

INDIA: Getting Justice outside the Justice System: Interview with George Pulikuthiyil

(Ed. note: George Pulikuthiyil is the executive director of Jananeethi in the Indian state of Kerala. This interview was conducted by the editor of Human Rights SOLIDARITY, Bruce Van Voorhis.)

AHRC: Please describe the work of Jananeethi, and explain why the organisation was formed.

Pulikuthiyil: Jananeethi, based in Thrissur in the state of Kerala in India, was formed in 1992 as a legal aid centre for the most vulnerable and marginalised sections of society. Gradually it was developed as a people's initiative for human rights. Defending the rights of the defenceless has been the most important function of Jananeethi. The scope of Jananeethi as a human rights NGO [non-governmental organisation] has been extended to fighting against torture, monitoring human rights violations, promoting gender justice, campaigning against a variety of human rights abuses and issues - domestic violence, child labour, capital punishment and caste-based discrimination - providing human rights education, networking with like-minded groups, preventing suicides and, lastly, caring and supporting the victims of violence and those with HIV and AIDS.



George Pulikuthiyil
(Photo: Shin Gyonggu)

Jananeethi has taken to the courts cases of custodial death, torture, offences against women, domestic violence, environmental degradation, the violation of people's constitutional rights, corruption in public offices, labour disputes and offences against children and society's weaker sections for an appropriate remedy. Furthermore, Jananeethi has taken up hundreds of common causes as petitions and has settled them amicably through its conflict resolution strategies, one of which is litigation-free villages. Initiating a process to resolve disputes without going to court in the first village in the country, out of 575,000 villages in India, was the product of the hard labour and commitment of Jananeethi for freedom from litigation and the democratisation of justice.

AHRC: A litigation-free village appears to be a novel concept. What specifically though is a litigation-free village, and how does it work?

Pulikuthiyil: A litigation-free village means a community where disputes are resolved by the people themselves without letting the concerned parties go to a lawyer, a police station or a court of law. A committee of eminent and widely respected senior citizens of the community has been assigned by the District Legal Services Authority of Thrissur to attend to whatever dispute or complaints the people may have. The committee sits twice a week at a convenient place where people can bring

their complaints or petitions. The committee will study the matter, will visit the site if required, will negotiate with the concerned parties and will propose solutions. In a majority of cases, the solutions are accepted by both parties. If any dispute cannot be resolved by the committee, it is referred to Jananeethi, which will thoroughly assess the matter in light of the respective law and will propose legal remedies. If anyone is still not happy with the decisions made after this process, the dispute is forwarded to the District Legal Services Authority where a final decision will be made by the judge, which will be binding on the two parties. Presently, no one has had to go to court as we were able to arrive at amicable solutions in the petitions filed before the committee.

What is important here is a change in the attitude and aptitude of the people. People by nature are litigants. We build up trust in the mind of the people, however; and because of our constant contact and interaction with the person or family, we create in them an attitude to seek peaceful solutions rather than court verdicts. There is a paradigm shift in the culture of resolving conflicts. This is the qualitative change we intend to introduce in society.

AHRC: What types of cases are resolved in a litigation-free community?

Pulikuthiyil: Except major criminal cases that are non-compoundable in nature, almost all cases are settled by the parties in the presence of the Harmony Committee. Even in the case of cognisable offences, amicable settlements are possible through the intervention of the respective court. It very much depends on the nature of the offence involved and the approach of the court in the matter. Marriage disputes, all civil matters, consumer issues, administrative matters and petty criminal offences are the common issues that are effectively dealt with by the committee.

AHRC: Why did you create such a community?

Pulikuthiyil: The idea originated from a personal conviction that the existing judicial system and its procedures are not an answer to the problems in society. There was a desperate need for an alternative. In olden times in which there were no police, courts and lawyers, people used to have quarrels and fight, but they used to solve such discords amicably through peaceful negotiations and mediations. There were elders in society who were part of the community, and they mediated between the parties involved. There was neither bribery nor favouritism. There were no expenses involved and no delay. If people are capable of committing wrongs, they are also capable of resolving such mistakes. They should use their potential creatively and for the good of the entire community. The whole process is participatory, ensuring the involvement and cooperation of the parties concerned. There was more self-reliance, more civic sense and more concern for the welfare of society in those days. We wanted to reintroduce those "golden" systems of the olden times in society today.

AHRC: What has been the reaction of the people who are living in a litigation-free village?

Pulikuthiyil: People of the village today have a feeling that there is a remedy for any problem at hand. It is reachable. They can approach the committee and explain their situation. Their participation is also taken into account in resolving the problem. It is in consultation with them. Their views are adequately considered. They need not spend their hard-earned livelihood for the case. They need not wait for generations to resolve their problems.

There is a conspicuous change in the matter of domestic violence, for instance. Women have begun feeling better. Their male counterparts have stopped torturing them. Women now have strong feelings that there is somebody who is ready to listen to them and attend to their grievances.

Even police officers direct people to the committee for easy and effective measures to address people's problems.

However, everything is not all rosy and encouraging. Local political leaders who were until recently functioning like middlemen in the midst of people's disputes and disharmony and who made a living from such "services" and gained political mileage became "jobless," and their income stopped. Moreover, some communally charged elements in society who want to vitiate the community's social tranquillity by sowing seeds of communal hatred have also consciously orchestrated attempts to prove the experiment a failure. In addition, certain political aspirants of a political group caused serious damage to the cause by trying to hijack the whole programme for their own political gain.

AHRC: Have there been requests by people in other villages to create a litigation-free community in their area? If so, have you been able to respond to their requests?

Pulikuthiyil: There have been many requests. However, we could not respond positively in the beginning. There were financial reasons. Unless some agency comes forward to sponsor the programme, Jananeethi on its own cannot financially support it as the entire process involves many full-time and part-time personnel. Furthermore, those requests came from distant places, and it was practically impossible to operate in these areas from the Jananeethi office in Thrissur. Moreover, our first experiment had affected the normal functioning of Jananeethi as the entire staff was delegated to the experiment. Jananeethi's staff strength is very limited. The expansion of activities would entail a hike in the total expenses of the organisation which we were not able to meet.

However, the State Legal Services Authority, to which Jananeethi is accredited, was highly impressed with the success of the experiment. Hence, it has given directions to all 14 district legal services authorities in Kerala to initiate appropriate steps to have at least two villages declared litigation-free in every district in a year. It has also directed the district authorities to seek the guidance and cooperation of Jananeethi in case there is a need. Jananeethi has been asked to visit a few districts to advise them about how to proceed so far. Thus, in various parts of Kerala, a few more villages have been declared litigation-free. Jananeethi on its own has applied to many agencies for support to further expand the programme.

AHRC: Unfortunately, it is difficult for everyone to benefit from litigation-free communities. How then can the official justice system be reformed so that all people in India can enjoy a justice system that delivers justice in a timely manner? Is there a way to mobilise civil society to bring about this change?

Pulikuthiyil: There is a growing awareness among everyone that the existing system is rotten and useless. Everybody is conscious of the problem. Who will initiate the remedies though?

The administration of justice is intrinsically the basis of the civilisation of the community in question. Therefore, it rests in the making of a civil society that is sensitive to such issues. Basically, it is part of political education and social engineering. In a country like India with 1.2 billion people - one-sixth of the total population of the world - it is not an easy job. It requires committed civil servants and social movers.

Indian society, by and large, is quite fed up with the prevailing system, however. Any serious attempt to clean the room will adequately be appreciated. There are also attempts elsewhere like

the one initiated by Jananeethi. All such movements have their emulating effects on others. I have no easy solutions for the change we wish to achieve, yet I believe that change is taking place at a slow pace. We need more people with commitment, resources and democratic and secular values to devote themselves to the problem.

AHRC: Are there any other questions that I've failed to ask that you feel are important?

Pulikuthiyil: Litigation-free status does not indicate a perfect society. It does not mean that society is free from crime. Many people do not pursue litigation only because it is a hazardous process, expensive, painstaking and ineffective. Hence, simply because there is no litigation pending, it does not mean the society is ideal. Therefore, Jananeethi has gone a step beyond. Now we are concentrating on a "crime-free society." In 2004, Jananeethi has taken up a project with the financial aid of the American Centre in New Delhi to experiment with the coveted ideal - a crime-free society - in Ward 12 of Thrissur.

"Crime-free" sounds utopian. Yes, indeed, but we at Jananeethi strongly believe it is possible because we believe in the inherent goodness of the people. There are 1,800 families in Ward 12. It is an abysmally crime-prone area for many reasons. There is poverty; unemployment; homelessness; landless labourers; an acute water scarcity; non-access to roads, electricity and sanitation; communal divisions; political polarisation; illicit liquor; broken families; administrative corruption; communicable diseases; chronic health hazards; and many other problems that have contributed to the suffering of the people in the village. Crime is the byproduct of these maladies. If we are able to address these socio-economic and cultural concerns, we are confident that we'll be able to control criminal offences and will gradually be able to do away with criminal activities in the village. Freedom from crime means freedom from many things - litigation, hatred, unemployment, communicable diseases, illiteracy, poverty, drug abuse, vandalism, domestic violence, sexual offences, gender-based discrimination, mutual mistrust, child labour, desertion of the elderly, environmental degradation and pollution, mental distress and suicide and the victimisation of those infected or affected by HIV and AIDS, etc.

Freedom from crime means freedom from fear and want. It means total development. It means the welfare of the people and the community. It means social tranquillity and cooperation. It means culture and civilisation. It is the highest mode of life one can think of. In such a society, human rights are respected and practised. Any violation of a human right is a crime. Hence, freedom from crime means the reign of human rights that indicates total progress and social harmony. Where there is this order and discipline, we call that society governed by the rule of law. Jesus called this society the Kingdom of God, Mahatma Gandhi called it Ramarajya, Plato and Marx called it the Welfare State, and we, in legal terms, call it the Egalitarian Society. The mystics never differ though. They only speak the same thing in different tongues.

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