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Academy of Politics & Governance
Management Development Research Foundation,
4th Floor, Statesman House, Barakhamba Road,
New Delhi –110 001
E-mail: editor.jpg@gmail.com

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Demonetization, Politics and Terrorism: An Immanent Analysis

Mayengbam Nandakishwor Singh*

Abstract

One of the landmark financial overhauls since independence is demonetization and the visible goals it seeks to secure is manifold. Black money coupled with corruption has been one perennial factor that has been hampering the growth of Indian economy for long. Terrorist activities, largely funded through black money, recurrently destabilize the country. The rationale of government behind executing such a drastic policy of demonetization is stated to curb the malicious practice of corruption along with wiping out all the nefarious activities associated with black money. Notwithstanding, there are allegations that the government undertakes such a sudden and radical policy based on some political calculations. One widely deliberated motive about such a move is that the major leading political party in the government at the centre steers a calculative course to reap political gains in the elections to some state legislative assemblies that followed few months later. But an undeniable fact is that demonetization has brought various tangible and intangible impacts not just in the field of economy, but also in various fields. There are also endless debates regarding the modus operandi of demonetization. The present paper seeks to examine some of the major cognizable interfaces between the timing of demonetization and the political backdrops in the country. It also attempts to analyze the observable impacts of demonetization in some core aspects. For this paper, a qualitative based theoretical analysis is adopted.

Keywords: Legitimacy; Terrorism; Corruption; Black Money; Politics

Demonetization and the Rationale of Implementation

Hordes of literatures are afloat that emphatically sprouts an ideal pedestal of India resembling the proverbial 'golden bird' because of its enviable richness and wealth in the past. Legions of invaders set their foot on its soil, some succeeded to establish their stronghold, and the British being the last foreign ruler who had literally squeezed much of its resources, dented the economy. Post independent era, Indian economy soars steadily, mainly owing to the relative political stability and the towering visions enshrined by some of the stalwarts. As it has been the universal norm everywhere, India's phenomenon economic achievements in the global platform is more or less powered by the bold economic policies undertaken by the political class from time to time.

The demonetization policy carried by the government of India in 2016 is one brave step that essentially aims to pilot Indian economy into new heights in the longer run by weeding out certain pernicious bottlenecks in its path. Under this, Rs500 and Rs1000 banknotes are demonetized and the notes of these denominations are to be either deposited or exchanged with new banknotes in the banks within a stipulated time period as announced by the government, failing which these notes will become mere piece of papers. Alongside, there issued certain limitations on the rate of cash

* Faculty of Political Science, National Law University and Judicial Academy, Guwahati, India

E-mail: nkishwors@gmail.com

exchange and amount of cash withdrawal from banks and ATMs. There are however some exceptions to the use of old notes that they can be accepted till the 24 November, 2016 in some sectors like government hospitals, crematoriums, gas and petrol pumps, railway and airline booking counters etc. From the legal angle, barring few challenges in courts on the legality of demonetization, government implements demonetization through an ordinance promulgated by the president of India using the power conferred by Article 123 of the Indian constitution. The ordinance is named as 'The Specified Bank Notes (Cessation of Liabilities) Ordinances, 2016.'

For the government, the very purposes of demonetization is clear from the day one. First, it aims to curb the menaces called 'black money' and 'corruption.' Black money is one infection that retards Indian economy and it is the genesis of many criminal and corrupt practices. Second, to tackle the problems of 'counterfeiting' of Indian currencies. As Indian market is floated with fake currencies, resulting in the devaluation of Indian currency, demonetization of certain currency denominations is a long clear call. Third, demonetization targets to fight 'terrorist activities.' Being a country constantly troubled by terrorism which are financed through various unlawful means, inside and outside the country, demonetization is one such antidote. In a remote sense, demonetization is also a step towards a cashless economy. Interestingly, four grounds are noted as to why paperless payment is desirable: high cost of cash, secured payment ensured by digital payment, greater ease of accessibility and government's initiation of a digital culture.

The basic reason why the 500 and 1000 notes are demonetized is because they are the currency denominations in India having the highest values being in circulation. According to RBI, nearly 86.4% of the total banknotes in circulation are made up by these two currency denominations till August 2016. Needless to say, nearly most of the illegal activities of black money, money laundering and forgery are operated in these currency denominations. It's more of an imperative for the government to demonetize these specific banknotes. Counterfeiting of Indian currency is mostly done in 500 and 1000 banknotes, and the fake currencies found in Indian markets are mostly in these denominations. Certainly, new currency notes are implanted with more sophisticated advanced security specimen rendering it more difficult for forgery.

As a matter of fact, demonetization is taken in several countries, democratic as well non democratic, around the globe, while some meets their target goals, some misfire. As for India, it's the second time since independence that India experiences demonetization and the first being occurred in 1978. Unlike the previous one in which people are made aware beforehand, demonetization of 2016 is highly confidential pertaining to some logical calculations on the part of the government. The secrecy successfully guarded is intended to deny the hoarders of illegal money any prior arrangements and throttle them by surprise. Though it sounds a little premature to sit on the judgement about the overall outcome of demonetization at present, the possibility of digging certain empirical manifestations employing pure theoretical dissections cannot be nixed.

Demonetisation as the Bedrock of Political Calculations

A searching question would be in respect to the pressing need for the government at the centre to take up demonetization when country's economy is not in shambles, rather when it is steadily growing. BJP comes to power at centre after general election of 2014, and the reason why demonetization gets executed just before the state assembly elections in some states is still puzzling. Equally intriguing is BJP's sudden volte face given its earlier position of anti-demonetization. But it is quite understandable a fact that any ruling political party would not invoke any program, nor support, that will compromise the inner interest of itself. Given the timing and circumstance in which demonetization is suddenly announced in November 8, 2016, the political motive of the party in power at the centre cannot be completely overlooked. Demonetization ushers when state assembly election in the states of Uttar Pradesh, Uttarkhand, Punjab, Manipur and Goa are around

the corner. Since BJP comes to power at the centre with a full majority first time long after independence, it is all in a very vigorous shape as far as its electioneering machinery is concerned. It's more important for the BJP to win the election in UP for variety of reasons.

First of all, this state is one of the biggest Hindi heartlands and capturing power in the state all serves the ideological thrust of both BJP and RSS. In the general assembly of 2014, UP has sent 71 out of 80 seats to the Lok Sabha and PM Modi represents one of its constituencies. It is more of a compelling urge for the BJP to seize power in UP. Moreover, this state has been under the power of non BJP regional parties for long and unfortunately the law and order situation is altogether pathetic. Regional political parties are basically run on caste and communal dispositions. Elections in the state thrives on money and muscle powers, and corruption has been the hallmark of the state administration. Central government's stern policy of demonetization certainly cripples both the muscle and money powers that have been wielded by many politicians during the elections in the state. It certainly chokes the political clout of many politicians and political parties driven by black money in the state. Sure enough, the degree of purchasing voters during the state election was cut down to size.

Uttarkhand has experienced a bitter political instability recently, mired in controversies on the question of imposing Article 356 in the state, during the Congress government in the state. BJP's aim is to expand its power in the state. In Punjab, BJP has been in alliance with SAD for some time. Punjab has been infested with cases of drug peddling and corruption. The ruling government of SAD faces problem of its credibility in terms of its ability to handle some of the problem in the state. Located in the international border, Punjab faces the unprecedented drug problems for quite some time and it would not be an understatement that black money generated from drug trafficking would not be pumped into the elections by some vested interest. Demonetization can to a larger extent checkmate this menace in state election. And for Goa, though small, BJP has been in power and it is in its utmost interest to retain power. As a matter of fact, this calculative move pays rich dividends to BJP overall because of the positive election results secured. BJP returns to power many years after in UP with thumping majority along with powers in Manipur, Goa and Uttarkhand.

Looking closely at the national level, BJP definitely wants to consolidate its position in the entire country by expanding its powers at the state levels. More BJP ruled states means more support system at the centre in taking up various policies and legislations. More importantly, BJP aims to increase its strength in the Rajya Sabha for which holding powers in many states is necessary. For that matter, winning state election in bigger states like UP is utmost important. Although India has a quasi-federal system, having majority in both houses of the parliament would always help the party. Supposing, even if BJP does not come to power in 2019, ensuring majority seats in the upper house will serve the party interest. Thus, as far as the political motive behind demonetization is concerned, it exemplifies the proverbial 'killing two birds with one stone.'

Nonetheless, demonetization could turn out to be a short term episodic political gain for the BJP or for that matter any political party. Because demonetization is not the panacea to some of the problems that hijack electoral politics in India. What is called for is the introduction of more practical democratic mechanisms and pending electoral reforms to cure certain diseases such as criminalization of politics, mammoth expenditure in elections, religious and caste based politics.

Demonetisation as Tool to Curb Black Money & Terrorism

Black money is a serious issue that is hampering the overall growth in India. Black money broadly means any unaccounted or undisclosed assets and income which are outside the purview of taxation. Black money is mainly generated through three sources: (a) 'Crime'-forgery, prostitution, drug trafficking, fund embezzlement; (b) 'Corruption'-bribery, theft; (c) 'Business'-concealed

business, racketeering, fraudulent control of natural resources, over invoicing and under invoicing of goods and services, non-compliance business contracts. It is very compelling to examine why black money thrives in India. In India, complex taxation policy prevails, which in many ways antagonizes basic human nature, and not everyone is willing enough to pay tax. Complicated taxation laws also encourage people to hide their wealth and evade tax. In addition, there exist multilayered government rules and regulations. Amassing revenues from unaccounted sources, by concealing from public, becomes the effective way to multiply the wealth. Even the corrupt practices on the part of income department cannot be ignored. Ultimately, in many cases, it is the people who earn honestly gets harassed by tax departments. More importantly, there is no incentive system for those who publicly declare their assets and instead there is inherent fear on the minds of the people that suspicions will be cast upon the sources of their income from all quarters. This discourages people from disclosing their wealth and income to the public. In this aspect, the increasing degeneration of the morality in Indian society at large is responsible for this trend.

There are some repercussions of shadow economy. Since black money essentially breeds tax evasion, it causes loss of revenues to the state exchequer. Black money is converted to white money by converting into assets and as the result it pushes the price of liquidities like land into astronomical figure. In addition, counterfeiting and money laundering corrupts the entire political system. As the measure to tackle black money, there are some institutions meant to deal with black money in India albeit their rate of success is still minimal. Some of them are: Central Board of Direct Taxes (CBDT), Central Board of Excise and Customs (CBEC), Enforcement Directorate (ED), Central Bureau Investigation (CBI), National Investigation Agency (NIA), Narcotics Control Bureau (NCB) etc. Still there is always a question marks against government's sincerity and its pompous promises about black money. If government is serious enough, it must be upfront to bring back black money stashed in foreign banks using all possible mechanism. It is a well-known that many Indians hold their bank accounts in Swiss bank, availing the favourable Swiss banking laws, and government is reluctant to even disclose the names of account holders.

It is true that demonetization cannot wipe out the entrenched trend of parallel economy in India. In some aspects, government's act of demonetization is clearly counter-productive. Take the case of introducing even higher denomination currency note. If the demonetization of the higher denomination currency notes is to tackle the black money, then how the introduction of Rs.2000 would serve the purpose is still unanswered. It is commonsensical that it would make it convenient to hoard large amount of black money in Rs.2000 note, and similar view is also expressed by economist Paul Krugman. It is also absolutely injudicious to assume that persons holding black money can be easily outwitted by such policy as demonetization. There is no guarantee that black money are hoarded only in hard cash. According to some source, around 6% or less of black money, which is the minimal percentage of the overall value, are stored in cash. It is within the common knowledge that black money is stored in the form of land, jewelry, gold, properties in benami names, assets in foreign soils etc. So, whether causing enormous hardships to people to punish some culprits through demonetization is not akin to 'firing an entire paddy field for few rats' is still open to good sense of judgements.

Terrorism: India is one of the few countries that has been the incessant victim of cross border terrorism since the dawn of its independence. Putting aside the accurate academic definitions of terrorism, it is safe to claim that terrorist activities are very recurrent phenomena in India and people as whole suffer from it. As per the intelligent reports, terrorist activities are covertly financed and they are carried through huge financing. Terrorist groups also raise their money through extortion, taxation besides other illegal activities like smuggling of arms, drugs etc. Fake Indian currencies, particularly 500 and 1000 denominations, manufactured in the neighbouring countries constantly enter India for terrorist acts. Demonetisation disables the illegal financing of terrorist

activities, at least for some considerable periods, as forgery is scuttled. It debilitates the strength of the terrorist groups as their operations are stalled sans the supply chain of funding resulting out of the difficulties in exchanging and depositing their stock of money in banks. Demonetization also circumscribes the movements of the extremist elements operating within the country.

But demonetization is not a permanent solution to stop terrorist activities in India as long as the main issues are not precisely addressed by all the stakeholders. Demonetisation is just a onetime derailment of terrorist activities because the real origin of terrorist financing, which it aims to achieve, such as black money, forgery and other smuggling activities cannot be put to end.

Observable Pros & Cons of Demonetisation Policy

Having closely observed the demonetization drive during and its aftermath, it can be safely inferred so far that it yields mixed results. There are both negative and positives sides to it. Despite all the hardships faced, the public in general go along well with demonetization. The fact is that there has been no major public backlash nationwide against demonetization, except some protest in politically motivated pockets. What could be the reasons behind people's patient cooperation with government's step? First reason can be explained from the point of government's successful handling of propaganda about demonetization. The government and its party machineries are able to propagate to the people that demonetization is to nab some of the nagging problems that has been plaguing India such as corruption, black money and terrorism, and that it is for long term goals. Perception of the general public seem to be largely, if not fully, persuaded by the propaganda. Parallel argument in this regard is also put forward by some scholars in a slightly different fashion. This can also precisely explain why in UP, being one of the poorest states and having undergone those pains during demonetization, BJP gets elected to power.

Secondly, for the first time in history, BJP comes to power at centre with absolute majority and this feat is not achieved by the deeds of the party alone. The humongous contributions of its parental cultural organization RSS and its ideological planks cannot be undermined. Naturally, a wave of new nationalism based on certain narratives of Indian civilization and assertion of national interest are on the rise and they are aggressively fortified in several forums: news, mass media, social media, advertisements, election campaigns et al. The party at power successfully echoes demonetization in the language of 'national interest' and thereby labeling those opposing it as anti-nationals. People are tacitly dissuaded to stand against the cause which is promoted as a national cause. In many respects, it is a quintessential instance of Noam Chomsky's famous theory of 'manufacturing consent.' Thirdly, the government in general and BJP in particular is able to convert the ill legacy of scams and corruption left behind by the Congress led UPA government at centre into its advantages. One of the main election manifesto of the BJP has been development and eliminating corruption in the country. Abolition of black money essentially means ending corruption that has characterized Congress led government, and driving country towards development. Demonetization is one such act towards fulfilling its election manifesto and therefore, the government is bound to take up it. In this way, the government seeks its legitimate grounds despite it faces notable hiccups.

In the financial front, government claims that lose money that that were floating in Indian market are put in banking sector through demonetization. As banks are in the possession of decent amount of money, they can utilize them effectively by lending and gather huge revenues in return. And since the names of account holders are clearly known, increase tax returns are ensured that will propel smoother redistribution. The overall growth of revenues will capacitate government to channelize multiple welfare schemes. Moreover, inflation can be effectively controlled.

On the contrary, demonetisation certainly inbreeds lots of distresses in multiple spheres. (I) Liquidity Crunch: there is certainly liquidity crunch due to the insufficient supply of new banknotes. The

higher value currency denominations demonetized are the favourable in daily transactions among people. But the shortage of issue disproportionately affects people's lives. Rural households, roadside vendors, cab drivers, daily wagers are hit hard by the cash crunch. Hardships are more borne by common people. People are compelled to be in long queues for days, and several casualties occur, even several deaths. In the remotest and rural hilly areas, the sufferings are more visible as there is insufficient access to banks as banks are few and far. The impacts on the informal sectors, small and medium enterprises are also severe. There is loss of jobs for daily and weekly wage earners and they are forced to curse their fate as there is scarcity of cash. It also hits money lenders and chit funds as there is depletion in the stock of cash. It's because cash transaction is the common practice in these sectors. As the result, costs of the work get either reduced or increased and thus there has been dropping of overall income. Moreover, manufacturing and service sector are also hit by cash crunch. There are drastic reductions in the number of workers in the manufacturing sector. In the service sector too, there is decrease in the consumption and the revenue get dropped. But major business and corporate houses do not get the burnt much as they conduct their transactions in credit cards or net banking.

Agriculture Sector: in the agricultural sector, farmers encounter shortage of cash as the result there emerge the reduction in terms of purchasing capacity that eventually lower the price of products. As rural agricultural is largely based on hard cash transfer, there was scant of cash to buy agricultural requirements like seeds, pesticides, fertilizer etc. that will severely affect seasonal agricultural outputs. In a nutshell, it causes to depreciate the value of Kharif crops and it also disrupts the plantation of crops in Rabi season. There has been problem of the unavailability of the labourers for hire as there is drastic depletion in cash stock to pay. For a country like India where more than half of the population engage in agricultural sector, the ill effects brought by demonetization is not definitely encouraging. All these factors push country's GDP to slow down and it will require time to gain the recovery route.

Deficit of Legitimacy: there is legitimacy deficit on the part of the central government in regard to the policy of demonetization. Neither the government garners people's consent sought through their representatives across party spectrum and civil societies, nor does it get a formal legislation passed in the parliament. In a democratic set up, no government is permitted to act on its own will. This definitely sets an unhealthy trend that might serve as a precursor to many such ill prepared policies in the days to come. In short, demonetization actualized by the government suffers from legitimacy deficit. To be precise, people's inability to rise on the occasion to voice their will, due to the complexities of the system or well programmed delusions, should not be taken as a sign of bestowing legitimacy in the immediate judgement. There have been some PILs filed both in high courts and Supreme Court regarding the legality of the demonetization though the Supreme Court, upon receiving the response from the centre about its reluctance to grant grace period for the deposition of old notes, appears to have chosen the stand of non-interfere in the financial policies of the government.

Cashless Economy: No doubt, digital economy inherits certain merits if fully put into practice, like the minimizing the cost of cash printing, easy trace of money laundering, transparent transaction, increase tax inflow etc. But India cannot switch to cashless economy before doing some homework. In a country where 86.6% transactions are done in cash coupled with poverty and mass illiteracy, turning to cashless economy seems to be a distant goal. Not to forget, even in the most advanced economies in the world, cash economy is still predominant. In India, sizeable population still do not have bank accounts, let alone the state of their financial illiteracy. Adopting digital economy requires good degree of IT infrastructures, internet facilities, strict cyber laws, financial education to people. No doubt, government launches BHIM to facilitate digital transaction in the wake of demonetization.

But the question remains as to how many have access to smart phones. Further, bringing a change in consumer behavior towards it as argued by some is near impossible in the foreseeable future.

Concluding Remarks

Demonetisation, beyond doubt, is one bold economic policy, and the while all the intents and purposes are presented to be promising, but the follow up are rather poor. Inadequate printing of new currency notes and its poor circulation; no recalibration of ATMs for new size notes in time; no proper arrangements for the poor old aged persons and rural households for whom access to banks are far and few are the ample testimonies to the fact that there has been sluggish preparation. Even on the sanctity of its secrecy, accusations also surface that selected business and corporate houses that have connections with political higher ups are in the know of the government's plan in advance. Also, huge costs to public exchequer on the printing of new currencies, the expenditure on ATM recalibration cannot be dismissed.

Demonetization is not a permanent solution to the malaises created by black money, corruption, terrorism even though it manages to unsettle them for a while. Even turning to cashless economy does not seem feasible at present. What is needed, inter alia, is bringing trust between people and public institutions, streamlining the institutional mechanism effectively, bringing certain reforms in financial and political spheres. What is equally important is also being vigilant about the some surreptitious activities like hawala system and participatory notes etc. Politically, BJP might have reaped the rich dividends out of demonetization with the spread of powers in the states. But any attempt to enforce a single dominant party system in the country is not healthy for democracy. Finally, it's undeniably true that demonetization has instantly crippled the momentum of Indian economy, but now that demonetization is over and time has come to harvest the benefits it augurs.

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Implications of Henry VIII Clause in India: A Critique

Charu Singh*

Abstract

In recent years huge number of Henry VIII clauses have appeared in the Statute book of India resulting in the sudden rise in the exercise of power delegated to the Executive cum-administrative organ by the Legislative organ of the Government and such delegation of power is remarkable change in recent years as it allows another body to remove that discrepancy which is resulting in the ineffectiveness of the main Act. This paper focuses on the operation of various orders passed by the President of India while exercising powers conferred upon him under Article 392 and the operation of various statutory orders passed by the Executive-cum-Administrative to remove the difficulties which results in the failure of object for which an enactment come in force. It focuses upon the historical background and the scope of Henry VIII clause in the Indian context.

Keywords: Executive, Henry VIII clause, Legislative, President, Statute book, India

Introduction¹

Henry VIII clause is the nickname used for the power to remove difficulties clause, according to which the Executive-cum-Administrative organ of the Government is empowered to modify statute by exercising this power. It is a provision in a primary act which provides power to include subordinate legislation by way of amending or repealing the inconsistency in the main act. This clause has three dimensions:

- The subject-matter drawn within the jurisdiction of the clause
- The temporal reach of the clause
- The length of time during which the clause can be utilized

Originally Henry VIII clause was found in the Statute of Sewers² which was enacted by the King Henry, which empowers the commissioners of Sewers to make rules, to impose taxation rates, to impose penalties for disobedience. Further after the Sewers statute King Henry enacted Statue of Proclamation³ and The Statue of Wales⁴. According to JohnRedwood⁵, the Henry VIII legislation is a pejorative term for laws passed without parliamentary approval.

One of the most important developments of the present century is the growth of the Executive-cum-Administrative organ of the Government and it is considered as one of the most important development in post-independence era. In order to maintain the wellbeing of the people, the state has assumed more powers which in turn increased the work pressure upon the three organs of the Government. To overcome these increased powers of Legislature, legislature has subordinated its power in form of delegation to Executive. Apart from traditional functions now Executive is bound to perform some legislative work which is delegated upon it by the legislature to meet the growing demands of legislation. As we know due to lengthy and slower process the legislature was unable to

* Student, BA LLB (Hons), 10th Semester, Invertis Institute of Law, Invertis University, Bareilly, India
E-mail: charu05.singh@gmail.com

meet up the demand of legislation and to cope with such deficiency which legislature was unable to foresee at the time enacting principle legislation. Through 'power to remove difficulty' clause which is delegated power now executive can alter, amend or modify the difficulty appeared in the principal Act. Thus, the power to remove difficulty evolved out of necessity in administration of Government. Historical Background⁶.

Around 1888 the urgency for enacting the clause of removal of difficulty arose and for the first time it appeared in England in the Local Government Act⁷ in the form of limited provision whereas the general powers of amendment and removing difficulties was extended in National Insurance Act, 1911 with limited duration of validity. However, increasing tendency to adapt the clause was strongly disfavored by the Donoughmore committee and they put forth recommendation that the use of clause "should be abandoned in all but the exceptional cases..." After the recommendation put forth by the committee the clause was discarded and neither Parliament nor the Executive has practiced that clause. The report of the committee resulted in the welcome change in the administration of England.

In Indian context the use of Henry VIII clause is not clear since when it is in existence. If it existed then its use was minimal. As we know that The Delhi University Act, 1922⁸ contain a removal of difficulty clause but no such order is executed under the aforesaid act by the Executive, of the pre-independence statutes none seems to contain a removal of difficulties clause however post-independence era with the evolution of time the legislature get overburdened with work and unable to meet the growing demand of legislation hence legislature delegated its work to executive-cum-administrative organ of amending or altering or modifying the act by inserting a 'power to remove difficulty' clause. However, it is strange post-independence era our Parliament started liberal use of this clause. The Constitution of India itself provides power to the President to remove the difficulties under Article 392 this provision is derived from the Government of India act 1935⁹. However the power conferred upon the President under Article was very wide and it cannot be said that he could make the adaptation in one way and not in another. The President while exercising power conferred under the Article promulgated several adaptation orders dealing with constitutional provisions.

Rationale of the Henry VIII Clause

The statute enacted and passed by the legislature prima facie reflects the intention of legislature and if due to some discrepancy the intention of legislature fails to get deliver then the evil for which enactment was passed will remain as it is hence to remove such discrepancy legislature may itself or else may provide medium to achieve the intention. In a developing country like India where every single moment society changes and results in evolution of new social order, with the new social order comes new evil which need to be curbed and it is the duty of legislature to form effective legislation which will result in stopping evil from getting prevalent in the society. But with the passage of time legislature got overburdened with work pressure and due to which it fails to meet the growing demand of enactment. If legislature fails to provide immediate cure to the evil, it will result in deepening the roots of evil in the society.

The consequences of not including this clause may result in failure in legislative work as legislature is overburdened with other important work hence to avoid inconvenience and complication; executive is entrusted with limited power to remove the difficulties in order to make Act more expeditious and convenient. In England the necessity for this clause was put forth before the Donoughmore Committee by some senior civil servants. However, Sir Arthur Robinson and E. J Maunde on studying the framework of local Government or activities of the Ministry or Local authorities felt the power necessary to deal with:¹⁰

- a) Local authorities or other local circumstances resulting in difficulties;

- b) When the Bill was proposed in front of the Parliament, some circumstances could not be foreseen.

Hence to avoid any condition which may result in the failure of object of the Act due to some discrepancy it is necessary to include this clause while doing enactment for some limited period.

Scope and Purpose of The Henry VIII Clause

The scope of the clause itself gets indicated from the title is limited power to remove the difficulties, Executive is bound to exercise the power conferred upto extend of removing difficulties and no further. This clause is generally incorporated in those Acts where at the time of making Act some circumstances cannot be foreseen. The main purpose behind the incorporation of this provision in the Act is to bring into effect the object of the Act. While exercising power the Executive shall not misuse its power and shall exercise power to modify, alter or amend the difficulties without affecting the object of the Parent Act.

Hence in order to avoid the abuse and misuse of power Donoughmore Committee suggested that the clause should be in most precise language.

Some of the case studies are given below as ready reference:

- 1) C.D Sekkizhar v. Secretary, Bar Council of Madras¹¹

Facts: A notification was passed by the Government of India while exercising power conferred upon him under section 59 of the Advocates Act, 1961 where section 8 of the said act was already in question.

According to this section, one-third of the members elected to each State Bar Council had to retire at the end of every second years, however, State Bar Council put forth the recommendation regarding the criteria of retirement of those one-half of the members who had to retire shall be retired every third year. Before this amendment could be passed Government of India passed a notification that the members who were supposed to retire under section 8 of the said act may continue in office for a further period of one year. However this notification was challenged as it was ultra vires the powers of the Government of India under section 59 of the Act.

Held: Court held that there was no difficulty in purview of section 59 as it can be cited for the removal of difficulty which are causing hindrance in the performance of the provisions of the act and hence the notification which was passed by the Government fails the object of the section 8 of the said act because the ground on which notification is passed was inconsistent and hence held the notification ultra vires.

Note: this case clearly shows the misuse and abuse of power conferred under the removal of difficulty clause. Hence it is necessary to set the scope of exercising the power.

- 2) Raj Narain Singh v. Chairman, Patna Administration committee¹²

Certain parts of Patna Village were brought under the municipal control of Patna Administrative committee while exercising the power conferred under section 6 of the Patna Administrative Act, 1915. Hence, Supreme Court held that the notification issued by the Governor while exercising the power conferred upon him under section 4, 5, 6 of the said act travelled beyond the authority conferred under section 3(1)(f) and hence held that notification ultra vires.

3) *M/s Jalan Tarding Co.(P) Ltd. V. Mill mazdoor Sabha*¹³

The Validity of Section 9 of the Payment of Bonus Act, 1956 was challenged according to which 'if any difficulty or doubt arises in giving effect to the provision of this Act, the Central Government may, by order published in the Official Gazette, make such provision, not inconsistent with the purposes of this Act as appears to is to be necessary or expedient for the removal of the difficulty or doubt, and the order of the Central Government, in such cases shall be final'.

The Supreme Court held the section 37 invalid as it delegated legislative power which was not permissible.

Orders Promulgated under Article 392

The President exercises the power to pass an order under Article 392(1) of the Constitution which reads:

The President may, for the purpose of removing any difficulties, particularly in relation to the transition from the provisions of the Government of India Act, 1935, to the provisions of this Constitution, by order direct that this constitution shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition or omission, as he may deem to be necessary or expedient:

Provided that no such order shall be made after the first meeting of Parliament duly constituted under Chapter II of Part V.

Till today ten orders are issued under this Article and Court at various occasions commented regarding the validity of these orders and scope of the said Article. Like in *Trimbak Shivarudra V The State*¹⁴, the high court of Nagpur held that the power under Article 392 is wide but this power did not extend to abrogate the Fundamental Rights guaranteed under Part III of the Constitution.

List of the Orders promulgated by the President under said Article

1) THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER, NO. I.¹⁵

Governor-General while exercising powers conferred upon him under Article 392 (1) and (2) executed the following order which shall have its effect for the period of six months for the adaptations made by Governor-General from the date of commencement of this order. He executed the order under following Articles namely;

- Article 379
- Article 380(1)

2) THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER, NO. II¹⁶

The President while exercising power conferred upon him Article 392(1) executed the order which profess to adapt that by subsisting 'parliament' for 'that house' and omitting ' either house of' and ' in each house' in article 368 is not beyond its powers conferred upon him through article 392.

Note: This order was amended several times

i) THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER.NO.II (AMENDMENT) ORDER¹⁷ : Article 172A which inserted by the removal of difficulties order II was amended by the President while exercising those powers which was conferred upon him through constitution¹⁸

ii) THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER.NO.II (SECOND AMENDMENT) ORDER¹⁹

This order was promulgated by the President under said provision of constitution (Article 392) for substituting the entry relating to Article 249 and omitting the entries relating to Article 251-252 in the removal of difficulties order II.

- iii) THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER.NO.II (THIRD AMENDMENT) ORDER²⁰
President passed an order for substituting entries relating to Article 85 and 174 in the removal of difficulties Order No. II and the Order No.VI²¹ shall cease to have effect as respects things done or omitted before the commencement of the present order.
- iv) THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER.NO.II (FOURTH AMENDMENT) ORDER²²
This order was passed by the President for making adaptations of Article 238
- v) THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER.NO.II (FIFTH AMENDMENT) ORDER²³
This order was passed by the President for making amendment in Order II.
- 3) THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER, NO. III²⁴
The President while exercising power conferred upon him Article 392(1) executed the order for the period of two years from the date of commencement of this order to make adaptations in following Articles:
a) Article 189
b) Article 270
c) Article 273
d) Article 275
e) Article 390 and schedule VI²⁵
f) Inserting Article 309A
- 4) THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER, NO. IV²⁶
While exercising the powers conferred upon the President he is pleased to pass to an order related to changes in the paragraph 9 and 10 of the second schedule and such order shall have effect from the date²⁷ mentioned.
- 5) THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER, NO. V²⁸
The President made the following order for the adaptations under Article 127 and 348 for the period of two years from the date of commencement of this order.
- 6) THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER, NO. VI²⁹
Through this order while exercising powers provided under constitution, President ordered for adding paragraph to Article 376(1).
- 7) THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER, NO. VII³⁰
The President made the following order for the adaptations under Article 166 and 238 for the period of one year from the date of commencement of this order. However this order was amended by amendment order:
i) THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER No. VII (AMENDMENT) ORDER³¹
This order came into force to remove the disparity of earlier commencement mentioned in the removal of difficulties order VII by substituting 'two years' to 'one year'.
- 8) THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER, NO. VIII³²
Order was made to make adaptations under Article 81, 82 and 170, for the period which the tribal areas specified in Part B of the Table appended to para.20 of the Sixth schedule to the constitution or any part thereof are administered by the President by virtue of sub-para(2) of para 18 of the said schedule.
- 9) THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER, NO. IX³³
Order was promulgated by the President for substituting sub-para 3 of para 9³⁴ for the period of eight years from the date³⁵ of commencement as specified in the said order.
- 10) THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER, NO. X³⁶
This order was promulgated for adding a Proviso to Article 371A (1) (e) (i)

List of Certain Orders Passed under Different Acts since 2000-2013

1) Electricity (Removal of Difficulty) Order, 2005³⁷

The difficulty has arisen in giving effect to the provisions related to controlling of theft by license distribution under section 50 the Electricity Act, 2003³⁸ the Central Government in exercise of the powers conferred by section 183 of the said passed an said order.

Further eight more orders were passed by the Central Government while exercising the power conferred upon him under section 183 of the Electricity Act, 2003.

a) Electricity [Removal of Difficulties] (Second Order), 2005³⁹

This order passed by the central Government while exercising the power conferred by section 183 of the Electricity Act to remove the difficulty which have arisen in the applicability of the provisions related to section 42 of the electricity Act, 2003 in respect of the levy of surcharge on the electricity sale by a company generating it under section 43A (1)(c) of the Electricity (Supply) Act, 1948 and supply of electricity by way licensees to any person outside the area of their supply under section 27 of the Indian Electricity Act, 1910

b) Electricity [Removal of Difficulties] (Third Order), 2005⁴⁰

The difficulty have arisen in respect of free electricity disposal received by the State Government from hydro power generating companies and related matters under section 86 (1) (b), hence to overcome this Central Government passed the said order while exercising the power conferred by section 183 of the Act

c) Electricity [Removal of Difficulties] (Fourth) Order, 2005⁴¹

This order passed by the central Government while exercising the power conferred by section 183 of the Electricity Act to remove the difficulty which have arisen under section 2(30) and section 7 regarding the requirement of license for supplying power to the housing colonies or townships housing the operating staff of the generating stations by the generating companies.

d) Electricity [Removal of Difficulties] (Fifth) Order, 2005⁴²

This order passed by the central Government while exercising the power conferred by section 183 of the Electricity Act to remove the difficulties which have arisen regarding the requirement of transmission of license for establishing, operating or maintaining a dedicated transmission line.

e) Electricity [Removal of Difficulties] (Sixth) Order, 2005⁴³

Under section 28 (4) and section 32 (3) the difficulty have arisen in levying and collection of fees and charges from the licensees using the inter-state or intra-state transmission systems the Central Government passed an order to remove the discrepancy while exercising the powers conferred by section 183 of the Act.

f) Electricity [Removal of Difficulties] (Seventh) Order, 2005⁴⁴

The difficulties which have arisen regarding the required requirement for taking license for supplying power to the housing units of the operating staff of the sub-stations by transmission licensees the Central Government passed the said order for removal of the discrepancy under section 183 of the act.

g) Electricity [Removal of Difficulties] (Eighth) Order, 2005⁴⁵

The difficulties which have arisen under section 43 (1) regarding the supply of electricity at single point from the distribution licensee the Central Government passed the said order for removal of the discrepancy under section 183 of the act.

h) Electricity [Removal of Difficulties] (Ninth) Order, 2005⁴⁶

The difficulties which have arisen under section 181 (3) regarding the the validity of various actions taken under the regulations made by State Commissions without meeting the requirement of previous publication the Central Government passed the said order for removal of the discrepancy under section 183 of the act.

- 2) The Lokpal and Lokayuktas (Removal of Difficulty) Order, 2014⁴⁷

The difficulties have arisen in the giving effect to the provision of section 44 of the said Act, the Central Government while exercising powers conferred by section 62(1)⁴⁸ of the Act passed an Order for the purpose of carrying out modification and amendment in all existing rules which deals with the subject matter of annual returns filing and declaration of assets by public servants and also passed an order for the process of harmonization of the existing rules and the rules made are likely to take time beyond the period notified under the said order. Through this order, Central Government ordered to substitute 'two hundred and seventy days' in place of 'one hundred and eighty days'⁴⁹
- 3) The Andhra Pradesh Reorganization (Removal of Difficulty) Order, 2014⁵⁰

The difficulty have arisen in giving effect to the provision of section 22(2) of the Andhra Pradesh Reorganization Act, 2014 in relation to the list of members of the legislative council of Andhra Pradesh in the Fourth Schedule of the said Act therefore President was pleased to make an order to remove the discrepancy under section 108(1) of the said Act.
- 4) The Andhra Pradesh Reorganization (Removal of Difficulty) Order, 2015⁵¹

The Andhra Pradesh Reorganization Act, 2014 provides for the formation of the new state of Andhra Pradesh and Telangana however difficulty under the provision of section 15(1) of the said Act arisen, therefore under section 108(1) of the said Act the President made the said order

Further two more orders were made by the President under section 108(1) of the said Act they are as follows:

 - a) The Andhra Pradesh Reorganization (Removal of Difficulty) (Second) Order, 2015⁵²

In exercise of the power conferred upon the President under section 108(1) of the Act, passed the said order for the removal of difficulty which have arisen in giving effect to the provision of sub-clause (b), clause(i), sub-section(2) of section 23.
 - b) The Andhra Pradesh Reorganization (Removal of Difficulty) (Third) Order, 2015⁵³

In exercise of the power conferred upon the President under section 108(1) of the Act, passed the said order for the removal of difficulty which have arisen in giving effect to the provision of section 24(2)
- 5) The Companies (Removal of Difficulties) Order, 2015⁵⁴

The Central Government while exercising the power conferred by section 470(1) of the Act⁵⁵ passed the said order to remove the difficulties which have arisen where the companies meet one of the criteria but exceeds the monetary limit in respect of the second criteria are also getting classified as 'small companies' under section 85(2) and difficulty has arisen that such companies cannot make any acquisition of securities in their ordinary course of business under section 186(1) (b).

Further Central Government while exercising the powers conferred to it under the Act passed five more orders are as follows:

 - a) The Companies (Removal of Difficulties) (Second) Order, 2014⁵⁶

The Order was passed by the Central Government under section 470(1) of the Companies Act to remove certain discrepancy that have arisen in giving effect to the provisions of section 73 of the said act.
 - b) The Companies (Removal of Difficulties) (Third) Order, 2014⁵⁷

The Central Government in exercising of the powers conferred under section 470(1) of the Companies Act, passed an order to the effect that company law board established under section 408 shall exercise the Jurisdiction, powers, authority and functions as per the first proviso to clause 41 of section 2 of the said Act.
 - c) The Companies (Removal of Difficulties) (Fourth) Order, 2014⁵⁸

The Central Government was pleased to make an order under the section 470(1) of the Companies Act to remove the discrepancy arisen under section 74(2) of the said Act.
 - d) The Companies (Removal of Difficulties) (Fifth) Order, 2014⁵⁹

The Central Government in exercise of the powers conferred under section 470(1) of the Companies Act passed an order to give effect to the provision of the said Act and through this order Central Government ordered for the substitution of words 'and holds' in lieu of 'or holds'

- e) The Companies (Removal of Difficulties) (Sixth) Order, 2014⁶⁰

This order was passed to remove the difficulty which have arisen in interpreting the sub-clause(iv) of clause (76) of section 2 due to the absence of word 'relative', the Central Government passed an order under section 470(1) for the insertion of word 'or his relative' after 'manager'.

- 6) The Companies (Removal of Difficulties) Order, 2016⁶¹

Certain difficulties have arisen regarding the compliance of the provision contained in section 143(1) which relates to the consultation with National Financial Reporting Authority, the Central Government was pleased to make an order to remove the discrepancy under section 470(1) of the Companies Act.

- 7) The Aadhar (Removal of difficulty) Order, 2016⁶²

In exercise of the powers conferred under section 58(1) of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits, and Services) Act, 2016 the Central Government makes the said Order to remove the difficulties which have arisen in the procedures, processes, practices, guidelines and circulars by the Unique Identification Authority of India.

Conclusion

The power vested under the Henry VIII clause is legislative in character and the person authorized to exercise this power are the President or the Central Government or the State Government sometimes in special circumstances orders may have retrospective affect from the date of coming effect of the Parent Act, but not earlier to that date. The orders passed under the Act shall be within the prescribed limits of the Parent Act. This power shall be delegated only when there is possibility of any difficulty may arise in future. Keeping in view the conclusion, the following suggestion is put forth:

- 1) There shall be check on the Authority who is exercising the power.
- 2) There shall be standard clause.
- 3) The Clause shall be inserted in the enactment within reasonable circumstances, like we can see that in present Era of 20's the legislature has inserted this clause liberally.
- 4) The clause power to remove difficulty shall contain one sub clause defining the retrospective effect of an order made by the President or the Central Government or the State Government.

Endnotes

¹ Sarma N.A.K, "HENRY VIII CLAUSE" IN INDIA, *Journal of the Indian Law Institute* Vol. 15, No. 3 (JULY-SEPTEMBER 1973), pp. 460-486.

² 1531

³ 1539

⁴ 1542-43

⁵ Redwood John, Incisive and topical campaigns and commentary on today's issues and tomorrow's problems, <http://johnredwoodsdiary.com/2017/03/28/henry-viii-clauses>

⁶ Supra, page No. 2

⁷ 1888

⁸ Section 47

⁹ Section 310

¹⁰ Sarma N.A.K, "HENRY VIII CLAUSE" IN INDIA, *Journal of the Indian Law Institute* Vol. 15, No. 3 (JULY-SEPTEMBER 1973), pp. 460-486, ISSN: 00195731

- ¹¹ I.L.R.(1967) 3 Mad. 823
- ¹² A.I.R.1954 S.C. 569: (1956) 1 S.C.R.290
- ¹³ A.I.R.1967 S.C.691
- ¹⁴ A.I.R1950 Nag.203
- ¹⁵ No. C.O.1, dated the 7th January, 1950
- ¹⁶ NO. C.O.5, dated the 26th January,1950
- ¹⁷ C.O. 11, Dated the 10th April, 1950
- ¹⁸ Clause (1) Article 392
- ¹⁹ C.O. 20, Dated the 11th August, 1950
- ²⁰ C.O.31,dated 16th January,1951
- ²¹ The constitution(removal of difficulty) order, C.O.21
- ²² C.O 36,dated 30th January,1952
- ²³ C.O 37,dated 13th February , 1952
- ²⁴ C.O. 6,dated the 26th January, 1950
- ²⁵ Paragraph 13
- ²⁶ C. O. 16, dated the 24th May, 1950
- ²⁷ twenty-sixth day of January, 1950
- ²⁸ C. O. 18, dated the6th June, 1950
- ²⁹ C.O. 21, dated the 2nd September, 1950
- ³⁰ C. O. 23, dated 7th October, 1950
- ³¹ C. O. 27, dated the 15th January,1951
- ³² C. O. 24, dated the 25th October, 1950
- ³³ C.O. 38, Dated the 19th February, 1952
- ³⁴ Second schedule
- ³⁵ 7th day of November,1951.
- ³⁶ G.S.R.1846, dated the 29th November,1963
- ³⁷ S.O. 790(E)
- ³⁸ No.36 of 2003
- ³⁹ S.O. 789(E)
- ⁴⁰ S.O. 792(E)
- ⁴¹ S.O. 793(E)
- ⁴² S.O. 794(E)
- ⁴³ S.O. 795(E)
- ⁴⁴ S.O. 796(E)
- ⁴⁵ S.O. 798(E)
- ⁴⁶ S.O. 799(E)
- ⁴⁷ S.O. 1840(E)
- ⁴⁸ The Lokpal and Lokayuktas Act,2013
- ⁴⁹ Sub-paragraph (1) of Paraagraph 2
- ⁵⁰ G.S.R. 725 (E)
- ⁵¹ G.S.R.311(E)
- ⁵² G.S.R.312(E)
- ⁵³ G.S.R.313(E)
- ⁵⁴ S.O.504(E)
- ⁵⁵ The Companies Act, 2013
- ⁵⁶ S.O.1428(E)
- ⁵⁷ S.O.1429(E)
- ⁵⁸ S.O.1460(E)
- ⁵⁹ S.O.1820(E)
- ⁶⁰ S.O.1894(E)
- ⁶¹ S.O.3676(E)

⁶² S.O.2923(E)

List of Web Resources

- <http://www.jeywin.com/wp-content/uploads/2009/12/Constitution-of-India-CONSTITUTION-Order-No.-1.pdf>.
- <https://www.legalcrystal.com/act/38380/constitution-of-india-constitution-order-5>.
- <https://www.legalcrystal.com/act/38386/constitution-of-india-constitution-order-11>.
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- <https://www.legalcrystal.com/act/38399/constitution-of-india-constitution-order-24>.
- <https://www.legalcrystal.com/act/38413/constitution-of-india-constitution-order-38>.
- [https://kesco.co.in/wss/downloads/Electricity-\(Removal-of-Difficulties\)-order-2005.pdf](https://kesco.co.in/wss/downloads/Electricity-(Removal-of-Difficulties)-order-2005.pdf).

ANNEXURE 'A' : LIST OF THE CENTRAL ACTS CONTAINING HENRY VIII CLAUSE SINCE 2000-2017

S.NO	ACT NAME	ACT NUMBER	SECTION
2000 CENTRAL ACTS			
1	The Mizoram University Act,2000	No.8 of 2000	Section 43
2	The Information Technology Act,2000	No.21 of 2001	Section 86
3	The Madhya Pradesh Reorganization Act,2000	No. 28 of 2000	Section 86
4	The Uttar Pradesh Reorganization Act,2000	No. 29 of 2000	Section 94
5	The Bihar Reorganization Act,2000	No.30 of 2000	Section 92
6	The Chemical Weapons Convention Act,2000	No.34 of 2000	Section 55
7	The Semiconductor Integrated Circuits Layout Design Act,2000	No.37 of 2000	Section 95
8	The Immigration(Carriers' Liability) Act,2000	No.52 of 2000	Section 10
9	The Juvenile Justice (Care and Protection of Children) Act,2000	No.56 of 2000	Section 70
2001 CENTRAL ACTS			
1	The Indian Council of World Affairs Act,2001	No.29 of 2001	Section 28
2	The Energy Conservation Act,2001	No. 52of 2001	Section 62
3	The Protection of Plant Varieties and Farmer's Rights Act, 2001	No.53of 2001	Section 94
2002 CENTRAL ACTS			
1	The Haj Committee Act,2002	No.35 of 2002	Section 50
2	The Multi-State Co-operative Societies Act,2002	No.39 of 2002	Section 125
3	The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act,2002	No.54 of 2002	Section 40
4	The Unit Trust of India(Transfer of Undertaking and	No.58 of 2002	Section 24

	Repeal)Act,2002		
5	The Delhi Metro Railway(Operation and Maintenance) Act,2002	No.60 of 2002	Section 99
2003 CENTRAL ACTS			
1	The Freedom of Information Act,2003	NO.5 of 2003	Section 21
2	The Competition Act,2002	NO.12 of 2003	Section 65
3	The Control of National Highways(Land and Traffic) Act, 2002	NO.13 of 2003	Section 49
4	The Prevention of Money-Laundering Act, 2002	NO.15 of 2003	Section 75
5	The Offshore Areas Mineral(Development and Regulation) Act,2002	NO.17 of 2003	Section 83
6	The Biological Diversity Act,2002	NO.18 of 2003	Section 65
7	The Electricity Act,2003	NO.36 of 2003	Section 183
8	The Fiscal Responsibility and Budget Management Act,2003	NO.39 of 2003	Section 13
9	The Airport Authority of India(Amendment) Act,2003	NO.43 of 2003	Section 11
10	The Repatriation of Prisoners Act,2003	NO.49 of 2003	Section 16
11	The Industrial Development Bank (Transfer of Undertaking and Repeal) Act,2003	NO.53 of 2003	Section 14
2004 CENTRAL ACTS			
1	The Indian Council of World Affairs (Amendment) Act,2003	NO.5 of 2004	Section
2	The Finance(No.2) Act,2004	NO.23 of 2004	Section
2005 CENTRAL ACTS			
1	The Finance Act,2005	NO.18 of 2005	Section112
2	The Weapons of Mass Destruction and Their Delivery Systems (Prohibition of Unlawful Activities) Act,2005	NO.21 of 2005	Section 27
3	The Right to Information Act,2005	NO.22 of 2005	Section 30
4	The Coastal Aquaculture Authority Act,2005	NO.24 of 2005	Section 23
5	The University of Allahabad Act,2005	NO.26 of 2005	Section 43
6	The Bihar Value Added Tax Act,2005	NO.27 of 2005	Section 98
7	The Special Economic Zones Act,2005	NO.28 of 2005	Section 56
8	The Credit Information Companies (Regulation) Act,2005	NO.30 of 2005	Section 35
9	The National Rural Employment Guarantee Act,2005	NO.42 of 2005	Section 34
10	The National Tax Tribunal Act,2005	NO.49 of 2005	Section 27
11	The Disaster Management Act,2005	NO.53 of 2005	Section 79
12	The Manipur University Act,2005	NO.54 of 2005	Section 45
2006 CENTRAL ACTS			
1	The Commissions for Protection of Child Rights,2005	NO.4 of 2006	Section 37
2	The Petroleum and Natural Gas Regulatory Board Act,2006	NO.19 of 2006	Section 59
3	The Micro, Small and Medium Enterprises Development Act,2006	NO.27 of 2006	Section 31
4	The National Institute of Fashion technology,2006	NO.28 of 2006	Section 32
5	The Food and Safety Standards Act,2006	NO.34 of 2006	Section 34

6	The Actuaries Act,2006	NO.35 of 2006	Section 59
7	The Government Securities Act,2006	NO.38 of 2006	Section 34
8	The Cantonments Act,2006	NO.41 of 2006	Section 359
9	The Assam Rifles Act,2006	NO.47 of 2006	Section 164
2007 CENTRAL ACTS			
1	The Tripura University Act,2006	NO.9 of 2006	Section 45
2	The Sikkim University Act,2006	NO.10 of 2007	Section 44
3	The National Institutes of Technology Act,2007	NO.29 of 2007	Section 36
4	The Inland Vessels(Amendment)Act,2007	NO.35 of 2007	Section 14
5	The Warehousing(Development and Regulation) Act,2007	NO.37 of 2007	Section 54
6	The Carriage By Road Act,2007	NO.41 of 2007	Section 21
7	The Payment and Settlement Systems Act, 2007	NO.51 of 2007	Section 37
8	The Indira Gandhi National Tribal University Act,2007	NO.52 of 2007	Section 48
9	The Rajiv Gandhi Institute Tribal University Act,2007	NO.54 of 2007	Section 38
10	The Armed Forces Tribunal Act,2007	NO.55 of 2007	Section 40
11	The Maintenance and Welfare of Parents and Senior Citizens Act,2007	NO.56 of 2007	Section 29
2008 CENTRAL ACTS			
1	The Finance Act,2008	NO.18 of 2008	Section 100
2	The JawaharLal Institute of Post-Graduate Medical Education and Research, Puducherry Act,2008	NO. 19 of 2008	Section 32
3	The Indian Maritime University Act,2008	NO. 22 of 2008	Section 45
4	The Airport Economic Regulatory Authority of India,2008	NO. 27 of 2008	Section 55
5	The President's Emoluments and Pension(Amendment) Act,2008	NO.28 of 2008	Section 6
6	The Unorganized Worker's Social Security Act,2008	NO.33 of 2008	Section 17
7	The National Investigation Agency Act,2008	NO.34 of 2008	Section 24
2009 CENTRAL ACTS			
1	The Gram Nyayalayas Act,2008	NO.4 of 2009	Section 38
2	The Limited Liability Partnership Act,2008	NO.6 of 2009	Section 80
3	The South Asian University Act,2008	NO.8 of 2009	Section 32
4	The National Jute Board Act,2008	NO.12 of 2009	Section 24
5	The Central Universities Act,2008	NO.25 of 2009	Section 42
6	The Prevention and Control of Infectious and Contagious Disease in Animal Act,2009	NO.27 of 2009	Section 41
2010 CENTRAL ACTS			
1	The National Green tribunal Act, 2010	NO.19 of 2010	Section 37
2	The Clinical Establishments(Registration and Regulation) Act, 2010	NO.23 of 2010	Section 51
3	The Land Ports Authority of India Act,2010	NO.31 of 2010	Section 37
4	The Civil Liability for Nuclear Damage Act,2010	NO.38 of 2010	Section 49
5	The Foreign Contribution (Regulation) Act,2010	NO.42 of 2010	Section 53

2011 CENTRAL ACTS			
1	The Coinage Act,2011	NO.11 of 2011	Section 23
2012 CENTRAL ACTS			
1	The Factory Regulation Act, 2011	NO.12 of 2012	Section 34
2	The Academy of Scientific and Innovative Research Act, 2011	NO.13 of 2012	Section 38
3	The National Institutes of Technology(Amendment) Act,2012	NO.28 of 2012	Section 18
4	The Right of Children to Free and Compulsory Education(Amendment) Act,2012	NO.30 of 2012	Section 39
5	The Rajiv Gandhi National Institute of Youth Development Act, 2012	NO.35 of 2012	Section 45
6	The National Institute of Mental Health and Neuro Sciences, Bangalore Act,2012	NO.38 of 2012	Section 33
2013 CENTRAL ACTS			
1	The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act,2013	NO.14 of 2013	Section 30
2	The Companies Act, 2013	NO.18 of 2013	Section 470
3	The National Highways Authority of India, 2013	NO.19 of 2013	Section 42
4	The Pension Fund Regulatory and Development Authority Act,2013	NO.23 of 2013	Section 54
5	The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act,2013	NO.25 of 2013	Section 38
6	The Rajiv Gandhi National Aviation University Act,2013	NO.26 of 2013	Section 44
7	The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act,2013	NO.30 of 2013	Section 113
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1	The Lokpal and Lokayuktas Act,2013	NO.1 of 2014	Section 62
2	The Andhra Pradesh Reorganization Act,2014	NO.6 of 2014	Section 108
3	The Street Vendors(Protection of Livelihood and Regulation of Street Vending) Act,2014	NO.7 of 2014	Section 39
4	The National Institutes of Technology, Science, Education and Research (Amendment) Act,2014	NO.9 of 2014	Section 11
5	The Whistle Blowers Protection Act,2011	NO.17 of 2014	Section 20
6	The National Institute of Design Act,2014	NO. 18of 2014	Section 41
7	The Indian Institutes of Information Technology Act,2014	NO.30 of 2014	Section 49
8	The School of Planning and Architecture Act,2014	NO.37 of 2014	Section 40
9	The National Judicial Appointments Commission Act,2014	NO.40 of 2014	Section 14
2015 CENTRAL ACTS			
1	The Mines and Minerals (Development and Regulation) (Amendment) Act,2015	NO.10 of 2015	Section 24
2	The Coal Mines(Special Provisions)Act,2015	NO.11 of 2015	Section 32
3	The Finance Act,2015	NO.20 of 2015	Section 130
4	The Black Money(Undisclosed Foreign Income and Assets and Imposition of Tax) Act,2015	NO.22 of 2015	Section 86

2016 CENTRAL ACTS			
1	The Juvenile Justice (Care and Protection of Children) Act,2015	NO.2 of 2016	Section 112
2	The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act,2015	NO.4 of 2016	Section 22
3	The Bureau of Indian Standard Act,2016	NO.11 of 2016	Section 42
4	The Real Estate(Regulation and Development) Act,2016	NO.16 of 2016	Section 91
5	The Aadhar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act,2016	NO.18 of 2016	Section 58
6	The Finance Act,2016	NO.28 of 2016	Section 210
7	The Insolvency and Bankruptcy Code,2016	NO.31 of 2016	Section 242
8	The Dr. Rajendra Prasad Central Agricultural University Act,2016	NO.32 of 2016	Section 43
9	The Regional Centre for Biotechnology Act,2016	NO.36 of 2016	Section 46
10	The Dentist (Amendment) Act,2016	NO.40 of 2016	Section 70
11	The Constitution (One Hundred and First Amendment)Act,2016		Article 20
12	The Taxation Laws (Second Amendment) Act,2016	NO.42 of 2016	Section 199
13	The Rights of Persons with Disabilities Act,2016	NO.49 of 2016	Section 49
2017 CENTRAL ACTS			
1	The Payment of Wages (Amendment) Act,2017	NO.1 of 2017	Section 12
2	The Enemy Property (Amendment and Validation) Act,2017	NO.3 of 2017	Section 19
3	The Finance Act,2017	NO.7 of 2017	Section 189
4	The Mental Healthcare Act,2017	NO.10 of 2017	Section 125
5	The Employees Compensation (Amendment) Act,2017	NO.11 of 2017	Section 172
6	The Integrated Goods and Services Tax Act, 2017	NO.13 of 2017	Section 25
7	The Union Territory Goods and Services Tax Act,2017	NO.14 of 2017	Section 26
8	The Goods and Services Tax (Compensation to States) Act,2017	NO.15 of 2017	Section 14
9	The Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act,2017	NO.16 of 2017	Section 50

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Human Rights in West Bengal: Politics of Violence and Domination

Koyel Basu*

Abstract

The politics in West Bengal has always had an ideological orientation to it. The nagging issue has been the Naxalbari agitation which flared up and spread its tentacles to ensnare West Bengal's revolutionary politics. The agitation which emerged from the frustration of the Bengali 'bhadralok' youth out to destroy elitism opened the floodgates of state repression with violence and counter-violence. The article vividly describes the uncertain times in the political map of West Bengal, the human rights violations against the backdrop of the Emergency period in India and how violence has become structural to threaten democratic values and structures in West Bengal.

Keywords: Violence, Domination, Human Rights, West Bengal, India

Introduction

West Bengal is, in many senses, an exceptional state. The history of the origin of the state of West Bengal is really interesting as it is the ultimate outcome of a process of continuous disintegration that spreads over more than a century in pursuance of the administrative-colonial policy of the foreign rulers. This disintegrative tendency and the negative process have been reflected on the political spirit of West Bengal, on its politics of violence, on the multiplicity of political parties, on its militant aggressive and radical political culture. The difficulties facing all of India have been compounded in West Bengal by a series of historical factors and events that have not affected other areas of the subcontinent or at least not to the same degree. For example, West Bengal has had to withstand the wear and tear and major Allied War operations in and around Calcutta. It has suffered one of the target famines ever to occur in India. The partition of Bengal in 1947 cut off the supply of food grown in East Bengal. To complicate the problems of West Bengal still further, all of this happened in an area that already had a tradition of terroristic politics. This happened during a time when Bengal was losing its political, economic and perhaps even cultural hegemony over the rest of India.

Despite the magnitude of its problems, West Bengal has remained fairly stable and integral part of the Indian Union and continues to be an area that attracts attention in Indian politics. The history of development of human rights in West Bengal as manifested in its journey of democracy has taken many interesting twists and turns. Clearly, there have been periods of normal parliamentary politics with ups and downs and transitions as well as period of abnormally true to the spirit of radicalism in the state. The politics in West Bengal has had an ideological orientation. The state has been described as "fortress" of leftism by scholars. One important consequence of the radicalism of the left was the liquidation of the right-wing communal parties from the political arena of West Bengal. However, the leftist ideology in West Bengal has been undergoing constant change. The communists

* Assistant Professor, Department of Political Science, Jangipur College, Murshidabad, India
E-mail: koyelbasu@yahoo.co.in

have exercised great influence on the politics of the state by organizing movements and demonstrations and taking issues to the streets.

A section of the population mobilized to make the system inoperative by resorting to violence. In a society like ours, which is structurally saturated with violence, exploitation, oppression and inequality, there is always room for revolutionary violence. The Naxalites are an example of this pattern of politics. They have encouraged violent ideologies of revolutionary change. Still, violence in West Bengal had its qualitative and organizational uniqueness for which it has acquired historical significance. Historically speaking, it is not rare that mass killings, tortures or terrorization are often given theoretical justification so as to divert the attention from the roots of the problems. Conservative opinions often tend to bracket all anti-government movements as violent and anti-national whereas their liberal counterparts do think the opposite. West Bengal continued to have political turmoil since late '60s. The nagging issue was the Naxalbari peasant agitation. In the summer of 1967, this agitation started in the Naxalbari subdivision of Darjeeling district (in the northern part of West Bengal) and eventually spread to three contiguous subdivisions in the same district¹ (Phansidewa, Kharibari and Siliguri). The administrative area in which the disturbances occurred comprises approximately hundred square miles of strategically located territory. Because of the strategic location (border) on the West by Nepal, on the east by Pakistan and lying thirty to fifty miles from Sikkim, Tibetan China and Bhutan to the north) and because the Naxalbari agitation had immediate consequences for the United Front ministries in 1967, it has become infused with a great deal of emotion for both politicians and observers. The Naxalite movement began when some members of the CPI (M) broke away from the party with the objective of immediately launching an armed struggle to capture power in West Bengal with Mao's thought as their guiding principle.

On 5th July 1967, China's authoritative People's Daily proclaimed in its editorial entitled "Spring Thunder over India" that "A peal of spring thunder has crashed over the land of India. The revolutionary peasants in the ¹Darjeeling area have risen in rebellion."² For the CPI (M) members it constituted a powerful ideological victory over the CPI (M) leadership which has just presided over CPI (M) contesting its first election, in which it won three ministerial seats in the newly formed West Bengal United Front government. Charu Mazumdar, the principal ideologue of the Naxalbari movement had previously written his "right documents" in which he boldly propounded the Maoist strategic and tactical line.³

The "Eighth Document" entitled "Carry Forward the Peasant Struggle by Fighting Revisionism," constituted a strongly worded rejection of the parliamentary line which the CPI (M) had adopted. For Majumdar, the task for any truly revolutionary movement in India was to affect a people's democratic revolution which meant carrying out "land reforms in the interest of the peasants."⁴ Because this aim ran contrary to the very foundation and class interests of the state which was "semi-feudal and comprador bourgeois" by nature, it could only be fulfilled through armed struggle, not through parliament, which in the Indian context, constituted (for Majumdar) nothing more than the class enemy's tool of oppression. To participate within it constituted an act of betrayal of the oppressed.

However, after the formation of non-Congress United Front Government in West Bengal, the tension increased tremendously and the whole issue was given an ideological colour. The state leaders often complained that West Bengal has lost the dominant position which it enjoyed during the pre-independence days. Keeping this in mind it must be said that human rights situation in Bengal has been grimmer than can be imagined. When it becomes institutionalized within the state, the sell-out becomes complete. Here violation implies repression of human rights, depletion of 'humanity', through imposition of power structure. It means the dire and brute face of power that through the

languages of 'real' or 'fake' threats to public order and national security, culminates in extraordinary subversion of human rights.

In the post-independent era, human rights received a severe jolt. Violations of civil and political rights of dissidents during the Emergency have drawn the attention of critics. If we place West Bengal against the national backdrop during this time, we must say that India had failed to evolve sufficiently strong institutional structures or deeply entrenched political norms, so that when the system proved unable to cope with the mounting economic, political and social crisis of the late 1960s and early 1970s, the situation was ripe for authoritarian political leaders who could impose order and purpose on the prevalent chaos. At that very time, Mrs Indira Gandhi, the Prime Minister of India had acquiesced in the slogan "India is Indira." What happened on the national front was matched by what happened in state front i.e. assorted political manoeuvres of the Bengal Congress became very much visible.

The relationship between violence and revolutionary restructuring of society in India has been ambivalent, often painful and in the end confusing for political ranks and the public at large. Even the secular movements towards a non-violent social order may involve violence. A social order based on exploitation and dominance is already a very violent one. In its essence, violence is a direct result of the violation of the dignity of people and of the collectivities with which they identify. In the late 1960s, the constituent anti-Congress parties in Government and their elitist political approach, far from aiming at an expansion of their base, tried to establish political control through physical liquidation of sister parties. Far from aiming at an expansion of their base, they tried to establish political control through physical liquidation of sister parties. On issues like gherao, Naxalbari, law and order, trade union rivalry, the parties fought against each other. The Governor's decision to dismiss the United Front Government however helped it to rebuild its support base and regain power in 1969.⁵ (Basu, 1982)

The militant gestures and the factional orientation of the left parties, however, became self-defeating leading to the downfall of the United Front government for the second time. The spirit of Naxalbari grew out of the frustration of the Bengali middle class about the left and the disillusionment of the new generation, who were out to destroy elitism.⁶ But their failure was also due to factors of the same historical origin i.e. factionalism and elitist techniques which were great handicaps in the context of mass politics. Like the traditional left parties of Bengal, the extremists took recourse to terrorist action, which ultimately led to the mobilization of all the status quo forces. The in-built factionalism and the bhadralok orientation of the leadership contributed to their adopting the old, routine leftist techniques. Such techniques led to their isolation from the intelligentsia and other social groups who had initially extended support in spirit to the movement. Moreover, their tactics of taking the help of anti-CPI (M) status quo forces became suicidal.

The resurgence of the Congress party was made possible by the simultaneous repressive violence of the state and the counter-violence of the mastans. The middle class students and youth, disgusted with the activities of the left parties, became the vanguard of the defensive violence in the political sphere. The popular disgust against the United Front parties was exploited by them leading to the landslide victory of the Congress party in the 1972 election. But they could hardly go beyond the processes of violence. The trend of power centralization in the Congress party after its split in 1969 has precipitated a situation where accommodativeness and democratic norms were absent and groups were out to settle issues on the streets.⁷

When Siddhartha Sankar Ray was the chief minister of Bengal, a highly oppressive regime began. Despite the fact that S.S Ray was a barrister, he took law in his own hands and created a group/cadre of his own in the West Bengal police force, and in the name of false encounters innumerable people

were killed. Lalbazar police lock-up, Barasat, Howrah, etc. are witness to the barbarity of mass killings. Before going into the details of those incidents it must be said that the worst was yet come. Many democratic minded people were tortured, detained and left homeless under his regime. Under the rule of S.S Ray, more than hundred people /workers of his party were detained without trial under Maintenance of Internal Security Act.⁸

President's rule was imposed in West Bengal from March 1970. In April 1970, student-youth came up with their own programme of urban violence in the form of raids on schools and colleges, the desecration of the statues of respected leaders, ransacking the offices of the Vice-Chancellors, murdering police constables, intelligence personnel, school teachers and young cadres of CPI(M). To quote from newspaper reports, "Pistols, swords, bombs and other weapons were freely used in an encounter between some Naxalite students and the Calcutta University Students Union room and set fire on it. Awe-stricken girl students were seen making frantic efforts to get away. Brickbats and bombs were used freely."⁹

The police contingent had been reinforced by the arrival of another Deputy Commissioner Mr B Chakraborty with a large force of policemen who had to take a spectators role. Police were seen chasing the students' lathis.¹⁰ In another report published in *The Statesman* urban violence came to the fore. "More than three hours Naxalites were protesting for the release of a student of final year, Chemical Engineering Department—Spandan Bikash Debnath and two other arrested on Sunday. Representatives of students withdrew after Vice-Chancellor had finalized draft letters addressed to the police to take up the case as early as possible."¹¹

The Naxals created a pervasive atmosphere of violence. To quote a from a report, "Mr P.C Bhattacharya, Head of Department of Pure Physics at University Science College in Acharya Prafulla Chandra Road was stabbed at his office."¹² The ideological justification for the attacks was provided by Charu Mazumdar in an article 'Avenge the Heroic Martyrs' which appeared in the Liberation of September-December 1970. It was stated that the police in the country, trained by foreigners, had always been used as an instrument for murdering and suppressing the people. Charu Mazumdar's concept of annihilation as the higher form of class struggle (questioned and contradicted within the party and leading to the isolation of important of important groups from the party) was put into practice in the streets and mohallas of Calcutta and district towns. During 1970-71, 331 schools and colleges was attacked, 105 CPI (M) cadres and 94 CPI (ML) cadres were murdered in West Bengal. In Calcutta, about 139 were killed out of which 51 belonged to political parties eight were Home Guards, twelve were suspected spies, twenty-eight were policemen and fourteen were businessmen. The CPI (M) account, however, claims that during March 1970 to March 1972, 600 CPI (M) cadres were killed.¹³ The official figure of murders in West Bengal in 1970 was 436, in 1971 it was 1169, the number of police casualties being 199 during 1970-72.¹⁴

Even, anti-social and rowdy elements were included in the action-squads of the Naxalites in the name of strategic double-edged elimination. Due to the prevalence of institutionalized anti-social violence in the state involving both the state machinery and political parties, this strategy was bound to boomerang on the Naxalites. The police could easily infiltrate through these elements which formed the core of the action groups in various localities, expose them, and liquidate them within a brief period.

The Naxalites recourse to generalized terror opened up floodgates of violence and mass anxiety. It is not known whether they had hoped to achieve a rapid victory though using riot techniques, raids and assassination of renowned persons. The Naxalites also rejected the conventional concept of utilizing the weapons of the general strike and so paralyzing the state. And they had also to confront with three pronged fight against pseudo-leftist parties, the bourgeoisie parties and the state

authority. The Naxalite's inbuilt antagonism against the CPI (M) led them to side with the Congress in many localities in 1971 and 1972 elections. Though the CPI (ML) officially stood for the boycott of election, this was more a tactical move to back the Congress and CPI against CPI (M). It was confirmed in the murder of Forward Bloc leaders Hemanta Bose and Ajit Biswas, and Congress member of Legislative Assembly Nepal Roy, attack on the house of Parimal Ghosh (former Central Minister) which was a den of Naxalites. The above mentioned murders and the riddle behind the planned incidents at Barasat, Amdanga, Konnagar and Cossipore remained unresolved as the Government and police did not even allow setting up any Enquiry Commission.¹⁵

During the 1970s, many villages of West Bengal, especially the 24 Parganas, Burdwan, Howrah, Hooghly and Nadia were affected as the people here were brutally assaulted. Nearly 1000 schools were attacked. Many teachers were detained under Maintenance of Internal Security Act and Preventive Detention Act. On 8th May 1970, Kolkata Mayor Prasanta Sur was allegedly attacked by Congressmen. From 1st June to 30th August 1970, 39 men were killed. The principal attacks of the Naxalites on the older Communist leadership thus far centred on the CPM which has dominated the electoral coalitions in both Kerala and West Bengal since 1967. In its party propaganda, CPM in West Bengal was labelled as "neo-fascist." The ministerial leaders of the CPM in West Bengal have been labelled by the Naxalites as "the neo-revisionist scab of a police minister named Jyoti Basu."¹⁶

In reaction to these attacks by the Naxalites the CPM itself was split over the strategies it should pursue towards the CPI (ML) and other political forces in India and factional alignments within CPM shifted considerably. The older left faction leadership of the CPM was led by Pramode Das Gupta. It launched a widespread campaign to persuade the younger members of the CPM that the party can remain within the Ministries while preserving its revolutionary fervor. In a maiden speech shortly after the 1969 special election in West Bengal, for example, Das Gupta told his followers—"We have adopted democracy in order to strengthen the democratic struggle, but we firmly believe that we would not be able to reach our goal through parliamentary democracy. Our goal is socialism and for that is required the bloody revolution. We want to reach the state of clash between the Centre and the State through the path of parliamentary democracy to such a level that it would spark off the bloody revolution."¹⁷

Perhaps the dilemmas which the Naxalites posed for the CPM in this complicated ideological situation can be explained with reference to concrete cases. For example, the CPM (L) has sought to invite police attacks against itself in West Bengal in an attempt to expose the repressive nature of the CPM-led coalition ministries. In the face of provocation, the police have insisted on at least a minimal degree of law and order. Therefore, occasionally, the police resorted to firings in which the Naxalite demonstrators have been killed. On 16th December 1970 eight prisoners of Medinipur Central jail were killed by the police. The dead were Naxalites. In fact police atrocities against the Naxalites took very brutal shape from November 1970. In Barasat, in the first week of December, dead bodies of eight young men with their hands tied behind were found on the main road, and within a fortnight similar incidents took place at Diamond Harbour, 24 Parganas. The large-scale murder of Naxalite prisoners was at its peak during March-August 1971. In June 1971, ten unknown boys were taken to a CPI (M) dominated area at Konnagar (village: Nabagram), prosecuted by a mob court in which 150 villagers were present. Not only were they sentenced to death but also the place where their dead bodies would be buried and the process of effacing the dead bodies by acid and salt were also decided by the mob court. CPI (M) sources claimed that 368 of their cadres were murdered between March 1970 and August 1971. Whereas official sources reveal that out of 123 inter-party clashes, 68 were initiated by CPI (ML) during March-August, 1970. The terrorized atmosphere reached its climax at Cossipore on 12th-13th August 1971 when mass scale witch-hunting against the Naxalites led to a casualty of at least 100 men and women.¹⁸ S.S Ray, then the Central Ministry's authorized representative in West Bengal, in a meeting of Central Trade Union leaders at

Calcutta, on the day following the Cossipore incidents, remarked that during his visit in the troubled spots, he had been hailed by the local people for saving them from the reign of the terrorists.¹⁹ During this period of unrestricted violence, the police and administration utilized this total loss of credibility of the parties. The ghastly police act of murdering Naxalites in Beliaghaata crossed all limits of brutality, primarily a result of fomenting frustration and helpless predicament of the police force.

The West Bengal Police Association have even issued a report which has been summarized as follows—“...policemen have been suffering from a sense of insecurity, particularly since the attack by students on the family quarters (of policemen at Durgapur)...recently the police have been subjected to assault and humiliation by riotous mobs as a result of which the morale of the force has been shattered. There have been many such incidents at Kasba, Islampur, Kultali, Amdanga and Bally.”²⁰

Further, the Report maintained, “Recently the police in West Bengal has not only been debarred from performing its functioning is being interfered with by the local party bosses....Policemen do not even have the right to defend themselves and their families in the face of mob fury....the police force is no longer prepared to take this kind of thing lying down.”²¹ Faced with a potential revolt of their state police force, the CPM-led United Front in West Bengal has been seriously divided as to what can and should be done. One section of the state government, led by the Congress advocated sterner repressive measures against the Naxalites and a conscious policy of maintaining law and order (thus the repression of the Naxalbari movement).²²

During 1970-71, the peak period of Naxalite activities, individual violence against CPI (M) cadres and people suspected by Naxalites in general, offered a handle to the establishment to exploit popular resentment against generalized terror. The state administration unleashed counter-terrorism and a liquidation programme. By October 1971 about 10,000 extremists and political cadres were interned, nearly six bandhs held, leading to innumerable casualties and all the annual examinations suspended for months. The police formed combat groups in various locations with known anti-socials, ex-convicts and hoodlums to hunt down the action-squad men of CPI (M) and CPI (ML). In 1971, the number of political murders reached its highest, being 1169 according to official figures.²³ The operation continued up to the general election of 1972, and afterwards, when Congress cadres could drive away CPI (M) cadres from their localities. The CPI (M)'s organizational capacity to resist the onslaught of the police and Congress gangsters evaporated on the cue of the 1972 election. During April 1970 to March 1972, more than 600 CPI (M) cadres were murdered, 200 policemen died at the hands of the extremists, and in 50 constituencies CPI (M) candidates and cadres could not even enter for conducting campaigns.²⁴ Despite the watchful supervision of 1, 50,000 security forces and arrests of 6000 anti-socials, the 1972 polls became the most violent one in state history.²⁵

Even some of the 112,448 officials posted in 28,112 polling booths complained about intimidation and forceful snatching of ballot papers by the armed gangsters. Some thirty men were killed on the polling day and two hundred injured. The combined operation of Congress-CPI, with the direct help of the police, successfully drove away the CPI (M) cadres from their areas and armed gangsters took charge of the polling booths. By this time the hardcore of the extremist activists had to go away from their places and the action squad men at the peripheries of their party joined the combined operation to bust the common enemy namely the CPI (M).

If war as Clausewitz said, is the continuation of politics by other means, then electioneering may be regarded as the continuation of politics in a more accentuated form. Indeed, the rising tempo of violence accompanying the progress of the election campaign has created such a scare that the Chief Electoral Officer for the state found it extremely difficult to set up to polling apparatus. Murdering of

more than 600 CPI (M) cadres during March 1970 to June 1972²⁶, and 320 CPI (ML) cadres in prison during 1970-72²⁷, massive violence in the 1972 elections and terrorization and eviction of CPI (M) cadres from thirty-four constituencies²⁸ on the eve of the 1972 elections and arrests of 2538 cadre members under Maintenance of Internal Security Act could not have been implemented except through the joint action of police, mastans and goondas.²⁹

Regarding the pre-election violence, Jyoti Basu, the then CPI (M) leader and members of West Bengal State Committee of CPI (M) in a letter addressed to the Chief Election Commissioner of India, New Delhi dated 15th February 1977 wrote about the violence in 1972. He clearly stated that “...In 1972 elections with a gap of two days...tampering of ballot boxes were resorted to.”³⁰ He also said that “...since 1972 general elections, 16,000 cadres and supporters of our party who were evicted from their houses and areas by armed hoodlums with the support of the police are unable to go back. 300 of our trade unions and large number of our party offices have been forcibly taken over by Congress rowdies since then. This situation needs remedy.”³¹ In many cases of West Bengal and particularly our strong areas no open political work has been possible since 1972 and a large number of our people have been killed. The situation of terror remains the same even now...”³²

Jyoti Basu in a letter (dated 15th February 1977) to the then Chief Minister, Sri Siddhartha Sankar Ray said, “...There is another aspect of the situation which hinders free and fair election. As we have informed you on several occasions, our comrades cannot move about freely and carry on normal political activities in large areas of the state, owing to the reign of terror established there since 1972 by hooligans calling themselves Congressmen, in collusion with the police. Sixteen thousands of our members and sympathizers still cannot return to their homes. 300 trade unions and a large number of local party offices still remain under forcible occupation of Congress youths...”³³

The CPI (M) allegation raised a number of points. First of all it was related to the general atmosphere in the state—with 16,000 to 20,000 persons in prison without trial, with about 2000 murders in two years, with the application of Prevention of Violence Act and MISA against the opposition with the threat of arrests hanging once the hands of thousands of CPI (M) workers, it was not possible for the opposition to work openly without fear. In addition, the Congress rowdies were taking over one area after another from where the CPI (M) workers were being out through massive attacks with the support of police and military.³⁴ According to one estimate, there were about 10,000 CPI (M) “refugee families” in Calcutta and twenty four Parganas who had to leave their jobs as well, and who have now crowded which are more effectively protected against such attacks. But every week such areas were shrinking and open political activity was becoming impossible. It is probably not a gross exaggeration to say that during the 1972 election about three-fourth of the CPI (M) organization had to work in the underground. In many places there was no question of openly asking for votes for the CPI (M), and the party tried to reach voters either through their women volunteers or through the post. The women also came under attack. In fact about 20 women volunteers or workers lost their lives over the past two years.³⁵

The degree of violence varied from one constituency to another. In Kalna for example, the offensive was launched in mid-71 by the murder of the local CPI (M) secretary at the railway station, followed by twenty-nine other murders and the time of the election the CPI (M) activists had been erased from that area. No form of campaigning of any degree was possible in the circumstances, no posters could be pasted, no person could be approached for campaigning, no office for campaigning could be opened, and no polling agent could be seen to the booths. It was a walk over. In this traditional CPI (M) seat its candidate managed to get only 929 votes. In Burdwan also the same story was repeated. There were eleven murders between April and August 1971, and the CPI (M) organization was similarly thrown out of that area. Similar stories were being told about in fifty-two constituencies where gangsterism was at its height during the election. All these constituencies

share a number of common properties ---the left movement was traditionally strong in these areas and the CPI (M) front was expected to win almost all these seats in a fair election, and in others CPI (M) could survive only in a small part of the constituency. In all these constituencies CPI(M) polling agents were driven out of most of the booths, and there were reports of false voting coupled with reports that genuine voters were not allowed in.³⁶

In support of their allegation the CPI (M) leadership has produced figures for various booths and constituencies. One feature of these figures is that the turnout of voters in the disturbed constituencies was exceptionally high, much higher than the previous record for the same constituencies and inconsistent with the general voting trend in the other constituencies in the state. These high turnout figures are also surprising because these constituencies were the most affected by disturbances even during the Election Day. It was also surprising that the voting was completed in many of the booths within our hours of the start of polling despite the introduction of a new and time-consuming voting system in this election. A significant example is Baranagore, (the constituency of Jyoti Basu, the CPI (M) leader) where about ninety percent turnout was reported despite widespread clashes all throughout the day including the murder of three workers of CPI (M) leader) where about ninety percent turnout was reported despite widespread clashes all throughout the day including the murder of three workers of CPI (M), and the imposition of section 144 in a section of the constituency. In almost any constituency the number of those who have left or died or were sick, disabled or otherwise busy, and so on, would give a figure of more than ten percent. To register a ninety per cent turnout would practically mean that all those who were capable of voting have voted, which is incredible by almost any standard.³⁷

In the words of Jyoti Basu, "The memory of 1972 is like a gaping wound that hasn't healed properly. The elections that year were a shameless travesty of parliamentary democracy."³⁸ The date the state went to the polls—was one that people will not forget, for it was on that day that West Bengal politics sank to a new low. As Jyoti Basu put it, "My own constituency of Baranagar was not spared; in fact, I could not even enter the area till the day of polling...so virtually there was no election campaign."³⁹ After days of destruction and bombing, Basu made up his mind to see the Election Commissioner agree to supervise the troubled areas. He visited Beliaghata and parts of 24 Parganas. But he too had a frightful experience. On his way to the Mianbagan area in Beliaghata he was confronted by a gang of thugs armed with bombs, pipe-guns and revolvers. He returned without even visiting the area but did not take any steps to remedy the situation. On 1st March, Basu called on the Governor in the hope of eliciting the assurance that the voters and the polling agents would be able to function smoothly on Election Day. The Governor's assurance sounded pretty hollow. On the appointed day, Basu visited the party office in the Baranagar area thronged by the voters who had been barred by the Congress hoodlums from casting their votes although the police stood by. Basu went to the nearest police station to complain but got no assistance beyond perfunctory assurances that his reports of rigging and intimidation would be looked into. Basu then tried to enlist the cooperation of the CPI candidate to help genuine voters exercise their franchise, but he was turned down. No help was forthcoming from the army which had been deployed, ostensibly to help in the conduct of a free and fair election. Many party comrades suggested that Basu should retaliate by taking recourse to violence. 'But, violence begets violence,' says Basu. 'I decided not to counter-attack, because I understood that the situation had gone beyond our control and the government was behind this diabolical plan of rigging. Why should we waste a few more precious human lives?'⁴⁰

By the time Basu the actual polling was over. It was only 10:30 in the morning. Polling agents had been hustled out, and ballot boxes and ballot papers were forcibly snatched and tampered with to favour his rival. Basu could no longer tolerate the force. An hour after his arrival he wrote a letter to the Returning Officer of his constituency, the SDO of Barrackpore, saying that since it was not a free and fair poll, he had decided to withdraw from the contest. After submitting his letter of

withdrawal, he went to the office. Streams of complaints poured in from other areas. On 13th March 1972 the party decided not to send its representative to the counting stations. The other Left Front allies decided not to participate as well.⁴¹

According to Ministry of Home Affairs Press note number of individuals detained under the Maintenance of Internal Security Act from June to August 1972, 775 were from West Bengal.⁴² One version was that during that time there were nearly 7500 political workers detained in West Bengal ---certainly an impressive number by any standard. Of this total, approximately seven thousand were locked up in various prisons in West Bengal itself, while the remainders have been sent away to Tamil Nadu. According to one rough and ready analysis, a little more than 3500 of the MISA detainees were supporters of the CPM, an almost equal number to the various Naxalite groups; a few residual elements were however behind the bars as a consequence of the factional fights going on within the Congress.⁴³

Two scholars, Sajal Basu, an observer for *Amnesty International* in Calcutta and Shankar Ghosh, who was a correspondent at that time for the *Times of India*, independently recorded what they witnessed firsthand during the early 1970s. The former author gave a vivid description as follows, "Not only political workers were murdered; policemen, teachers and general people were stabbed, chosen cadres and young boys were forcefully taken out from their homes or from public places and instantly killed in open daylight. Hit and run tactics of the Naxalites, "see and fire" of the police and its resistance groups, military combing in disturbed areas for days together, bomb fighting between gangsters or party-gangster joint squads, all these created an atmosphere of unchained terror. The state machinery was completely within the grip of the gangsters and armed action squads of parties. Fringe areas of North and Central Calcutta, and refugee populated, congested areas of the suburb became inaccessible to any outsider....The main actors of (this) organized violence were state organs, political parties and anti-social gangsters."⁴⁴ Their accounts help fill out the picture of what went on in those years. For example, Sajal Basu reported that Congress's electoral victory in 1972 was accompanied by "widespread rigging and fraud." During the period leading up to the election and immediately thereafter, the police and the mastans (hired hoodlums) unleashed what was known as "white terror." He described the aftermath of the United Front experiment in the following terms: "Pseudo-revolutionary violence of the later sixties has been replaced by the counter-terrorism of the establishment that culminated in the violent election of 1972."⁴⁵

Shankar Ghosh provided further details. For example, he reported that the Birbhum Naxalite rebellion fizzled out, the consequences of "police action" were "not that there(were) no more killings; in fact that daily average was three to four, which was higher than the average during the peak period of the Naxalite movement."⁴⁶ As another example, the most brutal of the police massacres of Naxalites clearly was the Cossipore-Baranagar incident in the summer of 1971, six weeks after the establishment of presidential rule in June 1971. More than 150 young men with Naxalite sympathies were murdered within days. Ghosh, who covered the story for the *Hindustan Standard*, reported that "dead bodies were everywhere—bodies with heads cut off, limbs lost, eyes gouged out, entails ripped open. They were there in the streets in broad daylight. Later they were carried in rickshaws and handcarts and thrown into the Hooghly (the Ganges)."⁴⁷

Ghosh also captured well the general mood within West Bengal. "Panic and terror among the people at that time was so high that no one could stay at home at night, no young man could think of not being implicated in cases of arson and murder to be instituted by the police, no middle-aged man could avoid severe beating up in course of interrogation in a police lock-up."⁴⁸ And finally, Ghosh's conclusion concerning the scope of the state repression is noteworthy: "Even in the absence of published figures it may be safely assumed that the number of Naxals killed exceeds the number of

those killed by Naxals. There should be doubt that the Naxalite movement in India (the largest concentration of which was in West Bengal) has taken a toll of several thousand lives.”⁴⁹

Concluding Observations

Thus it is evident that West Bengal is not without its share of serious problems. It has been very rightly described as modern India’s ‘child of destiny’. It has had a chequered history. It was historically born out of a process of turmoil which culminated in the partitions of the country leaving in its wake gigantic problem for this truncated state. Thus we conclude that in West Bengal violence has become structural due to ideological polarity, economic problems and radicalism that threaten democratic values and practices. The socio-political configuration of the state is such that there is widespread absence of caste and communal cleavages. Hence, political ideology had strongly divided the society along class lines. The elitist authoritarianism of the Congress, the massive anti-establishment violence of the naxalite forces, the systematic totalitarianism of the Left Front over the years, have all contributed to a cult of political violence in the state.

Endnotes

¹ Source: <http://naxalresistance.wordpress.com/2007/09/17/30-years-of-naxalbari>

² Marius Damas, *Approaching Naxalbari*, Calcutta : Radical Impression, 1991, p. 82.

³ Ibid p. 82

⁴ Ibid p. 83

⁵ Rajni Kothari, “Foreword’,” in Sajal Basu, *Politics of Violence: A Case Study of West Bengal*, , Kolkata : Minerva Associates, 1982, p. v

⁶ Ibid., pp. x-xi

⁷ Ibid., p. xi

⁸ Asim Chatterjee, “Se diner sontrasherdaye tar oporibortaye”, *Ananda Bazaar Patrika*, 18 November, 2010. Source: <http://www.anandabazar.com/archive/1101118/18edit3.htm>

⁹ “Calcutta students use pistols in campus clash—University closed today”, *The Hindustan Standard*, 25th February, 1970.

¹⁰ *The Hindustan Standard*, 25th February, 1970

¹¹ *The Statesman*, 25th March, 1970

¹² *Hindustan Standard*, 19th December, 1970

¹³ Sajal Basu, *n.16*, p 129.

¹⁴ Assembly Statement of Minister of State (Home), Detective Department, Calcutta Police as reported in *Jugantar*, July 13, 1972.

¹⁵ Sajal Basu, *n.16*, pp. 120-121.

¹⁶ Marcus Franda, *Radical Politics in West Bengal*, Cambridge, London : MIT Press, 1971, pp. 167-168.

¹⁷ Ibid.

¹⁸ Sajal Basu, *n. 16*, p. 122

¹⁹ Ibid., p. 123

²⁰ Marcus Franda, *Radical Politics in West Bengal*, Cambridge, London : MIT Press, 1971, p. 179

²¹ Ibid., p. 180.

²² Ibid.

²³ Sajal Basu, *n.16*, p.129

²⁴ Ibid, p. 129

²⁵ Atul Kohli, *Democracy and discontent: India’s Growing Crisis of Governability*, Delhi : Cambridge University Press, Foundation Books, 1992, p. 147.

²⁶ For details, see Jyoti Basu, *Paschim Bange Sangsadiya Ganatantrer Dhangsa (in Bengali)*, CPI(M) Publication, 1972.

²⁷ *Account by the Association for the Protection of Democratic Rights 1977.*

²⁸ Jyoti Basu, *Paschim Bange Sangsadiya Ganatantrer Dhangsa*, p.9.

- ²⁹ For details, see the report titled “Behind the Violence”, *Economic and Political Weekly* (Mumbai), Annual number, January, 1971.
- ³⁰ Sajal Basu, *n.16*, p. 206.
- ³¹ *Ibid.*
- ³² *Ibid.*, p 207
- ³³ *Ibid.*, p. 208
- ³⁴ Biplab Dasgupta, “The 1972 Election in West Bengal”, *Economic and Political Weekly*, Vol. 7, No.16, Apr. 1972, p. 808.
- ³⁵ *Ibid.*
- ³⁶ Biplab Dasgupta, “West Bengal Today”, *Social Scientist*, Vol. 1, No. 8, Mar. 1973, p.13
- ³⁷ Biplab Dasgupta, *n. 45*, p. 808.
- ³⁸ Surabhi Banerjee, *Jyoti Basu: The Authorized Biography*, New Delhi: Viking and Penguin Books, 1997, p. 151.
- ³⁹ Jyoti Basu, *Memoirs: A Political Biography*, translated by Abhijit Dasgupta, Calcutta : National Book Agency, 1999, p. 236
- ⁴⁰ *Ibid.*, p. 152
- ⁴¹ *Ibid.*, p. 153
- ⁴² “Political Prisoners: Price of Tranquillity,” *Economic and Political Weekly*, Vol. 7, No 45, Nov. 1972, p. 2210.
- ⁴³ *Ibid.*, pp. 2210-2211
- ⁴⁴ Sajal Basu, *n.16*, pp. 91, 93
- ⁴⁵ Atul Kohli, *n. 36*, p. 283.
- ⁴⁶ *Ibid.*, pp. 282-283.
- ⁴⁷ *Ibid.*, p. 283.
- ⁴⁸ *Ibid.*, p. 284.
- ⁴⁹ *Ibid.*

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Internal Security Issues and Concerns of People in West Bengal: The Road Ahead

Arpon Sarki*

Abstract

The article makes an attempt to assess the Naxalite movement through the lens of human security as it is equally important and is linked up with law and order problem and development oriented issues. Appropriate institutions, systems and their relations must work on a formula where there is larger democratic participation in the process of decision-making and development so that it can ensure and improve the concern of human security at large in the region. Timely review of ground reality should be given utmost emphasis while making any comprehensive plan in relation to Naxalite issue keeping in the mind that indulging in any form of war and calculating it from profit and loss perspective will definitely not work in any one's favour, rather it will further escalate and glorify the violence to extreme extent.

Keywords: Development, Internal Security, West Bengal, India

Introduction

The issue of Naxalite movement cannot look merely as a law order problem or development oriented problem. It is equally pertinent to look the problem through the lens of human security as both are substantially inter related with the issue of human security and is critically important. The issue of human security is not just applicable for certain period or only during the period of conflict or crisis. It is a continuous process that requires the assessment of structural violence (invisible violence, which occurs when people are deprived of their basic standard of living due to under-development) and not just physical violence (use of force) is essential for a better understanding of the human security. With the socio-economic dimension being increasingly important along with the military one, a question that needs to be addressed by policymakers is how to frame a coherent framework for merging both human security and development policies. The debate on the merging of human security and development policies has been coming to occupy a paramount place for discourse in respect to strategies and techniques for conflict prevention, resolution and post-conflict reconstruction.¹ Advancement in development can contribute towards the advancement of human security and an advancement of human security can contribute towards smoother and more efficient development. The adoption and realistic implementation of inclusive development approach and policies by the government is considered as an initiative towards the human security approach via wellbeing of the people. It also reflects towards improving the wellbeing of the people. Some policies are crucial for the sustainability of livelihood and ensure the social security and thereby human security in one and another form.

* The author works with a public sector bank. Views of the author are personal.

E-mail: arpansarki@gmail.com

Issue of Human Security

Naxalite movement is inextricably linked issue of human conflict and human security and both are critically importance especially in understanding in term of its consequences. The resurgence and proliferation of Naxalite movement since 2008 in west Bengal has established that it is no longer a mere law and order problem. The Naxalite movement in state of West Bengal that emanates from a configuration of factors relating to the political milieu and unbalanced regional settings in term of lop sided development there by jeopardized human security and thereby social justice etc at large. No doubt the present governments in West Bengal have sagaciously and calculatively mixed of both the hard and soft power to address the Naxalite movement. But so far Naxalite movement in Junglemahal region of West Bengal have created havoc in terms of Loss of human life, public property, and government property and many more things in disguised way.

One could see in the State that how the non-implementation of certain acts and no adoption of the certain policies by government have wretched the livelihood of underprivileged and downtrodden section of society. For instance left front in last three decades in the region of Jungalmahal in the West Bengal has little done in terms of serious effort to deal with issue human security and human development and neither have they done much in term of traditional human security. According to (Bhaskar Chakrabarti 2012) , the Rural Development Division of the Planning Commission had set up an expert group on development issues to deal with causes of discontent, unrest and extremism in the country in 2006 under the Chairmanship of D. Bandopadhyay, which submitted its report in 2008 (Planning Commission 2008) and came up with some excellent suggestions for implementation by the states – including effective implementation of protective legislation, land resource measures, livelihood security, basic social services – the Left Front in West Bengal was not keen to implement any of them. The expert group also suggested innovative programmes like prevention and restoration of common property resources, raising tree cover for degraded land in these regions, which also did not see much implementation in West Bengal.ⁱⁱ Whenever required, state government has send troops, and it has done so to good effect on several occasions. But the better trained and equipped security forces leave after clearing an area, enabling the Naxalite in the region to simply come back and pick up where they left off. It will be proper to argue that state government time and again fails to create and provides permanent security apparatus as required in region which to deals with permanent threat to state and human security as whole and it is the balance that required maintaining.

Most important casualty in an insurgency is the human casualty. Human beings have to be protected. Further the criticality of human security clearly reflect from number of fatalities occurs due to the naxalite movement and its clash with government security force. In Review Meeting of Left Wing Extremism affected States on 8th May 2017 by The Union Home Minister Shri Rajnath Singh presided remarks that 12000 citizens of our country have lost their lives in violent activities of the Left Wing Extremists and out of these 12000 people, 2700 are jawans of the Security Forces and the remaining 9300 are innocent and simple common people who are not guilty.ⁱⁱⁱ And in case of West Bengal 699 were killed which includes 544 civilians 65 force and 90 naxalites. And in both the case maximum number of fatalities and suffer are civilian. Significantly, the State has the dubious distinction of recording the highest civilian fatalities (105) among all the LWE affected States in 2009, though on total fatalities, it ranked third, after Chhattisgarh and Jharkhand.^{iv} The conflict between naxalites and government forces has infact creates havoc in terms of Loss of human life, public property, and government property and many more things that is disguised in nature. The loss of civilian lives due to conflict between Naxalites and government security forces is reminder of the need to incorporate a human security perspective in combat operation. Further one can reasonably argue that the presence of a high concentration of police personal and security personnel in a state or in the particular region of the state does not necessarily could be justified in terms of mitigating the prevailing threats. Because it has often seen that threats from insurgency groups have

compelled the Government (in the region) to engage more security personnel than state average. However the amount of expenditure spent in security forces in the region is sometimes equivalent and more than the expenditure on the one component of social sector for which money could be diverted.

Human security is not only problem of physical safety but also one of deprivation and restriction access to health, education and other facilities as well as social and economic opportunities. The Naxal Movement in Jungalmahal region in west Bengal is inextricably linked to democratic development, social justice, socio-cultural processes, initiated and reluctance on part of by various public policy institution of Government , which time and again fails to deliver and focused on concerns of human security, development and social justice .The economic process in the countryside that generates inequality still remains significant and the health and education changes have been slower and lessmarked.^v The region of jungle mahal is economically deprive compare to other region of state .According to the Human Development Report(2004), HDI of West Bengal is 0.625 where in Bankura and Purulia it is 0.52 and 0.45 respectively which possess 11th and 16th rank among the nineteen districts of West Bengal. But in Maoist influenced almost forty blocks (really Jungalmahal) in Bankura, Purulia and West Midnapore District the scenario is really miserable. According to GOWB Statistical Abstract 12.7% male and 51% female are marginal workers in West Bengal where it is 26.6% and 67.4% in Purulia and 18.1% and 63.2% in Bankura District^{vi} As their poverty is increasing incessantly their future generation is bound to face the same crisis. A report says, at present 20.4% child of West Bengal suffers from malnutrition where it is 21%, 23.6% and 25.6% in Purulia, Bankura and West Midnapore Districts respectively.^{vii} According to (Chakraborty 2008) the left party government in west bengal facilitated rising inequality by promoting a culture of patronage ,enabling state capture by strong vested interest groups, with the police acting as accomplice of the ruling elites(land owners and upper class) in the oppression of poor peasants and landless laborers.

The naxalite movement however seems to be in dismal position after present ruling government coming into the power in May 2011. If we look into the data summed up, government's performance since May 2011 then we finds there has been a decline Naxalite movement related incidents of violence and casualties compared to pre May 2011.The naxalite movement however seems to be in dismal position after present ruling government coming into the power in May 2011 mostly due its approach to deal with Naxalite movement. mostly due its approach of conflict resolution which is adopted by present government in the form of dialogue process between state government and the naxalites, release of political prison, stress and importance of local politics, development initiatives, rehabilitation policy etc.The various governance initiatives implemented in the region of Junglemahal region to address the armed struggle that has emerged between the state and the Naxalites as a result of feelings of social and economic injustice among the poor and oppressed sections of society contributed to brought some focus on issue of Human security. After she came to power in May 2011, Banerjee followed a three-pronged approach. One, she set up a crack team of police officers to deal with the rebels with the gun. Second, she kept luring the rebels with offers for returning to the mainstream. The third plank of this strategy consisted of confidence-building measures with the people of Jungalmahal - the three districts of West Midnapore, Purulia and Bankura where CPI (Maoist) had virtually set up a 'liberated zone' between 2009 and 2011 and was consistent on highlight regarding the issue of human security. Mamata increased her thrust on expediting development projects in Jungalmahal. Within the next five years, her government managed to bring almost all prominent Maoist leaders to the mainstream, offering them security and a peaceful life, with an effective surrender policy^{viii}. The Govt. of West Bengal has accepted the revised guidelines of Govt. of India Ministry of Home Affairs. Naxal Management Division for Surrender and rehabilitation of Naxalites and the proposal for revision of incentives to the surrendered Naxalites for providing gainful employment and entrepreneurial opportunities and

bring them to the mainstream and not to return to the fold of Naxal movement.^{ix} And till date 328 Left Wing Extremists has surrendered.

All these striking performance has definitely been in the State's success in changing the face development and human security of 'Junglemahal' region. The regions is not only peaceful but have also witnessed unprecedented development and improvement in all development indicators and there by positively contributing in process of human security.^x It is also a quite admirable that the region seems to free of Naxalites related violence and disturbances for the last four and half years. Infact it can be said that the present government has sagaciously and calculative mix of both the hard and soft power to address the Naxalite movement ,that has emerged basically due to the feelings of social and economic injustice within the region and there by considerably managed to handle the situation since May 2011 to till date. However resolution of conflict is not just about vanish of conflictual situation. It is more about how one can able to deals with the post conflict situation more critically so that you can make the region more stable and peaceful. It is not about explanation regarding the government inability to find a solution to the problem despite setting several optimistic time frames. Further is also about not indulging in self-praise. There should not be any conflicting between views on imposing a solution and finding a solution. Because the first will definitely bring some relief but validity of which is very minuscule. Hence latter will given utmost priority.

Post-Conflict Situation and Way Ahead

The Junglemahal region of West Bengal is experiencing post-conflict situations. Post conflict situation characterize emerging from a violent conflict or prolonged social, human loss, destruction of infrastructure and means of production, as well as adverse economic and political conditions. With this it is also equally true that post-conflict situation, are often faced with increasing challenges in determining the beginning and end dates of the post-conflict period. Continuity and discontinuity, though contradictory, have so far remained as inseparable characters of the Naxalite conflict in India.^{xi} One of the major challenges in post conflict period is human security and it dynamism that it embrace with space and time. The human security, as perceived by the common people not just end with naxalites activities or end of conflict between naxalites and security forces. It refers to ability to go about one's business safely, to go job, to move around freely etc. Conflictual situation raises the issue of human security and it dealt with through short term military solution. But it is not always as effective for durable period. Hence a long term comprehensive strategy that abides by the promises of development and realization to entitlement must be put in place. It should promote policies and state building efforts that reduce local incentives which trigger insecurity in the first place. The government has the primary responsibility for the provision of human security for its citizens.^{xii}

Dealing with Naxalism needs a holistic approach with development initiatives as an integral part of security approach. Security here must be understood a broader perspective that includes human development in its scope, because security is an inseparable component of any human development formula and vice versa (Chakraborty, 2014). Human security therefore requires protecting people in a systematic, comprehensive and preventative way. Government authorities have the primary responsibility to implement such a protective structure. Things have to look on from their interconnectedness perspective with diverse social and economic realms, environment, health, education, and gender realms of conflict-affected communities; of conflict-affected communities as all these issues linked up with the human security. The state government always strives hard to look into the post-conflict development efforts as connectedness of diverse aspects of human vulnerability may always in try disrupting peace and development and it will also have potential poses considerable challenges of human security in post-conflict period. Government hence has to carefully maintain balance the interest of the exploiting profit-seeking classes with the needs and

aspiration of the basic classes. Governments have to chalk out and address the genuine difficulties of the people in naxalite affected region that too has to be resolved within the democratic framework.

We see the institution of conflict resolution working only on the wake up of ongoing crisis and began to speak about its solution only during crisis alone, it is only during when violence escalate any incident occurs government think of what to do. And such action will definitely not contribute toward permanent solution though sometime bring a kind of relief. Crisis period is not time for solution rather period of tranquil is the proper period to find out the lasting solution. While dealing with issue of human security in post conflict situation it is very much necessary to have critical understanding of the various stages in the conflict to post conflict transition, including the processes of reaching a settlement, implementing a settlement, and creating a social and economic environment that prevents conflict recurrence. Similarly how the different challenges facing post-war societies span questions relating to economic development, transitional justice, social reconciliation, and institution-building, as well as how these different challenges may be causally related to one another.

In any democratic process, political parties are crucial elements and play dual role in form of mitigating the ongoing conflict and to superintending the post conflict situation. The different sections of people have grievances that arise out of social, economic and political issues that remain to be resolved, it is important that they make use of the democratic space for the resolution of such grievances. In this respect, political parties have a crucial role to play. The building of local capacities and the emphasis on empowerment measures are fundamental to the advancement of human security. Mobilizing the support of the people is also absolutely essential to weaken the support base of the Naxals. The political parties are not playing their role in this regard. The representatives of major political parties have virtually abdicated their responsibility.^{xiii} When the political process is not in a position to articulate such legitimate demands, conflicts emerge. The resurgence of naxalite movement in Bengal is also due the failure of the political process that has enabled the movement to mobilize people and enlist them in its ranks.^{xiv} Political milieu has often been under great influence of diverse factor and vice versa. Human security can be taken as one such factor that has the power to shape political process, political discourse, political decisions and its contents, components as well as relation to other interlinked concepts and it can consequently become a component or a leading strategy of concrete political action and thereby and to serve as a foundation for various kinds of policies or political actions.^{xv} The occurrence of violent incident generates insecurity and tension in a space. And it often been said that violent occur were politics cease to operate. It can further be rightly argue that politics as it linked up with political activities involved in process of conflict resolution and the basic means of conflict resolution is nothing else but the authoritative allocation of values (as said by Canadian born American political scientist David Easton) and implemented in all society impartially.

After May 2011 West Bengal has witnessed transformational leadership. Challenges to post-conflict leadership in region highlight the need for democratic capacity building, with clear participatory processes involving communities and the leadership as a necessary condition to mitigate new or resurrected conflicts and present government has considerably manage to provides leadership to deal with naxalite movement and successfully handle the situation and brought it under control. It is mostly due to the adoption and implementation of strategy and policy of present government due to which the Naxalite have been crippled in Junglemahal region and have little prospect of any early recovery. However West Bengal as it share common geographical boundary with Jharkhand, Odissa, Chhattisgarh, Andra Pradesh and the naxalites efforts, nevertheless, continue, and their persistent activities and presence in these neighboring States will remain an abiding threat to West Bengal as well. It cannot be ruled out at any cost the naxalite will always try to find an opportunity to make its

base once again in Junglemahal region of west Bengal although it since last four-five years record negative fatalities related with naxalite movement.

Government further needs to understand dynamics of change, and factors for its absence and continuity of naxalite movement within region. In recent year it has been lauded that the reversal of Maoist violence to the success of sustained efforts by the security forces, but others believe this to be a strategic move by Naxalites for using this period for recruiting, recuperating, striking new alliances and looking for newer ways of raising funds and acquiring weapons.^{xvi} Keeping all these things in mind capacity building through grassroots leadership is a necessary and integral ingredient for the development and sustenance of democracy in post-conflict situation. Similarly post-conflict reforms in terms of political social, economic etc are critically important to restore integrity, stability and reconciliation in the region of Junglemahal and adjoin region. As the reform have enough potential to create the opportunity for new roles and responsibilities to emerge and challenge various aspects of the preceding political order. At the same time appropriate government institutions, systems and there relations must work on logical and feasible formula where there is larger democratic participation in the process of decision-making and development so that it can ensure and improve the concern of human security.

Conclusion

Human security approach needs to be taken and apply as a countermeasure for Naxalite threat. Looking through the lens human security provides ample guidance to policy and decision makers to chalk out comprehensive strategy. But one things need to keep in mind while formulating any policy and strategy that the policy and strategy of constructive management of conflict requires certain key measures. Priority should be accorded to search out creative policies that bridge gaps between state interests and those of effected communities who are more prone to vulnerability in term of human security. Hence considering this in post conflict situation like in Junglemahal realistic and pragmatic approach with timely review of proper implementation of various measure that are in place should be given utmost important. Similarly pre-eminent questions like governance vis-à-vis the issues of Development and human security have to develop out of the re-examination and re-orientation of the role of the government, state, and the political structures positively so that it make possible to save any particular territories or region from falling in to the hands of the Naxalites in future. However one thing also need to keep in mind that it's not all about development and policies, it is equally important to see whether that development measures and policy introduces by government are impartially benefitted to beneficiary or not. Are people those who are likely to affect by these development and policies are capable enough to utilize that or not are also equally important? State need to take this onus so that ensure the optimum level of human security.

Endnotes

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