

REMEMBERING KANNA

## K G Kannabiran

Ahosk Prasad  
Ramaa Vasudevan

On December 30, 2010, K G Kannabiran, one of the most important voices in the civil liberties movement in India passed away. His death brought to a close over four decades of commitment to the cause of people's rights.

Kanna, as he was affectionately called, was born in 1929 and studied in Madras University. He started his legal practice in the early sixties in Hyderabad. Kanna was influenced by left wing and progressive politics as a young man and from early on his legal practice used to believe in using the law as an instrument for people's struggles, what he was later to term "the jurisprudence of insurgence". His life as a civil liberties activist thus forms part of the struggle against state repression on people's movements in Andhra Pradesh and elsewhere in India.

One of the early legal struggles that he was associated with was the legal challenge to the AP Preventive Detention Act of 1970, enacted by the government to crush the movements of peasants in Srikakulam and the revolutionary student movement that had emerged in many parts of AP. He defended the Marxist-Leninist activists, as well as revolutionary writers and poets in the Srikakulam and Parvatipuram conspiracy case in the early seventies, and later in the Secunderabad conspiracy cases which went on for many years.

Kanna was also involved in the legal struggle against the death sentence on Bhoomaiah and Kista Goud. Bhoomaiah and Kista Goud were political activists who had been sentenced to death in January 1972. From then till their execution on December 1, 1975 there was a countrywide campaign against the death sentence on them. Kanna in particular was involved in obtaining the stay on their execution in 1975, petitioning Justice Chinappa Reddy in his house. It was during these legal cases that one of Kanna's statements entered the popular folklore in AP and among the civil rights movements. When arguing before the case, a judge asked him why Naxalites who seek to overthrow the state and the Constitution should be allowed to seek protection under the Constitution. Kanna replied, in his own words, that "when such issues come before this court, it is our values which are on trial and not theirs" ("Extrajudicial Killings", *EPW* March 23 1996). It was in the backdrop of growing people's movements and intense state repression that the Andhra Pradesh Civil Liberties Committee was formed in AP in 1973, and Kanna was associated with it as one of its founders. State repression in AP intensified after Indira Gandhi proclaimed internal Emergency on June 25, 1975. From the point of view of the repressive arms of the state, the suspension of all civil liberties was a convenient way to deal with the thousands of people's movements sweeping the country, including the Naxalite movement.

APCLC members such as its then General Secretary, Prattipati Venkateswarlu, and poet Cherabanda Raju were among the first to be arrested. Kanna was at the forefront of using whatever recourse remained in the law to help affected people, and filed a writ petition on behalf of Venkateswarlu's wife, challenging MISA and the validity of Emergency. This was the first legal challenge to the Emergency. Between 1975 and 1977 Kanna would appear on behalf of around 500 detainees.

When the Emergency was lifted in 1977, Kanna played a major role in the Tarkunde Commission, formed to investigate encounter deaths during the Emergency in Andhra Pradesh. Kanna was its member-secretary and the report of the Commission, entitled "Encounters or Murders : A Documentation of the Naxalite Policy of the AP Government" would define a key aspect of his work for the rest of his life. In April 1977 a Judicial Commission of Inquiry, the Bhargava Commission, was instituted as a follow-up of the Tarkunde Commission, to investigate encounter deaths. During the hearings of the Bhargava Commission, details of a deposition by an activist called K Lalitha was published in the newspapers, leading to the then CM, Vengal Rao ordering that proceedings be held "in camera". This led to Kannabiran and APCLC boycotting the proceedings. The Bhargava Commission finally did not issue a report.

In 1978 Kanna became the President of APCLC. As the revolutionary peasant movement in Andhra Pradesh made major strides, with intense open mass movements and armed struggles in the Telengana districts, encounter killings became one of the police's favorite modes of repression. During this time APCLC did sterling work exposing encounter killings. This was also the period that saw K Balagopal become the General Secretary of APCLC and both Balagopal and Kanna and hundreds of APLCL activists worked together to expose encounter killings as police murders, visiting every encounter site in Andhra Pradesh, making inquiries, filing cases etc. The long battle culminated in one of Kanna's finest legal victories, won after three decades of detailed and painstaking work by APCLC in which some activists gave up their lives such as Dr Ramanadham, Japa Laxmi Reddy, Narra Prabhakar Reddy, Purushottam and Syed Azam Ali. In February 2009, in its judgment on a writ petition filed by APCLC in the context of 1800 encounter deaths between 1997 and 2007, the AP High Court recognized that encounter deaths are prima facie cases of culpable homicide and thus in all cases of encounter deaths an FIR must be registered, an independent and impartial investigation be ensured and the state's plea of self-defense has to be established at the stage of trial, and not during the stage of investigation. The Supreme Court gave an exparte stay on the judgment, and its final fate is yet to be decided, but it constitutes the most serious legal victory against encounter killings in AP. Kannabiran himself remarked :

"For forty years I have been fighting for this. I have visited every encounter site in Andhra Pradesh, made enquiries, held press conferences and meetings. So many people have been killed and I could do nothing. The least they can do is file an FIR so people can know that the police too can be tried as ordinary human beings. Every criminal trial is an education to society, and all I've been fighting for is a fair trial." (*Hindu*, Oct 9 2009)

In 1994 Kanna became the national president of PUCL. In 1997 he participated in the Committee of Concerned Citizens that pressed both the CPI(ML)–People's War and the State to enter into negotiations. The negotiations did take place and even though they did not lead to a beneficial outcome, it was an important example of civil society intervention in the undeclared civil war that the state was waging on the ML movement.

Another important legal struggle in which Kanna played a major role was also the only one in which he was a prosecutor—the prosecution of the industrialists and their henchmen who murdered Shankar Guha Niyogi, the trade union leader of the Chattisgarh Mukti Morcha. In trade union history this was perhaps one of the few or only times that an employer was convicted of murder of a trade union leader.

Among other things, he was part of the Concerned Citizens Committee that investigated the communal riots in Gujarat.

Kanna was not a political supporter of the ML (later Maoist) movement though he was in support of revolutionary social change in general. While he criticized excessive and

unnecessary killings by the Maoist movement, he also acknowledged the sacrifice of the activists to bring about social change. On the issue of violence by revolutionary groups, he argued that "If violence in society is perceived as a breach of the law, the law itself is equally violent and in fact has an even more debilitating effect because of its systematic and thorough ruthlessness backed by official sanction." ("The Wages of Impunity", Orient BlackSwan 2004).

Despite so many decades of being a practising lawyer, Kanna never lost sight of the progressive critique of the law. Right from his early days he used the law to provide space for radical political challenges to existing social and political structures, attempting to argue in ways that strengthened progressive interpretations and aspects of the Constitution. Later on, borrowing a phrase, he would term this the "Jurisprudence of Insurgence". This approach to law can be seen as early as his defense of CPI(ML) activists in the Parvatipuram and the Srikakulam Conspiracy cases. He writes: "In the Srikakulam and Parvatipuram conspiracy cases, where the offense was sedition, I argued that to organize a party to politically enforce what is contained in the Constitution chapter on directive principles of state policy, when the government has not performed these constitutional obligations, and to call for the overthrow of such a government, cannot amount to sedition." ("Wages of Impunity" Orient Black-Swan 2004). After over four decades of being a civil rights lawyer, a people's lawyer and a progressive force in the courts, K G Kannabiran is no more.

□□□

*[source : [www.sanhati.com](http://www.sanhati.com)]*