

The Resurgent India

A Monthly National Review

January 2018



“Let us all work for the Greatness of India.”

– The Mother

Year 8

Issue 10

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email: sadlecjnn@gmail.com, info@resurgentindia.org, URL :
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Editor : Ms. Garima Sharma, B-45, Batra Colony, Village Bharatpur, P.O. Kaushal Ganj, Bilaspur Distt. Rampur (U.P)

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SUCCESSFUL FUTURE

(Full of Promise and Joyful Surprises)

Botanical name: Gaillardia Pulchella

Common name: Indian blanket, Blanket flower, Fire-wheels

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A Declaration

We do not fight against any creed, any religion.

We do not fight against any form of government.

We do not fight against any social class.

We do not fight against any nation or civilisation.

We are fighting division, unconsciousness, ignorance, inertia and falsehood.

We are endeavouring to establish upon earth union, knowledge, consciousness, Truth, and we fight whatever opposes the advent of this new creation of Light, Peace, Truth and Love.

— The Mother

(Collected works of the Mother 13, p. 124-25)

I. FALSE PERVERSIONS AROUND THE BHIMA KOREGAON RIOTS

The violence in Maharashtra over the January 1st celebrations by Dalits commemorating the Battle of Bhima Koregaon – in which the Mahar Dalits employed in the British Indian Army claimed victory over the Brahmanical Peshwa forces led by Baji Rao – II – has opened a Pandora’s box of division that does not bode well for the country. Patentedly, since it is a Dalit mobilization, BR Ambedkar’s legacy was invoked – misguidedly and in a way that even Ambedkar would oppose if he were alive today.

The immense violence that has gripped Maharashtra since then, should raise several questions in the minds of people. Why did the violence break out this time only, when these celebrations have been happening for the last 90 years? Since Ambedkar is being so vilely and divisively invoked, what exactly does history say about Ambedkar’s views on the Bhima Koregaon battle and the events around that time? And finally, why was the BJP not able to handle the crisis adequately and, as usual, why did it go on the defensive in the face of Dalit agitators?

These questions must be answered to get a fuller understanding of the event. But at the outset, let us dismiss all the politically motivated machinations around the protests by the Congress and NCP who tried to cash in on the protests by claiming that it was a Dalit versus Brahmin agitation rather than Dalit versus Marathas. Assuredly, this illogical and desperate claim will not ensure more votes for the opposition parties. Just because the battle fought 200 years ago was with the Brahmin Peshwas does not mean that the current agitation pits Dalits against the Brahmins. It is a well-known fact that Marathas and Dalits are always at loggerheads. For the last 20 years, the oppressors and enemies of Dalits were never Brahmins, but the OBCs, Marathas and other landowning sub-castes,

including in 'Dravidian' states themselves!

In fact, even the current Maharashtra agitation has brought angry Marathas on the streets against the Dalits and has snowballed into their classic demand of dilution of the SC/ST Atrocities Act, which provides protection to the Dalits. These obvious fault lines cannot be ignored. The Congress and Jignesh Mevani will gain nothing by making villains out of the Brahmins, who are not connected to the present crisis.

Yet, the Congress continues to do so – at its own peril. This – to answer some of the questions raised above – was one of the main reasons why the agitation started in the first place. This time around Mevani publicized his pending visit to Maharashtra for the January 1st in advance and made it clear that he had a political agenda. In the event itself, he and Umar Khalid – a JNU student booked for sedition in 2016 – gave inflammatory speeches, trying to incite the Dalits and telling them that the real battle has to be fought on the streets. This – along with reactionary disruptions by right-wing organizations labelling the event as 'anti-national', due to Mevani's presence and discourse – provided a violent, explosive cocktail mix which snowballed into riots.

*The BJP also failed to handle the crisis effectively. They seem to have reacted to Mevani's impending arrival and its implications and, in reaction, putting up a show of impartiality, issued statements saying that the government will ensure that the Bhima Koregaon celebrations will proceed unhindered. **When an event – which had otherwise gone peacefully unnoticed for the last 90 years – had garnered so much attention in advance and opposing camps had already trained their guns of political opportunism on each other, what other outcome could have been expected?** The most prudent course for the government would have been to not let Mevani enter Maharashtra on valid legal grounds, since his presence posed a threat to law and order. Or failing that, once this controversy did start, the*

government should have opposed Mevani strongly and head on without pussyfooting around defensively.

The BJP needs to be sure that it cannot, indeed should not, replicate the Congress policy of falling on its knees to appease the minority castes and religions. The minority castes – mainly, the Dalits – have always mostly stood by the BJP and have been more staunch supporters and ground workers for Hindutva than the Brahmins or the Baniyas. There is, therefore, no need of any kind of appeasement arising out of the misplaced thinking that someone like Mevani – who is, reportedly, funded by the radical Islamist outfit Popular Front of India, based in Kerala and the leader of love jihad offences – poses an actual threat.

It is also important to be aware of the actual events surrounding the Bhima Koregaon battle – especially for the benefit of those pro-Ambedkar activists who are spreading a machinated version of history to pit the Dalits against the Brahmins.

There was nothing unusual about this battle, which was fought on January 1st, 1818, between the Peshwas and the British Army. The British Army recruits consisted, in majority, of Indian soldiers belonging to the Mahar caste, which was heavily oppressed and brutalized during the Peshwa rule. The outcome of the battle was inconclusive, but was claimed as a victory by the British since they were considerably outnumbered by the Peshwas. This battle was interpreted by the Mahars resolved on claiming their dignity through their warrior class status and fighting and defeating the Peshwas – that is why Dalits have celebrated it, with Ambedkar starting the tradition by paying tribute to the Mahar soldiers at this site in 1927.

But then Ambedkar had always fought for the rights of the Mahars. His own father was deployed in the British security forces. At that time, in 17th century, when India, after passing through the divisive yoke of Muslim rule, was the fiefdom of independent princely kingdoms ruled by selfish princes, regionalism was all that mattered.

There was no conscious sense of fighting for the nation. Each kingdom sought to defend its own fiefdom and later these princes became loyal stooges of the British government. So, for these kingdoms, the enemy could be anyone – today, some Mughal ruler or some other Hindu prince and tomorrow the British East India Company.

For precisely this reason, the 1818 battle was of so small a moment. Every community – not just the Mahars – were on some side or the other and the alliances kept changing, according to necessity and circumstance. Shivaji's army had lot of Mahars. Similarly, during the rule of Bajirao – I, Mahars were present in the Peshwa army too. But today, our vitiated discourse is depicting it as if the Mahars fought as equal partners of the British by deliberately siding with the enemy to defeat the Peshwas. This was absolutely untrue. Mahars were living in extremely poor condition and for them the British Army was nothing more than a source of employment, since many of their traditional occupations were threatened under the British rule.

If indeed the Mahars viewed the British favorably as their liberators – as Anglophile reformers like Jyotirao Phule have sought to project – then the whole country, including the Dalit communities, would not have united for the freedom struggle. In 1818, the British Raj as an enemy was hardly a recognized fact as it became after 1857. In fact, in the 1857 battle, Mahars deserted the British and fought with the uniting country. After that, the British de-listed the Mahar regiment and, in their usual racial way, declared them to be 'non-martial' races.

Similarly, if indeed the Dalits sought to make common cause with the British – as Left-wing historians of today like to say – then Ambedkar would never have rejected Christianity by saying that it would strengthen the colonial stranglehold on the nation. To quote from Ambedkar, "If one converts to Christianity he ceases to be an Indian. The brotherhood in Islam is confined to the Believers;

that is, only to Muslims. It cannot promote universal brotherhood. I will not convert to either of these religions. I will convert to one of the religions that are born here, in this country India.”

If there is one thing that cannot be disputed about Ambedkar, it is his extremely staunch and uncompromising nationalist position – which transcended religion also. He rejected both Christianity and Islam, even though the Nizam of Hyderabad also reportedly offered him monetary incentives to convert to Islam.

And yet, despite his rejection of Christianity and despite his love for the country, his self-proclaimed followers today are leaving no stone unturned in completely misinterpreting and perverting his political philosophy.

How then do we reconcile Ambedkar’s position on the Mahars in the context of the 1818 battle?

The deliberate sense of community pride – as is being imputed to the Mahars because of a small event – was manufactured much later. As we know, Mahars were part of the British army out of economic convenience and deserted it during the 1857 battle, while the British also racially de-listed them. In 1927, Ambedkar tried to pressurize the British to accept the Mahars in the army. And he was joined in this cause by none other than prominent Hindu Mahasabha leaders, like Veer Savarkar and Dr. Moonje. In fact, in 1929, the Hindu Mahasabha called for the reservation for Scheduled Communities in the police force. In 1931, Savarkar even presided over a Mahar conference at Ratnagiri. After Independence in 1947, Ambedkar made the Sanskrit statement yash siddhi the logo of the Mahar regiment and its war cry as Hindustan ki Jai (Neelakandan 2018).

The British and the politicians and vested interests in present-day India have tried to distort this history – making it a simplistic case of Dalits siding with the British against the bad Brahmins. They have also imputed false impositions on Ambedkar’s role which – in

the Mahar regiment case – he fought in close collaboration with prominent leaders of Hindutva.

*In his concluding speech in Constituent Assembly, Ambedkar said, “What perturbs me greatly is the fact that not only India has once before lost her independence, but she lost it by the infidelity and treachery of some of her own people...Will history repeat itself? It is this thought which fills me with anxiety. This anxiety is deepened by the realization of the fact that in addition to our old enemies in the form of castes and creeds we are going to have many political parties with diverse and opposing political creeds. Will Indians place the country above their creed or will they place creed above country? I do not know. But this much is certain that if the parties place creed above country, our independence will be put in jeopardy a second time and probably be lost for ever. This eventuality we must all resolutely guard against. **We must be determined to defend our independence with the last drop of our blood.**”*

Ambedkar ended with a plea for placing the nation’s interests above everything else – the exact same project that Modi government started out with and must stick to. His ominous prediction – based on the personal suffering and havoc inflicted on him by Gandhi and the Congress – that India’s political parties will use caste and creed to undermine the country and jeopardize its freedom, came true as the post-Independent Indian politics unfolded. Today, our politics is only about caste and creed. The nation never finds a mention – except in Narendra Modi’s discourse. But then, as events at Bhima Koregaon and the casteist mobilizations during Gujarat elections showed, even after three years of firm rule, Modi is still fighting the odds.

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II. NO APOLOGY NEEDED FROM HEGDE

Despite three years of strong BJP government under Narendra Modi, it seems that the country has still not got over its baggage of secularist notions. The most classic example of this would be the twisted reaction to BJP leader Ananth Kumar Hegde's comments on secularists and the Constitution. Without a doubt every word of what the minister said was absolutely correct and well-intentioned. Yet, instead of fighting for him, the BJP – fearing a setback to its electoral ambitions in poll-bound Karnataka – chose to make him apologize for the truth he had stated.

In the process, the BJP will end up hurting its own political prospects, unless it rectifies its present ways. ***In the times to come, a change in the direction of a unifying and assertive national consciousness is taking place, and BJP under Modi, guided by the steering role of the RSS, was to be nothing but an instrument of this change. But if – at this late stage – the party turns political instead of remaining a nationalist force, it will be staring at its own imminent defeat.***

What Hegde had argued for was a strong assertion of national and religious identity of communities whose roots are ancient – and India providing ground for a spiritual amalgam and synthesis of this diversity. He had further stated that secularism – which is not even akin to atheism, for which Indian spirit has provided space and synthesis – is something that cannot be accounted for in the Indian spirit. What this means is that there is nothing cultural about secularism. It is a purely political subject – in fact, it is a political import from the West.

In fact, well-known 'secularists' like Ashis Nandy have even documented – with evidence – how secularism, in India and the world, has led to more death and destruction and communal violence

than the 'pre-modern', religious era ever did. Secularism was, indeed, the parent that spawned communalism. It emerged as a political revolt in Europe against the papal authority and ultimately its hard state-religion divide degenerated into an abolishing of religion altogether.

So, when Hegde says that secularists' ancestry is unaccounted for, it is absolutely rooted in correct reading of historical facts. For, secularism was nothing but a recent political phenomenon, born as a reaction. It could never even come to India the way it did in West after decimating the Church – in India, it remained limited to a crafty set of manipulating politicians and intellectuals who could conveniently make it into a creed and use it as per their convenience. But, indeed, it has no ancestry whatsoever – least of all any remote trace anywhere in Indian history.

Yet, Hegde was forced to backtrack on the facts that he had correctly stated – and which were in keeping with how the Indian political and cultural spirit has evolved. What's more – nobody actually bothered to listen fully to what he said, simply latching onto the secularism and Constitution comments, like a pack of wolves would attack a lamb.

If we read what he actually said, his remarks on secularism leading to his comment on changing the Constitution would become crystal clear. So, to quote from his misconstrued speech,

“In this country, there are myriads of traditions, faiths, belief systems etc. Some people wrongly attribute this intellectual diversity in our Hindu society to the reason why Hindu society can't be organized. We are not among the Chamchas, who just adhere to someone's ideas and opinions. Our system has evolved over thousands of years. We accept that what appeals to us. We don't care who said that. We don't know the names of most authors of our

Vedas, Upanishads and the Puranas. Those authors too chose to remain unnamed, as name and fame was not the part of their agenda. Those unnamed authors wanted this society to be happy and prosperous.

Caste is an abomination, which has a very recent history. The man who divided the Vedas into four was not a Brahmin by birth. He was born in a Boatman's family. *Vālmiki*, who wrote the *Rāmāyana* was not a Brahmin by birth, he was a hunter. It was Vishwakarma community, that gave us *Bhāradwāja* Samhita. This community built our cities and were pioneers in Engineering in this world. Vishwakarma community is not considered as a Brahmin community. Most of the authors of our Suktas and Samhitas too were not Brahmins by birth.

Dvija means born-again, not Brahmin. People, who don't know Sanskrit deliberately mislead people into believing that words like Dvija and Vipra means Brahmins. By birth all of us are like animals. Our Karma makes us what we are.

Smritis have been changing all our history. Some people want to beat us with the Manusmriti. They must know better than that. Manusmriti is no longer relevant. Today's Smriti is Ambedkar Smriti. Those who still poke us with Manusmriti are real "*sampradāyavādīs*". They are fools. These Smritis are only historical footsteps. They (pseudo-secularists/Leftists) are only accusing us of mistakes committed by them.

If some Muslim calls himself a Muslim. I feel happy for him. I feel happy for a Christian, who calls himself a Christian. I also feel happy for those who claim to be Lingayats, Brahmins or Hindus. Because these people are aware of their ancestry. But, I am confused and skeptical of those who call themselves *jātyātita* (Kannada word for secular, which means someone beyond *jāti* or identity by birth). Those who can't identify their ancestors call themselves *jātyātitas*.

One might say, secularism is an ideal from the Constitution. I too respect Constitution. But, this Constitution has been changed many times in the past in accordance with changing time and it shall be changed even in future.”

In this speech, which contains the so-called ‘controversial’ comments on secularism and Constitution, was there anything at all to generate so much ire? It is apparent, after reading this, that everything implied by Hegde was correct in spirit. Yet the pervasive influence of false secularism – politically imported and imposed on the country out of opportunistic convenience – has provoked a hostile reaction which has led everyone to misread Hegde’s remarks on the Constitution. ***Of the Constitution, Hegde had simply said, “One might say, secularism is an ideal from the Constitution. I too respect Constitution. But, this Constitution has been changed many times in the past in accordance with changing time and it shall be changed even in future.”***

Ironically, for the secular attackers of Hegde, the above statement is entirely in keeping with the spirit in which the Constitution was drafted. ***When the Constituent Assembly debates were going on, there were many proponents of secularism*** – like KT Shah who moved an amendment in November 1948 to introduce that “India shall be a Secular, Federal, Socialist Union of States” – who wanted the words ‘secular’ and ‘socialist’ to figure in the Constitution. Not only were they not part of the Constitution, but also did not feature in the original Preamble. ***Such proposals were blocked by BR Ambedkar – the father of the Constitution and the Dalit icon whose supporters have misguidedly cornered Hegde.***

For Ambedkar, there was no such thing as a fixed ‘sacrosanct spirit’ of the Constitution. For him, the Constitution was only an administrative document to guide the working of the various organs of the state and to ensure fundamental rights of the people.

It is simply a written administrative document, and we cannot bind ourselves and the divinity residing within our hearts to any such set of rules, even if it's the most divinely inspired and sacred scripture. As Sri Aurobindo pointed out, "Constitutions can only disguise facts, they cannot abrogate them: for whatever ideas the form of the constitution may embody, its working is always that of the actually realized forces which can use it with effect. Most governments either have now or have passed through a democratic form, but nowhere yet has there been a real democracy; it has been everywhere the propertied and professional classes and the bourgeoisie who governed in the name of the people."¹

Therefore, a constitution is no guarantee of the shape that our collective life will take – even democracies with best constitutions and rules have failed their purpose. It is the spirit which shapes the form – the written material document – and not the other way around.

The Constitution should be flexibly used to organize political unity, but must never be allowed to fetter our free self-expression and the free development of our collective political and national life.

The current drama over Hegde's remarks has completely underlined the current national spirit and character. The way the events unfolded and culminated are testimony to our philistine mentality.

In fact, agitating 'secular' supporters of Ambedkar should go back to his original writings to know that he actually opposed the formation of a Constituent Assembly in the first place. All students of Indian Constitution are aware of the common fact that the Constitution had many provisions from the Government of India Act, 1935. Ambedkar felt the same way – and precisely for that reason, he suggested that modifications and additions could be made,

instead of going into unnecessary constitutional debates by forming an assembly.

So, indeed, when Ambedkar himself treated the Constitution like an administrative document, it was obvious that he would oppose the fixing of Indian society in any fixed moulds by erecting unchanging 'systems' like secularism and socialism. For him, these were ideals to be practiced and imbibed – ideas which can change with time and place – not systems to be fixed. The West had done the opposite. It had done what the proponents of secularism wanted in India also – to fix the Indian polity into the mould of secularism and socialism.

But, as Ambedkar said, "What should be the policy of the State, how the Society should be organised in its social and economic side are matters which must be decided by the people themselves according to time and circumstances. It cannot be laid down in the Constitution itself, because that is destroying democracy altogether."

Isn't this exactly what Hegde also meant when he said that while he respects the Constitution, it has changed many times in the past and will change in future also. Never did he say, 'We are here to change the Constitution' – a blatant and false fabrication that has been passed around in his name by the national media, and for which his party, instead of defending him tooth and nail, forced him to apologize.

Indeed, this apology – which arose out of BJP's selfish calculation of not losing votes – may backfire electorally on the party. It happened in 2006 when one of the BJP ministers in the BJP-JD(S) government in Karnataka spoke against Tipu Sultan and received widespread condemnation at all levels. The BJP forced him to apologize and lost the next election. ***The BJP must understand that it is not like the Congress – mired in falsehood and opportunism, allowed to languish in the lethargy of power for so many years.***

The BJP is supposed to uphold the national interest and any opportunism by it will not go unpunished. The stage at which the BJP is today – with millions of people putting blind faith in this government – it cannot afford to be selfish or operate like a normal lethargic Indian political party.

While this entire episode should have been a serious lesson and moment of introspection for the BJP, it should be a bigger lesson for the Indian public. For all those people and activists and so-called Dalit lobbies who have hounded Hegde, they should remember that both Ambedkar and Nehru opposed the inclusion of the term secular in the Constitution. ***It was Indira Gandhi – who in a stroke of opportunism to appease the poor and the minority – introduced the terms ‘socialist’ and ‘secular’ in the Preamble to the Constitution.***

What’s more – they were introduced through the inauspicious 42nd Constitutional Amendment Act and by a person who had made a travesty of the same Constitution which the ‘secular’ lobbies are defending today. Forget about introducing these terms – if indeed Constitution is so sacrosanct, how is it that Indira Gandhi has the credit of single-handedly subverting and corrupting every government and institution, right up to making the President and the Chief Justice her puppets?

Obviously, the political opportunists of today will not answer these questions. They accuse Hegde of reading history selectively. But the Constitution they cherish so much had come to incorporate the secular ideal by a virtual dictator who had bulldozed the entire Constitution! Of course, one cannot expect the blind and opinionated masses of today – pretending to be guardians of the Constitution – to react any better. But one has to ask them – even after the introduction of the term ‘secular’ in 1976 by the 42nd amendment, did our country become a secular replica of the West? Did the

incorporation of this word lead to any fixed system or practice of secularism?

It did not happen. ***Not only has the Indian spirit repelled any such gross attempts to rein it in or bind it into a fixed system, but the recent times have proven that Constitution has become a travesty*** – to be quoted at convenience by opportunists and used like a weapon, while the judiciary that is supposed to administer justice, languishes and keeps falling into further corruption with every passing day.

After going into the real meaning of Hegde’s speech and looking at how he was attacked, it seems even Ambedkar must be turning in his grave at the gross falsehood that is being perpetrated in his name by his self-appointed champions.

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III. THE SHAM IN THE NAME OF JUSTICE

The infamous judges' press conference on 12th January and the events that transpired in and around it reveal that it is much more than the crisis of institutions that it is being made out to be. While basic common sense should make us question the permanency of the Constitution itself, ***the current crisis makes us question that unimpeachable legitimacy with which the judiciary claims to be the upholder of the 'constitutional principles of justice'. It reminds us of what B.R. Ambedkar once said about the Constitution viz. "I feel, however good a Constitution may be, it is sure to turn out bad because those who are called to work it happens to be a bad lot. The working of a Constitution does not depend wholly on the nature of the Constitution."***

While this reference to the 'bad lot' would automatically have been taken to apply to the political class, after the 12th January event, it seems to apply to certain sections of the higher judiciary too.

To begin with, ***the January 12th event itself was political and appears to have had little to do with any genuine desire on the part of the judges to reform the judiciary. If, indeed, such a genuine desire had existed, they would have expressed their concern long ago. Not only has the system of judiciary been in a state of rot, but the delivery of justice in accordance with a basic minimum of honesty has almost always been missing – a point that no one seems to be interested in talking about in the present crisis in the judiciary.*** What is the point of having an institution if it just becomes a cumbersome, too-big-to-handle machine which let alone doing its work inefficiently, fails entirely to do it?

That is what our judiciary has become at present. ***Based on an entirely Anglo-Saxon model of jurisprudence*** (as was mentioned in the infamous letter penned by the four judges on January 12th), ***our***

system of justice has had little contact with the spirit of the country and the Dharma and code of laws that had inspired so many ages of our civilization. To the contrary, the modern system of justice, of which the Indian Supreme Court proudly claims to be an exemplary representative, has become nothing more than an exercise in dehumanization.

As Sri Aurobindo summed up the European system of justice, “Under a civilised disguise it is really the mediaeval ordeal by battle; only, in place of the swords or lances of military combatants, it is decided by the tongues of pleaders and the imagination of witnesses. Whoever can lie most consistently, plausibly and artistically, has the best chance of winning. In one aspect it is an exhilarating gamble, a very Monte Carlo of surprising chances. But there is skill in it, too, and it satisfies the intellect as well as the sensations. It is a sort of human game of Bridge combining luck and skill, or an intellectual gladiatorial show. The stake in big cases is a man’s property or his soul. Vae victis! Woe to the conquered! If it is a criminal case, the tortures of the jail are in prospect, be he innocent or be he guilty. And as he stands there, — for to add to the pleasurable of his case the physical ache of long standing is usually added to the strain on his emotions, — he looks eagerly, not to the truth or falsehood of the evidence for or against him, but to the skill with which this counsel or the other handles the proofs or the witnesses and the impression they are making on the judge or jury.”¹

While this was written more than a century ago, one cannot help thinking about these lines in the light of the baseless letter that was released by the four judges on January 12th, highlighting their proud Anglo-Saxon jurisprudence and lambasting the sitting Chief Justice, Dipak Misra, for deliberately tweaking the Court’s internal institutional procedures. All this was written without citing a single

example (except the part where they lamented the delay over the finalization of the Memorandum of Procedure, pertaining to the appointment of judges – and, here too, they made invalid assumptions, taking the government’s ‘silence’ on the MoU to be its assent, and blaming the CJI for bowing to the executive).

Lack of any solid evidence or examples has left the field open to obvious political conspiracy theories – both, on the side of the opposition and the government. So, ***at the very outset, the ostensible desire, on the part of the four justices, to reform the judiciary internally was bound to be thwarted. There was no meaning to taking this vague half-plunge, letting the opposition conveniently hijack the rest of the agenda. If, indeed, the judges wanted to bring the reality before the ‘nation’, they should have spelled out exactly how democracy was in danger, instead of repeating the same lines which the intellectuals and the BJP’s political opponents have been parroting for the last three and a half years.***

The left-liberal media was quick to weave a narrative and argue that the controversy surrounding Judge Loya’s death – who died while he was probing the Sohrabuddin ‘fake’ encounter case implicating BJP chief Amit Shah – was the trigger for the press conference, as one of the judges had so affirmed to a news reporter present at the conference. After the repeated pleas made by Loya’s son to leave the family alone as well as the nature and timing of the sensational expose, much has already been said – with strong evidence – to rebut the baseless speculation that Loya was murdered to ensure a favourable verdict for Shah. These reasons will not be explored here, though they are more convincing than the expose by the *Caravan* magazine.*

What should, instead, be highlighted is how the political

* For further reading, see (Merchant 2018).

opposition and certain members from the judiciary were quick to jump on the bandwagon and demand an investigation into the Loya case. When the Court decided to hear the case, rabid anti-BJP activists like Dushyant Dave and Indira Jaising (also present at the press conference) objected that it was already before the Bombay High Court – a very curious objection to the Supreme Court taking up the case. In any case, an SC bench headed by Justice Arun Mishra decided to hear the case – he recused himself after the January 12th event. The CJI was under intense pressure to assign the case to one of the four judges. Instead, despite this pressure, he has now assigned the case to a bench headed by himself (Merchant, 2018).

These political machinations show that the Loya case is too important a political hunt meat for the opposition to lose. So even though, the four judges have been, indeed, excluded from many other high-profile case benches over the past year, this became the trigger and prompted one of the judges at the press conference to candidly confirm the same to a reporter. Such a confirmation should have been a red flag pointing to the political nature of the conference, if anyone had been willing to even begin to question the whole drama.

The hand of the political opposition is revealed in the fact that the conference coincides with the beginning of the hearing on two other critical national cases – the Ayodhya case and the 1984 anti-Sikh riots case. Despite the pleas of Kapil Sibal of the Congress, the Court decided to hear the Ayodhya case from this February onwards. An adverse verdict for the Congress in the 1984 case would have completely decimated the opposition just before a series of assembly elections to the states and next year to the Lok Sabha. Similarly, an ‘anti-Muslim’ verdict in the Ayodhya case would have given a powerful boost to BJP’s efforts at Hindu consolidation and left the Congress and other parties, electorally, at a nadir. For the opposition it would have been similar to or even much worse than the triple talaq case,

which has established a direct connection of sorts between the BJP and leading Muslim women's organizations and activists and even Shia Muslims. In fact, a few days ago, a big organization led by the famous Muslim activist, Zakia Soman, sent a letter to the offices of all political parties, arguing that the imprisonment clause for Muslim men should be retained in the triple talaq bill. This petition, sent after long nation-wide consultations with Muslim women, acted as an unpleasant surprise for the Congress, which had stalled the bill in the Rajya Sabha with the stumbling block being the imprisonment clause for Muslim men.

Clearly, then, the opposition could not afford another such unfavourable verdict in such high stakes' cases, just before the elections. Why not, then, put the CJI and the ruling party in the dock by capitalizing on the January 12th press conference? The motives and the actual people who triggered this conference and whether any of the four judges conspired with politicians will remain a mystery, but incriminating facts like those mentioned above, as well as, the presence of rabid anti-Modi activists like Indira Jaising and advocate Dushyant Dave at the press conference as well the meeting of Communist Party of India leader, D. Raja, with Justice J. Chelameshwar after the press conference, show that ***the January 12th event was not the war to liberate democracy and justice that it is ostensibly being made out to be.***

That there were also some personal elements to the eloquently shrouded grudges of the four justices is made clear by their other grievances detailed (without examples or substance) in the letter released by them. They centre mostly around 'bench-fixing' and how the CJI is misusing his power as the Master of the Roster to skip the courts of the four senior-most judges after the CJI and assign cases to junior benches, with dark hints about how the CJI is bending to the pressures of the executive (here also, there are no examples

and many major judgements like the Hadiya case, the national anthem case etc. would show that they are against the stand of the ruling party, while favourable judgments like triple talaq roundly resonate with the national mood).

Cases have been assigned to junior benches for the last twenty years and no fixed 'conventions' have been followed. So, the judges' accusation sounds more like a personal grudge, since the four judges have been excluded from major benches. Undoubtedly, the CJI and his well-known three-judge bench have been active in most of the national cases. And even though the exclusion of the four judges is obvious, it would be near impossible to say that the verdicts in those cases went against the national interest.

This makes the current judges row, at one level, more of personal matter than an institutional one – and that is why, in addition to the lack of any evidence, the Congress refused to support the politically-motivated resolution of CJI's impeachment deliberated by CPI(M)'s Sitaram Yechury, who decided to engage in this face-saving public gimmick after his position was undermined in his own party.

In fact, the entire bench-fixing grievance highlighted throughout the letter seems like an excuse to put a break in the functioning of the Court. It is obvious that the biggest reason is the disruption of the Loya, the Ayodhya and the 1984 riots cases. The story surrounding the Loya case proves that beyond doubt.

It is also pertinent to question that if, indeed, the four judges are so concerned about democracy and judicial integrity, then why haven't they raised their voices over similar and much more serious concerns that have plagued the judiciary for decades. Does not judicial corruption, a mountain of backlog of delayed cases, and the opaque collegium system, constitute a violation of democratic norms and the judicial integrity? It would appear that these are much graver

offences than the one denoted in the simplistic bench-fixing argument.

The politics surrounding the judges' public conference shows that we cannot assign any kind of fixed sanctity to institutions and treat them as sacred, as is the natural tendency. Some of the worst injustices have been committed under the watch of this Court and some of the most regressive judgements have been passed, while it also remains normal for cases to be delayed and left hanging for decades together. Barring the Supreme Court, as we go down the rung of the judiciary to the lower levels, the rampant corruption is glaring. You need lakhs and crores of rupees just to get advice or an appointment with a lawyer, let alone the expenses incurred in actually fighting the case. Also, smaller civil courts function at the mercy of middlemen and the money they hog from their network of clients. It is a torturous process, as exemplified in courts like Delhi's Tis Hazari, imbued with lethargy and corruption.

Aren't these courts and the corpus of lawyers across the various rungs of judiciary, institutions as well? And yet, despite their rampant corruption, we still do not hesitate to treat 'institutions' as sacred. This bogey of sanctity needed to be broken for good. ***The only thing positive for the nation about the January 12th conference was that it broke the sanctified and fortified image of the judiciary – especially the invincible higher judiciary that often appropriates for itself the powers of the court of a god – shrouded in secrecy and imperialist in nature. For far too long, the judiciary had been embroiled in its own internal issues – far from invincible – bent on arrogating powers to itself, laboring under the delusion that it was a just upholder of citizens' rights (even as the very idea of 'rights' has become a sham) and continuously stepping on the toes of the Parliament and annexing executive decisions to itself.***

Most of the former CJs lamented the decision of the four judges

to go public. In effect, their very public washing of soiled linen has toppled the judiciary from its pedestal and put it on the same level as that of the other soiled political institutions of this country. The motives of the judges and the working of the judiciary are already being subjected to questions and speculations – something that would have been unimaginable before this press conference.

References:

1. Complete Works of Sri Aurobindo, Vol. 1, p. 497, Sri Aurobindo Ashram, Pondicherry

“The greatest service to humanity, the surest foundation for its true progress, happiness and perfection is to prepare or find the way by which the individual and the collective man can transcend the ego and live in its true self, no longer bound to ignorance, incapacity, disharmony and sorrow. It is by the pursuit of the eternal and not by living bound in the slow collective evolution of Nature that we can best assure even that evolutionary, collective, altruistic aim our modern thought and idealism have set before us. But it is in itself a secondary aim; to find, know and possess the Divine existence, consciousness and nature and to live in it for the Divine is our true aim and the one perfection to which we must aspire.”

– *Sri Aurobindo*

(Complete works of Sri Aurobindo, 23, p.359)