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Founder Editor:
M.N.Roy

Advisor:
Dr. Narisetti Innaiah

Editor:
Mahi Pal Singh

Editorial Board:
Ramesh Awasthi, N.D. Pancholi, Dipavali Sen, Sangeeta Mall

Printer and Publisher :
Sheo Raj Singh

Send articles and reports to:

Mahi Pal Singh, at Raghav Vihar, Phase-3, Smith Nagar, Prem Nagar, Dehradun-248007 (Uttarakhand).
(M) 9312206414

or **E-mail** them to:
theradicalhumanist@gmail.com or
mahipalsinghrh@gmail.com

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Sheo Raj Singh, 3821/7, Kanhaiya Nagar, Tri Nagar, DELHI – 110035.
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Delhi Bill will sow the seeds of absolutism

If passed in its current form, the NCT of Delhi (Amendment) Bill, 2021 will strip the elected government of almost all its powers. It must be referred to a select committee and not passed in haste.

Faizan Mustafa

The political theorist Jean Louis De Lolme had once famously observed that "British Parliament can do everything but make a man a woman, a woman a man". The English statesman Lord Burleigh had remarked in a similar vein that England could "never be ruined but by a Parliament". In India, the Constitution, and not Parliament, is supreme; yet, at times, parliamentary enactments give the indication that the latter can do anything. At a time when the Freedom House report has downgraded India as a "partly free" country and V-Dem's report has rubbed salt on our wounds by terming India an "electoral autocracy", the NCT Bill, 2021, introduced in the Lok Sabha last week, will further dent our international reputation.

This author has several disagreements with both the reports, yet who can deny that we are not doing enough to preserve our democratic capital and unnecessarily enacting laws or coming up with policies that have possibilities of tilting our democracy towards authoritarianism. The overriding powers given to the Governor-General in the Government of India Act, 1935 was opposed by the leaders of our freedom movement, and this opposition prevented the legislation from being enforced at the Centre. The Delhi Bill takes us back to British era.

Such Bills could strengthen the international perception of India becoming an electoral autocracy. This ill-timed move not only negates cooperative federalism but also upturns the fundamental principles laid down by the five-judge bench judgment of the Supreme Court in 2018. While the court was hopeful of a "constitutional renaissance" in the country, the Bill if passed in the current form would sow the seeds of absolutism. Justice D Y Chandrachud had, in fact, noted in his concurring judgment that democracy is in danger due to authoritarian tendencies in several countries.

The then CJI Dipak Misra had devoted 120 pages in elaborating 12 fundamental principles of our liberal constitutional democracy with constitutionalism or the concept of limited powers as its central idea. To sustain what he called constitutional glory, we must attach the highest importance to people who are the real sovereigns and who speak through their elected representatives.

The Bill takes away almost all the powers of elected representatives.

CJI Misra had also observed that courts need to take recourse to pragmatic interpretation to further the spirit of Constitution, rule of law and participatory democracy. The clear message of the judgment was that Delhi's LG is just an "administrator" and an administrative head bound by the "aid and advice" rendered by Delhi's Council of Ministers. The LG, according to this verdict, has no independent powers and has to go by the advice of the council of ministers or comply with the orders of the President on matters referred to him. His concurrence is not needed in every matter and he can refer matters to the President only in exceptional situations and

not in a "routine or mechanical manner". The apex court had reversed the judgment of Delhi High Court which had held the LG to be a master of his own, not bound by the "aid and advice" of his ministers. The new Bill seeks to reinstate these powers.

Similarly, the then CJI also talked of "constitutional objectivity" as the key to checks and balances between the legislature and executive — one that ensures that the two operate within their allotted spheres since "legitimate constitutional trust" is based on distribution and separation of powers with denial of absolute power to any one functionary being the ultimate goal. The Court, therefore, held that "any matter" in Article 239AA(4) does not mean "every matter". In other words, the LG cannot refer any matter to the President; he has to employ "constitutional objectivity" and exercise this power in the rarest of rare situations for sound and valid reasons. The LG does not have the power to change every decision or differ with every decision of the Council of Ministers.

In an equally authoritative concurring opinion, Justice Ashok Bhushan had favoured vesting real powers in the representative government rather than in the nominated LG. That the LG must reign and not rule is the core principle of the cabinet system of governance. A two-judge bench of the apex court in 2019 did concede that as far as the anti-corruption bureau is concerned, the LG will have exclusive powers but on the issue of services, the two judges differed and the matter was referred to a larger bench.

Having supported the near abrogation of Article 370, Delhi CM Arvind Kejriwal should have no face to oppose the dilution of the elected government's powers in Delhi — after all, Delhi is a Union Territory rather than a full-fledged state like erstwhile Jammu & Kashmir.

In a master stroke, the Centre invoked Article 370 itself to amend the Constitution by a Presidential Order (C.O. 272 of 2019) and changed the definitions of certain terms in Article 367. As a result, the Constituent Assembly of Jammu and Kashmir, dissolved way back on January 26,1957, was made the legislative assembly of the state. Article 370 was also invoked to make another historical change: The legislative assembly of the erstwhile state was henceforth to be construed as the Governor of Jammu and Kashmir. The J&K government was deemed to be the Governor acting on the advice of his council of ministers. In a similar manner, the Delhi Bill stipulates that the government of Delhi will mean the LG. It goes one step ahead and does not require the LG to act on the advice of the council of ministers.

The legislative assembly or its committees can no longer make rules to enable itself or its committees to consider the matters of day to day administration or conduct inquiries in relation to administrative decisions. Making the law retrospective, the Bill provides that if such rules have been framed they will become void. The Bill also makes it incumbent on the Delhi government to take the LG's opinion before taking any executive action, virtually taking away almost all powers of the elected government.

The Bill should be referred to a select committee and not passed in haste like the Farm Bills. Evolving consensus in such matters would be consistent both with federalism as well as the high principles laid down by the Supreme Court.

This column first appeared in the print edition on March 22, 2021 under the title 'Capital Punishment'. The author is Vice-Chancellor NALSAR University of Law, Hyderabad. The views are personal.

Courtesy The Indian Express, March 22, 2021.

A Lady Dressed in Ripped Jeans Rips Apart Eternal 'Bharatiya' Culture

Rawat has also violated the historic judgment of the Supreme Court delivered on the issue of individual's privacy.

Prof. Shamsul Islam

Tirath Singh Rawat who took over as chief minister of Uttarakhand on March 10, 2021 is a senior cadre of the Rashtriya Swayamsevak Sangh (RSS). He started RSS career by becoming the organizational secretary of the Uttarakhand unit of Akhil Bhartiya Vidhyarti Parishad (ABVP: the student appendage of the RSS), later was promoted as its national secretary. He has been a whole-timer (pracharak) of the RSS since 1983. He is currently hogging national and international attention for his comments on a young lady who happened to wear a pair of ripped jeans while sitting next to him with her two kids during an air journey.

Surprisingly, he shared the anecdote (date, details of air carrier not mentioned; those familiar with the conduct of the RSS cadres can vouch that this story could be a sheer fabrication in order to 'expose' the 'degeneration' of self-relying independent women and Jawaharlal Nehru University (JNU) which have been the favourite punching bags of the RSS) while addressing a workshop organized by the Uttarakhand State Commission for Protection of Child Rights in Dehradun on March 17, 2021.

Tirath Singh Rawat's sermon delivered in Hindi on 'Bhartiya' culture which according to RSS is Hindu culture is reproduced verbatim with English translation in the following:

"*Jab unki taraf dekha to neeche gum boot the, jab aur upar dekha to ghutne fatey they, haath dekhe to kai kade they…Bachhey do saath me unke the. Maine kaha behan ji kahan jana hai…Delhi jana hai, husband kahan hai…JNU me professor hain, tum kya karti ho…main ek NGO chalati hun. NGO chalati hain, ghutne fatey dikhte hain, samaj ke beech me jaati ho, bachhey saath me hain, kya sanskar dogi?*

(When looked at her, at the bottom she was wearing gum boots when further saw above, jeans ripped on the knees, and when saw hands (there were) several bracelets. I asked 'where are you going sister?', 'I am going to Delhi' came the reply. 'Where is husband?' I asked, to which she replied, 'He is professor at JNU.' I then asked, 'What do you do?' and she said 'I run an NGO.' She had two children travelling with her. Her husband is a professor in JNU. You run an NGO, tattered knees can be seen (wear jeans ripped at the knees), move about in society, children are with you, what culture you will teach?)."

While calling the ripped jeans as "*kainchi wala sanskar*" (scissor culture), Rawat sermon went on to declare: "*Main kahan le ja raha hun apne bachhey ko fati jeans pehna karke. Bade baap ka beta hun.Bade baap…betiyan bhi peeche nahi hai. Who bhi ghutne dikha rahi hain.Yeh achha hai kya?* (Where I am taking my children in tattered jeans… even girls are no less, showing their knees. Is this good?)

Rawat was also in news for equating PM Narendra Modi with Lord Ram and Lord Krishna for former's work for society.

The CM is unconcerned about plight of children in his State

It was shocking that CM of Uttarakhand was denigrating a lady in absentia in a programme to discuss the rights of the children in the State. He was expected to address the issues

concerning the plight of children in his State which are well documented. According to the government data released in 2019, 26.6% children were found underweight and 33.5% were stunted in Uttarakhand.Thus out of 36 Indian States and Union Territories Uttarakhand ranked number 10.

Moreover, as per a survey conducted by the Integrated Child Development Services of Uttarakhand (ICDS), a government agency, in 2018 thousands of children were malnourished in the State. The number of missing children in the State was on the rise which could be due to the human trafficking also. According to the National Crime Record Bureau of the Indian home ministry 435, 607 and 633 children went missing in the years 2016, 2017 and 2018 respectively. No data on the missing children is available after 2018 onward. Rawat should have shared the plan of rehabilitating the women and children of those workers who perished in an unprecedented avalanche due to the breaking-off a glacier in Joshimath in Chamoli district on February 7, 2021. In this avalanche more than 250 people died with two big dams under construction were washed off.

The CM touted RSS take on women

Since the CM had nothing to offer to the children of Uttarakhand, he resorted to a diversionary tactic, a practice gone viral among the RSS-BJP rulers. It is to be noted that the degenerated and reprehensive narrative of the CM was not surprising. It was no aberration. He was simply parroting the RSS take on women and 'Bhartiya' culture. In this respect following facts need to be taken into account.

The Constituent Assembly of India passed the constitution on November 26, 1949 which guaranteed gender, political, social and economic equality. The RSS was furious. Its English organ in an editorial on November 30, 1949, stated that in the constitution:

'There is no mention of the unique constitutional development in ancient *Bharat*. Manu's Laws were written long before Lycurgus of Sparta or Solon of Persia. To this day his laws as enunciated in the *Manusmriti* excite the admiration of the world and elicit spontaneous obedience and conformity. But to our constitutional pundits that means nothing.'

Laws of Manu are very clear about women. It decreed in chapter IX:

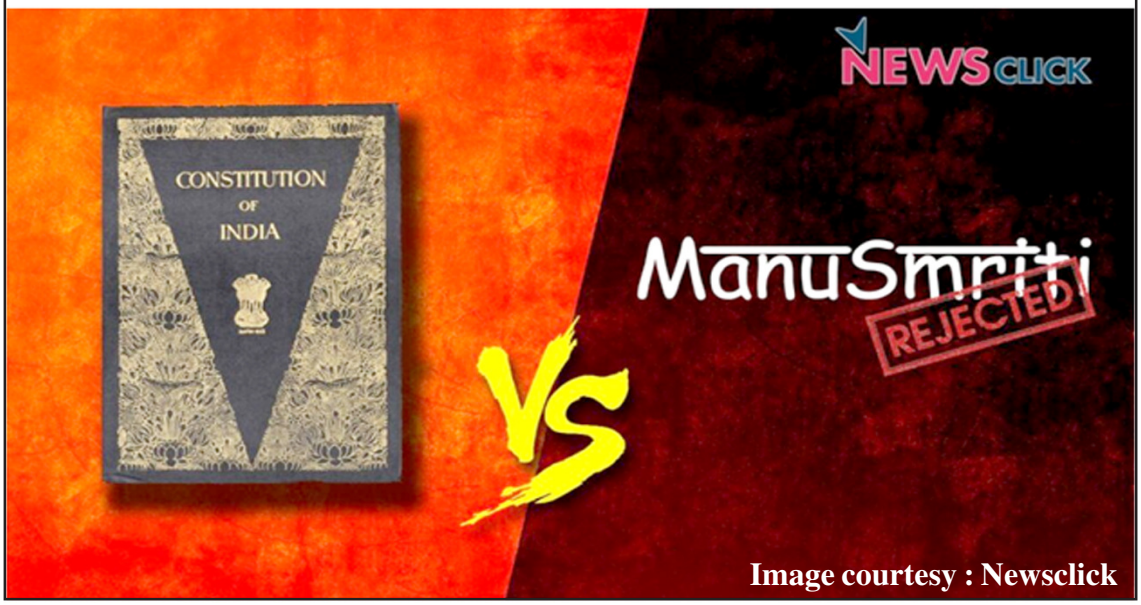

Image courtesy : Newsclick

1. ***Day and night woman must be kept in dependence by the males (of) their (families), and, if they attach themselves to sensual enjoyments, they must be kept under one's control. (IX/2)***
2. ***Her father protects (her) in childhood, her husband protects (her) in youth, and her sons protect (her) in old age; a woman is never fit for independence. (IX/3)***
3. ***Women must particularly be guarded against evil inclinations, however trifling (they may appear); for, if they are not guarded, they will bring sorrow on two families. (IX/5)***
4. ***Considering that the highest duty of all castes, even weak husbands (must) strive to guard their wives. (IX/6)***
5. ***No man can completely guard women by force; but they can be guarded by the employment of the (following) expedients:***
6. ***Let the (husband) employ his (wife) in the collection and expenditure of his wealth, in keeping (everything) clean, in (the fulfilment of) religious duties, in the preparation of his food, and in looking after the household utensils.***
7. ***Women do not care for beauty, nor is their attention fixed on age; (thinking), '(It is enough that) he is a man,' they give themselves to the handsome and to the ugly. (IX/14)***

Thus according to RSS women can only be subservient to males and have no independent existence. It is shamelessly reflected in the organizational set-up of its organization. When RSS was founded in 1925, it was to be an exclusive male organization (and continues to be) where cadres were to be known as *swayamsevak* or volunteers. The RSS top brass made its intentions clear of treating women as of lower status than males when it decided to start its women wing; *Rashtr Sevika Samiti* in 1936. Its nomenclature made it clear that women members were not called as *swayamsevak* or volunteers but *Rashtr Sevika*; maid/female servantof the nation which was a Hindu nation.

Rawat liable to be persecuted under sexual harassment laws of India

Indian Supreme Court defining the sexual harassment in the landmark case of Vishaka and others versus State of Rajasthan (AIR 1997 Supreme Court 3011) declared 'Sexually colored remarks'and 'and any other unwelcome physical, verbal or non-verbal conduct of sexual nature' punishable. It is true that judgment covered the work-places but the scope could cover the air journey which Rawat took with the lady in ripped jeans.It is clear from the narrative that the way Rawat described the lady in Dehradun meeting amounted to indulging in sexually coloured remarks and verbal comments of sexual nature under the garb of the 'Bhartiya'culture.

Moreover, the section 354C of the Indian Penal Code specifically reads that 'Any man who watches or captures or makes public an image of a woman engaged in a private act can be imprisoned for his first offence for a minimum one year which may extend to three, and also be liable to fine.' In fact, according to a senior police officer, Kerala Excise Commissioner Rishi Raj Singh, 'A case can be filed against men who 'annoyingly' stare at women for more than 14 seconds…The stare need not really linger for a full 14 seconds to make it an offence. It is an offence if it makes a woman uncomfortable even for a few seconds. Womenfolk should come forward to register complaints against such offenders'. The police must find out the lady to know her version.

Rawat has also violated the historic judgment of the Supreme Court delivered on the issue of individual's privacy.The bench, headed by the

chief justice JS Khehar, comprises justices J Chelameswar, SA Bobde, RK Agrawal, RF Nariman, AM Sapre, DY Chandrachud, SK Kaul and S Abdul Nazeer in a unanimous judgment in 2017 decreed that,

1. Life and personal liberty are inalienable rights. These are rights which are inseparable from a dignified human existence. The dignity of the individual, equality between human beings and the quest for liberty are the foundational pillars of the Indian Constitution.
2. Privacy includes at its core the preservation of personal intimacies, the sanctity of family life, marriage, procreation, the home and sexual orientation. Privacy also connotes a right to be left alone.
3. Personal choices governing a way of life are intrinsic to privacy.

Rawat as CM of Uttarakhand openly violated the above judgment and needs to be booked for its violation too.

Such person will go to Dark Hell: Swami Vivekananda

There is every likelihood that with the total hegemony of the RSS-BJP rulers over administration, police and judiciary the Uttarakhand CM would not be booked despite brazen violation of laws and Supreme Court judgments on sexual harassment. However, as part of the top brass of the RSS he must be familiar of the writings of Swami Vivekananda (regarded as saint of the Hindutva). He must take note of what he wrote about a Hindu who even thinks of a woman other than his wife. According to Swami, "He who thinks of another woman besides his wife, if he touches her even with his mind-that man goes to dark hell".

[Vivekananda, Swami, *The Complete Works of Swami Vivekananda*, vol. i, p. 43.Advaita Ashrama, Calcutta, 21st reprint 1995.]

Rawat trained in RSS *boudhik shivirs* (intellectual training camps) like any other RSS cadre keeps on boasting that Indian youth is falling prey to the degenerated foreign material cultural ethos. For him it is Hindutva culture amplified by works like *MANUSMRITI*) which is divinely ordained. In this respect it would be pertinent to tell semi-literate (a status worse than being illiterate) RSS cadres what Swami wrote about the denigration of the material civilization.

'We talk foolishly against material civilisation. The grapes are sour…How was it possible for the Hindus to have been conquered by the Mohammedans? It was due to the Hindus' ignorance of material civilization. Even the Mohammedans taught them to wear tailor-made clothes.' (Vivekananda, Swami, *The Complete Works of Swami Vivekananda*, vol. iv, p. 368.Advaita Ashrama, Calcutta, 13th reprint 1995.)

It means that *saree* and *dhoti* touted as true 'Bhartiya' attires only reflected the times when we did not know stitching of the clothes. The time is not far-off when Tirath Singh Rawat and RSSwould declare Swami Vivekananda as anti-Hindu!

Courtesy **Gauri Lankesh News**, March 25, 2021.

The Radical Humanist on Website

'The Radical Humanist' is now 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.

– Mahi Pal Singh

One year of the pandemic

Prof. Arun Kumar

March 2021 marks one year of the declaration of COVID-19 as a pandemic by the World Health Organisation (WHO). And, on March 25, India went into a severe lockdown after a one day *janata* curfew on March 22. Cases rose alarmingly till the middle of September 2020 and then quickly went down – only to once again rise steeply in some states over the last month.

On March 25, 2020, the number of new cases was 121 and deaths were two. Now there are more than 40,000 cases daily and 200 deaths. The contrast in the picture between March 2020 and March 2021 stands out.

A number of issues arise. In spite of a massive vaccination drive, why are the numbers rising steeply? Is our strategy of dealing with COVID-19 flawed? What have we learnt in this one year of severe social and economic stress?

Virus, mutations and disease

Coronavirus has been intensely researched globally in the last more than one year. Its genome was published quickly and that aided the developments of vaccines in less than one year, a record. Usually vaccines take many years to develop and test but in the present case emergency use of several vaccines has been allowed by multiple countries. The AstraZeneca vaccine developed by Oxford University and produced in large quantity by the Serum Institute, Pune is being rapidly administered all over the world.

The virus keeps mutating and the strain found in different countries is somewhat different. Some strains are more virulent than others and spread faster, such as the South African, Brazilian and the UK variants. These strains have spread rapidly to other countries in the last four months and led to surge in cases. In India also it is feared that the surge since mid-February could be due to new strains that may have evolved here. Reports suggest that in three districts of Maharashtra, a new mutant variant is spreading, but it's unclear still if it is the cause behind the surge in cases in the state.

As the virus mutates it is feared that it can evade the available vaccines. So, new and/or modified vaccines may be needed soon to tackle the new strains. Intensive research will be required on viruses and vaccines.

Vaccination, herd immunity and vaccine diplomacy

The duration for which vaccines provide immunity is not known. So, if vaccination is required every couple of years not only for immunity boost but for new strains, massive vaccination drives will be required. If 60% or more of the population is vaccinated, 'herd immunity' is said to occur and that stops the spread of the virus. So, in India, at least 84 crore individuals would have to be vaccinated in one year.

Since most vaccines require two doses (Johnson vaccine is the only one requiring one dose), 168 crore doses would have to be administered in the season. Currently, India is vaccinating at the rate of two crore doses per month. At this rate, it will take seven years to get to herd immunity and it will never be achieved since after a year or two those vaccinated will have to be vaccinated again. So, vaccination needs to be stepped up to about 40 crore per month in India.

Since July 2020, it has been known that massive vaccination would be required soon. But the planning for logistics and production was not taken till much later leading to a slow start in vaccination. Scaling up to vaccinate the general population has been very slow and

confused. Just as during lockdown rules were changed repeatedly, sequencing of vaccination has been changed, resulting in confusion.

Production of vaccines needs to be scaled up. Unfortunately, the rich nations have cornered the vaccines by paying and booking in advance and denying the poorer nations access to vaccines. The World Health Organisation (WHO) anticipating this had initiated the COVAX programme to supply two billion doses of the vaccines to the poorer nations. India is fortunate to be largest producer of vaccines but its needs are huge. The Chinese and the Russians are now supplying vaccines to poorer nations in what is referred to as 'vaccine diplomacy'. Its ugly side is the restrictions on export of vaccines from Europe and India so that they can accelerate their own vaccination programmes.

WHO has been accused of delaying the announcement of the pandemic (March 11) which led to the spread of the disease across the world and to complacency in many countries. Both of these prevented a quick control of the disease. In this one year much has been learnt about the disease but we still do not fully understand the virus and its functioning and it keeps throwing surprises. But what is clear is that the pandemic has led to the worst ever worldwide economic and social crisis and is leading the world towards a new normal.

Vaccine hesitancy

Rapid vaccination to achieve herd immunity is facing 'vaccine hesitancy'. Social media has been used to spread all manner of fears about the vaccine and doubts about the disease itself. This has been called 'infodemic'. Some are scared of the side-effects while others suspect an agenda behind vaccination or believe that there is nothing like COVID-19, so why get vaccinated.

Another cause for hesitancy has been the fear that full testing has not been done, the long term impact is not known and how long the effect of the vaccine will last is unclear. The latest news is that AstraZeneca cherry picked the positive news only. Reports of blood clots occurring among some of the vaccinated and the consequent stoppage of AstraZeneca vaccination in a few European countries have added to the fears.

Vaccines have not been tested for people below 18 years of age so they are not being vaccinated. Trials are now starting in phases and it will take perhaps another six months for the results to come. This means that children can be carriers of the disease for some time. This makes the reopening of schools somewhat difficult and risky. Some reports also suggest that the vaccine is less effective in the case of those above 65 years of age because of their lower immune response. So, some countries did not recommend certain vaccines for the elderly. All this has caused confusion and hesitancy.

Lockdown necessary

Since the virus is highly virulent, people have to stop meeting others to slow the spread of the disease. So, a lockdown is recommended to prevent people from meeting each other. Further, physical distancing is prescribed along with use of face masks and better hygiene via hand washing. Lockdown meant that people have to isolate themselves and cannot travel. Families cannot meet each other and vacations become difficult because transportation requires people to be close to each other. Visits to restaurants expose people to infection since one has to remove the mask in closed spaces and people talk to each other. Similarly, other contact services have had to be stopped during lockdown.

Some could work from home (WFH) via net but most could not. Children had to have classes via the net. The use of telecom services shot up. But the efficiency of work and studies was not what it used to be since people were not used to the new requirements. At home there is distraction and the office or classroom environment cannot be created easily. Parents

had to help children in various ways so had to take time out from work.

Migrant workers walk with their children to their villages after India announced a nationwide lockdown due to the coronavirus pandemic. Photo: Reuters

The digital divide impacted the poor. They did not have access to Wi-Fi and/or did not have the devices. Some children committed suicide. Reports suggest that many children simply dropped out of the schools since parents either migrated back to their villages or could not pay the fees. For children to sit in one place for hours and pore over a small screen is difficult – their attention span is limited. Teachers had to devise new ways of teaching online which is not easy. All this has set back learning for many children.

Psychological impact

People need to meet each other for bonding and support. Children learn through socialisation with each other and that has weakened. Thus, isolation has led to huge psychological effects on people. While some used the forced togetherness within the confines of the family to spend quality time with each other. But, where there were pre-existing tensions in the family, things reached breaking point and violence increased.

During the year festivals have been low key both because of economic hardship and need to isolate. Sports events stopped or were postponed (like, Olympics and IPL) or held in an unnatural setting without spectators. Visits to religious places stopped for much of the year. Cinema halls and theaters were closed. All this aggravated the psychological impact on people.

The result has been that people are exhausted and itching to go back to the pre-pandemic days. As the number of infections declined, people stopped using masks or used them casually. But the virus was lurking in the population. At its lowest in India in February, there were more than 10,000 new cases a day and the disease has surged since then. Massive protests, elections rallies, and Kumbh since early 2021 have aggravated the situation. Globally also various protests, like Black Lives Matter, election rallies in the US and travel for Thanksgiving led to a spurt.

Disease control requires cooperation

China, where the disease originated from quickly, controlled the disease through lockdown. It is governed by an authoritarian regime that could implement a severe lockdown between January and March 2020. Since then, it has experienced minor local breakouts of the disease but they have not been quickly managed. This is in contrast to the experience in India, US, Brazil, UK, etc.

The lesson clearly is that lockdown has to be strict and after that also the population has to follow appropriate social behavior. The disease does not care for human emotions and will proliferate the moment it gets a chance. Even rapid vaccination may not offer complete protection from the disease.

Further, the virus highlights that we are a community and have to deal with the disease

as a collective. Unless the virus is eliminated everywhere it will persist, mutate and spread. For it, there are no borders and no one is high or low. It has spread to all corners of the world including the Antarctica. It has not only infected the poor but also presidents and prime ministers.

In democratic societies, people have to voluntarily follow socially appropriate behaviour. If the credibility of the rulers is low, people will not voluntarily follow the laid down rules. For success, the rulers need to address the alienation of people who have lost faith in them. This would also address vaccine hesitancy. It might also moderate the adverse psychological impact on people as the duration of the lockdown gets reduced.

There is need for better public services, like health infrastructure. The digital divide needs to be addressed so that there can be better access to public services. The rising inequality and loss of employment and incomes needs to be tackled. Since India has been found wanting in these respects, it has fared worse than other countries.

Impact on the unorganised sector

India consists of a large unorganised sector with 94% of the employment and 45% of the output. This sector was the worst hit since it works with small amounts of capital, has low wages and little savings. Stoppage of incomes due to lockdown even for a few days is disastrous. Millions of people migrated from cities to the villages they had come from. This kind of movement was not seen in any other major economy.

Due to the sudden lockdown, no transport was available so people walked, cycled or used whatever transport they could get. They had children in tow and the little bit of their belongings. They depended on the charity of people on the way for food and water. They were cheated, beaten by the police and had to bribe their way.

The elite discovered that most workers in the country live in uncivilised conditions and could not practice isolation required by the lockdown. How can five or ten people live together in a room 24×7? They do not have access to clean drinking water or toilets and have to buy their essentials daily. So, they had to move and that defeated the purpose of lockdown. It became evident that they do not get a living wage, live at the edge of survival and cannot take care of themselves in a crisis like a pandemic.

No V-shaped recovery

During lockdown, economic activity, except for the production and distribution of essentials completely ceased. Only some well off in the services sector could continue to work from home. Hundreds of millions lost employment and incomes. Thus, supply got disrupted and demand declined in the economy. Such a difficult situation is neither faced in a war nor existed during the global financial crisis of 2007-09.

Policymakers had never faced such an emergency and did not know how to deal with it. They tried to portray a rosy picture and talked of a V-shaped recovery, that is, the economy would recover as fast as it had declined. In India, in April, the economy had declined by 75% and barely eased in May. So, in June when 'Unlock' started, a V shape would have required the economy to return to the pre-pandemic level by August 2020.

But an economy is not like a rubber ball which immediately bounces back. An economy has people, workplaces, etc., which do not recover immediately. So, in March 2021, the economy is still down by more than 10% over March 2020. If the economy had declined by 75% in last April and is still down by 10%, the rate of growth for the full 2020-21 would be -30%.

The official data suggests that the economy is now growing. In the third quarter, it's supposed to have grown 0.4% and recession is

over. For 2020-21, officially, the economy will decline by about 8%. All this is based on organised sector high frequency data. Even this data indicates that major sectors of the economy are yet to recover. Further, no data on the unorganised sector is taken into account. For agriculture, it was assumed that targets would be fulfilled (which was not the case) since actual output data was not available in the first quarter.

However, the Reserve Bank of India (RBI) data shows that in the organised sector, capacity utilisation which had dropped sharply in April and May was only at 63% compared to 70% last year. Thus, output of the organised sector is still down 10%. Further, consumer confidence survey is at 55 way below last year's level of 105. So, demand has not yet revived and production cannot have revived without demand. Investment is also down compared to last year.

Thus, the official data which does not take into account the unorganised sector cannot be relied upon. Further, indications are that the organised sector has not recovered to the pre-pandemic level and there is no V-shaped recovery.

The government argues that international agencies like Asian Development Bank (ADB) and International Monetary Fund (IMF) are also talking of around 8% decline. But, their prediction cannot be very different from the official figure since they are not independent data gathering agencies and use the government data. So, their data also has all the infirmities of the official data.

There is a political reason for not admitting that the economy has declined drastically. First, the country's standing in the world does not decline too much. Second, the business sentiment does not collapse. Finally, and most importantly, government does not have to take big steps to support the poor and the unorganized sectors – the real sufferers from the pandemic. If the economy has recovered on its own, no major policy initiatives favoring the poor are needed.

Government pushing supply-side policies

With low capacity utilisation, businesses cannot expand unless demand revives but that is unlikely with the low consumer sentiment in the organised sector itself. It is much worse in the unorganised sector. The largest component of the unorganised sector is agriculture and even farmers have been complaining of loss of incomes. The government needed to push purchasing power in the hands of the vast unorganised sectors. Instead, it has used the occasion to push supply-side policies to help businesses.

Migrant workers living close to the Maruti factory in Sarhaul who were rendered jobless during the lockdown. Photo: Ashish Sood

These policies, like changes in farm laws and labour laws and privatisation are proving to be counter-productive since protests have broken out. This is leading to a spread of the disease and disruption of work and supplies, thus, slowing the recovery. Even if the supply-side

policies deliver, they will do so in the medium to long run whereas the need is for immediate succour to businesses and the poor. If demand does not pick up, investment will also not pick up and the supply-side responses will not occur. For instance, the cut in the corporate tax rates in 2019 did not lead to increased investment.

Globally, there has been unprecedented response to people's hardship. Budget deficit has been allowed to rise to record levels across countries. Central banks have released liquidity in huge dollops. The economic theory underling the Washington Consensus since the 1980s has been turned on its head and Keynesian policies are being followed. The deficit in the budget in many countries is above 20% of their reduced gross domestic product (GDP).

A new $1.9 trillion stimulus package has been announced in the US. This is in addition to the almost $3 trillion package in 2020. These packages support the unemployed, small businesses, secure housing, etc.. These measures will push demand in the economy, prevent closure of small businesses and boost employment. China also had negative growth in one quarter and then a revival.

Life versus livelihood

The Indian government has used the pandemic to push through pro-business policies that it has wanted to implement since it came to power in 2014. It has taken advantage of the situation when protest is difficult and the opposition is weak.

The government's pro-business stance is also clear from the way lockdown was handled. It was eased when India had a rising number of cases. In most countries the lockdown was eased when the new cases had dropped sharply. The government was pressurised to open up since businesses were suffering losses and they posed the issue as 'life versus livelihood'. Their argument was that closure of businesses led to loss of employment and without income, workers could not sustain themselves and could die. Actually, they were not worried about workers but about themselves.

The dichotomy posed was false. If life can be preserved, work can always be created later on. India was in the happy position of having huge stocks of foodgrain so that life could be saved even without work. The government realising that the lockdown was not working well decided to unlock and keep businesses happy. The premature opening up gave many the sense that the disease is not a problem. So, the guard was let down and the disease has proliferated.

People wait in a queue to collect free ration from a government store in Prayagraj, May 1, 2020. Photo: PTI

Out of line financial sector

Large number of businesses have suffered losses and many have closed down, especially, the small and micro sector units that have little capital. Or, those that were already stressed with high debt. Many have been unable to pay their EMIs. A moratorium was offered till the end of August but that may not help many stressed units. With failures, the already high NPAs of the banks will spurt and the financial sector is likely to face further problems.

Another cause of worry is that the financial sector has gone way out of line from the real sector. The stock markets have risen to record levels even when the economy is still way below its earlier level and there is huge uncertainty going forward. The P/E ratios are very high which is a sign of speculation and the possibility of a big fall. But, investors do not have much option with the banks reducing interest rates and the real estate market down.

Since production of essentials could continue and use of IT, telecom, etc. increased, these sectors are doing well. But many other sectors are not doing so well as yet – so that there is a divergence in the performance. Technology stocks are doing well the world over since they are likely to gain from the trends toward greater automation, use of e-commerce and work from home. Companies from the US have invested heavily in Indian technology and telecom companies to take advantage of the emerging possibilities and that has boosted the Indian stock markets. But a change in the US or EU could lead to an outflow of foreign funds leading to a market fall.

New normal

The world is headed towards a new normal with increasing automation, digitisation, e-commerce, etc. Travel, tourism, entertainment, education, remote working, etc. have undergone big changes. Unemployment will rise due to increasing automation.

Workers need to be paid a living wage so that they can face the challenge of a future pandemic. The possibility of new viruses attacking human kind has increased as environment has been greatly disturbed and animals have come closer to human populations. In the last 20 years, the coronavirus is the seventh virus to have infected humans. The poor need to have savings to be able to take care of their families. While the poor have greater immunity due to their unhygienic conditions of living they are also more vulnerable due to their living in crowded conditions. In the US, the poor have been impacted more severely by COVID-19 than the well-off.

Education standards need to be greatly improved so that people develop a basic understanding of life and not be led astray by dogmas, superstitions and misinformation. Research needs to be stepped up so that challenges facing human kind can be taken care of better. Other public services need to be enhanced like health, drinking water, toilets and sanitation. Wi-Fi should become a public service like roads.

Consumerism has to be checked so that the environment can be better protected. Public transport rather than personal transportation needs to be encouraged and living close to the place of work needs to be promoted. Growing inequality has to be addressed. Supply chains may have to be shortened so as to reduce disruptions. This will change trade in the world and exports will decline. Such big changes would require people to think of improvements in their welfare in non-material terms. All this cannot happen without changes in consciousness of people and focus on the collective.

The pandemic is continuing with second and third waves hitting nations in spite of the ongoing vaccinations. We understand the disease much better and that's why recovery has improved and deaths have declined. But compared to March 2020, India is in a worse situation with infections rising rapidly. The virus has mutated into newer versions and some of them are not only more virulent but also able to evade the present vaccines. The current pace of vaccination needs to be scaled up by a factor of 15.

With outbreaks, lockdowns become imperative. While a lockdown is not a cure, it prevents the spread and gives the health system a chance to cope without getting overwhelmed. However, India did not implement the lockdown as it should have and people are now tired.

A second and a third lockdown is more difficult to cope with since uncertainty continues and that results in deep social and economic impact. Economic recovery slows down in spite of vaccination and achieving the level of GDP in 2019 becomes more difficult.

The disease has shown that it has to be tackled globally, collectively and swiftly. Delays can be very costly. We cannot let our guard down as yet and socially responsible behavior is crucial. Testing and tracing is vital but we had relaxed it. Research has to be accelerated to track the virus and its mutations. We are not sure whether a new variant is attacking India currently.

The poor and unorganised sector have suffered grievously in India and need massive support through employment generation and income support (for the time being). They need better public services. The divide between the rich and the poor has grown and needs to be addressed. Supply-side policies will not only not deliver but lead to discontent and protests which can only slow down both the fight against the disease and economic recovery.

Once again the policymakers have shown that the unorganised sector is not in their consideration. Every crisis is an opportunity to reflect on deeper social issues and improve matters for the long run for the majority but it should not be misused to promote narrow vested interests in a new normal.

Arun Kumar is Malcolm Adiseshiah chair professor, Institute of Social Sciences and author of Indian Economy's Greatest Crisis: Impact of the Coronavirus and the Road Ahead *(Penguin Random House).*

Courtesy **The Wire**, March 26, 2021.

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By turning away refugees from Myanmar, India is betraying its ancient idea of Vasudhaiva Kutumbakam

Hindu texts emphasise that the world is one family. Prime Minister Narendra Modi must live up to that idea as people fleeing the coup seek shelter in India.

Burmese residents in India participate in a demonstration in Dellhi against the croup in their country. | Anushree Fadnavis/Reuters

Nandita Haksar

By describing refugees from Myanmar as "migrants", a deliberate attempt is being made to obfuscate the issue and avoid taking responsibility for the people seeking shelter in India. A refugee has a right to protection under humanitarian law, which is the essence of the idea of "Vasudhaiva Kutumbakam" that has been the focus of so much discussion by Prime Minsiter Narendra Modi and his intellectual and spiritual supporters.

Vasudhaiva Kutumbakam, or world is one family is an idea found in Hindu sacred texts. The verse from the Upnishad goes like this:

"One is a relative,
the other stranger,
say the small minded.
The entire world is a family,
live the magnanimous.
— *Maha Upanishad 6.71-75*

The idea of Vasudhaiva Kutumbakam was celebrated in a rather large way in 2016, when the Art of Living group organised a world cultural event around this theme. It featured a grand orchestra consisting of 8,500 musicians playing 50 different instruments performing in Raag Desh a song celebrating the notion that the world is one.

In 2019, the Vivekananda International Foundation, which has close ties to the Bharatiya Janata Party, organised a seminar titled "Vasudhaiva Kutumbakam: Relevance of India's Ancient Thinking to Contemporary Strategic Reality."

But though Prime Minister Modi has often quoted the idea of Vasudhaiva Kutumbakam, his government is refusing to embrace the men, women and children from Myanmar seeking refuge in India. Giving asylum to refugees is rooted in our history and cultural traditions but the Modi government is getting round this obligation by referring to refugees as "migrants".

In 2015, European governments and media did just that. That year saw more than one million people arrive at Europe's borders as they escaped the unimaginable horrors of war, persecution or impossible living conditions.

Many had risked their lives on treacherous journeys across the Mediterranean Sea in inflatable boats that they knew were not sea worthy.

The media, including the BBC, invariably referred to these people escaping persecution as "migrants". It was Al Jazeera that first took a policy decision to call them refugees.

An online petition urged the BBC to do the same.

The right words

"We kindly request that the BBC use the term Refugee Crisis instead of Migrant Crisis when referring to the current crisis in Europe," it said. "The word Migrant is not an accurate description in any English language dictionary. Only by properly describing the problem can we correctly address it and find a real solution. One word can make all the difference."

The Petition went on to ask, "Why the word Refugee?"

It explained: "All the prominent English language dictionaries define a migrant as someone who moves from one country to another in search of work and better living standards. A refugee, on the other hand, is defined as someone who is forced to leave their country in order to escape war and persecution."

The petition was ultimately signed by 72,340 people and sparked a discussion on the meaning and importance of the two words "refugee" and "migrant". The discussion is very relevant to us in India both in the context of the controversies over the rights of migrants that took place in relation to the amendments in the Citizen Amendment Act as well as the National Register for Citizens. But more urgently, there is a need to see that the people coming across from Myanmar through our North East borders are not migrants but refugees.

Debased language

A UN document says: "The term 'migrant' should be understood as covering all cases where the decision to migrate is taken freely by the individual concerned, for reasons of 'personal convenience' and without intervention of an external compelling factor."

Journalist David Marsh wrote an article some six years ago in the *Guardian* entitled: "We deride them as 'migrants'. Why not call them people?" His words resonated with me because it felt so relevant for us in India.

Marsh pointed out: "The language we hear in what passes for a national conversation on migration has become as debased as most of the arguments, until the very word 'migrants' is toxic, used to frighten us by conjuring up images of a "swarm" (as David Cameron put it) massing at our borders, threatening our way of life."

As Alexander Betts, director of the refugee studies centre at Oxford University, said: "Words that convey an exaggerated sense of threat can fuel anti-immigration sentiment and a climate of intolerance and xenophobia."

But right now the problem is not migrants but refugees coming to our country for shelter; escaping from one of the most brutal regimes in the world. Their situation fits into the four corners of the definition of "refugee".

A refugee, according to the 1951 Refugee Convention, "is any person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her nationality and is unable, or owing to such fear, is unwilling to avail himself/herself of the protection of that country."

Over the years India has given shelter to lakhs of refugees. As of 2016, the United Nations Fact Sheet estimates that India – while not being a signatory to the 1951 UN Refugee Convention or the 1967 Protocol Relating to the Status of Refugees – hosts 2,09,234 people of concern. This includes 1,10,095 from Tibet, 64,689 from Sri Lanka, 18,914 from Myanmar, 13,381 from

Afghanistan, and also in much smaller numbers from Somalia, Bhutan, and Palestine.

This includes refugees, asylum-seekers and stateless persons. Of these only 40,276 refugees are registered with United Nations High Commission for Refugees in India as of 2020.

Dual system

India does not have a law governing refugees. Instead, the administrative and legal framework for the management of refugees and asylum seekers remains ad hoc, with an unusual dual system in which the asylum caseload is divided between the government and UNHCR, with the government responsible for a larger share.

In the light of the latest urgent problem, it would be a good idea for the government of India to think of introducing a domestic refugee protection law and procedures. In that way, this government will be able to institutionalise the ideal of Vasudaiva Kutumbakam.

Giving shelter to refugees from Myanmar and having a law for the protection of refugees would fulfill the idea of taking inspiration from ancient philosophy and marrying it to the values of international humanitarian law.

Nandita Haksar *is a human rights lawyer and author, most recently, of* The Flavours of Nationalism.

Courtesy **Scroll.in,** April 14, 2021.

Who Wants Clean Legislatures?

S.N. Shukla

In his concluding address to the Constituent Assembly on 26.11.1949 Dr. Rajendra Prasad had said that *If the people who are elected **are lacking in*** **character and integrity** *the Constitution cannot help the country*. The Preamble of our Constitution contains the Resolve of the People of India to secure to **all** its citizens **justice**. According to Article 51-A (a), it is the *fundamental duty of **every** citizen of India **to abide by the Constitution***. Likewise, clause (i) of the said Article *mandates every citizen of India **to abjure violence***. Articles 84(a)/173(a) prescribe the oath to be taken **to be qualified to be** a member of Parliament/state legislature. The *unanimous* Resolution entitled '**Agenda for India**' adopted by the Parliament at the time of Golden Jubilee of Independence in **1997** began with the mandate ***to free** the political life and process of the adverse impact of criminalization*.

However, nothing significant has been done by the successive governments in the last **23** years to restore and maintain purity of our Legislatures by preventing entry of persons with criminal background in these August bodies, despite-

1. The proposal of the Election Commission in **1998**.
2. The recommendation of the National Commission to Review the Working of the Constitution in **2002**.
3. The observation of the Constitution Bench in the case of K. Prabhakaran [JT **2005** (1) SC 173] that "***persons with criminal background pollute the process of election.***"
4. The 18th Report by the Parliamentary Standing Committee on Electoral Reforms in **2007.**
5. In People's Union (2013) 10 SCC 1 it was observed that : "*... in a constitutional democracy, criminalisation of politics is an extremely disastrous and lamentable situation*".
6. The Law Commission's 244th report i**n February 2014** that ***"Disqualification upon conviction has proved to be incapable of curbing the growing criminalization of politics***" and that ***"disqualification at the stage of charging, if accompanied by substantial attendant legal safeguards to prevent misuse, has significant potential in curbing the spread of criminalization of politics.***"
7. Order dated **10.3.2014** in the WP (Civil) No. 536/ 2011 that trial of cases against sitting legislators for the offences specified in Section 8 of the RP Act,1951 ***be concluded within one year from the date of the framing of charge(s).***
8. Public declaration in 2014 by the present Prime Minister himself of **taint-free Parliament by 2015**.
9. The following observations of the **Constitution Bench** in the case of Manoj Narula vs. UoI, **(2014)** 9 SCC 1 (Para 1).

   "*... **For democracy to survive**, it is fundamental that the best available men should be chosen as the people's representatives for the proper governance of the country and the same can be best achieved through **men of high moral and ethical values** who win the elections on a positive vote."*

10. The observation of the Constitution Bench in the case of Public Interest Foundation AIR 2018 SC 4550 (para 59) that the Law Commission's recommendation for proposed amendment vividly exhibit *"the concern of the society about the progressing trend to criminalisation in politics that has the proclivity and the propensity to send shivers down the spine of constitutional democracy"* and that "The best available people, as is expected by the democratic system *should not have criminal antecedents*." (Para 115).

    Consequently, *not only the PM's promise of taint free Parliament* ***by 2015*** *has remained unfulfilled* ***but the situation has only worsened***. Over the years, number of persons with criminal background has shown alarming increase in Lok Sabha and State Legislatures. As per ADR report, between 2014 and 2019 there has been **26%** i**ncrease** in the number of tainted members and **43% MPs** in the current Lok Sabha **face criminal cases** and percentage of members with *serious cases* has ***doubled*** from 14% to **29%** in the last 10 years.

Hence, to check this prima facie increasingly alarming unhealthy trend, which poses a grave threat to the future of Democracy in the country, Lok Prahari filed a PIL WP (C) No. 1328/2019 for– (1) effectuating ***time bound*** *meaningful implementation* of the **unanimous** Resolution of the Parliament in **1997** and *restoring and maintaining purity of our legislative bodies as envisaged by the founding fathers of the Constitution and framers of the Representation of the People Act, 1951.*The Prayer in the said writ petition was as follows-

1. Issue a writ, order or direction in the nature of Mandamus to the Secretary, Legislative Department, Government of India to bring up before the Parliament within the stipulated time a Bill in terms of the recommendations/observations in paras 108,117,118 and 119 of the judgment dated 25.9.2018 of the Constitution Bench in PIL WP (C) No. 536 of 2011

2. Declare that, pending enactment of law in this regard, since Rule of Law and free and fair election are basic features of the Constitution, *election of persons charge sheeted by a Court of Law more than a year ago for an offence punishable with imprisonment for five years or more as a member of Parliament/State Legislature* **shall be liable to be declared null and void on the grounds mentioned in Section 100(1) (a) (b) and (d) (iv) of the RP Act, 1951** due to violation of the provisions of Articles 14, 21, 51-A(a) and (i), lack of meaningful compliance of Articles 84(a)/ 173(a) and 99/188 on account of apparent falsity of the oaths taken by them as a candidate and after election, and the provision in Section 123(2) of the RP Act,1951.

3. Issue such other writ, order or direction as may be deemed fit in the circumstances of the case for implementation of the 1997 unanimous resolution of the Parliament and to restore and maintain purity of our legislatures as envisaged by the founding fathers of the Constitution and framers of the RP Act, 1951.

In the writ petition it was pleaded that election of persons charge sheeted by the Court for an offence punishable with imprisonment of 5 years or more *is discriminatory vis-a-vis other public servants and, consequently, violative of Article 14 of the Constitution.* As held by Supreme Court in the case of Narshima Rao (1998) 4 SCC 626, a Member of Parliament

or State Legislator is a public servant. When a person charge sheeted in a crime involving moral turpitude is considered unsuitable for a job under the Government, it is rather incongruous that such persons can become law makers who control the civil servants. Treating legislators on a different footing also amounts to a clear violation of Article 14 of the Constitution in terms of the law laid down in the case of Subramanian Swamy (2014) 8 SCC 682 that *if the object of classification itself is discriminatory the classification cannot be said to be reasonable.*

Moreover, election of such persons as Members of Parliament/State Legislature *also vitiates free and fair elections, which has been held to be a basic feature of the Constitution.* It is widely acknowledged that undisputedly such persons succeed in winning by use of muscle power which amounts to **"undue influence"** in exercise of voting right which is deemed to be **"corrupt practice"** under Section 123(2) of the Representation of the People Act,1951. This is supported by the observations of the Apex Court in the cases cited above.

Accordingly, in view of the position mentioned in the preceding paras, obvious blatant use of muscle power by persons charge sheeted by the Court for serious criminal cases for winning election* is liable to be declared "undue influence" and *a corrupt practice under Section 123(2) of the RP Act,1951 in terms of the decisions in the cases of Krishnamurthy Vs. Shivkumar AIR 2015 SC 1921 and Lok Prahari vs. Union of India AIR 2018 SC 1041 wherein non-disclosure of criminal antecedents / assets and sources of income was held to constitute corrupt practice under the heading 'undue influence.'

In the said PIL it was also pleaded that *blatant* ***continued non-compliance for 6 years*** of the order dated 10.3.20**14** cited above *despite vigorous follow up by the Apex Court* in another PIL WP (C) No. 699/2016, ***speaks volumes about the helplessness of the system against the law breaking 'law makers'.*** Moreover, implementation of directions in para 116 of Constitution Bench judgment in the aforesaid case of Public Interest Foundation *has not yielded the desired result* and *no action has been taken* on the recommendations/ observations in paras 108, 117, 118 and 119 of the judgment.

Hence, *in view of deliberate inaction by the successive Central governments in the last* ***23*** *years*, despite the unanimous 1997 Resolution of the Parliament, well considered recommendations of various bodies, and the concern expressed by the Apex Court in various decisions cited in the writ petition, including the specific observation of the **Constitution Bench** in paras 118 and 119 of its judgment dated 25.9.**2018** in the aforesaid case of Public Interest Foundation that *"**Parliament must make law** to ensure that persons facing serious criminal cases do not enter into the political stream",* and "***the sooner the better**, before it becomes **fatal** to democracy.*" **the only way left** is that, *since Rule of Law and free and fair elections are basic features of our Constitution.* pending enactment of law in terms of the aforesaid recommendations, the Apex Court as 'sentinel qui vive' granted Prayer 2 in the writ petition exercising its powers under Article 142 in terms of the provisions of the Constitution and the R P Act,1951 cited above and **the acknowledged dire need for restoring and maintaining purity of our legislatures** *to check the malaise of their increasing criminalization threatening the future of democracy, as* ***repeatedly*** *stressed by the Court itself.*

The prayer for intervention was fully supported by the following observations of the Apex Court itself-

(i) "***The citizens in a democracy cannot be compelled to stand as***

silent, deaf and mute spectators *…".*(para 115 of the judgment in the case of People's Union for Civil Liberties)

(ii) It was held in the case of Vineet Narain (1998) 1 SCC 266 (Para 49) **this Court can issue necessary directions to fill the vacuum** till such time the Legislature steps in to cover the gap or the Executive discharges its role. The same view was reiterated in several other cases e.g. AIR 2008 SC 2118 (paras 7 and 8) wherein it was held that if there is a buffer zone unoccupied by Legislature or Executive, *which is detrimental to public interest*, judiciary ***must*** occupy the field to sub-serve public interest.

(iii) "Where the Constitution has conceived a particular structure of certain institutions, *the legislative bodies are bound to mould the statutes accordingly.* **Despite the constitutional mandate, if the legislative body concerned does not carry out the required structural changes in the statutes, then,** it is the duty of the court **to provide the statute with the meaning as per the Constitution.** ***As a general rule of interpretation, no doubt, nothing is to be added to or taken from a statute.*** **However, when there are adequate grounds to justify an inference,** it is the bounden duty of the court to do so***": Vipulbhai M. Chaudhary Vs. Gujarat Cooperative Milk Marketing Federation Limited and others (2015) 8 SCC 1***

(Para 26), and "In the background of the constitutional mandate, *the question is not what the statute does say* ***but what the statute must say.*** If the Act or the Rules or the bye-laws do not say what they should say in terms of the Constitution, ***it is the duty of the court to read the constitutional spirit and concept into the Act"***. (ibid,Para 42) (emphasis supplied).

Thus, the relief prayed for in the writ petition was fully in accordance with the relevant provisions of the Constitution and the 1951 Act and the law laid down by the top Court in this regard. After all, right to contest elections is only a statutory right, that too subject to certain conditions. When even under trial prisoners are denied not only right to vote but also fundamental rights of liberty and dignity and freedom of movement and occupation, those charge sheeted by the Court for a serious offence cannot be allowed to become **law makers** in disregard of the law on the specious plea of 'presumed innocent until proved guilty'. One year's (in place of 6 months recommended by the Election Commission) time is enough to any decent really innocent person for having the false charge(s) against him quashed by the Constitutional Courts.

Before hearing of the writ petition on 16.11.2020 the petitioner in person had submitted a brief of submissions (which was circulated with the office report dated 6.11.2020) summing up the aforesaid position. Thereafter, vide Email dated 9.11.2020 a supplementary brief was also sent citing cases of **a Member of Lok Sabha who was granted parole to take oath even though the High Court had refused him bail in a rape case** and an MLA in UP who was elected **thrice** while being in jail for more than 10 years. A recent judgment of the top Court reported in the Times of India dated 15.10.2020 wherein it was held that **'innocent till proven guilty' does not apply to selection of judicial officers was also cited** in support of the plea regarding violation of Article 14 *since obviously the said ruling applied with greater force for being a law maker*. **In view of all this, the writ petition clearly deserved to be**

entertained for proper adjudication of the grave constitutional and legal issues of great public importance involved and an authoritative pronouncement of the law in this regard by the *'custodian of the Constitution'*.

At the time of hearing of the matter attention of the Hon'ble Court was drawn to the submissions in the aforesaid briefs and the observations in paras 118 and 119 of the judgment of the Constitution Bench cited above. It was also submitted that despite directions in the judgment dated 25.9.2018 in the case of Public Interest Foundation the number of MLAs with serious criminal cases in Delhi State Assembly increased from **20**% in 2015 to **53**% in 2020 and **despite** directions in the judgment dated 13.2.2020 in the Contempt Petition No. 2192 of 2018 in the same matter, *the number of MLAs in recent Bihar State Assembly has increased in the 2020 election to **51**% from **40**% in 2015, showing that even the said directions have also failed to check increasing criminalization of legislatures* **indicating need for urgent effective action** to check this malaise.

In response to a query from an Hon'ble Judge that the grounds mentioned in Section 100 of the Representation of the People Act,1951 can be invoked in election petition it was submitted that the declaration sought in prayer 2 is necessary **to avoid multiplicity of litigation** due to hundreds of petitions challenging election of such persons in various High Courts on these grounds resulting in avoidable unnecessary increased workload in High Courts and ultimately by way of appeals in the Apex Court in each such case. Also, **the petitioner's case for such a declaration stood on a much stronger footing** *considering that, unlike the extant provisions of Section 100 of the RP Act,1951 relied upon in the present case,* **even in the absence of any law in this regard**, in cases of Krishnamurthy and Lok Prahari (supra) cited in the writ petition **similar declarations were granted earlier.**

However, brushing aside the aforesaid submissions, the writ petition under Article 32 *for ensuring Rule of Law and free and fair elections* (**which have been held to be features of our Constitution)** and involving important issues of interpretation and import of constitutional provisions was summarily *disposed of at threshold by an **unsigned** order*, actually Record of Proceedings, concluding as follows-

"*After hearing Mr. Shukla at length, we are not inclined to grant any relief. However, we leave it open to the petitioner to pursue any remedy available to him to get the observations made by this Court in Public Interest Foundation & Ors. versus Union of India & Anr. and other judgments of this Court implemented."*

without even indicating as to what other remedy the petitioner or the civil society has *when the Parliament fails to act on its own unanimous sacrosanct Resolution **despite repeated observations and even directions of the Apex Court** in the case of the Public Interest Foundation and in the contempt petition therein which have not been effective to give the desired result of ridding our Parliament and state legislatures of ever increasing number of persons with criminal antecedents.*

Notably, such an important matter **concerning future of democracy in the country and failure to fulfill PM's own promise** was disposed of at the first hearing without even notice to the repeatedly defaulting party (Union of India) and directly interested party -the Election Commission of India-**despite the observations of the Constitution Bench** in para 70 of the judgment in the case of Public interest foundation cited above and in disregard of the provisions of Article 145(3) and Rule 2 of Order VI of the SC Rules and several rulings of

co-equal/larger Benches cited in the writ petition and ignoring Prayer 1 in the WP and without dealing with **all** the grounds in support of Prayer 2 *and indicating any reason for not granting it*, necessitating filing of Review Petition No.(C) 1974 of 2020, to prevent our democracy from soon becoming a **government of the tainted, by the tainted and for the tainted.**

In the review petition the following substantial questions of law of great constitutional and general public importance were raised-

1) Whether the instant writ petition involving issues relating to *interpretation and import* of the provisions in the Preamble, Articles 14,51-A, 84(a)/173(a), 99/188 of the Constitution and the oaths taken there under **could be heard and disposed of by a Bench other than the Constitution Bench** as required by Article 145(3) of the Constitution and Rule 2 of Order VI of the Supreme Court Rules, 2013 and as was done, **for this very reason**, in the case of Public Interest Foundation reported in AIR 2018 SC 4550 ?
2) What remedy, **except** *prayer to the 'Sentinel qui vive' for use of its power under Article 142,* is available to 'We the People' **if the Parliament does not act for 23 years on its own unanimous Golden Jubilee Resolution to free political process of criminality and the successive Central governments turn a deaf ear to numerous well considered recommendations** of the ECI in 1998, NCRWC in 2002, standing Committee in 2007 and Law Commission in 2014 despite the repeated observations of this Hon'ble Court, lastly of the Constitution Bench in paras 118 and 119 of the judgment of the Constitution Bench in WP (C) No. 536 of 2011 in **September 2018** that "*A time **has come** that Parliament **must** make law*" and "***the sooner the better**, **before** it becomes **fatal** to democracy".* ?
3) Whether, in view of the observation of the Constitution Bench in Para 70 of the judgment in the aforesaid case that *"There is no denial of the fact that the Election Commission has the plenary power and **its view has to be given weightage"***, the writ petition for ensuring free and fair elections and restoring and maintaining purity of legislatures could be disposed of at threshold without even notice to the defaulting Respondent No.1and to the concerned interested party-Election Commission, ignoring that its recommendation has been pending with the Union of India for **more than two decades** ?
4) Whether, in view of the settled law that a Bench is bound by the decisions of larger/ co-equal Benches, the instant writ petition for a declaration in exercise of power under Article 142 to enforce Rule of Law and free and fair elections to ensure future of democracy in the country could be summarily disposed of ignoring binding decisions cited in the writ petition and the recent decision cited in the supplementary submissions **leaving 'We the People' remediless** ?
5) Whether, in view of the decisions reported in (1987) 1 SCC 288 (Para 13), (2018) 13 SCC 715 (Para 10) and (2017) 15 SCC 309 (Para 7), such an important writ petition could be summarily disposed of at threshold by an unsigned order **ignoring** Prayer 1 in the WP and without dealing with **all** the grounds in support of Prayer 2 *and indicating **any** reason for not granting it*?
6) Whether, in view of answers to the above questions, this Review Petition **meeting all the requirements** of Rule 1 of Chapter XLVII of the Supreme Court

Rules does not deserve to be allowed in terms of the law laid down, inter alia, in the following cases?

(i) AIR 1955 SC 661 (7 JJ)
(ii) AIR 1965 SC 1636 (7 JJ) (Para 23)
(iii) AIR 1967 SC 1643 (Para 56)
(iv) AIR 2000 SC 168
(v) (2011) 8 SCC 161
(vi) (2016) 7 SCC 1 (CB) (Para 173.7)

7) Whether, in the facts and circumstances of the case and the constitutional and public importance of the matter, the prayer for oral hearing of the Review Petition deserves to be allowed in view of the law laid down in the following cases-

(i) View taken by Hon'ble Mr. Justice Thakkar in AIR 1987 SC 1137

(ii) Observations in para 20 of the judgment reported in (1980) 4 SCC 680 (CB)

(iii) The observation in para 41 of the judgment reported in (2014) 9 SCC 737.

It was brought out in the review petition that the order sought to be reviewed suffered from the following serious infirmities of fact and law apparent on the face of the record -.

(1) **It misses out the real point that absence of any provision to disqualify such persons from contesting and validity of election of such persons, like that of others who are not disqualified, are two totally different issues** because even their election is liable to be declared as null and void under the **existing** provisions of Section 100(1), (a), (b) & (d) (iv) of the RP Act, 1951 **which was NOT the issue at all in the case of Public Interest Foundation**. Hence, even though such persons are not disqualified to contest, **the validity of their election, like that of others**, can certainly be examined on the touchstone of Section 100 (1) of the RP Act, 19151 for granting the Prayer 2 in the writ petition.

(2) The order does not address the crux of the petitioner's arguments that, *even in the absence of a specific law to disqualify such persons* for contesting elections, such persons **are not qualified** to contest election since the **oath required to be taken by them under Article 84 (a) is meaningless and a fraudulent formality** due to violation of the provisions of the Preamble and Article 51-A (a) and (i) in view of the reply of Dr. Ambedkar regarding the purpose and rationale of the provision for the oath and observations of Mr.Justice Kurian in the case of Public Interest Foundation.

(3) **It does not deal with the contention that such persons do not fulfil the requirement of Article 51-A** *of abiding by the Constitution and abjuring violence* as they would never want justice to their victims promised in the Preamble to the Constitution and as such the Oath taken by them under Articles 84(a)/173(a) and 99/188 is meaningless in view of clarification by Dr. Ambedkar (reproduced in para 31 of the WP) regarding the purpose and import of the oath.

(4) **It is totally silent and does not deal at all with the two other grounds in clauses (b) and (d) (iv)** of Section 100(1) of the RP Act, 1951 cited in support of Prayer 2 in the WP. Clause (b) is clearly attracted in the case of such persons in view of the provisions of Section 123 (2) of the Act and the observations of the Apex Court in several cases such as K.Prabhakaran, PUCL, Manoj Narula and Public Interest Foundation cited above. Refusal to entertain the writ petition in the face of

categorical provision in the Act and the decisions of Constitution Benches in the aforesaid cases runs counter to the settled law that a Bench is bound by the law laid down by co-equal and larger Benches.

(5) Likewise, **the order ignored that clause (d) (iv) of Section 100 (1) of the Act is also indisputably attracted in such cases** because election of such persons is clearly against Articles 14, 51-A (a) & (i), 84(a)/173(a) and 99/188 of the Constitution and the provision in Section 123(2) of the RP Act, 1951. On this point also the order runs contrary to the view taken by the Court in the cases of Narsihma Rao, and Subramanian Swamy apart from the decisions referred to above in respect of violation of Section 123(2) of the RP Act, 1951,

(6) The order also overlooked that election as **law makers** of **law breakers** charge sheeted a year ago by the Court for serious offence(s), thereby enabling them to subvert justice and Rule of Law (as clearly evident from the blatant non-compliance **for 6 years** of the order dated 10.3.2014 for disposal of their cases within a year despite vigorous follow up by this Hon'ble Court in WP (C) 699/ 2016) is not only obnoxious and incongruous, but is also against the Rule of Law and free and fair elections which have been held to be the basic features of our Constitution,

(7) The order overlooked that the petitioner organization's case for similar declaration in Prayer 2 of the writ petition on the basis of the provisions in Section 100(1) (a), (b) and d(iv) being attracted in such **cases stood on much stronger footing,** compared to declarations of this Hon'ble Court, in exercise of its power under Article 142 **even in the absence of any law in this regard**, in similar cases of Krishnamurthy and Lok Prahari cited above

(8) The order also ignored that **such a declaration is necessary to avoid multiplicity of litigation** by way of election of hundreds of such persons being challenged in various High Courts resulting in unnecessary increased workload in the High Courts and, consequently, in the Apex Court because of different High Courts taking different view on these three grounds,

(9) While relegating the petitioner organization to "pursue **any other** remedy," **without indicating the same**, the order overlooked that, as brought out above, **the directions/ observations in the case of the Public Interest Foundation have been inadequate and even the remedy of approaching the Court in contempt proceedings has not worked leaving intervention under Article 142 as the only remedy left to for curing this 'malignancy**' in view of the categorical observations of the Constitution Bench in paras 118 and 119 of the judgment in the case of Public Interest Foundation.

In view of the aforesaid unassailable grounds taken therein the review petition and the application for its oral hearing clearly deserved to be allowed in terms of the law laid down by the Apex Court in this regard in the cases cited above. However, whereas oral hearing has been granted in several other far less important matters concerning only a section of population, this highly important review petition **concerning the proper working and future of democracy in the country** was dismissed by circulation by the following order without even mentioning, leave alone dealing with, the grounds taken in the review petition based on the questions of law stated above and completely ignoring the aforesaid glaring errors of fact and law on the

face of the record-

"Application for oral hearing is rejected.

Application for permission to appear and argue in person is rejected.

We have perused the Review Petition and the connected papers. We do not find any error in the order impugned, much less an apparent error on the face of the record, so as to call for its review.

The Review Petition is, accordingly, dismissed. Pending application(s), if any, shall stand disposed of."

Now it is for the legal luminaries of the country to consider and decide whether, first of all, such a grave matter could be, and should have been, summarily disposed of without even notice to the concerned parties and without appreciating and addressing the real issue involved and without dealing with all the points made in support thereof. Secondly, whether even the review petition could be refused to be heard in the open court and dismissed by such a non speaking cryptic stereotyped order in view of glaring serious errors of fact and law clearly apparent on the face of the record, and the irrefutable grounds taken therein and whether the dismissal was in accordance with the law laid down by the Apex court in this regard, particularly in the following cases cited in the review petition-

(i) "*There is nothing in our Constitution which prevents Supreme Court from departing from a previous decision* ***if the Court is convinced of its error and its baneful effect on the general interest of the public*****".** AIR 1955 SC 661 (7 JJ)

(ii) "*In reviewing and revising its earlier decision, this Court should ask itself* ***whether in the interests of the public good*** *or for any other valid and compulsive reasons, it is necessary that the earlier decision should be revised".* AIR 1965 SC 1636 (7JJ)(Para 23)

(iii) "Ordinarily the Supreme Court will be reluctant to reverse its previous decision, ***it is its duty in the constitutional field*** *to correct itself as early as possible, for otherwise, the future progress of the country and the happiness of the people will be at stake.*" AIR 1967 SC 1643 (Para 56)

That in this connection it is also relevant that in reply to a RTI request dated **17.11.2020** seeking photocopies of the compliance reports of the directions in the said proceedings submitted by various political parties to the ECI in connection with Assembly elections in Bihar and the report(s), if any, submitted to the Apex Court by the Election Commission as required in the said directions, the CPIO's reply dated **16.12 2020** was that the concerned file is under process and the requisite information will be provided *as soon as* decision is received. **However, the same is still awaited** despite appeal to the First Appellate Authority pointing out that the excuse given by the CPIO for not providing the information is not covered by the RTI Act. Evidently, even the Election Commission seems to have failed to ensure compliance of the directions of the Apex Court in the contempt proceedings in the case of Public Interest Foundation to check entry of persons with criminal antecedents.

In view of the above, this case raises a million dollar question for 'We the People' that in a scenario like this when all the three wings of the Government- Executive, Legislature and even the Judiciary fail to come to their rescue what is the remedy available to them ? Do they have to continue to suffer the tainted legislators and wait for Lord Krishna to fulfil his following promise in Shrimad Bhagvat Gita-

यदा यदा हि धर्मस्य ग्लानिर्भवति भारत।
अभ्युत्थानमधर्मस्य तदात्मानं सृजाम्यहम्॥
yadā yadā hi dharmasya glānirbhavati bhārata,
abhyutthānamadharmasya tadātmānaṁ sṛjāmyaham.
Whenever there is a decay of righteousness, O Bhārata, and a rise of unrighteousness, then I manifest myself. (4.7)

Note: Two earlier articles with the same title were published in the December 2017 and January 2020 issues of the RH.

Socialist Party (India) Press Release: 15 April 2021

Statement Seeking Resignation of Shri Nitish Kumar's Government

1. Following upon the unprecedented police transgressions in the Bihar Assembly on 23 March 2021 the Socialist Party (India) issued the statement dated 24 March 2021 set out in the Appendix below, condemning the incidents and stating inter alia: "In the circumstances, the Socialist Party (India) makes it clear that if no adequate remedial and punitive action is immediately taken, the Party will be constrained to demand the resignation of the state government as it had done in cases of police excesses in respect of other state governments in the past."

2. More than a fortnight has passed since these disgraceful events. There appears to have been no introspection and no expression of remorse by ruling circles in respect of these incidents. On the contrary, the Bihar Chief Minister, Shri Nitish Kumar, who had sought to justify the action of the police and the assaults made on elected representatives of the people, has since made no amends. Nor has there been any remedial action sought or taken by the state government or the party to which the Chief Minister belongs. It is now sufficiently and adequately evident that the events of 23 March 2021 in which legislators, including women legislators, were dragged and assaulted, occurred with the active connivance of the State Government and the Assembly Secretariat and in fact at their behest.

3. The Socialist position on police excesses has been well-defined historically in the 1950s and especially in 1954 when police excesses by the then Socialist-led Government in Travancore-Cochin were severely condemned by Socialists and the resignation of the Chief Minister of that state sought. While in Travancore-Cochin there had been deaths by firing, the present case in Bihar is no less serious a police transgression even in the absence of some of the Travancore-Cochin features. As the Bihar transgressions occurred within the precincts of the Legislature, a dangerous precedent has been set which would open the door for worse in the future not only in Bihar but also in India as a whole. These need therefore to be stoutly resisted and stoutly resisted now.

4. There can now be no manner of doubt that Shri Nitish Kumar and his Government have cut themselves adrift from their initial Socialist moorings. They have for sometime made an ideological and constitutional surrender to the policies and ideology of the Bharatiya Janata Party and the current Government led by that Party at the Centre.

This fact has been evident also for some time in the recent legislative initiatives of the Bihar Government and its silences on matters of grave concern to India's peasantry and to the future of its democracy. The recently introduced state legislation seeking to confer sweeping powers on the police goes against the grain of the highest principles of India's Constitution and is contrary also to the Indian Socialist ethos.

5. Bearing in mind all these facts the Socialist Party (India) considers the Nitish Kumar Government to be a blot upon the Socialist movement in India. The Socialist Party (India) has therefore concluded that it must demand the resignation of the Nitish Kumar Government. Consequently, it directs its cadres in Bihar and elsewhere to mobilise public opinion to reinforce and effectuate this demand.

Pannalal Surana, Anil Nauriya
Socialist Party (India)

Appendix :

[Earlier Statement dated 24 March 2021 issued by the Socialist Party (India)]

The Socialist Party (India) condemns the entry of police forces into the premises of the Bihar Legislature on 23 March 2021 & the assaults by these forces on legislators including women legislators. Such transgressions are unprecedented and did not occur within parliamentary institutions even during the Emergency of 1975-77.

The Socialist Party (India) calls to attention of the Bihar Government that Socialist attitude towards police excesses has been well defined in the 1950s in controversies relating to events in Travancore-Cochin in August 1954.

The Socialist defence of Parliamentary democracy in India is also well known and countless Socialists have over the years courted imprisonment in assertion of democratic rights. Such rights cannot be upheld if elected representatives in parliamentary institutions are permitted to be assaulted and intimidated by police forces and that too in Assembly premises under the watch of, if not actually at the behest of, the Bihar Government and Assembly Secretariat.

This is a disgraceful event in India's parliamentary history. It is ironic and particularly shameful that it has occurred during the incumbency in Government of persons who claim to be affiliated to the political traditions of Loknayak Jayaprakah Narayan and Dr Ram Manohar Lohia.

In the circumstances, the Socialist Party (India) makes it clear that if no adequate remedial and punitive action is immediately taken, the Party will be constrained to demand the resignation of the state government as it had done in cases of police excesses in respect of other state governments in the past.

"Where a society has chosen to accept democracy as its credal faith, it is elementary that the citizens ought to know what their government is doing."
***Justice P N Bhagwati**, former Chief Justice, Supreme Court of India, (1981)*

Condemning Loss of Jawans' Lives, PUCL Says Political Solution to Maoist Violence Needed

"Using the current strategy for further militarisation in Bastar – which is already amongst the most militarised areas in the world – is a surefire recipe for disaster."

The Wire Staff

Relatives mourn around a coffin of a jawan who was killed in an attack by Maoist fighters, during a wreath laying ceremony in Bijapur in Chhattisgarh, India, April 5, 2021. Photo: Reuters/Stringer

New Delhi: Human rights body People's Union for Civil Liberties (PUCL) has condemned the loss of lives during an encounter between Maoists and security forces in Chhattisgarh. At least 22 security forces personnel were killed and 30 others injured on Saturday in an encounter with Maoists inside a forest near Jonaguda at the border between Bijapur and Sukma districts in the state.

In a statement issued on Monday, the PUCL said, "What causes us great concern are reports that injured security people seeking refuge in houses were ambushed and stabbed to death. Such use of violence against injured persons – irrespective of whether they are security persons or others – is unacceptable and is to be condemned. This goes against the principles of humanitarian law, which is enshrined in national and international law, governing the basic rights of combatants in any conflict situation."

According to PTI, separate joint teams of security forces, over 2,000 in number, including the Central Reserve Police Force (CRPF), its elite unit CoBRA (Commando Battalion for Resolute Action), the District Reserve Guard (DRG) and the Special Task Force (STF), had launched a major anti-Maoist operation from Bijapur and Sukma district, on Friday night. The operation was launched from five places – Tarrem, Usoor and Pamed (Bijapur) and Minpa and Narsapuram (Sukma).

"On Saturday afternoon, an encounter

broke out between the patrolling team that was dispatched from Tarrem and ultras belonging PLGA (Peoples' Liberation Guerilla Army) battalion of Maoists near Jonaguda village under Jagargunda police station area (in Sukma)," the state's deputy inspector general (anti-Maoist operations), O.P. Pal, told PTI.

Reports added that at least 400 Maoists were involved in the attack.

Union home minister Amit Shah said a "befitting reply will be given to the attack" in Chhattisgarh at an appropriate time. Chhattisgarh chief minister Bhupesh Baghel has said the martyrdom of the jawans will not go in vain, and the anti-Maoist operation will be intensified.

Condemning the use of violence, the PUCL said, "We also reiterate our strong belief that the Maoist violence in central India needs to be addressed through political means, and not military operations, and also call upon all parties – the state and central governments and the security forces, and also the Maoists to immediately cease military operations and all other hostilities in order to initiate a process of dialogue to resolve all conflict issues."

The human rights body raised concerns over the extensive militarisation of the area causing daily harassment of ordinary citizens by paramilitary forces, and alienation of local tribals, who are caught in the middle of the conflict between the security forces and the Maoists.

In the past few months, there has been an alarming rise in the number of civilians killed as police informers by the Maoists. According to the *Times of India*, 50 civilians in five states were killed by Maoists in six months, with Chhattisgarh being the worst-affected state. The report cited police officials who said while many are killed under the suspicion of being police informers, some who have left extremist ranks and joined the mainstream after surrendering also become targets.

The PUCL added: "At the heart of the conflict that has engulfed the tribal areas of Bastar are issues about the nature of development, expansion of industries and mines, all of which threaten to displace and dispossess millions of Adivasis. Using the current strategy for further militarisation in Bastar – which is already amongst the most militarised areas in the world – is a surefire recipe for disaster."

It further said, "Peace can come not through military camps and military style operations. It can come only when both the state and its forces and the Maoists acknowledge the primacy of Adivasis communities and initiate a genuine dialogue between them and with the local populations about the nature and direction of state-sponsored development in the area."

Courtesy **The Wire**, 7 April, 2021.

Articles/Reports for The Radical Humanist

Dear Friends,

Please mail your articles/reports for publication in the RH to: **theradicalhumanist@gmail.com** or **mahipalsinghrh@gmail.com** or post them to: **Mahi Pal Singh, Raghav Vihar Phase-3, Smith Nagar, Prem Nagar, Dehradun, 248007 (Uttarakhand)**

Please send your digital passport size photograph and your brief resume if it is being sent for the first time to the RH.

A note whether it has also been published elsewhere or is being sent exclusively for the RH should also be attached with it.

- Mahi Pal Singh, Editor, The Radical Humanist

Forum for Fast Justice :

Fast Unto Death From January 30, 2023 For Judicial Reforms

Speed Post Date: 30, January, 2021

To,

The Hon'ble Chief Justice of India
and
The Hon'ble Prime Minister of India
New Delhi.

Godse killed Gandhi on this day. Our slowest Judiciary in the world kills thousands of members of litigant families every day!

I introduce myself as an ordinary common man of 83 years old.

I have filed 117 PILs in the Bombay High Court and the Supreme Court and most of them argued in person. Registered a trust named Forum For Fast Justice (Forum for short) for judicial reforms with the generous support from the philanthropists and our trustees, we set up 115 registered Societies For Fast Justice in 23 states of the country and set up a National Federation of Societies For Fast Justice. We alongwith our trustees and Federation members had toured 18000 kms acrossed the country in 35 days NYAY YATRA from 30eth January 2016 onwards spreading message for the need of judicial reforms. But the legislature i.e. elected MPs and MLAs facing about 50% of criminal cases, were determined to defeat this nationwide movement. Supreme Court passed an order to complete alleged politicians' cases trials within one years but they laugh at such orders and continue to enjoy the state largesses and went on increasing their own coffers.

I, with or without Forum trustees, met who is who of the country with folded hands and bowed head. The VIPs we met during last decade for receiving support in the dream of realisation of fast moving vehicle of judiciary were Ramdas Athavale (RPI, Athavale), Eknath Gaikwad, Priya Dutt, Minild Deora, Kripashankar Singh and Dinsha Patel of Congress, Gopal Shetty, Gopinath Munde, Jaywanti Mehta, Arun Jaitly, Sushma Swaraj, Dr. Murli Manohar Joshi, Ravishankar Prasad and L.K. Advani of BJP, Manohar Joshi and Subhash Desai of Shivsena, A. B. Bardhan, Chief of CPI, Sharad Yadav, JD(U) Chief, Mitrasen Yadav (BSP), Devendra Prasad Yadav (RJD), Y.P.Trivedi, Tripathi and Praful Patel of NCP, M.V. Reddy of DMK and Abu Azmi of Samajwadi Party and talked on phone to Brinda Karat of CPM, Mamta Banerjee of Trunamool Congress and Maitreyan of AIDMK.

We also met Rahul Gandhi on 16th Jan. 2009 and requested him to provide for judicial reforms in Congress manifesto for ensuing Parliamentary elections, He immediately phoned to Veerappa Moily, party's manifesto committee chairman and asked to discuss the matter with us.

He also met three Chairmen and member Secretaries of the Law Commission of India on reforms but again without result.

Shri Moily, himself a former Supreme Court lawyer, Karanataka CM and the Chairman of

the 2nd Administrative Reforms Commission, enthusiastically went on announcing his plans for judicial reforms after assuming the office of Law Minister in June 2009. In middle of 2011, Shri Salman Khurshid took over the law Ministry and Dr.Moily was shifted to the Corporate Affairs. We met Khurshid also.

Also met some top officers of Ministry of Law and Judiciary, sitting and retired High Court and Supreme Court Judges, Leading advocates of the country but all in vain.

Eveyone appreciated our fight for justice but none joined the movement. Backlog of the cases went on piling up in Indian courts, reached over 4 crore as of today and it takes lives after lives till disposal. The maximum human right violations are committed in Indian Courts and Human Rights Commissions are toothless.

Standing Committee of Parliament headed by Shri Pranab Mukherjee in its 85th Report, submitted in February, 2002 to Parliament, recommended the acceptance, in the first instance, of increasing the judges strength five times as was recommended by the 120th Law Commission Report.

Supreme Court in 2002 gave a landmark judgement in a case filed by All India Judges Association V/s. Union of Indian & all states directing them to increase the judges strength five times within 5 years to clear the backlog but none including Centre, states, Supreme Court, High Courts or the Judges Association itself did anything of the sort.

The salient features of the judgement are as under:

2002 (2) SCR 712. All India Judges Association and Ors. V/s. Union of India and Ors., Pronounced on 21-03-2002. The three judge bench directed :

Infrastructure required in the form of additional court rooms, buildings, staff, etc., would have to be made available. We are also aware of the fact that a large number of vacancies as of today from amongst the sanctioned strength remain to be filled. We, therefore, first direct that the existing vacancies in the Subordinate Courts at all levels should be filled, if possible latest by 31 st March, 2003, in all the States. The increase in the Judges strength to five times should be effected within 5 years.

The end result is that Forum trustees, all of its Societies and their Federation are all frustrated due to the apathy of the authorities. I, as the founder of the movement, involved Forum trustees, its Societies, their Federation, donors and the masses who supported our 18000 km. 35 days NYAY YATRA, feel guilty and helpless to stand up to their trust in me.

Therefore, I hereby inform Your Honours that I will be sitting on **FAST UNTO DEATH** in Delhi from 30eth January 2023. If judicial reforms in lieu of the judgement cited above with matching annual budgets of the Central and State Governments not initiated on war footing and in right earnest without losing any time. If 50% work by that time is over, I will not sit on FAST UNTO DEATH, balance to be jointly assured to complete by 30th January 2025.

Also there has to be four more benches of the Supreme Court to be set up in East, West, South and Centre to ease long travels of the poor litigants through constitutional amendment.

Pranam.

(Bhagvanji Raiyani)
Chairman, Emeritus, Forum For Fast Justice

Note: This letter was E-mailed to PM and CJI on the same date.

***Bhagwanji Raiyani** has been working for social, political and judicial reforms and is Chairman, Forum for Fast Justice.

The enigma of De-nationalisation of Nationalised Banks

Bimal Kumar Chatterjee

In March 2021 for two consecutive days i.e., on 15th & 16th banking services rendered by the public sector banks were made unavailable by their striking employees nationwide. They struck work to protest central government's decision to privatise nationalised banks notwithstanding Central Finance Minister Nirmala Sitaraman's appeasing assurance that not all but some of the nationalised banks will be affected by the said decision. Latest news is that two mid-sized nationalised banks will fall in line first.

It is a matter of history that on 19th July, 1969 as many as fourteen private banks were nationalised first by an ordinance and thereafter by enacting the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1969. In 1980 six more private banks were nationalised by another similar central Act i.e., the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980. Thus total 20 private banks were acquired by the Central Government with a declared view to "control the heights of the economy, to meet progressively, and serve better the needs of the development of the economy and to promote the welfare of the people, in conformity with the policy of the state towards securing the principles laid down in clauses (b) and (c) of article 39 of Constitution". Clauses (b) and (c) of article 39 provide that the state shall direct its policy towards securing the ownership and control of material resources of the community so that they are so distributed as best to sub-serve the common good and the operation of economic system does not result in the concentration of wealth and means of production to the common detriment.

In or about 1969 there were 89 commercial banks operating in India. Of these 89 banks 73 banks were scheduled and 16 were non-scheduled. Of 73 scheduled banks there were State Bank with 7 subsidiaries aggregating 8, 15 were foreign banks and only 14 banks were the subject matter of an Ordinance followed by the said Bank nationalisation Act on the basis of deposits then held by each of these banks which was not less than 50 crores and these 14 banks had in total 2,632 crores of deposit and their credit amounted to 1829 crores. These 14 banks then had 56 percent of total credit of commercial banks. They had then 4,130 offices which represented over 50% of the total offices of banks. The scenario in 2019 had substantially changed. The impact of nationalisation as will be aparent from the following table was huge and formidable in the money market of the country.

BANKS THAT WERE NATIONALISED	Deposits (₹ Cr)		Loans (₹ Cr)	
	1969	2019	1969	2019
Central Bank of India	482.5	3.0L	280.9	1.7L
Bank of India	431.6	5.2L	254.1	3.6L
Punjab National Bank	383.4	6.8L	187.3	4.9L
Bank of Baroda	352.2	6.7L	189.9	5.2L
Dena Bank	134.4	1.0L	63.3	74k
UCO Bank	240.4	1.9L	118.1	99k
Canara Bank	180	5.9L	98.4	4.5L
United Bank	168.2	1.4L	102.4	67k
Syndicate Bank	144.7	2.3L	89.8	2.2L
Union Bank of India	133.1	4.2L	65.2	3.3L
Allahabad Bank	122.5	2.1L	76.4	1.4L
Indian Bank	88.7	2.4L	49.7	1.9L
Indian Overseas Bank	86.9	2.2L	37.1	1.5L
Bank of Maharashtra	86.1	1.4L	59.4	93k

Table I

Further, as on 30th June, 2019 there were 87,526 branches of all nationalised banks out of which 28,815 (33 percent) were in rural areas. Public sector banks had 1.34 lakh ATMs out of which 27,098 (20 percent) were in rural areas whereas private sector banks had 69,019 ATMs out of which only 5,759 (8 percent) were in rural areas.

It is a common knowledge also that before nationalisation of these banks all banks were private who were very conservative in dispensation of banking services to the public in general. The private management of those banks ware mostly of big business houses who were reluctant to open and run branches in suburban areas to make banking services including their lending services available to each and all deserving in the country. The deposits held in those banks used to subserve principally the needs of those business houses. There was also a trust deficit in the sense of security on both sides i.e., the banker and its customer or probable customers. The bank employees were also necessarily at the mercy of their private employers.

The central government then desired that all banking facilities in all their forms were to be dispensed to the rural areas to make and enlarge money market more vibrant and helpful to the economy. The newly nationalised banks were specifically directed to open more branches across the towns and cities and also to open their branches in the remotest parts of the country as far as possible. It was then a revolutionary measure in the financial sector of the nation. There were good number of critics of this measure within the Cabinet and in fact the then Finance Minister Morarji Desai resigned from the ministry.

Due to this drastic affirmative action the banks' doors became open to all. Mutual trust deficit existing between the bankers and their customers was largely bridged. The banking industry in the country reached its adulthood by removing the then existing fear of the public at large that if the bank became bankrupt they would loose their life savings and financial security for life. Direct involvement of government as owner of banks could and did instil "astha" amongst the bank customers which was so long absent. The banks also felt free to make available all their varied services to their prospective customers. The banks' employees could also feel more secured in their employment as the banks were declared "State" within the meaning of article 12 of the constitution to make employees' fate free from the mercy of their employers' whims, providing constitutional remedies to them (Rustom Cavasjee Cooper vs Union of India, (1970), Supreme Court Cases 248). Thus existing vulnerability of both i.e., banks' customers and banks' employees was removed to make both confident and strong. That was the period of transition from and elevation of Nehru's "socialistic pattern of socity" to Indira's "socialist society". Significantly by the 42nd amendment (7th September, 1976) to the constitution original words in preamble to the constitution i.e., "sovereign democratic republic" were significantly substituted with "sovereign socialist secular democratic republic".

The story of this revolution however has not been that rosy. Since 1980 onwards there has been huge development, both positive and negative in the banking industry of the country. The impact of negative developments has however been more pronounced than the positive developments and as a result the extent of non-performing assets (NPA) has substantially increased to destabilise the banking industry of the country due to indiscriminate loans and advances made because of (i) political pressure, (ii) dishonest bank officers' arbitrary, if not whimsical, exercise of discretion in granting loans and advances to credit unworthy borrowers, (iii) increase in the number of fraudulent borrowers and finally (iv) least

effective supervisory management and vigilance. Non performing asset meant and means asset which does not give any return to the bank's revenue as the relevant accounts become sticky. All these together caused huge dents in the otherwise people's faith in the banking system resulting in severe stress on government's finance as weaker nationalised banks had to be financially supported by the their owner i.e., the central government from time to time. Even the latest reports say that the Central Government is required to infuse rupees 5,500 crores into Punjab and Sind Bank against 335 crore preference shares. Stricter vigilance and Reserve Bank of India's penal regulations also could not ameliorate the situation as was in general expected. Bad loans had to be written off as the profitability of the nationalised banks had a stiff fall. Very recently in view of Supreme Court's observation the bankers, including the nationalised banks, are set to classify 1.3 lakh crores as bad loans or as non-performing assets. The combined profits of the 14 banks referred to earlier were 5-7 crores on 19th July, 1969 whereas in 2019 their combined losses were 49,700 crores.

As a means to recover and rebuild confidence merger of some smaller banks with some rather larger banks have already been resorted to. Then what next? The central government appears to be minded to try the other option of denationalisation. It is last reported without however any specific identification that at least two medium sized banks would be disinvested soon. Is this other option better or worse in the context of a developing welfare state?

It is trite that none would deem it pragmatic to keep and continue to maintain a stressed asset as it is always wiser and more pragmatic to offload the asset at the earliest. One values a milching cow so long she gives milk. But at the same time what may be advisable for an individual may not be that simple for an welfare state married to some principles enshrined in the constitution which prompted the state to nationalise especially when the nation has a huge backlog in employment and still further when security for existing employees in the private sector has become more than weird at a time when the Central Government has already brought about a huge change in labour law in the country which is not that favourable to the labour. It is also significant to note that so far no specific reason has been provided by the government for this kind of disinvestment. Is it for funding expenses or additional expenses of the government? If it is so this kind of disinvestment would qualify to be called deficit financing in the budgetary parlance. What is more fundamental is the question of why

	Net Profit (₹ Cr)		Branches	
	1969	2019	1969	2019
Central Bank of India	1.1	-5.6k	673	4,686
Bank of India	1.1	-5.7k	310	5,078
Punjab National Bank	0.7	-9.6k	619	6,581
Bank of Baroda	0.6	1.1k	411	5,474
Dena Bank	0.2	-1.9k	258	1,792
UCO Bank	0.2	-4.3k	366	3,079
Canara Bank	0.2	600	368	6,222
United Bank	0.5	-2.3k	200	2,018
Syndicate Bank	0.3	-2.5k	355	4,033
Union Bank of India	0.3	-2.9k	273	4,299
Allahabad Bank	0.2	-8.5k	170	3,243
Indian Bank	0.1	400	239	2,750
Indian Overseas Bank	0.1	-3.7k	209	3,328
Bank of Maharashtra	0.1	-4.8k	164	1,846

Table-II

this major policy shift by a developing welfare state when the nation has been passing through a great epidemic and facing some kind of a recession. And that too from nationalisation to denationalisation of the same subject matter? Will privatisation serve better the purpose for which nationalisation was effected? Is it for infusing "Ãtmanirbharata" into poorer section of the society? Can we see the required ãtmanirbharata amongst the common people in the country and especially amongst the rural majority to bear the consequential burden of shrinkage of money market and banking facilities?

The present regime at the centre appears to be optimistic and therefore in no mood to compromise on its economic policy in running the administration which policy has the reflection of its larger economic philosophy that the government has no business to do business. This also legitimately demands an impartial probe considering the resultant effect of huge failure of the same government in respect of its few other economic agenda starting from sudden demonetisation to sudden lockdown on account of pandemic Covid 19. It is no longer debatable that abrupt decision of demonetisation has not brought to the nation, irrespective of the governments huge propaganda, what was the expected to be brought in. Black money market in one form or the other still roars. Demonetisation only brought miseries to the common people more than those who were or are on higher economic strata of the society. Sudden and unplanned lockdown brought deaths, extreme irreparable loss of employment for the migrant workers in the country reflecting fragile situation in the labour market. The present unemployment level is at a dangerously high level. It is being alleged in some corners that the present central government runs more on gimmicks, ads and 'man ki baat' rather than on the basis of realities of life. It is further alleged by its critics that the principal agenda of the Central Government has been propagation of Hindu Nationalism and Hindu patriotism rather than of Indian nationalism and Indian patriotism to divide the nation on religious line. It is also being argued in some corner that Chinese invasion in Ladakh has positively helped the Bharatiya Janata Party's political invasion in the non BJP states within the country where its footprints were so long invisible and when disunity in the opposition is regrettable.

One can see a further knot. The Central Government has not so far found a taker for "Air India", the national carrier of India, another stressed asset of huge magnitude. Will the government be able to find any better suiters for these nationalised banks which are saddled with enormous non performing assets? Still further, will the release of substantial portion of organised money market from public sector to private sector bring in the desired common welfare as has been set down in article 39 of the Constitution or in the preamble to the Constitution? Privatisation of public asset for financing government expense is utterly fallacious as a policy as its implementation at the end increases wealth inequality and common man will suffer another deprivation which would be more brutal in their economic sphere of life for survival. Would it not be better for the government to opt for more reorganisation by more mergers and introducing stricter banking professionalism and vigilance which were so long neglected? Are we ready for a further amendment in the language of the preamble to our constitution removing the words "socialist and secular" and reversing some of the goals enshrined in article 39 in favour of private capital to subserve the good for few?

Bimal Kumar Chatterjee is senior advocate, former Advocate General of West Bengal and former Chairman, Bar Council of West Bengal.

Mobile: 9830032873

Victor's Justice

P.A.S. Prasad

"The United States had clearly provoked the war with Japan on the eve of Pearl Harbour. The allies were equally culpable.

Tokyo trials were an excuse in victor's justice."

Excerpts from the historical dissenting judgement of the greatest and courageous judge, Justice Radha Binod Pal who was a member of the war crimes tribunal set up in 1946 after the Japanese surrender known as the Tokyo trials. The British were still ruling India. Justice Pal found the allies guilty as much as the Japanese. He asserted that dropping of atom bomb on Japan was a crime among other atrocities committed by the allies. He found the accused Japanese not guilty of the charges framed against them and the allies more guilty but since they were the victors they would carry out the punishments of the charged prisoners. There was no justice and no legality and no reason. The allies proved might is right.

Victor's justice is manifest in two ways - victory by way of force of arms and victory in elections.

Victory by way of force of arms is as old as the history of mankind. In a majority of victories by force the consequences were horrid for the people defeated. Every imaginable cruelty more on the women folk used to be perpetrated. In some instances like Rome the victors developed their own countries and much progress in civilisation progressed. Napoleon's victories hugely benefitted France. His code napoleon is still the rule book of governance in France. He was the most benevolent and led his country to great progress. Kamal Pasha in Turkey was extremely autocratic but he shook Turkey to modern times within a very short time. Stalin though brought about great progress in modern times making the country a super power but subjected his own people to horrors, deprivation and hunger. He annihilated one entire class of people. But most of them turned out to be cruel despots.

Both classes of victors rule according to their own lights, after coming to power but electoral victors first make lofty promises in people's interests and fulfil people's aspirations and in most cases turn out to be tyrants depending on the strength of their own party in the house. Then they start ruling in accordance with their own agenda of self interest or party interests or vested interests. Sometimes the people are benefitted but many times never.

The communist countries have a show of electoral practices like election and how the respective rulers have won with a vast majority and a personality cult is gradually built up. Now we have the examples of Putin in Russia, Xi Ping in China and Kim Jong in North Korea. We also have the case of Pakistan with a facade of democratically elected government but actually the army brass run the show. Whoever becomes the prime minister or president is emasculated and quickly shown his place of enslavement to the army dictates.

Of course in the US though democracy used to run full steam, Trump usurped the process to suit his own view of what was good for the US. Because of the inherent strength of US democracy trump was ousted and democracy restored under Biden.

However the democracies in the UK, France and other European nations are sound and enviable.

Indian model is a class by itself earning the remark of partially free. Modi govt.came to power as there was no alternative or a even strong opposition to keep an effective check on the functioning of the BJP govt. this is a classic example how victors justice is carried out even in a democratically elected govt. Modi

meticulously followed in practicing politics without principles and implementing policies without compassion. With such a majority instead of running the govt as a role model of democracy and keeping the happiness quotient of people high up, he subjected the entire population except high end corporates, to untold misery and deprivation. His ill considered demonetisation and lockdown go against the age old precept of the fifth tantra of the Panchatantra classic, ill considered action. His exact motivation for such unilateral ill conceived decisions is not possible to guess. Then came the CAA and citizenship laws and abrogation of the relevant articles relating to Kashmir. Somehow the judiciary also did not come to the aid of common people. And now the farm laws have brought the farmers to a boiling point.

The cherry on the cake is the change of law relating to the state of Delhi. Unable to digest and bear the pain of Kejriwal's David like shot thrice at the Goliath of the BJP govt. in the capital itself, this recent act is aimed at defanging the duly elected welfare role model of a small govt.

The Victor's justice is also manifest in spending humongous amounts of public money on nonproductive expenditure on luxury items like a bullet train and an aircraft on the lines of the air force 1 of the US which this poor country could ill afford. The new parliament building now under construction is taken up as a paramount necessity which this poor country can ill afford. The only reason is Modi wants his foot prints on history as many as possible regardless of consequences. Another reason could be, he is unable to stand the sight of the portraits of the stalwarts of the previous era, stalwarts who had stature above their position, who set an example in sacrifices for the country, their simple lives, people who never went after power or position. In that era princes became paupers in the service of the country. Now paupers who joined politics have become princes. His plan to convert the existing parliament building into a museum fits in to the plan, a bad memory permanently erased from a daily embarrassment and guilt!

This is the operational part of victor's justice so aptly argued by the very great justice Radha Binod Pal in another context in the gory last chapter of the Second World War.

Why is Democracy Weak in India

The democratic values of liberty, equality and fraternity are only a popular version of the scientific humanist values of freedom, rationalism and self-sustained morality.

Democracy in India is weak and unstable because these humanist democratic values have not been adequately disseminated among the people. That is why in India the spirit for freedom and self-reliance remains submerged under the traditions of submission and servitude, why blind faith predominates over rationalism, why morality is overwhelmed by corruption and injustice, and why casteism and communalism continue to thrive. A renaissance movement based on Radical Humanist values is necessary for the all round political, economic and social transformation of India society.

*(From the Preamble to the **Constitution of Indian Radical Humanist Association**)*

CFD Press Release: Dt.8th April, 2021

India Must Help Refugees from Myanmar

Since 1st February 2021 when the military generals took control of Myanmar by toppling its democratically elected government, the mass protests against the coup are continuing. The army Generals in order to quell the protests have let loose brutal repression and detained Ms. Suu Kyi, Win Myint and several top leaders of the NLD.

More than 500 protesters have been killed and around 2600 have been detained. In spite of threats and warnings from the military, the movement for restoration of democracy is growing; protesters have called for civil disobedience, stoppage of work, sit-ins and mass demonstrations.

Large number of Myanmar citizens in order to escape the brutalities of a military rule and wanting asylum have entered into north-eastern states of India i.e. Mizoram. Manipur, Nagaland and Arunachal Pradesh. But and shockingly, the Home Ministry of India has written advisories to these states "to take appropriate action as per law to check illegal influx from Myanmar into India" and deport illegal migrants. However there is vast difference between 'migrants' and 'refugees'. The Myanmar citizens who have entered into India to seek asylum cannot be treated as illegal migrants, notwithstanding that India is not signatory to United Nations Refugee Convention of 1951. In the past India has welcomed hundreds and thousands of people seeking asylum from all over the world and office of UNCHR was allowed to function here till recently. Courts have also come to the rescue of such suffering foreigners and have stayed their deportation in large number of cases. When Punjab government sought to deport some Iranian dissenters in 1988, who were sure to be killed if deported, Citizens For Democracy filed writ petition titled N.D. Pancholi Vs. State of Punjab {WP (Crl.) No.243 of 1988} and Supreme Court immediately stayed their deportation at the first instance. There are several such cases filed by individuals and other human rights organizations where Supreme Court and High courts have stayed such deportations.

Earlier military had ruled Myanmar for about fifty years since independence from Britain in 1948 but had to face people's movement for Restoration of Democracy. Large number of Myanmar refugees had come to India in the wake of military crackdown there in1988. India had supported the Burmese people's uprising in 1988 against military repression and had encouraged Burmese freedom fighters, especially students, to take refuge in India. India had also supported the movement for restoration of Democracy led by Burmese political party NLD at that time. The UNCHR had recognized Burmese activists as political refugees with the tacit consent of the ministry of External Affairs. In 1990 two Burmese hijackers who had diverted Thai Airways flight from Bangkok leaving for Rangoon to Calcutta were arrested but released within months from Calcutta jail when many eminent Indians like Justice Krishna Iyer and 30 Indian Parliamentarians made an appeal on their behalf. Daw Than Nu, the daughter of the former Burmese Prime Minister U Nu was even allowed to use the All India Radio to support the movement for restoration for democracy and in 1993 India bestowed its highest award, the Jawaharlal Nehru Award for International Peace and understanding, on Aung San Suu Kyi. Indian Defence Minister George Fernandes had opened one of his official residence for Burmese refugees. However later

on there was change in Indian government's policy as it stopped actively supporting the movement for restoration of democracy in Myanmar. In or around 1998-1999, late Dr. (Lt.Col.) Lakshmi Sehgal, former Commander of Rani Jhansi Regiment of Azad Hind Fauj formed by Netaji Subhash Chandra Bose in 1943, formed a Solidarity Committee for Burma's freedom fighters alongwith Nandita Haksar, the eminent human rights lawyer, and they had to struggle hard for ten years to get released 36 Myanmar freedom fighters lodged in Port Blair jail.

In this background the recent advisories issued by the Home Ministry to the north eastern states for checking the alleged migrants who in fact are refugees do not conform to the ideals which we have inherited from our freedom struggle. It is heartening that chief ministers of Mizoram and Manipur have openly expressed their intention of extending humanitarian assistance to the refugees coming from across the borders. People of these states are also raising funds in order to support such refugees which is a welcome development.

India is a democratic country and is duty bound to support the people who are struggling for democracy. The Mynamar freedom fighters are waging momentous struggle for their liberty and rights and Citizens For Democracy stands in solidarity with the struggling citizens of Myanmar. In such a situation India cannot pursue a policy which goes in support of the world's most repressive and cruel regime.- a military regime which is consistent enemy of democracy. A dictatorship at our borders is a standing menace to our democratic system. Citizens For Democracy appeal to the Indian government to provide all humanitarian assistance to the refugees from Mynamar as it is part of India's obligation to uphold basic tenets of human rights and humanitarian law.

S.R. Hiremath
President

N.D. Pancholi
General Secretary
(M) 9811099532

Anil Sinha
Secretary
9582015779

Reader's Comments

Working hard for something we don't care about is called stress but working hard for something we love is called passion. Your care and concern for Indian Renaissance Institute (IRI) members (in the context of Veeranna Gumma's proposed visit to Delhi in April 2021), which keep you away from any sort of stress, are commendable. When Rekhaji left Editorship of the Radical Humanist journal and revered Shri B.D. Sharmaji passed away, I had thought that publication of the RH and IRI activities may lose speed but I can proudly say that you as Editor of the RH and Secretary of the IRI have been successfully holding and carrying forward the TORCH in carrying out all activities with full vigour and passion.

While investing money we calculate interest on the principal but in real life we talk about the principles but act as per our interests. Fortunately, we had persons like late Revered and B.D. Sharma ji and still have good number of people in IRI and RHA who always prefer principles to personal interests including you Mahi Pal Singh ji. Thanks and gratitude for all your support and contribution to the Society.

My salute. Stay safe, healthy, active and happy. My best wishes always.

Ved Parkash Arya, Advocate and Member, Board of Trustees, IRI.

Manabendra Nath Roy

- Bengali Brahmin by birth, Tall and strong.
- Son of a Sanskrit teacher.
- A nationalist even in youth,
  Imprisoned for a while.
- He fought heart and soul,
  for the freedom of India from the British.
- A globe-trotter,
  He sought in vain for funds and armies,
  From countries across the world,
  Chiefly from Germany, the enemy's enemy.
- To USA through Korea.
- Married "Evelyn Leonora Trent" at California.
- Steeped in study of communism in the Library, at New York for months together.
- Fled to Mexico where he became member of a Comintern,
  Starting a communist group in turn.
  Made history in Mexico. Created socalist party. himself first secretary.
  Prized by Lenin. Response by Borodin. Barodin visited Roy.
- Receiving, while there, largesse from Germans in Mexico.
- Made history in Mexico. Created socialist party, himself as first secretary.
- Prized by Lenin. Response by Borodin. Borodin visited Roy.
- He went to Moscow in 1920 as a member of the Comintern.
- While in Moscow he published three books, on politics in India and China.
- Commissioned by Stalin, he started a military school in Tashkent,
  Went to Canton and started an agrarian revolution,
  Expelled from the Comintern after the change in leadership.
- He returned to India 1930 December.
- Welcomed though by Bose and Nehru,
- He was put back in jail by the British, released after six years due to ill health.
- He launched his weekly magazine "Independent India" (1937),
- Espousing his philosophy of Radical Humanism.
- Ellen Gottschalk his second wife was helpful in politics too.
- He founded the Radical Democratic Party in 1940.
- He was with the British against the fascists in World War II.
- He was actively interested in politics and journalism till his death in 1954.
- Roy had believed in reason more than in religion.
- And in man more than in the clan.

Sent by: **Dr. Narisetti Innaiah**

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Indian Renaissance Institute on Religion and Politics

Liberation of Bangladesh has taught us one important lesson that religion cannot keep people bound together thus proving the fallacy of two nation theory.

On the other hand, federalism, respect for cultural and linguistic diversities, democratic governance and acceptance of supremacy of people's will, does keep different people together.

Imposition of Urdu as national language, economic exploitation of then East Bengal and refusal to accept Mujibur Rehman as PM even after his party won majority in National Assembly were some of the reasons that led to the birth of Independent Bangladesh.

Dr. Ramesh Awasthi, Chairperson, Indian Renaissance Institute (IRI)

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