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Kashmir first, Pakistan later

Kuldip Nayar

Home Minister Rajnath Singh has met around 300 people at Srinagar. Pakistan, too, has offered to have talks on Kashmir. Both steps, however laudable, are late by two to three years. The Kashmiris then wanted a settlement through a dialogue. Leaders like Yasin Malik and Shabbir Shah did take part in the conclaves held at Srinagar and New Delhi.

The topic at that time was to make New Delhi realize that the state had acceded to the Union of India only three subjects: Defence, Foreign Affairs and Communications. But overzealous Jagmohan and governors like N. N. Vohra and his predecessors spread themselves all over. They did not keep in mind that accession was limited to only three subjects. The Kashmiri leaders were unhappy but felt helpless.

Today, the young generation has gone beyond what their elders had promised. The youth now want independence, with freedom to chalk out their foreign policy. In fact, their concept of sovereignty is like the

freedom which any country in the world enjoys. Their representatives invited me to Srinagar last month. I found them really agitated but quite clear about what they want.

To call them fundamentalists or anti-India will not be fair. True, they want Srinagar to be like Washington or London and they do no links with Islamabad. They argue that their foreign policy will be decided by the elected members of the State assembly and not dictated by New Delhi or, for that matter, Islamabad.

I told them that I believed their demand was understandable but how could India create another Islamic country on its border when it already has a bad experience of having one Islamic state, Pakistan. They shrugged their shoulders when I argued with them that the Lok Sabha, with a majority behind Prime Minister Narendra Modi, would not concede their demand. This was your problem they said.

The quantum of autonomy can be a matter of debate but certainly not

the accession. By going back to the very *raison d'être* of Pakistan, we would start another kind of a debate and might disturb the equanimity which Hindus and Muslims have achieved despite an unequal situation.

Those who pelted stones in Srinagar may be the misguided youth in one way. But they represent the aspirations for independence in the other way. They have gone far ahead of Yasin Malik and Shabbir Shah, who are in jail. The youth resent the very accession to India. But they are equally indignant against Pakistan, although some extremists are trying to cloud.

I think that till a couple of years ago, the matter could have been settled between the governments at New Delhi and Srinagar but today the Kashmiris would have to be part of any dialogue on the future of the state. The UN resolution for a plebiscite in Kashmir or the Shimla Agreement between Indira Gandhi and Pakistan's Zulfikar Ali Bhutto has lost relevance. The situation today is different.

It is regrettable that neither India nor Pakistan realizes this or, at least, gives that impression. It is now a triangular and all the three points will have to be touched for an amicable settlement. Another delegation to Srinagar may be a futile exercise because the Kashmiris feel that promises made earlier have not been made good.

Former chief minister Omar Farooq Abdullah, who now leads the National Conference, is quite right when he says that he finds no utility in delegations visiting Srinagar when

Let not Article 370 of Indian Constitution be weakened

Rajindar Sachar

The Supreme Court of India, notwithstanding some controversial decisions in the matter of constitutional interpretation has by far and large contributed to the upholding the rights and privileges of the States and individuals.

But with a decision Ajay Kumar Pandey Vs. State of J & K & Anr. decided by Constitution Bench on July 19th, 2016 there has arisen the apprehension of interfering with the autonomy of J & K, guaranteed under Article 370 of the Constitution of India.

The Constitution Bench has decided that the Supreme Court has the power to transfer a civil or criminal case pending in any Court in the State of Jammu and Kashmir to a Court outside that State and *vice versa*. It was common case that the provisions of Section 25 of the Code of Civil Procedure and Section 406 of the Code of Criminal Procedure, which empower the Supreme Court to direct transfer of civil and criminal cases respectively from one State to the other, do not extend to the State of Jammu and Kashmir and cannot, therefore, be invoked to direct any such transfer. It was also common ground that Jammu and Kashmir Code of Civil Procedure, 1977 and the Jammu and Kashmir Code of Criminal Procedure, 1989 do not contain any provision empowering the Supreme Court to direct transfer of any case from that State to a Court outside the State or *vice versa*.

provisions of Article 139-A of the Constitution which empowers Supreme Court to transfer a case pending before one High Court to itself or to another High Court also has no application to the cases at hand as the Constitution 42nd Amendment Act, 1977 which inserted the said provision itself has no application to the State of Jammu and Kashmir.

Thus while accepting that a litigant has no right to seek transfer of a civil or a criminal case pending in the State of Jammu and Kashmir to a Court outside the State or *vice versa*., still the Court not with standing these formulations went on to answer the question whether independent of all these provisions contained in the Codes of Civil and Criminal Procedure there is there still a source of power which the Supreme Court can invoke for directing transfer of a case from the State of Jammu and Kashmir or *vice versa*. The Court has held that it has such a power invoking the principle of "access to justice" being fundamental right and secondly the powers given under Article 142 of the Constitution. The court relied on *principle of our law that every citizen has a right of unimpeded access to a court and referred to Raymond v. Honey 1983 AC 1 (1982 [1] All ER 756) where Lord Wilberforce described it as a 'basic right'*. But with respect, the attention of the Supreme Court was not brought to the specific observations of Lord Wilberforce and its affirmation in this very case; emphasizing the exception that; "a

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It was common ground that the

citizen's right to unimpeded access can only be taken away by express enactment... and we accept that such rights can as a matter of legal principle be taken away by necessary implication." Here in the present case the provisions mentioned above specifically negative the right of a litigant to have a case transferred out of J & K, but still the court has held otherwise.

The Supreme Court then dealt with the question namely whether Article 142 of our Constitution empowers the Supreme Court to direct transfer in a situation where neither the Central Code of Civil Procedure nor the Central Code of Criminal Procedure empowers such transfer to/from the State of Jammu and Kashmir. The Court thereafter concluded that the powers under Article 142 are wide enough to empower the Supreme Court to direct such a transfer in appropriate situations, no matter whether Central Code of Civil and Criminal Procedures do not extend to the State nor do the J & K State Codes of Civil and Criminal Procedure contain any provision that empowers this court to transfer cases. It is unfortunate that the attention of the court was not drawn to a seven judge's bench case A.R. Antulay V. R.S. Nayak 1998 (2) SCC 602 where court held; *"Thirdly, however wide and plenary the language of the article, the directions given by the court should not be inconsistent with, repugnant to or in violation of the specific provisions of any statute. If the provisions of the 1952 Act read with Article 139-A and Section 406-407 of the CrPC do not permit the transfer of the case from a Special Judge to the High Court, that effect cannot be achieved indirectly."*

It is also unfortunate that the attention of Supreme Court was also

not drawn to an earlier five judges' judgment of Supreme Court (1998) wherein the court said, "Article 142, even with the width of its amplitude, cannot be used to build a new edifice where none existed earlier, by ignoring express statutory provisions dealing with a subject and thereby to achieve something indirectly which cannot be achieved directly,.....that the Court will take note of the express provisions of any substantive statutory law and regulate the exercise of its power and discretion accordingly. It must be remembered that wider the amplitude of its power under Article 142, the greater is the need of care for this Court to see that the power is used with restraint without pushing back the limits of the Constitution so as to function within

the bounds of its own jurisdiction."

More serious than the concern mentioned above, this judgment has in an indirect manner nullified the mandatory provision of Article 370 of the Constitution. J & K. Legislature has specifically provided that court will have no such power to transfer cases from J & K Courts outside the State. In such a situation to invoke the powers of Article 142 to pass orders contrary to J & K legislation is a serious breach of Article 370 having grave consequences. I hope the Union of India and State of J & K will seek review of this judgment to avoid serious constitutional and political consequences, so as to ensure people of J&K that there will be no weakening of their autonomy.

Who should be blamed for alienating Kashmiris?

Prabhakar Sinha

It is a self deception to underestimate the alienation of a large number of Kashmiris from India and a crime to blame them for it. Despite an urge for Azadi among a sizeable section from the beginning, the Kashmiris remained peaceful and created no problem for India from 1947 to 1989. During these 42 years, India fought two wars with Pakistan (in 1965 and 1971) without the Kashmiris creating any problem for India or showing a preference for Pakistan. Khalistanis took to terrorism in 1980s, but Kashmir did not take to arms before 1989. Who is to blame for the present crisis in Kashmir?

The blame lies with the rulers of India - past and present. We Indians

were ready to accept that misrule in East Pakistan led to its alienation from Pakistan and went to war with Pakistan to liberate it, but refused to learn from Pakistan's experience. The lesson to be learnt was clear. Don't take the people for granted. If Muslims of Bengal, who were in the forefront of the battle for a Muslim Pakistan, could rise in revolt against the country they had shed their blood to create, the Muslims of Kashmir, too, could do it if ill treated. They continued to be taken for granted and denied even the right to elect a government of their choice. It is no secret that the elections in the state with few exceptions were rigged. The rigging of the election of 1987 was a turning point. When Farooq Abdullah joined hands with the

Congress, he ceased to enjoy the trust of the Kashmiris, who were for Kashmiriat and had reposed their faith in the Abdullah family. He was now looked upon as a stooge of Delhi.

Muslim United Front (MUF) was formed to oppose the National Conference and Congress alliance to have a government representing the forces of Kashmiriat i.e. of the Kashmiris, who resented losing their identity and wanted to retain it. The front had a massive public support, but lost the election thanks to massive rigging. As if that was not enough the MUF leader Muhammad Yousuf Shah was arrested and persecuted (he is currently known as Syed Salahuddin, the Chief of Hizbul Muzaheddin and is directing the operation from Pakistan). It was natural for a people to be convinced that they could not shape their life and future through fair elections and have to explore other means. The other means they adopted was insurgency. The pertinent question is whether they chose it or were driven to it by Delhi and whether it is they or the Indian rulers who are responsible for insurgency and terrorism in Kashmir.

The anti-Muslim tirade of the Sangh Parivar and the hate speech of Modi's Ministers, M.Ps. and the leaders of the BJP have been frightening and alienating even the minorities of the country dealing a grievous blow to the cause of national integration. The Sangh and the BJP have kept the cauldron of anti-Muslim feelings boiling. The ban on eating beef, killing of Aqalakh in UP, asking any Muslim to go to Pakistan at the drop of a hat, portraying a slight rise in the

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Landmark decision

National Alliance Of People's Movements welcomes the Supreme Court's land mark decision quashing the forcible land acquisition of 1000 acres by the West Bengal government in 2006 for the Tata car factory. The decision by Justices V. Gopala Gowda and Arun Mishra that the land be returned to the original land owners of Singur, marks another chapter in the long history of resistances by the people's movements against forcible land acquisition in name of public purpose for private corporations. Singur marked a turning point in 2006 when the resistance against the Special Economic Zones were just gathering steam and it emboldened our collective struggles all around.

We congratulate farmers of Singur who fought the ten years long legal battle and kept the pressure for return of the land with the help of the Trinamool Congress led West Bengal government. We also welcome the fact that the farmers don't have to return the money and the Justice Gowda's observation that the land acquisition for a private company to build a car plant doesn't constitute 'public purpose'. This is in line with what we have been saying for long and only vindicates our position.

Since, the enactment of the new land law in 2013, the governments have been bypassing the law to acquire land for private corporations and not adhering to the consent clause and need for conducting social impact assessment and limiting it only to cash compensation. The NDA government even thrice brought Ordinances to amend the law to facilitate easy acquisition of the land

for private corporations and for profiteering in the name of the public purpose. Supreme Court's judgement today is again a vindication and reaffirmation of the positions we have taken, where anything and everything has been justified in the name of public purpose. Any forcible land acquisition for corporate profit in the name of public purpose and development of nation is not acceptable and is completely anti-farmer and anti-people and unconstitutional, as reiterated by Supreme Court judgement today.

A number of people's movements today have joined hands with the mass organisations of the Left parties on the need for protecting land rights and oppose forcible land acquisition across the country. This unity has led to defeat of the NDA government's design to amend the 2013 land law and extend support and solidarity to community organisations opposing forcible land acquisition. With the West Bengal government backing Singur farmers, and Left parties also standing with people's movements, we do hope that a collective consensus will emerge from West Bengal on a people-centric development agenda and industrialisation, where interests of the workers, peasants and farmers will be at the centre of it and not profit and corporate greed.

We once again congratulate the farmers of the Singur for their valiant struggle!

—Medha Patkar, Samar Bagchi, Prafulla Samantara, Dr Sunilam, Amitava Mitra, Gautam Bandopadhyay, Bhupender Singh Rawat, Madhuresh Kumar

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the reports prepared by the earlier ones are accumulating dust in the Home Ministry corridors. New Delhi will have to prove its bona fides first before the thread can be picked up from where it was left off earlier.

After all, what was the demand of Sheikh Abdullah who had to spend some 12 years at Kodaikanal in the south? He wanted New Delhi to recognise that the state had joined the Union by conceding of only three subjects. It was not for the Union to usurp more powers without consulting the unit that had acceded to it.

Maybe, much water has flowed down the Jehlum since. But the situation can be retrieved by rolling back all laws which go beyond the scope of the three subjects. The youth in Kashmir may not feel happy but this is one possibility, although a remote one, to bring back the state on its tracks.

During my talks with the students at Srinagar, I told them that it was not possible to meet the demand of full independence. India is already suffering from the pinpricks of Pakistan. By granting full independence to Kashmir, New Delhi will only be increasingly its problems. I also argued with the students that the land-locked valley would have to depend either on India or Pakistan for business.

In reply, they said that they would be like Switzerland, a tourist resort and would earn money from visitors of different lands. They would not have a standing army, the upkeep of which costs a huge amount. They would still have the problem of finding a market for their men and

material but they are oblivious to this fact at present.

New Delhi is quite right in demanding a discussion on terrorism before discussing Kashmir. The dialogue which Pakistan has offered can start with terrorism and also embrace Kashmir because they are the two sides of the same coin. The army which calls the shot in Pakistan may have its own agenda but cannot be opposed to a dialogue for

normalizing the border bristling with armies of the two countries.

India should sort out the problem in Kashmir first before sitting with Pakistan. This can be done by accepting what Sheikh Abdullah, friend of Jawaharlal Nehru, demanded. The Sheikh said that India should withdraw all laws that went beyond the scope of the three subjects originally acceded to the Union of India

Footprints of a Crusader (The Life Story of Mrunal Gore)

by

Rohini Gawankar

The life story of Mrunal Gore, one of the leading socialist activists, is an inspiration to men and women alike, but it is especially a model for activists, social workers and politicians. Coming from a middle class family with no political connections, Mrunal Gore blazed a unique path, beginning as a grassroots organizer of women in suburban Mumbai, a people's representative at the lowest level of self-government and moving ever higher, till she rose to the ranks of a Member of Parliament. Throughout the course of this amazing journey, she stayed true to values and principles, never using her power for personal or narrow gains, but always striving to do the maximum good for the majority of the people. The suffering and deprivations of the common man became the sparks that inspired numerous agitations and fights which Mrunal undertook against injustice and inequity. Told through the eyes of a personal friend, the story recounts all the important events and achievements of her life, while also highlighting the sterling qualities that made Mrunal Gore a role model for the generations that followed in her footsteps.

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Review of literature on student organizations and politics

B. G. Kulkarni

Review of literature is an important aspect of research. It throws light on previous researches that have taken place in the concerned field. It provides strong foundation to the theoretical framework for the present investigation. Every researcher reviewed the related literature from different resources that includes books, articles, dissertations, abstracts and thesis and most important in the modern times the internet access. It is in this context that an attempt has been made to present a detailed account of review of literature pertaining to student organizations and politics.

Haridwar Singh (1983) stated that students don't inherit democratic values by birth but they learn it through the process of political socialization. As a result of political socialization process the majority of students in India has developed a sense of perceiving the political system in right direction and has regarded democracy as the best form of the government. Besides it, they have also developed a strong sense of political efficacy, it may be assumed, would lead the students towards effective participation in the political decision making process of the country.

Binodanand Jha (1998) mentioned that student politics in India is not an independent phenomenon. It is closely allied to and even guided by an outside agency whose interests are not limited to those of the students, but are just part of its broader political programme. Excepting sudden,

sporadic and spontaneous outbursts, all planned student political activists are an extension of partisan interests. The main focus of this study is: student organizations are more political than student oriented. Such organizations may, however serve a useful purpose if they have truly ideologically committed cadre and the ideology perused by them is not inconsistent with the value of the Indian political system.

Ningthoukhongjam Urmila (2007) argued that like other states of India, Manipur students have been engaging in their own political action. But, unlike many others, the student politics in Manipur did not originate from the nationalist or independence struggle. It was only in post-independence period that some political parties like the Manipur Pradesh Congress and Socialist Party tried to rally the students in their party activities. But during the mid-60s with the formation of all Manipur Students' Union, the state witnessed a new turn in student politics. The history of the all Manipur Students' Union reflects not only the different activities of youth and students in the state, but also the changing political ideas which have penetrated the collective mind, the psyche of the student community.

Manoj Phukan (2005) made an attempt to examine as to under what circumstances the All Tai Ahom Students' Union began to get involved in politics of the state despite being a non-political organization and how far they have been successful in their declared

mission. It analyses the transformation of ATSU from a non-political body of Tai Ahom students to a highly politicized organization actively concerned with all political issues affecting Assam as a whole for uplifting not only the Tai community but for the Assamese society.

Rashid Ali Syed's (1997) study is perhaps the first full-fledged study of student leadership in India. It chiefly aims to explore the personal, social-economic, academic, extra-curricular, agitational and political backgrounds of student leaders under study. It also seeks to know the mind of these leaders both on student situation and on some wider issues facing the country. Attempt has also been made to strike a comparative note on the characteristics of both student leadership and student protest in India. The author brings out the dynamic aspects of student politics, both at the micro level and macro level.

D. K. Mohanty's (1999) study is based on student activists in Orissa with special reference to the city of Rourkela. The primary focus of the study is on the student activists who are politically oriented and politically articulate. The present work makes an attempt to analyze and evaluate student politics and leadership.

S. K. Pattnaik's (1982) study highlights on the political profile of the student such as ideological orientation, levels of political efficacy, levels and forms of political

participation and opinion about the place of politics in the campus. Various factors contributing to the process of politicization such as proximity to the corridors of power, existence of student wings of national political parties and inherent linkages of the political and educational systems etc, have been studied to explain the politicization of a student body.

Philip G. Altbach (2012) stated that the age of the student movement in India seems to have ended, and ideological politics play a very small part among the students. Almost all of the national student organizations are bureaucratic structures rather than functioning movements. No one, the governments, politicians and educators included, have been able to arouse the students. In essence, the Indian student community is without direction and without ideology. Life remains difficult on the subcontinent, and students are much involved in the day-to-day struggle for existence and future employment.

G. Palanithurai and M. A. Thirunavakkarasu (2010) in their study observed that sincere people are not coming forward for public space and as a result, bad ones come to the public space and people have no choice but tolerate them. Against this background, they made an attempt to document the leadership role of the youth at the grassroots. How does new leadership emerge from below, how do they develop new democratic culture, how do they build a new vision for development and how do they shape organizational culture? These are the major aspects covered in this document. It also discussed at length as to how they struggled to achieve success in their war against corruption, gender inequality and

social injustice. The main analysis of the researchers is on the Gandhian model of development, crisis management and the role of youths in strengthening the panchayats.

Rukchana Rahman (2008) in her paper critically examined how youth activism as a social phenomenon influences the democratic governance in Assam, particularly in the matter of popular participation. She also examined how youth activists motivate people to participate in democratic politics.

Prayag Mehta (1977) in his article analyzed that student activism has often been made use of by politicians to further their own interests. The alienated and angry youth sometimes gets stimulated to agitate on small issues and even on non-issues. However, student activism became meaningful and socially purposeful because of its contact with meaningful political-civic activities. Participation in such activities like election campaign, tend to enhance the sense of political efficacy, political involvement and awareness and consciousness. Such democratization may raise the level of student activism from pretty issues to a meaningful level.

Amanda Snellinger (2005) in his article briefly detailed the history of student political activity and the nascent relationship between the student organizations and their mother organizations, the political parties in order to demonstrate the limitations and the ideals attributed to students role in politics by the students, the politicians and the public. All of these actors draw on student politics historicity to either apply substance to their role or dismiss it as contrived political tactics. But within this articulation it is clear that the youth are perceived to have political capital and that has

been co-opted by the parties in turn curbing its potential to effect change.

Anil Rajimwale (2001) discussed questions related with origins, development and contributions of student movement in India. Very few people know that student movements have been precursors of some of the great movements and organizations in various parts of this country. Organizations existed in the remotest and most unexpected places and times. Assam, Bihar, Bombay, Orissa and several supposedly backward areas, which were not exactly as they are today, contributed number of fruitful youth/ student organizations way back in the late 19th early 20th centuries. There was tremendous amount of spontaneous grassroots level work inspired by endeavors to reform and improve the society, by struggling to achieve a free India. But it would be misplaced feeling to see only the political motivation for student movement. In fact student activism had much to do with debates, discussions, sports, culture, social reform, besides, of course student activism.

Padhy K. S. and Choudhary S. (1981) in their article discussed the process of political socialization of the students of Berhampur town of Ganjam district in Orissa. It is defined in this article that political socialization is a process by which an individual becomes acquainted with the political system and it determines his perceptions of politics and his reasoning to political phenomena. The study also reveals that the knowledge, attitude and values, which are inducted in the minds of the young students, contribute to the system's stability and persistence.

Philip G. Altbach (2012) in his article 'Student Politics and Higher

Education in India' stated that the emphasis of student movement has shifted from societal concerns to campus ones. Even organizations that have a basic ideological commitment such as the All India Student Federation have appealed to students on the basis of single issues, usually directly related to campus conditions. Further he argued that student political involvement continues in India, stimulated in large part by several stresses evident in Indian social and economic life, and student activism will continue as long as India suffers from social, economic and educational tensions and inadequacies.

Conclusion

This review of literature on 'student organizations and politics' indicates that,

1. The student politics in India originated from the nationalist or independence struggle.
2. The student politics in India is not an independent phenomenon. It is closely allied or associated with outside agency.
3. The Indian student activists have to acquire a wide social perspective.
4. Students learn democratic values through the process of political socialization.
5. Student organizations are bureaucratic structures rather than functioning movement.
6. Student politics is delinked with ideological politics.
7. Student activism will continue as long as India suffers from social, economic and educational tensions and inadequacies.
8. Student organizations have much to do with social reform, culture,

sports besides student activism.

9. The emphasis of the student movement has shifted from societal concerns to campus ones.
10. The Indian student community is without direction and without ideology.

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Human nature: an evolutionary paradox - II

John Scales Avery

Surveying the human scene, one can find endless examples of signs that mark the bearer as a member of a particular group, signs that can be thought of as “tribal markings”: tattoos; piercing; bones through the nose or ears; elongated necks or ears; filed teeth; Chinese binding of feet; circumcision, both male and female; unique hair styles; decorations of the tongue, nose, or naval; peculiarities of dress, kilts, tartans, school ties, veils, chadors, and headdresses; caste markings in India; use or nonuse of perfumes; codes of honour and value systems; traditions of hospitality and manners; peculiarities of diet (certain foods forbidden, others preferred); giving traditional names to children; knowledge of dances and songs; knowledge of recipes; knowledge of common stories, literature, myths, poetry or common history; festivals, ceremonies, and rituals; burial customs, treatment of the dead and ancestor worship; methods of building and decorating homes; games and sports peculiar to a culture; relationship to animals, knowledge of horses and ability to ride; nonrational systems of belief. Even a baseball hat worn backwards or the professed ability to enjoy atonal music can mark a person as a member of a special “tribe”. Undoubtedly there be many people in New York who would never think of marrying someone who could not appreciate the paintings of Jasper Johns, and many in London who would consider anyone had not read all the books of Virginia Wolfe to be entirely outside the bounds of civilization.

By far the most important mark

of ethnic identity is language, and within a particular language, dialect and accent. If the only purpose of language were communication, it would be logical for the people of a small country like Denmark to stop speaking Danish and go over to a more universally-understood international language such as English. However, language has another function in addition to communication: It is also a mark of identity. It establishes the boundary of the group.

Within a particular language, dialects and accents mark the boundaries of subgroups. For example, in England, great social significance is attached to accents and diction, a tendency that George Bernard Shaw satirized in his play, *Pygmalion*, which later gained greater fame as the musical comedy, *My Fair Lady*. This being the case, we can ask why all citizens of England do not follow the example of Eliza Dolittle in Shaw’s play, and improve their social positions by acquiring Oxford accents. However, to do so would be to run the risk of being laughed at by one’s peers and regarded as a traitor to one’s own local community and friends. School children everywhere can be very cruel to any child who does not fit into the local pattern. At Eton, an Oxford accent is compulsory; but in a Yorkshire school, a child with an Oxford accent would suffer for it.

Next after language, the most important “tribal marking” is religion. As mentioned above, it seems probable that in the early history of our hunter-gatherer ancestors, religion evolved as a

mechanism for perpetuating tribal traditions and culture. Like language, and like the innate facial expressions studied by Darwin, religion is a universal characteristic of all human societies. All known races and cultures practice some sort of religion. Thus a tendency to be religious seems to be built into human nature. Otherwise, religion would not be as universal as it is.

Religion is often strongly associated with ethnicity and nationalism, that is to say, it is associated with the demarcation of a particular group of people by its culture or race. For example, the Jewish religion is associated with Zionism and with Jewish nationalism. Similarly Islam is strongly associated with Arab nationalism. Christianity too has played an important role in many aggressive wars, for example the Crusades, the European conquest of the New World, European colonial conquests in Africa and Asia, and the wars between Catholics and Protestants within Europe (notably the Thirty Years War).

Many of the atrocities with which the history of humankind is stained were committed in conflicts involving groups between which sharply marked have involved what Iren us Eibl-Eibesfeldt called “pseudospeciation”, that cultural barriers have made intermarriage difficult and infrequent. Examples include the present conflict between Israelis and Palestinians; “racial cleansing” in Kosovo; the devastating wars between Catholics and Protestants in Europe; the Lebanese civil war; genocide

committed against Jews and Gypsies during World War II; recent genocide in Rwanda; intertribal massacres in the Ituri Province of Congo; use of poison gas against Kurdish civilians by Saddam Hussein's regime in Iraq; the massacre of Armenians by Turks; massacres of Hindus by Muslims and of Muslims by Hindus in post-independence India; massacres of Native Americans by white conquerors and settlers in all parts of the New World; and massacres committed during the Crusades. The list seems endless.

Religion often contributes to conflicts by sharpening the boundaries between ethnic groups and by making marriage across those boundaries difficult and infrequent. However, this negative role is balanced by a positive one, whenever religion is the source of ethical principles, especially the principle of universal human brotherhood.

Many of the great ethical teachers of history lived at a time when cultural evolution was changing humans from hunter-gatherers and pastoral peoples to farmers and city dwellers. To live and cooperate in larger groups, humans needed to overwrite their instinctive behavior patterns with culturally determined behavior involving a wider range of cooperation than previously.

This period of change is marked by the lives and ideas of a number of great ethical teachers – Moses, Buddha, Lao Tse, Confucius, Socrates, Aristotle, Jesus, and Saint Paul. Mohammed lived at a slightly later period, but it was still a period of transition for the Arab peoples, a period during which their range of cooperation needed to be enlarged.

Most of the widely practiced religions of today contain the principle of universal human brotherhood. This is contained, for example, in Christianity, in the Sermon on the Mount and in the Parable of the Good Samaritan. The Sermon on the Mount tells us that we must love our neighbor as much as we love ourselves.

When asked “But who is my neighbor?”, Jesus replied with the Parable of the Good Samaritan, which says that our neighbor may belong to a different ethnic group than ourselves, or may be separated from us by geographical distance. Nevertheless, he is still our neighbor and he still deserves our love and assistance. To this, Christianity adds that we must love and forgive our enemy, and do good to those who persecute us, a principle that would make war impossible if it were only followed. Not only in Christianity, but also in Hinduism, Buddhism, and Islam, the principles of compassion and universal human brotherhood hold a high place.

The religious leaders of today's world have the opportunity to contribute importantly to the solution of the problem of war. They have the opportunity to powerfully support the concept of universal human brotherhood, to build bridges between religious groups, to make intermarriage across ethnic boundaries easier, and to soften the distinctions between communities. If they fail to do this, they will have failed humankind at a time of crisis.

Human nature undoubtedly contains emotions of tribalism, which nationalist and fascist leaders find it very easy to exploit. But education, ethics and law can overwrite primitive and anachronistic emotional tendencies.

Our astonishing scientific and cultural advances have been achieved through the cooperative efforts of all of humanity. In addition to the darker traits in human nature, our species also has a genius for cooperation; and it is this genius for cooperation that is the key to a happy future.

TRANSCEND Media Service

(Continued from Page 4)

population of Muslims as a threat, exhorting Hindu women to produce at least four children to compete with the Muslims and announcing a date by which there would be no non-Hindu in India may be an effective means to polarise the people on communal lines to win elections but is bound to frighten and alienate the minorities. These attacks by the Sangh Parivar and BJP Ministers and other functionaries accompanied by P.M Modi's deafening silence are bound to strike terror in the hearts of many members of the Muslims community. The strategy is a blatant attack on the national integration. Is it a wonder if some of the young Muslims turn to terrorism or are attracted by IS?

Is it natural for the Kashmiri Muslims to be attracted to an anti-Muslim India? The Kashmiris have not been enamoured of Pakistan despite its being an Islamic State, but if they have to choose between an India ruled by an anti-Muslim party determined to change India into a 'Hindu Rashtra' and a Muslim Pakistan, their choice is bound to be a 'Muslim Rashtra' rather than a 'Hindu Rashtra'. And if any Kashmiri feels repelled by India and is thinking of other options, the blame lies with Indian rulers rather than the Kashmiris.

Dalit Uprising and After Why Hindutva Would Not Be The Same Again

Subhash Gatade

*When I was born I was not a child
I was a dream, a dream of revolt
that my mother, oppressed for thousands of years ,
dreamt.*

*Still it is untouched in my eyes
Covered with wrinkles of thousand years, her face
her eyes, two lakes overflowing with tears
have watered my body.....*

–Sahil Parmar*

Well known Gujarati poet Sahil Parmar's poem 'When I Was Born' perhaps reverberates these days in Gujarat when we are witnessing a Dalit Upsurge- a first of its kind at least in that region's history. It will be a talk of folklore for times to come how flogging of dalits in a village in Saurashtra by Hindutva fanatics suddenly erupted into a mass movement of dalits which could catch imagination of the people cutting across different sections of society. An attempt is being made here to understand the dynamics of the movement and its likely impact on the future trajectory of Hindutva.

I

Love Cows, Hate Human Beings ?

There are moments in the trajectory of any authoritarian/fascist/rightwing project where one of its closely guarded secrets suddenly tumbles out in the open and then it becomes difficult for it to fix it. The Hindutva brigade today finds itself in a similar situation - thanks to the dalit upsurge in Gujarat which is still unfolding before our eyes.

The historic march to Una town of Saurashtra region - under the banner of *Una Atyachar Ladat Samiti* - might be over; thousands and thousands of dalits who had gathered there from different parts of the state and outside might have returned home but their resolve not to undertake the despicable caste practice of manual scavenging and disposing of cattle carcasses still

reverberates all over the state. And their demand before the state government that within next one month - by 15th of September - it starts distributing five acres of land to each rural dalit family for rehabilitation is reaching far and wide and gathering fresh support.

None from the Hindutva fraternity had ever imagined that in their so called 'model state' itself, they would be faced with such a challenge which would put their carefully crafted pan Hindu social coalition to test. It was beyond their comprehension that dalits - the most downtrodden section in the *Varna* hierarchy - who had been slowly roped in down the years in the Hindutva politics and a section amongst them had also become a

party to the anti-minority violence in 2002, would one fine morning turn their backs on them and would readily join hands with the 'other' demanding a life of human dignity and putting in jeopardy the very *raison detre* of the project.

And as can be expected in such a situation, they literally floundered when they were asked to react to this uprising. The multiple voices which emerged from the broader 'Parivar' were an indication of their confusion.

No doubt talking in multiple tongues has always been part of their overall strategy but this time it also demonstrated disorientation in their own ranks. The moot question became whether to uphold the

perpetrators - who were following the script - or support the victims. And thus one found the Prime Minister exposing majority of the cow vigilantes as being anti-social elements and asking the home department to prepare a dossier about them and another significant leader of the same 'family' denouncing such characterisation as being 'anti-Hindu'. The confusion was understandable. In fact, it was for the first time in recent times that Hindutva Supremacists are discovering that the more they push

one of their key agenda centering around cow politics - which has served them well till date - the more there is possibility that their dream of Hindu Unity would see further fissures. (Vidya Subrahmaniam describes it as 'A reverse Ram Mandir Moment' in her article on present situation in UP.http://www.thehindu.com/opinion/lead/its-mayawati-versus-modi-in-up/article9022511.ece?ref=topnavwidget&utm_source=topnavdd&utm_medium=topnavdropdownwidget&utm_campaign=

[topnavdropdown](#)) Apart from Dalits, who have come under increasing attack at the hands of overzealous 'cow protectors' and are slowly turning against the 'Parivar' itself, large section of peasant population is peeved over the fact that politics around cow has made their life miserable as they are not able to do away with cattles who have become old or have stopped producing milk. One of the couplets by Saint Tulsidas captures Hindutva's plight beautifully '*Bhayal Gati Saap Chachunder Jaisi..*'.

II

“Rashtravadi toh hamare saath hain, humein Dalit aur pichhde ko saath lana hai.”

Everybody knows that there was nothing 'unusual' - as far as deprivations unleashed by Hindutva fanatics under the name of cow protection were concerned - about what happened to dalits from Mota Samadhiyala village when they were skinning a dead cow.

One can recollect that such attacks were common even in those days when BJP did not have majority of its own at the centre. A classic example has been killing of five dalits in Dulina (Jhajjar) - hardly fifty kilometres away from the national capital - who were similarly skinning dead cows, by a cow vigilante mob (2003) before Dulina police station itself with leading officers of the police and administration remaining mute witnesses. A leading Hindutva leader (dead sometime back) even 'justified' the killings by citing reference to ancient Hindu scriptures claiming that 'in Puranas cows were more valued than human beings'. The killings definitely led to an outrage, there were few symbolic

arrests as well but the commotion died down soon and in fact the perpetrators of this massacre were decorated as 'cow protectors'.

In fact, most such earlier attacks in recent times had been rather more brutal. To name a few, lynching of two young men near Latehar after their brutal torture near Latehar, Jharkhand by cow vigilantes; killing an adolescent near Udampur who was sleeping in truck by throwing petrol bomb under the suspicion that the truck was carrying beef; near riot like situation which emerged in Palwal, Haryana because of cow vigilantes' attack on a truck carrying meat or the way two transporters were fed cow dung laced with urine when they were found transporting cattle for sale near Gurgaon. Scan the internet to watch the 'valour' of these fanatics and you will find scores of such criminal attacks on innocents. Videos after videos are available which show how these self proclaimed cow protectors brutalised people for carrying cows from one place to other or because

of suspicion that they were carrying beef and how there has been no action against them from the law and order people.

But thrashing of Dalits from Mota Samadhiyala village by cow vigilantes, uploading the video of their 'valour' on social media has proved to be a turning point.

Anybody can see that the Dalit Uprising which the Una incident has triggered has inadvertently or so unearthed the 'well guarded secret' behind this exclusivist project - where it is clear even to a layperson now that for Hindutva, dalits or other marginalised are lesser human beings or the 'other', whatever might be its claims about the great *samrasta* it upholds. There is a growing realisation that the formal posturing of Hindutva politics, where it is presented/understood in the form of religious imaginaries where 'minorities - may be Muslim or Christian - are portrayed as the 'other' is one thing but essentially the whole idea of Hindu Rashtra is

an attempt to further legitimise the Brahminical project of hegemonising and homogenising of Indian society where secondary position of Dalits has received religious sanction also. An inkling of how they view Dalits and the backwards - when they are talking among themselves - can be had from the recent comments by PM Modi when he spoke at length at a meeting which was attended by 400 top leaders of the BJP, at the end of the 15 day patriotism drive. Newspaper reports tell us that he called on his party to continue playing nationalism card which is 'central to the BJP's ideology.' Perhaps the most telling comment made by him was the following: "*Rashtravadi toh hamare saath hain, humein Dalit aur pichhde ko saath lana hai.*" The

nationalists are with us, we need to bring Dalits and backward groups." (<http://indianexpress.com/article/india/india-news-india/nationalists-are-with-us-lets-reach-out-to-dalits-backwards-pm-modi-to-party-2993281/>)

Was it just slip of tongue or an admission of the truth that for Hindutva non-backwards, non-dalits i.e. upper castes have sole claim over nation and dalits as well as backwards to be outside its purview who need to be brought closer. (<http://scroll.in/article/814769/the-daily-fix-what-did-modi-mean-when-he-said-there-is-a-chasm-between-dalits-and-nationalists>)

Perhaps a marker of their continuing indifference or disdain

towards the plight of the dalits (forget those bollywood type dialogues where it was declared that 'Shoot Me but Do Not Shoot My Dalit Brothers') could also be gauged from the fact that when the Dalit Upsurge was at its peak in the state, the provocative statement by one of their own MLAs from Telangana who 'justified' the beatings and uploaded a video on facebook did not prompt them to take any action. His words were "*Jo Dalit gaye ke maas ko le ja raha tha, jo uski pitai hui hai, woh bohot hi achhi hui hai* [Those Dalits who were taking the cow, the cow meat, those who were beaten, it was a very good thing to happen]," (<http://scroll.in/latest/812903/anyone-who-kills-cows-deserves-to-be-beaten-says-bjp-mla-raj-singh>).

III.

Unpacking the Gujarat Model !

Recently Jignesh Mewani, convener of the 'Una Dalit Atyachar Ladat Samiti' which is spearheading this upsurge was in the capital to communicate the message of the movement to a broader audience and also garner support for the *Rail Roko* programme organised by the front from 15th September. He underlined the resolve of the dalits that they are firm in their decision not to clean up other people's dirt, nor to lift carcasses of dead cattle. He told the audience how twenty thousand dalits had gathered in their rally in Ahmedabad and have taken the oath not to undertake any such profession which they have been condemned to do because of *Varna* hierarchy and are further stigmatised because of that. In a tongue in cheek comment he added

"We (Dalits) are not going to clean up people's dirt any more. Modiji, now you are welcome to experience the spirituality that is supposed to be there in scavenging."

(http://www.telegraphindia.com/1160821/jsp/frontpage/story_103638.jsp#.V74anPI97IU)

Jignesh - who is an advocate and an activist - was referring to Karmayog, a collection of Modi's speeches to trainee IAS officers, brought out by a Gujarat PSU, in which he had said that scavenging was an "experience in spirituality" for the Valmikis (a sub-caste of Dalits). (See : <https://kafila.org/2014/02/12/modi-and-the-art-of-disappearing-of-untouchability/>)

Explaining the genesis of the movement and why the flogging incident of Dalits by self proclaimed cow vigilantes affiliated to a Hindutva organisation triggered the uprising he shared details of the lives of deprivation and discrimination and atrocities faced by Dalits under the much talked about Gujarat Model. According to him

- there are thousands of cases of atrocities against Dalits every year
- atrocities continued to rise during Mr Modi's chief ministership which lasted for 13 years
- there are more than 55,000 dalits who are still engaged in

the work of scavenging

- 1 lakh sanitation workers who are still not getting minimum wages
- dalits in 119 villages in Gujarat are living under police protection
- rate of conviction in cases of Dalit atrocities is merely three per cent.

According to him glaring example of denial of justice to Dalits has been the killing of three Dalits by the police with 'AK 47 rifles as if they were terrorists' in Thangarh in Gujarat in the year 2012 and despite the fact that more than a lakh Dalits demonstrated against these killings there was no action by the government against the accused police personnel. (As we go to the press one hears that Gujarat government has announced an SIT to look into the killings and has also raised compensation for affected families).

When someone in the audience posed a question about availability of land in the state, Jignesh shared figures about availability of land under various schemes and how dominant castes/classes have been in actual possession of such land meant for the exploited and the marginalised. According to him thousands of acres of land with the state which it got during *Bhudan aandolan* has also not been distributed. He also shared lesser known provision about SC-ST sub plan which talks about 'purchase of land for its distribution to the landless' in case of its unavailability. His simple poser which struck a deep chord with the audience was that 'if

under the name of Development the state can allocate thousands of acres of land at throwaway prices to the Ambanis, Adanis and the Tatas why dalits should be denied their rightful due.' He also explained how the recent changes undertaken by the state government under the land acquisition act have many 'draconian' provisions inherent in it where the 'consent' clause has been deleted - means if the government wishes to hand over land to the corporates for 'development' work, then it can simply take over the peasant's land supposedly for 'public goods', offer some symbolic compensation and need not seek her/his consent.

To the poser that if Dalits leave their 'traditional profession' which grants them some sort of 'economic security' he quoted Ambedkar who had asked his followers during the historic Mahad Satyagrah (1927) that they should get ready to 'die of hunger' to live a life of dignity but should never undertake such stigmatised professions.

Fresh facts have come to light suggesting that, in Gujarat, there has been extremely questionable progress in the allocation of surplus land to the landless, acquired from big landlords under the Gujarat Agricultural Land Ceiling Act, 1960. Based on RTI applications, the district registrar of land records, Junagadh, has admitted that out of 11 of 16 villages for which information was sought, "no survey of surplus land has taken place" for the last 24 years, hence there was no allocation.

In another instance, in Navsari district, Gujarat government declared that between 2006 and 2008, while Modi ruled the state, it had "allocated" land to 7,542 landless beneficiaries, but a year later, it admitted the land titles were yet to be given to 3,616 beneficiaries. "However, now, on the basis of an RTI reply, we know that things have not changed even in 2015.

In an article published in "Dalit Adhikar", a Gujarati periodical, Jignesh Mewani says, "Information with us suggests that the Gujarat government, in all, acquired 163,808 acres land under the Gujarat Agricultural Land Ceiling Act, 1960, and we feel most of it has been allocated to the landless only on paper. The landless, mainly Dalits, tribals and belonging to the other backward classes (OBCs), haven't yet got actual possession of land."

Mewani says, "Chief beneficiaries of the land-to-the-tiller policy have been upper caste Patels. About 55,000 Patels were allocated 12 lakh acres of land declared, mainly in Saurashtra and Kutch regions of Gujarat. But as for Dalit landless agriculturists, they have received not even 12 inches of land. Only a very small section, which is very close to the powers-that-be, has gained."

According to Mewani, "Let us give a sample of the Gujarat government's good

governance: We made in all 65 RTI applications between 2011 and 2015 to find out facts about allocation of just 6,500 acres of land in different villages. Yet, officials are refusing to give copies of land titles which may show that land has been actually handed to the beneficiaries.”

Associated with Jan Sangharsh Manch, a Gujarat-based human rights organisation, Mewani says, “Of the 163,808 acres of surplus land, 70,000 acres of land is under dispute with the revenue tribunal, Gujarat High Court and the Supreme Court. While this land may not be allocated, there is a need to answer as to why the rest of the land, too, remains unallocated.”

In fact, says Mewani, there are 15,519 acres of surplus land, on which there is “no dispute” at all, yet the Gujarat government is “refusing to act,” ..

(<http://www.milligazette.com/news/13251-gujarat-model-dalit-tribal-obc-landless-denied-surplus-land-patels-received-12-lakh-acres>)

Jignesh’s claims about continuous denial of justice to Dalits or the great hiatus which exists between claims by the government and the actual situation on the ground is a fact which even earlier reports by NHRC have admitted. A cursory glance at its 2009 report had declared that Gujarat accounted for 3,813 complaints of human rights violation of the total of 94,559 cases from across the country, which was less

than only Uttar Pradesh and Delhi. (*Indian Express*, 20th March 2009).

A 23-page confidential report submitted by the state Social Justice Department to the State Chief Secretary and legal departments provides glaring examples of ‘mishandling of cases registered under Prevention of Atrocities Act against SC/ST. (*Express*, September 15, 2006). The rate of conviction of cases under the Prevention of Atrocity Act against SC/ST in Gujarat is mere 2.5 per cent while rate of acquittal is 97.5 per cent.

The report provides details of how cases are not investigated properly by the police and the hostile role played by public prosecutors during time of trials.

- Act clearly stipulates that offence which are registered under this act cannot be investigated by an officer below the rank of Dy SP but more than 4,000 such cases have been investigated by Police Inspector or Police Sub Inspector.

- Acquittal of the perpetrator because victim not identified as member of SC or ST community. Reason, not attaching caste certificate of the victim with the case papers

- Public prosecutors’ false claims before the courts that act has been modified by the state government although it is known that it is a central act

- Granting of anticipatory bails although there is no such provision in the act. Interestingly the Parliamentary Committee on SC and ST affairs had also

expressed concern over such anticipatory bails granted ‘in atrocity cases in the state of Gujarat’.

In fact a detailed and systematic study of 400 judgements done by Vajibhai Patel, Secretary of Council for Social Justice (March 2005, Year 11, No.106, <http://www.sabrang.com>) had compelled the government to work on this 23-page report. It tells us that utterly negligent police investigation at both the higher and lower levels coupled with a distinctly hostile role played by the public prosecutors is the main reason for the collapse of cases filed under the atrocities act. It is worth noting that he has meticulously documented these judgements delivered under this act since April 1, 1995 in the Special Atrocity Courts set up in 16 districts of the state. The study also blasts the common perception that the inefficacy of this law is due to false complaints being lodged or compromises between the parties, in actuality it is a complicit State that has rendered the Act toothless.

(To Be Concluded)

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