlal Nehru, whose ideas prevailed at that time, preferred the parliamentary system. It is alleged that his education at Harrow and Cambridge had moulded his thoughts. That may well be true but he wanted a system where every adult would participate.

In the Constituent Assembly, Dr Rajendra Prasad, who was in the chair, wanted some educational qualification as a requirement for voters. Nehru replied that the uneducated and the ignorant constituted the main force which fought during the independence struggle. Now when the country was free, should he tell them that they were not entitled to vote?

Another principle which goaded the movement was secularism. This was embodied in the Constitution which gives one person one vote, whatever their community's strength in the country. It may be unthinkable today in certain circles of society, but the representatives of the majority community accepted this principle.

So much so that the Muslim community's leaders Constituent Assembly refused to have

reservations or quotas in the legislatures, educational institutions and even in government jobs which they had enjoyed under the British. This is the practice even today. Still the prejudice has worked in jobs in the private sector. Very few Hindu establishments have Muslims as their employees. In fact, the Sachar Committee appointed by Dr Manmohan Singh, then the Prime Minister, has said that the condition of the Muslims in India was worse than that of Dalits. Very little improvement has been noticeable since then.

Regrettably, the judgments like the one in the Jafri case could only provide the Hindutva crowd with a justification that aggressiveness of Muslims forces the Hindus to adopt a communal line. Maybe, I am overly optimistic, but I still hope that the society would realize on the whole that a country with so many complexities can survive in a pluralistic and democratic alignment.

People will themselves see the incongruity between the values of the Constitution and what is being practised otherwise. Pluralism is not only an ideology to prize, but also something to cherish that it is needed for the country's integrity.

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The Radical Humanist on Website

February 2015 onwards 'The Radical Humanist' is available at <http://www.lohiatoday.com/> on Periodicals page, thanks to Manohar Ravela who administers the site on Ram Manohar Lohia, the great socialist leader of India. Only the logo/the name of the magazine needs to be clicked for opening it.

Now the books by M.N. Roy are available at this website under the section 'Socialist Movement' and then going to the dedicated page for "collected works". They may be downloaded from there and read.

- Mahi Pal Singh

AFSPA: The Fifty Eight Year War

Sangeeta Mall*

Imagine a war that goes on for almost six decades. A war that nobody notices, even though it would be counted as the thirteenth longest war in human history. This is a conventional war, where 'enemy' territory is looted, its women are raped, its men killed. With only one difference. In this war, the enemy, technically, belongs to the same nation as the marauding army, and there are no quantitative gains in sight. Not any longer, if they ever were. The war is also different in one other detail. On one side is the national army, and the other is a motley group of disgruntled youth, fighting for a modicum of autonomy, the demand for full independence having long subsided. This is the situation in the Indian North East, where the Armed Forces (Special Powers) Act was promulgated in 1958 to quell the Naga insurgency, and fifty eight years later, continues to be in force, creating terror in far greater measure than the original threat to the Indian state.

In fifty eight years, the Indian economy has grown twenty times, its population has trebled, it has had fourteen different governments at the centre, and the literacy rate has gone up from approximately 25 per cent to 75 per cent now. Almost everything in India has changed. And almost the only thing to remain constant is the AFSPA in various parts of the North East. The take-no-prisoners nature of the AFSPA, whose key provisions are that an officer of the armed forces can

- After giving such due warning, Fire upon or use other kinds of force even if it causes death, against the person who is acting against law or order in the disturbed area for the maintenance of public order,

- To arrest without a warrant anyone who has committed cognizable offences or is reasonably suspected of having done so and may use force if needed for the arrest.
- Stop and search any vehicle or vessel reasonably suspected to be carrying such person or weapons.
- Army officers have legal immunity for their actions. There can be no prosecution, suit or any other legal proceeding against anyone acting under that law. Nor is the government's judgment on why an area is found to be disturbed subject to judicial review.
- Protection of persons acting in good faith under this Act from prosecution, suit or other legal proceedings, except with the sanction of the Central Government, in exercise of the powers conferred by this Act.

has still not been able to quell unrest and disturbance in the area. Nothing has been achieved, except when the central and state governments have engaged with the insurgents. After countless instances of murder, rape and torture, the army has 'conquered' nothing.

And yet every successive government has continued to retain the AFSPA. Nay, it has chosen to repeat the 'success' of the act in J&K, where it was promulgated in 1990.

Countless human rights activists, organisations, even government agencies, have questioned the utility of this unconstitutional, undemocratic, uncivilised act. Its language and message is clear – to create large scale terror, and bring a population to its knees. The Indian government has a

different point of view. What better way, it argues, to quell an insurgency than to unleash its own brand of terror, to give target practice to its soldiers in otherwise times of peace? How better to flex its muscle than by dragging poor men and women from their homes and beating and raping them to death?

If uniforms were the answer to everything bad in society, we'd have them surging around us all the time. We'd have a uniform in front of every garbage heap in the city, to prevent littering, in front of every home, to prevent theft, in front of every carriage of every train, to prevent robbery and rape. In reality, in India, law enforcement is an under-serviced sector. The AFSPA handles this in one stroke. The areas under AFSPA are carpet bombed with soldiers, their guns a convenient rejoinder to every argument.

Many statements are issued by the government on the desirability of repealing this law. Many statements are issued by its army on the need for it to vacate the bunkers. Many stern directions are given by the courts, the human rights commissions, and other statutory bodies, to repeal the AFSPA, or at least to limit its powers. But like a drug resistant virus whose dangers are known to everyone and cure to no one, the AFSPA also continues to stick to the body of the Indian polity, creating mayhem and violence, the likes of which are seldom witnessed in a democracy. Ministers and bureaucrats and army generals, everyone who matters, has emphasised the need for repealing a law that holds no one accountable for extra judicial killing and torture. But when it comes to walking the talk, sense is replaced by muscle, the ceremonial show of brawn that's a relic of our colonial past. The rule-by-the-gun nature of our past rears its ugly head in the form of this act, which indeed is evolved from a British law, passed to quell the Quit

India movement.

The counter to AFSPA is simple: it's no AFSPA. No more fake encounters, no more 'capture and torture', no more guerrilla tactics, no more armed combat in one's own land. The strategy of 'create an enemy and then crush it' has proved to be hopeless and must be abandoned. A law that has created more problems than solutions, that has vilified more than one generation, that has embittered everyone within its ambit, that has created fear instead of confidence, is a bad law. A law that overrules the Constitution of India, that thumbs its nose at Article 21, that denies due process to an Indian citizen, whether a 'terrorist' or not, is a bad law. It achieves nothing except more violence.

The Supreme Court has finally spoken up for the right of the people to due process, and ordered investigation into 1528 alleged fake encounters in Manipur in the last twenty years. While the inquiry is a step in the right direction, should it also not propel the Indian government towards some honest introspection on the need for such bad laws? Should it not force it to question its dependence on violence over dialogue in managing the aspirations of its citizens?

The Indian state has offered legal and political justification for summarily denying the right of one part of its citizenry to life and liberty. It's high time that such justification was held invalid. Nothing justifies the subjugation and terrorisation of Indian citizens by its own government. AFSPA must go.

Courtesy **Counter Currents.Org**, July 14, 2016

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The real tragedy: There will never be a solution to the Kashmir problem

We are not Canadians or British who would conduct a referendum to decide on a state's demand to secede.

Ajaz Ashraf

Ordinarily, it should wrench anyone's heart to watch people fall to bullets. But, sadly, it does not – Kashmiris don't lament the soldiers who die at their hands. Nor does a large section of India mourn the killing of boys throwing stones at security forces. The same section of Indians certainly celebrates the mowing down of terrorists, whom Kashmiris describe as freedom fighters.

Underlying the contrasting responses is an explanation which no one wishes to admit, but perhaps everyone is aware of. It could be stated thus: There will never be a solution to the Kashmir problem. Nor will it have peace. Not, at least, in the “foreseeable future” – a euphemism for “our lifetime”.

The pathology

This is because the idea of nation-state runs so deep in us South Asians that it has become pathological. We cannot contemplate the shrinking of our territory, as none of the other South Asian countries can either, unless, obviously, they lose it in war. By contrast, we don't mind acquiring girth, as we did to gobble up Sikkim.

No leader will agree to a slice of land to be hived off from India. To even think or talk of it, he or she should be prepared to write his or her political epitaph. Even Muslims outside Kashmir, suspected of harbouring sympathy for Kashmiris, will not – they know vivisecting India again will invite butchery worse than what was witnessed during the Partition.

Let us face it – we are not Canadians or British who would conduct a referendum to

decide on a state's demand to secede.

For Kashmiris too, *azadi* or independence has been conceived within the framework of nation-state. Their only marker for freedom is to have their own independent state or, alternatively, be granted the right to decide whether they wish to join Pakistan or remain with India. But their idea of freedom and nation-state comes into conflict with that of the rest of Indians.

The third actor in the tragedy is Pakistan, which we Indians think of as villain. Many Kashmiris think of Islamabad as a friend and guide. Pakistan is interested in neither formulation, intent on proving right the two-nation theory – that Hindus and Muslims constitute two separate nations – which constitutes the historical foundation of its existence. An increasingly large number of Kashmiris repose their faith in this foundational idea as well.

But because the two-nation theory was proved wrong through the birth of Bangladesh, Pakistan wishes to midwife an independent Kashmir to undercut the idea of composite nationalism, which seems ragged and in tatters – in Kashmir anyway. Till such time as success is achieved, it would wish to tie-down India in Kashmir. Tit-for-tat is the cardinal principle of international relations.

The problem

The three actors at the table, therefore, have conceptions of nation-state at variance with each other. They cannot even hold an *iftaar* party together, let alone discuss their ideas of the future. We think *azadi* means different

things to different segments of Kashmiris. This is why some say, Grant a degree of autonomy to them. Reduce the presence of armed forces, many more add.

Who in India do you think will move in that direction?

Not the Modi government. The credo of the Bharatiya Janata Party is the abolition of Article 370, which has been diluted over the years. Its predecessors never thought of granting autonomy to Kashmir because they were, among other reasons, apprehensive of the backlash the Sangh

could trigger. A generation of Sangh activists weaned on muscular nationalism will perceive autonomy to Kashmir as an inexcusable compromise.

Otherwise too, autonomy to Kashmir will inevitably prompt other states to demand the same concessions – for sure, those in the North East. The Modi government's cooperative federalism is about states cooperating with the Centre, not the other way round. A Centre that will not even allow the Delhi government to function can scarcely ever think of granting autonomy to Kashmir.

An aspect of the paranoia that the idea of nation-state breeds is to think of the Centre as synonymous with India. This is why it must impose its will on other entities. It is precisely why the proposal of drastic reduction of security forces will never get accepted, as it will be construed as an example of Kashmiris imposing their will on the Centre.

Forget a reduction of troops, the Centre hasn't even thought of withdrawing the Armed Forces Special Powers Act from Kashmir. It doesn't allow rampant human rights violations to be investigated. To do so, the Centre thinks, would tantamount to loosening control – it could embolden the people to demand their rights to

be expanded further. In Kashmir, it could shoot the graph of cross-border infiltration northwards.

It is said the Jammu and Kashmir police are competent to provide security to the state. To have Kashmiris firing at Kashmiris will at least not project India as an occupier, which is what many Kashmiris think it is. But the nation-state's paranoia conjures up another dreadful scenario – what if Kashmiris in uniform decide to rebel? We have drawn lessons from our history – remember the Indian Navy mutiny of 1946. So cancel out this proposal as well.

The examples

Consider how Manmohan Singh and Pervez Musharraf were close to working out a Kashmir solution – soft borders, joint management of resources, without having to exchange territory that would have riled the hawks in both countries. First Singh hesitated, then Musharraf, and an

opportunity was lost.

But their hesitation wasn't on account of any of their personal traits. It was linked to the idea of nation-state people have. The two leaders dithered because they feared the people's reactions. This is precisely why such opportunities will continue to be missed, and why Track II diplomacy also will not yield concrete results other than study papers.

For example, it is an established fact that both India and Pakistan were close to resolving the Siachen problem. But India said it would withdraw from the icy heights after its position had been authenticated on the map by Pakistan. But Pakistan refused, believing its people will see the move as capitulation. It led India to suspect that Pakistan intended to betray it in the future, as it had in the past.

Or recall Atal Behari Vajpayee's initiative in Kashmir as Prime Minister. He wanted to resolve the Kashmir imbroglio within the

parameters of *insaaniyat* (humanity), *Kashmiriyat* and *jamhooriyat* (democracy). A wave of jubilation receded soon thereafter. Another opportunity lost. Mohammad Ali Jinnah was secular, so said Bharatiya Janata Party leader LK Advani, whose career nosedived thereafter. Advani's pronouncement wasn't even an opportunity.

Azadi in Kashmir is a flame which is lowered or enhanced from time to time, as we do with a gas stove, depending on our needs. The number of pro-azadi Kashmiris varies from time to time. What doesn't is the number of Kashmiris who detest India. We can't conceive of a people who can participate in elections – for *sadak, paani, bijli* and *makaan* (roads, water, electricity and housing) – and still want independence. It leads us to conclude, at every outburst in Kashmir, that yet another opportunity has been frittered away.

We say Hurriyat leaders are cowards who do not wish to prove their popularity through the electronic voting machine. They fear the intelligence agencies will ensure they lose any poll they participate in. Their other fears, never expressed, are that scramble for power could further divide the disunited lot and incur the wrath of people and Pakistan, which could organise their assassinations should they dare to step out of line.

The alternatives

Finally, can't Kashmiris lead a non-violent movement, emulate the anti-colonial struggle against the British colonial rule? They also know strikes and bandhs won't make a difference to the rest of India. This is because we are not dependent on Kashmiris, as the British were on

“I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities. It is an ideal which I hope to live for and to achieve. But if it needs be, it is an ideal for which I am prepared to die.”

– Nelson Mandela

Indians to maximise their gains.

There's isn't a railroad or highway in Kashmir that protestors can take over to bring parts of India to a halt, as the Gujjars did in Rajasthan a few years ago. Kashmiris don't supply a commodity which we can't forego. They can, obviously, shutter down the Valley for days. It is like closing the doors of your house to which no one has any need to come.

Sure, widespread bandhs de-legitimise the ruling power, in this case, Delhi. But Delhi doesn't have any illusion about its legitimacy as far as Kashmiris are concerned. Outside Kashmir, most people think the Indian state's actions in Kashmir are legitimate. The actions are brutal because Kashmiris want independence, which is unacceptable, they reason.

Nevertheless, Kashmiris press on and court death because they too have drawn a lesson from the history of the national movement – that a struggle for freedom is prolonged, spread over many decades, is cyclical, the highs alternating with the lows, until...

So they will continue to throw stones, and get fired upon, and die. There won't be a singer in India who will ask, “How many deaths will it take to know that too many people have died?” – and for something to be done to alleviate their plight. There will not be such a song because all of us can hear the wind howl the answer – Kashmir's future will be like its past. There cannot be a tragedy greater than that.

Courtesy [Scroll.in](http://scroll.in)

Ajaz Ashraf is a journalist in Delhi. His novel, *The Hour Before Dawn*, has as its backdrop the demolition of the Babri Masjid.

To counter external forces, Kashmiris must be taken into confidence

Jatin Desai

The sad reality is that every couple of years unrest grips the Kashmir Valley and expected reactions emerge from politicians, rulers and Pakistan. The unrest continues for some time and life becomes normal thereafter. Kashmir becomes the headlines of international media only when there is unrest and violence. In normal times, nobody thinks of Kashmir and Kashmiris. One needs to realise that the Kashmir is not an issue of law and order. It is a political issue and needs to be looked at accordingly.

Kashmir is burning. People are agitating especially in the South Kashmir after the killing of 'poster boy' Burhan Wani of militant group Hizbul Mujahideen in an encounter on July 8. So far, 40 people have died and around 200 have got serious injuries in their eyes. Many of them are operated upon, but a sizeable number of them are likely to lose vision. Earlier in the summer of 2010, students and youths were on the streets fighting security forces. More than 110 youth lost their lives in stone-pelting protests. The anger among Kashmiris and especially youths was visible. To pacify them, the then UPA government had sent an all-party delegation to Kashmir to meet the people and take them into confidence.

As expected, Pakistan tried to internationalise the issue. They raised it in the United Nations Conference on Human Rights, where India's permanent representative Syed Akbaruddin reminded the world body that Pakistan has been shielding designated terrorists in their territory. Pakistan will observe Tuesday, July 19 as "black day to express solidarity with Kashmiris." The timing is also important. Pakistan PM Nawaz Sharif returned only few days ago after a month as he underwent a bypass surgery in the UK. Suddenly posters sprouted across Pakistan

appealing to army chief Raheel Sharif to take over power in a military coup. The decision to observe July 19 as black day has also to do with Pakistan's inner struggle between elected civilian government and the all-powerful army.

Thousands of people attended Wani's funeral. Intelligence agencies including military intelligence should have realised the sentiments of the people and tipped off the government. Accordingly, a plan could have been drawn to prevent large-scale violence. The agencies failed to realise the popularity of Wani. Thousands of people came on the streets especially in South Kashmir. Jammu & Kashmir Chief Minister Mehbooba Mufti appealed to parents to "rein in agitated youth" and maintain calm after four days. She also asked her party legislators to go to villages and speak to people. The government's visibility was absent in the initial period, when it was needed most. First 24 hours are always vital. If nothing happens during that time nothing happens later. Prime Minister Narendra Modi was touring Africa and important time was lost. There was not much political movement till the PM returned from Africa. A high-powered meeting was held and opposition leaders including Sonia Gandhi were consulted. The PM asked security forces in J&K to exercise restraint. Ideally, the J&K CM should have been called for the high-power meeting. At every step, Kashmiris need to be taken into confidence.

The government needs to begin the process of dialogue. The positive thing is BJP is a coalition partner in J&K government. The government of India needs to take forward the dialogue process initiated by AB Vajpayee government. In 2003, Vajpayee, during a visit to Kashmir,

unilaterally announced ceasefire with Pakistan. He categorically said that the dialogue will be held with all the stakeholders. When a journalist asked whether dialogue will be held within the framework of the Constitution, Vajpayee promptly replied “insaniyat ke dayre mein (within the framework of humanity)”. The word “insaniyat” is important and accordingly dialogue should be resumed with all the stakeholders which include various factions of the Hurriyat Conference. If chairman of Pakistan Peoples’ Party (PPP) Bilawal Bhutto-Zardari can call Mirwaiz Umar Farooq to express their solidarity then why cannot Indian leadership call him and others and resume dialogue. If some agreement can be made with Naga leadership then what prevents government to begin dialogue with the Hurriyat. Syed Ali Shah Geelani’s Hurriyat is different from that of Mirwaiz. Earlier, the government had begun dialogue with Sajjad Lone and today he is a minister in the J&K government.

The external forces always try to exploit the Kashmir issue. They cannot succeed in their design if we win their confidence. The feeling of alienation prevailing among Kashmiris must be removed. Kashmiri youths, too, have aspirations. The educated youth like others wish to go abroad and prosper. Unfortunately, many of them find it extremely difficult to get passports because some of their close or distant relatives were part of militancy at one time.

Issuing passports may look like a small step but through such acts, one can win the confidence of the people and in a conflict zone it is needed the most.

The number of active militants has gone down significantly in the Valley. The number of foreign militants has also decreased. It is believed that as of now there are 146 active militants including 93 locals. There is no upsurge of Kashmiris joining militant groups. This is a positive sign. To win the trust of Kashmiris, contentious Armed Forces Special Powers’ Act (AFSPA) needs to be withdrawn from some of the areas of the Valley, where there are no major incidents of terrorism. The act provides impunity to the armed forces. Mehbooba Mufti and even earlier CM Omar Abdullah have been demanding the same for a long time.

Kashmiris should be given confidence that Article 370 will not be tampered and they will continue to enjoy rights given under the article. There is a strong feeling in the Valley that Kashmir is always ruled by Delhi and J&K government has no power. That needs to be removed through various pro-people steps in Kashmir. Political dialogue must be resumed with all the stakeholders. The Kashmir issue cannot be kept unresolved to gain political advantage in rest of the country.

Courtesy **SAKAL TIMES**, 18 July 2016

Jatin Desai is a veteran journalist.

Respecting others’ view-point

I have repeatedly observed that no school of thought can claim a monopoly of right judgement. We are all liable to err and are often obliged to revise our judgements. In a vast country like this, there must be room for all schools of honest thought. And the least, therefore, that we owe to ourselves as to others is to try to understand the opponent's view-point and, if we cannot accept it, respect it as fully as we expect him to respect ours..

-Mahatma Gandhi

Modi's Good and Bad Terrorists

Prabhakar Sinha

Narendra Modi has completely failed to protect our interest against Pakistan's terror attacks, but has learnt a suicidal lesson from our neighbour. Pakistan believes that there are Good Taliban and Bad Taliban and other variety of good and bad terrorists. Those targeting India or acting to promote its interest in Afghanistan are good terrorists and those not doing so are bad terrorists. The good terrorists enjoy the protection and patronage of the government and ISI. India did not patronise or protect any group of terrorists till Modi became Prime Minister. Now, the government is busy seeking the release of the terrorists associated with the Sangh Parivar. The terrorists facing prosecution for the terror attack on Samjhauta Express are being released with the help of the prosecution. The same favour is done to the accused in the case of Malegaon terror attack. The Prosecutor in this case came out publicly against the pressure from the NIA to help the accused. In the case of Malegaon, the government is dropping charges against Sadhvi Pragya among others, and wants her released. The court has found the government request untenable and rejected it. In short, for Modi, Muslims accused of terrorism are all bad terrorists and should be

punished whether they actually committed the crime or not, but Parivar's (whether like Godse, they are actually members or not) terrorists are good terrorists because they target only the minorities and should be patronised and protected. Just as Pakistan has been protecting her good terrorists, Modi, following in Pakistan's foot-steps, has adopted the policy of patronising and protecting his good terrorists and his good 'rioters'. The relief being given and reward being granted to the rioters of Gujarat 2002 are the tell tale proof of this policy.

US got the Taliban created and continues to pay the price. Indira Gandhi patronised Bhindarwale and paid the price with her life. India patronised the LTTE, and Rajeev Gandhi paid the price. Pakistan created the Taliban to serve the Americans and continues to bleed much more than us. Terrorism and engineering communal riots are against the interest of any nation including India. The people who are really patriotic must keep our national interest above loyalty to any party or leader and must raise their voice against Modi's suicidal policy of imitating Pakistan.

(Prabhakar Sinha is the national President of PUCL)

An Appeal to the Readers

Indian Renaissance Institute has been receiving regular requests from readers, research scholars, Rationalists and Radical Humanists for complete sets of books written by M.N. Roy. It was not possible to fulfil their demands as most of Roy's writings are out of print. IRI has now decided to publish them but will need financial assistance from friends and well-wishers as the expenses will be enormous running into lakhs. IRI being a non-profit organization will not be able to meet the entire expenses on its own. Initially, following 15 books have ordered for print: New Humanism; Beyond Communism; Politics, Power and Parties; Historical Role of Islam; India's Message; Men I Met; New Orientation; Materialism; Science & Philosophy; Revolution and Counter-revolution in China; India in Transition; Reason, Romanticism and Revolution; Russian Revolution; Selected Works – Four Volumes; Memoirs (Covers period 1915-1923).

Caste, Religion and Torture

Lenin Raghuvanshi

I used to work as farmer till 33 years ago (1977). During those days one Kanhaiya Singh son of Chirai Singh a local muscleman of Baragaon wanted to grab my 5 Bigha land and used to trouble me for that. They used to create problems, enter in to scuffle with me, abused me and asked me to run away as the land was there.

One day my sister's son Shivnath was collected wood in the farm of Thakur Kanhaiya Singh. They called him from the farm and ever since that day Shivnath is missing. In the case of abduction and murder of my relative the Thakurs wanted to implicate me falsely and also mounted pressure upon local police officers for the same.

Out of pressure the cops took me to police station in the evening at 4 pm and kept me at the police station for one and half day. I was afraid and feared what next will happen to me, what these policemen will do with me.

Later I was sent to the Chaukaghaj jail. There I was made to clean toilet and was given such a food that made me vomit. I used to cry, could not sleep during the night and always thought of my family while being in the jail. I stayed there for three months. During the period when I was in the jail my mother died but unfortunately I could not attend her last rites. I still regret this. I cry whenever I remember this, "says Bhunai Musahar, a local resident of Koiripur Musahar Basti under Baragaon, district Varanasi.

These cases are personal accounts of custodial torture by police on the innocent

victims, excerpted from their testimonies. Often impoverished and defenseless, Dalits, tribals, Muslims and other backward classes are subjected to police atrocities. Implications of such inhuman torture are far reaching and not only the victims, but their families also suffer.

Torture against the innocent marginalised people puts a big blot on India's status as world's largest democracy. The widespread use of custodial torture in India is one of the severest human rights violations. And, it is closely linked to caste based discrimination. Despite being signatory to various human rights instruments, Indian government seems to have grossly failed to protect and fulfil its obligation not only to its citizen but also breached many international human rights laws. Implicating false cases against powerless victims, arbitrary detention, custodial torture leading to disability and death, and still police enjoying impunity, has led to India's failure to its compliance to human rights instruments.

The National Human Rights Commission (2011) notes that from 2001 to 2010, there were 4,034 custodial deaths and 1,836 cases of custodial torture registered in India. The worst affected state was Uttar Pradesh having 999 registered deaths and 1,552 registered cases of torture. It is claimed that these numbers are just the tip of the iceberg as most cases go unreported.

The socio-demographic profile of the victims of custodial torture and death portrays that a majority of them are Muslims and Scheduled Castes (SC), Scheduled Tribes (ST) and Other Backward Classes (OBC). The data collected by PVCHR of 361 survivors of police torture show that 89 per cent of them belong to Dalits (Muslims and SC, ST). The data, both from the

government as well as non-government sources, clearly highlight that police often tortures the traditionally marginalised groups, especially Dalits and Muslims. More specifically, the torture victims are Mushars, tribals, untouchable communities and Muslims (findings of PVCHR and DIGNITY Danish Institute Against Torture Project, 2013 - 2105), the traditionally powerless, resource less and voiceless Dalits.

TORTURE VICTIMISATION: WHO, WHY AND HOW?

The torture by police usually occurs in undisclosed locations or unofficial rooms in police stations. When suspects and witnesses are picked up illegally by police and tortured for several days, it is seldom recorded and the ordeal continues till the victims admit to criminal activity. The most gruesome forms of torture usually occur in the course of the investigation and interrogation of the alleged suspects. Methods for torture include threats, psychological humiliation, deprivation of food, water, sleep and medical attention, assault, physical abuse, and even custodial deaths. For women, torture also includes practices such as custodial rapes, molestation and other forms of sexual harassment.

In general, torture has been used by the police for intimidating the suspects/culprits to speak the truth. However, there are innumerable cases of arbitrary arrest and torture by police on innocent victims to push them to admit to false crimes. Police go around with the powerful, the upper caste people who often implicate the innocent marginalised victims, mostly the Dalits and Muslims, in false cases. There are many reasons for their 'inhuman actions', salient ones are cited below:

MUSLIMS: KEY VICTIMS

Many studies (Khanam, 2009; Singh, 2013; Hasan, 1996; Mander, 2007) have, beyond

doubt, proved that majority of poor Muslims are the prime victims of custodial torture and deaths. In the same wavelength, Tata Institute of Social Sciences (2012) observes that 36 per cent of the jail inmates are Muslims while the population of Muslims in the state is close to 10.6 per cent. The findings of the report are in conformity with the Sachar Committee Report and general observation of human rights activists. There are multiple reasons for the Muslim community being targeted by the State authorities. True, that some youth (Muslims as well as Hindus) have fallen prey to illegal activities, may be due to abject poverty, still the major reason for Muslim youth being indiscriminately arrested by the police relates to misguided and myopic perceptions and prejudices. There are some added vulnerabilities with people belonging to minority religion— Islam, prominent ones are mentioned below:

Traditional Prejudices

Going into the historical lanes, after the Partition of India and Pakistan in 1947, there were huge clashes leading to violence and bloodshed between Hindu and Muslim communities. This has bred lot of animosity and lack of trust between the two communities. Riots between Hindus and Muslims are still frequent in some places in Uttar Pradesh. The diagram below presents prominent factors that result in police torture in India.

PROMINENT FACTORS LEADING TO POLICE TORTURE

Stigma and Labelling

After the 9/11 attacks, in India many Muslims have been negatively affected due to the stigma of being terrorist labelled against the community. On the pretext and suspicion of having terrorist-affiliation, policemen arrest and torture innocent Muslims. Young Muslims are targeted and they constantly dread being arrested.

(To be Contd....on Page - 39)

Did Ashoka's embracing Buddhism, promoting Ahimsa, Weaken India?

Ram Puniyani

Past is used by communal politics for their present political agenda. In India on one hand we have the use of medieval history where the Muslim Kings are presented as 'aggressors due to whom Hindu society had to suffer', on the other now we are witnessing the distortion of ancient history being marshaled to undermine Buddhism vis a vis Brahmanism.

The figure chosen to make this point by communal forces is that of Emperor Ashoka. Incidentally Noble Laureate Amartya Sen regards Ashoka and Akbar as the two greatest Emperors to have ruled India. A publication from RSS progeny, Rajasthan Vanvasi Kalyan Parishad claims that it was due to Ashoka's conversion to Buddhism and his promotion of ahimsa that India's borders opened up to foreign invaders. It also goes on to say those followers of Buddhism under Ashoka played a seditious role, they assisted Greek invaders with the goal that they would destroy "Vedic religion" and restore Buddhism. Here, what is being referred to as Vedic religion is Brahmanism as such.

Interestingly the article regards Ashoka to be a great ruler till he embraced Buddhism, while most of the thinkers show that his humane policies, making him a great emperor, were brought in after he embraced Buddhism. There are many components of this formulation which are concocted as per the political requirement of Brahmanical Hinduism. One of these concoctions is the very notion of India being the state from times immemorial. One understands that India as a nation state emerged during freedom struggle. The earlier formations were kingdoms, Empires. The boundaries of these kingdoms were not fixed and depending on the bravery and other associated factors

kings were expanding their area of rule or had to retreat into smaller areas or even getting decimated at times. Even before Ashoka came to power Alexander had attacked India. Such forays of kings into other territories are not unknown. Mauryan Empire was a major Empire the sub continent has seen.

So many dynasties have ruled large parts of the subcontinent, no single ruler has ruled whole of what is India today. So why is Ashoka being targeted today? Ashoka was successor to Bindusar, from Maurya lineage. Chandragupta Maurya had built the Empire and Ashok's annexed Kalinga (modern Orissa) into his kingdom. This battle was very bloody and as is famously known the bloodshed shook Ashoka and he decided to embrace Buddhism. From this point on the transformation of an aggressive insensitive king to a very humane person began with the embracing of Buddhism. He undertook the measures for welfare of the people, opposed the Brahmanical rituals and opened the gates of his palace for listening to woes the people of his empire. Inspired by the teachings of Buddhism he took steps towards building a compassionate state, the guardian state.

His ideas and polices are deciphered from the number of edicts carved on pillars and stones which are vast in number. What emerge from these edicts are very compassionate and impressive norms being propagated as back as in the period of third Century BC. What is remarkable is that though he embraced Buddhism he accepted the diversity as the norm of society. One of his edicts says that a ruler must accept the diversity of his subjects' belief. He did transform Buddhism in to a World religion. The spread of his ideas was not through

force but through moral appeal and persuasion. His message was to reduce suffering and to pursue peace, openness and tolerance. This is why he is regarded as Great contrary to the said articles' claim that he was great till he embraced Buddhism.

Ashoka's was the largest Empire in the history of the sub continent. His Dhamma was a moral code for the ruler as well as for the subjects who were exhorted to follow the moral path. His Rock Edict XII is something which we need to remember in current times as well as it has great relevance even today. It is a call for religious tolerance and civility in public life or as he puts it, 'restraint in speech', "not praising one's own religion or condemning the religion of the others without good cause...Contact between religions is good." (Sunil Khilanani, Incarnations, 'India in 50 Lives' page 52). 'He did not foist his faith, Buddhism on his subjects...He is important in history for his policy of peace, non aggression and cultural conquest'. (R.S. Sharma, Ancient India, NCERT, 1995, 104) Ashoka inspired the leaders of freedom movement for his principles of justice and non-violence. He did represent the agenda which symbolized cultural and religious pluralism which were central to the ideology of Gandhi and Nehru in particular. His symbols of four lions adorn Indian currency and the wheel has become part of Indian flag.

The problem with Ashoka's rule was not the military one. His Empire continued till 50 more years. In 205 BC Greek Emperor Antiochus attacked from North West and established his rule in some part (North-West: Punjab, Afghanistan). The bigger problem was from within the empire. This is related to Brahminical counter reaction to the spread of Buddhism. Ashoka had put a ban on the slaughter for rituals. This led to reduction in the income of Brahmins. The spread of Buddhism led to the

erosion of Varna-caste system. What the communal forces are calling as Vedic religion is as such the dominant stream which was prevalent then, Brahmanism.

These factors led to the counter revolution. Pushyamitra Shung, a Brahman, the Chief Commander of Brihadrath, who was Ashok's grandson, led the counter revolution. He killed the Emperor and founded the Shunga dynasty in Sindh part of Ashoka's empire. The counter revolution launched in the society led to the disappearance of Buddhism from this land. Ambedkar writes, "Emperor Ashoka proclaimed complete ban on killing animals. So nobody engaged Brahmins to perform rites and rituals. The Brahman priests were rendered jobless. They also lost their former importance and glory. So the Brahmins revolted against the Maurayan Emperor Brihadrath under the leadership of Pushyamitra Shung, a samvedi Brahmin and the army Chief of Brihadrath." (Writings and Speeches, Vol 3 P 167) Eighth Century onwards Shankara led the ideological battle against the philosophy of Buddhism. Buddhism urged the people to focus on the life in this World. The Shankara's philosophy called this World as illusion and restored Brahmanism here in full glory. Due to ideological and social counter revolution Buddhism disappeared from this land around 1200 AD.

So why is Ashoka's reign coming under criticism now? Ashoka embraced Buddhism and this was a setback to the Brahmanical system. Brahmanism is the dominant part of Hindu religion as understood today. Ashoka talked of non-violence and promoted pluralism. All these stand totally against the Hindu nationalist agenda of sectarian nationalism where violence is part of the politics. This wants to promote neo Brahmanical values. So on one hand there is the attempt to co-opt Dalits and other hand the aim is to keep (To be Contd....on Page - 41)

The Judiciary, only, is Responsible....

Jawaharlal Jasthi

With all my high regard for Justice Rajinder Sachar (Retd), over all these years, I felt much disappointed at his opinions as expressed in the *Janata Weekly* dated 12 June, 2016 and again in *THE RADICAL HUMANIST* of July, 2016. It is about the procedure for appointment of judges to the higher judiciary.

At the outset, he felt sorry for the collegium inviting the Executive to draft the Memorandum of Process (MoP). He laments that “it naturally gave an opening which has been closed permanently by the Bench holding earlier that the last word in the selection of judges is that of collegium.” Like all the proceedings, this also smacks of utter disregard for the Executive. It is true that the government has ‘unabashedly’ prepared a Memorandum of Process (including the objections and illegal suggestions considered in the light of the decision of the Constitution Bench). They should have declined to take the responsibility in view of the hostile atmosphere prevailing. But the executive bears a responsibility to run the government and could not afford to develop confrontation with the judiciary.

Justice Sachar states that “it is the duty of the former Chief Justices and even the judges of the Supreme Court to involve themselves in this deadlock to openly come out with their views.” He advises them that they need not feel embarrassment even if their suggestions are rejected by the Bench (collegium) that may consist of their juniors. The fundamental fact of independence of judges is that they are free from the concept of junior and senior. It is purely a bureaucratic concept. A judge is a judge irrespective of his duration on the Bench. The judgment given by a newly appointed judge carries the same weight as that of the judge about

to retire. I hope Justice Sachar will agree with it. Seniority may count for appointment as Chief Justice which carries some administrative responsibilities. But it makes no difference as far as judicial functions are considered. Justice Sachar is expecting that all the judges – past and present – should support the collegium. It reminds of Madeline Albright, the former Secretary of State under President Clinton, who said that “women who do not support Hillary Clinton for Presidency will go to hell”. It appears that all the judges, including some of the senior advocates have formed into an undeclared trade union to demand recognition of the supremacy of judiciary, in disregard of the constitution. The Chief Justice Edward Coke might have reminded the King James I that he has to be under “God and Law”. I do not know whether God and Law are the same.

But it is a happy development that Justice Sachar agrees that “Whenever there is a written constitution, the supreme law is the law of constitution.” He advises Parliament to accept the limitations of its power by the written constitution as it does not derogate from its sovereignty. It is the advice that the judiciary needs more than the Parliament. He agrees that the sovereignty of the executive and judiciary is limited by the written constitution. A happy realization. But now the judiciary is trying to exceed it.

The judiciary is demanding independence in excess of what is provided under the constitution. Sovereignty rests with the people, neither with the judiciary, nor with the executive nor with the Parliament. That is what the written constitution implies in a democracy. The constitution gave the Executive the responsibility to select persons for appointment as judges. How can the judiciary

snatch it from the executive? They are looking at it as a right and not as a responsibility. That is why they are so particular about it. It is not the Executive, but the judiciary, that is behaving like Henry VIII. To claim the entire virtue for yourself is, perhaps, the worst of all vices.

Nobody has questioned the independence of judiciary, but it is confined to judicial functions. Selection of persons for appointment as judges is an administrative function. Even if the judiciary is not willing to call it an administrative function, you cannot deny that it is how the constitution has seen it. The Constituent Assembly decided upon it after considering many, if not all, alternatives. All the learned persons sitting on the Bench have taken an oath "to bear true faith and allegiance to the constitution of India as by law established." But now they are trying to find fault with the same constitution which made them judges. They argue that the independence of judiciary is not complete unless the absolute right to select persons for appointment as judges is also with them. It is a theory developed by them. It is an attempt to overcome the limitation on their independence incorporated in the constitution. That may or may not be correct. But an ethereal theory cannot be an excuse to ignore and override the provisions of the written constitution to which you proclaimed your allegiance. That is why we consider the collegium unconstitutional and

invalid. Who drafts the Memorandum of Process is irrelevant.

The learned counsel Mr. Parasaran has asserted in the open court that they are trying to read their own philosophy and preconceived notions into the constitution. But the Hon'ble Justices on the Bench knowingly and deliberately took a stand against the executive and created a constitutional crisis. There is nobody and no organization to which a petition can be made against the Supreme Court decision. It is easy to blame the executive for their horrendous, illegal and unconstitutional behavior in the light of observations of the Constitutional Bench. But it is necessary to see it in the light of constitution itself. What are the grounds on which the constitutional amendment and the National Judicial Appointments Commission Act were struck down? It is not clear why the executive did not resort to putting the same in the Ninth Schedule and take it away from judicial review to avoid the confrontation. Can we imagine what would have happened if they did it?

We can only wait and see how the situation develops and how it gets resolved. But the responsibility for the situation lies with the judiciary and with nobody else. Perhaps even the retired judges are prepared to share the responsibility as called by the learned Justice Rajindar Sachar. So far, so good!

M.N. Roy on Superstition

Superstition is rooted in the ignorance of the primitive man. In course of time, man outgrows the blissful state of ignorance, Nevertheless, he is haunted by superstitions haloed by tradition, and often raised to the dignity of the expression of revealed wisdom. Eventually, scientific knowledge gives him the power to break the spiritual bondage. The history of the development

of science coincides with the history of a bitter struggle against superstition. In our country, the struggle is still to begin. Whatever little of modern scientific knowledge is now there, is very largely superficial, and is often utilised with the purpose of reinforcing superstitions. That is an abuse of science.

June 15th, 1950.

Dehradun

From: Preface of the second revised edition of 1950,
'Fragments of a Prisoner's Diary: INDIA'S MESSAGE'

Aadhar Card: A Telling Personal Experience

Shailesh Gandhi

I have been hearing about problems of identifying a person through the Aadhar card system.

However, my touching faith in the integrity and capability of India's IT professionals made me believe that the technological solution must be very sound and the errors if any would be negligible. My friends Aruna Roy and Nikhil Dey had told me that workers who work with their hands have their thumbs getting worn out and hence being deprived of their legitimate rations, pensions and other entitlements. I had again believed that these may be rare occurrences which were being anecdotally described. Other friends have also been highlighting serious flaws. I trust and have great faith in all these friends but felt that they were perhaps picking holes in one of the greatest technological feat of India for small discrepancies.

However, yesterday my personal experience alters my perception, and I think there may be serious flaws which are being wished away. I have taken my Aadhar card in the last three years, and have only shown it or quoted the number sometimes. I do not wash clothes or do manual work which could lead to my finger prints changing. My bank, -HDFC Bank at Santacruz (w), - said I must get my KYC done. They said my Aadhar card would serve the purpose. I gave them my Aadhar card and they

asked me to put my thumb on a small device. I could see my thumb impression on a screen. But the system would not validate me! The bank employee asked me to try again and we did this over six times with the same result. The bank employee told me that this happened very frequently with many customers. Most of these customers would not be working with their hands, and yet the system of Aadhar verification was not working.

I could do my KYC by giving other documents, but the horror of this hit me. If the system cannot recognize people from its database with the thumb impression, what would happen to those whose food-grains, pension or EGS wages depend on it? I think there is an urgent need to check over a large sample of maybe 10,000 people in different places to validate whether the

system does what is claimed. Otherwise we will only have a pretension of having a system to identify every individual in the country. It is necessary that the truth be revealed by actual verification of a large sample across different parts of the nation.

Love

Shailesh

Mera Bharat Mahaan Nahi Hai,

Per yeh Dosh, Mera Hai

Martin Luther King, Jr. noted: "Lamentably, it is a historical fact that privileged groups seldom give up their privileges voluntarily."

Let us in an upper caste-dominated society, acknowledge the vast undeserved space we occupy. Let us cede what has to be ceded.

Machine fails to read fingerprints, 1.4cr Rajasthanis go without ration

Rosamma Thomas

HIGHLIGHTS

The e-Point of Sale (PoS) machines are programmed to read fingerprints of those registered to receive subsidized grain, connect to the Aadhaar database over the Internet and authenticate the recipient.

Rajasthan was among the first states to implement the Food Security Act in 2013.

Jaipur: They were meant to ease processes and clean up corruption in distributing food grain to the poor. Instead, the e-Point of Sale (PoS) machines have thrown up more problems than solutions.

Each of these devices costs roughly Rs 17,000. They are programmed to read fingerprints of those registered to receive subsidized grain, connect to the Aadhaar database over the Internet and authenticate the recipient.

Clearly, things aren't playing out to script. In the past two years, over 1.4 crore beneficiaries have been dropped from the list, without being informed. Transaction summary data released by the state government shows that for the month of May, only 44.4 lakh transactions occurred for wheat grains. "That's less than half the number of those eligible, not counting those whose names were deleted," says Nikhil Dey of Mazdoor Kisan Shakti Sangathan.

Rajasthan is the second state after Andhra to switch over to this technology. At the recent 'Jawab Do dharna' in Jaipur, old women vented their anger against the new machines.

Daily wagers complained they spend days at ration outlets trying to squeeze out supplies from the 'impossible machines'. The long, fruitless

wait forces them to skip work and end up losing wages. Hard manual labour flattens fingerprint patterns on the palm. Chances of the machines detecting them are really dim.

These patterns also fade with age. "I've never been a manual labourer, but at 70 the lines on my fingers are faint and the device never works with me too," says Aruna Roy of MKSS.

Vaishali Devi of Kishangarh tehsil, Ajmer, complains she's been deprived of ration and pension for over three months. She was at the Jawab Do dharna in Jaipur for 20 days.

With her was fellow villager Vanni Bai. For three months, she hasn't been able to collect her quota of supplies.

Shishir Purohit, a researcher who's travelled through the state's 33 districts, says: "On an average, only 20 people take home rations each day. Poor internet connectivity slows the system. Often, the line snaps. Hundreds keep making attempt after attempt without any assurance that they'll take home rations."

The Aadhaar Bill became law on March 16. Well before that, by January this year, distribution of ration under the Food Security Act was made compulsory through Aadhaar in Rajasthan. "The rules of the Act have not been notified," says Dey.

Rajasthan was among the first states to implement the Food Security Act in 2013. Three years later, dealers are yet to receive lists of eligible households. Dealers find their hands tied, for now they're not allowed to use the manual system to distribute grain. "The administration allows dealers leeway to use the manual system only towards the end of the month. By then, the

tired daily wager has most likely given up, and his grains could well be given out to someone else," says Dey.

The built-in redress mechanism is totally out of sync with ground reality. In principle, the Unique Identity Authority of India, implementing agency for Aadhaar can issue a one-time

password to the ration seeker's mobile phone if the system fails. Many using the system can't afford mobile phones; some don't remember the number registered on their Aadhaar.

Courtesy timesofindia.indiatimes.com, Jun 28, 2016

Readers' Comments:

Dear editor--April RH is exciting and enjoyable, stimulating further thinking on the issues. V.R. Narla missed a very important point in the Gita. Had he understood the implication of that point, I think he would not have taken the trouble of producing such a tome-highlighting various drawbacks, absurdities and contradictions etc. Krishna is very clever. Towards the end, i.e., 18.63 of the Gita He tells Arjuna that he (Arjuna) is free to take it or leave it. Arjuna did not have to follow His sermons because He (Krishna) was teaching. Arjuna is free to use his reason and discretion and act accordingly. This is applicable to all of us. We can accept or reject it according to our reason. Mahatma Gandhi used Gita for sustaining his concept of duty and Robert Oppenheimer used Gita to justify his exploding the first test atomic bomb. Thus it served the needs of the very high and the low, while the lord himself asked us to trash it or take it according to our reason----P.A.S. Prasad,

Tanuku, Andhra Pradesh.

Dear Mahipal ji

Thanks for the web edition of RH of July. I am sure the research article of Prabhakar Nanavathy will be an eye opener. I will circulate. The report of IHEU is quite appropriate.

– Narisetti Innaiah

Dear Mahi Pal Singh, Namaskar.

It is very nice of you to include my article (Shirdi Sai Baba – Myth and Business: newly created god) in the July issue as recommended by Dr Innaiah.

As a matter of fact even after so many years of rational education and awareness about ill effects of religious mania, the trend to attend these places at a particular season (auspicious day and time) is increasing which is not a good sign. In this regard we can cite so many examples like Pandharpur, Ajmer, Tulajapur, Mathura, Kashi, Haridwar, Ayyappa. Tirupati etc. The soft attitude, encouragement and responsibility taken by the Govt is mind boggling.

Once again I thank you, With kind regards,

- Prabhakar Nanawaty

‘Khattar Kaka’: LUNAR ECLIPSE

Translated by Kata Chandrahas

(‘Khattar Kaka’ is a literary work translated by Kata Chandrahas from the original book “Adarsavyaktulu” written in Telugu. Khattar Kaka is a simple person well-versed in mythological works written in Sanskrit. However, in his outlook he is rational, realistic and scientific and interprets happenings and events accordingly. The first episode appeared in the June 2016 issue of the RH. Following is the second episode.—Editor)

On the eve of the lunar eclipse, the villagers were bathing in the river at night while Uncle was sitting in his backyard by the fireside, trying to keep himself warm. I sat close to him, I asked, “Uncle, won’t you take the eclipse bath?”

“Arre, this is the winter season. Thick dew is settling. Do I have to go for a bath at midnight? Has a mad dog bitten me or what?”

“But please do take a good look at the crowd at the river bank, Uncle,” I said.

Uncle was shivering. “O, my god! This cold wind is blowing in gusts. The water is so cold that the fingers freeze at the slightest touch. Yet thousands of women and men are standing in the river with water up to their chest! Children are shivering. Men are freezing. Dainty women are struggling to stand erect. Gusts despatched by the easterly wind are entering their blouses like arrows, piercing their breasts. Despite that, hoping for *punya*, merit, they are vying with each other in bathing,” he said.

“So, you wouldn’t take a bath, would you?” I asked Uncle.

Uncle said, “Arre, son! The earth’s shadow falls on the moon. That’s all that is there to the eclipse. After sometime, the shadow would pass. And because of that why should I take a dip in the river? Do you want me to go crazy like the villagers there?”

“Look at the priest there, Uncle,” I said.

“He has shut his eyes and is saying his prayers. This time he has been told not to witness the eclipse. That’s why he won’t look up.”

“What would happen if he looked up?”

“Death,” I said.

“Death is inevitable to everyone. Can it be averted by shutting the eyes or if ‘*om somaya namah*’ is recited?”

“But this time, Uncle, *mrityuyoga* (death) is predicted for him.”

“Arre, I have lost count of *mrityuyoga* that I have crossed since my childhood! I never said the prayer, ‘*Om sum sah*’. Yet, *mrityuyoga* could not pluck a single hair out of me. If death is the consequence of not propitiating the planets, then the countries like England, Turkey, Afghanistan and Baluchistan should have been turned into burial grounds long ago. And, only a few persons like the very wise priest would have survived in this *Bharathakhanda* of *Jambu dweepa*.”

“Do you mean to say the astrological predictions and remedies to propitiate the planets are all a hoax?” I asked.

“Just think for a while. At this point in time, your aunt’s astrological chart forecasts ‘death of wife’. The great man who gave the prediction did not even consider how such a forecast could be valid in the case of women, children and unmarried people? Bad tidings are deliberately added in the forecasts. If worry, grief,

injury, loss of prestige and the like are not forecast, how else would these rascals (astrologers) be able to fulfil their needs in the name of neutralising the evil effects? Believe me, it's not the moon that is subject to eclipse. It's actually we who are the victims of the eclipse."

"How's that so, Uncle?"

"Let me explain. Eclipse means we are defiled. Like defiling at birth and death, defiling at the eclipse too. No food and water right from an hour before the eclipse begins. Throw out the earthen pots. Take a bath. Say the prayers. Perform remedial ceremonies. Give away money and other things to the Brahmins. These scoundrels have converted the eclipse too into an instrument of extortion."

Just then, loud yells of 'Donate to the eclipse' rent the air.

Uncle resumed and said, "Look at how the relatives of Rahu are creating a racket in their quest to extract their bribe! After the bribe is placed in their palm, they claim to make a recommendation to Rahu to release the moon! Until then the ogre would clutch the moon tightly with his horns! Look at how the money rains there! What intelligence! What intelligence!!"

"Uncle, do you say that all this is blind faith?"

"Do you doubt that too? Today there would be fairs all over the country. In the places like Kasi and Prayaga, there will be waves of the sea of human heads. It's difficult to count how many children would be lost, how many old women would be trampled dead and how many young women would be crushed in the melee. Can there be such mad religious jostling anywhere else? In other countries, not a farthing is spent on such occasions. But in our country, crores of rupees go down the drain. If this money is spent on the fields, we wouldn't have to import food grains from other countries. But we shower

money on the shadow of the land. There's no food to eat. No money in the waistcloth. But in the name of religion we are ahead of all others in taking a dip in the river. It's due to this religious frenzy that many attain *paramapada* (death) while having a dip in the Ganges."

"Uncle, what has caused such foolishness?"

"The priests are the chief cause of such foolishness in this country," Uncle declared.

"Uncle, no yarn, please! How could the priests be the cause of our foolishness?"

"Listen to me. They got hold of some *vidya*, knowledge. I mean, about the eclipses. These days even an ordinary student who has some knowledge of maths would know about the eclipses. But in the days of yore, that knowledge was their perennial succour. The sun and the moon became silver and gold for them. The blind belief that 'when these priests can know what happens in the sky, why would they not be aware of the events on the earth?' began to take firm root among the people. The priests too began to playact as all-knowing types. Not only did they talk about the lunar eclipse but they also began to fix the auspicious time for marriages. By and by they became the contractors for all the planets. Thereafter in the name of the *grahas*, the planets, they began the business of *dravya graham*, extorting money. Magic always bedazzles, doesn't it? Look at the dramatic way they accept the donations! White things such as silver, pearls, conches, rice, curd, ghee, camphor, sandal, white cloths and white oxen in the name of the moon! In the name of Sani (Saturn), they take black articles such as black stones, black cloths, iron, *til* seeds, cereals, buffaloes and black cows. Red coloured articles such as gold, copper, precious stones, sapphires, wheat, jaggery, saffron, red cloths and red complexioned calves in the name of the Sun. What great poetry have they woven? It may cost

the householder a lot of money but to those who wove the poetry, it turned into ‘*athakari*’ (money earning ploy). Likewise, they opened ledger accounts in respect of every planet. Thanks to the munificence of the nine planets, *ashta dhatus* rings adorn the fingers of the priests. Curved bracelets shine on the shoulders of their women. Astrology may or may not have helped others but the benefits have been immense for the priests.”

‘Uncle, look there. Chowdary’s wife is donating a pot of ghee.”

“Well, she is not the kind who ordinarily gives away even a *tola* of ghee. But our slimy priests have got a whole pot of ghee from her. Such is the effect of their magic spell. Just see what they have woven, -

‘*ghritakumbhoparinihitham sankham navaneethapuritham dadyat nadyadodoshasanthai dvijaya doshakaragrahane*’ (Krithyamanjari)

‘For overcoming ‘*nadidosh*’, nervous blemishes, donate to a Brahman a pot of ghee placing a conch of rarefied butter atop the pot during the lunar eclipse!’

“These priests have caught hold of the householders’ *nadi* (pulse) so comprehensively that they have been made ‘*anadis*’ (innocent). Not only the *nadi* of the people but they also hold their ‘*nari*’ (woman) in their fists.”

“Uncle, you always spice up your talk with liberal doses of figures of speech, don’t you?”

“No figure of speech, son! What I say is the truth. The priests have caught the hair of the householders too in their hands.”

Looking at the expression of bewilderment on my face, Uncle picked up the Mithila state almanac from the windowsill and said, “Take a look.

‘*streenam kesabandhana muhurthah Aswini, ardra, pushya, punarvasu nakshatresu*’

‘The auspicious time for women to comb their hair and pleat or to make a chignon is Ashwini, Arudra, Pushya and Punarvasu.’

“Why not Bharani, Krittika, Rohini, Mrigasira stars? Would the astrologer’s home be doomed if the doe-eyed woman made a bun of her hair during the Mrigasira star? The priests don’t tie their tuft after checking what the almanac says, do they? Then, why should women comb their hair after checking the almanac?”

“I didn’t know that the almanac has such things too, Uncle.”

Pushing the almanac towards me, Uncle said, “Please check for yourself the titles in bold letters.

‘*Navavadhwah pakarambhah*’
‘*Prasutheenam nakhachhedanam*’
‘*Streenam lakshabharana dharanam*’
‘*Sisumukhe stanadanam*’

(‘When should the new daughter-in-law step inside the kitchen?’ ‘When should the women clip her nails after the delivery?’ ‘When should women wear lac bangles?’ ‘When should the breast be given to the infant?’)

“*Muhurat* has been fixed for such things. Many stalwarts have put their seal of approval to this almanac. Look at the names of the scholars printed on this.”

“Uncle, why would these scholars support such black magic? Should they not be putting their brains to some better use?”

“Why would I cry hoarse if our scholars were of that kind? They exhibit their scholarship on matters such as ‘*streenam anga sphuranafalal*’ (The results of shaking of the woman’s limbs). ‘If a woman’s thigh shakes, she

will obtain love; if her waist shakes, she would fall in love with a scoundrel and if it's the navel, her husband would die...' By devising such almanacs, they have gained control over all the five sense organs of women!"

"The almanac also contains some important things, such as *vrishyo yog*, predictions for the year," I said.

Leafing through the almanac, Uncle said, "Let's examine that also. This is 'Parabhava' year. The forecast for the year is written as below—

'Pandithascha prajah sarve bhayabheethah parahave'

"That means, in Parabhava year, the people would be tortured. They would all live in utter fear."

"So, this year will not be all right," I said.

"But the presiding ruler of the year is Brihaspati. And the forecast because of that is written as—

'Vipra yagnaratha bhavanti thapasa sasyaih kshithiirvyapitha'

Raja mantriyutho ganaischa mahishrdaisah samriddalayah

Rogam dhvanthi suvrishtayah pratidinam krura vinasyanthi vai

Chouravyaghra bhujangamascha bahudha nasyanthi jeevebdape'

"That means, the country will witness prosperity. Wealth, food grains and cattle will be abundant. Rainfall will be copious. Diseases will disappear. Kings and Brahmins will be busily engaged in their duties. Thieves, tigers and snakes will not cause trouble to anybody."

"That means, the year will be good. People will be free from all kinds of difficulties," I said.

"Wait for a while. This year there is the

sun named Samvahaka. The prediction because of that is written as—

'Aditye bahuvittanasanapara loka jwaravyakulah'

meghanam jalahanireva mahathi sasyasssssyaa naso dhrivam'

"That means, this year there will be loss of wealth. People will be afflicted by diseases. Clouds will not precipitate and cause rain. Seeds would not yield grains."

"That means, famine and ruin," I said.

"Wait, wait. The name of the cloud this year is Samvartaka. The result of that is—

'Samvartake mahavrishtih sasyavridhikaree subha'

jalapurna mahee nityam jaladairveshtitham nabhah'

"That means, this year, the rains will be copious. Harvest will be good. The earth will be quenched of its thirst for water. The sky will always be overcast."

"Uncle, why does the almanac contain such absolutely contradictory things?"

"That is the real trickery. The web has been so woven that no result can ever go against the prediction. If it rains, it's due to Samvartaka cloud. If it's famine, it's because of Samvahaka sun. Flood at one place and famine at another. It's not easy to fathom their deception, son."

"Uncle, magazines too publish the predictions. Are they also of the same kind?"

"Absolutely! Just think of this. Income and expenditure, grief and happiness, pleasure and pain are daily occurrences. The predictions on these events are slightly altered this way and that, added or deleted somewhat and proffered to Aries or Taurus to deceive the credulous people in the name of their future. Reckon that those who deceive are *makaras* (crocodiles) and

those who are deceived are *vrishabhas* (oxen).”

My face showed surprise and Uncle caught on. “Look, my zodiac sign is Leo. The prediction for the week for me is lavish feast. Come to think of it — everyone ate the same food cooked at my home, some of whom are of *kumbha rasi*. But why is that a feast had not been predicted for them? There would be crores of people with Leo zodiac sign. There would be many beggars also among them. They would not have had *kubhojan* at all. There would be many patients. Poor things, they can’t eat anything at all. But why would those who forecast think of them! Whether or not anyone had a meal, these astrologers never forgot to make excellent arrangements for their own food.”

“So, these predictions are all *midutambhatla* predictions, trash. Are they?”

“Of course, they are. If an astrologer comes to me, I shall not take more than a minute to call his bluff.”

“How, Uncle?”

“I’ll pose him a simple question. ‘I have this wood apple in my hand. Will I put it in my mouth or not? Please answer.’ With this, he will start perspiring. Astrologers and *tantriks* don’t come to me for fear of being exposed, isn’t it?”

“But, Uncle, I believe our almanac reveals many things which astound even the Western scientists, doesn’t it?”

Uncle smiled and said, “Have no doubts about that. There are many things in that which would make the scientists go crazy. For example, when would the earth sleep? When would there be fire in the sky? And, when in the underworld? Which year would Durga arrive riding on an elephant? And which year on a palanquin? When would Shiva ride on the bull? When would he take a stroll with Parvathy? Look at what is written about Sravana Krishna Chaturdasi — ‘*kamaviddho harah pujyah!*’ That means, that

day worship Shiva, who has been wounded by Manmatha’s arrow. Tell me, which country’s calendar will speak of such things?”

“I’m out of my depth, Uncle.”

“Son, the gods here are these astrologers who have to be worshipped. ‘*Jamatha dasamograhah*’ (son-in-law is the tenth planet) is the adage. But I would say, ‘*jyothishee dasamograhah*’ (astrologer is the tenth planet). Astronomers of the other countries examine the planets and the stars minutely with the help of the telescopes while our astrologers don’t stir out of their home and yet make a neat pile for themselves.

‘*Sammukhe charthalabhascha vame chandre dhanakshayah*’

(If the moon is in the front, income will accrue; if it’s on to the left, loss will ensue.) That’s why while the Americans land on the moon and fetch samples of the rock from there, we say ‘*Chathurthee Chandraya namah*’ and show the bananas to the moon from here itself.”

“Uncle, this is truly shameful.”

“Son, we have turned the moon into an object of magic in the same way as the magic in the novel *Chandrakantha!* Earlier, the words that we heard in Krishna’s Childhood episodes such as ‘Mother, I want the moon’ and in poetry, ‘The poor *chakora* bird is in love with the moon’ and ‘touch the moon’ were all considered impossible and fictional. Science has made all those impossible things possible. Now a child can be given the moon as a toy. Chakora bird can meet the moon. Now the beautiful women instead of

being moon-faced (*chandramukhi*) turn their face towards the moon (*chandrabhimukhi*) and make the adage ‘Can one spit on the moon?’ stand on its head.”

“Uncle, you have chosen to speak like

(To be Contd....on Page - 42)

Human Rights Section: ALLEGED MAOIST

Malini Subramaniam and Kamal Shukla

'A stark nude body wrapped in plastic': What happened to a young woman in Chhattisgarh

The police claim she was a Maoist. Her mother says she was raped and killed. A court has ordered the body of Madkam Hidme to be exhumed for a postmortem.

The cot she slept on, the plates on which she ate, the clothes she wore, the bags she carried when she went to the weekly market, the corn she harvested, the oil she used, the bangles she wore. All the meagre belongings of 23-year-old Madkam Hidme were offered at her grave outside Gompad village in southern Chhattisgarh. In the village, her disconsolate mother Madkam Lakshmi alleged her daughter had been dragged away from their home by security personnel on June 13. The next day, the police sent back her corpse. "A stark nude body wrapped in plastic," Lakshmi said. The body was mutilated, she went on, controlling her voice from breaking. The left hand looked broken and the wrist was placed on the body. Hidme's teeth were broken. There were cuts on her nose, ears and chest. While Hidme's mother saw the cuts on her daughter's body as mutilations, it is possible they had been made in the course of a postmortem. There appeared to be two wounds – one on the forehead, a little above Hidme's left eye, and another somewhere in the centre of the body, Lakshmi pointed. **The official version** Late night on June 13, officials at the police headquarters of Sukma, the district where Gompad lies, issued a press statement offering their version on Hidme's death: "The District Reserve Guard (DRG) and Special Task Force (STF) of Konta police station that left on a search patrol engaged in a fierce gun battle with the

Naxalites in the forests of Gompad and Gorkha. The DRG and STF fought the Naxalites bravely who managed to disappear into the forests unable to withstand the fierce fighting...." The police later recovered the body of a uniformed woman identified as Madkam Hidme, member of Platoon No. 8 Kistaram Area. The police also recovered a 'bharmar' (country-made gun) next to the body... Superintendent of police, Sukma, Mr Elesela reached the spot to congratulate and motivate the fighting jawans. The police suspect many more Naxalites to have been injured and killed and a search for their bodies was on...." The police released a photo that showed the body of Hidme splayed on the ground. She was wearing a crisp, ironed Maoist uniform. The outsized pants had been rolled up neatly around the ankles. For many who saw the image, it did not look like that of a Maoist who had gone down fighting. There were no visible holes in the uniform that the bullets would presumably have made. Convinced that her daughter had been raped and tortured before being murdered, Lakshmi petitioned the Chhattisgarh High Court at Bilaspur on June 20. Taking a favourable view, the High Court issued an order the next day for Hidme's body to be "exhumed in the presence of the petitioner and other family members". An advocate could be present at the exhumation if desired by the petitioner, the court said. The court also ordered a fresh postmortem by a three-member

committee led by the head of the forensic department at the government-run Maharani Hospital in Jagdalpur, the divisional headquarters of Bastar region. A videographed tape along with detailed report determining the cause of death is to be submitted before the court on June 27. The police superintendent of Sukma, IK Eleselya, expressed his inability to discuss the case in great detail given that it was sub-judice. He maintained that the security forces had engaged in a 45-minutes long encounter with the Maoists in the forests of Gompad on June 13. Declining to disclose the time of the encounter, he said it had resulted in the death of Madkam Hidme. He claimed Hidme featured in the police records as a member of the Communist Party of India (Maoist) in Kishtaram area. He said a postmortem had been conducted in Sukma before Hidme's body was handed to the family. Responding to Hidme's parents' allegations that she had been raped and murdered, he said, "I respect their sentiments and await the conclusion of the process of a re-postmortem for the matter to be decided by the court." **What the villagers alleged** A team of Scroll reporters visited Gompad village on June 19 after walking 20 kms. Several villagers had gathered at Hidme's house. Her parents Madkam Kosa and Lakshmi were away – they had travelled to Raipur to address a press conference. Other members of Hidme's family and the villagers described what had happened on June 13. Subsequently, Scroll met Hidme's parents in Dantewada. This account is pieced together based on all the testimonies. On the morning of June 13, Hidme was resting at home to recover from a bout of illness, they said. Her mother was pounding rice, while the rest of the family had gone to work, some to plough the family's fields, and others to gather torra, the fruit of the Mahua tree. Around 8 am, a large group of uniformed

and armed security personnel barged into the house. By then, several people in the village had been alerted to the presence of security forces from the nearby Gorkha camp, about eight kms from the village. The camp houses a company of the Central Reserve Police Force, which patrols the area, often injoint operations with Chhattisgarh police. As is the usual practice in villages that lie in Maoist-dominated areas, the young men escaped into neighbouring villages or into the forests. Hidme and her mother were among those who had not managed to escape. After barging into their mud house, the security personnel dragged Hidme out. Her mother Lakshmi screamed at them to let her daughter alone. Hidme began to wail and held her mother's waist as she was being dragged out. She was slapped a couple of times, people said. Her mother was beaten with a stick till she fell unconscious. Three women from the neighbourhood, Bhoome, Linge and Unge, tried to intervene, pleading that they leave the girl alone. The security men shoved, pushed and beat up the women, threatening them with guns to not to follow them. A little while later, Lakshmi regained consciousness. Many security personnel were still around, looting the homes of the villagers, taking away their axes, bows and arrows, coins, hens, eating the mutton cooked as part of a wedding feast. Along with a group of women, Lakshmi tried to follow the group of men who had taken away her daughter but they could not be traced. **The search for Hidme** In the afternoon, the village head of Gompad, Soyam Dharma, led about 50 women and men to Gorkha camp, eight kms away, pleading with the security personnel to release Lakshmi's daughter. The men at the Gorkha camp feigned ignorance and asked them to check in Konta, which is 20 kms away. Since it would be impossible to get there before sunset, the villagers from Gompad

stayed in Gorkha. Early next morning, on the way to Konta, they ran into the panchayat secretary who had been summoned by the police with a message: they had the body of a woman from Gompad and they wanted him to help them identify her. Fearing this could be her daughter, Lakshmi was stricken with grief. The long hours of walk the previous day and the trauma she had gone through had drained her physically and emotionally. She could not walk further. After an agonising wait, around 4 pm, the body arrived in an auto accompanied by a policeman. It was wrapped in a tarpaulin sheet. Just the sight of the bare toes sticking out of the plastic cover was enough for Lakshmi to know it was her daughter's corpse. With the auto that had brought the body refusing to travel to Gompad, the villagers carried back Hidme's body for the rest of the 15 kms, reaching home in the early hours of June 15. It was only after the daylight broke that they removed the cover and saw the cuts on Hidme's body. The villagers then contacted Soni Sori, the activist and leader of the Aam Aadmi Party. She advised them to bury the decomposing body until a petition could be filed seeking a postmortem of the body. Lakshmi feels her struggle has partially paid with the High Court order. "Nothing can bring my daughter back to life," she said, fighting her tears. But she feels the court will vindicate her claims that her daughter Hidme was brutally raped, tortured and murdered, demolishing the police version of an encounter. If she is able to get justice for her daughter, that will to some extent let her move on in life, she said.

The case in the court While many feel vindicated by the court orders, activist Himanshu Kumar remains sceptical. Kumar ran an NGO called Vanvasi Chetna Ashram in Dantewada until he was forced to leave in 2010 after he protested against Salwa Judum, a civil militia supported by the state. He recalled another

case of alleged encounter killings that took place in Singaram village in January 2009. Nearly 13 bodies were exhumed and a postmortem was conducted. The reports were submitted but the files are still lying somewhere in the court. Seven years from now, people are still waiting for justice, he said. However, if people read about encounter deaths or the arrests of Adivasis and pause to consider whether the claims made by the police are actually genuine, then the outrage has served at least some purpose, Kumar added. Activist and leader of the Aam Aadmi Party, Soni Sori, shared Kumar's scepticism. She and her party members were barred from travelling to Gompad. They spent two-and-a-half days in Konta, where a mob attacked them, calling them Maoist supporters. The police did not take any steps to quell the mob and the sub-divisional magistrate of Konta urged them to return. Sori felt that the police and the government would try their best to subvert justice in the case.

The unanswered questions As the body was reportedly exhumed for post-mortem on Saturday, large questions loomed: Will the postmortem reveal that Hidme did not die in an encounter but was murdered? Will it prove whether Hidme was raped? Was she tortured before she succumbed to death? What the postmortem will certainly not be able to prove is whether Hidme was a Maoist. On their part, through a poster pinned on the trees in the forest surrounding Gompad, the Maoists have declared that Hidme was an ordinary Adivasi woman and not one of their cadres. Her mother claimed Hidme was never a Maoist. The eldest of five daughters, Hidme was a cheerful and talkative girl, her friend Nagmani said, recollecting their times together. The villagers, including her friends, were not able to cite any particular reason for such a brutal assault, but neither did they express much surprise. Many in the village had been arrested, rounded up,

detained and beaten merely on the suspicion of being Maoists, they said. Twenty year-old Madkam Budra recounted how he was picked up from his field in December 2015, detained in Bhejji camp for five days, sent to Sukma thana for two months, before he was let off. In Bhejji, he was once hung upside down and beaten with a stick at his waist, he alleged. In Sukma, he was made to wash clothes of the jawans, washutensils, sweep the camp until they decided to release him, he claimed. **Old feuds** Himanshu Kumar offered a possible reason for why Hidme had been targeted. She may have been mistakenly identified for one of the 12 petitioners who filed a criminal writ petition in the Gompad massacre of 2009, he speculated. In October 2009, 16 men, women and children – nine from Gompad and seven others from the neighbouring villages of Velpocha, Nalkathong, Bandarpadar – had been brutally attacked and murdered by Salwa Judum activists. The case had recently come up for hearing in the Supreme Court. “The state for reasons known well will want none of them to appear before the court on June 29,” said Kumar. In Gompad, villagers said an atmosphere of fear and uncertainty has loomed in their village after the 2009 massacre. A young woman said she barely stepped out of the village. She was about eight when the carnage happened. She lost her mother, father and sister. Darkmemories surfaced as she sat on a cot, staring at the empty space, narrating what she remembered. Could the recent raid on the village be part of this long-running feud that had split the area’s Adivasi community? Hidme’s mother Lakshmi claimed she knew at least five of the men who had barged into her home on June 13. According to her, they were Podiam Judev, Madvi Erra,

Madvi Raju, Kurram Santosh and Muddaraj. Erra and Raju are from Gompad. The others were from nearby villages. Muddiraj

of Mosalmadgu village had been with the Judum since 2005. Raju had run away with a girl the elders in the

village did not approve of. The other three were former members of the village-level Maoist political committee called *the sangham* and had surrendered to the police last year. Lakshmi claimed that Santosh, while he was still with *the sangham*, had come to visit the family and had asked them to let Hidme join the Maoists. Lakshmi had refused, stating that she needed Hidme to help her at home. She said she was shocked to find the men who worked with the Maoists were now part of the police force. **Flawed strategy** One of the key strategies deployed by Bastar police in its anti-Maoist operations has been the wooing of Maoist cadres. Many of them have surrendered to the police, attracted by jobs offered by the government. However, with few other jobs available, a large number of them have been placed in the District Reserve Group, a special unit made up of Adivasi constabulary. Drawn from the villages, these men are well versed with the terrain and language, as well as familiar with people who have been associated with the Maoist movement. Activists fear the newly-recruited District Reserve Group men, keen to secure professional rewards, and eager to impress their seniors, target even those who had long given up their arms and association with the Maoists and were leading a quiet life as farmers in the villages. This strategy might be working to the extent that it had ratcheted up the body count of so-called Maoists, while ensuring there are minimal casualties to the security forces. But in the long-term, this strategy is nothing short of counter-productive, as it creates fresh resentments in the village, keeping a long-drawn conflict alive.

Courtesy **Scroll.in**

HALF JUSTICE

Sanya Dhingra

Several men who were accused in terror cases and acquitted after years in jail want the state to compensate for their loss. But it is a long and uncertain battle.

—Mohammad Aamir Khan, 36, was arrested from old Delhi in 1998 for his alleged role in bomb blasts in Delhi and neighbouring states between December 1996 and December 1997. He spent 14 years in jail before being acquitted. He is rebuilding his life month by month but wonders if his misfortune would prevent his little daughter from accessing a good school.

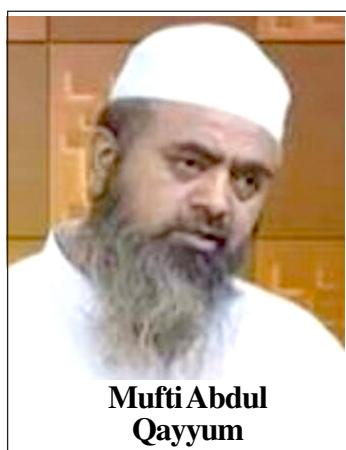


—Zaheer-ud-din Ahmad, 44, was arrested from Gulbarga, Karnataka, in 1994, shortly after the arrest of his younger brother Nissar-ud-din on terror related charges by the Andhra Pradesh police



in connection with bomb blasts on trains on the first anniversary of the demolition of the Babri Masjid. Subsequently they were also named in other terror cases. Zaheer-ud-din was released on bail in 2008 by the Supreme Court after he was diagnosed with lung cancer. He was acquitted in April this year along with Nissar-ud-din who ended up spending 23 years in jail.

—Mufti Abdul Qayyum, 45, was arrested from Gujarat in 2003 and convicted by the Gujarat High Court for his alleged involvement in the Akshardham attack of 2002. He spent 11 years in a jail in



Sabarmati before being acquitted in 2014. The modest income he earns as a teacher in a madrasa in Ahmedabad is barely enough to care for his family of four. He and five others went to the Supreme Court demanding compensation but the plea has been sent to a lower court with observations that don't give much hope.

The tragedies of Khan, Qayyum and Ahmad are not aberrations. 'Framed, Damned, Acquitted: Dossiers of a 'Very' Special Cell', a 2015 report by the Jamia Teachers Solidarity Association, documented 23 other cases of men who were charged in terrorism related cases, jailed, tortured, harassed and ostracized for years for being "terrorists", only to be acquitted by the courts and released into a world they can make little sense of.

Lawyers and human rights activists say there are many more like them whose stories have not yet been documented. While some lose their parents in the course of the tedious judicial processes, others return home to children who have grown up beyond recognition. It's a life

that has been turned upside down many times over. And for no fault of theirs. Is the state responsible for their fate? Without doubt, they say. In fact, some have taken their fight to the state and are seeking compensation to help rehabilitate them. But it's another long and harrowing legal battle, and if there is any light at the end of this tunnel, it is not in sight yet.

"In India, you get a law in this life, but you get justice in the afterlife," says Ravi Nair, Director of the South Asia Human Rights Documentation Centre, adding that compensation, or the lack of it, is only part of a much larger problem. There is, he says, a need for a state policy and will to provide compensation to those whose fundamental rights the state violates by falsely implicating them in terror cases and subjecting them to systemic torture.

It is a sentiment Aamir Khan fully agrees with. Getting compensation for losing 14 years of his youth and adult life to 19 terror cases – in 17 of which he has been acquitted – is a more urgent need than dwelling on a past marred by torture, immeasurable personal loss and extreme physical and psychological suffering. In December 2015, the National Human Rights Commission (NHRC), which had taken suo moto cognizance of Khan's case, issued a show cause notice to the Delhi government asking why Khan should not receive Rs. 5 lakh in compensation for wrongful confinement as a terrorist. Seven months on, Khan is still asking the same question.

An unassuming man with an otherwise tentative manner, Khan becomes uncharacteristically stern as he speaks of a robust compensation and rehabilitation policy. Underscoring the need for the state to rehabilitate "victims" like him, Khan, now a father of a two-year old, says that the government should give him "a respectable

job" to ensure that his future is not simply an extension of a past laden with sorrow and stigma. Whose fault is it if he does not formally qualify for the jobs he deserves, he asks. "I could've very well become a criminal or gangster after my release," he adds, as he shifts his body weight every now and then. "The third degree torture I underwent makes it difficult for me to sit straight for long," he explains.

Qayyum, one of the six men to be acquitted in 2014 in the Akshardham case by the Supreme Court, is also fighting for compensation for "the mental and physical trauma suffered by him and his family for almost 11 years on account of his incarceration and being labeled a terrorist". One of his two children was only a few months old when he was thrown behind bars. When he became a free man again, the child was 12 years old. Qayyum, who was earlier sentenced to life by the special POTA court in Ahmedabad and subsequently by the Gujarat High Court, now teaches in a madrasa and has involved himself in social work.

Rejecting his plea and sending it to a lower court, the Supreme Court said this week that granting compensation would set a bad precedent and open the floodgates for similar pleas. It is, however, not just the compensation which is important to Qayyum. The 45-year-old is also seeking "exemplary punishment" for the officers who he says framed him and plans to resume his legal battle in the lower courts soon.

For Zaheer-ud-din's family it was a double blow as two of its men were accused of being terrorists and jailed. After its 23-year struggle, the family feels its future is uncertain. Zaheer-ud-din, who was working as a civil engineer in Gulbarga in 1994, now finds himself brooding over his career while all those he once called

classmates and friends have stable sources of income. “In 2016, we find ourselves exactly where we were in 1994,” he says.

Surprisingly, or perhaps not, he does not talk of compensation or rehabilitation. Instead, his voice is filled with a palpable weariness over being caught in a judicial maze. “We’re thinking of starting a small business back in Gulbarga...let’s see what happens,” he says. His brother, on the other hand, has not even begun thinking about the future. Nissar-ud-din, who has spent more years of his life in jail than outside, is only beginning to learn the ways of the world. Already in their forties and more pressing livelihood issues to address, the reluctance to fight for compensation or action against police officers who they believe framed them should not be so difficult to understand, Zaheer-ud-din says. “Action should ideally come from the government’s side,” he adds gingerly.

However, any step towards rehabilitation by the state remains unlikely, according to Prof. Manisha Sethi, an activist with the Jamia Teachers Solidarity Association (JTSA). “In India, the idea of reparation does not exist.” The JTSA report, which documents the cases of 24 men who claim they were framed by the police as terrorists, also says that none of the 24 has received any compensation even though court judgments in all their cases questioned the veracity of the evidence presented by the police.

But the response of the police to this report has been predictable. Reacting to the report when it was first published in 2012 – and updated in 2015 – the Delhi Police had said that in terror cases, “Guilt must be proved beyond doubt”. However, it had also said that “if a case ends in acquittal, the blame is not only at the doorstep of the investigating agency”. The reluctance of public witnesses

to speak up in terrorism cases was cited as one of the main reasons for cases resulting in acquittal due to a lack of evidence. Those claims have, however, been clearly countered in court in some cases. For instance, in the case of Irshad Ahmad Malik, the court noted that any effort to enlist independent witnesses “was omitted by the police deliberately”. In another, two public witnesses in front of whom the arrests and seizures of the alleged terrorists were purportedly made, told the court that they were merely made to sign on papers — a blank paper in one case — and neither actually saw the arrests being made or the explosives being recovered from anyone.

Startlingly, in what the report describes as the “reign of impunity”, police officers in each of these cases not only remain at large but many continue to hold important positions despite the courts’ hard questions to investigating agencies.

And this is the larger problem Nair refers to – a heightened sense of official impunity among those in uniform. According to Section 197 of the Indian Penal Code (IPC), no public servant accused of any offence allegedly committed while acting or purporting to act in the discharge of his official duty can be tried by the courts without the prior sanction of the central or state government. This, Nair argues, is a serious impediment to justice for most innocents who are wrongly implicated by the police. To maintain the façade of justice, however, it is the “petty officials” who are prosecuted every now and then, he adds.

Globally though, India is not a unique case and only a few countries have been able to try and address the problem. While the US has long had an ignominious image for its treatment of prisoners of the “War on Terror”, the Obama administration has sought to resettle overseas inmates who are released from

Guantanamo Bay. “The one reason the US cannot close Guantanamo is because they can’t find places for resettlement,” says Nair. “They’re not great, but at least they’re trying.”

One case involving an Indian also stands out. Mohammed Haneef, an Indian-born doctor who lived in Australia, was accused of helping his cousin in the 2007 Glasgow Airport attack and arrested in Brisbane. His 25-day incarceration, solely on the basis of suspicion, became the longest without any charge in recent Australian history and Haneef voluntarily decided to leave Australia on being freed. Three years later, when he returned to Australia to seek damages for emotional and

financial distress, Haneef was reportedly compensated “substantially”. It was, however, not just the monetary aspect of the compensation that mattered. It also meant a public admission of wrongdoing by the Australian government.

“India has never believed in reparation for harm done by the state,” says Nair. Or as Aamir Khan asks, if there is a policy to rehabilitate former terrorists who shun violence, why is there no policy for someone who was “framed” by the state?

Sanya Dhingra is an Editorial Trainee with ThePrint. Courtesy ThePrint

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Caste, Religion and Torture...

Many Muslims in Uttar Pradesh are now alienated and marginalised. They are finding it harder to be

employed or have certain jobs. They are exposed to name calling in public. Many young Muslims have even started using Hindu names because of the fear of being stigmatised and discriminated.

Poor is Marginalised

In addition, economic status, social capital and power relations are strongly interrelated. While economically impoverished Muslims mostly face the brunt of stigma and discrimination of being ‘suspected terrorists’, the wealthier Muslims distance themselves from their marginalised counterparts and enjoy their ‘elite’ status.

No Political Representation

Muslim communities have the status of little or no representation in the government or governmental bodies and lack strong leadership who could stand for and by the oppressed ones. Consequently, voices of these people remain unheard and their suffering from human rights violations unspoken for. This makes them easy targets for the police to abuse and subdue through torture and discrimination. It perpetuates and enforces marginalisation particularly among most of the poor Muslim inhabitants.

Lenin Raghuvanshi is Founder and CEO,

People’s Vigilance Committee on Human Rights (PVCHR)

Courtesy **Saddhaq.com**

PUCL statement: 16th July 2016

Why is Kashmir boiling?

A call to citizens to protest an encounter killing and brutal handling of after shocks.

PUCL Condemns Brutal Repression of Unarmed Protests in Kashmir and Urges the Indian State to act within the bounds of law to end terrorism in the state.

PUCL expresses its deepest concerns about the manner in which the Indian security establishment has handled the protests that erupted across the Kashmir valley as a consequence of the killing of Burhan Wani in a suspected fake encounter last Friday, 8th July, 2016. By many accounts, Wani was shot at from close quarters of about 4 feet in a cold blooded murder and not in an encounter. Two other persons accompanying Wani were also killed by a special team of the security forces. Such cold blooded killings camouflaged as “encounter” in an alleged gun-fight is unacceptable in a democracy. PUCL condemns both the Central Government and the PDP led J & K government for launching an operation to liquidate suspected or real terrorists in fake encounters instead of respecting the rule of law and prosecuting them.

During the last few months, many terrorists have been killed in Kashmir without noticeable protest, but following Burhan Wani’s killing the valley is on fire. The widespread protests in the valley has led to the firing in which as many as 34 unarmed Kashmiris have been killed and over 92 people injured including those hit in the eye by the so called ‘non-lethal’ weapons firing pellets, instead of bullets.

It is important for the rest of India to ask why there is so widespread and determined protest now when there was no protest at such a scale every time alleged terrorists were killed? The obvious reason is that though the protesters accept that those who fight with arms must

expect to be countered with arms as is the rule of war as well as peace, but to them, the killing of Wani was not in a real encounter but in a fake encounter after luring him to the place where he was killed with his two friends. Most lamentably, the circumstances and manner of Wani’s killing are being concealed from the people, but the people of Kashmir know it and are seething with anger.

Some newspapers have reported the circumstances and manner of Wani’s killing but placed it at some obscure place. For example, The Dainik Bhaskar, Muzaffarpur edition (11.7.2016 on page 17) has published an account of the encounter based on an interview of Upmita Bajpayee with an officer involved in the operation. According to the officer, a honey trap was set with a girl known to be close to Wani. She lured him to visit her at her house at the village Badmura. The security forces were tipped and were also informed that the terrorists were not heavily armed. The house was surrounded and was set on fire to force him out, as the Islamists do not want to die in a fire as it is like ‘Dokhaj’ (Hell). As the fire raged, Wani reportedly came out supported by two of his friends. The security forces shot him from a distance of 4 feet. They also killed both of his friends though they initially wanted to capture them alive but killed them, too. The heading of news item is KHUD JAAL ME FANSA THA WANI, SENA NE GHERA TAB NASE ME THA, 4 FEET DOOR SE MARA GOLI (Wani walked into the trap himself, when the armed forces surrounded him, he was inebriated, was shot from a distance of four feet).

Kashmir would not have been on the boil if Wani were not killed in cold blood in a fake

encounter after setting a honey trap. Most likely his death would have been protested like other cases of killing of terrorists in a real encounter but without the scale of current uprising.

It is important to point out that the alleged terrorists are being treated as worse than Nathuram Godse, who murdered Mahatma Gandhi and Ajmal Kasab, the Pakistani terrorist, involved in Mumbai terror attack of 2008. None of them was shot dead like Wani. They were tried giving them the opportunity to defend themselves and finally punished according to the law. That is what the adherence to the constitution and the rule of law mandates and is the basis of our claim to be a civilized nation.

It is a shame that the rest of India is not protesting against the cold blooded murder of

Wani and his friends. Their being a terrorist was not a greater crime than Gandhiji's murderer or Ajmal Kasab's role in Mumbai terror attack. Our law as reiterated by the apex court from time to time does not permit killing of terrorists in fake encounters and treats it as plain murder. The general indifference or support for the killing of Wani in the rest of India smacks of a double standard and angers and further alienates the people of Kashmir.

The PUCL demands that regardless of the difficulties, the State must fight terrorism within the frame -work of the constitution and the law of the land to win the trust of the people in the fairness of the Indian State and arrest further alienation of the Kashmiris. The lawless ways of the State are bound to add to the legitimate anger and alienation of the Kashmiris.

Sd./- **Prof. Prabhakar Sinha**, National President, PUCL; **Dr. V. Suresh**, National General Secretary, PUCL

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The Horizen of Rights....

awarding damages would 'set a dangerous precedent' whereas not awarding compensation would put the accused into further difficulties, financially and socially, after the long incarceration during which they would have lost their jobs, social status, their near and dear ones and much more. In fact, what would set 'a dangerous precedent' is not awarding them the compensation and even more than that not taking any action against the perpetrators of the crime of fabricating evidence against innocent people. Would it not embolden the rogues in uniform to continue to do what they have been doing – deprive people of their civil liberties and freedom with impunity? The Supreme Court has the power and the responsibility to dispense full justice and it must do so on its own and not pass on the responsibility on others who may or may not do so. Otherwise, it would have done only half justice.

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Did Ashoka's embracing...

the ideological message of social hierarchy loud and clear and so Buddhism is attacked. The symbols of casteless ideology of Buddhism and accompanying respect for pluralism and peace are being attacked as a part of Hindu nationalist agenda, the garb in which it is presented is 'weakening of India' due to non-violence. As such Maurayan was an Empire, not a nation state, empires rise and fall due to social political factors of the time. Despite adopting non-violence the Empire continued well till 50 more years. The weakness starts coming in due to Brahmanical counter-revolution. The forays of communalists in the ancient Indian history are an attempt more to denigrate the Buddhist values under the garb of attacking Ashoka.

‘Khattar Kaka’....

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that about the moon on the lunar eclipse day!"

“I’m stating the truth. Today when the scientists of other countries have gone to the moon and are preparing the maps of the troughs and plateaus there, our scholars are still worshipping the moon calling the moon as ‘Sasanka’ and ‘Mriganka’. Even if they are taken to the moon, they will start searching for the deer and rabbits there. They have blamed the moon for many things but, in fact, the moon is not to be blamed. We’re actually blameworthy. We are scared of our own shadow. What could be more foolish than this?”

“Uncle, look at there. The moon is totally eclipsed. Now he would be released.”

“True. But we really would be freed when we come out of the clutches of our foolishness known as Rahu.

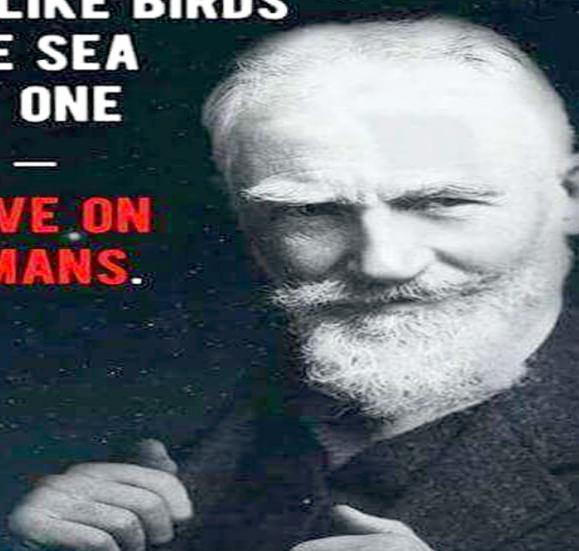
*‘Bharatham chandrvath grastham mourkhyarupena rahuna
na jane kena yathnena kada moksho bhavishyathi!’*

(India is in the grip of foolishness known as Rahu. It’s not known when and how it would be freed of that.)”

Just then at the river bank, the music of *shehnai* was played. Uncle heard the sound and said, “It’s hard to change the herd mentality. Who would care to hear the music of *koel* amid the sound of drums and slogan-shouting? All right. You too go. Go and take a dip in the *punya* exploitation that goes on there. Otherwise, you would roundly blame me that you missed the opportunity because of me.”

**NOW THAT WE HAVE LEARNED TO
FLY IN THE AIR LIKE BIRDS
AND DIVE IN THE SEA
LIKE FISH. ONLY ONE
THING REMAINS —
TO LEARN TO LIVE ON
EARTH LIKE HUMANS.**

—GEORGE BERNARD SHAW



M.N. Roy



(1887-1954)

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