

The Undeclared EMERGENCY in JNU!

On 9th February 2016, a group of students/political activists called for a cultural evening of protest against what they called 'the judicial killing of Afzal Guru and Maqbool Bhat' and in solidarity with 'the struggle of Kashmiri people for their democratic right to self-determination.' We have all been following the series of developments on our campus that have come in the wake of that incident - through parchas, posters, social media and in particular, reports on the print and digital media. Right now, opinions on this issue are so strongly divided among the students along certain lines and deploying a certain language that the space for open dialogue within the student body has shrunk. The need of the hour is that there should be a conversation among ourselves not only about the issues at stake but also about the very terms in which the debate is being carried on. **The JNU Students Union has given a call for a solidarity march tomorrow 18th February and all students of the university need to actively participate in it. But we are keenly aware that there are ample questions and confusions regarding the current situation.** This is a humble attempt to initiate a conversation addressing some of these.

Q. Why is this an issue that concerns all students of JNU and is not limited to a fight between 'nationalists' and 'anti-nationalists'?

'ShutdownJNU' is the hashtag that has been trending in social media. The question is who will benefit if JNU is shut down? Evidently not the students, be they 'nationalists' or 'anti-nationals', nor the teachers, the staff or the workers. If we stretch the question and ask who will benefit if public funded institutions like JNU, HCU, FTII and others are closed, the answer is clear. In such a situation students will have to go to private colleges and universities and we know that a large number of people will not be able to afford it. It is because of the existence of these public-funded institutes that students from deprived backgrounds get a chance to pursue higher education and that research in fields which are not immediately profit-generating can be carried out.

Q. Can any sloganeering be counted as sedition under the law?

Raising slogans by itself does not amount to sedition under the law. **There's a difference between stating your belief ("advocacy") - however problematic that belief might be deemed - and inciting people to violence ("incitement") on the basis of that belief.** As legal expert Lawrence Liang has written in a recent article "advocating revolution, or advocating even violent overthrow of the state, does not amount to sedition, unless there is incitement to violence, and more importantly, the incitement is to "imminent" violence. For instance, in *Balwant Singh v State of Punjab*, the Supreme Court overturned the convictions for sedition, (124A, IPC) and "promoting enmity between different groups on grounds of religion, race etc.", (153A, IPC), and acquitted persons who had shouted, "Khalistan zindabaad, Raj Karega Khalsa," and, "Hinduan Nun Punjab Chon Kadh Ke Chhadange, Hun Mauka Aya Hai Raj Kayam Karan Da", late evening on October 31, 1984, i.e. a few hours after Indira Gandhi's assassination - outside a cinema in a market frequented by Hindus and Sikhs in Chandigarh." **There have been many other instances - such as *Arup Bhuyan v State of Assam* and *Kedar v State of Bihar* - where the courts have dismissed charges of sedition unless there was an incitement of violence.** On 9th Feb such incitement of violence or any preparation to that end was nowhere evident on campus.

Q. Does this then mean, we are proposing a blanket support of what happened on 9th Feb?

The answer is clearly no. The JNU Students Union in a pamphlet brought out on 11.2.16 signed by the President, Vice President and Gen Secy, has made its stand clear: "...we condemn the divisive slogans ('bharat ke tukde honge hazar') that were raised by some people on that day...The divisive slogans and the ideology behind it has never been a part of the progressive tradition that JNU and JNUSU uphold. On the contrary, the unity of the people of different parts of the country in challenging divisive, authoritarian, anti-people and anti-student forces is what we stand with and look up to". **We support the Union's condemnation of certain slogans raised on that day - but what is more important to remind ourselves at this moment is that under the present circumstances sloganeering cannot be punished as 'sedition' under the law.**

Q. But is the Supreme Court's verdict on Afzal Guru's case open to questioning?

According to the Contempt of Courts Act, 1971 a person can be punished for "disobeying" court orders, "obstructing" the judicial process or "scandalising" ("lowering the authority of the court"). **Asking questions about the validity of the verdict passed or about whether due procedures were followed in a case does not amount to a contempt of the court, as long as the "motives" of the court or the "character" of the court or the judges is not questioned. In case of the 9th Feb**

incident, none of the provisions for 'obstructing', 'disobeying' or 'scandalizing' hold. In fact, it is imperative for any democratic society to preserve a space where any alleged injustice - even if it's a Supreme Court judgment as in this case - can be debated, and questioned. As we are all aware there have been numerous cases where the judiciary has failed to serve justice - the most recent and most widely discussed perhaps, being the Supreme Court's overturning in December 2013 of a High Court judgment that had decriminalized homosexuality.

Q. How can we allow some part of our country to break away from the nation?

Let us ask, who is this 'we' here, who is thinking of 'allowing' or 'not allowing'? **Are people of Kashmir, Manipur or other places (and not just the landmass of Kashmir, Manipur etc.) who have been raising such issues included in this 'we'? We have to then, re-imagine the 'nation' and the community of people it includes and need to differentiate it from the role to be played by a particular 'government' or the 'state'.** It would be clear that the question of Kashmir, which has a long history, requires a political solution. The role of the governments of China, Pakistan and even that of India has been mainly to militarize and control the populace through the barrel of the gun, which has worsened the situation and is killing the possibilities of democratic dialogue every day.

On the other hand, it must be noted that BJP's accord with NSCN(IM) in Nagaland and its alliance with PDP (a party that has publicly declared the hanging of Afzal Guru as a travesty of justice) in Jammu and Kashmir in recent times, are two clear cut indicators that the intention behind the present targeting of JNU has nothing to do with the issue of Kashmir but is yet another attempt to silence voices that question the current government.

Q. How can students whose education is being funded by tax-payers' money be allowed to air opinions that go against the 'nation'?

There would be hardly any disagreement about the fact that the tax payers' money should be legitimately spent on educating the people of the country, providing them basic health facilities etc. - not in paying for MPs' and MLAs' flight tickets or in giving massive concessions to corporate companies. **For such education to be truly fruitful and for knowledge to blossom within any country, there needs to be enough freedom to question, debate and discuss about any and every issue no matter how contentious it might be. Historically the public university has been the harbinger of knowledge precisely because it afforded the space for such democratic exchange of ideas, on concerns ranging from science and technology to various social phenomena.** JNU as an inclusive campus has made many strides in furthering social justice-based claims by awarding deprivation points, scholarships etc. thereby fostering an environment in which a diverse population of students can articulate the experiences and raise a variety of concerns, questions and claims. The current attack on JNU which, as pointed out above, should be contextualized within the neoliberal government's attempts to privatize education, will only obstruct the way for the progress of knowledge in our country.

Friends, as we are all aware, a media trial of the entire JNU community has been going on for the past one week. Every day we see some new 'evidence' coming up, be it the fake tweet of Hafiz Saeed, various engineered videos with slogans that were never shouted on that day or alleged terror links of JNU students with Jaish-e-Mohammed. All these have created an atmosphere of paranoia where guardians of many students are calling them back home. Many Muslim students are feeling unsafe even within the campus space and are being targeted for abuse on social networking sites. Teachers have complained to the VC that they, along with their family are feeling threatened.

The JNU administration is behaving partially and irresponsibly towards the whole issue. It has given blanket permission to the police to enter the campus and raid hostels and have suspended 8 students from academic activities without conducting any enquiry. In such extraordinary circumstances, the need of the hour is for the students' community to stand united.

Let us join in JNUSU's call in the greatest strength possible.

Solidarity March from Mandi House to Jantar Mantar

Thursday, 18th Feb. Buses will leave from Ganga Dhaba at 12 noon.

COLLECTIVE