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## Justice and the State as Care Manager

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**Abstract:**

*A very sensitive issue of the state, justice is under discussion here, in this present study planned as a sequel to the earlier one on narrative strategies of the nation state. To the extent that the state is concerned the impossibility of remaining silent on the larger context is also the reason that makes it difficult to speak on it squarely. The state, very effectively, presses the propaganda machinery in service of the ideological state apparatus, thus effectively keeping down certain perspectives. To see a nation through its narrative address is to also take into account its various formative factors. The Indian nation state evolving through times of resistance and with its national memory strongly rooted in peoples movements.*

**Keywords:** *Justice, care manager, media, democracy, politics*

The present paper focuses on a major story of intra-state belligerence- naxalism and the means adopted by the independent Indian state to come to terms with this problem. The treatment of the larger social context which is indispensable to the idea Justice is perhaps the cardinal stake here and the state management of the larger paradigm is one which it is interesting to examine. This problem may be effectively highlighted with an important anecdote from Amartya Sen of three children-Anne, Bob and Carla- who are quarreling over a flute. Anne claims the flute on the ground that she is the only one of the three who can actually play it...In an alternative scenario, Bob who speaks up, defends his case for having the flute by pointing out that he is the only one among the three who is so poor that he has no toy of his own. The flute would give him something to play with (the other two concede that they are richer and well supplied with engaging amenities). Alternatively Carla who speaks up and points out that she has been working diligently for many months to make the flute with her own labor which the others confirm. This anecdote is a good enough metaphor of the complexity of the cumbersome machinery of the Indian democracy.

To the extent that the state is concerned the impossibility of remaining silent on the larger context is also the reason that makes it difficult to speak on it squarely. The state, very effectively, presses the propaganda machinery in service of the ideological state apparatus, thus effectively keeping down certain perspectives. A great bulge of the 'peace loving' Indian middle-class basking in the grandeur of mall-culture, the legislators, administrators, and policy makers live in the willful stupor of the denial of the Maoist phenomenon. No sort of discussion what so ever, on a balanced understanding of the human story behind the politics of conflict is to be had from anywhere in the mainstream media. The propaganda factor begins right from the naming of the events: e.g. an armed offensive of the state to safeguard the 'civil society' against the menace of naxal violence is called *Operation Green Hunt\**. The 'democratic' Indian state decided to launch a massive armed offensive against a section of its own people in November 2009 with an eye on resolving the problem of Maoist violence once and for all. What was of greatest significance in the mobilizing of such a massive armed offensive was the fact that it happened in complete silence and with absolutely no debate in any political forum. The movement Operation Green Hunt sounds far less abstract than it actually is and it is far more deliberately innocuous sounding; in fact named to sound more 'environment' friendly than the brutal fact of an armed operation of a state against its own people may seem. Add to this the news papers' blathers voicing the concerns of the heads of states – Prime Minister, Manmohan Singh and Home Minister P.Chidambaram have variously called "Maoists –the gravest threat to India's internal security"; we have a profound statement of the undeniable might of the Indian state apparatus and its policy of dealing with aberrant forces and perspectives threatening its hegemony.

On September 22, 2009 the media reported the capture of a top Naxal ideologue, 58 year-old Kobad Ghandy. While the Home Minister P.Chidambaram called this the most important victory of the state over Naxal violence the visual media aired prime-time debates and talk shows on Kobad Ghandy — a South Bombay Parsi who had grown up in the lap of luxury and had access to the best education possible, he had gone to Doon School and had his CA form the London School of Economics and had returned to work with the destitute of Indian citizens in Maharashtra. The news papers and talk shows were rife with comparisons between two alumni of the

Doon School and the London School of Economics, Home Minister, P. Chidambaram and the Naxal ideologue, Kobad Ghandy. The media was prolific on the 6000 or more numbers of people who had fallen prey to Naxal violence. Very often it came up with lurid details of how a 12 year old girl in Jharkhand had been slain by Naxals, mass murder of 15 CPM cadres in Bengal. The media, careful enough to dwell at length on the dramatic details of those victimized by Naxal violence, homes rendered destitute and children orphaned and also the high drama of an affluent Bombay Parsi turned militant with recourse to infrastructural facilities on par with the high officials of the country and the parallels that can be drawn between the Home Minister and a Naxal ideologue, deliberately silences the larger political context and the more complex arguments behind Naxal violence. The public discourse marked by reductive official propaganda matched the infantile ignorance and simple-mindedness of the 'great Indian middle-class' for whom the lives of tribals featuring in this struggle have no meaning, no human flesh and face. Thus the media largely addresses the middle-class who are more than eager to consume the drama, a situation laboriously created by the state apparatus, reluctant to unseat its comfortable status quo. The powerful few who are privileged by the parliamentary democracy are not to be shaken of their urban perch by an analysis of why large sections of people have lost faith in parliamentary democracy and have taken up arms against the state. While crying hoarse on the heinous acts of violence perpetrated by the Maoists the state propaganda machinery is silent on the deeper structural violence at the heart of the parliamentary democracy that the state refuses to address. A rational analysis of the belligerent statement the likes of Kobad Ghandy are trying to make would put in the dock the representative politics supposed to be the hallmark of Indian Nation.

To see a nation through its narrative address is to also take into account its various formative factors. The Indian nation state evolving through times of resistance and with its national memory strongly rooted in peoples movements and a state territorially merged out of the cultural spaces of peoples had the idea of justice to all as its cornerstone. Even at the inception the state and its policy makers were aware of the fact that it encompassed within it large groups of people, many of whom had to be, overtime, and with diligent and inclusive policy brought to achieve statehood. That accounted for the affirmative policy of the quota system of including into the mainstream groups of people left behind by history.

Nation state as against a tribe or even an ethnic group is supposed to be more progressive as a cultural unit in that the nation, in theory, evolves in deference to individuals or groups. The space for dissent is an indispensable feature of the Nation state in this strict sense of the term. It is also to be taken into account that through the development of the written law of the land, Indian state was at a point of 'national longing for form' (Brennan). This feature is evident in the fact that the written law codes of the Indian state, envisaged as the national law of the land has accounted for intra- territorial inconsistencies, thus historical absurdities are a patent feature of the national space called India. Coming back to the idea of justice and the metaphor (of the three children and the flute), the state of India during the nationalistic phase i.e. when it was ideologically, a national state enterprise its narrative space thrived on landmarks like the Article 44 of India's 1950 constitution, which mandated that "The state shall endeavor to secure for the citizens a uniform civil code throughout the territory of India." Thus, there would be no more separate marriage, inheritance, and other personal laws dividing India's Hindus, Muslims, and Christians. This is a vibrant illustration of dissident voices finding a narrative space within the Indian nation state; so, does this take us to the metaphor of the three children and a flute where the paradigm of plural nationalism begs politics of a relatively lesser unjust decision.

Travelling down the annals of history, just a bit, as far back as 1937 the British (read brutish) ruled over an increasingly restive India in a divide and rule mode. Thus "Shariath law" was enacted providing that the Muslims in India would be governed by Islamic religious laws in matters concerning family and marriage and that Hindus would be ruled by Hindu laws. This calculated move to set neighbors against one another was an important point of contention during the partition phase of the national ensemble. However the Indian state that emerged post 1947 was serious in negotiating the space of the state for the legal-social inclusion of the sub-proletariat of its territory- those who had not achieved statehood, thus the Article 44 of the Indian constitution just one among plenty such provisions made in deference to those whose cognitive mechanisms had been so badly impaired by historical absurdities. Prime Minister Jawaharlal Nehru, the architect of modern India wanted to carry out such rational policies in favor of building modern and balanced society; however he was overruled by modern day God men who resented government intrusion on their turf. This law ending polygamy ended up a Hindu only reform. The lunacy of allowing religious considerations to influence government policy and also the slow and subtle working of the ideological national state apparatus is to be seen in the curious case of Shah Bano.

Shah Bano, a middle-class Muslim woman married Mohammad Ahmed Khan who, at the end of 43 year and seven children enlists the Sharia law to divorce his wife. The destitute woman rendered homeless seeks legal redress and the matter mutates into a legal battle of contesting statutes--Article 125 of the Indian Code of Criminal Procedure, requiring a husband to provide 500 rupees a month maintenance to an indigent wife – including a divorced wife who has not remarried as against the Sharia law which allows a husband perfect legal grounds to summarily kick his wife out by just telling her "I divorce you, I divorce you, I divorce you", so which law controls – Sharia, or the criminal code? After fretting over the matter for a long the legal fraternity decided that Shah Bano was entitled to the maintenance and allowances provided by Article 125. However as time advanced and India was rearing to enter the ranks of one of the most advanced nation the Muslim Women Act was slapped in the most constitutional of ways thus reversing the Shah Bano verdict. The labyrinthine ways of the ideological state apparatus which enlists the support of its narrative mechanism the media in mouthing the platitudes of the people oriented "Ganga Action Plan", how Maruti Udyog limited became a success story on Indian roads, the drama offered by the Bofors scam and so on while confining to a footnote such acts annulling the basic entitlements and rights of its destitute groups is the deliberate strategy of a media culture organized along corporate lines.

This case of a 62 year old Muslim woman from Indore, Madhya Pradesh, one of the most significant lawsuits in the history of Indian Judiciary, pioneered the case of justice for Muslim women. The point of interest here is that in the Indian context Shah Bano was

given space in the national narrative over ethnic/tribe/religious group interest. Inclusivity of this kind involving groups more than individuals is the *raison de etre* of a national institution. Coming back to the problem of nationalism which let down groups of people, it is evident that the menace of Naxalism that became active as a peoples' movement since the 1960s has increased exponentially overtime into a problem, as identified by the Home Minister, "more dangerous than the problem of terrorism." Spread across the heartland of India it has only increased its spread and intensity. What sort of visibility is given to the people who decide to take up arms against the state and resort to desperate means to defend their modest positions and aspirations? To what extent is their rationale given room in the paradigm of the national consciousness? Is the nation state ever allowed to think that they operate in the vacuum created by inadequacy of administrative and political institutions?

The mighty Indian state polices over all its disruptive forces, catching up with the frail individuals who are audacious enough to stand up for the cause of subject groups. The cases of Arun Ferreira and the likes of Soni Sori appear in the inner pages of national news papers when they are taken into custody are subsequently consigned to history, locked up to rot in captivity. Their crime — in the words of Arun Ferreira—is that along with their faith in the constitution they also believe in the rights of the oppressed people to protest, if necessary with arms. Ferrari who is languishing in the jail for the past four years on multiple charges framed against him became the target of the police for working with the Mumbai's slum dwellers and with youth groups in Mumbai and Nagpur as part of an organization called Vidyarthi Pragati Sangatha. He committed the grave mistake of organizing protest against atrocities like the massacre of a Dalit family in Khairlanji in 2006. The case of Soni Sori and her cousin Linga Kodopi is another story of systematic silencing of the first generation educated tribals for their outspokenness and their courage to stand up for their cause. Soni Sori, her cousin Linga Kodopi, the radicals like Binayak Sen are framed by the police and arrested and sent behind bars and left their for some years to keep them insulated from political activism if not to be tortured to death. This is the chilling story of the free Indian state which boasts of a free press—a free press that gives little room for such state atrocities and deliberately silences such pages of belligerent nationalism. Ferreira writes on how a pattern of arrest and re-arrests are illegal, writings which will never make it to the mainstream media and thus will always remain insular from influencing the Urban, progressive India. The progressive Indian state is to progress 'peacefully into the future' and while the repressive state apparatus strives to keep the state free of hindering violence the ideological system operates via its narratives of highlighting the most 'important' and silencing the disruptive radical elements. The important point is this is Ferreira and the radicals like Binayak Sen to be punished for their ideas alone? What is the danger quotient in protesting state violence? Isn't the great, supposedly progressive Indian state turning into a Thought Police with dangerously fascistic overtones?

#### References

- i. God Experts: The scandalous history of organized religion, The curious case of Shah Bano. <http://luisgranados.com/blog/?p=1155> date of access November 19, 2011
- ii. Brennan, Timothy. "The National Longing for Form": (ed)Homi.K.Bhabha, Nation and Narration. Routledge, London: 1900
- iii. Sen, Amartya. The Idea of Justice. Penguin, London:2009
- iv. Shoma Chaudhury, "The inconvenient truth of Soni Sori" Tehelka, Vol 8, Issue 41, Dated 15 Oct 2011
- v. Shoma Chaudhury, "Weapons of Mass Desperation";Tehelka, Vol 6, Issue 39, dtd October 03,2009.
- vi. Revati Lalu "Thought Politics and the Unfree Radicals" Tehelka, Vol 8, Issue 42, Dated 22 Oct 2011