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Kuldip Nayar Memorial Meeting, 25 Sept 2018 Constitution Club, New Delhi



Dr. Anand Kumar, who presided over the meeting, paying his tributes.

**Mr. N.D. Pancholi, General Secretary, CFD and
National Vice-President, PUCL, on the dais on behalf of the organisers.**



Swami Agnivesh paying his tributes

THE RADICAL HUMANIST

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The Crusade for Democratic Freedoms Will Continue

Mahi Pal Singh

We are passing through very difficult times. The very foundation of Democracy is being shaken as never before. When internal Emergency was imposed in the country in 1975 by the then Prime Minister of the country, Mrs. Indira Gandhi, fundamental rights were suspended including the right to life, as opined by the Supreme Court of India in a majority judgement, and censorship was imposed on press and media, the danger of dictatorship loomed large. Democratic institutions were being subverted in a systematic manner. All that was being done to perpetuate her personal rule for a very long time, to be followed later by the rule of Sanjay Gandhi, her infamous son, who had assumed extra-constitutional authority second only to the Prime Minister with her obvious connivance. But thanks to her error of judgement that she declared general elections; and also to the wisdom of the people of the country, who handed over the worst electoral defeat to her and threw away the yoke of her corrupt and atrocious misrule and saved democracy.

Today under the National Democratic Alliance (NDA) government led by the Bharatiya Janata Party's Narendra Modi not only the democratic institutions but also educational, cultural and social institutions are being systematically subverted and destroyed. Secular values are being destroyed and minorities are not only being neglected but also attacked and killed through mob lynching in the name of cow-protection by goons of the Hindutva brigade. Communalism is being promoted and used for electoral benefits. Civil society activists who spoke for the rights of the marginalised people are being incarcerated as Maoists – now called 'urban Maoists'. Educational and cultural institutions

are being filled with Rashtriya Swayamsevak Sangh (RSS) followers. In place of promoting scientific and rational thinking, subjects like astrology are being force-introduced in universities. Rationalist thinkers are being killed, again by elements close to the RSS and the BJP. Those speaking against anti-people policies of the government are labelled as anti-national. Media houses, both print and electronics, have been 'managed' and either pay obeisance to the party in power on their own or are kept under control through threats or intimidatory tactics. It is ensured by government machinery that journalists who dare to criticise Narendra Modi and the policies of his government do not remain in their position. There is press censorship without declaring so. In 1975 it was dictatorial rule under declared Emergency; today it is Fascist rule under undeclared emergency. The nation as a whole is threatened as never before, not even during the Emergency regime.

In such a scenario, there is greater need to remember and cherish democratic values, or to be precise, radical humanistic values, as propounded by M.N. Roy, perhaps the greatest intellectual of the country in the last century and certainly the greatest democratic thinker for whom individual freedom – to think, decide and act – in matters political and religious alike, was of paramount importance. For him individual human being is the measure of all political, economic and social thinking and activity. He believed in self-sustained morality in political workers and parties alike. He wanted democracy to take root at the grass-root level for which he propounded the idea of People's Committees at the village and area levels who would decide who should represent them in government so that concentration of political

power would not take place in a person or group of persons leading a political party. He was of the opinion that it was only scientific and rational thinking which could free individuals of outdated religious dogmas and social evils like caste.

Even before the imposition of Emergency in 1975, when all democratic institutions were under threat Jayaprakash Narayan and V.M. Tarkunde formed Citizens for Democracy (CFD) for fighting against those trends and during the Emergency regime when civil liberties actually came under severe attack, they along with many Radical Humanists formed the People's Union for Civil Liberties and Democratic Freedoms (PUCLDR) with the support of Gandhians and others and launched a crusade for the protection of civil liberties and democratic freedoms. At that time when press was muzzled, The Radical Humanist continued to raise its voice against the dictatorial regime.

Roy knew that without spread of political education, all this would not be possible. So he advised his followers to be workers and messengers of these values. The Radical Humanist was also started to reflect on the people's difficulties and promote and spread these democratic values of freedom, liberty, scientific and rational thinking among people.

Since 1970 when The Radical Humanist was started as a monthly magazine, it has been spreading these values among people. Contributions of great writers, thinkers and activists, besides M.N. Roy's, like Justice V.M. Tarkunde, Justice R.A. Jahagirdar, Justice Rajindar Sachar, Prof. Sibnarayan Ray, Pandit

Premnath Bazaz, M.A. Rane, R.L. Nigam, M.K. Haldar, Jayaprakash Narayan, Nirmal Mukherjee, Swaraj Sen Gupta, Dr. R.M. Pal, Surendra Mohan, Kuldip Nayar, N.D. Pancholi and many others have been published in the magazine. Articles published in the journal have been inspiring generations of freedom loving people to continue their struggle for the protection of democratic freedoms. We have seen in the past since 1974-75 that the ruling parties, by their very nature, tend to be dictatorial. When Mrs. Gandhi came back to power in 1980 after a three year break between 1977 and 1980, civil liberties again came under threat and the People's Union for Civil Liberties (PUCL) had to be revived by Tarkunde and others. The crusade for the protection of our democratic rights is a continuous process. Even if the present regime changes, the challenges posed by the communal and divisive forces will remain. They may even intensify, requiring greater vigilance and a stronger movement against them. Eternal vigilance, it is said, is the price we have to pay for protecting our civil liberties and democratic freedoms. As a harbinger of political and social change The Radical Humanist has been fighting not only against authoritarianism and moral-degradation in politics but also against caste and communalism. The articles published in this journal will keep the flame of our humanistic desire to protect and promote the values of democratic freedoms, social cohesion and humanism alight, and strengthen the Radical Humanist movement in the country and elsewhere.

Swami Vivekananda on sectarianism, bigotry and fanaticism

“Sectarianism, bigotry and its horrible descendant, fanaticism, have long possessed this beautiful Earth. They have filled the earth with violence, drenched it often and often with human blood, destroyed civilization, and sent whole nations to despair.”

Swami Vivekananda, Chicago, Sept 11, 1893.

The Practice of Fascism

M. N. Roy

(M.N. Roy wrote a book on the philosophy and practice of Fascism during his jail period. Prof. Sib Narayan Ray has included an abridged version of the book in the Selected Works of M.N. Roy, Vol. IV, OUP. This version is reproduced below. This piece is especially important today in view of fascism raising its ugly head in our country for which all political parties including the Congress are responsible. The article seems to describe not only the events of Nazi Germany, but also of India under the rule of Narendra Modi led BJP government. After all, the character and practice of Fascism remains the same whether it was Nazi Germany some 85 years ago or India of 2018. - Ed. RH)

In August 1934, a Manifesto was issued to the world over the signatures of a large number of scientists, writers, and leaders in other branches of intellectual activity, calling for an international congress to combat the cultural menace of Fascism. The following are extracts from that historical document.

We know that in the Fascist countries many highly respected scholars have been driven from the scene of their activities, or have voluntarily quit their home, because they refused to sacrifice their learning to the violent demands of the totalitarian State. Specially the events in Germany have evoked our most profound concern for the perpetuation of the freedom of science. In that country, the exact sciences have been openly degraded to jobbing for war industries. Only such investigations are favoured, as are likely to bring about economic and technical predominance over the world. All branches of physics which cannot be made to serve political and economic imperialism are therefore hampered and restricted. Studies which have contributed essentially to the broadening of our concepts of the physical universe are thrust aside openly as vain and fruitless intellectualism. Verified scientific knowledge concerning heredity and race is cast aside. In its place, appear new doctrines, unverified by honest research, for the annihilation

of hundreds of thousands of human existences. In accordance with the National Socialist belief that it is senseless to help the weak at the expense of the biologically strong social hygiene in shorn of all justification. Colleges are forced to establish 'chairs of natural healing'. The gates are opened to superstition and deceit. Regardless of historical truth, pre-historical and ancient times are so presented as to support the thesis of superiority of the nation concerned and the inferiority of all others. Very often, purposeful mysticism is substituted for an awkward historical truth. The suppression of free research and the violation of truth are most clearly revealed in the new jurisprudence which is designed to give a theoretical basis for the cruel and arbitrary practices founded on legal conceptions of the Middle Ages. Teaching and studying are enslaved along with pure science. Colleges suffer from intellectual terror. Through the misuse and contempt for free research, there is an imminent danger that the whole structure of scientific knowledge will be destroyed, and from the fragments a new series of pseudo-science will be erected, which will be harmful for the progress of mankind.

Within two months after Hitler's accession to power, more than two hundred eminent men of learning were driven from their high academic positions. The vandalism was committed on the

pretext that those men were Jews. Many of them were Jews, but their real crime was that they were freethinkers, some were Socialist, most of them Liberals, and others guilty ‘merely of the impartiality and integrity of mind which in Nazi eyes are the greatest of all crimes’. (The Manchester Guardian, mid May 1933). Those illustrious victims of Fascist barbarism counted among themselves such men of world-historical importance as Albert Einstein, Professor Bernhard Zondek, famous gynaecologist of Berlin, the greatest leading chemists, Richard Willstaetter and Fritz Haber, the famous Professor of Psychology in the University of Heidelberg. Otto Meyerhof, the economist of international fame Moritz Bonn, and a whole host of others of equal eminence in different branches of science. Einstein was declared as the ‘enemy No. 1 of awakened Germany’. This fact alone is the most damaging testimony for condemning Fascism at the bar of humanity as the mad enemy of civilization and culture. The testimony becomes simply overwhelming when it is known that all the leading light of the scientific, literary, and artistic life of contemporary Germany have been driven out of the Nazi Third Reich.

The Nazis were not content with depriving the seats of learning in Germany of the brilliant lights who had made them infamous. They wanted to inflict their vandalism upon the rest of the world. Upon his leaving Germany Einstein was invited by the College de France to honour it by accepting a chair. Thereupon the Nazi press clamorously demanded that in future the dismissed academicians should not be allowed to leave Germany, lest the ‘enemies of Germany insulted her by honouring them’.

The burning of the Library of Alexandria remains recorded as one of the most revolting events of history. The Fascists, at last, have outshone even that act of incendiarism. They made a bonfire of over twenty thousand books, written by great authors in all branches of human

knowledge. The Library of Alexandria was burned in the age of barbarism, which followed the collapse of antique civilization. But the deliberate destruction of a vast collection of works of science and literature by the Nazis took place in the twentieth century, in the heart of one of the centres of modern civilization. It was not a random act committed by fanatics in the heat of passion. It was a deliberate attempt to destroy the accumulated result of scientific research, cultural progress, and artistic achievements which did not fit in with the savage cult of Fascism. A long list was made of all such ‘objectionable’ works, and they were collected by force throughout the country and thrown to the flames in a number of places.

The world was horrified by that organized destruction of scientific and literary treasures. ‘All the standards that civilization has created are being uprooted [The Nation, New York, 5 July 1933.]’ Commenting on that incredible act of vandalism, a famous German publicist, domiciled in America, wrote:

‘The burning of the works of Thomas Mann, for example, damns them (Nazis) more deeply than anything else, since it marks their repudiation of their own highest embodiment of human civilisation and a frank plunge into degenerate savagery. It is to be noted that an attack of unrivalled strength and ferocity is being launched against the life of the mind, against all intellectual values, against all disinterestedness of thought, of research, of aspiration, against the slowly won rights of human spirit, against every principle and every truth and every freedom that men have lived for and often died for, since the Renaissance, against all that had constituted for so long the very character of humanity itself. [Ludwig Lewisohn in *The Nation*, New York, 21 June 1933.]

The Nazis are proud of their contempt for ‘intellectualism’. Indeed, glorification of ignorance is a part of their cult. “The young Nazis today make a virtue of being ignorant and

despising the learning and attainments which generations of German culture slowly achieved (Hamilton Fish Armstrong in the Foreign Affairs, July 1933). This is not anti-Nazi propaganda. The Nazi Minister of Education, Rust, declared that 'National Socialism is not unscientific, but only hostile to theories'. One could only smile to hear of science without theory, and wonder what that could be. The Minister, however, does not leave the world in doubt. In their cultural conviction, the Fascists are nothing if they are not brutally frank. The Minister gave a definition of science without theory, when he announced that 'philosophy and science must be reorientated in the spirit of the Storm-troopers'. A description of that spirit will be best given in official Nazi jargon:

So stand the Storm Batallions
Ready for racial fight;
Only when Jews lie bleeding
Can we be really free.

(National Anthem)

They must try to make the world understand why Germany on 30 January 1933 has struck out the word pacifism from its vocabulary (Von Papen, as Vice-Chancellor in Hitler's first Government). On that day Hitler became the Chancellor of Germany.

'For the living, it is a holy duty to fulfil the mission for which Germans gave their lives in the war. They must be ready to redeem with blood a pledge written in blood (Goering).' The man who best represents the spirit of the storm troopers laid down the function of the women in a community inculcated with that spirit. 'The women's place is in the home; her duty, the recreation of the tired warrior.' And the Nazi young womanhood, inspired with the spirit of the storm troopers, responded. 'There is no higher or finer privilege for a woman than that of sending her children to war (Declaration of the Women's Order of the Red Swastika)'. Finally there is the oracle, the Minister of

National Enlightenment and Propaganda, Goebbels: "The woman's task is to be beautiful and to bring children into the world. The female bird decorates herself for the male and hatches the eggs for him. In return the male looks after the food or else he stands on guard and scares the enemy away." The new spirit of 'awakened Germany' knows no difference between man and lower animals. The same instinct that guides the latter, holds good also for the former. That is Nazi reorientation of philosophy and science.

The fanatical race hatred of the Fascists, besides being one more token of mediaeval barbarism, is a convenient camouflage. Their diatribes against the legendary Jewish international finance serve as a smokescreen to hide their subservience to the real financial and industrial power. It was not in the economic, but in the scientific and cultural fields, that the Jews occupied prominent positions. In the former, they were no more powerful than traders, often being the smaller fry. The great industrial combines and potential banking concerns which, controlling the economic, life of Germany, also dictate her political destiny, are owned and directed by Christians. Jewish intellectuals (some of them standing in the forefront of the world of science and art), Socialists and traders (mostly petty shopkeepers), are sacrificed on the altar of artificially fomented race hatred as the bait to catch the guileless petty bourgeois victims of Capitalism to become the abject instrument for furthering its rapacious designs. The ferocious anti-Semitism of the Nazis has been explained as follows by an authority of modern history:

In the nineteenth century, social prejudice and practice virtually excluded Jews from higher officers in the army and the civil service. This is one reason why Jews devoted themselves so largely to the practice of law and medicine, to literature and similar professions, thereby arousing the jealousy and envy of the National Socialists who covet these positions for

themselves. (Sidney Fay, Professor of History, Harvard University, 'Nazi Treatment of the Jews', in *Current History*, New York, June 1933).

With still another fiction, the Nazis justify their anti-Semitism. Socialism and Communism are condemned as the product of the conspiracy of international Jewry. Marxism is characterized as the manifestation of Jewish greed, harmful for the interest of the German people and incompatible with the cultural genius of the Teutonic race. With this argument, anti-Semitism is made a part of the crusade against the revolutionary working class movement. But the fact is that the German working class almost completely belonged to the 'Teutonic' race – more completely than any other section of the German people. There were Jews among the intellectual leaders of the movement. But the rank and file is purely Christian.

Even today, more than fifty thousand men and women are held in prison or detention camps in Nazi Germany. Most probably not more than one percent of these victims of Fascist terror belong to the outlawed Jewish race. But ninety percent of them belong to the working class. The motive behind the mad race hatred is neither 'sanctific' nor political, but purely economic. Every Jew ousted from his position either as a professor, or a professional, or a trader made room for a Nazi aspirant who could not be successful by his own merit. The result of anti-Semitism has indeed been beneficial for some Aryan traders. But for the academic and cultural life of Germany it has been a marked degeneration. The chairs in the famous German seats of learning, vacated by academicians of international fame, have been filled by mediocrities. The repulsive cult of hatred, which has thus ruined the intellectual life of Germany, is given a pseudo-scientific foundation by prostituting the science of anthropology. The foundation of the doctrine of the purity and quality of blood, which has been raised to the dignity of 'science' in the spirit of the storm

trooper, was laid by the frustrated sign-painter who has made a hell out of Germany.

The black haired Jewish youth lies for hours in ambush, a satanic joy in his face, for the unsuspecting girl whom he pollutes with his blood and steals from her own race. By every means, he seeks to wreck the racial bases of the nation he intends to subdue. Just as individually he deliberately befouls women and girls, so he never shrinks from breaking the barriers race has erected against foreign elements. It was, and is, the Jew who brought Negroes to the Rhine, brought them with the same aim and with deliberate intent to destroy the white race he hat4es, by persistent bastardization, to hurl it from the cultural and political heights it has attained, and to ascent to them as its masters. He deliberately seeks to lower the race level by steady corruption of the individual ... [Hitler, *Mein Kampf*].

The outward strength having been acquired through monstrous rearming by ruining the German masses economically, the Nazis are on the war path for shouldering their share of the 'white man's burden'. The other day, Hitler announced that 'it is absolutely essential for Germany to make herself strong so that she can successfully demand the return other colonies'. And Goering, with his characteristic brutal frankness, told the world how the ambition will be realized: 'We must continue our demand for colonies and must make the demand louder and louder until the world is unable to resist it. The main truth is that Germany has now a new and strong army, and she has got rid of her inferiority complex...' Supermen are in power in Germany. They are convinced of their racial superiority, and they are determined to regain the place in the sun. That is the practical expression of the mystic cult of race and blood.

From its very birth, Fascism, as an international phenomenon, was avowedly imperialist. Already in 1919, Mussolini wrote: Imperialism is the eternal and immutable law of life. Now he is all

ready with his plan of imperialist expansion. Shortly before the invasion of Abyssinia, he announced the plan.

Italy has no future in the West and the North. Her future lies to the East and to South – in Asia and Africa. The vast resources of Asia must be valorised, and Africa must be brought within the orbit of civilization. We demand that nations, which have already arrived in Africa, do no block at every Italian expansion.

The Fascists do not make a secret about the way to their expansionist ambition. Their cry is: 'A war for space and employment.' Colonies must be conquered in war which, incidentally, will solve the problem of unemployment at home by consuming the masses of unemployables as cannon-fodder. In this period of decay, Capitalism cannot give employment to an increasing section of the working class. No relief can be given to the permanently unemployed, because of the falling rate of profit. Therefore, the solution of the problem of unemployment, born of the decay of Capitalism, is to be found in the abolition of the decayed system in favour of an economy free of internal contradictions. But the historical role of Fascism is to defend the outworn system, which has become antagonistic to the general welfare of the community. Therefore, Fascism seeks the solution of the problem of unemployment in war. It has been correctly said that Fascism means war. This characterization is borne out by the following famous declarations:

Fascism issued from the war, and in war it must find its outlet. Our country cannot advance except through a great war. [Mario Carli.]

Three cheers for die war! May I be permitted to raise this cry. Three cheers for Italy's war, noble and beautiful above all! Three cheers also for war in general! [Popolo d'Italia].

This is an extract from an article by Mussolini written in the very beginning of the Fascist movement. Two years later, still not yet in power, he wrote in the same paper, the central organ

of his party: 'Peace is absurd, or rather, it is a pause in war.' In 1926, speaking in the Chamber of Deputies, he declared 'the Italian nation to be in a permanent state of war'. The next year, he graphically described the ideal of Fascism:

We must be ready at a moment's notice to mobilize five million men and be able to arm them; we must strengthen our navy and also our aviation, in which I believe more and more, and which must be so numerous and so powerful that the roar of its motors will drown every other noise on die peninsula, and the surface of its wings hide the sun from our land.

To fulfil these conditions for the realization of Fascist ambition, the Italian masses have been economically ruined. The echo of their suffering and the voice of their protest have been ruthlessly suppressed so that nothing but the beating of war-drums can be heard on the peninsula of Italy.

Before the Abyssinian war, the Italian government had incurred an indebtedness amounting to the incredible figure of hundred and fifty thousand million liras. It is estimated to have increased at least by fifty per cent since then. Owing to the inability of the financially bankrupt State to make the payments necessary for balancing international trade, imports have been progressively restricted. And in the limited quote of import, preference was given to articles necessary for the preparation of war. The result has been continuous rise of the prices of foodstuff and other articles for consumption. On the other hand, salaries and wages have been continuously falling. With rising prices, falling wages, and decreasing purchasing power of the lira, the standard of living of the entire people, except a thin upper stratum, is being forced further and further down.

In Germany, the Fascists not only follow the footsteps of their fore-runners in Italy, but improve upon them. While preparing for the war of conquest of the 'weak and the backward' races, they have committed unspeakable

cruelties for exterminating the enemy at home. Not only the working class, but all progressive elements – Liberals, Pacifists, Humanitarians, true Christians – are included under the category of the enemy to be exterminated in order to make National Socialism triumphant. The numerous prisons and detention camps, where many thousands of these enemies are held, are the scene of mediaeval torture perpetrated to extract confessions from the helpless victims and to make them declare allegiance to the Nazi regime. This method of exterminating internal enemies was defended by the Nazis in the International Penological Congress held in Berlin in autumn 1935. The German Delegation, headed by Goebbels, advocated the doctrine of 'severity in prison' as against the 'treatment of humanity and education' urged by the delegates from other countries. Goebbels brazenly maintained that the torture of prisoners was 'necessary and useful'. The shameless pronouncement of the Nazis so horrified the foreign delegates that a famous French jurist exclaimed: 'The idea of revenge must disappear from every utterance of justice. Otherwise, we return to barbarism.' Consequently, a large number of foreign delegates left the Congress, having declared that the gulf between the

concepts of penology prevailing in their country and those in Germany was so vast that there could be no basis for even a discussion of the principles propounded by the German delegation which included the Nazi Minister of Justice.

I have been in a German labour camp: I have been in a German prison. I have seen terrible things. Keep out of that hell. Germany is hell, because one loses hope there. I am a Christian. I cannot talk to those people. Out I can talk to the Communists, because, for one thing, they have sense, and, for another, they care about the welfare of humanity.

This declaration was made by a Catholic priest in a working class meeting in the Saar Valley on the eve of the plebiscite, the result of which was hailed as another popular support for the Nazis. It depicts the true state of affairs brought about by the practice of Fascism. The experience of that practice compelled a Catholic priest, no friend of Bolshevism, to recognize the defender of the welfare of humanity precisely in that movement to destroy which is the declared mission of Fascism. That evidence alone should be enough to condemn it as a scourge.

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Supreme Court Verdict on Aadhaar :

Aadhaar verdict: Lone voice of dissent but a powerful one

Dhananyay Mahapatra

NEW DELHI: Penning a lone yet powerful dissent on Wednesday, Justice D.Y. Chandrachud minced no words in terming Aadhaar a constitutional fraud illegally passed in Parliament as a money bill and said it was a sure tool empowering authorities to create 360-degree profiles of citizens and converting India into a surveillance state.

Faulting passage of the Aadhaar legislation, Justice Chandrachud said the bill had no characteristics to warrant the tag of money bill and apparent political expediency led to its classification as such, ostensibly to bypass Rajya Sabha where the ruling dispensation did not have the numbers.

Referring to Rajya Sabha's integral role in law making and deriding bypassing of the Upper House, Justice Chandrachud said, "this debasement of a democratic institution cannot be allowed to pass. Institutions are crucial to democracy. Debasing them can only cause a peril to democratic structures. The Act thus fails to qualify as a money bill under Article 110 of the Constitution. Since the Act was passed as a money bill, even though it does not qualify to be so, the passage of the Act is an illegality. The Aadhaar Act is in violation of Article 110 and therefore is liable to be declared unconstitutional."

He said the Aadhaar programme involved application of biometric technology which used an individual's biometric data as the basis of authentication or identification and was, therefore, intimately connected to the individual. "Once a biometric system is compromised, it is compromised forever. Therefore, it is imperative that concerns about protecting privacy must be

addressed while developing a biometric system," he said.

"On a detailed analysis of the Aadhaar project prior to enactment of Aadhaar Act as well as the Aadhaar Act and accompanying regulations, I conclude that the right to privacy is violated," he added.

"The Aadhaar project has failed to account for and remedy the flaws in its framework and design which has led to serious instances of exclusion of eligible beneficiaries. Dignity and the rights of individuals cannot be made to depend on algorithms or probabilities. Constitutional guarantees cannot be subject of the vicissitudes of technology. Denial of benefits arising out of any of any social security scheme which promotes socio-economic rights of citizens is violative of human dignity and impermissible under our constitutional scheme," Justice Chandrachud said. He added, "Allowing private entities to use Aadhaar numbers under Section 57 (struck down by the majority judgment), will lead to commercial exploitation of personal data of individuals without consent and could also lead to individual profiling."

Faulting the mandatory approach of the legislation under Section 7, the lone dissenter said, "The state has failed to demonstrate that a less intrusive measure other than biometric authentication would not subserve its purpose. When Aadhaar is seeded into every database, it becomes a bridge across discreet data silos, which allows anyone with access to this information to re-construct a profile of an individual's life. This is contrary to the right to privacy."

Courtesy TNN, Sep 27, 2018 

An assault on the right to privacy

The recent arrests and searches show a gross violation of a fundamental right

Privacy was declared as a fundamental right by the Supreme Court in August 2017. Yet, a year later, on August 28, we were witness to searches and arrests that have forced the court to remind the government that “dissent is the safety valve of democracy.”

The raid

This piece focuses on the specific derogations of the right to privacy in the case of the search and seizure operation at Professor K. Satyanarayana's campus home in the English and Foreign Languages University in Hyderabad. At 8.30 a.m., on August 28, around 20 police personnel from Maharashtra and Telangana knocked on Mr. Satyanarayana's door with what they claimed was a search warrant in Marathi, a language that he neither speaks nor understands. He was not informed of the charges against him. The police forced themselves into his house and occupied it for the next eight hours, questioning him and his wife Pavana on their dress, personal beliefs and marriage.

They searched the couple's bedroom and opened letters that Mr. Satyanarayana and Ms. Pavana had written to each other — the Telangana police read them aloud and translated them for the Maharashtra police personnel. They questioned Mr. Satyanarayana on his caste identity and Ms. Pavana on her marriage to a Dalit, insisting on examining and commenting on the couple's marriage certificate. They commented on the absence of 'signs' of marriage on her (sindoor and jewellery). They insisted that Mr. Satyanarayana keep the washroom door open and change his clothes in their presence. They barred entry to all and refused to permit the couple to step out of the house. One day

before this, the couple's landline stopped working and their mobile phones had interrupted reception. The police confiscated all the Professor's research and teaching materials and his computers, including the one his seven-year-old daughter Tara used, and family photographs. Although Mr. Satyanarayana requested the police to complete the search before his daughter returned from school, to protect her from the trauma of the search, they refused to comply. What Mr. Satyanarayana lost that day is incalculable. It was a daylight heist of his professional assets put together over two and a half decades — e-books, papers, unpublished manuscripts, course materials and teaching resources. The last straw was when the police questioned him about his reading habits, his academic practice, and why he had books on Ambedkar, Mao and Marx.

When he finally got access to a Marathi translator around 5 p.m., Mr. Satyanarayana realised that the warrant had nothing to do with him. It only stated that his father-in-law, poet Varavara Rao, who another team of police personnel had already placed under arrest at his home, was residing with him. While they forcibly entered and searched Mr. Satyanarayana's home, the police knew they did not have the legal grounds or the authority to enter or/and monitor his movements.

This tells a story of the total and absolute infringement of Mr. Satyanarayana's right to privacy, dignity and personal integrity. My arguments here are immediately relevant to



**Kalpana
Kannabiran**

all those who were targeted on August 28, five of whom were arrested. Among those who had to go through humiliating searches were Anand Teltumbde, Stan Swamy, and Mr. Satyanarayana, all of whom are respected public intellectuals, Dalit pedagogues who have been instrumental in crafting radically new approaches to the understanding of anti-caste philosophies and have resisted the ongoing assault on higher education in enduring ways. I hope that in the context of these arrests and searches, the court will initiate a moral and material recuperation of dignity and materials in the difficult times we live in today, and uphold justice and the Constitution in the national interest.

Guaranteeing dignity

The core value that the judgment is built around is dignity as the right to life. How can dignity be understood? The Preamble of the Constitution states: “We, the people of India, having solemnly resolved... to secure to all its citizens... Fraternity assuring the dignity of the individual and the unity and integrity of the nation.” Justice A.M. Sapre says in the privacy judgment: “The expression ‘Dignity’ carried with it moral and spiritual imports. It also implied an obligation on the part of the Union to respect the personality of every citizen and create the conditions in which every citizen would be left free to find himself/herself and attain self-fulfilment... Dignity of the individual was, therefore, always considered the prime constituent of fraternity, which assures the dignity to every individual... Unity and integrity of the Nation cannot survive unless the dignity of every individual citizen is guaranteed.”

Justice Sapre then goes on to observe that the right to privacy is a “natural”, “inalienable” right which “inheres in every human being by birth”, without which a meaningful life with dignity is not possible. The duty of care to be exercised by the state in its treatment of

citizens is hinged on the right of citizens to be free of state intrusion and surveillance through domiciliary visits, and to be treated with care.

Justice J. Chel

ameswar affirmed that the “right to privacy consists of three facets i.e. repose, sanctuary and intimate decision” and includes “the freedom of certain groups to determine their appearance and apparel.” Justice R.F. Nariman observed that of the three aspects that are at the core of the fundamental right to privacy, “the privacy of choice, which protects an individual’s autonomy over fundamental personal choices”, is one. Because free speech is facing the biggest threat in India today, Justice S.A. Bobde’s words are apt: “Privacy must also mean the effective guarantee of a zone of internal freedom in which to think... the vigour and vitality of the various expressive freedoms guaranteed by the Constitution depends on the existence of a corresponding guarantee of cognitive freedom.”

Earlier cases reaffirmed by the Supreme Court in 2017 have held that the right to privacy includes the right to safeguard personal intimacies of the home, the family, marriage, child rearing and education. In the case of Mr. Satyanarayana then, there has been a gross violation of the sanctity of the home, marriage, expressive and cognitive freedoms, and bodily integrity through the assaultive gaze of the police even at private moments in daily routines. This violation was through surveillance, through deliberate public humiliation on the campus of an intellectual, a Dalit intellectual. What can be worse than this, and what reparations can the court order?

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Courtesy **The Hindu**,
September 06, 2018 

Why the UAPA must go

Jawahar Raja

On August 26, the Pune police arrested five persons, Arun Ferreira, Sudha Bharadwaj, Gautam Navlakha, Varavara Rao and Vernon Gonsalves, ostensibly in the course of an investigation into incidents at a public meeting on December 31, 2017.

The complaint that the police claimed to be acting on had named persons other than these five, and alleged that those others were guilty of ‘creating disharmony between communities’. None of the five persons arrested was present at the said public meeting. None of them was named in the complaint. All of them are public persons with long histories of publicly holding governments to account for their actions.

Significantly, by the time of the arrests, the police claimed that they were investigating not just the offence of ‘creating disharmony between communities’ but also ‘terrorism’ offences under the Unlawful Activities Prevention Act, 1967 (UAPA). This meant that if the five arrestees were taken into custody, they faced the possibility of long years in jail.

One of them, Arun Ferreira, had been picked up in 2007 by the Nagpur police, tortured, and then arrested under the UAPA. On that occasion, they had presented him to the media, with a black hood over his head, as the “Chief of Communications and Propaganda” of a Maoist party. Ferreira spent the next four-and-a-half years in jail. During that period, the police implicated him in 11 other cases. He was finally released only after he was acquitted in 10 of those cases and had got bail in the eleventh. Ferreira was lucky to be released within four-and-a-half years, as most others accused under the UAPA spend far longer in jail before being acquitted. And being acquitted after 10, 12

or 14 years in jail under the UAPA, like under the POTA and TADA before it, is the norm, not the exception. For instance, of the 76,036 people arrested under TADA, only 400 were convicted. The point of these extraordinary laws is not to punish the terrorist, the seditious, the goonda; it is to keep the whistleblower, the dissenter, the inconvenient in jail for as long as the trial lasts.

Much of the credit for getting Arun Ferreira released goes to advocate Surendra Gadling. After his release, Ferreira completed his degree in law and has since been defending those who, like him, have been falsely accused. This is just as well because when the police came for him this time around, they had already arrested Gadling.

The UAPA is unconstitutional for several reasons. Let me recount a few. First, it casts such a wide net of offences that it makes all kinds of legitimate, constitutionally protected activity an offence: the police can choose who they want to prosecute, when and for what reason. Second, it allows for persons to be held in custody for six months before they get to know the case against them. In comparison, persons accused of murder are entitled to bail if the police do not reveal the entirety of their case within three months.

Third, bail is so stringent as to be almost unavailable, this is an affront to the ‘dignity’ and the ‘presumption of innocence’ that our Constitution entitles all of us to. The bail provisions contained in the UAPA were also in the Prevention of Money Laundering Act, 2002. Those provisions were struck down by the Supreme Court in 2017. While doing so, the SC observed that the provisions were “drastic” and “turned on its head the presumption of innocence, which is

fundamental to a person accused of any offence". Fourth, it reverses the presumption of innocence and presumes guilt, a guarantee of wrongful imprisonment and false convictions.

Fifth, it suppresses the rights to Freedom of Speech and Freedom of Association guaranteed by Article 19 of the Constitution. Under the UAPA, an organisation is a terrorist organisation because the Centre says so. As early as 1952, the SC (in State of Madras versus V.G. Row) struck down provisions of a pre-Constitution law, the Criminal Law

Amendment Act, 1908, as a violation of the Constitution because that law did not provide for a full-fledged 'judicial scrutiny' of the government's decision to ban associations. Full-fledged judicial scrutiny of the government's decision does not exist in the UAPA.

The UAPA is an undemocratic law that allows governments to use the cover of 'terrorism' to stifle dissent. It is unconstitutional. It must go.

Courtesy **India Today**, September 7, 2018
The author is a Delhi-based advocate 

The Court Should Not Have to Bow Before the Unreasonableness of the UAPA

It was the ridiculousness of the charges, the doubtful nature of the evidence and the public character and reputations of the people arrested, that made it clear that the entire sequence of events is an attempt to stifle voices of dissent in a particularly diabolical manner. Thus, acquittal is the only just option.

Consider the following hypothetical scenario. A certain agent, private or state, wishes to put you in trouble. This agent creates an email account on the internet, using a fake name and writes you an email addressing you not by your own name but by some other, mentioning some plausible sounding names of other people, some events which you may have attended to give an air of authenticity and talking darkly about disturbances and terrorist activities, possibly suggesting that you are helping the writer of this email in procuring arms, money, or other such activities. Or perhaps writes a similar email to someone else, purporting to be you, from a fake email account, with similar content.

Going by the public arguments made by the Maharashtra police, or arguments made in court by the very senior lawyers that represent the government opinion, this fake email will be enough to negate your entire history, because

it's presence must be taken on face value as evidence that the addressee, or the purported writer, is involved in the activities hinted at. It does not matter that nobody knows who wrote the email, it is not clear who it is addressed to, there is no evidence that the person it is addressed to has done anything illegal at all. Surely an easier, and more Kafkaesque way, of falsely implicating anyone has not been invented!

On August 28, the Maharashtra police raided the houses of several activists and arrested five individuals from different parts of the country: Gautam Navlakha, Sudha Bharadwaj, Vernon Gonsalves, Arun Ferreira and Varavara Rao. In response, Romila Thapar and other prominent intellectuals filed a petition in the Supreme Court, praying for its intervention and the Court directed that the arrested people be placed under house arrest while it considered the matter and

Ashok Prasad

weighed the evidence. From press conferences held by the Maharashtra police, as well as what was argued in the Court, it appears that the case rests on a few emails, 13 of which were released by the police to the press, with much fanfare, before they had been placed before any court. In fact, one of these emails appears to have been leaked to a TV channel even before the arrests.

These events had been preceded several weeks previously by the announcement of another email purported to have been recovered from another leftwing activist, Rona Wilson, who had been arrested along with four others, the lawyer Surendra Gadling, the cultural activists Sudhir Dhawale and Mahesh Raut and the academic Shoma Sen. Weirdly, these arrests were made as part of a probe into a violent attack by an upper caste mob on a Dalit gathering on January 1 this year, and in a Kafkaesque twist, the police claimed that the violence had been instigated by these left-wing activists. This email became an instant media sensation because it seemed to suggest that the Maoists were cooking up a plot to assassinate the Prime Minister Narendra Modi.

These emails have been analysed at length in other places, and even security analysts have shown little doubt that they are doctored or fabricated. The email purporting to show evidence of a plot to assassinate the Prime Minister Narendra Modi was deconstructed at length by senior journalist, Prem Shankar Jha, a few months ago (and even the Shiv Sena made fun of it). The use of Marathi words by people who don't speak Marathi, the fact that some of the emails are supposed to be written by Prof Saibaba when he was actually in jail, are just two examples of the sloppiness of the fabrication, and have been pointed out before.

The emails appear to suggest a "sprawling improbable fantasy", that includes Christian missionaries, Congress leaders and the 76-year-old French Marxist philosopher, Etienne Balibar!

It was the ridiculousness of the charges, the doubtful nature of the evidence and the public character and reputations of the people arrested, that made it quite clear that the entire sequence of events is an attempt to stifle voices of dissent in a particularly diabolical manner. In fact, if the events so far revealed anything, they do suggest that there does exist a conspiracy to subvert the Constitution, emanating not from the jungles of Bastar, but far closer to the centres of power.

How plausible is the scenario I sketched in the first paragraph? Well, something like this just happened around the same time the Pune police embarked on its nationwide raids. The story concerns the claims of discovering high temperature superconductivity by scientists at the Indian Institute of Science at Bangalore, and the entire story, not yet settled, makes for fascinating reading in the twitter feed of Brian Skinner, a postdoctoral researcher at MIT. I will just quote the relevant sentences for my purpose here, that show that fake emails are not hard to generate:

Today PR [Professor Pratap Raychaudhuri] received an email from his famous and distinguished colleague (sic)TVR [Professor T.V. Ramakrishnan], asking him to not criticise Thapa and Pandey (the authors of the original paper) and to be patient. At the bottom of the email was a forwarded friendly discussion between TVR and Pandey. PR replied with a "rather strong response" to TVR, including a cc to TVR's personal email address. Shortly thereafter, he got a phone call from TVR. It turns out that TVR had never written any such email. Both the email asking PR not to criticise the authors, and the supposed discussion between TVR and Pandey were fabricated by someone pretending to be TVR.

One wonders if the creative artist who fabricated the emails that seem to form the basis of the arrests of the five activists was inspired by this story, perhaps even could be a science

buff! Or perhaps the inspiration came from the brilliant satirical Marathi film, Court, whose most fantastic moments eerily foreshadow these events. Though he or she certainly did a very poor job, the fact remains that even if the fabrication had been less sloppy, sending fake emails is one of the easiest things to do. We are all victims of it in other ways, since email scams have become part of daily life for those who use this mode of communication regularly. It seems that one new email scam has been added to the list of those that we all must already beware of!

Why should something as thin and flimsy as this have to lead to the incarceration of anyone? The answer of course is that the state believes that the UAPA gives them that power. Others have written at length about the draconian powers that the UAPA confers on the state, so I will just quote the lawyer Gautam Bhatia's sharp critique in the Hindu:

Much has been written about the UAPA's draconian procedures: pre-charge sheet detention for up to six months, the near-impossibility of getting bail, and the inordinate length of an average trial, effectively leading to years of incarceration before a final acquittal. The problem with the UAPA, however, is not simply the manner in which it sanctions the long-term deprivation of personal liberty even before an individual is found guilty. Equally seriously, what the UAPA deems criminal is phrased in such broad and vague terms that a finding of guilt or innocence itself entails an extraordinary amount of discretion.

The government has argued before the Supreme Court that the law must be allowed to take its course and the Supreme Court can't interfere. But here's the rub. If all it takes are fake emails to incarcerate someone for years, then the government's interpretation of the discretion that the UAPA supposedly allows it are clearly violating the fundamental rights that the Constitution guarantees all citizens. Liberty

cannot be denied on such flimsy grounds.

In my view the petition by Romila Thapar and others before the Supreme Court is based on this straightforward and simple argument. It points out that very flimsy and *prima facie* even fake, evidence is being used to incarcerate activists by misusing the discretion that the UAPA allows the police and the government. Thus, these countrywide raids and arrests are a threat to democracy, the petition argues and it prays that the Supreme Court intervene to stem this threat.

The power of this false case rests entirely on the provisions of the UAPA, but the UAPA does not supplant the Indian Constitution, and its existence does not mean that judicial scrutiny ceases to exist. Can allegations, conjectures, doctored emails be accepted as evidence enough to incarcerate someone for months? If yes, then the fundamental rights guaranteed to us have no meaning. If evidence this flimsy can be used to incarcerate someone for months, then as the petition argues, none of us are safe. And this is not just true for left-wing activists currently being targeted by the state.

This sets a precedent for the misuse of UAPA against anyone by the party in power, even BJP activists under another government for example. The fact that the UAPA appears to allow this monstrosity is no reason why the Supreme Court should accept it. As the arbiter of the Constitution and the protector of our constitutional rights, the court has the right to prevent this misuse of the UAPA, by acquitting the arrested activists and setting down limitations on the "discretion" the state believes it enjoys. There is no reason for the court to have to bow before the unreasonableness of this law.

Courtesy The Wire, 24 September 2018.

Ashok Prasad is an engineering professor in a US university and a former activist with the PUDR. The views expressed here are his own. 

Restoring credibility of the Supreme Court

S. N. Shukla

Time and again the Apex Court of the country has emphasized the need for accountability and transparency in the working of various institutions of the Government. Sadly and ironically the track record of its own Registry on these crucial parameters is not very heartening. This has been evident in several areas.

Practically every year the issue of increasing backlog of cases in courts is discussed in the Conference of Chief Justices at the level of Supreme Court. Still there is no significant visible improvement. A major reason for huge pendency and delay in disposal of cases is chronic vacancies in Judiciary at all levels hovering around 30%, for which the main responsibility rests with the Judiciary itself. In Delhi and J.& K the vacancies remained unfilled for more than 2 years.

The process of selecting judges of the constitutional courts is totally in house and opaque. There is no objective and transparent procedure for inviting applications, short listing eligible candidates and deciding their inter se merit and suitability. No wonder, in the lists of persons recommended by Allahabad High Court on the last two occasions about one third were relatives of judges.

The Memorandum of Procedure for selection of SC/HC Judges to be prepared in pursuance of the direction in the judgment in October 2015 striking down the National Judicial Appointments Commission Act is yet to be finalized even after almost 3 years. Vide application dated 19.2.2018 under the RTI Act the CPIO of the Supreme Court was requested to provide photocopies of letter written in July 2017 by the then Secretary, Department of justice to the Registrar General, Supreme Court of India, regarding finalization of the Memorandum of Procedure for Appointment of Judges, the reply given by the

Registry to the Ministry to the aforesaid letter, and up to date notes and orders in the concerned file relating to the above mentioned subject. The CPIO declined to provide the requisite information on the ground that the information sought is exempt under Section 8(1)(b) of the Act as it may amount to contempt of Court in view of the order dated 4.12.2009 in SLP (C) No. 32855/2009 and that it is also exempt under Section 8(1)(e) and (j) of the Act; and further that the applicant has no right to access the said information under Section 2(j) of the Act. Thereupon, First Appeal was filed pointing out that the plea of exemption under Section 8(1)(b) was untenable since the order dated 4.12.2009 had nothing to do as the information sought was not the subject matter of the SLP, and that Section 8 (1)(e) was not applicable as the information sought was not held by the Registry in fiduciary capacity and its disclosure was warranted in larger public interest since the delay in finalization of MOU is not only in disregard of the direction of the Apex Court itself, but has also been adversely affecting the process of filling up the vacancies of Judges in the High Courts and Supreme Court and, consequently, delaying the administration of justice by the constitutional Courts. However, the First Appellate Authority, *without even mentioning, leave alone discussing these pleas*, concluded that the reply of the CPIO does not warrant any interference and dismissed the First Appeal as devoid of merit. So much for transparency and judicial propriety of a senior officer of the court brushing aside points made before him in appeal.

In his lecture on 'Timely and Effective Justice' in July this year, the then Chief Justice of India identified adjournments by lawyers as one of the causes for rising pendency in the courts and

said “*adjournments are a disorder and courts must deal with it*”. But lawyers are not the only culprit. Often cases are adjourned for paucity of time and sometimes even without any valid reason. A case in point in SLP (C) No. 21614 of 2014 filed by the UP Government to challenge the validity of an order of the Lucknow Bench of Allahabad High Court referring to a larger Bench the writ petition for enforcement of Rule 3 of the UP Rules of Business since the Chief Ministers in UP have not been signing the files themselves to evade responsibility as it happened in the case of Taj Heritage Corridor scam. This SLP, in a very important matter relating to the working of the government of the largest state and regarding the legitimacy of the orders passed by Chief Ministers, on a limited point against a mere interlocutory order referring the matter to larger Bench has remained pending for the last 3 years despite being listed 15 times even though it was listed for final disposal in August 2015 and was part heard in September and October 2015 and has remained unlisted for 7 months after 16.1.2018. As a result, the High Court has also declined to hear a review petition in another matter on the same issue thereby prolonging decision in this matter of great legal import.

Not only this, there seems to be no transparency regarding prioritization of Constitution Bench and three Judge Bench matters for their listing for hearing before the Court. The CPIO was requested to provide under the RTI Act photocopies of Rules/ Guidelines/standing orders in this regard. Information was also sought about lists of Constitution Bench and three Judge Bench matters disposed of during the year 2016, 2017 and 2018 and year wise lists of such matters pending for listing. Instead of supplying this simple requisite information, the CPIO simply gave an evasive reply that all the matters are listed/eliminated as per Supreme Court Rules 2013, circulars and as per Practice and

Procedure which are available in the public domain viz. website of the Court. The fact is that in case the Rules and Practice and Procedure contain information regarding inter se prioritization of Constitution Bench and 3 Judge Bench matters, there could be no difficulty in providing copies of the same, of course on payment, instead of asking the applicant to look for the same and search out the requisite information from the several volumes of circulars. Apparently, the Registry itself is not aware of the relevant rules and circulars/orders and, therefore, the CPIO gave an evasive and vague reply without even citing the same to avoid any disclosure about the existence and the implementation of such rules and orders. The other information regarding lists of such cases disposed of during 2016, 2017 and 2018 has been denied saying that it is not maintained in the manner sought. It is unbelievable, and amazing if true, that the vast organization of Registry of the Apex Court does not have this information. Moreover, the information available on the website of the Court about the pending Constitution and Three Judge Bench matters is only till June 2017. Apparently, the CPIO, instead of providing up to date information, gave a misleading reply. Moreover, as per information available on the website of the Court the number of more than 10 years old Constitution Bench and even larger Benches matters pending as on 30th June 2017 was 61 and 101 respectively. The CPIO’s reply also implies that there is no review at any level of the year wise disposal and pendency of even such important matters. Evidently, the natural inference is that the real reason for denial of requisite information seems to be that no rational, objective and transparent system is being followed in the listing of such cases of great importance. This is evident from the fact that the following 3 matters remained unlisted for months despite specific judicial orders of the Hon’ble Court and repeated written and oral requests by the petitioner-in-person.

1. WP (C) No. 1068 of 2017,Lok Prahari Vs.Union of India and Anr.:

After registration on 3.11.2017 the matter was first listed on 22.1.2018. In view of a marriage in the family on that very date, the petitioner in person who is in Lucknow had requested the matter to be adjourned for a week and listed on 29.1.2018. However, it was directed it to be listed on 26.3.2018. The petitioner in person accordingly received the notice of listing from the Registry. Still it did not figure in the cause list of 26.3.2018 and was not included in the supplementary list despite telephonic request and has remained unlisted for 5 months even thereafter despite repeated requests and even mention before the Court.

2. Contempt Petition (C) No. 93 of 2017 Lok Prahari V. Ms. Anita Singh and Ors. in PIL WP (C) No. 657/2000:This matter was last listed on 30.10.2017 when it was ordered to be listed on 20.11.2017. However, it was not listed on that date and remained unlisted thereafter for full **8** months and was listed on 23.7.2018 only after persistent follow up.

3. WP (C) No. 330 of 2016, Lok Prahari Vs. Union of India and Ors.:

On 2.5.2017, this matter for effectuating enforcement of the historic landmark judgment in the cases of Lily Thomas and Lok Prahari barring continuance of disqualified legislators was ordered to be processed for listing before the Court as per Rules. Not only this, in the connected matter CA No. 8483 of 2016, it was directed on 8.5.2017 that the said matter be posted for hearing in the week commencing 15.5.2017 as per roster. Thereafter, the said matter was shown in the website of the Court as likely to be listed on 15.5.2017, 11.7.2017, 4.9.2017, 20.11.2017, 23.2.2018, 4.1.2018, 2.4.2018, 10.1.2018, 2.4.2018, 11.1.2018, 26.3.2018, 15.1.2018, 6.4.2018 and 16.1.2018 but remained unlisted for more than **14** months despite complaint dated 23.1.2018 to the

Secretary General in this regard. One fails to understand as to why these very important connected matters kept moving back and forth and finally were again disconnected on 23.7.2018.

Persistent non compliance of specific judicial orders of the highest court is unthinkable and also intriguing since no officer of the Registry would dare to do so on his own as it is a very serious matter amounting not only to contempt of the court but also obstruction of justice. Moreover, this is the experience of only one litigant. Many others may have been facing the same problem with no relief.

As regards High Courts and subordinate judiciary, the Registry refused to even share information about efforts to reduce pendency in other courts, such as letter written by the Chief Justice of India in 2015 to Chief Justices of High Courts to deal with pendency of cases and the reply received from Allahabad High Court to the said letter, on the fallacious ground that the information sought was confidential in nature and exempt under Section 8(1)(e)(g) and (j) of the RTI Act. Neither, confidentiality is a ground for denial nor the information sought could be said to be of confidential nature as it simply relates to the pendency of the cases which concerns the litigant public at large and they have a right to know as to what is being done to reduce the pendency. Moreover, the provisions of Section 8(1)(e)(g) and (j) do not preclude even information which is confidential and as such were not at all applicable to the case.

Recently, vide application dated 3.7.2018, the following information was sought from the CPIO of the Supreme Court under the RTI Act –

- (i) Photocopy of the letter written recently by the Chief Justice of India to the Chief Justices of High Courts to expedite disposal of cases and reduce pendency.
- (ii) Photocopies of the notes and orders in

the concerned file relating to the issuance of the aforesaid letter.

- (iii) Photocopies of the existing instructions/ circulars/order etc. regarding present system of monitoring of disposal by the High Courts at the level of the Supreme Court.
- (iv) The information about the disposal and pendency of the cases in various High Courts for the last 5 years.

While willing to provide copy of the CJI's letter, the CPIO informed that there is no file noting regarding its issuance which appears rather unusual. As regards points (iii) and (iv), instead of providing the requisite information he relegated the applicant to the website of the Court which does not seem to contain the desired information. If it did, there should have been no difficulty in Registry providing the same. Apparently, the CPIO gave an evasive and misleading reply to hide the unfavorable scenario in this regard.

The situation disclosed by the instances described above does not reflect well on the working of the Apex Court on the administrative side and points to the obvious need for transparency and accountability at all levels in the judiciary. There is hardly any objective and verifiable system of assessing the quantity and quality of disposal by the High Court Judges. The request made by the then Chief Justice of India to High Courts in the recent Conference held on 27.7.2018 on 'Initiatives to reduce

pendency and delays in judicial system' to initiate a 'Disposal Review Mechanism' shows that no such worthwhile mechanism exists today. It is heartening to note that in his inaugural address at the said Conference the then CJI suggested, *inter alia*, categorization of cases on the basis of urgency and priority, setting annual targets and action plan for disposal of old cases and maintain a bi-month or quarterly performance review to ensure transparency and functional, strict guidelines for adjournments etc. The broad points discussed in the Conference included dealing promptly with cases in which stay has been granted by the High Court (which has not been done in SLP (C) 21614/2014 cited earlier), and working out standards to assess the quality of judicial work which seem to be missing at present in the High Courts and subordinate judiciary. Needless to add, some of these suggestions need to be acted upon *mutatis mutandi* by the Apex Court also to set an example to others. Fixing these "nails" will definitely enhance the quality of our judicial system and the effectiveness of the apex institution of the Judiciary. Since under our Constitution top judiciary is the last hope for We the People it is necessary that its credibility and confidence of the public in it, which has come under a cloud in recent past, is not only restored but also strengthened. Going by the track record of the present Chief Justice of India the Nation has fond hope from his Lordship in this regard.

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"The people of this country have a right to know every public act, everything, that is done in a public way, by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearing." Justice K. K. Mathew, former Judge, Supreme Court of India, (1975)

Section 377: Drawing a curtain on the past

In striking down Section 377, the Supreme Court has recognised the Constitution's extraordinary transformative power

In a rousing address to the Constituent Assembly on November 25, 1949, Dr. B.R. Ambedkar laid out his transformative vision for the Constitution. The document, he said, ought to serve as a lodestar in the endeavour to make India not merely a political but also a social democracy. He saw liberty, equality and fraternity as principles of life, as a collective “union of trinity”. “To divorce one from the other,” he said, “is to defeat the very purpose of democracy.” Now, 71 years after Independence, these values that Ambedkar saw as integral to India’s republic, find new meaning in a remarkable judgment of the Supreme Court in *Navtej Singh Johar v. Union of India*. Not only has the court struck down the wretchedly wicked Section 377 of the Indian Penal Code, insofar as it criminalises homosexuality, but it has also recognised the Constitution’s enormous and extraordinary transformative power. In doing so, the court has provided us with a deep expression of democratic hope. And perhaps we can finally believe, as Nehru said, in his famous midnight speech, that “the past is over, and it is the future that beckons to us now”.

Macaulay’s shadow

Plainly read, Section 377 punishes with imprisonment for life or for a term of up to 10 years any person who voluntarily has “carnal intercourse against the order of nature with any man, woman or animal”. Over the years, the term, “against the order of nature”, has been used to persecute members of the LGBTQ community, treating any non-procreative sexual act by them as acts of crime. Thomas Macaulay, the law’s drafter, despised the idea of even a debate on the legislation’s language. “We are

unwilling to insert, either in the text, or in the notes, anything which could give rise to public discussion on this revolting subject,” he wrote in his chapter on “unnatural offences”. “...We are decidedly of the opinion that the injury which would be done to the morals of the community by such discussion would far more than compensate for any benefits which might be derived from legislative measures framed with the greatest precision.”

Like many other colonial-era laws, therefore, Section 377 was inserted with a view to upholding a distinctly Victorian notion of public morality. But post-Independence, the law remained on the books, as an edict that the Indian state saw as intrinsic to the enforcement of its own societal mores. The criminal law, the government believed, was a legitimate vehicle through which it could impose and entrench in society its own ideas of what constituted a good life. Societal morality, to it, trumped constitutional guarantees of equality and liberty.

Long road to freedom

In July 2009, however, the Delhi High Court, in a judgment delivered by a bench comprising Chief Justice A.P. Shah and Justice S. Muralidhar, rejected this vision, and declared Section 377, insofar as it criminalised homosexuality, unconstitutional. In the court’s belief, the law was patently discriminatory. It offended not only a slew of explicitly guaranteed fundamental rights — in this case, Articles 14, 15, 19 and 21 — but also what the judgment described as “constitutional morality”. “Moral



**Suhrith
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indignation, howsoever strong, is not a valid basis for overriding individual's fundamental rights of dignity and privacy," the court wrote. "In our scheme of things, constitutional morality must outweigh the argument of public morality, even if it be the majoritarian view."

At the time this was a grand statement to make. Indeed, barely four years later, the Supreme Court reversed the findings in *Naz*, and rendered the judgment's radical vision nugatory. In a shattering verdict, the court, in *Suresh Kumar Koushal*, once again declared homosexuality an offence. LGTBQ persons, to the court, constituted only a "minuscule minority", and they enjoyed, in the court's belief, neither a right to be treated as equals nor a right to ethical independence, a freedom to decide for themselves how they wanted to lead their lives.

But now, in *Navtej Singh Johar*, the court has restored both the quotidian and the outstanding glories of the judgment in *Naz*. Unexceptionally, Section 377, it has found, infringes the guarantee of equality in Article 14, the promise against discrimination in Article 15, the right to free expression contained in Article 19, and the pledges of human dignity and privacy inherent in Article 21. But, perhaps, more critically, the court has taken inspiration from *Naz* in bringing to the heart of constitutional interpretation a theory that seeks to find how best to understand what equal moral status in society really demands, a theory that engages profoundly with India's social and political history.

Interpreting the Constitution

The question of how to interpret a constitution, any constitution, is an age-old one. The Indian Constitution couches its guarantee of fundamental rights in abstract terms. For instance, the Constitution doesn't expressly tell us what equality, in Article 14, means. Does it mean merely a formal equality, or does it promise a more substantive equality, demanding the state's proactive participation?

Until now, in the absence of a coherent theory of interpretation, judges have vacillated in answering such questions. But the four separate opinions in *Navtej Singh Johar*, written respectively by Chief Justice of India Dipak Misra and Justices R.F. Nariman, D.Y. Chandrachud and Indu Malhotra, collectively espouse an interpretive model that gives to India's history its full consideration. The Constitution "was burdened with the challenge of 'drawing a curtain on the past' of social inequality and prejudices," Justice Chandrachud wrote, invoking Professor Uday Mehta. The document, therefore, was an "attempt to reverse the socializing of prejudice, discrimination and power hegemony in a disjointed society." Or, as Chief Justice Misra put it: "The adoption of the Constitution was, in a way, an instrument or agency for achieving constitutional morality and [a] means to discourage the prevalent social morality at that time. A country or a society which embraces constitutional morality has at its core the well-founded idea of inclusiveness." The idea, therefore, is, similar to what the South African courts have held, to eliminate all forms of discrimination from the social structure, and to usher society from degrading practices of the past into an egalitarian future.

There is a danger, many believe, that this theory of interpretation could allow judges to turn into philosopher-kings, allowing them to impose their moral convictions on society. But, as Ronald Dworkin has observed, a strategy of interpretation which partakes a consideration of both text and history is really a "strategy for lawyers and judges acting in good faith, which is all any interpretive strategy can be".

Future disputes will certainly have to be guided by the court's general rule prescribed in *Navtej Singh Johar*. The court has already reserved its judgment in a number of cases that will tell us how it intends on applying this theory. Its decision in cases concerning the entry of women into the Sabarimala temple, on the practice of

female genital mutilation of minor girls in the Dawoodi Bohra community, on the validity of the Indian Penal Code's adultery law, will all prove telling. Yet, much like the challenge to Section 377, the issues at the core of these cases are scarcely controversial as a matter of pure constitutional interpretation. Ultimately, therefore, the true value of *Navtej Singh Johar* will only be seen when the court sees this theory as integral to its ability to judge clashes

between the naked power of the state and personal liberty, to cases such as the challenge to the Aadhaar programme, which seek to reverse the transformation that the Constitution brings. There too, as Chief Justice Misra has written, the court must be "guided by the conception of constitutional morality".

Suhrith Parthasarathy is an advocate practising at the Madras High Court
Courtesy **The Hindu**, 13 September 2018. 

The Ganga Is Dying and This Sadhu Is on a Fast Unto Death to Save It

Sandeep Pandey

Swami Sanand thinks the present idea of development is an enemy of the environment and doesn't think the Ganga can be saved unless the task is given to people who are sensitive towards it.

Matri Sadan, on the banks of river Ganga, is no ordinary ashram in Haridwar and Swami Gyan Swaroop Sanand, fasting since June 22, 2018, demanding a law for conservation of the Ganga, is no ordinary sadhu. Earlier, Swami Shivanand, head priest of the ashram, and his disciples Nigmanand, Dayanand, Yajnanand and Purnanand observed long fasts to prevent illegal mining around the Ganga in Haridwar. Nigmanand died on the 115th day of his fast in 2011 after he was poisoned with organophosphate while in hospital during the Bharatiya Janata Party regime in Uttarakhand. His followers blamed a mining baron associated with Rashtriya Swayamsevak Sangh, but the matter was never investigated properly.

Now Swami Gyan Swaroop Sanand, formerly known as Professor Guru Das Agrawal, is on a fast and appears committed to laying down his life for the sake of the Ganga. He says his well-wishers should worry more about the health of the river than his health. Swami Sanand thinks that it is too late now to redeem the situation.

He is critical of the Swachh Bharat Abhiyan. He doesn't think that a few people picking up brooms can clean local areas. The pollution is a result of flawed developmental policies. A pro-ecology development policy is necessary for sustainable development. But the Narendra Modi government has not even uttered the phrase 'sustainable development' once in its 4.5-year regime.

He expressed astonishment that Nitin Gadkari can hold the ministries of road transport and highways, shipping, and water resources, river development and Ganga rejuvenation at the same time. Recently, the Uttarakhand government has taken a decision to construct a road through the Jim Corbett National Park, posing a threat to the forest and wildlife. The government has also undertaken an ambitious all-weather Char Dham road project connecting Kedarnath, Badrinath, Gangotri and Yamunotri at an estimated cost of Rs 12,000 crore. Swami Sanand thinks this is a disastrous project as it will involve cutting a large number of trees, and create instability by cutting hilly slopes, the muck of which will come down in the rivers.

Swami Sanand thinks the present idea of development is an enemy of the environment and doesn't think the Ganga can be saved unless

the task is given to people who are sensitive towards it. On August 20, 2018, the Uttarakhand high court ordered the state government to ensure that no untreated sewage be dumped in the Ganga. As against the installed capacity of 45 millions litres per day sewage treatment plant (STP) in Haridwar, about double the amount flows into the Ganga untreated. Swami Sanand asks, what were the Pollution Control Board and National Green Tribunal doing till now? He also raises a question on how these sewage flows are measured. Most likely it is not the maximum flow. It is the flow on the particular day when it was measured. Sometimes the flow estimate may be derived as multiplication of population, with an assumption of 50 litres per person per day sewage generated.



As an example of bad planning, he points out that the pumping station at the Assi drain in Varanasi pumps the sewage upstream to the 35-MLD-capacity STP in Ramana. What is the logic of pumping sewage upstream? He also recalled the incident when the environment minister in the United Progressive Alliance government, Saifuddin Soz, visited the Rajendra Prasad ghat sewage pumping station in Varanasi to be told that it had not been functioning for a month and a half. With such a callous attitude, he is not sure how the Ganga can be made

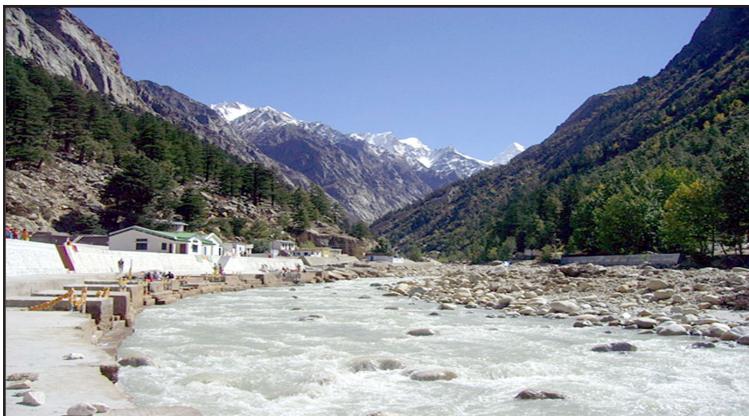
clean. He feels that the commitment as well as competence to even operate STPs is missing. North India has no good consultants in this area.

Nitin Gandkari, in his letter requesting Swami Sanand to end his fast, has mentioned that in Kanpur 80 MLD sewage out of 140 MLD flowing through Seesamau drain is now being diverted to the Bingawan STP. Swami Sanand questions why a STP capacity of only 80 MLD was created? When the city was expanding, a higher STP capacity should have been planned. But the approach of the government is to build whatever capacity can be created from the available funds. The nature of planning is ad hoc.

Swami Sanand is also quite critical of activities like the *kawanriya yatras* and Ram Kathas in the name of religion and culture, which create

more pollution. He gave the example of how people treat *kanwariyas* with *chole-bhature* and other eatables from roadside stalls, and waste including plastic is thrown around. Morari Bapu delivered a Ram Katha at Gangotri Dham, Uttarkashi from August 18 to 26, 2018. Swami Sanand questioned the wisdom of conducting Ram Katha at this location, as it would have put additional burden on local ecology.

Swami Sanand went on a fast from June 13 to 30, 2008, January 14 to February 20, 2009 and July 20 to August 23, 2010 against three hydroelectric projects Bhairon Ghati, Lohari Nagpala and Pala Maneri, and was able to stall them all even though the tunnel in Lohari Nagpala was complete and got the government to declare 125 km of the Bhagirathi as an eco-sensitive zone. His fourth fast was from January 14 to April 16, 2012 in stages – on fruits in Allahabad, lemon water in Haridwar and without water in Varanasi, after which he had to be



The Bhagirathi River, site of the Loharinag Pala Hydro Power Project, in Gangotri, Uttarakhand. Credit: Atarax42/Wikimedia Commons CC BY-SA 3.0

admitted in the All India Institute of Medical Sciences, Delhi.

In 2013 he fasted from June 13 to October 13, in which he spent 15 days in jail. President of Ganga Sabha, Jitrendranand, delivered a letter to him from the then BJP president Rajnath Singh, commenting that when the Narendra Modi government came to power it would accept all his demands related to the Ganga. However, the Modi government has been a big let-down. Swami Sanand feels the Manmohan Singh-Jairam Ramesh-Jayanthi Natarajan team was more sensitive than Narendra Modi-Nitin

Gadkari-Uma Bharti towards caring about Ganga. He has special praise for Jairam Ramesh, who cancelled the Ganga Master Plan that was being drawn up by foreign experts and gave the task to a consortium of Indian Institutes of Technology.

Swami Sanand wrote a letter to Nitin Gadkari on July 4 and to the prime minister on August 5, 2018. But there has been no reply from either. He is disappointed with the government as well as civil

society, including the IIT consortium, and therefore has put his life at stake. Are we going to let this seer simply die fasting?

Note: This article was written after a conversation with Swami Sanand at Matre Sadan, Haridwar on the 62nd day of his fast on August 22, 2018

Sandeep Pandey is a scientist, activist and Magsaysay Award winner.

Courtesy The Wire.

(It has been reported on 11 October 2018 that Swami Sanand has died today. - Editor) 

Articles/Reports for The Radical Humanist

Dear Friends,

Please mail your articles/reports for publication in the RH to: **mahipalsinghrh@gmail.com**, or **theradicalhumanist@gmail.com** or post them to: E-21/5-6, Sector- 3, Rohini, Delhi- 110085.

Please send your digital passport size photograph and your brief resume if it is being sent for the first time to the RH.

A note whether it has also been published elsewhere or is being sent exclusively for the RH should also be attached with it.

- Mahi Pal Singh, Editor, The Radical Humanist

Report :-

National Convention of Workers calls upon the toilers to take the challenge head-on against the anti-people, anti-worker, anti-national policies of the BJP-led NDA Government

Qurban Ali

The National Convention of Workers held in New Delhi on 28th September 2018, jointly called by the ten Central Trade Unions, in association with all independent National Federations of Workers and Employees, of both Industrial and Service sectors, Central Government and State Government employees, including Railways, Defense, Health, Education, Water, Post, Scheme Workers etc; in the public sector undertaking such as Banks, Insurance, Telecom, Oil, Coal, Public Transport etc, and from the unorganised sectors-Construction, Beedi, Street vendors, Domestic Workers, Migrant Workers, Home based work, Factories, rickshaw, auto-rickshaw and taxi drivers, agricultural workers etc., expressed serious concern over the deteriorating situation in the national economy due to the pro-corporate, anti-national and anti people policies pursued by the Central Government and some of the States ruled by the BJP, grievously impacting the livelihood of the working people across the country.

The Convention was addressed amongst others, by Dr. Sanjeeva Reddy (INTUC), Ms. Amarjeet Kaur (AITUC), Harbhajan Singh Sidhu (HMS), Tapan Sen (CITU), Satyavan (AIUTUC), G.R. Shivshankar (TUCC), Sonia George (SEWA), Rajeev Dimri (AICCTU), Pechi Muthu (LPF), Ashok Ghosh (UTUC), Shiv Gopal Mishra (AIRF), Guman Singh (NFIR).

The Convention noted with utter dismay that the Government has been continuing to arrogantly ignore the 12 point Charter of Demands on minimum wage, universal social

security, workers' status and including pay and facilities for the scheme workers, against privatization of public and government sector including financial sectors and mass scale contractorisation, ratification of ILO Convention 87, 98 etc. being jointly pursued by the entire trade union movement of the country.

The ILO Convention 177 on Home Work and 189 on Domestic Work are also yet not ratified.

The Convention expressed its grave concern on scraping of hard-won 44 Central Labour Laws and replacing them with 4 employer-friendly Labour Codes and introduction of Fixed Term Employment through executive order. The Convention also expresses its anguish over New Pension Scheme and demand restoration of the old Pension Scheme. The Convention also expressed solidarity with the fighting farmers and the Transport Workers of Rajasthan who are on an indefinite strike since 16th-17th September, 2018 midnight. Separate resolution was adopted in support of this strike as well as the strikes in Yamaha, Royal Enfield and mikyong singh automotive company.

This National Convention of Workers recorded its strong denunciation against the communal and divisive machinations on the society being carried on with the active patronage of the Government machinery. The BJP Governments are using draconian UAPA, NSA as well as the agencies of CBI, NIA, IT to harass and suppress any dissenting opinions. The peace loving secular people in the country are facing a stark situation of terror and

insecurity all around. Working Class will raise its strong voice of protest.

In order to serve the interests of the multinational companies with Indian corporate, the present Government is pursuing blatantly anti-people, anti-workers and anti-national policies at the cost of severely damaging the national economy and destroying its indigenous productive and manufacturing capabilities. Such a regime must be defeated squarely to force the pro-people changes in policies on all fronts. This united platform of the working class resolves to heighten its struggle to that end.

The National Convention of workers adopted the following programmes:

1. State level, district level and industry/sector level joint conventions to be held during October/ November 2018
2. Joint Industry-level gate meetings, rallies etc. during November and December, 2018
3. Submission of strike notice jointly with demonstrations during 17-22 December, 2018
4. Two days countrywide General Strike on 8th and 9th January 2019.

The National Convention called upon working people across the sectors and throughout the country irrespective of affiliations, independent unions, federations, associations to make the above programmes a total success.

Qurban 

NATIONAL CONVENTION OF WORKERS

28th September 2018, Mavlankar Hall, New Delhi

Declaration Adopted

The National Convention of Workers being held today, the 28th September 2018, in Mavlankar Hall, New Delhi, jointly called by the ten Central Trade Unions, in association with all independent National Federations of Workers and Employees, of both Industrial and Service sectors, Central Government and State Government employees, including Railways, Defense, Health, Education, Water, Post, Scheme Workers etc; in the public sector undertaking such as Banks, Insurance, Telecom, Oil, Coal, Public Transport etc, and from the unorganised sectors-Construction, Beedi, Street vendors, Domestic Workers, Migrant Workers, Home based work, Factories, rickshaw, auto-rickshaw and taxi drivers, agricultural workers etc., expresses serious concern over the deteriorating situation in the national economy due to the pro-corporate, anti-national and anti people policies pursued by the Central Government and some of the States ruled by the BJP, grievously impacting the livelihood of the working people across the country.

They had carried forward successfully the decisions adopted in the last National Convention

of Workers on 8th August 2017 at Talkatora Stadium. The successful holding of three day mahapadav on 9 -10 -11 Nov., 2017 after about more than three months extensive countrywide campaign was a land mark in the ongoing struggle to fight back the onslaught of the government against working people and their trade unions, against hard won labour rights, anti-labour and pro-employer codifications and violations of existing labour laws and violation of ILO Conventions. We had demanded concrete measures for curbing rising prices of essential commodities, creation of new Decent jobs, minimum wages Rs.18000/- p.m. and minimum Rs.6000/- p.m. pension to all, stoppage of all moves to sell PSU shares and outright privatization through various routes like outsourcing, PPP etc, universal social security coverage to all among other demands.

This Mahapadav was followed by the Nationwide strike by the Scheme Workers on 17 January 2018 and then Satyagraha and protests in almost all the states on varying dates, beginning from 23 January to 23 February 2018.

The Central Government not only refused to

respond to the just and genuine demands of the organized agitation of the working class, but has been increasing its aggression against the rights of workers, employees and trade unions. The Bipartism and tripartism is being undermined. The Govt. is dragging its feet on wage th negotiations of public sector in Bipartite settlements and 7th Pay Commission anomalies of Central Government employees. Four Sub Committees were formed by the Government to address several issues raised by Central Government employees (NCJCA) such as scraping of New Pension scheme, review the Minimum Wage and fitment formula, restoration of allowances and allowing option No.I as one of the Pension Fitment Formula. But nothing has been done.

The Central Government Employees' Organizations, including the defence and railways, have been planning united action against the betrayal by the Government and asserting their genuine demands including scrapping of the New Pension Scheme. This National Convention extends full support to their struggles and upholds all their demands.

The last Indian Labour Conference was held in July 2015 and since then no ILC has been held, rather the circulated dates for ILC were cancelled. There has been no dialogue by the Government or its Group of Ministers with the trade unions.

The National Convention of Workers being held today, the 28 September 2018, in Maylankar Hall, New Delhi jointly called by the ten Central Trade Unions, in association with all independent National Federations of Workers and Employees, of both Industrial and Service sectors viz., Banks, Insurance, Central Government and State Government employees, Defence Production employees etc., expresses serious concern over the deteriorating situation in the national economy due to the pro- corporate, anti-national and anti-people policies pursued by the Central Government, grievously impacting the livelihood of the working people across the country.

This National Convention unanimously condemns in strongest terms the conspiratorial and authoritarian attack of the present Government to deprive the biggest Central Trade Union in the country, the Indian National Trade Union Congress (INTUC) from all representations in the tripartite and bipartite fora and committees, including the international forum. This is nothing but a severe and heinous onslaught on the rights of the entire trade union movement. It will be unitedly fought back and this National Convention pledges for that.

The Convention notes with utter dismay that the Government has been continuing to arrogantly ignore the 12 point Charter of Demands on minimum wage, universal social security, workers' status and including pay and facilities for the scheme workers, against privatization of public and government sector including financial sectors and mass scale contractorisation, ratification of ILO Convention 87, 98 etc. being jointly pursued by the entire trade union movement of the country. The ILO Convention 177 on Home Work and 189 on Domestic Work are also yet not ratified. Despite numerous nationwide joint strike actions, the most prominent being those of 2nd September 2015 and 2nd September 2016, participated by crores of workers against the policies of the Governments, the ruling regime at the centre has been increasing its onslaught on the rights and livelihood of the working people of the country. Both the organized as well as unorganized sectors are victims alike.

Unemployment situation is getting aggravated with employment generation practically turned negative even in the most labour intensive sectors. The phenomenon of closure and shut-down of industries and the forecast of huge job-loss in the IT sector is adding fuel to the fire. Price-rise of petroleum products, essential commodities including public transport, electricity, medicines etc is mounting pressure on daily life of the people in general, leading to widening as well as deepening of impoverishment. The

implementation of GST has further compounded the hardships. Even essential and lifesaving medicines have been subjected to hefty GST. Drastic cut in Government expenditure in social sector and various welfare schemes has made the condition of workers, particularly those in unorganized sector more precarious.

For the establishment of modern labour slavery system, it has introduced Fixed Term Employment through backdoor, has permitted putting children below 14 years age to work in a family establishment has brought in pro-employer changes in Apprenticeship Act.

The situation due to steep price-rise in petrol and diesel with cascading effect on increase in prices of all daily life utility items and specially the food items is resulting in torturous impact on common masses. The after effects of demonetisation and faulty GST continue to adversely impacting the deep crises set in the fast paced neo-liberal economic policies of the Government. Lack of job opportunities on one hand and continued job losses, retrenchments, illegal closures on the other hand, are imposing miserable conditions on the ordinary families for their food, education of children, medical care of the sick and elderly. No new jobs are being created since the last five years or so despite heavy increase in work load in general including in the Government and Public Sector Undertakings. On the contrary, 3% compulsory annual surrender of regular posts in Government establishments is continuing. In this Government regime recruitment exam scams like SSB and other competitive exams have rubbed salt on the wounds of the educated unemployed. In private sector also, massive downsizing has become a regular phenomenon.

The estimates by independent surveys and those sponsored by employers' organizations revealed loss of 70 lakh jobs with closure of 2.34 lakh small factory units in the first few months of demonetization. The livelihood loss of another 6 crore people in informal economy and about 17

lakh job losses in organized sector speaks about the grim ground reality. Faced with such pathetic records, the Government is busy in concoction of statistics with twists to make fraudulent claims on employment generation. Regular Employment Survey which was conducted by Labour Ministry has been discontinued.

The anti-labour authoritarian character of the Government is all the more evident in their refusal to implement even the consensus recommendations (in which the Government was also a party) of the successive Indian Labour Conferences (ILC) in respect of equal pay and benefits for equal work for the contract workers, formulation of minimum wage on the norms agreed by 15th ILC/Supreme Court Judgment and workers' status for the scheme workers viz., Anganwadi, Mid-Day-Meal, ASHA, MGNREGA and Domestic workers etc. Shockingly, the present Government is even refusing to implement the recent Judgments of the Supreme Court of the country on the most genuine issue of "equal wage and benefits for equal work" and on EPS, 1995 on contribution and calculation of pension on actual pay and dearness allowance.

In the vast construction sector, which has a huge unorganized workforce, the Government is not taking proper action on the ruling of the Supreme Court regarding construction workers cess fund and its utilization in the interest of the construction workers and benefits and ignoring the Central and State Trade Unions in the decision-making mechanism. Nearly 2.5% of the population of every city are the Street Vendors. "The Street Vending (Protection of Livelihood and regulating Street Vending) 2014 has been enacted to protect them, but it is being scuttled systematically. Bidi workers' employment and welfare is also in danger with imposition of GST, where as the Bidi barons refusing to acknowledge employer-employee relationship are in precarious condition.

Despite opposition of all the trade unions in the

country irrespective of affiliations, the Government has been aggressively pushing through its programme of pro-employer and utterly anti-worker labour law reforms. Government has decided to amalgamate 44 hard earned Central Labour Laws to enact 4 anti-worker, proemployer Labour Codes to facilitate the employers to hire and fire in the name of 'Ease of doing Business', 'Make in India', 'Start Up' etc. which is aimed at imposing the conditions of slavery on the working people. The latest onslaught is the move to evolve a 'Social Security Code' by dismantling and demolishing the existing statutory Social Security infrastructure under Employees Provident Fund Organization, Coal Mines Provident Fund and Employees State Insurance Corporation and many other welfare statutes, abolition of welfare related cess, and usurp the huge social security fund contributed to by the workers, amounting to more than Rs.24 lakh crore and make it available for speculation in share market under the most deceptive and fraudulent camouflage of 'universalisation of social security'.

The proposed code on Occupational Safety & Health (OSH) is very dangerous move on the Occupational Safety and Health including the welfare of the factory and service sector working class.

The fixed term employment adopted as a Government policy through adoption of finance bill would be death knell for job security. The latest attack has come on the Trade Union Act 1926, where the Govt. intends to change the definition of the Central level and state level trade unions by invoking proposed amendments in Section 28A and 29. The malafide intention is also to have Government interference in the functioning of trade unions and usurping rights to dictate on its whims in the internal matters of unions. It is all done to facilitate "hire and fire" under different names i.e. "Ease of Doing Business", "Start Up" etc. It seems like a move to derecognize the status of Central and State

level pro-worker trade unions. The Labour Ministry, in the name of tri-partite consultation on Labour Law Amendments, is only putting up a show and to create a record of consultation, which the Central Trade Unions have consistently boycotted.

Privatization of all strategic PSUs, including Defence Production, Public Sector Banks and Insurance and also Railways, public road transport, oil, power, steel, coal etc through disinvestment, strategic sale, outsourcing in favour of private sector, promoting 100 per cent FDI in many vital and strategic sectors are increasing day by day. Moreover stripping all the cash rich PSUs of the investible cash reserves are added assaults. In fact Defence Sector privatization move is actually designed to destroy manufacturing capability and Research initiatives developed by the country over last six and half decades. The worst and most dubious is the game plan to outsource more than 50 per cent products including weapons and critical equipments, so long being produced by the Ordnance establishments. More than 250 items manufactured by Ordnance Factories have been notified as non-core. Orders are placed to private players for supply of some of these items. Government is determined to close down 5 Ordnance Factories manufacturing items used by our soldiers and Officers and it would render thousands of workers jobless, including 1600 female Tailors.

Defence PSUs and Shipyards are also being subjected to discrimination in respect of work orders while private corporates are being patronized by the Government in defence procurement deals.

Complete privatization of the Railways, step by step, is going on. Operating private trains on the existing tracks built by Railways is being permitted. Moreover free access to railway yards, sheds and workshops for maintenance of private coaches, wagons and engines etc. is being offered to private operators. Already 23 railway

stations, all in metro cities, have been shortlisted for privatisation. More than 600 Railway Stations along with land around them have been identified for development through private players in the name of “redevelopment of Railway Stations and land around them”. It was part of Budget speech of the Finance Minister. Workers not only in Railways but in all Government and Public Sector Undertakings shall be worst victims of privatization in terms of job security, democratic trade union rights and protection of achievements in the areas of pay, perks, social security etc. Like Central Electricity Regulatory Authority (CERC), a Railway Development Authority (RDA) has been created. Given the sky-rocketing increase in electricity tariff by CERC, under RDA, railway fare and goods freight is poised to be hiked, hurting the common people and benefiting the private profiteers.

The exposures of various corruptions by the BJP led NDA Govt. in the centre shows the real face of the ruling clique and Rafael deal is biggest scam yet being unearthed step by step.

Public Sector Banks are under attack through various legislative and executive measures. The ultimate target of the Government is privatization and to extend undue favour to the same private corporate crooks, whose default of paying back the loan has put the banking sector in severe difficulties. Instead of addressing the problems of NPA and fixing the corporate defaulters, the Government is going ahead with its scheme of merger of banks, which in reality leads to closure of numerous branches, resulting in job-losses and narrowing of the outreach of the PSU Banks.

NPAs have crossed Rs. 13 lakh crores. After Vijay Mallya, now Neerav Modi and Mehul Choksy have also dodged the Indian system and run away with the loot of Indian people's money. The Government brought FRDI Bill which was opposed tooth and nail by the unions forcing Government to withdraw it. But now the Government has come out with Insolvency and Bankruptcy Code, which is aimed to facilitate

the corporate defaulters to go away with major part of the debt default under the camouflage of so-called “resolution process of insolvency”. Banks will get back hardly 30 per cent of their due loan amount. This is another big scam in the making which would further damage the crises ridden economy.

The retrenchment of contractual employees has been resorted to already in some banks and telecom sector. Insurance sector is also under such attack. Legislative measures to pave the way of privatization of our major ports are also in the advanced stage. CPSUs even including the core and strategic sectors like Energy, Petroleum, Telecom, Metal, Mining, Machine Building, Electronic and Digital, Road, Air and Water Transport, Port & Dock and more are under the privatization onslaught of the Government. In J & K, the entire land and building of the production unit of the sole PSU, ITI Ltd., is being taken over in the name of building an NSG Hub there. The Convention notes that workers of these industries are fighting sectoral battles unitedly. United struggles have been launched by the workers and employees of Government Services Sector including the Scheme Workers, Domestic workers, Migrant workers and unorganized sector workers. The Convention extends full support to these struggles. It also demands that one rank one pension sanctioned to some should be uniformly implemented for all Defence employees.

Attempts are being made by many state governments to dismantle Public sector road transport by issuing route-permits to private parties. The central government intends to get the new Motor Vehicle (Amendment) Bill 2017 hastily passed in the parliament which will allow wholesale privatisation of road transport on the one hand and impose draconian measures on the road transport workers including those in private sector. The Rajasthan Road Transport Workers Union is spearheading militant struggle against even the precursor of this bill (Road Transport

& Safety Bill, 2014) by forging alliance with other trade unions in the sector, since its inception in 2014. Even now, they are on indefinite strike since 16 September, 2018 against Rajasthan Transport Minister's volte-face on his assurances and attempts to privatise the depots. The Convention while taking note of the protest action by transport workers, salutes the Road Transport Workers of Maharashtra who demonstrated excellent communication skill, rock hard determination, commitment and unity while observing 4 days State wide general strike to press for their genuine demands despite use of all repressive measures by Government and also disruption by some black sheep. The Convention also notes the widely participated countrywide strike by Road Transport workers on 7 August 2018 against the Motor Vehicles Amendment Bill. The Convention condemns the state Governments, including the state governments of Haryana and Rajasthan and central Government's anti people and anti worker moves in the transport sector.

The National Convention of Workers extends full solidarity to the fighting farmers in various states as well as under the Joint National Forums of Peasants' Organizations, including the struggle of STs for implementation of Forest Rights Act, 2006. It is the same set of pro-corporate, pro-landlord policies which have created a severe crisis in agriculture, biggest livelihood provider in the economy, leading to continuing increase in spate of suicides. The promised Minimum Support Prices, one and half times the cost of production, to farmers was not accomplished, rather further fraud was committed on the farming community with the kind of announcements made on MSP for their crops.

This National Convention of Workers records its strong denunciation against the communal and divisive machinations on the society being carried on with the active patronage of the Government machinery. The BJP Governments are using draconian UAPA, NSA as well as the agencies

of CBI, NIA, IT to harass and suppress any dissenting opinions. The peace loving secular people in the country are facing a stark situation of terror and insecurity all around. Communal forces are cultivating an atmosphere of conflicts within the society on nonissues. It is disrupting the unity of the workers and the toiling people in general, so vital to carry forward the ongoing struggles based on our 12-point Charter of Demands as detailed above. Working Class must raise its strong voice of protest.

This anti-people, anti-workers and anti-national policy regime has not only been imposing increasing miseries on the toiling people at large, it is also severely damaging the national economy and destroying its indigenous productive and manufacturing capabilities to serve the interests of the multinational companies with Indian corporates as their junior partner. This anti-people and anti-national policy regime must be defeated squarely to force the pro-people changes in policies on all fronts. And for that, the united platform of the working class must heighten its struggle further.

The task before the Joint Platform of Central Trade Unions and independent national federations is to further intensify the surging struggles in various sectors through a concerted united agitation and mobilization at national level to be followed by countrywide general strike action as a culmination and consolidation of all sectoral struggles. The National Convention of workers therefore adopts the following programmes:

*** State level, district level and industry/sector level joint conventions to be held during October/November 2018 4 Joint Industry-level gate meetings, rallies etc. during November and December, 2018**

*** Joint Industry-level gate meetings, rallies etc. during November and December, 2018**

- * **Submission of strike notice jointly with demonstrations during 17-22 December, 2018**
- * **Two days countrywide General Strike on 8 and 9 January 2019.**

The National Convention calls upon working people across the sectors and throughout the country irrespective of affiliations to make the above programmes a total success.

INTUC, AITUC, HMS CITU, AIUTUC, TUCC, SEWA, AICCTU, LPF UTUC

And Independent Federations/Associations of Workers and Employees

12 POINT CHARTER OF DEMANDS

1. Urgent measures for containing price-rise through universalisation of public distribution system and banning speculative trade in commodity market
2. Containing unemployment through concrete measures for employment generation
3. Strict enforcement of all basic labour laws without any exception or exemption and stringent punitive measures for violation of

labour laws.

4. Universal social security cover for all workers
5. Minimum wages of not less than Rs 18,000/- per month with provisions of indexation
6. Assured enhanced pension not less than Rs.3,000/- p.m. for the entire working population
7. Stoppage of disinvestment in Central/State PSUs and strategic sale
8. Stoppage of contractorisation in permanent perennial work and payment of same wage and benefits for contract workers as regular workers for same and similar work
9. Removal of all ceilings on payment and eligibility of bonus, provident fund; increase the quantum of gratuity.
10. Compulsory registration of trade unions within a period of 45 days from the date of submitting application; and immediate ratification of ILO Conventions C 87 and C 98
11. Against Labour Law Amendments
12. Against FDI in Railways, Insurance and Defence

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Sharm Inko Magar Nahin Aati! Yet they do not feel ashamed!

Rajasthan man accused of murdering Muslim on camera set to contest Lok Sabha election

A lesser known political outfit, Uttar Pradesh Navnirman Sena, has decided to field Shambhulal Regar — accused of hacking a Muslim man to death and burning his body in Rajasthan's Rajsamand — as its candidate from Agra Lok Sabha seat.

A lesser known political outfit, Uttar Pradesh Navnirman Sena, has decided to field Shambhulal Regar — accused of hacking a Muslim man to death and burning his body in Rajasthan's Rajsamand — as its candidate from Agra Lok Sabha seat.

Though Regar is currently lodged in Jodhpur jail, party leaders are confident that he would win the election. The Agra (reserved) Lok Sabha seat is presently represented by former union minister Ram Shankar Katheria who is the chairman of the National Commission for Scheduled Castes (NCSC).

National president of UP Navnirman Sena Amit Jani said: "If a person is accused in a murder case it does not mean he is a murderer... Regar has the constitutional right to contest election till his conviction..." He said the party had offered Regar a ticket which he had accepted.

"There will be objections from parties which have otherwise given tickets to people like Atiq Ahmad, Mukhtar Ansari and Shahabuddin and

HT Correspondent, Agra, got them elected in the name of secularism. These parties will oppose the candidature of Shambhulal Regar who comparatively faces lighter charges than many others contesting elections," Jani claimed.

He said the BJP should have given ticket to Regar from some assembly seat in Rajasthan but it was in no mood to do so. "Navnirman Sena will field candidates in UP for Lok Sabha elections...The seers will guide us and also campaign for our candidates," Jani added.

Labourer Mohd Afrazul, who hailed from West Bengal, was allegedly hacked and burnt alive on December 6 last year by Regar. After killing Afrazul, Regar was seen in a video ranting that he did it to 'stop Love Jihad', a term publicised to refer to Muslim men marrying Hindu women.

Jani was arrested in October 2017 in Agra along with his associate Updesh Rana for posting a controversial post depicting Taj Mahal as 'Tejomahalaya', a Shiv Temple, on social media.

Courtesy **Hindustan Times**, Sep 19, 2018 

The Radical Humanist on Website

'The Radical Humanist' is now available at <http://www.lohiatoday.com/> on Periodicals page, thanks to Manohar Ravela who administers the site on Ram Manohar Lohia, the great socialist leader of India. Some of Roy's important books are also available at that site.

- Mahi Pal Singh

India Government Chose Anil Ambani for Rafale, Says Francois Hollande: 10 Facts

The government has repeatedly said it was Rafale manufacturer Dassault that had picked the Anil Ambani group as its India partner and that the government had nothing to do with this process.

New Delhi: In the middle of a raging political row over the Rafale deal, former French president Francois Hollande has been quoted as telling a website that the Indian government had proposed Anil Ambani's Reliance Defence as India partner in the 36-fighter jet deal and that France had not been given a choice. Denying the charge, a defence ministry spokesperson tweeted that the report "is being verified" and that "neither GoI (government of India) nor the French Government had any say in the commercial decision." Congress president Rahul Gandhi, who has been attacking the PM over the Rafale deal, tweeted to say "the PM has betrayed India".

Here are the top 10 developments in this big story:

1. French journal Mediapart quotes Francois Hollande as saying: "We did not have a say in this... the Indian government proposed this service group and Dassault negotiated with (Anil) Ambani group. We did not have a choice, we took the partner who was given to us."
2. The report, tweeted by a LeMonde journalist, is set to escalate a massive government-opposition row in the build-up to elections including the 2019 national polls. The opposition alleges crony capitalism in the nomination of Reliance Defence, since the group has no prior experience in aerospace manufacturing.
3. The Anil Ambani-led group is manufacturing aerospace components as part of the offset component of the Rafale deal. The clause requires Rafale manufacturer Dassault to ensure that business worth around Rs. 30,000 crores is generated for the Indian defence system. Reliance Defence is not making components for the Rafales ordered by India but is building assemblies for Dassault business jets.
4. The government has repeatedly said it was Dassault that had picked the Anil Ambani group as its India partner and that the government had nothing to do with what was essentially a commercial pact between two private parties.
5. "The PM personally negotiated and changed the Rafale deal behind closed doors. Thanks to Francois Hollande, we now know he personally delivered a deal worth billions of dollars to a bankrupt Anil Ambani. The PM has betrayed India. He has dishonoured the blood of our soldiers," Rahul Gandhi tweeted.
6. Anil Ambani, in a two-page letter in December to Rahul Gandhi - who has been attacking the government over the Rafale deal - had defended his company's credentials: "Not only do we have the necessary experience but we are also the leaders in several important areas of defense manufacture."
7. Other French companies also need to fulfil their offset obligations in the deal. These companies are Safran, which manufactures the engines of the Rafale, MBDA, which is providing many of the

NDTV News Desk

deal. The clause requires Rafale manufacturer Dassault to ensure that business worth around Rs. 30,000 crores is generated for the Indian defence system. Reliance Defence is not making components for the Rafales ordered by India but is building assemblies for Dassault business jets.

weapon systems and Thales, which manufactures the avionics of the fighter.

8. Francois Hollande is also facing allegations of crony capitalism in his country. The Indian Express has reported that two days before he came to New Delhi as the Republic Day chief guest and signed a Memorandum of Understanding with Prime Minister Narendra Modi for delivering 36 Rafale aircraft, Anil Ambani's Reliance Entertainment entered into a deal to produce a film with Hollande's partner and actor Julie Gayet.

9. PM Modi announced the jet deal after talks with President Hollande on April 10, 2015 in Paris. Anil Ambani was part of a business delegation that travelled with PM Modi on that visit.

10. Another vocal critic of PM Modi, Arvind Kejriwal, tweeted: "By hiding crucial facts on Rafale deal, is Modi government not endangering national security? Former French President's statement directly contradicts what Modi government had been saying so far. Can the country be taken for a ride any further?"

Courtesy [NDTV](#), September 22, 2018 

Police Officer Who Busted Sohrabuddin Encounter Case Says State Trying to Silence Him

Sukanya Shantha

"I was provided security for a reason. If a sitting judge can die suddenly, I am just an inconsequential retired police inspector. The government and the police can go to any extent to ensure everyone accused in the case gets a clean chit. They can kill too," says V.L. Solanki.

Mumbai: Thirteen years ago, Vasant Laljibhai Solanki, a quiet and diligent police inspector with the Gujarat state police, was handed charge of the investigation into the encounter killings of Sohrabuddin Shaikh, his wife Kauser Bi and associate Tulsi Prajapati. After a detailed investigation – the kind rarely seen in police departments anywhere in India when a fake encounter is alleged – he fearlessly concluded that the encounters were fake and named the senior police officers who were responsible for the extra-judicial killings.

Apart from nailing several police officers for their involvement in the killings, Solanki's efforts opened a can of worms that eventually saw the indictment of Amit Shah, now BJP president, for his alleged involvement in the conspiracy.

As the murder case, which was subsequently taken over by the Central Bureau of Investigation,

started collapsing after May 2014 in the face of the CBI's own lack of interest and witnesses turning hostile, Solanki has stood his ground. This despite the acute threats and pressure that he claims he faced both from the police department and the ruling Bharatiya Janata Party.

In an exclusive interview to The Wire as he awaits his turn to depose before the special CBI court in Mumbai that is conducting the criminal trial in the case, Solanki says the state has tried every trick in the book to ensure he stays away from the court.

The most recent attempt is the sudden withdrawal of security – originally provided to him nine years ago on the Supreme Court's direction – by the state government.

Solanki, who is scheduled to depose before the court on September 21, told The Wire that he can't be present before the court until his security is restored. "I was provided security for a reason. If

a sitting judge can die suddenly, I am just an inconsequential retired police inspector. The government and the police can go to any extent to ensure everyone accused in the case gets a clean chit. They can kill too,” he said, referring to the unanswered questions surrounding the sudden death of judge Brijgopal Harkishan Loya’s in Nagpur on December 1, 2014. Loya’s security had also been withdrawn shortly before his death.

Security mysteriously withdrawn



Vasant Laljibhai Solanki, the original investigating officer in the Sohrabuddin encounter case. Credit: Solanki family

In his first proper interview to the media since he first was assigned the Sohrabuddin case a decade ago, Solanki told *The Wire* that two constables – armed with automatic rifles – had been with him every day since 2009. But on July 18, 2018, the security officials mysteriously stopped coming. “I had round-the-clock security. This was provided on the directions by the Supreme Court in 2009, the same year, I retired from the police service. On July 18 this year, the security officials stopped coming to my place. No reasons were given for this sudden decision by the state government,” Solanki says.

Since then, Solanki has written at least eight letters, including to the state police department, the Supreme Court and the Gujarat high court and the special CBI court conducting the trial, to no avail.

“Feeling concerned about me and my family’s

security, I had written to all these departments and hoped someone would intervene. Instead, each of them maintained a radio silence. And two months later on September 6, I was issued a summons from the special CBI court presided by judge S.J. Sharma asking me to be present before the court to depose on September 21. It was clear why my security was suddenly pulled out,” he asserts. Solanki further claims the state police pulled out his security only to “discourage” him from depositing before the court.

Solanki wrote letters drafted in Gujarati on July 20 to the director general of police (DGP) Gujarat, DIGP- CID Gujarat, DIGP- CID IB, home secretary – home department of the Gujarat state government, the Supreme Court of India, the Gujarat high court, DGP- CBI and special CBI judge Sharma.

In these letters, which have been accessed by *The Wire* and confirmed from different departments where they were sent, Solanki has narrated the chain of event, his involvement in the investigation and the perceived threat to him and his wife’s life. In his letter, he claims, “I fear that I and my wife could be hurt in a mob attack. This is a high-profile case and I am an important witness in the case. Pulling out security right when the case is on trial and I am expected to depose before the court has disturbed me,” he writes.

Solanki feels his statement to the court will be most crucial in the case and can ensure that the “sinking ship” – that the case appears to be right now – can be saved with his testimony. But he told *The Wire* he can’t possibly reach the court from Ahmedabad until he is provided proper security. “I have mentioned this in each of my letters. In fact, I have even written on the court summon papers that I can’t make it to the court until the court ensures my security. It is the state and the judiciary’s responsibility after all to ensure that the witness is protected and is able to depose fearlessly.”

Solanki’s investigation reached all the way

to the top

Solanki, as one of the first and the most trusted officers assigned the investigation into Sohrabuddin's encounter in 2005, is also one of the most crucial witness in the murder trial which has seen several low points until now. Just going by the total number of hostile witnesses in the case – around 93 out of the 180 witnesses examined so far – it has slowly become apparent that proving the CBI's charges against the remaining accused is not going to be an easy task.

“Three innocent lives were taken away in a sinister plan made by the politicians and executed by the police officers. There was no chance that I could be bought out.”

Besides, the prime accused including Amit Shah (who was Gujarat MoS (home) at the time of the crime), and several IPS officers like former Gujarat ATS chief D.G Vanzara, Dinesh M.N. and Rajkumar Pandiyan have already been discharged from the case. Other police officers like N K Amin, Gujarat cadre IPS officer Vipul Aggarwal, and Rajasthan Police's Dinesh MN and Dalpat Singh Rathod were also discharged by the Bombay High Court early this month.

This means that only 22 out of the 38 accused originally named by the CBI in its chargesheet are still facing trial. The 22 include inspectors, assistant inspectors, sub-inspectors and constables from Rajasthan, Gujarat and Andhra Pradesh. The trial in the case began in November last year and has since seen several twists and turns, with even the Sohrabuddin's brother Nayamuddin turning hostile in the case. Two other brothers – Rubabuddin Shaikh, the original complainant in the case and Shahnawazuddin Shaikh – have not turned up before the court for their deposition despite having received the summons.

Although just a police inspector when he was inducted in the core team to investigate the case under the supervision of IPS officer Geeta Johri, Solanki was among the most highly-rated investigators in the department. His rank at the time

was inspector-general.

Allegation against Amit Shah

Solanki told *The Wire* that as a part of the investigation, he travelled across five states – Andhra Pradesh, Maharashtra, Gujarat, Rajasthan and Madhya Pradesh – and “had gathered damning evidence directly implicating Vanzara and party”. “The first set of investigations were done without much political interruption. We had named the crucial accused in our first round of investigation. Johri madam blindly trusted me then,” he recalls, but then things changed. He alleges that Johri was one of the first officers who was allegedly approached in November 2006 by Amit Shah and asked to go easy on officers like Vanzara and Pandian.

“Things changed after that. The officer who blindly trusted me and would attend my phone calls even when she was midst of some important work was no more available. Johri madam was the first among the police officers to be bought out,” he alleged.

Solanki repeated what he has already told the CBI officers in 2011. “Johri madam asked me to go easy on the officers and asked me to alter several points noted in the investigation report I had prepared,” he claims. He further adds that since he has immense respect for his late father Lalji Solanki, he had told Johri, “Even if Lalji bhai comes and tells me that I must manipulate the investigation, I won’t. Johri madam was shocked seeing my guts and my readiness to defy anyone including her. Three innocent lives were taken away in a sinister plan made by the politicians and executed by the police officers. There was no chance that I could be bought out.”

In the first leg of investigation, which Solanki was a crucial part of, 15 suspects were interrogated and of them 13 were named as accused. However, it is on Solanki's statement and the other chain of evidence that had emerged by 2011, that the CBI's chief investigating officer Sandeep Tamgadge, a 2001 batch IPS officer from the Nagaland cadre,

had named Shah as an accused in the case.

“I was on the case until 2009. I was to retire from the service in 2007 but was given two extensions, of one year each and asked to continue with the investigation. We had done the initial investigation and our biggest achievement was to get the IPS officers who were at the helm of the affair implicated in the case. Shah’s name, although not mentioned in my initial investigation, [came up] only because of my statement to the CBI under the leadership of Tamgadge sir. He was the only officer I trusted and I knew he was a non-corrupt officer who was keen in getting to the depth of the matter,” Solanki claims.

Solanki, born in a Dalit family in Ahmedabad, studied at a Sainik school at Jamnagar. He says he does not believe in any “Ram or Rahim”. “My only god is Dr. Babasaheb Ambedkar. I believe in his principles and the constitution that he gave us,” he told The Wire

From 2011 and 2014, Tamgadge held multiple charges in the CBI and the most important among them was that of superintendent of police of the Special Crime Branch of CBI, Mumbai. During his stint with the CBI, he investigated the two cases involving the killings of Sohrabuddin, his wife Kauser Bi and a key witness, Tulsiram Prajapati. In the course of his investigation, it surfaced that Kauser Bi was raped before she was killed and her body was burnt and disposed of. Tamgadge was later also handed over the investigation in the alleged fake encounter killing in 2004 of college girl Ishrat Jahan.

Tamgadge was the first officer to have investigated Shah twice in connection with his alleged role in these killings – once in January 2012 in connection with Prajapati murder case and the next time in October 2013 in connection with Ishrat Jahan’s case. He was removed by CBI chief Ranjit Sinha from the investigation in April 2014, a month before BJP swept the general elections and Narendra Modi became prime minister.

‘Police can go to any extent, even kill me’

In his 35 year-long police career, Solanki says, the investigation in the Sohrabuddin murder case was the most challenging. “And, even 10 years since my retirement, I am living in constant stress,” he says. “I know they can never break me. But it is quite daunting on other people in my family, especially my wife, who fears the police can go to any extent, even kill, should need be.”

Solanki, born in a Dalit family in Ahmedabad, studied at a Sainik school at Jamnagar. He says he does not believe in any “Ram or Rahim”. “My only god is Dr. Babasaheb Ambedkar. I believe in his principles and the constitution that he gave us,” he told *The Wire*.

His children – three daughters and a son – now live in the United States and Canada. Solanki says, “If I wanted, I could have quietly struck a deal with the accused, taken money and shifted with my children. No one would have ever come to know about it. But how could I have faced myself?” he asks. His children too, he says, supported him right from the first day of the investigation and told him come what may, he won’t ever accept a bribe. “My wife Udayprabha is anyway a “Jhansi ki Rani (Queen of Jhansi)”. But my children were even more courageous and it is only my family that continues to give me the strength to stay firm on my decision to fight the system,” he says.

Solanki, who was due for promotion in 2004, claims he was denied his due after he refused to accept the demands of senior officials. “The recommendation for my promotion was sent in a seal cover to the home department and since then has been lying with the department. It is an irony that an officer who faced every challenge to ensure justice was denied what was due to him, but the murderers were given promotions even after they were arrested and had to face the trial,” he said.

He added that he is preparing to fight his case for promotion in court. “I do not like any injustice, either done to society or to me personally. I believe in fighting back.”

Courtesy *The Wire*, 21 September 2018. 

Tributes:

Gautam Thaker

National President of Indian Radical Humanist Association (IRHA) and General Secretary of People's Union for Civil Liberties (PUCL), Gujarat, Gautam Thaker has passed away on Saturday the 8th September 2018.

Having retired as a Manager from Central Bank of India in the year 2006, he entirely dedicated himself for promoting and preserving human rights, social justice and democratic values.

The day on which Gautambhai passed away, ceremonial release of a book titled "Peep into the world of the unorganized labourers of Gujarat" followed by Seminar were scheduled to be held. Of course, in the wake of his demise, book release function was postponed. A condolence meeting was held at 6-30 PM on 10th September 2018 at Gujarat Vidhyapeeth where the book composed by Gautambhai was formally released. In the course of Condolence meeting, in place of observing 'silence', recital of the lyric "Ham Honge Kameeyaab" by a chorus was held for paying tributes.

72 year old Gautambhai continued to lead widespread movement for the causes of Human Rights, Civil Liberties and Social Justice by effectively co-ordinating civic organizations.

Apprehending problems created in the EVM, he had initiated formation of an Expert Committee to look into the matter, in the year 2013 and the said Committee had made recommendations that future elections in the country should be held making use of ballot paper. Having interacted with the Election Commission and various political parties, he had done effective lobbying and advocacy.

In Gujarat, appointment of Inquiry Commission headed by Justice M. B. Shah was made in the year 2011, under provisions of Commission of Inquiry Act. Since no person or a party was ready to become a party to it, Prakash N. Shah and Gautam Thaker on behalf of PUCL had pleaded and courageously made representations in the matter.

Until 2006, incidents of fake encounters had taken place in Gujarat. In the subsequent inquiries made by the C.B.I. tactics of extortion of money were revealed. Some 200 persons / people had lodged

complaint before the C.B.I. about demand of extortion money by unscrupulous groups but no steps were initiated as there was in it involvement of some ministers and higher ups in the ruling regime. Hence Gautambhai had asked for relevant information by taking recourse of the R.T.I. However, in spite of directives from the Commissioner, R.T.I., required information was not provided. He kept on reminding to collect information, till the end of his life.

In the year 2012, some 5 persons belonging to Nepali community had resorted to self-immolation right before the Collector office campus at Rajkot, in view of harassment inflicted by anti-social elements. Gautambhai, under the auspices of PUCL, had constituted an Inquiry Commission and made representations before the National Human Rights Commission. Pursuant to that, pressure was created on the State Govt. administration. During floods which caused havoc in Banaskantha district, Gautambhai caused for constitution of an inquiry commission and had made representations before the State Govt. This flood havoc was artificial or man-made as there was no proper co-ordination among various departments. He made forceful and vigorous representation before the Govt., towards injustice and delay in providing compensation.

In the face of critical situation arising out of non-disposal of rain waters which took place at Ahmedabad, Gautambhai had filed a P.I.L. in the Gujarat High Court.

He intervened in settlement of compensation and outstanding dues of sacked employees of a leading Gujarati periodical after protracted fight and persuasion.

He authored a book titled "Five Decades of Pavilion", it showed that Gautambhai evinced a deep interest and knowledge in the field of sports also.

Having to run institutes without an office or fund is indeed a difficult task. Art of executing tasks with support of voluntary contribution and people's trust on him are some of the best examples.

Public Life of Gujarat has suffered a major loss and setback in the passing away of Gautambhai.

Mahesh Pandya 

Condolence Meeting of Shri Gautam Thaker held at Ahmedabad

Sh. Shankarsinh Waghela, Suresh Bhai Mehta both Ex-C.M.s of Gujarat, Prakashbhai Shah, known journalist and PUCL President, Gujarat, Maheshbhai Pandya, Prof. Hemant Shah, Ilaben Bhatt, SEWA, Justice R.A. Mehta, Ex Chief Justice, Gujarat High Court, Vipul Pandya, working for labour, Sudershan Iyenger, Ex Vice Chancellor, Gujarat Vidhyapith, Prof. Vidhyut Joshi, Rohit Mistry from Narmada Bachao Aandolan and many more activists including Muslim activists were present in the Condolence Meeting of Shri Gautam Thaker and paid their tributes.



The Role of the Bhagavad-Gita in Indian History

Premnath Bazaz

A dispassionate and objective study of the Bhagavad-Gita will show that despite the extravagant claims made on its behalf, it is not an unfailing guide to spiritual freedom or worldly advancement. It is true that the holy poem mentions some lofty ideals, puts forth a few sublime thoughts on different aspects of human culture and lays down certain noble precepts for success in mental discipline. But on the whole, its teachings can help (and have helped) only to subvert human progress and nourish social evils. It is a philosophy of the upper classes meant to be utilised by them as a weapon for maintaining a frustrated society in some sort of stability and equilibrium by inculcating ideas of patience and contentment in disinherited, exploited and downtrodden millions.

Since its appearance, the Gita has been repeatedly invoked to fight against the forces of revolution. If Shankaracharya sought its assistance in the ninth century A.D. to deal a death blow to declining Buddhism, Mahatma Gandhi utilised its teachings to annihilate the rising tide of secular democracy. This is true even though Shankara was dubbed as a crypto Buddhist and Gandhi acclaimed as the champion of democratic freedom.

From **The Radical Humanist**, August 2002