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Why and How "Secularism" in Our Constitution Ravi Kiran Jain

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Any discussion on secularism would need first to focus on two basic aspects: Firstly, the word 'secularism' has no substitute in any of our languages. Like the 'war' is the opposite word of 'peace', in common parlance in the Indian context, 'secularism' is understood by its antonym 'communalism', while in the Western context, 'secularism' is understood by its antonym 'theocracy'. Secondly, the word 'secularism' was nowhere mentioned in the Preamble of the Constitution when it was enforced. It was included in the Preamble by the controversial 42nd Constitution Amendment during the Emergency with effect from January 3, 1977.

It is interesting to note that the Preamble, though the Constitution opens with it, was not the first to come into existence. It was the last piece of drafting adopted by the Constituent Assembly at the end of the first reading of the constitution. The motion to adopt the Preamble was moved on the 17th October 1949. It was suggested during the debates that the Preamble be taken up when the Constituent Assembly would meet in November for the third reading as by that time the Drafting Committee would also have submitted its final report to the House. Maulana Hasrat Mohani objected to the postponement submitting that unless the Preamble was passed on that day at the first reading itself, the Drafting Committee could not produce any report on the second reading. K.M. Munshi supported. Maulana Hasrat Mohani by making a humorous comment – "Once in my life I support the Maulana Saheb!" The President ruled that the Preamble should be passed on that day to enable the Constitution as a whole being passed in its second reading and the Preamble forming part of the Constitution. Several amendments were suggested to the Preamble but they were all negated. At the end, the President moved the motion – "That the Preamble stands part of the Constitution." The motion was adopted on November 2, 1949. The Preamble was added to the Constitution.

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In the words of Justice Jagan Mohan Reddy in his judgment in **Kesavananda Bharati v. State of Kerala, (1973 (4) SCC 225):**

"The Preamble to the Constitution which our Founding Fathers have , after the Constitution was framed , finally settled to conform to the ideals and aspirations of the people embodied in that instrument, have in ringing tone declared the purposes and objectives which the Constitution was intended to sub serve."

The question arises as to why it was introduced during the Emergency. Was it not a challenge to the wisdom of the Constitution-makers? The Constituent Assembly consisted of persons who had no partisan motive nor they had any axe to grind. They were men of vision; they inspired confidence, and were all products of the struggle for independence.

In the struggle for independence, the people of different religious pursuits had a natural worry as to what sort of religious freedom they would be able to enjoy in an independent India. When Mahatma Gandhi appeared

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on the scene and transformed the freedom movement into a mass movement in 1920s, it was realized that people could hardly be motivated to go the whole hog for the freedom struggle unless they were assured that their religious beliefs and systems would be secure in a post-independent India and that they would not be marginalized and sidelined, in case they belonged to the minority community. It was in the pursuit of this very assurance that Gandhiji gave to the people the much-valued concept of 'Sarv Dharm Sambhav'--the principle that all religions are equal. The Muslim League had boycotted the Constituent Assembly when it started its session on December 9, 1946, and it continued to boycott it even thereafter. Evidently the pressure worked, and on June 3, 1947, Lord Mountbatten announced the coming into existence of two independent States with effect from August 15, 1947.

On August 14, 1947, the President of the Constituent Assembly, Dr Rajendra Prasad remembered Mahatma Gandhi in the following words while speaking on the floor of the Assembly, "Let us also pay our tribute of love and reverence to Mahatma Gandhi who has been our beacon light, our guide and philosopher, during the last 30 years or more. He represents that undying spirit in our culture and make-up which has kept India alive through vicissitudes of history." And then he went on to say, "To all the minorities in India we give the assurance that they will receive fair and just treatment, and there will be no discrimination in any form against them. Their religion, their culture, and their language are safe, and they will enjoy all the rights and privileges of citizenship...To all we give the assurance that will be our Endeavour to end poverty and squalor and its companions, hunger and disease: to abolish distinction and exploitation and to ensure decent conditions of living." These words of Dr Rajendra Prasad on the floor of the

Constituent Assembly were clearly influenced by the overwhelming concept of "Sarv Dharm Sambhav" which reigned supreme in the minds of the members of the Constituent Assembly, and this later found ample manifestation in the provisions specifically incorporated in the Constitution. Article 15 says, 'The State shall not discriminate against any citizen on ground only of religion, race, caste, sex, place of birth or any of them' and also Article 25 provides that "all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion". What needs to be taken note of is that absolutely nothing happened in the country from 1950, when the Constitution was enforced, to 1977 to hasten the urgency of bringing about a Constitution Amendment to incorporate the word "secular" in the Preamble of the Constitution.

As a matter of fact, the politics in the country remained during all these years focused on issues, people participated overwhelmingly and spontaneously in the poll process, and the public debates were focused primarily on the key issues concerning the masses of this country. In fact, cutting across all barriers of castes and religion, people voted on the issue of "*garibi hatao*" at 1971 Lok Sabha election. Paradoxically, however, the post-1971 years unfolded nothing effective to tackle the problem of poverty and economic disparities, but, instead, the State, literally dominated by one individual, gave place to a process of demolition of Constitutional institutions. Three Judges of the Supreme Court were superseded. Then followed the Emergency, letting loose a reign of terror, and one of its fallouts was the apex court verdict in ADM Jabalpur case. Against this backdrop came the controversial 42nd Constitution Amendment.

Nehru told the members of the Constituent Assembly on August 14, 1947, "The service of India means the service of the millions who suffer. It means the ending of poverty and ignorance and disease and inequality of opportunity." The

country was to achieve this objective on the basis of the principles contained in Part IV of the Constitution, which were "fundamental in the governance of the country". Incidentally, in the Statement of Objects and Reasons in respect of the 42nd Constitution Amendment, similar expression has been used in the following words, "The question of amending the Constitution for removing the difficulties which had arisen in achieving the objective of socio-economic revolution, which would end poverty and ignorance and disease and inequality of opportunity, had been engaging the active attention of government and the public for some years...It was, therefore, considered necessary to amend the Constitution to spell out expressly the high ideals of socialism, and integrity of the nation".

Paradoxically, after the word "secular" found place in the Preamble as a result of the 42nd Amendment that it was lapped by sections of opportunistic politicians to fuel a highly retrogressive and diversionary debate of secularism vs communalism and vice versa. What the country saw in its wake? The demolition of Babri Masjid and the resultant communal holocaust followed by Bombay, Surat attacks on minorities and in other cities in January 1993, thereafter Gujarat communal massacre and then the recent Muzaffarnagar communal riots.

Looking back, the communalism vs secularism debate has only resulted in throwing into the backyard the issues of removing poverty, illiteracy, disease, and inequality of opportunity. On the other hand, non-issues became issues and issues became non-issues in politics and polls, and what has been worse, it generated its own pernicious offshoot. Politics and polls got additionally hooked onto castes versus castes. The real issues, confronting the people, like poverty, disparity, exploitation, hunger, unemployment, illiteracy, power crisis, environment degradation, and water scarcity, alarming loot and destruction of our

forests, and population explosion have been sidelined. Likewise, criminalization of politics and corruption have also become non-issues.

There has been no difference between various governments at the Centre or the States during the last two decades on the question of

following the economic policies on account which the forces of globalisation have slowly but solidly deprived India of its economic and political sovereignty so much so that the country has lost its right to determine its own agenda of governance and development, which now rests with the

international powers, multinationals and world-funding agencies. The question is how long shall we permit this to continue by keeping the people involved the nationally detrimentally quarrels over secularism vs communalism or castes vs castes? □

Some Aspects on the Inaugural Speech of President of India Rajindar Sachar

The President's oath taking function, though a routine function, is nevertheless an event for people to judge whether the dignitary who is going to take over the highest office under the constitution has shed off his political loyalty to the political party and is now above groupism.

The inaugural speech of President R.N. Kovind passes a fair deal of test but it is unfortunate that he left a little chink which one wishes could have been avoided. In his address he showed himself to be rising above the din of regressive communal atmosphere that Modi government is encouraging when he very openly said; "Our diversity is the core that makes us so unique. In this land, we find mix of states and regions, religions, languages, cultures, lifestyles and much more. We are so different and yet so similar and united". This effect was spoilt by some BJP persons shouting Jai Shri Ram - a slogan totally out of place at the oath taking ceremony.

But a chink appeared in this welcome approach and cast a little shadow. The President rightly pointed out the massive contribution to the Indias freedom struggle and its development. He specially openly mentioned Gandhiji, "Patel" and Ambedkar's contribution. The reference to Deen Dayal Upadhaya though not very apt at the occasion may be papered over as loyalty to one of his earliest political leaders.

But what has hit the public is the total omission to mention Nehru even though he may not have praised him on his political achievement. But to talk of India's

freedom movement without mention of Pandit Nehru is unacceptable, rather heresy. No one grudges praise for Sardar Patel, he could have mentioned him as a strong leader and his vast contribution to the country - Sardar Patel's role in integrating princely states is incomparable. Nehru's name should at least have found place, even though without praising his important role in the freedoms struggle. The truth is that whether you like it or not, Nehru's massive contribution in the freedom struggle cannot be put under cover.

I will give instance of how even being a committed member of Socialist Party of J.P. and Dr. Lohia since 1946 I faced a similar situation and how I dealt with in my humble manner.

It must be recognized that the reverence and hero worship for Nehru was normal and strong for my generation who had been brought up on the heroism, sacrifice and intellectualism of Pt. Nehru. I remember basking in Nehru's presence when he came to Lahore to canvass for my father's assembly election. Again when in 1945, after his release from prison, Pt. Nehru while going to Srinagar, broke his journey at Lahore - my father had invited him and some other important leaders for an informal get together at our place. I remember the awe, inspiration, admiration and respect which all of us felt in his presence. And yet in 1955 I behaved in what many may call an unacceptable and foolish behaviour, which I confess in later time makes me somewhat feel stupid; and yet it shows the different phases one passes through.

In 1955, Punjab High Court at Chandigarh was to be formally inaugurated by Pt. Nehru. I was then General Secretary of High Court Bar Association. Pt. Nehru had come to Chandigarh the evening before. My father who was then the Chief Minister of Punjab invited Pt. Nehru for breakfast at his residence in the morning. I was staying with father though my office was in another sector. Here was an occasion for a young man like me, who had hero - worshipped Pt. Nehru from his waking period and amongst the earlier books which had inspired me were Nehru's Autobiography, and Letters from Prison to Indira. But then I had grown up, become a full blooded socialist and still in thirties. We in the Socialist Party were convinced (rightly or wrongly, time alone will tell) that Pt. Nehru, who had shown the vision of socialism to us had not kept that pace, and was following wrong policies. Our disappointment with his policies were deep, though I was a small fry's part of that milieu. So I told father that I will not be at breakfast table to receive Pt. Nehru, though my wife will certainly be there along with my mother to play the hostess and look after the arrangements. My father and I had beautiful understanding and our sense of values and respecting each other's views were the same. That is why he accepted my hesitation though he mentioned that I was being childish. Early next morning, I went out of the residence to my office before Pt. Nehru arrived for breakfast. I had even at that time that admiration and inspiration for Nehru that I could not think of being at home and be rude

by not joining for breakfast. Of course I behaved absolutely correctly and all of us office bearers received Pt. Nehru with all the dignity and respect and deference due to him when he came to the High Court to inaugurate it.

Later on, and now, I laugh at my presumptuousness – a chit of boy, whom Pt. Nehru will not even

notice, beating his chest by absenting himself and denying to himself such a close breakfast meeting with one of the greatest of leaders of India and who had been a hero of our family. But then I take it that such are the peculiarities of radical youth, the devil – may - care attitude and the almost fatalistic belief in the rightness of the cause

of one's own party. But then I suppose that is the real difference between youth and old age – one may laugh now, but one does not demean it because at that time it represented what I like to feel was a youthful, genuine and unshakeable faith in a socialist society – which faith, fortunately I have still not lost.
Dated: 31/07/2017: New Delhi. ☐

Handbook for Assessing Police Action in Riots – A Summary Swapna Sundar*

The assessment of police action in a riot requires systematic legal and technical analysis of the use of police force, deployment of riot-control equipment and weapons and the coordination role of the civil administration. The analysis has to be informed by computer aided studies, documents, statistics, contemporary records and after-the-fact reconstructions based on testimonies and depositions. The report must be uncompromisingly forthright and independent. The fact-finding committee/commission having carefully determined its scope must remain narrowly focussed on the terms of reference ensuring due consideration to every aspect of police action that could have contributed to the exacerbation of the situation, or led to use of excessive force against unarmed protestors. Findings must be derived from a scientific and technical analysis of the documentation and evidence at hand, and must lead to recommendations that are implementable.

In assessing police actions,

commissions of enquiry spend more time collecting evidence in the form of depositions and testimonies than they do on undertaking computerised analysis and data collection. Commissions, whether supported by social organisations or judicially commissioned, do not consider deployment of force as a technical subject, worthy of scientific enquiry. In their findings, commissions rarely, if ever, comment on the breakdown of chains of command, desertion from posts, insubordination, unlawful use of riot-control weapons including lathis, and violation (often blatant) of firearm regulations.

This Handbook for assessing police action in riots aims to help

- a. Fact finding teams focus their resources on specific aspects of riot-control and police violence that often escape notice owing to lack of technical or scientific knowledge.
- b. Peaceful and constitutional protestors expressing legitimate grievances in

constitutionally mandated 'freedom of speech' modes. This summary is intended to supplement the Handbook itself and must not be treated as an independent work. A link to the Handbook (released under CC licences) is provided here: <https://tinyurl.com/swapna-handbook>

Although the Handbook takes off by highlighting the errors in the Sampath Commission Report, which studied the Paramakudi Firing incident (2011 - in Tamil Nadu), it can be used to assess police action in any riot or crowd-control situation. The table below provides a quick reckoner of the focal issues.

Guidelines for objective fact-finding into police riot-control/crowd-control action

The following guidelines may be used to ensure objectivity in fact-finding into police riot-control/crowd-control action. The guidelines are recommendatory and may be substantiated and validated by experience.

1.	Study and record the requirements set out in the District Riot Scheme	If such a scheme is provided, then it may be used in conjunction with the guidelines herein provided
2.	Use of authorised media and other sources	If such sources are not available personal interviews, surveys and questionnaire may be substantiated by more than one private source
3.	Note and record police and civil administration venue arrangements prior to start of protest	Standards may be established in accordance with the guidelines herein provided
4.	Note and record police deployment	Standards may be established in accordance with the guidelines herein provided

5.	Define and classify the assembly at the start of the incident	Permitted non-violent protest, Riot, crowd, communal violence, unlawful assembly
6.	Identify the nature of the assembly over a period of time	The nature of the assembly may change over time. Crucial time points may be noted and the assembly reclassified at each point
7.	Identify and record police deployment over a period of time	Police action may react to change in the nature of the assembly as a reaction, or may be responsible for change in the nature of the assembly. Note and record the links between police action and the nature of the assembly
8.	Identify and classify the weapons being deployed	Classification may be on the basis of whether the weapons are lethal or non-lethal; appropriate or inappropriate; whether the use of the weapons has been appropriate or inappropriate
9.	Identify notable instigators and classify them in accordance with their activities	Depositions may disclose notable instigators, and violent actors. They may be separated from the legitimate non-violent protestors
10.	Track and classify the activity of the instigators	It is important to note whether the instigator and violent actor is leading a larger contingent of violent actors.
11.	Note and record the action of the police against the instigators	Depositions may disclose whether the police are efficiently isolating, arresting and removing instigators from the assembly.
12.	Identify the policemen in command of different contingents.	Note and record the Commanders' actions and orders. Depositions may disclose whether police officials have deserted their posts, are evading their responsibility, failing to exert their authority or have been indecisive during specific points in time during the incident(s).
13.	Identify the policemen who are working outside the team structure	Note and record the activities of the policemen. Depositions may disclose whether policemen are indulging in riotous conduct, or out of revenge or fear.
14.	Identify specific violations of standing orders, conduct rules, legislations and regulations	Depositions may disclose violations such as inappropriate use of lathis or weapons.
15.	Note and record police announcements and alerts	Depositions may disclose whether announcements were made and if so, whether they were effective. Standards may be established for announcements in accordance with these guidelines.
16.	Record use and deployment of weapons and weapon sequence	Depositions may disclose the sequence and appropriateness of the use of weapons. Standards may be established in accordance with these guidelines.
17.	Record deaths, injuries and relate them to specific acts of the police	Depositions and medical records may disclose data required to relate injuries to specific acts. These may be substantiated by forensic data with reference to weapons, bullets, lathis and other non-lethal weapons.
18.	Identify individual police personnel responsible	Police personnel responsible may include Commanding officers in the field and senior personnel off the field

19.	Identify individual civil administration personnel responsible	Civil administration personnel may include those off the field
20.	Consolidate the report without bias	Ensure that pro-victim bias is always identified as such; and neutral and objective analysis is separated from the victim's point of view.

Quite often Commissions, whether people's commissions or judicially appointed, fail to take particular note of equipment being deployed, their condition at deployment, the efficiency of deployment and the regulations governing their deployment. The failure to study and elicit findings on these essential aspects of police action results in a weak report, and one which, furthermore, fails to hold the specific police personnel accountable. Consider the use of firearms, for instance. In the Paramakudi report, the Commission merely recounted, in an unmediated way, the weapons that were testified to have been in operation - 9 mm Glock 17 model

(RW 65), 9mm Belgian make pistol (RW 68), pistol (RW 43 as stated by RW 36), Fabric Naton 9 mm (RW 77) – without validating through the perusal of firearm issue orders, issue records, or ammunition usage. In fact, as per law, given a firing order, only armed police contingents carrying INSAS 5 or other regulation rifles may be used in firing at protestors. Again, forensic evidence must be sought to identify which wound was inflicted by which weapon, to fix accountability on specific police personnel. While these practices are common in criminal trials, they are rarely used in reporting findings on police action during times of riots.

The Handbook also provides, in Chapter 4, a guide to pre-empt violent police action through vigilant and well-prepared protest plans.

**Swapna Sundar, Advocate and rights activist from Chennai, has studied Police Manuals and Regulations detailing the rules which the Police have to follow during times of mass gatherings when police firing may have to be ordered. She had studied the Report of the Justice Sampath Commission set up to study police firing on Dalit activists between 10-13th September, 2011 in a place called Paramakudi in Ramanathapuram district of South Tamil Nadu. She has written a Hand book detailing the procedures which is available for free download at <https://tinyurl.com/swapna-handbook>. We requested her to write up this summary which many readers of the Bulletin may find useful. □*

Gujarat PUCL: Press Release: 1st August 2017

In the absence of proper plans for rehabilitation, the concerned authority decided to close the gates of Sardar Sarovar Dam on July 31st, this year.

From more than last 30 years there is a protest / movement going on for people's rights in the project affected areas of the Narmada Valley. An imminent danger of displacement looms large on estimated 40,000 people of Gujarat, Maharashtra and Madhya Pradesh. Even in the absence of proper plans for rehabilitation, the concerned authority decided to close the gates of Sardar Sarovar dam on July 31st, this year. It is not understood what the Government is trying to prove by doing so when there is no effective usage of its water right now. For timely redressal of the issues faced by the affected villages, Medha Patkar along with other activists and villagers is on indefinite fast in Chikhaldia village of Madhya Pradesh. On 31st July, people from various places throughout the

country observed symbolic fast to express their solidarity with the affected people. The people who observed fasts in Gujarat are: Jyotibhai Desai, Swati Desai, Lakhan Musafir, Rohit Prajapati, Anand Mazgaonkar, Micheal Mazgaonkar, Harish Desai, Deepali Ghelani, Rita Choksi, Kamal Thakar, Shishir Raval, Reshma Vohra, Sunanda Tayde, Nagma Vohra, Kruti Patel, Hetal Parmar, Amit Parmar, Rita Shah, Neha Barot, Urvashi Chauhan, Darshana Machi, Krishna Tayde, Neha Sarwate, Chaitali Raval, Renu Khanna, C Srinivasan, Krishnkant Chauhan, Ashish Agrawal, Jaimit Vaidya, Kanti Kalola, Yatra Danidharia, Parth Trivedi, Darshana Trivedi, Atman Shah, Mukesh Shiyal, Jigar Bhatt, Sureshbhai Jadhav, Niyati Shah, Devang Soni, Asmita Raval,

Sidharth Kubavat, Neela Gupta, Medha Shah, Abha Tandel and Shaktisingh Gohil. Apart from this many ordinary citizens from Umargam, Jaspara, Mithivirdi villages and other places, students from Ahmedabad, people from Lok Samiti and other organizations in Gujarat observed fasts protesting against the Government's unthoughtful decision taken without any consideration of closing the gates. In Vadodara 30 people who had observed fast gathered and discussed about what can be done ahead in support of the protest.

Chaitali, Parth, Devang

E.mail sent by **Rohit Prajapati** as per link: <https://mail.google.com/mHYPERLINK> "https://mail.google.com/mail/u/0/?tab=wm#inbox/15da1a445a661438" aHYPERLINK "https://mail.google.com/mail/u/0/?tab=wm#inbox/15da1a445a661438"il/u/0/?tab=wm#inbox/15da1a445a661438 □

Why this is important¹

There have been series of incidents of state repression in the Narmada Valley, over the past month, especially the forcible 'hospitalization' and illegal detention of Medha Patkar and other oustees on 7th August, following a massive police action at the Chikalda Satyagraha and subsequent arbitrary jailing of Medha by foisting baseless charges, including that of 'abduction'. The brutal lathi charge on hundreds of oustees at Chikalda left about 45 persons injured including a 15 year old girl.

The arrests of villagers activists Durji S/o Balya (Village Nisarapur), Devandra alias Santu S/o Ambaram (Village Nisarapur) and Vijay S/o Bharat (Village Khaparkheda), on the basis of severe charges including 'attempt

to murder' is also yet another way to repress people's struggle. In the past one week a large number of FIRs have been filed against key activists of NBA. On the other hand, the proceedings before the criminal courts is also quite alarming, especially the manner in which the State Govt. is seeking Medha's externment from the submergence areas, as a 'precondition' for her bail. All of this is absolutely malevolent and clearly shows that the State is going all out to crush the peaceful movement of the Sardar Sarovar oustees.

The people of the valley are waging a relentless and courageous battle against an insensitive State. Even yesterday, about 5,000 oustees, mostly women, stormed the streets of Kukshi (MP) and Nandurbar (Maharashtra), along with

hundreds of supporters across different cities in MP, demanding an end to this repression and lack of rehabilitation. While we acknowledge with gratitude, the hundreds of solidarity actions across the country and even beyond, in the past few months, we urge you to continue your solidarity in different forms at this crucial juncture of the struggle.

We call upon you all to immediately organize solidarity actions in your cities / towns / villages with the following two demands from the Govt. of Madhya Pradesh and Govt. of India:

Note: at the time of finalising this issue at 1200 noon on 22nd August, 2017, there were 263 signatures.

¹https://secure.avaaz.org/en/petition/Prime_Minister_of_India_Release_Medha_Patkar_and_NBA_activists_Now/?fksZkmb @ 22.8.2017 □

Why Protest against Rise of Violence in India is Significant

Pushkar Raj

Thousands of people in several cities in India have protested against the widespread incidence of mob violence against Muslims, its normalization in social and political life and its implications for them as citizens.

According to IndiaSpend, a data journalism website, 38 people have been killed in 61 attacks since Narendra Modi became the prime minister of India in 2014. These attacks have risen steadily since the country's largest state, Uttar Pradesh, went to the polls and Hindu nationalist Yogi Adityanath became its chief minister in March this year.

In a glaring case of administrative failure, none of the accused have reached the trial stage yet.

Normalized violence condemned

The Not in My Name campaign against the rise in violence is significant as the protests represent citizens' demands for protection of their lives and liberty from a motivated and unruly crowd

reducing society to a Hobbesian nightmare where life is in "continual fear and danger of violent death".

People from all walks of life have been voicing their disapproval of the government's failure to punish the killers, thereby granting impunity to a section of society on religious grounds and providing a predatory incentive that acts to normalize violence in social life for political gains.

The government has done little except to repeat the customary statement, "the law will take its own course", notwithstanding that only the government has means to make the law and execute it.

There is still no law against a heinous crime like lynching, the Prevention of Communal Violence (Access to Justice and Reparations) Bill having been deferred and finally dying in 2014 before the end of the Indian National Congress government because of strong objections from the now-ruling *Bharatiya Janata Party* (BJP).

The government, however, has ruled out enacting a new law to deal with crimes such as lynching or others involving organized violence, implying that it refuses to acknowledge the problem and rejects to address it.

This indicates that the tolerance level for violence has increased within the Indian state and society.

According to a report this year by the US Commission on International Religious Freedom, violence has risen in India in recent times. Though the commission was denied entry to the country in 2016 to gauge the ground-level situation, the Indian-educated Tibetan Tenzin Dorjee, one of the USCIRF commissioners, regretted listing India as a Tier 2 country, in the company of Turkey and Iraq. Rather, he recalled the glorious Indian tradition of non-violence and tolerance and urged the government to "effectively address problematic religious conditions including outbreaks of communal violence due to interfaith conflicts and politics".

The rise of violence in the country is shown in incidents such as the one in Una, Gujarat, where Dalit boys were vehicle and beaten publicly by "cow vigilantes". Besides lynching of suspected child lifters (people suspected of abducting children and mistreating and brainwashing them) in Jharkhand and mob attacks on police stations in Uttar Pradesh, hundreds of people are routinely wounded and killed in Kashmir, including being used as human shields to counter violence. Norbert Elias, a German sociologist, theorized in his book *The Civilizing Process* that violence in a society decreases with cultural advancement on the civilizational ladder, but what explains the

increase in violence in India lately despite growing prosperity and modernization?

Violence not innate

Experimental psychologist Steven Pinker in his book *The Better Angels of Our Nature: Why Violence Has Declined* plausibly argues that violence is not innate in human nature but something that can be socially and culturally learned and taught.

This is further borne out from the findings of Gary Slutkin, an epidemiologist and director of a cure-violence project, who showed that violence is like a contagious disease that can be transferred from one person or group to others. Thus preaching, justifying,

condoning and ignoring violence for any objective is a shortsighted, dangerous game, irrespective of whether it is played by vigilante militants (with political support) in the name of Hindu culture in India or by Muslim terrorists in the name of freedom and Islam in Kashmir.

Viewed from this perspective, the protests in different parts of the country are the sane and civilized voices in a belligerence-charged atmosphere that is sowing deep divisions in a diverse country with the ominous prospect of a tyranny of the majority at the national, state and panchayat (local assembly) level.

<http://www.atimes.com/protests-rise-violence-india-significant/> □

Summary Report of Meeting on 12th August, 2017 held in Mumbai:

Re-Launch of PUCL Maharashtra

After a gap of many years, PUCL Maharashtra unit was re-launched with a meeting organised in Mumbai on 12th August, 2017 at the Retreat House, Bandra (West), Mumbai. Representing the National Office Bearers team were Arjun Sheoran, National Organising Secretary, V. Suresh, National General Secretary.

The meeting was held in 2 parts. In the first section there was a discussion on contemporary human rights issues of concern both from a national perspective as also with reference to issues in Maharashtra state. 6 speakers had been invited to share their thoughts and to kick start discussions.

The second part focused on sharing with all those interested in getting associated with PUCL activities, including to become members, the history of PUCL, the type of activities undertaken by different state units, the organisational structure and so on. Special emphasis was given to highlighting specific features of the PUCL Constitution especially about the criteria on who can be members, the provisions regarding who can and who should not become office bearers, especially if the persons were also members of political parties, the provisions

relating to elections of officer bearers at state and national levels and so on.

The following speakers spoke in the first session:

- Kalpana Sharma, a senior journalist, spoke about gender issues and human rights concerns. She highlighted how apart from issues of gender violations taking place in family and marriage relations, in the work place, in social situations and in the public sphere, a number of new sites of gender discrimination and violations have emerged in recent times. Pointing out to widespread prevalence of cyber bullying, net stalking and social media attacks on articulate, successful and professional women who expressed views challenging make privilege and patriarchy, she suggested that we need to re-examine the context and scope of women's rights as a human rights issues. In particular she stressed on building solidarities across movements on gender issues and the crucial role PUCL can play in not only supporting victims of gender violations but by raising large public awareness on

these issues.

- Mihir Desai, a senior lawyer of Bombay High Court who has been defending many rights activists spoke about his experience of fighting to assert the primacy of fundamental rights and human rights inside the judicial system. Pointing out that the proponents of the 'Hindu Rashtra' need no longer to try to amend the Constitution with all its procedural difficulties, as a much easier alternative existed in diluting or misusing the operation of existing laws. Examples abound as for example in the impunity enjoyed by so-called Gau Rakshaks who lynched, killed and attacked Dalits, minorities and others with little or no police action against perpetrators. Many laws have been changed as for example laws relating to Coastal Regulation Zone (CRZ) or Labour laws. A worrying trend was that even in judicial pronouncements and responses, there are indications that many judges were tending to go with government action and not hold the state accountable for

not playing their roles. False cases on serious charges including sedition, waging war against India and so on were being filed in different states against social and political activists who were questioning state policies and action with the judiciary not questioning abuse of law even when apparent on the face of it. All this had a 'chilling effect'. This poses a major challenge to the human rights movement of how to tackle such widespread abuse of law occurring in a legal manner.

- Javed Anand, another well known journalist and part of Indian Muslims for Secular Democracy spoke about the importance of the civil liberties movement recognising the reality that while we should fight for the rights of minorities, most often this stops at the entrance to the Mohallas. Rarely do rights activists engage with discriminative practices within the minority community and practices which deny fundamental rights of members of the minority community internally. He pointed to the recent controversy when Taslima Nasreen was prevented from leaving Aurangabad airport by protesting members of the Muslim community as they objected to her visiting Aurangabad without any of the human rights groups condemning such action. There is a need for the secular movement to rethink how to respond to and deal with rights issues within the minority community.
- Pradip Prabhu, National Convenor for Campaign for Survival and Dignity and working amongst tribal communities for over 4 decades pointed out a systematic and methodical ethnocide taking place in tribal areas across India. The Indian Government did not recognise the adivasis of India as

"indigenous people" thereby denying them protection of the United Nations Convention on the rights of Indigenous People. There are broadly two levels of problems faced by tribal communities, most of whom live in hilly and mountainous areas rich in mineral resources: (i) first, mass displacement of adivasis from their villages and forests due to mining and industrial projects, factories, dams, power plants and other infrastructure development projects; (ii) second, consequent to their denial of the adivasis the rights over their 'homelands', any protest against destructive developmental projects or assertion of the rights of adivasis over common resources like forests, water and other resources, was seen in an adversarial manner requiring police and armed action against adivasis. Continuous systemic and institutional violence unleashed on adivasis accompanied with mass prosecutions has resulted in major upheavals of adivasis. In effect there was internal colonisation in adivasi areas. Laws like Panchayat Extension to Scheduled Areas Act (PESA) and Forest Rights Act which recognised rights of Adivasis and forest communities to common resources, were systematically neutralised by different state governments intent on denying basic rights of adivasis to their language, history culture, identity and history, apart from their rights over their common resources and homelands. There is a great imperative on the larger human rights movement building solidarities with tribal communities and their movements.

- Ramesh Awasthi, former President of PUCL Maharashtra, from Pune

talked about rise of communal and caste forces in Maharashtra and the widespread violence unleashed by them against Dalits, minority communities, women and other vulnerable groups. Caste identities had been sharpened and communal polarities widened in many parts of Maharashtra. Pointing to the Maratha upsurge which saw mobilisation of many lakhs of Marathas he pointed to the mobilisation of Dalits and other caste groups also. The oppositional and conflict based politics needed to be opposed, both ideologically as also on the ground. Maximum number of RTI activists killed in India occurred in Maharashtra. Killings of Pansare and Dabholkar, well know rationalists and secular activists pointed to the deep rooted influence of majoritarian forces with the state extending support to perpetrators of violence. We are also noticing an increase in minority fundamentalism which cannot be ignored and the rights movement will need to respond in a principled manner.

- Rohit Prajapati, from Baroda spoke about the challenge faced by environmental movement challenging industrial projects and development programmes in Gujarat. The State clearly supported and took sides with dominant commercial and industrial interests and unleashed the full force of state violence against common people fighting to safeguard their lands being taken over by the state to be handed over to industry. Sharing his experience of how intimidation is taking place in creative manner he pointed out how he and other activists are denied places not just for meeting but even to eat in hotels, whose owners fear reprisal from state

police and *goonda* elements of dominant *eltie* interests. While there have been some successes of people's movements, as for example the decision to shift the location of Mithivirdi nuclear power project away from Gujarat, he pointed out to other problems which needed to be confronted by the rights movement because of the narrow focus of sectoral social movements not broad basing their movement politics. (See the article separately carried in this *Bulletin*).

- Suresh, National General Secretary gave a broad overview of the discussions inside PUCL on widening the ambit of the movement and the work undertaken by different state units.

An interesting discussion ensued after the presentations in which most of those attending the meeting participated enthusiastically.

About 45-50 persons attended the meeting, some from far away

places such as Pune and Nagpur. In the end, after discussion on how to re-launch PUCL's activities in Maharashtra, an Ad-Hoc Working Committee was formed. The members of the Committee are the following: (i) Rajni Bakshi, Mumbai (Life member and former National Council Member), (ii) Mihir Desai, Mumbai (iii) Lara Jesani, Mumbai (iv) Dolphy D'souza, Mumbai (v) Alex D'Mello, Mumbai (vi) Sandhya Gokhale, Mumbai. (vii) Sitaram, Mumbai.

A number of others from different places in Maharashtra said while they could not devote much time for being associated with PUCL activities, they would like to be involved in activities closer to the areas they stay in. The new Committee was requested to coordinate with them and ascertain their interest areas for contribution. It was made clear that the Ad-Hoc Committee will work in coordination with the National Office and National General Secretary and will convene meetings in Pune and Nagpur inviting existing members of PUCL living in these areas or

nearby. So the Ad Hoc Committee will be expanded by inviting members from other parts of the state so that there is representation from different regions of the state. The Committee will also call for more meetings internally to focus on how to organise the activities of the new unit. A special request was made to invite members of PUCL whose names are a part of the list maintained by the National Office so that old members are informed of the revival and requested to become actively involved with PUCL work once again. The Committee members were also informed that they should take special care to make an informed decision within the Committee before accepting requests of people to become PUCL members. Only after a year or more of systematic functioning will full-fledged recognition for the state unit be accorded by the national office bearers team after which elections of office bearers will be held as mandated by the PUCL Constitution.

Dr. V. Suresh, National General Secretary, PUCL □

President's Concept Note from the Invitation sent to PUCL members and others for the Re-launch on PUCL Maharashtra meeting on 12th August, 2017.

Protecting Human Rights and Democracy in Maharashtra and India: Challenges before the PUCL and Human Rights Movement in India

Friends, *Greetings from PUCL!*

Our country is passing through a very challenging, historical phase. Lynchings by *Gau Rakshaks* and killing in the name of beef, hate crimes and politics of intolerance, targeted attacks and violence on minorities and Dalits have become regular occurrences countrywide. Some of these shocking incidents of mass violence have received media attention; what has gone unnoticed is a whole range of other human rights violations which are equally distressing: targetted attacks of Dalits by non-Dalit castes for demanding equal rights, dignity and social justice, rising gender crimes, caste and communal violence and a range of other violent responses from majoritarian forces - the most noticeable

dimension is the brutal and authoritarian response to people's struggles seeking to protect their rights and the brazenness and impunity of police response.

The brutal force of the law is used by law enforcement agencies and government, who dub anyone questioning state policies as "anti-national, anti-social, anti-development and anti-Indian" and then book them for sedition, waging war against India, conspiracy and a host of other serious offences under the IPC, UAPA Act, NSA, and so on. The media is not exempt from such draconian action as arrest of cartoonist Aseem Trivedi in Mumbai or attack on journalists in Chhattisgarh or raid on NDTV promoter's offices highlight. Unfortunately courts have been

less than responsive to the massive explosion of rights violations committed by state agencies and the breakdown of the criminal justice system.

The situation in so called 'militancy or terrorism' affected areas of the North East and Kashmir and the Central Indian states is very grim with hundreds being routinely implicated in false cases, subjected to torture and custodial crimes and worse. The mineral rich tribal areas are also witnessing massive militarization and consequent violent suppression of local leaders in the name of curbing militancy.

The structure of laws meant to protect rights - from labour rights to environmental protections to other social rights, are being systematically dismantled making

the laws irrelevant and ineffective. Whether in the Manipur encounters case, or the ongoing Aadhar and citizen's right to privacy case, the government's approach has been uniform: deny people their fundamental rights, utilize its full police powers to control people, assert impunity for any violation and demand immunity from accountability. All of these are chilling indicators of the emergence of an authoritarian, fascist state working to make the Constitution of India a redundant and irrelevant document.

The task before concerned citizens is daunting. The challenges are manifold. From campaigns to protect life, liberty and livelihoods of millions of vulnerable, marginalised

people across India to combating hate crimes and politics of intolerance to challenging the dismantling of laws protecting right to environment, food security, education, health and the fundamental rights – the task is humongous. In effect both human rights, as also democracy, in India is under siege.

For us, as citizens concerned about preserving the Indian Constitution and democracy in India, we have no choice but to fight to preserve, protect and promote human rights, and thereby protect the pluralist, socialist, secular character of Indian society which values, dignity, equity, equality and social justice. Our fight has to be across different levels – from the grass

roots situation to policy realms; from legal battles to public campaigns to educate and empower people.

PUCL has initiated wide ranging discussions on these and related issues in different states. It is as part of this process that we are organising a half day discussion in Mumbai on 12th August, 2017.

We invite you to participate in the meeting and look forward to meeting you on 12th August, 2017.

In case you are unable to come, we request you to share your thoughts and suggestions with us at pucl.natgensec@gmail.com and puclnat@gmail.com.

Ravi kiran Jain, President, PUCL, Dr. V. Suresh, General Secretary, PUCL. □

Note: Notes of the Speech delivered by Rohit Prajapati, National Secretary, PUCL in Mumbai on 12th August, 2017 in the meeting to re-launch PUCL Maharashtra. Our thanks to Rohit for writing up his speech notes at very short notice. – V. Suresh

Struggles With and For the 'Occupied' Minds of the Masses

Rohit Prajapati

We talked, a few years back, about "Occupy Wall Street" and other parallel slogans. But we forget that our battles are not only with the physical occupation, but also with the present capitalist development model pursued by the authoritarian, reactionary, rightist, communal, casteist, fundamentalist, fascist forces, both in the world as also in our country, that now occupy the minds of the masses.

The challenges to those involved in peoples' struggles for a just and fair society in present times in India, as well as in most countries, have increased manifold. As in India, including in many European countries and the United States of America (USA) – considered as bastions of liberal democracies, governments are now headed by right wing figureheads espousing fascism or extreme authoritarianism, often cloaked in nationalism, inequitable capitalistic economic policies and unsustainable growth-development model.

This is not new and is known to most of us involved in people's movements in different capacities. Our interventions, tactics and

strategies are now countered with the increasing assertion of fascist and ultra-nationalist forces. We are however, all too often, fighting the effects and not the cause of these challenges. For all us involved in activism for a just and fair new world order, this begets the following questions:

- Why are the authoritarian and fascist forces gaining power and most importantly, credence in the mind of the people at large?
- Is there a dichotomy in our struggle/ activism between its impact on the affected communities and their ideologies?
- Why do our interventions effectively not "occupy" the space in the thought process of the affected communities towards present capitalist development model? This despite our solidarity, being part of the people's struggle and sometimes positive results.
- Why are the positive impacts of our movements not echoed in the thought process of the ordinary people and voters' electoral choices?
- Are we not just fighting the

effects more, instead of the causes of various inequities and injustices?

- Has our focus on processes and outcome during the struggle outweighed the ideological clarity?

To my mind, these are urgent questions that seek urgent answers, though it is the fifth and sixth question that I think needs to be addressed at the earliest.

It is a common experience for those who are involved in our chosen fights - be it against communalism, casteism, patriarchy, safe environment, economic rights etc. to find that while we might triumph occasionally, we often fail to convince the people and perhaps involve ourselves too as required in related struggles, even if they do not impact/affect firsthand.

The prevalent social system is "great", as many would believe. It has many names. Some call it 'globalised world', some 'free market economy', some 'GDP centred economy', but it is capitalism by any other name. This capitalist society is perceived to be "great". It fooled us in the name of "development" and yet we are kept

ignorant about its pitfalls. It distances us from the realities and supplants us in the virtual world of social media and its engineered rhetoric. Modern technology might have reduced the physical distance between cities and countries via airplanes, fast trains, express highways, while distancing away the family members & friends. Nowadays we meet family members & friends more in the virtual world of Facebook (*Fakebook?*) and Skype, than in person; and yet we are kept indifferent to the fact that there is no personal physical interaction. In the evening - oops! actually during night hours - we return home tired; leading chaotic lifestyles, we are not happy with life and yet we are kept ignorant about it.

We are wallowing in the misinformation and lies dished out through media and internet, believing them to be truth; and yet we are kept ignorant about realities. In the name of "development" we are dragged towards a world sans weather - climate changing world; and yet we are kept ignorant about it. In the name of "development" we are fast dragged towards destruction and yet we are kept ignorant about it.

Neoliberal capitalism has placed a lollipop named *Mediclaime* and endangered our life on earth and yet we are kept ignorant about it. It has given us a mobile phone, a bank account sans money and a perception "All is Well" and yet we are kept ignorant about it. We are stuck, frustrated and scattered and yet we are kept ignorant about it. The Capitalist society has formed a united front with patriarchy, Caste system, and religious fundamentalisms and many such divisive forces and yet we are kept ignorant about it.

But we better tell all one thing - that when all people realise the truth and understand ground realities, nothing can stop our struggle against this capitalist society, patriarchy, caste system and religious fundamentalism to ensure a just, equal social system. This aim to create a just and equal social system, free from exploitation, is truly great and to build that society

is our task.

I can only share my experience. Our struggle against the proposed nuclear power plant in Mithivirdi, Gujarat involved working with villagers, mostly comprising the farming community. We strategised - with leaflets, grass root engagement, legal strategy, community meetings, pamphlets, media engagement, demonstrations - all that one could conceive as a non-violent, peaceful means of protest. To my mind - we were opposed to a capitalist growth/ development model and the nuclear power plant is its manifest symbol.

But was opposing the nuclear power plant our only aim? Do all the villagers, especially those involved in the struggle, also think the same way? Has the struggle against the nuclear power plant broken down the caste barriers and patriarchal notions in these villages? Are the comrades engaged in this struggle as much enthused to fight communalism that now asserts dangerously everyday across India? Does the struggle's victory convert into electoral impact?

I am afraid that there are not enough confident 'yes's' to the above questions. We are missing something very vital in that case. The struggle is not against the nuclear power plant alone. We seem to be missing some key linkages, especially in the Indian context. While we express solidarity with each other in our chosen fights, stand up together occasionally too, but we do not seem to do it as much as required; and more importantly, with as much ideological vigour when the issues do not come within the areas of our immediate concern.

This calls for ideological clarity. For a stratified, diverse society as India, philosophical and ideological clarity in a struggle is a challenge. We all have either compromised or turned lukewarm on one or the other aspect while focusing on our immediate struggles, leading to contradictions within. To illustrate, while countering communalism, we have perhaps neglected women's rights or caste issues. While countering environmental

concerns and farming issues, perhaps remained indifferent to communal and caste conflicts. Fighting for women's rights, have not been able to bridge faith differences. In our struggle for economic equity, we are not focused sufficiently on environment concerns or the processes of production. The quest for development and economic right makes us complacent to accept even fascist, right wing political choices. Somewhere along through these cracks we have slipped, allowing the fascist, communal forces to slip in and succeed.

I do not call neither seek to impose a kind of '*ism*' to ensure justice, fairness and equity. I believe however that we need to be increasingly assertive of our values at all levels, to be more together on different issues, to have always in our different struggles an underlying universal cause and ideological mooring.

Marx, throughout his writings, saw capitalism, not narrowly as just an economic system, but a mode of production that underpinned every kind of existing exploitation. He saw in it the roots of the metabolic rift that would drive the earth to torture. He saw class as also assisting sexism, religious discord and racism. Using his tools we can extend casteism to this. In other words, anti-capitalism cannot be just about economic demands, cannot simply demand a US style life for the entire world (an unattainable goal that can only hasten global ecological destruction, in any case).

A twenty-first century notion of social justice, harmony, equality, and ecological restoration would do well to take up these tools and connect the dots, since otherwise; we will only be reacting to particular manifestations, rather than to the root causes of the violent and oppressive social order. To win the masses to such a perspective, to build a comprehensive alternative to the comprehensive ideological and political attack of the ultra-right, has to be the challenge of the day.

□

Emergency should Never be Forgotten

Kuldip Nayar

Strange, in the process of selecting who should be the next President of India, the nation has forgotten the emergency which was imposed some forty two years ago. More than one lakh people were detained without trial. The media which could have reported the conditions prevailing was muzzled. Civil servants obediently issued the orders, which came from Sanjay Gandhi, the extra constitutional authority that ruled the country in the name of his mother, then the Prime Minister.

The judiciary caved in and upheld that Parliament could suspend the fundamental rights enshrined in the constitution. Even the imposition of the emergency was justified. Only one judge, Justice H.R. Khanna, gave the dissenting judgment. He was superseded. It is another matter that the country punished the then Prime Minister, Indira Gandhi, when she was ousted from power, lock, stock and barrel in the elections when they were held. Similar was the fate of her son, Sanjay Gandhi.

What disappoints me is that the Supreme Court never passed a resolution or has done anything to register its criticism against the judgment which had given the judiciary a bad name. Even now it is not too late. The Supreme Court has liberal judges on the bench. They can make up by passing a resolution that their predecessor bench was wrong in having endorsed the emergency.

At least the Prime Minister Narendra Modi cabinet should say sorry on behalf of the Centre for the excesses committed by the earlier government during the emergency. The then Attorney General, Niren De, had even argued in the court that the right to live was forfeited during the emergency.

There was so much fear among Delhi lawyers that lawyers like Soli Sorabjee from Mumbai and V.M. Tharkunde from Delhi argued the habeas corpus petitions filed by my wife. Still I spent three months in

jail.

The two judges, Justice S. Rangarajan and Justice R.N. Aggarwal, who gave the judgment, were punished. The first one was transferred to Guwahati where people still remember him for his impartiality. The second was demoted and sent back to the Sessions Court. This did not, however, deter them and they carried on their work boldly and independently.

Probably, the pressure on the judges has lessened in recent years because of vigilant media. But the worse is happening in appointments to the benches. They are being made according to the whims and wishes of rulers. This began with the Congress government and has continued when the Bhartiya Janata Party (BJP) is in power.

I recall that the process started when Indira Gandhi had superseded three judges—Justices J.M. Shelat, K.S. Hegde and A.N. Grover—to appoint Justice A.N. Ray as the Chief Justice. She had been unseated from parliament and disqualified for poll malpractices for six years. Instead of accepting the verdict with grace, she imposed the emergency and amended the election law itself.

The excesses which Indira Gandhi and Sanjay Gandhi committed during the emergency may be part of history to me they are recalled by not only those who suffered but also those who supported democracy. It was the Janata Party, which came to power after defeating Mrs Gandhi that changed the constitution to make the imposition of the emergency impossible. And Justice Khanna's dissenting judgment that the basic structure of the constitution could not be changed was accepted as the norm. This has ensured the parliamentary system of governance and has deterred every ruler since then not to tinker with the judiciary.

Ultimately, the independence of the judiciary depends upon the quality of judges. In the US, the biggest democracy, the Supreme Court is divided between the Republican judges and Democrats'. Since the tenure of the judges is for lifetime, the appointees of one party have risen above their old loyalties and become independent and impartial. In India, we had the best of judges when the government appointed them. But now the party politics has crept in. At least it has been seen in High Courts that the party in power has not appointed the best of lawyers but those who owed allegiance to particular political party. Even in the Supreme Court, some appointments come under the shadow of doubt.

Some examples of the past are worth praise. Take the case of former Solicitor General Gopal Subramaniam whose appointment to the Supreme Court was stalled by the Narendra Modi government. Blaming the government for blocking his appointment, Subramaniam said his "independence as a lawyer is causing apprehensions that I will not toe the line of the government. This factor has been decisive in refusing to appoint me." He withdrew from the race.

In fact, it was at his instance that the Gujarat police was forced to book a murder case in the Sohrabuddin fake encounter matter. When the prime witness, Tulsiram Prajapati, was liquidated under suspicious circumstances, Subramaniam had recommended the transfer of the case to the CBI. Significantly, Subramaniam also admitted that it was on his suggestion that the Supreme Court, while granting bail to accused Amit Shah, now the BJP president, had barred him from entering Gujarat.

Most pathetic was the role of the media. I recall that when the emergency was imposed there was anger and more than a hundred journalists assembled at the Press Club at my bidding to criticise the

emergency. But when I tried to pick up the thread after my detention, there was hardly anyone to support. Mrs Gandhi had created so much fear in the minds of

journalists that they were more worried about their jobs than the freedom of the press, which they otherwise cherished.
(*Kuldip Nayar is a veteran syndicated*

columnist catering to around 80 newspapers and journals in 14 languages in India & abroad. kuldipnayar09@gmail.com)
Published in The Radical Humanist (July 2017). □

Supreme Court Admits Plea against the Army in Pathribal killings

PUDR welcomes the decision of the Supreme Court to examine a plea filed by the family of five civilians killed in a fake encounter in Pathribal, Kashmir in 2000. The notice issued by SC follows the closure of the Pathribal case by the Army and the refusal of the J&K High Court last year in admitting the petition of the victims' families challenging the closure of the case. The apex court has also given liberty to the petitioners to mention the matter for early hearing. The Union of India was represented by the Additional Solicitor General and the petitioners by Advocate Nitya Ramakrishnan.

The Petition was filed by the kin of five civilians killed by the Army on the night of 24-25th March 2000. Jumma Khan s/o Amirullah Khan, Jumma Khan s/o Faqirullah Khan, Zaroor Ahmad Dalal, Bashir Ahmad Bhat and Mohd Yousuf Malik were abducted and killed in Pathribal in Anantnag district, by the personnel of 7 Rashtriya Rifles. Proclaiming that these men were responsible for the killing of 36 Sikh men in Chattisinghpora, the Army dubbed them as "foreign militants." Subsequently, on protests being raged by citizens and families of victims, the Government of Jammu and Kashmir ordered an enquiry to ascertain the identity of those killed. From the investigation, it emerged

that these men were abducted and shot dead in a fake encounter, and their bodies mutilated to protect from identification. State Police and the Central Bureau of Investigation (CBI) had frontally indicted five personnel of the Army, namely a Brigadier Ajay Saxena, Lt Colonel Brajendra Pratap, Major Sourabh Sharma, Major Amit Saxena and Subedar Idrees Khan of 7 Rashtriya Rifle for the killings as well as for fabricating records and evidence to falsely proclaim that the five killed were "foreign militants".

The Army moved the apex court and objected to the chargesheet filed by the CBI before the trial could begin in sessions court, on grounds that prior sanction is required for prosecution of any Army personnel under AFSPA. Although the court turned down the objection, in 2012, it upheld the Army claim that after the filing of a chargesheet; sanction is required before the trial can begin, and had given the Army an option to either hold the trial in a Criminal Court or hold the Trial by General Court Martial. Instead of doing either, the Commanding Officer had closed the case as one of 'no evidence' thereby wiping out the investigation carried out by CBI, which the petitioners claim was mala fide and something for which the law does

not authorize the Commanding Officer. Following this, in January 2014, the Army gave these personnel a clean chit stating lack of evidence as the basis of its decision.

Unraveling the opacity of operations of the Court Martial, this case became yet another example of armed forces rarely prosecuting their own personnel. PUDR had earlier drawn attention to the sequence of events resulting in travesty of justice in the Pathribal case (<http://pudr.org/content/pathribal-killing-requiem-justice-denied>). Today's decision of the SC is a modest step towards attaining justice for thousands who have been killed brutally in fake encounters by Army personnel. PUDR welcomes the judgment for its substantial stand on the matter and expects that the Court would pursue the hearings with tenacity and challenge unabashed impunity that armed forces enjoy. In welcoming the move of the apex court, however, PUDR reiterates its demand that all crimes committed by the Armed Forces against civilians must be tried in a civilian court.

Cijo Joy and Anushka Singh,
Secretaries, PUDR

<http://pudr.org/content/supreme-court-admits-plea-against-army-pathribal-killings>
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Courtesy: News18.com:17th August, 2017

Privacy in Internet Era: Four Government Surveillance Programs You Must Know About¹ Dwarak Balasubramanian

Starting December 2011, WikiLeaks started publishing a series of documents title 'The Spy Files', which made startling revelations about the global mass surveillance industry. A set of four leaks revealed how intelligence agencies of the world have spent

millions on next-generation mass surveillance technology to target the entire population. Months after this, in 2012, an investigation conducted by a Special Investigation Team in Himachal Pradesh revealed phone-tapping during the BJP's

rule in the state. The SIT had seized 12 hard drives which contained nearly 1371 phone numbers, which were targeted and tapped. Conversations of some very prominent leaders, senior police officers, including the DGP and a journalist were being monitored

and recorded.

Ever since Edward Snowden blew the whistle, exposing how United States' National Security Agency (NSA) was doing mass surveillance on people across the world, state surveillance has attracted a lot of heat.

In India, the fight against surveillance can be traced back to the 1980s and 90s when activists opposed the illegal phone-tapping by the state, carried out under the garb of security requirement. A nationwide outcry against phone-tapping resulted in a probe by Central Bureau of Investigation, which pointed out how the Rajiv Gandhi government used to engage in constant surveillance of the Opposition, and sometimes, members of its own Cabinet. The issue was heard before the Supreme Court after a PIL was filed by the People's Union for Civil Liberties (PUCL). In a landmark judgment in the PUCL Vs Union of India case (1996), the court held that illegal phone-tapping was a violation of the citizens' fundamental right to privacy. The court decision also created adequate safeguards to ensure that the state's surveillance powers were not misused.

What we have today is ubiquitous surveillance and whether we like it or not, all of us are being watched all the time. The government's efforts to implement programs of mass surveillance could soon put us at par with the NSA in the US and British Government Communications Headquarters (GCHQ).

Some of the noteworthy mass surveillance projects by the Indian government include:

- Central Monitoring System (CMS): The CMS is the country's ace surveillance project which aims to create a system that provides central and direct access to information without any intervention by third parties. Developed by the Centre for Development of Telematics (C-DOT), the CMS is capable of accessing all communication data (telephone

calls, both mobile and landline, VoIP calls, emails, and other communication on social media). In essence, the CMS is an extension of the already existing 'Lawful Interception and Monitoring System' which telecom and internet service providers are required to install. The service providers are required to integrate Interception Store and Forward (ISF) servers which are connected to various Regional Monitoring Centres. What this essentially means is that the CMS has direct access to vast amounts of real-time data and metadata of users. Although much information does not exist about the program, the government apparently has been running trials in gradual phases. Going by the available information, the Indian government may have been successful in creating India's version of PRISM program run by the NSA

- Network Traffic Analysis (NETRA): Developed by the Centre for Artificial Intelligence and Robotics (CAIR) of the Defence Research and Development Organisation (DRDO), NETRA is a native system developed by Indian scientists and other staff. It was built with the intent of combating threats both internal and external by monitoring real-time Internet traffic. NETRA has apparently been fully functional since 2014 and is used by the Intelligence Bureau and the Research and Analysis Wing. NETRA has the capability to intercept and analyse data (including voice traffic) passing through Google, Skype, and other social networking forums. It can also track keywords from emails, tweets, Facebook status updates, comments, blogs, messages on forums, and even images shared over the Internet.
3. National Intelligence Grid (NATGRID): In view of the increasing number of terrorist

activities in the country, NATGRID was proposed just after the 26/11 Mumbai attacks. It is essentially an intelligence grid that links all the stored data from different government and intelligence entities, which enables it to analyse data gathered by the linked agencies. The grid provides intelligence agencies access to data sources, including bank accounts, details regarding taxes, credit card transactions, vehicle registration, immigration and visa records among others, which are then used to decipher patterns and track suspicious activities. However, the program allegedly remains semi-functional.

4. Lawful Interception and Monitoring Project (LIM): The LIM works in a similar way to NETRA. It is a program for surveillance of Internet traffic in India, allowing the monitoring of all traffic (text and audio) passing through ISPs. The LIM's unique capability is to conduct automated keyword searches, which allows government agencies to track data passing through servers for as long as they want, without the ISP's knowledge. Reports have pointed out that the legal procedures for such monitoring is seldom followed, resulting in the violation of privacy of the concerned individuals.

Although there is substantial information to prove that the Indian government intends to create large-scale systems to track all of its citizens, concrete information about these programs hardly exist. As the Internet has become our primary mode of communication today, it comes as no surprise that the government has shifted its focus to the digital sphere. The question that needs to be answered is whether there are adequate legal safeguards to prevent misuse of the state's surveillance powers. Cyber-security expert Rakshit Tandon believes the government and other agencies like CERT-In play an active role in monitoring

traffic in order to safeguard the state from cyber attacks.

However, experts believe that the idea of every byte of big data being monitored is practically impossible. Which means finding a terrorist in a country of more than a billion is like finding a needle in a haystack. Hence the probability of us being charged for an offence, not committed by us is definitely true.

The question here is whether there are adequate legal safeguards to prevent misuse of the state's surveillance powers so that they do not violate privacy, which is at the heart of all communication online.

While surveillance is one of the most effective ways to combat terrorism, it should not come at the cost of individual privacy. The

existing laws are outdated and weak, there is no privacy law in India to protect us from privacy infringement or other human rights violation, and within this atmosphere, we have programs like the CMS, without any effective legal backing. Amidst the vagueness that revolves around surveillance in India, the only thing that appears to be crystal clear is the fact that we are giving out large chunks of data in the hope that we are being protected from threats, internal and external. Let's do something more than just hoping that the privacy trade-off is worth it.

9 Government Agencies will have access to the vast amount of data monitored and collected. These include: (1)

Intelligence Bureau, (2) Narcotics Control Bureau, (3) Directorate of Enforcement, (4) Central Board of Direct Taxes, (5) Directorate of Revenue Intelligence, (6) Central Bureau of Investigation (CBI), (7) National Investigation Agency, (8) Research and Analysis Wing (RAW), (8) Directorate of Signal Intelligence, (9) Home Ministry.

As of June 13, government funding of CMS has reached Rs. 513 crores.

2 laws to govern such programs. Indian Telegraph Act (1885) Information Technology Act (2000).

¹<http://www.news18.com/news/tech/privacy-in-internet-era-four-government-surveillance-programs-you-must-know-about-1493541.html> @22.8.2017 □

PUDR Press Statement: 10 August 2017

Condemn Exploitation and Harassment of Workers at Vivo India Pvt. Ltd.

The 'Make in India' drive and its claim of generating employment by getting multi-national companies to manufacture in India is characterized by appalling and inhuman work 'opportunities' of which the Vivo India Pvt Ltd is a glaring example. Vivo Company is a Chinese smartphone manufacturer that entered the Indian markets in December 2015 under the 'Make in India' initiative and was also the sponsor of the Indian Premier League 2017. Its manufacturing unit located in Greater Noida, Uttar Pradesh came in the news when it was reported last month that over 1000 workers have been terminated from job from the company since the end of the IPL season and on 25th July 2017 angry workers had retaliated and ransacked the factory. PUDR's investigation, however, revealed that the incident of 25th July was a culmination of the Company's policies and its treatment of its own workers.

- **Dwindling numbers:** the Company currently has over 6000 workers and all employed on a contractual basis. They only hire ITI graduates hence the work falls in the category of skilled labour. The workers

claimed that at the end of the IPL season in May 2017 the company had around 24000 contractual workers who have been gradually ousted over a period of two months without any prior notice. The work primarily at the Unit is that of assembly of smart phones with components imported from China, where around 70 workers work together in an assembly line. For past two months, the Company has consistently been firing all workers belonging to different assembly lines.

- **Work conditions:** the workers work in different shifts; the regular shift is for 9 hours while two other shifts are of 8 hours each. The workers are required to work for all 30 days without any leave for which they are paid Rs. 9300 per month. After deducting PF and ESI, each worker gets only about 7100 for 30 days of work. In addition to this, the Company offers buses as conveyance for pick up and drop and offers food in the canteen free of cost which according to the workers, is of very low quality. The company has a policy of deducting Rs.

2000 from the salary for the absence of a single day of work and if perfect attendance is met, a reward of extra Rs. 2000 is added to the salary. The award has not really been given but absence for even a day leads to more than 20 per cent deduction in salary. During the entire day's work, the workers get half an hour of lunch break and 10 minutes of tea break. Besides these breaks, if a worker leaves the assembly line even for going to the washroom, he is penalized. Workers also complain of regular harassment and verbal abuse by the supervisors. They work with a target of assembling 160 phones per hour. Not meeting the target has resulted in termination of the services of the entire line of workers. The PF amount can be claimed by a worker only after 6 months of service but the Company follows a practice of not retaining a worker for more than 5 months. All the workers who have been fired in last few months have not received their PF amounts. In the recent months workers have not been receiving even the stipulated

7100 rupees. In all, the workers live and work in an environment of extreme insecurity. They may enter the factory for their shift only to be told that they are part of "LEFT" category and they could leave. The word Left symbolized termination from job. No explanation is provided.

- **The incident of 25th July:** The workers were being fired routinely for some time, when the incident was repeated and an entire assembly line was fired, workers retaliated. The contractors and other members of the management responded by abusing and beating up the workers. The abuse angered the workers even more and around 400 workers resorted to physical force, damaged some physical property and also beat some members of the management. Police was called in by the management and police arrested around 30 to 35 people, according to the workers.
- **Police action:** According to the SHO, ECOTECH Zone, Police station, Gautam Budh Nagar, where the complaint was registered, police intervened to pacify the workers and arrested 7 of them who engaged in violence. Police claims that on their way out, the workers ransacked a truck loaded with smartphones and around 150 handsets were reported missing. The police has registered an FIR against 7 workers and around 250 unnamed under sections 147 (rioting), 148 (rioting, armed with a deadly weapon), 149 (unlawful assembly), 379 (theft) and 427(committing 'mischief' and causing damage). The workers denied that they had looted the truck. It also remains unexplained how workers were charged for rioting with deadly weapons when they are required to pass through a three tier security check before entering or leaving Company premises making it impossible for them to carry substance

along. The police action is decidedly one-sided as it has taken no action against the management and its staff for harassing, abusing and roughing up the workers.

- **Management's silence:** the management refused to speak to PUDR but the police narrated their version. According to the Company, around 300 to 400 workers leave the job every month as they find better job opportunities and that the Company has not fired anyone. On 25th July, the workers stole 150 phones worth Rs. 20 lakhs and damaged property worth 10 lakhs. They have only refused to take those workers back who have been identified to have engaged in violence.
- **Continuing harassment:** despite the incident of 25th July and its reporting in the media regarding workers being fired, on 4th August, the Company resorted to the same means. The attendance reward of Rs. 2000 was scrapped and some workers received less than Rs. 4000 as their July salary. The workers questioned the management and shouted slogans against them, after which many workers were fired again. The worker feared in the coming days, more such terminations were impending.

The land on which the Company stands belongs to Jaganpur village but the Company has hardly employed even 10 youth from the village. They have a policy of getting workers from distant areas in a bid to prevent unionization. This forces the workers to take up rooms in nearby villages where a single room with double occupancy costs at least 2200 rupees per month. Often, they have to pay extra for a third person. It is evident that most workers find it impossible to get their families to Noida. In fact, some workers commute long distances in order to be able to stay with their families and to undertake agricultural activity back home. For those who have no lands back home, the meagre wages and

extreme uncertainty makes life very precarious.

It is true that Make in India has attracted a host of smart phone manufacturers in order to avail of the benefits offered. The initiative slashed the tax on locally manufactured handsets to 2 per cent, compared to 12.5 per cent duty on imported completely-built handsets. Given this and a huge potential market in India, manufacturing handsets in India became logical. India attracted investment from 37 mobile manufacturers in the past year, more than half a dozen of which were Chinese handset makers This includes one of the biggest telecom companies of China, Huawei. Brands such as Xiaomi, Gionee, LeEco, Oppo, Vivo, Meizu, OnePlus, and Coolpad have either set up plants or made announcements to set up plants.

However, the work conditions at Vivo are indicative of the absolutely shocking nature of employment which is being created as a result. The dreadful work conditions, abuses in the hands of the management, peanuts in the name of salary, zero increment despite months of work symbolize the nature of job that Vivo Company offers. It reflects a system of wage slavery where people are hired and fired at-will. It is frighteningly reminiscent of Foxconn (Shenzen, China) which became infamous for spate of suicides by its workers in 2010.

PUDR Demands:

1. FIR against the workers should be withdrawn immediately
2. Action should be taken against the Company for violating labour norms and proper work conditions should be ensured
3. Sacked workers should be reinstated
4. Wage rates should be revised according to the statutory laws

Cijo Joy and Anushka Singh, Secretaries, PUDR

<http://pudr.org/content/condemn-exploitation-and-harassment-workers-vivo-india-pvt-ltd> □

Simmering Social Impunity: A Report on Incidents of Rajput Intolerance to Dalit Assertion in Saharanpur

On 5th May 2017, an incident of attack on Dalits by the Rajputs occurred in the village Shabbirpur, located near Saharanpur, Uttar Pradesh. During the attack a youth from the Rajput community died, 13 Dalits were grievously injured, more than 40 Dalit houses were burnt, some of their shops looted and burnt. The incident was widely reported in the media as an incident of caste violence between the Rajputs and the Dalits, where 25 houses of Dalits were set on fire. A PUDR team conducted a fact-

finding into the incident on 9th May 2017. The team met members of the Rajput and the Dalit communities from the village, the village Patwari (accountant) Nathi Ram, police officials and PAC personnel posted at the village and police officials at Badgaon police station (PS), local politicians including the ex - MLA of Deoband from Samajwadi Party, Maviya Ali (Shabbirpur is part of the Deoband constituency) and some journalists. While the Dalit basti of the village wore a deserted look with few

women and old men around, the Rajput basti appeared physically unaffected. This is a report about the incident, the circumstances under which it happened, its consequences and the role of the administration. The report is based on our findings and material from secondary sources.

Regards

Anushka Singh, Cijo Joy -
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Press Note on 9th Dr. Asghar Ali Engineer Memorial Lecture delivered by Prof. Sukhdeo Thorat

"Incidences of untouchability not only persist, they are increasing", argued Padma Shri Prof Sukhdeo Thorat, former chair of ICSSR, while delivering the ninth Dr. Asghar Ali Engineer Memorial Lecture at the Asiatic Library in Mumbai on Saturday. The Lecture was organized by the Centre for Study of Society and Secularism and chaired by Shri Dinesh Waghmare, Secretary, Social Justice and Special Assistance Department, Govt. of Maharashtra. The lecture was titled "Why Untouchability and Atrocities Persist Despite Laws? What Government should do to Reduce Untouchability and Atrocities in the Villages in Maharashtra?" According to Prof. Thorat, untouchability still persists as it enables the upper castes to derive economic benefits out of the low status of Dalits which in turn helps them maintain their higher status in society and derive psychological satisfaction.

Referring to several surveys conducted till 2016 in rural Maharashtra, Prof. Thorat said that Dalits were physically and verbally abused and not allowed access to drinking water and temples. Marriages between Dalit men and upper caste women are not tolerated, he said, and Dalits were

denied access to village commons including roads.

Prof Thorat said that while in some areas discrimination against dalits discontinued or was much less, e.g. in public transport, polling booths, police stations and post offices; in other areas dalits had access, but with differential treatment, Primary Health Centres, ASHA health workers, education with separate sitting arrangements in classrooms, midday meals in anganwadis; however, in certain spheres, there was complete denial of access, e.g. wells, grocery shops owned by upper castes, community dinners, cultural festivals and religious celebrations and marriage processions.

Analyzing FIRs filed under the *Prevent of Atrocities Act* in various police stations in rural Maharashtra, Prof Thorat argued that the conviction rate was as low as 3.4% as in many cases there were delays in registration of FIRs, police officers didn't apply appropriate sections and didn't investigate properly though the atrocity cases have to be investigated by police officers not below the rank of DYSP. In most cases, timely compensation was not given to the survivors under the prevention of Atrocities Act and they were unable to stay in the area

to give evidence. With this in view, Prof. Thorat argued that the Prevention of Atrocity law should continue without the amendments demanded by a section of Maratha community.

Prof. Thorat, however, pointed out that special laws like the Prevention of Atrocities Act alone would not help reduce the menace of untouchability. What was required was the change of attitude of the members of the upper castes which required Dalits to gain economic independence from the upper castes. This could be achieved through the implementation of schemes like MNREGA, improving access of dalits to schemes like Indira Awas Yojana and providing employment in towns and cities.

Referring to the measures advocated by Dr. Ambedkar, Prof Thorat suggested that Dalits should be resettled in separate larger blocks and make Pachayats responsible for elimination of untouchability. Prof Thorat argued quoting Dr. Ambedkar that for nation building, equality was a precondition which ensures fraternity and liberty. Lastly, condemning mob lynching, he stated that mob lynchings were against the spirit of nation.

Asghar Ali Engineer Memorial Committee □

Sectarian Refugee Policy Underway as Modi Sarkar Plans to Deport Rohingya Muslims

Saif Ahmad Khan

The Union Home Ministry is reportedly in talks with Myanmar and Bangladesh to deport 40,000 Rohingya Muslims who are illegally staying in India. This move is surely a cruel joke on the pitiable status of Rohingya refugees. Nevertheless, it is least surprising given the *Bharatiya Janata Party's* (BJP) proposed sectarian approach towards refugees in the lead-up to the 2014 general elections. "India shall remain a natural home for persecuted Hindus and they shall be welcome to seek refuge here," said the BJP's 2014 election manifesto, which used terms such as "*Ek Bharat, Shreshtha Bharat*" and "*Sabka Saath, Sabka Vikas*".

The saffron political outfit was quite categorical in linking the country's refugee policy to the religion of the ones seeking refuge. No artificial lip service was extended to non-Hindus and it was made clear that India will welcome Hindu refugees with open arms. But refugees professing a different faith could face differential treatment. And this is precisely what is happening in the case of Rohingyas.

Are they a demographic threat?

A shameless argument which is being built against the presence of Rohingyas is that they are a threat to the prevailing religious demography in the country. As per an India Today report, the government's estimates show that their population has "increased four times" since 2015 when their sum total population was said to be 10,500. In a country of nearly 1.3 billion or 130 crore people, it is frivolous to suggest that a few thousand refugees will alter the demographic composition.

Some 14,000 Rohingyas are already registered with the United Nations' refugee agency. Hence, they are not liable to be sent back like the other 40,000 who are not registered. However, MoS Home Affairs Kiren Rijiju has argued the opposite, claiming that India can deport the registered refugees also since it is not a signatory to the Refugee Convention which has been repudiated by the office of United Nations High Commissioner for Refugees. Nevertheless, the combined tally of both registered and non-registered Rohingyas does not even equal 0.1% of the country's population. In the state of Jammu & Kashmir, there has been a lot of

resentment regarding the settlement of Rohingyas in the Hindu-dominant region of Jammu. Once again, the figures tell a completely different tale. With a population of more than 12.55 million or 1.25 crore, the number of Rohingyas settled in J&K is a drop in the ocean compared to the local population of Kashmiris and Dogras.

"When Omar Abdullah was ruling, 10,000 Rohingyas, came across Bangladesh, all the way from Burma's Rakhine state, across the entire breadth of India in Bhatinde area of Jammu, which is barely fifty kilometres away from LOC and have been put up there as refugees. These are all Muslims who Burmese Buddhists could not stand on their soil," alleged Sushil Pandit in a recent conversation with Rajiv Malhotra. Being from the internally displaced community of Kashmiri Pandits, it was bewildering that Pandit, who is a known BJP sympathizer, used such insensitive language while referring to a bunch of people who have been described as "one of the most persecuted minorities" in the world. Having witnessed the exodus himself, one expected him to be empathetic towards the plight of Rohingyas, but it was not the case owing to his parochialism.

What we need to understand is that the central government has a problem primarily with the religious identity of Rohingyas because refugees having a non-Muslim background are not being meted out similar treatment. Nobody has objected to the 107 camps, which house Sri Lankan refugees in the states of Tamil Nadu and Odisha or the Hindu refugees who have come in from Pakistan. Thousands of Tibetan refugees, far greater in numerical strength than Rohingyas, have been granted political asylum in India and it is a matter of great pride that India has stood for their religious freedom when their own country i.e. China is unwilling to accommodate their belief system. Unfortunately, Modi Sarkar's prejudiced mindset isn't allowing them to nurture the country's composite culture by extending a helping hand to Rohingyas.

False bogey of terrorism

"No hate, no fear, refugees are welcome here," thundered protesters at airports across the United States after President Donald Trump put into place a travel ban on the entry of

people from certain Muslim-majority countries. It was all being done in the name of safeguarding American citizens from terror attacks at the hands of potential Muslim terrorists. There is no doubt that Islamist terrorism is a severe threat which needs to be dealt with efficiently.

However, it appears like that the threat of Islamist terrorism is being utilized to further identity politics and promote Islamophobic government policies world over. In India, media reports have cited unnamed intelligence bureau sources to claim that Rohingyas are susceptible to recruitment by terror organizations such as Lashkar-e-Taiba. They are apparently under the radar of Pakistan's infamous Inter-Services Intelligence (ISI). Fingers have also been pointed towards Rohingyas' "alleged" involvement in the 2013 Bodh Gaya shrine attacks.

It is possible that some misguided Rohingyas may have been involved in the said terror plot. If it is so, then they should not be spared. But convictions are yet to occur. Moreover, a beleaguered community which began to flee its home state of Myanmar in 2012 after having been subjected to widespread state-sponsored discrimination and killings cannot be labelled as "pro-terror" on the basis of what a few people from among their ranks could have done. The government certainly needs to identify the 40,000 Rohingyas who are staying in the country illegally.

Given the times we live in and considering the fact that immigrants stand accused of orchestrating terror strikes in far off countries, it is essential that the unregistered Rohingyas go through a process of vetting. Once that is done, they can be registered with the UN and provided with some form of identification. The radical Rohingyas, who have touched base with terror outfits and can be a potential threat based on an objective government assessment, should be deported or tried according to the law. There is no harm in doing that but the state cannot have one overarching policy of deportation for Rohingyas who haven't got the necessary paperwork done. The fundamentals of such a state position are flimsy because it assumes that 40,000 Muslim immigrants from Myanmar are potential terrorists, similar to the

projection of Syrian refugees in the west. We must not forget that one can't be prosecuted without having committed a crime.

History of acceptance

Refugees are people in distress. Very often, they come from poorer sections of society. Uprooted from their homes, they face several socioeconomic problems in an alien country, with the language being a major hurdle. When demonetisation was announced in November last year, Rohingya refugees faced numerous difficulties in getting the old five hundred and one thousand rupee bills exchanged as they did not have the required identification documents. The government must work towards providing them with some kind of recognition. We are the seventh biggest country in the world and there is enough space in our land as also in the hearts of common Indians to allow a tiny bunch of refugees to dwell amongst us. The influx of a minuscule foreign population would not exert any significant pressure on the resources or make the local citizenry feel apprehensive unless there is a political provocation.

Wonders have happened whenever India has stood for tolerance. Parsis fled persecution and came to India. Today, as a result of the same, the country has got Tata Group which is a Parsi creation and the biggest Indian multinational conglomerate. At the close of the fiscal year 2016-17, Tata Group's companies employed over 6 lakh people generating US\$103.51 billion or 6,77,556 crore in revenues annually. The 14th Dalai Lama, whom India gave refuge in 1959, is an international crusader of peace and an ambassador for the country promoting its values across the globe. Another historical precedent is the intake of millions of refugees from East Pakistan during the time of the Bangladesh liberation war with

an estimated 1.5 million refugees choosing to stay back and amalgamate into India.

This is the strength of acceptance which politicians don't understand in their narrow pursuit of politics. Back in Myanmar, Nobel peace prize winner Aung San Suu Kyi is refusing to accept the Rohingya problem. In fact, she also had issues being interviewed by a BBC presenter who turned out to be a Muslim. While the Myanmar establishment broke the back of Rohingyas by being complicit in their persecution, the Indian government under Narendra Modi is not applying a healing balm either with their blueprint for action against Rohingyas drawing thereof Amnesty International. Differential treatment of refugees premised on their religious beliefs is unheard of in India's history. If Modi succeeds in deporting 40,000 Rohingyas, he would have dealt a severe blow to the country's long-cherished tradition of being a safe haven for people from all communities and regions. The government of the day needs to turn mature as the Republic of India turns 70. Indians must outlive this villainous narrative propounded by the *Rashtriya Swayamsevak Sangh* (RSS) wherein many are led to believe that Muslims will somehow take over this Hindu-majority nation through conversions, love jihad, increased procreation, courtesy polygamy and illegal infiltration from Bangladesh and Myanmar. It is essential for the republic to shut these rumours forever.

Courtesy: newsclick: <https://newsclick.in/sectarian-refugee-policy-underway-modi-sarkar-plans-deport-rohingya-muslims>"eHYPERLINK "https://newsclick.in/sectarian-refugee-policy-underway-modi-sarkar-plans-deport-rohingya-muslims"e-policy-underway-modi-sarkar-plans-deport-rohingya-muslims □

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Announcement for the PUCL National Council Meeting

Dear All,

The next National Council Meeting of the PUCL will be held in Gandhi Peace Foundation, Delhi on 18th and 19th November, 2017 (Saturday & Sunday). All NC members are requested to book your tickets immediately for attend the meeting.

V. Suresh, General Secretary, National PUCL □