

ROLE OF THE HUMAN RIGHTS GROUPS

by

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Chief Justice P.N. Bhagwati's recent suggestion in a Bangalore seminar that a national human rights commission should be set up for promoting the advancement of human rights in the country comes at a time when civil liberties groups are being increasingly harassed both at the central level and in various parts of the country. It is time a dispassionate discussion took place as to whether groups like the People's Union for Democratic Rights (PUDR) and People's Union for Civil Liberties (PUCL) are playing a disruptive role or a constructive role in the liberal democratic political process of India. The recent criticism of them in the Lok Sabha by some M.P's of the ruling party should be regarded as a welcome provocation. Let us start with the role played by the civil liberties

groups in the context of the Punjab crisis. After Operation Blue Star of June 1984 when the government promulgated two Ordinances ~~on~~ declaring Punjab as a "disturbed area" and setting up Special Courts, PUDR and PUCL opposed this action on the ground that this would further alienate the Sikh community. After a PUDR fact-finding team visited Punjab and found that hundreds of innocent youth had been arrested by the armed forces the PUDR report "Black Laws and the People" ^{out that the} pointed out arbitrary use of these authoritarian laws was making a political settlement of the Punjab problem difficult. Indeed only when the government agreed to go slow in using these black laws and release a large number of falsely implicated

youth was there any progress towards the Punjab accord.

The much discussed PUDR-PUCL report on the Delhi riots Who are the guilty? has to be seen with some objectivity. The mass killings of the Sikhs in Delhi and elsewhere on the aftermath of the cruel assassination of Indira Gandhi was an unprecedented happening both in character of its organisation and motive. In a situation of official apathy and police and political complicity and above all when a tide of Hindu communalism was sweeping north India it was necessary for some independent people to report what they saw or found. The report documented the course of events on the basis of detailed investigation into three areas of massacre after interviewing victims as well as officials and others. The uniform pattern discernible in the violence committed in different areas and the gruesome mode of killing and looting were also described.

There has been criticism of the report from some quarters for giving the list of "those alleged to have instigated violence and/or protected alleged criminals" which contained 227 names including 17 ^apoliticians and 13 police ^{men} involved. The PUDR and PUCL must have done this with full responsibility as both are led by senior lawyers of the Supreme Court. They should know fully well the risks involved in questioning the role of high-ups in the ruling party or identifying police officials of their own city. The magnitude of the horror was so stupendous and the criminality, if proved, so dehumanising that the civil liberty groups probably decided to ^{take the risk} ~~put their~~ heads on the chopping block and face the consequences. How can

any one, let alone public men incite communal frenzy and selectively kill members of a community by putting goondas and the poor into action? It was clearly, a deep commitment to ~~the~~ a basic human right, the right to life and a keen desire not to see it happen again which prompted the authors to append such a list to their report. In any case it was a list of those "alleged" to have been involved and the most important demand of the PUDR-PUCL was to institute a judicial enquiry to establish the truth and punish the guilty. Allegations should have been taken as allegations and judicially investigated to establish the facts. ~~The judicial process should have been to establish the facts.~~

Who are the guilty? went into several editions and has appeared at least in three languages. Thousands of copies of its Punjabi edition reportedly circulated in Punjab despite the official ban on it. Its popularity among the Sikhs has to be understood not in the framework of communalism, but in terms of democratic rights. Sikhs ^{everywhere} ~~men~~ were assured that the attack on them was not so much ^a communal offensive as a criminal act with perhaps political instigation or connivance. It was not that Hindus were up in arms against the Sikhs but ho^odlums were mobilised by some politicians to commit atrocities on the Sikhs by creating a mass frenzy. The report also conveyed to the Sikhs, ^T the message that these were democratic minded citizens in the country belonging to all communities who would unequivocally denounce such acts and would dare to expose the

complicity of politicians and the police even though it involves serious risks.

A careful reading of PUDR-FUCL reports including Who are the guilty would show that they condemn both Sikh ^{tu} fundamentalism and Hindu communalism and denounce the idea of Khalistan because according to the report, Khalistan cannot solve the basic economic and social problems of the Sikhs. PUDR and FUC have consistently condemned the terrorist violence of the Sikh extremists. When the bomb explosions took place in Delhi in May they were among the first to deplore such acts.

Thus the PUDR-FUCL reports, if anything, have only contributed to the building of bridges among various communities have appealed to the state to retrace its repressive measures and create a climate for democratic reconciliation. The Punjab Accord which has been justly welcomed as a major step towards peace and for which Prime Minister Rajiv Gandhi and Sant Harchand Singh Longowal deserve credit has to be seen as the outcome of a process involving several such non-governmental efforts. Had the government appointed a judicial commission to enquire into the November riots immediately as was demanded by the civil liberties groups there would have been some let up in the atmosphere of mutual suspicion. By making it ^a bargaining point the concerned parties undermined the basic issue of human rights involved in the post-assassination carnage.

Instead of seriously considering the issues raised by the PUDR-FUCL report the ruling party unleashed a barrage of

slander against these organisations. Insinuations included calling the civil liberties groups as propanganda fronts of opposition groups ranging from BJP and Janata to CPI-ML. And of course ~~the~~ oft repeated charge that they have CIA links. Such charges should be investigated thoroughly to bring out the truth.

Civil liberties organisations are small groups of people, mostly of lawyers, journalists, teachers and writers who mostly use Their intellectual skill in investigating into violation of human rights and report to the public. Their activities do not involve any vast amount of expenditure. The sale proceeds of reports generally finance their printing. Small donations are collected in meetings for organizational expenses. There is a strict ban ⁿ of foreign money and even large donations from within the country. In case of FUDR, for example, monthly ^{of} contributions Rs.10 to Rs.20 are collected from members ^{who wish to pay}. Members of a FUDR fact-finding team are to pay for their own travel etc. ~~who wish to pay~~. Any one who has interacted with any civil liberties organisation knows with what resource constraints do they operate. To accuse such groups of ~~any~~ CIA funding is patently unfair.

~~JP Bihar Forest role critique~~

The civil liberties and democratic rights movement acquired a momentum in India ⁱⁿ ~~on~~ the wake of the campaign against the Emergency under the leadership of JP. It was felt that while institutions should be made to operate in full steam and political parties should be the main channels of political mobilisation there should be ^a ~~forums~~ outside the ambit of

fora

government bodies and political parties who could voice an independent opinion on basic (human rights) issues^{of}. The rights promised by the Indian ^C constitution as well as the various laws also the Universal Declaration of Human Rights adopted by the United Nations provide the basic framework within which the civil liberties groups carry out investigation and express opinion openly in public platforms. Since it is believed that there is a national consensus on realising these human rights the government particularly the ministers, bureaucracy and police, the political parties and various people's organisations ^{ought} have to demonstrate a common commitment to this ^{Cause} course. Therefore civil liberties groups are not to be seen as substitutes or interfering agencies but organisations to complement their role as watchdog bodies. ~~A~~ A number of ^{civil} liberties organisations are active in various parts of the country besides the PUCL and PUDD. They include the Andhra Pradesh Civil Liberties Committee, ^(APCLC) the Committee for the Protection of Democratic Rights, ^(CPDR) Maharashtra, ^{the} Association ^{For} ~~for~~ ^(AFDR) the ~~Protection of~~ ^(APDR) Democratic Rights, Punjab, Association for the Protection of Democratic Rights, West Bengal and All India Federation of Organisations for the ^P ~~protection~~ of Democratic Rights ^(AIFOPDR). There are some organisational and methodological differences among them with regard to their approach and working methods, but most of them work together from issue to issue.

State repression or unlawful acts of coercion committed by the police or by others with the connivance of the police against individuals or groups has been one of the main subject

of investigation by the civil liberties groups. The reports on "encounter deaths" police firing on demonstrations detention under NSA and other repressive laws, police and army atrocities on villagers are some instances in this category. The other subject has been the denial in practice of minimum wages and other democratic rights prescribed by law to the workers. Reports on Asiad labour in Delhi, conditions of agricultural labour in Bihar, Adivasis of Adilabad, miners of Chhatisgarh and slum dwellers of Bombay may be mentioned in this context. In addition civil liberties groups sometimes come out with perspective statements on important issues of contemporary debate like women, environment and communalism. PUDR's documents Inside the Family, Judiciary and the People, Forest and the People are some of them. The monthly PUCL Bulletin has emerged as an important forum for civil liberties reporting and discussion.

Besides investigation reports and booklets they frequently approach the courts for legal redress. Among the celebrated civil liberties cases are the Asiad labour judgment with which the Supreme Court recognised the locus standi of citizens and human rights groups to approach the court on public issues and ordered the implementation of minimum wages regulations; the case of the Armed Forces in Northeast when it reprimanded the government for refusing to admit that the army killed the two allegedly missing persons; and the Bandhua Mukti case where thousands of bonded labourers were released from the clutches of the contractors in Haryana.

Among the successful campaigns in which the civil liberties groups participated along with several other social action groups we may recall the agitation against the Bihar ^{Press} Forces Bill and the movement against an ~~imminent~~ introduction of a new Forest Bill. The latter would have further limited the basic human rights of tribals by strengthening the hold of merchants and contractors in the forests and expanding the tentacle of forest bureaucracy. Recently when there was widespread protest against the arrest and foisting of false charges against some intellectuals who were going to address a commemorative meeting in Indravelli The Telugu Desham government withdrew the case. Even ~~though~~ ^{then} repression both by state and entrenched interests remains unabated. ^{Despite this,} The most important gain of the civil liberties movement in the country in recent years is the increasing generation of a democratic consciousness among people.

In fact this is a worldwide trend, though everywhere one can see adverse reactions from rulers. The UNESCO has organised a ^{fairly} ~~family~~ large programme for promoting human rights in the world for which purpose it has formulated a human rights curriculum. Some beginnings have been made in several countries belonging to different ideological groupings.

Recently the University Grants Commission started its Human Rights programme with the inauguration of a research and documentation centre at JNU. Several universities have been asked to initiate human rights teaching and research. But interestingly enough, the ~~proper~~ ^{old} curriculum has more about theoretical issues of human rights and human rights violation in South Africa and elsewhere than about the state of human rights

in India. It by and large reflects the position of the Indian delegation to the UN Human Rights Commission. The response of the state to this movement was also seen when the Directive Principles of State Policy was amended to include the provision "legal aid" in it. Showing an element ^{of} dynamism the Supreme Court has sometimes responded to the challenges of the emerging social situation and entertained what has come to be known as public interest or social action litigation or petitions made by citizens or social action groups on behalf of aggrieved persons. Expansion of the free legal aid network, though still in a small scale has been a positive trend. The judiciary has opened up a possibility where both the official policy on human rights and the civil liberation ^{lies} perspective some times may converge. Therefore, Justice Bhagwati's proposal assumes special significance.

Another ^{arena} which has opened up immense possibilities for carrying forward the cause of human rights is the Press. Investigative journalism by a new band of reporters and the concern shown by editors on certain issues have been of enormous significance for the evolution of the human rights movement in India. Some newspapers now carry civil liberties columns.

Yet there can be valid criticisms against the civil liberties groups which should be debated. Have they sometimes been identified with some political parties or groups? Particularly opposition groups? But the civil liberties group claim that if one examines the whole range of their reports then ^{it} can be noticed that they have not spared any political

whatsoever. In fact, as a result almost all the major political parties have generally kept themselves aloof from the civil liberties groups. This non-party perspective of the civil liberties groups has also come under criticism for it has kept them somewhat isolated while parties and their mass organisations can mobilise people in large scale. Objectively speaking, the political parties can see the complementary role which civil liberty movement plays in relation to their programmes of actions. In fact there has been harassment of civil liberties activists not only by Congress (I) governments but also in the states ruled by non-Congress parties. Right now several civil liberties activists are facing false criminal charges in several parts of the country.

It has been alleged that the civil liberties bodies protect Naxalite groups. The fact is that the civil liberties groups have always said that Naxalites should be covered by the same process of law like other citizens. If they commit violent acts then ^{they} should be prosecuted under law for that ~~actual~~ ^{action} rather than being killed brutally by the police in fake encounters. The civil liberties groups have always pleaded for understanding the roots of violence in the countryside or tribal areas. Instead of treating them merely on law and order problems the basic socio-economic problems of the poor should be tackled so that they do not give rise to such violence. Similarly causes of communal violence have to be seen in social and economic trends, government policies, electoral politics and cultural practices rather than in the acts of violence ^{themselves} When the civil liberties groups oppose state repression they

by no means condone violence by any group. In fact by appealing to everyone to look into the socio-economic roots of such violence they present a perspective on democratic rights as the basis for longterm peace. Unfortunately however this perspective has not cut any ice with the state. As a result, we find intensified state repression accentuating the stream of violence.

The civil liberties groups ^{have} also been accused of not cooperating with government agencies when they should. But the recent experience in Bhopal illustrates the complexity of this relationship. In fact the Jahreli Gas Kand Sandharsh ^g Morcha and the Nagarik Rehat and Punar ^{rv} ~~was~~ Samiti of Bhopal were fully cooperating with the administration until they found that the government was not prepared even to provide the necessary sodium thiosulphate injections for the gas victims and was not prepared to do anything which would offend the Union Carbide. So when they resorted to peaceful agitation, the government came down upon them with heavy repression. On an issue on which mutual cooperation was most needed to respond to an unprecedented human tragedy we could not see a joint action programme because of the attitude of the administrators. But efforts by civil liberties groups have ^{are removed} persisted. Until the state's apprehensions about them ^{it would} remained ~~in such spheres the gap will~~ continue to cripple relief and ^{measures} rehabilitation efforts. ¶ The question to debate is whether the civil liberties and democratic rights groups partly fill a

vacuum which is not filled up either by governmental institutions and political organisation without necessarily encroaching upon their role. Only when this issue is thoroughly discussed we can fully comprehend the significance of Chief Justice Bhagwati's suggestion for the creation of a Human Rights Commission.