

Indian Supreme Court imposes sweeping ban on public debate on toxic warship

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18 February 2006

Last Monday, India's Supreme Court issued a sweeping ban on public debate and protests over plans to decommission the *Clemenceau*, a French aircraft carrier, at a demolition yard in Alang, in the west Indian state of Gujarat. Although French President Jacques Chirac, in response to a critical French court ruling, has now ordered the *Clemenceau* to return to France, the Indian court ban sets an ominous precedent.

Claiming that any public discussion of the *Clemenceau* issue constituted a challenge to its authority to render judgment on whether the ship, which is asbestos-laden, should be allowed to be decommissioned in Alang, India's highest court imposed a five-day ban on all protests and press commentary about the *Clemenceau* affair. The press ban was for all intents and purposes total, since the court proscribed articles expressing a "pro or against or a middle line" opinion as to whether the *Clemenceau* should be dismantled in India.

Supreme Court Justice Arijit Pasayat, half of a two-judge panel that was sitting in judgment on a public interest case brought by the Research Foundation for Science, declared: "We are shocked to find demonstrations are held and articles are written, and if any one is found to be doing so, he should prima facie be held for contempt of court and suitable action be taken against him."

Displaying contempt for the basic right of citizens and the press to debate public issues, Pasayat said press commentary on the fate of the *Clemenceau* was a "media trial" that was usurping the court's role as "umpire" in the matter. "Media trial is on in the matter," complained Pasayat, "despite the case being adjudicated here."

The plan to dismantle the *Clemenceau* in India had sparked protests by Greenpeace and environmental and

social justice groups in both India and France. They charged that the ship contains massive amounts of toxic asbestos and that were the Alang workers to dismantle it, they would be at grave risk, since India lacks any effective environmental or workplace health and safety regime.

By dismantling the ship in India, and thereby skirting French and European Union regulations governing the disposal of toxic wastes, the French government was expecting to save between 5 and 8 million Euros.

The Indian government, meanwhile, was eager to see the *Clemenceau* decommissioned in India, so as to court favour with France and maintain India's leading role in the ship-dismantling business. India's military and national-security establishment were particularly supportive because they are eager to procure French weapons and weapon systems and secure French support for India being recognised as a nuclear weapons power within the world nuclear-regulatory regime. Chirac is to make a presidential visit to India this Sunday and Monday (February 19 and 20), during which these issues will figure prominently.

The Supreme Court's gag order on the *Clemenceau* issue was clearly aimed at blocking public mobilisation against the ship's decommissioning in India and at preventing public exposure by various experts and advocates of the serious health and environmental issues involved and the appalling conditions under which the workers in Alang labour.

In an earlier decision that clearly demonstrated the court's sensitivity to pressure from the government and other establishment voices, the court found that a monitoring committee it had established in 1995 to ensure hazardous wastes were handled properly was "not competent" when it came to the question of the decommissioning of the *Clemenceau*. It decided instead

to seek the opinion of navy experts and retired defence ministry personnel nominated by the Indian Ministry of Defence. And on Friday, after the Clemenceau had been recalled, the court expressed alarm that “this sprawling business”—ship decommissioning—would “go to other countries.”

The gag order sets a precedent for the court to impose like bans on debate and protest over any other contentious issue—a ban backed by the threat of arrest and contempt of court proceedings. Such bans would serve, as in the Clemenceau case to intimidate and silence opponents of government and corporate actions, and further insulate the courts from popular opinion and pressure.

Trade unions, lawyers, and sections of the press have spoken out against the gag order.

The Centre of Indian Trade Unions (CITU), which is affiliated with the Communist Party of India-Marxist (CPI-M) and as such an ally of the current Congress-led United Progressive Alliance (UPA) government, said a ban on demonstrations, rallies and the publication of articles “pending” the outcome of a trial deprives people of their “right to protest against government policies.”

Expressing the concerns of many in legal circles, senior counsel Rajiv Dhawan told the Calcutta-based *Telegraph* this is “over extending the law of contempt,” while another advocate, Prashant Bhusan, said such gag orders would “spell the end of democracy.”

Noting that the gag order was not restricted to the parties before the court or to the legal issues, the *Hindu* said it had “far-reaching consequences” and “few precedents.” Even the *Indian Express*, a big business mouthpiece notorious for its right-wing views, was critical of the court ruling. In an editorial on February 15, the *Express* said that while the Supreme Court was “right in cautioning against a trial in or by the media,” its ruling “may put the lid on any debate” and “could also set a disturbing precedent.”

The Supreme Court’s arbitrary and anti-democratic gag order conforms with a pattern. Recent years have seen a spate of court rulings—many of them made or upheld by the Supreme Court—attacking elementary workers’ and democratic rights.

In the summer of 2003, when the Tamil Nadu state government sacked 200,000 striking state government employees, the Supreme Court ruled the government

was well within its rights and further proclaimed that state employees, and potentially other workers, have no inherent constitutional right to strike. In several states, the judiciary has issued rulings outlawing “bandh” actions—a general shutdown of business. And the Supreme Court has issued a series of rulings concerning management’s rights to discipline workers and the status of contract employees, that taken together go a long way to meeting business’s demand for greater “flexibility” in labour laws.

Behind this widening judicial assault on workers’ and democratic rights lies the ruling class’s recognition and fear of the massive opposition that exists to the mounting poverty, economic insecurity and social inequality that have been the outcome of 15 years of neo-liberal reform.



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