

Books

RESISTING DISAPPEARANCE: Military Occupation and Women's Activism in Kashmir by Ather Zia. University of Washington Press, 2019.

IN the past thirty years of the ongoing armed resistance movement that has challenged the logic of Indian state occupation in the Kashmir valley, the spectral disappearance and loss of innumerable young Kashmiri men has been one of the quintessential features of the Indian state's tactic of control and oppression on the state's population. Typical to how sovereign violence justifies its means for an end, the Indian statist narratives have relegated the 'disappeared' men as 'missing' individuals that deflected the accountability of the Indian state from the systemic, symbolic and structural human rights violations committed in the Kashmir valley.

The affliction of innumerable young men who were made to disappear and the subsequent discovery of vast stretches of unmarked graves have developed collective psychic anguish for those who survive and are witness to the dispensability of Kashmiri life. The Association of Parents of Disappeared Persons is one of the several organizations in the valley that grew out of concerted efforts of parents and kin members to search for their male kin (sons/brothers/husbands/nephews), approach the court of law and support each other in the midst of irreparable loss and relentless violence.

Ather Zia's monograph, *Resisting Disappearance: Military Occupation and Women's Activism in Kashmir*, is a powerful yet sensitive engagement with the voices of those who were buried in the annals of the Indian state's attempts to annihilate lives and dissent. The book is an intimate ethnography with those who witnessed and survived brutal everyday violence and endured the loss of their kin bereft of the specific knowledge about their death and therefore, continue to sustain a life without any closure. Zia's work emerges out of her prolonged relationship with the activists of APDP as an ethnographer, a friend, and an activist herself. She presents her engagement with APDP's work and activism in a self-reflexive manner that acknow-

ledges her location as a native anthropologist who locates herself at the praxis of objective academic work and politics of being a woman Kashmiri academic. In a major methodological innovation in this work, Zia infuses her poetry written during fieldwork not merely as personal notes or artifacts from the field, but rather positions the poetry written during her engagement with friends and activists from Kashmir as 'evidence' that corroborate with the objectives of anthropological enquiry.

The book foregrounds the nature of the APDP activism where mothers and half-widows of the disappeared men practice gendered labour of mourning, and where remembering and forgetting become crucial methods of politically resisting the amnesia imposed (p. 10) by the oppressive and tyrannical Indian state. By focusing and critically engaging with the voices of the APDP women activists from varied age and caste location across the length and breadth of the valley, the author weaves through the fragmented yet poignant narratives of loss, rage, dejection, labour and the courage to remember, visibilize and document the lives of those who disappeared and those who survive the loss. Zia situates the work of APDP within the Foucauldian framework of counter-memory that constitutes the 'subjugated knowledge' produced by the marginalized, often hidden behind the dominant statist narratives. It is within this Foucauldian framework that the author presents an intersectional conversation between memory studies and feminist praxis.

Through an immersive ethnography with the biographies of APDP members like Zooneh, and various material objects that frame their political-psychic engagement with the world around them, the reader is taken through the visceral and affective terrains of an aspiration for justice. Through the prisms of melancholia and hauntology, Zia operationalizes what she calls 'affective law' as a conceptual device to underline the political significance of the affective ways in which these individuals, as well as the collective activists of APDP, to sustain the memory and document their loss.

In the third and the fourth chapters, the author represents the spectacular nature of APDP's monthly protests in Srinagar's Pratap Park. She narrates the anatomy of the protests mobilized, organized and conducted by women activists and what the spectacle of protesting women bodies does to the assemblages of the Indian state, media sensorium and the contours of the Kashmiri *tehreek* (movement) for *azadi* (freedom). Here Zia unravels the *sui generis* nature of patriarchal structures of Kashmiri social life and the problematics of understanding women's participation in the resistance movement merely through the prism of women supporting and assisting the men in the struggle for freedom. She further illustrates the ways in which the chairperson of APDP, Parveena Ahanger's personality discursively performs (p. 76) the continued search for her son, the work of speaking truth to structures of power, memorializing the lives of those disappeared and most importantly taking care and supporting the families of those searching for their loved ones. Zia disentangles the tropes of motherhood and the idealized motif of *asal zanan* (good woman) that allow women like Parveena Ahanger to occupy the public space as a protesting body by elevating her from the imagined vulnerabilities of sexuality conjoined with her womanhood.

In drawing the nuances of the protest or *dharna* demeanours of half-widows with young children and the mothers of disappeared sons who take part in APDP activism, Zia highlights how motherhood frames itself as a template that allows 'lawful digressions' (p. 102) for women to protest and become protagonists of their children's rights to knowledge about their father's fate. Through the figure of Sadaf, a half-widow who constantly 'de-womanizes' (p. 78) herself to access the obscure yet aspirational registers of 'good women and a good mother', and the figure of Parveena Ahanger who accesses the template of an activist through an age-appropriate representation of a mother and a caretaker, the author underlines how continued militarization and rampant sexual violence have heightened the already existing patriarchal hierarchies, discrimination and distrust.

Notwithstanding, Zia's work proclaims and honours the unstinting work that women activists in APDP do, for documenting the loss of human life in the aegis of an unending Kashmir conflict and for the creative and eclectic ways of negotiating societal structures and faith systems to make meaning for their actions and aspirations. Most importantly, Zia underlines how the work of care and religious piety texture the varied

forms of women's engagement with memory, justice and survival.

This book is a critical and timely work that reiterates the need to understand the Kashmir conflict, not just from the verticles of the anthropology of state and violence, but also the political potentialities of engaged anthropology that values documenting lives and scenes of individuals and communities reeling under relentless violence. To that end, this is a phenomenal work that does not shy away from taking up methodological innovations and challenges of decolonial feminism, and justifiably extends a powerful response to the liberal conceptualization of Muslim women feminist politics in the South Asian context.

Within the vast expanse of memory studies, this pioneering work on how memory and counter-memory act as agents of oppression and resistance in Kashmir, would be useful for any scholar exploring the politics of life and living in any location of ceaseless pathos and resistance. A sequel to this book could explore specifically how the phenomena of disappearance as a punitive act of repression and spectacular violence touched a certain non-urban class of Kashmir, and what this tells us about how the Indian state imagines and identifies the dispensable and killable Kashmiris.

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MUNNU: A Boy From Kashmir by Malik Sajad.
Harper Collins, Delhi, 2015.

WE are living in strange times, perhaps no stranger than any other, yet living through it in present continuous makes it jarring. In this India, *identity* is a contested area. The overlap of religion, caste and gender isolate and unite us simultaneously. When the Citizenship Amendment Act seeks to visibly exclude Muslims, the National Register of Citizens wants us to fall obediently in line and prove our heredity and existence, and the National Population Register attempts to classify us in bureaucratic strictness, the resistance which is brewing on the streets of the country is attempting to subvert the structural expectations from pockets of identity. Women from Muslim families are leading the massive sit-ins at Shaheen Bagh in Delhi and Park Circus in Kolkata, transforming areas of religious seclusion into the frontlines of resistance. Chandrashekhar Azad, the fierce Dalit leader of the Bhim Army stands in active support of the movement, forming a coalition of the political and social

others. Identities seem to be melding together to form clusters that the structure did not anticipate.

Yet, in all this, Kashmir remains its own beast, still cut off from the rest of India by the suspension of internet following the abolition of Article 370 of the Constitution in August 2019. The identity of the *Kashmiri*, inextricably linked to the valley they inhabit, becomes a complex web of negotiations, where the imposition of different power structures creates a harrowing confusion. Malik Sajad's graphic novel, *Munnu: A Boy From Kashmir*, attempts to capture this tension through the eyes of the protagonist growing up in the 1990s Kashmir. Although the timeline is different, Munnu also lives in present continuous. And the present continuous is eternity. The past, as seen through Sajad's ever present gaze, becomes a window into our own time, not only providing context for Kashmir and its relationship with India, but also the various intricacies of what being a Kashmiri entails in very basic, existential and political terms. The book presents the tussle of identity creation within a conflict zone in grave and unsettling detail, refusing to come to any easy conclusions at all.

In a chapter entitled 'Footnotes' (pp. 197-211), a brief historical overview of Kashmir is presented. It begins in myth, presenting two alternative stories about how the valley came to be inhabited. One offers a narrative influenced by Hindu mythology, where the valley was originally a massive lake where a giant demon lived. A sage, Kashyap, made a hole in one of the surrounding mountains that drained the lake and killed the monster, making it free for possible habitation. The second version has an invincible dragon living in the lake. This time a Buddhist monk is offered a small space in the middle of the lake by him. But the clever monk grows in size until there is no more space left and the dragon is shooed away. The empty valley is then populated by slaves from other lands and flourishes as a prosperous hub of learning and trade, along the ancient silk route. Its beauty invites the attention of generations of conquerors, who invade and massacre repeatedly. The panels of the novel present weapon-wielding soldiers proclaiming the land as a paradise on earth, over the slaughtered corpses of Kashmiris that rot into skeletons as time progresses. The Kashmiris are of course human bodies with Hangul heads, drawn in stiff movements in the style of woodcarvings.

The novel is a memoir that traces the author Malik Sajad's coming of age through the 1990s in the city of Srinagar as violence escalates and subsides in ebbs and flows. Little Munnu, the youngest of five siblings, finds

his daily life subsumed in this violence. Forbidden by his artisan father from scribbling on his expensive wooden blocks, which he carves to make a living, Munnu traces pictures of deformed and mutilated Kashmiri bodies, brought face to face with death and violence at an age when even questioning them was not really in the realm of possibility. The character design of the young Munnu has tiny stubs on its head, which slowly sprout into the floral branches of the Hangul's horns as he grows and is forced to confront the difficult questions surrounding him. Just as the unique representation of the Kashmiris in the book allows us to understand their self-identification, it also serves as a symbol of their cloistered, administration-imposed category.

Sajad draws the regular but unannounced 'crack-down identification parades' (p. 11) with geometric certainty. Rows and rows of *Kashmiris* stand in the middle of armed Indian guards, who have scowling human heads. This contrast drives home the point being made with the representation. The moniker of a 'Kashmiri', along with an aspiration for self-identity, is also an imposed official designation that helps with the control of human bodies. Munnu is shown as a baby Hangul, wrapped in cloth, being handed over to his eldest brother Bilal. He is born a Kashmiri, at once unique, beautiful, and categorized. Later in the book (p. 293, chapter: 'Installation Art'), Sajad gets embroiled in trouble while visiting Delhi for an art exhibition. While in a cafe, emailing his cartoons to the newspaper he worked for, he is identified as a Kashmiri and then a 'Terrorist' (p. 302) and given over to the police. His body, distinctly *Kashmiri* in drawing, is cornered by the common man (literally, as the iconic caricature of him by R.K. Laxman makes a sudden appearance amongst the customers at the Cyber cafe) and then given over to the uniformed police.

Other uniforms impose curfews in Srinagar and follow orders of shoot on sight, even ambushing ambulances. The life of Kashmiris is beset with sudden and dangerous interruptions. During a curfew, Munnu's mother Haseena needed to get some stitches cut. So Munnu had driven Haseena to the hospital on his bike with her MRI report held in front of him. They had depended on his press identity card, the soldiers' mercy on a *sick old Kashmiri woman*, and daring grit on both their parts. In perhaps the novel's most intimate and disturbing depiction of individual civilian resistance to the Indian occupation/administration, Haseena has to perform her motherhood in front of soldiers with their grotesque cartoonish faces to save herself and her son from beatings, incarceration, or death. Their lives are constantly occupied by the army and the police, who

roam the streets at almost all times. They stand out, not only with their uniforms, but also their human faces underlying a racial tension.

The initial mythical origins of the place evolve into similarly contested facts of history. Munnu is driven to study the history of his homeland in an effort to understand it better, but the only truth he (and the reader) finds are those of violence. Kashmir keeps changing hands, from one conqueror/ruler to another, as Kashmiris keep dying. Almost every panel of the chapter 'Footnotes' is lined with the dead bodies of native Kashmiris, as history moves forward steadily. From myth to fact, we are only provided with a constant search for identity, without any proper conclusion.

This tussle between reality and hyper-reality becomes a political dimension of Sajad's personal search for identity and conclusive cosmic answers. The questions being asked in his personal life stem firmly from his everyday life, where people disappear suddenly, mostly to return dead or never. The murder of a neighbouring man with militant connections raises questions about death and its suddenness and an eight-year-old Munnu dreams of funerals. The man had been a kind friend to the boy and he keeps drawing parallels between him and his eldest brother Bilal, whose corpse often replaces the former in those dreams. The pictures of the corpses that he had seen in newspapers are made material with the corpse of Mustafa, whose mutilated face had been covered in person. Sajad writes, 'Mustafa's Story was on the front Page, but the black and white picture of a distorted corpse looked nothing like the Mustafa they knew.' (p. 37)

The last chapter ('Solar Powered Flashlight'), finds him returning from a disappointing dinner with some EU representatives, lighting his way with a titular flashlight. The panels are mostly dark, with the light illuminating very little of the road and surroundings. Almost everything, including Munnu, is seen in dark silhouettes. Here he is seen contemplating his questions in the isolation of night and nature. Sajad seems resigned to his conflict regarding the idea of Kashmir and the Kashmiri. He writes, "'Kashmir' will pull you back to... graveyards, sorrow and morbidity. It's not worth thinking back further in time.' (p. 344) His disillusioned dialogue with history is also somewhat Lovecraftian, in a cosmic hopelessness. Young Munnu's questions about death and the world are not concluded in the adult Sajad's mind. Only further confused and extended by the almost satiric nature of reality, such that his cartoons, born of extensive frustration, seem most at home in that reality.

The inhabited world and the identity of Kashmir is strangely masculine, with women subsumed in symbolism. In the politically motivated public world, women are relegated to a limited role. They are mothers, sisters, and lovers. The schools does not have any female students, the streets hardly have any women. The land of Kashmir still seems to be dictated to within the discourse of conquerors. In the recollection of a character, Kashmiri Pandits are threatened by local insurgent rebels to leave. They ask them to leave their women behind. We are shown abandoned Kashmiri Pandit's houses occupied by loitering youngsters and sometimes by schools and the government. The narrative of occupation is one of sexual assault, though it is never directly identified as such. Only in the very last pages of the book, where Sajad seeks refuge with an auto, while running away from an accidentally discovered pack of dogs, does he find a woman being assaulted (and possibly raped) inside the vehicle.

The interruption of his tranquil and cynical thought boxes is as sudden as the regular interruptions that he and other Kashmiris have faced throughout their lives, brought about by the unabated conflict. It invades his deepest reflections, driving him out of the scenario itself. The last panel of the book has Munnu walking away from the silhouetted group of sexual assaulters, as they decide to forget about him and look for the woman, who had limped away. It is almost as if their worlds, although discreetly shared within physical and social boundaries, are completely unhinged from each other, floating apathetically in space. The violence felt here is one of disconnect with one's self and society, drifting into a spiral of questions that only lead to more questions, without providing any answers.

The novel primarily works to highlight the isolation within which Kashmiri identity is built. It is intricately linked to the way their bodies behave in relation to the Indian occupation or activities of the insurgent. While the act of voting marks them as successful citizens of India, and gives the adults of Kashmir a small respite from army harassment, it also marks them as traitors for the insurgents. The factionalism within the resistance, although hypocritical, is born out of a lack of available choices. All the roads that may lead to a solution of the conflict are aligned with either of the two neighbours.

In the international arena, Kashmir is not able to exist outside of the overlapping shadows of India, Pakistan, and even China. The boundary and land of Kashmir become the central factor of dispute. The Kashmiris and their bodies become incidental in this deadlock, and are used as fodder in the war. It is the

image of a Kashmiri in the context of violence that makes sense. Kashmiris do not exist for the world outside of violent protests and encounters. Thus innocent people are lured into a trap and killed by the police and army, and their bodies are displayed as those of insurgents or terrorists. Thus, Sajad being identified as a Kashmiri in Delhi, following the bomb blasts, draws an immediate parallel between the two events, and he is handed over to an already prejudiced police force, shaking with mortal fear. From the army, to the common Indian to the envoys from EU, they are all drawn with a tone of irony. They have pointy faces and thin eyes that are continuously suspicious, imposing their own ideas on the body politic of Kashmir, and the bodies of Kashmiris.

The reality of living there is not available to anyone, not even to Sajad's American girlfriend Paisley. Kashmir encapsulates all its indigenous people, dictating who they are and how they are to be treated. The only possible refuge is the resignation that Sajad courts as he walks home in the last chapter. He seems tired of chasing futile questions, and is even momentarily willing to let *Kashmir* go. But as a reminder of the world he inhabits, he chances upon a pack of vicious dogs and sexual violence in the dead of the night. Even his personal quest for identity is overlapped by the hostilities of occupying forces. The only option available to him is to walk away.

The creation of a parallel between the endangered national animal of Kashmir and its native inhabitants finds meaning here. The definition of being a native is brought under the spotlight, pitted against the claims of suprahuman entities. Individuals in contested lands become contested people, with their bodies being defined according to the will of the power algorithm. The closest literary parallel we can think of is perhaps Art Spiegelman's *Maus*, where all the different nationalities and ethnicities are depicted with animal faces, Jews having the faces of mice, symbolizing their treatment by the cat-faced Germans nationals. But where *Maus*'s narrative has the benefit of hindsight, with the narrator delivering his father's experience during the Holocaust, Munnu is not given that solace.

The violence and regimentation that afflicts Kashmir is still present, and the trauma is not one of negotiation but of existence. In *Maus*, Art Spiegelman deals with the repercussions of history on his back, trying to understand how to keep living in a world after Auschwitz. Munnu on the other hand, leaves the story abruptly, uncompleted; the fate of the valley and its endangered inhabitants stuck in limbo, where sleeping

with death and waking up to violence remains the only constant.

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A DESOLATION CALLED PEACE: Voices from Kashmir edited by Ather Zia and Javaid Iqbal Bhat. Harper Collins, Delhi, 2019.

A Desolation called Peace traces a historical and experiential genealogy of the movement for self-determination (popularly referred to as *tehrreek*) by ethnographically delineating for us the social world of Kashmir which is saturated with the marks and memories of political violence. In doing so, the anthology attempts to particularly foreground the lived experiences of people during a specific time period: from 1947, the Partition of the Indian subcontinent, to 1989, the start of the armed struggle in Kashmir. While most historical and anthropological work on Kashmir has given political salience to 1989 and the ensuing era of the armed movement in the 1990s as the extraordinary signifier of *tehrreek*, this anthology makes a conscious departure from this position and compels us to enquire into what led to the making of an armed movement in the first place. It asks: how did the 1990s acquire the legitimacy and status of a mass people's uprising?

The essays in this anthology redress the portrayal of 1989 by situating it in a temporal and political continuity with the events that were happening from 1947 onwards. It locates the fraught period between 1947 and 1989 as 'the lull before the storm' because these years encapsulate, most fundamentally, the political hopelessness that was experienced by the people in Kashmir as they witnessed the slow erosion of their autonomy. The failure of political negotiations can be gauged not only through the two wars of 1947-49 and 1971 between India and Pakistan, but also through the gradual assimilation policies enforced by the Indian state despite the looming presence of an impending UN mandated plebiscite and the status of autonomy granted to the state of Jammu and Kashmir under Article 370 of the Indian Constitution. This anthology undertakes the essential task of locating these political subversions and 'democratic' manipulations in a temporal continuity with the emergence of what is known as the 'watershed moment' of the armed movement in 1989.

Even though the landscape of Jammu and Kashmir was not as densely militarized in 1947-1989 as in the

1990s, the policies of control that were used to suppress dissent bore an inexplicable similarity to the practices of explicit repression in the 1990s. In their essays, Zahir-U-Din and Zareef Ahmed Zareef illustrate this by referring to the practice of forced exile of political rivals to Pakistan Administered Kashmir/Azaad Kashmir, performed routinely by Sheikh Abdullah and his National Conference followers against members of Muslim Conference who were ideologically pro-Pakistan. Sheikh Abdullah's role in suppressing political dissent comes to the foreground in this book through his policy of arresting pro-freedom leaders at night under the draconian Defence of India (DIR) rules, which could detain a person for up to two years without trial. Zareef also reveals the local media gag that was imposed by Abdullah on the newspapers during this time period, particularly newspapers that circulated from across the LoC because they resonated with the sentiments of the Kashmiri people.

Abdul Qadeer Dar discusses the systematic use of torture upon the bodies of Muslims even before the start of the armed movement. It acquired barbaric proportions after 1989 as it became the omnipotent tool of the Indian Army for its counter-insurgency operations. Dar points out that there are still 471 torture centres that exist in the state of J&K. The question that each essay in this anthology explores is about how we understand this time period, 'the lull before the storm', in which there was an absence of both directly visible military violence or militancy. Can we qualify this period as 'peaceful' as it is erroneously framed in the Indian narrative?

The anthology, therefore, performs the critical task of making visible the political atrocities and manoeuvres unleashed by the Nehru-Abdullah government in 1947-1989 that led to the emergence of the indigenous armed movement in Kashmir post-1989. The book discusses this threshold moment by delineating for us the *longue-duree* of tehreek wherein we see an intricate amalgamation of the personal lives of people with the larger political struggle of plebiscite in Kashmir. This becomes lucidly manifest in the essay by Mona Bhan where she delineates the physical boundaries that existed between the rooms of her maternal grandparents who lived separately in the same house because of political differences. While her grandfather was a Pandit (Hindu) harbouring aspirations of political freedom and was frequently jailed for his activism, her grandmother was facing the wrath of the Pandit community on behalf of her husband who was labelled as 'a Pakistani *butta* (a Pakistani Pandit)'.

She says, 'the Kashmir dispute had divided our family and its turmoil was etched on the doors and corridors of the house' (p. 86).

Through the historical and political explorations in each essay, the anthology attempts to foreground the hitherto suppressed precariousness of lives in the period between 1947-1989 and this is most effectively illustrated in Mohammad Junaid's essay through the figure of a Kashmiri fiction writer, Akhter Mohiuddin, who documented the colonial occupations of Kashmir in his work and created an archive of the alternative history of Kashmir. This idea of colonial occupation connects with contesting the authenticity of the Instrument of Accession (between the Dogra ruler and the Indian state in October 1947) itself wherein the editors question the legislative and administrative means through which India has integrated the people against their will. While many essays directly address the time period of the 1990s through their witnessing of the Gawkadal massacre, crackdowns and curfews, the ethnographic focus of the book is on the long resistance to India starting from 1947.

This work arrives at a crucial political juncture and re-traces this lost archive of the past particularly when the political history of Kashmir is being aggressively manipulated and erased by the removal of Article 370 and with the transformation of the state into a Union Territory on 31 October 2019. In debunking the notion of 'Kashmiriyat' as a manufactured concept, this work creates a counter-memory by looking back at the past and makes an important political claim: 'Our dispute has its roots in 1947. We have to go back to this history to prove that Kashmir is an independent democracy.' (p. 83)

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THE OCEAN OF MIRTH: Reading Hasyarnava-Prahasanam of Jagadesvara Bhattacharya, A Political Satire for All Times by Jyotirmaya Sharma. Routledge, Delhi, 2020.

At a phase in our political history when many citizens, not just the intelligentsia, is deeply disturbed about the direction that the reworking of our polity is experiencing, the invocation of a somewhat obscure 14th century play to shed light on our understanding of disorder may appear somewhat strange, if not arcane. But then Jyotirmaya Sharma, political commentator and teacher of political philosophy at the University of Hyderabad,

has rarely shied away from taking contrarian positions. His earlier books – *Hindutva: Exploring the Idea of Hindu Nationalism* (2003); *Terrifying Vision: M.S. Golwalkar, the RSS and India* (2007); *Cosmic Love and Human Apathy: Swami Vivekananda's Restatement of Religion* (2013) – successfully managed to upset not just the proponents of the ideological stream targeted but many favourably inclined towards the political right as well. In particular, his highlighting of the political ambiguities in Gandhi's exposition of Hinduism or more controversially, his positioning of Swami Vivekananda's espousal of a muscular Hinduism as a possible forerunner of contemporary Hindutva, has left many potential fellow travellers uneasy with his irreverence towards hallowed icons whose interpretations of our civilizational legacy have long been expected to help counter the legitimacy claims of the Hindu right as the rightful inheritors of our traditions. His latest offering is unlikely to dispel this unease.

The *Hasyarnava* is a celebration of political disorder in the reign of a weak ruler. Unlike most classical Sanskrit texts on statecraft – the *Dharmashastras* (especially the *Manusmriti*), the *Dharmasutras*, the Mahabharata (especially the *Shanti Parva*), the *Arthashastra* – which expound on the relationship between the ruler and his subjects, the notion of a just rule, the norms and duties that each of us, irrespective of our station in society, are expected to uphold in the construction of a moral universe – Jagadesvara Bhattacharya's *Hasyarnava*, in Jyotirmaya Sharma's reading, subverts all conventional renderings of a hallowed political ideal.

The play is set in the house of an ageing courtesan. The names of the characters in the play are sufficient indication about what the playwright has in store for us. The king is called Anayasindhu (Ocean-of-Disorder), his minister is Kumativarma (Protector of Folly), the courtesan is Badhura (Inclined Vulva), the king's priest is Vishvabhanda (World Buffoon). Some others are Kalahankura (Tumour of Strife), the physician Vyadhisindhu (Ocean of Diseases), the barber Raktakallola (Joy in Blood), the brahmin Sadhuhimsaka (Tormenter of the Righteous), Mithyarnava (Ocean of Deceit) – and one can go on, each character an inversion of what we might expect.

Reminiscent of the description of *Kaliyug* in the *Vishnupurana*, an age wherein the least merit reaps the greatest reward, at the very beginning of the play, the servant spy briefs the king about the decline in, more the sorry state of, law in the kingdom. He wails, 'All men have left the wives of other men and embrace only their own wives; despite the presence of clusters of well

born and learned brahmins, it is the cobbler who mends shoes. Shameless people worship brahmins despite the secure existence of lower castes' (p. 31). More than irony, such a description smacks of an irreverence bordering on obscenity. In a similar vein, what for instance are we to make of the blessings showered upon the king by Kalhankura (Tumour of Strife) as he makes his entry into the house of the courtesan: 'May your enemies grow, let your fears increase, may your ailments grow, let your debts and sins enlarge. May you attain the prosperity of misfortune and stupidity – may you attain these seven prosperities' (verse 21). And all this in the king's presence without any fear of retaliation or recriminations.

The entire, short two-act play continues in this vein without any pretence at relief, offering no promise for a restoration of order. If anything, the play revels in the disorder of the world, unapologetically. In his introduction Sharma asks, 'Is this a case of inversion of reality?' Or is it, quoting David Shulman, 'a kind of order that disorder can represent?' Both Jyotirmaya Sharma and Aishwary Kumar in his Foreword read in this disorder an expression of freedom. 'When hierarchies weaken or collapse, insecurity thrives, the powerful torment the weak... the weak retaliate... well-worn pieties dissolve... creativity finds release, fidelity to customs and traditions dissipates, rituals become meaningless, judgement flounders. It is this breach in the dharma-fortress that constitutes an instance of freedom' (pp. 12-13).

The introduction offers a detailed exploration of the classical relationship between the king and the priest. In the classical texts, this is presented as an ideal wherein the king as the wielder of power is expected to follow the 'sage' and modulated advice of the Brahmin priest, the interpreter of dharma. It is this balancing relationship that alone ensures a moral reign, a dharmic order. As Sharma reminds us, notwithstanding countless examples to the contrary, the ideal which upholds the undisputed hierarchical superiority of the Brahmins and their counsel is never challenged. 'The Brahmin shall proclaim the dharma, and the king shall govern accordingly.' Notably, the king in *Hasyarnava* is anything but the ideal. He reflects 'a determined and impudent rejection of the precautionary advice offered by Kautilya in the *Arthashastra*. The king needs to cultivate mastery over the senses – ear, skin, eye, tongue and nose – not wandering inappropriately among sounds, touches, visible forms, tastes and smells or rather, putting into practice what the treatise describes. A king who behaves contrary to it and has no control over his senses

will perish immediately, even though he may rule the four corners of the earth' (p. 5).

It is this willingness to imagine a radical inversion of extant norms that makes Hasyarnava such a complex and disturbing text. While it is left to more equipped scholars, with mastery over the language to comment on the quality of both the translation and reading of the context, there is little doubt that this brief treatise invites the reader to imagine the unimaginable, to break out of the canons that imprison us. Sharma writes that the play 'encourages us to look at the past with new eyes, if only because our sense of the past is increasingly inadequate, our sense of reality simplistic and we lack a sense of the innumerable ironies, tensions, contradictions and paradoxes that fabricated our imperfect but colourful world' (p. 18). He goes on: In the play, 'we see every single boundary and all semblance of moral and ethical certainty dissolve. Law, legal procedure, boundaries of social classes and caste, ethics, morals, propriety, honour, chivalry, bravery, justice, empathy, truth, honesty – all these are rendered into a mighty heap of disorder and limitless chaos. Yet, despite this dissolution, not one individual abandons privilege and power' (p. 18). Sounds familiar!

It is not uncommon to mine literary texts to help make sense of the real world, more so when the common concepts in social sciences appear inadequate. Think of *Animal Farm* or *1984* by George Orwell and the regularity with which they are deployed when we appear trapped in a Hobbesian world. Nevertheless, to invoke an allegorical medieval text as a metaphor for our times would be hazardous. However, it may be worthwhile to speculate as to why a theorist who has spent the last decade and more decoding Hindutva chooses to offer us his translation and reading of Hasyarnava at this current conjuncture. Contemporary politics, not just at home but elsewhere too, is in a state of turmoil, with both the rulers and the ruled finding it difficult to make sense of the conundrum they find themselves trapped in, far less suggest a way out.

Even as we are distressed by the wilful disregard and wanton flouting of all norms, laws and conventions, both traditional and modern, that we believe we had agreed to live by, it is unclear whether a return to a past normal is possible or even desirable. Even if we do not go along with the author's suggestion about the possibility of disorder making space for the exercise of freedom, in all likelihood we are in for a considerable period of turmoil. In inviting us to imagine the unimaginable, not as an apocalypse but as potentially creative disorder, Hasyarnava reiterates the need to engage with the

unfolding and contradictory reality by being willing to move out of our comfort zones of both concepts and associations. Only then might it become possible to forge a new and different compact, and possibly a new, and better, normal.

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JUSTICE VERSUS JUDICIARY: Justice, Enthroned or Entangled in India? by Sudhanshu Ranjan. Oxford University Press, New Delhi, 2019.

THE judiciary, especially the higher judiciary or courts of constitutional jurisdictions – High Courts and the Supreme Court – are the least corrupt organs of the government in India. That may be the reason why a spate of scholarly works on it after the end of the internal Emergency (1975-1977) has been generally complimentary, even laudatory. During the Emergency, the Supreme Court had evidently become compromised; it had virtually surrendered under the political pressures of the regime of Prime Minister Indira Gandhi (e.g. *ADM Jabalpur v. Shivkant Shukla*, 1976, barring the dissenting opinion of Justice H.R. Khanna), even as the High Courts continued to uphold constitutionalism and the rule of law. A number of High Courts had declared the enactment of the authoritarian 42nd Amendment to the Constitution, brought about by the Emergency regime, as unconstitutional. After the Emergency, even the Supreme Court had woken up with a vengeance in defence of the rule of law and constitutionalism, as evidenced by the *Minerva Mills Ltd. v. Union of India*, 1980; and a new phase of judicial activism had begun.

Sudhanshu Ranjan's *Justice Versus Judiciary* is unsympathetic, unsparing, and an overly critical commentary, singling out the judiciary for exclusive condemnation while showing subservience to the executive and Parliament. Nonetheless, some of its critiques are valid. The book is divided into seven chapters. It carries a Foreword by the former Chief Justice of India, Justice M.N. Venkatchaliah, who remarks, among other points, that the author 'has a vision of the judiciary as an old man wearing, with attached fondness, the clothes of his youth, unaware of the ridiculousness of the situation. The criticism may sound a bit strident but serves as a well intentioned wake-up call' (p. xi).

This book is a supplementary in a manner of speaking, to his previous book *Justice, Judocracy and Democracy in India: Boundaries and Breaches* (2013). The previous book was also critical of the judi-

ciary. At its launch in New Delhi, the former Attorney General, Soli. J. Sorabjee, had said, tongue in cheek, that the author should join the bar to observe the functioning of the judiciary more closely.

In the Introduction, Sudhanshu Ranjan quotes Alexander Hamilton, one of the three authors of the American classic *The Federalist* (1787), that the judiciary 'has no influence over either the sword or the purse.' It has only the rationale of the doctrine of constitutionalism and the rule of law. But in the chapters that follow, the author invariably proceeds to single-handedly castigate the judiciary for all the problems of government and governance in India. It is not my point that the judiciary is flawless. It would not be an exaggeration to state that the lower judiciary is rampantly corrupt and dilatory. The higher judiciary is astronomically expensive and perhaps also corrupt and dilatory in criminal justice dispensation. And corruption is belatedly creeping into even High Courts and the Supreme Court. My point here is only for a more holistic look at the judiciary in relation to the executive and the legislature. Judicial failings are largely benevolent; malignancy lies more with the other cardinal organs of the government.

Chapter 2 on 'Accountability of Judges' is the longest one in the book. The author sarcastically begins by stating; 'Charity begins at home, but ironically, though everyone else has been made accountable with overactivism of the judiciary, the only institution which is not accountable to anyone is the judiciary itself. Though the judges of the lower courts are accountable to their respective high courts which are empowered to supervise and discipline them under Articles 227 and 235 of the Constitution of India, the judges of the higher judiciary... are accountable to none' (p. 23). The author is conveniently oblivious of the impeachment or removal of the High Court and Supreme Court judges under Articles 124(4) and 217(1)(b) of the Constitution. His amnesia is rectified later in the chapter where he discusses half a dozen cases of motions or moves for removal of higher courts' judges, all of whom either resigned or were removed, except one. In this case, the motion of removal failed in the Rajya Sabha due to regionally partisan abstention of Congress MPs from the South on the removal of Justice V. Ramaswami of the Supreme Court in 1993. But the author, ignoring the statistics, inexplicably concludes that the relevant constitutional provisions for removal of judges are 'impracticable'!

The author proceeds to discuss 'Judicial Over-Reach and Under-Reach' and writes: '[The Judges]

must be made accountable not only in respect of their personal conduct and integrity, but also in regard to the judicial verdicts that they deliver, which befuddle many a time and are incomprehensible, to say the least' (p. 25). This statement of the author is incomprehensible in constitutional theory about judicial independence and power and in constitutional law. He proceeds to give examples of some recent mechanisms of judicial accountability in other democratic countries, e.g. the US Judicial Councils Reforms and Judicial Conduct and Disability Act, 1980; the German Judges Disciplinary Committee, and the Judicial Councils in Canada and Australia 1971 and 1987 respectively, in support of his idea of judicial reforms. But he seems to betray a poor understanding of the real nature these reforms.

In the US, the mechanism of judicial conduct and disability review process cannot be used to challenge the correctness of a judge's decision in a case. The German example is not relevant in the Indian context for the simple reason that Germany follows the continental European tradition of Civil Law or Roman Law system (emanating from the Code Napoleon) in which parliamentary statute is supreme and judicial review is precluded by parliamentary sovereignty (a legacy of the doctrines of popular sovereignty and parliamentary sovereignty bequeathed by the French Revolution), whereas India follows the Common Law system prevalent in the federal USA, Canada, and Australia where legislative acts and executive actions are subject to judicial review on the basis rights review, federal review, procedural as well as substantive review, etc. The Canadian Judicial Council is a federal body created under the Judges Act with the mandate to promote judicial ability and efficiency by a supervisory oversight on judicial performance and ethical standards and it is chaired the Chief Justice of Canada. It ensures judicial accountability with judicial independence. The author is obsessed with judicial accountability at the cost of judicial independence.

The author rightly shows the higher courts in bad light with judgements like the infamous habeas corpus case (*ADM, Jabalpur v. Shivkant Shukla*, AIR, 1976 SC 1207) during the internal Emergency (1975-1977). He is also rightly critical of the initial resistance by the Supreme Court judges to declare their assets publicly as ordered by the Central Information Commission, before finally and mercifully complying with it. This exemplary compliance sets the judges apart from general pattern of behaviour of the political class, which the author does not see. Also, he has no critical comment to make about the unconstitutional emergency and the

supersession of Justice H.R. Khanna by the Emergency regime to punish him for his courageous note of dissent against the majority ruling in the infamous habeus corpus case during the Emergency. Similarly, there is no critical commentary on the executive branch of government that has practically hollowed out the Right to Information and the Central Information Commission more recently.

The major criticisms of the author against the judiciary relate to the often divergent and contradictory judgements of the division benches of the Supreme Court, various High Courts, and these courts at different points of time; unpredictability of the justice system and bench-hunting by clients; corruption and judicial delays. The author's expectation of invariant, mathematical predictability in judicial verdicts is unrealistic. For one thing, it is natural and contextually understandable. For another, it is permissible under judicial rules which allow the courts to revise their previous judgements. Perhaps the best remedy would be for the Supreme Court of India to sit as a single bench like the Supreme Court of the USA, and dispense with the rule and practice of breaking up benches into groups of two, three, five, more judges. Though rare, the Supreme Court of India does sometimes sit in its full membership. For given the demographic pressures and heavy number of case loads, this is not always possible and practical. With the rules like the one that allows the judgements of the larger benches to prevail over those of the smaller ones, this problem can be effectively managed.

The author's complaint about bench-fixing by a recent Chief Justice of India and bench-hunting by clients is genuine. Bench-fixing by CJI Dipak Misra was challenged courageously by the four senior most judges in seniority, all members of the judicial collegium. The problem was resolved internally. Similarly, the problem of bench-hunting by litigants is hopefully not insoluble. The more serious challenges are those of corruption and delays in the dispensation of justice. This requires internal as well as external reforms by the Parliament and the eternal vigilance by the media and civil society.

In chapter 3, 'Binary Application of Laws', the author observes: 'Many laws enacted by the Parliament and state legislatures have been struck down by several courts on the grounds that they violate the basic principle of equality before the law. However, the courts generally stood by the propertied class, but in some cases, the Supreme Court did try to protect the rights of the underprivileged' (p. 159). In this chapter the author tends to verge on political ideology/theory, moving

somewhat away from constitutional law. He also quotes Mahatma Gandhi more than once. Being a political scientist myself, I am impressed by his passion for equality and greater sympathy for genuine and speedy justice.

Chapter 4 deals with Article 142 of the Constitution which gives the Supreme Court, in the exercise of its jurisdiction, the power to make any decree or order necessary for doing complete justice in any cause or matter in pendency before it. The author argues that the genesis of the concept of 'complete justice' can be traced to the concept of equity. This power appears to be very wide, but both in terms of the constitutional provisions and some cases decided by the Supreme Court, this power must be exercised in conformity with the fundamental rights and substantive provisions of relevant statutory laws (pp. 191-192). I am not aware of any other author who has discussed this very wide power of the apex court in such detail. Though used sparingly earlier, the court is now inclined to use it more frequently. The author opines that Article 142 may be used to avoid miscarriage of justice, especially in the absence of any express legal provision. However, he adds that it must be used in a consistent manner in the evolving constitutional law around it (p. 212).

Chapter 5 is concerned with the problem of judicial delays, which I have already briefly mentioned earlier in this review. The author goes into great detail about the causes, instances, some case laws, and suggests some remedies for this serious problem plaguing the justice delivery system in India. Here the author is more even-handed in apportioning the blame to the executive, Parliament, and judiciary. He writes: 'Unfortunately, judicial reform has not been on the agenda of the government or that of political parties which hardly discuss the issue in their manifestos' (p. 307).

In chapter 6, the author turns his attention to the legal profession, their crassly commercial orientation, unethical practices and even criminal acts, the utter failure of the Bar Council, etc. These are serious problems and must be urgently addressed to improve judicial functioning and performance. Finally, in Chapter 7, the author laments the lingering use of feudal language and mannerisms in the courts.

All in all, the book is based on painstaking research and highlights the problems and prospects of the judicial branch of the government in India, in a critical vein but not entirely lacking in constructive intents.

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