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Another Effort to Revive Bigotism

Kuldip Nayar

With a clutch of followers, Rashtriya Swyamsevak Sangh (RSS) chief Mohan Bhagwat was about to storm in Kolkata when West Bengal Chief Minister Mamta Banerjee cancelled the use of hall which the RSS had hired to address a meeting. He is quite right when he criticized the cancellation as undemocratic. But the record of RSS in polluting the Hindu-Muslim equation is so long that the precaution is quite in order. True, Mamta Banerjee looks dictatorial. But her act can be rationalized. Still I wish that she had allowed another voice, however, critical to be raised.

Other steps like including Muslims in Other Backward Classes (OBC) and giving stipend to selected Mullahs and Moulvis do not go well with the democratic India we are trying to build. Appealing to the sentiments of a particular community is obviously meant to get their vote. This is worse than what RSS does.

With a small temple, which came up overnight on the site where the Babri Masjid stood once, the chapter had been closed for the time being at least. But that does not seem to satisfy the Muslims, nor is it in their interest, as

they perceive. The BJP, guided by the RSS is trying to create the same atmosphere. The equivocal stand by the government on pluralism has only helped the Hindutva elements.

Prime Minister Narendra Modi could have done something positive to clear the vitiated atmosphere. But his party does not appear to do so because it's getting dividends in keeping the society polarized. No outsider could interfere because the then chief minister of Uttar Pradesh, Kalyan Singh, did little to follow the Supreme Court's judgment, which said that the status quo should be maintained.

By 'Hinduisng' a secular society, the integrity of the country is in danger. Religion can never integrate a nation as the example of Bangladesh cutting itself asunder from Pakistan shows. The imposition of Urdu forced the same Islamic East Pakistan to become independent, sovereign republic of Bangladesh.

India has stayed as one country because the various cultural entities have not been disturbed. True, the Hindus are 80 per cent of the population. But the minority, the

Muslims, have not been threatened except by a lunatic fringe.

If the RSS is really interested in Hindutva, it should be agitating for the rights of dalits who, despite discrimination have remained in the fold of Hinduism. True, some have sought freedom through conversions to other religions. But they have only adversely affected the Muslim and Christian societies. The converts from among the dalits face more or less the same discrimination in the religious society they join.

The RSS chief, claiming to be championing the cause of Hindus, did not react to the recent burning of a dalit because his goat strayed into the land of an upper caste member. Now that Modi has caught the imagination of the country, he should help the dalits and ask the upper castes to give up discrimination against the dalits.

I have not seen even a mild criticism by Modi or his ardent followers, who claim that they would build a future India which will know of no discrepancy. At least the burning of dalits, if not the daily prejudice, should have been covered by the widely-watched Doordarshan network. But it seems that the government itself doesn't want to raise the pitch on this issue because it is dominated by the upper castes. Even otherwise, there seems to be an unwritten law which dictates that such stories should not be printed. Surely, this does not constitute the freedom of the press.

Consequently, the institutions in the country are languishing. Had the media, an important institution, been free from pressure, the RSS would not have dared to challenge the basic structure of the constitution, which includes secularism. The RSS chief should

realize that the core of Hinduism is a sense of accommodation and spirit of tolerance, not the division of the society.

The spread of the BJP is a point of concern because it ignores the aspirations of Muslims. Modi's slogan of development has gone down well because it gives the hope of reducing, if not ousting, poverty. He has done well not to deviate from that path. Unfortunately, his regular contacts with the RSS and that of his Man Friday Amit Shah, effaces even the wishful thinking that Modi would build the society without any prejudice or bias.

Things would have been different if the demand by some liberal BJP men to sever all connections with the RSS had been implemented. This possibility was on the anvil when the Gandhian Jayaprakash Narayan was able to convince the top Jan Sangh leaders to dissolve the outfit and join the Janata Party. However, the old Jan Sangh members stayed constantly in touch with the RSS and this negated the very purpose.

Not long ago, the liberal Atal Behari Vajpayee tried his best to terminate the relationship between the RSS and the Jan Sangh. He, however, succeeded only on paper. He could not dilute the loyalty of the old members. L.K. Advani too was the one who had founded the BJP. He thought that the old Jan Sangh members were not trusted any longer in the Janata Party. He was successful in building the party because the Gandhian Jayaprakash Narayan had given credibility to the Jan Sangh members when he brought them into the Janata fold. Obviously, he did not succeed in his mission. But the situation today is worse. The Congress is no more relevant and there is no other opposition in the horizon.

Bihar Chief Minister Nitish Kumar can stop the BJP onslaught if he brings all the non-BJP parties on one platform to fight against the BJP. Even this combination would be late if it is not brought into being immediately. The soft Hindutava which has spread in the country will thicken and push the idea of India, secular and democratic, in the background. This is a harrowing prospect.

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Why Should the Children be Penalised for Delinquent Teachers?

Sandeep Pandey

Section 16 of the Right to Education Act, 2009, says that ‘no child admitted in a school shall be held back in any class or expelled from school till the completion of elementary education.’ Further section 30(1) says ‘no child shall be required to pass any Board examination till completion of elementary education.’

However, the central government moved an amendment Bill no. 166 on 11 August, 2017 in Parliament with the aim of withdrawing the provision of ‘no detention policy.’ The government intends to reintroduce examinations in classes V and VIII which the students will be required to clear if they wish to seek promotion to the next class.

The main argument being given for withdrawal of no detention policy is that children have stopped learning and their capabilities have really suffered. However, the question which needs to be asked is whether the children stopped learning because of any fault of theirs or because the teachers have stopped teaching? The child is in any case ignorant, which is the prime reason for her to be in the classroom. If she doesn’t learn in spite of attending school then whose fault should it be? We cannot expect a small child to study on her own. She will need either parents’ or teachers’ assistance. If the parents are illiterate then this responsibility falls more squarely on teachers’ shoulders. If the child is not learning then it is because the teacher is not fulfilling her responsibility fully.

There are examples of schools where there is no examination till the

elementary stage and they offer extremely high quality education. Among the well known schools, those being run by J. Krishnamurti Foundation are wonderful examples. There is a school ‘Study Hall’ in Lucknow which doesn’t subject its students to examination till class VII. This school doesn’t advertise itself. Which means this school is not in the business of commercialisation of education. The quality of such schools is extremely good because the people who run them truly believe that education is meant for all round development of child and should be a joyful process. If the child is subjected to a system of punishment and reward, the child is likely to grow with constricted mentality.

If the child is continuously told to do well in examinations, then the child will develop a competitive mindset. Only a select few can excel in any competition. If the others develop this feeling that they’re not competent enough and can never excel then they’ll start using unfair means. This is the beginning of corruption in our life. Our education system teaches us corruption. Cheating in examination is the first corruption in life for most people.

According to 2014-15 data of Ministry of Human Resources Development, 4.34% children dropped out of school at the primary level and 17.86% at the secondary level. If we assume that almost as many children never see the inside of a school because they’re involved in child labour or begging, almost half the children in India are not in school beyond the class VIII stage.

The no detention policy was introduced so that children who find it difficult to move beyond the elementary level have a smooth sailing till class VIII and more students are able to finish their high school, intermediate or higher education. Withdrawal of no detention policy will offset the gains made in retaining the children in school and providing them an opportunity to finish school. Direct impact of this change would be swelling the ranks of child labour.

If clearing examinations at classes V and VIII stage will determine who’ll move to upper classes then let us ponder who is most likely to fail. The children of poor, mostly belonging to Scheduled Castes, Scheduled Tribes and Minorities category, whose parents are less likely to be well educated or may not have the wherewithal to provide additional coaching to their children will lose the race to the children of well to do families. Girls, who are expected to share household chores or in some cases may be handling the complete responsibility of running a household, with probably an extra burden to take care of a younger sibling, are also likely to fall behind academically. As the girls grow up and move into higher classes, the distance of secondary or higher-secondary school is likely to increase from their homes, the parents are in any case not inclined to send them to school. This is the reason that far greater number of children drop out at the secondary level than at the primary level. Among the children dropping out at secondary level, most would be girls.

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BRICS and India at Xiamen

D. K. Giri

Indian media is euphoric that India came out with flying colours in the 9th BRICS meeting at Xiamen, held last Monday and Tuesday. This is the second diplomatic success following the peaceful disengagement at Doklam after 74 days of military stand-off between India and China. At Xiamen, for the first time, BRICS leadership resolved to fight terrorism together and mentioned Pakistan based terrorist groups - Lashkar-e-Taiba, and Jaish-e-Mohammad. This was a clear departure from Chinese intransigence on eschewing any mention of Pakistan as terror hub. At Goa, in the last BRICS meeting, in October, terrorism was not discussed at all on China's objection. The Chinese president, after meetings of BRICS leaders and the bilateral meeting with Narendra Modi said, "We should put our relations on the right track, and China will seek guidance from Panchsheel, the five principles agreed between the two countries for peaceful co-existence". That is a profound and promising statement for co-operation inasmuch as relations between India and China had plummeted quite low in the recent past. Our foreign secretary also said, the talks between two heads of states were forward-looking not backward looking". However, although India appears to be the gainer in this meeting; it was a successful summit concluded to the satisfaction of both India and China.

How did it come about? What were the drivers for reconciliation, and promise of partnership between New Delhi and Beijing? The naysayers and the prophets of doom would argue that China makes the right sounds in

international forums, but does not adhere to its promises. Beijing is known for duplicitous behaviour. Some China-watchers also warn against being carried away by Chinese bonhomie. Chinese do not really mean it. Critics would remind us of Hindi-Chini bhai bhai (brothers) days that preceded the India-China wars in 1960s. Such apprehensions may come true, or may not. Times have changed. There is greater transparency and accountability now in international politics both in words and actions.

BRICS was launched in 2006, largely at China's behest to create an alternative centre of power, both in political and economic terms. Both China and Russia were wary of countering America's growing power in the world. Beijing and Moscow sought to create a multipolar world to promote multilateralism. BRICS was meant to be a hedge against American domination of world politics. Brazil and South Africa joined with their respective calculations. India was wary of American calling the shots in Asia without a countervailing force. India found in China a big economy, in search of markets. As an immediate neighbour, it was in the interest of India to stay as a friend and partner in BRICS with China. India seeks to have a multipolar Asia. It needs to engage China in BRICS.

BRICS has progressed well since its launch. A new Development Bank to support development in BRICS countries has been set up at Shanghai. On seven infrastructure project 1.5 billion USD has been invested. The second package is of 2.5 to 3 billion

USD. A Contingent Reserve Arrangement a financial mechanism, that protects members against fluctuations in their currencies, is in place. This is similar to 'stabex' stabilisation of foreign exchange, set up by European Commission in its Lome Convention. In the beginning of the last year, an Asian Infrastructure Investment Bank was set up.

The other objective of BRICS was to help improve global governance, and reform of the global financial architecture, the voting pattern in IMF and World Bank etc. Thanks to BRICS, the current president of WTO is a Brazilian. BRICS countries represent 40 percent of world population. International political experts suggest that BRICS is better than G-20 which is too unwieldy. So far so good. But, as SAARC is stalled by the rivalry between India and Pakistan, BRICS viability was being threatened by the tension between Beijing and New Delhi. Kerry Brown of Kings College London, a Professor of Chinese Studies said, BRICS is promising, but it requires stronger partnership for a brighter future. The Chinese negotiators perhaps heard him, and at Xiamen, they put their stamp on a stronger partnership with India.

There are a few discernible drivers for the Chinese diplomacy to accommodate India's biggest concern over Pakistan sponsored terrorism. India made China to realize that they have a role in global governance, as the space is vacated by USA. Under Donald Trump, USA is retreating to protectionism, China has the opportunity to lead the globalisation

process. Second, China's new ally Russia seems to have prevailed on China to take a stand on terrorism, and not overprotect Pakistan, which is on international radar for hosting terrorist groups. China could do so at the risk of heavy loss of credibility. Beijing is under cloud as China is the only country for supporting North Korea, which continues to conduct nuclear tests. Third, China began to reckon India's growing clout in international politics, its diplomatic ability to garner support and make friends. Chinese realized that their military push and shrill media rhetoric will not work anymore. Sun Tzu's Art of War - tiring out the opponent, subdue the enemy without fighting. Fourth, China's strength in the world lies in its USD 12 trillion economy, built by international trade. It is neither their diplomacy nor military. They did not want to jeopardize their economy through bad diplomacy. China is in business with India in almost every sector, solar energy to smart cities, construction to turbines, toys to technology. Huawei alone has 22000 employees in Bengaluru. The Chinese mobile phone is advertised by the world popular Indian cricket team. China could not risk all of those huge business opportunities. Fifth, the Congress of the Communist Party of China, which meets once in five years, is scheduled to meet in October 2017. Xi Jinping who has been bestowed the 'Core Leader' status by the party, an honour given to towering leaders like Mao Zedong, Deng Xiaoping and Jiang Zemin, is most likely to be re-elected. That would secure his position till 2022. The party would not like their leader to fumble at BRICS meeting in their own country, which has been driven largely by Chinese. Xi Jinping was conscious of the loss of image if BRICS was stalled at Xiamen. Sixth, China is concerned about the new axis built around its territory, comprising Japan, Taiwan, South Korea, and India fully

backed by America and Israel. It would not like to alienate India completely. On Indian part, it is apparently competing with China, and by 2032, it may overtake Chinese population, if not anything else, and try to reap the demographic dividend as the biggest population of the world. India has no cause to foster antagonism with China. It is trying to catch up with Chinese economy while tackling the issues that its vibrant but often chaotic democracy throws up.

There were many other issues discussed by diplomats of all the five countries like the voting share in IMF and WB, BRICS energy research platform, SMEs, joint information network etc. The BRICS countries committed to an open and inclusive multilateral trading system. They affirmed that multilateralism should not be derailed by bilateral problems between the member countries with an implicit reference to India-China disputes, like they have issues like Tibet, South China Sea and Dalai Lama, borders etc. There was a unanimous concern over the nuclear build-up by North Korea and the consequent escalation in the Korean Peninsula. BRICS heeded the Chinese line of settling the issues with North Korea through dialogue not the use of force.

What overshadowed the summit was the build-up of tensions between Beijing and New Delhi. For now, the air is clear, clouds of enmity have passed. Post-Xiamen, let the two countries work to maintain peace and stability in border areas, and in other areas, work together in mutual benefit and progress. The mandarins in South Block can claim credit for back-to-back wins in Doklam and Xiamen. But, their wins do not defeat China. The onus is on New Delhi to continue to engage China in a win-win approach. No doubt, this is going to be a tall order

that will require deft diplomacy. Will the much-acclaimed BRICS language on terrorist groups like JeT and JeM translate into actionable points as a show of good faith? Though Pakistan has not been named, it has already blamed the BRICS declaration on these groups. Can there be bigger evidence of Pakistan's support for the terrorist groups operating from its soil? Will China support the declaration of JeM chief Massod Azhar as a global terrorist, a move at the UNSC, China has been blocking so far.

The other two big concerns of India are: the China Pakistan Economic Corridor (CPEC) and the ambitious One Belt One Road (OBOR) project of China. The CPEC passes through the contentious parts of Kashmir. Even Sri Lanka has supported India's concern that, "it passes through the heart of India's interests". In a recent report, Economic and Social Commission of Asia Pacific (ESCAP), the UN's Regional Development arm had warned that CPEC running through POK could create tension with India and lead to further political instability in the region. Will China backtrack on this? It has already invested \$50 billion in this corridor. China is connecting Pakistan cities in a surveillance system. Thus, Pakistan becoming a Chinese colony and a surveillance base is a threat to India.

Finally, an authoritarian state like China, intolerant of dissent, expansionist in its approach despite having a large territory, scoffing at international law cannot improve global governance; commented our former foreign secretary Kanwal Sibal. So it may be. But for India, containing and engaging China is in India's interest. We lag far behind China in economy. It supports its foreign policy with its

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The Laws We Make – The Loss We Suffer

J. L. Jawahar

Nobody disputes that India is a democratic republic. But its credentials are not of full satisfaction. Rule of law is basic for democracy. But we make laws that are inconsistent with democracy. We have no respect for law. We want law to support whatever we want to do. If it comes in the way it is immediately changed to suit the purpose so that what we do becomes legal and following it will make us democrats. This is illustrated by analysing what has happened recently in the Gujarat Assembly.

According to the constitution, the Council of States (Rajya Sabha) consists of 238 members who are elected by the legislative assemblies of states and by Union Territories. Twelve more members are nominated by the President. Each state is allocated a prescribed number of representatives to be selected by the Assembly. As a matter of routine, Gujarat had to elect three members this year and there were four contestants. Art 80(4) states that “The representatives of each State in the Council of States shall be elected by the elected members of the Legislative Assembly of the State in accordance with the system of proportional representation by means of a single transferable vote.” Single transferable vote is prescribed when more than one person is to be elected. It means that the voter shall have to select the candidates by showing his order of preference. (They can also say that none of them is worth being elected.) That is, he has to vote for the prescribed number of persons to be selected. As three members are to be elected, the voter has to mark the ballot paper with three members

showing his order of preference. Naturally the decision is made based on the number of first preference votes the contestant gets. The vote required to win is determined in advance based on a formula. Naturally all the required contestants cannot get elected on first vote. Then the second preference votes are to be taken into consideration to be added to the next person. Thus there is a complicated process to determine the winners by single transferable vote. In practice, the members of the Legislative Assembly are not given that freedom to elect the members according to their preference. It is all dictated by the political parties. As the votes required to win are estimated in advance, the required number of members of the party are allotted to each of the contestants so that there is no chance of losing the election. In the case of Gujarat Assembly, BJP happens to be the biggest party with 121 members. The votes required to win are estimated to be 45. Thus the party has allotted 45 members to each of the two contestants. It leaves 31 members more and the party is tempted to make use of the excess members to get another nominee of the party elected by taking support from other parties ‘by hook or crook’. Immediately there was a furore that the party is trying to buy the votes of other parties and it is unethical and illegal. In the present atmosphere prevailing, nobody expects a party to support another party except by demanding a *quid pro quo*, which is called bribe. There is no consideration for the character of the contestant or his stature. It is the party that sets the criteria.

There are some basic points for consideration at this stage. By allocating the members to support a prescribed contestant, the provisions of constitution are avoided successfully. The freedom of members to choose the contestants to whom they want to vote is nullified and that right is given to the heads of parties. Peculiar arguments are made to justify the same. It is stated that the individual members are susceptible to various temptations thus affecting the “Purity of the election”. That danger is avoided by putting the right in the hands of party heads. The Assembly members are given the right to elect representatives to the Council of States as they happen to be elected by the people. But now they are made to vote according to the dictates of the party. The heads of parties are not elected by the public. They are lords of internal organization which is nothing but a group formed to catch power ‘by hook or crook’. Thus the right of elected members is placed in the hands of unelected persons. Naturally the attention shifts from individual members to the parties. If it is the genuine intention to avoid horse trading, it is now taking the shape of group trading. The bribe goes to the party instead of to the member. The quantum increases. How does it help ‘purity of election’?

All this is made in the name of Acts and Rules made thereunder. What are the Acts?

The constitution was adopted with effect from January 26, 1950. Logically, the purpose of forming the Constituent Assembly was fulfilled and it should have been dissolved. The first general elections were held in 1952 under the

constitution to form the Parliament which, by definition, consists of the Lok Sabha, Rajya Sabha and the President. But there would be no rules and regulations to conduct the election. To fill that gap the Provisional Parliament was given the right to pass the Representation of Peoples Act in 1951. The Constituent Assembly was metamorphosed into the Provisional Parliament and given the right to amend the constitution to introduce Schedule IX and to pass the Representation of the Peoples Act under Art. 379 of the constitution which was deleted subsequently as its purpose was over.

When the Representation of Peoples Act was passed in 1951 it contained the following provisions for constitution of the Council of States:

Section 3. A person shall not be qualified to be chosen as a representative of any State or Union Territory in the Council of States unless he is an elector for a parliamentary constituency in that State or Union Territory;

Section 59. At every election when a poll is taken votes shall be given by ballot in such a manner as may be prescribed and no votes shall be received by proxy;

Section 94. No witness or other person shall be required to state for whom he has voted at an election:

Section 128(1) Every officer, clerk, agent or other person who performs any duty in connection with the recording and counting of votes at any election shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy;

(2) Any person who contravenes

the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or fine or with both.

It is clear from the above provisions that the candidate for election to the Council of States shall be a resident of the state. It is also obvious that much attention is paid to maintain secrecy of the vote. Under Sn.94 the word 'witness' is used for the elector. That is even when the elector is called to be a witness in any court, he shall not be required to reveal his preference in voting. Under Sn.128(1) other officers involved in the election process are allowed to tell what they know if prescribed under any law, for example the Evidence Act. There can be no objection for any of the provisions and it would have certainly promoted a healthy way of conducting elections. But to follow the law, even when it is ethical and reasonable, is not in our DNA. This Act was amended in 2003 by making the following changes:

Under Sn.3 the restriction regarding domicile was removed so that a person living anywhere in India will be eligible to be elected by any state as its representative to the Council of States.

Under Sn.59 it was "provided that the votes at any election to fill a seat or seats in the Council of States shall be given by open ballot". There is no more secrecy about the vote. It is open. The difference could be as between a closed marriage and an open marriage.

Under Sn.94 it was "provided that this section shall not apply to such witness or other person when he has voted by open ballot." It is the natural consequence when the open ballot is prescribed.

Under Sn.128(1) it was "provided that the provisions of this sub-section

shall not apply to such officer, clerk, agent or other person who performs any such duty at an election to fill a seat or seats in the Council of States."

It is obvious that these amendments are made to facilitate something, which is not in line with the principles enunciated originally in the Act. The principles are diluted. Naturally it is outrageous to conscientious citizens. The veteran journalist Kuldip Nayyar raised objection that it violates the basic structure of the constitution and affects the fundamental right of the voter under Sn.19. But the courts were not willing to uphold any principles. They stated that secrecy of vote is not a fundamental right of the voter. It is a right given by the constitution and it can be overridden by any Act passed by the Parliament. It sounds as if people do not have any other rights except the fundamental rights as mentioned in the constitution. Of course even the fundamental rights are diluted as and when found in the way. In fact secrecy of vote was found necessary to keep the election pure and privileged – free and fair, so to say. If it is asked to be revealed to any person, the voter could be subjected to various pressures. In fact that is what the amendment wanted to achieve. Instead, they have taken the interference of voting to a higher level opening doors to group trading as stated earlier. It was stated that the right to vote on election of representatives to Council of States is not a basic right of a member of Legislative Assembly. They vote in an ex-officio capacity only and so it need not be protected. Support was derived from the report of Ethics Committee of Parliament in 1998 wherein it was suggested that cross voting is a menace that has to be curbed and breaking secrecy of vote is the only way for it. It is a strange argument in view of so many other provisions available to curb bribing and an ineffective means is selected by breaking certain golden

principles. It is only avoiding a constitutional responsibility to secure the privacy of the member by destroying a right of the voter. It is like telling the women not to come out of the house as there is danger of being raped.

After all, what is meant by cross voting? What is it that the voter can cross to commit an offense in the process of voting? Crossing occurs only when there is a line drawn. Those limits are drawn by giving constitutional recognition to the political parties. While recognizing the parties certain overriding rights were given to them damaging the very fabric of democracy. Vote is considered a secret because it is the *sine qua non* for purity of election. Now that secrecy itself is being alleged as the cause of disturbing the purity of election. Strange are the ways of politics! It is not clear how the election can be called 'free and fair' unless the voter is free to choose his candidate. But in this case the argument is reversed. The cart is put before the horse! If the members do not have the right under the constitution, how can it be given to the parties? It is said that in a general election people are free to choose any candidate of any party. But once they exercise that right the elected candidate comes as a representative of a political party and so it is legitimate to give the right to the party to control the votes of members. A devastating argument! The party is controlled by persons not elected by the people. The so-called high command of the party is not elected even by the members of the party. But the rights of members elected by the people are put in the hands of the parties. What does it talk of our democracy? In such a case where is the need for ballots by members? The votes can be counted based on the number of members belonging to each party and the election completed. But as shown earlier, there will be some members remaining and

also some parties having members less than required to elect a representative. What will happen to them? Obviously, the constitution did not contemplate interference by political parties in the election of representatives to the Council of States or in any other activity of elected members in the Parliament. It is a prerogative of individual members. But now, controlling powers are given to the parties and corruption elevated to higher levels.

The aberration is not yet over. Under section 59 of the Act it is provided that the votes shall be given by ballot in such a manner as may be prescribed. But it is not stated as to who shall make prescription. The Election Commission made the Rules. Under Rule 39A maintenance of secrecy of voting by electors within polling station and voting procedure was prescribed. It states: (1) Every elector to whom a ballot paper has been issued under Rule 38A or any other provision of these Rules, shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down;

(2) The elector, on receiving the ballot paper, shall forthwith

- (a) proceed to one of the voting compartments;
- (b) record his vote in accordance with sub-rule (2) of rule 37A with the article supplied for the purpose;
- (c) fold the ballot paper so as to conceal his vote;
- (d) if required show to the presiding officer the distinguishing mark on the ballot paper;
- (e) insert the folded paper into the ballot box and

(f) quit the polling station

(3) Every elector shall vote without undue delay;

(4) No elector shall be allowed to enter voting compartment when another elector is inside it

It can be seen that every precaution is taken to ensure that the voting is secret and known only to the elector. But strangely, it was suggested that the voting shall be shown to the presiding officer 'if required'. There is no indication as to what could be the circumstances under which the presiding officer can ask for showing the marked ballot paper. His main purpose is to ensure that the members cast their vote freely without any external influence.

Later on, another sub-rule 39AA was added to change the entire scenario.

Rule 39AA. Information regarding casting of votes:

(1) Notwithstanding anything contained in Rule 39A, the presiding officer shall, between the period when the elector, being a member of a political party, records his vote on the ballot paper and before such elector inserts the ballot paper inside the ballot box, allow the authorized agent of the political party to verify as to whom such elector has cast his vote;

Provided that if the elector refuses to show his marked ballot paper to the authorized agent of his political party, the ballot paper issued to him shall be taken back by the presiding officer or a polling officer under the direction of the presiding officer and the ballot paper so taken shall then be further dealt with in the manner specified in sub-rule 6 to 8 of Rule 39A as if such ballot paper

has been taken back under sub-rule 5 of Rule 39A.

(2) Every political party whose member, as an elector, casts a vote at the polling station shall, for the purpose of sub-rule (1) appoint in Form 22-A two authorized agents;

(3) An authorized agent appointed under sub-rule (2) shall be present throughout the polling hours at the polling station and the other shall relieve him when he goes out of the polling station and vice versa.

It can be seen how regimented the voting process has become under the revised rules. It is not explained why the presiding officer is entitled to have a look into the marked ballot paper of a voter. Such power is not given to any presiding officer of any other election. Under the new rule 39AA every political party is expected to appoint two persons as agents to be present at the polling station throughout the period of polling. Care is taken to ensure that one agent is always present by prescribing two persons to be appointed so that they can have break. This agent is given the right to verify to whom the member has voted. If the member refuses to show the ballot paper to the agent, it can be taken back by the polling officer and confiscated to be dealt with separately. That is, the vote can be invalidated against the will of the member. All this to happen after the member marks his preference on the ballot. Care is taken to prescribe every detail in the process as if it is the most important step of election procedure. It is not stated whether the agents also must be from the members of the political party or even outsiders can be appointed. In such case muscle power can also be introduced into the process. The rule does not say what the party shall do with the recalcitrant member. Whether deliberate or inadvertent, no

provision is made to entitle the agent to nullify the vote. There is no provision for the parties to issue whips to their members in this case. But the result is as if there is a whip. In the case of elections for President and Vice-President there is no provision for parties to issue whips. As if to extend that sanctity to the election of representatives to Council of States, the whip is not prescribed. But the loss is made good by making rules.

What happened in Gujarat is something that is not contemplated under the rules made in such detail. The rule only states that the marked ballot of a member shall be shown to the official agent of that party before placing it in the ballot box. It did not say that it shall not be shown to any other person. Perhaps they felt it not necessary as the ballot is basically accepted to be a secret. Showing it to the party agent is provided as an exception to that basic principle. It implies that it shall not be shown to any other person. But the exactly opposite happened in Gujarat. Two members of Congress party showed their marked ballot to the agent of another party – to the BJP agent. That created a problem. The Congress party naturally insisted that the votes shall not be counted. BJP on the other hand demanded that they shall be counted as they were in favour of them. Ultimately the Election Commission held that the votes are not valid as they were shown to the agent of opposite party. What would have happened if the members showed their ballots to the agent of their own party? The agent could only note it and take action on those members later. But the votes remain valid as there is no authority given to the agent of a party to withhold ballots that are not in their favour.

In order to prevent such a situation hereafter, the Commission is reported to be thinking of making some physical

arrangements within the polling office. That is, they do not want to tamper with the rules again to prevent members from showing the marked ballot to any other person than the agent of their own party. They plan to make it physically impossible to do that. Perhaps they may make some arrangements in the polling booth so that the member of any party shall not have access to any other person after marking the ballot. The path may be marked to lead directly to the agent sitting in a sofa on the way to ballot box. Strange are the ways of conducting elections in a democracy!

Law is expected to be valid for a long time to enable rule of law. But we have scant regard for it. We are eager to change laws to serve immediate purpose unmindful of long term consequences. This is the result.

It is not clear why the Election Commission felt it necessary to give so much of importance to the political parties in this case. Clearly, the rules have corrupted the process of selecting representatives to the Council of States by the respective Legislative Assemblies. All this in the name of securing 'purity of elections'. It is stated that Abdullah the Great gambled his kingdom for a woman and lost both. We made Acts, amendments and rules to secure 'purity of elections' at the cost of 'secrecy of vote'. We lost both finally. As we sow, so we reap.

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Voices of Protest

Gauri Lankesh the Lionhearted, won't be Silenced by Gunshots

H. S. Shiva Prakash

The murder of Gauri Lankesh, the journalist and social activist, has sent shockwaves across Bengaluru and the country. The murder of rationalist scholar MM Kalburgi two years ago has not yet been unraveled, and already another similar murder has taken place in the same state of Karnataka. Both these victims of unidentified bullets were upholders of secularism and egalitarianism – and crusaders against cant convention and superstition.

I had spoken with Kalburgi couple of days before he was killed. Both of us were students of pre-modern Kannada culture and literature and had known each other for decades. Gauri was the daughter of one of my teachers, also a great Kannada writer and journalist, Lankesh. Her father inspired many writers and thinkers of my generation.

Gauri was a symbol of socialist, secularist and humanist values that she inherited from her father. When he passed away in 2000, she perhaps had no particular reason to take up the mantle and keep alive the unique weekly 'Lankesh Patrike' which had played a major influence in directing the culture and politics of Karnataka for over two decades. It had survived only because of its popularity among readers. Always uncompromising in its principles, the weekly survived without any private or public funding. It was not at the mercy of any party, group, caste or class.

Born in 1962, Gauri got her undergraduate education in Bengaluru and then went onto a post-graduation in journalism and mass communication in Delhi. She worked for several

newspapers and media houses till her father's death. But by taking on her father's mantle, Gauri took the difficult path. To keep alive her father's heritage she started her own weekly, 'Gauri Lankesh Patrike'. Till then only an English journalist, she now became a powerful communicator in Kannada. But the circulation of the weekly had shrunk. It was no more a financially viable option. It was only her single-minded commitment that kept it going. Her journalism became a weapon to defend the cause of progressives, minorities and the underdogs. She was fierce and fearless in her attacks. She was also active on social media. She was stoutly defended by her friends and brutally attacked by her foes.

Whereas her father often invoked the Gandhian or Lohiaite common pursuit and was deeply critical of communists, Gauri's journalism took an open Leftist turn. This drew a lot of bitterness from her ideological antagonists. She was a lone fighter in her life and profession. She lived alone in financial straits. I learn from my close friends that her health was feeble. But she was lionhearted when it came to her fights. During the recent troubles in JNU, she stood firmly behind the Left groups. She declared on social media that Kanhaiya Kumar was her son. She fully supported the demand by Lingayats for recognition as an independent religion, which elicited the ire of Hindutva groups. This was also a cause that was close to Kalburgi's heart. Lankesh rejected any kind of patronage throughout his journalistic career. In spite of all hardships, Gauri followed the same example. However she was going through such a big money

crunch that she had to start looking for government advertisements for the special issue of her weekly. Unidentified gunshots have put an end to all that.

There is demand everywhere that justice should soon be done. It's the job of the police to name, shame and punish the murderers. This particular event is frightening enough, but the overall context is much more alarming. This murder is one in a chain of political murders dotting India drenching our mother earth with more blood. What can we do to set that right? Let there be crusades for forgiveness, tolerance and compassion.

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Death of a Journalist

Nandana Reddy

We live in treacherous times. The insidious stench of fear and violence threatens to permeate the very core of our being. We are browbeaten into silence, our citizenship redefined and constitutional rights blurred. Never has India faced such a threat to her democracy. And yet, some continue to speak out. Gauri Lankesh, journalist and activist, was one who voiced her opinions boldly and vociferously, no holds barred. Gunned down on the doorstep as she returned home from work on the evening of September 5, she is the latest free voice to be silenced. In 2015, rationalist M M Kalburgi and CPI leader Govind Pansare were shot dead in similar fashion. And in 2013, anti-superstition activist Narendra Dabholkar. All these cowardly killings were in non-BJP ruled states.

Lankesh opposed the communal totalitarian politics of the BJP and its twisted interpretation of Hinduism. She stood against the caste system, inequality, and gender discrimination. She was feisty, blunt and forthright and diplomacy was not on her agenda. She was sharp and critical of injustice and made as many friends as she made enemies.

Her father, P Lankesh, poet, playwright and journalist, was known to be left leaning and had close ties with socialist thinkers U R Ananthamurthy, Gopal Gowda and S Venkatram. His play *Kranthi Banthu Kranthi* (The Revolution is Coming), that forecast the state of Emergency and made strong arguments against the use of violence as a political tool, was made into a film by my parents, Pattabhirama Reddy and Snehalata Reddy (my mother died

as a result of her incarceration in the regime of Mrs Gandhi). It is ironic that his daughter, a crusader for democracy, should die by the gun. After her father's death in 2000, Gauri became the editor of *Lankesh Patrike*, a popular Kannada tabloid founded by her father, while her brother Indrajit became the paper's proprietor, managing editor and publisher. However, in 2005, the siblings had a falling out due to ideological differences. Indrajit accused Gauri of leftist leanings and Gauri started her own publication, *Gauri Lankesh Patrike*.

Among her many crusades, Gauri called for a meaningful dialogue between the government and Naxalites, facilitating the surrender of Maoists who wanted to give up their weapons and join the mainstream. She endorsed the demand for a separate religious tag for the Lingayat community, the followers of Basavanna, who rejected the caste system and scorned temple and idol worship, fought against discrimination on the basis of gender and birth and abhorred superstitions. They used Kannada instead and essentially discarded everything discriminatory about the Hindu religion and rebelled against it. Her support earned her the wrath of the Veerashaivas.

In 2008, she alleged that BJP MPs, Prahlad Joshi and Umesh Dhusi, were involved in criminal dealings based on what she said was "inside" information. Though several other media had published the same allegations, in November 2016 she was convicted in a defamation case, and sentenced to six months in jail and a fine.

Karnataka has been subjected to turbulent politics for the past two decades. Be it the BJP or the Congress, the focus has been on the politics of language, religion and caste. For the BJP this is a political tool for destabilisation and creating fear and uncertainty. The Congress, not seeing the writing on the wall, plays the same game, but badly.

Kalburgi was murdered two years ago and the culprits have not been found. Bengaluru is increasingly becoming a very unsafe place for women. The youth of Udupi and Mangalore are subject to the RSS's moral policing. And the Congress is more concerned about building steel flyovers and financing the next election, leaving citizens a choice between the frying pan and the fire.

A vocal critic of both the ruling Congress, and right-wing forces including the BJP, Gauri condemned both. Giving numerous examples of attacks against Muslims and Dalits, she said she was worried for the future of the state. "We have no dearth of Yogi Adityanaths in Karnataka," she said.

Soon after Gauri was gunned down, protests erupted outside her residence in Bengaluru and accusations were hurled against the state government for failing to protect Kalburgi and Gauri. Her brother demanded a CBI probe and the home minister, Ramalinga Reddy, was heckled, shifting the focus from the communal and right-wing agenda of the BJP to the ham-fisted incompetent governance of the Congress. Almost immediately, right-

wing social media was rife with venomous tweets.

Gauri is not the first to be silenced. She will not be the

last if we do not take a firm stand to defend our Constitution and democratic rights. No political party today seems to have this on their agenda and some

like the BJP, backed by the RSS, are manipulating our narrative by changing the vocabulary. May Gauri's death not be in vain.

Murder of Constitutional Rights

National Alliance of People's Movements is deeply shocked and shattered at the cowardly and cold-blooded murder of well-known journalist, editor and fearless firebrand activist, Gauri Lankesh who, time and again, locked horns with divisive, communal and casteist forces, in particular the right-wing Hindutva brigade. We have enough reason to believe that her political assassination is a direct consequence of her publicly expressed progressive positions as well as the lack of conviction of the murderers responsible for the calculated political killings of M M Kalburgi, Govind Pansare and Narendra Dabholkar, even after months and years! It is precisely this tacit and active support by the current regime in India that is further emboldening the right wing Hindutva forces to commit more brazen crimes, against progressive and people's voices.

Gauri was widely known and loved across Karnataka and the country for her relentless writings, talks and campaigns in solidarity with the oppressed – be it dalits, adivasis, women, students, minorities etc. As one of the fiercest contemporary critics of divisive politics, she worked hard to counter the growth of Hindutva politics that created an atmosphere of fear and intolerance. Alongside, she also continued to write on and engage with various social and developmental issues and constantly raised her voice against injustices. She extended and expanded

by many bounds the legacy of her father P.Lankesh, an eminent journalist and a well known writer and literary critique.

Gauri openly and publicly questioned and challenged politicians, bureaucrats, judiciary, chauvinists and stood by the oppressed. Her last post on social media on the inhuman denial of refuge to the persecuted Rohingyas by Indian Government speaks of her concern and compassion for the oppressed humanity. **We salute the conviction and courageous life of Gauri and commit to joins hands with all progressive forces across the country to bring justice to her, her values and intensify our struggle against the silencing of democratic and dissenting voices.**

The spate of killings, threats, ban on food and personal choices, books, movies, artistic works and fast spreading atmosphere of hatred against rational, scientific and constitutional temper with tacit support from popular governments to keep their vote banks intact is shameful in a modern democracy. We are constantly being pushed in the dark ages, where rational and critical thinking is being silenced, mythologies are being promoted as science and scientific knowledge and temperament is derided. It is with this tendency to wipe out a secular and socialist outlook in the country that text books are being 're-written' and new dominant Hindutva narrative is being promoted all in the name of cultural and national pride.

It is nothing but an absolute failure of Indian Government that rationalists and human rights defenders are being murdered, one after the other, by fascist forces with complete impunity. As reported by the Committee to Protect Journalists (CPJ), at least 27 Indian journalists were murdered due to their fearless independent writings between 1992 and July 2016, but the state governments failed to secure conviction in even one of them ! This is a complete shame for India where journalists, rationalists, fearless and critical voices are important for a positive and progressive change in society. In her own words, Gauri Lankesh said *"Along with that, my criticism of Hindutva politics and the caste system ... makes my critics brand me as a Hindu hater. But I consider it my constitutional duty to continue – in my own little way – the struggle of Basavanna and [social reformer] Dr [Bhimrao Ramji] Ambedkar towards establishing an egalitarian society."* There is ample evidence, therefore, suggesting that this is a political assassination since Gauri's views have not found favour with the Hindutva hardliners and goondas !

NAPM unequivocally condemns the heinous gunning down of Gauri Lankesh and deeply mourns the irreplaceable loss of an outspoken human rights activist and a voice of conscience, communal harmony and sanity. We demand the following:

1. Government of Karnataka must immediately institute an independent, high level and time bound judicial inquiry, with a Special Investigation Team to nab all those guilty of committing and conspiring this grave crime. The unlawful and terror-infusing role of groups such as the Hindu Jagarana Vedike, VHP, Bajarang dal, Srirama Sene, Sanathana Samsthe and all other affiliates of RSS must also be inquired into by this Judicial Commission and strictest action must be taken, as per law.

2. Taking cognizance of the common pattern in the murders of Dhabolkar, Pansare, Kalaburagi and Gauri Lankesh and assassinations carried out by a organised terror group/s which evidently holds an ideology opposed to secular, democratic and constitutional forces, Govt. of India must constitute a Joint Parliamentary Committee to take stock of such groups and their political benefactors, responsible for such actions and serious erosion of constitutional values, freedoms, rights and spaces and recommend action against all those conspiring to tear the secular fabric of India as well as assassinate voice of reason and constitutional justice.

3. The murderers of M M Kalburgi, Govind Pansare and Narendra Dabholkar must also be identified and convicted at the earliest.

Even as we are aroused by the outpour of outrage across the country, we call upon media fraternity, people's organizations and all progressive and concerned citizens to stand up and fight this cowardly act and rise up to the defence of rights, freedom and the constitutional values which are under attack today from right wing fascist forces in a consistent manner. We hope all like-minded persons and groups would to keep the spirit of Gauri

Lankesh alive by questioning injustices even when it is committed by the powerful people in power.

—**Medha Patkar, Aruna Roy, Nikhil Dey, Shankar Singh, P. Chennaiah, Ramakrishnam**

Raju, Meera Sanghamitra, Prafulla Samantara, Lingraj Azad, Binayak Sen and Kavita Srivastava, Sandeep Pandey, Maj Gen S.G. Vombatkere (Retd), Gabriele Dietrich, Penn Urimay Iyakkam, Kaladas Dahariya, Bilal Khan and others

Murder of Democracy

All India Forum for Right To Education is shocked and deeply saddened by the cold-blooded murder of senior journalist and activist Gauri Lankesh at her Bangalore residence.

Gauri Lankesh was shot dead in her home in northern Bengaluru on the night of 5th September. Unidentified men fired at least five shots at her before escaping by motorbike.

Gauri Lankesh was a fierce journalist and the most vocal critic of communal forces in Karnataka and in India. She was committed till her last breath in her struggle against communalism and supported progressive forces in maintaining communal harmony in Karnataka. She was one of the founding members of Karnataka Komu Souharda Vedike (KKS), an organisation dedicated to maintaining communal harmony in Karnataka. She worked vociferously to bring together people with similar ideology on a common platform in the fight against the class, caste and religious fundamentalist forces.

She was closely associated with All India Forum for Right To Education and has always been supportive of student struggles against fascism, privatisation of education, communalisation and caste and gender based discrimination. She had supported immensely and also participated in the All India Convention of Student Struggles (AICSS)

conducted on 5-6 August 2017 in Bangalore.

Known for her fearless and outspoken attitude, Gauri Lankesh was the editor of Gauri Lankesh Patrike, a kannada fortnightly newspaper and has authored several books. She was a staunch critic of right wing Hindutva politics and wrote extensively about it. The newspaper exposed corrupt politicians and called out the communal agenda and bigotry of hindutva brigade on several occasions. It provided space for progressive voices in the rapidly diminishing democratic space in media.

This is the second murder in Karnataka and fourth in India where a public intellectual has been killed in broad daylight. The cold blooded murder bears similarity with the killings of Narendra Dhabolkar, Govind pansare and Dr. M.M. Kalburgi. There seems to be a pattern and a network operating behind these murders. The earlier murders remain unsolved.

In view of the seriousness of the crime, AIFRTE along with all other progressive-democratic voices demands that,

1. A judicially monitored probe for the murder of Gauri Lankesh is conducted.

2. This shall be declared as an act of terror.

3. Joint parliamentary committee must be formed to recommend action against the groups operating behind the assassinations of rationalists and thinkers.

You can kill a person but you cannot kill the ideas! We all are Gauri Lankesh!!!

—AIFRTE Presidium

(Continued from Page 3)

Failing a student is also likely to hurt her self-confidence. Even if the child succeeds in second attempt it would be matter of shame for her that her earlier colleagues would have moved a class ahead. Such children are most vulnerable to drop out of school.

Ideally the children who are weak should get more attention of teacher and the teacher should help them to catch up with the remaining class. If the teacher takes interest there is no reason why a child should not do well. For this teachers will have to keep a continuous watch over children, which was the basic idea behind Continuous and Comprehensive Evaluation.

The RTE 2009 was supposed to create a conducive atmosphere for education of children from socio-economic weaker background. However, the withdrawal of no detention policy will be a blow to the spirit of the Act.

(Continued from Page 5)

huge economic might. This has been India's deficit in its foreign policy based on principles of peace and progress for all. India has an edge over China in its political perspectives and structures, which it should use in its diplomacy although a progressive politics no substitute for poorer economy.

Interestingly, immediately after BRICS, India has got into joint military exercise with Japan, much to the chagrin of China. It is no secret that China sees Japan as a competitor in military power in Asia. India joining

Assault on individuals seeking a rational and scientific way of thinking is not new. Even today there exit people who disbelieve the theory of evolution and that humans are causing global warming.

Belief in god is perhaps as old as history of thought. Each individual should choose what they believe in. However I am against institutionalised and systematic propagation of superstition and through it the exploitation of human vulnerabilities. It is the responsibility of educated human beings to bring rational and logical way of thinking to solving unsolved mysteries of life and also to prepare people to have patience with those unsolved mysteries (such as how cancer can be cured) until we are able to find an answer. It is better to live with unsolved mysteries of life than to entertain superstitious ideas that claim to have an answer to every question and solution to every problem.

Those who have a financial stake in people's vulnerability to irrational and superstitious thinking will always feel threatened by rationalists. They will always resort to violence to silence the voice of reason. The best defense against such assault is assertion of reason and not countering irrational ideas with irrational counter attacks. Evidence based restrained discourse is the only way to open people to a rational way of life.

I do not also believe that everything can be explained through rational thinking. For example, to understand human behavior one must develop

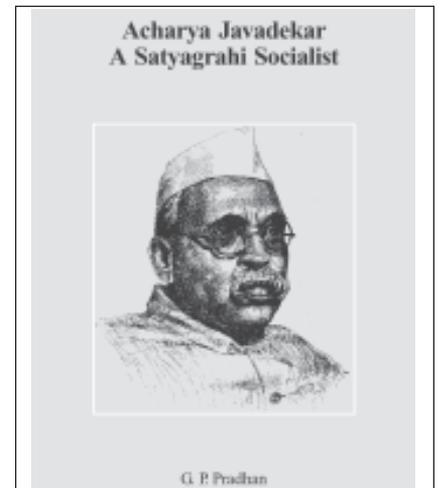
Japan will give jitters to China. In international politics, there are no permanent friends or foes, what counts is one's national interest. It seems New Delhi is learning this dictum by heart.

empathy. Empathy helps us understand people who don't think like us and feel like us. A rational human being endowed with empathy has a far greater chance of drawing most out of hidden gems of life than those who succumb to the manipulations of those who want us to blindly follow superstitions and irrational ideas.

In the wake of the murder of GauriLankesh in India, let us all commit to fighting superstition instead of throwing accusations at the political parties we oppose.

Those who seek to capitalise on people's superstitious, irrational vulnerabilities will be defeated if we fight the war against superstitions in the minds of vulnerable masses.

—UdayDandavate



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International Trafficking for Sexual Exploitation

Bharat Dogra

International trafficking of women and children for sexual exploitation has emerged as a very serious problem in many parts of the world causing immense distress to millions of women and children and their family members in recent years.

In a research paper Prof Donna M Hughes has written about the trends in Eastern Europe after the break-up of the Soviet Union and its ally states and related economic and political changes there in the 1990s, "Budapest is a destination and transit city for women trafficked from Ukraine, Moldova, Russia, Romania and Yugoslavia.... Budapest is now the biggest centre for pornography production in Europe, eclipsing rivals such as Amsterdam and Copenhagen. Most Western European producers of sex videos use Eastern European actors whenever possible."

Prof Hughes also informs us that pimps and traffickers have been using the web to advertise the availability of women and children for use in making pornography. She also provides an idea of the extent of this exploitation by providing more information about a single such center of making pornographic materials. This centre located in Latvia was called the Logo Centre which produced pornography and also used minors for this. This centre had several web-sites with pornography, information about minors and photographs of their so-called models in various sex acts. This single centre trapped as many as 2000 women, children and men in making pornography and prostitution.

If a single such centre could trap such a large number, one can imagine the full scale of this exploitation!

Another paper written in the context of Japan provides an idea of the enormity of this problem and the distress associated with this. This paper has been written by Seiya Morita for the Anti-Pornography and Prostitution Research Group. He writes, "As Japan became an affluent society through the high-speed economic growth in the 1960s and 1970s the main victims of human trafficking in Japan became the women and children of the Third World, especially South-east Asia. Some researchers estimate that

thousands of foreign women and children are illegally brought into Japan every year, and forcibly made to engage in the sex industry by pimps. The profit generated by this forced labour is about 33 billion dollars....It can be estimated that about 500,000 to one million women have been brought to Japan as sex slaves. Living under miserable conditions, many foreign women committed suicide or were murdered in Japan."

Such data indicate the massive extent of the problem as well as the enormous distress associated with it. Surely much more efforts are needed to check these trends and the causes behind these trends.

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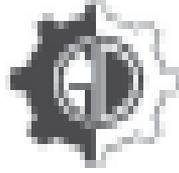
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