

# A One in a Century Rights Activist

K G KANNABIRAN

K Balagopal metamorphosed from a committed believer in the Naxalbari movement to a human rights activist, defining the terms of his transition. In doing so, he rejected the choice of social transformation by violence, opting instead for such change through a struggle for rights. But the problem is that rights campaigns by themselves will not lead to social transformation. As a lawyer, Balagopal showed himself as the only lawyer of the poor of his generation with a reputation for competence. The poor knew that he was about the one lawyer who believed in their right to life. In his competence that equalled the lawyers of the affluent he was visible. Balagopal made the Court conscious that he was appearing for a citizen or a collective of citizens for whose benefit the Constitution was created.

K G Kannabiran ([kg.kannabiran@gmail.com](mailto:kg.kannabiran@gmail.com)) is an eminent human rights lawyer and the National President of the People's Union for Civil Liberties.

Writing about Balagopal is like scripting the history of the human rights movement. For him the Universal Declaration of Human Rights was the announcement of the rights that inhered in the people and the societies in which they lived. The third preamble to the Declaration "if man is not to be compelled to have recourse as a last resort to rebellion against tyranny and oppression, that human rights be protected by the rule of law" became the focus of all his

## REMEMBERING BALAGOPAL

human rights activities. Writing about him involves penning his metamorphosis from a committed believer in the Naxalbari movement to a human rights activist and he defined the terms of his transition.

The movement came at a period of crisis in the late 1960s and the only method governments knew to tackle unrest was to unleash repression. Pre-constitutional laws intended to suppress anti-colonial struggles were all adapted by the president of India by way of abundant caution. By the time the Naxalite movement arrived at Srikakulam, the Constitution was around 18 years of existence; Nehru, "the fixed asset" we inherited, was dead in 1964 and, after some delays, the dynastic succession was found to be the proper thing for the country. Post-independence, the Marxist-Leninist (ML) movement threw a comprehensive challenge to the Constitution and its value system.

The Madras Suppression of Disturbances Act of 1948 adapted belatedly and of doubtful validity provided the fig leaf of legality for the government of integrated Andhra Pradesh (AP) to be used against the nascent Naxalite movement. Of interest is the fact that the same law that was introduced to contain the Telangana Armed Struggle was adapted by the president and used to prevent the spread of the Naxalite movement. The forest areas from Srikakulam to Adilabad were declared Disturbed Areas;

the phenomenon of "encounters" was brought on to the agenda. The brutal methods employed remained unnoticed and a few hundreds were arrested in the Srikakulam tribal areas. More than a thousand activists were shot before the proclamation of Emergency in 1975. Warangal produced many fine intellectuals at this time who confronted the repression, making that town the storm centre of revolutionary activity. Varavara Rao, who belongs to Warangal, played a pivotal role in the movement. It was the pedagogues in AP who led this movement which spread like forest fire.

## In Radical Politics

After the Emergency, in 1977 this gross impunity was targeted, first by the Jayaprakash Narayan (JP) appointed Tarkunde Committee, followed by the Justice Bhargava Commission of Enquiry, which was later aborted by the Chenna Reddy ministry. It was during this period that Balagopal entering the Regional Engineering College, Warangal, witnessed the brutality employed by the police against Naxalites. This set the course of his future. He became an ardent adherent of the politics of the Communist Party of India (Marxist-Leninist) (People's War Group) [CPI(ML) (PWG)] and later he joined the Andhra Pradesh Civil Liberties Committee (APCLC). In 1983, he became the general secretary of the APCLC. At around this time he was implicated in the Police Inspector Yadagiri Reddy murder case and was arrested under the National Security Act (NSA). This was later withdrawn.

Balagopal's early writings, incisive and exquisite, show that he was of People's War persuasion. Even after he came into the civil liberties movement, his style was polemical, and he was always unsparing in his criticism. He extrapolated the Marxist polemical style into the civil liberties movement. I told him so, though then I was perhaps alone in feeling this way since most of the members in the APCLC were from the outer fringes of various factions of Naxalites. This zero tolerance style can be perceived in his reviews of A R Desai's compilation of peasant struggles or of feminist writings on the Telangana armed struggle and encounters. Had he continued

in the ML party, he would have been the leading Marxist-Leninist ideologue of the Maoist movement. Or perhaps he would have been apprehended and shot, to be included in the roll call of dead/martyrs with which Gaddar's performances always begin (*yerrarani jenda eniyaloo*). The ML party needed in the civil liberties front a powerful mind to confront the establishment and broadcast the atrocities perpetrated on them. Writing about these would also help spread the movement.

Although Balagopal never lost faith in the politics of social transformation, he found the ML party's arbitrary political practice objectionable. After the break with the politics of the People's War Group, he could no longer reconcile the vision with arbitrary practices. The vision demands acceptance of all the distortions. He rejected Marx because the system based on his thought produced distortions even after the Soviet and east European experience as in China. He appears to have had in mind an inchoate idea of social transformation which would be catalysed by people trained in rights advocacy who would discipline the Right, the Left and governance. To my mind, he was moving closer to the ideas of Tom Paine that the government, like a dress, is the badge of lost innocence. He began to believe in the total empowerment of the people where leaders would only exercise the delegated authority of the people. The existing representative system, in this view, strengthened perhaps by the 73rd and 74th amendments, could be the instrumentalities through which peoples' empowerment would manifest it.

### An Unsettling of Faith

In an interview published in *Prajatantra* in March 2001 on the Telugu novel *Rago*, Balagopal expressed the view that the Marxist world view is deficient in certain respects and that his philosophical investigations had reached a certain satisfactory stage. However, having said that, he never completed the task of elaborating upon his philosophical position. He was not the first either to make such a statement. Before him, M N Roy, expelled from the Comintern (the Third International), talked about transcending Marxism and formulated his thesis paving the way for the emergence

of the Radical Humanists. Although this group did not make any headway in politics, it was prominent in the civil liberties movement. V M Tarkunde, advocate C T Dharu from Gujarat, and M V Ramamurthi from Andhra come to mind.

Communist parties, whether they are parliamentary or "extremist", have a tradition of intolerance of criticism and of difference of opinion within the party. Balagopal therefore had to part company with the CPI(ML)(PWG) for his unsparing criticism of the party. In a collection of writings published in Telugu in 1998 on *The Three Decades of Naxalbari* (a collection of essays where Manoranjan Mohanty, G Haragopal, Venugopal, and Varavara Rao, among others, were contributors). Balagopal also wrote a piece entitled "The Darker Side of the Naxalite Movement" (*Cheekati Konalu*) in which his first sentence was: "There are many who would like to write about the Naxalbari movement, but I am going to write about the darker side of the movement". His essay alone, among the articles published in the collection, was forthrightly critical of the arbitrary political practices of the movement. This called for a very high order of intellectual courage and the outspokenness of his style unfailingly revealed to the reader the seamy side of their political practice. It is reminiscent of the collection of essays by people who were drawn into the communist movement edited by Richard Crossman (1949) entitled *The God that Failed*. Just as *The God that Failed* did in the 1950s, Balagopal's essay created a stir, an unsettling of faith in some of the sympathisers and others who had hopes in the movement. But unlike *The God that Failed*, Balagopal's essay did not have any lasting impact nor did his departure from the movement leave a lasting impression on the movement or bring about any visible change towards the Maoists among the people with whom he worked.

Sceptical about the Marxist world view, Balagopal moved away from the idea of a revolutionary restructuring of the society in Marxist terms where violence plays the midwife. He also moved away from Mao's thought summed up in a very catchy aphorism "Power flows from the barrel of a gun". From a creative figure of speech used by Marx to an emphasis on

power from the barrel of the gun was a quantum leap

Balagopal did not opt for social transformation by violence. He opted for social transformation through a struggle for rights. The problem is that rights campaigns will not lead to social transformation by themselves. When we talk about rights we are using the concept of right in the context of state power, and in the context of social domination in hierarchical societies by the higher castes in the social order. Though Balagopal's critical essay led policemen to purchase quite a number of copies of the book, it did not lessen the attack on human rights activists.

### A Great Rights Activist

The characteristic response of the PWG was polemical badgering – not introspection and correction. The attack from the party made it impossible for him to continue in the APCLC without friction and with dignity. But Balagopal's career as a human rights person did not come to an end. He founded the Human Rights Forum in 1998 and by the time of his death he became known as one of the finest defenders of human rights in the country. This break made him a great rights activist. I am not aware, however, of any writing of his comprehensively setting forth his views on rights.

One thing I know is that rights by themselves do not have a "transformatory" character. The Declaration of Human Rights 1948, in the third Preamble to the Declaration states that if these rights are ignored, governance will become tyrannical and the response is rebellion and that observance of these rights will ensure a stable government. Such an enunciation has an overtly political content. These are in the nature of prescriptions for the political stability of states. The stress, since the second world war, has been for a gradual and slow qualitative transformation in the state and its governance. Rights advocacy alone may not help bringing about social change, although it would create the awareness of rights and justice that will strengthen movements for social transformation. In fact, human rights activity is vibrant when it is linked to the politics of a party with a vision or in the fight against authoritarianism and for a return to liberal democracy.

Balagopal was very close to me. Our association started in 1983 when he was elected to the APCLC as its general secretary and we were together until 1993 when after around 15 years I stepped down from the president's position. We met almost every day during the 10-year period. From 1994 when I was elected president of the People's Union for Civil Liberties (PUCCL), we were operating in the same sphere and we used to meet often and exchange notes. After his entry into APCLC we continued to fight human rights violations with more determination. He was possessed of a fine mind that commanded his pen. He first assisted me in the Warangal Enquiry Commission against police excesses where they beat up some elected representatives. It was, I think, in 1997. By the time he had acquired a law degree from Bangalore. It was in Warangal that I got him his first black coat that would enable him to sit beside me and assist me. I later moved for his enrolment as an advocate and he helped me in the Bangalore Conspiracy Case (1992-99) against Naxalites which ended in a total acquittal.

When the Deendar Anjuman was banned in 2000 (and the ban extended in 2002) under the Unlawful Activities Prevention Act 1967, we appeared together before the tribunal constituted under the Act. We had sittings at Hyderabad, Bangalore and Delhi. That matter is pending in the high court.

### **Mauled by the Police**

Balagopal was mauled and brutally attacked by the police quite a few times but this never demoralised him. I distinctly remember when the first chairman of the National Human Rights Commission (NHRC), Ranganath Misra along with Justice Fathima Beevi held their sitting in Hyderabad in 1995, they visited Warangal for a day. When the Commission was holding the sittings in one room, in another Balagopal was pummelled in the presence of people present there. The press reported the fact and the chairman was hesitant of taking cognisance of the fact. In the evening I called the chairman about the incident and he was not willing to proceed against the police. He was going to Nalgonda the next day. I told him I would be at Nalgonda too. When I was asked to sit next to the members, there was a protest and I went down from the elevated platform.

I was also surrounded and fisted in the presence of the chairperson and the other member. The chairman of the NHRC saw this but, helpless, left in a huff. Anyway, in the full dressed enquiry in the guesthouse at Hyderabad on four encounters they held that three encounters were homicides, required investigation and prosecution, and in one incident they held we could not prove a case. The state government never complied with the report.

### **A People's Lawyer**

We have been challenging encounter killings at various levels. In 1997 we secured a judgment, which recognised that these killings were homicides and needed examination. Later a full bench reversed this decision with some wishy-washy reasoning and so it was referred to a larger bench of five judges. We argued and placed our views before the larger bench along with other colleagues in 2008. The full bench returned a unanimous verdict that killings need to be investigated after the crime is reported. This case is pending in the Supreme Court. Balagopal and I appeared together in all these matters.

Balagopal was the only poor people's lawyer of his generation with a reputation for competence. People knew that he was about the one lawyer who believed in their right to life. He wrested the right to audience from the court. In his competence that

equalled the lawyers of the affluent, he was visible. He made the court conscious that he was appearing for a citizen or a collective of citizens for whose benefit the Constitution was created. His was a radical approach to the Constitution but he was bound by institutional norms. He accepted the law as defined by precedents but did not stretch the limits of the principle or break new ground to innovate a principle to advance the jurisprudence of the poor. My view, on the contrary, has always been that appearing for the poor and as lawyers for social change one should always attempt to break new ground or innovate and strive for its acceptance. We must make the contentions and the conceptions we innovate familiar in courts if they are to be accepted later. The legitimacy of the status quo and against social transformation is so strong in courts that it becomes necessary for lawyers of the poor to acquire the competence to contend with the opponents of social change. What is important is that poor people should be able to engage competent lawyers, more competent and much more committed than the lawyers for the affluent. He built up a credibility, which assured respect from judges. Balagopal was a person of tremendous physical and moral courage. He remained untouched by fake encounters only because of his moral stature and fearlessness. Balagopal's sudden death is a setback to this tradition.

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We had initiated the trend of looking at law and the Constitution quite radically and Balagopal carried this trend forward and argued in a way that would embarrass socially sensitive judges. This jurisprudence of insurgence that we brought on to the agenda received a setback with his untimely death. When C V Subba Rao of the People's Union for Democratic Rights (PUDR) was alive, he gave me the book *Law and the Rise of Capitalism* by Michael E Tigar and Madeleine Levy during one of my visits to Delhi. It was here I read about the concept of Jurisprudence of Insurgence. They illustrated this by Fidel Castro's attempt at

stalling Batista's coup by filing a proceeding before the Cuban Court for the arrest and prosecution of Batista for attempting to engineer a coup and which was dismissed. Batista successfully engineered a coup and a few days thereafter Fidel Castro was produced before the court for trial of a conspiracy. Today Castro is with us as the leader of the only socialist country after surviving innumerable attempts of assassination.

A long time back, when I was busy with the Commission of Enquiry chaired by Vashishta Bhargava in 1978-79, I used to discuss the politics of the communist movement with comrade P Sundarayya.

One day I told him that it was time for him to draw a balance sheet of his life and I asked how he proposed to do that. He was old and after talking about the split in the movement he told me that several brilliant young people were shot and, tears welling in his eyes, continued "and for the people to produce even one such leader it might even take a hundred years. That would be the scale of setbacks".

That statement of Sundarayya now comes back to me. To find another like Balagopal might take another 10 decades. A brilliant candle extinguished before its time. I weep for Balagopal – he is dead.