Law, Democracy And Human Rights

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All over again, radical critiques of the law in India are rearticulating themselves. The reductionist theme is well-worn but no less persuasive for that. The critique teaches us to recognize that the law is an instrument of class domination, of disorganizing the disadvantaged, of fracturing their emergent unity, and disorienting the people’s struggles for a just society. This critique provides raw, bloody, here-and-now accounts of the actual suffering of subjugated Indian citizens.

The radical critique of law has a practical summoning urgency. In any struggle to transform or limit the Indian state power, the state law both as ideology and as repression has also to be combatted. Implicit in the critique of the law is a vision of counter-law, an alternate legality which will base itself on moralities, ideologies and practices not merely different from but superior to those of the state law. If we ask precisely what these may consist of, no clear answers emerge as of now except perhaps scientific socialism with a human face. The agonizing perplexities of this face have not as yet moved political discourse and practice in the radical critique.

This is indeed, to use Pierre Bourdieu’s difficult phrase, the “theory of practice” of those who through a variety of struggles seek to limit or transform the Indian state. The critique is

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valuable and must not be ignored. And, surprisingly, or perhaps not, it carries a message similar in result, through in neither discourse nor practice, to the Gandhian and Sarvodaya critiques of the law, stressing its basic irrelevance to the totality of moral and spiritual development of human beings, individual and collective. If ever the history of the critique of Indian state and law implicit, for example, in Jayprakash Narayan’s Total Revolution during the seventies is deciphered, we will learn how close in idiom at least (though not in ideological terms) the radical and the Gandhian critiques of the law and state in India tend to converge. Both acknowledge as a starting point the negative face of the law and the state; both postulate as a terminus of people’s struggle transcendence, of some kind, from the law, the most visible and powerful symbol and instrumentality of domination.

In what follows, I wish to suggest that these critiques are flawed in one major respect: they do not recognize the contradictory unity of law. But this recognition has, I believe, important consequences for thought and social action.

II

There are, of course, various ways of perceiving and articulating this contradictory reality of state law in India. In piloting the Indian Constitution through the Constituent Assembly, Babasaheb Ambedkar articulated it as follows:

On 26th January 1950, we are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. In politics we shall be recognizing the principle of one man, one vote, one value. In our social and economic life, we shall, by reason of economic structure, continue to deny the principle of one man, one vote. How long shall we continue to live this life of contradictions? How long shall we continue to deny equality in social and economic life? If we continue to deny it for long, we will do so by putting our democracy in peril. We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow up the structure of democracy which the Assembly has so labouriously built up.

Unbeknown to himself, Babasaheb in himself reflected the contradictions. A man who fought Mohandas Gandhi and the Indian National Congress on the historic issues of justice for dalits was acclaimed, both inside and outside the Constituent Assembly, as a modern Manu! A maha was crucified as Manu; and the system of reservation of seats for the untouchables claimed as its first historic victim Babasaheb himself! Thus began the Indian state and the law their pursuit of democracy for the dalits—a path in which the state and law constructs and reconstructs the disadvantaged classes, primarily, for the advantage of the governing elites.

Ambedkar does not use the notion of contradictions rigorously. And it is not to be thought that contradictions can be either created or resolved by strokes of the legislative pen. But the important thing to note is that Babasaheb is here portraying the dialectical tension within the structuration of the Constitution of India, and therefore of the Indian legal order, and therefore, to some extent, of the Indian state formative practices inaugurated by the Constitution itself.

In proclaiming a desired social order, the Constitution enables its prime users in the state to legitimate state and class power. It provides the political logic to the progressive laws for the disadvantaged in terms of symbolic political capital for the governing elites. At the same time, the Constitution and progressive laws provide powerful sources of sustained critiques of state power in the direction of delegitimation. The Constitution and progressive legislation flowing from it serve at the one and same historic moment to legitimate and delegitimate class and state power. They furnish on the one hand a powerful habitat for aggressive manifestations of the centralized unity of state power (in other words, the lawlessness of the state) and on the other, furnish standards by which state and class practice of power may be interrogated, critiqued and condemned. This is one level at which the contradictory reality of state and law may be grasped.

Another level at which this reality presents itself is that of the relative autonomy of the law, understood as adjudicative power, from the polity and the economy. The relative autonomy of the judiciary is no hypothesis but a social fact. For example, Justice Jagan Mohan Sinha of the Allahabad High Court was able to write a decision unseating a most powerful and popular Prime Minister of India. This was an exceptional verdict, unparalleled in the annals of judicial and political history. This decision provided impetus to the Total Revolution movement; it also generated conditions which led to an audacious arrogance of power in the declaration of Emergency, the resurgent populism which followed its liquidation, the growth of activist judiciary
since 1977 and the efflorescence of social action groups. No matter how we choose to analyze the impact of judicial process, on the polity, and of the polity on the judicial process, the Allahabad High Court decision compels us to acknowledge that adjudicative legal order is possessed of a remarkable degree of autonomy.\textsuperscript{8}

The spectacular development since 1973 of the idea that Parliament’s plenary power to change the Constitution by amendments must stop short of violation of the basic identity, basic structure and essential features of the Constitution furnishes yet another unique instance of judicial autonomy at work. The Indian Supreme Court is the only court in the history of humankind to have asserted, acquired and exercised the power to review constitutional amendments; indeed, at the height of the Emergency the Court struck down the quixotic Thirty-Ninth Amendment which immunized the election of the Prime Minister, among other exalted constitutional karmanacharis, from judicial scrutiny. So long as this insistence on constitutional discipline on the hegemonic executive power lasts, the adjudicative legal order ensures expansion of state-free social space for citizen democratic action.\textsuperscript{7}

You might, in response, point out to numerous counter-instances where judges and judicial power have wilted before the imperious assertion of executive supremacy, where they have proved powerless to change things for the better by mere enunciation of constitutional norms (e.g. right to speedy trial, compensation for violation of fundamental rights, right to livelihood). These counter-instances are true. And they tend to show that while the adjudicative legal order is autonomous, it is only relatively so.

What does the relative autonomy of the adjudicative legal order really mean? In one sentence, it signifies independence within dependence. The judiciary is structured as a state apparatus; it may not be transformed into a revolutionary one. But it may be deployed to develop an insurrectionary jurisprudence, at least from the standpoint of the executive power or an el supremo. And this is what the processes of social action litigation, miscalled public interest litigation, for example, richly demonstrate. They have transformed the Supreme Court of India into a Supreme Court for Indians.\textsuperscript{8} And the transformation was initiated by those who had grasped the meaning of the contradictory reality of the state and the law in India. Today, regardless of many real difficulties, social action litigation has ensured democratization of judicial access,

the right to access to justice, though inarticulately present in the text and context of the Constitution, as the most basic of all rights. If it is premature to celebrate the successes of social action litigation as inaugurating a new human rights jurisprudence in India, it is equally untimely to offer a requiem of it.

III

How is it that this independence in dependence for judicial power as an aspect of state power was allowed to emerge in the first place? The tendency to avoid simple answers because they are simple must be avoided here. And the simple answer was provided by the Communist Manifesto where Marx and Engels wrote, in a much misquoted phrase, that the state is the managing committee of the whole bourgeoisie. Note the word whole. The bourgeoisie as a whole represents a certain kind of unity within disunity. The state, it has been rightly said, does not behave as an omnirational, ideal, collective capitalist; it has to manage intra-elite conflicts, represented by diverse material interests of the fractions of capital. Autonomous judiciary, however relative, is necessary to mediate intra-class and inter-class conflicts. Relatively independent judiciary is not primarily intended to create state-free spaces for the subaltern classes; it is designed, consciously or otherwise, to mediate conflicting interests within the ruling formation.

All this becomes excitingly clear when we recall, for example, that contemporary India presents a peculiar capitalist mix: that aside from capitalism we also find state capitalism and state-regulated capitalism. State capitalism has over time created a whole new category, if not a class, of state bourgeoisie whose interests often conflict with the fractions of capital. This is particularly so in the area of finance capital where the state looms large, through the nationalization of banks and insurance and foreign exchange regulation. The conflicts are acute and prolonged, as the recent Escorts Case suggests. It becomes important for the state to have a relatively autonomous judiciary to mediate these conflicts, so that to a certain extent they become distanced from overt politics.

It is in the arena of state-regulated capitalism that we find capital fighting the state apparatus: and the fight usually takes place in courts, though of course not only there. And typically the idiom is that of rights. The rights are couched in terms of fundamental rights and rights to natural justice and
fair play. Not so explicitly, but through their deep structure, we find at least the following rights against the state claimed by capitalist classes:

- the right to tax planning, a Siamese twin of tax evasion and fraud;
- the right to immunity from the processes of law (e.g., searches and seizures, and even ‘raids’);
- the right to most favoured treatment (leading industrialists should be immune from harsh treatment which should be regularly and mindlessly resorted to when dealing with the exploited classes: witness the lack of criminal prosecution of Union Carbide India Ltd. top management for causing death and disablement on a massive scale, and the recent Thapar case);
- the right to exploit unorganized labour (migrant, child and female labour);
- the right to exploit consumers;
- the right to gender exploitation (hiring and wage policies affecting women, exploitation of sex in advertisement campaigns even through state-owned electronic media);
- the right to pollute (look at the cases before the Supreme Court where eminent lawyers, on behalf of industry, argue that water pollution equipment is too costly or that the prosecution is riddled with technical defects, no matter whether the same lawyers contribute to human rights and ecology protection after court hours or on weekends);
- the right to mismanagement (e.g., creation of sick textile mills to be taken over by the state);
- the right to organize political dependencies (through funding of political parties);
- the right to recklessly injure public health (through manipulation or outright opposition to regulatory laws e.g., drug control);
- the right to appropriation of the achievements of pro-poor, social action litigation jurisprudence (e.g., the right to speedy trial generated by Bihar undertrial cases is now sought to be invoked for “smugglers” as well, despite Justice Chinnapa Reddy’s recent firm refusal to extend this right to the resourceful);
- the right to conspicuous consumption;

And, of course, state-regulated capitalism is not an adversary of private capitalism; it is an ally which has often to masquerade as an adversary. Very rarely, it appears as an adversary in public discourse. But when it so does, we see the hideous face of state and class power though the law, as in the legalization of black money through the Bearer Bonds Act, and its constitutionalization by the Supreme Court of India, including by some of its most activist justices.

We are at an interesting juncture of this interaction between state and capital, as the evolving jurisprudence of Fairfax and Bofors has begun to show. The conflict between managers of the Indian state and fractions of capital has now reached full-blown proportions.

This is clearly shown by the current discourse between Ramnath Goenka and Rajiv Gandhi over the Express raids, partly a reflection of contest between two well-known industrial giants. If the freedom of press emerges as a major public issue, it is because the rhetoric of rights helps mask basic instability and disruption within the governing elites. Thus, the managers of the people conduct the discourse of power inter se through the rhetoric of rights.

The struggles of those who are managed must lie in refusing to be the grass when elephants fight; and in, as it were, hijacking the arena for an alternate vision of Indian democracy, state and the law, to convert an intra-class disruption into a resource for inter-class relations. Activists, as ideologues of the people, should try to reap the whirlwind around the Bofors deal, not resting content with a change in players but articulating a demand that the rules of the game, which constitute the game, must be altered fundamentally.

Thus, one may struggle for an enunciation of a right to a clean and efficient governance, without which all fundamental rights are meaningless. They must refuse to bear it any more by a struggle against micro-fascism symbolised by routine acts of corruption, which makes impoverishment, staggering human imagination, even more unendurable.

One principal message of these reflections is that the state needs a relatively autonomous judiciary for its own distinct purposes, to codify and recodify dominant power relations; to convert an indirect rule, as it were, of the bourgeoisie into a direct rule by the managers of the state over them.

By the same token, all those who endeavour to limit and even transform the state, also need a relatively autonomous judiciary as providing democratic space for their own struggles. A reductionist critique of state and law deprives us not merely of this critical insight, but leads us to a deprivation of the uses of
law and adjudication for change. Critics of social action litigation among the activists ought to appreciate the radical uses of adjudicative legal order and its contribution to creation of conditions for more effective emancipatory struggles.\footnote{9}

IV

It is to be hoped that activists will, over time, amend the radical critique of state law recognizing the full play of complexity and contradiction; this will also have some impact on the practice of activism. But this, while important, does not take care of the other dilemmas confronting activists. Even when one may regard clarity and coherence as crucial resources for protection and promotion of human rights, there is no easy way in which these may be acquired and sustained in concrete struggles for rights. The dilemmas of activists are acute and real.

(a) Empowerment, Disempowerment

First, let us look at the new idiom of some of our activists. In their discourse (not necessarily written as texts) we find the appealing emergence of the idea that if individuals and collectivities are to be empowered, the state must be correspondingly disempowered. Broadly, the notion seems to be that participatory, self-reliant and truly democratic development may not occur under the shadow of the state—bureaucracy, police and para-military forces. Social activism can best function as an instrumentality of transformation if there exist expansive state-free areas. Thus, one may resist the proposal, still taking rounds among powers-that-be, that rural voluntary agencies be subjected to extensive legislative and regulatory oversight or protest against the scandal of the Kudal Commission, unhappily allowed to perform its repressive functions for long years.

This notion of disempowerment makes sense. But should it be extended all the way? Obviously not. Activists do ask that new laws may be made addressing the worst forms of violations of human rights in the civil society, usually associated with the most regressive forms of social behaviour associated with a historic revival of religion, culture and ethnicity. Should there not be stricter law and state action, for example, on sati, dowry murders, sex-selective abortions through the abuse of amniocentesis techniques, nutritional sex discrimination which creates new forms of deferred female infanticide, child abuse, familial violence against women, atrocities against dalits, exploitation of bonded, migrant and contract labour? The answer is yes. The difficulty with this answer is that it empowers the state, as it were, on the insistent demand of activists themselves. And therefore, an immediate caveat issues: the state must not use “undemocratic” compulsions through law and executive action.

What are these “undemocratic” compulsions? At a recent public meeting in New Delhi on sati in Rajasthan, I urged, for example, that the state police, or if need be the para-military forces of the Union, should do all they can to nip this evil in the bud, as it were. This created a howl of protest since this would empower the state a bit too much. Activists were worried about state terrorism; the discourse on Punjab was immediately invoked! And it was even said that force of the state was not an effective answer to problems of changing cultural styles and values!

If you then ask how will activists deal with these manifestations, you are told that they would stage non-violent protest, without a Mohandas (the word “Gandhi” may now no longer be used for him!). When you further ask how such a protest will succeed before tens of thousands of sword-wielding Rajput males, they would say it is the job of the state to protect the free exercise of freedom of speech and association; this means that union para-military forces or state police have a duty to protect the protestors against sati but they have no warrant to uproot fiercely the resurgence of the practice. Obviously what is state protection for activists is state terrorism against the perpetrators of sati!

A similar kind of logic has pervaded our approach to the eradication of the worst forms of untouchability; in the name of limiting the state through rights and the rule of law we are content to allow a state of affairs when untouchables, forty years after independence, may not draw water from the savarna wells; where the Chamar, regardless of the age, physical ability and climatic conditions and time of day and night is coerced to drag the carcass away from the village only because he is a Chamar; where an untouchable may be lynched by the Thakur at his whim and will. And if you ask the same activists whether the deployment of Indian troops in Sri Lanka was justified, some might say it was justified for the protection of the ethnic minorities; An action across the seas stands justified for the very same reasons for which it would be condemned if tried at home!
Let us take just one more instance. Many activists are also abolitionists; they feel, rightly, that the death penalty can never be justified. We feel, again rightly, that bloodthirsty justice is inhumane and that in the long run it does not deter. But let us ask ourselves whether the provision of such a sentence is, not at all, its indiscriminate application, for calculated dowry murders necessarily a bad thing? Should we not introduce such a sentence for corporate acts of deliberate, horrendous pollution in the top management of the companies which engage in such behaviour only for profits? Imagine if a prosecution for murder was feasible against the top management of Union Carbide India Limited for causing deaths of thousands of people in Bhopal on, and after, the 2-3 December, 1984? Should we ask for special courts and quick procedures, without diminution of safeguards of fair trial, for such cases?

The human rights activists response to these questions will be, and has been, marked with the greatest incoherence. Right to the point that we apprehend a state with vast powers. But equally worrying is when we surrender our capabilities to inspire fear among those who would indulge in such behaviour. The law as a programme of social transformation, on any reasoned analysis, must evoke credible fear of harsh consequences; to renounce this resource altogether is also to enfeebles the potential of controlling the privileged class deviance, which is far more difficult to combat than the deviance of the impoverished.

(b) Dilemmas of Moment, Method, Mood, and Message

Second, there are acutely difficult choices to be made and remade concerning the moment, the method, the mood and the message of social intervention. On the moment of intervention itself, there exists interminable theoretical and actual bloodletting. Is there a right moment and an inapposite one? Can one say this in advance or only in retrospect? What are the costs of misjudgement and who has to bear these, aside from the activists?

Do we have a discourse of moments among activists? What does it have to say, for example, concerning Bhopal? Why were the pre-catastrophe moments not the most suitable ones for intervention? The choice of technology, location of plant, death of workers in prior accidents, extensive expose of the unsafe conditions at the UCIL plant, and victimization of the local trade unions—all these offered moments of intervention. Like the state, why did the activists have to wait for the catastrophe? To take another example, why did women's groups at all levels have to wait from 1979, when some of them protested against the legitimation procession for sati from the Chandni Chowk to the Boat Club, till 1987?

Difficult questions, these; but ones that need to be confronted with ruthless integrity. The questions raise issues of morality, prudence and tactics, each of which need distinct articulation. If those in power can claim an eternity in the province of political attention to burning social problems, are activists justified in also claiming a slice of eternity for their own mobilization? Put another way, should activists be proactive or simply reactive?

The problem of method of intervention turns out to be formidable, too. One set of problems here involve the nature of articulatory style; the other concern the concrete agendas of action. As to the first, does the activist articulate acrimony which summons or gentleness which lulls? Do you call a spade a spade or a bloody shovel? Or both? Do you reinforce tendencies towards dignity of discourse or assault the beastly conchalance of those who rule others? No matter what choice you make, you incur costs. If you discourse in two voices, there are costs too—costs of credibility on either side. Activists have often to hunt with the hound and run with the hare; an exercise in which they trip, get caught and are often bloodied. There are campaign styles, negotiating styles, aggravation styles and critique styles of discourse. An activist individual or group has to judiciously combine all these and yet avoid the charge of opportunistic politicking. A Himalayan task, this, but crucial. For the managers of the people there are schools of management, public administration and Harvard sponsored, Ford-financed programmes of in-service training for appropriate discourse styles. Activists would, by and large, resist such training for counter-power; even organization of sharing of reflections among them is often quite a difficult enterprise.

The problem of articulatory styles is, in essence, the problem of fashioning confrontation as an ally of cooperation, and cooperation as an aid to confrontation in a series of moments through which activism must pass. Articulatory styles must be vehicles of counter-hegemony and at the same time the vehicles of celebration of partial attainments in ongoing struggles.
The problem of an agenda of action includes the moment of intervention but also goes beyond it. Activists must do many things at once: "educate" constituencies, lobby power, resort to law (both as to ensure favoured judicial outcomes and outright legislative changes), maintain such accomplishments on the ground as a pre-condition for going ahead with tasks disclosed by partial attainments, preserve their cohesive moral and above all survive with integrity as political actors.

In all this one must realise two additional complexities. For each agenda of explicit social action, there are hidden agendas among activists themselves at enhancing the utopias, and contributing to the advent of their own millenia. And second, for each activist agenda for action there is the counter-agenda of the state which has to be made either compatible with the objectives of democratic social action or exposed for what it is. This counter-agenda always represents the cunning of capital and the state. It may appear in various guises: as device for cooptation, at strategems of consensus on what ought to be done, as generation of false consciousness that the tasks toward which the struggles are directed are about to be accomplished by state action.

The promise of the gains of struggle immanent in shifts of political stance, legislative policies and judicial action has to be very critically deciphered all along the way to avoid a fall into the bottomless pit of "reformism" used here in its most pejorative sense.

If social activism or democratic social action is a process of learning and unlearning through doing, it will, of course, be natural for an agenda of action to emerge only through action. One must leave the mirage of blue-printing of total change to the technocratic whiz-kids playing endlessly on computer-toys. Activism fosters those kinds of organic knowledges which should not be, ideally, amenable to subjugation by the erudite ones.

If, thus, one asks of social activism: should it be engaged in enforcement and implementation of rights, willy-nilly, recognized by state power and the law, the answer is 'yes.' If one further asks: should it also be engaged in promoting the conception of new rights (the right to food, to shelter, to work and livelihood as component rights of the right to life and liberty), the answer is also 'yes.' If you ask further, whether activists ought to ensure the process of realization of these new rights, the answer is also in the affirmative.

The three affirmative answers invoke the Indian activists to perform all the twelve labours of Hercules at the same time! If so, how does one empower social activism as a historical process, both through theoretical production of practices and production of theoretical reflection through practice? How do we create conditions for growth and accumulation of experience and knowledge in ways which cumulatively respond to the agenda of activism in India today?

The importance of this becomes clear when we ask concrete questions as to how do activists structure their actions? Should they educate themselves and others, in the wake of Sati concerning the nature of Hinduism and religion, secularism and constitutionalism, and their political economies, as providing long-term endowments to the people? Or should they, here and now, contribute their mite to the uprooting of the evil? Are the activists in Bhopal justified in educating themselves and the victims of Bhopal into the deeper structures of catastrophe-creation, science and technology domination, even at the cost of revictimizing them here and now? Or should they undertake, with state agencies, speedy activities of amelioration, leaving tasks of political pedagogy till a distant date? If it is the latter, how are they to escape the sway of the critique which embraces the state? If the former, how are they to escape the charges of exploiting the symbolic capital, and symbolic violence of the Bhopal catastrophe and the aftermath? Do we, like the infamous centipede, stop walking when asked how does she walk on hundred legs at once or keep walking and ignore the question?

If social activism is to be a historical force, continuing dialogues across the many splendid agents is essential. But one must not think that what is historically necessary is necessarily possible. This is so because activists are precious people; they constitute their own solar systems and require very advanced technologies for the penetration of their inchoate sovereignties.

Third, there is the problem of accountability. Ever ready to indict the managers of the state at the bar of public opinion, activists are unable to submit themselves to the same rigours of public accountability. If the state as an assemblage of supremely evil institutions fails to provide relief to the Bhopal victims, have the activists been able to (despite their heroic effort) offer a resplendent alternative for victims? If collaboration with the state is tainted by the original sin of its association with the Union Carbide, did the activists mobilize the national conscience to an extent where the immediate needs of the victims were redressed through nationwide and international
assistance? Undoubtedly, these are easy questions to ask of activists. But one reason why the managers of state power do not give much credence to activism is precisely this: with all their critiques of state power, the activists are in some areas no more capable of doing what they attack the state for defaulting. When the victims, rightly or wrongly, also feel revictimized by social action groups, one must also begin to acknowledge the "legitimation crisis"—this time not so much of the state but of social activism as a historical process.

Fourth, activists, as non-party people, are often seen by the managers of the state as having no more than a nuisance value. How does this come about? From the standpoint of political power what the activists think as mobilization of public opinion, or to use that barabical notion 'conscientization' processes, is regarded, to parody Lenin's words, as left-wing infantilism. Take the example of the effete opposition to the child labour bill which has now become the law of the land. The opposition to it was through seminars and conferences—preaching to the converted. After its enactment, there is no constitutional challenge to the Act; no significant effort at exposing the horrors of its legalization; no attempts at cultivating a campaign for its repeal. One reason may be that many activists have no alternate answers, in terms of blueprints, of what can be done; many themselves are alleged to accept child labour in their daily lives. The entire morality of protest is deeply fractured at so many points that if the political managers regard it as an activity of opposition for the sake of opposition, it would be difficult to persuade them otherwise. Activism thus surrenders a historic opportunity to constrain the state.

Fifth, there is the area of colossal default. After the open letter to the Chief Justice of India on custodial rape of Mathura, almost all women's organisations joined in a massive campaign to reform the law on rape; they partially succeeded. Since then custodial rapes have occurred; some activists have taken the matters to courts, but the overall response to this by the national movement of women's rights has been miniscule. The very same activists who criticize social action litigation as symbolic, as bereft of any follow-up action, are themselves unable to organize regional, let alone all-India, vigilance on the implementation of the law, which they have helped to rewrite. If the managers of the state are to be faulted for symbolic, gesturing legal reforms which they lack the political will to implement, how do we account for the lack of on the part of social activism and activists?

Take the most spectacular example of recent default. The Parliament has just passed a Legal Services Bill, which totally denatures the radical inspiration of Article 39-A of the Constitution and the labours of inspired leadership by Justices like Justice Krishna Iyer, Bhagwati and D.A. Desai. There is not a scrap of expression of outrage by or among the activists. Even Ela Bhatt of SEWA, whose activist credentials brought her to Rajya Sabha as a nominated member, and who has first-hand knowledge of the legal needs of the unorganized, and Justice Bhagwati, an explosively activist justice now in his retirement, have failed, so far to protest at the governmental mockery of legal services, a conception assiduously promoted by him and others. Where are, one may ask, the activist voices protesting at this historic default? If one is not able to generate an impact on one's kindred in activism, how is one to be expected to transform or limit the state?

It is, perhaps, pointless to multiply the instances. Activists who indefatigably lament and expose the perﬁdies of the state and class power are simply unable to achieve ideological and praxiological cohesion which would entitle them to be recognized as historical tendencies, let alone forces. As riven by factionalism and territoriality which they condemn in state and class power, as ambivalent in their vision of alternate futures as the managers of the state are, as episodically excellent in 'mobilizing' public opinion on spectacular issues but devoid of any transformative capabilities as the managers, activism overall fails to seriously constrain the state.

In a sense, through their obsession with the condemnation of state and class power, some activist groups end up interjecting those very characteristics of power they so fulsomely condemn. In this context, the arrogance of power stands reinforced; top bureaucrats and political managers tend to dismiss activism as a very replication of power politics.

Finally, without being exhaustive, activist groups are not wholly able to convey deep theoretical reflection on human misery to their own constituents. For example, they must willingly do their best for drought relief, shoulder to shoulder with the governing elites. But in between droughts there are encounters where public education campaign on their underlying causes—rapacious capitalist framing; the permanent vested interest of powerful groups in conditions which impoverish; the linkages between and among depletion of plant genetic
diversity, the pesticides and fertilized ‘revolutions’; the nature of
ternational dependency and exploitation, all need to be
communicated in terms which will make sense to the small
farmer and landless labourer in immediate, existential terms, as
opposed to critiques of the ‘development paradigm’ and
proffering of alternate development. Very few activists in India
have the ability to transform erudite knowledges into organic
tunities and vice versa. If the constituents of change entrepreneurs
begin to become ambivalent, both as regards the state and social
activists, blaming the state is an easy, but still an evasive response.

IV

The foregoing reflections assume entities called “activists”
and processes called “activism” to them have been assigned the
historic role of limiting and transforming the state. No longer
does one give, in the post-Marx scenario, either epistemological
or historical priority to be working classes; one either abandons
them or considers them to be “just one of a number of collective
actors formed in the public sphere” engaged in the “production
of politics”.

Time has come in India for friendly interrogation of these
entities and the processes. Obviously, this interrogation may
proceed from a number of standpoints. One may ask of the
“activists” and “activism” uncomfortable questions concerning
their class origins, their accountability to their constituencies,
their impact in terms of political power and their ideologies.
One may even condemn them as “non-party political
formations”. I have chosen to look at some acutely felt
dilemmas.

These friendly questionings invite a wider dialogue on the
nature of tasks ahead. It was Albert Einstein, who towards the end
of his luminous scientific career, said that politics is harder
than physics. If one may add a footnote to this observation, it
will have to be said that the politics of promotion and
protection of human rights is even harder than the politics of
domination and violation.

It may seem unfair to ask activists to undertake extra-
ordinary theoretical labours even as they intervene against
injustice, exploitation and denial of rights. But this is an
unfairness imposed by history on all those who would innovate
state and civil society. The more readily, and the sooner, this is
grasped by the critical mass of activists in contemporary India,
SRI LANKA HUMAN RIGHTS DATA BASE PROJECT

The Sri Lanka Human Rights Data Base Project is a decentralized computer-based documentation system on human rights in Sri Lanka, as part of the global network on human rights information, HURIDOCS (Human Rights Information and Documentation System). A network of collaborators from research institutions, information services and NGO communities are involved to provide complete, reliable and accessible documentation and also to act as initial recipients for the dissemination of information to a wider network of potential users.

The system provides extensive documentation on laws, decisions, and events concerning civil and political rights. Materials showing the degree of fulfillment of economic and social rights has also been included.

Though the frequency of such events is due to the current ethnic conflict, the documentation of human rights incidents is not limited to that setting. Human rights law is seen as applying to all parties to the conflict. In the collection of information, the efforts to resolve the conflict are also emphasized.

The initiative to establish a human rights data base reflects the concern expressed in intergovernmental organizations like the United Nations Commission on Human Rights and the Sub-commission for the Prevention of Discrimination and Protection of Minorities and by various non-governmental organizations, such as Amnesty International, International Alert and the International Commission of Jurists.

With a computerized data base of 4000 bibliographic records, the project can now provide searches on documents according to author, title, index terms, and other bibliographic descriptions. Similar searches can be carried out in the address data base, which lists organizations, institutions, and researchers.

In addition to print-outs of relevant literature, the project can also provide copies of the documents themselves.

Currently, an annotated bibliography, a directory of organizations, a bibliography of the negotiations process, 1983-87 and a compendium of researchers is available from:

Sri Lanka Data Base Project, PRIJO, Radhusg. 4, 0151
Oslo 1, Norway.

LOKAYAN ("Dialogue of the People") has been an intellectual initiative to promote active and sustained exchange among activists from non-party political organizations and movements and other concerned citizens. Among the activities through which these aims have been pursued are dialogues among movement groups and activists and between them and committed professionals, research and documentation on issues highlighted in these dialogues, debates on these issues among various individuals and groups interested in social transformation, and dissemination of all this.

Through these dialogues, debates and dissemination, involving a network of intellectuals, activists and opinion makers, the Lokayan programme has sought to evolve a systematic critique of the established modes of development and political action, and move towards a new ideological crystallisation for a decentralised democratic order which respects the cultural and social diversity of marginalised sections of society. The thinking, values, aspirations and experiences of these sections are attempted to be brought into the centre of educational, economic and political thinking.

At another level, Lokayan can be seen as part of an incipient movement, the precise contours of which are yet embryonic and evolving. A movement that deals with very specific problems facing the people, such as survival in the face of a destructive development process and a repressive State apparatus, limits and range of political struggles (local and national) against these tendencies, the inimical role of modern science and technology and its international tentacles, all of this conceived in the framework of the struggle for civil and democratic rights of the people. A movement that seeks to crystallize the large array of micro initiatives into a macro movement through a concrete programme of research and action.

Lokayan is to be seen as part of this basic search for transforming a society—and a world—in deep trouble.

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