



Shock arrests

While targeting prominent activists, the police have to prove they are not just stifling dissent

If the arrest of five prominent activists by the Pune police in a coordinated operation across four States has resulted in such indignation, it is because of the widespread suspicion that this is part of an orchestrated crackdown on political dissent. The intervention of high courts and later the Supreme Court has given rise to the hope that they will not be put away without sufficient basis, and that the case for proceeding against them will be properly scrutinised. The focus will now be on the next hearing of the Supreme Court, but the dramatic development – which has come months after some Left-leaning activists were arrested in a case relating to the Bhima-Koregaon violence – has raised a fundamental question. Namely, whether the arrests were the culmination of a legitimate probe into a Maoist plot, as the police claim, or whether this is yet another clumsy failure to distinguish between those who indulge in or actively support violent activity, and those who attempt to understand or empathise with the social conditions that breed extremism and insurgency. It is nobody's case that activists or intellectuals are above the law, but the Maharashtra police carry the enormous burden of proof, having accused the activists of doing much more than inciting the violence that broke out in Bhima-Koregaon, near Pune, this year. What began as a controversy over allegedly provocative speeches made at a Dalit conference relating to the 200th anniversary of an iconic battle site has inexplicably morphed into a larger conspiracy involving the CPI (Maoist).

Human rights activists, particularly those working in conflict-prone areas, have been harassed and even arrested on the suspicion of being in league with extremists. While action against them routinely makes the headlines, the bald truth is that successful prosecutions are rare. Charges such as sedition, waging war against the government and promoting disaffection against the state rarely end in conviction. One reason for the failure is that prosecuting agencies typically believe in guilt by association; they confuse empathy with incitement and compassion with collaboration. Also, cases are often filed with utter disregard for the principle that charges such as 'unlawful activities' and 'terrorist acts' should not be invoked in the absence of actual acts of violence or incitement to violence; mere verbal expression of support cannot and should not be the basis for arrest. The Pune police claim that the five who have now been arrested were raising funds for the Maoists, and indulging in unlawful activities; that they had a nexus with other unlawful groups and, ominously, were plotting to "target high political functionaries". Given the sweeping allegations of unlawful activity and the enormity of implicating them in unverified assassination plots, the burden of proof on the police is extremely high. Unless proven, it will only confirm suspicions that the law has been bent with the sole purpose of targeting dissent.

Power play

The government should address the troubles of the power sector, but IBC must hold

The Allahabad High Court on Monday dismissed a plea from private power producers seeking relief from an RBI diktat to banks to take cognisance of a stressed loan if repayments were missed even by a day. The RBI decision, of February 12, requires banks to complete insolvency resolution proceedings within 180 days of defaults. Monday also marked the deadline for several cases in which loans were declared bad due to this regulation. Across the banking system, about 70 firms with loans of around ₹3.8 lakh crore outstanding were expected to face insolvency proceedings. Thirty-four of the troubled accounts are from the power sector and constitute nearly 54% (or ₹2.02 lakh crore) of banks' exposure in these cases, according to the credit rating agency ICRA. A Power Ministry report suggests these power producers have planned generation capacities of 39 gigawatts, and are in trouble. This is due to a variety of factors: fuel shortages due to cancellation of coal block allotments or lack of supply linkages; absence of power purchase agreements signed by State discoms; and cost overruns due to delayed clearances. The promoters argued in court that most of the hurdles faced by the power sector were due to external factors and so they should be spared the insolvency stick.

Several bankers and even the government have expressed reservations about the RBI directive. With regard to the power sector, in particular, the worry among bankers is that a credible resolution plan may be difficult to construct unless key structural issues such as fuel supply and State discoms' financial woes are fixed. To be fair, the power sector has been facing some of these issues since UPA-II. The UPA government had set up a project management group in the Cabinet Secretariat to steer stalled big-ticket investment projects out of regulatory landmines. The NDA government did its bit too, including an overhaul of the process for coal block allotments and the UDAY scheme to rev up State discoms' finances. But the utilisation rate of power plant capacities has been stagnant at around 60%, indicating that more needs to be done by policymakers. Nonetheless, it is heartening that the High Court refused to entertain any obfuscation of the RBI's regulatory powers or of the sanctity of the Insolvency and Bankruptcy Code to deal with stressed assets. This should trigger a consolidation in the sector, possibly with deep haircuts for banks. Granting any relief would have led to pleas for exemption from other sectors too. The government should display greater urgency in tackling systemic issues in different sectors, but there should be no deviation from the IBC path it has embarked on to fix the banking stress, that is hurting the entire economy.

The crackdown on civil society

With the raids and arrests, activists are being penalised for their unwavering vigilance



NEERA CHANDHOKE

It is a truth universally acknowledged that the modern democratic state, armed with technologies of surveillance and control, possesses the kind of power that has never ever been exercised by any other state in history. In a democracy, the individual transits from subject to citizen. Yet there is no one more vulnerable and more helpless than our rights-bearing citizen if the, otherwise, democratic state decides to terrorise, kill and drill fear and trepidation in the mind of the body politic. The other dominant institution of our times, the market, is completely amoral. It is supremely indifferent to human suffering. It has neither sympathy nor room for citizens exploited by the state, and by its own need for resources, labour, and profit.

A vital sphere

The only sphere that stands between the individual and the omnipresent and omnipotent state is civil society. In this figurative space, individuals come together in webs of associational life. Associations have the capacity to challenge the brute power of the state through petitions, protests, dharnas and ultimately judicial activism. Given unresponsive political parties, citizens can access centres of power and privilege only through a vibrant civil society.

Civil society is, of course, a plural sphere, and all manners of associations find space for themselves here, from football clubs to reading groups to film fan socie-

ties. Each democratic association is important, but we cannot deny that civil liberty and human rights groups are an essential precondition for human well-being. Some Indian citizens were randomly and arbitrarily imprisoned during the Emergency (1975-77) and the fundamental rights of others were truncated. It is, therefore, not surprising that in the aftermath of the Emergency, the civil liberties movement made a dramatic appearance on to the scene of Indian politics. The movement which developed into, or acted in concert with, the human rights movement took on an extremely significant task, that of protecting the fundamental right to life and liberty granted by the Indian Constitution.

Every political revolution in the world has begun with the rights to life and liberty. These two rights lie at the core of other rights that have been developed and codified as critical for human beings. The two rights stretch from the right not to be tortured or killed, to the right not to be arrested and imprisoned by the lackeys of the state without due cause. The right to life is a basic right, but our lives do not mean anything if we are incarcerated for no rhyme or reason.

In the decades that followed, human rights groups have become the custodian of the Fundamental Rights chapter of the Indian Constitution. They have investigated cases of arbitrary imprisonment, custodial deaths, deadly encounters and coercion of any citizen who dares to speak up against the state or dominant groups. These organisations have carefully documented the causes and the triggers of communal and caste violence, and established an excellent archive on the abuse of power by governments. They have



asked questions which few Indians have had the courage to ask. And above all, they have protected the rights of vulnerable sections of our own people, the Adivasis, the Dalits and Muslims.

Civil liberty and/or human rights activists are lawyers, academics, journalists and public minded citizens of India. What matters is their very human concern for the poor and the disadvantaged, the dispossessed and the vulnerable. What matters is that civil society activists protect the moral conscience of our society. Not all civil society groups do so, some are in the sole business of getting funds from the state or others. Not all sections of the media do so, they are often covered down by their corporate bosses, and the lure of fame and lucre. Unhappily, the majority of Indians keep quiet when their own fellow citizens are tortured by the police, stripped of access to resources and livelihoods, lynched, exploited by corporate India, and neglected by the mainstream media. Human rights activists shoulder the fight for the rights of the oppressed.

The turf wars

Their role is crucial for democracy because today we are ruled by a government that openly defies ethics and morality, that casts it-

How not to do an environmental assessment

An urban redevelopment project must apply for approvals in an integrated manner



MANJU MENON & VIDYA VISWANATHAN

The "redevelopment" projects of Delhi which have been in the news are caught up in legal tangles. In these, it is the ones related to their environmental approvals that stand out. This article outlines three ways in which these projects have used the Environmental Impact Assessment (EIA) process to subvert the right of citizens to a better environment. A case in point is the approval process for the "World Trade Centre" in Nauroji Nagar in south Delhi.

EIA reports are a critical component of India's environmental decision-making process in that they are supposed to be a detailed study of the potential impacts of proposed projects. Based on these reports, the Environment Ministry or other relevant regulatory bodies may or may not grant approval to a project. The EIA reports

are also important to define measures that the project could take in order to contain or offset project impacts. To ensure that they are an accurate account of scientific facts and observations, the law mandates the engagement of an accredited independent EIA consultant to undertake the study.

A case of no ethics

The EIA reports of the redevelopment projects are an exercise in the worst possible research practices and ethics. The consultant for the Nauroji Nagar project has used material from copyrighted papers, webpages and other EIA reports. It even mentions that the water quality study was undertaken in 2015, one year before the project was commissioned to NBCC. It cites eight water quality monitoring locations for the study which are situated in Tamil Nadu. This content can be traced back to the EIA report of Tamil Nadu Minerals Ltd. which was prepared by the same consultant. Another example is the text under "Hydrogeology of PIA District" on page 42 of the EIA report. This is a carbon copy of material from a copyrighted book (2015) titled "Management of Water, Energy and Bio-resources



in the Era of Climate Change: Emerging Issues and Challenges".

Such research practices in EIAs continue unabated because of the Environment Ministry's failure to come down heavily on this. In the end, it is citizens who have to bear the brunt.

Gaps and errors

There are many instances of missing or misleading information which understate the potential impact of these projects. For example, the EIAs' 'Terms of Reference' (ToR) for Nauroji Nagar, which is essentially a commercial project, fail to mention the word "commercial". Instead, it states that the project is for the "modernization" of government residential colonies. The NBCC's "World Trade Centre"

self in the mould of realism, and that is supremely indifferent to the plight of millions of its citizens. We are ruled by leaders who dismiss the need for civil society because the cadres and the front organisations of its ideological backbone, the Rashtriya Swayamsevak Sangh, seek to dominate the space between the individual, the market and the state. The consequences are serious. Over 10 years ago, during UPA I, we were speaking of the right to food, to employment, to education, to information and to land. We theorised that India was moving towards a social democratic state vide civil society activism. Today there are few organisations that articulate the right not to be lynched, or who struggle for the right to life and liberty. Human rights activists are among these few organisations. They have courageously taken on the challenge posed by corporates, a ruthless state and its venal police, and the cadres of right-wing organisations that specialise in violence.

Activists have been penalised for their eternal vigilance, which, as Irish lawyer-politician John Curran said in 1790, is the price we pay for liberty. The government and right-wing organisations have pursued and terrorised human rights activists. On August 28, lawyers, poets, academics and activists known for their defence of the dispossessed were targeted by the Maharashtra police. The houses of Sudha Bharadwaj, Varavara Rao, Vernon Gonsalves, Arun Ferreira, Gautam Navlakha, Anand Telumbde and Stan Swamy were raided, and some of them imprisoned.

The reasons for the harassment of these warriors in the cause of justice are unsubstantial and unconvincing. The police simply can-

not establish that their speeches at the Elgar Parishad meeting in Pune in December 2017 incited the violence unleashed on a Dalit gathering at Bhima-Koregaon on January 1, 2018. It was earlier reported that the peaceful gathering was attacked by activists belonging to two Hindu right-wing organisations: Shiv Pratishthan led by Sambhaji Bhide, and Hindu Ekta Manch led by Milind Ekbote. Mr. Ekbote, committed to Maratha/Hindu supremacy, was arrested in March 2018. Soon he was cleared by the police and the Maharashtra government. Now a completely different set of agents has been brought in and charged with urban Maoism, a term that has neither a history nor a geography. It is simply silly.

Boomerang effect?

This is the latest blow inflicted on civil society by a party that wishes to see only its own organisations dominating the space of associations. The attempt might just rebound on the party. The well-known Italian theorist Antonio Gramsci, jailed by the Mussolini government in the 1920s, set out to answer a crucial question. Why had a revolution occurred in semi-feudal Tsarist Russia, and not in the Western capitalist world as predicted by Marx? He concluded that revolutions only happen when the government directly and unashamedly exercises brute power, as in Russia. They do not happen in countries which possess civil societies, for here projects of domination and resistance can be played out. Citizens just do not need to revolt. Is there a lesson our rulers need to learn from this piece of profound wisdom?

Neera Chandhoke is a former Professor of Political Science at Delhi University

made. In a world that is challenged by environmental degradation and social conflicts, scholars have upheld public participation to be a "threshold condition" for development.

Yet, it is disappointing that the government has generously exempted real estate projects from holding consultations. Since Delhi's "redevelopment" projects were approved without public consultation, any problems raised now by citizens, such as those about the EIAs, will be rendered "post facto". Nauroji Nagar has already been razed to the ground – homes, trees and all.

Citizen action and litigation has forced the project proponents and the Ministry of Urban Development to state that they will revise their plans to reduce or prevent tree felling. But this response is neither adequate nor legally acceptable. The Delhi High Court that is hearing this matter must ensure that these redevelopment projects reap for approvals as a single integrated one, and in accordance with the law.

Manju Menon and Vidya Viswanathan are researchers at the Centre for Policy Research, New Delhi

LETTERS TO THE EDITOR

Letters emailed to letters@thehindu.co.in must carry the full postal address and the full name or the name with initials.

Picked up

The arrests of rights activists and lawyers along with countrywide raids on the homes of other activists and academicians have shocked the conscience of the nation (Page 1, "Five arrested for 'Maoist links' in nationwide raids", August 29). It is obvious that the government is hounding those fighting for the rights of the marginalised, with the intent of crushing dissent. At the same time, we must not forget that much worse is happening against the voiceless who are far away from the glare of the national media. It is ironic that a free and democratic India persists with repressive laws. Moreover, most such cases crumble in courts due to a lack of evidence after costing a huge amount of precious public resources, adding to the huge pendency of cases and, most cruelly, injuring personal liberty and justice. Such mala fide actions delegitimise the government's standing and are a blot on the

democratic credentials of the nation. There is a need to legislate for provision of reparations for the innocent and ensure the accountability of the administration in case such charges are proven to be false in court.

FIROZ AHMAD,
New Delhi

■ Ever since the BJP government came to power, the secular fabric of our great nation has been subject to stress and strain. The wave of arrests only highlights growing intolerance. Those who champion the cause of the downtrodden and the underprivileged are being targeted even as vigilantes continue to run riot. If the ruling dispensation is under the impression that it can use Hindutva as the key agenda before the general election and then sail through, it could be in for a surprise as far as the people of this secular republic are concerned.

G.B. SIVANANDAM,
Coimbatore

■ The arrests are more proof of the growing climate of intolerance being perpetuated by the right wing. Attempts by the Hindutva brigade to stifle the voices of dissent should not be allowed to succeed given their implications for the secular and liberal character of our society.

M. JEYARAM,
Sholavandan, Tamil Nadu

■ It is a grim reminder of the dark days of the Emergency. How far such allegations will stand in a court of law remains to be seen.

D.B.N. MURTHY,
Bengaluru

■ There was a time when Naxalites were considered patriots for their objective of ensuring social justice for the downtrodden and the poor. But over time, this has been diluted to a large extent. It is unfortunate that various intellectuals are now supporting those associated with Naxalism and instigating its cadre. The so-called human rights activists should realise that there is no place for violence

in a democratic set-up in trying to settle issues with governments. Instead of blaming governments for all ills, why can't they shun violence, stand for elections, win and work towards ensuring social justice for all?

KSHIRASAGARA BALAJI RAO,
Hyderabad

■ The arrests were based on clinching evidence of links with certain elements. So, one fails to understand why intellectuals, lawyer activists and writers are now raising a hue and cry. What happened was according to the rule book.

K.R. SRINIVASAN,
Secunderabad

Crucial questions

The article, "The final frontier of populism" (Editorial page, August 29), shows that there has to be a revamp of the judicial system which is in sync with demands, expectations and priorities. Most countries lag behind in this respect. What we require is an effective and fast-paced mechanism that will render quick justice. In India, there are innumerable

laws which are difficult for the common man to understand. As an evolving nation, our legal and constitutional experts should find simple ways to solve issues.

VISWANATHAN S.A.,
Chennai

■ The article is an early warning of troubles ahead. A democracy can continue to run only when there is hope of justice that is made secure by fundamental laws.

ROHIT SHINDE,
New Delhi

More medals at Jakarta

The performances by Manjit Singh and Jinson Johnson at the Asian Games has been nothing short of spectacular.

CORRECTIONS & CLARIFICATIONS:

A front-page report headlined "India's most polluted: 30% have no clean up plan" (Aug. 29, 2018) erroneously expanded NCAP as National Clean Air Campaign. The full form is National Clean Air Programme.

Headline error: A report (Business page, Aug. 29, 2018) on Berkshire Hathaway Inc. acquiring a stake in Paytm erroneously referred to the digital payments firm's name as Paytm.

It is the policy of The Hindu to correct significant errors as soon as possible. Please specify the edition (place of publication), date and page. The Readers' Editor's office can be contacted by Telephone: +91-44-28418297/28576300 (11 a.m. to 5 p.m., Monday to Friday); Fax: +91-44-28552963; E-mail: readerseditor@thehindu.co.in; Mail: Readers' Editor, The Hindu, Kasturi Buildings, 859 & 860 Anna Salai, Chennai 600 002, India. All communication must carry the full postal address and telephone number. No personal visits. The Terms of Reference for the Readers' Editor are on www.thehindu.com