

PROTEST MOVEMENTS AND  
CITIZENS' RIGHTS IN GUJARAT  
(1970-2010)



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VARSHA BHAGAT-GANGULY



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To  
My husband Probir, son Hirak  
and  
To those protesters who fought for the 'right' cause





## Contents

|   |      |
|---|------|
| <i>Acknowledgement</i>  | ix   |
| <i>Abbreviation</i>   | xiii |
| <i>Glossary</i>   | xvii |
| 1. Protests and Rights in Gujarat   | 1    |
| 2. Navnirman Andolan, 1973-74   | 35   |
| 3. Anamat Andolan, 1981   | 67   |
| 4. Anamat Andolan, 1985   | 101  |
| 5. Ferkuva Andolan, 1990-91   | 133  |
| 6. Mahuva Andolan, 2009-2015  | 175  |
| 7. Protests and Rights: Trends, Impact and Challenges                         | 209  |
| 8. Afterword – Patel Anamat Andolan, 2015                                     | 249  |
| <i>Appendix</i>   |      |
| 1: Reservation in various states for OBCs (1986)                              | 255  |
| 2: Number of seats reserved in various states for SCs,<br>STs and OBCs (1986) | 256  |
| 3: List of interviewees   | 258  |
| <i>References</i>   | 259  |
| <i>Index</i>  | 275  |







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October 2015

VARSHA BHAGAT-GANGULY





## List of Abbreviations

|        |  |
|--------|--|
| AAP    | Aam Aadmi Party  |
| ABVP   | Akhil Bharatiya Vidhyarthi Parishad                            |
| AG     | Advocate General   |
| AGNS   | Akhil Gujarat Navrachana Samiti (All Gujarat Reform Committee) |
| AGVM   | Akhil Gujarat Vali Mahamandal                                  |
| AHRMEA | Ahmedabad Hit Rakshak Municipal Employees Association          |
| ARA    | Anti-reservation agitation                                     |
| BJMC   | B J Medical College  |
| BJP    | Bharatiya Janta Party  |
| BKS    | Bhartiya Kisan Sangh   |
| BS     | Bajarang Sena  |
| CBO    | Community based organisation                                   |
| CLM    | Classical Labour Movement                                      |
| CM     | Chief Minister   |
| CrPC   | Criminal Procedure Code  |
| CSO    | Civil society organisations                                    |
| DC     | District Collector   |
| EBC    | Economically Backward Classes                                  |
| EE     | Executive engineer   |
| EIA    | Environmental impact assessment                                |
| EMP    | Environmental management plan                                  |
| ER     | Elected representative   |
| FIR    | First Information Report                                       |
| FRA    | Forest Rights Act  |
| FRL    | Full Reservoir Level   |

|        |   |
|--------|---|
| GC     | General Category  |
| GCCI   | Gujarat Chamber of Commerce and Industry                      |
| GKS    | Gujarat Kshatriya Mahasabha                                   |
| GoG    | Government of Gujarat   |
| GoI    | Government of India   |
| GoM    | Government of Maharashtra                                     |
| GPCB   | Gujarat Pollution Control Board                               |
| GPCC   | Gujarat Pradesh Congress Committee                            |
| GR     | Government Resolution   |
| GUATA  | Gujarat University Area teachers' Association                 |
| HDR    | Human Development Report                                      |
| HDI    | Human Development Index                                       |
| ICT    | Information and communication technology                      |
| INGO   | International non-government organisation                     |
| IGP    | Inspector General of Police                                   |
| IPC    | Indian Penal Code   |
| ISRO   | Indian Space Research Organisation                            |
| JSY    | Jan Sangharsh Yatra   |
| KHAM   | Kshatriya, Harijan, Adivasi Muslim                            |
| KMLP   | Kisan Majdoor Lok Paksh                                       |
| LGBT   | Lesbian, Gay, bisexual, trans-gender                          |
| MCFT   | Million Cubic Feet  |
| MISA   | Maintenance of Internal Security Act                          |
| MLA    | Member of Legislative Assembly                                |
| MoEF   | Ministry of Environment and Forests                           |
| MP     | Member of Parliament  |
| NA     | Non-agriculture   |
| NABSY  | Narmada Agey Badhavo Shanti Yatra                             |
| NBA    | Narmada Bachao Andolan  |
| NCA    | Narmada Control Authority                                     |
| NCCBM  | National Council for Cement and Building Materials            |
| NCRB   | National Crime Research Bureau                                |
| NCSCST | National Commission for Scheduled Castes and Scheduled Tribes |
| NDS    | Narmada Dharangrasta Samiti                                   |
| NEERI  | National Environment Engineering Research Institute           |
| NDA    | National Democratic Alliance                                  |

|         |  |
|---------|--|
| NGNNS   | Narmada Ghati Nav Nirman Samiti                            |
| NGO     | Non-government organisation                                |
| NGT     | National Green Tribunal                                    |
| NL      | Nirma Limited  |
| NOC     | No objection certificate                                   |
| NRG     | Non-resident Gujarati                                      |
| NSA     | National Security Act                                      |
| NSM     | New Social Movement  |
| NVDP    | Narmada Valley Development Project                         |
| NWDT    | Narmada Water Dispute Tribunal                             |
| NYS     | Navnirman Yuvak Samiti                                     |
| MoEF    | Ministry of Environment and Forests                        |
| OBC     | Other Backward Classes                                     |
| PAA     | Patel Anamat Andolan                                       |
| PAAS    | Patel Anamat Andolan Samiti                                |
| PAP     | Project Affected Persons                                   |
| PG      | Post-graduate  |
| PIL     | Public Interest Litigation                                 |
| R&R     | Rehabilitation and resettlement                            |
| RSS     | Rashtriya Swayamsevak Sangh                                |
| RSSS    | Rajpipla Social Service Society                            |
| RTIA    | Right to Information Act                                   |
| SAG     | Small Action Groups  |
| SAL     | Social Action Litigation                                   |
| SB      | Samadhiyala Bandhara                                       |
| SBY     | Samadhiyala Bandhara Yojana                                |
| SC      | Scheduled Castes   |
| SCD     | Salinity control division                                  |
| SCN     | Show Cause Notice  |
| SEBC    | Socially and Educationally Backward Classes                |
| SMBKPBS | Shri Mahuva Bandhara Khetivadi Paryavaran<br>Bachav Samiti |
| SIPC    | Salinity ingress prevention cell                           |
| SIR     | Special Investment Region                                  |
| SMO     | Social Movement Organisation                               |
| SSNNL   | Sardar Sarovar Narmada Nigam Limited                       |
| SSP     | Sardar Sarovar Project                                     |
| SSS     | Sadbhavana Sewa Samiti                                     |

|        |   |
|--------|---|
| ST     | Scheduled Tribes                        |
| TADA   | Terrorist and Disruptive Activities Act |
| TLA    | Textile Labour Association              |
| ToR    | Terms of Reference                      |
| UDHR   | Universal Declaration of Human Rights   |
| UNDP   | United Nation Development Programme     |
| WAPCOS | Water and Power Consultancy Services    |





## Glossary

|               |   |
|---------------|---|
| Andolan       | Protest   |
| Ashramshala   | Residential school  |
| Bandh         | Boycotting work, strike   |
| Bandhara      | weir, tidal regulator   |
| Bhajan        | Devotional song   |
| Bhajan mandli | A group of singers that sings devotional songs                  |
| Chalval       | Social Movement   |
| Dharna        | Sit-in  |
| Garba         | One of the traditional dances of Gujarat, performed in a circle |
| Gauchar       | Pasture   |
| Gherao        | Coercive encircling   |
| Jail bharo    | Courting arrest   |
| Jal Samadhi   | Death by drowning in protest                                    |
| Janta         | Masses  |
| Janta panch   | People's council  |
| Jati          | Caste   |
| Lathi         | Baton   |
| Lok Andolan   | People's movement   |
| Mahajan       | Guild   |
| Morcha        | Demonstration   |
| Padyatra      | Foot march  |
| Praja         | Citizen and citizenry   |
| Roti ramakhan | Riots for roti (bread)  |
| Satyagraha    | Insisting and ensuring truthfulness                             |
| Sharmadaan    | Labour work without charging money                              |
| Swayambhu     | Self-initiated or self-emerged from the origin or base          |

|             |   |
|-------------|---|
| Thali       | Plate, dish   |
| Vali Mandal | Parents' association  |
| Varna       | Hindus are historically divided into four varnas, i.e. hierarchical arrangement of different castes according to its occupation |
| Zumbesh     | Campaign  |

# CHAPTER 1



## Protests and Rights in Gujarat

### **Protests and Rights in a Civil Society**

India is witnessing an increasing use of the language of rights. A right has been used almost as a synonym to or interchangeably used as 'claim' and 'entitlement'. Andre Beteille argued 'that rights and trust are both indispensable constituents of collective life. No society can function without an acknowledged distribution of rights amongst its constituent members' (2013: 99). Any right in form of a demand refers to a gamut of issues—due entitlement, which is recognised by a law; fulfilment of needs for quality of life; an enabling factor for weaker sections of the society; a radical element that can bring about change; and as 'justice' against deprivation and discrimination. Any collective action is closely linked demanding rights. 'At least in India, the increasing use of the language of rights in public discussion and debate is giving the word 'rights' a more capacious and flexible meaning than is ordinarily given to it by the Constitution and the law' (Dworkin 1984: 150-205, quoted in Beteille 2012: 101). The increasing use of language is becoming more a matter of politics than a law. Though a right is closer to law and its due recognition by a law, in recent times, it has become an instrument of political contest. As Waldron has stated (2000: 116): 'People use the language of rights to express their vision of the good society, or their conception of the respect we owe each other. They use it in conversation, in legislatures, in pressure groups, in academic seminars, in democratic deliberations of all sorts.' Conversely, 'the language of rights has now become the normal currency' (*ibid.*), commonly used with

prejudice and dissatisfaction by the people, and allegedly misused by the politicians.

Any protest brings contentious issues in the open, i.e., in the public sphere; it characterises a cycle of collective action that reflects citizens' views in public domain and, in turn, makes more citizens aware, sometimes interested and motivating them to participate actively in protests. As such, a protest as a collective action by citizens reveals manifestations of feelings, thoughts, and values and, thus, becomes a window to look at different processes, forces at work and various phenomena taking place in a civil society, such as state's policies and political processes, and citizens' responses—their concerns, demands, actions and, to some extent, a vision for the desired change in the society. If 'power' is associated with political rights, 'power' is one of the aims of the protest. The manner in which, in this era of globalisation and privatisation, civil and economic rights enter the public domain and interact with social and participation rights, whether right to participate is an enabling factor for the disadvantaged sections, etc., are the questions addressed as part of this study. More than police and courts, other agencies such as bar associations, mass media, publishing industry, civil society organisations, including religious, voluntary and ethnic unions also have a role to play in protection and promotion of socio-political rights; these institutions as political actors are directly linked to participation rights. These elements explain the close inter-linkages between protests and citizens' rights.

Each right has a moral base and it reflects ideas for the ideals at both the individual level as well as the collective one. Thus, 'rights' could be used as a yardstick to understand a collective action and its approach to a particular right or a set of rights, and how the citizens wish or claim to ensure the well-being of all. The rights are contested in respect to or irrespective of any law's presence; they become contentious when the polity and legislative wing fail to ensure well-being of all or inclusive development in its true sense. Sometimes, thus, both rights and protests become means to bring contentious issues in public domain along with citizens' 'vision of a good society'. There exist an organic link between the two—a protest and a right—in every society.

A civil society is acknowledged as a political society, an institution that is independent from the state, the market and the family. Civil society as a set of institutions is commonly accepted but its concept, role and functioning is a matter of intense debate and discussion from the nineteenth century onwards. Similarly, the relationship between state and civil society is also debated continuously. Civil society is usually seen as an intermediate layer between the state and the individual; and differentiated from 'natural society' and 'a site for the practice of civility' (Beteille 2012: 60). Civil society is politically significant insofar as it enables its citizens to come together in all manners of projects, particularly those of monitoring the state, and engaging in collective action that strives to realise the idea of democracy (Chandhoke 2014: 43). The problem that students of society and politics face today is to determine whether and in what form the idea of civil society can be extended to the countries of Asia, Africa and Latin America, whose formations are very different from those of the West (Beteille 2012: 61).

Impact of globalisation is seen on neoliberal state, and character and concept of civil society. The neoliberal state has introduced many changes in its policies and behaviour in India. The advancement of information and communication technologies (ICT) and tremendous growth of mass media has influenced the public domain; the market has impacted the political and economic processes that influence the state's policies and also turned the citizens into consumers. In a larger context, social movements and protests have changed their methods for mobilisation, approaches and goals. The new social movements (NSM) have raised those issues that explore the relationship between structure and agency in socio-cultural contexts as well as newly emerging issues related to ecology. The Classical Labour Movement (CLM) approach faces many challenges in the neoliberal era to explain upsurges by the middle class and underprivileged sections of the society. The non-political process started in the 1980s has witnessed multiple shifts and turning points in 1990s onwards. The masses have followed calls of the social leaders or eminent personalities when issues of democratic values, civil liberties, and social change were raised but whether such calls by the leaders and the actions by the

masses can bring substantial social change is yet to be witnessed. By the mid-1990s, main actors that have made their presence felt for their rights are: the non-government organisations (NGO), civil society organisations (CSO), community based organisations (CBO), and sometimes student unions as political wings of political parties. The networks and alliances of civil society actors in India have taken up development issues in form of campaigns and protest events, increasingly using the frameworks of human rights and social justice. This trend is now growing from local to global levels.

The Constitution of India represents the Republic of India, modern democratic norms and processes. Some of the amendments in the Constitution and the judgements of the Supreme Court have portrayed India as a society of caste and community versus nation of citizenship. Despite emergence of new institutions, associations, and professions and their role in developing the ideals of citizenship and nationhood, the divisions of caste and community did not disappear (Beteille 2012). Some violent instances in the country, such as due to reservations policy, ethnic and communal animosity, assertion of middle class for caste or regional identity, etc. have brought modern democratic and secular values under scrutiny. The violent expressions are built upon with 'language of rights'. Rights as claims and entitlements are one of the components of citizenship. Both types of collective actions as manifestations—violent events or protest events—reflect people's attitudes, aspirations, and values; they become a window to understand character of citizenship in a given civil society.

### **Protests in Gujarat**

This study focuses on protests in Gujarat, which do not fit into traditional understanding of social movements—CLM or NSM but definitely could be considered as collective actions that people of Gujarat have performed with the language of rights. These protests are actually a window to look at Gujarat as region or the civil society in Gujarat, and also to understand which citizens' rights are contested, and what challenges have been created in Gujarat,

in India as also the world on the counts of social change and the evolving image of Gujarat.

This study interlinks three contested spaces: protest, citizens' rights, and Gujarat as a region as well as a civil society. It focuses on five protests that have taken place between the period 1970 and 2010 in Gujarat; these are the major protests conducted by civil society of Gujarat. These protests are different from the historic socio-religious reform movements of medieval and modern times in India; rather, they signify contentious politics in post-Independence era in India. Each protest has focused on a different issue, at different points of time. There has been some protest events organized in form of or a part of campaigns. Such regional protest events have not been performed for longer than one to three days and, as they did not create much of an impact, they are not covered in the present study. One of the campaigns by a group of self-employed workers for protecting their *lari* (pulling cart) in Ahmedabad city is published as a fictional account of this campaign, titled 'Lariyuddha'. No further details are available regarding this campaign against the truckers in the city.

Gujarat has become an oxymoronic category in the social science literature with diverse views, for instance, Gujarat has been discussed widely since the 1990s in the light of series of communal riots and laboratory for the *Hindutva* agenda, on the one hand, and as a 'development model' for economic growth, on the other hand. This study aims to understand the civil society of Gujarat as a site for the practice of civility, a space that maintains and nourishes humanity as well as abides by the democratic Constitution, as a law of the land. Any action initiated by civil actors bears its impact on both public and private spheres; and it is also a reflection and manifestation of the collective mind and existing socio-political practices and culture. Gujarat is known for its mercantile ethos and economic enterprising as well as 'Gandhi's Gujarat', implying a peaceful and peace-loving state. With this image, 'do contestations take place?' is one of the most common questions raised. In popular image of Gujarat, contest and protest is not a prevalent norm in public life; negotiation, reconciliatory means are given importance and, therefore, protests are seen as the last resort. What role of

the culture of the region plays, the existing socio-political scenario plays, and which and how the interest group construct and articulate which rights, etc., have been covered under the study.

The social history of Gujarat shows that it has many firsts, yet it has been portrayed in a selective manner (Mehta and Mehta 2010; Simpson and Kapadia 2010). Referring to the post-independent era, Gandhi, Sardar Patel, and, of late, Narendra Modi have earned their name in shaping of polity, political vision and development model of Gujarat. However, Gujarat, earlier known as 'Gandhi's Gujarat' implying a 'peace-loving state' has now become famous with a series of communal violence. The violence of 2002 epitomises 'laboratory of Hindutva', 'state-sponsored genocide', 'pogrom' and 'politics of hatred'. 'Gandhi in Gujarat has become a sign without semiotics. It signifies everything and nothing' (Suhrud 2002: 1011). Gujarat is increasingly showing signs of assertion, legitimacy of violence and intolerance. Long-prevailing mercantile ethos and Mahajan culture<sup>1</sup>, now represented by the Gujarat Chamber of Commerce and Industry (GCCI), has intervened at different points of time in Gujarat, may that be on corruption, reservations for SEBCs, Narmada Valley Development Project (NVDP), etc. This mercantile outfit has also been silent in a newly evolving development paradigm and industrial growth since 1990s. Gujarat has been an economically developed state and, of late, being a 'model state' for economic growth, it is actually middle ranked—ninth among 20 major Indian States<sup>2</sup> (Dreze and Khera 2012) on the human development index and social indicators. Debates by dividing opinions of the scholars have emerged on the 'Gujarat model' and success story of Gujarat in achieving economic growth. A group of scholars have argued that the almost stagnant level of urban poverty during 2004–2010, improved governance, and infrastructure development facilitates the corporate sector, and there are many gaps in infrastructure for the masses (Hirway et al., 2014). The growth of CSOs is significant but their issues and ways of functioning are diverse; vibrancy of the civil society is represented through these CSOs in a very limited manner. The raised voices on developmentalism and communalism in Gujarat have invited hostility from Gujarat; they are branded as



'anti-Gujarati', 'foreign fund mobilisers' and similar questions are raised against them, suspecting their credibility.

Newly developing and fast-growing literature on citizenship clarifies if 'every single dimension of the concept of citizenship is contested in India: citizenship as legal status, citizenship as a bundle of rights and entitlements, and citizenship as a sense of identity and belongings' (Jayal 2013: 2). Special rights have been contended and they 'come into collusion with the equal rights that all individuals feel they can claim' (Beteille 2012: 120) as citizens. 'The language of right is used again and again to trump any argument about the need to uphold' (op. cit.) the merits and progress. Thus, a right here is an enabling factor on the one hand, and a dual edged sword on the other; *who* uses it *for what* and *achieves what* becomes a critical enquiry. The present study aims to understand contours of 'rights of citizens', the 'process of making of citizens' and its various aspects. For instance, amidst the prosperity in Gujarat, communal violence and poverty have communicated a preference of protecting the caste and religious interests over a nationalist approach and the promises given by the Indian Constitution. It further analyses the rights that are contested through protests from a perspective of constitutionalism and then tries to understand whether the contested rights uphold the values of equality, social justice, and secularism or not. Equality and justice are broad terms, manifested by deprivation, social discrimination and exclusion from different public sphere. This also refers to the difference between political equality and social and economic inequality. Whether these protests have provided opportunity for transformative politics, have ensured all-inclusive development, promoted justice, equality, and how the Judiciary has responded to these protests and their articulation of rights is also an inquiry that the study addresses.

The scope of this study is to grasp whether the rights under contention during a protest would tell us anything about the character of citizenship in Gujarat, a geographic region and a society that has publicised increasingly diverse and contradictory images. In what manner does a protest, as one of the components of participation rights, affects the legal, social, and political rights is the

focus of this research. The study also attempts to understand the complex and subtle differentiation and interaction of the rights.

### **Social Movement and Protest: Similarities and Differences**

The earlier studies on social movements and protests have largely been state-centric; and focused on political structures and processes. These studies cover the range of issues—everyday resistance to a social movement. A 'protest' lies between 'everyday resistance' and a 'social movement'; as a single episode, which has the potential to transform into a social movement but it remains a short-spanned, single-issue based, forceful collective action. The cognitive and methodological approach for studying a protest links it with three themes having close affinity: social movement, collective action and contentious politics or contentious collective action. Organisation, mobilisation, opportunity (concerns the relation between a group and the world around it) and collective action (people's acting together in pursuit of common interests) are the four major components that compose the study of collective action (Tilly 1978: 7). These themes are helpful in identifying similarities and differences between social movement and protest.

Though the term 'social movement' does not have a definition, which is acceptable to all, it does encompass five interdependent components as important ones: objectives, ideology, programmes, leadership and organisation (with a cadre) (Shah 2004). He elaborates on these components:

'Thus the prerequisites of a revolutionary movements are: (i) an ideology, which presents a profile, general or specific, of the future social order, such as Ram Rajya, socialism, or people's democracy, etc. This serves to give a direction to the movement. (ii) Programmes and strategies, which concretise the ideology. Obviously, the programme must be acceptable to the followers of and participants in the movement. (iii) Personnel, which comprises leaders, who understand the ideology and cadre, who carry out programmes. (iv) An organisation linking the revolutionaries at various levels through communication and action' (Shah 1977: 64).

Diani identifies certain elements that are common to social

movements and protests and clarifies the different perspectives, based on the 'capacity of the concept to differentiate social movements from related phenomenon (such as parties and interest groups, coalitions, protest events)...In the definition of social movement, three basic components have been identified: networks of relations between a plurality of actors, collective identity, conflictual issues' (1992: 3, 17). Three other components: structure, mobilisation, and issues of contention, which focuses on *how*, *what* and *why* the protesters did so are also considered guiding social movement studies. The organisation and mobilisation remain common elements between a study of social movements and collective action; however, the concept of 'opportunity' is closer to contentious collective action. Studies on collective action consider systematic, comparative, and historical studies of contentious politics to be important, as they enable us to understand the institutions, political alignment, and long-term political struggles. This viewpoint to study the social movement and protest stresses on to understand political process and political opportunity, and to connect their subject to institutional politics (Tarrow 1996). The contentious politics occurs in public sphere, and involves interactions between makers of claims and others, and brings in the government as a mediator, target or claimant (McAdam et al., 2001). Not all politics is contentious; for instance, bureaucratic process, enforcing laws, administrative works, ensuring border security, maintaining law, order, etc. are bulk of political life, and they involve little of any collective contention.

Social movements and protests bear similarities on organisational and mobilisation characteristics or patterns of behaviour, as also on the outcome; for instance, large-scale mobilisation and participation of masses, eruption of violence as a forceful expression, and sometimes damage of public and private property as either forms of protest or as outcomes. They are networks of interest groups and facilitate interactions between different actors, and articulate demands on the common cause or the common good. The idea of relative deprivation and ensuring social justice are also common factors for the social movements and the protests.

The difference exists at the functional level: formulation of the demand and interest action, scope, dimensions, and length

of campaigns; realignment of frames can occur (Diani 1992: 16). Another difference between social movement and protest is on the agenda. A social movement has an agenda of social transformation, action being transformative, while protest in form of assertion, or forceful action focuses on negotiating on socio-political contentions or altering power equations. The social movement shapes up with transformative agenda, with episodic continuity and with long-term strategies. Any protest mainly focuses on contest, contestation and power seeking or altering power equations for the benefit of the interest groups/the protesters, within a short period, almost as an event or a single episode.

Johnston has differentiated between social movement and protests as: 'The premodern repertoire of protest corresponded to a form of society that was predominantly rural, local, parochial, agrarian, traditional, and highly stratified...a social movement is a *modern* form of protest. It has developed alongside, in conjunction to, and in a dynamic relation with, the development of the modern state. Just as premodern protests were *embodied*, so too was the premodern state' (2011: 7, 11). The analysis of protest in a region or a civil society with specificity, i.e. Gujarati needs to go beyond state-centric processes, and also must focus on social groups and communities and the nature of inequalities among them; while at the same time addressing global, national and regional economic and political forces, constitutional provisions and existing laws and policies, pattern of governance, and socio-cultural characteristics and social composition of the regional society. Other examples include hegemony of elites, nature of subjugation of the backward or disadvantaged sections of the society, historical injustices and grievances in the region, and so on.

### **Protest and its Performative Characteristics**

The protest studies draw their vocabulary from the social movement repertoire. The existing literature uses many interchangeably words for the term protest, such as protest event, protest movement, collective action, upsurge, agitation, campaign, and direct action. The demarcation derived between these words is based on

the scale of time, agenda and episodic events or cycles of protest. However, the term 'contentious politics' interlinks all of them to signify institutions 'holding' power and collective activity on the part of the claimants: institutional or non-institutional forms of interaction with elites, opponents, or the state (McAdam et al., 2001). Studies of contentious politics are varied, incorporating different kinds of political contentions, 'creating *sui generis* models of their subject matter' (Tarrow 1996: 881).

Any protest, based on its performative characteristics is represented as an instrument to achieve power from the opponents or altering power equations from the state, elite or market. On the organisational count, it is semi-organised or semi-structured over a short period of time, not as much structured as a social movement and not as less as crowd or mob as group. Protest is the somewhat spontaneous response of a part of society and often arises out of some impulsive action (Shah 2004). Strike or boycotts, *dharnas* (sit-in), *gherao* (coercive encircling), organising rally and *padyatra*, taking out processions, demonstrations, carrying out campaigns through mass media and social networking, etc., are all forms of protest.

New forms and techniques of protest are often developed by the protesters, adopting cultural and linguistic expressions; they aim at mobilising the masses and appealing to the interest groups in the given geographic region as well as transnational. The nature, forms and extent of protests are changing in recent times and, therefore, negotiation with the Executive, litigation, networking and alliance with other interest groups, lobbying and advocacy related actions—submitting a petition signed by large number of citizens to the authorities concerned, meetings with authorities concerned, etc.—also have been considered as characteristics of protest.

### **Discourse on Rights of Citizens**

'Right of citizens' is one of the primary elements of the citizenship. A citizen is a political being as well as a political actor. 'Rights are the result of specific political bargains between collective actors

and the state authorities and make explicit the collective actors' claims and the role of power, of both states and citizens' (Gallo 2010: 417).

Waldron has quoted Karl Marx<sup>3</sup> to distinguish between the rights of man (representing human) and the rights of the citizen. 'The rights of man—such as property, security and religious liberty—are nothing but the rights of... egoistic man, man separated from other men and the community.' But the rights of the citizen—voting, eligibility for office, and the freedom to discuss and criticise the conduct of public affairs—are quite unlike the traditional rights of man. The rights of the citizen, far from being atomistic, are 'political rights that are only exercised in community with other men' (1998: 308). Ackerman (1988) differentiates between an individual as an 'active citizen' and a 'passive citizen'. Both the definitions refer to sovereignty of the state that provides this identity and also the set of rights, a process initiated by a modern state to turn a human being into a citizen.

Theories of rights from philosophical inquiry include different discourses, such as rights that are born out of law, rights as ground for duties, citizens as beneficiary of rights, exploring correlativity of rights and obligations, rights in conflicts, and differences on natural and moral rights and their universal applicability. Citizens' rights have to be derived and articulated in the context of protest (Ten 2006).

The wide literature of rights focuses on three pertinent issues: 'First, what is the origin of rights? Second, what are the institutional mechanism and characteristics of rights? Third, how do these characteristics affect the adoption of rights? Explanations of the origin of citizenship rights are broadly divided into three approaches: human rights, democratic or political rights, and bargaining. These approaches are not always irreconcilable' (Gallo 2010: 417). Recent trends of protest also show that the human rights activists gain rights either through popular national and local mobilisation or international pressure. Thus, rights can start from the bottom or from the top (ibid.).

T.H. Marshall is considered as one of the pioneers who constructed citizenship as an explanatory framework to explain legal, political and social rights (Janoski 1998).

‘Citizenship rights and obligations exist when the *state* validates citizenship norms as officially legal and then takes steps to implement them. At the macro-level, the focus is on the existence, breadth, and extent of universalistic rights and obligations in a society with a specified level of equality. At the group level, they concern the rights and obligations of groups to form and act. At the micro-level, the individual definition focuses on how each person sees the relationship of rights and obligations within a framework of balance and exchange. Understanding of civil society help to maintain distinction between state validated citizenship rights and duties and group-initiated claims and defences’ (ibid.: 11).

Rights are based on a direct ‘power-weighted consensus’ (Coleman 1990: 53). Thus, a person possessing rights has a right to carry out action and all carry out action when their rights are disputed or negated. In Dworkin’s terms, ‘rights are trumps, and those trumps were established the game begins, their value even fluctuate, but their operational effects are “dedicated”, “hard-wired” or “pre-determined”’ (quoted in Janoski 1998: 45).

‘Two points are essential in this approach. First, because rights depend on power, and power is changeable, rights can contract and expand even in core democracies. Second, state capacity stands in a delicate relation with citizenship rights: high levels of state capacity are dangerous for rights (as mutually binding consultation between states and citizens become more difficult), while low levels are unfavourable for the enforcement of rights’ (Gallo 2010: 417).

The rights of citizens are varied and, in the context of individual liberties, rights are powers and claims, encompassing a variety of enabling factors as well as social actions. The discourse on the realm of rights and social action is expanding on the ground that ‘concept of rights to include all activities where action is simply conceded’ (Janoski 1998: 45).

Both the terms, ‘protests’ and ‘citizens’ rights’, are closely associated with the state and power seeking or claiming, or even altering power equations. The former addresses the state’s policies and laws to be challenged and /or to be changed as per demands, while the latter expects the state to enforce rights and to derive legitimacy for the same. Citizens’ rights, in particular, are mutually enforce-

able claims relating categories of persons to agents of governments, and they result from bargains between state agents and collective actors (Gallo 2010: 418).

Citizens' rights exist in form of a claim, which is advanced through a protest (direct action or lobbying or advocacy) by an interest group, bringing them to public domain. The protests bring out issues of contentions to the public sphere, engaging wider range of public institutions and voluntary associations such as political parties, religious bodies, welfare associations, trade unions, and interest groups. The public sphere also includes media and private corporations. 'Bargaining for rights are encoded in institutions that develop independently from each other and these institutions adopt organisational characteristics that make certain rights easier to establish than others. The subject of the bargaining, the conflict involved in the bargain, and the actors involved, all shape the institutions that support citizens' rights' (Gallo 2010: 416).

The state's capacity stands in a delicate relation with the rights of the citizens: low level of state's capacity is unfavourable for enforcement of rights. High level of state's capacity is dangerous for rights wherein consultation between the state and citizens are binding on both. A balanced level of state capacity and citizen power are ideal conditions to achieve individual rights and strengthening democracy. A protest has the capacity to disturb this balance; it depends upon its alignment for power seeking either with the market or with the power elite (ibid.: 417). 'The bargaining approach offers a frame to study the development of discrete rights in a complex relationship with central states; the human rights approach contests the need for historical and structural preconditions for rights, suggesting that adoption and diffusion of rights are possible; and the democracy approach, by empirically showing that there is no fixed relationship between a set of rights and democratic regimes, underlines the need to understand interrelationship (if any) between rights' (ibid.: 418).

The Indian Constitution remains a major source of rights to be derived, procedure for enforcement, and interpretation and contention in India. Sometimes, the Judiciary has delivered judgements deriving from universal human rights framework, considering it as a conceptual device as well as a protective capsule for social



attributes, which are essential for the adequate functioning of a human being (Freeden 1991: 7). The Human Rights' Framework focused largely on the basis of personal liberty and dignity, such as handcuffing, public hanging and solitary confinement, and right to legal aid and speedy trial. Thus, the human rights framework also becomes a source of deriving or articulating people's rights. These rights could be in form of claim, need or want.

On the one hand, citizens demanding rights in the form of claims is interpreted as vibrant democracy that allows voice of dissent. On the other hand, collective actions as a process initiate expansion of rights. A protest refers to the participation of the citizens in public matters and bringing them to the public domain. In the context of protest and contentious politics, the study attempts to understand the role of institutions that promote and protect rights, and their political gains, calculations, and alignment in dealing with power. The macro- and micro-elements of protests assume centrality in understanding the development of citizens' rights; whether all rights enshrined in the Constitution are accepted by the citizens; how the rights are defined and redefined; which rights are given priority over the other set of rights; what are the reasons for selectivity towards rights and by whom; and how the obligations are viewed vis-à-vis the rights. Thus, whether a protest alters the power equation or the protesters seek or get more power from the collective action is also a question that the present study is looking into.

### **Interlinking Three Contested Spaces: Protests, Rights and Gujarat**

The protests or social movements may inform us about the various ways in which people may organise themselves in order to pursue their claims but they do not always guide us on *how* and *why* a particular citizens' right or a set of right is demanded or rejected. With contestations and protest, the fourth rights, i.e., participation rights are added to three basic categories of rights: legal rights, political rights, and social rights. Legal rights include procedural (access to court and counsel, equal treatment under the law and right to contract), expressive (freedom of speech,

religion, right to privacy, etc.), physical control, property (right to hold property, choice of residence, occupation) and service rights, and organisational rights (organising political party, employee, corporates) (Janoski 1998: 31). In the Indian Constitution, these are covered under fundamental rights (Articles 14, 19, 25, 26 and 300) (Basu 1996). Political rights include personal, organisational, naturalisation and opposition rights (Janoski 1998: 31). In the Indian Constitution, these are covered under Articles 25 and 40 (Basu 1996). Social rights include enabling and preventive (health care services, physical rehabilitation), opportunities (primary education, educational assistance for special groups), distributive (old age and widow pension, public assistance), and compensatory (work injury, war injury, rights infringement compensation) rights (Janoski 1998: 31). In the Indian Constitution, these are covered under Articles 14, 32 and 38 (Basu 1996). Participation rights include labour market intervention (job creation placement and information services), bureaucracy (grievance redressal, affirmative action, and collective bargaining), and capital control rights (Janoski 1998: 31).

Any protest as a contentious issue in the public sphere—media and private corporations—engages a wider range of public institutions and voluntary associations such as political parties, religious bodies, welfare associations, trade unions, and interest groups. The Judiciary interprets the existing laws but there are some laws that do not pertain to citizens' rights. Often the Judiciary deals with such situations through constitutionalism or internationally accepted human rights' framework or even from the perspective of human development and social justice. In this situation, citizens' rights exist in form of a claim advanced through a protest or advocacy by an interest group, bringing them in the public domain.

In the context of how citizens balance their rights and obligations, two contending arguments exist: first, 'Mann (1988) looks for broad causes of citizenship rights development in elite structures' (quoted in Janoski 1998: 4), and second, in situations where there is conflict of interests there is a need to study citizenship rights from the standpoint of the oppressed or the disadvantaged groups, as they are believed to be not sharing or holding or representing the power. Similarly, each protest also needs to be examined from two points of contention: *who protested*, and *who*

*benefitted*. In principle, rights are enabling factors but if the disadvantaged sections are discriminated and excluded by the political and economic institutions, their capacity as a 'relatively powerless group' to ensure their rights or social justice turns out to be lesser than that of the elites. And when the elites protest, there is likelihood that they uphold a set of rights, which are beneficial to them.

In the era of privatisation and globalisation, citizens' rights have come under the scanner as market has assumed a greater role and stake in everyday affairs. Most of the citizens are dealing with the nexus of state-market that is dominated in certain sectors, for instance, education. Yet, the role of the state has remained large in everyday life of the citizens, in the form of collection of tax, providing basic amenities, internal and border security, and competing with intertwined needs of the citizens as consumers, and sometimes with traditional social identity. In order to fulfil day-to-day needs in availing the basic amenities as basic rights, the citizens choose from three alternatives: inaction, day-to-day negotiation with the Executive, or to protest / take collective action in order to achieve their needs or social justice or even to bring about change in a particular aspect of their life.

Social scientists have linked citizenship with democracy and the welfare state in a limited way, not addressing how legal, political and social rights affect the citizens' lives in day-to-day affairs, on policy issues and what if these policy issues are brought up in the public domain by way of social action. Some areas—direct action by citizens (as political actors) and their demands for enforcement of due rights or enunciating new set of rights leading to systemic change and/or social change; whether rights are derived from the existing constitutional mandates, and existing laws and policies or not; how and when one chooses to be an active citizen, engages into collective action or protest, and for which rights—need deeper understanding.

### **Cognitive and Methodological Issues in Studying Protests and Citizens' Rights**

A comparative study of social movement and protest 'has experienced a paradigm shift, with the rise of perspectives emphasising the political and structural origins of social protest and political

rebellion' (Jenkins and Schock 1992: 162). Relative deprivation and system integration theories of grievances have reached an impasse, as they lack coherent theoretical rationale in the West. 'Relative deprivation' refers to economic and political discrimination. In India, the term actually can be applicable for denoting social discrimination, and economic and political exclusion. For analysis of protest, institutional context, treatment to the deprived sections of the society or socially and educationally backward communities, and economically disadvantaged, etc. is important. The term implies that disadvantaged sections of the society protest for their 'want satisfaction' or ensuring 'social justice'. Theories of grievances are now broadly conceptualised as 'social exclusion', 'Human Development Index', 'good governance' and 'empowerment'. Similarly, resource mobilisation theory, rational choice model of collective action, and state-centric analyses and social revolution also have shown contradictory trends or limitations in solving significant puzzles of how political and economic forces work and what is the rationale behind social movement and protest. The analysis of social movement and protest requires 'firm grounding in the specifics of particular protests and institutional contests in which struggles are carried out' (ibid.: 164). Such findings of the studies carried out in the West to understand globalised structures and political actions signify two issues—first, onset of neoliberal era in India and shift in protest movements, and second, whether theories related to the protests and social movements are relevant in India.

There exists a vast and varied literature on social movements and protests in India, which argues differently than the West about social movement and its theories.<sup>4</sup> This literature covers mainly four elements related to social movements and protests in India. First, typology based on nature of the mass movements and protests, such as, state-centric analysis classifies as revolt, rebellion, reformist or revolutionary. Issue based analysis of different mass movements in independent India broadly classified into four categories—social reform movements<sup>5</sup>, anti-systemic movements<sup>6</sup>, peasant movements and armed agrarian movements<sup>7</sup>, and new social movements (NSM), such as Dalit movement, women's move-

ment, environment movement, and recent movement promoting sexuality rights (popularly known as LGBT) movement. Second, there exists a debate whether mass movements and protests take place in India or they are redundant. Does India have breeding grounds for protests and mass movements? This debate mainly rests upon rationale for the mass movement or protests, for instance, docility and obedience of the oppressed classes or no tradition of voluntary efforts in post-independent India make mass movement impasse. However, conflict between 'tradition' and 'modernity' leading to social reform movement. However, a group of scholars focus on 'direct action' against the state in the parliamentary democracy as inevitable process (Shah 2004: 24–25). Third point is about methodological approaches to study mass movements, including peasant movements, social movements, protests and agitations.<sup>8</sup> Different approaches such as structural, functional, phenomenological, constructivist and postmodernist have been employed. Thus, while studying social movement or protest, its expansion and depth have come through deeper understanding of these different elements. Fourth point is about attitudes and behaviour of the state towards mass movements. 'The measures vary from soft-padding leniency involving dialogue and negotiation to brutal repression: torturing and killing the activists and creating fear among the participants. Simultaneously, the state also uses various tactics to appease and co-opt the participants' (Shah 2004: 24). There is very little literature on ideology, protests and social mobility, through which a knowledge base could be generated on exiting social hierarchy, inequality and social tension, and how this tension is reflected through collective action. Over and above, social inequality, how the sections of society suffering due to economic inequality, viz. unorganised labour working in informal sectors express their concerns on larger public good and their deprivation. Studies on students' movements, social reform movements, and working class movements have declined after 1970s.

Earlier studies on social movements in India have not explored areas of quantitative methods, comparative methods, and theoretical frameworks, as the studies in the West have, especially by

scholars of USA.<sup>9</sup> There are a very few debates on whether the theories such as relative deprivation, resource mobilisation, and rational choice theory model of collective action are relevant in India or not; do case studies of different movements or protests lead to theoretical construct or not. There are fewer studies on movements and protests from citizens' rights and social justice perspective. One of the reasons for this state of affairs is, broadly, the social movements are studied in the Marxist and non-Marxist framework of analysis. A recent publication on social movements has focused on 'transformative aspects' of social movements in neoliberal era, wherein vocabulary and concept of social movement encompasses different terms that 'have deepened our understanding about differences, society, labour, history, politics, justice, rights, protest, resistance, struggle, capital, language, etc.' (Savyasachi and Ravi Kumar 2014: 2).

Since any protest has close affinity with social movement, one of the options is to adopt methods and techniques that are applied to study the latter. The existing literature on social movements largely focus on four trends—collective behaviour and action perspective, resource mobilisation theory, political process perspective, also known as contentious politics, and the new social movements in western societies, especially in America, Africa and European societies. 'The ways in which social movements have come to be conceptualized, however, made it difficult, if not impossible, to understand them. Sociology has provided a number of mutually irreconcilable models of understanding about social movements, what the philosophers call incommensurable explanations' (Eyerman and Jamison 1991: 1). There are a number of ways that a social movement is conceived and, therefore, methods for its study also vary. For instance, in studying social movement, Eyerman and Jamison opined, 'the sociology has followed a process of deduction and objectification, breaking reality into components and inter-linking different components with reality. Thus social movements are conceptualised as external objects to be understood in terms of pre-existing framework of interpretation' (1991: 2). Oommen refers to social movement as a form and expression and a causative factor for change. It is a process of 'becoming' rather than 'being' phenomenon (1990).

Instead of focusing on typologies based on form of dissent and demands, Rajendra Singh examines the subject of society and social movements from a broader and also universalist perspective of social sciences, and presents a post-modernist critique of social movement studies in India. 'Movements are not *made*, much less are they *launched* or led by leaders. Whenever opportunities permit or human disenchantments exhaust the limits of human perseverance, movements decoil (unfold) automatically and reveal themselves in the action of awakened conflictual consciousness of the collectivity' (Singh 2001: 20). Therefore, the social structure needs to be studied critically while studying social movements.

One of the approaches to the study of social movements is purely historical and sequential, wherein the chronology of events, details of leaders and actors, and reasons behind this have been described. Other approaches include structural, functional, interactionist and constructivist, which focus on the socio-economic structure as well as political processes as bases of the movement and in given structures/systems, rationale for the social movement considering it as an outcome of imbalance and inequality in the given structures/systems. Recently, the constructivist approach has acquired importance as a complementary method to structural and functional approaches. It is useful in capturing micro reality, changing contours of cultural signs and symbols, linguistic expressions, and ever-growing roles of mass media and social networking. Johnston (2009) has suggested three broad categories for cultural analysis of protest movements: performances, artefacts and ideations. Of the three categories, cultural performance is the most fundamental. The performances are artifactualised to become the focus of subsequent social action. Detailed descriptions of organisational processes, actors strategising to make their claims, confrontations with the opposition, and the actual protest performances in public places are the best way to untangle cultural processes at work in protest mobilisation. These approaches incorporate societal changes preceding the movement, ideological orientation, its means to achieve the goal, organisational and mobilisation efforts and abilities, its allies, and its outcome be it success or failure. The ethno-symbolic frame of analysis is also used to present an interpretive account of *meaning* that social collectivities, such as tribes,

castes and communities attach to their primordial, indigenous and nativised social institutions, cultural practices and symbolic heritage (Singh 2001: 168-9). It helps in social construction of people's subjective understanding of their own agony, wishes and desires for a just life. Viewing protest from 'relatively powerless groups', preventing inequality and social conflict germinating from them assume centrality. 'Relatively powerless groups' may be defined as those groups which, relatively speaking, are lacking in conventional political resources (Lipsky 1968: 1144). In such studies, the stratificatory social structure is juxtaposed with democratic values. It has been argued that social action is initiated by prevalent ideologies. A set of questions of social justice, constitutional promises of equality, liberty and freedom, and voicelessness of counter-action by the relatively deprived groups are initiated or not are analysed. This approach also emphasises the gap between social welfare and social justice, which are both essential components of Indian democracy. What remains common among these approaches is, 'ethnography has been the methodological bedrock' (ibid.).

If a protest is viewed as a process, as a formation with a group of individuals creating an environment for social action or collective action in its political historical context, the meaning can be derived from its context and understanding of all the actors' terms of reference. Thus, a protest can be captured as transitory, historical phenomenon in public spaces, situated in political and cultural contexts, as moments of collective creation that provide societies with ideas, identities and even ideals (Eyerman and Jamison 1991: 4).

### **Method for Reconstruction and Representation of Protests in Gujarat**

The social history of Gujarat shows that every decade of Gujarat has been marked with protests since its formation. As the study focuses on the protests in Gujarat state during 1970 and 2010, the first protest that took place in 1973-74 needs to be reconstructed after 40 years. The recent protest was started in 2009, which is still going on, and so it would be reconstructed with a time gap of four



to five years to the present. Since these protests are sketchily documented, detailed documentation of these protests is important in itself, representing it as a historical, socio-political phenomenon in both cultural and political contexts of Gujarat.

As the present study covers a period of 40 years, the latter half of 20 years has witnessed different processes, viz., neoliberal state and changes in its policies and behaviour, the market that shapes the mass media and technological advancements in information and communication fields and, therefore, the manner in which these changes influence public domain, political and economic processes that influence the state's policies, discourse of rights, etc. are also referred to whenever necessary. As the neoliberal era has introduced changing trends of protesting, profile of protesters and their goals, the central inquiry of the present study remains the same by way of keeping citizens' rights at the centre, i.e., despite change in trends, whether these protests have led to social transformation or transformative politics or not. The study aims to understand Gujarat while combining both protest and rights through a set of closely linked, critical elements; namely, profile of protesters, issues raised through protests and which rights are contested, politics of rights, what kind of power equations are altered, whether the larger common good is achieved or social justice is upheld, studying the role of institutions, growing tendency of opting for legislation, attitudes and behaviour of the Judiciary, outcomes of the protests and long-term impact, and other forces that have shaped up the protests.

The conventional documentation method of narrating events is adopted to describe these protests. The constructivist approach and documentation method are complementary to each other, as they facilitate the description of a protest. Description of each protest has multiple elements and processes to be addressed, for instance, a group of protesters, introducing new characters and actors, important events and statements that have shaped up the protest, unfolding role of different actors and alliances, capturing transition in the protest strategies, narrating protest programmes and decoding messages from the protest materials, covering the affected geographic areas and communities, describing the response of the state, governmental actions to maintain law and

order, and decisions taken by the political actors and authorities concerned on a time scale, and its tangible outcome and impact. These components provide grounds to bring in rights perspective and to analyse each protest from rights' perspective.

The historic, secondary data has posed a few challenges in describing the protests. The earlier writings were based on the then prevalent methods, frameworks of analysis, and vocabulary of that particular timeframe. For instance, *Navnirman Andolan* was described as 'upsurge' and 'urban riot'. It was studied with structural and functional approach. This was the trend. Studies on movements had hardly been attempted in the first two decades after Independence (1948-67). Research on movements had scarcely begun and by the third decade of Independent India (1968-77), studies on movements came to be an important preoccupation of social scientists (Oommen 1990: 52). Now, as this study is revisiting *Navnirman Andolan* after almost 40 years, the analytical framework, vocabulary for representation of a protest and debates on state's behaviour have undergone numerous revisions.

Many gaps were identified while building up the ethnography of each protest based on scholastic writings, with everyday event documentation method. Some gaps could be filled up with primary data generated through interview method, yet some gaps have remained unanswered. Many scholastic writings on these protests have challenged the credibility of the newspaper press reports. Therefore, there is a dilemma in using newspaper reports as one of the information providing sources. However, there cannot be an escape from the newspaper reports. In order to fill these gaps, the magazines published by various publishers from different ideological perspectives such as Gandhian, Sarvodaya, literary, socialists, radical humanists, etc. are referred here. The surprising fact is that not every Gujarati magazine has covered each of the protest. This conveys the message that a protest had either not acquired relevance or importance in their schema of social change or their viewpoint was different from the protesters and, therefore, they did not find it important to capture the protest as a social phenomenon. Analyses of protest materials has led to unfolding of protest strategies, agenda, different moves and modes, cultural

and linguistic symbols, and goals, in its historical, cultural and political context.

In Gujarati language, terms like ‘*chalval*’, ‘*andolan*’, and ‘*zumbesh*’ are all interchangeably used for social movement, protest and campaign, respectively. Of the three, the words protest and *andolan* are used throughout the text to maintain uniformity. Each protest, as expressed in Gujarati, is presented, such as *Navnirman Andolan*, *Anamat Andolan* (though it was against reservations policy and is described as ‘anti-reservation agitation’ in English), *Ferkuva Andolan* (signifying the name of a place where a protest was carried out against the *Narmada Bachao Andolan*), and *Mahuva Andolan* (Mahuva is a place of origin of the protest against Nirma Cement Plant). Of them, two commonly used names of the place are Ferkuva and Mahuva.

The social composition of Gujarat provides a glimpse of its society. The social composition of Gujarati society is described with five social categories: scheduled castes (SC), scheduled tribes (ST), other backward classes (OBC) (also known as socially and educationally backward classes–SEBCs), general category (GC) and religious minority. The term ‘general category’ is usually used interchangeably with *savarna* or ‘upper castes’ or ‘forward castes’ among Hindu fold in many sociological writings; it also can be referred to non-OBC Muslims and Christians and other religious minority that are not part as the beneficiaries of the reservations policy. In the absence of caste-based census since Independence, the population of SEBC was estimated to be somewhere between 35 to 42 per cent of the total population in early 1980s. In 2011, the Congress party announced its initiatives for mobilisation of 124 SEBC communities and its population projected is about 48 per cent in Gujarat.<sup>10</sup> Chapters three and four deal with the issue of *Anamat Andolan* (anti-reservation agitation), where GCs represent ‘non-beneficiary reservations group’. This category is employed to differentiate it from ‘group of beneficiaries of reservations’, i.e., SEBCs.

The *Mahuva Andolan* is largely fought in the courts and not extensively on streets. For this *Andolan*, sources of information are varied and largely of legal type, including judgement of different

courts—High Court of Gujarat, Supreme Court and the National Green Tribunal (NGT); papers submitted for legal case; and legal-environment debates covered in the magazines and newspapers. The presentation of legal battle is challenging in overall scheme of this monograph.

### Organisation of the Book

Each protest between 1970 and 2010 is covered as an independent chapter. Each chapter is broadly divided into three sub-sections: (i) backdrop of *andolan*, its genesis, protest programmes, profile of the protestors/interest group and their negotiations with the state, and outcome of the *Andolan*; (ii) issues and challenges and their relevance and importance in contemporary times; and (iii) *how* and *where* (on streets and/or in Courts) the *andolan* has enunciated or contested *which* rights.

As the first chapter is introductory in nature, it elaborates on three points of inquiry, i.e. rights, protests and Gujarat as a society; scope of the study; methodological issues; outline of the protests covered under the study; and organisation of the book. As the familiar vocabulary of protest is usually derived from the repertoire of social movement, this chapter narrates the similarities and differences between social movement and protest as well as establishes organic links between protest as contentious politics and collective social action, and studying them from right's perspective.

The second chapter covers the *Navnirman Andolan*. This *Andolan* was started by the university students in the second week of December 1973 and went on till 17 March 1974. Originally, it was against price rise in food, edible oil, and other essential items, but it eventually took the shape of a protest against corruption, and degeneration in political culture, arguing that the price hike in food items, and edible oil in 1973 was because of corruption by the Chief Minister (CM) and lack of governance by the ruling political party (Congress-I), despite having good monsoon. The *Navnirman Yuvak Samiti* (committee of youth for social reconstruction) became an umbrella organisation comprising 64 trade unions and other voluntary associations, largely belonging

to white-collar professionals like teachers, bank employees, civil engineers, and insurance agencies. In the course of protest, the CM and the ruling party faced allegations of corrupt practices, its failure in protecting the interests of the common people and indulging in party factionalism for power seeking, and were asked to resign. The protest was intensified after resignation of the CM, arguing that the Members of the Legislative Assembly (MLAs) were equally responsible for moral and financial corruption and, therefore, they should resign. The protest ended with resignation of the CM and dissolution of the assembly on 17 March 1974.

With the argument of moral and financial corruption, the protest material and programmes have focused on better functioning of the democracy and promoting democratic values. The material also enunciated democratic rights like 'right to recall of the elected representatives', 'right to information' and right to food security. The litigation challenged misuse of the law (Maintenance of Internal Security Act–MISA)<sup>11</sup> for arrests of the protesters, and ensured effective implementation of constitutional provisions regarding resignation of the MLAs and the Speaker's responsibility to accept them.

The third chapter describes *Anamat Andolan* (also known as anti-reservation agitation), which started during the last week of December 1980 and ended in March 1981. This protest was primarily against the state's reservations policy for SEBCs, i.e. announcement of 10 per cent reservation quota in medical and engineering colleges and 10 per cent of the seats to be reserved in class III and class IV and 5 per cent of seats be reserved in class I and class II for state government services, following recommendations of the Baxi Commission Report in 1978. This reservations policy was applicable to 82 communities belonging to SEBCs, over and above 21 per cent of the existing reservation quota for the SCs and STs (7 per cent and 14 per cent, respectively) in these institutions and state government jobs.

This protest was initiated by the students of medical colleges (hereon medicos) in the last week of December 1980 and was continued until 13 April 1981; however, the state government employees continued the protest for abolition of roster system<sup>12</sup> until mid-May 1981. Several attacks on the families belonging

to the scheduled castes were observed in form of killing, burning of houses and work places, and social and economic boycott in some rural areas of Gujarat. As an outcome of this *Andolan*, the state government abolished two protective features of the reservation system—'carry forward'<sup>13</sup> and 'inter-changeability'<sup>14</sup>, increased number of unreserved seats for post-graduation in government-run medical and engineering colleges, and increase in stipend of medical students, within three weeks of the protest.

The fourth chapter covers the second *Anamat Andolan* of 1985, which was started in January 1985 when increase in reserved quotas—from 10 per cent to 28 per cent—for the SEBCs in state government jobs and educational institutions was announced in January 1985, based on the Rane Commission's Report. This announcement was made two months before the state assembly election. This protest lasted for almost seven months, and was noticeable for intermittent communal violence in different parts of Gujarat. This protest was initially started by the students of medical and engineering colleges, later taken over by two 'vali mandals' (parents' associations) who argued repeatedly about 'efficiency', 'merit', 'competence' and 'reservation for poor' (based on economic status) to be the criteria for the reservation instead of caste-based criteria in the existing system.

The students of medical and engineering colleges were successful in negotiation and the state government withdrew the increase in the reservation quota. The non-SC/ST employees of different government departments and public sector units were successful in abolishing the roster system and inter-changeability for reservation quota as well as received promotion with retrospective effect from 1981.

The Indian Constitution had directed state governments to take necessary steps for the SEBCs (or the OBCs, other backward classes). The Supreme Court of India gave a verdict in 1962 to not cross 50 per cent reservation quota in any state in India. Gujarat was one of the states having 31 per cent reserved quota in educational institutions and state government jobs until 1981. This increase of 18 per cent reservation quota was an attempt or popularly called 'political gimmick' across many sectors to reach

49 per cent to reach optimum utilisation as well as in proportion to the population of the SEBCs in Gujarat. Whether two *Anamat Andolans* could be considered an opportunity for revision reservations policy in changing scenario in the nation or negation of historical injustices (or violation of provisions for social justice) has remained a serious debate across the states of India and over last four decades in India. Right to reservation for the SC, STs and SEBCs is constitutionally approved yet the GCs as a non-beneficiary group of the reservations has raised questions, forcefully attempted to redefine criteria for reservations, and mobilised the Supreme Court to interpret the Constitutional provisions.

The fifth chapter is on *Ferkuva Andolan*, which started on the last week of December 1990 and ended by 31 January 1991. Ferkuva is a name of the place on the border of Gujarat and Madhya Pradesh. Activists and supporters of the Narmada Bachao Andolan (NBA) were stopped from entering Gujarat from Madhya Pradesh. Thus, this protest was actually a demonstration against the protesters, that is, against the activists of *Narmada Bachao Andolan*. In Gujarat, *Narmada Andolan* refers to the *Sardar Sarovar Project* (SSP), as part of the *Narmada Valley Development Project* (NVDP), which was conceived in 1959 as a mega river development scheme, and initiated by the Government of Gujarat (GoG) in association with adjoining states of Maharashtra, Madhya Pradesh and Rajasthan. As a dream project, NVDP planned to build 30 major, 135 medium and 3,000 small dams on the river Narmada and its tributaries. The dream was shared in Gujarat with a punch line —‘Narmada is our lifeline’—and was claimed to solve water crisis, expand the irrigated areas, and generate hydel power for electricity in Gujarat. This dream has justified the displacement of two lakh people in three states, including 41,000 people from Gujarat due to SSP, among them 56 per cent were STs. In order to materialise the dream project, the Gujaratis also overlooked ecological susceptibility, reduction in biodiversity, etc. and cost-benefit related development issues (Dwivedi: 1997).

In December 1990, the NBA announced a *Jan Sagharsh Yatra* (JSY–Agitation Rally), from a village of Rajghat in Madhya Pradesh to the dam site in Ferkuva, on the border of Gujarat and

Madhya Pradesh. The rally's intention was to have a dialogue with Gujaratis on the project, force the Gujarat Government to review the project, and if these two actions did not take place, physically stop the on-going construction of the dam. Before the JSY started its movement, all attempts at talks towards a resolution between the Gujarat government and the NBA had failed (Mehta 2010). The supporters of the dam in Gujarat planned a counter rally, calling it the *Narmada Agey Badhao Shanti Yatra* (NABSY), aimed to stop the supporters of the NBA, led by Baba Amte and Medha Patkar from entering Gujarat. About two lakh supporters of the dam, led by the then CM, marched to Gujarat side of Madhya Pradesh border, i.e., at Ferkuva. Chiman Patel had to resign in 1974 due to the *Navnirman Andolan*. He was elected as MLA in 1989 and became the CM representing Janta Dal (U). The Chief Minister's wife led another rally of 10,000 people to the Maharashtra side of Gujarat's border (ibid.: 517). NBA had mobilised national and international agencies for ensuring the rights of the displaced population along with litigation in the Supreme Court since 1990s. The verdict of the Supreme Court changed the discourse of the right to R&R and construction of big dams. The Government of Gujarat (GoG) had announced a policy on rehabilitation and resettlement (R&R) in December 1989, recognising the right to rehabilitation of the displaced population under the NVDP. The R&R policy introduced newer components, expanding R&R rights of the displaced population. Details of a writ petition by NBA in the Supreme Court in 1992 and its verdict in 2000 are covered in order to understand how new, constructive rights could be articulated despite continuous protest against a CBO.

The sixth chapter is on *Mahuva Andolan*. Mahuva is a taluka of Bhavnagar district, in western Gujarat. This region is also known as Saurashtra; its seacoast is an ecologically fragile area due to salinity ingress as well as its topography and non-perennial rivers. This *Andolan* was started by the farmers and agriculture dependent communities from Mahuva taluka against the cement plant put up by Nirma Limited (NL). This *Andolan* is characterised by legal action and fought more in the High Court of Gujarat, the Supreme Court and National Green Tribunal and little in public spaces through collective action. The protesting group, 'Shri Mahuva



Bandhara Khetivadi Paryavaran Bachav Samiti' (SMBKPBS—A committee for saving *bandhara* based agriculture and ecology in Mahuva) comprised farmers and agriculture dependents fought for conservation of a water body, Samadhiyala Bandhara (a weir, a tidal regulator), it is meant for prevention of salinity ingress and storage of sweet water for irrigation and potable water. This *bandhara* has a reservoir having capacity to store 62.31 MCFT (million cubic feet) water. More than 10,000 hectares of land gets irrigated with a series of such four *bandharas*<sup>15</sup>, made during 1998 and 2010. This technical intervention has led to flourished agriculture in the region along with agro-based industries and employing about 10,000 people. The NL had informed that the proposed plant would employ about 500 to 700 persons and about 2,000 would benefit from ancillary units.

The legal battle mainly focused mainly on two technical queries—'whether this is Government wasteland and *Gauchar* (pastureland) or wet land', and 'whether there exists a water body'. Basic premise of the legal case referred to a judgement of Gujarat High Court of 2002<sup>16</sup> regarding the conservation of water bodies in Gujarat state. The GoG allocated land on certain conditions to the NL for putting up the cement plant in November 2008, and the Ministry of Environment and Forests (MoEF) gave environment clearance to it in December 2008. The course of litigation by SMBKPBS begun with the High Court of Gujarat in 2009 and later in the Supreme Court in 2010-2011, and then in the NGT. The MoEF appointed two Technical Expert's Committees in 2011, which confirmed the existence of the water body while a Committee of two Experts was appointed by the NGT and it accepted presence of a water body. The NGT after attending many miscellaneous applications in the course of almost three years, finally gave a verdict that as per the GoG land records, the land is Government wasteland and *Gauchar*, and, therefore, can be allocated to Nirma Limited for the proposed cement plant in May 2015. The legal battle is continued.

This *Andolan* located itself in the midst of 'development debate' and highlighted some viewpoints, such as, importance of agricultural development versus industrial development; role of administrative institutions in maintaining land records, support-

ing democratic processes like public hearing, etc.; protection of the environment through prevention of salinity ingress, conservation of a water body, and land use for livelihood instead of mining for cement plant.

The seventh chapter, as the last chapter, is presented in three sections. The first section presents brief analysis of five protests and citizens' rights contested, and analysis of the outcome of these *Andolans* from rights' perspective. The second section describes the trends and impact of these protests; and the third section presents challenges in the theoretical framework of protest, citizens' rights, whether these protests created opportunities for transformative politics in Gujarat as a region, and how they have impacted national policies and the Judiciary.

All the protests are initiated by relatively privileged sections of the society, composed of educated, urbanite, well placed in their jobs or occupations or landed gentry, and having representations across different public institutions. What are the repercussions on contentious politics, when privileged section of the society demands their rights assertively? 'A right is not just a right; it is a right to some good' (Chandhoke 2014: 45). Can increasing use of the language of rights and collective actions initiated by the privileged section in the society bring in equality and justice? A role of various institutions is analysed.

This study creates an anthology of protests in Gujarat, which in itself is important in absence of any such anthology in Gujarati or English. This study also contributes to emerging repertoire on citizenship, through analyses of these protests from citizens' rights. The earlier studies on Gujarat become a point of reference for the study to corroborate or differentiate their findings about Gujarat. Some findings of the earlier studies on Gujarat may be reiterated or challenged here; however, studying protests from the perspective of citizens' rights is a pioneering work in the area of protest and citizenship in India.

## NOTES

1. Ahmedabad was centre of *mahajan* (guild) life in Gujarat. These guilds were often named as *mahajans* in case of merchants and trad-

ers and *panchs* in case of artisans. These *mahajans* were corporate bodies or self-administering institutions. The social base of *mahajans* was broad. The *sheth* was the spokesperson of his members. The state treated him as an intermediary between his community and state. He was also used as a convenient agency to collect taxes. The government allowed complete autonomy to *mahajans* in commercial matters. In case of drought, the *sheth* performed puja ceremonies to please the gods. He also performed several other sundry functions (Mehta 1985).

2. The 2010 United Nations Development Programme (UNDP) Human Development Report affirms that 81 per cent of the STs, 66 per cent of the SCs, and 58 per cent of OBCs belong to the category facing 'multi-dimensional poverty' (UNDP 2010: 99, quoted in Dreze and Khera). A similar scenario may exist in Gujarat.
3. 'On the Jewish question', 1843.
4. See Ghanshyam Shah (1990 & 2004); M S A Rao (1978); Oommen (1977 & 1990).
5. Against *sati* tradition, Arya Samaj movement, etc. in post independent India.
6. Total revolution started by J P Narayan, backward classes movement for upholding reservation in southern India, and anti-reservation movement by the non-beneficiaries of the reservation in different parts of India, Narmada Bachao Andolan, Kudankulan movement against nuclear power plant, etc.
7. Naxalite movement, Telangana movement, peasant struggles in Assam, Maharashtra, Orissa, Uttar Pradesh, etc.
8. See Singh (2001) for further details.
9. See Diani (1992); Eyerman and Jamison (1991); and McAdam *et al* (1996).
10. <http://www.gujaratglobal.com>, accessed on 11 December 2011.
11. A Draconian law like Terrorist and Disruptive Activities Act (TADA).
12. Roster refers to preferential treatment to SCs and STs in their appointment and promotion in their jobs.
13. According to 'Carry forward', if the reserved quota is not filled with the SC and ST students, the number of vacant seats can be carried forward to next year.
14. The interchangeability refers to the total number of reserved seats for SC and ST students, i.e., 21 per cent. In case the number of SC students is more than the reserved quota and the quota for ST is not filled, the seats are made available to SC students.

15. Kalsar, Samadhiyala, Nikol and Malan *Bandharas*. Each *bandhara* is 10 km away from each other, thus, 40-km barrier is created between the land and sea, which has created a reservoir filled with sweet water.
16. Shailesh R Shah Versus State of Gujarat, SCA/10621/2000 dated 02 August 2002. Here, paragraph number 24(A) to 24(G), page numbers 46 to 49 of the judgement are important regarding the transfer of water bodies. Paragraph number 24(A) says: The State government will notify all the lakes and ponds as may have been shown in the areas covered by the Town Planning Scheme and the Development Plans, as also those in the areas not so covered throughout the State in short, all the water bodies in the territory of the State that vest in the State and/or the Area Development Authorities or the local bodies including Panchayat in the official gazette within three months from the date of this order.

## CHAPTER 2



### Navnirman Andolan

‘The elected representatives took the *praja*<sup>1</sup> for granted, assuming that they were secure for the next five years and they had free hands but the *praja* taught them a lesson that we are now awakened and never take us for granted...All the windows were completely closed, the doors were locked. The gate was guarded with an armed man. It so happened that the roof of the building swept away! The *praja* was so distressed and feeling cornered that they took this step’ (Joshi 1974).

‘No political phenomenon in India during 1974 generated as much debate among political observers as the outbreak of “people’s agitation” in the states of Gujarat and Bihar. This was perhaps the first and last successful agitation in post-Independent India that ousted an elected government in an ‘extra-parliamentary manner’ (Wood 1975: 313).

*Navnirman Andolan* was the first, large-scale protest in Gujarat, in which people from different regions, walks of life and strata participated. The *Andolan* was spearheaded by university students who were later joined by different interest groups and political parties who then supported them at different points of time, on different issues at different places in Gujarat. This *Andolan* is fondly remembered as ‘swayambhu’<sup>2</sup> (self-initiated) ‘Lok Andolan’ (people’s movement) with wholehearted participation of *praja* and *janta* (masses) of Gujarat. The scholarly writings and contemporary literature have referred to it as ‘upsurge’, ‘upheaval’, ‘urban riots’ and ‘populist agitation’ connoting ideological naivety, which is typical of students’ protests.

This chapter is organised in three sections: the first section provides details of the *Navnirman Andolan*—its genesis, the profile of the participants, the various types of protest programmes, and their outcome. The second section briefly mentions the *Andolan*’s

outcome and relates it with contemporary times, issues, and challenges. The outcomes and impacts are varied, especially when they are reinterpreted on a time scale, for instance, governmental actions and human rights violation, degenerating political culture and role of ruling party, corruption as ethical-political issue—then and now—university students playing the role of 'citizens' and articulated various democratic rights, and methodological concerns to study protest and social movements. The third section deliberates on the three aspects of rights: (i) the role of protest in articulation of rights; (ii) process and channels of acceptance, mainstreaming and recognition of rights; and (iii) challenges for citizens' rights to be acknowledged and enforced in Gujarat. Towards conclusion, the chapter observes post-*Andolan* changes, challenges, and its relevance in understanding the culture of protest in Gujarat; and links it to the succeeding chapters.

### **Backdrop: *Navnirman Andolan***

The year 1973 was stormy for Gujarat with critical economic and political upheavals taking place all across the rest of India. The societal changes preceding the establishment of the *Andolan*, such as national split of the Congress party in the 1969 and the immediate issues of food scarcity, international inflation accentuated by the oil emergency of 1973, added to rising prices in India, corruption in governing circles (Shah 1974, 1977<sup>3</sup>; Wood 1975), and grievances in the educational system of Gujarat<sup>4</sup> (Jones and Jones, 1976, 1977).

On the political front, factional intra-party politics initiated a series of changes. The Congress (R)<sup>5</sup> won 140 out of 184 seats in the Assembly Elections in 1971 in Gujarat. The ills of party infighting, factionalism and power games<sup>6</sup> led to the resignation of the Chief Minister (CM) Ghanshyam Oza, following a 'no confidence motion' in July 1973. His successor Chiman Patel, in order to become the CM, had allegedly either pressurised or bought over the Members of Legislative Assembly (MLAs). Some 70 MLAs were kept in 'Panchvati farm'; in popular parlance it became 'Prapanch-vati farm' (conspiracy farm). After becoming the CM, he supposedly contributed a large amount of funds to Congress

(R) party for the election in Uttar Pradesh in 1973. He also did not pressurise the central government to provide adequate food quota for Gujarat despite curtailment of more than 50 per cent against the requirement of the State.

'Several newspapers reported on the worsening scenario of civil supply; especially unavailability of food items and its black-marketing, starvation of people, and the generally abysmal conditions in society. For instance, Bajra, a commonly consumed cereal, priced at Rs 16 per kg in the beginning of 1973 was raised to Rs 35 per kg and in the post-monsoon period paddy disappeared from the market. Price of groundnut oil did not go below Rs 7 per kg despite a bumper crop of groundnut' (Dave et al. 1974: 91).

On the economic front, prices continued to exhibit a steep rise despite good monsoon. Several political parties, including the Swatantrata, Congress (O) and Jansangh along with the print media started giving voice to people's hardships. The political parties started organising *morchas* (demonstrations), *dharnas*, processions, public meetings and, ultimately, a widespread programme of *bandh* (boycotting work, strike) in different towns and places during October and November of 1973 (Shah A 1977: 3). The student community was also not spared from the impact of price rise. An economic survey conducted by Professor J. Dholakia regarding the conditions prevailing in the college hostels of Ahmedabad arrived at the conclusion that:

'Nearly 52 per cent of the students coming from the lower middle class had to miss a meal a day because of the rising rate in food bill; 17 per cent of the students had incurred debts to meet the food expenses; 27 per cent of the hostelites were regularly borrowing money from the friends and relatives to cope with their food bill; and 37 per cent ran into debts to meet their educational expenses' (ibid.: 6).

The student food bill in government-run colleges almost doubled, from Rs 70 to Rs 125 per month<sup>7</sup>, as the Gujarat state government stopped providing food at subsidised rates to the government college hostels.

With the amendment in Gujarat University Act, 1972, 12 student leaders were elected from respective faculties—Arts, Commerce,

Pharmacy, Engineering, Medical, etc.—in the university. Some of the student leaders were engaged in public activity, such as flood relief in 1972 in Ahmedabad city and Sabarmati river coast, organising street plays, and writing articles on various issues in Gujarati magazines and periodicals.

In such a volatile politico-economic scenario during the first half of 1973, a vast range of actors came into play. To generate political awareness among Gujaratis in Ahmedabad city during July-August 1973, the University teachers performed a political satirical streetplay named *Gheta-Khurshinu Natak* (the 'sheep' symbolised blind followers and the 'chair' the symbol of political power, referring to the infighting of ruling party members). Prior to the Chief Ministership, Chiman Patel was known for his managing higher educational institutions and its politics. The teachers presumed that after becoming the CM, he would keep himself away from educational politics but he did not do so. Therefore, the teachers started creating awareness among the *praja* about the political games played by Chiman Patel.

At the same time, the *14<sup>th</sup> August Shramajivi Samiti* (comprising 64 unions of employees belonging to different sectors and government offices) was also active in Ahmedabad. The various opposition parties were vying with one another in promoting protest programmes against the price rise and corruption.

In Bardoli town in south Gujarat, a huge rally of farmers was convened and call was given to violate levy regulations. 'In December 1973, the Government had ordered imposition of a levy on paddy and Bajra. The order was resented for certain inconvenient procedures and an influential farmers' lobby opposing the order started demonstrations' (Shah A 1977: 3).

These variety of event at different places indicated brewing scenario on educational, economic and political fronts.

### **Details of the *Andolan***

Students provided the first spark and the protest spread like a wildfire. On 20 December 1973, the students of L. D. Engineering College at Ahmedabad started breaking and burning the furniture of the hostel and public works department store after hearing of



the inflated food bill. The rector of the college and his family had to run for their life. Police arrived at the scene and some students were severely thrashed. Out of a crowd of some 500 students, the police arrested a few and filed suits against them. The students went to the police station in a procession, demanding the release of their fellow students. Soon after, they were released. Similar incidents occurred at Morbi<sup>8</sup> Engineering College campus on 29 December 1973<sup>9</sup>. According to the students, 33 representations were made during the last two years, regarding mismanagement of the hostels as well as the engineering college. Some 24 students were arrested and produced before the Magistrate but with intervention of the public workers, they were released on bail. Following this event, Jetpur town<sup>10</sup> observed a *bandh* and in Amreli<sup>11</sup> a large procession reached the Collector's office to present a memorandum against the price rise on 1 January 1974. Heavy stone throwing in Jetpur led to the police using tear-gas shells followed by firing. In a separate incident, 300 participants of a procession at Amreli were arrested. Disturbing news about the shortage of food items from various places continued to be reported and one of the newspapers reported a death due to malnutrition and a village in Saurashtra not having any food to eat. The Youth Congress leader demanded the resignation of the State Civil Supply Minister (*ibid.*).

Several protest programmes took place every day in different parts of Gujarat, some initiated by the political parties while others performed by the *praja*, throughout Gujarat. For instance, 24 towns came under curfew on 12 January 1974. Three students were arrested under MISA and more than 1,000 students were arrested from different parts of the state, and by 20 January 1974, 42 persons had been killed in police firing in the state. The police used tear-gas shells and bullets on large scale (*ibid.*).

On 3 January 1974, students of L. D. Engineering College of Ahmedabad were given a food bill Rs 30 more than that of the previous month and, in retaliation, they started breaking window-panes and electric lights and set fire to the furniture. Police arrested 326 students, used about 100 tear-gas shells and carried out a *lathi* charge (beating with batons) (*ibid.*). Later on, 40 students were suspended from the college, and the government announced closure of the College for an indefinite period (Dave et al. 1974).

On 4 January, about 200 students marched to Gujarat Pradesh Congress Committee (GPCC) office, *gherao* it and asked to meet the CM. When the CM suggested another place for a meeting, the students did not agree. On the same night, the police entered the rooms of the post-graduate students at the Gujarat University Hostels, beat them severely and burnt the furniture. The next day, the vice-chancellor put up the complaint before the inspector general of police (IGP) who promised to inquire into the matter. Some student organisations in the city issued a call for indefinite *bandh* on 7 January until their demands were accepted by the authorities. The demands included re-opening of the engineering colleges at Ahmedabad and Morbi, removal of dismissal threat to the students, withdrawal of the stipulated rise in food bill and action to be taken against the police personnel who had indiscriminately beaten up the students (Shah A 1977).

On 7 January, as part of the *bandh* announced by the students, all 360 schools and colleges remained closed in Ahmedabad city. Calls for different activities were announced. Students decided to continue the strike until the demands were met. They decided to take out a procession to the Senate Hall on 9 January morning. Akhil Bharatiya Vidyarthi Parishad (ABVP) gave a call to *gherao* the ministers; 14<sup>th</sup> August Shramajivi Samiti gave a call for Gujarat *bandh* on 10 January, Gujarat University Area Teachers' Association (GUATA) passed a resolution to fight against the police atrocities on the students, and Morbi college students decided to take up satyagraha from 15 January, if the college did not reopen by then. On 8 January, the student leaders met the CM but the talks failed on controlling price rise issues and the other demands. They decided to initiate 'Janta curfew' for three hours on the next day, i.e., not allowing any vehicle to move around except public transportation and press vehicles, along with the call of *bandh* in Gujarat until 10 January. By now, the students had understood that the CM was not going to support them on the issue of price rise; rather he would use coercion through police force to maintain law and order.

On 11 January, different action groups were merged into *Navnirman Yuvak Samiti* (NYS) and the students were elected as the office bearers under the guidance of Purushottam Mavalankar<sup>12</sup>, as their leader. As south Gujarat was a largely peaceful, not organ-

ising protest programme, some students of Ahmedabad sent bangles—a symbol conveying that you are cowards and sitting quietly—to their fellow students of the Engineering College at Surat. Mobilisation of students began after this incident in south Gujarat, as has been shared by the student participants during face-to-face interviews. The government announced that the engineering colleges of Ahmedabad and Morbi would reopen on 16 January. However, the NYS chalked out protest programmes against the price rise and corruption for next fortnight, including voluntary *bandh* in two areas for two students (projected as martyrs) killed in police firing during the protest, meetings, processions, offering bangles to the ministers of the ruling Congress, squatting on Nehru Bridge to condole the death of the conscience of the ministers, and to prepare a list of hoarders and black marketers.

On 16 January, 57 out of 64 constituent unions of 14<sup>th</sup> August *Shramajivi Samiti* attended the meeting along with NYS members and a delegation of students approached the vice-chancellor of Gujarat University with three conditions for restoring the classes—assurance of food bill not exceeding Rs 90 per month, examinations to be postponed, and inquiry into the police excesses in the hostel incidents. Two student leaders were arrested under Maintenance of Internal Security Act (MISA)<sup>13</sup>.

On 18 January, a meeting in Ahmedabad was organised between ministers and 33 general secretaries of various city college unions, which went on for 150 minutes. A split was observed among the student unions, allegedly on the line of association with the ruling congress and with other opposition parties. However, NYS decided to continue the protest. Unprecedented violence took place at Rajkot city in response to the *bandh* by Jansangh and curfew was imposed (Shah A 1977). Several parallel protest programmes were carried out. Protest programmes included mock cremation of the CM, *padyatra* (foot march) from Ahmedabad to the state capital Gandhinagar, *gherao* of MLAs, asking for their resignations, collecting mass signatures on a memorandum expressing no confidence in the government, and urging citizens to write post cards to this effect, women leading *morchas* to the residence of the MLAs and giving them memorandum written in blood, etc.

NYS were formed all over Gujarat in the later half of January while police excesses continued, killing people through bullet firing, using tear-gas shells, *lathi* charges, and arrests.

Most of the towns and cities were under curfew on the Republic Day due to a call for *bandh* given by 80 public organisations, including GUATA, *14<sup>th</sup> August Shramajivi Samiti*, NYS, and opposition parties on 25 January, demanding resignation of the MLAs as one of the common agenda. With intensifying protest, the Indian Army was called in on 29 January. NYS had decided to welcome and felicitate the army as a friendly gesture and to build rapport with them. While welcoming the army, it was conveyed by the students that the protest is against the 'corrupt' government and price hike in food items. This event is fondly recollected by many interviewees, as something of this stature had never happened before in Gujarat.

On 31 January, the Political Affairs Committee of the Union Cabinet decided to increase the food quota and turned down the demand of imposing President's rule. '82 MLAs of ruling party gave an ultimatum to the CM that if he failed to institute judicial inquiry into police firing they would themselves institute a *Janta Panch* (people's council) under the chairmanship of retired judge of the Supreme Court' (ibid.: 48).

Students started visiting MLAs in their respective constituencies to demand their resignations and performed different protest programmes on 2 February 1974. Some students observed fast in different towns of Gujarat, burnt effigies of the CM, one of the students threatened self-immolation if the CM did not resign by 10 February, one of the student leaders met the Prime Minister and acquainted her with the situation in Gujarat and reiterated their demand of imposing President's rule. The argument for the resignation of the sitting MLAs was that they have been part of the on-going corruption trail and have failed to gain the confidence of the *praja*. In this manner, the *Andolan* spread in rural areas.

'The NYS organised the death-knell of Chimanbhai Patel ministry and people responded to this call enthusiastically by ringing *thalis* (dishes or plates) and the bells from the house tops' (ibid.: 54). This was one of the most popular protest programmes, which continued for more than a month in the consequent anti-reserva-

tion protests in Gujarat in 1981 and 1985. A mocktrial of the CM was conducted by girl students and teachers.

‘The mock court was made of a ‘bench’ of three ‘judges’ who heard the charges of murder of democracy, cheating and acceptance of illegal gratification against the CM. As no lawyer was willing to defend the CM, the court appointed a counsel for him. The judges ordered immediate removal of the CM, debarring him from his constituency, preparation of a corruption capsule with CM’s name inscribed on it and to be buried at a depth of 27 feet at 27 places in the state, and the CM was ordered to do 27 lakh sit ups as a punishment for the alleged bribe for Rs 27 lakhs from the oil kings’ (Shah A 1977: 57).

Fresh violence broke in the state bringing ten cities under curfew, and 172 students were arrested from Ahmedabad city under different orders on 5 February 1974.

On 8 February, a gross incidence took place at Tarmaliya village in south Gujarat. A group of students had decided to visit Uttam Patel, the sitting MLA, in his village Tarmaliya in Valsad district, asking him to resign. The same day, Uttam Patel had called a few tribal leaders to know their opinion regarding his resignation. As the group of students reached the village, there was a clash between them and the tribals attending the meeting, as a result of which two students and two citizens were killed (Bhandutiya 2010: 135). However, during personal interview, it was revealed that nobody exactly knows what happened that day. This event became controversial due to MLA’s (Uttam Patel) claim that the tribals in south Gujarat did not feel safe, the students did not identify with the poor in the areas. This statement pointed a finger against the student’s agenda and their behaviour during the *Andolan*.

A special representative of the PM, Shri Gokhale visited Ahmedabad city on the same day. Chiman Patel did not allow the student and teacher leaders to approach Gokhale. To impress upon Shri Gokhale, a group of students sat on fast at Raj Bhavan footpath and a large group of lawyers took out a procession and later turned into a large meeting and demanded the CM’s resignation near Raj Bhavan. Across the road, Gokhale was meeting only those people who were sent by the CM. ‘Shri Gokhale reported to the PM about the situation in Gujarat and total alienation of CM from

all sections of the community and around 1 p.m. he called CM to resign' (ibid.: 62). The deputy CM Kantilal Ghia had resigned by noon, and the CM resigned in the evening on 9 February 1974. The total number of deaths had now reached to 54.

After the CM's resignation, the leaders of the *Andolan* intensified the stir for demanding the resignations of the MLAs. In a rally on 13 February 1974, Jayprakash Narayan and Ravishankar Maharaj, a freedom fighter, veteran Bhoodan and Sarvodaya worker, also supported the move of MLAs' resignations. 'One of the biggest flaw of today's democracy is that after contesting or winning the election, there is no provision for keeping check on the MLAs. The political party can control the candidate and thus this is not democracy, it is party-cracy. Make the MLAs accountable' (Bhoomiputra, 1974: 34). This is considered as a beginning of the second phase of the *Andolan*.

A group of students met the Governor on 10 February and gave him an ultimatum to dissolve the assembly within 10 days. The Executive Council of NYS passed a resolution that all educational institutions will remain close until dissolution of the Assembly. The NYS prepared a charter of demands, which included judicial inquiry into police firings, compensation to the families of the victims of police firings, withdrawal of cases against the protesters, universalisation of education, and SSC exams scheduled in March to be postponed (Shah A 1977: 64-65).

On 15 February 1974, 16 MLAs of Congress (O) resigned *en masse* as did four MLAs of Congress (R), leading to the resignation of 32 MLAs, which gave a boost to the *Andolan*. The army was withdrawn. The Municipal Presidents of Gujarat submitted a memorandum to the Governor, demanding early dissolution of the Assembly (Dave *et al.* 1974: 169). The students continued pressurising the MLAs in their respective areas to resign and, as a result, every week the number of resignations of MLAs was increasing. The Speaker of the Assembly withheld the resignations of the MLAs, and so a legal battle was undertaken against him. NYS leaders continue to appeal the big traders to lower the prices of food items and edible oil, submission of memorandum to the Governor written in blood for the dissolution of the Assembly,

conducting mock courts, distributing protest materials and conducting other protest programmes all over Gujarat.

Widespread violence broke out all over Gujarat on 19 and 20 February. Employees of the Gujarat Chamber of Commerce and Industries decided to go on strike until 25 February and the doctors of Ahmedabad convened a procession to meet the Governor.

The *Andolan* related issues were raised in the Lok Sabha by Purushottam Mavalankar, the MP from Ahmedabad. Simultaneously, Umashankar Joshi, MP, Rajya Sabha from Gujarat, former vice-chancellor of Gujarat University, eminent poet, scholar and writer, opened up a debate on Gujarat, and said, 'All that happened in Gujarat was the consequence of the corrupt Government' (ibid.: 77). He demanded an inquiry into the case of corruption and strongly asked for the dissolution of the Assembly.

There were a few rounds of dialogue between the political observers sent by the central Congress (R) party from New Delhi but the central unit of Congress (R) was not declaring dissolution of the Assembly. Efforts were going on in Delhi behind the curtain to call the student leaders to Delhi, with a view to prepare some ground for negotiations (ibid.: 71).

Thirteen students who had reached Delhi earlier sat on *dharna* at the Boat Club and observed fast for a day. The Delhi University students supported them. To have a dialogue with the Prime Minister, 214 students went to New Delhi; by then, several sitting MLAs of Gujarat had visited the 'High Command' of Congress(I) in Delhi. All 214 students were arrested because they had organised a *dharna* at the Parliament. They were presented to the Court and the Court ordered them to be imprisoned for a week. On 5 March 1974, more than 500 students took out a silent rally in Delhi, covering a distance of 30 kilometres (from Gujarati Samaj to Connaught place). They carried placards and banners with message like 'Dissolve Gujarat Assembly' and 'Curb Corruption' in Delhi (Dave et al., 1974: 198). The students had *gehrao* the MLAs of Gujarat, who had to go without food for 11 hours.

On 1 March 1974, the former CM, Chiman Patel was suspended from the Congress party for the breach of party discipline (Shah A 1977: 88). On 3 March, a new angle and a split were observed

between the protesters and others as well as among the students. Uttambhai Patel, an MLA from south Gujarat, organised a mass rally to convey that the protest was not supported by the poor, especially the tribals. Simultaneously, some students protested against their fellow students going to Delhi to negotiate with the PM and, in protest, they lay down on the rail tracks to prevent the train going to Delhi. These groups of students argued that a trap was laid skilfully by the politicians so that the students would withdraw the protest. They suspected political bargaining behind the Delhi visit in the following days.

The students of Gujarat staged large-scale demonstrations in Delhi and finally a delegation of seven students met the President of India and submitted 10-point memorandum on 6 March. This included: Adequate supply of foodgrain and edible oil to the poor people at a reasonable price; every citizen having 30 yards of cloth; every citizen owning a two-room house having electricity and water supply; free primary education and health care services; universalisation of private colleges; adequate educational facilities in every college; short-term vocational courses to ensure employment to educated youth; inquiry into charges of corruption against Chiman Patel and members of his ministry; rationalisation of tuition fees in the colleges; and immediate dissolution of the Assembly. The toll death by now had reached 72.

The Central Government was holding firm in its position, 'first peace and then dissolution' (ibid.: 95) and the total number of resignations of MLAs had now reached 73. The home minister in Lok Sabha turned down the demand of dissolution of Gujarat Legislative Assembly and reiterated the party's standpoint of peace and normalcy in the state. The students in Delhi responded to the Home Minister's view by organising a *dharna* at the Boat Club and presented a memorandum to the secretariat of the PM. A procession of 214 students staged a demonstration at the Parliament House; all of them were immediately arrested, taken to the police custody to be produced before the Court the following day. Morarji Desai<sup>14</sup> announced an indefinite fast, supporting the demand of the dissolution of the Assembly for a clean political life in Gujarat. In Gujarat, people were frustrated with the Home Minister's announcement in the Parliament and fresh violence



erupted in different parts of the state. Seventeen MLAs tendered their resignations to the party chief to be forwarded to the Speaker. The students arrested in Delhi were sentenced to seven days' imprisonment (ibid.: 99).

In response to the students' imprisonment, Mavalankar attacked the Home Minister in the Lok Sabha saying that, 'Your party men had invited the students for talks in Delhi and they were awarded with seven days' punishment. This was an act of treachery played by the ruling Congress to the students' (ibid.: 101). Some opposition party leaders decided to hold a public meeting on 15 March, demanding dissolution of the Legislative Assembly in Gujarat. In Gujarat, the NYS leaders announced their plans to intensify the protest, giving confidence to the people in Gujarat that the situation was under their control. These programmes were: *Gherao* of MPs belonging to the ruling party; social boycott of MLAs and their family members; offering prayers at different places for dissolution of the Assembly; stoppage of the railway, flights and buses on Friday; a call to the employee of the state and central government for mass leave; taking *morchas* to the Governor and submitting a memorandum therein; and collection of funds to help the bereaved families on Monday (Shah A 1977: 101).

The following day, Morarji Desai's health started deteriorating, the call for partial curfew took a violent turn, and the students in Delhi declared support to the students in Gujarat. The PM held a discussion with senior Cabinet colleagues and decided that they would wait for two days before taking a final decision. In the meanwhile, they would persuade Morarji to break his fast. By this time, the number of resignations of MLAs had reached 85 and the total death toll was 85. With this decision of the PM, the NYS decided to increase pressure upon the government and announced more protest programmes—Picketing of the government offices by the students, NYS gave a call to the citizens to not pay taxes, *gherao* the MLAs, and resort to civil disobedience and flood the jails—followed by a grand reception of the students returning from Delhi on 15 March.

Finally, at 11 p.m. on 15 March 1974, the Governor made an official announcement for dissolution of the Assembly under the Article 174(2) of the Constitution. The students imprisoned in

Delhi were released. Morarji Desai broke his fast before a large gathering and he hailed the students for their bravery (ibid.: 106-7).

### Protest Programmes

Though all the actors involved in the *Andolan* had appealed to the people to make this as non-violent as possible, the *Andolan* had definitely observed violence at many instances along with governmental repression in different parts of Gujarat. Sheth (1977: 191-92) has analysed the protest programmes:

'Of total 137 types of programmes of the Andolan, 110 (81 per cent) programmes were non-violent and 27 (19 per cent) were violent. Of them, 11 programmes were for the 'first time' in India and 38 programmes in Gujarat with its unique symbolic meaning, which included: welcoming the Army, mass bus hijacking, ringing of death-bells in night all over Gujarat [continuously for more than 40 days], burning of corruption effigies, post-card agitation, civic voting by people's election committees, crushing the replica of corruption in sugar cane juice machines, conducting mock courts against the corrupt political leaders who murdered the democracy, mock cricket show between Navnirman Samiti and the MLAs of Gujarat and letters written with blood to the MLAs.'

Different protest programmes included fasts, *bandhs*, *janta* curfews (self-imposed curfew), *satyagrahas*, *dharnas*, *Janta* marches, organising rallies and processions with different items, slogan writing and slogan shouting (carrying effigies of MLAs, picketing of the government offices, *gherao* the MLAs, resort to civil disobedience and flood the jails, silent marches, shouting slogans against black-marketing and hoarding, hijacking buses and reaching out to various places and motivating others to fight against corruption, etc.), giving a call to the citizens not to pay taxes, taking mass leave, arranging voluntary black-outs all over Gujarat, conducting mock courts and trials against MLAs, traditional post death rites after burning the effigies of the CM and ministers, conducting programmes to ridicule ministers, and venting out people's grievances.

The violent aspect was observed in the form of stone throwing,

looting and arson of private and public properties. The government attempted to maintain law and order through prohibitory orders, arrests, use of tear-gas shells, *lathi* charges and bullet firing with the help of the local police, state reserve police, paramilitary forces and the armed forces.

### **Outcome of the *Andolan***

Two main outcomes—resignation of the CM and dissolution of the State Legislative Assembly—are seen as major achievements of the *Andolan*. President's rule was imposed in the state soon after dissolution of the Assembly. The initiative for social reconstruction remained an unfulfilled agenda after achieving two goals of the *Andolan*, on two counts, ensuring a Legislative Assembly with candidates possessing high morale, and bringing about social change from the grassroots with the help of NYS all over Gujarat.

During the *Andolan*, 310 persons were injured. A total of 103 deaths were reported, of which 88 were a result of police firing and the unofficial figure was 120, which were confirmed by various sources. Of the 88 victims of police firing, 61 were students and youths all under 30 years of age. In all, 8,053 people were arrested under various charges and 184 were arrested under MISA. The police action included 1,405 rounds of firing, 4,342 tear-gas shells thrown, 1,654 *lathi* and cane charges (Shah A 1977: 108).

In the studies conducted during the period 1974–77, various scholars interpreted the *Andolan's* outcome and impact differently. Jones and Jones connected the *Andolan* with Emergency:

'The upheaval has had major repercussions on Indian national politics. The Gujarat riots, together with the anti-government movement of Jayprakash Narayan in Bihar, which they had inspired, were evidently a key factor in Indira Gandhi's decision to declare a national state of Emergency on 26 June 1975. While many observers thought that the "grave internal danger" the most immediate one was to Indira Gandhi's personal power. The prospect of widespread violence paralyzing the central government temporarily should not be lightly dismissed' (1976: 1012-3).

Jayprakash Narayan has written in his prison diary, 'On deeper understanding, the conclusion become inescapable that the Gujarat

movement was a pathfinder in India's march towards democracy, withal parliamentary democracy, in which the demos, the people, are not mere passive agents but are active, demanding and in the end commanding. Indian democracy will never be the same after the Gujarat movement'(quoted in Sheth 1977: viii). On the contrary, a renowned constitutional lawyer of Gujarat expressed his disgust about the Andolan and changes brought in Gujarat in retrospection:

'JP's movement for 'Total Revolution' as the inspirator of the Navnirman movement was a myth. The total impact of the movement was largely negative delegitimisation of the political institutions, strengthening of right forces, leading role of the RSS, ABVP and Jan Sangh in the second phase of the movement after the resignation of Chimanbhai Patel, many corrupt Navnirman leaders and the rise of some fascist tendencies in the civil society. Certainly it did not turn out to be a progressive and democratic movement' (Patel 2012: 232).

The *Andolan* gave a jolt to political elites, represented the students not only as miscreants but also as a committed cadre and a politically sensitive interest group, and showed concerns and strength of Gandhian values and cadre of Gandhian social workers in different forms (Shah 1974; Wood 1975; Jones and Jones 1977). Shah highlighted the participation of socio-economic and political groups for different interests and purposes, varied issues raised, such as corruption, black marketing, price rise, denationalisation, rationing, civil liberties, injustice to Gujaratis and Gujarat, etc. 'There was thus neither unity nor clarity regarding the steps to follow after the dissolution of the Assembly' (1974: 1429).<sup>15</sup>

Wood was of the opinion that 'most of the Gujarati activists wished to end poverty, corruption, inflation and injustice, but had no theoretical understanding of societal problems. They talked of "reconstruction" in simplistic, uncertain terms' (1975: 324). While Jones and Jones analysed higher educational politics, and described the manner in which university teachers provided strategic support to the students to succeed. They recognised a distinct feature of the *Andolan*, as it had 'contrasted with Gujarati norms' and 'characterised by its own moralistic rhetoric as idealistic, self-sacrificing action by a newly aroused student cadre, striving

to purge politics and society of corruption and to secure a fair deal in the market place for classes in distress.' They also recognised the *Andolan* as 'remarkably free of pressures from political parties and factional interests in state politics' and 'it may nonetheless be the forerunner of future revolts of the "salaried masses", in which broadly-based, non-partisan, white-collar or professional associations take leading parts in protest politics' (1976: 1032-1033). Shah (1974, 1977) and Wood also agreed on the viewpoint that 'most of the Gujarat activists wished to end poverty, corruption, inflation, and injustice, but had no theoretical understanding of societal problems' (1975: 325).

Manishi, a student leader of the *Andolan*, has answered a question that 'What did we achieve with this *Andolan*?' He has written:

'For the first time in history of India, the students of Gujarat entered the *Andolan* with social commitment, where they felt that we have to perform our duties towards the nation and they participated to curb the corruption...now the students don't gossip while standing at the pan shops but they discuss political issues and events and analyse them as responsible citizens. Raising of political consciousness and student's role as an awakened citizen—are these not achievements of the *Andolan*?' (Dave et al., 1974: 14-15).

While revisiting the *Andolan* from the right's perspective, its distinct contribution is observed, i.e., articulating democratic rights including civil liberties, right to development, addressing corruption as ethical-political issue as an outcome of the analysis.

### **Relevance of the *Andolan* in Contemporary Times**

Viewing the *Andolan* after almost 40 years, some more dimensions of this *Andolan* come to the fore, such as governmental actions, political strategies and the behaviour of the ruling party, addressing the corruption as ethical-political issue, the role of university students as 'citizens', and methodological issues to study protest.

#### ***Brutal governmental actions***

One of the foremost observations about the protest is the number of people killed and governmental actions that dealt with the

protest. Every day, one to two deaths, and about four casualties were reported, more than 100 students were detained in jails, and three protesters were arrested under MISA in the state. Every day, at least one youth aged below 30 years died in police firing, and police used at least 200 rounds of bullets, more than 600 tear-gas shells and more than 200 *lathi* charges took place. This scale of human rights violation during any protest clearly indicates the brutal attitude of the ruling party towards the protesters and the citizens.

Why should a CM be so aggressive and intimidating? Was this a beginning of a change in political culture of Gujarat? Can this be linked to rising of 'kulaks' in Gujarati politics and their way of dealing with the protest? When discussing the change in politics and behaviour of the CM, Shah and Wood agreed that Chiman Patel rose from the 'kulak' caste and came into power. This was also seen as a gradual departure of the old Gandhian elite symbolised by Morarji and Hitendra Desai, after the split in the Congress in 1969 (Shah 1974; Wood 1975). Chiman Patel was popularly perceived as a capable political leader and as a *khedutputra* (son of a farmer), he was expected to solve the problem regarding the Narmada water as well as that of the farmers. Wood (1975: 317) described Chimanbhai as: 'By reputation ruthless and dynamic, he had assisted in the defeat from within the Congress of the Jivaraj Mehta ministry in 1963 and the Hitendra Desai ministry in 1971. But none of his previous exploits matched his attempts after the 1972 election to become the Chief Minister of Gujarat.'

The course of action taken by the CM reflects his bullishness and belligerence rather than negotiating and heeding the voices of the masses. For instance, the CM's first meeting with the students was on 8 January 1974. If he had agreed to control the price rise of the mess food bill by providing rations at a subsidised price to the government-run college hostels, the agitation would not have taken place. The CM had to allocate Rs 21,000 per month in order to provide the food items at a subsidised rate to the government-run colleges as well as their hostels, for which he was not ready. Had he advised the centre on behalf of the Gujaratis to provide an adequate food quota, he would have won the *praja's* hearts as well as their support.

The use of MISA to arrest the protesters signifies the crushing of civil and democratic liberties. In the present human rights framework, the use of the police force in the name of maintaining law and order indicates a repressive government and violations on many counts.

‘The violence during the *Andolan* is largely attributed to police brutality. Violence was observed at three levels: first, young children throwing stones on the streets as mischief. At second level, which is the highest, I would like to call it violence by police and people. On one side, brutality of police and helpless people on the other side; this set a vicious cycle of violence based on retaliation. The third type of violence was observed by the anti-social elements’ (Joshi 2011: 155).

### ***Degenerating political culture: Role of ruling party***

The core of the problem was price rise of food items due to poor governance and purported corruption. After a person in a village died allegedly due to malnutrition and reported starvation, the CM expressed the possibility of ‘roti ramakhan’ (riots for *roti*, indicating intensive protests due to unavailability of adequate food). He neither raised this issue with the Centre for providing adequate food quota nor did he take any action to control the rising prices of food items and edible oil. This issue points towards intra-party dynamics: how the ‘High Command’ in the Congress party has maintained its supremacy even after 38 years. Wood commented on the manner in which ‘the Central interventionism had a negative impact on the autonomy of state political development’ (1975: 330) and state-based political factors as an instrumental factor. He pointed to behaviour of the Congress (R) members:

‘All trying to assert greater loyalty to Mrs Gandhi amidst mutual accusations of opportunism, the politicians began to rely so much on manipulative politics that they lost their contact with the masses. In the cities as well as in the villages, the party leaders increasingly depended on brokers, smugglers, *goondas* and those who gave finance to the party rather than on committed party cadres’ (ibid.).

‘These politicians did not enjoy any moral influence over the people. The faction-ridden Congress party also did not stand

united against the agitation. Some Congress leaders worked as catalysts in accelerating the agitation but the ordinary members of the Party were confused' (Shah 1974: 1454).

Thus, the degeneration in political culture was observed right from the individual level, grass-root to union level, within party and vis-à-vis *praja*. This was also reflected in dealing with the *Andolan* and became a central reason behind the demand for the resignation of CM and, consequently, for dissolution for the Assembly.

### ***Corruption as ethical-political issue and protests: Then and now***

The students articulated the problems of price rise as a deliberate choice and poor governance resulting in moral, financial and political corruption. The protest programmes captured the degeneration in morality and ethics of political leaders and became a main source of successful mass mobilisation. Most of the citizens identified themselves with the issues and participated in large scale.

When Anna Hazare and his team started an anti-corruption movement in 2010, people in large numbers participated, as they identified with the issue. There were two similarities on the agenda of these two protests: first, both identified the political leaders, the MLAs and MPs, respectively, as culprits for corruption and, therefore, both the protests stressed on 'right to recall' within the Constitutional framework. Second, another common factor was the large-scale mass participation and sustained support of the masses. The only difference between the two protests was that the *Andolan* adopted an 'extra-parliamentary' way while Anna and team channelized the protest in a 'parliamentary' way while seeking mass participation and support.

Despite one single issue at two different points of time, there was no link found between the two protests. Why? No representation from Gujarat was observed in Anna and his team's protest. Why was Gujarat silent? Furthermore, why did Anna and his team not connect with this *Andolan*? If we consider this *Andolan* as a pioneer for innovative programmes for mass mobilisation—one



that introduced a process of networking and alliance building from social action perspective—why did the national level protest on corruption not recognise this *Andolan*? Does it indicate the short-term nature of our memories? Does it point towards non-recognition of the *Andolan* in the contemporary scholastic writings that called it an ‘upsurge’ and a ‘naive ideological battle’?

### ***University students playing as ‘citizens’ and leading the Andolan***

In the 1970s, the students below age of 21 years did not have voting rights and, in this sense, they were not even considered as ‘full citizens.’ But the students became active citizens as also change agents for better democratic functioning. They initiated a process for change in existing educational and political systems and played a role of vigilante. This *Andolan* became an exception in two contexts: first, the students engaged themselves with the broader ideological question; and second, they usually did not align with rural elites.

Altbach undertook an analysis of the students’ protests across the globe and observed that student ‘agitation has tended to be localised, focused on university issues or local political conflicts rather than on national or broader ideological questions...except in political crisis’ (1970: 5). He further stated that ‘in no nation was a student movement allied to the rural elite’ (Altbach 1970: 7). To explain the student’s protest, Shah (1974: 1447) classified the students into two categories, ‘radical’ and ‘rebel’. The radical students had a sense of purpose and commitment; they worked as the brains of the agitation but lacked organisation skills and cadres and were isolated by the political parties and the rebellious students in the course of the agitation. Radicals were in minority and rebel ‘student leadership was dominated by the sons of the rich farmers, the Patidar by caste’. The latter group of students were inconsistent in their ideas and lost their temper on numerous occasions. ‘The radical students and teachers were helpless against the powerful and organised forces on the one hand and the unorganised rebellious students on the other. The latter were led by the organised political parties and interest groups. Thus, the agitation remained

unorganised and their agenda too remained varied' (Shah 1974: 1453). However, Jayaram observed that, 'student unrest is not always necessarily a manifestation of delinquency, and given certain conditions, it can develop into a concerted social movement' (1979: 696). All these observations characterised student activism, yet this *Andolan* stands alone in the following ways.

The contribution of the radical students can be observed in terms of various democratic rights that they had articulated, for instance, the need for 'Right to Recall' was articulated for holding the elected representatives (ER) accountable through enactment of law. Similarly, in an effort to make the ERs accountable, the 'Right to Information' was articulated and desired development as the right of the citizens was also elaborated. The details are presented in a later part of this chapter.

Though the opposing political parties supported the *Andolan* with their covert and overt agenda, it was largely freed from three harmful trends: partisan politics, communal conflicts and violence. This was mainly because of the radical students' awareness and actions. An incident has been narrated by Joshi (2004: 156, emphasis added):

'The members of *Navnirman Samiti* gave tribute to Pankaj [a Hindu] who was martyred during the *Andolan* and soon news came that communal disturbance could take place in the nearby area, Jamalpur due to another martyr Fazalul. A group of students immediately rushed to Fazalul's residence and some students started reading *ayatas* of the Kuran while some read stanzas of [Bhagavad] Gita. Thus, they prevented outburst on communal lines.'

Many more such incidents and students' alertness have been reported during the *Andolan* that disallowed unnecessary violence and communal divides to be exploited, despite Jansangh's deliberate efforts to bring in the *Hindutva* agenda clandestinely. Shah mentioned about role of Jansangh, 'besides several college-based student organisations, the ABVP, the student front of the Jansangh, supported the demands of the Lagni Samiti. And the students of the ABVP observed a fast on the pavement near Apna Bazar, a cooperative store [in Ahmedabad city]. Thus, it was an attempt to link the students' problems with the anti-price rise

agitation of the Jansangh' (1974: 1443). One of the student leaders from south Gujarat shared his opinion thus: 'We did not know how to address large crowds. Local RSS *shakha* leaders initially addressed the students and motivated them for the Andolan'. In response to Shah's observation, Sanghavi argued that, 'his opinion that in hindsight the movement helped 'the reactionary forces to flourish'. This viewpoint is hardly justified by the facts of history' (2010: 485).

### **Methodological Concerns for Studying a Social Movement**

Scholarly writings have described the *Andolan* with structural, structural-functional approach, focusing broadly on five aspects; namely, objectives, forms and methods of protest, leaders and leadership, message and content for mobilisation, and outcome. This was the prevalent method to study the social movement in 1970s (Oommen: 1990). In this approach, the use of protest material, vernacular writings and debates in the region have not been used apropos to the *Andolan's* description. While revisiting and reconstructing the Andolan from contemporary viewpoints, incorporating people's movement and rights perspective, the constructivist approach becomes complementary wherein 'ideation, artefacts and performances'<sup>16</sup> (Johnston 2009) capture the cultural essence, ethos of youth, and contemporary debates and thinking. The constructivist approach also gives importance to the role of the memories of the participants and observer, etc. in covering the macro and micro dimensions of the protest. This *Andolan* is portrayed as an 'upsurge' since 'populist agitation' bypassed micro-level details, and this approach could not shed light on the distinctive features and progressive elements of the protest. This situation raises concerns about the use of the material in the local language as also the ability to capture the linguistic and cultural symbols, regional characteristics, strategies and methods of mass mobilisation of the *Andolan*.

The analyses, interpretation and concluding remarks of earlier scholarly writings are linked to a process of evolving a conceptual framework. How does a conceptual framework deal with the varied issues, activities and events at different places and at different

times, and by different actors or interest groups? Studying a protest or a social movement with multiple actors, multiple agencies, multiple events at different places and the goals achieved within a couple of week becomes challenging.

Different frameworks, such as assertion of middle class, educational politics, and extra-parliamentary way of protest by different scholars were applied; thence interpretations of consequences of the *Andolan* differ from each other based on the same content. This state of affairs leads us to think about establishing inter-linkages between the various units and levels of observation of the protest or social movement; and how to capture the twists and turns, highs and lows, and factional politics within the protesters, and difficulties faced by the protest.

The *Andolan* addressed political and financial corruption by the ruling party, and challenged the elected representatives on moral grounds. It then geared towards pressurising the MLAs to resign. Why did it receive attention as 'varied issues and diffused agenda' by the social scientists, and not as a protest that addressed 'corruption' as an issue? Was this a limitation of the structural-functional approach to study the social movement in the 1970s? Or did a limitation of conceptual framework reduce this *Andolan* to 'naïve student protest', without capturing its potential, such as its attempt and potential to bring about changes in the existing educational and political system?

'Corruption has become a pertinent issue in India. The fact is that the corruption has not received as much attention in social sciences, as it deserves, except a bit in economics and in public administration. The economists have sought to explore the linkages between corruption and development and scholars of public administration have addressed the issue of corruption and quality of governance' (Sharma 2011: 8).

In contrast to this, the *Andolan* had articulated moral, political and financial corruption by the ruling party and questioned the elected representatives' morale and need to put a necessary check on their powers. It did attempt to address issues within the Constitutional frameworks and highlighted its limitations, articulating the need for 'right to recall'. How can the inter-linkages

between a protest be explored, as also its potentiality to deal with corruption, and social science study and vocabulary?

### **Rights Articulated on Streets and in the Court**

'In underdeveloped nations, military dictatorship or blood-splattering revolution is the two most successful ways to deal with unpopular rulers. Gujarat's *Andolan* has shown a third path; that is asking the politicians who have lost confidence of the *praja* to step down' (Dave et al. 19974: 87). This argument sets a tone of a debate on a political-cum-democratic issues and activities. The students played a role of awakened citizens and political actions were taken based on ethical stance, such as 'the MLAs do not have the trust of the *praja* and, therefore, they should resign.'

The need for 'Right to Recall' was articulated in the light of absence of provision in the Indian Constitution for having systemic checks and balance, i.e., making elected representatives accountable. A leaflet named *Tankho* (A Spark) was brought out by the *Andolan* during January and February 1974. It captured the views and expressions of the protesters. Six issues of *Tankho* were published and sold at 25 paise per leaflet to generate funds for the *Andolan*. *Tankho* 6 addressed the MLAs as well as the readers to undertake necessary action:

'You (MLAs) have a list of black marketeers, black money holders and smugglers. Make this list public and arrest them under MISA...each police station and C.I.D. has a list of 'anti-social elements'. This list should be made available to the public so that *janata* can boycott them. Use MISA for them...make this information available; how many cases have been registered against the smugglers and rate of conviction for them...*janata* wants to know about asset holding by the existing MLAs and the future candidates who wish to contest election...*janata* wants to know investment details of the elected candidates—shop, distribution agencies, farms, theatre, stock exchange, safe deposits in the banks, etc.'

*Tanakho* 6 also enunciated desired development, which was also reflected in a memorandum submitted to the President:

'We do not want schemes of the luxurious flat or bungalows, we want

basic amenities so that each citizen gets water, drainage and shelter... we do not want cars or car manufacturers, we want bi-cycles, buses, public transport and bus manufacturing factories...we do not want huge buildings of university at every district, we want primary school in each village which provides free education to all...we do not want expensive sport stadiums, swimming pools, we want municipal vegetable markets, fair price shop and cloth market at every locality.'

Umashankar Joshi articulated civil and democratic liberties based on various incidents, especially in terms of repressive actions by the government. One such instance was a police brutality on young girls and women on 21 January 1974:

'The horse rider police ran horses over young girls and beat them and later the police commissioner apologised. Actually, this order was given by the Home Minister and he should have apologised. We do not want police raj, however, it seems that we would not be able to remove police from our public life in near future...The violence by the anti-social elements should be considered different from state-initiated and protesters'initiated violence...Such protest is not only a matter of law and order, it has larger (political) context. We have to end corrupt raj' (2011: 151).

The term *roti ramakhan* signifies right to food and food security. The policies regarding food quota and supply should be people oriented so that food shortage and scarcity are never created. The *Andolan* addressed a wide range of policy issues related to 'right to food' from crop production to its procurement and distribution of food grains.

Two trendsetting legal cases highlight citizens' rights derived from the Indian Constitution. First is to stop misuse of MISA, and the second, acceptance of resignation of the MLA by the Speaker. Some student leaders had gone underground after 24 of them were arrested under MISA by the second week of January. The office of the Police Commissioner issued a warrant on 29 January 1974 against these leaders and announced that they have to report at the police station within 72 hours of this warrant. On 1 February, one of the principals and a student leader appeared in the High Court and, after primary hearing, the bench of two Judges ordered the Police Commissioner to not arrest them until the next hearing.

This was for the first time that the High Court had given interim relief to the applicants under MISA.

Regarding another case, a petition was submitted on 24 February 1974 against the Speaker of the Legislative Assembly as he was not accepting the resignations submitted to him by the MLAs. The lawyer on behalf of the *Andolan* argued that, 'As per Article 190(3) of the Constitution, if any MLA submits the resignation to the Speaker, the MLA loses his/her status as legislature and the position is considered as vacant. The Speaker has no right to investigate the reason for his/her resignation' (Dave et al. 1974: 176). As a result of this petition, the Speaker accepted the resignation of 18 MLAs the following day.

### **Challenges in post-*Andolan* era in Gujarat**

Many protests have the potential to grow into a social movement but this remained an upsurge. Why was it so? Why did the agenda of social reconstruction remain unfulfilled? Why, despite the formation of 421 NYS all over Gujarat could the institutionalisation<sup>17</sup> of the *Andolan* or its agenda not take place? Had the agenda been institutionalised, would it have gone a long way and this protest would have been transformative?

One of the explanations given by Altbach regarding typicality of a student protest, 'It is very difficult to predict where student activism will occur with any degree of accuracy...In place of mass student organisations, a number of more local groups, mostly on *ad hoc* nature, have developed... Student agitations seem to be characterised by unpredictability and shifting goals' (1970: 5). The 'studentship' is for a defined period. Once the student is out of university, s/he has to face different set of challenges and s/he also loses freedom that one has enjoyed as a student. Due to this reason, students' protests have limited impact on time-scale and on the society as a whole. This justification does not explain 'why other supporters could not take the agenda ahead'. Does it reflect the culture of Gujarati society? Or does it indicate the absence of agency that could have built up discourse on citizens' rights and have created a foundation for the rights to get translated into

action? Or does it indicate ideology that can augment the process of change through guaranteeing citizens' rights?

During Emergency, students' movements were crushed ruthlessly. Student unions were converted into nominated associations for cultural activities. When the Emergency was lifted after the defeat of the Congress party in the March 1977 Lok Sabha election, the student movement had lost its *raison d'être*. As many students had joined hands with political parties, they refrained from resurrecting the movement. They were aware that the movement would not be blessed by political leaders in power (Jayaram 1979: 697).

In light of unfinished agenda, Wood (1975: 323) wrote aptly:

'There is an ironic lesson in this. Populist upheavals, lacking organization, leadership, and ideological content, achieve more of spectacular value in the short run because they are difficult to combat: there is no organization to repress, no leader to entice away, no ideology to counter. Populist movements are more institutionalized, and therefore more subject to repression, appeasement, or the atrophy that comes with boredom. They may, if they do not show results, produce a redoubled cynicism in "the people" whose cause they set out to champion. On the positive side, however, it must be admitted that extra-parliamentary populism produced some salutary consequences for India in 1974. A national debate on fundamental issues—corruption, governmental performance, citizens' rights, representation and recall—was provoked by ordinary people in Gujarat and Bihar, and new value standards were placed before the public...Congress regimes at different levels of Indian government were kept "on their toes" by populist opposition as much as by any other kind.'

The student leaders claimed that the *Andolan* had raised political consciousness; however, its failure brought criticism and cynicism from various parts of the state and the country. The *Andolan* was criticised as 'fascist' and 'naxalite', because the elected representatives were asked for resignation and dissolution of the Assembly; the Parliament and Legislative Assembly are considered as the supreme democratic institutions. The cynicism was expressed, 'students who were fighting against corruption, they became corrupt lot. They were fighting against political leaders with lesser values but later followed footsteps of politicians' (Gangadhar 1985: 29).



How does political awakening translated into bargaining for rights? When 'total revolution' started in Bihar in 1974 and continued in 1975, seeking inspiration from this *Andolan*, it passed on two signals to the ruling party. This was a chain effect of students' idealistic protests and its potential to spread across the country. As has been mentioned earlier, Jones and Jones linked these two protests with the PM's perception, leading to declaring a national State of Emergency on 26 June 1975.

Linking this *Andolan* with consecutive protests in Gujarat, its failure is supposedly attributed to further failures. For example, no qualitative changes took place in the educational system<sup>18</sup> or political system<sup>19</sup> in Gujarat in the 1970s. This *Andolan* could not make a dent on any power structure, could not bring about reform in electoral politics or parliamentary democracy, and could not fulfil the objective of social reconstruction. The leadership withered away. All of these causes and effects are seen as lacunas. Two *Anamat Andolans* (anti-reservation agitations—ARA) and a series of communal riots occurred in 1980s wherein the students supported by the unions of the state government employees aligned with the elites to fight against the government. The anti-reservation agitation of 1985 combined with communal riots is interpreted as elite's assertion—in form of attacks on scheduled castes' hamlets and intimidating them in various ways—for redefining social justice through the reservations policy, fragmenting Gujarati society or creating caste war (between forward and backward castes), and an onset of 'communalism and ethnic Hindu nationalism' (Shani 2007).

One of the major criticisms of this *Andolan* is that not a single student leader emerged as a social or political leader, who could strive for transformative politics and mobilising the Gujaratis in the succeeding time. Though the anti-reservation agitations started by the students, imitating some of the protest programmes of *Navnirman Andolan*, the radical components of the protest was absent, led without a leader, taken over later by the non-SC/ST employees in government services. Thus, these agitations turned Gujarat into a further polarised society on caste and communal lines, reformulating interests of middle class. This could also mean

that effective leadership could also augment process of bargaining for rights, over and above, the institutional support.

Actually, after dissolution of the Assembly in March 1974, consultations started between students and a few social eminent personalities. The perplexing questions of choosing a leader and building alliances with political parties started dividing lines among the awakened group. One of the arguments was that all parties should align against the Congress. Chiman Patel, after his dismissal from Congress, had formed Kisan Majdoor Lok Paksh (KMLP), a political party to fight the forthcoming elections. If all the political parties had to unite to fight against the Congress, it meant that Jansangh and KMLP become a part of a proposed united front. Student leaders argued 'How can such an unholy alliance take place?' (Jani 2011: 162). However, Morarji Desai (Congress (O)) aligned with KMLP, proving that there are no real enemies in politics and Gujaratis who fought against corruption and to bring in clean government, such selfish motives of political leaders would not let Gujarat become an exemplary state. In April 1975, Joshi anticipated, 'Gujarat will have to pay very high for such obliterated political style of these leaders' (2004: 433). Gujarat witnessed a low level of political institutionalisation. In other words, deterioration of the political culture, including unacceptable political alliances, political instability, and factionalism increased within a political party, especially Congress (I).

The socio-political scenario in Gujarat in the following decades became more challenging. Caste and religion based social and political divisions were sharpened. Chiman Patel was re-elected in subsequent elections through KMLP, and became CM in 1989 representing a Janta Dal (U) alliance. Bhartiya Janata Party (BJP) won consecutive elections since mid-1990s and *Hindutva*, Hindu nationalism became forces in itself, and subsequent elections were fought on populist agenda rather than any substantive agenda.<sup>20</sup>

This scenario brought the Gujaratis to crossroads, having to choose between continuity of all the political challenges, including corruption, reservations policy and spread of communalism. This situation left the citizens with a dilemma, a set of pertinent questions: if protests and politics do not bring progressive elements and do not breed promising social and political leaders for desired

social transformation, what kind of strategy would ensure democratic values and functioning of the institutions in our country? If the students are not politicised and facilitated by the political parties for 'a right cause' or 'common good' or depoliticised, what would happen to the agenda of democracy and egalitarianism?

## Notes

1. The word 'praja' denotes a much wider meaning than citizen and citizenry and is, therefore, used here as it has been used in Gujarati writings—to keep its essence intact.
2. 'Swayambhu' literally means self-initiated or self-emerged from the origin or base. As soon as the programme was announced by the leaders, people were seen carrying out the protest programmes in different parts of Gujarat. This protest was characterised by similar personalised outpourings.
3. Revised version of the article (1974) with some editorial changes
4. 'The college and university enrolments in Gujarat increased from 16,800 in 1950 to over 162,000 in 1971-72, a nearly tenfold increase in just over two decades. Of the total 147 colleges affiliated to Gujarat University in 1974, only nine were 'government colleges', the rest were all 'privately managed'. Commercial and political interests of educational institutions did not ameliorate the teachers' conditions and they supported the students against the CM's [Chiman Patel] high stakes in expansion of educational institutions' (Jones and Jones 1977: 459-60, emphasis added).
5. At present, this is Congress (I). With a split of Congress in two sections, Congress (O—Organisation) and Congress (R—Requisition) were made in 1969. For further details, see Shah 1974: 1433–1435 and Sud 2012: 24.
6. See Wood, 1975 for further details on factional politics of the Congress in Gujarat
7. The amount of the food bill varies between Rs 70-Rs 80 and Rs 120-Rs 130 in different writings on this *Andolan*.
8. A town in Saurashtra, western Gujarat
9. The dates of the event differ in different writings. I have referred to Amita Shah (1977) for the reporting of date, events and participants. She has documented date-wise information based on newspapers and magazines.
10. A nearby town to Morbi in Saurashtra

11. A district headquarter in Saurashtra
12. A political scientist, educationist, and an independent Member of Parliament for two consecutive terms.
13. A Draconian law like Terrorist and Disruptive Activities Act (TADA)
14. The Deputy Prime Minister and Finance Minister of India during 1966-69, headed Congress (O) in Gujarat after a split in Congress in 1969.
15. Gupta (1978) observed: 'Shah overemphasizes the spontaneous or conjectural character of the movement and glosses over the subterranean intervention of established political organizations. If, as he has shown, the leaders of the movement were disorganized, anarchic and devoid of any political acumen, then surely what sustained this movement must have come from outside the orbit of its more overt sponsors. Shah would have to demonstrate more convincingly how the movement exercised the tremendous sway it did without such organizational succour.'
16. Three broad categories for cultural analysis of protest movements: performances, artefacts and ideations. Of the three categories, cultural performance is the most fundamental. The performances are artefactualized to become the focus of the subsequent social action. Detailed descriptions of organizational processes, actors planning strategies to stake their claims, confrontations with the opposition, and the actual protest performances in public places are the best way to untangle the cultural processes at work in protest mobilization.
17. Institutionalisation in this context refers to 'the existence and persistence of valued rules, procedures and pattern of behaviour which enable the successful accommodation of new configuration' (Rai and Pandey 1981: 45) and an institutionalised political system is 'adoptable to new functions and personnel, complex in organisation and diversified in purpose and autonomous having established values and procedures of their own' (ibid.: 46).
18. Altbach (1970) opined that almost all universities in India suffered from common problems of scarce resources, lacuna in quality education, trained staff, etc., and therefore changes in the educational system is a difficult task.
19. See Shah (2004) article for details, comparing the direct action in Gujarat and Bihar.
20. See Shah, Ghanshyam. 1998. 'Issueless Campaigns', *Economic and Political Weekly*, February 14, 321-322; Shah, Ghanshyam. 2010. 'Beyond caste voting: Modasa, Gujarat revisited', *Economic and Political Weekly*, January 23, 54-61.

## CHAPTER 3



### Anamat Andolan 1981

‘The myth of Gandhi’s Gujarat—peaceful, tolerant and non-violent—exploded in the first quarter of 1981. For the first time in post-Independence India, a modern industrial metropolis (called the ‘Manchester of India’) was witness to the sound and fury of extreme caste violence aimed at the Dalits. For one hundred and two days there was the constant drumming of words like BC (Backward Classes), Dhedaz<sup>1</sup>, Savarna and Avarna (upper castes and Dalits), Ujaliyat and Pacchat (Fair castes and backward castes) in and around Ahmedabad. The violent anti-Dalit agitation acquired a complex and multi-dimensional character’ (Yagnik and Bhatt 1984: 45).

In Gujarat, ‘other backward classes’ (OBC) communities are known as ‘socially and educationally backward classes’ (SEBC) in official documents and also popularly known as ‘Baxi panch communities’, referring to the Commission appointed for the betterment of SEBCs and its chairperson. They are also called BC (backward castes) in conversational language of the upper caste Hindus, denoting their lower social status. This *Andolan* began after the announcement of 10 per cent reservation for SEBCs at the post-graduate level in the medical and engineering colleges; 10 per cent of the seats to be reserved in class III and class IV and 5 per cent of seats be reserved in class I and class II for state government services, based on recommendations of state Commission for SEBCs, popularly known as the Baxi Commission. It was started by Medical students studying in government run colleges, on 30 December 1980 and ended on 13 April 1981 after a 12-point accord was signed between the students and the government<sup>2</sup> (Shah 1987). However, state government employees continued protesting against this reservations policy until mid-May 1981.

Gujarat as a region or as a separate state in 1960 has not witnessed significant backward caste or anti-Brahminical movement like those witnessed in states of Maharashtra, Tamil Nadu, Bihar and Uttar Pradesh. The state also does not have a classical Brahminical ideology and its related hegemony. To a large extent, the upper castes were in the politics and holding major portfolios as ministers until the split of Congress party in 1969. When Chiman Patel became Chief Minister in 1973, political analysts observed it as 'rise of kulak caste in Gujarat politics' (Shah 1974, Wood 1975). In this context, two anti-reservation protests in 1981 and then again are important to study, as these protests have influenced the course of legal and policy related decision-making on reservations in Gujarat as well as in India. With 10 per cent reservation for SEBCs, total reservations reached 31 per cent quota for about 60 per cent of the population, of Gujarat. Utilisation and implementation of reservations for SC, ST, and OBCs has remained a controversial issue for over 30 years.

Recent Andolan started by Patels in July 2015, 'asking for reservations for Patels' or 'scrapping of reservations for all' is also linked with two Anamat Andolans of 1980s in Gujarat. The Patels (Patidar) in Gujarat were called 'Kanbi' and considered to be a middle level in the caste stratification till early twentieth century; it acquired its status as an upper caste (belong to general category, except Anjana and Modh Patel of north Gujarat, who are covered under SEBCs) with its and economic strength and became important actor for bringing about changes in social, religious, economic and political spheres since 1940s (Desai 1981).

Right from the 1960s, reservations policy has caused several legal battles, constitutional amendments and protests in different states of India. The central planning agency allocates a stipulated budget for preferential treatment for education among the OBCs. From mid-1970s onwards, the question of reservations for backward castes has gained greater prominence on the political agenda, which is linked with caste based politics and election ploys. Since beginning of twenty-first century, some castes, broadly landed castes, such as Jats, Kurmis, and Gujjars have demanded their inclusion among OBCs, and eligibility for reservations. This question, thus, is now linked to present development paradigm—

privatisation of education, shrinking employment opportunities, and high risk-low return agriculture—deepening economic crisis.

### **Backdrop: Reservations' Policy for OBCs at National and State Level**

The reservations' policy symbolises big steps towards equality and an egalitarian society to deal with erstwhile caste hierarchy and historical injustices to the castes at the bottom of the pyramid. Constitutionally:

'Reservations, along with other measures of protection and upliftment of the weaker sections of society, should be viewed as an instrument of a larger social policy of the state addressed to a long-term goal of creating a civil society through extending effective citizenship rights to the vast sections of the population who have been historically deprived and marginalised' (Sheth 1987: 1957).

The Constitution of India has given clear mandates regarding reservations for the SCs as formerly untouchables and STs as geographically and culturally isolated communities in proportion to their population but a similar treatment has not been implemented for the OBCs. Reservations for OBCs are not in the same proportion to the population as for SCs and STs. There are complexities and ambiguities for identifying OBCs—who can be called 'backwards' and what are the criteria for defining 'backwardness'<sup>3</sup> and its operationalisation—are issues of contention. 'This difference has caused several legal battles, constitutional amendments and protests since the 1960s' (ibid.).

Since 1960s, the decision for identifying OBCs scuffle between different agencies—the central government, state government, judiciary and the central planning agency. Since the Constitution assigned the responsibility of identification of the backward classes to the state government, the process became more complex; the term 'backward classes' has had different meaning at different places since 1918. Thus, the term remained elusive and furthermore, became open to the Judiciary to interpret and open to the political parties to use it for political dividends. However, this had remained away from public opinion till 1980 (Galanter

1978). Before the Constitution came into force, there was a great expansion in the employment of the Backward Classes category in state government educational institutions and jobs. Several states created such a category for the first time, for example, the Bihar Government made provisions in 1947 for OBCs in post matriculation studies (*ibid.*: 1815).

As per article 15 and 29(2) of the Indian Constitution, provisions for reservations for OBCs are: first, the state can make any special provision and also take steps for the advancement of any socially and educationally backward classes of the citizens. Under the Fundamental Rights provisions—Part III, Articles 15(4) and 16(4) of Indian Constitution, the central and state governments are empowered for identification of beneficiary groups (OBCs) as also for making recommendations for their improvement. The state government is given the primary role in deciding 'backwardness' and 'backward communities' in the Constitution and taking necessary actions towards their advancement. Second, as per Article 15(4) of Indian Constitution, the state can make any provision for the reservation of appointments or posts in favour of any backward class of citizens, if the state finds the representation of OBCs to be inadequate in government jobs. Third, as per Article 46, as part of directive principles of Indian Constitution these communities can avail of preferential treatment in medical institution but with marginal difference of marks scored than the other social groups that are non-beneficiary of reservations; they can have access to reserved seats in state government jobs and educational institutions but not in proportion to their population, as SCs and STs have.

The first Backward Classes Commission was appointed by the Government of India under the chairmanship of Kaka Kalelkar in 1953. The Commission prepared a list of 2,399 backward castes comprising about 32 per cent of the total population. There was disagreement among its members on whether caste should be a criterion for defining 'backwardness'. The second Commission was appointed under the chairmanship of B.P. Mandal in 1978 and it included 3,248 castes or communities comprising 52.4 per cent of the population of India. These communities were identified on the basis of eleven indicators of social and educational backwardness.



The Commission recommended 27 per cent quota of reservations for the Backward Classes in light of the Supreme Court's judgement regarding *Chitralekha vs. State of Mysore* case, not to exceed 50 per cent. First Gujarat State Backward Classes Commission was established under the chairmanship of retired Justice A.R. Baxi in 1976. The Baxi Commission identified SEBCs based on caste as well as other factors such as poverty, illiteracy and social habits. This list included 82 castes, including 20 Muslim and one Dalit-Christian communities. The Second Gujarat State Commission for Backward Classes was appointed under the chairmanship of Justice C.V. Rane to review the Baxi Commission's findings in 1981. The Rane Commission did not consider caste as an indicator of backwardness; it identified 63 occupations practised by the SEBCs. In addition, it suggested that benefits be limited to families whose annual income did not exceed Rs 10,000 per annum, and recommended an increase in backward class reservations from 10 to 28 per cent, over and above the 21 per cent reserved for Scheduled Castes and Tribes in Gujarat. The lists of the State and Central Commissions for OBCs differ in many states, for instance in Gujarat, the Baxi Commission identified 82 communities as backward groups while the Mandal Commission listed 105 communities in 1980.

Despite two Central Commissions, two Gujarat State commissions, and other political processes, the puzzle of 'backwardness' is yet to be solved effectively. In the absence of a central policy, arbitrariness can be seen in the policies and practices developed by different states during 1970s and 1980s. In post-Mandal agitation (1989), states like Haryana, Madhya Pradesh and Odisha declared a new reservation quota for the OBCs. These states applied a mixture of criteria, the extent of quotas varied for educational, and government job benefits (Shani 2007).

Prior to 1980, Gujarat had 10 per cent of reservations for SEBCs—little more than Punjab (5 per cent), Haryana (10 per cent), and lower than Maharashtra (14 per cent), Uttar Pradesh (15 per cent), Andhra Pradesh (44 per cent), Karnataka and Tamil Nadu (50 per cent) reservation for OBCs. (See appendices 1 and 2). With regard to the reservations for SC and ST in proportion to their population in the state, that is, 7 and 14 per cent, respectively,

at all levels from class I to class IV posts, applying roster system in all the classes in proportion to their population was introduced in December 1971 (Shah 1987).

This chapter is organised in three sections: the first section provides details of the *Anamat Andolan* of 1981—its historical context, political calculations and engineering by the ruling party, Congress (I), the profile of the protesters, the various types of protest programmes, and their outcome. The second section briefly mentions the *Andolan's* impact and relates it with contemporary time, issues, and challenges; namely, attacks on the SCs, myth and reality of reservations in Gujarat until the 1980s, the role of the Congress as a ruling party, and role of promoters and protectors of citizens' rights. The third section interlinks rights articulated on streets and later resolved in the Supreme Court. This section views the *Andolan* from rights' perspective and discusses approaches to rights, i.e. which rights for whom and who is able to bargain for their rights. The chapter concludes with post-*Andolan* changes and challenges, linking it with succeeding *Anamat Andolan* in 1985 in Gujarat and briefly with *Patel Anamat Andolan* in 2015.

### **Anamat Andolan, 1981**

The medical students of the B. J. Medical College<sup>4</sup> (BJMC), Ahmedabad, launched an agitation against reservation of seats for SC candidates in the pathology department. Some students of this college had filed a case in the Gujarat High Court in November 1979 against the inter-changeability, carry-forward, and roster system of reserved seats. They lost the case in the court and, therefore, resorted to collective action (ibid.).

The medical students gave a memorandum to the State Minister for Health to abolish the reserved seats at BJMC on 31 December 1980. The memorandum made the following demands: (i) immediate abolition of roster system; (ii) abolition of carry forward system; (iii) reduction of the number or reserved seats in the post-graduate courses; and (iv) increase in the number of unreserved seats at the postgraduate level (Desai 1981).

The students were mainly engaged in two activities for abolishing reservations during initial 10 days—negotiating with the

government through submission of memorandum and organising meetings with concerned ministers, and asserting their claims through destructive forceful actions, such as stoning and damaging properties including hospital, college and public properties. In response to this, the president of the state unit of the *Dalit Panthers* had replied that if the government accepted the demands of the high caste students, we would launch an agitation.

On 9 January 1981, the government agreed to abolish the 'carry forward' system in the reservation of seats for SC and ST in postgraduate studies in medicine. The CM, Madhavsinh Solanki echoed the protesters' voices, 'in professions like medicine and teaching, merit could not be totally ignored. It would affect the progress of the future generation if the posts were filled in on a caste and community bases' (Desai 1981: 821).

The medical students of Ahmedabad, Vadodara, and Jamnagar colleges intensified protest activities—with strike, taking out procession, burning effigy of the 'reservation system', putting vehicles on fire, and demanding abolition of reservation system for SC and ST candidates in postgraduate studies through these programmes. The junior doctors of these colleges declared their support. Medical students met the Minister for Education and the Minister for Health on 15 January 1981 and the state government issued orders on 17 January abolishing 'inter-changeability' and 'carry-forward' system. The Health Minister evolved a formula for increase in seats for medical students at the postgraduate level. The students did not accept the formula and continued their protest. The consecutive talks between the government and the students failed in the third week of January 1981, and the students declared that they would continue their protest until their victory.

Soon the protest took a violent turn, attacking the SCs in different parts of Ahmedabad city. The existing literature establishes linkages between the protest and attacks on SCs with a death of a SC boy, Shakrabhai, who was burnt alive in Jetalpur village Panchayat office premises, only 15 km away from Ahmedabad in the last week of December 1980. A charge of theft against Shakrabhai was fabricated by the Patels (belonging to the same sub-caste of Patidars) and in the name of punishment, he was burnt alive. After this incident, SCs were emotionally charged against

the upper castes, and began demanding justice for Shakrabhai's death. Simultaneously, SC families in Jetalpur village were facing social and economic boycott by the upper castes. When the medical students demanded scrapping off the reservation system and organised meetings and rally in the same areas, it took little time for the *Andolan* to spark off.

On the Republic Day, 26 January 1981, a meeting was organised by the medical students at Asarwa, an area close to the BJMC, where the Patels and the SCs reside side by side. After the meeting was over, heated discussions took place between the students, Patels and SCs which soon turned into violent action with stoning and throwing burning flames on SC's hamlet in nearby vicinities. Ten SCs were injured and two houses were damaged. A series of confrontations between SCs and caste Hindus took place in other areas of Ahmedabad city and soon curfew was imposed in the disturbed areas (IRS Report 1981).

The government announced six-month closure of all Medical Colleges and asked the students living in the hostel to vacate their rooms within 24 hours. The striking junior doctors and interns were served show cause notices asking why their services should not be terminated. Despite these actions by the government, the protest continued; attacks on SCs and putting their residences on fire in other parts of Gujarat also continued. Simultaneously, the agitating medicos filed a writ petition in the Gujarat High Court against the government's decision and the single judge Bench rejected their petition. The desperation of the upper caste Hindus can be understood in the context that all writ petitions against reservation at PG (post-graduation) level had been turned down by the Gujarat High Court (*ibid.*: 25).

On 8 February 1981, the medical students and the Health Minister jointly worked out a formula, which was to be approved by the cabinet. The formula was rejected in the Cabinet meeting and the talks failed again. The Students' Action Committee of all the five medical colleges along with the Junior Doctors' Association decided to intensify the protest with various programmes. They took an oath in front of statues of the national leaders like Mahatma Gandhi and Sardar Patel, sprinkled their blood over the statues, bandaged eyes of these statues and inserted cotton pads in their

ears. Later, they declared starting of Parallel Open Medical College in an open ground. However, the strict cordon of the police foiled their attempt.

Many medical teachers and eminent private practitioners attached to the government and semi-government hospitals and the Ahmedabad and Gujarat Medical Associations declared their support to the protest and also started participating in protest programmes. Eventually, medical representatives and chemists also declared their support to the agitating medical students. The employees of the semi-government agencies, traders and *savarna* mill workers joined the agitation during its different phase (Yagnik 1981a). 'During one of their many stormy meetings, a doctor from Kalol said: 'Let all the villages and the cities in the state go on fire; let there be a dead person in every family; then only the importance of [competent] doctors in the society will be realised' (ibid.: 555, emphasis added).

The caste conflict acquired a new dimension towards end of February. The newly formed *Dalit Hitrakshak Samiti* (Committee for protections of Dalits' interests) gave a call for two-day strike in the Textile Mills. About 75,000 SC textile workers, working in spinning and carding departments of the mills, struck work on 24 and 25 February 1981. In response to this, the *Savarna Hitrakshak Samiti* asked the *savarna* workers to strike. This strike divided about 2.5 lakh textile workers on caste lines and inflicting a body blow to the Majdoor Mahajan Sangh (Textile Labour Association-TLA) started by Gandhi 60 years ago. The TLA was expected to play a role of arbitrator for the workers and the *savarnas* but it failed in doing so. About 50 traditional trade associations gave a call for closing shops for four days, supposedly against the 'deteriorating law and order situation' (ibid.), further solidifying the process of polarisation (Spodek 1989).

From the first week of March, the protest became even more solidified and expanded. The protesters demanded abolishing of the roster system. The group of protesters expanded to a large extent, gaining support from the state government employees, including unions of the police inspectors, sub-inspectors and constables, and semi-government such as Bank Employees Association, Life Insurance Employees Union and others. The employees'

associations were supporters of the *Navnirman Andolan*. With involvement of the government employees, the venue of protest changed from Ahmedabad to Gandhinagar. Geographically,

'The agitation spread to rural areas particularly in Kheda, Ahmedabad and Mehsana districts [in central Gujarat]. In several villages, the Dalit *bastis* were set on fire and at a few places militant SC youths were beaten up. Though the Dalits received protection from the backward castes in a few villages, such cases were an exception, not a rule. In fact, at several places upper castes succeeded in instigating the backward castes against the SCs. The Dalits were terrorised and migrated to the neighbouring towns' (Shah 1987: 165, emphasis added).

'At one place in Ahmedabad, the Waghri who are SEBC joined the Hindus in attacking the SC. Similarly only once in the beginning did the Thakors attack the SC but ceased after they were made conscious of the fact that they belong to SEBC and that the agitation was against their interests also' (Desai 1981: 822).

On 2 March 1981, the state and central government employees gave a call for *karmachari bandh* (strike by the government employees). About 70 per cent of the employees (about 100,00) went on casual leave in support of the protest. They said, 'the government must scrap all reservations, if it wants to avert a no-tax campaign and the government servants' strike of 25 March' (Yagnik 1981a: 553). Meanwhile, the Parliament as well as the Gujarat legislative assembly had unanimously passed the resolutions of the supporting the reservation policy. 'The leaders of *Anamat Virodhi Samiti* (Anti-Reservation Committee) responded saying that these resolutions have "exposed" all politicians' (ibid.). The support of doctors, and lawyers practicing at all Courts to the on-going protest against reservation system, which brought out the protest to the streets from the college compound. With this support, major cities and towns of Gujarat repeatedly witnessed total *bandh*.

Narendra Tiwari, Union Planning Minister, visited Ahmedabad on 1 March 1981 and tried to intervene but miserably failed in his venture. On 8 March, Kedar Pande, the Union Railway Minister, was sent to Ahmedabad to hold discussions with various groups in the agitation and also arrive at a workable solution. His efforts also met the same fate. On 17 March, the Prime Minister held

discussions with the opposition parties' key leaders to assess the situation and seek their support and participation in solving the problem.

When the 65 textile mills remained partially or fully closed for six days continuously for the first time in 50 years, the GCCI, Ahmedabad and the Gujarat Mill Owners' Association (renamed Textile Association), along with four eminent men appealed for 'peace' through an advertisement in a newspaper. This appeal advised the students to accept the concessions offered by the government and continue negotiations on their remaining demands. However, along with this appeal, they floated the idea that 'the whole issue should be submitted to the arbitration of the Indian Medical Council, and that government should immediately reopen the medical colleges declared closed for six months' (ibid.). This perspective also indirectly indicated that the ideas should be reached out to national level when the state and the Judiciary in the state do not support the protesters for their cause.

On 4 April 1981, the Chief Minister appointed a Joint Committee of reserved and non-reserved employees along with the secretaries of the departments concerned. The committee was asked to examine the difficulties and anomalies arising out of the implementation of the roster system of promotion and then submit its report in three months' time. The government employees halted the protest after appointing this committee; however, some of the employees set up a parallel committee 'Karmachari Anyay Nirvana Samiti' on 6 April 1981 and demanded the abolition of the roster system. They were supported by about 100,000 Panchayat Karmacharis, who were not beneficiaries of the reservations, took a mass casual leave. These agitating employees made systematic efforts to turn their local agitation into a national one by sending their representatives to other state capitals. These efforts culminated in the 'Anamat Special', the Anti-Reservation Special train from Ahmedabad to attend the Anti-Reservation National Convention at Delhi on 8 April 1981 (Yagnik 1981a).

The late Prime Minister, Indira Gandhi, intervened in the situation by sending her emissary, Jaisukhlal Hathi in the last week of March for talks with the students (Desai 1981; Shah 1987). She invited the students as well as the chief minister to Delhi for nego-

tiations. After several rounds of talks in Delhi and then again in Ahmedabad, both the parties signed a 12-point accord on 13 April 1981 (Shah 1987). The non-reserved Gujarat Sachivalaya employees withdrew the strike unconditionally on 23 May 1981.

As such, a total of 18 districts were affected by the protest. The government maintained the law and order through by way of curfew, firing, cane-charge, using tear-gas shells and mass arrests all over Gujarat.

### Protest Programmes of the Andolan

Following the pattern of the *Navnirman Andolan*, the students performed protest programmes. During the *Navnirman Andolan*, ringing the death bell (of corruption) was very popular and people rang the bell in the night for a month. Similarly, the students also performed *Anamat Ghant* (Reservation death-bell) at some places in Gujarat. Other programmes included taking out a silent procession (holding flaming torches and candles) and a rally called *Anamati Gadheda* (donkeys having reservation benefits). Calls for *bandhs* and strikes in different cities included closure of educational institutions, shops and offices, and burning effigies of the Ministers concerned and Reservation remained a common programme at different places and times in the state. Like the *Navnirman Andolan*, the students hijacked Ahmedabad Municipality buses. There were violent incidents of arson, stabbing, and stone throwing in urban areas and also burnt some of the State Transport Corporation's buses. In January, the protesters celebrated *Anamat Uttarayan* with kite flying on *Makarsankranti* day (14 January). Each kite carried a slogan against the reservation system.

Two significant protest programmes—closure of textile mills by the SCs and later by the *savarnas*, and mass casual leave by about 100,000 state government employees twice—exhibited agitation and counter agitation measures during the protest. The employees of the state government gave the call for 'no tax campaign'.

A role-play was staged by the agitating students, Anamat Kumari's marriage with Anamat Kumar. A fake Gandhi participated in various programmes as the surprise element and he



moved around the street with two containers carrying stones and flowers. *Anamat Jagran* and *Anamat Garba*, i.e., a call for night awakening and spending nights dancing the *garba* (Gujarati folk dance) remained a common activity at many places in the state. *Anamat Yagna*<sup>5</sup>, a special offering through fire was also performed. Messages were conveyed to different politicians, including Yogendra Makwana, a leading SC minister and Prabodh Raval, the Home Minister with mock brain operations being conducted on the effigies.

When the government closed down the Medical Colleges, the hostels, the students organised a parallel medical college and hostels at Sardar Garden, and B. J. Medical College open ground. After the Parliament accepted the reservation policy in principle, the students conducted a mock Parliament on the issue of reservations.

### **Attacks on SCs**

Attacks on SCs started vigorously and regularly from 26 January 1981 onwards, by burning their houses and work places, stabbing and injuring them, killing them, and imposing social and economic boycott over them. In many rural areas, they were not allowed to work on farms and fetch water from the community wells.

The northern and central areas of Gujarat were severely affected, as in these areas there was a concentration of the educated and employed SCs, whose social upward mobility was noticeable. In Saurashtra, these communities were mostly confined to cities like Jamnagar, Junagadh and Bhavnagar.

Statistically, 46 SC hamlets were attacked at different places in Gujarat, forcing 1,629 SCs to evacuate their places of residence and relocate. In all, 1,760 evacuees were staying in the refugee camps in Ahmedabad city and 116 SCs sustained severe injuries. Atrocities on 20 SCs were also reported. The police arrested 40 SCs under faulty charges and 94 SCs were injured in police attacks. Total 61 police atrocities were reported on women; of them, 40 were at their respective places of residences and the rest at the police stations. In the 71 atrocities committed by the police and anti-social elements reported, 24 persons were injured and 47 persons lost their property (IRS Report 1981). The total damage of property of

SCs was Rs 905,350 (almost one million), almost equally in rural and urban areas.

*Dalit Panthers* addressed issues of SCs in different ways—organised the counter-agitation and called a strike in Textile Mills; refugee camps were set up; legal cases concerning police atrocities were attended; responded to misrepresentations in the Gujarati press; and attacks by the *savarnas* were represented before the government. The SC leaders were trying to unite all the beneficiary castes of reservations—SCs, STs and the SEBCs (covered under the Baxi Commission). A senior sociologist I. P. Desai has observed:

‘The unity achieved at the level of consciousness among all backwards has been unparalleled in the social history of Gujarat. Some militant and ex-criminal castes<sup>6</sup> were instigated by caste Hindus against SCs; but not only did they refuse to join, in rural areas they are reported to be protecting SCs’ (1981: 822).

However, with social and economic boycott, the counter striking in the Textile Mills was a major blow to the scheduled castes. They were left with no ways to counter the ongoing protest. A human right activist, Achyut Yagnik observed consequent changes in mindset of the SCs:

‘The most important change has been in the attitude and outlook of the Dalits. Their mute trust in the caste Hindus and a belief that they would be left alone in their habitual misery has now been replaced with a pervasive sense of mistrust, insecurity, hatred and, among the more conscious, even contempt. Ambedkar, and Ambedkerism, is now established among them while Gandhi and Gandhism are dead and gone. Between mid-April and mid-May about 700 Dalit families in Ahmedabad embraced Buddhism, signifying their public repudiation of Gandhi and Hinduism. As for the future, there are three undercurrents among the Dalits: (a) religious conversion; (b) putting faith in a non-Harijan and non-Adivasi but a pro-poor Congress leader Jhinabhai Darji; and (c) go along with the left [political] parties. In conversion, the trend is for Buddhism and not Islam’ (1981b: 977).

### Outcome of the *Andolan*

Of the four-point agenda of the protest, three were won by the protesters—two protective features of the reservation system—inter-changeability and carry forward were abolished. Number of unreserved seats in the medical colleges at the postgraduation level were increased. In addition, the medical students got a raise in their stipend of Rs 150 per month, and they gained 17 additional unreserved seats for post-graduation in the four government-run medical colleges of Gujarat.

The loss to the state by way of damage to property was more than seven crores (70 millions) in 100 days. Loss of production in terms of person-days was two lakh (0.2 million). The monetary loss was worth nearly one crore (10 millions). In all, 40 people died during the protest (Yagnik 1981a). Carrying out a strike in the Textile Mills by *savarna* workers, in response to scheduled caste workers' strike, was a major punch to by the protesters.

This *Andolan* clearly shows the assertion of the 'non-beneficiaries of reservations', largely belonged the GC, for removal of reservations. The medical students were supported by the larger medical fraternity, later on by the employees of the different state government departments along with their labour unions, members of the GCCI, *savarna* workers working in the textile mill, and university teachers. The unity among these supporters was created along the caste line for opposing the reservations policy for SEBCs, this was proven to be a significant move in terms of success of this protest. Their unity gave them the strength to assert their agenda with two groups/institutions: the state/government as well as the SCs. The protesters pressurised the state, including the Judiciary, to remove reservations of all types or change the criteria for reservations. The SCs were pressurised through intimidation: violence, killing, destroying their beholding and assets, and by boycotting them socially and economically in rural and urban areas. Aligning of the 'power elites'<sup>7</sup> displayed a facet of 'social Darwinism'<sup>8</sup>.

The employees of the state government were expected to align with the values upheld by the Indian Constitution but they supported the *Anamat Andolan*; thus they denied the concept of social justice enshrined in the Indian Constitution.

Newspapers or media—the fourth estate of the state—is expected to play a role of watchdog for betterment of the citizens. Some Gujarati newspapers deliberately created misunderstandings and rumours<sup>9</sup> against the SCs as well as manipulated the news as ‘news-advertisement’, i.e., the message was conveyed through advertisement.<sup>10</sup> Consequently, SCs suffered the most among the reservation beneficiary communities.

The Editors’ Guild of India looked into the charges of bias and distortion of news in the Gujarati press in its report. ‘The papers held to be chiefly guilty of such performance were the proprietor-edited *Gujarat Samachar* and *Sandesh*, the two largest circulating papers in Ahmedabad, and *Jansatta*, the Gujarati daily of the *The Indian Express* group’ (EPW 1981: 1556). The fact-finding committee of PUCL observed that these newspapers were largely owned by higher castes and they distorted the facts to support their side of argument on the issue of reservations (Shah 1987: 167).

### ***Anamat Andolan* and its Relevance in Contemporary Times**

The issue of reservation has remained contentious in India since its inception<sup>11</sup>, in terms of its abstract principle, complex functioning and implementation credentials. The citizens who had not received benefits of reservation, have challenged its principles, the rationale of the principle, criteria for selection of groups and repeatedly questioned its value base, based on its implementation (Wood 1987). In post-Mandal anti-reservation agitation in different parts of India, several legal cases, and judgements by the State High Courts and Supreme Court have apparently solved many problems regarding reservations for OBCs<sup>12</sup>; yet its operationalisation and implementation have remained complex and, to some extent, disappointing. This *Andolan* was analysed mostly from social composition and political ploy<sup>13</sup>, reasons behind this *Andolan*, and from perspectives of caste-class-religion (Yagnik 1981; Shah 1987; Wood 1987; Spodek 1989). This section addresses issues that are linked to rights of citizens in contemporary times. They are: (i) social composition of reservation beneficiary groups and non-beneficiary groups—idea of ‘majorityism’, i.e. a group of

certain citizens that enjoy decision-making for others in name of 'common good', and role, interests and behaviour of 'middle class' (Fernandes 2006); (ii) myth and reality about reservations in Gujarat; (iii) role of the Congress(I) as a ruling political party in Gujarat; (iv) the reason behind attacks only on SCs among reservation beneficiary groups; (v) falsifying and stereotyping 'reservation beneficiaries' as one homogenous group; and (vi) the role of promoters and protectors of citizens' rights in Gujarat.

In a given demographic composition of Gujarati society in 1980s—21 per cent SCs & STs, population, approximately 15 per cent religious minorities (Muslims, Christians, Sikhs, Buddhists, Parsis and others), 35 to 42 per cent SEBCs and the rest was GC. The pertinent question is: 'Why could not the SC, the ST and the OBC, who together constitute more than 50 per cent of the population, fight effectively against a small section constituting less than 20 per cent of the population?' (Shah 1987: 155). Is creating two groups—one larger but underprivileged and the other smaller group but is made of 'power elites'—for arguing about the reservation an appropriate way of framing questions and academic query? Does description of a society with such binaries help us in understanding the existing heterogeneity and polarisation within them at various levels?

Some thought-provoking issues, which are closely inter-linked, need to be addressed. First, calling strikes in the Textile Mills by the SCs as a counter action to the protesters' demands and assertions; and the second, absence of collective action from SEBCs as beneficiary groups of the reservations, in order to protect their right to reservations. Do these indicate that the voicelessness of these sections of society was generated from either their ignorance about their right or their inability to raise their voice as disadvantaged sections? Does this situation imply a gap between their leaders, especially the Kshatriyas, who historically negotiated reservations in Gujarat<sup>14</sup> and the other castes/communities belonging to the SEBCs category?

Second, this protest highlights the primary interest of the middle class formed across all the castes regarding access to education and employment through reservations (Shah 1987). The assertion for scrapping of reservation was targeted against the 'visible

beneficiaries of reservation', that is, the SCs. Reservations and consequent benefits were perceived as a threat by the 'non-beneficiaries of reservations'; a compulsion for sharing common resources with historically disadvantaged groups through compensatory policy. This perception has played a role in blowing up issues of reservation beyond its scope. If we consider ensuring social justice through reservations as a tool so that disadvantaged groups can enjoy full citizenship rights, there are more challenges for its acceptance and operationalisation. Though the union of 'non-beneficiaries of reservations' is smaller in size but appears stronger and its actions have proved to be forceful. Such a situation of conflicts confines the scope of social justice, as well as the role of promoters and protectors of citizens' rights, especially of the right to reservation of the SEBCs.

Third, since any criteria for reservation for the OBCs are not clearly defined, it has remained open to its use by the political parties for political advantage. The Congress's election ploy of KHAM alliances provided a foundation to the 'non-beneficiaries of reservations' for unity and unified assertion against the reservation system, asking either for abolishing the system or revising the existing criteria.

Fourth, the SEBCs is not a homogenous category. It comprises 82 communities—with 20 Muslim and one Dalit-Christian communities. It is very difficult to create unity among such a diverse group. Its diversity in terms of social and education backgrounds, levels of awareness about their right to reservations, geographic spread, and existing caste hierarchies make it more difficult to unite them as a single group of 'beneficiaries of reservations'.

### **Myth and Reality about Reservations in Gujarat**

Many myths exist on the issue of reservations and there are no avenues to explain the reality. This protest has closed the doors so tightly that no clarification or communication for explaining reality exists in Gujarat.

There was no reservation of seats for SC/ST in the Medical and Engineering courses until the end of the 1960s. In 1971, the All India Council for Technical Education recommended to the state

governments and various engineering colleges that 20 per cent of the seats be reserved for SC candidates and 5 per cent for ST candidates (Shah 1987). In 1974, the Union Health Ministry suggested reservation for scheduled castes and tribes at the postgraduate level in medical colleges. The Gujarat government implemented it in 1975: 7 per cent for SC and 13 per cent for ST (Yagnik 1981). In July 1980, the government further reserved 10 per cent seats for the 82 SEBCs, along the lines recommended by the Baxi Commission.

In 1979-80, the SC and ST students in medical courses filled 507 (11.3 per cent) out of 4,500 seats. Out of the 857 seats reserved in the last five years in all five medical colleges of the state, only 37 seats (4.3 per cent) were filled by the reserved castes (Yagnik 1981). Out of the total 742 teaching positions (one professor, five assistant professors and 17 tutors) only 23 (3 per cent) were held by 21 SCs and two STs (Desai 1981). In government jobs, an overwhelming majority of the police inspectors and sub-inspectors belonged to upper and middle castes—Brahmins, Rajputs and Patidars. Out of 51 police inspectors in the state in 1980, only four were from SCs and two were STs (Yagnik 1981a).

By early 1970s, malfunctioning of the quota system for SC and STs was observed, such as delay in filling up quota and later 'unclaimed' positions were 'de-reserved' and upper caste candidates accommodated. A wide gap was observed between the law on the books and the law in operation. This disparity between aspiration and performance, between great commitments of principle and small deployment of resources, itself transforms the symbolic as well as the practical uses of anti-disabilities legislation. Symbolically, it blurs the government's commitment (Galanter 1984).

### **Role of Congress (I) as Ruling Political Party**

The historical context of the reservation policy can be traced to the debates of the Constituent Assembly regarding reservation policies, which also highlights the manner in which the socio-political scenario played a role in introducing the reservations policy. Shah argued that the Congress had not evolved any ideological framework for the integration of the SCs and the STs with the

mainstream. 'Congress followed certain set formulae depending upon political exigencies from time to time for winning the support of them, soon after Independence, and have continued till today' (1987: 157–8). Electoral politics drove the Congress to caste-based selection of the contestants and winning the seat for legislative assembly or the Parliament.

The Congress(I) continued its focus on SC, ST and OBC for political dividends, more forcefully and strategically in the post-Emergency era, especially to defeat the Janata Party rule during 1977 and 1979. The KHAM electoral strategy was introduced in order to alter the dominance of the Brahmin, Vania and Patel lobby in political and, consequently, in the economic arena (Yagnik 1981; Patel 1985; Shah 1987; Wood 1987). The Madhavsinh Solanki government inducted a majority of the ministers belonging to KHAM in 1980, which reduced chances of the upper castes holding political power. It is also believed to have created antagonism as well as a threat among the upper caste power holders.

Within three weeks of the protest, the Congress accepted three out of four demands of the protesters. Thus, its commitment to the historically deprived sections became questionable. 'KHAM was electionised but not politicised and, therefore, failed to make aware and unite the communities belonging to KHAM.'<sup>15</sup> During the anti-reservation protest of 1985, the role of Congress became more controversial, which is dealt in the next chapter.

The political observers have critically examined Madhavsinh's functioning as the CM and its impact and implications on Gujarat during 1980 and 1985. For instance, alienation developed among the upper high- and middle-peasant castes and they increasingly took matters into their own hands (Wood 1987: 420–1). With Solanki parting with industrialists and big farmers, 'the two *kulak* leaders—the former Chief Minister Chimanbhai Patel and the Saurashtra oil lobbyist Vallabhbhai Patel—as also a BJP MLA have given their open and unreserved support to the anti-reservationist medicos' (Yagnik 1981: 555). One of the senior Congressmen, a Patel, on the condition of anonymity, shared during a personal interview in 2013:

'Who had asked Madhavsinh to announce this increase in reserva-



tion? When he played his 'OBC card', were we supposed to sit and watch that? No. Why should we? We were the first one to send our students to send out of the college to burn two buses at the different places. That's how agitation begun...'

This quote partially gives the reason for continuation of the protest despite the government's initiative to meet the demands on the tenth day of the protest. It also provides hint for the operationalisation of the protest agenda of the *Andolan*, in terms of factional party politics and economic and political interests of some Congressmen as well as caste based sentiments and its role in this *Andolan*.

### **Why Attacks only on SCs?**

As such, violence on SCs took place in most of the districts in Gujarat but four districts were severely affected. The *Dalit Panthers* issue (March-April 1981) has provided details of SCs' hamlets set on fire, attacks on SC and the resultant death toll. The affected districts are part of north and central Gujarat, where Patidars and Kshatriyas are dominant castes. Mainly three factors played a vital role in the violence on SCs: first, their mobility<sup>16</sup> i.e., the extent of literacy and urbanisation among the SCs and their physical concentration in these districts; second, deep-rooted caste prejudices among the upper castes against the historically deprived but benefited through reservations in different spheres; and third, control over resource allocation and utilisation through social and legal structure.

Regarding the affected castes among the scheduled castes and their participation, larger consensus has been observed. For instance, 'the Bhangis—the lowest sub-caste of the Dalits—were excluded from the upper caste wrath' (Yagnik and Bhatt 1984: 46) and Shah argued that 'in terms of numbers, Dalits who were actively involved in the counter agitation were very small in number and mostly confined to large cities', as many of them did not 'find much in common with the middle class Dalits' (1987: 167). One of the Dalit leaders analysed the situation as, 'six 'Ps'—Police, Press, Patels, Pocket (money), Political Parties and Prabodh Raval (Home Minister)—are against Harijans' (Yagnik 1981: 555).

The problems of SCs, especially atrocities and social boycott, have been intensified over these the years in Gujarat. In 1990, the National Commission on Scheduled Castes and Scheduled Tribes found that the main causes of 'atrocities' were land disputes, alienation of tribal land, bonded labour, indebtedness and non-payment of minimum wages. The implementation of land reforms created animosity between the castes, which was more virulent when the land allotted to dalits. The case studies cited in the National Commission's report, however, revealed disquieting features such as delay in reporting crimes against SCs and STs, or failure to register such crimes, delay in visits to the scene of the offence and delays in charge sheeting the accused. Only IPC and CrPC sections were usually cited in the chargesheets, omitting the provisions of social legislations. Cases took ages to be disposed of in court and the number of acquittals was very high. Often, the guardians of the law were themselves perpetrators of 'atrocities' ([www.infochangeindia.org](http://www.infochangeindia.org), dated 16 November 2013). According to the National Human Rights Commission chairman Justice K.G. Balakrishnan, Dalits in at least 77 villages of Gujarat have been forced to migrate due to social boycott (Dasgupta, 16 May 2012). The data of National Crime Research Bureau (NCRB) of last five years reveals that conviction rate for atrocities on SCs has remained as low as three to four per cent.

### **Difficulties in Uniting 'Beneficiaries of Reservations'**

At present in Gujarat, there are 29 castes under the SC category, 29 tribes under ST class and 78 SEBC communities. Four communities have been removed from ST list: Bavacha, Bhil and Padhar have been removed, and Mochi is now incorporated as SC (Yagnik 1990: 31). Most of the tribes are habited in the north-eastern part of the state while concentration of SCs is high in the north-central Gujarat. It is more difficult to unite them as a single group of 'beneficiaries of reservations' due to diversity in terms of social and education backgrounds, level of awareness about their right to reservations, geographic spread, and existing caste hierarchies. A movement of uniting 'Sarvahara varg' or 'Bahujan Samaj' (a society made of diverse social groups/subalterns) in Uttar Pradesh

and other north Indian states was started in 1980s and socio-political activities have been undertaken consistently for uniting these groups. Such efforts have neither been made in Gujarat nor even thought of to counter the power elites' forceful action during anti-reservation protests in 1981 and 1985. On the contrary, studies on communal riots in 2002 reveal that Dalits and tribals are joining the Hindu fold through different sects, Godmen-headed institutions, political parties, and such other co-opting processes (Shani 2007).

### **Role of Promoters and Protectors of Citizens' Rights**

As has been mentioned in the first chapter, civil society actors such as trade unions, non-government organisations or voluntary organisations, media, teachers, social leaders and actors are usually seen as promoters and protectors of citizens' rights.

In Gujarat, with Gandhi's legacy, his followers, the Gandhians are thought of as one of the firsts groups that believed in equality and justice as well as people-oriented development. However, different shades of Sarvodayist Gandhians were revealed during this *Andolan*. 'Only one Sarvodaya worker, Jugatram Dave of Vedchhi in South Gujarat, has called for an unconditional withdrawal of the agitation' (Yagnik 1981a: 555) while 'some opposed the agitation, rebutted the arguments against reservations and have organised prayer meetings' (Desai 1981: 821) but largely 'Gandhian Sarvoday workers either kept silent or made ambiguous statements' (Shah 1987: 167). Gandhian orientation stressed upon class harmony rather than struggle. Historically, Gandhiji had played a decisive role in bringing about syntheses in institutions, for instance, caste and community representation within the labour union, labour union representation within the city government and the Congress. He nurtured institutions like Ahmedabad's TLA, Indian National Congress and the Congress Party, which shaped up public discourse, based on different types of representatives. The strike called by the SCs for closure of Textile Mills for two days actually proved that the TLA was conspicuous in its lack of efforts to calm the city as also in its lack of support for the SCs who make up much of its membership (Spodek 1989). TLA as a labour

union could not bring SCs and other workers together due to its ideological stance, change of role, and alleged alignment with so called *savarnas*, in a way of a defeat of Gandhian ideology.

Only a few academicians and activists came out against the *Andolan*, especially after attacks on the SCs; those who supported SCs or spoke against the *Andolan*, they were boycotted by their colleagues and neighbours (Desai 1981; Yagnik 1981). 'College and university teachers also supported the agitation and pleaded for 'efficiency' and merit' (Shah 1987; 153). I.P. Desai further noted about different social actors:

'The law practitioners, university teachers and medical fraternity also extended support. The general intelligentsia was also for the abolition of reservations on the ground that reservations go against the interests of individuals who rise by their merits. The most important allies of the anti-reservationists were however the landowning agricultural classes and castes who took the lead in perpetrating atrocities and creating terror among the SC not only in rural areas but also in urban areas. Sections of the SC population have already responded to this terror by the spirit of resistance' (1981: 821).

For participation of political parties, there seems to be a consensus among the scholars, saying that mainly the CPI, CPI(M) and the Communist League have supported the reservations. Though BJP had supported reservations, it targeted the government for erroneous implementation of the policy and demanded its resignation. Covertly, they opposed reservations during a couple of incidents. All other parties appealed for an end to the anti-reservation agitation; they remained silent waiting for the opportunity to make political capital (Desai 1981; Yagnik 1981a; Shah 1987).

The civil society organisations—*Vishamata Nirmulan Parishad* (Council for Removal of Inequality) and *Anamat Samrthan Samiti* (Committee to Support Reservations) attempted to unite the government employees, creating a network of citizens supporting reservations. Some tribes in south Gujarat but did not make their presence felt with reference to policy change or encountering the protests and the protesters in the overall hostile environment.

When the progressive elements and protectors of rights do not promote social justice agenda, can we call it counter-revolutionary

elements and processes? Or can we interpret it as an opportunity to relook at reservations policy?

### **Reservations Policy and Right to Reservation: On Streets, in Academic Debates and in Courts**

This protest by the power elites against reservations for SEBCs has raised questions against the established understanding of some basic issues, concepts, and values enshrined in the Indian Constitution, such as equality, social justice, federalism, and secularism (Mitra 1987; Sheth 1987). In fact, with this protest, the political will turned out to be a political gimmick. The issues thrown up by the protest could have been solved in the given legal-rational frame, having been brought out on the streets. 'The population affected by the status quo and disaffected political activists then take the issues away from the legislatures and administrative apparatus of the state. It is in this context that the major issues thrown up by the agitations need to be considered' (Sheth 1987: 1959).

Four issues related to rights are thrown up by this Andolan. First, whether to see this Andolan as an opportunity to evolve criteria for 'backwardness' or a challenge to legitimacy of reservation as a system in order to ensure 'right to reservation' of the backward communities? Second, how do we read participation rights and its goals in the context of 'majorityism'? Third, the impact of such protests on decision-making by the judiciary, and whether intervention of the judiciary always promotes social justice and ensures compensatory rights to the historically deprived groups? The Judiciary world over is increasingly assuming wider space in resolving political conflicts of varied nature. Tridimas (2009: 81–82) has elaborated the process of 'judicialization of politics', which needs to be understood and examined in the context of this *Andolan* and right's perspective:

'Constitutional review of any policy is the authority of the courts to check whether or not laws and policy measures passed by the legislature and other public acts implemented by administrative agencies are in accordance with the constitution... As it is concerned with the

powers of political rulers to decide and implement policies, constitutional review has always been considered as the most politically controversial part of judicial power. Measures, which are found to violate those conditions, are annulled. Recourse to courts, in order to resolve political conflicts of this type has increased substantially over the last half century.'

The protesters argued for two options—either to abolish reservations system or to alter its eligibility criteria, i.e., 'economically poor' and based on 'merit' and 'competence' vis-à-vis the 'caste' criterion. The protesters vehemently denied argument of historical injustice, social disability and disadvantage of some social groups to be recognised as backward groups.

Can this be taken as an opportunity that the protest provided alternative criteria to identify 'backwardness'? If we accept the economic criteria of 'economic backwardness' for reservations, the debate brings out many contradictory logic and consequences. First, this demand recognises equality between individuals and not groups. The Indian Constitution recognises inequality between groups in its historical condition, i.e., caste hierarchy, considering religious and cultural pluralities. Second, the Constitution stipulates social and religious (e.g., untouchability) disabilities as criteria for the identification of the beneficiary groups. These characteristics, when compounded with economic and educational backwardness, create a structural situation of backwardness, which the policy seeks to overcome. The policy of preferential treatment, thus, conceived is in the context of membership of a group that is socially disabled and disadvantaged. It is not for any individual or household, which may be poor or otherwise economically deprived (Sheth 1987: 1960). Third, reservation is a device to eliminate backwardness arising from the historical conditions of social injustice in which certain groups are located. It is not meant as a scheme to counter conditions of economic backwardness or poverty of individuals or groups that may arise as a byproduct of the development process itself (*ibid.*).

Fourth:

There is no instance of positive discrimination anywhere in the world which is based on economic criteria, for the simple reason that a state

which intervenes in the gap between rich and poor is usually a welfare state or a socialist state whose goals are different from the goals for which reservations are meant. The poor are not a marginalised community but an economic class. The politics of class struggle is different from the conflicts that arise when an entire community is involved (Tharu et al. 2007: 44).

Fifth:

Such a demand, if it is conceded, will call for changes in the basic structure of our constitution, involving the fundamental rights, not only of the socially disabled groups but also of the religious minorities...The Indian constitution cannot accommodate any demand that trades one notion of equality for the other without undermining its basic character. There is no sanction in the constitution for applying economic criteria, either exclusively or primarily for reservations (Sheth 1987: 1960).

Thus, the issue 'being fought in streets is a dangerous development since it seriously threatens the legitimacy of the entire policy of positive discrimination not just in favour of the OBCs but also in favour of the scheduled castes and tribes. Issues which were settled long ago are now being reopened' (op. cit.: 1958).

Sixth:

For reservations have proved a soft option for political elites, who reluctant to carry out deep-rooted changes in society, would rather opt to enlarge the constituency for reservations in a shrinking state sector and in a declining educational system, than transform ownership of resources in the country. This has proven reservations having limited the political imagination of those who fight for social justice (Chandhoke 2006: 2290).

### **Participation Rights: Challenges Posed by 'Majorityism'**

The success of participation rights depends on *who* initiates the protest *to achieve what*. If power elites initiate participation rights through protests, it is most likely that their agenda has been achieved. The principle of majorityism in representative democracy sometimes alters certain rights, such as property rights:

'Property rights are difficult to establish for three reasons—first, they require multiple and complex regulations that lead to a bulky state—this prevents state agents from seizing private property; second, they rest relatively on stable power relations between losers and winners of the property; and third, because of the economic stakes are high, property owners need to trust state agents—transactions that involve time and distance may be hampered for lack of trust' (Gallo 2010: 420-1).

About 'how small number of anti-reservationists turn 'majority' and their 'grievance' is read as 'justified sentiments', explained Susie Tharu and others:

'It is significant that the "political" moment in which government policy is being addressed and proposals made, is that of the anti-reservation protests. Consequently, the only subjective interests that make an appearance in the discussion are those of the anti-reservationists. It is their sentiments that are acknowledged, and their political challenge that is read as grievance that needs accommodation and redressal in the policy recommendations. The rest are assumed to be passively available for slotting into various objectively defined categories of relative deprivation and eligibility for measures of positive discrimination. Thus, an entire range of contributions is marked by one shared presupposition: that there exists a coherent and hegemonic political subject who is interested simultaneously in maintaining the standards of merit and excellence naturally assumed to be of primary interest to a majority, and rendering social justice to the rest (assumed to be a "minority") through policies of positive discrimination' (Tharu et al. 2007: 40).

Rights are the result of specific political bargains between different actors and state authorities. Bargaining for rights is encoded within institutions. The institutional characteristics of citizens' rights underlie their adoption. These institutions adopt organisational characteristics that make certain rights easier to establish than others, based on the state's ability to adopt these rights. It has been proven that institutions that are directly economically distributive and have an extensive and dense set of rules and regulations are more difficult to establish (Gallo 2010).

In case of implementation of reservations policy, the state's adoption is inter-linked with two dimensions: institutional



characteristics of the right to reservation and mechanism for its implementation, and prevailing ambiguity on 'backwardness' allowed the ruling political party to manipulate the policy. The idea of citizens' right and the goal of social justice were defeated with political calculations of the ruling political party, signifying limited adaptability of the state.

When rights are of distributive nature, i.e., for economic resources, and when they are challenged by power elites, it is more likely that the shift from 'propertied selfish man' as Marx mentioned, to a 'citizen' is less likely to take place. Consequently, a shift from social welfare to social justice is less likely to take place due to selfishness and prejudice of the power elites/propertied class.

The rights of the historically disadvantaged groups have been jeopardised through this *Andolan*, which results in further marginalisation. Since the marginalised groups are heterogeneous, scattered over geographic areas, and having varied educational status and eligibility for employment, their counter-action against the power elites as the protesters became very feeble. Also, a larger number of the beneficiaries are not even aware of that right to reservations, so even if they wish to counter this protest, their ability to raise their collective voice or undertaking counter-action is negligible.

### **Judicialization of Politics**

When the state fails in protection or promotion of rights of the historically disadvantaged group of citizens—in this case compensatory rights and/or right to reservation—the scope for the Judiciary is widened. One of the important functions of the Judiciary is the resolution of constitutional disputes, that is, disputes regarding the interpretation and application of the Constitution. As it is concerned with the powers of political rulers to decide and implement policies, constitutional review has always been considered as the most politically controversial part of judicial power.

The process of 'judicialization of politics', with reference to the reservations policy, leads to further enquiries on four aspects. First, whether the Judiciary is able to interlink the complex ground realities with the constitutional provisions effectively. Second, whether

the Judiciary is able to guide the implementation machinery in the existing complex socio-political scenario. Third, whether the Judiciary gets affected or influenced by such protests. Fourth, whether intervention of the Judiciary ensures social justice.

Regarding the first point, senior human rights lawyer K. Balagopal highlighted the irrationality of the Judiciary vis-à-vis reservations policy:

'The Supreme Court in 1963 had put a barrier for reservation, not exceeding 50 per cent. Why 50? Why not 49 or 51 or 70 for that matter? The courts are right in arrogating to themselves the authority to decide not only upon the constitutionality of the principle of protective discrimination but also how much protection is constitutional and how much is not' (Balagopal 1986b: 1680).

This decision ignores the empirical, systemic works done by the Commissions for OBCs appointed by both the state and central governments.

The field experiences reveal that a link between the Judiciary and Executive is superficial. Usually, it is believed that when the Executive is not able to ensure basic rights of a citizen or a group of citizens through effective governance, the citizens approach the court. Another reason is that when a citizen wishes to ensure equality in order to overcome discrimination or exclusion, exercising the law is the only action s/he left with. Though reservations for OBCs are primarily a state government matter, finally the conclusive guidelines were evolved through intervention of the Supreme Court. In this process, OBC communities have not played a proactive role. This situation raises two issues—first, it is a concern of parliamentary sovereignty versus the judicial supremacy. Second, the increasing trend of 'judicialization of politics' raises various issues, such as political calculation, decision-making, and political dividends; the role of protest and influence on the judges; rationality behind the judgement; and what are the implications of difference of opinions among the judges and the final judgement given by them. The judgement changes the discourse of rights, as 'the judgment answers questions that nobody asked, which courts are not supposed to do but find themselves doing when they find

governments doing what they do not like, not as judges but as political creatures' (Balagopal 2009: 18).

Whether the judgements on reservations for OBCs uphold justice is controversial; the perception and behaviour of the judges symbolises the attitude of the judiciary. For instance, with references to two OBC reservation-related cases in the Supreme Court—*Indira Sawhney vs Union of India* in 1992<sup>17</sup>, and *Ashoka Kumar Thakur vs Union of India*<sup>18</sup>—in a judgement dated 10 April 2008, one of the judges said, 'caste becomes a class only after the creamy layer is removed'. By this judgement, 'a necessary pre-requisite for the caste to at all be a class, and *a fortiori* [used to express a conclusion for which there is stronger evidence than for a previously accepted one] a backward class. This is a very significant conceptual revision, effected silently by a majority of this five-judge bench in a reference that was unnecessary in the first place' (Balagopal 2009: 17, emphasis added). 'Adjudication of public issues is an ideological act...Reservations can be seen differently, as one instrument for equalising the status and position of castes considered as the basic communities of Hindu society, but courts have never seen it that way' (ibid.: 16). Whatever a bench of three judges declared regarding reservations for OBCs, became the binding law.

The Supreme Court had not put any special efforts to listen to the voice of the marginalised. The ability of the marginalised groups to reach out to the Supreme Court is limited, and so the marginalised communities lose from both the sides. Actually, when such legal battles are undertaken as a response to the protest, they finally get defeated on counts of ensuring social justice as promised by the Indian Constitution, and become a set of guideline or stringent rules for operationalisation of rights. Experiences show that both are open to manipulation by the political party as well as power elites.

### **Shift in Discourse of Right to Reservations**

There are three major shifts are observed in the discourse of right to reservations.

The CM of Gujarat, Madhavsinh Solanki, and others defended the reservations policy for OBCs saying that, 'Other communities have had their say for centuries. It is now time for the lower and underprivileged classes to come up' (Wood 1987: 427). This is humanitarianism, which is different from egalitarianism.

'Humanitarianism calls for transfers of resources from the rich to the poor, as the humanitarians are concerned with well-being, but egalitarians are concerned with much more. Transfer of resources from the rich to the poor might alleviate harsh deprivation, but it does not make society egalitarian, for the rich will still possess far more resources than the poor will. Humanitarians are not concerned with equalising resources; egalitarians are, simply because for them society is a relational entity. No one should command many more resources than his or her share and no one should command less. This is what distinguishes humanitarianism from egalitarianism' (Chandhoke 2006: 2289).

This change of discourse of rights leaves the underprivileged to the vagaries and mercy of the privileged sections of the society and the power elites. This change of discourse in a way reiterates the attitudes of the power elite towards historically deprived groups, which is-'don't ask, and take what is given to you.' This also becomes a hurdle to initiate a shift from social welfare to social justice.

Second, there is a tendency to confuse positive discrimination with affirmative action; it creates confusion between concept and practice. 'Affirmative action in US is neither based upon quota nor on lower eligibility criterion. It is a combination of quotas and a lower eligibility criterion that marks protective discrimination in India, and this is what gives to the measure a particular clout'(i-bid.: 2290). Third, reservations are not meant to respect diversity.

'Caste is about inequality, hierarchy, and powerlessness within a religious community, whether Hindu, Sikh or Muslim, and the only concept that can tackle this is that of egalitarianism, and protective discrimination. Diversity is meant to ensure toleration and respect for the other between communities, egalitarianism is meant to ensure a rough and equal access to structures of opportunity within communities' (op. cit).

The victims of history have been compensated in the most minimal of fashion possible. In the process, the realm of egalitarianism has narrowed down rather than expanded. Whereas issues of land reform have been consigned to the dustbin of history, reservations have expanded to somewhat absurd proportions.

## Notes

1. A derogatory term used for SCs in Gujarat, legally banned under the 'The Schedules Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989'.
2. Desai (1981: 823) wrote, 'agitation was unconditionally withdrawn on April 13'.
3. See Galanter (1984) and D L Sheth (1987) for further details.
4. B.J. Medical College at Ahmedabad was renamed after Sir Byramjee Jeejeebhoy in 1879. The College was started in 1871 and was affiliated with the Civil Hospital in the city of Ahmedabad. In 1951, BJMC was affiliated to Gujarat University for its undergraduate courses and in 1956 for its postgraduate courses. This is one of the largest sources of medically qualified manpower in the country and has received international recognition for contributions to different medical branches ([www.bjmc.org](http://www.bjmc.org)).
5. *Yagna* or *yajna* is a form of offering to different elements of nature: fire, water and earth. It is a form of request to an element to perform its due functions. For instance, if rain is delayed, a *yagna* to the god of water is offered. This is a very common practice in Gujarat.
6. Refers to Vaghari and Thakor communities, as has been mentioned earlier. Use of the term 'ex-criminal castes' is now abandoned since 1990s and these communities are now known as 'de-notified and nomadic tribes'.
7. Ghanshyam Shah (1987) used this term to distinguish the elites as historical power holders and their thinking for electoral politics and election formulae for winning the elections.
8. I P Desai (1981) used this term to describe the structure of Gujarati society and anti-reservation agitation.
9. For instance, 'on 5 February 1981, the *Gujarat Samachar* printed a news item that the Harijans had attacked the Ved Mandir in Ahmedabad. In fact, there was no such attack on the temple; and the temple manhunt, i.e., priest issued a denial of the press report, which was not printed by the newspaper. Similarly, a false report

regarding the attack on the Jain temple in Rajpur area was published, which intensified the attack against the SCs. The reporting also used to encourage the impression that dalit mobs were molesting upper caste women' (Shah 1987: 167).

10. See 'The Press: News advertisement', EPW (1981); Sheth and Menon (1986: 71); and Shah (1987) for further details.
11. Refer to Galanter (1984: 81-82) for details.
12. See *Indra Sawhney & Ors v. Union of India*. AIR 1993 SC 477: 1992, Supp (3) SCC 217 excluding the 'creamy layer' of OBC and restricting reservation within 50 per cent limit. In *General Manager, S. Rly. v. Rangachari* AIR 1962 SC 36, *State of Punjab v. Hiralal* 1970(3) SCC 567, *Akhil Bharatiya Soshit Karamchari Sangh (Railway) v. R K Sabharwal Vs State of Punjab* AIR 1995 SC 1371: (1995) 2 SCC 745 regarding the operation of a roster; *S. Vinodkumar Vs. Union of India* 1996 6 SCC 580 for relaxation of qualifying marks and standard of evaluation regarding matters of reservation in promotion was not permissible; *Suraj Bhan Meena Vs. State of Rajasthan* held that, in view of *M. Nagraj & Ors v. Union of India and Ors*. AIR 2007 SC 71 regarding framing of rules for reservation in promotions by the respective state government; *Union of India and its verdict in 2008*; and many other state High Court cases.
13. Many assorted questions are asked regarding the anti-reservation protest, which stand relevant in present times. For instance, why, despite Constitutional directive and poor performance of reservation as a system, reservation for SEBCs faced hostilities from the elites in Gujarat? Why KHAM was successful in winning the election for the Congress but its ideology was not percolated among the KHAM constituents? Has lack of proper information on functioning of reservation system in educational institutions and government jobs played a role in performance of rights? What are the takes for reservation as a system and its concept as a protective measure for 'historically disadvantaged' people and for social transformation in long term? Alternatively, should reservation as right of citizen need to rethink its criteria, functioning or its scrapping?
14. For details, refer to Shah (1987: 157-8).
15. Achyut Yagnik shared his views during face-to-face interview, dated 7 February 2013.
16. For further details, see Bose (1981).
17. To the extent of 27 per cent reservations to the OBCs in central government services.
18. To the extent of 27 per cent reserved seats for OBCs in central educational institutions.

## CHAPTER 4



### Anamat Andolan 1985

‘As 1985 bloomed in, the state [Gujarat] got ready drawing blueprints to celebrate its silver jubilee year... The anti-reservation agitation of 1985 stretching up to the middle of the year had far reaching repercussions which will show in the years to come. The agitation whipped by elite upper caste against reservation and educational institutions and government jobs for the backward classes held out dangers of an impending caste war. The main spin offs the reservation stir were casteism and communalism holding society to ransom. Dangerous still was the fact that this virus could easily spread throughout the country resulting in gory bloodshed and hatred.... The anti-reservation agitation in 1985 was the longest expression of violent and intolerant tendencies in the state. It was veritably a war by society against itself, desperately underlining a corrosion of values’ (Sheth and Menon 1986: 11, 105, emphasis added)

The protest continued for almost seven months, communal clashes erupted in between, and the protesters had to call some of the protest programmes. In 1985, the communal conflict took different turns in five separate spells: (i) 18 March; (ii) during 22 and 25 April; (iii) between 8 and 16 May; (iv) between 9 and 25 June; and (v) 17 July (Patel 1985; Sheth and Menon 1986). This *Andolan* is interpreted as ‘onset of Hindu nationalism’ (Shani 2007) in Gujarat. This is one of the protests where the role of police and press was severely criticised. The army was alleged to be communal; however, the official sources of police and armed forces have denied all such allegations.

This chapter is organised into three sections: the first section provides details of this *Andolan*—its genesis, profile of protesters, protest programmes, and outcome. The secondary data available

on this protest is inter-mingled; the data describes events from the perspectives of violence, politics of reservation, and communalism. The second section briefly mentions the *Andolan's* impact and relates it with contemporary time, issues, and challenges. Three issues and challenges are linked with the continuation of debates on reservations policy in India, i.e. fact-based and ideology based debates, and about role played by promoters and protectors of citizens' rights, mainly police, political parties, press and the army, and the role of the Congress as the ruling party. The third section deals with the police excesses on women and students. The misuse of National Security Act (NSA) was examined by 'Citizens for Democracy'; use of NSA has remained controversial in Gujarat at different points of time. The third section captures debate on right to reservations and related rights derived from the Indian Constitution as well as human rights framework. In doing so, the section looks at the protests in different states against reservations for OBCs; the behaviour of the middle castes as a non-beneficiary group of the reservation vis-à-vis beneficiaries of reservations group; and how this phenomenon can be viewed from the rights' perspective.

### **Backdrop: Anamat Andolan 1985**

On 10 January 1985, Madhavsinh Solanki, the CM of Gujarat announced 18 per cent increase in the quota for SEBCs in government jobs and educational institutions in Gujarat. Along with an increase in the reservation quota, the CM also announced the setting up of a one-member committee under a Member of Parliament (MP), Haroobhai Mehta, to investigate and suggest numbers and names of castes that could be included in this category (Patel 1985b: 26). Elections to the Gujarat State Assembly were announced on 22 January 1985. This announcement of raised quota was interpreted as a political ploy.

'This announcement did not lead to immediate reactions or responses. Almost twenty five days later, on 6 February 1985, the newspapers reported that a minor protest by the students of Morvi [Morbi] Engineering College, against the increase and a resolution passed to ask the government scrap this increase' (Patel 1985b:



26). On 11 February, the engineering students of Morbi College in Rajkot district boycotted the classes against 49 per cent of seats reserved for backward classes. Some student leaders in Ahmedabad city met at the L.D. Engineering College Ahmedabad, and formed Akhil Gujarat Navrachana Samiti (AGNS – All Gujarat Reform Committee) in mid-February. The students of these colleges were known for taking initiative for *Navnirman Andolan* 1973-74 as well as *Anamat Andolan 1981*. Boycotting preliminary exams was the first agenda decided in this meeting.

Wood described the political scenario and beginning of the protests in the following words:

‘During the next two weeks, three significant developments occurred. First, talks among the opposition parties aimed at forming a united front against the Congress failed, virtually ensuring the latter’s victory. Second, in line with Rajiv Gandhi’s efforts to refurbish the Congress image in several states, eleven Gujarat Congress ministers were denied nominations. Although the axe hit a few Solanki followers, it cut devastatingly into the ranks of his intra-party factional opponents. And third, sensing from the above developments that Solanki would be unstoppable either at the ballot box or in the assembly, the anti-reservation agitation was launched by engineering students in Ahmedabad with the formation of the Akhil Gujarat Navrachana Samiti’ (1987: 408).

The first procession was organised on 17 February 1985. As was the case in the 1981 anti-reservation protest, the students garlanded the statue of Mahatma Gandhi at Ahmedabad and took the oath that they would not suspend their protest until the state government agreed to abolish the reservations. They gave a call for boycotting the preliminary examination and closure of schools and colleges until 20 February.

‘A parents meeting called at Ahmedabad attracted a heavy turn out with over 20,000 parents attending it. Interestingly, most of them appeared well-to-do and belonged to elite groups. It was more than evident then that a major caste war was in the offing. Many of the anti-reservationists were businessmen and were not at all affected by reservation but pitched in as casteist feelings ran high in Gujarat’ (Sheth and Menon 1986: 23).

Soon, under leadership of Shankarbhai Patel, a lecturer of Sociology in a college affiliated to Gujarat University, chapters of AGNS in different towns were formed. In response to this, the government declared the closure of schools and colleges from 19 February until further notice, as they did during the *Anamat Andolan* of 1981. As a trend, this was interpreted as a panic response of the government. 'At this point of time, when the government should have been open enough to sit down with them [the protesters] and thrash it out across the table. Solanki pretended that the students did not exist. This was as a capital blunder' (ibid.: 22, emphasis added). The government might have thought that closing of schools and colleges would make mobilisation difficult for the protesters. This resulted into a no protest programme during 19 March and 1 April 1985. The protesting students announced a campaign of boycott of schools in the first week of April.

As a leader, Shankarbhai Patel represented the feelings of the protesters about the reservation system: 'Gujaratis know the value of efficiency. They know how to do business and they always mean business. And they think the Government should also run like a business where merit is appreciated. Appointments and promotions cannot be a matter of charity' (quoted in Wood 1987: 424). As days passed, several parents expressed their concerns through exchange of letters, speaking in the public meetings and other forums, about how the education of their children (students) was suffering and their academic careers were at stake because of the closure of educational institutions and the strikes.

The teachers, guardians, lawyers, doctors and the press extended moral support to the AGNS. The college students from different parts of the state became active and announced various protest programmes. For violating prohibitory orders, the police arrested about 85 students from Bhavnagar and Junagadh districts in western Gujarat. Students and the police clashed in Ahmedabad (Shah 1987: 169). However, the first call for Ahmedabad *bandh* on 25 February with the support of the Bhartiya Janta Party (BJP), and the second call for Saurashtra (western Gujarat) *bandh* on 2 March remained peaceful (Patel 1985: 27). Spodek (1989: 768) wrote, 'BJP leaders claimed that secretly many Congressites also supported the *bandh*'. The junior doctors of the Civil Hospital,

Ahmedabad, supported the agitation and abstained from duty; the lawyers at the city small causes courts too abstained. The president of the state unit of the Janta party criticised the government for increasing the reservation percentages.

Some upper caste lawyers filed two petitions in the Gujarat High Court, questioning the increase in the reservation quota and arguing for scrapping the reservation system and some members of Congress(I) filed counter petitions. A shift of the activities occurred in the court. The Gujarat High Court issued a stay order on the rise in the reservation quota (Shah 1987).

Incidentally, the Prime Minister Rajiv Gandhi visited Gujarat in the third week of February and made a statement that 'the whole thing about the reservation is getting a little out of hand; it has to be reviewed' (Shah 1987: 169). The government spokesperson declared that the government had not issued any 'government resolution' to give effect to the decision of cabinet regarding the raising the quota due to 'various complications' (ibid.).

In light of these statements and election for the State Legislative Assembly on 5 March, the AGNS declared the postponement of the protest until 6 March, saying that the protesters needed to ensure peace during the Assembly election. Meanwhile, the government announced that raising of the reservation quota for SEBC was postponed for a year. Sporadic violence continued, concentrated mainly in and around Ahmedabad city and remained restricted to the burning of buses until Election Day (Patel 1985).

Congress(I) won 149 out of 182 seats: this 82 percent margin represented the largest victory in the state's history, which was seen as a victory of KHAM strategy. Over 90 of the Congress MLAs were new to the assembly, and reportedly, most of them owed their nomination to the Chief Minister (Wood 1987: 423). Many of them had no grassroot support.

Schools in Ahmedabad reopened officially but few students attended classes. The new cabinet was sworn in on 11 March 1985. Fourteen out of the 20 seats—and all of the major portfolios—were allocated to ministers of KHAM origin. On the same night, Gujarat State Transport buses were stoned and set ablaze by anti-reservation demonstrators. In one such incident, a bus conductor was burnt alive (Spodek 1989).

The student representatives from different parts of the state met in Ahmedabad on 10 March and decided to intensify the agitation and called for Gujarat bandh on 18 March. Meanwhile, two *Vali Mandals* (parents' association) organised meetings on 15 and 17 March at L.D. Engineering College, Ahmedabad, which were attended by more than 5,000 people (Engineer 1985).

The bandh on 18 March triggered off violence in different parts of the state but the situation changed suddenly in Ahmedabad city. During the day, the events of violence were of a minor nature, such as throwing stones at public transport buses, clashes between police and students, etc. Such incidents took place largely in Ahmedabad, Surat and some towns of Saurashtra. The CM announced an increase of the reservation quota for a year in abeyance in the night, between 8 p.m. and 8.30 p.m. and accepted the demand to table the Rane Commission Report in the Assembly. The anti-reservation agitation leaders had planned to sound 'Mrutyu Ghant' (death knell of reservation, one of the most popular programmes during *Navnirman Andolan*) all over Ahmedabad city. The violence started soon after the 'Mrutyu Ghant' was sounded. Arson, looting and killing continued throughout the night. The army was called in (Patel 1985b). During 18 and 20 March, Ahmedabad city witnessed organised and planned attacks, retaliations and counter-attacks. In the process, latent communal and caste feelings were crystallised (Iyengar and Patel 1985). This violence took a toll of 12 lives, forcing the AGNS to temporarily call off the agitation (EPW 1985: 618).

The government arrested the student leaders on charges of abetting these riots. This shifted the protesters' demands to the release of the students. The Bar Association passed a resolution in support for the demands of the anti-reservationists. Relay fasts for release of the agitation leaders proved to be successful. BJP came out in full support of these demands. The Congress(I), on the other hand, tried a two-pronged strategy: one to encourage the formation of pro-reservation backward caste associations and second to bring the movement under control through police action.

'The Congress(I)'s answer to this was the formation of Anamat Andolan Pratikar Manch, a pro-reservation front led by a Kshatriya,

Surendra Rajput, which asked for a withdrawal of anti-reservation agitation within forty eight hours and the Anamat Hitrakshak Samiti led by Buddhajurao Chauhan and the use of police to quell demonstrations and dharna led by the state employees. This strategy backfired...The protest started slowly consolidating itself after the government blamed its leaders for abetting the riots in Ahmedabad. Immediately after the riots in Ahmedabad, the protest's base shifted to Saurashtra where its 'success' was given wide publicity. By the end of March, the agitation had a strong foothold among different upper-caste dominated professions in the state. Upper caste communities in every locality were mobilised with the women coming out in full support and the agitation shifted to working class localities where upper caste but lower classes live together with lower castes in Ahmedabad city' (Patel 1985b: 31).

Prime Minister Rajiv Gandhi paid a brief visit to the riot-torn areas of Ahmedabad city on 23 March. He endorsed the Solanki government's actions and blaming the opposition parties for stirring up trouble in revenge against the March election outcome seemed only to make matters worse (Wood 1987). Protest programmes against reservations continued. In order to pacify the protesters, in early April the government announced that it would appoint a high power committee or commission to look into the reservation issue. It promised the students that the government would not increase the reservation for SEBC until the report of the commission was submitted (Shah 1987).

Gujarat University postponed examinations indefinitely and declared the start of the summer vacation on 1 April 1985. During the month of April, the agitation intensified as the city was paralysed due to curfews, strikes by doctors, boycott by students, and the closure of banks. Ahmedabad and Vadodara took their turns one after another in communal violence. Surat took its turn after Vadodara though the disturbances there were not communal. Rajkot took its turn after Surat. Thus, violence continued in these cities during April and May (*ibid.*).

A bandh in Saurashtra on 8 April was successful and there were further confrontations between students and the police on 9 April in Ahmedabad. The protest spread to Kheda district towns in central Gujarat, followed by north Gujarat, south Gujarat and

Saurashtra. A Bajrang Sena was formed in Ahmedabad on 11 April; this implied that its main function was to provide protection to the protesters from the police.

The state government employees' union (non-beneficiaries of reservations) announced that it would go on strike to ensure the release of the Sadhwani Commission Report on roster system. In the perception of government employee belonging to GC, the roster system was a cause that had become an issue of confrontation with SEBCs, as it guaranteed entrance to the government as well as a quota for promotion to the SC, ST and SEBCs. The leaders from all over India who were against reservations met in Bombay [Mumbai] during 17 and 19 April 1985. They began to plan an agitation in Maharashtra similar to the one in Gujarat. The reservation issue surfacing in Ahmedabad had national implications. From New Delhi, Rajiv Gandhi announced his continuing support for Solanki. The continuing violent agitation endangered the political stability of the state, and calls for an end to the Solanki ministry increased (Spodek 1989).

The CM held talks with the protesting students on 14 and 15 April 1985. He also met the leaders of the opposition party for the first time on 19 April and convinced them to issue a joint statement calling for peace. The same day, the High Court of Gujarat decided to appoint a two-member commission to investigate the alleged police excesses in Khadia. When the Commission started its investigation on 22 April, the tensions reached a boiling point. Clashes between SCs and upper castes had escalated, and communal tension was building up in different parts of Ahmedabad city (Patel 1985b: 33).

The anti-reservationists took out a rally against police atrocities on 21 April; about 10,000 participants of the rally were arrested. Stone throwing by large anti-reservationists demonstrations led to clashes at Narayanpura-Vadaj areas<sup>1</sup> in western Ahmedabad city. On one hand, there was a deliberate provocation by the anti-reservationists, who put posters and graffiti on the walls calling Ambedkar a thief. On the other hand, these militants put up counter posters supporting the police. Next day, the attack started on SCs and clashes resulted in further violence (Patel 1985a).

A police head constable, Laxman Desai, was murdered while

accompanying a committee of enquiry in the Khadia-Astodia neighbourhood on 22 April. This area is in the eastern part of Ahmedabad, within the old walled city, and known for its notoriety. The police went on a rampage. They started beating people at V.S. Medical Hospital compound, attacked women who were fasting for peace at the nearby Town Hall (near V.S. Medical Hospital), and then reached the police headquarters for the constable's funeral in Ahmedabad (*ibid.*). The army was called in after a section of the police revolted and went on strike, as some newspaper reported. However, the CM and police officials have refuted this information (Patel 1985b). Hand-to-hand clashes and stone throwing between the Chamars (SCs) and upper caste families at Ambawadi of Ahmedabad city were reported on the same day (*ibid.* 1985b). On 23 April, between 17 (officially) and 50 (unofficially) people were killed, 85 injured, and hundreds of houses and huts burned down, leaving 5,000 people homeless. Most textile mills were closed (Spodek 1989).

On 1 May, the Labour Day as also the State Formation Day, the government employees (non-beneficiaries of reservations) went on a strike, demanding publication of the Sadhwani Commission Report on the roster system and reiterated their earlier demand of abolition of reservations. This issue was particularly important in the lower strata of government employees, especially in the case of Panchayat employees. These employees received support from other opposition political party leaders and started relay hunger strikes from 5 May onwards. However, on 7 May, the strike was called off after the state government announced scrapping of the roster system, which was introduced in 1981 in both government and semi-government services. The Panchayat employees were dissatisfied; being left out in the agreement, they continued the strike. The junior doctors in major urban centres too continued their strike for similar reasons. The pro-reservationist 'Akhil Gujarat Baxi Panch' demanded action against the striking employees and recruitment of more backward classes into government jobs (Shani 2007: 85). However, no action was taken by the government against the protesters.

May 1985 onwards:

'The conflict between police and anti-reservationists disappeared. In a rapid and radical shift, the police were regarded as the saviours of the Hindus and the Muslims as the aggressors. While a particular incident that of the killing of a Sub Inspector of Police—Named M. J. Rana, killed in private firing on 8 May—can be identified as a start of a conscious process that led to this shift' (Patel 1985b: 34).

Despite the fact that the state government had withdrawn its proposal for an increase in reserved quota for SEBCs long ago, 'it appeared that the remaining goal of the agitation was to bring down the government. Leaders of three parties—the BJP, the Janta, and the Lok Dal—had begun a hunger strike, demanding the return of normality in the state through the dismissal of the Solanki ministry' (Spodek 1989: 771). The escalation of violence took place on 12 May when the negotiations between the government and the protesters were in progress, due to a rumour spread that the police had apprehended a funeral procession carrying arms. The protesters had obtained the sympathetic support of the non-beneficiary reservations group among the government employees and were able to mobilise the Ahmedabad Municipal Employees who now demanded through their organisation, the *Ahmedabad Hit Rakshak Municipal Employees Association* (AHRMEA), the abolition of the roster system and, with this demand, struck work from 28 May 1985 (Patel 1985d).

Two organisations were formed in May, called the *Anamat Baithak Virodhi Samiti* (Anti-Reservation Quota Committee), and *Navrachana Jagratikaran Pagla Samiti* (a publicity and propaganda unit of the AGNS). The *Nagrik Pagla Samiti* (a citizen's committee for anti-reservationists), *Ahmedabad's Hit Rakshak Samiti* (Committee for protection of Ahmedabad's well-being) and the AHRMEA were acting in tangent with the anti-reservationists.

After the failure of the second round of talks with the government on 31 May, the protesters received support from the city's trading community, which declared a five-day bandh in protest against the violence (Iyengar and Patel 1985). The GCCI observed a five-day *bandh*, starting from 5 June, in protest against the government's failure to protect the life and property of the citizens. Thousands of shopkeepers, more than 150 business organisations



of Ahmedabad, including cloth merchants, food-grain dealers, and dealers in books and stationeries, edible oil, spices, electrical appliances, radio and television, laundry owners, footwear dealers, bullion merchants, etc., supported this *bandh*. 'The declaration of a five day bandh by 50 trade associations in the city was the start of the events that led to further riots' (Patel 1985: 11). Since every *bandh* had been accompanied by further outbreaks of violence, 'this call suggested the willingness of the business community not withstanding its high proportion of Jains and *Vaishnavas* normally committed religiously to non-violence-to risk violence in exchange for Solanki's dismissal' (Spodek 1989: 771).

During the period of the commercial bandh, on 7 June, anti-reservationists called for a parallel bandh. In the ensuing violence during this two-day bandh, 33 people were killed and more than 150 injured. A family of eight was locked in its home and burned to death in a communal attack and, in retaliation, backlash from the Hindus started, continuing the communal violence.

In midst of communal frenzy, state government employees continued strikes. As many as 350,000 (65 per cent of total employees) employees joined the strike, demanding the abolition of the roster system, which had expedited promotions for SCs and STs (ibid.).

The violence in Ahmedabad brought about the highest number of riot-related deaths (17) in one day, on 9 June. The PM announced that there would be no increase in reservation until a 'national consensus' was reached on the issue. Reportedly, both sides in the struggle felt threatened by his statement (Wood 1987).

The employees of the Ahmedabad Municipal Corporation joined the strike on 18 June as talks with the CM failed. The longest government employees' strike in India's post-Independence history then commenced, when about 400,000 employees struck work for 73 days. 'A Harijan [scheduled caste] leader epitomises the situation by saying: "We should be grateful to the upper castes for making us realise that we now have to fight for survival"' (Sheth and Menon 1986: 45, emphasis added).

The pro-reservationist employees began to form their own organisations and stage demonstrations. Ram Vilas Paswan, a Dalit leader visited Gujarat to show his solidarity to the cause. A convention of Kshatriyas at Laxmipura, near Vadodara, called on all caste

members to stand by Solanki, where the Kshatriyas dramatically pulled out their swords, saying that it was Kshatriyas' birthright to rule, and any move to remove Solanki would be opposed with use of force. This meeting was also attended by Ishwar Chavda, MP and Solanki's father-in-law (op. cit.). The discontent and alienation experienced by the SC and ST employees against the Solanki ministry also were expressed in the formation of a new organisation called the *Gujarat Dalit, Adivasi, Bakshi Panch and Minority Hit Rakshak Samiti*. In addition, *Gujarat Anamat Hit Rakshak Samiti* was also formed by the Kshatriyas. The All-India Congress delegation started a series of interviews among the Congress Party members in Ahmedabad on 22 June. The delegation reportedly presented a split decision to the PM on 2 July. However, 'an All-India Congress Committee observer, V.N. Patil had prepared a report, which bluntly stated that Solanki must resign if peace were to be restored' (Wood 1987: 425).

A further bout of violence soon followed in the form of the *Rath-yatra* incident, which, coincidentally in 1985, had occurred on the same day as Id-ul-Fitr on 20 June in Ahmedabad city. Hostilities continued at high levels for several days, which compelled Congress(I) to intervene. From January to June, the Central Government had made periodic declarations of support for the Solanki government. However, with demands coming from the factions of Congress(I) for the CM's resignation, a team of Congress party officials visited Gujarat. Zinabhai Darji, president of the GPCC had formed *Anamat Samarthan Samiti* (Committee to Support Reservation).

Shankarbai Patel, during a face-to-face interview on 20 August 2013, informed that 'on 20 June, when Madhavsinh Solanki visited New Delhi, he promised the Prime Minister that everything would be normal in 15 days, otherwise he would quit'. Madhavsinh Solanki, on the instruction from New Delhi, submitted his government's resignation on 6 July.

Solanki's successor was Amarsinh Chaudhari, Gujarat's first chief minister of ST origin. Chaudhari's new cabinet, apparently dictated from the centre, broadened to include Patels and Baniyas while dropping five Kshatriya members (Spodek 1989). Amarsinh, formerly Home and Education Minister, adopted a conciliatory

approach towards the agitators (Wood 1987). Some important portfolios were back in the hands of the upper castes. The finance and planning ministry, the health, and education and energy ministries were held by the upper castes. These ministers were also entrusted with the task of negotiating with the government employees, who were not willing to withdraw the anti-reservation protest despite the accord with the students and the parents (Patel 1985; Shah 1987).

The state government appointed two cabinet sub-committees to delve into the question of reservation and roster system on 16 July. In order to intensify the protest, *Akhil Gujarat Vali Mahamandal* (AGVM) and AGNS gave a call for 'jail bharo' (courting arrest) from 19 July but they finally signed an accord on 19 July: 'The 18 per cent increase in reservations for SEBCs was scrapped until a national consensus could be achieved which, for practical purposes, meant indefinitely and shifted responsibility from Ahmedabad to Delhi' (Spodek 1989: 772).

A committee to review the 1978 reservation of 10 per cent for backward castes was established and was asked to report before 1988, when the 10-year provision would expire. A judicial inquiry into the violence was also promised. In return, the protest ended (ibid.). However, a small fraction of the student leaders walked out of the negotiation meeting and disapproved of the accord. They declared that they would continue the agitation for the abolition of reservation for the SEBCs. Their call for Vadodara bandh on 21 July and Ahmedabad bandh on 22 July failed to evoke any response. The government also agreed to make a representation before the proposed commission to review the implementation of the Baxi Commission recommendations that economic criteria should be considered as one of the yardsticks of caste-based reservations. The cabinet panel also agreed to the demand of the agitators that administrative measures be initiated to give preference to 'Gujaratis' in classes III and IV services of statutory boards and corporations. Consequently, the students called off the protest on 30 July (Shah 1987).

On 26 July, a massive rally of the government employees on strike was organised, and they had given a call for Gujarat bandh on 27 July, which received lukewarm support of the masses.

The AHRMEA withdrew their 47-day long strike on 2 August. 'They achieved one thing. The municipal administration agreed to implement any decision by the state government with regard to the roster system' (ibid.: 170). The employees of the Gujarat Electricity Board went on strike demanding abolition of the roster system, along with some other demands on 6 August.

The government and the leaders of the government and panchayat employees signed the accord and the 73-day-old strike ended on 18 August 1985. Schools and colleges were reopened, and the teachers and students returned to their classrooms.

'Though the government did not abolish the roster system, it gave certain concessions to the non-SC-ST employees. The government agreed to give retrospective effect from March 24, 1981 in considering the cases of 'hardships' to the non-SC-ST employees in promotion. All such cases would be considered on a one-to-one ratio and would be given notional promotion from the retrospective date when they were deemed to have been promoted. Furthermore, in cases where the SC employees had already gained more than 8 per cent promotions in their cadres, their further roster promotions would be frozen and they would have to wait for the next promotions till the employees superseded get their turns of promotion' (Shah 1987: 170).

The government's agreement with the employees protesting against the reservation system displeased the SC, ST and SEBC employees; they launched an organisation *Gujarat Karmachari Utkarsh Mandal* to protect their rights. A non-Congress(I) front formed the *Anamat Pagla Rakshak Samiti*; thus, the employees in the *Gujarat Karmachari Utkarsh Mandal* were divided into two organisations, running two parallel organisations, demanding restoration of rights as part of reservation system.

'In the rural areas of south Gujarat, the adivasis were taking the lead to question the government's priorities over reservation. Interestingly enough, saffron flags were seen in these rallies. No doubt, the BJP was able to yield political gains from this agitation. However as this issue concerned merely a few among the educated employed, it did not take ground and is a telling remark on the weakness of this issue as a major rallying point for the deprived groups' (Patel 1985b: 40).

Amarsinh Chaudhary, the newly appointed CM of Gujarat

opined, 'I am against KHAM electoral strategy, or any such electoral strategy for that matter. We should not make use of communities and castes for winning an election. Our policies should be framed with their development in mind, not on their votes' (Sheth and Menon 1986: 95).

### Outcome of the Andolan

Two major achievements of this protest could be seen: firstly, the increase in quota reservation for OBCs was withdrawn and did not increase until the Supreme Court's verdict in 2006 and 2008. Until then, Gujarat remained one of the States with the lowest percentage of reservations for the SEBCs. This protest created a scenario that 'the depressed people of Gujarat have lost not only war but also the ground for war because of this Andolan. 'No government would be able to increase even one per cent in quota reservation' (Macwan and Maheriya 1985: v). Secondly, though the roster system was not abolished; non-SC-ST employees were given promotions on one-to-one basis in state government services with retrospective effect since 1981.

One of the main protest leaders, Shankarbhai Patel, in his face-to-face interview on 20 August 2013 mentioned:

'Many points can be seen as achievements of this protest. To begin with, abeyance of increased reservations quota was a major achievement. This Andolan brought out ambiguities and anomalies of reservations to the fore, caught attention of the national audience, which led to withdrawal of debate on "national consensus". Thus, many states have been benefitted with this Andolan. I feel that no government in future would be allowed to play around reservation. The PM keeps saying "national consensus" but he doesn't know what it is about'.

'This Andolan as *praja's* initiative and strength for non-violent protest has proven that no oppressive rulers [politicians playing a role of oppressors as rulers] would be able to intimidate *praja*. Andolan has also assured that reservation in education would not be raised ever after in Gujarat...There is a qualitative difference between Madhavsinh, the former CM and Amarsinh, present CM in personality and approach to solve the problem of reservation. Because of talks failed twice with Madhavsinh Solanki, the protesters had lost hopes.

Madhavsinh was very adamant about continuing reservations quota for OBCs and was not ready to compromise on either withdrawal of Baxi Commission provision after 1988 [as ten years were completed] or withdrawal of increase in quota. However, Amarsinh Chaudhary ensured three points in form of compromise formula. First, implementation of Baxi Commission would come to end by 1 April 1988 by default and instead a Commission made of three High Court judges would be appointed for upliftment of OBCs and the Chief Justice of Gujarat High Court would suggest three members team. Second, demand for the judicial inquiry into violence was accepted based on the report of 'Citizens for Democracy'. He hinted that removal of the CM, Madhavsinh was also an achievement of the *Andolan*. Third, the medical and engineering students had asked for increased in reserved seats and the [State] government has promised to approach Medical Council for this purpose.'

The nature of violence in this instance was different from the earlier *Anamat Andolan* of 1981; here the clashes took place between castes and religious communities. This time, the observers noted that there were some attacks on the scheduled castes in April; these attacks were restricted and marginal when compared to the violence perpetrated on the Muslims largely in Ahmedabad city. Like the *Anamat Andolan* of 1981, there were not many attacks reported where the GCs attacked either the SCs or the beneficiary castes of the reservation quota. The violence was observed on two fronts: 'one, between the police and upper castes, and the other between the Hindus and the Muslims' (Patel 1985b: 33). Both did not have any interconnection; each was a culmination of the logic of two different processes. The role of the army in controlling violence had become contentious, as the Muslims accused the army of being biased against them and the Muslim women poured into the streets and organised a *dharna* against the army in June 1985.

There were 295 rounds of firing by the police, 32 died in police firing (Report by Citizens for Democracy, nd.: 4). Almost 2,200 tear-gas shells were used at different places, which is a world record of sorts (ibid.: 8). Curfew was imposed for 48 to 72 hours at many places; at some places it was released for two hours. Curfews for such long durations can affect people's business activities and also deprive the people of every day needs. Therefore, it should be

duly reviewed by higher authorities. There was inconsistency in imposition of curfew (*ibid.*: 16).

'All told, some two hundred and seventy-five people died in the orgy of arson and murder, and an estimated Rs 2,200 crores (1 crore = \$1.25 million) worth of damage was done to Gujarat's economy' (Wood 1987: 408). This figure was produced by the Gujarat Chamber of Commerce. It apparently includes the value of destroyed property, lost business and lost revenue for the state (*India Today*, July 15 1985: 21). However, 'Even the Gujarat Chamber of Commerce and Industry or the state government for that matter, has not been able to arrive at near accurate estimates of losses as computation of individual traders is impossible. All shops and business establishments in the walled city [of Ahmedabad] where trade and business is concentrated had to absorb heavy losses' (Sheth and Menon 1986: 38 emphasis added).

'Of the total Rs 2,200 crores, 1,600 crores were estimated to be a result of the loss of trade and business and Rs. 600 crores by way of production losses mainly to small-scale industries. Between February and July 1985, over 6,000 people were rendered homeless; as many as 1,600 shops and industrial units were burnt or destroyed—including Gujarat Samachar, popular newspaper daily's press and office—incurring losses of over Rs 5.21 crores. Cheques worth Rs 1,800 crores had piled up, as the clearinghouses remained closed for almost 75 days between March and June 1985. Losses in central taxes were estimated to be over Rs 100 crores. The state government had lost around Rs 75 crores in the form of sales tax. According to a state government estimate, public and private property including shops, houses, industrial units, municipal bus services and State Road Transport Corporation suffered losses accrued at Rs 1,227 crores. An estimated Rs. 10 crores from the Chief Minister's Relief Fund was withdrawn' (*op. cit.*).

Most commentators find it difficult to see the connection, if at all, between anti-reservation agitations and communal riots. Shani interpreted this phenomenon as a beginning of Hindu nationalism:

'These transformations in caste-class relations among Hindus began to be reflected in the modes of political mobilisation, and in particular in increasing support for the Hindu nationalist movement. The construction of 'Hindu opinion' among the Dalits was not only the outcome of the riots, but part of an ongoing process that reached a

critical junction during 1985 riots. Overall, with the exception of the eastern industrial area, Dalits were not attacked during the riots... This marked the beginning of the political transition in Gujarat from Congress to the BJP and dissolution of KHAM politics... The growing disparity between the Dalit workers' economic predicament and their apparent political success through the Congress's KHAM caste alliance served increasing right-wing politicisation' (2007: 145-6).

### **Relevance of this Andolan in Contemporary Times**

There are different answers to the question: 'Why did this Andolan take place?' The announcement of increase in the reservation quota was allegedly as an election gimmick, part of a political strategy of the KHAM alliance. The Rane Commission report was, therefore, was not made available to public nor was it tabled in the Assembly. This created a threat for the non-beneficiaries of reservations, largely GCs, who gradually started perceiving the Muslims in the same way they had perceived the position and operation of the SCs a few years back (Patel 1985b; Shani 2007). There are many myths prevailing on the issue of reservations and the protesters took advantage of the myths. These misconceptions were repeatedly spoken and used for sustenance of fear psychosis of the GCs.

Ambiguities on reservations for OBCs and its vulnerability to legal and political manipulation have continued over the last three decades. The role of media, political parties, and protectors of rights has remained under the scanner for studies conducted on the protests. Peasant castes (for example, Yadavs and Jats in north India and Patels in Gujarat) have been seen as major actors opposing reservations for OBCs and culprits for atrocities on SCs.

### **Arguments and Counter-Arguments for Reservations**

During the *Anamat Andolan* of 1981, counter-actions in support of reservations were taken in the form of strikes in the textile mills in Ahmedabad. This Andolan did not find many challenges during its course from reservation beneficiaries and supporters; however, soon after the Andolan was over, debates and actions on reservations started. *Gujarat Karmachari Utkarsh Mandal* had



organised a huge rally of SCs, STs and OBCs on 26 August 1985 in protest of the compromise formula of the Gujarat Government (*Naya Marg* 1985: 3).

Published materials on reservations for OBCs have captured the different aspects of reservations and the *Andolan* in form of arguments and counter-arguments between reservation supporters and the protesters. Some arguments were factual information based while some were based on concepts, such as equality, quality and competence, social justice and positive discrimination. These materials pointed out the fact that a small number of protesters, largely belonging to GCs and urban areas became organised and grew stronger with the support of different types of powers; namely, of money, propagandist media, political clout and economic factors.

One of the foremost arguments included common sentiments that 'anti-reservation agitation' is to ensure quality standards in the society and that 'reservations based entrants would not be able to maintain quality of work and decision-making for development'. Two counter arguments by the reservation beneficiaries were—firstly, not more than five per cent of the total employees are from a group of reservation beneficiary. For instance, of total 323 permanent and additional judges of 18 High Courts, only four belong to SCs and there is none from STs (Limaye 1985: 56). How can such a small proportion inversely affect the quality? Secondly, those who get higher marks in the Board exams perform better because of their privileged situations, such as education in family for more than two generations, affordability for extra tuition facilities, better nourishment, better infrastructure to support education, and also the ability to bribe the examiners.

On some occasions, the arguments were somewhat contrary to each other: 'reservations allow students to enter with lower marks and they would be incompetent doctors and engineers and they can be dangerous for the society and the professions'; and 'if reserved seats are not fully utilised, why should reservation be continued'. I.P. Desai explained, 'The students on the donor's seats require a minimum percentage of marks to gain admission to medical course. But the SC or ST student cannot get admission to medical courses if he has not obtained a minimum 50 per cent

marks' (1981: 819). The counter argument ridiculed both the arguments, saying that the reservations are applied only for entrance, not for the exams and performances. There are no separate exams or system for giving marks for reserved seat candidates. How can the entrance of a reservation beneficiary endanger a profession? This is nothing but greed of the non-beneficiaries of reservation for continuing their domination over resources and decision-making for resource allocations. This counter argument was raised to break the myth of the 'merit' argument.

'If everybody is equal in India then reservations establish inequality', 'caste based reservations enhance casteism' and 'backwardness would continue if reservations continue' were the next points of dispute. Explanation about how socially and economically privileged sections of society have exploited and oppressed the historically deprived groups were put forward as counter arguments. Some people went on to enhance this argument with concepts of equality, equity and social justice while others compared the issue with the USA (United States of America). They argued that if Americans appreciate Blacks, accept them as citizens, and provide positive discrimination, we should also encourage inter-caste marriages, dining and cohabitation (Macwan and Maheriya 1985). Some others explained keeping in mind the economic point of view, and importance of competition, i.e., competition motivates people to perform better and, therefore, historically deprived sections of society and communities should be provided opportunities to compete (ibid.).

The protesters reiterated that 'supporters of reservations portray it as a magic wand that would remove inequality'. Counter arguments clarified that reservations could be considered as one of the instruments to provide opportunity for education and employment. However, it is not the only instrument for social justice and egalitarianism in India. When different resources are employed for ensuring education to all, livelihood or employment is possible for everyone and basic services are provided to all, automatically inequality reduces.

### **Role of Promoters and Protectors of Rights—Police, Press, Political Parties**

Police excesses were reported in form of high handedness on women and children, 'playing in hands of agitationists' (Patel 1985b), and being communal. As reported by Gujarati and English daily newspapers on 18 April, women in Gomtipur area of Ahmedabad city complained of alleged vulgar gestures and a 'naked parade' by the police to shame them and threaten the protesters. This incident heightened anti-police feelings. Henceforth, the police were asked to take orders from the army. On 12 April, it was alleged that the police had broken down a door and entered a temple in Saraspur area in Ahmedabad city. The following day, police fired 80 rounds of tear-gas in one of the areas of Ahmedabad city and detained two municipal corporators, leading to further violence and clashes with civilians. On 17 April, the Khadia residents alleged that the police went on a rampage, broke open doors, used iron pipes to damage at least 20 houses, thrashed pregnant women and lathi charged local people. The victims immediately filed a case of police excesses to peaceful protests, first in the metropolitan magistrate's court and later in the High Court (Patel 1985b). As the protest intensified, many more arrests took place, including imprisoning of junior doctors who went on a strike, as did about 600 government employees. Police was allegedly involved in burning of a press (Sheth and Menon 1986: 28, 64).

In India, the media is one of the vigilantes. Role of the press during this *Andolan* was highly criticised. An opinion was expressed in All India Newspapers Editors' Conference: 'There is no denying that the Gujarat press sees itself as a propagator of certain vested opposition interests. In the process, the media seems to have followed the dictum of publish and be damned, irrespective of its impact on the general public' (quoted in Sheth and Menon 1986: 68).

Gujarati newspapers, particularly the Gujarat Samachar and Sandesh were the most discredited dailies, among others. 'Gujarati newspapers were like fiefdoms of the owners...Of the 32 dailies published in Gujarat, 18 do not have a working journalist as editor which is eloquent to underline the owner's attitude to the press.

There is little room for ideology. What mattered were profits. Big advertisements are holy cows' (op. cit.: 66). Menon, a senior journalist working with *India Today*, observed about Gujarati dailies: 'a new kind of populist fascism that could threaten a free press. This could one day develop as a formidable challenge to responsible and objective journalism' (op. cit.: 74).

Congress(I), as the ruling party, was expected to play multiple roles, like upholding the KHAM alliance as a political ideology and looking at their overall development. Withstanding the *Anamat Andolan* of 1981, the announcement of 18 per cent increase in the reservation quota just before assembly elections in 1985 became a nightmare for Gujarat. Moreover, spreading and sustenance of communal violence indicated that certain elements of the Congress(I) gave sanction to this violence in order to deflect the emerging caste tensions.

The role of Madhavsinh as the Chief Minister of Gujarat and his functioning as a shrewd politician has been analysed by the scholars, which bears similarity on many counts. For instance, Madhavsinh had no mass base and his deeds were contradictory (Yagnik 1983: 1505). The Solanki government established Boards and Corporations for the minorities, dalits, tribals and women but did not launch any major legislative effort which would disturb the Gujarati capitalist interests or seriously undermine the economic position of large scale cash-crop farmers (Wood 1987: 420). Politics of populism, patronage and perks took over (Sheth and Menon 1986: 109).

A behavioural and decision-making pattern of Congress(I) reveals its character and motives. With the formation of AGNS, schools and colleges were closed, in anticipation that the students would not be mobilised. As soon as petitions were filed for opening of educational institutions, counter petitions were filed to ensure that they remained closed until after the election results were announced. With the announcement of protest programmes and call of bandh on 18 March, the increase in reservation quota was withdrawn immediately. It was also clarified that in the absence of due procedures, the announcement of increase in reservations quota was not formalised. The febleness of Congress(I) became more obvious as the *Andolan* graduated—this could be seen by the

deterioration in law and order; unproven allegations on police and army; private firing supported by anti-social elements, bootlegger barons, marginal smugglers, gamblers and land mafias; populist politics and compromising formulae; and playing in the hands of the protesters. Finally, the ruling party went back on their promises of reservations. An analysis of the behaviour of Madhavsinh, Congress party and its different factions revealed a growing rift within the Congress(I) apropos to decision making on reservations and riots (Shah 1987<sup>2</sup>; Wood 1987). Yagnik wrote:

‘The latent caste-hatred suddenly erupting into social violence is helping the rightist opposition parties as also the anti-Solanki faction of the Congress(I) to plan toppling of the Solanki government, a repeat performance of the 1974 Navnirman movement. The faction-ridden Congress(I) government, otherwise sluggish and appeasing in action, is only thinking in terms of restoration of law and order by arresting (and releasing after a week) some Savarna and Dalit leaders under NSA after losing the case in Gujarat High Court’ (1981a: 555).

The faction among the Congress(I) supported the removal of Madhavsinh Solanki. Initially he was supported by central unit of the Congress(I) but as the situation worsened, after six months of protest and communal violence, the CM was asked to resign.<sup>3</sup> His successor Amarsinh Chaudhary adopted a conciliatory approach towards the protesters and the Congress(I) withdrew its commitment from the reservations policy for SEBCs and disowned the KHAM alliance and its overall development.

What is of concern here is the impact of backing out of a ruling party, and disowning its own strategies for the development of the historically deprived groups. Congress(I) could not plan and execute counter mobilisation strategies of the BJP such as yatra (Rath-yatra and Shobha-yatras), relief work in the midst of communal violence, and so on. Also, the Congress(I) could not control the misreporting of press, could not motivate the police as machinery to maintain law and order, and counter the accusations against the army of being communal. The degeneration of political culture was witnessed—a ruling party working hand in glove with the power elites through press, police and anti-social elements—which perpetuated fertile grounds for the regressive

elements to creep in. Consequently, the constitutional ideals of equality, egalitarian society and social justice for the historically deprived groups were compromised.

The BJP as an opposition party succeeded in its agenda of 'to build a Pan Hindu political and religious front' through caste and religion as entry points in order to meet their long-term political and ideological goal to create a Hindu Rashtra. Balasaheb Deoras, the chief of the *Rashtriya Swayamsevak Sangh* (RSS), has often said that 'if untouchability is not wrong, than nothing in the world is wrong'. The RSS and the BJP supported reservation with coalesce, 'Reservation cannot be a permanent arrangement, as it will create vested interests, erode merit and efficiency and develop serious tensions and frictions between several sections of society...Hindu society should be consolidated with the spirit of indivisible oneness and that there should be no disintegration in its because of tendencies and sentiments like 'touchability' and 'untouchability' (quoted in Patel 1985b: 82).

### **Right to Reservations of the SEBCs Contested: On Streets and in Courts**

The *Anamat Andolan* of 1981 showcased the remarkable violence on the SCs as well as the debility of the state, specifically the ruling political party, with regard to the reservations policy. This *Andolan* brought out the complex patterns of interrelations between caste, class, communalism and state alias the ruling political party. The relations between caste, communalism, and their interplay with the state explained the role played by anti-social elements, economic pressures and stakes, political enmity, social hierarchies and how the structure of domination is maintained through violence. In such complex scenario, finding avenues for citizens' rights is a challenging task.

### **Overlapping of Caste, Class and Religion in the Discourse of Reservation Quotas**

The Constitution (Scheduled Caste) Order of 1950 provided that 'no person professing a religion different from Hinduism shall be

deemed a member of a Scheduled Caste' (Shani 2007: 151). This shows that caste is most commonly perceived as the core of Hindu identity; though there do exist differences between *varna* and *jati* (reflecting hierarchical social structure) in the Hindu order. In the context of reservations policies, the state machinery sometimes entrenches this view. A perplexity prevails for a person leaving Hindu order for other religion. A Hindu, who converts to Buddhism or Islam, would no longer be eligible for the reservations, while a Dalit-Christian, as SEBC, is eligible for reservations in Gujarat.

Both *Anamat Andolans* raised many more questions not only against caste as a criterion for reservations, they also indicated a space for defining and conveniently redefining of caste as a category, which could be combined with class. The efficacy of the social reality of caste indicated that 'the nature of caste and its stability as a social unit depend on the definition it was given within politics, rather than on its inherent substance' (Shani 2007: 138) and caste is not itself a fixed structure. Several instances have shown that the castes have been shaped by either the principles in the form of religion or as a philosophy of life, political processes and by the protests. Two *Anamat Andolans* reaffirmed the fact that the boundary of caste as a social group could be redefined in relation to class and religion by the state and can also be renegotiated with the state by bringing them to public domain.

The proposed combination of caste and class as criteria for reservations by the protesters aimed at a two-pronged approach: renegotiating the boundaries of caste as a social group with the class angle, thus maintaining historical domination of the GCs as a non-beneficiary group of reservations in the given social structure by way of control of political, material and social resources. With the abolition of protective features of reservation system by the state, the protests proved that 'how the "defence of privilege" in the current context [the protests] is able to employ with impunity the language of universality...The state has failed miserably in its self-ascribed role as the agent of a proactive programme of reconstituting the body politic in keeping with the modern democratic ideals inscribed into the constitution' (Tharu et al. 2007: 39, emphasis added).

Though the state has produced a number of legal provisions

to protect its historically deprived social groups, 'it has refrained from undertaking the work of restructuring, of reforming its citizen-subjects in keeping with the commitment to end caste discrimination and oppression. On the contrary, it would appear covertly to firmed up and strengthened the normative, upper caste and Hindu formation of this subjectivity' (ibid.).

This belief brings us to understand three levels of operations of right to reservations, having dynamic interactions vis-à-vis state: first, the political ploys by the government alias ruling political party; second, social and economic change and changes in political culture; and the third, perception of individuals and social groups regarding the reservations policy. These protests in this context become a litmus test for democratic values and also the rights that are directly related to access of social, political and material resources of the state. The subjectivity of the state and its influence on functioning of democratic institutions signifies the various inter-linkages and the inter-dependence between rights and institutions. It also indicates a need to explore the 'democratic approach to rights' in order to ensure implementation of rights, such as the right to reservations.

### **Hurdles in a Shift from Social Welfare to Social Justice**

Both *Anamat Andolans* propagated terms such as meritocracy, efficiency, benefits, costs, opportunities, social welfare measures, etc., repeatedly and emphatically, which overshadowed the constitutional promises of equality, egalitarianism and social justice through compensatory discrimination. The non-beneficiaries of reservations, which are in a way a 'minority' vis-à-vis SC, ST and OBCs, became 'majority' actors vocalising their interests and sense of deprivation for material, social and political resources. The government acknowledged the sentiments of the non-beneficiary group, and the challenges posed by them were read as grievances that needed accommodation and redressal in the policy recommendations. 'The rest were then assumed to be passively available for slotting into various objectively defined categories of relative deprivation and eligibility for measures of positive discrimination' (ibid.). In this light, whether these protests could be taken as an



opportunity to rethink about the reservations policy or a threat to democratic values still remains an open, debatable question.

The protesters demanded either a larger share in reservation quotas or abolishing the reservations. This way of assertion of non-beneficiary reservations groups is perhaps generated from feeling of fear or threat, which manifested in assertion for their supremacy, connoting that 'we provide but you don't demand'. This attitude of GCs revealed that a shift from social welfare to social justice is indeed a difficult process, interns of institution-alising the agenda as well as bargaining ability of the reservation beneficiaries. This also signifies that the reservation's potential to bring about social change, aiming at an egalitarian society, was achieved to some extent but the dubious role of the state has negated the potential of the reservations policy. This negation is actually a material for politics and a threat to democratic values; paradoxically, caste gradually assumed growing political relevance and attained a new lease of life through the reservations policy. 'Gradually, class became more pertinent as an emblem of social difference because, among other things, it marked more clearly the change in castes' (Shani 2007: 143). This became a point of advocacy for renegotiating criteria for the reservations policy by the protesters, to continue to control the material and ideological resources.

### **Why Right to Reservations is Difficult to Implement?**

A duality could be observed in the role of the state during these protests: on one hand, 'publicly caste has been subject to a policy of disavowal' (Tharu et al. 2007: 39); on the other hand, the boundaries were renegotiated and, in turn, the reservation system was contested. The struggle over the reservations policy also revealed a gamut of contradictory, inchoate and contentious issues, for instance, even if reservations had or are capable of having a limited impact on the conditions of the beneficiary groups, it has remained important yet contentious social and political actions. For instance, initiating reforms of reservation policy and/or removal of the protective features on demand of the protesters, have not defused potential social conflicts. Actually, it has

remained a burning social issue, a political challenge and a threat to constitutional provisions and democratic consequences.

The principle of an egalitarian society views reservations, a constitutive necessity for the Indian republic, as a way 'by which the state, governing a polity divided into many communities, tries, instead of dissolving the communities into one, to construct a supplementary community by representation which will mediate the relations between the many communities that actually exist and the projected community that will unite all into one' (Tharu et al. 2006: 40-41). However, the idea of building a modern, democratic society was continuously challenged by the traditional social group alliances and the dichotomy of citizen versus primordial identity prevailed. The ambiguities in the Constitution regarding reservations for OBCs were repeatedly challenged through protests and, therefore, what can now be noticed is: there are 'two logics of reservations in India: one, a tool of governance, two, a means of political self-constitution' (ibid.).

The protesters were unable to conceive the basic difference between reservations for SCs and STs and that for OBCs. As such, 'while holding caste as the primary criterion for identifying social and educational backwardness the courts have approved the use of other criteria as well...in many states, the identification of beneficiaries is done at the individual and household levels from among the OBC communities, by applying the income and educational criteria' (ibid.). This discussion combines and reiterates two logics for the reservations policy, i.e., a tool of governance as articulated by a mean of political self-constitution.

In the given two dichotomies of citizen and traditional identity, and a tool of governance and means to political self-constitution, institutions have a peculiar subjectivity. The Indian Constitution has conceived the right to reservations as a tool to achieve social justice but the institutions involved in implementation and the Judiciary as an institution that interprets Indian Constitution have exhibited an inherent duality. Thus, combinations of dualities of various kinds for playing different roles in ensuring right to reservations to historically deprived groups have played a role that created more challenges to its conception and implementation than solving it. This happened mainly because the protests

brought these dimensions to the public domain, side-lining the abilities of democratic institutions to function effectively through their inter-linkages and inter-dependence.

Both the *Anamat Andolans* challenged the legitimacy of reservations for the OBCs and denied caste-based discrimination and oppression. In turn, they denied the idea of social and distributive justice. This situation has created paradoxes: 'If the end is social justice, then reservations are more accurately defined as an interim measure, until the means are found and implemented to achieve that end' (ibid.). The debate right to reservation was brought out to public sphere by the historically privileged GCs and was supported by the ruling political party or state. The relevance of the reservations policy for OBCs in its existing form, therefore, has remained a matter of political negotiations, under control of the vagaries of the implementation machinery under the guidelines provided by the Judiciary. The notion of an egalitarian society is ceased to appear as a mere instrument of state generosity through these protests. This means that greater dependence on the Judiciary and political institutions for the right to reservations means greater vulnerability to injustice for the historically deprived groups.

'A job-oriented conception of the educational system has today become so naturalised that education for citizenship, which is one of the important ideological means for reconstituting the social order, has been all but forgotten. The average student from a middle class family today typically moves from the embrace of the family directly into the embrace of the capitalist firm without any subjective reconstruction as citizen and member of national community. This absence of subjective reform was all too evident in the discourse of the anti-reservation agitators: while they employed familiar universalist terms like "equality", their meaning did not depend at all on a consideration of the community as a whole. It was not the equality of all citizens that the term designated, but an abstract equality that could be achieved without any reference to social realities, by simply preserving all the illusions fostered by the "general category". This is nothing but abuse of the language of universalism and democracy' (Tharu et al. 2006: 44).

The protests in the 1980s and later anti-reservation agitations in the consecutive decades substantiate the fact that the reservations

serve more as a means for the expression of class-caste interests and, therefore, it has become more difficult to aspire for a neutral political subject that would arbitrate the claims for reservation for social justice. This arises as a new challenge in which castes are asserting their right to power. The representative electoral politics and techno-managerial view to solve the problems of politics vis-à-vis constitutional mandates demand 'a retooling of the normative subjectivity of formal democracy. It involves critical reformations of the institutions of public and private life, and requires altogether new frameworks for the accountability of the government to the people' (ibid.).

### **Peculiarity of Two *Anamat Andolans*: Divide in Society on Caste Line, Tripartite Conflicts and Quadric Dimensions**

Two *Anamat Andolans* are peculiar on three counts: in terms of participation of the 'non-beneficiaries of the reservation', and 'beneficiaries of reservations'; modification of right to reservation; and how law's equivocation became institutionalised as snowball effect of two *Anamat Andolans*.

Usually, anti-systemic protests are bipartite. The *Anamat Andolan* of 1981 started as tripartite—between the state, beneficiaries of the reservation, and non-beneficiaries of the reservation. All anti-reservation agitations in India have posed this challenge, i.e., split in civil society, the power elites dominated over the relatively powerless groups in the society. The protesters identified SCs as 'beneficiaries of reservations' and attacked them. Consequently, many SCs had to bear a double burden: first, to start counter-agitation against the power elites as well as to pressurise the state for continuing the reservation benefits, and second, bringing all 'beneficiaries of reservations' together for united actions did not take place. However, SCs were not successful, as they could neither alter the demands of the power elites nor could they negotiate or pressurise the state for not giving up on its promises. They suffered on all counts and were further marginalised in terms of loss of property, loss of relatives due to killings, and loss of protective features of the reservation system.

In terms of modification of the right to reservation, it led to litigation and litigation translated it from caste to class, with removal of the creamy layer. With the Judiciary entering the fray as an arbitrator, the protest turned quadripartite—state, Judiciary, beneficiaries of the reservation and non-beneficiaries or the power elites. The state was actually represented by state government alias the ruling party and police as an agency for maintaining law and order. The power elites, in the form of protesters, were supported by the vernacular press and other associations like the Bar Association, Medical Associations and State Government Employees' Associations. Thus, the state and non-beneficiaries of the reservations as the protesters grew in numbers as well as strength while the beneficiaries of the reservation as a group remained less and isolated despite having little more than half the population of Gujarat with them. The process of consolidation among the non-beneficiaries of the reservations made the silence of the beneficiaries of the reservations more apparent as well as the potentiality of the protesters to turn it in favour of social justice was minimised. These *Andolans* repeatedly created a condition in which the beneficiaries of reservations could not fight for their right to reservations.

The anti-disabilities measures through which the SCs and STs could enjoy social mobility and an opportunity for OBCs for getting into mainstream through education and employment were eradicated by the state (Galanter 1984). The reservation quota for OBCs in Gujarat remained at 10 per cent; it could not be increased in future due to these two protests, until the judgement of the Supreme Court in 2006 and 2008, settling for 27 per cent of reservation quota for OBCs across India.

As such, no direct linkages have been observed between this Andolan and the anti-Mandal protest in 1989, except that a common trend is increasing, i.e., 'judicialization of politics'. The Supreme Court verdict in the case of *Indira Sawhney & other vs Union of India* on 4 November 1996 mentioned, 'This bench interpreted various aspects of Article 16(4) of the Constitution of India. While holding that Article 16(4) aims at group backwardness this Court concluded that socially advanced members of backward class—"creamy layer"—have to be excluded from the said "class". It

was held that the “class” which remains after excluding the “creamy layer” would more appropriately serve the purpose and object of Article 16(4). The protective discrimination in the shape of job reservations under Article 16(4) has to be programmed’ (<http://indiankanoon.org>). The infamous ‘Mandal case’ of 1992 and consecutive cases in 2008 and 2010 have revealed three issues: the confirming pattern of ‘judicialization of politics’; lack of consensus among judges in interpreting Indian Constitution; and realising the limitations of constitutionalism. These judgements in some way supersede political institutions and, therefore, even if they are in place, their functioning gets affected as a result of the greater role of the Judiciary.

## Notes

1. The Vadaj area is close to Gandhi Ashram. This area is largely habited by Chamars, a sub-caste of the Scheduled Castes, and engaged in construction business. After settling in Ahmedabad, they had taken to education and used reservation to rise up in this society. Since early 1970s, they have organised themselves into *Jai Bhim Yuvak Mandal* and also aligned themselves with the *Dalit Panthers* which was formed in 1978. Narayanpura is a new area developed on the western side of Ahmedabad, dominated by Patels. These two areas are in close vicinity to each other.
2. Shah (1987: 165) has provided details of OBC leaders’ views, the manner in which the Patel factor came at play, and how this factionalism was widened because of this Patel factor in Congress(I).
3. For details, see Yagnik, Achyut. 1983. ‘Paradoxes of Populism’, *Economic and Political Weekly*, August 27, 1505–1507 for details about the tension prevailing between Madhavsinh Solanki, Zinabhai Darji and Ratubhai Adani—the three important Congress leaders with different ideological stances and actions.

## CHAPTER 5



### Ferkuva Andolan

‘Narmada is the first major conflict over river water development in India to confront these issues, and the struggles between pro-dam and anti-dam forces that have raged since mid-1980s are likely to continue. There has been great controversy over the height of the gigantic Sardar Sarovar<sup>1</sup> dam in Gujarat, now nearing completion<sup>2</sup>... Pro-dam forces, mostly in Gujarat and Rajasthan, wanted a high dam not only optimize Sardar Sarovar’s irrigation and hydro-electric power potential, but also to secure water for domestic and industrial use in these drought-prone states. The anti-dam forces, mostly in upstream Madhya Pradesh and Maharashtra, have wanted a lower dam to minimize the damage done by Sardar Sarovar’s huge reservoir. They have protested that there should be no dam at all until the citizens of the Narmada Valley are consulted’ (Wood 2007: 14-15).

The Narmada Valley Development Project (NVDP) is one of the most controversial river control and development projects. The list of causes and factors to this controversy is long and complicated. These reasons include ever-changing decision-making and the course of actions by the beneficiary states—Gujarat, Maharashtra, Madhya Pradesh and Rajasthan —regarding water sharing, cost sharing, rehabilitation and resettlement (R&R) measures and packages; protests by pro-dam supporters<sup>3</sup> and anti-dam activists and groups<sup>4</sup>; long drawn litigation with the Supreme Court’s involvement; the role of some civil society organisations<sup>5</sup> (CSO) including non-government organisations (NGO) and community based organisations (CBO); numerous studies<sup>6</sup> covering the different aspects of the project by development activists and researchers, scientists and academics. And

yet information was quite inadequate to know the true state of affairs, the support and withdrawal of the funding agencies<sup>7</sup> and several revisions of plans for construction of dams and canals over the last three decades. Despite establishing necessary authorities and agencies that exclusively dealt with various aspects of the project, such as Narmada Water Disputes Tribunal<sup>8</sup> (NWDT) and Narmada Control Authority (NCA), exclusively dealing with, role of state based agencies the mega-project has witnessed messy affairs.<sup>9</sup> The Government of Gujarat (GoG) appointed Planning Group during mid-1980s and later the Sardar Sarovar Narmada Nigam Limited<sup>10</sup> (SSNNL) in 1988 as an implementing agency, which has continuously reported progress of the project, provided dataset and arguments in support of GoG's performance. National Commission for Scheduled Castes and Scheduled Tribes<sup>11</sup> (NCSCST) has played a role of mediating agency between the authorities and the schedules castes and tribes; the writings of pro-dam forces have portrayed it as a supporter of anti-dam forces.<sup>12</sup>

Of different controversies and protests<sup>13</sup>, this chapter focuses on one of the protests by Gujarati that took place at Ferkuva between December 1990 and February 1991. In Gujarati writings, this protest is called 'Ferkuva Satyagraha' and 'Narmada Aagey Badhao Andolan'(Let Narmada project go ahead). However, this chapter is titled as 'Ferkuva Andolan' and the same expression is used throughout the text, signifying the *Andolan* with its location. Ferkuva is a village of Chhota Udepur block of Vadodara district in Gujarat, on the border of the adjoining state of Madhya Pradesh.

This protest is recalled by many Gujaratis 'as an exemplary occasion of collective victory' when 'Medha Patkar and her people were shooed away from the state...The Narmada Movement made one of the strongest cases yet for "collective injustice", which proved to be a watershed in crystallizing arguments about 'Gujarati victimhood' (Mehta 2010: 517, 518). Supporters of 'Narmada Bachao Andolan' believe that this movement is an example of powerful collective action, transnational alliances and support of awakened citizens, which changed the discourse on dams worldwide, and on rehabilitation and resettlement (R&R) measures in India.

This is a lengthier chapter, compared to other chapters, as the



historical background with factual information, debates over various decisions taken by the NCA, Government of Gujarat, central government, and other states, etc. are necessary to locate in an overall debate on Sardar Sarovar Dam Project (SSP). It is equally important to capture debate between the GoG and the NBA, to show how the feeling of animosity has been built up. Beginning of the chapter provides brief outline of SSP and associated agencies and events, i.e. range of historical events, processes and actions taken by various agencies are presented in the running text as well as in form of footnotes, such as NVDP, Gujarat's aspirations, extent of displacement and issues of R&R, resistance building and mobilisation of the project affected persons (PAPs) by the NBA, collective action by the PAPs during 1980s, etc.

This chapter is presented in three sections. The first section presents backdrop details of *Ferkuva Andolan*, profile of protesters, and its outcome. The second section elaborates on relevance of this *Andolan* in contemporary times, focusing on four issues—approaches to river control, role of subject experts and advocacy measures; resistance by the PAPs; and the Supreme Court's interim orders and verdict regarding NVDP. Third section elaborates issues related to rights and which rights are articulated and/or violated by whom—by dam supporters and those opposing dam, i.e. NBA.

### **Narmada Valley Development Project, Gujarat's Aspirations and Issues of R&R**

NWDT's final award came into effect through a gazette notification in December 1979. Gujarat has had a pro-active approach for this project since its inception. The need for this project for Gujarat has been shaped up and reinforced at different points of time and by various political leaders and civil actors. Three consecutive severe drought years, during the period 1986 and 1989 became a point of conviction for the NVDP and, perhaps from this point, 'Narmada as lifeline of Gujarat' sentiment has been reinforced over and again that it is the only solution for frequent occurrences of drought and scarcity due to irregularity in rainfall. Four important uses of the SSP have been promoted—provision

of drinking water, irrigation facility, industrial purpose, electricity generation, and recent addition as a tourist place.

India's first Prime Minister Jawaharlal Nehru laid the foundation stone of a 162-foot high dam on the Narmada in Bharuch district of Gujarat in 1961. The decade of 1960s and ventures of big dams have reinstated the logic of national development through river control and dam construction. The debates over big dams have highlighted a need to examine various aspects, such as, cost-benefit analysis, extent of displacement and need for R&R measures, large tracts of land being submerged and the resultant environmental impacts, seismological effects, etc. Swain (2006: 823–824) has elaborated various aspects of dam building as a strategy—how big dams helped political leadership to buy loyalty of local elites, why ideas of modern development received little resistance from any front, how 'national interest' argument is developed and every local interest was morally compelled to make sacrifice, and environmental movements addressing issues of big dams.

The plan of dam building was revised and the states of Gujarat and Madhya Pradesh reached an agreement in 1963, stipulating a 425-foot high dam at Navagam in Gujarat to build the Sardar Sarovar. Among a series of major, medium and minor dams to be built along the entire stretch of the river, another major dam was also conceived at Punasa in Madhya Pradesh to build the Narmada Sagar (Shukla nd., web). Since then, every chief minister of Gujarat, especially Chiman Patel in early 1970s and 1990s, has expressed commitments through political statements, dialogue with other beneficiary states and seeking the mediation of the Central Government as well as the Prime Ministers, especially Indira Gandhi during 1972 and Rajiv Gandhi in 1987. After the Ministry Central Water Resources granted clearance for raising the height of the dam by 16.76 metres on 10 June 2014, Anandi Patel, the CM of Gujarat rushed to dam site to hold 'pooja' to commence construction work, which was held for some time (*Down to Earth*, 12 June 2014).

In 1985, the World Bank provided a 'start-up' loan of \$450 million to SSP and later \$350 million loan for construction of the canal. Another loan of \$90 million for environmental protection

in the Narmada Basin Development Project was under negotiation. This loan comprised about 18 per cent of the costs of the dam and 30 per cent of the expenditure on the canals; the rest were to be borne by the state governments. Following this loan, the Government of India (GoI) gave conditional clearance to the SSP in June 1987 that the R&R would be completed by the end of 1989. As part of the conditions, the governments of Gujarat and Madhya Pradesh were required to fulfil four agenda: to prepare alternative afforestation sites to compensate for the submerged forestland; to improve the rehabilitation package for the displaced people; to create sanctuaries for wildlife; and to prepare both command and catchment areas to mitigate both the dams' negative environmental effects. NCA agreed to meet these conditions on a *pari passu* basis by 1989.

The construction of Sardar Sarovar dam began in December 1987; the estimated projected cost at the time of the Planning Commission's investment approval was Rs 6,406.04 crores at 1986-1987 price levels. As per the 11th Plan Working Group of the Planning Commission, the financial costs of the SSP have risen from Rs 6,406 crores (at 1987 prices) to Rs 45,000 crores (TISS 2008: xii). By 1987, about 2,000 families from Gujarat and 90 families from Maharashtra had been displaced and shifted to the resettlement sites.

'From 1987, the Gujarat Congress Party government of Amarsinh Chaudhary adopted a hard-soft approach to meeting the protesters' challenge. Hard measures included the use of draconian laws to arrest anti-dam demonstrators and protect the dam-site, while soft measures added gradual improvements to the resettlement package and more environmental compensations' (Wood 1993: 977). In October 1988, the GoG announced the dam site, the project headquarters at Kevadia and 12 adjacent villages were subject to the Official Secrets Act, 1923 followed by long-drawn strike by the construction workers. The district of Bharuch (falling into the command area of the project) was also declared a 'prohibited area' under section 144 of the Criminal Procedure Code. The activists who violated these codes were caned and arrested.

In February 1990, Janata Dal (U) and BJP formed a govern-

ment in Gujarat, Chiman Patel was elected as the CM. Maneka Gandhi, as Minister for State, Environment and Forests, insisted on implementing safeguards, and this gave strength to the NBA's efforts towards struggle against the SSP.

As per the government's estimate in the late 1980s, of the total 19 villages in Gujarat, three villages were to be fully submerged while 16 to be partially submerged with a total of 4,737 families as affected by the project. Thirty-three villages of Maharashtra were to be partially submerged with the total 4,163 families as project affected while of the total 192 villages in Madhya Pradesh, one village was to be fully submerged and 191 to be partially submerged with total 39,369 families as project affected ([nca.gov.in](http://nca.gov.in)). The responsibility of R&R was exclusively on Gujarat state. Official sources stated that in the case of the SSP, 182 villages in Madhya Pradesh, 36 in Maharashtra and 19 in Gujarat would be under water and the NSP would submerge an additional 254 villages in Madhya Pradesh. These figures, however, are incorrect, because they only include revenue villages, with no mention of forest villages. A report by MARG (1989) mentions six forest villages of Tehsil Barwani (Dhar district, Madhya Pradesh) that would go under Sardar Sarovar's waters. Similarly, no attempt has been made to list those villages that would fall victim to the backwater effect (Singh 1989).

Soon after the NWDT award, Gujarat started R&R process in 1980. Initially, the R&R process began with 19 villages of Gujarat and 33 villages in Maharashtra while this process in Madhya Pradesh was delayed, as these villages were to phase flooding in the second phase on the dam construction.

Until 1980, the resettlement of the project-affected families was largely understood as a physical transfer of the house site and household items, and usually done at the last minute, just before submergence of the area. The planning, staffing and implementation emphasis was on 'resettlement' by which the Indians mean physical removal and compensation of people as required by the construction timetable (Scudder 2003: 4). Regarding the number of the displaced and resettled families as well as how much land would be submerged, the shrouding attitude of the state governments has been discussed by different agencies,

subject experts and writers (Parsuraman 1993; Scudder 2003). With this mind-set, 'no planning, survey of submergence area, identification and enumeration of affected people by reservoir, canals and other irrigation structures, and an assessment of the nature and extent of resources and institutional mechanisms required for resettlement' (Parsuraman 1993: 2) was undertaken. The state governments invariably underestimated the re-settlers' number and requirements, and their special status.<sup>14</sup> According to the Morse Commission, 117,575 or 59 per cent of the 199,500 people officially acknowledged as affected by the project belong to the Scheduled Tribes (quoted in Baviskar 1995: 90). Though dams have been important instruments in the construction of a modern Indian nation, they have often been built ignoring popular demands for equity, efficiency, participatory decision-making, sustainability and accountability (quoted in John 2001: 3030).

Until 1987, the government, the project-affected persons, and the CSOs working with the PAPs were constantly evolving methods and mechanism for resettlement based on experiences in Gujarat as well as in Maharashtra. Initially there was an exchange between these actors on resettlement-related issues; ARCH-Vahini decided to support the GoG in effective implementation while Narmada Dharangrasta Samiti (NDS) focused on issues of displacement of the PAP, need for holistic resettlement including basic amenities and infrastructure at the resettlement sites, and to rebuild socio-cultural environment. Out of the more than 25,000 people affected by the SSP in Gujarat and Maharashtra, more than 90 per cent of them are members of the Bhil and Tadavi tribes. Most of them are landless, and fall into two categories: traditional tribal cultivators with no land titles, and the real landless agricultural labourers found in many villages of Madhya Pradesh. For the forest-dwelling tribals, the most serious impact of displacement will be the separation from their natural surroundings. The forest and the river play central roles in their cultural and economic life; neither will be present at the resettlement sites (Singh 1989). Later, the NGO movement in Maharashtra and Madhya Pradesh took a completely different turn.<sup>15</sup> The demand—'first rehabilitation then the dam'—began from Maharashtra in a Left-led 'Committee of Dam and Project Evictees' (Dwivedi 1997).

As per award of NWDT, initially the GoG accepted 'land against land' only for the landholders and not the rest. There was no provision for encroachers (having usufructory rights over the land), the landless people and the land that would become *tapu* (island) after submergence of the surrounding area. The GoG announced a R&R package in December 1989, in which, the 'resettlement' became broader and more inclusive with a somewhat clear definition of oustee, family, land allotment for landed oustees and encroacher oustees, landless oustees and major sons of the above-mentioned categories, house plot, rehabilitation grant, grant-in-aid, subsidy, transportation grant, acquisition of private land, civic amenities and other facilities. 'The PAPs are rehabilitated and resettled with a most liberal package, not offered in such cases anywhere in the Third World' claimed by the dam supporters (Sheth 1994: 60). An analyst sympathetic to the dam described this post-R&R phase in the Narmada Movement as 'a golden chapter of cooperation between the state and the people, its governments and NGOs' (quoted in Mehta 2010: 512).

Gujarat, Maharashtra and Madhya Pradesh have followed each of these categories with some modifications. The provisions of R&R were considered a remarkable improvement compared to the earlier practice of compensation through cash. However, discrepancy continued at the level of R&R measures by each state and perceptions of displacement and R&R too varied from family to family. Mixed views on impact of resettlement were expressed.<sup>16</sup> The Government of Maharashtra (GoM) followed the R&R law of 1976 while the Government of Madhya Pradesh declared cash compensation against land lost. Due to such discrepancy in R&R provisions, both the states did not match the requirement of the World Bank's policy guidelines on involuntary resettlement (Parsuraman 1993). The GoG wanted the World Bank not only for funding the SSP but with the idea that the presence of WB sanction would give worldwide legitimacy to this prestigious project (Sheth 1994: 65). The World Bank eventually withdrew from funding the project in 1993. Despite several attempts by the NBA to block its construction, the dam was eventually built and the Gujarat government declared the dam site as a destination for eco-tourism.

### **Collective Action: During 1979 and 1991**

The collective action for R&R of the PAPs during 1979 and 1992 is usually divided into three phases: early 1980s as period of confusion; 1985 to 1988 as period of tension; and 1988 to 1992 as period of confrontation (Parsuraman 1993).

The first collective action against R&R provisions of the displaced population, in the shape of a public demonstration was organised on 8 March 1984. This group, consisting of 14 tribal villages in Gujarat and nine tribal villages in Maharashtra, marched to the project headquarters at Kevadia colony, demanding a through revision of Gujarat government's resettlement policy outline through government resolution (GR) dated 11 June 1979. A memorandum was submitted by the PAPs and two NGOs—ARCH-Vahini and Rajpipla Social Service Society (RSSS). Both the NGOs were working in south-east Gujarat with tribal communities; ARCH with the focus on medical and social welfare activities, while RSSS focussed on legal and social welfare activities since 1970s. A writ petition in the Gujarat High Court and later in Supreme Court of India was filed.

In 1987, the Maharashtra-based NDS and Madhya Pradesh-based NGNNS jointly submitted a memorandum to NCA which contained 38 demands for just R&R. One of the demands was to release forestland for the rehabilitation of the oustees. The pro-dam supporters found this demand a tricky and 'strategic', because if this land was made available for the rehabilitation, it could indirectly prove that the GoG did not have adequate land to resettle the oustees. They also met the World Bank president B. Conable, asking him for the withdrawal of the bank's finance when he visited Delhi in 1987. Several protest programmes were organised in the year 1988.<sup>17</sup> Baba Amte organised 'Bharat Jodo Yatra' in 1985 to unite the country from Kashmir to Kanyakumari and from Gujarat to Arunachal Pradesh in 1988 and also tried to raise environmental consciousness. During 1985, he was well received by the Gujaratis. This attitude changed as soon as he declared support to the NBA and raised critical issues against the NVDP. Later, he organised a large conference in Mumbai in which individuals from different walks of life participated, including sci-

entists, educationists, economists and social activists, numbering about 300 and submitted a memorandum to the Prime Minister raising many fundamental questions about the NVDP<sup>18</sup> (Patel 2010: 68-69).

All the local people's organisations in Maharashtra and Madhya Pradesh were merged in an umbrella organisation, Narmada Bachao Andolan (NBA) in November 1988. The formation of the NBA was primarily aimed at collective action. NBA started addressing the undemocratic modes employed in the planning and execution of projects within the NVDP. Eventually, NBA began to develop far more nuanced positions on the dam, ranging from a biting critique of the non-participative modes of development adopted by the post-independent state, the limited capacities of the state to rehabilitate all project-affected persons, approach to R&R, the livelihood issue of the large numbers of persons and submergence of forestlands and its impact on biodiversity. NBA also showed how the SSP was seriously flawed by quoting various technical studies of the projects; especially on the counts of water irrigation, power /energy generation and ecological issues. That's where NBA started mobilising people from different walks of life, all possible fora of citizens, and range of institutions within India and across the globe, to share these concerns.

The issues rose by the NBA and its acceptance at the global level have not been appreciated by some of the Gujaratis. Out of envy, some Gujaratis started war of words. Some columnists aired out their views criticising the NBA as a rival of Gujarat.<sup>19</sup> One of the poems was written by Bhagyesh Jha, the then District Collector of Vadodara, on the activists opposing the dam. The poem<sup>20</sup> sarcastically refers to NBA activists, commenting on their overt look, behaviour and actions. Since its publication, this poem has become popular and has been sung on various events related to the SSP. Repeated singing of this poem and other such songs have reinstated the stereotyped image of the NBA activists and also fuelled animosity for those who opposed the dam.

### **Poem—'Activists'**

We are activists

Our manifesto is to twist the 'desired' to 'undesired'



We are activists

Wearing long *kurta*, thick glasses, jeans pant-  
Run brother run, this is a war, death of 'means'!!  
What to do?

Borrow English a little,  
Keep sari dirty a little,  
A few crowds, more slogans,  
Keep a simple car...

Some are saying think about cost and benefit,  
Some are fighting for the cost of trees,  
Some are influencing foreign elements,  
Some are defeating with a sword of logic -  
We are activists.

NBA continued meeting various authorities and eminent personalities as part of its two-pronged approach of advocacy and lobbying. In September 1989, a rally was organised at Harsud, a town in Madhya Pradesh that faced submersion due to the dam. This was the first ever meet of public activists working in such varied fields as environment, oustees, tribals, social justice, civil rights movement, consumer movement, women's movement, anti-nuclear peace action workers, and anti-hi-tech Gandhians (quoted in Sheth 1994: 66); more than 50,000 people, including 150 NGOs gathered from different parts of India. They participated in this rally and took a pledge to fight against destructive development. Baba Amte, Swami Agnivesh, Maneka Gandhi (the then Minister for State for Environment) and many eminent persons participated in this protest move. This was the biggest environmental protest of the PAPs as well as public-spirited interest groups. In personal interviews, Achyut Yagnik (human rights activist) and Girish Patel (senior human right lawyer) shared their view that this rally was a cumulative mass expression against the development politics from the peoples' perspective. This was also looked at as 'non-party political formation gaining grounds', 'PAPs raising issues', 'beginning of green politics', and

'informed choices for development paradigm'. However, the news of this rally did not create any reaction in Gujarat, as not many were aware of its repercussions but this protest did alert some of the members of Narmada Abhiyan that NBA was getting stronger with nation-wide support.

'If Gujarat does not respond to their rising, we may lose the NVDP' (Patel, 2010: 71). This kind of fear was created in the minds of Gujaratis. 'It was necessary then that we [Narmada Abhiyan] need to mobilize masses with the help of a magnanimous institution like GCCI and Sadvichar Parivar' (ibid., emphasis added). GCCI, represented by economic elites, is considered to be a vibrant institution by mainstream Gujaratis. Historically, its involvement in many public issues is well recognised by mainstream media and social institutions. *Sadvichar Parivar* is one of the institutions that has greater acceptance in Gujarati middle and upper class families; it is one of the institutions that continuously receives donation from different parts of Gujarat. The Narmada Abhiyan decided to mobilise many leading organisations to one national forum, similar to NBA in method and strength. Narmada Abhiyan, Anand Niketan Ashram and Sadvichar Parivar with the support of the then CM Chiman Patel, organised a rally of about 5,000 Gujaratis to display its strength and to pressurise the then Prime Minister V P Singh on 22 May 1990 at Boat Club, New Delhi. A series of events encountering the NBA were organised by the Gujaratis with different authorities, such as Ministry of Water Resources, Ministry of Environment and Forests, Ministry of Social Welfare, and members of NCA. Many programmes in support of the project were organised at different places in 1990.

Branding of NBA as 'anti-nationals' and utterances like 'forces impeding development of Gujarat should be thrown out of Gujarat' by renowned political leaders and members of Narmada Abhiyan was repeatedly spoken at different places since 1989 (Patel 2010: 78-79). This was the beginning of the intense enmity between the NBA and the dam-supporting forces. Soon this rivalry was expressed in one of the events organised at Gujarat in the form of a dialogue between the pro-dam and anti-dam groups in April 1990.

'The fifty pro-government protesters who gathered at the meeting place had come on the instructions of chief minister Chimanbhai Patel and the minister of the state for home affairs, Narhari Amin, a fact confirmed by news reports. They shouted slogans vowing to complete the Narmada project and prevented even pro-dam participants like Shah and Joshi from expressing their views. They stormed the meeting hall and tore papers, damaged furniture and manhandled (some) participants. They went on to threaten that no discussion would be allowed anywhere in Gujarat on the Narmada Project... The pro-dam participants asserted that an 'anti-Gujarat' agitation like ours deserves suppression. Some of them even tried to foment parochialism by suggesting that non-Gujarati activists should not 'poke' their noses in the affairs of Gujarat...In Madhya Pradesh and in Gujarat, a smear campaign against agitationists has been mounted through the media' (Sangvai et al. 1990: 1058).

During 1990 and 1993, NBA mobilised significant international support, which fundamentally changed the nature of struggle three counts—first, it generated an impression that a large section of PAP were asking for better resettlement; second, it eventually changed the agenda of struggle, i.e., total opposition to the dam, which was implicitly mentioned as to find out alternatives of the dam; and third, study the cost-benefit analysis and need to find alternatives to this development paradigm. NBA demanded a thorough review of the project; it motivated the subject experts to carry out independent reviews, including environment aspects. The information generated through these independent reviews was used as 'facts' to prove the point in case; by both the governments and the NBA. Mainly Baba Amte<sup>21</sup> (1990a; 1990b) and Jashbhai Patel<sup>22</sup> (1990; 1994) critically questioned the SSP during the second quarter of 1990, while SSNNL provided data and presented reports based on surveys conducted. Jashbhai asked basic questions regarding distribution system network, electric-power generation and irrigation need to be critically examined in light of three big dams out of about 200 dams and highlighted that utilisation of every dam is much lower than its estimate and promises. This resulted in various contentious views and warfare of information, disinformation and misinformation. Each side used communication that distorted fact skilfully, using half-truths

and denial of the fact provided by the other side. Selective use of facts, figures and source of material generated debates on authenticity, verification and cross-verification of facts. Pravin Sheth has enlisted 21 points of misinformation and counterpoints/facts. This list broadly includes issues of environmental impact assessment (EIA), the number of displaced and their rehabilitation, loss of forestland, forcible eviction, tall claims regarding the availability of drinking water and irrigation benefits, pro-dam NGOs co-opted by the GoG and 'illiterate developmentalists' (1994: 96-101). He had further enlisted 85 responses and counterpoints as effective operative answers to the anti-dam NGOs (ibid.: 113-125). In such a situation, it is not easy to know with certainty, which organisations best represented the valley dwellers affected by the project.

## **Ferkuva Andolan**

### ***Pre-Andolan Phase: December 1990***

Such a tense and all-pervading atmosphere and anti-dam, anti-resettlement agenda set by NBA triggered unprecedented initiative in Gujarat. In December 1990, the NBA announced Jan Sangharsh Yatra (JSY), starting from the village of Rajghat in Madhya Pradesh to the dam site in Ferkuva. One of the intentions of this rally was to compel the Gujarat Government to review the project. As part of mobilisation activities, NBA achieved awareness generation through posters, pamphlets, audio-visual slide shows, etc.; meetings and lobbying with international agencies, such as European Parliamentary Delegation, Amnesty International, Friends of Earth, and many more in India and abroad; and grass-root mobilisation through direct and indirect communication. Some of the writings have criticised the advertisements and slogans appeared in the local newspapers of Madhya Pradesh and Maharashtra. For instance, 'Koi nahi hatega, Bandh nahi banega' (No one will move out, dam will not be built).

In response to NBA's actions, Narmada Abhiyan representatives decided to scrutinise each activity of NBA, interpreted as 'conspiracy against the project' (Patel 2010). The JSY was perceived to persecute the project that intends to impede Gujarat's

interests by Gujarati dailies as well as a group of people who supported the CM. *Gujarat Samachar*, a daily newspaper, quoting anonymous sources wrote, ‘Patkar and Amte had stage-managed their protest march to elicit sympathy from the rest of the world by inviting the international environmental lobby, TV channels, photographers and journalists to cover the events at Ferkuva.’ NBA was also described as demons, ‘throwing bones in the holy fire of this project’ (26 December 1990, quoted in Mehta 2010).

As soon as people in the Gujarat came to know about Jan Sangharsh Yatra (JSY) organised by NBA, a large number of ideologically diverse NGOs came together to launch an umbrella organisation called the Narmada Foundation in support of SSP. They planned a counter rally, calling it the Narmada Agey Badhao Shanti Yatra (NABSY) that aimed at preventing the NBA activists, led by Medha Patkar and Baba Amte, from entering Gujarat. They expressed moral suspicion towards those who opposed the dam and, strategised for non-involvement of the government. ‘Chimanbhai wished that this war should be fought by Gujaratis, not by the government. Gujaratis must defend themselves against the invasion of opponents, who are against the interests of Gujarat and who do not want the Dam’ (Patel 2010: 94). A political strategy was made by the CM. Patel (2010: 94) has written in detail:

‘He [Chiman Patel] explained that the GoG wants presence and funding from the World Bank, as the World Bank’s presence gives credibility to the project at the international level and. To attain this, the GoG should not play a visible role in the protest. In case the Yatris were arrested in order to maintain law and order, they (NBA activists and PAPs) could opt for ‘Jail Bharo’ (Get arrested and fill up jails, a non-violent action) or criticise the move as ‘unjust’. Either of the government action would invite criticism by various national and international agencies in the name of human rights violation. Strategically, any aggressive action of the Gujarat Government would go against itself and NBA would be stronger than ever before. In the light of this strategy, the pro-dam supporters decided neither to have a dialogue with the NBA nor to allow the NBA supporters to enter Gujarat.’

A few options were thought of—the Yatris should be prevented either so that they couldn’t reach the dam site or they could be

stopped at the border of Madhya Pradesh so that they would be unable to enter Gujarat. The dam supporters prepared for both the options—at Ferkuva as well as at dam site. Ferkuva was chosen as the location to stop the Yatris from entering Gujarat. Ferkuva is on the bank of Bharada River, a seasonal river, three kilometres away from the border of Madhya Pradesh. Ferkuva in Gujarat and Alirajpur in Madhya Pradesh are linked through a narrow bridge.

This coalition consisted of social service NGOs, farmers, tribals, various caste associations, religious gurus and sects, and a cross-section of citizens, such as former bureaucrats and ministers, Gandhians, journalists, and business people. The list included an amazing breadth of civil society groups such as trade unions, small and big business associations, bar associations, professional association of engineers and architects, civil rights organisations, caste associations, religious sects, youth wings of political parties, residents associations of Muslim and dalit neighbourhoods in Ahmedabad city as well as social service NGOs. Religious sects, associations and gurus actively participated in the pro-dam mobilisation (Mehta 2010: 513). The Gujarat government pooled its resources with money provided by industrialists such as Karsanbhai Patel, Suren Choksi, Jagdish Javeri and Damjibhai Shah, Anchorwala, etc., to stage this 'opposition' to the NBA (Baviskar 1991: 477).

During the third week of December 1990, some leaders thought of entering into a dialogue with the NBA team. Babubhai Jashbhai Patel, the former CM of Gujarat, and the then Minister for Narmada Development visited Baba Amte with a delegation at Kasravad village. Veteran Gandhian Chunibhai Vaidya was also a member of the delegation. The meeting did not yield any solution. Chunibhai Vaidya stayed back with Baba Amte. Two well-wishers—James Fredrik, an environmentalist and close associate of Baba Amte, and S. Seshan, Secretary, Ministry of Environment and Forests—of NBA met the CM prior to joining the Yatra. Chiman Patel put forward five conditions—(i) the Yatris will not talk about stopping construction work of the dam; (ii) they will not demand reduction in height of the dam; (iii) size and width of the canals will not be reduced; (iv) NVDP will not be reviewed; and (v) we are ready to talk about environmental issues, such as

reservoir-induced seismicity; loss of biodiversity—trees, shrubs, species; vanishing flora and fauna; health implications due to water logging; etc., and resettlement-related issues. This talk also did not avail any result (Patel 2010).

JSY planned to start from Rajghat, Badvani in Madhya Pradesh on 25 December 1990 and reaching Gujarat on 30 or 31 December 1990. In response to this, a planning meeting was organised at GCCI, which exemplified the ‘close connection between the state administration and business elites... At this meeting, a prominent Gandhian former freedom fighter pledged the voluntary participation of a hundred other Gandhian veterans from Ahmedabad in the Peace March’ (Mehta 2010: 515). The planning session in the meeting carried a spirit of ‘war’ and the supporters seemed to be going to the ‘warfront’. Several NGOs came forward to provide support for transportation; buses, trucks, tractors and other vehicles were offered to carry the participants to the rally. Many traders, women’s groups and the Swaminarayan Sect took up the responsibility of preparing and transporting food packets for the participants of NABSY. Vadodara-based industrialist Surendra Choksi and a member of Vadodara District Panchayat, Jagdish Patel took up responsibility to provide necessary logistic support at Ferkuva. Narmada Abhiyan and Narmada Foundation jointly gave a public statement on 20 December 1990 stating that, ‘Gujaratis have been patient for the project until now but time has come that every concerned Gujarati should actively participate and support the programme (planned at Ferkuva)...Gujarat is not like a widow’s farm that is unguarded and anybody can encroach it’ (ibid.: 99).

In December 1990 and January 1991, a series of events and rallies ended in a dramatic confrontation between the pro- and anti-dam activists at the dam site in the village of Ferkuva on the border of Gujarat and Madhya Pradesh.

### **Protest by Gujaratis against the NBA**

The almost month-long standoff between both the sides was marked by massive rallies on Gujarat’s side, addressed by the then and former Chief Ministers, NGO leaders, tribal spokesmen, party

leaders and others—C C Patel (Chairman, NNSSL), Chunibhai Vaidya, Harivallabh Parikh (both Gandhians), Krishnaprasad Patel (Narmada Abhiyan), Urmila Patel (wife of Chiman Patel, the then CM), Babubhai J Patel (former CM, Gujarat) led the pro-dam supporters (Sheth 1994: 78). The number of pro-dam protesters and supporters varies in different reporting of newspapers, books and magazines; pro-dam supporters say 'they outnumbered their counterparts' (ibid.: 78), i.e., NBA-led Sangharsh Yatri-Baba Amte, Medha Patkar, Nandini Oza (NBA), Girish Patel and Ashish Kothari (representing environmental interest group, Kalpavriksh). H K Khan, Chief Secretary, GoG negotiated with the NBA, representing Gujarat and also dealt with the Central Government.

A large number of vehicles were lined up in the city of Ahmedabad alone for transporting the protestors to and from the dam site in Ferkuva. *Gujarat Samachar*, a Gujarati newspaper (29 December 1990), reported that 500 private vehicles and 400 State Transportation buses were put to use and 20,000 citizens from Ahmedabad city would participate. *The Times of India* (12 January 1991) reported, 'The Gujarat police admitted that the state government was making use of government vehicles to fetch the people to the agitation site in support of dam and that their food and other managements were being on the government level. The committee also came across some home guards in civil dresses mixed in the pro-dam crowd.' Detailed traffic arrangements were made to reach Ferkuva and heavy police protection was ensured along the route. Detailed schedules of timings of buses were published in the newspapers. The participants of NABSY carried several banners; as a result, instead of one lakh, more than two lakh people reached Ferkuva. This was the actual representation of Gujarat; a mini Gujarat was present at Ferkuva. The rally was expected to begin at 1 p.m. but it started at 4 p.m. Most of the participants returned in the evening; about 10,000 participants stayed back (Patel 2010: 101).

As a preventive measure, the District Magistrate of Chhota Udepur introduced IPC 144, cordoning the areas around Madhya Pradesh border and around the area of Bharada River. The police tied a rope on the bridge to stop people from Gujarat to cross over



the bridge on 30 December 1990. Some of the JSY participants moved towards Chandpur, 3 km away from the border of Gujarat on 31 December 1990 while Baba Amte, Medha Patkar and about 20 others stayed on the other side of the river.

The Jan Sangharsh Yatris started moving towards Gujarat in a van on 1 January 1991. Seeing them entering Gujarat, women participants of NABSY came in front and lay down over the bridge. Urmilaben took the leadership and challenged Baba Amte and others for entering Gujarat: 'cross over our bodies for entering Gujarat' (ibid.: 104). After this *Andolan*, Urmilaben became popularly known as 'Ferkuva lady' (Patel 2010: 105). Baba Amte decided to go back but other JSY participants requested him not to back out. Therefore, Baba decided to park the van on the other side of the bridge. NABSY participants remained over the bridge the whole night in the freezing cold, singing devotional songs.

Several people from Ahmedabad and other cities continued their participation during the next couple of days. They travelled in buses, tractors and other vehicles to reach Ferkuva from different parts of Gujarat. Some left the same evening; some stayed back for three to four days. They continued cordoning the bridge the next day, while the protestors sat on top of the bridge. NABSY participants were adamant about not budging from there. They said, 'we have not invited Baba...we will not give up...he is not our *atithi* (guest). He is a terrorist' (ibid.: 106). However, with the intervention of the District Collector, they moved away from the bridge.

The next day, Medha Patkar initiated talks and invited five persons from NABSY, where she said, 'we are fighting against the government, not against people of Gujarat'. Narmada Abhiyan members including Chunibhai Vaidya, replied, 'We have informed you that this war is not against the Government of Gujarat, it is against the Gujaratis'. Medha changed the topic and said, 'As Indians we can move anywhere in the country'. NABSY replied, 'You are targeting to break our *paniyaru* (a place to keep water pot), we will not allow you to enter our house' (ibid.: 107). The situation resulted in a stalemate and the dialogue was stopped without any constructive decision. The delegation of Gujarat returned empty handed.

NABSY participants had evolved a daily routine: morning prayers followed by *Ramdhun* (chanting religious jingles) promotional songs on Narmada River and NVDP, and some *bhajans* (devotional songs). A booklet of *garba* was published by Sadvichar Parivar. These *garba* were in praise of River Narmada, worship and offering to the river in her glorification. Mehta (2010) has interpreted this as a symbol of Hinduism and Gujarati nativism. The leaders visiting the place used to deliver public speeches during the day; sometimes they were doing *garba* (folk dance of Gujarat) in the name of River Narmada, and singing devotional songs in the night. Many tribal *bhajanmandalis* (groups singing devotional songs) were performing.

In contrast to the report by a Gujarati, an observer of JSY wrote, 'constant cacophonous assault with loudspeakers on Baba Amte through the night, and police presence in large numbers was in sharp contrast with the *Andolan Yatris...* Chimanbhai's crowd came from Baroda of Ferkuva to picnic' (Baviskar 1991: 477). Baba Amte and other JSY participants tried to cross the bridge during these days but were unable in their endeavours. As soon as the women used to see Baba coming out of the van, they ran towards the bridge and lay down to stop Baba from entering Gujarat.

Every day, about 10,000 to 12,000 supporters from Gujarat visited Ferkuva, to participate in NABSY and went back in the evening. They chanted the following slogans:

Jan ki baaji ladayenge, Sardar Sarovar banayenge  
(We will fight and ensure making of Sardar Sarovar)

Ban ke rahega, Ban ke rahega, Sardar Sarovar ban ke rahega  
(Sardar Sarovar will become a reality)

Gurjar janta zukashe nahi, Sardar Sarovar rukshe nahi  
(Gujaratis will not bow down, Sardar Sarovar will not stop) (ibid.: 109)

While the anti-dam protestors chanted slogans such as 'Stop the dam, it is a betrayal of the people!' The pro-dam supporters yelled 'The dam will be built, no matter what!' (Mehta 2010: 517). When Medha Patkar and other Yatris tied their hands to symbolise their peaceful intent and started to cross the bridge, the police

resorted to violence—beating up and arresting the Yatris. On 5 January 1991, Gujarat police held 124 supporters of the JSY on 5 January 1991 (*The Times of India*, 6 January 1991). Medha and five others had started fasting from 7 January 1991, against the arrest of Jan Sangharsh Yatris.

The stalemate continued. Almost 10 days had passed without a dialogue between the two camps. Chunibhai Vaidya mediated between the two camps of Yatris every third or fourth day, but to no avail.

B.D. Sharma, Commissioner of NCSCST visited JSY and his presence brought life to the rally participants. B.D. Sharma visited NABSY the next day and talked to the leaders; namely, Narmada Abhiyan members, Urmilaben and Harivallabh Parikh (*The Times of India*, 11 January 1991). One more programme was chalked out by NABSY, to create a ‘Narmada Smarak’ (a monument memoir in commemoration of Narmada River) in the village to remind posterity about the unity and strength of people of Gujarat in preventing the anti-dam marchers from entering Gujarat. The number of participants was depleting from JSY camp; many had started returning home. The fast had entered the fifth day. Meanwhile, James H. Fredrick, an environmentalist and close associate of Baba Amte, initiated talks between two camps. H.K. Khan, the Chief Secretary, and C.K. Koshi, the Principal Secretary to the CM, met the *Andolan* activists but talks did not make much progress, as they were firm in their demands (*The Times of India*, 12 January 1991).

A journalist interviewed one of the farmers of Gujarat, a participant of NABSY asking, ‘Why are you here?’ and he replied, ‘We are sitting here to bring Narmada water.’ The journalist further asked, ‘Will you be getting Narmada water?’ The farmer replied, ‘I’m a farmer. I don’t understand such details. This water will not reach my farm but my brother farmers will definitely be benefited’ (Patel 2010: 109).

Narmada Abhiyan had published posters and pamphlets in Hindi to reach out to the JSY participants. These materials said:

*Narmada ke vistapito!*  
*Savadhan!*

*Aap ko gumrah karnevale Baba Amte aur unke chelo se savadhan!  
 Ve hai khushhal... Aap hai behal!  
 Unke bachche padhate videsh... Apke bachche charave bhensh!  
 Unke alishan ghar... Apke tute-fute chhappar!  
 Unke motro ka vilas... Aapko juto ki nahi aas!  
 Ve khate chhappan bhog... Aapko bhukh-duhkh aur rog!  
 Aap logo ke bahane naam kamane nikale  
 In nakli netao se savadhan!*

[Oustees of Narmada, beware! Baba Amte misleads you. Beware of him and his disciples! They are resourceful and you are resourceless! Their children study abroad; your children are engaged in animal husbandry! They have elegant houses; your shelters are shattered! They move in cars, you move barefoot! They eat grand food, you suffer from hunger, pain and disease! Beware of these leaders; they are out to earn name and fame in name of your cause!] (Patel 2010: 112).

Mr. Khan had a meeting with JSY and informed them that Baba's attitude was positive but others were not prepared to listen to his pleas. They wanted Mr Khan to announce the state government's decision to halt work on the project immediately. He also promised to undertake a review of the entire project and offered to depute a team of experts to examine the facilities offered to the oustees in the new areas (*The Times of India*, 18 January 1991). Chiman Patel visited Ferkuva on 18 January 1991 and addressed the rally at the site. He said, 'Issues like reduction of dam height, review of economic viability of the project and suspension of work on the project "even for a minute" were "absolutely non-negotiable"' (*The Times of India*, 19 January 1991). He accused Baba Amte of spreading 'intellectual terrorism' in the country. In response to this, one of the Gujaratis, Srikant Mehta from Ahmedabad wrote a letter to the *The Times of India* (21 January) titled 'Chimanbhai is no Sardar', which said,

'The officially instigated pro-dam jamboree held at the Gujarat MP border underscores Mr Chimanbhai Patel's violent response to his own political insecurity, grown acute since the Janta Dal split. In the other words, he has found in Baba Amte and the cause he espouses a windmill to charge at: the river and Baba Amte are not central here.'

Medha Patkar filed a writ petition at the High Court of Gujarat

against IPC 144, arguing that this article puts restriction on the mobility and curbs the freedom of speech of the JSY. The High Court of Gujarat accepted a need for this provision to maintain law and order in the given situation (Patel 2010: 114–115).

In the meantime, the stalemate continued, as did the fasts by Medha and of five others but talks at various levels, with different persons and authorities did not yield any result. B.D. Sharma, Chunibhai Vaidya, K.R. Date, a water resource expert, and Tapan Ray, District Collector, Vadodara played the roles of mediator in different ways. Medha Patkar's health had deteriorated by 24 January 1991. JSY tried to break the stalemate through dialogue with the Prime Minister and requested him to intervene. V.P. Singh had to resign and Chandrashekhar was the PM. When B.D. Sharma met him in person, the PM called Chiman Patel but he reiterated his words, 'Baba is an intellectual terrorist. The JSY participants have shocked Gujaratis with falsifying facts. We do not want to talk to them' (Patel 2010: 116). Chiman Patel indirectly told PM not to worry about Medha's health and it will be taken care of (ibid.). The next day, people demonstrating in support of the JSY in Badwani were severely beaten up on 25 January 1991.

On 30 January 1991, Baba Amte came to the bridge. NABSY participants thought that he was again trying to enter Gujarat so they ran and lay down over the bridge. But Baba Amte announced winding up of the Yatra. The Yatra seemed to end in an impasse. The indefinite hunger strike was called off after 22 days.

### **Voices from Gujarat: 'Majorityism' Voiced and Rights of Oustees Silenced**

'Most observers saw in these events a victory for the Gujarat government and a vindication of those voluntary groups who accepted the inevitability of Sardar Sarovar and cooperated with official rehabilitation program' (Wood 1993: 978).

Various scholars, activists and studies have considered this *Andolan* as a frenzied reaction to JSY. Such reactions of Gujaratis have raised a few critical questions in light of the character of the state, and threats to democratic values, dominant development paradigm and its fallouts, wherein no dialogue is possible. These

questions are—how has Narmada enlivened the psyche of the Gujaratis? Can political negotiations between the state and the Union government be personified, wherein the CM of Gujarat could influence the then PM? How and why did the Gujarat CM influence the CMs of other beneficiary states on the issue of NVDP? How and why did Gujarat and Gujaratis feel this to be a 'war-like' situation? Why was JSY seen as the enemy of Gujarat and its development? Why were the debates on R&R and whether mega-dam is an appropriate solution to water problems of Gujarat not able to generate politically relevant dialogue and policy, i.e., to review the development paradigm and economic viability of such a multi-purpose mega project? What message has been given to other states of India with such antagonistic behaviour of the GoG and Gujaratis? Does it indicate about the character of the participants, type of participation and alliance building on this issue in Gujarat? NBA has repeatedly pointed out SSP as environmentally unmitigated and socially and economically disastrous. In some ways, there is also an underlying conflict between the people of the drought-prone areas of Gujarat, who think the Narmada is their 'lifeline', and the adivasis in the upstream region, who stand to lose their land and way of life for an abstract 'common good' (Paranjape and Joy 2006: 601).

Some similarities were observed like the previous protests, i.e., the anti-reservation agitations in 1981 and 1985, the Gujarati press continued to give voice to the elites and urbane, educated middle class of Gujarat. They in one voice and through different ways assisted the Chimam Patel's moves for his political advantage. The 'war-like' sentiments were echoed by the dailies, especially *Gujarat Samachar* and *Sandesh*. 'With their dependence on the financial patronage of the government and big industry determining their political line, the Gujarati press plumbed new depths of sensational lying' (Baviskar 1991: 447).

The glorification of SSP is actually a consolidation of almost four decades of encoding of 'Narmada as lifeline'. It was deliberately promoted as the only solution to quenching the thirst of the Gujaratis for hydel-power generation supporting industrial development. A two-time CM, Chimam Patel takes due credit for persistence and clever manipulation for political support,

resource mobilisation and motivating the economic elites of Gujarat for the NVDP. He reached out to Gujaratis through discussions and giving interviews to Gujarati daily newspapers. In a full-page interview that appeared in the Gujarati daily newspaper, he smartly answered the questions on how NVDP is important; and sidelined pertinent questions related to economic viability, environment susceptibility and performance of the state government for R&R (*Sandesh*, 27 December 1990). He mobilised support smartly through elites as being consonant with the ‘public interest’ of Gujarat and the ‘common Gujarati’ (Baviskar 1991).

This *Andolan* spoke of ‘Narmada as a lifeline of Gujarat’ and increasingly became an act of Gujarati identification with all denominations: religion, sub-sect, class, gender, occupation, regions and simultaneously viewed those who opposed the dam as the radical ‘Other’ of the state’ (Mehta 2010: 518). It also played a catalytic role in consolidating *Hindutva* in at least two important ways—first, it broke the solidarity of the Left movement by creating an expansive platform around water and development that transcended the secular and non-secular divide. Second, the nativism that arose around the dam was at once secular and amenable to a communal vision given its divisive discursive frame that specified an oppositional ‘Other’ (ibid.: 519).

While news reporting of the protest prior to and during the protest was biased, it was somewhat affected due to Iran-Iraq war which started from 6 January 1991 onwards. During 7 and 31 January 1991, there were a couple of days when no news item was reported in Gujarat-based newspaper dailies, as also in English daily editions. This may have happened due to continual stalemate between the JSY and NABSY or even due to focus on Iran-Iraq war. On the other side, the views expressed through letters published in two English newspaper dailies of Gujarat reveal different dimensions of SSP, than what the Gujaratis had thought. For instance, ‘one cannot expect the Jan Vikas Andolan to suggest alternatives’ (V.L. Mote, *The Times of India*, 1 January 1991); ‘The government should understand that it is easy to carry along or misled people on these lines. It would be appropriate if it engages in an open, meaningful debate with those opposing the project and then let people judge for themselves about the

veracity of the claims and counter claims on its benefits' (Sandeep Nimbark similar view was expressed by O P Shah (*The Times of India*, 1 January 1991); 'Development is a must and no dev project comes with unmixed blessings' (*The Times of India*, R N Vepari, 17 January 1991); 'Baba Amte and self-styled environmentalists are asking Gujaratis to make choices, which would be a damage to environment movement' by Gujarat-based environmentalist Lavkumar Khacher (*The Times of India*, 18 January 1991).

Participation in NABSY from different walks of life reveals a couple of tactics—the nexus between industrialists, Gandhians, religious orders and farmers. Some contradictions in the strategies and the role of Gandhians apparently actually show clever appropriation. On the political front, the political parties of Gujarat supported the NABSY with one voice, despite differences and inconsistencies in the past regarding decision-making on the dam. Chunibhai Vaidya, a Gandhian opponent of all big dams, was sent as the ambassador of Gujarat and the CM of Gujarat. The NABSY participants stopped Baba Amte and other Jan Sangharsh Yatriis seemed to use Gandhian tools of resistance but other activities of resistance such as singing *garbas* and slogans reflected a very different temperament. 'The contemporary Peace March attempted to obstruct the fundamental rights of Indian citizens (anti-dam protestors) to move freely from one state to another and express their viewpoints' (ibid.).

Gandhiji always insisted on a yardstick of development that 'a man at the bottom of the pyramid is benefitted'. Gandhian's role in the protest did not reflect Gandhian ethics or principles regarding technology, modes of production, approach to river control and rights of the PAPs for just and fair R&R. They did not think of any creative and transformative forms of resistance vis-à-vis NBA's vision of alternative development paradigm, which valued small-scale, ecologically sustainable technology and development with a humane face. By participating in this *Andolan*, Gandhians demonstrated 'Gujarati ethos' during the protest, which was apparently non-violent but in reality it illustrated aggression and repression.



### Protest on Street Snatched Rights of Oustees

The Gujarati nativism was observed in a different form during this *Andolan*. It was not only against ‘the other’ community, but also on the issue of R&R, tribal concerns and collective action by the civil society actors.

The assertion against NBA was reflected through questions, such as, ‘we did the best possible for R&R, why are you questioning us?’ ‘Despite being a good performer, why are you not recognising our efforts?’ and the R&R policy 1989 was the best policy in India. Main features of this policy included: land against land, allocated land should have irrigation facility, housing plot, transportation cost, civic amenities at new resettlement site; three room primary school for 100 families, health centre for every 500 families, panchayat office, storehouse for seeds, garden for children, a well for 50 families, a trough for animals, a pond and a public place (Patel 2010: 38). Similar arguments were developed on tribals’ concerns. Anand Niketan and other *ashramshalas* (residential schools) of south Gujarat joined the *Andolan* as dam supporters. Each of the queries of NBA was responded with either verbal or oral attack, sometime with dataset or with assertive actions, such as organising counter-event or influencing policy makers and political leaders.

With this sort of assertion, the *Andolan* denied different rights in different forms. This *Andolan* obviously contended the right to R&R. The Narmada Foundation, which was formed a few days before this *Andolan*, implied that ‘majorityism’ is to be achieved through support of power elites, and various economic and social institutions. Narmada Abhiyan claimed that Gujaratis from different parts and across different walks of life participated wholeheartedly. Assertion and aggression in such a manner communicated the sentiment that ‘we need to be stronger than the opponent’.

The political dividend can overlook and erode democratic processes like dissent, dialogue and collective decision-making. This *Andolan* illustrated acceptance of two norms—‘everything is fair in war’, and the voice of dissent against ‘mainstream Gujarat’ is ‘enemy of Gujarat’. These were established with this *Andolan*. The *Andolan* also proved that the strategic use of state machinery is

possible when a large number of citizens support such an assertion in the name of *Satyagraha* or *Andolan*. Contrary to anti-reservation protests, this *Andolan* communicated the ideology that when political institutions like the ruling party and the government initiate a move against 'the other', seeking support of the social and economic institutions is a successful move.

Repeated attacks on Medha Patkar and the NBA office in the 1990s reflected the ways of dealing with 'the other' and 'anti-Gujarat lobby' (Sangvai et al. 1990; Srinivasan 1994). Similarly, Baba Amte has been respected as long as he spoke a language that Gujarat wished to hear in 1985. He was warmly welcome during his 'Bharat Jodo Yatra' in 1985 but after five years, he was not welcomed because he had joined the camp of 'anti-Gujarat lobby'. His credentials were questioned because of his objections against the SSP as an environmentalist and his support to NBA was challenged with an argument that as a true social worker, he should continue to serve lepers (Patel 2010). One of the charges against the GoG in communal violence in Gujarat in 2002 was 'state-sponsored violence', and use of state machinery in spreading violence. In fact, this *Andolan* was a trendsetter for use of state machinery, to win over 'the other' and a feeble voice of dissent was raised from the civil society actors against the use of state machinery or in support of the R&R of the PAPs, especially the tribal oustees.

### **Relevance of the *Andolan* in Contemporary Times**

The studies and published material post-1991 on Narmada project/SSP have debated in depth on mainly five counts: (i) sociological-rehabilitation problems involving human rights; (ii) environmental degradation; (iii) cost and benefit ratio and economic viability; (iv) lack of proper planning in time; and (v) inequitable distribution or irrigation benefits among regions and classes (Sheth 1994: 95). They include approaches to river control (Baghel 2014); eco-politics and development (Amte 1990; Patel 1990; Sheth 1994; Swain 1997); development-induced displacement and R&R package or policy (Parsuraman 1993; Scudder 2003); water resource management and politics of water distribution (Wood 1993; 2007; Dwivedi 1997); R&R cases and

judicial interventions (Iyer 2000; Vishvanathan 2000; Sathe 2000 & 2002; John 2001); displacement of tribals and the politics of culture (Baviskar 1995); etc. These aspects are mostly dealt separately but are actually overlapping and converging with each other. Moreover, series of collective actions, legal action, Supreme Court's orders and debates, governmental actions have all taken place in last two decades. This makes the Narmada movement one of the most extensively studied, written and debated upon movement. Of the different dimensions of the issue, mainly the acts of resistance and collective action have been dealt with. However, this movement is not studied exclusively from right's perspective; material on which rights were articulated and whose rights were violated, etc., are not explicitly unfolded.

The programme of NBA—'Jal Samadhi' (death by drowning in protest) at Manibeli in monsoon of 1993 and withdrawal of the World Bank after an Independent Review of the project in 1993 became historical landmarks in the history of NVDP. The main reasons mentioned in the report include inadequate assessments of the human impact of Sardar Sarovar Dam, particularly lack of consultation with the PAPs; no recognition of the tribals and their special needs; and compensation for R&R did not match the World Bank standards. Henceforth, with Arundhati Roy's article, 'greater common good' was articulated; issue of R&R, special attention to tribals, ecological concerns and cost-benefit analysis remained integral parts of the policy and implementation-related issues. However, the Supreme Court verdict focused mainly on R&R issue.

### ***Approaches to river control, role of subject experts and advocacy measures***

The core of mega-dam or multi-purpose project on a river begins with a notion of 'river control'. Two worldview of a river are in existence—first, a function of a river is to flow and ecology and human civilisation is developed along its banks; and second, controlling the river flow brings many solutions for the human life as it is necessary to control river flow for solving problems of flood, drinking water, irrigation, electricity generation as also

to meet other needs for water. The latter worldview has become a dominant view for development of the nation. This view then essentially propels ideas that larger human needs around water are taken care of and policy planning should consider who benefits, how to compensate the loss, and so on. In this discourse, 'it is necessary to keep the agency of human subjects for negotiating spaces. Human agency lies precisely in the gap between what is considered to be true according to the wider discourse or regimes of truth and that which is accepted or proclaimed by a subject to be true' (Baghel 2014: 121).

River control requires technological and technical expertise. The entire planning of river control becomes technological planning, financial planning, and planning about water distribution and its uses/benefits. In this process, displacement and submergence of land, displacement and R&R, and other concerns about ecology, cultural aspects, life survival strategies, etc., remain secondary. Existing literature indicates that performance of the dam and environmental impacts were addressed as and when required in most cases. 'The state becomes miniaturised into a set of expert rituals of expertise...The nation moves or rather progresses from expert decision to expert decision.' (Vishvanathan 2000: 4176, 4178). Expert knowledge has acquired supremacy over the commoner's knowledge about ecology and survival strategies. Therefore, in such a controversial scenario, 'an expert is someone with a right to speak what is considered true about the object of his expertise. Therefore, understanding the gap between what is true according to the field of expertise and what is said to be true by the expert is especially important in the case of expert advocacy' (Baghel 2014: 121). Each expert's 'subjectivity is intimately related to the technological hydroscape and its production. So, for instance, one expert might identify themselves as the 'dam man', another might use their professional standing to question river control projects and so on. In this their idea of who they are, is intimately related to what the technological hydroscape *should* be, and thus in a sense the expert and the hydroscape mutually produce each other' (ibid.). 'A convergence between the political and the technical produces the ideal system of legitimation. When the technical and the political converge, legitimation crises cease

to exist. The chairman of the committee is the eponymous marker of decisions' (Vishvanathan 2000: 4176).

The power of the subject expert does influence both public policy and the specific objectives of the project; and then becomes shared professional knowledge and an influential public discourse on such techno-driven development paradigm. Once this is established, the implementers endorse that an expert can see what ordinary people cannot. 'Expertise on river control falls in a grey zone of "soft epistemology" where theoretical knowledge by itself is not sufficient, but requires an additional practical dimension that guides it' (ibid.: 122). However, 'there is a subjective dimension to this expertise, due to differences in practice and experience' (Baghel 2014: 121). When a subject expert gains power through planning and executing state machinery, his or her knowledge and position becomes authoritative. 'This complicates the picture of hegemonic and powerful forms of knowledge by placing an emphasis on subjectivity, the idea that all discourse is not only powerful, but also constitutes, and is constituted by the subject who practices it' (ibid.: 124).

Thus, these experts' views have become 'ideal' for the public discourse on river control and have gone on to acquire supremacy and the ordinary people or activists. The processes of the state are believed to be sacrosanct. The shrouding around the facts, dataset and debates gathers from this point onwards. The non-technical group is compelled to argue either in the language of technological expertise or seeking the support of technological experts for counter-argument. In this situation, communication creates scope for disinformation, misinformation and controversies.

Any river water distribution, riparian rights between different states poses two problems—allocation and distribution of water; and sharing water in an upstream-downstream to avoid conflict. In this case, water distribution was settled by the Supreme Court while the latter problem kept appearing intermittently between Gujarat and Madhya Pradesh. The third problem—different opinion about use of water—a cause for conflict between the state government and social/environmental activists was not attended by technical experts. Essentially, this point remained contentious during this *Andolan*, as some dam-supporters vehe-

mently resisted Baba Amte, Medha Patkar and others from raising environment issues and continued their demand for stopping the dam. For instance, Sunderlal Patwa, the CM of Madhya Pradesh commented, 'Medha Patkar is a teacher, Baba Amte works with leprosy patients and Swami Agnivesh among bonded labourers. What do they know about the project? The matter should be left in the hands of experts' (Baviskar 1991: 447).

The Supreme Court's verdict on SSP in 2000 exemplified the technological experts' views and attitudes regarding river control through dam building. Land was seen as a productive asset and, thus, made part of R&R package and water became a resource for electricity generation, necessary for industrial development and irrigation, necessary for agriculture development over and above meeting the need for drinking and domestic purpose. A detailed discussion on this topic is dealt with in the last chapter.

### *Resistance by project-affected persons*

Based on the protests against displacement due to development projects in the last two decades, learning on resistance, nature of the State, and process of mediation has evolved.<sup>23</sup> Any decision of a development project, especially an infrastructure project, generated two sets of responses—first, the ruling party would initiate a chain of actions, such as budget allocation, approval from concern authorities, promotional activities to reach out to the beneficiaries, and creating positive atmosphere among the public. Second, there would be a scrutiny by the PAPs and/or CSOs of the region, raising questions, such as, 'who gets what and how at what and whose cost?' As a follow up action, they would opt for two choices—create political dialogue; and assess the pros and cons of the proposed project based on the available information. They would ask for accountability of the government through people-oriented processes, for instance, environmental impact assessment, public hearing, etc. If there were no gaps between the first and second set of options, the project would go through; if a gap existed, a series of questions, follow up actions and debates would be initiated from both the sides. Choosing legal action has increasingly become popular since the 1990s.

Keeping in mind past experiences, the resistance for displacement and demand for R&R package have increased. Though displacement is disastrous to many; however, some see this as an opportunity to get rid of poor quality land and opting for shifting to a new place and having better quality of land. In most cases, the PAPs resist displacement on the counts of uprootedness and alienation as well as unsatisfactory performance of the government regarding R&R; they also raise questions against governmental decision-making. The government alias ruling party attempts to authenticate the decisions through technological experts, sometimes bringing in an international funding agency to give credibility to the proposed development project. In response to this move, the PAPs (including CSOs) tried to get technological and technical information, identifying mediator (if required), examined the nexus between the government and beneficiaries/ ruling elites and administrators, revisiting justification of the project, politician's ability to understand people's point view as well as technical abilities. Sometimes, people's movement takes a decision to reach the climax of resistance in order to impress the same upon the political ruling class. After going through the possible channels of democratic institutions, strategies such as approaching the Judiciary and bringing the issue to the public sphere are chosen by the PAPs as viable solutions to the problem. In this form of resistance, frenzied decisions and behaviour were observed from both the sides.

NVDP is a classic example of these processes. With greater conflicts and controversies, the politically relevant discourse had become war-like and the dominant development paradigm was challenged but no alternative was provided to the mega and multiple purpose projects. The climax of resistance was observed in form of 'no dam' and *Jal Samadhi* at Manibeli in 1993 and at Domkhedi in 1999. The Supreme Court, however, suggested solutions to be implemented gradually, for example, water distribution formula for three beneficiary states and increasing height of the dam in *pari passu* with satisfactory resettlement.

The Tehri dam project on the Bhagirathi River in the Himalayan region; Koel-Karo dam in Jharkhand; Silent Valley Hydroelectric Project in Kerala; Bedthi dam project in Karnataka; Koodankulam

case of Tamil Nadu, fighting against VVER-100 reactors (nuclear plant); Niyamgiri case of Odisha, against bauxite mining operation; protest against POSCO in Odisha; Garudeshwar weir (downstream dam in Narmada River), etc., are examples of this learning.

### ***Supreme Court's interim orders and verdict regarding NVDP***

All judicial verdicts operate in a social field and, therefore, the process of interpreting a judicial decision need to be positioned in the sociological matrix within which it operates. As the Supreme Court is considered the guardian of justice, its verdicts are symbols of justice. These verdicts are valued high, as they create a binding on different institutions and the petitioners until challenged and goes under revision. An analysis of the judgement reveals how the court views rights and gives recognition in the form of justice post-conflict era, in a situation where a lot of tussle has taken place over competing claims of the truthful facts between two contending parties.

A case was filed by NBA as a public interest writ petition<sup>24</sup> under Article 32 of the Indian Constitution alleging violation of the fundamental rights of the various groups of persons who were going to be affected by the dam in 1994. The NBA asked the court to order a halt to construction work on the dam and order a total review of the project to allow for the emergence of the broadest democratic opinion on the project (John 2001: 3031). The Supreme Court stayed the construction of the dam at a height of 80.3 meters until further orders in 1995. In February 1999, the court passed an interim order allowing for the raising of the height of the dam by an extra five meters, that is, to 85.3 meters.

The case went on for six years in the Supreme Court. After completing all the hearings on the case, in May 2000, the court delivered its verdict on 18 October 2000.<sup>25</sup> Of the three judges, one judge differed; with two-one bench, the judgement of the two judges was considered as a major judgement. Varied views were expressed on the judgement. Iyer (2000: 3914, 3916, 3917) described 'most unfortunate and disquieting one [judgement]', 'offers nothing new' and 'a negative answer to those who sought



relief, and a severe blow to people's movements'. Vishvanathan argued with a frame of 'mastering the logic of the dam as constructed by the court', i.e., to understand political perspective, the philosophy and the worldview of the judges on the dam. He explains, 'it is state, technocracy, development versus grassroots, marginals, alternatives...The court dealt with only two events—political controversy between states as actors and the technical facts of engineering' (2000: 4176). The SC seeks to construct a rational, statist discourse, which has little place for other voices of protest (ibid.: 4177). In view of the court, official evidence and technical expert's views were true, thence acquired sacrosanct status. That's where a development paradigm comes to play: (i) large dams are permissible with technical expert's approval and as long as the administrative machinery for R&R is in place, and that's where the court fails to look at the limitations of failures of the machinery; (ii) as long as dams contribute to increase in gross national income, tribals are beneficiaries and, therefore, it is acceptable; (iii) land is not ancestral memory and water needs to be harvested for fulfilling human needs, for economic growth and progress; and (iv) environmental issues, especially biodiversity, flora and fauna and species, could be substituted. John (2001: 3031) analysed the existing public interest litigation and social action litigation (SAL) and concluded that the judgement 'sidestep issues of entitlement and suffering and then proclaims itself the guardian of rights, but only those rights in connection with the issue of relief and rehabilitation'. Upadhyay argued that three issues raised by John on SAL cases, i.e., institutional ambivalence faced by the courts; failure of the bar to come up with right advocacy; and evidentiary difficulties in establishing claims, need close examination (2001: 3791). Upadhyay (2001) opined that the 'politics' of the case and 'debates on dam' had manifested into ideological divides. This ideological divide, based on intricate technical issues, has tended to limit the scope of judicial review. He further concluded that PIL judicial review has considered different points at different times. In the case of Narmada River, technical expertise and competing technical claims and lobbying of 'anti-dam' and 'pro-dam' groups played a role in judicial review.

### **On Streets and in the Court: Whose Rights were Held?**

There are four important points of NBA's struggle: (a) R&R related issues; (b) environmental risks; (c) financial issues in terms of cost and benefit analysis; and (d) whether displacement can be minimised with regional planning and alternative technological solutions. Alternative solutions for water resource include watershed management, check dams, and small dams and conjunctive use of aquifers. R&R related issues largely focus on whether there exists a policy for R&R and whether its implementation is satisfactory in terms of compensation, employment, civic amenities, infrastructure for education and cultural aspects of community life. Earlier, displacement and R&R were considered as two sides of the same coin, focusing on compensation and R&R, the issue of minimising displacement or accepting displacement as an inevitable process was sidelined. When the case was in the Supreme Court, Medha Patkar articulated the concerns of the PAPs. The issue of displacement was linked broadly with right to life and livelihood, specifically referring to development policies, as land was becoming the prime target. The demands for land and water have triggered off 'resettlement policies' by the state governments and public enterprises and they are trying to create atmosphere of consultation in order to gain legitimacy at national and international levels (Patkar 1998).

In fact, the argument for an overall review of the project in the Supreme Court reveals that NBA's demands were not restricted only to right to R&R but it was also questioning the present development paradigm as well as stressing upon the 'right to development' as per Declaration on the Right to Development Adopted by UN General Assembly resolution 41/128 of 4 December 1986. The United Nations Declaration on the Right to Development 1986 mentions in the beginning, 'Recognizing that development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom.' This Declaration reinforces that right to development is 'an inalienable human right

and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations' (UNDRD 1986: 1). NBA articulated 'the right of peoples to exercise, subject to the relevant provisions of both International Covenants on Human Rights, full and complete sovereignty over all their natural wealth and resources' (Patkar 1998: 2) and 'the creation of conditions favourable to the development of peoples and individuals is the primary responsibility of their States' (UNDRD 1986: 2).

NBA adopted a 'root cause' approach to human rights, focusing primarily on the right to life and livelihood and locating state policy, poor implementation and suffering of the displaced population under scope of this right. This made a shift in the discourse from needs to rights; affixing accountability and transparency to implementation of the policy; and making participation as component of planning, decision-making and execution of development policy. Many forms of social counter-power, administrative mechanisms, open discussion, and shared ideological constraints can act as mechanisms of accountability (Uvin 2007: 603). In this approach, participation is seen as an opportunity that is rooted in institutions, procedures, i.e., power sharing, and decentralisation processes for power to operate for people. The demands of NBA demanded redistribution of resources at the community level, while keeping equity and fairness at the centre. A case was made 'for social and economic rights which would protect the right to livelihood and the right to life itself of the tribals and the poor landless labour who have become the victims of the developmental projects in India, is indisputably connected to the way we think about democracy' (Chandhoke 1994: 2697). The Supreme Court judgement (2000) actually did not accept any of these arguments of NBA in consideration. Thus, this approach remained outside the legal arena and remained in political arena as well as with the administration machinery. This *Andolan* was an epitome of nexus between political, economic and social institutions. These institutional alliances defeated the NBA and other civil society organisations' 'rights-based approach to development'.

Two simultaneous developments came at the crossroads. The *Human Development Report* (2000) strengthened the existing inter-linkages between human rights and human development.

The components professed by the *Human Development Report*: assessing human rights; promoting human-rights norm; strengthening the network of human rights organisations; and promoting the rights enabling economic environment, constituted the demands of the NBA. This *Andolan* as well as the verdict of the Supreme Court (2000) showed a gap between a philosophical construct and legally binding guidelines for operationalisation of rights. The Supreme Court's judgement listened to and followed GoG's arguments as central. Some academics and human rights analysts considered this concurrence as a loss of human rights while others thought of it as action-based newer revelations.

NBA developed transnational alliances to give visibility and voice to the issue of displacement, R&R and environmental aspects of the big dam. The international coalitions aimed at the creation of ideational and normative pressure to achieve these rights. It tried to share convergent expectations and also shared discourses to showcase violations of these rights. NBA tried to create ombudsmen and whistle-blowers through social action and involvement of awakened citizens. NBA, in a way, tried to create a complaint and grievance redressal mechanism. It is, perhaps, one of the pioneering movement that continued to raise issues of displaced population even after the judgement of the Apex Court and widened its agenda through a national level platform—'National Alliance of People's Movement'. All these strategies made the Narmada movement an exemplary one for collective action but the Judiciary did not recognise any of the contention. One of the lessons drawn regarding rights is that if the institutions, particularly political and legal, are not committed to ensure people's rights or community rights under the human rights framework, the rights approach to development or for social movement fails. The gap between conception and construct of rights and its implementation remains unresolved unless appropriate institutional and/or legal support is provided.

## Notes

1. The credit is given to Sardar Vallabhbhai Patel for the idea of harnessing water from the Narmada in 1946 and, therefore, naming

this dam Sardar Sarovar Project (SSP) to give credit to the visionary statesman.

2. At 1,312 km (820 miles), Narmada is India's fifth longest and Gujarat's longest river. It originates in the northern Vindhyan mountain ranges in Madhya Pradesh and flows south-west through Gujarat towards the Gulf of Khambhat. Conceived as a mega river development scheme, the plan was to build 30 major, 135 medium and 3,000 small dams on the river and its tributaries by the Narmada Valley Development Project (NVDP) in 1959. NVDP comprises an irrigation project designed to convey water through 66,000 km (40,920 miles) of canals, distributaries and water channels to farmers in central and northern Gujarat and even neighbouring Rajasthan, and also two major hydro-electric power-generating units, one in the riverbed dam and the other at the head of the canal system. According to government statistics the SSP alone, when completed, will submerge 37,690 hectares (86,088 acres) of land, which comprise 11,279 hectares of agricultural land, 13,542 hectares of forests, and 12,869 hectares of riverbeds and wastelands. Once all of the dams have been constructed, the entire valley, covering 37,000 hectares of land in Gujarat, Maharashtra, and Madhya Pradesh will be submerged and 320,000 people will be displaced. The SSP would irrigate almost 1.8 million hectares of land in Gujarat and an additional 73,000 hectares in the dry neighbouring state of Rajasthan, as well as to providing potable water to over 8,000 Gujarati villages and 135 urban centres (Wood 2007).
3. Narmada Abhiyan (Narmada Campaign), Sadvichar Parivar, Anand Niketan Ashram, Shramik Vikas Sanstha, and Sampoorna Punarvasan Samiti (Committee for Complete Rehabilitation) from Gujarat are all known for their support to NVDP.
4. Mainly, Madhya Pradesh-based Narmada Ghati Navnirman Samiti (NGNNS, Committee for a new life in the Narmada Valley) and Nimad Bachao Sangharsh Samiti (Save Nimad Struggle Committee), Maharashtra-based Narmada Dharangrastha Samiti (NDS, Committee for the Narmada dam-affected people) became active for fair rehabilitation of the displaced population. Multiple CBOs in different states merged themselves into the Narmada Bachao Andolan (NBA) in 1989. Since then, NBA has represented the problems of NVDP at national and international levels as an umbrella organisation.
5. Gujarat-based ARCH-Vahini (Action Research in Community Health and Development), Rajpipla Social Service Society,

LokAdhikarSangh, and Narmada Asargrashtra Samiti (Committee for people affected by the Narmada dam), and research groups like Kalpavriksh, MARG (Multiple Action Research Group) and others that have conducted studies in the Narmada Valley from environmental, displacement and R&R perspectives during the 1980s in different states. The ARCH-Vahini slowly receded into the background and hundreds of new civic groups entered the scene after 1989.

6. Expert Committees appointed by the Ministry of Environment & Forests (MoEF) have concluded that numerous studies and safeguard measures on command area development, catchment area treatment, compensatory afforestation, aquatic, health impacts seismic risks, downstream impacts are still pending and gross violations have been pointed out, that are yet to be rectified. These studies done thus far have been found to be inadequate, or the follow-up actions to rectify the damages are not up to the mark (Singh 1989). Visit website for further details.
7. Such as the World Bank. Internationally, the NBA campaign targeted the The World Bank for its accountability and transparency of the GoG towards the status of displaced population and their resettlement. Their campaign led to the creation of a Bank commission in 1991 to review the project, independently, by Bradford Morse and Pamela Cox Committee in 1992.
8. NWDT was established under the Inter-State Water Disputes Act, 1956, by the Central Government on 6 October 1969 to adjudicate upon the sharing of Narmada waters as well as for Narmada River valley development. It was appointed to resolve the river water sharing dispute as well as to set out conditions regarding the resettlement and rehabilitation (R&R) of those displaced by the dams between Madhya Pradesh, Gujarat, and Maharashtra and NCA as an institution forexecution of NWDT's directions and decision since 1980. On 7 December 1979, the Tribunal gave the award and determined that the height of the Sardar Sarovar Dam should be fixed for Full Reservoir Level (FRL) of 138.68 m (455 ft) and also directed the Government of Gujarat (GOG) to take up and complete the construction of the dam accordingly. For more details, visit <http://www.nih.ernet.in/>
9. Shiv Vishvanathan wrote, 'Personally, I am against large dams. I believe they weaken the scientific imagination, dampen our democratic institutions and blunt our economic sensitivities' (2000: 4176). Similar views were expressed by large number of academia,

scientists and awakened citizens and about 500 citizens signed a memorandum and submitted to the Prime Minister in the beginning of 1990.

10. SSNNL as the implementing agency of Gujarat played multiple roles, such as giving face to the projects, floating bonds for generating finance for the project, coordinating with other agencies involved in conducting surveys, construction companies, etc.
11. NCSCST approached the Supreme Court for the review of R&R measures for the displaced population consisting of the scheduled tribes and castes in 1989.
12. With the involvement of NCSCST's Commissioner B D Sharma and his successors.
13. Rally of Gujaratis in New Delhi in 1990, R&R related issues raised, protest against the Morse Commission, independent commissions and expert panels by the World Bank, protests against NBA, appointment of expert committees by the Ministry of Environment and Forests, conducting 'Rally for the Valley', shifting of Sulpanishwar temple, and many more oppositional actions to oppose NVDP (Patel 2010: XIV).
14. See Scudder (2003: 9) for further details at <http://www.hss.caltech.edu/~tzs/Sardar%20Sarovar%20Project%20Case.pdf>
15. See Scudder, op. cit.
16. See Baviskar (1995: 2214) for further details
17. The protests on the issue of R&R have overlooked the construction quality as well as construction workers' strike. According to the 1986-87 Report of the Comptroller and Auditor-General of India, serious irregularities have been brought out in the report about the use of inferior cement in construction during the year 1986 (Rodrigues 1989: 714). The construction workers' strike clarified that they have no direct linkages with the protests for R&R (Srinivas et al. 1989: 341).
18. See EPW (1989: 842) for details
19. See articles published in Gujarati dailies by Pravin Sheth, Vidyut Joshi, Gunvant Shah and others.
20. Excerpts are presented here (quoted in Patel 2010: 153-154). Translation has been done by the author, originally published by Bhagyesh Jha in his collection of poems titled *Pahad Ogalata Rahya* [Mountains were melting], 28 February 1989.
21. Refer a booklet by Baba Amte, *Cry, The Beloved Narmada* (1990); and his articles in *EPW* (1990a); (1990b).
22. The claims of Gujarat regarding the distribution system network,

electric-power generation and irrigation need to be critically examined in light of three big dams out of about 200 dams. (i) The Dantiwada Dam has utilisation capacity of 44,000 hectares but it remains idle because there is not enough rainfall in the region; (ii) The Kadana dam on Mahi River probably belonged to the former princely state of Sant-Rampur. The Kadana dam has water utilisation capacity of 88,490 hectares, of which 62,000 hectares are mostly- utilised in Kheda district of Gujarat. This works out to about 70 per cent. For this they submerged 16,600; (iii) The Ukai dam on river Tapi has 3,86,000 hectares of water utilisation capacity of which only 20,430 hectares (5.29 per cent) is used. As against 20,430 ha utility, 60,130 hectares of land was submerged. This affected 170 villages and 52,000-80,000 people. Surat district is a rain-surplus district. It does not need irrigation facility. This explains the 5.29 per cent utilisation.

23. Cf Oommen, T. K. (2006). Coping strategies development pathologies: Resistance to development, *Sociological Bulletin*, 55(2): 267-280; Swain, Ashok. 1997. Democratic Consolidation? Environmental Movements in India, *Asian Survey*, 37(9): 818-832. This process is also similar to idea of 'political society' as Partha Chaterjee argues in his book *The politics of governed*. The PAPs do look for mediators and process of mediation.
24. Writ Petition No 319 (Civil) of 1994. The petition details the NBA's objections to the project. See John (2001) for details of the case.
25. See Iyer (2000); Vishvanathan (2000); John (2001); Sathe (2001) and Upadhyay (2001) for detailed comments on the verdict - *Narmada Bachao Andolan vs Union of India* (2000) 10 SCC664.



## CHAPTER 6



### Mahuva Andolan

‘Here [In this context], “Swarnim Gujarat” means taking away farmer’s land for the industry. Here “development” means drawing out sweet water from underneath their land that has sustained agriculture for over two decades. Here “Rising Gujarat” means destroying agriculture, the only means of livelihood the region has known for centuries. So why has development in Mahuva assumed connotations so different from the popular perception across the state?...“The Modi government allotted our land to Nirma in the name of development. What would development mean to us if our lands were destroyed and water drawn out?” asked Bharat Shiyal, sarpanch of Dugheri village under Mahuva constituency... “Bijli *sadak aur pani ka kya karenge, agar rotla* (rotis made from bajra and jowar) *hi nahin milega* (what will we do with roads, power and water supply if we don’t get food)?” asked Khimji Bambhania, 27, a farmer from Dudheri village’ (Brajesh Kumar, 6 December 2012, emphasis added).

‘Our protest is not against development, but the manner in which the government imposes this development. Farmers fear the impact of mining. People would be forced to migrate in search of livelihood... Government policies are anti-farmer. Instead of making reservoirs, the government is giving land to industries. Once farmland turns saline, farmers will sell their land in distress. This will help industry... The farmers’ struggle is not over. [They need] funds of Rs 3.7 crores to build a canal to channel excess water from Malan reservoir to the Samdhiyala reservoir were stopped. Farmers are now building the canal with their own money, contributing Rs 1,000 per *bigha*. When it is completed, 15 villages will have water for irrigation’ (Parmar, *The Times of India*, 5 June 2012).

The name of this *Andolan* specifies a location. Mahuva is a taluka (block) of Bhavnagar district in Gujarat, it is part of coastal

Saurashtra (western Gujarat), which is an ecologically fragile area. This area is rich in limestone, which has attracted many cement industries to the region. This *Andolan* brought out a gamut of issues to the fore with a demand for land for an industrial unit, Nirma Limited's (NL), Gujarat-based detergent company for putting up a cement plant, captive power plant and a coke oven plant. A debate had been generated on: First, the present development paradigm that supports industrial development. Second, shifting priorities and strategies of the government for development in the State, and consequence of undated land records, which could take away livelihood of large number of citizens. Third, role and response of state when the citizens oppose shifting priorities and strategies for development, and role of people's participation in decision making regarding regional development. Fourth, undated land records leading to conflict of interests, i.e. wasteland or wetland and consequent action of industrialisation of continuing agriculture, legal battle, contrasting views of Technical Experts, and undermining citizens' aspirations to continue agriculture in the shifting development paradigm. The development paradigm refers to whether the government prioritise use of natural resources for agriculture development or industrial development, especially when the government has developed a water body for agriculture development and to prevent salinity ingress. The government recognises importance of people's participation in bringing about development, yet how this role can be actually materialised is still an ongoing debate. Fifth, role of administrative institutions that execute land, water, environment, and industrial growth related policies and regulations, and attend needs of special regions, such as seacoast and pertinent issues of salinity ingress and agriculture development through surface irrigation. Sixth, role of judiciary is debated, in the context of dependence on Technical Expertise and Technicality driven opinions, controversies, and legal debates versus citizens' living experiences and aspirations—a base for their vision and bargain to actualise their vision for good society or desirables. Some consider this *Andolan* as 'environment movement' and some comparable are drawn parallel to *Narmada Bachao Andolan*.

This protest is different from four protests covered in preced-

ing pages and campaigns in the beginning of twenty first century Gujarat. Gujarat has witnessed mainly four campaigns for ensuring citizens' rights—(i) opposing amendments in the Right to Information Act, 2005 in 2007 onwards; (ii) for ensuring right to forestland recognised under the Forest Rights Act (FRA), 2006 in 2008 onwards; (iii) against an Executive Order of the GoG allocating wastelands to corporate for contract farming in 2005, and (iv) for enacting Right to Food for ensuring food security, etc. This *Andolan* is performed partially on streets and peacefully, and largely in the Courts and with the administrative institutions. It was started in 2009 and still ongoing. The legal battle started at the High Court of Gujarat, then in the Supreme Court and twice in the National Green Tribunal (NGT)—once Nirma Limited appealed and in response to the verdict of the NGT on 14 November, 2014, SMBKPBS admitted Review Application—and again pleading in the Supreme Court after NGT's verdict on by the on 18 May 2015<sup>1</sup>. The administrative institutions at Union and State level included the Ministry of Environment and Forests (MoEF)<sup>2</sup>, and Gujarat Pollution Control Board (GPCB), Revenue Department, Salinity Division (Irrigation Department), and Department of Water Resources respectively. After NGT's verdict on 18 May 2015, the protesting body of farmers Shri Mahuva Bandhara Khetivadi Paryavaran Bachav Samiti (SMBKPBS—A committee for saving *bandhara*-based agriculture and ecology in Mahuva) has appealed review petition in the Supreme Court.

Salinity ingress and limited supply of fresh water have been perennial issues for the coast of western Gujarat. As part of salinity control technique, several *bandhara*<sup>3</sup> (a weir, a tidal regulators) on sea coast and different types of barriers such as check dams, recharging reservoirs and tanks, spreading channel between reservoirs, and *nala* plugging have been built up in Saurashtra region during the previous two decades. These technical interventions have changed the scenario of water resources, irrigation and agriculture in Saurashtra. When the Government of Gujarat (GoG) and the MoEF, Government of India (GoI) gave clearance to Nirma Limited for building a cement plant and allocated land that belonged to Samadhiyala Bandhara Yojana (SBY)<sup>4</sup>, the farmers opposed this decision of the government under the banner of

SMBKPBS. After a round of legal winning and losing in different courts, the *Andolan* is awaiting justice (the Supreme Court's order) again in its favour.

The attainment and disappointment of the protest is marked by legal actions; its operation and impact have remained restricted to the affected region of western Gujarat. The legal debate and consequent technical investigation focused mainly on 'whether this is a water body/wetland or government wasteland or *Gauchar* land (pastureland). Initially, the protesting group, SMBKPBS enunciated Samadhiyala Bandhara (SB) as water body and linked it to three issues—first, reference to a judgement of Gujarat High Court of 2002<sup>5</sup> regarding conservation of water bodies in Gujarat state; second, destroying a water implies adverse impacts on fragile ecology of the coastal region; and third, adverse impact on agriculture development engaging about 5,000 farmers and other land dependents and loss of their livelihood. The legal battle was fought between a protesting group (farmer made body) SMBKPBS and the NL. The SMBKPBS admitted a writ petition<sup>6</sup> in March 2009<sup>7</sup>, pleading that this cement plant violates the judgement of the Gujarat High Court for conservation of water bodies and will affect the fragile ecology of the seacoast. The MoEF too was at the centre of the debate, as giving clearance to an industrial unit, coming up in a coastal regulatory zone comes under its purview. The latest verdict of NGT has brought the debate to a full circle, from where the protest had begun; it recognised Samadhiyala Bandhara as an artificial water body and referred to original land record of revenue, i.e. either *Gauchar* land or the Government waste land (2015: 7).

As part of a drive for conservation of water resources, the GoG constructed four *bandharas*<sup>8</sup> under SBY in Mahuva taluka during 1998 and 2010. Each *bandhara* is 10 km away from each other; thus, a 40-km-long barrier is created between the land and sea, which has created a reservoir filled with sweet water. With these *bandharas*, three purposes were served: preventing salinity; conserving sweet water of the river; and providing irrigation facility to a thousand hectares of land in the surrounding villages. The farmers can grow three crops a year; namely, wheat, cotton and vegetables, especially onions. More than 5,000 people are directly

employed in onion farming. There are about 50 onion dehydration units and about 20 cotton-ginning factories running in the area that employ more than 5,000 people. Each farmer can earn about five lakh rupees every year per hectare. The NL informed that the proposed plant would employ about 500 to 700 persons and about 2,000 individuals more would benefit from the ancillary units.<sup>9</sup>

This chapter is presented in three sections—the first section shares backdrop of *Mahuva Andolan*, i.e. historical events and processes, about SBY and agrarian development, process of proposed cement plant by the Nirma Company, and role and various departments of Gujarat Government in ensuring permission to the NL for the proposed cement plant. The second section presents details of the *Andolan*, i.e. major events and actions taken by the GoG, the MoEF, legal details at the High Court of Gujarat, the Supreme Court, the NGT, and various committees appointed by the GoG, the MoEF, and the NGT. The third section elaborates right's perspective to look at the *Andolan* and elaborates concerned debates.

The protesting group has approached the Supreme Court with a review petition after the NGT's verdict in May 2015, nevertheless, there is no protest event or action is executed or planned until August 2015<sup>10</sup>. The last update in this case is 31 August 2015. The information presented about the *Andolan* is mainly from four sources—the legal case papers submitted to different Courts, judgments given by the Courts<sup>11</sup>, regional and national newspapers and magazines, and technical expert committees' reports<sup>12</sup>.

### **Backdrop of Mahuva Andolan: Samadhiyala Bandhara Yojana, Agrarian Development and Proposed Nirma Cement Plant**

Gujarat has a coastline of 1,600 km. Of this, Saurashtra coast is of 765 km long. Due to the use of river and groundwater for irrigation, salinity prevalence and ingress are major environmental threat to the agriculture in the region, affecting potable water and agriculture. More than 10 lakh people in 534 villages along the seacoast of Saurashtra were seriously affected by this problem. To tackle the rising salinity, in 1980, the state government set up a dedicated unit called the Salinity Ingress Prevention Cell (SIPC)

under the Irrigation Department, in collaboration with the World Bank and the Aga Khan Foundation (Pandey 2010). Since 1990s, people have become pro-active towards rainwater harvesting and recharging their groundwater resources and also received support of 'godmen, religious sects, diamond merchants of Surat and Brussels, NGOs of various hues, and the Bharatiya Janata Party (BJP) government' (Shah et al. 2014: 91). With these efforts, hundreds of thousands of community managed groundwater recharge structures have come up in this region. The limestone bedrock of Saurashtra has acted as a natural barrier against the encroaching seawater.

The land covered under SBY belongs to two districts, Mahuva taluka of Bhavnagar District and Rajula taluka of Amreli District. It is a small irrigation project as per the categorisation in the Bombay Irrigation Act, 1979. This Yojana was executed under Salinity Control Division (SCD)<sup>13</sup>, Bhavnagar, which is a part of the Irrigation Department. The storage capacity of Samadhyala Bandhara is 63.21 MCFT and it provides irrigation to thousand hectares of land of five villages—Patva, Samadhiyala, Vangar, Doliya and Padhiyaraka of Mahuva taluka. The total area of submergence is 319.1108 hectares of land, out of which about 303 of land comprises government land (pasture, wasteland and other type of land) and the rest about 15 hectares of land is private land ([indiaenvironmentportal.org.in](http://indiaenvironmentportal.org.in)). The SBY was completed in 2000, executed under SCD, Bhavnagar; total expense was Rs 3.88 crore (38.8 million).

With four *bandharas* in the vicinity of 40 kms, a reservoir was created which provides irrigation facility to thousand hectares of land. Animal husbandry, apart from conservation of the environment, is another advantage. The check dams led to a revival of agriculture in the region. Onion and cotton are two major agricultural produce. "We could barely raise one crop a year. Now we grow three," said 55-year old Dhanabhai, a farmer of Nape [Naip] village. He said farmers can earn up to Rs 2 lakh a year from each acre (0.4 hectare); people who had migrated are now returning to farming' (Kumar Sambhav 2010).

In the Vibrant Gujarat Global Investors Summit, 2003, Nirma Limited proposed to put up a cement plant with a capacity of one

million tonnes, worth 900 crores and 250 MW Power Project. The NL suggested Padhiyaraka village of Mahuva taluka, Bhavnagar district as a location for the plant and asked for a total 4,415 hectares of land on 23 February 2004. The NL asked for 280 hectares of land (58 hectares of Doliya Village and 163 hectares of Padhiyaraka Village). This land was transferred to Samadhiyala Bandhara Yojana in 1999. The NL argued that some part of this land gets submerged mainly in monsoon and therefore it can be allocated for industrial purpose ([indiaenvironmentalportal.org.in](http://indiaenvironmentalportal.org.in)). The NL was aware that as per government record, the cement plant would reduce 34 per cent of reservoir capacity of the total 62.31 MCFT because of reduction in catchment areas of 47.95 sq. km. The NL provided two options to prove the technical viability of the proposed project: (i) deepening of reservoir; and (ii) construction of three artificial water canals, which will work as recharge canals and will increase the capacity up to 19 per cent in order to compensate the loss of water under the *bandhara*. The NL applied for terms of reference (ToR) on 5 September 2007 to set up a cement plant (1.5 MTPA; 150 MTPA clinker), captive power plant (50 MW), and a coke oven plant (1.5 LTPA).

Different officials and agencies of the GoG were engaged in checking the land records of the SBY, and whether the land can be allocated to the NL or not. The Executive Engineer (EE), Salinity Control Division of Bhavnagar; Mamlatdar (SDM-sub-divisional magistrate/revenue head at the block level) of Mahuva taluka; the Collector of Bhavnagar district; Secretary Revenue Department; and Commissioner of Industries Department had exchanged details of land records, technical reports and their views regarding allocation of the land to the NL during the years 2003 and 2007. For instance, the EE of SCD wrote to the Collector of Bhavnagar on 9 July 2004 stating that the question of proposed allocation of land to Nirma Limited was a policy decision and, therefore, Department of Narmada, Water Resource, Water Supply and Kalpsar should have been consulted before arriving at the final decision. Their decision then should be intimated to the Office of the District Collector. The correspondence between the government officials during April 2004 revealed two points. First, in the entire 222 hectares of land of Doliya and Padhiyaraka village,

water was collected during monsoon up to the highest water level mark and then it went into submergence. Second, there was no *Gauchar* land available to be allocated for the proposed Nirma Cement Plant. In this situation, the EE informed them that a technical solution could be explored. The Collector of Bhavnagar District wrote to the Principal Secretary, Department of Revenue, Government of Gujarat that the aforesaid land should be allocated to Nirma Limited under industrial purpose, subject to the release of a No Objection Certificate (NOC) from the Salinity Control Division of Bhavnagar district.

A public meeting was organised at a local school at Padhiyarka village on 16 May 2006, without sending out a prior public notice to the affected villages<sup>14</sup>. Convening public hearing without proper intimation was breaking a rule. Of the total nine villages who would be affected with the proposed Cement Plant by the NL, the village residents of two villages were present. This meeting took place in the presence of the representative of Nirma Limited, officers from the Collectorate, Irrigation and Geology Department. The outcome of this meeting was considered a step forward towards the proposed cement plant. The MLA (Member of Legislative Assembly) of Mahuva, Dr Kanu Kalsaria was not informed while the MLA of Talaja (adjoining) constituency was present in the meeting, who was openly supporting the cement plant of NL.

After getting the technical report from the NL that deepening of the *bandhara* will compensate for the resultant water loss, SCD gave the NOC on 13 December 2005 for transfer and allocation of land of SBY for another purpose, i.e., to the NL for the cement plant. Before the release of the final approval, these officials met the Advocate General, Gujarat—Kamal B. Trivedi on 11 January 2007. They discussed about the judgement of the High Court of Gujarat regarding the conservation of water bodies in Gujarat, and in the light of this judgement, whether the land could be allocated to the NL. The proposed cement plant and related construction is about 5 km away from the *bandhara* site in Bhavnagar District.

The Advocate General (AG), Gujarat gave his opinion on 17 February 2007<sup>15</sup>, saying that:

The moot point that emanates in this context is as to whether the lands in question fall within the four corners of the directions of the



High Court. As discussed above, the lands in question do not find place in the revenue record as having any lake, ponds or any other water-bodies nor are they notified as such, so as to encompass them within the purview of the directions contained in the aforesaid judgment of the High Court. In my view, therefore, there can be no objection in transferring the lands in favour of the company for the purpose of setting up the cement plant project, especially when the company has agreed for making an alternative provision for storage of the rainwater by excavation in the other part of the *Bandhara* area which will be equivalent to or more than the quantum of water likely to be lost due to the allotment of the lands in question. The aforesaid proposal, in my view, will serve the triple purpose of complying with the spirit of the judgment of the High Court of conservation of water as well as maintenance of environmental balance in the area in the larger public interest, vis-à-vis acceleration of the growth of industrialization in the State.’

Based on the opinion of the AG, the Chief Engineer, Saurashtra addressed a letter to the Principal Secretary, Department of Revenue for allotment of the land of Samadhiyala Bandhara in favour of NL on 23 July 2007. The Revenue Department passed a resolution on 27 December 2007 and the Collector of Bhavnagar District passed an order on 16 April 2008 for allocation of 268.86.52 hectares of land to the NL for putting up a cement plant under certain conditions. This included 222.0624 hectares of Samadhiyala Bandhara land, which constitutes a water body. NL prepared an environmental impact assessment (EIA) and environmental management plan (EMP) and submitted it to the MoEF in July 2008.

The Advocate General Kamal Trivedi has established a legal firm known as M/s. Trivedi & Gupta. This firm has been representing Nirma Limited for more than 25 years. Before and after the Advocate General was nominated as the designated senior counsel, he has been appearing as Counsel to argue cases on behalf of respondent Nirma Limited. He has continued to appear as Counsel engaged by M/s. Trivedi & Gupta, for Nirma Limited in this case at the High Court of Gujarat, even after his appointment as Advocate General. This was raised as ‘conflict of interest’ by a civil liberty group in Gujarat, however, it did not generate public opinion or the GoG did not take any corrective action.

Public hearing for environmental clearance took place in the village school at Padhiyaraka on 9 September 2008. About 400–500 village residents of Doliya, Dudheri, Padhiyaraka, Vangar, Samadhiyala, Madhiya and Devaliya villages attended the event.<sup>16</sup> The affected villages are inhabited by the Koli community, which is one of the largest communities among the SEBC in Gujarat. The participants of the meeting were briefed about the proposed Cement Plant as well as about the land allocation: pastureland surrounding Samadhiyala Bandhara to the Plant for mining, and plan for deepening the *bandhara* site, which is 4 km away from the proposed plant. Signatures of 56 people were collected to show their consent without replying to any of their queries<sup>17</sup>, of them 15 were government officers<sup>18</sup>. The participants were agitated after the public hearing, as they did not have a chance to raise their voice. They forced the video camera operator to switch off the camera. In the same evening and on the following day, people rushed to the proposed cement plant site and removed the fencing. This action led to conflict between the police and security agency hired by the NL on one side and the project-affected people, especially women, on the other. A First Information Report (FIR) was lodged against some men and women who were arrested.

The MLA of Mahuva constituency, Dr Kanu Kalsaria, is a surgeon who runs a hospital through a Charitable Trust. Though he belonged to ruling party, Bhartiya Janta Party (BJP) in the state, he was neither informed about the proposed cement plant nor about the public hearing. Initially, the affected village residents did not approach him before the public hearing, thinking that he belonged to the ruling party and, therefore, he must have approved the cement plant. After the public hearing, the affected families decided to meet the various community leaders and elected representatives for a viable solution of this problem. They met Dr Kalsaria in the following month and he suggested that they meet the Industry Minister Saurabh Patel and present their case. Saurabh listened to the delegation and informed the District Collector (DC) that the project-affected persons (PAPs) were opposing the proposed plant and, therefore, necessary action should be taken following close examination of the situation. However, the DC, Bhavnagar

did not respond to the letter written by the Industry Minister until 9 December 2008.

The MoEF granted environmental clearance to Nirma Limited for putting up a cement plant at Mahuva on 11 December 2008. The Gujarat Pollution Control Board (GPCB) gave an NOC to the NL on 25 May 2009.

This decision actually violated the Gujarat High Court's verdict of 2002 regarding conservation of water bodies. The environmental clearance overlooked the fact that the proposed cement plant was situated in the catchment area as well as part of a water body (100 hectare submergence). The local river/rivulet and contributory *nalas* and rainwater channels fill up the reservoir of Samadhiyala Bandhara with sweet water, the most precious commodity in Saurashtra region of Gujarat that is perennially prone to drought.

### ***Mahuva Andolan: On Streets and in Courts***

As soon as the peasants came to know about environment clearance given to the NL for cement plant, they approached Kanubhai. Kanubhai along with the representatives of PAPs, wrote a letter to the DC that if we do not receive a response from you within 15 days, we would take necessary action. In response to this letter, the DC provided necessary information about the proposed plant, i.e., the consent given to the NL by the GoG and the MoEF.

Initially the peasants took two steps—first, they together constituted Shri Mahuva Bandhara Khetiwadi Pariyavaran Bachav Samiti; and second, they started collecting the relevant official documents using the Right to Information Act (RTIA) 2005. They evolved this slogan—‘*Nirma hatao, bandhara bachavo* [Remove Nirma, Save *bandhara*]’ along with naming of the organisation formed and has remained a vital spirit of the *Andolan*.

Based on the information gathered under RTIA, Pratapbhai Nanjibhai Gohil, on behalf of SMBKPBS, filed a petition<sup>19</sup> in the High Court of Gujarat in March 2009. The points raised in the petition were: (i) to restore land with Samadhiyala check dam of Padhiyarka and Doliya villages of Mahuva taluka; (ii) *Gauchar* land containing with two check dams and a natural lake of Vangar

village of Mahuva taluka of Bhavnagar District to the respective Panchayats from the possession of NL; and (iii) the GoG to make the necessary changes in the record to incorporate the water reservoir, lakes and dams.

While the legal case was going on in the High Court of Gujarat, Kanubhai planned to undertake a *yatra* to visit the four *bandharas* and the affected areas of the proposed cement plant/villages of Mahuva taluka from 1 May 2009. He wanted to know and understand the farmers' viewpoints on agricultural land, and to strategise for prevention of the in the concerned. As soon Kanubhai started a public meeting on 1 May 2009, police arrested the participants of the meeting and detained them for a day. Kanubhai and others sat on *dharna* against this police action, demanding justice.

A small booklet in question-answer format was published and circulated in every meeting of SMBKPBS aiming at awareness spreading about *bandharas* and agrarian development in the region, environmental issues of Saurashtra seacoast, and about adverse impact on these if a cement plant comes on this land. This booklet provided basic facts and arguments in support of agriculture-based development and highlighted the disadvantages of the Nirma Cement Plant as follows: (i) Mining in 27,000 *vighas* (4,500 hectares) land will be destroyed forever; (ii) 50,000 people of 10 villages will become unemployed; (iii) agriculture and animal husbandry will be destroyed, in turn, the environment will be adversely affected; (iv) salinity will be spread over 25 km inside from the seacoast; and (v) instead of sweet water, people will be forced to drink salty water, which will harm their health. Various benefits of *bandharas* were highlighted: (a) rejuvenating fallow and wasteland through *bandharas* forever; (b) about 40,000 to 50,000 *vighas* (about 8,000 hectares) land getting irrigated in the region; (c) control on salinity prevention and ingress; (d) the irrigated will make the seacoast green with Chikoo and mango orchards, coconut and pomegranate trees; (e) increase in onion and cotton crop will enhance agro-based industries; and with rejuvenation of land, agriculture development will be enhanced.

During these village visits, various slogans became popular and remained an integral part of the mobilisation strategy. They are:

*Bhukhi janta ab na sahegi, dhan aur bhumi bantake rahegi*  
(Hungry people will not tolerate any more, we will ensure equal  
distribution of money and land)

*Jal, jangal, jamin, khanijkona re bhai kona? Gramjanona, gramjanona*  
(Water, forest, land, minerals belong to whom brother? They belong to  
the village residents)

*Jage jage gamda jage, bhage bhage company bhage*  
(Awaken, awaken, villages awaken, run away, run away,  
Nirma run away)

*Mahenat no rotlo khava do, company raj ne java do*  
(Let us have *roti* earned by our hard work, let the rule of  
the Company be faded)

*Gay, gauchar ne gamdu, chhodishu nahi, chhodishu nahi*  
(We won't ever leave our cows, pasture and village)

*Gamdani kheti, deshni abadi*  
(Agriculture in rural areas is the only way for affluence of the country)

As the *Andolan* spread and intensified, the High Court of Gujarat gave a call to the protesters to resolve this issue. The idea of forming a committee by the GoG generated from this action. The GoG appointed an Expert Committee on 29 May 2009. This committee was comprised of five members and headed by a retired Chief Secretary of Gujarat S.K. Shelat, an advisor to the Chief Minister (CM); S.J. Desai, the Secretary, Narmada Water Resources, Water Department; C.L. Meena (IAS), the Chairman, GPCB; A.B. Panchal, the former Collector, Bhavnagar; and K.N. Patel, the retired Additional Director, Geology and Mines. This committee was asked to look into all the aspects related to Samadhiyala Bandhara and allocation of part of its land to the NL. It invited all representations and attended them, obtained necessary technical reports.

The Shelat Committee, in its report, has clarified that 'presently only principal approval for lease area is granted. If the lands for mining are the private farmers then it has to be purchased from the farmers and if the land is government land then the company can do mining work in this land' (p. 612/J). The Committee

attended representations of different institutions and persons regarding *bandharas* and cement plant, including Kanubhai, the NL, the local MLA, the elected representatives of the Panchayati Raj, representatives of social institutions and the farmers of the affected villages. Kanubhai raised certain pertinent issues: agriculture development taking place after construction of SB; increasing danger of ingress of seawater due to deepening of the reservoir to increase its water capacity, as suggested by the NL; danger of mining and irreversible use of agricultural land; connecting four *bandharas* through channels being near completion and how promising it is for development of animal husbandry along with the agriculture; relating the PAP and the MLA of the area not being informed about the public hearing on 9 September 2008; public hearing should be held again since the previous hearing was not transparent; misleading or incomplete information provided by the NL regarding agriculture development in the region; quoting the judgement of the High Court of Gujarat (2002) regarding conservation of water bodies; and that the committee should examine agriculture income and employment opportunities provided by the NL. Kanubhai raised objections regarding sanction of the project (Shelat Committee Report 2009: 612K–O). The NL's presentation covered the following issues: capacity of the project; details of principal approval of mining lease; regulations and reasons for selecting the project site; procedures followed for obtaining adequate space for the plant; legal approvals required for establishing the project; expenses incurred till date; status of the project; calculation of water conservation capacity; effects on environment; employment opportunities; and opinions of NEERI and NCCBM (*ibid.*: 612/2/6–7). The committee studied the issues raised by the SMBKPBS as a petitioner, technical points raised by concerned authorities (WAPCO Ltd (undertaking of GoG), National Council for Cement and Building Materials (NCCBM), and National Environment Engineering Research Institute (NEERI), Nagpur), and the report of a member (agriculture expert) of the team. In the conclusion, the committee presented three alternatives. First, Nirma Cement Plant could be given 268 hectares as the NL has asked for; second, 54.295 hectares area could be deducted from 268 hectares as suggested by NL; and third, to establish a cement plant

in 168 hectares and spare 100 hectares of Samadhiyala Bandhara (SB), as the NCCBM had suggested or any new alternative for consideration of Cabinet Committee.

The GoG appointed a sub-committee on 12 August 2009 consisting of four Ministers<sup>20</sup> and, based on its report (dated 19 November 2009) the GoG accepted first suggestion of the NL, i.e. 54 hectares of land would be resumed from NL. The committee directed the concerned administration to prepare teams of reference for the NL with imposition of certain new conditions on 8 December 2009. The NL was left with 214 hectares of land for the plant; it had to deepen 62 hectares of land to increase the water capacity by 21.23 MCFT and also perform other tasks as per the new set of conditions. Subsequently, the MoEF granted environmental clearance on 11 December 2008 with certain specific conditions. Kanubhai opined regarding this decision of the GoG, 'the committee should have accepted suggestion given by the NCCBM, i.e. to spare 100 hectares of land that gets submerged under SBY, as this would have specified which land to be given to the NL. The committee's decision favoured the NL with double benefits—since the committee did not specify which 54 hectare of land will be deducted; and this gave an opportunity to the NL to purchase surrounding land. Basically, the NL did not want to change its design and had thought that the surrounding land will be purchased eventually from the farmers.'

Continuing protest the protesters organised a public meeting at Vangar village on 13 December 2009, where the police manhandled the participants. Two local leaders were believed to have been beaten up by goons hired by the industry. About 300 protesters were arrested for protests against Nirma Plant (*The Indian Express*, 14 December 2009).

Almost a month after, another protest event was organised by some civil rights activists in support of the protesting group on 12 January 2010. They demanded AG's resignation alleging constitutional impropriety. One of the civil liberties activists, Prakash Shah said, 'The AG could have refused to give the opinion as he was once a partner in the legal firm which represented Nirma. This shows that by giving opinion in favour of Nirma Limited, the Advocate General has served the purpose of the legal firm, the

state government and Nirma Ltd.' (*The Indian Express*, 13 January 2010). This was clearly a 'conflict of interest'. A group of over a hundred protesters agitated in front of the High Court of Gujarat, asking for resignation of the AG on 4 February 2010.

In the succeeding month, the protesters decided to submit a memorandum to the CM with signatures in blood. They decided to collect at least 11,111 signatures during the period from 1 to 15 February 2010 and to submit the same memorandum at Gandhinagar on 25 February 2010. After collecting these signatures, the protesters decided to bring out a *maun rally* (silent procession) at Mahuva town on 20 February 2010. Even though it was a silent rally, they did not get permission from the police to conduct the rally. As soon as the rally started, the police started arresting participants of the rally. They want to arrest Kanubhai, the leader, but the women encircled him so that he cannot be arrested. The women categorically stated, 'arrest us before you arrest Kanubhai'. The police started *lathi charge* on the protesters; many women were beaten mercilessly. One of the protesters chewed a thumb of a police officer. The women went to the police station to register a complaint but their complaint was not registered. On the contrary, the police registered a complaint that the protesters had attacked the police and some of them were sent to jail. The next day, on 21 February, Kanubhai and his wife were travelling in a car when some unknown persons at Doliya village attacked them.

As decided earlier, a memorandum was to be submitted to the CM on 25 February 2010 and all the protesters were to get together at Gandhi Ashram, the rally was to start from 2.30 pm for 25 km-long *padyatra*, to reach Gandhinagar. Almost 3,000 to 4,000 protesters were detained in Shahibag Police Station, near Gandhi Ashram, for the whole day on 25 February. About 700 participants started marching towards Gandhinagar but they too were later arrested.

Kanubhai attended the Legislative Assembly session on 26 February 2010 and before he could plead the Mahuva case, the security men stopped him and escorted him out of the Assembly. Kanubhai informed the journalists standing outside the Assembly that he wanted to meet the CM and to submit a memorandum to



him. Until the CM met them, they would not leave Gandhinagar. After some time, Kanubhai was informed that the CM wanted to meet him alone. The discussion was focused on the recommendations of Shelat Committee, and why Kanubhai and the protesters did not accept those recommendations. Kanubhai explained to CM regarding flaws in the decision making of the sub-committee of four ministers, 'The sub-committee accepted the suggestions proposed by the Nirma Company, and not of the NCCBM.' The discussion was further focused on intervention of Morari Babu and denial by Kanubhai. Kanubhai clarified that Morari Babu was exploring all possible solutions; no middle path was found, which was acceptable to both the sides. Modi said, 'you have caused pain to me' (Parmar, 2014: 77). The meeting did not culminate into any concrete solution.

As a follow up to this meeting, a call was given to celebrate Mahuva Divas (day) on 6 March 2010; this move was supported by many citizens of Gujarat who carried out rallies from Ahmedabad, Vadodara, Surat and Dang in solidarity.

After meeting with the CM, Kanubhai decided to leave BJP, and to form another political party—Sadbhavana Sewa Samiti (SSS), to contest the Panchayat elections in November 2010. This party floated a slogan: '*Jalne bachavava jag ne jitado*' (vote for jug<sup>21</sup> to win the water). The SSS made its presence felt with a significant number of seats in Mahuva taluka as also in Bhavnagar district. Of the total 31 seats, 27 candidates contested the election under the auspices of SSS and won nine<sup>22</sup> seats in Mahuva Taluka Panchayat, and two seats of the total seven seats of the District Panchayat. In this manner, SSS defeated BJP. A woman<sup>23</sup> representing SSS became the president of the Taluka Panchayat.

In the meantime, the political leaders and Nirma Company's owner Karsanbhai Patel attempted mediation. Morari Babu, famous narrator of the *Ramayana* and respected as a Godman, met Kanubhai and asked him "What if Nirma goes away?" Kanubhai answered that "he had to consult the village residents of Padhiyaraka" (Parmar 2014: 166).

On 16 March 2010, a division bench of Chief Justice S K Mukhopadhyaya and Justice Aquil Qureshi of the Gujarat High Court put a stay on the construction work of the Nirma plant

at Mahuva until further orders. It also asked SMBKPBS file an affidavit along with the documents, including maps and satellite images<sup>24</sup> of wetland; and asked NL to surrender the additional 46 hectares of land as part of the settlement formula by 31 March 2010. The High Court also directed the GoG to file a reply by the same date. The NL decided to surrender 46 hectares to the government for amicable resolution of the issue and the High Court asked the SMBKPBS to respond in four weeks, until the next hearing. However, the SMBKPBS decided not to accept this offer. The petitioner lawyer, Anand Yagnik, said, 'Pursuant to the proposal by Nirma, a meeting was held of around 4,000 farmers in the Dudheri village of Mahuva taluka. And the farmers unanimously decided not to accept the proposal. Moreover, when it is our case that the entire allocation of land is in violation of the High Court order, the question of surrendering a part of the total allocated land does not arise' (*The Indian Express*, 9 April 2010). The Division Bench of High Court has asked Nirma and the petitioner to file their proposal and refusal on affidavit, respectively, during the next hearing 12 April 2010. The High Court lifted stay on the construction work of NL on 16 April 2010. The AG, Kamal Trivedi pleaded for NL in consecutive hearings on 15 and 26 April 2010. The High Court allowed NL to go ahead with the plant and asked both the SMBKPBS and NL to file affidavits on their final decision regarding land allocation. In response to this, SMBKPBS submitted a review petition to the High Court but it was rejected. In their review petition, the farmers contended that the High Court has not taken into account their arguments regarding faulty environment clearance by the GPCB as well as by the MoEF.<sup>25</sup> Permitting the cement plant near the water body was violation of the local people's rights and the cement plant would destroy agriculture, animal husbandry, besides causing irreparable damage to the environment (*Zee news*, 2 July 2010). Therefore, SMBKPBS decided to appeal in the Supreme Court.

More than 10,000 hectares land has been irrigated under four *bandharas* and total 1,000 hectares of land is irrigated under Samadhiyala Bandhara. The farmers realised that the monsoon was approaching and rainwater harvesting was vital. They decided to heighten the wall of the *bandhara* so that its storage capacity

could be increased and each drop of rainwater could be conserved. With this plan, the land surrounding *bandhara* would have submerged. The farmers needed permission for the same from the GoG as also arrange for funds for the same. The chances getting permission and financial support for the same from the GoG were very low. Therefore, they calculated the total cost and decided that if every beneficiary of the *bandhara* contributed a little over Rs 1,000 along with their *shramadaan* (labour work without charging money); they would be able to raise the wall. Putting this plan in action, the farmers built the wall overnight in June 2010. However, the government ordered the built wall of the *bandhara* to be broken because the government suspected that if the storage capacity of the *bandhara* increased, the cement plant could get submerged. The following day, a team of SCD reached the *bandhara* to break the recently built wall with necessary machines/equipments. As soon as the JCB machine started breaking the wall, the farmers opposed, resulting in a clash between the government personnel along with police and the farmers. The personnel of the Salinity Control Department registered a complaint against 10 farmers. As a result, these farmers were jailed for six days.

A bench comprising Chief Justice S.H. Kapadia, Justices K.S. Radhakrishnan and Swatanter Kumar of the Supreme Court deferred hearing on 5 July 2010, on the appeal against construction of NL's cement plant near Mahuva's coastline and asked the High Court of Gujarat to dispose of the review petition filed by the farmers. The Supreme Court entertained SLP Nos. 14698 and 15016 of 2010 against the judgement of the Gujarat High Court and issued a notice to the MoEF to file an affidavit indicating whether the water body would get polluted/affected as and when the proposed cement plant became operational. The MoEF filed an affidavit before the Supreme Court in the matter above on January 2011. After the reports of both the panels of the technical experts, the MoEF filed two affidavits. 'The affidavits concluded that the cement plant may not pollute the water body if stipulations specified in the environment clearance are implemented' (Babu 2011: 3).

In January 2011, the MoEF appointed an Expert Committee consisting of seven members with Professor C.K. Varshney as its

chairman to: (i) inspect the plant site to oversee the implementation of the project by Nirma; (ii) verify the ground situation in the vicinity of plant site and the factors which could cause impact on the water body; and (iii) cover any other point related to the environmental issues of the project (Supreme Court Order, record of proceeding). The committee's report<sup>26</sup> stated that, 'Samadhiyala Bandhara possesses all the characteristic features of wetland ecosystem (freshwater body) supporting rich adequate vegetation composed on different types of aquatic plant species, aquatic birds, fish and amphibians' (ibid.: 11). The environmental appraisal committee (Industries) considered the Varshney Committee's report. It invited Nirma to present its case on 23 February 2011. The environmental appraisal committee concluded that there could be alternative sites in the vicinity that did not breed any contention. Based on this committee's recommendation, the MoEF issued a Show Cause Notice (SCN) to the NL under Section 5 of Environment Protection Act, 1986 for permanent suspension of work and revocation of the environment clearance granted to the cement plant, captive power plant and the coke oven plant on 11 March 2011 (ibid.: 3–4). Nirma moved an appeal in the Gujarat High Court against the Show Cause Notice issued by the (MoEF) on 14 March 2011. Nirma alleged, 'the order is an attempt by an executive to affect the judiciary since the matter is sub-judice in the apex court' (Juneja, 2011). The High Court of Gujarat rejected the petition and, therefore, Nirma approached the Supreme Court.

Meanwhile, Kanubhai, with the support of Chunibhai Vaidya<sup>27</sup>, Ila Pathak<sup>28</sup>, and Sanat Mehta<sup>29</sup>, decided to undertake a 350-km-long *padyatra* from Doliya village to Gandhinagar, capital of Gujarat, with the farmers for a dialogue with other farmers in Saurashtra as well as to meet the CM and demand that the construction of the factory be stopped and the land should be retained with the farmers. The *padyatra* began from Doliya village at 7 a.m. on 3 March 2011.

The reporting of the *padyatra* exhibited people's overwhelming feelings about the support extended by the villagers in the form of food, vehicles for transport, and arrangement for night stay. Manisha Desai, who joined this *padyatra* for five days, wrote: 'It was an immense undertaking, as food and shelter for roughly

1,000 people for fifteen days had to be arranged along the long route. This depended on contributions by local villages, local political and farmer organisations, regional groups like the Gujarat Lok Samiti and private donors' (2013: 16). One of her experiences regarding a song, praising Kanubhai and his leadership is interesting. This song goes as:

Kanubhai's group is off to Gandhinagar,  
 Kanubhai's group will never back down,  
 Kanubhai's group will make Modi tremble.

The *padyatris* chanted the many old and new slogans, such as:

*Azadi adhuriche, Beeji jung chaluche*  
 (Freedom is incomplete, the second order struggle is on)

*Jaan denge, zameen nahin*  
 (We will die but will not give up our lands)

The BJP's farmer wing, Bhartiya Kisan Sangh (BKS), which had so far not openly supported this protest, came out in support of the *padyatra*. Praful Senjaliya, one of the BKS leaders said, 'The time has come to fight against the BJP-ruled state government as farmers' issues have become serious in the state. We are supporting the agitation against the Nirma cement plant because it is a purely non-political protest and a genuine issue' (Parmar, 2011). While addressing the meetings, Ilaben and other leaders harshly criticised Narendra Modi for his predisposition towards industries and not towards the peasants and agrarian development.<sup>30</sup> They also criticised industry-oriented policies of the government. Virji Jasani of Bhartiya Kisan Sangh said, 'if the farmers want to save their land, the farming, and their life, they must fight against Modi, who is a friend of industrialist, and not a friend of farmers' (press note prepared by the protesters, 7 March 2011).<sup>31</sup> As the *padyatra* progressed, village leaders on the route welcomed them and extended their support; various social organisations and political parties joined their hands with the protesters.<sup>32</sup>

On 11 March 2011, the *padyatris* received a message that the MoEF had given a SCN to the NL, based on the report of the expert committee that was not in favour of the environment clearance

given to the NL. The NL has to respond within seven days of the notice.

In a meeting with the CM on 17 March 2011, the *padyatris* emphatically put forward their points for protection of Samadhiyala Bandhara and demanded not to allot further land to the NL. In response, the CM continuously referred to the rule of the law and as the matter was in the High Court. He repeatedly said that he would obey the Court's order.

The Supreme Court directed the MoEF to call for a report of an expert body consisting of five independent reputed scientists<sup>33</sup> on 18 March 2011<sup>34</sup>. The Court asked the expert body to visit the site and reply to the following issues: (i) whether the lands in question were wetlands/water bodies; (ii) whether the project could come up on such wetlands/water bodies and if so, what would be its impact on environment? Would it lead to environmental degradation?; (iii) if at all project could come up, what steps the user agency should take in the interests of environment protection; and (iv) the precise current status of the project may also be indicated by the expert body, while also listening to the NL as well as SMBKPBS. This expert body was asked to submit its report in six weeks. This body unanimously concluded that the site of the cement plant industrial complex of Nirma should be relocated elsewhere outside Samadhiyala Bandhara—a common property resource—and its periphery (Babu 2011: 20). Based on this report, the MoEF cancelled the environment clearance given to NL for the cement plant at Mahuva on 1 December 2011 and filed an affidavit in the Supreme Court stating the same on 8 December 2011. After SCN of MoEF to NL, the Supreme Court gave three months to NL to respond to the SCN. The NL responded to SCN, asking for 10 weeks' time to file its reply 'which the Union ministry considered "unjustified" and a "breach of the order of the Supreme Court" (counterinterview.net, 2012). 'Rejecting the state government and Nirma's contention that the plant was to come up on wasteland, the ministry said clearance had been granted on the basis of "undisclosed and incorrect information". It was actually a reservoir that provides water for irrigation' (Parmar 2012).

The MoEF placed a report based on the findings of the two expert committees. It said that the land allotted to Nirma by the

Gujarat Government in 2008 was an environmentally sensitive wetland that supported the local people in their agriculture. The expert committees' reports have mentioned that the Samadhiyala Bandhara, as a common property resource. 'The report also weighs against the limestone mining that was to take place in the adjacent 3,460 ha of land. It says the mining will affect agriculture, particularly onion production (Mahuva taluka alone accounts for 6 per cent of India's output)' (Kanehal 2011).

Based on the reports of MoEF, the Supreme Court disposed both the cases on 9 December 2011 and ordered that:

'Upon hearing counsel the Court made the following Order Mr. D.A. Dave, learned senior counsel appearing for NIRMA, states that, on 1 December, 2011, the Competent Authority under Environment (Protection) Act, 1986, has passed an order against which NIRMA wants to file an appeal before the National Green Tribunal<sup>35</sup>. They seek four weeks' time therefore, which is granted. The National Green Tribunal will decide the matter as expeditiously as possible in accordance with law' (2012: Para 4, p. 5-6). The special leave petitions are, accordingly disposed of (ibid.).

The NL filed appeal in the NGT following the Supreme Court's order and the 'miscellaneous application was accordingly allowed' (Para 16, p. 15).<sup>36</sup> The NGT decided to hear NL's plea against MoEF's revoked order for green clearance. Kanubhai expressed his disappointment on this occasion saying, 'We had thought the Supreme Court is the apex body of law' (Juneja, 2012). The SMBKPBS filed an application with the following prayer: (a) the Expert Members of the NGT (Dr. Gopal Krishna Pandey and Dr. Devendra Kumar Agrawal) hearing the aforesaid Appeal may kindly recuse themselves from hearing the Appeal; (b) the Bench for hearing the appeal may kindly be reconstituted; and (c) pass any such/further order(s) as the NGT may deem fit and proper in the interest of justice (2012: Para 1, p. 2).<sup>37</sup> In response to this appeal, a bench of NGT comprising of Justice Swatanter Kumar, Justice U D Salvi, Dr Devendra K Agrawal, and Dr Gopal K. Pandey passed an order on 28 May 2013 that two members, Dr Agrawal and Dr Pandey, would inspect the project site during 7 and 9 June 2013. An application by MoEF was submitted to the Supreme Court to

put a stay on NGT's order of 28 May 2013; and a couple of miscellaneous applications were submitted by both, SMBKPBS and NL for various issues/with different prayers.

The NGT experts' team visited the proposed Nirma cement plant site twice—between 7 and 9 June 2013, and later on 7 and 8 September 2013 and prepared a report. The NGT passed a judgement on 14 November 2014, dealing with the issues raised in form of prayers. The judgement mentioned, 'we find the application for recusal motivated, misconceived and fallible on facts and circumstances of the case, as well as in law. The attempt to delay the hearing and final disposal of this appeal has been a concerted effort on the part of the applicant (Para 39)... We find the present application not only without substance and merit but frivolous and an abuse of the process of law. Thus, we dismiss the application with costs of Rs. 25,000/-, payable to the Environmental Relief Fund constituted under The Public Liability Insurance Act, 1991' (Para 40).

The SMBKPBS admitted a review appeal to this judgement of the NGT. The NGT delivered a Judgement<sup>38</sup> on 18 May 2015 on the review appeal by the SMBKPBS mentions, 'the revenue records devote having being mutated in favour of Samadhiyala Bandhara continue to depict the nature and land in question as waste land' (Para 14, p. 12). It further provides details regarding Expert Panel Members' two visits—the Bandhara was found dry during first visit in June 2013, and it was almost at full leave with shallow water depth spread all over in the submergence zone and no part of the proposed project land under submergence during the second visit in September 2013. There was growth of aquatic vegetation and presence of few migratory birds around the water body.

'Expert Members thereupon arrived at an opinion that Samadhiyala Bandhara served as a temporary storage of water, which get used by farmers or get evaporated due to its large spread or get percolated due to fairly high porosity of soil and as such cannot be called as a productive wetland having all perennial features of a wetland...' (NGT Judgement, para 17, p. 14–15).

The review application of SMBKPBS was thus dismissed by the NGT.



## The Andolan and the Contemporary Times

After the dismissal of the review application by the NGT on 18 May 2015, SMBKPBS has applied for review appeal to the Supreme Court, which is not yet admitted in the Supreme Court. Since the legal option is exercised by the SMBKPBS, the outcome of this *Andolan* cannot be mentioned categorically.

The legal scenario is perplexing and complicated, in terms of legal authority and role of administrative institutions such as the MoEF, GPCB, and Revenue Department of Gujarat. When the Supreme Court allowed the NL to appeal in the NGT against its verdict in December 2011, it provided an opening for grievance redressal of legal nature. During one of the hearings of the NGT, it justified the appointment of the expert's committee and upheld its recommendation, which is contradictory to the Supreme Court and the MoEF's decisions.<sup>39</sup> What are the implications of such contradictions between the NGT's verdict and the Supreme Court's verdict? This behaviour of the Judiciary is similar to the case of SSP and NBA. The Apex Court found a solution through Technical Expertise. The NGT in this case found a solution through 'selective Expertise', discarding previous committees' reports.

In case, as per the recommendation of the expert's panel appointed by the NGT, 54.295 hectares of land would be kept for the village and the cement plant could be established in the rest of 218 hectares. This would mean that the judgement of the High Court of Gujarat would be upheld. The High Court of Gujarat did not address a question of 'conflict of interest', referring to AG's role for the GoG and for the NL. The AG's opinion carried weight in the High Court of Gujarat, as he endorsed setting up of the cement plant as serving 'three purposes: industrial development, environmental conservation and under the guidelines of the High Court' (Parmar 2014: 178). In this case, the actions taken by the MoEF and the Supreme Court regarding this case would be proven futile.

As this *Andolan* has been largely fought in legal domain and marginally on the streets like the previous *Andolans*, that too all the protest events were peaceful; they did not provide many challenges to the law and order machinery nor to the ruling political party. As the leadership decided to make this *Andolan* non-vio-

lent, *padyatras* and submitting memorandum to the CM remained the major activities. There had been a few arrests, FIR was made against a couple of protesters, and the police force had beaten up the protesters at three instances.

In the political sphere, Dr Kanu Kalsaria, a leader of this *Andolan*, decided to part with the BJP in order to protect and promote peasants' interests. Prior to parting with the BJP, he approached his party colleagues Saurabh Patel, Minister for Water Resources, Dilip Sanghani, Minister for Agriculture and Cooperation, Nitin Patel, Minister for Irrigation, and others in order to generate awareness of the land and water scenario in the region, but their visits did not bear any fruits. These ministers finally parted with the party and not for the cause of water resources and agriculture development in Mahuva region. Two of the incidents are important in understanding the dynamics at work. The GoG had approved 3.74 crores for 'Malan-Samadhiyala Extension Canal' in back date, which was stalled after SMBKPBS approached the High Court of Gujarat. After the judgement of the High Court of Gujarat in March 2010, the Minister for Irrigation tried to negotiate with Kanubhai that the GoG would fund for the extension canal project, provided the SMBKPBS would not go to the Supreme Court to get justice. Different applicants admitted 'miscellaneous applications' in the legal course at the Supreme Court and at the NGT during 2012 and 2015, and finally the NGT came to a full circle through its judgement of May 2015—allocation of land to the NL. Can this scenario be interpreted as 'judicialisation of politics', wherein political agenda—of bringing in a cement plant at Mahuva—is fulfilled despite a due legal course and involvement of the Apex Court? The status of land records is also indicative—it supported ruling party's agenda of providing land to the NL. Role of administrative institutions is closely linked to this point—were land records not updated deliberately or due to callousness of the concerned department or the records were manipulated to fulfil the ruling party's agenda. This leaves the questions open to anybody's guesses.

This *Andolan* illustrated different characteristics of the right to development, in a subtle, indicative manner. The 'Vibrant Gujarat Global Investors Summit', since 2003 attracts industrial houses from all over the world. The Government of Gujarat (GoG)

allocates vast area of land to these industries. For accelerating industrial growth, about 78,838 hectares of pastureland, wasteland and fallow land have been allocated to the industries during 2008 and 2011 (*Sandesh*, 18 March 2011). As a result, Gujarat is facing a huge deficit of 3,106,180 hectares of land as pastures for 24,728,000-strong cattle (Dave, 5 July 2010). Overlapping though, the land statistics show that 59,812 hectares of land has been acquired by the State during 2006 and 2012 plus GIDC land acquisition policy (2010) anticipated 50,000 hectares of land in year 2011-12 (*Ganguly* 2012: 4). The 2011 Census data revealed a fall of 3.35 lakh in the number of cultivators or farmers in and a simultaneous increase of 16.78 lakh (1.678 million) farmers in the number of agriculture labourers (Nair 2013). In such a land and agriculture scenario, the Mahuva *Andolan* acquires importance on two counts: saving pastureland and water body in the region; and promoting agriculture-based development vis-à-vis industrialisation-based development.

Role of the MoEF, as 'safeguarding institution' also came under scrutiny, as peasant's agenda of agrarian development, prevention of salinity ingress, and protection of susceptible seacoast ecology, etc. were addressed through Technical Expertise. Is the state really getting 'technologised' through the Judiciary and administrative institutions? What are the repercussions on democracy with increasing 'technologising state'?

This *Andolan* brought several beneficiary villages under its banner. As a result, the farmers started owning the cause of protecting *bandhara* and other technical interventions for prevention of salinity ingress and conserving water resource. During the monsoon of 2009, the farmers heightened the wall of Samadhiyala Bandhara so that more rainwater could be harvested. Each farmer family contributed more than a thousand rupees as well as their *shramdaan* in heightening the wall. When SCD officials tried to break down the wall, the farmers resisted and some farmers were arrested jailed for a week. This incident is significant as it conveys the following messages: first, the village residents wish to possess and protect natural resources, such as water, land, and limestone, and let them not lose. Second, in order to protect these natural resources, they want the situation under their control and, there-

fore, they are ready to fight against the security guards employed by the NL, the police representing the government but sided with the industry, and against the government officials who did not address people's problems. Third, after the verdict of NGT in May 2015, peasant's response–engagement and action is not observed. Kanubhai informed that the members of SMBPKBS are contributing one rupee per day. Thus, every peasant contributes 30 rupees a month and that's how this collection is used for protest to continue.

Fighting the Panchayat election is an important move for people's participation in local governance and decision-making in local affairs. Though Kanubhai lost the subsequent elections—the Legislative Assembly of Gujarat in 2012 and Parliamentary Elections in 2014, he has continued to be in touch with the protesters. This situation creates a ground for social movement, on the counts of many episodes of protests, legal action, and consistent agenda of conservation of water resources and agriculture development, peasants as cadre of SMBKPBS, and steady leadership of Kanubhai and other CBO representatives.

This *Andolan* had begun with legal action in response to the allocation of land to the NL for the cement plant. Public hearing is one of the processes that provide a platform to the PAPs to raise their concerns as well as to prevent the incoming industry. As such, public hearing is a legal procedure and yet another filter for getting permission and environment clearance for the industry; past experiences show that this mandatory forum is manipulated the most by the government officials as well as the industrial unit. For instance, in the opinion of the company, four public hearings have taken place on the project. The first was held on 16 May 2006 prior to allotment of land, while the land was transferred on 16 April 2008. The second public hearing was held on 9 September 2008 by GPCB in connection with environmental clearance. The third public hearing was held on behest of the local MLA on 17 December 2008 after environment clearance had been given by the MoEF on 11 December 2008. The fourth public hearing was the progeny of a PIL filed against the project in Gujarat High Court in March 2009 (Babu 2011: 82). The reports of the first two public hearings are available but not of the two others. Moreover, the reports of the two public hearing confirm that the PAPs could

not effectively participate in those hearings, and they remained 'merely procedures' that helped the NL to get the proposed land. This situation raises questions on public hearing as a procedure, role of the government officials, and the industry. The sense of 'injustice' starts with this forum; the distrust in the Executive is strongly reflected after this event. Role of administrative institutions is closely linked to this point—why these institutions are not supporting democratic processes of this nature?

Such a situation provides three options to the PAPs. The first option is to approach the High Court for justice. The second option is to become organised for collective action, including protests, and then pressurise the government through lobbying and other advocacy measures, to the extent that it compels the government to change the decision. The third option is to undertake actions that are parallel to the state or ignoring the government's sovereignty, i.e., to protect the land and continue to use it for agrarian purposes, not bothering about the land records and other qualifications required to prove land ownership. In this case, the protesters exercised the first two options. The formation of SMBKPBS and admitting PIL in the High Court of Gujarat signify these strategic moves.

This *Andolan* represents the various types of protest methods in neoliberal times and of the twenty first century that are different from the previous protests in Gujarat. Yet, no parallels can be drawn. For instance, all the protest events were peaceful, following Gandhian ideology but their impact on the government was not significant. Some social activists draw parallel as 'farmers' agitation' against proposed plan for industrialisation in Gujarat and link to subsequent protests against the special investment region (SIR) in central Gujarat, challenging the GoG's decisions to develop Bahucharaji and Dholera SIRs as one of the by-products of this *Andolan*. It is pertinent to think about social composition, number of participants, modus operandi and negotiation strategies adopted in the protest against SIR are much different than this *Andolan*. Most important is that after losing legal battle in May 2015 with the NGT's verdict, no protest event has taken place at local or state level. Does this indicate that the *Andolan* does not want to show its strength in the streets? As an 'environment movement', its

scale of operation, reaching out to various agencies, citizens across the globe, and advocacy methods, etc. are not comparable with functioning of the NBA, especially on the counts of national and transnational alliance of eminent citizens, CSOs, different political parties, international NGOs (INGOs) and pressurising the funding agency, in this case, the industry.

### **Are Rights Achievable on Streets or in the Courts?**

The legal course of this *Andolan* is suggestive of 'judicialisation of politics' and does give a little hope to win over through legal battle.

The *Andolan* articulated the right to development and the right to participate in decision-making and planning regarding desired development in the region. There are attempts made during the *Andolan*, such as winning of the Panchayati Raj elections—Taluka and District Panchayat, and heightening the wall of Samadhiyala Bandhara overnight with people's contribution as well as *shram-daan*. With protest programmes like *padyatras*, submitting memorandum and advocacy with the political leaders belonging to political parties, the protesters have adopted measures of deliberative democracy. The entire legal battle is to prove owning of *bandhara* and consequent agrarian development in the region. However, the Courts did not take into account of any of these activities. The outcome of the *Andolan* raises a question—what is justice and justiciable, who gives justice, and whether like NBA, any people-centric achievement is possible in post-judgement scenario?

### **Notes**

1. Review application No. 9 of 2015 in Appeal No. 4 of 2012 before the National Green Tribunal Principal Bench at New Delhi.
2. Recently this Ministry is renamed as Ministry of Environment, Forest and Climate Change (MoEFCC). However, MoEF is used through the text.
3. As per the Bombay Irrigation Act, 1879, as amended, Section (4A) defines the *bandhara* as follows: '(4-A) "bandhara" means any structure, permanent or otherwise, constructed or maintained for the

purpose of impounding or directing water of any river stream, lake or any natural collection of water and includes any weirs, sluices, head walls, drains or any other works connected with such bandhara ([www.indiaenvironmentportal.org.in](http://www.indiaenvironmentportal.org.in)).

4. It is a small irrigation project as per the categorisation in the Bombay Irrigation Act, 1879.
5. SCA/10621/2000 dated 02 August 2002. The paragraph number 24(A) to 24 (G), 46–49 mentions details regarding transfer of water bodies.
6. Special Civil Application no. 3477 of 2009. In the matter under Articles 14, 21, 48, 48-A, and 226 of the Constitution of India, and matter of Public Interest Litigation.
7. In a booklet published by Dr Kanu Kalsaria, this *Andolan* began on 1 May 2009. He started visiting project affected villages and getting to know ground reality.
8. The four *bandharas* are: (i) Kalsar Bandhara constructed on the local rivulet, completed in February 1999; (ii) Samadhiyala Bandar constructed on the local river Sansaniyo, completed in July 2000; (iii) Nikol Bandar constructed on the local river Bhadarodi, completed in September 2000; and (iv) Malan bandhara constructed on the local river Malan and Garasvo, completed in 2009.
9. The leader of the Andolan, Dr Kanu Kalsaria has clarified that the NL report says that 418 persons will be employed in the full-fledged cement plant while there is no specific information is provided regarding employing persons in the ancillary units.
10. This information is based on telephonic conversation with Dr Kanu Kalsaria, leader of the *Andolan*, on 23 August 2015.
11. High Court of Gujarat, Supreme Court, and NGT
12. Shelat Committee appointed by GoG; two committees appointed by MoEF—under chairmanship of C R Babu, and C K Varshney; a committee of two experts—Dr Pandey and Dr Agarwal by the NGT.
13. It is under ‘Salinity Ingress Prevention Cell’; it is mentioned as SIPC in the preceding pages.
14. Neither was any public notice displayed at the public spaces nor was any intimation about the meeting was published in the newspapers. Similar misconducts were also reported by the same information sources. For instance, the representatives of only two villages were present and these villages were dominated by the family of the MLA (Shri Shivabhai Gohil of Talaja constituency/taluka) of the adjoining constituency, and supported the motion for cement plant.

15. Stated from the legal petition, submitted to the High Court of Gujarat.
16. It is mentioned in the writ petition that many villagers were prevented by way of threats, from attending the public hearing. Many were not informed, as the advertisement was carried out in a newspaper *Aaj-kal*, which does not have a circulation beyond 750 in the District. Another advertisement was in English daily *Indian Express*, which has a circular of not more than 35,000 in Gujarat and has a negligible circular in the region of Saurashtra—in Mahuva taluka and Bhavnagar district in particular. Villagers of Dudheri village were forcefully driven away in the presence of the government officers during the public hearing but it hadnot been captured in thevideo. The grievance of non-participation and the threats and physical force meted out to the villagers of other villagers were not communicated to the MoEF by the GPCB.
17. See [www.indiaenvironmentportal.org.in/files/Public20%Hearing20%Details.pdf](http://www.indiaenvironmentportal.org.in/files/Public20%Hearing20%Details.pdf) for further details. Last accessed on 31 October 2014.
18. Dr Kanu Kalsaria clarified while looking at the draft chapter in May 2015.
19. Special Civil Application No. 3477 of 2009. This case is a matter under Article 14, 21, 48, 48-A, and 226 of the Constitution of India as well as a Public Interest Litigation (PIL).
20. Minister of Finance, Labour & Employment; Minister of Water Resource, Water Supply and Urban Development; Minister of State for Industry & Mining; and Minister of State for Home, Transport, Law & Justice.
21. 'Jug' was an election symbol for the SSS
22. BJP won 14 seats, Congress(I) won seven one one seat was won by an independent candidate
23. Shantaben Chauhan of Agtariya village
24. SMBKPBS submitted Google Earth Maps and other maps provided by the National Remote Sensing Agency, Indian Space Research Organisation (ISRO).
25. The review petition said, 'Environment clearance was granted on a wrong foundation that the land that is allotted to the Nirmal Ltd is a waste land or *Gauchar* land. GPCB has provided every assistance to the Company in persuading the union ministry in favour of the Nirma in this regard.' One of the lawyers interpreted as 'claiming that "mistake" and sufficient reasons" can be the basis for review of any order' (Swami, 2010).



26. See *Minutes of the Appraisal Committee (Industry-1)* held at 11.00 am on 5 May 2011. Final recommendation of the EAC on the project of M/S Nirma Limited to establish a cement plant at Padhiyarak, District Bhavnagar, Gujarat.
27. Gandhian Sarvodaya leader, aged 94 years (he passed away in January 2015), who supported *Narmada Agey Badhao Andolan* and mediated talks between the GoG and Jan Sangharsh Samiti Yatris (Bata Amte, Medha Patkar, and others) in 1990–1991. He is a founder member of ‘Gujarat Lok Samiti’ and had been working on the issue of land grabbing since 2004.
28. A retired English professor; she was a founder member of women’s group, ‘AWAG–Ahmedabad Women’s Action Group’. She passed away in January 2014.
29. He was aged 83 years (passed away in August 2015); former Finance Minister of the State during 1980s. He supported this protest with self-proclivity socialist and as a supporter of people oriented development policies.
30. Desai (2013: 2) observed, ‘in general, subalterns farmers, men or women, seldom spoke unless invited by Aniruddhbhai or the other male leaders...gender unevenness becomes even more pronounced in the rallies.’
31. See <http://www.jaljameenjungle.com> and [www.savemahuva.com](http://www.savemahuva.com) for further details. Last accessed on 4 November 2014.
32. Mahesh Pandya of ‘Paryavan Mitra’ organisation, Kapil Shah who was a known name in organic farming, Kisan Goradia of Sldbhavana Sangh, Gordhan Zadafia of Mahagujarat Janta Party, Bhavchandbhai Dhameliya of Khedut Samaj, Mehurbhai Lavtuk, Congress(I) leaders–Arjun Modhvadia, Shaktisinh Gohil, Indravijay Singh, a group of tribals from Banaskantha, etc. all participated *en masse*.
33. This committee was comprised of C R Babu, former vice-chancellor of Delhi University; Dr Asad R Rahmani, Director of Bombay Natural History Society; Dr Parikshit Gautam, Director of Freshwater & Wastelands; WWF, India; Dr Ligia Noronha; Director of Tata Energy Resource Institute, Professor Brij Gopal, Vice President of National Institute of Ecology; Dr E J James, Director of Water Institute, Karunya University; and Paritosh Tyagi, former chairman of GPCB, Delhi.
34. The Supreme Court heard all the Special Leave Petitions together–No. 15016 of 2010, SLP (Civil) No. 14698 of 2010, and SLP (Civil) No. 32414 of 2010, and SLP (Civil) No. 32615 of 2010.
35. The NGT was established on 18 October 2010 under the National

Green Tribunal Act, 2010 for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources. It is a specialised body equipped with the necessary expertise to handle environmental disputes involving multidisciplinary issues.

36. Miscellaneous application No. 27 of 2012 in Appeal No. 04 of 2012
37. Arising out of Appeal No. 4 of 2012
38. Review application No. 9 of 2015 in Appeal No. 4 of 2012, SMBKPBS versus MoEF; Revenue Department, Gujarat; GPCB, Gujarat; and M/s Nirma Limited. The Principal Bench of the NGT consisted of Justice Swatanter Kumar (Chairperson), Justice U D Salvi (Judicial Member), Dr D K Agrawal (Expert Member), and Prof A R Yousuf (Expert Member).
39. Former Supreme Court Judge Swatanter Kumar, who heads the NGT bench, ordered a fresh inspection in 2014 saying that earlier inspection reports—by Shelat Committee, Varshney Committee, and C.R. Babu Committee—are conflicting and therefore, a new committee of two experts were appointed to look into the matter.

## CHAPTER 7



### Protests and Rights: Trends and Challenges

#### **Three Contested Spaces: Protest, Rights and Gujarat**

This study interlinks three contested spaces—protest, rights, and Gujarat as a region. A protest, as ‘contentious politics consist of a wide range of portrayals of concerted social actions, aims to overcome deeply rooted structural obstacles’ (Kousis 2004: 275). The citizens’ rights, as one of the important elements of citizenship, works as an analytical framework to prove whether a protest has provided opportunities for transformative politics, and also to understand the ‘institutional and contentious mechanism of the political processes as well as discursive opportunities towards social change’ (ibid.). The conceptual contours of ‘rights of citizens’ and the ‘process of making of citizens’ refer to approaches to ensure citizens’ rights and the role of various institutions that operationalise the rights. The process of ‘making of citizens’ refers to a shift from traditional identity (caste, religion) and acquiring modern identity (state given as citizen). Three approaches to ensuring the rights enshrined in the Indian Constitution, universal human rights’ framework and bargaining by the citizens—are examined in the context of protests in Gujarat. Rights as analytical framework helps in analysing broad issues, such as causes and forms of social conflicts, the process of democratisation and the manner in which civil society interacts with the state, including citizens’ concerns, behaviour, actions, and their views based on the prevalent ideology that have impacted public policies in India. These analyses used to be traditionally largely with sociological categories, i.e. caste, class and religion; right’s perspective gives a fresh look to analyse

these issues. Thus this study contributes to growing literature on citizenship and political philosophy of rights.

The scholastic body of work on Gujarat in the previous two decades, especially after the Babri Masjid demolition in 1992, has described and analysed the various processes that have shaped Gujarat. Conscious efforts have been put in by the historians, journalists, economists, and a few others to create an image of Gujarat that has pluralistic traditions, heterogeneous cultures and practices, and the ideas of Gujarat's development need to be debated.<sup>1</sup> However, there is a dearth of studies that provide accounts of the social actions, collective action undertaken or attitudinal surveys on ideas of equality, justice, secularism, etc., in Gujarat. The emergent studies on citizenship have yet to focus on the citizens' rights linked with protest. In absence of an anthology of protests in Gujarat, this monograph is an attempt to create one by covering five protests that have taken place during 1970 and 2010. Whether the citizens' rights and protests, both having potentials for bargaining, have created opportunities for transformative politics in Gujarat or not, is addressed by this study.

This chapter comprises three sections. First section presents brief description of each protest, its outcome and impact, major debates on each protests, and the citizens' rights contended by each protest. The second section describes emerging trends of protests—the rights under contestation in the pre-liberal and neoliberal era. The third section articulates the challenges thrown up by each protest regarding guaranteeing of citizens' rights, and the role of the state-run as well as civil society institutions. The challenges are articulated in the context of policy-making and role of legal and political institutions, its impact on civil society and its institutions, Indian polity, and discursive opportunities towards social change. Based on identification of trend and challenges, it raises pertinent questions, which offer grounds for further theorisation on these issues.

### **Brief Analysis of Protests and Citizens' Rights**

Expanding corrupt practices leading to the degradation in political culture and governance in 1973 provided ground to the

*Navnirman Andolan*. The price rise in food items and edible oil despite a good monsoon was interpreted as corruption due to lack of governance, accountability and transparency of the state. Therefore, the *Andolan* broadly stressed upon the resignation of the CM, who was seen as the main culprit. Later, the protesters demanded the dissolution of the Legislative Assembly, extending the same reasoning for the MLAs. This *Andolan* as such was spear-headed by university students, and widely supported by 64 trade unions, largely belonging to white-collar jobs, interpreted as assertion of the middle class against price rise. Two elucidations, which are on two extremities, are expressed about this *Andolan*. One set of opinion calls this *Andolan*, as 'upsurge', 'rebel of scholars', 'urban riots' (Shah 1974, 1977; Jones and Jones 1976, 1977) and the one which gave rise to fascist and corrupt forces (Patel 2012). The other set of opinion explores the progressive and uniqueness of this *Andolan*, calling it the first 'extra-parliamentary' way (Wood 1977), 'swayambhu' lok andolan (Dave et al. 1974), many firsts, innovative, protest programmes (Sheth 1977) for mass mobilisation and participation, and a source of inspiration for Jay Prakash Narayan to start a 'total revolution.' Having begun as a protest by the university students, this *Andolan* bears typical characteristics of a student protest, i.e., neither being institutionalised nor long lived, in terms of impact (Altbach 1970). The student leaders were of two types: radical and rebel. The radicals were in a minority and were helpless against the rebels, as the rebel belonged to rich farmers and Patidar by caste and they were led by the organised political parties and interest groups (Shah 1974).

The protest materials generated during this *Andolan* as well as writings of eminent personalities in Gujarati have been analysed from the right's perspective to see whether these contentious issues were of transformative nature or not. This analysis reveals that *Navnirman Andolan* raised a collective voice against lack of governance, political transparency, and accountability, and the existing political culture. It articulated two important rights—the right to information and right to recall the elected representatives, in light of degeneration in political culture and values. As an alternative to the existing political culture, right to development was articulated on the basis of the principle of egalitarianism. Two

important legal cases were won which are actually the indicators of challenging polity and functioning of the ruling political party. Both the judgements by the High Court of Gujarat are trendsetters. The two students arrested under MISA were released, which became a historical event. The Speaker of the Legislative Assembly was asked to accept the resignations of the MLAs, without resistance. Otherwise, the dissolution of the Assembly would not have taken place.

Though having the potential to turn into a social movement, i.e. *Navnirman* (new formations), this *Andolan* was not able to bring about significant changes in polity or political culture or any long-term impact on the count of corruption and governance. On these counts, this *Andolan* throws mixed sensitivities—those who witnessed or participated in the *Andolan* fondly remember it and it continues to exist in the living memories of many Gujaratis. Nonetheless, it does not fare very well in terms of its impact and sustenance of rights articulated based on the principle of egalitarianism. More than a hundred protest programmes were enlisted; all of them were being innovative and effective in mass mobilisation and participation. These programmes were replicated by the following *Anamat Andolans* in 1981 and 1985. The progressiveness of these programmes remained absent because they were not all-inclusive, in the way they were used during the *Navnirman Andolan*. Some scholars trace *Navnirman Andolan* as an origin that strengthened the Hindutva forces in the coming decades in Gujarat, mainly with the participation of the student belonging to the Patidar caste.

The *Anamat Andolan* of 1981 commenced after the announcement of 10 per cent reservation for SEBCs at the post-graduate level in the medical and engineering colleges; 10 per cent of the seats to be reserved in class III and class IV and 5 per cent of seats to be reserved in class I and class II for state government services. This *Andolan* was started by the medical students who initially challenged the reservations policy as a whole, i.e., scrapping of reservations for SCs, STs and OBCs. Though the four demands of the medicos were met by the CM in the third week of the *Andolan*, the medicos continued the protest movement in the name of meritocracy. The safeguarding features of the reservations policy—carrying-forward and inter-changeability—were abolished.

Furthermore, the stipend for the medical students was increased and a promise was given to increase number of seats at post-graduation levels in the state-run medical colleges. Along with these actions, the ruling political party reinstated the commitment for the reservations policy. Almost after a month of the start of the *Andolan*, there were attacks on SCs, resulting in damage and burning of properties, killings, and social and economic boycott of SCs in the rural areas of Gujarat. The SCs called for a strike in the textile mills and, in retaliation, the *savarna* workers performed strike in the mills, which became a historical event in Gujarat. This situation brought out debate on 'social Darwinism'<sup>22</sup> and drawbacks of the 'meritocracy' argument, as there was a negligible proportion of SCs and STs in the medical colleges and in the medical profession (Desai 1981); social mobility of SCs due to reservations benefits and reasons for attacks on SCs (Bose 1981); options for SCs to choose for social recognition—aligning with Ambedkar's ideology or with leftist political parties, or conversion of religion (Yagnik 1981b). Mobilisation based on Marxist tradition has never been a viable mode of politics or social reform in Gujarat (Yagnik 2002: 24).

This *Andolan* was largely analysed as a result of KHAM strategy of the Congress(I) for winning the Assembly election in 1981. KHAM is criticised as 'election ploy' and 'electionised but not politicised' by the Congress party (Yagnik 1983; Shah 1987; Wood 1987); and the threat created for the elites as well as for the upper castes that were holding ministerial positions until now (Patel 1985; Spodek 1987; Wood 1987); and beginning of polarising of the Gujarati society, i.e., opposition of six 'Ps'—Police, Press, Patels, Pocket (money), Political Parties and Prabodh Raval (Home Minister)—joined hands against the SCs (Yagnik 1981). No particular debate on right to reservation was initiated until the *Anamat Andolan* of 1985 in Gujarat.

The *Anamat Andolan* of 1985 was started in response to the announcement of increase in reservation quota for the OBCs from 10 per cent to 18 per cent across educational institutions and in government services by the Congress(I) party before the Assembly election in 1985. This time, parents of the students were better organised and formed parents' association to oppose the increase

in the reservation quota across different sectors in Gujarat. However, they waited until the election was over in March 1985; boycotting Secondary Board examinations, organising public meetings, and negotiating with the government were major protest programmes. Intermittent communal violence did not allow the protest to pick up pace; many protest programmes were called off in order to maintain communal harmony and peace in the state. The protest picked up momentum with active participation of the employees from the semi-government and government agencies. About 100,000 twice took 'mass casual leaves' and struck work as well as created a parallel committee to the government-appointed committee to scrap the reservations policy. The GCCI observed *bandh* for five days to establish communal harmony and also to halt the protest against the reservations policy. Finally, the non-SC-ST employees were given promotion on one-to-one basis in state government services with retrospective effect since 1981 in August 1985.

The *Anamat Andolans* of 1981 and 1985 were considered to be divisive, i.e. it polarised Gujarati society on caste line and the small number of power elites asserted for reverting the right to reservation of the SCs, STs and the SEBCs. When the power elites initiated protests against the state, the marginalised communities were neither able to encounter the unjust actions nor able to pressurise the state to maintain its authority and promises. The peacemakers or arbitrators during the protests did not express their opinions emphatically. They either made subtle comments on 'what is social justice' or 'how/why it should not be necessary to achieve the way they are conceived in the Indian Constitution'. This passivity can be interpreted as either self-assumed or accepted under pressure of being boycotted. The silence of this group also indicated the absence of ideology and taking ideological stands for ensuring justice.

These trends raise three important questions regarding protests and rights: first, the role of state government vis-à-vis ruling political party in promoting and protecting people's rights. This also means that the state's capability to enforce rights gets quashed when political interest and political will of the ruling party remains populist. A group of power elites can influence functioning of the



state-run institutions as well as initiate action against the underprivileged in order to 'teach them a lesson.' These issues point towards intention of institutions and layers of implementation stages for enforcement of rights. This further leads to the second point, in case of a protest initiated by power elites, and the state and beneficiaries of the right(s) need to evolve an effective strategy to encounter such counter-revolutionary actions. The power elites protested against reservations because either they did not want to share public resources with the historically deprived or they wanted to share the resources on their terms and conditions. This argument is linked to 'process of making citizen,' i.e. the manner in which the protesters demanded for sharing common resources (employment opportunities), it denied social justice, and a modern norm for equality and justice based on the principle of egalitarianism. The 'bargaining approach' adopted by the power elites needs deeper study, especially in terms of the hindrances it can create in ensuring the citizens' rights enshrined in the Indian Constitution.

Why should a citizen challenge the 'Constitution given rights'? If protest means disagreement with the Constitution, and the dissent is in contradiction to values enshrined in the Constitution, there are three options: (i) the right is made either acceptable through educating processes for citizenship; (ii) the right enforcing institutions/structures should be in place so that these rights cannot be manipulated; and (iii) ideology is also an important enabling factor that gives strength to both the sufferers, SCs in this case, as well as to the promoters and the protectors of the citizens' rights and democratic values. The quietness of a group of the protectors and absence of ideology, especially the Left, and Gandhian, need to be considered as important elements in the discourse of citizens' rights. This situation also points towards amendment of the Constitution, as it needs to change with time and situation. If this type of protest leads to amendments in the Indian Constitution with the support of the ruling political party, it can prove to be quite dangerous, as it not only challenges the legitimacy of the Indian Constitution, it also establishes 'majorityism' norm in a manner, which is actually away from the ground reality. Two *Anamat Andolans* highlighted the role and interests of the 'middle class' to grab opportunities for employment, which led to struggles

within the middle class (Shah 1987). The use of 'merit' argument is not only a social construct, but also 'a function of the arrangement and control of both physical resources, and enabling institutional practices' (Raina 2006: 1957). Post-Mandal<sup>3</sup> anti-reservation agitations all over India brought in the Judiciary—state High Courts<sup>4</sup> and the Supreme Court—for ensuring justice through the reservations policy. Increasing judicialisation<sup>5</sup>, i.e. using judicial means to solve public policy questions, and the Supreme Court's verdicts in the cases of *Indra Sawhney vs Union of India* and *Ashoka Thakur vs Union of India* have provided grounds to understand the competing and conflicting claims of the right to reservations. The ambiguities in the reservations policy provided fertile grounds to the political parties for gaining political dividends and infusing changes in political culture. These changes have affected the values of citizenry, share in state-owned resources, and a debate on social inclusion through the reservations policy.

The *Ferkuva Andolan*, a protest against the *Narmada Bachao Andolan*, is interpreted as 'Gujarati nativism' and a fight against 'the other' (Mehta 2010). Subjectivity of the state and the ruling political party presided over its duties for R&R and performance for R&R, accountability towards the displaced population, and other aspects of a big dam, such as conservation of biodiversity, ecological concerns, cost factor, use and distribution of water resources, and exploring alternatives for use of water resources, etc. The personal interest taken by the CM and mobilisation of resources by him for this protest had created a new trend of using state's resources for fulfilling the agenda of the ruling party. The judgement of the Supreme Court assigned the responsibilities of R&R to the NCA, an administrative body with governmental attitudes, in a sacrosanct manner, and did not take into account important problems like conservation of biodiversity, ecological issues related to big dams, tribals' culture and rights, importance of local governance in implementation of R&R, and inter-state water resources and distribution related issues. Actually, with legal case under the Article 32 of Indian Constitution, the NBA stressed on right to development and community rights under human rights framework, which was overlooked by the Supreme Court.

With regard to the two *Anamat Andolans* and the *Ferkuva*

*Andolan*, the ensuing split of civil society as well as domination of elitist formation combined with the state's power alias the ruling political party shows that the issues raised and the rights contended and challenged, are actually in denial of equality, social justice, and broadly the concept and approach to the inclusive development. 'The other' created by the power elites is actually an integral part of Gujarati society but animosity was created against those Gujaratis who supported NBA, and were branded as 'anti-Gujarati' and 'the other' among Gujaratis. This animosity shaped the discourse of rights in such a way that 'the other', though in large numbers, became a minority due to their 'voicelessness', and they were not able to demand their rights, which would make the Gujarati society more equitable and just.

The *Mahuva Andolan* shows a very different pattern from the earlier protests on many counts. This *Andolan* was largely fought in the Courts rather than on the streets since 2009; remained non-violent, unlike previous protests. This protest focused mainly opposing land allocation to the Nirma Cement Plant; part of the land belongs to Samadhiyala Bandhara (tidal regulator) area in Mahuva taluka, on seacoast of Saurashtra (western Gujarat). Its impact was limited in terms of geographic location, people's participation, and a policy-making regarding regional planning or industrialisation. As 'environmental movement', unlike NBA, this *Andolan* did not take up advocacy and lobbying measures such as building transnational alliances, mass mobilisation across different states in India, seeking the support of eminent citizens in large numbers, and the elected representatives, and creating technical grounds to carry out debates on different ecological aspects, and so on. As part of a legal battle, the High Court of Gujarat and the Supreme Court focused largely on one technical point—whether there exists a water body or not—and impact on surrounding environment. Two Expert Committees confirmed water body and wetland like ecology. In this situation, one wonders that if there was no judgement of the High Court of Gujarat of 2002 regarding conservation of water bodies, what would have happened to this protest and what could have been its chance of its success, in terms of protecting the rights of the peasants of Mahuva? The National Green Tribunal, with mandate given by the Supreme Court in

2011, finally gave a verdict in May 2015, coming to a full circle. The Tribunal referred to original land records and considered the land category as 'Government wasteland or pastureland' and thus made of the State and allowed it to be given to the Nirma Company for cement plant.

Women's participation in all these protest is some event based and short-lived. Not any young girl has emerged as student leader as the young male students have emerged as leaders in *Navnirman* and two *Anamat Andolans*.

### Emerging Trends: Protest and Rights

A primary analysis of the five protests shows that each protest has focused on a different issue, except the two on anti-reservation, in 1981 and 1985. Thus, each protest is distinct; they are not inter-linked, yet, they bear some similarities.

Four out of five protests took place during the months of December and March; the *Anamat Andolan* of 1985 went on until August. One of the veteran Congress party members shared that 'this is the time when people in large numbers can participate.' This conveys that the protests were orchestrated. These four protests were fought on the streets, i.e., it was brought to the public sphere and remained violent, i.e. public property were damaged extensively, the government had to use police, para-military and military forces to maintain law and order. The employment of police and para-military forces resulted into firing and deaths, arrests, and legal cases were registered on the protesters. The *Mahuva Andolan* is the only exception, as it continued for more than six years, and the judgement of NGT defeated the motive of the *Andolan*. Moreover, *Mahuva Andolan* stressed on non-violence and, therefore, whenever on the streets, mainly for *padyatras* and public meetings, police arrested and filed cases on the protesters but not a single event of public property is reported during this protest.

Barring *Navnirman* and *Mahuva Andolan*, three protests showed a face of elitist formation in Gujarat: their hegemony, in form of assertion, coercion, 'representing Gujaratis', and co-option

of the marginalised communities. After the large-scale communal violence in 2002, 'no room for dialogue', and dealing unfairly with 'the other' have been widely recognised as the existing socio-economic and political culture of Gujarat. Two *Anamat Andolans* and *Ferkuva Andolan* illustrated such traits. Usually, a protest is believed to be anti-systemic and bi-partite but four out of five protests are tri-partite, i.e., a split between a civil society. One of the sections of the civil society challenged rights, negotiated or pressurised the state to protect their rights on one hand and has intimidated or violated rights of the other section of the society by opposing and menacing the other counterpart on the other hand. These protests depicted the different roles that the elitist formation<sup>6</sup> played and exercised their different abilities in dealing with the state and the other counterpart. Second, all the protests were initiated by the urbane, educated, middle class<sup>7</sup> while the *Mahuva Andolan*, which is initiated by the rural peasants belonging to the middle class.

The state was pressurised, which manifested in resignation of two chief ministers. Chiman Patel had to resign after the *Andolan*, and was elected again in 1989 and mobilised the elites and the peasants from different parts of Gujarat for the success of the *Ferkuva Andolan*. Madhavsinh Solanki became the CM in 1980 and in 1985, and promoted KHAM formula and formed his cabinet with a large number of ministers belonging to SEBCs. Does this trend suggest that the Gujaratis are naive about such election ploys and hidden political agenda of the political parties? Furthermore, if these protests were orchestrated, does it indicate factions in the Congress party? If so, does it indicate 'politicisation of a king' winning over 'rights' that represent justice and equality?

The rights under contentions by four out of five protests were settled through Supreme Court's interventions. Three protests, two *Anamat Andolans* and the *Narmada Bachao Andolan*, sow the seeds of legal action and *Mahuva Andolan* took legal action as a main course of collective action.

The trends and challenges have emerged as two sides of one coin. For instance, increasing judicialisation as a trend is a challenge for the contentious politics to turn into transformative

politics. Similarly, since most of the protests were they created a challenge for the weaker sections that if an elitist formation dominates the agenda of protest or any public policy matter, what would be their say and stakes in this process.

In neoliberal era, usually the deprived sections or the PAPA begin a round of negotiations with the executive, and when such negotiation fails, they plan a protest event or a series of events as a pressure tactic. As awareness and mobilisation messages have to be planned, the protest events are mostly not spontaneous, and largely mediated or facilitated by the NGOs. Thus, the protest events represent either an issue of a marginalised community or a regional issue referring to regional disparities and violation of the citizens' rights, for instance, for the tribals in one of the blocks or districts for exercising their right to forestland under the FRA<sup>8</sup>. These characteristics of protest events, be it issue based, community based, regional based, shorter period of the protest event, etc., show that these protests appear fragmented and a part of ongoing campaign rather than a protest in itself. A protest that affects a large part of the population, continues for couple of weeks and alerts law and order machinery, has not happened in the neoliberal era in Gujarat.

None of the protest has provided platform or reported significant women's participation.

### **Emerging Challenges**

Mainly four challenges have been spelt out for protests and citizens' rights:

#### ***Middle class as vanguards for protests and rights***

A middle class as a group of citizens has been one of the determinant factors in shaping up public policies. The rise of this social group has broader implications in understanding the links between economic policies and processes of democratisation. How a 'middle class' as a group of citizens make political claims, the manner in which they use the public sphere to advance their claims, and invoke discourse on rights of citizens and public interest need to be examined in light of past experiences. For instance, does this

group of citizens have a tendency to become exclusionary based on some social markers, their aspirations, and inclination towards class and community based interests more than the constitutionalist values and provisions? (Fernandes 2006: 33–34).

The middle class, as vanguards for all the protests, have posed mainly three challenges: first, there exists a theoretic tension and conceptual crisis in social movement studies for theorising the role of the middle class, especially in availability of thin literature; second, the interests of the middle class vis-à-vis deprived sections of the society, especially in sharing of common resources, such as employment opportunities, natural resources, etc; and third, how this group approaches and uses various institutions, including the Judiciary, in ensuring their interests and rights.

In existing literature on social movements, broadly two frameworks, i.e., Marxist framework and non-Marxist, are employed to analyse social movements and evolve theoretical models. There exist enormous variations in construction of approaches and typologies, their significance and meanings, methodologies of social movements, and their linkages with social sciences theories in both the frameworks. There are no studies on ‘middle class movement’ per se<sup>9</sup>, not because that these movements are a few in number but because they are primarily analysed in terms of issues they raise, such as social reform, nationalist agenda, human rights issues, environment related issues and so on (Shah 1990).

Broadly, social movements are analysed with Marxist and non-Marxist perspectives. In Marxian analysis, the protests by the middle class and deprived sections are separate. It is difficult to define the middle class as vanguards from a framework of the CLMs or peasant movement’s approach. A trend is observed: upper and middle classes act as a link between the state and the industries or the market, sometimes there is a tension between them and the working class, sometimes not. In light of social transformation and collective actions by the underprivileged sections of the society and their resistance, ‘there is a need for extremely nuanced Marxist approach to these various types of popular upsurges’ (Banerjee 2012: 55). Though there is continuity which flows from the Marxist analysis of capitalist development, the role of the middle class as ‘vanguards’ in the Leninist sense, i.e., the leaders possessing intellectual calibre and practical experience

to reconstruct their theoretical understanding in accordance with the changing circumstances is a much desired intellectual intervention (ibid.).

The middle class as a protesting group showed different sensitivities in each protest towards citizens' rights. The *Navnirman Andolan* articulated the right to development based on the principle of egalitarianism while two *Anamat Andolans* exposed that the protests could be anti-systemic but could polarise the society on caste line. The hegemonic section refused to share the resources (in the form of employment opportunities) based on the principle of egalitarianism. Instead, this section posed reservation as a mean to social welfare rather than social justice. The *Mahuva Andolan* showed a different trend from other peasant movements. This *Andolan* did not raise typical issues of a peasant movement, such as the State's responsibility to expand safety net against price rise, famines, peasant-friendly agrarian policy, and deterioration in living conditions of the peasants, etc. These peasants raised a need to conserve water and land for agrarian development. In the context of *Mahuva Andolan*, these peasants appear to be radical, i.e., they expressed need to conserve water and land for agriculture; however, the same group of the peasants were demanding Narmada water for irrigation in Mahuva region. It is likely that some of them might have participated in the *Ferkuva Andolan*, and some of them would sell their lands now, as the NGT's verdict has favoured the NL cement plant through allocation of land.

The issue of 'nativism' that has emerged as part of middle class movements began with the *Ferkuva Andolan*. There is a thin line between nativism and nationalism. Here, nativism refers to *asmita* (identity) as a society rather than a political demand of a separate state. It also denotes a preference for exclusivity and hegemony, which is essential for creating 'the other'. As per this trait, 'the other' is created in its context to fight against and to win over them. In the context of the *Ferkuva Andolan*, those who supported the NBA became 'the other', a group which was branded as 'anti-Gujarat'. However, the formation of 'the other' as category keeps changing in different events in Gujarat, for example, the lower strata/castes are 'the other' during anti-reservation protests, NBA as 'the other' during the *Ferkuva Andolan* and the issue of SSP. Similarly, religious



minority in communal violence, and those who criticised Gujarat for the violence or assertion vis-à-vis the weaker sections became 'the other'. The farmers from different corners of Gujarat participated in the *Ferkuva Andolan* but there was no representation on behalf of the tribal oustees of Gujarat or of the other states. When some Gujaratis raised their voice against 'samaras yojana'<sup>10</sup> arguing that elections are necessary in a democracy, it was interpreted that the opponents did not want consensus, and were not interested in saving money that gets wasted in the local elections; this group has become 'the other' in this case. This attributes to allowing the hegemonic group in a village to decide for the well-being of all the village residents. These protests provide similar empirical evidences. How does one theorise such camouflaging and obscure category in the context of citizens' rights?

The absence of more in-depth studies regarding movements spearheaded by the middle class and the crucial role played by the elites or privileged groups becomes a challenge in itself. Both the *Navnirman* and *Mahuva Andolan* represented the rights in the forms of 'entitlements' as well as 'needs' while the other three *Andolans* refused to share common resources and questioned the moral base of the rights.

### ***Silence of the subalterns: During the protests and long-term impact***

The silence of the subalterns is referred to here as 'voicelessness' and the absence of counter action or retaliation. It connotes 'politics of silence', which means a process of both silence and silencing—*who* or *which group* is silent becomes a unit of analysis along with the process of silence and silencing. In philosophy, the silence signifies higher attainment and a positive connotation while in sociology and political science, silence is analysed structurally. If dissent and resistance makes a democracy vibrant, the civil society responsive, and the citizens interactive; conversely, the silence indicates a lack of space for dialogue, and selective exclusion or segregation or lack of parity.

The term subaltern is used interchangeably with 'marginalised communities' in the absence of a suitable term that connotes

marginalisation in different walks of life on class and caste classification. Thus, subaltern conveys discriminated status, process of marginalisation, subjugation and its manifestation, and selective exclusion from the public sphere. It consists of SCs, ST, OBCs, religious minorities, and women. This term also denotes heterogeneity and stratification on socio-economic and political counts. Each group belonging to this category is heterogeneous, stratified and maintains internal hierarchy. Their total population in Gujarat is about 70 per cent.

In light of having no space to interact or to raise their voices by the subalterns, it is important to examine whether a cycle of impunity and silence is recurring. There could be two opportunities for the subalterns to ensure or exercise their rights: first, existing legal frameworks and institutional spaces available to them; and the second, ideological strength for bargaining and contesting their rights, i.e., to initiate a shift from an emancipatory approach to the transformative approach to their rights. The term 'ideology' is used as a set of ideas that gives people a sense of identity as well as a motivation to raise issues of concerns. Contemporary debate on 'ideology' raises questions of identity and the role of the government in the economy as well as in planning for development. This term is used here just as Gramsci and Althusser used it. 'Antonio Gramsci believed that people are not ruled by force alone but by ideas. In Gramsci's view, the "hegemony" of the bourgeois lay in its dominance of civil society, which included all the organisations, which diffused the ideology of the ruling class. Althusser claimed that ideology is the cement that binds human societies and gives people a sense of identity' (Saksena 2009: 65).

The rights of SCs and STs of Gujarat were directly affected with two *Anamat Andolans* and *Ferkuva Andolan*, respectively. These protests revealed processes of intimidation, domination, and assertion on the marginalised communities. Barring a two-day strike in the textile mills in 1981 by the SCs, no counter action or retaliation by these communities has been observed in the last three decades. No sign of anger, anxieties, or frustration was observed during the early 1980s and mid-1990s. Why was this so?

During the *Anamat Andolan* of 1981, the presence of *Dalit Panthers* exhibited ideological strength. In what circumstance or

by which process could this ideological strength be wiped off? After this *Andolan*, the SCs did not exercise any of the options either an ideologically significant move, i.e., joining the Left parties, or follow Ambedkarism and express resistance through considerable numbers so as to make their presence and voice felt in Gujarat. Ashis Nandy and other have explained this phenomenon after *Anamat Andolan* of 1985, saying, 'they [the BJP] had systematically started co-opting Dalit and Adivasi communities... The party's anti-reservation stance was also corrected and, after 1985, the ABVP started talking in favour of a reservation system for the Dalits and the Adivasis' (Nandy et al. 1995: 103) and 'the VHP, in one of the Hindu Yuva Sammelans, asked the youth to dedicate themselves to the abolition of untouchability' (ibid.). As a result, 'the Gujarati middle class—spread over large cities and over forty other large towns, and consisting mainly of Savarna, but also Dalit and Adivasi government servant, teachers and petty contractors—had begun to find security within the ideology of Hindutva' (ibid.: 104). Under the Hindutva as a political and religious ideology, the process of co-option of the SCs and STs suggests that the other ideologies such as the Left, Ambedkarism, etc., were either not selected by them or that these ideologies could attract fewer SCs and STs as compared to the Hindutva ideology. Does this suggest that the Hindutva ideology provides greater opportunities and scope for socio-political advancement through rights? Does the Hindu-fold provide a ground to the SCs and STs to bargain for their rights in the socio-political spheres and representative democracy?

What is the role played by the existing legal provisions, political institutions, social organisations of the marginalised communities, and the NGOs as supporters of the marginalised communities in ensuring their rights? Among the existing laws, policies and the governmental institutions, 'The Scheduled Castes and the Scheduled Tribes (prevention of atrocity) Act, 1989 (popularly known as 'atrocity act'), reservations policy, and the National Commission for the SCs and STs exist. No such legal and institutional provisions are available for the SEBCs in Gujarat or at the national level. The National Commission for SC & ST does not have the powers to convict the perpetrators; the Commissioner

investigates and reports the acts of atrocities, discrimination, violence, etc. There is vast difference between the cases registered under the Atrocity Act, the cases in the Courts, conviction and acquittal rates. Conviction rates under the SC/ST (Prevention of Atrocities) Act, 1989 are below 30 per cent and pendency is as high as 85.37 per cent. In contrast, the conviction rate under the Indian Penal Code is 42 per cent for all cognisable offences. This shows a failure of the redress mechanism in delivering justice (*The Hindu*, 8 September 2009).<sup>11</sup>

In a representative democracy like India, the party politics dominates both power politics and the political sphere. A base for exercising rights for social justice and equality available to the marginalised communities is extremely limited in the given patronage and political culture. The representation of the SCs and the STs in political institutions—Panchayati Raj, State Legislative Assemblies, and the Parliament—has been restricted to reserved seats in proportion to their population, and has not been able to go beyond this proportion. Thus, their presence in the political sphere also remains limited; they remain a minority in numbers, and as they have to follow political party's mandates, they have very limited avenues and opportunity to create new avenues within the existing socio-political scenario.

Each community has created its social organisations. These organisations could broadly be classified as: (i) caste /community having their *panch* (council) and written constitution. Sometimes, instead of a caste-based council, there exists a *pargana* (a cluster of villages) based organisation. (ii) Many of the marginalised communities are dependent on their 'representatives', the NGOs. Traditionally, the caste council used to take decisions regarding birth, marriage and death related rituals. Of late, functioning of the council is expanded with decision-making on issues such as creating educational facilities, building hostels, providing health care facilities, etc. This mode of functioning of these CBOs has created two challenges: first, whether it deepens the casteism; and the second, are they creating a parallel institution for functions like education and health care, which are actually a primary responsibility of the state. This *modus operandi* of subalterns' organisations narrows down the passage for dialogue with the

civil society, restricts interactions with other CBOs and CSOs, and largely remains introvert. Moreover, social stratification, variations in educational qualifications and exposure, and dispersed over different geographic locations are also hindrances in their getting organised on ideological grounds.

The third avenue is a support of the NGOs. For a few NGOs working among the rural communities, SC and STs are priority communities. The non-political process started in 1980s by way of small action groups (SAG), has undergone changes since the last decade of the twentieth century. The NGOs are broadly categorised into two types: the one that works with the state or collaborate with the state while the other do not. Among the first category of NGOs, classification could be based on their approaches. Some NGOs are working for service delivery and development programmes such as health care, adult education, infrastructure building on a small scale, for example, water harvesting structures, lift irrigation facilities and agriculture development. These groups of NGOs collaborate with the State, seek government and other sources of funding; they prefer to remain apolitical. Some NGOs are working for betterment of the marginalised communities by ensuring their various rights, known as 'rights-based approach NGOs'. Their main aim is to work as pressure groups, and usually they continue dialogue with the state for effective implementation of government schemes and laws, policy framing, policy change or law making. The third category of NGOs organise labour in unorganised sectors and self-employed people; they work as labour unions or similar forms of organisation. The ongoing debate on role, responsibilities and functioning of NGOs is polarised on broadly two counts: micro-movements through NGOs; and 'privatisation of public interest'. Sheth (2014: 113) discusses in details regarding a shift in the agenda and functioning of the protests, and mentions that 'the increasing focus on the 'governance' in the current global discourse in their view reduced the importance of issues pertaining to social and political transformation.' Kamat (2014: 264) argues regarding 'privatisation of public interest' that 'the NGO phenomena must be theorized in relation to the global economic and political process that involves an overall restructuring of public good and private interests.' An overlapping view

on the non-political process and political process is observed for ensuring rights of the relatively powerless groups. Some NGOs and social activists believe strictly in non-political processes while others do not shy away from political engagement and participating in electoral political processes, and they contest elections from the Panchayati Raj to the Parliament level, unlike the former category of the NGOs. In this mode of functioning, the marginalised communities have limited space to represent their ideas, identity question, and rights.

With this analysis, three challenges have been posed for rights of the subalterns. Their ability to demand and uphold their rights have more challenges than doable, despite having the constitutional safeguards. First, political awareness or consciousness about individual as well as fundamental rights among the marginalised communities has very little scope to penetrate in the given socio-political domain. The base for exercising rights for social justice and equality available to the subalterns is thin in the given patronage and political culture in India, as they are not been able to go beyond the proportion of reserved quota. Second, if there is co-optation by the hegemonic section of the society and the subalterns desire to become assimilated with the hegemonic section of the society, bargaining for rights has very little scope to be operationalised. Third, the prevalent ambiguities in the discourse of citizens' rights too become a limitation for the subalterns, as they are not turned into justiciable laws or in a form that ensure social justice to the subalterns.

### *Prevailing ambiguities in the discourse on citizens' rights*

The discourse on citizens' rights focuses on social, political and economic rights as well as entitlements in the parlance of development. The antimony of citizens' rights is generated from theoretical and practical, i.e., through social action. Three approaches to citizens' rights—deriving from the Indian Constitution, universal human rights framework, and bargaining by the citizens converge at some places while they confuse and come into conflict at some other places. The conceptual distinction between fundamental rights defined in the Indian Constitution, civil and democratic

rights, and internationally accepted human rights is blurred and has remained obscured. Many times, they are used interchangeably.

Three protests, the two *Anamat Andolans* and the *Ferkuva Andolan* subverted the norm of rights, i.e., right to reservations, right to R&R, and right to development of the tribal oustees of the Sardar Sarovar Dam; and the notion of 'shared' resources in terms of educational and employment opportunities, and water resources and other benefits through Sardar Sarovar Dam, respectively. The roots of this experience can be traced to the 'history of the constitutional discourse as a history of negotiations over a shared constitution.' Two discourses in India, 'India vs Bharat', included one articulated by the discourse of caste and community interest and the other by the nationalist discourse. They have continued to remain in conflict rather than in cohesion (Prahlanan 2012: 46). The profile of the protesters brings in a debate of identity politics and notion of 'shared' resources. Ray (2003: 3409) interprets this challenge in the context of history of human rights and 'historically inherited structural asymmetries between the post-colonial Indian state and the western nation state... These asymmetries have shaped the operational content of the citizens' rights as guaranteed by India's republican constitution.' Three known asymmetries are: first, disjunction between the relatively modern post-colonial state and its predominantly traditional social fabric; second, inherited duality within post-colonial state apparatus and the weak democratic instruments of conflict-resolution; and third, relatively narrow social base of democratic consciousness around citizens' rights.

The use of human rights framework post-1990s has expanded its boundaries but has also made it vague and confusing. Originally, human rights focused on 'three important components of human freedom' (ibid.: 3410), i.e. freedom of expression; freedom from arbitrary imprisonment; and freedom from custodial violence. The second-generation human rights framework has incorporated group rights or community rights, which are actually a part of fundamental rights in the Indian Constitution. The rights of workers, right to employment, etc., were not incorporated in the fundamental rights as enforceable and justifiable through law.

The present use of human rights framework has included these rights as well. This somewhat overlaps with the notion of social justice. The Article 21 of Indian Constitution has provided ground for expansion through judicial interpretation, to extend citizens' rights to various public goods. However, there exists arbitrariness in judicial interpretations—One of the reasons is, 'the Court is forced to weight environmental public goods against other public goods, such as industrial development, employment generation and so on. This trade-off between different public goods is necessary in each case and the outcomes may often be unfavourable for environmental protection' (Chowdhury 2014a: 178). The NBA case is one of the examples of this trend; the cases of NBA and SMBKPBS have indicated notional limits of judicial activism. This refers to the role of a judge as an interpreter of law, especially of policy prescriptions and civic rights in the form of fundamental rights.

The relatively privileged groups as the forerunners in exercising rights have opened up debates on citizens' rights. Three close linkages of language of rights—language of needs' (Waldron 2000); 'language of trust' (Beteille 2012) and 'language of justice'—need deeper examination, as guaranteeing of rights depends on bargaining power of the contending group and the support of the concerned authority and institution. 'Rights are naturally associated with the idea of moral system—a well-thought through set of demands' (Waldron 2000: 115) but the language of needs does not have 'a well-thought-through set of demands' and 'association with the idea of moral system'. Yet, could a shift be made from 'language of rights' to the one based on practical reasoning is a question raised by a political philosopher. Beteille discusses rights and trust in the context of functioning of the institutions in India, saying that 'there are deeper differences among members in the understanding and interpretation of the rights with which they are endowed...these differences of perception add substantially to the misunderstanding, mistrust, and suspicion among them' (2012: 115). He links trust and identity politics, which leads to demands of special rights of the disadvantaged castes. These special rights come into collusion with the equal rights (ibid.: 120). Though the language of rights is closely linked to principle of justice, institu-



tional structure and procedures brings in a tension between the two. The rights have moral base but not all rights are legal while the Constitutional rights are backed up a framework of legal with institutional structure, guaranteed through administration and enforcement. The community rights and second generation human rights advocate extension of rights through interpretation of the judiciary, which is not always justiciable under law or have not achieved justice in their favour. The cases of NBA and SMBKPBS are examples of this tension.

In the neoliberal era, the campaigns and protest events of contemporary times are analysed as indicators of civil society's vibrancy and engagement with the state, a newer trend is observed. The long-drawn campaigns have led to law making and policy reforms. For instance, an extended national campaign on the 'right to food' by a network of NGOs has resulted into an ordinance, an attempt that failed in enacting a law. An implementation of this ordinance in different states has become one of the indicators for polity, political culture, and status of human rights. For instance, availability of rice at one kilo for one rupee in Tamil Nadu is considered by many scholars as people-centric political culture. A couple of national network of the NGOs including 'Campaign for Survival and Dignity' advocated for the rights of the forest dwellers in India, which resulted into the law—The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, popularly known as FRA. Both the national campaigns employed human rights and social justice framework to illustrate the deprivation of the poor, deprived sections and the forest dwellers respectively to advocate their causes. If these campaigns and mass mobilisation for enactment of a law/ordinance are considered as protests that uphold the rights of the citizens, for the food security and for the uses of the forest resources and forestlands, how can the protests under the study be differentiated from these long drawn campaigns? Does this signify contentious politics and law making as an indicator for social change? The challenge is—how to resolve shifts in discourse of rights based on social actions, leading to law making? Can we demystify the overlaps, duplication, and distinctiveness of citizens' rights? Can we make them justiciable by enacting new laws or need to be dependent on

the judicial interpretations in the Apex Court? Or, effective functioning of the administrative institutions ensures rights, in form of 'justice', for example in case of NBT and SMBKPBS? Increasing use of language of rights and protests, both are perceived as 'threats' to existing political power on one hand; however, 'language of rights' has not witnessed many victories in recent past, on the other hand. This also creates a contradictory scenario with respect to bargaining power of the citizens and efficiency of various institutions in ensuring rights.

The protest events organised in the neoliberal era by the deprived sections and the marginalised communities, the demands for community rights are usually framed from the perspective of 'good governance', 'empowerment' of the marginalised communities and need to ensure social justice. Are these demands purely rights based or there is an overlap of 'language of needs' and 'language of rights'? Sometimes conflicting rights are articulated while at other times, the overall tone remains 'rights based' but specific rights remain unsaid. For instance, *Mahuva Andolan*, which articulated right to participate for all-inclusive development as well as right to natural resources, especially to land and water. The recent discourse on right to land includes access to land, control over land, management of land, and articulates usufruct rights over land, and most importantly, updation of land records in transparent manner. The FRA grants usufruct rights over forestland. Would this shift—from 'language of rights' to 'language of needs' provides an opportunity to the weaker sections or relatively deprived sections to put forward their 'claims' in the language of constitutional rights? Would such a shift resolve the prevailing ambiguities and theoretic tension in the given political scenario in India?

### ***Increasing judicialisation***

Around the world, there has been a shift in power away from legislatures and toward courts and other legal institutions. This move has been termed 'judicialisation' (Ferejohn 2002: 41). In this process, the Courts take new and important roles relative to legislatures, make a move towards policy-making or policy revision, and set up new standards for the executive in the form of reforms

in governance. The judges have become increasingly willing to regulate the conduct of political activity itself by constructing and enforcing standards of acceptable behaviour for interest groups, political parties and, of late, for the public undertakings and the corporate (ibid.).

Three aspects of the process of judicialisation need elaboration while identifying the trends and challenges in the context of protests and citizens' rights. First, it is important to examine how the protesters or a group seeking political action constructs their cases, as the Courts intervene in the policy-making processes. This is based on a premise that the protesters have to consider judicial reaction and, therefore, their construct of their legal case should be in such a way that the Judiciary will not strike it down or interpret it in an 'undesirable way'. This creates a challenge that constitutional or legal considerations assume new or sometimes decisive importance in policy-making, wherein the weaker sections of the country may not be benefitted, as it happened in the cases of the reservations for the OBCs, and of NBA's case against the building of Sardar Sarovar Dam as also in the issue of displacement and R&R.

Second, the process of judicialisation has made various inroads in state-run institutions, legal institutions and traditions too. The Judiciary's interaction with the other institutions—the legislative, and the executive—need to be examined. The judicial powers need to be separated from the legislative and the executive; otherwise, there could be arbitrary control or neglect of either of them.<sup>12</sup> Is the Judiciary able to maintain its 'separation of powers' or are the powers reconciled in a manner of cooperation and inter-dependence? Or is it that the powers are overlapping among the three? Usually, a protesting group opt for legal action after exhausting negotiation with the executive and political parties and leadership, with a hope of getting justice. The legal cases of NBA and the *Mahuva Andolan* are the cases in point. In the given patronage culture, many times it has been observed that the executive alias the government officials or the bureaucrats carry forward the agenda of the ruling political party. Sometimes, the Judiciary protects the interests of the market or the industry. In such a scenario, whether the Judiciary is able to deliver justice or does it endorse the agenda of the executive

or the ruling political party or the market interests is a question that needs examination. With increasing judicialisation, could a balance between the three be maintained unconditionally, and is the Judiciary able to keep itself insulated and without becoming influenced by the agenda of the executive or the legislative every time?

The third point is derived from the second point. How is the Judiciary able to maintain separation of powers while dealing with wide range of policy issues, i.e., against infrastructure projects, industries, public undertakings and corruption like Coalgate, 2G spectrum, etc.? Is the performance of the Judiciary consistent and the judgements show coherence in dealing with policy issues? Or is it the diversity in cases brings in arbitrariness, which has become a challenge in itself? Are there no common guidelines for delivering justice and ensuring common good to the PAPs or the victims of corruption and violence? In a close scrutiny of PIL cases that have challenged large infrastructure projects, reveal that the these issues are multi-dimensional, yet the judiciary has narrowed them into a one or two point agenda. For instance, the arguments against large infrastructure projects include cost-benefit analysis, safety feature and measures, issues of displacement and R&R, and adverse environmental impacts, etc. 'The general response of the higher courts has been that of scrupulous non-interference basically on the premise that these cases raised technical issues and policy matters which are best left to the expert authorities of the executive' (Upadhyay 2000: 3789). While dealing with environmental issues, the Supreme Court has contributed to the 'process of expertization; first through deepening of the amicus curiae procedure and second by establishing 'expert committees'to deliberate and provide policy solutions in the case of a wide range of environmental risks.'The legal cases of the NBA and the *Mahuva Andolan* corroborate this pattern of judicial behaviour' (Chowdhury 2014a: 62).

In case of reservations for the OBCs, the protesters construed an increase in the quota as a violation of their rights and demanded revision of existing criteria for defining backwardness. The judges considered their sentiments as a basis of justice and brought the legal debate into distributive justice, wherein caste as a sole deter-

minant of backwardness was denied.<sup>13</sup> Regarding the creamy layer, the judge's opinions were divided on 'parameters to be used in excluding the creamy layer' (Krishnaswamy and Khosla 2008: 57) and were left to the government for periodical revision. The judge played safe and did not enter into potential controversial issues. On both the reservations in private-unaided institutions, and the application of creamy layer exclusion to SC/STs, the Court thought it best to remain silent (ibid.: 57). Creamy layer exclusion is an attempt to reconcile beneficiary identification at group levels and individual-based class criteria in order to enhance the accuracy of the beneficiary identification (ibid. 2008: 59). Thus, the judgement's significance in both the reservation cases did not arise from any radical departure from the previous doctrines or positions on the issue of the reservations for the OBCs. The court did not resolve an important area of judicial doctrine, that is, 'paternalistic legislation, which seeks to protect, discriminated groups but may in fact disadvantage these groups' (ibid.).

The Court also did not venture into method or criteria for identification of groups, which is one of the central issues, in terms of over-inclusion or under-inclusion of the beneficiaries. Thus, the diversity based social inclusion related questions remained unaddressed. The reservation issue too was looked at as a technical question of distribution and, therefore, caste should be taken into consideration but the institutions may allocate different weights for eligibility of the beneficiaries as also for the exclusion of 'creamy layer'. Thus, an important legal concern regarding the 'protective discrimination' remained unaddressed.

The other dimension of the judicialisation was that the state, the ruling political party in particular, had actually announced the reservations for the OBCs following the reports of the Commissions—Baxi Commission in Gujarat and Mandal Commission at the national level. The Commissions had scientifically collected necessary data on backwardness and identification of the communities. The executive had to ensure implementation of the reserved quota as per the announcement of the ruling political party. Instead, the problem of reservation was brought out to the streets, and then it appeared as policy matter/decisions at the Supreme Court. Thus, the solutions of the issue of reservations

were actually available with the political party and the government but it reached the Judiciary and then came into implementation at the national level. Were the political actors waiting for this solution from the Judiciary and were avoiding potentially exploding problems? Is this process indicative of 'judicialisation of politics', wherein the populist political agenda sidelined the executive, and was finally endorsed through the judicial processes?

The case of NBA<sup>14</sup> and the verdict of the Supreme Court in 2000 have been widely discussed by the lawyers and the social scientists (Iyer 2000; Vishvanathan 2000; Sathe 2000 & 2002; John 2001; Upadhyay 2001). This writ petition was filed under Article 32 of the Indian Constitution by NBA in 1994 asking for the stoppage of the construction of the dam on various grounds. Main contentions were: (i) until satisfactory R&R, construction of the dam be stopped; (ii) environmental impact assessment to be *pari passu* with the construction of the dam while granting conditional approval to the dam; and (iii) big dams did not yield benefits commensurate with the investment made therein seismic susceptibility, large-scale displacement, and loss of biodiversity (Sathe 2000). The case was disposed of by a majority of two judges against one—Justice Bharucha gave a dissenting judgement. He conceded the possibility of the scrapping of the entire project, saying that any project that is not completed within stipulated time should not proceed. The oustees of the project should be provided a choice of residence, if they wish to stay back (p. 29 of the judgement, cited in Sathe 2000). Though the *pari passu* aspect was not complied with, the judgement allowed the dam to go up to 90 metres, and the further construction would be conditional on a clearance (in stages of 5 m) by the Environmental and Rehabilitation Sub-Groups of the NCA. Several scholars opined that it was a missed opportunity for both, the Supreme Court to be more radical, and 'withdrawal from its larger role', and for the oustees, who lost grounds on many counts due to this judgement (ibid.). The judgement offers nothing new. It is, in fact, a denial of relief and of justice (Iyer 2000); 'denial of fundamental rights' (Sathe 2000); failure of SAL cases (John 2000); and 'the court seeks to construct a rational, statist discourse which has little place for other voices of protest' (Vishwanathan 2000).

In light of *Ferkuva Andolan*, it was clear that non-violent methods like fast unto death, dialogue, *padyatras*, and later *Jal Samadhi*, would not work with the GoG or the national government. The GoG was more ruthless and aggressive in treating the NBA and its supporters, insistent for SSP; the national government neither supported NBA and guarded the cause of the oustees nor tampered down/controlled the GoG's non-democratic attitude and behaviour. Having realised those non-violent methods would be met with hostility and greater repression by the state government, NBA decided to invoke legal remedies. 'The Supreme Court of India had become activist and its public interest litigation had earned for it an image of a protector of the rights of powerless [who lack political leverage] people' (Sathe 2000: 3990, emphasis added). As the legal case was framed under the Article 32 of the Indian Constitution, the Supreme Court had an opportunity to revolutionise the processual jurisprudence so as to make the judicial process more easily accessible to the small man of India (ibid.: 3991). 'All judicial pronouncements operate in a social field. The process of interpreting a judicial decision is an exercise that cannot be undertaken solely through judicial canons of interpretation' (John 2001: 3030). Such cases need to be looked at as socio-legal conversion, and capacities and proclivities of the Indian judiciary to respond to the demands being made by social movements for more representative and participative modes of constructing the process of development and governance. The 'national interest' was brought under contention 'from those who have been outcasts or grudgingly tolerate margins of the nation' (ibid.).

The majority of the judgement has dismissed the objections on the grounds of R&R and environment issues. Despite NBA's contention based on *prima facie* facts that R&R is not satisfactory as the oustees faced mainly three types of problems: there was not adequate land available, the lands allocated were barren, and there were lands with conflicting titles in the land records. However, the Supreme Court believed the data provided by the GoG as well as the grievance redressal committee appointed by the Court. The Court did not get detailed information whether there is a mechanism and infrastructure exists for satisfactory R&R or not. Regarding environment clearance, it was initially given in

1987 on the conditions that the studies and R&R plans with made *pari passu* with the construction of the dam. Before delivering the judgement, the Court did not look into that what has happened on this agenda during the past 13 years. Regarding the debate on big dams, the judge brushed aside various studies done on the impacts of big dams; two judges justified need for dam in with regard to its capability to solve the problems of floods, irrigation and food self-sufficiency, and use of water resources for the development of the nation. Thus, the judgement dismissed an argument of alternatives for water resources, such as watershed management and locally developed water harvesting structures. Moreover, by allowing increase in the height of the dam and construction after fulfilling conditions, the Court did not introduce any new safeguards or conditions. Rather, the Court accused the NBA for 'laches'/delay in bringing out the information about the R&R.

The court did not address policy issues, which is actually mandated by the doctrine of separation of powers. A court's duty is 'to protect fundamental rights. Where a policy was likely to result in denial of fundamental rights, can the court refuse to go into it?... Why should it stay away when the right to life of so many people from the Narmada valley was at stake?' (Sathe 2000: 3993). This judgement 'points to the failure of the entire SAL movement to institutionalise a state formation that would allow for far more coherent modes to determine the instances in which the judiciary would intervene in cases that involve the violation of fundamental rights' (John 2001: 3033).

'Social action litigation (SAL) is usually taken up when there is institutional ambivalence and contradictions regarding its role as an arbiter of issues of public interest that are brought before it for resolution. SAL faces high risk in a case where competing truth claims with regard to the facts that are in contest; and promising in terms of radical modes of judging, reinterpreting constitutional provisions more liberally, thereby expanding the scope and content of various fundamental rights and also by expanding and liberalising the scope of various rules of procedure such as 'standing', setting into motion a huge movement demanding an increased access to justice (John 2001: 3031-2).

'The earlier encouragement of PIL now changes to the depre-



cation of the PIL in sarcastic language; and the enthusiasm for environmental causes (not always well thought out) has been succeeded by faith in government committees and the proposition that these are not matters for the courts' (Iyer 2000: 3915).

The *Mahuva Andolan* exemplifies the process of judicialisation, and the judicial behaviour on one hand and use of legal space by the protesting group, the SMBKPBS, for seeking justice on the other hand. Interestingly, every participant—various departments of the GoG, AG of Gujarat, MoEF, NL and SMBKPBS—used the legal space and process in order to prove a point of contention. These participants belong to different categories—a protesting group (SMBKPBS), constitutional post like AG, state and union level administrative institutions, and an industrial unit. Soon after the proposal from the NL for putting up of a cement plant, consultation of among the concerned government officials went on for almost three years but finally sought the approval from the AG in order to make it legally sound. The AG's representation for Gujarat state as well as for the NL as a senior counsel clearly illustrated a 'conflict of interest' as well as fulfilment of political agenda. Later, when the protesters started mobilisation through public meetings, the High Court of Gujarat ordered the GoG to solve it through the executive and in a manner of consultation. The GoG did not take any of the recommendations of the Shelat Committee into consideration and formed a high power committee of politicians, including the ministers in charge of the concerned ministries such as water resources, industry, transport, and finance. The high power committee approved the project with certain new conditions. The GPCB and the MoEF then approved the project of the NCP. The High Court of Gujarat's judgement followed one of the Shelat committee's recommendations for the settlement formula, and asked the NL to surrender 46 hectares of pastureland belonging to two villages. Can this be a pointer that the political agenda of the ruling party for industrialisation and economic growth was executed through the High Court of Gujarat's order of lifting the stay in April 2010? The High Court of Gujarat did not refer to its previous judgement of 2002 regarding conservation of water bodies in Gujarat, which had been one of the issues raised in the petition.

After almost nine months, when the Supreme Court entertained the case against the High Court of Gujarat's judgement, the Court ordered the MoEF to appoint a committee comprised of technical experts to find out whether a water body actually existed. The committee, under the chairmanship of Professor Varshney, confirmed that there indeed was a water body. The MoEF served a SCN to the NL and with the NL's response, the Supreme Court asked the MoEF to appoint another committee with seven members and to respond to four questions referring to existence of water body and impact of the cement industry on the water body. Yet another committee under the chairmanship of Professor Babu too confirmed the existence of water body and explained the possible adverse impact of the cement plant on the water body and the environment. With appointment of these committees, on one hand, the Supreme Court investigated the case around a technical question: 'existence of water body' as well as the adverse impact on the environment, and on the other hand, the MoEF revoked the clearance order to the NL. Nonetheless, the Apex Court passed an Order for the NGT to look into the matter, in a way permitted the NL to approach the NGT and providing an option for further litigation. Despite having technical opinions by the subject experts twice, what could be a reason for the Supreme Court to suggest this option?

The NGT has a mandate under the National Green Tribunal Act in 2010 for disposal of cases relating to environmental protection and conservation of forests and other natural resources. It took almost three and half years to give final judgement, i.e. from 2012 to May 2015. The NGT appointed a panel of two Experts. A team of two technical experts opined that 'the proposed cement plant by Nirma Ltd on the coastline near Mahuva is no danger to the water body and local environment' (*The Times of India*, 19 October 2014). This opinion of the NGT has created confusion and conflict of authority on two counts. One, does it indicate that the Supreme Court had provided an opening to the NL by suggesting that they could approach the NGT, and this agenda has accomplished now? Two, on the authority question, Swatanter Kumar as the Justice of the Supreme Court upheld the decision of both the technical experts' panels—Professor C. K. Varshney and Professor C.R. Babu

in 2011 and now as a chairperson of the NGT, he accepted the third panel's decision. Moreover, in the final Judgement, NGT upheld legal advice of AG of Gujarat that '*bandhara* is an artificial body and therefore it does not violate the High Court Order or 2002', and the original land records of the GoG shows this land as Government pasture and wasteland. Therefore this land can be allocated to the NL for making of cement plant. What could be the motive for such as shift in decision-making?

Two issues have emerged while looking at the judgements of the NBA and *Mahuva Andolan* cases from rights' perspective and role of the Apex Court. First, the judgements of the Supreme Court did not address policy issues; and the second, role of the Supreme Court in dealing with SAL and PIL cases, particularly in the context of social movement or grassroots initiative for social change and social justice is contentious. In the cases of reserved jobs for the OBCs, the Supreme Court examined the reservations policy—reservation shall not exceed 50 per cent of the total number of jobs, on the premise that it has violated the right to equality. In the case of NBA, the Court observed, 'private inquisitiveness [sic] litigation' or 'publicity interest litigation' (p. 166, mimeographed copy of the judgement, quoted in Sathe 2000: 3993). 'The court must not apply all the rules, which are designed for adversarial private litigation to PIL... By taking a very formal view of issues like rehabilitation or environment, the court unfortunately seemed to be suggesting its withdrawal from the larger role, which it had assumed in recent decades' (Sathe 2000: 3993). The PIL as a category has become synonymous to judicial activism, wherein 'the court has played the role of legitimising and channelising various social movements for social change and social justice. It is judicial activism and particularly public interest litigation, which has given social legitimacy to the Court's decisions' (ibid.).

A large number of PIL cases have been filed since 1990s, challenging large infrastructure projects, such as dams, power projects and mining projects. These cases have raised issues of financial considerations through cost–benefit analysis, safety feature and measures, issues of displacement and R&R, and adverse environmental impacts, etc. In 1990, the Supreme Court held that:

'Judicial review is not concerned with matters of economic policy. The court does not substitute its judgement for that of the legislature or its agents as to matters within the provinces of either. The court does not supplant the 'feel of the expert' by its own views. When the legislature acts within the sphere of its authority and delegates powers to an agent, it may empower the agent to make findings of fact which are conclusive provided such findings satisfy the test of reasonableness. In all such cases, judicial enquiry is confined to the question whether the findings of fact are reasonably based on evidence and whether such findings are consistent with the laws of the land' (AIR 1990 SC 1277, Para 57, quoted in Upadhyay 2000: 3790).

Despite this pronouncement regarding PIL cases related to protection of environment, and technical and policy implications, the Court has appointed investigative committees and commissions to arrive at conclusions. 'The proliferation of court-appointed committees has been rightly seen as the inevitable consequence of the failure of the executive to bring in timely correctives' (Upadhyay 2000: 3790). In fact, a case of conflicting claims regarding need and utility of a development project falls under the executive and it should be resolved by the executive. But the executive usually supports the government's/ruling political party's decision, and executes the decision in favour of the proposed development project or an industrial unit, broadly in tune with the economic policy of the state. This situation brings the protesting groups against the proposed development project to a crossroads; they look for justice as well as their point of view, i.e., violation of fundamental rights (as in case of the NBA) or a genuine policy matter like agriculture development versus industrial development (as in the case of *Mahuva Andolan*). They look up to the Judiciary with two important considerations: resolving the problem to uphold justice, and to ensure fundamental rights of Indian citizens, and to promote people-oriented policy or to protect larger common good while resolving the conflict or the dispute or competing claims.

The legal cases of NVDP and NBA, and *Mahuva Andolan* are clear examples of exploring legal spaces available to them. An analysis of PIL cases relating to various large infrastructure projects by Upadhyay (2000: 3791) shows that there is a coexistence of two divergent judicial approaches, a carefully thought out judicial

principle as well as some significant practical realities associated with the process of interpretation of law. He further clarifies, 'The inconsistency between the defensive judicial approaches on cases involving large infrastructure projects as opposed to the judicial aggression on environmental matters cannot thus be explained only in terms of principles in jurisprudence.' Such inconsistencies in the judicial verdicts are difficult to explain. 'The need for preserving sufficient legal space that can accommodate varied strands of judicial reasoning cannot be gainsaid... Whether the verdicts of the higher courts reflect an optimal utilisation of existing legal space or usurpation of the fields appropriate for legislative enactments and executive action their result is clear and inescapable' (ibid.: 3792). Upadhyay's analysis about separation of powers and role of the judiciary has been interpreted as 'judicialisation of Indian public life' by Parthsarthy (2001: 247-248) and is expressed sharply as:

'The courts are asked to decide on the birth place of a god, on shutting down polluting industries, on backwardness of communities, on environmental issues, on resettlement, and on what constitutes 'public' interest—all as part of efforts to control or restrict the activities of legislators, executive officials and various parties in civil society from causing damage to the good life and enjoyment of the middle classes in India... The court itself observed that judges are forced 'to bell the cat' since governments or other bodies do nothing to prevent situations from reaching a crisis point<sup>15</sup>... In case after case, involving large and small issues, the courts have begun to presume legislative and executive incompetence, and so have started abrogating administrative and legislative powers to themselves.'

### **Summing Up: Protests, Rights, Laws, Institutions and Transformative Politics**

The protests under the study have brought out different aspects of citizens' rights. The rights are believed to be embodied in legalistic formulae and the institutions have mandates for their implementation. The rights are enabling factors for the well-being of all the citizens, with its integral moral substance. But these protests also illustrated the manner in which citizens' rights could be contested,

bargained, won over through different interpretations, brought in as conflicting rights, and be modified after contestation and the court's interpretations. The framing of 'violation of rights' could be used as dual-edged sword, to win over the legal case. They also demonstrated the limitations of 'separation of powers' and how selective interactions between the legislatures, executive and the judiciary can mould the rights.

This analysis poses challenges, such as, is political agenda getting supreme status with increasing judicialisation? Do we not have any mandates for the institutions so that the moral base of the rights could not be bargained? Until now, the Supreme Court enjoys its 'supremacy', i.e. its verdicts are not challenged through a protest or in any other form; nevertheless, it is important to think that what happens to the issue raised by a protest? Does a protest become short lived or ends there, as if the verdict has resolved the issue? Does a verdict of the Supreme Court truly resolve an issue that is organically linked to the rights and lives of the citizens? The NBA is one of the exceptions that continued to fight despite unfavourable verdict. But, the supremacy of the Court prevails, as the height of the dam has been increasing periodically. After the verdict of the NGT, the SMBKPBS can become exception; at present continuing legal battle is opted but the protesting group can also come to the street when required.

Another challenge emerged is the dichotomy of rights—whether the conception should be sound or its interpretation is more important than its conception—has been highlighted through these protests. The elites and middle class protested against the reservations for OBCs and against the NBA. These actions have direct bearing on development policies and relation with the state. This situation opens up a debate of limitations of representative democracy and participatory democracy, and of deliberative democracy to some extent. The silence of subalterns in the representative democracy could be explained in terms of them having limited space in public sphere, in selective functioning of state-run institutions, including the judiciary. However, limitations of participatory democracy are equally puzzling, as 'the modern governments and judiciary routinely depend on specialists and professional experts for their decision-making' (Sheth 2014: 125).

The issues are made technical and complex in a manner wherein it is argued that these issues are beyond comprehension of the elected representatives and the common citizens. Thus, the arguments of meritocracy and good governance continue to get political support in the given institutional structures.

‘Theories of rights need to be complemented by theories of authority, whose function is to determine how decisions are to be taken’ (Waldron 1993: 19) for the larger common good. ‘A theory of justice and rights needs to be complemented by a theory of authority’ (ibid.: 32) in which dissonance between moral, legal, and the constitutional rights could be minimised and paradox of asymmetries in Indian democracy could be addressed effectively. The authority may consider striking a balance between rights and trust. The efforts of the NGOs and relatively deprived groups are to focus on rights to ensure social justice, going beyond needs, through expansion of judicial interpretations; however, the protests thrown mixed messages, i.e. overlapping of rights and needs.

The rights could be ‘trumps’ only when they could resist the ‘majoritarian’ forms of decision-making; otherwise the consequences of *Anamat Andolans*, *Ferkuva Andolan*, and *Mahuva Andolan* can be repeated time and again. The Indian Constitution has recognised the rights of the individuals, balanced with duties, but one of the major limitations has surfaced for the community rights is the reservations policy for the OBCs—a mean to achieve social justice, respecting pluralism in the society—remained dependent upon the vagaries of political agenda of ruling political party, institutional behaviour and judicial interpretation. In this light, the prevailing ambiguities between human rights framework, fundamental rights granted by the Indian Constitution, and different theories of rights need to be rationalised and restructured on theoretical and practical grounds. In this situation, whether rights are expanded or not, which ensures ‘common good’ to every citizen, that remains an open question.

The repertoire of protests and social movement is vast and varied; it is yet to develop adequate material and theorisation on the protests initiated by middle class or power elites. A region-based study has some limitations to generalise in the nation-state framework. Since Gujarat is into debate of a model for economic growth,

*Hindutva* laboratory, consensus building in local governance, etc., the issues surface through this study may enrich future scholastic work and policy framing on Gujarat may become all-inclusive, expanding rights that ensure well-being of every citizen.

## Notes

1. See Shinoda (2002); Yagnik and Sheth (2005); Mehta and Mehta (2010); Simpson and Kapadia (2010); Sud (2012); Sood (2012); Mehta and Punyani (2012); Hirway et al. (2014), etc., have all carried out research, dealing with different aspects of the debate on Gujarat, such as weaker sections and transformative actions, communalism, historical description and construction of Gujarat in recent times, whether Gujarat is a model for development and prosperity of the nation or not.
2. This term was used by a sociologist, I.P. Desai to argue that 'the economic structure was not able to provide employment opportunities for the lower strata of the higher castes. The higher castes therefore wish to prevent the mobility of lower castes' (Shah 1990: 166). This term was used also to denote the manner in which the power elites asserted to change the reservations policy, and how the government conveniently abolished the safeguarding features of the reservations policy and offered them on a platter to the elites. This term is generally seen as pejorative, and its use is declined in twentieth century with expansion of biological knowledge, and change in social and cultural phenomena under modern democratic state. It is used here to connote the existing inequalities and assertion of power elites.
3. After V.P. Singh was appointed as the Prime Minister of India in 1989, he announced 27 per cent of reservations in government jobs and public undertakings, following recommendations of the Mandal Commission.
4. Rajasthan, Punjab, Tamil Nadu, etc.
5. The Oxford Handbook online describes 'Judicialisation of politics' as 'the reliance on courts and judicial means for addressing core moral predicaments, public policy questions, and political controversies and is arguably one of the most significant phenomena of late twentieth century and early twenty-first century government. Armed with newly acquired judicial review procedures, national high courts worldwide have been frequently asked to resolve a range of issues from the scope of expression and religious liberties and privacy to



property, trade and commerce, education, immigration, labour, and environmental protection.’

6. This formation—middle and upper class, urbane, educated also overlaps with a group of elites. They have larger representations and role in decision-making in different walks of life: political, social, economic elites, educational, and legal. At some places, ‘relatively privileged sections of the society’ is interchangeably to convey the same connotation.
7. ‘Middle class’ is a generic term used here to denote emergence of a social group with three major characteristics: (i) middle income, mainly through white-collar jobs or government service or higher positions in business corporations or landed gentry, and self-employment; (ii) having higher representations across social and economic institutions; and (iii) largely belong to GC, as a very small proportion belong to SC, ST and OBCs. This category is not static; it is changing over time in terms of aspirations, consumption patterns, representations and participation in public sphere, having different positions and strengths. See Shah (1987) for further details on middle class in Gujarat and India since the nineteenth century, and Fernandes (2006: xiv–xxxix) for discussion on new middle class in India.
8. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.
9. Shah (1990) in his book, *Social Movement of India: A Review of Literature* has scrutinised a vast literature on social movements.
10. It is a scheme for Panchayati Raj. A village Panchayat is given additional benefits that opt for ‘samaras’, that is, consensus-based selection of village panchayat members. This process gives no space to any voice of dissent. The government justifies its need saving; as there is no election, this upholds the consensus and communal harmony while respecting and trusting those who are able to decide for the well-being of all the village residents.
11. Retrieved from <http://infochangeindia.org/human-rights/news/pm-shocked-at-low-conviction-rate-for-caste-atrocities.html> accessed on 18 November 2014
12. Montesquieu wrote in *The Spirit of Laws*, bk XI, chapter vi that ‘... Again, there is no liberty, if the judiciary power be not separated from the legislative and the executive. Were it joined with the legislatives, the life and liberty of the subject would be exposed to arbitrary control; for the judge would then be the legislator. Were it joined with the executive power, the judge might behave with violence and

oppression. There would be end of everything, where the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals' (quoted in Upadhyay 2000: 3792).

13. See Krishnaswami and Khosla's (2008: 55) analysis of *Ashok Thakur vs Union of India* case. The 'caste cannot be sole determinant for backwardness' was considered as binding from the *Indra Sawhney vs Union of India* case.
14. See *Narmada Bachao Andolan vs Union of India* on writ petition no 319 of 1994.
15. The High Court of Maharashtra observed this during a case on the payment of Diwali *ex gratia* (bonus) to Municipal workers of the Brihanmumbai Municipal Corporation.



## Afterword

The *Patel Anamat Andolan* (PAA) started in July 2015. This *Andolan* has 'pro-reservation' stance, which is a full circle on issues of reserved quota; completely opposite to *Anamt Andolans* of 1980s. Hardik Patel as a leader, representing *Patel Anamat Andolan Samiti* (PAAS), an umbrella organisation of Patel groups is contesting for reservation in government jobs and colleges under SEBC category in Gujarat. In addition, PAAS is demanding five per cent reservation for farm labourers belonging to the Patel community who do not have own land and whose names do not appear on the revenue record under the Special Backward Class quota. The need for this *Andolan* is expressed as—Patels are losing in the development race because of the present reservations policy. Hardik said, 'A Patidar student with 90% marks does not get admission in an MBBS course, while SC/ST or OBC students get it with 45% marks...Patidars were not against SC/ST or OBC communities getting their dues...in the current government the CM is a Patel, as are seven ministers [but] all these leaders have failed to protect the common Patidar. A common Patidar is now on his own' (Dave 2015, emphasis added). There are 40 Patel MLAs in the 182-member Gujarat Assembly.

During July and August 2015, PAAS has organized 137 rallies in Gujarat (Panwar, 2015) and have submitted 34 representations to district collectors and tehsil officers (PTT, 8 August 2015). PAAS is using all mediums for large-scale mobilisation, such as WhatsApp, Facebook and Twitter, SMSes and emails—about 56 WhatsApp groups and some 15 Facebook pages were created by different local committees/ 42 Sardar Patel Groups as *swayambhu* (self-motivated initiative) (*dna*, 22 August 2015).

The 'kranti' rally on 25 August 2015 at Ahmedabad reportedly attended by half-million Patels, which became one of the high points of the *Andolan*, and a turning point, as the *Andolan* became violent. The public properties worth 350 million were damaged by the protesters; curfews were imposed, and columns of the army and para-military forces were employed in different parts of Gujarat as part of maintaining law and order. Nine trains between Ahmedabad and Delhi were cancelled, 19 trains had their routes truncated, and five trains have been diverted (Bhatt 2015). Some police excess was reported; many protesters were arrested and imprisoned. Shwetang Patel, one of protesters allegedly died in the police custody. Internet services on mobile phones were suspended twice in the state to check the spread of rumours through WhatsApp and SMS as part of maintaining law and order during August and September 2015.

PAAS carried out several rallies and protest programmes in different parts of Gujarat in September 2015, such as withdrawing money from banks and women holding protest march in small towns and villages.

The state has responded on different fronts. The state government maintained its stand that under the constitutional provisions and precedents set by the Supreme Court of India, Patels could not be given reservations under SEBC category. Nonetheless, the Chief Minister, Anandiben Patel, has formed a seven-member committee consisting of senior ministers of her government in August and has invited the protesters to talk. The CM has personally made appeals to the Patel/protest leaders. However, the stalemate between the ministers and the protesters has not allowed meaningful dialogue in last two months. In response to one of the pleas of the protesters that Patels do not get admission in the medical and engineering colleges despite educationally qualified, the government has announced a Rs. 1,000 billion financial package to support students in their higher education, i.e. to pay 50 per cent fees of the medical college students a year, while Rs. 25,000 each will be provided to students of engineering courses a year, and a promise that the government would increase the number of medical seats by 1,000 by opening medical colleges through the public-private partnership (*The Hindu*, 25 September 2015).

About 70,000 students are expected to be benefitted with this package. Moreover, age limit is relaxed for government jobs from 28 years for the general category to 33 years and from 33 years to 38 years in the reserved category (ibid.).

The protesters have not responded to any of the announcements by the state government. Instead, they have continued vying for reservations and have continued protest programmes at different places in Gujarat and alliance building at national level. Hardik announced PAAS to be merged with the newly formed Akhil Bhartiya Patel Navnirman Sena, which would represent the interests of 27 billion people (as OBCs) across 18 States (*The Times of India*, 1 October 2015).

Two types of responses are reported to this Andolan from Gujarati society. Thakors, one of the communities belonging to SEBC category, organised a rally on 22 August 2015 under the aegis of ‘Gujarat Kshatriya-Thakor Sena’ as counter-agitation to ‘kranti rally’. About 10,000 members of different OBC communities participated in the rally. Contrary, ‘All Gujarat Brahmin Samaj’ has demanded reservations for community members in government jobs and educational institutions in Gujarat, also salary for Brahmin priests.

## Contemporary Debates

The contemporary debates have viewed and discussed this *Andolan* from different standpoints—responses from Gujarati society, use of social media for mobilisation and state’s response and need for governance model that allows affirmative use of social media, performative characteristics of this *Andolan*, need to revisit reservations policy, and ideological reasoning, i.e. Gujarat model of development and Patel as community facing economic crisis.

As Patels were the first to start and play lead role in two *Anamat Andolans*, 1981 and 1985, one of the first reactions of Dalit leaders was apprehension that ‘kranti rally’ in Ahmedabad should not repeat the experiences of two *Anamat Andolans*, i.e. atrocities on Dalits in 1981, and *Anamat Andolan* of 1985 morphed into one against Muslims.

Patels resisted reservation for SEBCs in 1980s while they

demanded reservation for their community, which came as surprise in first place, and was interpreted as one of the political stunts or political rivalry/factionalism within the ruling party–BJP. However, this argument was soon ruled out by many political observers. Hardik Patel sometimes challenged BJP and its existence in the state after upcoming Assembly elections and sometimes supported AAP (Aam Adami Party). This behaviour has created shrouded atmosphere for Hardik's agenda; some finds him ambivalent while some apprehend him to be dangerous in present situation–NDA led government and growing intolerance towards pluralism in the country.

With participation of half-million participating in 'kranti rally', mobilisation strategies and leadership issues were debated. Hardik being a very young man, not having public presence was scrutinised in light of political agenda and agenda for the protest, and his capabilities for handling such sensitive and yet explosive issue. Hardik represented 'youth', in search of higher education and better employment opportunities. Increasing problems of getting admissions in state run medical and engineering colleges in the State due to the existing reservations policy, and studying in private institutions is expensive—both problems as causes for frustrations among youth were highlighted.

Ghanshyam Shah (2015) briefly presented economic scenario of Patel community to show how economic stress causes conflicts with aspirations of the community. Indira Hirway (2015) analysed employment opportunities across sectors and highlighted peculiar behaviour of labour market in Gujarat. Both argued that lack of employment opportunities is causing anger and frustrations, which is manifested in the protest. They considered this *Andolan* aspirational in nature, i.e. reservations as a channel to ensure jobs and educational opportunities to Patels. Thus, 'much-discussed Gujarat model of development has failed miserably' (Hirway, 2015).

After large scale mobilisation in 'kranti rally', 'reservation issue' acquired centre stage, and national alliance of OBCs—Patels of Gujarat, Jats of north India, Maratha of Maharashtra, Reddys of Andhra Pradesh and Gujjar and Kurmis of Bihar, Madhya Pradesh, Rajasthan and Uttar Pradesh states—was discussed. The possibil-

ities of providing reservations to these castes/communities were discussed with reference to the Supreme Court's guidelines—not more than 27% reservations for the OBCs and not more than 50% reservations in the States of India. The legitimacy of such *Andolan* was deliberated in view of social fabric, caste-class conflicts, and rationality of OBC or EBC (economically backward classes). Not all Patels are included in State list of SEBCs, prepared by State and National Commissions. This situation further confounds the issue of reservations and radical rethink stressed.

Role of social media—WhatsApp, Facebook, etc. were discussed briefly—its relevance, importance, *swayambhu* initiatives and their potential for reaching out were highlighted. However, this discussion was not adequately elaborated in terms of use of internet as a fundamental right (Shah R, 2015). The state government regulated use of media through mobile internet curfew as law and order issue to control rumours. There is a need to evolve model of governance for use of social media and social affirmative action (*ibid.*).

### **Change in Interaction with the State**

This *Andolan* highlights three important issues, which are not much discussed or deliberated in the existing literature. First, an indication of creating an environment that will create a passage for alteration in reservations policy, which may propmote either consolidation of reservation quota or scrapping of reservations; not revisiting or revising reservations policy/quota. Two ARA of 1980s was precursor to anti-reservation agitations all over the country and policy revision through judicial intervention since late 1980s. Second, qualitative change in protesters' attitude and interaction with the state and notion of 'statehood', especially for right to reservation i.e. making state responsible for 'political, social and economic surety'. The *Andolan* has not addressed social justice perspective, which is a core component of right to reservation. Third, Patels have influential presence in agriculture sector, diamond polishing and chemical industries, considerable presence in other industries such ceramic, pharmaceuticals, real estate and educational institutions, and having significant portion in the NRG (non-resident Gujarati) funds and investments in India out

of 6,146 industrial units with an investment of more than Rs 10 crore [10 billion in Gujarat], 1,700 are Patidar-owned (Kateshiya 2015, emphasis added). Patels do not have strong presence in medical and engineering educational institutions and sectors. If Patels' demand of inclusion under OBC category for reservation seen in this context, protesters' aspiration signifies desire for stronger presence in educational sector, which is a gateway to employment in different sectors and immigration abroad. This *Andolan* thus indicates fulfilment of aspirations, i.e. dominating presence in all walks of life in the name of 'right to reservation' for Patels.

The course of the *Andolan* in coming times would unfold 'rights' agenda of Patels and more facets of transformative politics and social justice in Gujarat.



# APPENDIX 1



## Reservation in various states for OBCs (1986)

| No. | State             | State Commission, Year               | Percentage<br>of seats<br>reserved for<br>OBC | Acceptance<br>implemen-<br>tation<br>by the govt. |
|-----|-------------------|--------------------------------------|---|---|
| 1   | Andhra<br>Pradesh | Manoharprasad Commission             | 30  | 25  |
|     |                   | (1968-70)                            | 52  | 44  |
|     |                   | Murlidharrao Commission<br>1982      |   |   |
| 2   | Bihar             | Mungerilal Commission (1971-<br>76)  | 24  | 24  |
| 3   | Karnataka         | Nagan Gowda Commission<br>(1959-61)  | 50  | 50  |
| 4   | Kerala            | Vishvanathan Commission<br>(1961-63) | 40  | 25  |
|     |                   | G Kumar Pillai Commission<br>(1965)  | Ed 25, ser 40                                 | Ed 25,<br>ser 40                                  |
|     |                   | Damodaran Commission<br>(1967-70)    | 40  | 40  |
| 5   | Maharashtra       | Deshmukh Commission<br>(1961-64)     | 34  | 34  |
| 6   | Uttar<br>Pradesh  | Chhedilal Commission<br>(1975-77)    | 29.5  | 15  |
| 7   | Tamil Nadu        | Satnathan Commission<br>(1969-70)    | 33  | 50  |
| 8   | Gujarat           | Baxi Commission (1972-76)            | 10  | 10  |
|     |                   | Rane Commission (1981-83)            | 28  | Abeyance  |

## APPENDIX 2



### Number of seats reserved in various states for SCs, STs and OBCs (1986)

| <i>No.</i> | <i>State</i>      | <i>SCs</i>   | <i>STs</i>       | <i>OBCs</i> | <i>Total</i>      |
|------------|-------------------|--------------|------------------|-------------|-------------------|
| 1          | Andhra Pradesh    | 15           | 6                | 44          | 65                |
| 2          | Bihar             | 14           | 10               | 24          | 48                |
| 3          | Jammu-Kashmir     | 8            | 5                | 42          | 55                |
| 4          | Karnataka (1976)  | 15           | 3                | 50          | 68                |
| 5          | Kerala            | 8            | 2                | 40          | 50                |
| 6          | Madhya Pradesh    | 15           | 13               | 29          | 62                |
| 7          | Maharashtra       | 13           | 7                | 14          | 34                |
| 8          | Punjab            | 25           | 5                | 5           | 55                |
| 9          | Uttar Pradesh     | 18           | 2                | 15          | 35                |
| 10         | Tamil Nadu (1980) | 18 (jointly) | -                | 50          | 68                |
| 11         | Haryana           | 20           | -                | 10          | 30                |
| 12         | Himachal Pradesh  | 15           | 7 <sup>1/2</sup> | 5           | 27 <sup>1/2</sup> |
| 13         | Assam             | 7            | 12               | -           | 19                |
| 14         | Gujarat           | 7            | 14               | 10          | 31                |
| 15         | Manipur           | 15           | 7 <sup>1/2</sup> | -           | 22 <sup>1/2</sup> |
| 16         | Meghalaya         | 58           | 40               | -           | 98                |
| 17         | Nagaland          | -            | 45               | -           | 45                |
| 18         | Orissa            | 16           | 24               | -           | 40                |
| 19         | Sikkim            | -            | -                | -           | -                 |
| 20         | Rajasthan         | 16           | 12               | -           | 28                |
| 21         | Tripura           | 13           | 29               | -           | 42                |
| 22         | West Bengal       | 15           | 5                | -           | 20                |

|    |                         |    |                  |   |                   |
|----|-------------------------|----|------------------|---|-------------------|
| 23 | Andaman-Nicobar Islands | -  | 16               | - | 16                |
| 24 | Arunachal Pradesh       | -  | 45               | - | 45                |
| 25 | Chandigarh              | 20 | -                | - | 20                |
| 26 | Dadra Nagar Haveli      | 15 | 7 <sup>1/2</sup> | - | 22 <sup>1/2</sup> |
| 27 | Delhi                   | 15 | 7 <sup>1/2</sup> | - | 22 <sup>1/2</sup> |
| 28 | Goa, Daman & Diu        | 2  | 5                | - | 7                 |

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## APPENDIX 3



### List of interviewees

1. Achyut Yagnik
2. Ayyaz Sheikh
3. Bakulaben Ghaswala
4. Chandrakant Kadia
5. Gautam Thaker
6. Girishbhai Patel
7. Harinesh pandya
8. Harish Mangalam
9. (Late) Harshadbhai Desai
10. Indulumar Jani
11. Jashvika
12. K S Shastri
13. Manishi Jani
14. Nafisa Barot
15. Natvarbhai Shah
16. Pankti Jog
17. Prakash Shah
18. (Late) Ratilal Dave
19. (Late) Sanatbhai Mehta
20. Sanjay Palshikar
21. Shankarbhai Patel
22. Vijaysinh Parmar



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## Index

- 14<sup>th</sup> August Shramajivi Samiti 38, 40-2
- Advocacy 11, 14, 16, 127, 135, 143, 161-2, 167, 203-4, 217
- Advocate General (AG) 182-3, 189
- Akhil Bhartiya Vidyarthi Parishad (ABVP) 40, 50, 56, 225
- Agitation 10, 19, 25, 27, 29, 35, 48, 52, 54-5, 57, 61, 63, 67, 71-3, 75-8, 80, 82, 87, 89-91, 101, 103, 105-8, 110, 113-4, 117, 119, 129-30, 145, 150, 156, 195, 203, 216, 251, 253
- Agrarian development 179, 186, 195, 201, 204, 222
- Ahmedabad 5, 37-41, 43, 45, 56, 67, 72-80, 82, 89, 103-13, 116-18, 121, 148-51, 154, 191, 250-1
- Amarsinh Chaudhari 112
- Anamat Samarthan Samiti* 112
- Anamat Andolan* 25, 27-9, 63, 67-8, 72, 81-2, 101-4, 106, 116, 118, 122, 124-6, 129-30, 212-16, 218-19, 222, 224-5, 229, 245, 249
- Andolan 25-6, 28, 30-2, 35-6, 38, 42-4, 48-51, 53-63, 67-8, 72, 74, 78, 81-2, 87, 89-91, 95, 101-2, 115-16, 118-19, 121-2, 124, 131, 134-5, 151, 153, 155, 157-60, 163, 169-70, 175-9, 185, 187, 199-204, 211-13, 217-19, 225, 249-54
- Anti-reservation agitation 25, 27, 63, 82, 90, 101, 103, 106-7, 117, 119, 129-30, 156, 216, 253
- Approach to rights 126
- Ashoka Kumar Thakur vs Union of India* case 97
- Association
- Bar 2, 106, 131, 148
- Labour 75
- Medical 75, 131
- Trade 75, 111
- Voluntary 16, 26
- Welfare 14, 16
- Atrocity 225-6
- Baba Amte 30, 141, 143, 145, 147-8, 150-5, 158, 160, 164
- Backwardness 69-71, 91-2, 95, 120, 128, 131, 234-5, 243
- Backward classes 25, 28, 67, 69-71, 101, 103, 109, 253
- Backward Class Commission
- Central Commission 70
- State Commission 71
- Bajarang Sena 108
- Bandh 37, 39-42, 76, 104, 106-7, 110-11, 113, 122, 146, 214
- Bandhara 31, 177-8, 181-5, 192-3, 198, 201, 204, 241
- Bargaining
- ability 127
- approach 12, 14, 209, 215,
- Baxi, A R 71
- Bhartiya Janta Party (BJP) 64, 86, 90, 104, 106, 110, 114, 118, 123-4, 137, 180, 184, 191, 195, 200, 225, 252

- Burning effigy 73
- Campaign 5, 10, 25, 76, 78, 104, 145, 220, 231
- Caste 4, 7, 25, 28, 52, 55, 63-4, 67-71, 73-5, 80-2, 84-9, 92, 97-8, 101, 103, 105-7, 109, 111, 113, 117-118, 120, 122-31, 148, 209, 211-12, 214, 224, 226, 229, 234-5, 253
- caste Hindus 67, 74, 80
- Chandhoke, Neera 3, 32, 93, 98, 169
- Chief Minister  
Resignation 27, 36, 43-4, 49, 54, 112, 211, 219
- Chitralekha vs State of Mysore* case 71
- Citizen  
active citizen 12, 17, 55  
passive citizen 12
- Citizenry 216
- Citizenship  
bundle of rights and entitlements 7  
literature 7, 210
- Citizens' rights 2, 4-5, 13-17, 20, 23, 32, 36, 60-2, 72, 83-4, 89, 94, 102, 124, 177, 209-10, 215, 220, 222-3, 228-31, 233, 243
- Civil society 1-6, 10, 13, 50, 69, 89-90, 130, 133, 148, 159-60, 169, 209-10, 217, 219, 223-4, 227, 231, 243  
underprivileged sections 3, 221
- Civil society organisations 2, 4, 90, 133, 169
- Collective action 1-4, 8-10, 15, 17-20, 22, 30, 32, 72, 83, 134-5, 141-2, 159, 161, 170, 203, 210, 219, 221
- Common good 9, 23, 65, 83, 156, 161, 234, 242, 245
- Communal violence 6-7, 28, 107, 111, 122-3, 160, 214, 219, 223
- Community based organisations 4, 133
- Congress party 25, 36, 45, 53, 62, 68, 89, 112, 123, 137, 213, 218-19
- Constitution  
amendment 215  
article 47, 61, 70, 131-2, 166, 216, 230, 236-7
- Constitutional safeguards 228
- Corruption 6, 26-7, 36, 38, 41-3, 45-6, 48, 50-1, 53-5, 58-9, 62, 64, 78, 211-12, 234
- Courts  
High Court 26, 30-1, 60-1, 72, 74, 105, 108, 116, 121, 123, 141, 154-5, 177-9, 182-3, 185-8, 190-4, 196, 199-200, 202-3, 212, 217, 239-41  
judgements 4, 14, 82, 97, 132, 179, 212, 234, 241  
Supreme Court 4, 26, 28-31, 42, 71-2, 82, 96-7, 115, 131, 133, 135, 141, 161, 163-6, 168-70, 178-9, 192-4, 196-7, 199-200, 216-17, 219, 234-7, 240-1, 244, 250, 253
- Dalits 67, 75-6, 80, 87-9, 117-18, 122, 225, 251
- Dalit Panthers 73, 80, 132, 224
- Dam 29-30, 133-50, 152-4, 156-9, 161-7, 170, 185, 216, 229, 233, 236, 238, 244,
- Death bell 78  
knell 42, 106
- Democracy 3, 8, 14-15, 17, 19, 22, 27, 43-4, 48, 50, 63, 65, 93, 102, 116, 129, 130, 169, 201, 204, 223, 225-6, 244-5  
Deliberative 204, 244
- Democratic value 3, 22, 27, 65, 126-7, 155, 215
- Demonstration 11, 29, 37-8, 46, 107-8, 111, 141
- Deprivation  
Relative deprivation theory 9, 18, 20, 94, 126
- Desai, I P 72-3, 76-7, 80, 85, 89-90, 99, 119
- Desai, Morarji 46-8, 64
- Development  
Inclusive 2, 7, 217, 232

- Paradigm 6, 68, 144-5, 155-6, 158, 163, 165, 167-8, 176
- Dharna 11, 37, 45-6, 48, 107, 116, 186
- Disadvantaged  
groups 16, 84, 95  
sections 2, 10, 17-18, 83
- Discrimination 1, 7, 18, 92-4, 96, 98, 119-20, 126, 129, 132, 226, 235
- Economic criteria 92-3, 113
- Educational institution 28, 38, 44, 70, 78, 101-2, 104, 122, 213, 251, 253-4
- Efficiency 28, 90, 104, 124, 126, 139, 232
- Elite  
Political elite 50, 93  
Power elite 14, 81, 83, 89, 91, 93, 95, 97-8, 123, 130-1, 159, 214-15, 216, 245  
Rural elite 55
- Equality 7, 13, 22, 32, 69, 89, 91-3, 96, 119-20, 124, 126, 129, 169, 210, 215, 217, 219, 226, 228, 241
- Extra-parliamentary 35, 54, 58, 62, 211
- Farmers 30-1, 38, 52, 55, 86, 122, 148, 153, 158, 175, 177-8, 180, 186-8, 192-5, 198, 201, 203, 211, 223
- Ferkuva 25, 29, 30, 134, 146, 148-52, 154
- Ferkuva Andolan 25, 29, 133-5, 146, 216, 219, 222-4, 229, 237, 245
- Food  
Bill 37, 39-41, 52, 65  
Expense 37
- Forms of protest  
Burning effigy 73  
Stone throwing 39, 48, 78, 108-9
- Fundamental rights 16, 70, 93, 158, 166, 228-30, 236, 238, 242, 245
- Gallo, Carmenza 12-14, 94
- Gandhi, Rajiv 103, 105, 107-8, 136
- Gandhian  
Elites 52  
Ideology 90, 203  
Workers 50, 89
- Gauchar land 178, 182, 185
- General category (GC) 25, 68, 129, 251
- Gherao 11, 40-1, 47-8
- Government of Gujarat (GoG) 29-30, 134-5, 151, 177, 182, 200
- Gujarat  
central 76, 87-8, 107, 203  
Hindutva agenda 5, 56  
north 68, 107  
south 38, 40-1, 43, 46, 57, 89-90, 107, 114, 159
- Gujarat Chamber of Commerce and Industry (GCCCI) 6, 77, 81, 110, 117, 144, 149, 214
- Gujarat High Court 31, 72, 74, 105, 116, 123, 141, 178, 185, 191, 193-4, 202
- Gujarat Karmachari Utkarsh Mandal 114, 118
- Gujarat Pollution Control Board (GPCB) 177, 185, 187, 192, 199, 202
- Gujarat Samachar* 82, 117, 121, 147, 150, 156
- Hazare, Anna 54
- Hindutva* 5-6, 56, 64, 157, 212, 225-6
- Historical injustice 10, 29, 69, 92
- Human rights  
components 170, 229  
Framework 14-16, 53, 102, 170, 209, 216, 228-31, 245  
Second generation 229, 231  
Violation 36, 52, 147
- India Today* 117, 122
- Indian Constitution 7, 14, 16, 28, 59-60, 70, 81, 91-3, 97, 102, 128, 132, 166, 209, 214-16, 228-30, 236-7, 245

- Indira Sawhney vs Union of India* case 97
- Industry  
 Cement plant 25, 30-2, 176-86, 188, 192-6, 198-200, 202, 217-18, 222, 239-41  
 Publishing 2
- Institutions 2-4, 9, 11, 14-16, 22-3, 27-8, 31-2, 38, 44, 50, 62, 65, 70, 78, 81, 89, 94, 101-2, 104, 122, 126, 128-30, 132, 142, 144, 159-60, 165-6, 169-70, 176-7, 188, 199-201, 203, 209-10, 213, 215, 221, 225-6, 230, 232-3, 235, 239, 243-4, 251-4
- Irrigation 31, 133, 136, 139, 142, 145-6, 159-61, 164, 175-80, 182, 196, 200, 222, 227, 238
- Jail bhara 113, 147
- Jal Samadhi 161, 165, 237
- Jan Sangharsh Yatra (JSY) 29-30, 146-7, 149, 151-7
- Jansangh 37, 41, 56-7, 64
- Janta curfew 40, 48
- Judiciary 7, 14, 16, 23, 32, 69, 77, 81, 91, 95-7, 128-9, 131-2, 165, 170, 176, 194, 199, 201, 216, 221, 231, 233-4, 236-8, 242-4
- Judicial supremacy 96
- Judicialisation 219, 232-5, 239, 243, 244
- Judicialisation of politics 200, 236, 246
- Judgement 25, 31, 71, 96-7, 131, 166-7, 169-70, 178, 182, 188, 193, 198-200, 204, 216-18, 236-42
- Justice 1, 4, 7, 9, 16-18, 20, 22-3, 29, 32, 63, 71, 74, 81, 84, 88-91, 93-8, 116, 119-20, 124, 126-31, 143, 166, 178, 186, 191, 193, 197, 200, 203-4, 210, 214-17, 219, 222, 226, 228, 230-4, 236, 238-42, 245, 253-4
- Kalelkar, Kaka 70
- KHAM 84, 86, 105, 115, 118, 122-3, 213, 219
- Kisan Majdoor Lok Paksh (KMLP) 64
- Kshatriya 106, 112, 251
- Land records 31, 176, 181, 200, 203, 218, 232, 237, 241
- Law and order 40, 49, 53, 60, 75, 78, 123, 131, 147, 155, 199, 218, 220, 250, 253
- Leaders  
 Dalit 111  
 student 51, 60, 63, 218
- Legal rights 15
- Legislative Assembly  
 dissolution 46-7, 49, 62, 211  
 Members 27, 36, 182,  
 Speaker 61, 212
- Litigation 11, 27, 30-1, 131, 133, 167, 237-8, 240-1
- Lobbying 11, 14, 143, 146, 167, 203, 217
- Lok Sabha 45-7, 62
- Mahuva 25, 30-1, 175, 177-8, 180-2, 184-6, 190-2, 196-7, 200, 217, 222, 240
- Mahuva Andolan 25, 30, 175, 179, 185, 201, 217-19, 222-3, 232-4, 239, 241-2, 245
- Agrarian development 179, 186, 195, 201, 204
- Bandhara 177-8, 181-5, 192-3, 201, 204
- Reservoir 175, 178, 180-1, 185-6, 188, 196
- salinity ingress 176-7, 179, 201
- Majorityism 82-3, 91, 155, 159, 215
- Mandal, B P 70
- Marginalised  
 communities 93, 97, 214, 219-20, 223-8, 232  
 groups 95, 97
- Marginalisation 95, 224
- Mass casual leave 77-8



- Media 2-3, 11, 14, 16, 21, 23, 37, 82, 89, 118-19, 121, 144-5, 251, 253
- Member of the Legislative Assembly (MLA) 27, 30, 43, 46, 60-1, 86, 182, 184, 188, 202
- Member of Parliament (MP) 45, 102, 112, 154
- Memorandum 39, 41, 44, 46-7, 59, 72-3, 141-2, 190, 200, 204
- Merit 28, 73, 90, 92, 94, 104, 120, 124, 198, 216
- Meritocracy 126, 212-13, 245
- Middle class 3-4, 37, 58, 63, 83, 87, 129, 156, 211, 215-16, 219-23, 225, 244-5
- Ministry of Environment and Forests (MoEF) 31, 144, 148, 177-9, 183, 185, 189, 192-7, 199, 201-2, 239-40
- MISA 27, 39, 41, 49, 52-3, 59-61, 212
- Mobilisation 3, 8-9, 12, 18, 20-1, 25, 41, 54, 57, 104, 117, 123, 135, 146, 1468, 157, 186, 211-13, 216-17, 220, 231, 239, 249, 251-2
- Mock court 43
- Modi, Narendra 6, 195
- Morcha* 37, 41, 47
- Movement
  - Classical Labour Movement 3
  - Dalit movement 18
  - Different from protest 8, 26
  - environment movement 19, 158, 176, 203
  - new social movements 3, 18, 20
  - similarities with protest 8, 26, 54, 156, 218
  - social reform movement 18-19
  - state-centric 8, 10, 18
  - women's movement 18
- Narmada Abhiyan 144, 146, 149-50, 151, 153, 159
- Narmada Agey Badhao Shanti Yatra (NABSY) 30, 147, 149-53, 155, 157-8
- Narmada Bachao Andolan (NBA) 25, 29-30, 134-5, 140-50, 156, 159-61, 166, 169-70, 176, 199, 204, 216-17, 219, 222, 230-1, 233-4, 236-8, 241-2, 244
- Jan Sangharsh Yatra 146-7
- Narmada Bachao Andolan vs Union of India* 174, 248
- Narmada Control Authority (NCA) 134-5, 137, 141, 144, 216, 236
- Narmada Foundation 147, 149, 159
- Narmada Valley Development Project, (NVDP) 6, 29-30, 133, 135, 141-2, 144, 148, 152, 156-7, 161, 165-6, 242
- Narmada Water Disputes Tribunal (NWDT) 134-5, 138, 140, 172
- National consensus 111, 113, 115
- National Green Tribunal (NGT) 26, 30, 177, 197, 204, 217, 240
- National Commission for Scheduled Castes and Scheduled Tribes (NCSCST) 134, 153, 173
- National Crime Research Bureau (NCRB) 88
- National Human Rights Commission 88
- National Security Act (NSA) 102, 123
- Nativism 152, 157, 159, 216, 222
- Navnirman Samiti 48, 56
- Navnirman Yuvak Samiti 26, 40
- Networking
  - alliance 11, 55
  - social 11, 21
- New social movements (NSM) 3, 18, 20
- Nirma Limited 30-1, 177, 181-3, 189
- Cement plant 30, 177, 180, 185
- No tax campaign 76, 78
- Non-government organisations (NGO) 7, 89, 133, 139, 149, 227
- Operationalisation of rights 97, 170
- Origin of rights 12

- Other backward classes (OBC) 25, 28, 67
- Outcome of protest  
 Arson 49, 78, 106, 117  
 Burning of buses 105  
 Burning of property 213  
 Killing 19, 28, 42, 106, 110, 130, 213  
 Looting 49, 106
- Participation rights 2, 7, 15-16, 91, 93
- Padyatra 11, 41, 190, 194-5, 200, 204, 218, 237
- Parliament 45-6, 62, 76, 79, 86, 226, 228
- Patel, Chimanbhai 42, 50, 52, 86, 147, 152, 154
- Patel, Girish 143, 150
- Patel, Patidar 55, 68, 73, 85, 87, 211-12, 249, 254
- Patel, Shankarbhai 104, 112, 115
- Patkar, Medha 30, 134, 147, 150-2, 154, 160, 164, 168-9
- Peacemakers 214
- Peasants 185, 195, 200, 202, 217, 219, 222
- Petition  
 Special leave petition (SLP) 193, 197, 207  
 Legal 206  
 Writ 30, 74, 141, 154, 166, 174, 178, 206, 236, 248
- Police  
 Excess 41-2, 102, 108, 121, 250  
 Firing 39, 41-2, 44, 49, 52, 116  
 Killing 110
- Policy 17, 29-30, 60, 68-9, 71, 84, 90-5, 126-7, 140-1, 156, 159-63, 168-9, 181, 201, 210, 212, 216-17, 220, 222, 227, 230-5, 238, 241-2, 245-6, 253
- Political culture 26, 36, 52-4, 64, 123, 126, 210-12, 216, 219, 226, 228, 231
- Political dividend 69, 86, 96, 159, 216
- Political gimmick 28, 91
- Political party  
 Factionalism 27, 36, 64, 252  
 Political culture 26, 36, 52-4, 64, 123, 126, 210-12, 216, 219, 226, 228, 231  
 Ruling 165
- Political philosophy of rights 210
- Political rights 2, 7, 12, 15-16
- Praja* 35, 38-9, 42, 54, 59, 115
- Procession 11, 37, 39-41, 43, 45-6, 48, 73, 78, 103, 110, 190
- Project-affected persons (PAP) 135, 139-43, 145, 147, 158, 160-1, 164-5, 168, 184-5, 188, 202-3, 220, 234
- Project affected families 138,
- Protest  
 Contentious politics 5, 8-9, 11, 15, 20, 26, 32, 209, 219, 231  
 Cognitive and methodological issues 17  
 pressure group 1, 227  
 public sphere 2, 7, 9, 14, 16 129, 165, 218, 220, 224, 244  
 violent 4, 47-8, 67, 73-4, 78, 101, 108, 218, 250  
 upsurge 10, 24, 35, 55, 57, 61, 211
- Protest programmes 23, 26, 35, 38-9, 41-2, 45, 47-8, 54, 63, 72, 75, 78, 101, 104, 107, 122, 141, 204, 211-12, 214 250-1
- Public hearing 32, 164, 182, 184, 188, 202-3
- Public meeting 37, 47, 104, 182, 186, 189, 214, 218, 239
- Public policy 163, 216, 220, 246
- Rally 11, 29-30, 38, 44-6, 74, 78, 108, 113, 119, 143-4, 146-7, 149-50, 153-4, 190, 250-2
- Rajpipla Social Service Society (RSSS) 141
- Rashtriya Swayamsevak Sangh (RSS) 50, 57, 124

- Rath-yatra 112, 223
- Rehabilitation and resettlement  
(R&R) 30, 133-8, 140-2, 156-62,  
164-5, 167-8, 170, 216, 229, 233-  
4, 236-8, 241
- Rajya Sabha 45
- Rane, C V 71
- Relative deprivation theory 9, 18, 20,  
94
- Representative democracy 93, 225-6,  
244
- Reservations policy  
carry forward 28, 33, 72-3, 81  
economic criteria 92-3, 113  
inter-changeability 28, 72-3, 81,  
212  
roster system
- Resource mobilisation theory 27-8,  
72, 75, 77, 108-11, 113-15
- Rights  
Beteille Andre 1, 3-4, 7, 230  
Civil and economic 2  
Claims 4, 12-15, 216, 220, 238  
Dworkin 1, 13  
Enabling factor 1-2, 7, 13, 17, 215,  
243  
Entitlement 1, 4, 167, 223, 228  
Justice 1, 7, 20, 32, 128, 166, 217,  
219, 228, 232, 242, 245  
Language of 230  
Legal sanction 15  
Moral base 2, 223, 231, 244  
power-weighted consensus 13  
trumps 13, 245  
Trust 1, 230, 245  
Vision of the good society 1  
Well-being 2, 243, 246
- Right to development 51, 168, 200,  
204, 211, 216, 222, 229
- Right to food 27, 60, 177, 231
- Right to forestland 177, 220
- Right to information 27, 56, 177, 185,  
211
- Right to life 168-9, 238
- Right to livelihood 169
- Right to participation 2, 204, 232
- Right to recall 27, 4, 56, 58-9, 211
- Right to reservation 29, 83-4, 88, 91,  
95, 97, 102, 124, 126-31, 213-14,  
216, 229, 253-4
- River control 123, 135-6, 158, 160-4  
*roti ramakhan* 53, 60
- Sadhvani Commission 108-9
- Sadvichar Parivar 144, 152, 171
- Salinity ingress 30-2, 176-7, 179, 201
- Salinity prevention 186
- Samadhiyala Bandhara (SB) 31, 177-9,  
181, 183-5, 187, 189, 192, 194,  
196-8, 201, 204, 217
- Sandesh* 82, 121, 156-7, 201
- Sardar Sarovar Narmada Nigam  
Limited (SSNNL) 134, 145, 173
- Sardar Sarovar Project 29, 135-40,  
142, 145, 147, 156-7, 160, 164,  
171, 199, 222, 237
- Sarvodaya worker/Sarvodayist 44, 89
- Satellite image 192
- Savarna* 25, 67, 75, 78, 80-1, 90, 123,  
213, 225
- Scheduled castes (SC) 25, 28, 63, 68,  
71-6, 79-80, 83-8, 90, 93, 108,  
112, 114-116, 119, 126, 134, 167,  
225-7, 235, 242, 249
- Scheduled tribes (ST) 25, 28, 63, 68,  
71, 73, 83-6, 88, 108, 112, 114-15,  
119, 126, 134, 139, 214, 224-6,  
231, 249
- Shah, Ghanshyam 33, 66, 99, 252
- Shelat Committee 187-8, 191, 205,  
208, 239
- Sheth, D L 48, 69, 91-3, 99, 101, 103,  
111, 115, 117, 121-2, 140, 143,  
150, 160, 211, 227, 244
- Shramadaan* 193
- Shri Mahuva Bandhara Khetivadi  
Paryavaran Bachav Samiti  
(SMBKPBS) 31, 177-8, 185-6,

- 188, 192, 196-200, 202-3, 230-2, 239, 244
- Shobha-yatra 123
- Silence 131, 214, 223-4, 244  
silenced 155
- Socially and educationally backward classes (SEBC) 6, 25, 27-9, 67-8, 70-6, 80-1, 83-5, 88, 91, 102, 105, 107-8, 110, 113-15, 123-5, 184, 212, 214, 219, 225, 249-51, 253
- Social boycott 47, 88
- Social justice 4, 7, 9, 16-18, 20, 22-3, 29, 63, 81, 84, 90-1, 93-8, 119-20, 124, 126-31, 143, 214-15, 217, 222, 226, 228, 230-2, 241, 245, 253-4
- Social movement  
Agitation 10, 19  
Campaign 10, 25  
direct action 10, 14, 17  
repertoire 10, 26  
upsurge 10, 61  
*also see* collective action, protest
- Social movement and protest 8-10, 17-18, 26
- Social networking 11, 21
- Social rights 12, 15-17
- Solanki, Madhavsinh 73, 86, 98, 102, 112, 115-16, 122-3, 219
- State  
Election 28, 105, 213-14  
Neoliberal 3, 23  
technologising 201
- Strike 11, 37, 40, 45, 73, 75-6, 80-1, 89, 108-11, 113-14, 121, 137, 155, 213, 224, 233
- Students  
Engineering 103, 116  
Medical 28, 67, 72-5, 81, 212-13  
Doctors 73-4, 107, 121
- Subaltern 88, 223-4, 226, 228, 244
- Sub-committee 113, 189, 191
- Subjectivity of state 126, 216
- Tankho* (A Spark) 59
- Technical Expert's Committees 31  
C K Varshney 193, 240  
C R Babu 208, 240  
Devendra Kumar Agrawal 197, 205  
Gopal Krishna Pandey 197, 205
- Textile mills 75, 77-8, 80, 81, 83, 89, 109, 118, 213, 224
- Textile Labour Association (TLA) 75, 89
- The Hindu* 226, 250
- The Indian Express* 82, 189-90, 192
- 'the other' 159-60, 216-17, 219, 222-3
- The Times of India* 150, 153-4, 157-8, 175, 240, 251
- Theories of grievances 18
- Theories of rights 12, 245
- Total revolution 50, 63, 211
- Trade unions 14, 16, 26, 89, 148, 211
- Transformative politics 7, 23, 32, 63, 209-10, 243, 254
- Vaidya, Chunibhai 148, 150-1, 153, 155, 158, 194
- Verdict 28, 30-1, 115, 131, 135, 161, 164, 166, 170, 177-9, 199, 202-3, 216, 218, 222, 236, 243-4
- Vibrant Gujarat Global Investors Summit 180, 200
- Vigilante 55, 121
- Violence  
Communal 6-7, 28, 107, 111, 122-3, 160, 214, 219, 223
- Vishmata Nirmulan Parishad 90
- Voicelessness 22, 83, 217, 223
- Waldron, Jeremy 1, 12, 230, 245
- Wasteland 31, 176-8, 180, 186, 196, 201, 207, 218, 241
- Water body  
artificial 178
- Wetland 176, 178, 192, 194, 196-8, 217

- Women 41, 60, 79, 102, 107, 109, 116,  
121-2, 151-2, 184, 190, 224, 250
- Wood, John 35-6, 50-3, 62, 68, 82, 86,  
98, 103-5, 107, 111-13, 117, 122-  
3, 133, 137, 155, 160, 211, 213
- Writ  
petition 30, 74, 141, 154, 174, 206,  
236, 248
- Yagnik, Achyut 80, 100, 132, 143