

India: Rights activists: persecution and resistance

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Harassment of human rights activists is so often part of their daily life that it goes unreported. Detention or abduction, disappearances and politically motivated imprisonment are used to intimidate them.

A well-known activist of the People's Union for Civil Liberties (PUCL) and a medical doctor, Binayak Sen, was arrested in May 2007 in Chhattisgarh, under the provisions of the controversial black laws, the Chhattisgarh Special Public Security Act 2005 (CSPSA) and the Unlawful Activities (Prevention) Act, 1967, amended in 2004 and made more stringent after the collapse of POTA. In August 2007, Roma, a woman activist working among the women, tribals and Dalits of Mirzapur, Uttar Pradesh, under the aegis of the Kaimur Kshetra Mahila Majdoor Kisan Sangharsh Samiti and the National Forum of Forest People and Forest Workers, was arrested and charged under the National Security Act. A young Oriya poet and literary editor, Saroj Mohanty, who is also an activist of the Prakrutik Suraksha Sampada Parishad, an organisation supporting the struggles of the people of Kashipur, who for the past 13 years have successfully opposed the entry of large bauxite mining companies in the region, was picked up by the police in July 2007 at Rayagada, Orissa, on charges of dacoity, house trespass and attempt to murder. Two activists - Shamim and Anurag - of the Shramik Adivasi Sanghathana and the Samajwadi Jan Parishad, working amongst the tribals in the Betul, Harda and Khandwa districts of Madhya Pradesh, were served externment notices in June by the Harda District Magistrate under the State Security Act.

Dr. Binayak, Roma, Saroj, Shamim, Anurag and many like them are crucial actors of our present times. They are individuals, groups of people or organisations who promote and protect human rights in many different ways and in different

capacities, through peaceful and non-violent means. They uncover violations, subject them to public scrutiny and press for those responsible to be accountable. They empower individuals and communities to claim their basic entitlements as human beings. They represent some of the most marginalised civil society groups - from the tribal people to the landless rural workers and women's groups. However, because of their work they face a range of challenges. They are subjected to death threats and torture, persecuted through the use of the judicial system and silenced through the introduction of security laws. Unfounded investigations and prosecutions, surveillance of offices and homes, and the theft of important human rights information and documents are some of the tactics used to intimidate them and prevent them from continuing their work. Many even disappear or are murdered. The pursuit of neo-liberal economic policies, with its emphasis on special economic zones, land acquisitions and appropriation of natural resources, is intensifying the attacks on human rights defenders.

This situation reminds us of the times when cultural and trade union activists such as Safdar Hashmi and Shankar Guha Niyogi were killed. The bankruptcy and increasing isolation of the ruling class provoke its local counterpart and they launch a new offensive against the rights activists. Yesterday, it was Safdar Hashmi and Shankar Guha Niyogi, today it is Binayak Sen, and tomorrow it will be Medha Patkar or Sunilam.

In fact, in spite of Indian democracy and India's membership of the Human Rights Council for the second consecutive term, the situation in the country is no different from global trends. In her 2007 report, the Special Representative of the U.N. Secretary General on the situation of human rights defenders, noted that defenders working on land rights, natural resources or environmental issues seem to be particularly at risk of attacks and violations of their rights: "Defenders working [in the field of economic, social and cultural rights] face violations of their rights by the State and/or face violence and threats from non-state actors because of their work. Violations of their rights seem to take all the forms that violations of the rights

of defenders working in the field of civil and political rights take. There are some differences though, perhaps the most important being that defenders working in the field of ESCR often have a harder time having their work accepted as human rights work. This might have several effects, including difficulties attracting funding, a lack of coverage from the media to violations of these defenders' rights, and a lack of attention paid to these violations and a hesitation in seeking remedial measures at the domestic or international levels." (Hina Jilani, Report Submitted by the Special Representative, 24 January 2007)

Peoples' rights agenda in India has always been a dynamic and constantly evolving one, with activists applying the principles and tools of human rights to different contexts and struggles. At different points in history, courageous and visionary people have sought to extend the boundaries of human rights to those outside, be it those living amidst caste oppression, workers unprotected against social insecurity, or women denied any rights against violence. Thus we see the emergence of new rights on information, food, domestic violence, and tribal lands. People forging new frontiers for rights are often the ones most exposed to risk, ridicule and resistance. The contours of human rights shift as patterns of oppression change. Their scope and content will therefore always be a matter of contestation. Indeed, the human rights agenda has always been built by its own critique. Those excluded from the way rights are traditionally understood or interpreted - for example, Dalits, tribals, women, labour, homosexuals or the disabled - are fighting for inclusion and enriching and transforming the understanding of human rights as a result.

There have always been challenges for human rights and political activists in our country. Harassment of activists is so often part of their daily life that it goes unreported. Detention or abduction, disappearances and politically motivated imprisonment are used to stop activists. In the recent past, smear campaigns and defamatory tactics have also been used to de-legitimise the works of defenders, with the media often colluding in the dissemination of

slanderous accusations and attacks on their personal integrity and political independence.

However, we are also now living in a new hostile environment. As countless examples show, a large area in the country is witnessing armed conflicts, often on a massive scale, in which civilian lives and livelihoods are increasingly the principal casualty. It is in such an environment that the work of human rights activists is most needed, yet often least respected. In an atmosphere of tense polarisation, their impartiality is called into question.

Further, new security measures introduced have also had a chilling effect on the environment in which rights activists operate. We have to contend with the governmental discourse that prioritises 'security' (understood as prevention of terrorism) over human rights, and that sees the two as conflicting rather than mutually supporting policy goals. In such circumstances, human rights have come to be equated with 'being soft on terrorism' or concerned only with the rights of suspected terrorists, rather than with the victims of terrorism. The work of rights activists has itself been equated with terrorism or subversion in the eyes of some governments.

However, in the present phase of Indian polity, human rights defenders, social justice movements and development practitioners are more at the receiving end when they take the language and tools of rights into the sphere of economic and social policy. On issues of land, water, forests and mining, our government is hostile to the very concept of economic and social rights as enforceable entitlements. The experiences involved in identifying violations, attributing responsibility and proposing measures for redress and prevention in these arenas lead us to also view these rights as less enforceable through legal means ('justiciable').

In all the cases of attacks on human rights defenders, there is a broader people's resistance and activists also fight their cases. However, the main point is that the governments have the obligation to protect human rights defenders as a special category. In 1998, the U.N. adopted the Declaration on Human Rights Defenders, which,

although not legally binding, draws together provisions from other legally binding conventions and covenants most relevant. The Declaration sets out the prime responsibility of states to take all necessary steps to ensure the protection of all those who exercise their right to defend human rights.

Among other things, the Declaration affirms the rights: to defend human rights, to freedom of association, to document human rights abuses, to seek resources for human rights work, to criticise the functioning of government bodies and agencies and to access international protection bodies. A Special Representative on Human Rights Defenders was also appointed in 2000. Our national human rights institutions such as the National Human Rights Commission should take note of this fact for the protection of human rights defenders. True, our rights activists have many skills and years of honed experience; there is no mystery or mystique to defending human rights. We all hold the potential of becoming human rights defenders.

P.S.

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* Mukul Sharma is Director, Amnesty International India.