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'The Constitution is not just a Law but the Supreme Law of the Land' Prof. M.P.Singh's address at the Sikkim University Lecture Series

Report by students from the Department of Law



The yardstick to measure the legality of the constitution has to be by treating it “as a supreme policy decision and through the participation (though minimal) of citizens in the supreme policy decision in a democratic set-up” said Prof. M.P.Singh. ” Delivering a lecture on ‘The Constitutional Vision of Just Society’ on May 18, 2013, Prof. Singh underscored that the founding fathers of our Constitution internalised this principle at every stage of drafting the Constitution.

The May 18 lecture was the first of the Sikkim University Lecture Series and the function held at the Namghyal Institute of Tibetology. Justice S.P. Wangdi, Judge Sikkim High Court, was the Chief Guest. Justice Wangdi, in his address, outlined the evolution of the Constitution both from the time of its drafting and the stages through which the apex court had enlarged its scope by way of interpretations.

In his erudite lecture, Prof. Singh held that though the concept of justice has eluded the legal thinkers since time immemorial, the structure of the idealistic state cannot be imagined without the cornerstone of justice. Owing to diverse approaches to the concept of justice, from Manu to John Rawls of present century, the concept has been construed somewhat differently, but the basics remain the same, he stressed.

The concept has been duly acknowledged by modern legal systems around the world and India is

not an exception to it. Law is to be chiselled from the divine concept of justice which continues to be on the fore of the legal system. This is true of our own Constitution and most importantly in the preamble. The mandate to secure to all citizens : JUSTICE, social, economic, and political, is indeed a marker of this ideal, he added. Prof. Singh underscored the apex court's ruling that the preamble forms a part of the constitution as a formal endorsement of this ideal.

Pointing out that the Constitution is not just a law but the supreme law of the land, Prof. Singh added that this should not be construed in isolation but in the context of the social, political and economic constraints. Thus, it is a social, economic and political and legal document, he added. Prof. Singh referred to the landmark judgement of 1803 of *Marbury v. Madison*, where the American Court pronounced upon the legality of the constitution on the basis of “being the supreme policy decision” in support of his argument.

In the course of the discussion that followed the lecture, Prof. Singh stressed that notwithstanding the aberrations at different points of time, the experience with our Constitution as a key to the making of a just society has stood the test of times.

Earlier, welcoming the gathering, Prof. T.B.Subba, Vice-Chancellor, Sikkim University, spoke about the various measures that have been taken and on the anvil to develop the Department of Law as a centre for excellence. He expressed confidence in ensuring that the faculty requirements in the department will be taken care soon.

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Radical Ecological Democracy (RED) is the alternative to Capitalist Globalisation:

Dr. Ashish Kothari interacts with SU community

Report by Balaram Pandey and Dr. Samar Sinha

The experience with almost two decades of globalisation has only rendered India into a more iniquitous society than before, according to Dr. Ashish Kothari, co-author of “Churning the Earth: The Making of Global India.” Introducing his the book at a function on May 2, 2013 at the conference hall at the University, Dr. Kothari presented the various aspects of the neo-liberal programme, formally set in motion in 1991, and contested the claim that there was no alternative to this.



The slide show that he presented contained information in graphic detail on the damages caused by the neo-liberal policies on nature, livelihood and the economy of the nation. It also contained information on the positive stories of intervention by the people from different parts of the country against the neo-liberal agenda.

The occasion was a function at the university to release the book and a discussion thereof. Prof. T.B.Subba, Vice Chancellor formally released the book (co-authored by Dr Aseem Shrivastava, a Delhi-based writer and Dr.AsishKothari, a founder-member of Indian environmental group Kalpavriksh) before leaving the floor to Dr. Kothari. The 416 pages thick book published by Viking Penguin (2012) takes a comprehensive view of development under globalization in India, and closely examines what it has meant for India.

Highlighting the damages caused to the ecology and the aggressive land acquisition which has spawned numerous protests, the book questions the model of development that India has been subjected to since the early decades of independence. It stressed that the volatile global economy, climate change, conflicts over water, land and natural resources have cumulatively threatened the future of India as a civilization. Dr Kothari highlighted the need for concrete alternatives to the current policies and practices, and

propounded fundamental political reforms towards a radical ecological democracy based on fundamental principles of ecological sustainability, social equity, and universal food, water and livelihood security.

Dr Sohel Firdos, associate professor in the Department of Geography and Natural Resources Management and Dr Salvin Paul, assistant professor in the Department of Peace and Conflict Studies discussed the book before an interactive session between those assembled and the author.



Editor's Note

The month of May that went by was marked by two lectures: Prof. M.P.Singh from the Delhi Juridical Academy speaking on the Constitution and Dr. Ashish Kothari on the travails of the neo-liberal era. It is unusual in a university when the semester draws to a close and in the midst of term papers and practical examinations. But we did break barriers.

An inspection team from the Bar Council of India visited the University as well as the Government Law College, Sikkim, affiliated to the University. Students of the Department of Law enjoyed their exposure. A convention of Legal Education is on the cards and scheduled for this month. Sikkim University will start 11 new departments including English Literature, History, Political Science, Anthropology, Education, Zoology and Hindi this coming academic year and the process of admissions to these courses and the existing programme is already on.

And as for this issue of the chronicle, we have short notes on books that our students happened to read recently. Saurabh Thapa, Research Scholar at the Department of Journalism and Mass Communication and Jayanta Madhab Tamuly, Research Scholar at the Department of Peace and Conflict Studies and Management, have contributed to this section in this issue.

Dr.V.Krishna Ananth
Editor



Seminars/Conferences

Jayanta Madhab Tamuly, Research Scholar at the Department of Peace and Conflict Studies and Management presented a paper entitled *Higher Education in India: Quality Issues and need to evolve pedagogy- A special focus on Peace and Conflict Studies* in the NAAC sponsored National Seminar on **Strategies for Enhancing the Quality in Teacher Education Programme** organised by Harkamaya College of Education, Gangtok on 29th -30th April, 2013.

Jayanta Madhab Tamuly also presented a paper entitled *The Doors not yet opened-study on the representation of multi layered marginalisation of women in the works of Ratna Bharali Talukdar* in the UGC sponsored National Seminar on **Reading and Re-reading Contemporary Women Writers of North East India** organised by J.B.College, Dibrugarh University, Assam on May 3 and 4, 2013.

Publications:

Privat Giri, Department of Journalism and Mass Communication:

Origin and Development of Nepali Language; Darjeeling Times

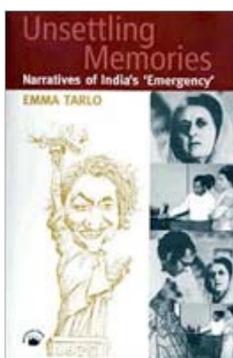
Ugen Bhutia, Department of Journalism and Mass Communication

Media at its Jingoistic Worst; The Hoot.

Books:

Emma Tarlo's "Unsettling Memories: Narratives of India's Emergency"

by Saurabh Thapa, MPhil, IInd Semester, Department of Journalism and Mass Communication



After the emergency was lifted in the year 1977, many politicians as well as other professionals and common people wrote numerous books on the experiences of the times. Most of the books speak about the political and economic aspects of the emergency that generally touch upon

the Censorship of Press, suspension of constitutional freedom and the draconian M.I.S.A. (Maintenance of Internal Security Act), the arrests and torture of politicians and common people resisting the emergency. In these series, Emma Tarlo brings in a new insight on the impact of the emergency upon the grass-root people, especially the poor, through the city beautification and family planning policies executed by Mrs. Gandhi's government.

In her book "Unsettling Memories: Narratives of India's Emergency", Tarlo brings out elaborated effects of Slum clearance and Sterilization in the name of city beautification and family planning, particularly in Delhi. Even after two decades from the period of emergency, Tarlo, in the slum department of the Municipal Corporation of Delhi (M.C.D) located at Welcome Colony, came across various documents that referred to the allotment of land or tenements to families whose homes had been demolished as a result of slum clearance policies which proved to be a huge resource for her study. These files often contained information on the course of the plot as it changed ownership over the years, providing insight into how housing policies changed over time, and how residents and officials manoeuvred these changes. Each resident had to have a 'demolition slip' and an 'allotment order' for the purpose of acquiring or transferring plots in new areas. In the later stage the resettlement process is brilliantly associated with the sterilization process.

Emma interestingly puts in how emergency was popularly known to be "Nashbandi ka Wakt" amongst the slum dwellers rather than emergency itself. The sterilization episode can be divided into three phases, which in the later phase can be linked with the resettlement or the slum-clearance affair as well. The first phase is specifically the initial phase or the stage of chaos that started with the widespread sterilization in Delhi. From the start till the end, the most affected or the consistent victims were the poor, especially the slum-dwellers, beggars, kabadi-walas, etc. The officials in-order to please the authority or more exclusively the Prime Minister, started to persuade everyone found on the streets for sterilization, resulting in heavy chaos amongst the people in the cities as well as the villages in and around the capital. Emma talks about certain cases where the males in some villages hid themselves in the fields so that the officials or the police would not catch them and send them to sterilization camps.



The second phase is the resistance and its consequences of the sterilization policy. The officials later began to send everyone to the sterilization camps undermining even the ones with only one child or underage youths. In-order to just meet with the target numbers, force were started to be applied upon the common masses to get them operated. Having religious, conservative and orthodox citizens in India, there started huge resistance and retaliation against the family planning policy of the government. Emma includes a very important case about the massacre happened at the Turkman Gate, which was a Muslim majority area. When the process of demolition and forceful sterilization started in the place, the orthodox Muslims, who considered sterilization as a sin, greatly resisted against it. Many friends and families and relatives from around the region came in support at the gate for the resistance. The police at that time in-order to disperse the crowd fired upon the unarmed crowd taking numerous lives. This is also considered to be second Jalianwalla Bagh massacre by many. Though the resistance by the Muslim community in the Turkman Gate incidence was also against the demolition of their houses, but it can be known that by in large the reason was more concentrated towards the sterilization policy which directly contradicted or affected their religious customs.

The third phase consists of the acceptance, profit, resettlement policies and the victims turning into agents. Sterilization, though a horror to many but still some managed to benefit from it. The family planning policy was not just limited to the slum-dwellers, infact the government employees also had to deal with it. In-order to save oneself, there started a new trend of motivating others to get themselves out clean. The men with wealth often lured poor with the greed of money to get sterilized, or bought themselves sterilization certificates without going through the operation. But this was not just the trend of the rich. When the distribution of plots got directly associated with the sterilization process as well as the compulsion to show the certificates to receive new plots, secure their old ones or even to secure their livelihood, the poor started to sterilize themselves in pressure or greed and even motivated others for to meet the purpose. But this was not just concentrated towards the plots allotment schemes, rather it included other aspects such as promotion, increment of salary, job

security, etc. Eventually all these circumstances led to the emergence of dalals or the middle men to handle such situations. The dalals would basically make the deal in favour of some person's name to motivate others for the operation with the help of some money. In the mean time, many started taking opportunities and with the help of certificates sold and received new plots, hence duping the authorities as well. In that period, the right to work, the right to civil amenities and the right to a home were greatly influenced or were directly under the control of the sterilization policy.

In the last chapter, Tarlo includes a portion where many of the common voices though greatly affected by the emergency still praised Indira Gandhi's regime. Despite of all the hardships they experienced, they had only one thing to say that atleast Indira Gandhi's government allotted them some land unlike promised by other leaders and that Mrs Gandhi was the leader of the poor. There can be found a sense of confusion about the morality of Indira Gandhi as a leader. Through the three narratives laid by Emma Tarlo in her book, there can be made a general assumption for this transition in the minds of the resettled person's perception, from a ruthless government to a better one. The first narrative is basically the crisis phase which is criticized by almost all, which talks about the wrong doings and the atrocities in the emergency period. The second is the coming up of Janata Party in power but unsuccessful to correct the past wrong doings by the Emergency government. The new party also started harassing the people who had actively participated in the emergency, may be in compulsion. The third is the acceptance by the displaced ones in the welcome colony, that, Indira Gandhi was a great leader and that she always thought about the poor. They even assumed that not her but her son, Sanjay Gandhi, the government servants and the middlemen were to be blamed for what had happened.

The last portion clearly indicates the failure of the new governments to provide solace to the victims of the emergency era. The failure was so much that the victims forgot even the wrong-doings of the Indira Gandhi's government and infact considered her to have been the greatest leader of all, despite of all her attempt to create an authoritarian rule in the country. The book shows glimpses of hypocrisy where the people, both on the top and bottom would not consid-



er themselves to sterilize and regarded sterilization to be bad for health and for religion but would motivate others in-order to gain favors. Therefore, the book provides beautifully the historical irony of remembering emergency today, the transition of perceptions and the development lessons to be learnt.

Ratna Bharali Talukdar Jerei Hagramaya Gabo (Assamese), Assam Publication Board, 2012

By Jayanta Madhab Tamuly, Research Scholar at the Department of Peace and Conflict Studies and Management



“...Garati Murmu has decided to send Sorla, her only daughter, to Delhi. The head master of the Missionary school told her that her son Albert is a brilliant student and he should be sent to a good school. Moreover, her late husband too wished that his son would study in a good school. Sorla, if sent to

Delhi, would be able to send at least two thousands per month. Then she would be able to send Albert to school. Now –a –days it becomes very difficult to manage some work around the relief camp. The government has stopped providing relief and ration. She does not have any option. Garati does not have any idea about Delhi. She is also aware of the fact that she will not be able to contact Sorla regularly. Still Garati has made up her mind. She will send Sorla to Delhi to join the ‘Placement service’.....” (pp, 22).

Sacrificing hope for fulfilling hope is always a painful process. On the way of life, we often have to compromise with our hopes to fulfil another set of hopes. But, when a mother has to compromise with the body of her grown up daughter for the education of her son (patriarchy preferred?) history sighs. Now, everyone becomes curious to know the phenomenon. Who is this mother? Why is she choosing this path? What leads her for such a choice? What happens to the poor girl? Where is this horrific land?

Jerei Hagramaya Gabo answers all these questions. An Assamese novel, penned down by Ratna Bharali Talukdar, caters to all these curiosities with its

sheer honesty and simplicity. Jerei ,Hagramaya and Gabo are Bodo words literally meaning-the story of weeping forests. Published on 2012, the novel is set on the post conflict situations of Bodoland-the region with the prolonged history of conflict and violence of the state. The protagonist is Tripti, a journalist on a media fellowship to study the post conflict scenario of the region. Her encounter with different characters and different situations constitute the story of the novel. During her visits to the relief camps, villages and households, Tripti witnessed the untold history of this volatile vicinity in the raw shape. Through her journey, Tripti came into contact with Derhagra (Bodo journalist), Bilashree (Bodo girl), Sivram (Adivasi youth), Margret (Adivasi old woman), Garati (Adivasi woman), Kujur (Adivasi woman) and numerous characters who are the victims of the sufferings and exploitations in the conflict and post-conflict situations in the region. Tripti also went to the two Bhumka villages where Bodo and Adivasi women were raped and killed during the hostile days. Her interactions with the victims brought out the naked realities hardly recorded in the academic or political writings on the issue. The novel proves that although there is a growing body of feminist discourse establishing that war and peace are gendered activities and consequently women's experiences, responses and needs are different, it is often overlooked by national and international policy-makers. Studies making visible the centrality of women's agency in various stages of a conflict or post conflict situation and the need to have women participate at the peace table are ignored by the traditional academic discourses. In this context, marginalisation of women in such situations is the mostly neglected area. Jerei Hagramaya Gabo is a bold portrayal of this area.

Life in a conflict torn area is always different from a normal life in normal place. Though, use of the word “normal” is also very much relative, such areas suffer from loss of mutual trust and respect, insecurity, violation of human right, latent violence sensitivity, loss of livelihood options, scarcity of life resources etc. Reading of Jerei Hagramaya Gabo provides a bold picture of all these brutal realities with the utmost sincerity. Here daughters are reluctant to provide food to mothers, parents ready to send daughters to prostitution under sheer pressure of money or journalists dig out the ghastly memories of physical



violence for sensitive news coverage. By the virtue of being a journalist, the novelist is able to lead her story with factual truthfulness which offers a realistic insight to the events. The rape cases of Bhumka villages are exposed as political agendas to locate the autonomy movement in the national scenario by the mean movement leaders. Similarly, the novel exposes how conflict leads to traumatic disorder among the victims by portraying characters like Garati Murmu and Alfolsa Kujur. The invisible gap regarding the projection of the identity issue between the leaders and the common mass reveals the hollowness of the so called mass movements.

Satirical overtone, short but suggestive sentences, brilliant use of irony, clever projection of Delhi as the symbol of indifference make Jerei Hagramaya Gabo a sensitive reading experience. The pleasure is empowered with journalistic accuracy, imagination supported with facts and details. Though characters are comparatively flat and the narration, in some places, lacks smoothness, the additional documentation of social realism makes them forget. When readers travel along the poor victims of Bodoland, it is not only the villagers, they also cry. Not only the green forests of Bodoland weep for the shivering humanity, yes we too ...
