

# THE RADICAL HUMANIST



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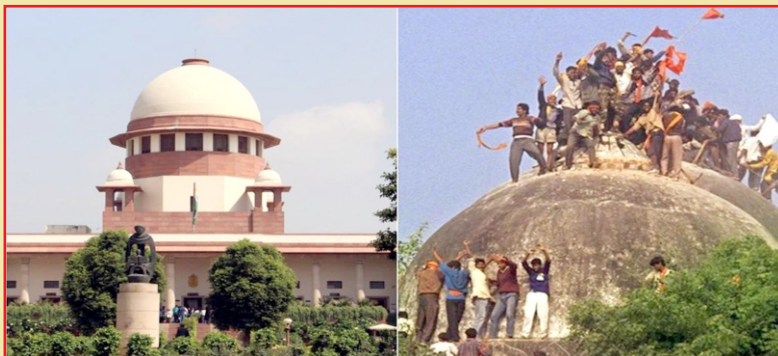
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**With the Babri Masjid verdict, the judiciary has dug its reputation into an even-deeper hole - Sruthisagar Yamunan**

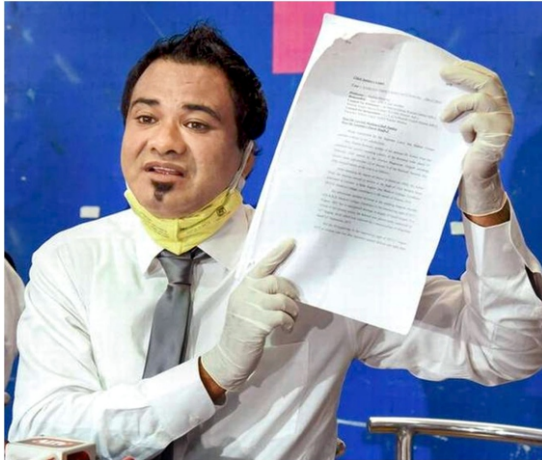


**Hathras case is a mirror in which we see the flaws of Indian democracy, and the sight is frightening – Tavleen Singh**



# The demonisation of dissent

*There are similarities in the goals and methods of the U.P. government and the Delhi Police*



*Dr. Kafeel Khan addresses a press conference in Jaipur, on September 3 soon after his release from Mathura jail. PTI*

The Allahabad High Court judgment setting aside the detention of Dr. Kafeel Khan under the National Security Act (NSA) goes beyond serving the interests of justice in the individual case it was dealing with. It also goes beyond the relief it brings to this much maligned and persecuted citizen of India. The judgment could be taken as a standard to look at judicial oversight in multiple cases of a similar nature.

By coincidence, on the same day, the Delhi High Court granted bail to Pinjra Tod member, Devangana Kalita, who has been in a Delhi jail since May. Ms. Kalita is an accused in four cases connected to the anti-Citizenship (Amendment) Act/National Register of Citizens (CAA/NRC) protests and the riots in north-east Delhi. This was the third case in which she was granted bail, but she will remain in jail since she is charged in a fourth case under the Unlawful Activities (Prevention) Act (UAPA).

Normal judicial processes related to the rights of the accused get virtually suspended in the case of detainees under the UAPA and the



**Brinda Karat**

NSA. Since the time given for filing of a charge sheet can also be extended, as was done by the Uttar Pradesh government in the case of Dr. Khan and in all the Bhima Koregaon-Elgar Parishad cases in Maharashtra, the accused can 'legally' be locked up indefinitely with no rights.

## Hate speech

The court rulings in these two cases are different, but there are similarities in the goals and unscrupulous methods used by the Uttar Pradesh government in the case of Dr. Khan and the Delhi Police, directed by the Union Home Ministry, in the case of Ms. Kalita. In my interpretation of the two judgments, among the important issues dealt with, there are at least three which need to be highlighted. The first is hate speech and incitement to violence. In both cases, the accused were charged for commitment of such crimes under the relevant sections of the law linked to the anti-CAA/NRC protests. The Allahabad order reproduces the entire speech made by Dr. Khan and says: "It does not disclose any effort to promote hatred or violence. It also nowhere threatens peace and tranquility of the city of Aligarh." The Delhi High Court stated in its ruling that the Delhi Police "failed to produce any material that she in her speech instigated women of [a] particular community or gave hatred speech due to which precious life of a young man has been sacrificed and property damaged." Further, the Allahabad High Court indicted the administration for "selective reading and selective mention for few phrases from the speech ignoring its true intent." The Delhi High Court said granting of bail would prevent the accused "from suffering further unnecessary harassment, humiliation and unjustified detention."

( To be Contd....on Page - 4 )

# THE RADICAL HUMANIST

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## The demonisation of dissent...

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This highlights the importance of understanding the context in which words are uttered. Yet, today, a number of activists are being vilified for their so-called hate speeches. They are subjected to harassment and humiliation on “selective readings” which seem to be accepted by some courts as “serious charges”. Even in the Supreme Court, when Solicitor General Tushar Mehta opposed the hearing of a petition filed by human rights activist Harsh Mander on the grounds of a speech Mr. Mander made showing his “lack of belief in the Supreme Court,” the Bench not only accepted Mr. Mehta’s contention but made adverse comments against Mr. Mander without even hearing the speech. The full speech was later put out in the public domain. The comments made by the Allahabad High Court of “selective reading” in Khan’s case could be considered equally relevant in the context of what Mr. Mehta did.

### ‘Subjective satisfaction’

The second issue is of the “subjective satisfaction of the detaining authority”. In most of the cases filed against anti-CAA/NRC activists, the assessment of the authorities that law and order would be affected if the accused are released and that they are part of an ‘anti-national’ conspiracy are used as arguments to deny bail pleas. The “subjective satisfaction of the detaining authority” is all that is required. This was argued in Dr. Khan’s case too. The Allahabad High Court, while accepting this as a ground and judicial precedent, stated: “The expression “subjective satisfaction” means the satisfaction of a reasonable man that can be arrived at on the basis of some material which satisfies a rational man. It does not refer to whim or caprice of the authority concerned.” In the case of the Delhi arrests and also the Elgar Parishad cases, the same standards of “material which satisfies a rational man” so relevant for

the protection of civil liberties and democratic rights should apply. At the least it would surely lead to the prosecution of Bharatiya Janata Party leaders who made hate speeches in the case of Delhi. And in the latter case, could activist Sudha Bharadwaj then be denied bail?

### Calling ‘witnesses’

The third issue is of witnesses. The Delhi High Court bail order specifically mentions that there is “no such evidence which establishes that the alleged offence has taken place on the act done by the petitioner [Devangana Kalita], except statements recorded under section 164 Cr.P.C. much belatedly...” Many such cases rely mainly on so-called witnesses. In Delhi, there are examples of how even those who attended solidarity meetings during the anti-CAA/NRC protests between December 2019 and February 2020 are being called in for questioning by the Special Branch and are being asked to specifically name activists on the police target list.

Along with the courts, political parties in the Opposition should also take note of these judgments. Unfortunately, except for the Left parties, there has been an inexplicable silence from most parties on the unfair targeting and demonisation of anti-CAA/NRC protesters and their being blamed for communal violence. Investigating agencies under the Home Ministry are unashamedly protecting ruling regime leaders, while innocent citizens like Dr. Khan are being locked up. Is it not time for these Opposition parties to come together to demand the release of political detainees locked up under the UAPA and the NSA, and also demand the punishment and arrest of those in the ruling regime who incited violence through their hate speeches?

**Brinda Karat** is a member of the CPI (M) Polit Bureau and a former Rajya Sabha MP.

Courtesy **The Hindu**, 9 September 2020. 



# Authorities ‘Weaponising’ Sedition Laws, Says Former Supreme Court Judge

*Former Supreme Court judge Madan B Lokur said that the court had laid down the sedition law clearly and cogently in 1962 itself, yet authorities have found various ways of “weaponising” the sedition laws.*

NDTV

**New Delhi:** Law is being misused to curb free press and speech, former Supreme Court judge Madan B Lokur said. He said that “a lethal cocktail of use and misuse of law” is being used to impact adversely the liberty of all those who dare to speak up.

The former top court judge was especially critical of “weaponising” of the sedition laws, “abuse” of prohibitory orders and blanket shutdown of the Internet.

Justice Lokur was delivering the 2020 B G Verghese Memorial Lecture on “Preserving and Protecting our Fundamental Rights - Freedom of Speech, Expression and the Right to Protest”, organised by the Media Foundation.

Besides, the Foundation also presented the 2019 Chameli Devi Jain Award to women for outstanding journalism.

This year, the award was shared by Arfa Khanum Sherwani of “The Wire” and Rohini Mohan, a Bengaluru-based independent journalist. Rukmini S, an independent data-journalist from Chennai, received an “honorable mention.”

In his lecture, Justice Lokur said, “One of the worst forms of curtailment of the freedom of speech is charging a person with sedition.”

He pointed out that the Supreme Court had laid down the sedition law clearly and cogently in 1962 itself, yet authorities have found various ways of “weaponising” the sedition laws.

Justice Lokur was among the four senior top court judges who held the controversial January 12, 2018 press conference against the then Chief Justice of India Dipak Misra.

While talking about the new methods of

“silencing speech”, he said these include attributing to a speaker something he or she never said and then instituting punitive proceedings against that person.

He also referred to several cases, including that of the preventive detention of doctor Kafeel Khan, and said “almost every procedure known to law was violated” by the detaining authorities.

Kafeel Khan was arrested in January this year on the charge of delivering a provocative speech at the Aligarh Muslim University (AMU) during the anti-Citizenship (Amendment) Act (CAA) protests. The Allahabad High Court ordered his release on September 1.

Justice Lokur also talked about the arrest of Pinjra Tod member Devangana Kalita in a Delhi riots case, and said that any citizen “can be arrested on the basis of a fairy tale and will have to go through a long-drawn process for being set free”.

He said that the law is always to be interpreted objectively, but of late, subjective satisfaction has taken over and the consequences are unpalatable.

The former top court judge, who retired in December 2018, alleged that the use of Section 144 of CrPC to “keep the media out of the Hathras gangrape rape area is nothing but an egregious violation of the freedom of the press through a bizarre abuse of law.”

He said that the frequent internet shutdowns through “blanket orders under the guise of preventing breach of peace” were a highly disproportionate response.

( To be Contd....on Page - 8 )

# With the Babri Masjid verdict, the judiciary has dug its reputation into an even-deeper hole

*The legitimisation of the tragedy that occurred in Ayodhya in December 1992 started with the Supreme Court verdict about the plot last year.*

**Sruthisagar Yamunan**

Judges often say that a matter has “shocked the conscience of the court” to invoke their extraordinary powers and initiate tough action. Perhaps this expression arises from the idea of justice being impartial and blind. To reiterate this, the statue of the Lady of Justice that sits atop court buildings around the world is blindfolded and holds a balance.

But this does not imply a cold objectivity. The Constitutional idea of justice is primarily that the weak must be protected from the powerful. It is a fetter on power. Hence, when something is so repulsive that it shocks the conscience of the courts, the judges are expected to remove their proverbial blindfold and act – even if it means acting partially – in favour of the vulnerable and marginalised.

However, if blindness involves refusing to acknowledge that injustice is being perpetrated, what is shocked is the conscience of the nation. This shock is not momentary. It opens an abyss into which tumbles public faith that the judiciary will firmly hold the balance in face of power.

## **Deafening jubilation**

On Wednesday, when the verdict in the Babri Masjid demolition case was delivered after an indefensible delay of 28 years, the reputation of India’s judiciary dug a deeper hole for itself. A special Central Bureau of Investigation court acquitted all 32 people accused in the case and ruled out any criminal conspiracy due to lack of conclusive

evidence against them. Bharatiya Janata Party leaders Lal Krishna Advani, Murli Manohar Joshi, Kalyan Singh and Uma Bharti were among those accused of criminal conspiracy and other charges.

The mourners were silent. But the jubilation of the victors was deafening. In the court’s decree, they found a vindication of the communal fires they had ignited to clear their path to power, even as the flames consumed thousands of lives over the decades.

Wednesday’s decision, however, was only the culmination of events the Supreme Court set in motion when it delivered its verdict in November on who the disputed plot in Ayodhya belonged to. While the nation dissects the Central Bureau of Investigation special court order for its absurdity and audacity, it worth



*Hindutva supporters in Ayodhya on December 6, 1992. Credit: Douglas E Curran/AFP*

noting that the highest court of the land did not come out of the dispute with flying colours.

### **Audacious acquittal**

A mosque stood in Ayodhya for centuries. One Sunday afternoon in December 1992, thousands of hooligans tore it down with hoes and hammers in hand. On the stage erected near the mosque sat leaders of the Bharatiya Janata Party and other Sangh Parivar organisations such as the Vishwa Hindu Parishad. They were witnesses of the crime that they themselves were perpetrating. In the run-up to the shameful event, many of these leaders had made inflammatory speeches calling for a Ram temple to be built on the site occupied by the mosque.

The demolition was a bloody wound inflicted on India's pluralistic soul. It was a war cry that called for millions of Indian Muslims to be relegated to the status of secondary citizens. Myth and constructed history fueled bizarre ideas of victimisation of the majority to provide a spurious ideological backing for the blood fest. The demolition led to riots in many parts of the country, claiming the lives of hundreds of innocents.

The demolition was recorded in newspapers and on video. Documentaries were made on the events of that day. An inquiry commission produced a damning report about the conspiracy to destroy the mosque and the planning that went into it.

But 28 years later, this evidence was seen as worthless by the CBI court. The newspaper reports, the court said, were not acceptable as evidence because the originals had not been produced. The photographs could not be accepted because there were no negatives, even though the person who took the images testified from the witness box to have shot them.

The video footage, the court said, was not acceptable as the filming was not clear and it had not been produced in sealed envelopes.

A place of worship was brought down to fulfill a political agenda. But to the court, the accused BJP leaders did not do anything that hurt the spirit of another group or the integrity

of the nation.

Instead, it conveniently put the blame on faceless, lawless elements for bringing down the structure. Convenient because it could not jail lakhs of persons whose faces it did not know.

The court failed to recall that the demolition itself had challenged the institutional legitimacy of the judiciary. In 1992, the BJP was in government in Uttar Pradesh. Chief Minister Kalyan Singh promised the Supreme Court that he would protect the Babri Masjid and then let it fall. He was accused as a conspirator. But to the CBI court, the statements of the accused seemed to suggest that they had tried to stop the lawless mobs from turning the mosque to rubble.

The judgement has aided the politics of erasure. To use a contemporary slang, this is gaslighting of the worst order. The judgement has legitimised consistent attempts to obfuscate what happened on that day in December 1992.

**But it is not just the acquittals in the criminal case that cemented this legitimisation of one of India's most abhorrent chapters. In this, the blame partly lies with the Supreme Court.**

### **Supreme Court and Ayodhya**

It is true that the Supreme Court in November described the demolition of the Babri Masjid as an "egregious violation of the rule of law".

It is also true that in 2017, the Supreme Court restored the conspiracy charges in the case and later set a strict deadline for the trial to be completed. If not for this, the system may have taken another 28 years to finish the case with such strong political compulsions.

However, as it did all this, the Supreme Court also decided to hand over the disputed site at Ayodhya to the same people who constituted the demolition squad. People in the suit who


represented Ram Lalla, the deity at Ayodhya, were members of the same Sangh Parivar organisations that energetically ran a political campaign to ensure the destruction of the mosque. They delivered many hate speeches in the run up to the destruction of the Babri Masjid, as the scholar AG Noorani noted in his book about the demolition. The rath yatra of LK Advani, the most famous of the accused, left a trail of blood in its wake.

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**Authorities “Weaponising”...**

“Fundamental right to free speech is extremely important for any civilised democracy,” Justice Lokur said, adding that authorities are obliged to ensure that the laws are not twisted, misused or abused in such a manner that citizens get deprived of their liberties.


He advised the “establishment” to understand that “the people of this country mean well and as in any democracy, there are bound to be different points of view”.

Courtesy **NDTV**, October 12, 2020. 

Over and above this, we still do not know by whom the Supreme Court verdict was written. All five judges on the bench put their names on the judgement. They took collective ownership of it. But judgements of the court always tell the public who the author of the decision was to which other judges concurred. That no judge on the bench wanted to be the author put the signal of this move open to varied interpretations.

It was not just the Wednesday verdict in the criminal case that in spirit legitimised the destruction of the Babri Masjid by acquitting all the accused. The decision to hand over the disputed site to the Hindu side, which was essentially the Sangh Parivar, also played a part in this process. The assumption that the civil and the criminal side of the disputes were actually separate has come crashing down. To the lay observer, this seems a mere legal fiction.

Assuming the CBI does eventually appeal the decision, it is important for the judiciary to acquit itself creditably by ensuring justice, even though that is an increasingly slim prospect given the present political context.

Courtesy **Scroll.in**, 2 October, 2020. 

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# Babri Acquittal: Do Our Courts Really ‘Care’ About Indian Muslims?

*The acquittal of the accused in the Babri demolition case may deepen the existential crisis of India’s Muslims.*

Nilanjan Mukhopadhyay

Whether it was a good film or not, it is apt to recall, even if for a moment, the 2011 Bollywood biographical thriller *No One Killed Jessica*.

The 30 September 2020 verdict by the Special CBI Judge, Surendra Kumar Yadav, in the Babri demolition case, is a replay of the title. But unlike the real life events on which the film was made (unrelated to our subject here), there will be no pushback from civil society on this occasion.

**This day marks the closure of the Babri Masjid demolition case, and along with it, much more.**

In November 2019, while delivering the final judgment in the Ayodhya civil case, the Supreme Court termed the “destruction of the (Babri) mosque and the obliteration of the Islamic structure” an “egregious violation of the rule of law”. It had even noted that this violation of law had taken place “in breach of the order of status quo and an assurance to this Court”.

**Justice Yadav’s Contention – That The Demolition Was ‘Unplanned’ – Merits Scrutiny**

On a previous occasion in 2010 in connection with another Ayodhya matter, two apex court judges, Justices PC Ghose and RF Nariman, termed the demolition a “crime which shook the secular fabric of India”. Even Justice Manmohan Singh Liberhan, in his voluminous report, had unambiguously written that it “cannot be assumed even for a moment that Vajpyee, Advani and Joshi did not know of the designs of the ‘Sangh Parivar’”.

Paradoxically, the CBI court stated that the demolition was a “spontaneous” act. It might

as well have chosen the phrase used by the proponents of the Ram Janmabhoomi, to describe the forcible installation of the idol inside the Babri Masjid in December 1949: “divine intervention”.

**If the Supreme Court – its opinion is certainly weightier – considered the crime as being grievous, why then has no one been convicted of the charges?**

Justice Yadav listed several reasons, foremost among them being his contention that the demolition was “unplanned”.

Other reasons cited include two that will not do – the already feeble reputation of India’s premier investigative agency, the CBI – any good. Justice Yadav cited “insufficient evidence” and “inability to ascertain authenticity of the audio and video footage” provided by the agency.

And this, after twenty-seven years since the crime was committed.

**It merely suggests that from the very beginning, no government was intent on securing a conviction.**

From the onset, the cases were filed without a plan, and pursued with little interest. The case was shifted from one city to another; from Lalitpur to Raebareli, and then finally Lucknow, but on the direction of the Supreme Court.

**Justice Yadav’s contention – that the demolition was ‘unplanned’ – merits scrutiny. Was the intention to demolish the mosque ‘unknown’?**

**Indeed – Was The Intention To Demolish Babri Masjid ‘Unknown’?**

In the days after the demolition, there were

umpteens media reports by correspondents backed by photographers on the field, who provided exhaustive accounts of how the demolition was rehearsed by activists of the Vishwa Hindu Parishad, fancifully called *kar sevaks*.

The reports detailed last minute meetings in various locations in the temple-town and that these were attended by several of the accused, some now deceased as well as the living.

**Furthermore, during his public speeches delivered in the course of the yatra from Varanasi to Ayodhya to drum up support for the event in Ayodhya on 6 December 1992, Advani emphatically stated before a raucous audience that the programme “would be performed with bricks and shovels and not by merely singing devotional songs”.**

It is also pertinent to ask the accused to explain photographs depicting gleeful faces of several leaders while the mosque was being demolished. Similarly, how many were seen shouting the provocative slogan “*Ek dhakko aur do, Babri Masjid tod do.*” (Give another push, smash the Babri masjid).

Furthermore, it is worth recalling the primary plea of the Sangh Parivar when it became a party to the dispute before emerging as the lead pleader on behalf of the plaintiff, Ram Lalla Virajman, the idol of the child god Ram.

***Why Did The Court Not Take Note Of The VHP's 'Intention'?***

The VHP had not been founded when the first of the civil court cases were filed in January 1950 by a Ayodhya priest seeking the right to pray inside the locked-up shrine. The RSS too was uninvolved at this stage, and the entire plan was hatched and executed by Hindu Mahasabha leaders.

After having launched the political agitation in the mid 1980s, the VHP decided to become a party in the civil case. Deoki Nandan Agarwal, a former High Court judge, also VHP vice

president in July 1989, showed the way. He petitioned in the Allahabad High Court on behalf of the idol as its “next best friend” was accepted and the VHP became a major party.

The Supreme Court verdict stated that Agarwal unambiguously sought “an injunction against interference in the construction of a new temple after the demolition (sic) of the existing building”.

**The question arises: why did the court not take note of this intention of the VHP and affiliated organisations, declared in a court of law three and half years prior to the assault? Was this information not provided by the prosecution or was this self-admission of purpose not considered admissible?**

After all, those accused were part of a political agitation in various capacities. They endorsed decisions of one another and cannot avoid responsibility of actions of colleagues. Agarwal was for long an active member of the VHP and lent support to all the Sangh Parivar affiliates. He remained a party in the civil suit till his passing in 2002.

***A Blow To The Dreams Of Indian Muslims***

The defence case was built on the argument that there was no conspiracy, and that the demolition was the result of a mass upsurge due to a sustained people’s movement for “restoring national glory”.

**The Babri demolition case verdict is the second judgment after the apex court verdict, that shows the judiciary of being mindful of the dominant majoritarian sense in society.**

The development is worrisome because the judiciary is still seen the last bastion of hope. Judges of the apex court who passed the verdict in November balanced the judgment by being politically correct and legally upright on the criminal act of demolishing the mosque. It did not, however, have to adjudicate on this. On the

issue before it, the five judges went chiefly by possession— actual and proof of this— in the past.

**For India's Muslims, the judgment, subsequent jubilation outside the court, and the self-congratulatory statements of Ram temple votaries, is yet another blow to the belief in the dream that they, or their forefathers, chose over Pakistan in 1947.**

This is despite the fact that the bulk of them lost interest in the Babri Masjid after 1992. But the continuing majoritarian onslaught rubs salt into the wounds and serves as a reminder to these symbols.

**The acquittal of the accused in the demolition case will deepen their existential crisis.**

It will add to the pressure to adjust to a 'New India' where Hindutva is the dominant ideology.

The Congress rightly asked the central and state governments to appeal against the verdict and the official response this will demonstrate if processes of law are still being followed or have already been abandoned.

*(The writer's first book was 'The Demolition: India At The Crossroads'. He is currently working on a new book on the subject. He tweets @NilanjanUdwin. The views expressed above are the author's own. The Quint neither endorses nor is responsible for them.)*

Courtesy **The Quint**, 30 September 2020. 🌈

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# What the Justice Liberhan Commission Said About Babri Masjid Demolition Conspiracy

**“The incidents of December 6th were neither spontaneous, nor unpreventable.”**

**Mahtab Alam**

**New Delhi:** The special court that acquitted all 32 accused in the Babri Masjid demolition case said that it was not pre-planned and the accused persons were “trying to stop the mob and not incite them”. Judge S.K. Yadav added that there was not enough evidence against the accused and that the court cannot probe the authenticity of the audio and video evidence provided by the Central Bureau of Investigation (CBI).

However, as per the Justice Liberhan Commission’s report, which was appointed by the then Central government on December 16, 1992 to probe the sequence of events that led to the demolition of the Babri Masjid, it was “a joint conspiratorial enterprise”. The commission, in the conclusion of its report, notes, “It is established that the events of and leading up to the 6 of December in the birthplace of the virtuous Lord Ram considered an incarnation of God and the ideal king, were tainted by a joint conspiratorial enterprise.”

## **‘Act of destruction was a joint conspiratorial enterprise’**

In the chapter titled ‘The Joint Common Enterprise’, the commission notes,

“The incidents of December 6th were neither spontaneous, nor unpreventable. They were the zenith of a concerted and well laid-out plan which encompasses an entire pantheon of religious, political and mob leadership. It was a successful and well concealed plan of the authors of the movement who also managed to stay outside the public limelight until the actual events unfolded.”

The commission report further said,

It is an undisputed fact that many leaders

including the so called Sadhus and Sants, politicians and others including LK Advani, MM Joshi, KS Sudarshan, Uma Bharti, HV Sheshadhar, Parmod Mahajan, Ashok Singhal, Paramhans Ramchander Das, Vamdev Maharaj, Acharya Giriraj Kishore, Vishnu Hari Dalmia, Vinay Katiyar, Professor Rajinder Singh, Champat Rai, RS Agnihotri shielded the name of many others whose names could not therefore be ascertained despite a prolonged enquiry.”

According to the commission,

“Witnesses repeated well rehearsed stories and evaded cross examination by pleading a sudden loss of memory or lack of knowledge. They denied or failed to admit even those details mentioned in the BJP’s own white paper. The witnesses consistently made efforts to protect the principal leaders like LK Advani, MM Joshi and AB Vajpayee who in their assessment were likely to come to power. They were also overprotective of the principal RSS leaders like KS Sudarshan and Vamdev Maharaj for obvious reasons. All these people were uncontroversially present in Ayodhya or even in the Ram Janambhoomi complex on the 6 of December with the exception of AB Vajpayee who was travelling from Lucknow to Delhi.”

In concluding chapter, it notes,

“The factual matrix also yields indisputable evidence that lured by the prospect of power or wealth, a rank of leaders emerged within the BJP, RSS, VHP, Shiv Sena, Bajrang Dal etc. who were neither guided by any ideology nor imbued with any dogma nor restrained by any moral trepidation. These leaders saw the



“Ayodhya Issue” as their road to success and sped down this highway mindless of the casualties they scattered about. These leaders were the executioners wielding the sword handed to them by the ideologues.”

#### **Role of the BJP-led state administration**

Commenting on the role played by the then chief minister, members of the Council of Ministers, officials of the government of Uttar Pradesh and by the individuals, concerned organisations and agencies in connection with the destruction, the commission notes that it “was carried out in a duplicitous and underhanded manner. It was an act not worthy of a democratically elected government of a constituent state of this great nation.”

Refuting the BJP’s claim that it had carried out the people’s mandate, the report notes:

“The very fact that the Chief Minister of the state of Uttar Pradesh, its ministers and its mandarins supported the destruction with tacit, open, active and material support at every step, but did not make it part of the officially stated agenda lends overwhelming credence to the fact that they were aware of the gross illegality and impropriety they were guilty of. It would be reasonable to conclude that they were conscious of their acts and conduct ensuring the achievement of their concealed intent to demolish the disputed structure.”

According to the commission, then chief minister of UP “Kalyan Singh, his ministers and his handpicked bureaucrats created man-made and cataclysmic circumstances which could result in no consequences other than the demolition of the disputed structure and broadened the cleavage between the two religious communities resulting in massacres all over the country. They denuded the state of every legal, moral and statutory restraint and wilfully enabled and facilitated the wanton destruction and the ensuing anarchy.”

“To sum up, December 6, 1992 saw a state of Uttar Pradesh unwilling and unable to uphold

the majesty of the law. The ennui flowed from the very office of the Chief Minister downwards and infected the state’s minions down till the bottom. The state had become a willing ally and co-conspirator in the joint common enterprise to announce the revival of a rabid breed of Hindutva, by demolishing the structure they had denounced as a symbol of Islam,” the report adds further.

Singh, in a recent interview to *Hindustan Times*, said, “I will tell you something. That day (December 6) amid the build-up, I got a call from the district magistrate of Ayodhya saying that nearly 3.5 lakh kar sevaks had assembled. I was told that central forces were on the way to the temple town but their movement was halted by kar sevaks outside Saket college. I was asked whether to order firing (on kar sevaks) or not. I denied permission in writing and said in my order, which is still there on the files, that firing would lead to the loss of many lives, chaos and law and order issues across the country.”

Upon being asked another question on his decision, he told the reporter, “I am proud of my decision as today I can proudly say that I might have lost my government but saved kar sevaks. Now, in hindsight, I feel that subsequent demolition eventually paved the way for the temple.”

#### **Assault on media to sabotage the evidence**

Describing the sequence of events leading to the destruction of the Babri Masjid, the commission notes,

“The authors of the entire campaign were under no illusions about the illegality and immorality of their intended actions. They were aware about the likely outrage their deeds were likely to elicit around the nation and internationally, even from sections of the Hindu community. They were alert to the possibility of the top leadership of the BJP, RSS, VHP, Shiv Sena etc. being subjected to censure on

the basis of any hard evidence which might be forthcoming.”

The report further notes that, “To frustrate the attempts of future investigations, including efforts by Commissions like this one, the leadership at the spot had evolved a common strategy to deny the world an accurate record of the unfolding events.” In doing so, “The first step in this direction was to ascertain the identity of the journalists who were present at the spot. The accreditation of the media was entrusted to their own cadres who were thereby able to create and maintain accurate records of the media presence. The identities of the press corps, the various organisations, the specific location etc. were obtained during the accreditation process.”

As per the commission,

“As soon as the pre-programmed assault on the structure commenced, the journalists were subjected to systematic harassment and they were not only prevented from carrying on their duties as chroniclers of the events, but were also instilled with a real fear for their own safety. The reporters were confined to small rooms or molested or otherwise threatened so that their attention was less on the events they were supposed to cover, and more on their very survival.”

It also notes that

“The memories and notes of the reporters could be — and were — denied later on. But photographs and video recordings could have proven damning for the leadership. Photojournalists therefore became recipients of especially violent treatment at the hands of the karsevaks. They were physically prevented from taking photographs or videotaping the demolition; their equipment was smashed and their exposed films were ripped open and ruined. Precious few photographs or recordings of the incidents thus managed to surface.”

In December 2017, in a public discussion

organised by *The Wire* on the 25th anniversary of the demolition, several journalists had recounted the risk and intimidation involved in reporting the events of the day of demolition.

“...lots of so-called karsevaks broke into that area and started attacking the press, breaking the cameras... Suddenly I saw that a vast assembly of people started moving towards the mosque and there was no resistance from the police... I saw the police staff walking off... the main road leading to Ayodhya was blocked with burning cars... When I entered the mosque, I was surrounded by karsevaks, some of them who wanted to beat me up and others argued that BBC was a world-renowned organisation and it would be bad for them,” veteran journalist Mark Tully had said, adding that he and some other Indian journalists were locked up in a dharmashala subsequently. “Eventually, I was released by a mahant of a neighbouring temple...”

“What was particularly disgraceful was that the authority of the government had completely collapsed... In fact, there was no government that day,” he added, saying that a large number of central forces stationed there did not act against the mob at all.

Meanwhile, the All India Lawyers Association for Justice (AILAJ) also issued a statement on Saturday demanding an appeal into the matter. “We demand that the CBI file an appeal and ensure that the perpetrators of this cultural cleansing be brought to justice, and the rule of law will be restored in our democracy,” read the statement signed by its national convenor, Clifton D’Rozario.

“This judgment comes as yet another blow to the edifice of the judiciary and its independence from any political influence. It reflects the increasing detachment from constitutionalism, due process and justice that were the very thrust of the Indian democracy,” it added.

Courtesy **The Wire**, 2 October 2020. 

# Hathras case is a mirror in which we see the flaws of Indian democracy, and the sight is frightening

**What happened in Hathras has come as a grotesque reminder of how important it is for this to change.**

Tavleen Singh



*Horrible though this tragedy has been, if it reminds the Prime Minister of the need for bringing the changes that are so desperately needed in the training of the police and our officials, it will be a small flicker of hope.*

If you live in India you learn to accept a degree of casual cruelty as normal. You learn to accept that just below that fragile surface of modernity lies brutality that is medieval. But, every now and then something so awful happens that it shakes us to the core. What happened in that Hathras village has done just that. Savage rapes of little girls and young women are so much the norm, especially in rural India, that we learn to look the other way most times.

Last week, within hours of the 19-year-old woman's death two other Dalit girls were killed in Uttar Pradesh. An 11-year-old was beaten to death in Bhadohi and a young woman was

abducted and allegedly raped in Balrampur. But, it was the Hathras victim's story that caught our attention perhaps because she managed to survive for 15 days despite her attackers having broken her spine and cutting her tongue. Before dying she identified the monsters who attacked her and said clearly that she had been raped.

There is a Supreme Court judgment that says that if a woman says she was raped then this testimony is enough. But, Yogi Adityanath seems to have his own interpretation of the law, so after the Hathras victim died his officials and his police force went to extraordinary lengths to prove that she was not raped. Since she was

cremated hurriedly, in the dead of night by the police, the only evidence is her dying declaration, but will it be enough to convict the four upper-caste men she named? Yogi's law enforcement officers have been busy spreading misleading stories, including one in which she was beaten nearly to death by her brother who discovered that she was having an affair with one of her attackers. If stories like this were true and the police had nothing to hide there would have been no reason for them to prevent the media and all politicians from entering the village in which her family lives.

Speaking of the media and politicians, it needs to be said that neither covered themselves in glory. The ludicrous attempt by the Gandhi siblings to 'march to Hathras' trivialised a terrible tragedy, and the silence from senior BJP political leaders has been deafening. Smriti Irani who was so vocal after Nirbhaya's death has said not one word on Hathras despite being the Minister in charge of Women and Child Development.

As for the media, it was only after she was dead that they discovered the victim. And, when they did, some of my esteemed brethren took to Twitter to say that the fuss over her death was only because her attackers were Hindus. In Balrampur, they tweeted, the attackers were Muslims so the incident was being ignored. Had this kind of rubbish come from politicians it would be bad enough, but for it to come from journalists is truly shameful.

The reason why the Hathras story has shaken us so deeply is because it has become a mirror in which we see the flaws of Indian democracy, and the sight is frightening. We see that the men in charge of enforcing the law have not discovered yet that their fundamental duty is to protect the people and not the government. They do not understand this because neither the training of the police nor that of the administrative service has changed since the British left. The British set up a system that

was founded on the colonial idea that the duty of administrators and law enforcement officials was to protect the government. This is exactly what our officials still do.

Before Narendra Modi became Prime Minister, he made many speeches in which he talked of the need for India to change the rules of governance and to take a new road. Many ordinary Indians understood this to mean that they would no longer be ruled, but governed. Many whom I met on my travels in rural India said that they wanted officials, both elected and unelected, to realise that they should think of themselves as the servants of the people and not as masters. They said that they hoped that under Modi this change would happen because he was the son of a 'chaiwallah' and not someone who believed he was born to rule.

Had he brought about this change, his handpicked Chief Minister in Uttar Pradesh would not have spent this past week trying to obliterate the horror of Hathras, he would have been standing by the side of the Dalit family whose daughter died such a terrible death. Had change happened, the police officers and officials who have been involved in the sickening attempt to pretend that the victim was not raped would have been sacked. If they have not been then we have to assume that orders to prevent the truth from being made public came from the top.

Horrible though this tragedy has been, if it reminds the Prime Minister of the need for bringing the changes that are so desperately needed in the training of the police and our officials, it will be a small flicker of hope. It is more than time that we stopped accepting that if you live in India you have to learn to accept casual cruelty and medieval brutality as normal. What happened in Hathras has come as a grotesque reminder of how important it is for this to change.

Courtesy **The Indian Express**,  
October 4, 2020 



# ‘UP is what Modi wants India to be’

Syed Firdaus Ashraf

*‘This government puts poor people behind bars, demonises women after their death, puts out the call records of deceased raped victims and robs her of her dignity.’*

When the Gandhi siblings — **Rahul and Priyanka** — met the family of the Hathras victim, political pundits and the public applauded them.

At the same time, political pundits asked: Where is Akhilesh Singh Yadav? Why hasn’t the Samajwadi Party taken centre stage in the protests over the Hathras horror?’

**Ghanshyam Tiwari**, national spokesperson, Samajwadi Party, in an interview to **Syed Firdaus Ashraf/Rediff.com**, claims that on the ground it has been the SP fighting against the injustices of the Bisht government and goes on to say, “Yogi is a dictator. He is petty and he is weak. He misuses the law.”

**When it comes to Hathras, it appears as if only the Congress is opposing the Bharatiya Janata Party. The Samajwadi Party, which is the main Opposition party in the state, seems to be missing in action.**

The battle in Hathras is against injustice and the fight against the crime was led by the deceased girl and her family. The girl fought against all odds for her life without any support from the government for two weeks and lost her life. The family stood with the truth exposed by the girl.

Independent media then picked up the story and it is here after which political parties and civil society raised the issue so that the plight of the girl and her family is not diluted.

As far as political parties are concerned, different political parties have taken different approaches to fight against the Kim Jong Un government of Yogi Adityanath in Uttar Pradesh.

The Samajwadi Party has always said that our party will lead the fight against any incident of injustice against the people of Uttar Pradesh.

The Samajwadi Party fought for the case of Hathras right from the day the dead body of the girl was stolen and burnt in the middle of night on the order of no less than the chief minister of Uttar Pradesh, Yogi Adityanath.

The Samajwadi Party also protested from Lucknow to Hathras. I was at Jantar Mantar to protest against this injustice. We have been active in the Opposition to protest against injustice.

Other parties have protested in their own ways. We do not see such injustices, which are a daily story in UP, as a road to competitive politics. We see this as a way to continuously expose the unjust dictatorial policies of Yogi Adityanath and the BJP. We welcome any party to protest in their own way.

**It looks like Priyanka Gandhi and Rahul Gandhi were the only ones who were opposing the Yogi government while the SP somewhere seems to be left out.**

I believe that if one is observing the situation from afar, then you are only seeing the leaders who were in Hathras, but if you analyse the situation from ground zero you will realise that we are the ones who are standing formidably with the girl’s family. And not just in this particular case.

Our party’s delegation went to Balrampur, Benares, Kanpur Dehat and the entire state. Hathras is the epitome of injustice and indignity.

The BJP has decided to stand with the rapists and defame the girl further. And even threaten the girl’s family. That aside, in every other case, the Samajwadi Party has stood by victims and have demanded compensation for the families.

Rahul Gandhi and Priyanka Gandhi might be the face of this protest, but as an organisation, the Samajwadi Party is the organisation that is

the face of the protest against the Hathras rape case.

**Your leader, the former chief minister of Uttar Pradesh, Akhilesh Yadav, is missing in action. Is it causing trouble as he is not in India now?**

He was in Parliament and voted against the unjust passing of farm bills. In the intermediate he was not there and I don't think one incident defines people's choice as to who is the principal Opposition party in Uttar Pradesh.

**Is the BJP too strong a foe in Uttar Pradesh?**

Yogi Adityanath is like Kim Jong Un of Uttar Pradesh. When a dictator thinks he is at his peak, he has no idea how popular or unpopular he is. He is so scared that he burnt the body of the girl (*in the early hours of September 29-30*). *And now, he is saying the girl was not raped.*

He is leaking call records of the dead girl to the media. Earlier, he filed an FIR against retired bureaucrats (*during the protest against the Citizenship Amendment Act*).

He is a dictator. He is petty and he is weak. He misuses the law with force to do injustice.

**Has the kind of laws he has introduced in UP made it difficult to be in the Opposition?**

UP is a perfect case of what Modi wants India to be. He wants India to be led by tyrannical figures like Kim Jong Un such as Yogi Adityanath.

There are 150 BJP legislators who face criminal charges and 100 of them have serious criminal charges.

UP is the perfect picture of what Modi and Amit Shah want India to be.

Protesters will be bullied, shamed and put behind bars in fake cases.

Nearly 50 per cent of cases filed under the National Security Act as quoted by the media were related to cow slaughter.

The first thing the Yogi government did after the girl died in Hathras was to burn her body

and then they defamed the family and leaked her call records to the media.

And why does the BJP want such tyrannical figures to rule? The answer is because this is their vision for India.

**Your party's rule was dubbed as 'goonda raj' and therefore the people of UP elected the BJP. And they feel that Yogi is taking on goondas of UP which is good.**

When a large section of the media ran a fake campaign against Rhea Chakraborty for three months and in those three months nearly three thousand farmers committed suicide, the media did not write a word.

India's coronavirus cases went up, they did not write a word (*against the government's handling of the pandemic crisis*).

Around 7,000 rapes more than and 6,500 murders took place and no word was written against the government. This is the media that is building a narrative.

And such a media built up a narrative against the Samajwadi Party leader who as chief minister always presented himself before the media humbly. He met them and accepted the criticism of his regime. And to this day, his work is recognised. And such a government was called goonda raj.

This government puts poor people behind bars, demonises women after their death, puts out the call records of deceased raped victims and robs her of her dignity.

**It is harsh to compare Yogi to Kim Jong Un. You are criticising him freely and yet no one will arrest you. You know this wouldn't happen in North Korea.**

Comparison between Kim Jong Un and Yogi Adityanath will not fail, but comparisons between the democratic temper of India and the democratic temper of North Korea will surely fail. India has a high democratic temper and that is the reason people with tendency of Kim Jong Un don't prevail.

( To be Contd....on Page - 21 )

# The silent crackdown sweeping through Delhi in the guise of probing the riots conspiracy

## A Scroll.in Special Report :

**Rohan Venkataramakrishnan**

When the Citizenship Act protests broke out in Delhi, he did not bother joining them. He was far too busy tending to business. But “*hamdardi ke tehat*” – out of sympathy – he distributed food at two protest sites, he said. “A lot of people were distributing food out of *hamdardi*,” he said. “So, I also did it.” That was his extent of involvement in the protests, he insisted.

But a policeman still landed up from the local thana at his house at the peak of the coronavirus-induced lockdown, asking him to report at the Special Cell’s Lodhi Road office the next day.

There, he said, the police “tortured” him a lot, constantly subjecting him to pressure, although, he clarified, it was never physical. “*Yeh kar denge, wo kar denge*. We will do this, we will do that. We will implicate you in the riots,” he recalled his interrogators saying...

Finally, after several days of this ordeal, he said he agreed to be a witness and give a statement dictated by the police. “I said what they told me to – I had no choice,” he said. “There was no help available as everything was shut. Even the courts were shut for me to go there for help.”

“They did everything in the lockdown so that people couldn’t help each other,” he added.

Over the last few months, it has become clear that the Delhi Police investigation deliberately ignores a number of the key players whose actions led to the violence in February – such as a Bharatiya Janata Party leader who stood in front of a police officer and threatened to take the law into his own hands.

Instead, it is attempting to depict the anti-Citizenship Amendment Act protests, in which thousands took to the streets between December and February in defence of the Indian Constitution and against the government’s efforts to introduce a religious test to citizenship, as a large-scale conspiracy to engineer riots, albeit without evidence.

In this series of reports by Vijayta Lalwani and Arunabh Saikia, edited by Supriya Sharma, we hear directly from some of those who have been subject to interrogation by the police to get an idea of how they are proceeding with the investigation – and what message they are seeking to impart to those who were simply joining the protests.

Here, for example, is a young student who was questioned:

“At one point, the police brought up her religious identity as a Hindu and questioned her support for the protests. A woman police officer allegedly told her: “*Wahan pe bahut sher bante the, yahan hekdi nikal gayi?*” At the protests you were like lions, now you have been deflated.

“It felt like they hated Jamia students,” the student said. And they harboured deep seated prejudice against Muslims. “*Yeh sab Musalman milke tumhe pagal bana rahe hain*,” she claimed the police said. These Muslims are all fooling you...

The student said the police let her off, saying they were doing her a favour by not arresting her.

But the whole experience has left her feeling shaken and powerless. “For a short while, it made me question myself,” she said. “Am I still in a democracy? They made me question

my harmless intentions.”

***A student. A food seller. A creative producer. A scientist. All they have in common is that they took part in the Citizenship Act protests last winter. Months later, the Delhi Police called them in for questioning in its controversial riots case, which blames the communal violence that took place in India's capital in February on a conspiracy by Citizenship Act protestors to overthrow the Narendra Modi government. Over 70 protestors have been interrogated in the case. Below, you will find the stories of seven of them.***

**The civil services aspirant: ‘Police abused me and threatened to send me to remand’**

The police would constantly grill him about the other protesters he had spoken to over the phone, he said. “I said sir normally *meri baat hui thi*. He replied ‘i?’” [I said we would speak about regular things. He replied: ‘Do you think we are idiots?’]

And there were, of course, jibes about his religion: “The problem with you Muslims is that you get instigated very easily; you turn to your jihad at the slightest of provocations. Where did the biryani at Shaheen Bagh come from? Did Allah drop it himself from the skies?”

**The communications professional: ‘I thought blocking the roads was stupid, but not sinister’**

“The police made me memorise a statement...what I had to say and all,” he continued. “Their argument was that since Rahul Roy was the one who created the group, he was the main conspirator. So, the line that they had written down for me was ‘*yeh sab Rahul Roy ne karwaya tha*’ – all of it was orchestrated by Rahul Roy.”

The interrogation, he said, was nerve-racking. “While the police didn’t misbehave, or torture me, it was a time of great stress

because I knew if the police wanted me to implicate me, they could have done in a thousand ways,” he said. They told me, ‘Spill the truth or we will charge you under UAPA too.’” The UAPA is the Unlawful Activities (Prevention) Act, India’s draconian anti-terror law, which has been invoked against the accused in the riots conspiracy case.

**The social activist: ‘Police said they had the right to torture me in the interrogation’**

The policeman waved a baton at him, recalled the activist, saying: “*Abhi iski dande se pitayi karenge*.” We will beat him up with the baton. “Only then will you understand and reveal what you were doing there and why.”

A senior officer then walked into the room and told him custodial torture in reality was four times worse than what was shown in films, the activist alleged. “He said that they had the right to do it [torture] under the sections that they were interrogating me.”

**The creative producer: ‘For me, a revolution is less romantic now. The consequences are more real’**

He is not an accused so far. He wasn’t forced to be a witness either. The police officer eventually let him off, saying: “*Aap jaise shareef log phans jaate ho in cheezon mein*.” Decent people like you get stuck in these things.

Yet, he is not sure if he would ever do what he did last winter. “For me, a revolution is less romantic now,” he said. “The consequences are more real.”

“You feel powerful in front of the state when you’re with a crowd of people protesting – I would stare the police down at the protests site. But when you’re in the police station being questioned, that is very different,” he said. “That day if they didn’t let me go that evening, I could have literally done nothing.”

**The food seller: ‘Police said your children will really suffer if you don’t speak up’**



“They tutored me for two days, made me memorise the statement,” said the food seller. “Yet, I only ended up saying only 50% of what they said because I just did not remember.”

He feels guilty about making the statement and implicating someone who he knows is innocent. “But I just did not have a choice,” he rued. “They would say: ‘If we charge you in the riots case your family would be destroyed – you’ll be in for at least five years without any hearing.’”

“No one is fighting for the truth. What is happening is open goondaraj,” the food seller concluded.”

**The young student: ‘Am I still in a democracy? The police made me question my harmless intentions’**

“The whole experience has left her feeling shaken and powerless. “For a short while, it made me question myself,” she said. “Am I still in a democracy? They made me question my harmless intentions.”

It felt like she had committed a thought crime. The interrogation “made me feel like my thoughts can be limited... Every liberating thought I had I never second guessed it but now I do.”

But even in her state of paranoia, she said she is clear about one thing: the police claim that the February riots were a conspiracy by

the protestors is laughable. “We set up a library on the road. Is this a sign of conspiracy?” she asked. “Are a stage and a mike a sign of conspiracy? What motive would we have to organise riots?”

**The scientist: ‘Police let riots happen to delegitimise the protest. Now they are criminalising it’**

The police told him the DPSG group had conspired to create a chakka jam or road blockade in North East Delhi to spark violence. “I told them there was never any chakka jam planned,” Dinesh Abrol recounted. “We knew there was a blockade and we were in fact even worried about it.”

Abrol said he confronted the police: “You people were not there when you should have been.” But an officer shot back: “No, no, you should have stopped [the blockade].” The scientist claims he responded by saying: “You have bigwigs including ministers who are planning and doing, can we stop them? We can only have a dialogue and talk. Were they having a dialogue, were you having a dialogue?”

The police, he said, let the riots happen to “delegitimise the protest”. “Now they are criminalising it,” he added. “Dissent is being criminalised.”

Courtesy [Scroll.in](https://scroll.in), 9 October 2020. 

### **‘UP is what Modi wants India to ...**

**Contd. from page - (18)**

Give me an example which proves where you find Modi or Yogi having a democratic temper.


No government has the capacity to put lakhs of people in jail, but when they have the capacity, they will do it after which no Opposition voice will be left. There are hundreds of people who are in jail for criticising their government.

Look at UP, the journalist travelling to Hathras was arrested under the terror law.

Look at the case of Umar Khalid or the Delhi riots case.

The Yogi government can arrest you and me under the terror law without any proof, irrespective which part of the world we are.

Umar Khalid’s lawyer told the court he was not in Delhi when the riots happened. And all they do is to blame Nehru. If Nehru was not cremated but buried, they would have even exhumed his body to prove their point.

Courtesy [Rediff.com](https://rediff.com), October 09, 2020 

# Panel of Prominent Ex Judges, Senior IAS-IPS Officers to Independently Probe Delhi Riots

*The committee has been set up in light of the serious questions raised about the Delhi Police's actions and investigation, a group of former civil servants said.*

The Wire Staff



*The committee comprises (clockwise from top left) Justice Madan Lokur, Justice A.P. Shah, R.S. Sodhi, Justice Anjana Prakash, G.K. Pillai and Meeran Chadha*

**Borwankar.**

**New Delhi:** The Constitutional Conduct Group (CCG), a collective of former civil servants who worked with the Central government as well as different state governments, has constituted a committee of six former public functionaries of high standing to create a “contemporary record of acts of omission and commission” around the Delhi riots of February 2020.

**Three former SC-HC judges, three civil servants on panel**

The committee, called ‘Citizens Committee on the Delhi Riots of February 2020: Context, Events and Aftermath’, will comprise former Supreme Court judge Justice Madan Lokur, former Chief Justice of the Madras and Delhi high courts and former chairman, Law Commission Justice A.P. Shah, former judge of the Delhi high court Justice R.S. Sodhi, former

judge of the Patna high court Justice Anjana Prakash, former Union home secretary G.K. Pillai, and former director-general of the Bureau of Police Research and Development Meeran Chadha Borwankar.

Stating that this is a non-political group that is working towards fostering a civic culture bound by the ethos of the Constitution, the CCG said the horrific nature of the riots in North-East Delhi in February 2020, the scale of violence, the loss of lives and the resulting communal divide between communities highlighted the need for an expert body to conduct a thorough examination of what transpired before, during and after the riots.

**‘Delhi police investigation evoked critical commentary’**

Noting that “the investigation carried out into the riots by the Delhi Police has evoked extensive critical commentary in recent times”,

it said this has become even more necessary now.

It said, therefore a “Committee with credible reputations in the higher judiciary, the civil service and the police would be best suited to contribute to an objective and fair understanding of the riots and their aftermath.”

The Committee will be allowed to formulate its own procedure and will submit a final report within 12 weeks of starting its work.

#### **Role of state, police, media to be probed**


The CCG said the panel of prominent former public functionaries will inquire into the events that transpired before and during the riots, including the response of the state machinery in dealing with the violence, restoring law and order, and related matters.

It will also analyse and assess the response

of the police in investigating the riots and examine the role of the mainstream and social media in spreading information, both genuine and fake, before, during and after the riots, and its impact on events.

The Committee will also assess the civic administration’s efforts at providing relief and extending reparations to the victims of the riots.

The CCG said while expecting the Committee to remain committed to independence, impartiality and transparency in its functioning, and to ensuring that it conducts itself with integrity, it would also expect that all persons who engage with the committee would be accorded dignity and respect, and that confidentiality of communications would be protected.

Courtesy **The Wire**, 11 October 2020. 

## **The Problem With ‘Strong’ Prime Ministers**

**Ramachandra Guha**

On the eve of Indira Gandhi’s first visit to Washington as Prime Minister, our Ambassador was asked by the American President, Lyndon Johnson, how he should address her. Should he call her ‘Mrs Gandhi’, or ‘Madame Prime Minister’? The Ambassador referred the query back to New Delhi. The Prime Minister laconically replied that her own Cabinet Ministers usually called her ‘Sir’.

I was reminded of this story last week when a rare TV channel organized a rare programme on the disastrous GDP numbers. At one stage in the debate, a spokesman of the Samajwadi Party asked the spokesman of the Bharatiya Janata Party who the incumbent Agriculture Minister was. This sector employed the most citizens; surely the ruling party’s spokesman would know which minister was in charge? The BJP hack did not. The tragic truth is that he was not supposed to know anyway. For all that matters in the presentation of this government

is ‘Modi! Modi! Modi!’, much as all that mattered to Congressmen in the 1970s was ‘Indira! Indira! Indira’.

When in the winter of 2013-4, Narendra Modi launched his Prime Ministerial bid, a core part of his appeal was that he would be ‘strong’ whereas the then incumbent was ‘weak’. The latter charge was accurate; especially in his second term, Dr Manmohan Singh was uncertain and indecisive as well as increasingly deferential towards the Congress’s First Family. His weakness was amply demonstrated in September 2013, when Dr Singh said in public that Rahul Gandhi was an ‘ideal choice’ for PM, adding that he would be ‘happy’ to work under his leadership. The remark demeaned his office. Dr Singh had been Prime Minister for more than nine years at the time, and was a former Finance Minister and Governor of the Reserve Bank of India. Whereas Rahul Gandhi’s only qualifications for the Prime Minister’s post was

the fact that he was Sonia Gandhi's son.

Narendra Modi adroitly seized upon Manmohan Singh's perceived as well as publicly proclaimed weakness. He himself had, he boasted, a '*chhappan inch ki chhati*', a 56-inch chest. Unlike the incumbent, he was independent-minded, always his own man. He would be the strong, very strong, Prime Minister that India needed and deserved.

The contrast between a strong Narendra Modi and a weak Manmohan Singh was played up by the BJP during the election campaign of 2014. This presentation certainly helped win Modi and his party win a resounding victory. But has this image of strength subsequently helped him in his duties as a Prime Minister? Given the multiple crises facing the country at the moment, it appears not. For these crises are largely attributable to the way in which this government is run as a one-person show, with the cabinet, the bureaucracy, and the nation itself held hostage to the capricious decisions of a single individual.

In the cabinet system of governance, the Prime Minister is supposed to be first among equals. While they work under the overall direction of the Prime Minister, ministers have direct responsibility for matters that come under their designated domain. That is the theory. In practice, all through Narendra Modi's first term as Prime Minister, no cabinet minister enjoyed any sort of autonomy at all. Even the Finance Minister, a long-time Modi confidant, was kept in the dark about major economic policies decided upon unilaterally by the Prime Minister. The Foreign Minister, an experienced and very intelligent politician, found her duties restricted to tweeting support to Indians in distress.

In Modi's second term as Prime Minister, the Home Minister enjoys a partial autonomy, but no one else. Otherwise all important policies are framed and directed from the Prime Minister's Office. If anything goes right, the

Prime Minister must take the credit. However, if something goes wrong, then other people must take the blame (such as state governments run by opposition parties, the ghost of Jawaharlal Nehru, liberals, Urban Naxals, and, most recently, God himself).

Narendra Modi's centralizing and self-aggrandizing style of leadership is in marked contrast to the first BJP Prime Minister. In Atal Behari Vajpayee's cabinet, ministers such as LK Advani, Yashwant Sinha, MM Joshi, Jaswant Singh, Pramod Mahajan, Arun Shourie, and Sushma Swaraj all had considerable autonomy in their functioning. So did some ministers who did not belong to the BJP, such as George Fernandes and Mamata Banerjee. This consultative and collaborative style of leadership is surely a key reason why on some major counts—the economy, foreign policy, defence preparedness, our standing in the world - Vajpayee's India did so much better than Modi's India. This is not to say that the first NDA regime did not make mistakes; however, these mistakes would have been far more egregious if all decision-making had been concentrated in the Prime Minister himself.

That Prime Ministers who are consultative are better for the nation than Prime Ministers who act unilaterally is strikingly manifested in the career of our longest-serving PM, Jawaharlal Nehru. In his first few years in office, Nehru operated much like Vajpayee. His cabinet had great stalwarts from the Prime Minister's own Congress party - such as Vallabhbhai Patel, C Rajagopalachari, Rajkumari Amrit Kaur and Maulana Azad - as well as outstanding administrators from other parties, pre-eminently Dr BR Ambedkar. Nehru was the acknowledged leader, but by respecting his colleagues and largely allowing them free play in the exercise of their duties, he himself contributed enormously to healing the wounds of Partition, uniting the country around a new constitution, and laying the

foundations of a multi-party democracy.

In 1952, Nehru won a second term in office. By now, Patel was dead. Ambedkar had left the government. However, Azad and Amrit Kaur were still around, while other powerful Congressmen, such as Rajaji, were in positions of power in the states. Nehru had high regard for these colleagues, some of whom had been in the freedom struggle longer than him, and who were all remarkable individuals in their own right.

Nehru's second term was not as impressive as the first; yet it was not without its achievements, such as the nurturing of institutions of higher education and of scientific research. It was Nehru's last years in office that were the most disappointing, for him and for India. By this time, the colleagues he regarded as equals had all either died or retired, or gone into Opposition. His cabinet was composed of people much younger than himself, who deferred to him entirely. He had no one to question or challenge him. Or even to advise him. This led inevitably to costly mistakes, such as the dismissal of the elected government in Kerala in 1959 and the humiliation at the hands of China in the border war of 1962.

Like Indira Gandhi, Narendra Modi demands absolute deference from his ministers. They are happy to comply, hence the profusion of signed articles in the press by so many different cabinet ministers, proclaiming the Prime Minister's greatness and omniscience. Vajpayee never expected such public genuflection from his ministerial colleagues. Nor, to be fair, did Jawaharlal Nehru, even when he began to keep himself at an elevated distance from others in his cabinet.

Narendra Modi's self-image and public presentation of himself is as a strong and authoritative leader. Psychiatrists may wonder whether the private self in fact conforms to the public image. Why would a man with a 56-

inch chest so fear an unscripted press conference that he has not held one in six years in office? Could it be that his inner conviction is somehow less robust than the outer projection? Be that as it may, in the context of his party, his cabinet, and his government, Modi is indeed a strongman-only his will must prevail.

Or, more precisely, his whim. Demonetization and a carelessly conceived GST were rushed through unilaterally by the Prime Minister. So was the harsh lockdown so early in the pandemic. Domain experts in these fields would have warned against these moves. In fact, they did, and were disregarded. Likewise, Modi's cosying up to Xi Jinping flew in the face of logic and rationality, and the country is now paying the price. And it was Modi who unilaterally abandoned India's traditional neutrality in an American presidential election, and the country may yet pay the price for that, too.

In the event, the policies decided upon by our strongman Prime Minister have wrecked the economy, further undermined our already fragile social fabric, and diminished India's standing in the world. Even before Covid-19 came to our shores, it was clear that the country was far worse off than when Narendra Modi came to power in May 2014.

In his second term, Manmohan Singh was undoubtedly weak and vacillating. The country paid a price for this. Those who hoped that the country would be redeemed by an authoritative leader now have their answer. For if Prime Ministers who are too weak can pose a threat to the nation's well-being, Prime Ministers who are too strong pose a greater threat still.

*(Ramachandra Guha is a historian based in Bengaluru. His books include 'Environmentalism: A Global History' and 'Gandhi: The Years that Changed the World'.)*

Courtesy NDTV, 15 September 2020. 



# The Only Institution Capable of Stopping the Death of Democracy Is Aiding it

*The Supreme Court seems to have lost its way.*

**Justice A.P. Shah**

I speak here today of what I believe is one of the most troubling developments of our time: the decline of the Indian Supreme Court. As a former judge, at the very least I believe it is my duty to ring some warning bells.

The political thinker, Edmund Burke, said that judges are trained so that they can detect misgovernment, and especially, “sniff the approach of tyranny in every political breeze”. This is the kind of court we need, but unfortunately this is not the court we have right now.

The Supreme Court has had a glorious past that it should be proud of. The statesmanship that the 13-judge constitutional bench exhibited in the decision in *Kesavananda Bharati*, where the basic structure doctrine was laid down, and judicial custody of the constitution reclaimed, is but one shining example of what the court is capable of.

Indeed, Granville Austin said that the court had established itself as “the logical, primary custodian” of the Constitution, and “its interpreter and guardian.”

The Supreme Court started out as a passive court. Slowly but surely, as the institution understood its role in the governance of the nation, it expanded its authority, thus laying the foundation for an activist role in future.

*Kesavananda Bharati* was the start of all this. Over the years, there were many judgements that cemented the Supreme Court’s identity further. Notable amongst these were *Maneka Gandhi*, *Frances Coralie Mullin*, and *International Airports Authority*, where, variously, due process was introduced, and there was an expansion of the rights enshrined in Article 21 of the constitution.

The “invention” of the public interest litigation marked the beginning of what has been termed the “socialist judicial” era, where the court’s activist role came into prominence.

In the late 1990s, it expanded its scope into relatively less-explored territories, such as environmental protection, using its powers to tackle important questions in that arena. In doing so, it also entered the domain of the executive, and was roundly criticised for this. This criticism is not unwarranted, and indeed, even though it has its advantages and there is a tendency to praise the instrument, the PIL has been abused on some occasions. But this is not the place to talk about this.

It is not as though the Supreme Court did not have its ups and downs. Most notoriously, in the *ADM Jabalpur case*, there was a moment of realisation that the Court had gone astray, and the years that followed were doggedly spent in restoring some respectability to the institution.

The 1980s and 1990s reversed its reputation, and for a brief period, it seemed as though the Supreme Court had returned to being the sentinel on the *qui vive*, which the first generation of judges had hoped it would remain. Now, however, we seem to have regressed once again, and desperately need a wake up call in order to avoid another Emergency- like disaster.

## **An overpowering executive**

You may well ask why this is all relevant. On paper, we have a liberal, democratic, secular republic with all its wheels in place.

We have fundamental rights tightly ensconced behind seemingly impenetrable firewalls. With a parliamentary system of government, separation of powers, and a federated division of

responsibilities between the centre and states, we have a system that is the envy of many.

On paper, the all-powerful executive is held accountable to the people through the legislature; and to the constitution and the rule of law, through the judiciary; and through other institutions like the Auditor General, the Election Commission, a human rights watchdog, and anti-corruption bodies, besides entities like the press, academia, and civil society.

Unfortunately, remember what I said – this is all only on paper.

In India today, every institution, mechanism or tool that is designed to hold the executive accountable, is being systematically destroyed. This destruction began in 2014 when the BJP government came into power. There is a temptation to compare this with the blatant destruction that the Indira Gandhi government indulged in the past, but comparisons are odious. What we are witnessing today is a force in action strategically intending to render the Indian democratic state practically comatose, with all the power entrusted with the executive.

Besides the various limitations of Parliament that have been revealed in recent times, it has not even met during the COVID-19-induced lockdown, and even when it finally decided to meet, Question Hour has been scrapped.

Even if parliament has been debilitated, other entities should have stepped up to the plate and kept the executive in check. We have heard nothing of the Lokpal since forever.

The National Human Rights Commission is dormant. Investigation agencies are misused at the slightest opportunity. The Election Commission of India appears to have been suspiciously compromised. The Information Commission is almost non-functional.

The list is long and troubling.

Even academia, the press, and civil society have been systematically destroyed or silenced. Universities are under attack daily, whether it is students being accused of rioting, or teachers

being accused of criminal conspiracy. The idea of an unbiased mainstream fourth estate in India died its death a long time ago.

And civil society is being slowly but surely strangled, through various ways.

But the most worrying of all is the state of the judiciary. There are many important issues that need to be deliberated upon today. With Parliament already so weakened, the Supreme Court would have been the next best space to discuss the Kashmir trifurcation, the constitutional validity of the Citizenship Amendment Act, suppression and criminalisation of protests against this law, misuse of draconian laws like sedition and the Unlawful Activities Prevention Act, electoral bonds, etc.

Sadly, most of these are ignored or brushed aside or mysteriously kept pending for an indefinite period of time. We might not be in a state of war, but we *are* in a state of emergency, unprecedented for generations. Central to all this, and certainly, of most concern to me, is the role of the Supreme Court.

### **Start of the Supreme Court's decline**

In my view, the start of the Court's decline coincided with the coming to power of the BJP-led NDA government in 2014. No one will deny that the NDA government swept in a new political wave, an ideology that was less centrist than we were accustomed to in the previous years, and arguably, far more right-wing than what it had exhibited in its own previous avatar.

The Supreme Court's descent was not fortuitous or coincidental, but was part of a larger, deliberately-crafted strategy on the part of the executive to seize control of the arms of the state, in ways that would benefit its own political agenda.

There was an immediate confrontation upon the NDA taking over, in the form of the constitutional validity of the National Judicial Appointments Commission Act in 2015. The court, in a bold display of independence of spirit, struck down the legislation.

Indeed, the Court's engagement with the newly-appointed government of 2014 onwards began very well. The Court mostly stood its ground against the executive, and shone particularly brightly in matters of judicial appointments. But this is, sadly, all gone today.

We know that the appointments of new judges and transfers of existing judges across high courts many a times are decided, or even arguably, *orchestrated*, by the Law Ministry. Recent instances of the transfers of Justices Akil Qureshi, Muralidhar, Jayant Patel, were all eminently questionable, but the court did not utter a word and quietly allowed the judges to be relocated. All of the bombast about fiercely protecting independence expressed in the NJAC case seems to have been thrown to the wind.

There was a brief watershed moment with the January 2018 press conference, where four Supreme Court judges, in an unprecedented move, went public with their grievances over matters of judicial administration and management.

There were also some sparks of self-expression shown occasionally, as in the right to privacy discussed in *Puttaswamy*, or the *Shreya Singhal* case, where Section 66A of the Information Technology Act was struck down – the first time a law was struck down for violating Article 19(1)(a) of the Constitution – or the decriminalisation of homosexuality, or recognising transgender rights, or the many cases pertaining to gender justice, such as those on adultery, triple talaq, and promotion in the armed forces.

Note, however, that – with the exception of Section 66A – the executive is really not concerned about these issues.

But wherever the executive is an actively interested party, and wants to undermine the rights of the people – usually in order to further its own *realpolitik* agenda – you will find that the court is being pushed to the wall.

The court's proclivity to buckle in submission

in matters where the executive takes a stand has not gone unnoticed. A news report by the *Indian Express* showed that of the recent ten most important judgements of the Supreme Court on free speech, only four were decided in favour of the person claiming the right to free speech.

Critically, in all four of these cases, the government either supported the petitioner or expressed no objection. In contrast, wherever the government opposed, the cases failed. This is how the court seems to be turning in all matters.

The Court generally is becoming more prickly when it comes to issues of free speech, as evidenced in the most recent Prashant Bhushan case. In a display of self-proclaimed "magnanimity", the court let off Prashant Bhushan with a fine of Re 1 for the contempt case against him over two tweets, but not without chastising his conduct. In the entire proceedings, one thing was clear: the court came across as an intolerant institution.

The truth is that the era of the Supreme Court's glorious jurisprudence has all but vanished. We seem to have only memories of its illustrious past to reminisce upon today. We were recently told in *Puttaswamy* case that the ghosts of *ADM Jabalpur* had been buried deep, but I fear that these ghosts may have returned to haunt us once again.

### **Forgotten freedoms**

The most stark representation of the court's decline can be seen in its failure to perform as a counter-majoritarian court. I emphasise counter-majoritarianism because it is important to recognise the role of the court in protecting the interests of minorities.

A democracy derives its legitimacy from representing the will of the majority. But this legitimacy comes at a cost, which is invariably borne by minority groups, and especially those that are unpopular or victims of deep prejudice and who cannot influence the legislature in any way. This power to protect minorities from the tyranny of the majority is the basis of judicial

review powers that allow courts to strike down laws for violating the constitution.

Now, though, it seems that the court is turning away from decades of its own history, and is, instead, aligning with the majoritarian view unhesitatingly and without question. Two recent cases which demonstrate this clearly are *Sabarimala* and *Ayodhya*.

The original 2018 Supreme Court judgment in *Sabarimala* was an extremely progressive one: it permitted the entry of women into the Sabarimala Temple in Kerala. But when the Kerala state government tried to implement the court's judgment, the BJP-led centre sided with Ayyappa devotees. The court's word should have been final, but the Central government seemed to believe that was not the case.

Soon after, review petitions were filed, but these were kept pending for certain referred questions to be decided by a larger bench. There was no stay on the main judgment. But the court said that the referral meant that the judgement was "not final", and therefore, refused to issue directions on a petition for seeking safe entry into Sabarimala.

This has opened up a Pandora's box of nightmares that we might live to regret: it means the Central government can, with impunity, ignore the Supreme Court; and that judgments can be conveniently "re-opened" through referrals in the guise of reviews.

What implications does this have for the rule of law?

The issue of rule of law and finality also came up in the *Ayodhya* judgment. In its unanimous but unusually anonymous decision on an essentially political issue, the Court said that the Allahabad high court's decision to divide the property into three parts was not "feasible" in order to maintain peace and tranquillity.

However, did the Supreme Court's judgment result in complete justice? Despite acknowledging the illegalities committed by the Hindus, in 1949 and 1992, the court effectively rewarded the

wrongdoer. Surely, this is against the doctrine of equity, where one must approach the Court with clean hands.

Just as the central government exhibited impunity in the *Sabarimala* judgment, in the *Ayodhya* case, too, the Hindu Mahasabha pressed for the withdrawal of criminal cases against the kar sevaks involved in the 1992 demolition and violence. It also demanded that the kar sevaks be given government pensions, and their names listed in the temple on the site of Masjid! As though they were freedom fighters!

The Supreme Court has said that the criminal cases must continue, but in the larger scheme of things, I am doubtful if any meaningful result will emerge.

#### **Constitutional commitments**

The failure to remain committed to the constitution, as demonstrated by the court's jurisprudence on Article 21, is becoming increasingly visible. In the face of the colossal public health crisis caused by COVID-19, the lives of migrant labourers have turned upside down: they have no work, no source of income, no access to basic necessities, and no means to reach home. Instead of taking on petitions questioning the situation, for the longest time, the court refused to admit or adjourned these petitions.

In rejecting or adjourning these petitions, the Court made several questionable remarks: it said that governments already provided labourers with two square meals a day, so what more could they possibly need (surely, 'not wages'); and that incidents like the horrific accident where migrant labourers sleeping on railway tracks were killed could not be avoided because 'how can such things be stopped'.

Many of the so-called excuses of the court have been tackled by previous judgements, notably the question of policy and non-judicial interference, for instance, the right to food; various environmental protection policies. In

these cases, the Court formulated policies and asked states to implement them.

In the migrant workers case, though, it made the unfortunate presumption that the government is the best judge of the situation. The *suo motu* recognition of the issue by the court also came too late. Instead, the high courts came across as islands of rationality, courage and compassion in these times, asking questions about migrant rights. Contrast this with the Supreme Court's reaction to the bizarre claim of the Solicitor General who argued that the exodus of workers was due to fake news: the court accepted this, and media houses were advised to report more responsibly.

Our Supreme Court today, sadly, has time for a billion-dollar Indian cricket administration, or the grievances of a high-profile journalist, but studiously ignored the real plight of millions of migrants, who do not have either the money or the profile to compete for precious judicial time with other litigants.

#### **Eroded rights**

Another kind of repression that is happening, perhaps unprecedented in modern India, is the stifling of the right to protest and to free speech. The executive is spearheading this, and the judiciary is either tacitly agreeing with the executive overtly, or maintaining silence around the issue. If we want to boast about being citizens of a democratic nation, this ought to be the first thing that worries us.

Take the protests against the clearly unconstitutional Citizenship Amendment Act (CAA). The constitutionality of the law was challenged in the Supreme Court, but the court itself avoided taking up the matter for flimsy reasons.

Meanwhile, the government has desperately tried to silence protestors. Indeed, the government is using every imaginable means, to silence any and all dissenting opinion, and to clamp down on any alternate views that might exist. More problematically, the judiciary is watching all this happen by the sidelines, like a mute spectator,

without uttering a word.

Different strategies are employed in different states. In Uttar Pradesh, its chief minister said that he would take "revenge" against protestors, and that chanting 'azadi', or 'freedom', would amount to sedition! Police have been given license to run riot against peaceful protestors, by arresting them, destroying vehicles, and even entering homes. Targets tend to be young Muslims.

A combination of charges under the National Security Act and the Goonda Act were used in UP.

But the burning issue in this context has surely been the Delhi riots. The government has been targeting those who express an honest view, and engage in honest protests, and even, on occasion, stage a play! Unarmed students have been attacked by the police. Anyone critical of the establishment, regardless of their intentions, such as Apoorvanand and Yogendra Yadav, are implicated at the slightest opportunity.

The strategy in Delhi has been to charge individuals with criminal offences of rioting, unlawful assembly, criminal conspiracy, and that awful colonial legacy that is sedition, to name but a few, in conjunction with the (newly interpreted) Unlawful Activities Prevention Act (UAPA).

Contrast this treatment of civilians with that of leading politicians of the ruling BJP who have publicly delivered inciteful speeches. Shockingly, no punitive action was taken against them. Instead, the one judge who showed some inclination to take action was conveniently transferred.

The arrests here have been to a template: if a person expresses a legitimate view against the CAA, he is promptly labelled an anti national, and the law enforcement machinery kicks in. It does not matter that the CAA is a blatantly unconstitutional law.

The police says that the protestors sought to "execute a secessionist movement in the country



by propagating an armed rebellion” in which “the anti-government feelings of the Muslims will be used at an appropriate time to destabilise the government.”

The former police officer, Julio Ribeiro, has pointed to the lack of a fair investigation in the Delhi riots, drawing similarities with the 1984 riots here. He rightly said that “riots recur in India because of the impunity accorded to one section by the political establishment of the day”.

Police investigations in the riots have been based on mere “disclosures”, with no concrete evidence. Surely, this goes against all principles of fair investigation. By taking action against peaceful protesters, but deliberately failing to register cognisable offences against those making the hate speeches that triggered the riots in Delhi, the Delhi police has been accused of being partisan and politically motivated.

With the police taking a majoritarian stance as well, effectively, the real culprits of the violence belonging to the majority community are allowed to get away. 39. Why are the political establishment, and the police so emboldened? Undoubtedly, it is because of the weak judiciary that we have in India today. Had the Supreme Court not remained a mute spectator, and had it intervened more proactively, all this would arguably not have happened.

Instead, the Supreme Court conveniently declined to intervene, showing no urgency in wanting to deal with these problems. For weeks, the matters involving many of these issues (for example, the Delhi riots) kept getting adjourned. Even where matters were heard and decided, when they were appealed, there was judicial silence.

When the Allahabad high court directed that protestors’ photographs put on hoardings should be pulled down in 24 hours as the action was unsupported by law, in appeal by the UP government, the two-judge Supreme Court bench agreed with the high court on the unlawfulness of the action, but it still mysteriously made a

reference to a three-judge bench, effectively permitting the state to ignore the high court order.

To make matters worse, the Supreme Court’s April 2019 decision in *NIA vs. Zahoor Watali* on the interpretation of the UAPA has affected all downstream decisions involving the statute.

This decision has created a new doctrine, which is that effectively, an accused must remain in custody throughout the period of the trial, even if it is eventually proven that the evidence against the person was inadmissible, and the accused is finally acquitted. The illogic of this veers on the absurd: Why must an accused remain in jail only to be eventually acquitted?

According to the decision delivered by Justice Khanwilkar and Justice Rastogi, in considering bail applications under the UAPA, courts must presume every allegation made in the First Information Report to be correct. Further, bail can now be obtained only if the accused produces material to contradict the prosecution.

In other words, the burden rests on the accused to disprove the allegations, which is virtually impossible in most cases. The decision has essentially excluded the question of admissibility of evidence at the stage of bail. By doing so, it has effectively excluded the Evidence Act itself, which arguably makes the decision unconstitutional. Bail hearings under the UAPA are now nothing more than mere farce.

With such high barriers of proof, it is now impossible for an accused to obtain bail, and is in fact a convenient tool to put a person behind bars indefinitely. It is nothing short of a nightmare come true for arrestees.

This is being abused by the government, police and prosecution liberally: now, all dissenters are routinely implicated under (wild and improbable) charges of sedition or criminal conspiracy *and* under the UAPA. Due to the Supreme Court judgement, high courts have their hands tied, and must perforce refuse bail, as disproving the case is virtually impossible.

As a result of this decision, for instance, a high court judge can no longer really *adjudicate* and assess the evidence in a case. All cases must now follow this straitjacketed formula of refusing bail. The effect is nearly identical to the draconian preventive detention laws that existed during the Emergency, where courts deprived people access to judicial remedy. If we want to prevent the disasters of that era, this decision must be urgently reversed or diluted, otherwise we run the risk of personal liberties being compromised very easily.

This abuse of the UAPA and constant rejection of bail applications of accused as a means of silencing opposing voices can be seen most in the Bhima Koregaon cases, where mere *thought* has been elevated to a crime. In this matter, involving the arrests of many individuals, the so-called evidence was a typed, unsigned, undated document already in the public domain, which was taken from the devices of Varavara Rao and Gautam Navlakha, and attributed to them.

The document titled “Strategy and Tactics of the Indian Revolution” was referred to in a book published six years ago. This document is also publicly available online. There is no section 161 witness statement that has been relied upon in the matter of Sudha Bharadwaj. But as a consequence of UAPA being applied, the accused cannot even get bail. Courts cannot go into the merits of the case due to the Supreme Court judgement.

The pattern followed in these arrests are all very similar: social activists, academicians, public intellectuals, who have worked in certain parts of the country are first accused of Maoist conspiracies, then with charges of misguiding Dalits, and then under the UAPA.

Sudha Bharadwaj has been in jail for two years. Varavara Rao, a COVID- 19 patient, is not allowed to get out and receive proper treatment. We hear of fresh arrests ever so often.

Navlakha’s case is a classic example of how the high courts are being discouraged from doing anything. Navlakha made an application for bail before a Delhi high court judge, but when the matter was being heard, without informing the court, Navlakha was transferred to prison in Mumbai. When the judge enquired as to how and why this was done, there was no

response from the government. Instead of explaining its position to the high court, the Solicitor General took the matter to the Supreme Court, and the court simply rejected the bail application, virtually ending the proceedings before the high court.

#### **Abdicating justice**

The next characteristic contributing to the Supreme Court’s decline is in the failure to perform its fundamental role as adjudicator itself. In the *Kashmir* case, it has practically abdicated its role as a court!

The Court’s decision in the internet shutdown case (*Anuradha Bhasin*) was laudable in many

respects, but failed to actually decide the matter. After ruling that the suspension of communication services must adhere to the principles of necessity and proportionality, the Court failed to apply these principles to actually decide the



legality of the communication shutdown in Kashmir. In its decision of May 2020, instead of itself dealing with constitutional issues relating to Articles 14, 19, 21, proportionality and strict scrutiny, the Court merely upped and handed over the exercise, of “advising” the court and the administration on the applicability of *Anuradha Bhasin* in J&K and denial of 4G services, to an executive-led Special Review Committee.

This is clearly a case of misguided, and surely, constitutionally unacceptable, delegation: the executive has been asked to conduct a review of its own actions, when in fact the judiciary should have been conducting a judicial review of executive action.

As expected, the Review Committee rejected the representation, leaving the entire J&K population without 4G services for an unforeseeable future (it has already been over a year!). Should this denial of the fundamental right and access to internet be ignored so unsubtly?

To use senior counsel Arvind Datar’s phrase, this is a case of justice having been “outsourced”, which is arguably tantamount to justice being denied.

There is also a pattern of judicial evasion being followed by the court in the Kashmir cases: when petitioned as to how the internet shut down was affecting the public health delivery system in J&K, the Supreme Court told the petitioner to approach the high court to avail the appropriate legal remedy. The over 1.3 crore population of J&K is suffering, with health, education, business and economy all operating at a loss, because of the executive’s internet shutdown.

The Supreme Court seems to simply not want to deal with real-world problems at all.

Contrast this with how other jurisdictions have dealt with conflicts between individual liberty and national security, as described by Datar. In *Liversidge v Anderson*, Lord

Macmillan famously observed, “The fact that the nation is at war is no justification for any relaxation of the vigilance of the courts in seeing that the law is duly observed.”

After the September 11 attacks, the United Kingdom enacted a law to detain and deport non-UK citizens, if there were suspected terror links. The law was struck down in *A v. Secretary of State for the Home Department*, on grounds including discrimination, with the courts drawing a distinction between the subject of national security being a matter of political judgement of the executive and Parliament, and the issue of whether individual rights were violated being the subject for judicial scrutiny.

Elsewhere, the US Supreme Court struck down the government Military Commission for trying detainees at Guantanamo Bay for violating the Uniform Code of Military Justice and the Geneva Conventions in *Hamdan v Rumsfeld*.

Note that *Hamdan* was Osama Bin Laden’s chauffeur, but the court did not flinch. Similarly, when the Iranian Bank Mellat was suspected to be funding entities supporting Iran’s missile program, and the UK Treasury issued a directive prohibiting dealings with the Bank, the UK Supreme Court, in *Bank Mellat v. Treasury*, revoked the directive for failing to balance the rights of the bank and the interests of the community.

Surely, the Indian Supreme Court should have taken a leaf out of the books of its peer institutions in the US and UK, and applied its own mind in such matters.

### **Master of the roster**

That the judiciary is failing spectacularly to remain an independent institution is evident. That the executive is in fact responsible for this is also an open secret. How the executive is doing this is also well known. There is no need to expend energy in packing the Supreme Court with pro-government judges. Finding over 30 judges who think alike would anyway be difficult, if not impossible.

The combination of opaque systems like the “master of the roster”, and a certain kind of Chief Justice of India, and a handful of “reliable” judges, is sufficient to destroy all that is considered precious by an independent judiciary. Of course, this is far from being a hypothetical scenario, and is, in fact, playing out in India right now.

The truly independent and competent judges in the court have been relegated to adjudicating private disputes, and are considered inconsequential. Many commentators have already pointed out how the last three CJIs all used the powers anointed upon themselves via the “master of the roster” to entrust politically sensitive and important matters to benches involving the recently-retired Justice Arun Mishra.

There is a tendency to view the threat to judicial independence in India as emerging from the executive branch, and occasionally the legislature. But when persons *within* the judiciary become pliable to the other branches, it is a different story altogether.

Today’s situation was foreseen many decades ago by Chief Justice Y.V. Chandrachud, when, in 1985, he observed, “There is greater threat to the independence of the judiciary from within than without...” All the sermonising in the world is of no use without any real changes in the way things work.

#### **How democracies die**

In their book titled, *How Democracies Die*, Steven Levitsky and Daniel Ziblatt, write of how “most democratic breakdowns have been caused not by generals and soldiers but by elected governments”. They document the many instances of how “elected leaders have subverted democratic institutions” across the world.

This subversion is carried out by the constitutional sanction of the ballot box, and even with approval from the legislature and the judiciary. Throughout, there is always the

assurance that the democratic wheels are still turning. Levitsky and Ziblatt call the leaders who thrive in such situations “elected autocrats”.

Such elected autocrats weaponise institutions, to use them as political ammunition. They compel the media and the private sector into silence, and they redraft rules to suit their interests over those of their political opponents.

Critical voices still rise up in the backdrop but those who dare to question the powers that be end up at the receiving end of all kinds of trouble. They are charged with making seditious remarks, or evading taxes, or some such thing. In this way, they use “the very institutions of democracy... to kill it”.


To put it bluntly, this is what is happening in India today. In the face of all this, the one institution which has the capacity to turn the tide is the judiciary. Unfortunately, it seems to have lost its way.

There was a period in history, during the Emergency, as well, when the Supreme Court failed the nation, but it realised its follies and returned to its natural path in course of time. Now, too, we have many judges and exemplary lawyers in practice who are sincere and committed to constitutionalism and to the rule of law. I expect they will rise to the occasion.

The occasion is now. More than 70 years ago, in the Constituent Assembly, Nehru had said that we needed judges of the “highest integrity”, who would be “[persons] who can stand up against the executive government and whoever might come in their way.”

I am hopeful that we will once again be able to see judges like these thrive in India.

**Justice A.P. Shah** is a former chief justice of the Delhi high court.

*The above has been adapted from Justice Shah’s speech, Supreme Court in Decline: Forgotten Freedoms and Eroded Rights, at the Justice Suresh Memorial Lecture, on September 18, 2020.* 

# From Ramrajya to Rammandir: Evolution of Gandhian Politics

Bhaskar Sur

India is witnessing the steady journey from a liberal secular state to an authoritarian Hindu Rastra, increasing state repression and collapse of judiciary and other institutions of civil society. Our secularists here still use Mohandas Gandhi as a beacon light of secular values and a source of inspiration in their fight against what they see as religious fascism. This is perhaps the reason why secularism and liberal values are on retreat. The historical Gandhi stood firmly against the godless satanic secular colonial state and the democratic process it had set into motion from above. Two successive reforms Morley – Minto (1909) and Montagu-Chelmsford (1919) set India firmly on the path of democracy. In 1919 India became a full member of the League of Nations. The Viceroy Lord Reading rightly said to Sapru, the Law member of his Council, “Swaraj is within your grasp.”

But Gandhi had nothing but contempt and loathing for the self rule in the western democratic tradition. He had outlined his Swarajya or self rule clearly more than a decade earlier in Hind Swaraj. He wanted an Orientalist utopia based not on rights but a society founded on the eternal principle of *Sanatan Dharma* or *Varnasharama*. He is opposed to modern civilization which for him is a black age and ‘Parliaments are really emblems of slavery’ which are better got rid of. He is against railways introduced by the British which accentuates ‘the evil nature of man’ and also machinery as ‘it represents a great sin’. This utopia would also dispense with the rule of law based on evidence and elaborate legal process and settle disputes through arbitration according to respective religious traditions. On education he is equally forthright “.. whether you take or higher education, it is

not required for the main thing. It does not enable us to do our duty “ But what’s our duty ?” The duty of labour is incumbent on every person belonging to every *varna* (caste). This dispensation bereft of the curse of parliament, education, science, technology, healthcare and law is Gandhi’s cherished dreamland or Ramrajya. But if one thinks it will be without coercive apparatus, he is grossly mistaken. This *varnashramic* or caste based system will not tolerate anything foreign, “If the English become Indianized, we can accommodate them. If they wish to remain in India with their CIVILIZATION (meaning the whole panoply of modernity - rule of law, parliament, equality before law, science, secularism etc), there is NO ROOM FOR THEM”. Unambiguous threat and how reminiscent of Hindutva! There is no room for Christians, Muslims and our secularists representing much of English ‘civilization’, unless they ‘Indianize, that is to say, Hinduize’.

Gandhi, like Narendra Modi, was a man of naked ambition and fanatical views. To realise his dream it was necessary to wrestle power from the much more competent and progressive moderate element represented by men like Sapru and Jinnah. His weapon was religion and invoking the myth of Ramrajya. He wrote in 1920 “I’m convinced that we shall get Swaraj only when there is a religious awakening in this country” - the kind of ‘religious awakening’ that the RSS fundamentalists have contrived with the help of a obliging media and crony capitalism. It must be recalled Gandhi too had a good press and the money of Birlas and other capitalists oiled the wheels of the Indian National Congress. In Young India on May 12, 1920 he made his position clear, “I have been



experimenting with myself and my friends in politics by INTRODUCING RELIGION IN POLITICS.” For most Hindus he was Kalki who would appear at the end of Kali yoga to restore and cleanse the religion from the *Mlecchas*. A rank opportunist, along with Hindu revival, he recklessly and unethically hitched Pan Islamic Khilafat Movement to his Non Cooperation. On their part most Muslims joined the movement not because they loved the concept of Gandhian Swaraj but their hate of the British which was dismembering the Ottoman Empire and about to remove the ‘Badshah of Rum’ that is, the Khalifa. To pious Hindus his cunning explanation was that he was forging alliance with the Muslim to save the cow from his knife. Jinnah, a secularist and honest man remarked, “I will have nothing to do with the pseudo religious approach to politics. I part company with the Congress and Gandhi. I do not believe in working up mob hysteria.” He was fiercely opposed to Khilafat Movement and with uncanny prescience commented, “.. in our effort to carry the Muslims with us we have adopted Khilafat Movement which, if successful, would make them more fanatical.” After the sudden withdrawal of the movement after the Chauri Chaura incident, the worked up Muslims vented their frustration on the Hindus and, Hindus on Muslims. There was widespread sectarian violence in the aftermath of Non Cooperation. However Gandhi was only interested in appeasing the religious sentiments of Muslims, not their political or economic rights. It was under Gandhi’s leadership that Bengal Pact that CR Das made with Muslims, accommodating their aspirations, was scrapped as was Jinnah’s very legitimate Fourteen Point Demands. Later after 1937 elections he remained deaf to Jinnah’s repeated request for cooperation and almost forced Jinnah to go for Pakistan Resolution in 1940 and adopt the same religious politics which had given him such

a huge political mileage. The secularists within Congress like Nehru disliked Gandhi’s ideas and ways but they saw it clearly it was Gandhi who could bring the absolute power they were lusting after. They were thus complicit in this cynical quest of power.

Gandhi was thus an unapologetic leader of the Hindus without pretensions of his secular followers. He was very apprehensive of the Dalits, who under Western influence were claiming for themselves equal rights. He would not have them convert to any other religion even Sikhism. Gandhi, like the RSS, was staunchly against conversion and was all for anti conversion laws. So when the Dalits were given separate electorate which would have freed them from upper class tutelage, Gandhi started his fast to coerce Ambedkar to give it up. He had to die not because he was a secularist but the Hindu Mahasabha saw him as the greatest rival in the post Independence Hindu politics. They did not kill Nehru as he was their opponent but not rival. After the Independence Gandhi’s *chelas* like Vinoba continued with the Hindu politics - Hindi promotion, cow protection, vegetarianism etc. In Gujarat cow protection platforms were later turned into the Hindutva planks to whip up hatred against Muslims. When Gujarat pogrom occurred, no Gandhian came to the aid of Muslims who were being slaughtered and burnt alive. It is coincidental that Gandhi’s own state would be the first to turn into a Hindutva laboratory? So when BJP whips up the religious passions around building Ram Temple, they are following Gandhi’s footsteps. Similarly, BJP’s cynical contempt for rule of law and the institutions which are a British legacy is very much in keeping with the dark vision of Hind Swaraj. RSS too is a great admirer of the beauty of *varnashrama* or caste hierarchy. In our time, rather belatedly Gandhi’s Ramrajya is taking shape.

( To be Contd....on Page - 42 )

# Rationalism and Humanism

I am a rationalist and humanist.

Rationalism is a methodology of thought.

Humanism is a way of living without Religion or God or Superstitions but with Rationalist thinking.

Materialism has become Physical realism after the breakup of atom to include physical energy.

Everyday knowledge increases and we take new decisions with new knowledge.

Our theories have to change according to the increasing new knowledge.

Theories are produced with knowledge.

In the history of humans several theories of human life with societies have come up and rejected or revised according to mounting new knowledge.

Theories shall change according to growing knowledge.

Philosophy is the science of sciences.

Philosophy is nothing but applied sciences to human way of life.

Think before act.

Ideas guide us.

Ideas are produced in our mind on the knowledge we have at present.

Human is a rational beings.

Humans are to think rationally and live humanely.

But religions with their beliefs don't allow their followers to think rationally, freely and question them.

They order the followers to believe what is there in age old religious books.

But with growing knowledge of Science humans have to change their ideas according to it.

The same applies to theories of politics, society and culture.

Humans are for freedom.

They build society to get freedom with social living.



*Meduri Satyanarayana*

Whenever society objects the freedom humans rebuild society.

The same thing is done to other institutions of Humans.

Humans do as they wish and live their life with growing science and experience.

Our life stance is Humanism with freedom.

With rationality and freedom humans can live a moral life with others.

Ever growing life stance is our aim.

Power shall be with humans.

They have to rule themselves with an elected government.

The representatives must be the clerks of people, that is humans.

6 September, 2020 🌈

## 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.

– Mahi Pal Singh

From the pages of history :

## A Draft Resolution (A Mandate)

(ALL INDIA RADICAL HUMANIST ASSOCIATION CONFERENCE 1973)

Swadesh Ranjan Das

India still remains an agricultural country. Three-fourth of her population still depends upon primitive form of agriculture. The productivity of her peasantry being the lowest in the world, the poverty remains as proverbial as before, though more than a quarter of a century ago, she achieved her independence. The solution of the problem of her poverty, therefore, mainly lies in an increase in the productivity of her main industry, that is, her agriculture: As soon as it is done India will be industrialised with a sound base having a huge internal market of her own rich peasantry.

The cause of poor productivity of her agriculture is not natural but man-made. It is due to want of irrigation facility, though rainfall and natural water resources are abundant. The lands of the peasants are still scattered as the legacy of the feudal land system. So individual peasant cannot make any attempt to build any sort of irrigation system by his own effort and initiative. The remedy is the consolidation of holding— an economically viable unit.

But this step has not yet been taken by the ruling party in a national scale and in a conscious systematic manner though this remedy was in the State paper for a very long time. The result has been the ever growing miseries of the already poverty stricken people due to soaring prices and wide spread unemployment.

After the First World War, the British ruling power wanted to industrialise India in a limited scale, and as the pre-condition for the industrialisation to increase the purchasing power of the peasantry. They appointed the Royal Agricultural Commission. The Commission recommended the consolidation of

holding of the peasantry among other steps. But the Zamindars of the Permanent Settlement area prevented this attempt. Then came the Simon Reform. But from the beginning, the Reform faced the powerful opposition from the Congress, and it never had a peaceful run. Yet the first stable ministry of the then Bengal appointed the Land Revenue Commission under the chairmanship of Sir Francis Floud. The Commission expressed the view that, “no other solution than state acquisition will be adequate to remedy the defects of the present land system.... As sole land lord, the Government would be in direct relation with the actual cultivators and would be in a very much stronger position than any private landlord **to initiate schemes for the (i) consolidations of holdings,(ii) the restoration of economic holdings,(iii) the provision of grazing land and (iv) the preventions of transfers of land to non-agriculturists.**” These recommendations were not given any effect due to the Second World War. After the War, Power was transferred to the Congress Party. Since then, though the Zamindari system has been abolished in all the states but those *four objects* of such abolition have not been effected upon nationally and fully up till now.

The most deplorable fact is that not only the ruling party, the Congress failed to take this step to complete the agrarian revolution, but none of the opposition parties mentioned it in their manifestos. But there was one party which is no more, who took it even before Independence, in 1944, and that was the Radical Democratic Party. In its People’s Plan for economic development of post War India, it was written

that “We think it is essential to generalise in this application the recommendations of Floud Commission if the planned economy were to concentrate, in the initial period at least, on increasing the productivity of agriculture in a manner as will benefit the cultivator. It is already made clear why it must do so.”

But due to the liquidation of the R.D. Party of which we are the successors, this historical task of completing the belated agrarian revolution has not yet been fulfilled and the poverty of India remains as it was before. In the People’s Plan, Comrade Roy wrote in the Foreword: “The fundamental problem of Indian economic life is the problem of poverty. It cannot be solved on the basis of the capitalist mode of production. The guiding principle of the Plan prepared by the *Post War Reconstruction Committee of the Indian Federation of Labour* is, therefore, **production for use as distinct from production for exchange.** *Increased production and equitable distribution are the cure for the evil of poverty. Increased productivity of labour and employment of a large volume of labour in more productive occupations are the conditions for the creation of additional wealth.* “Under capitalism, production is limited by the purchasing power of the people. Only as much goods are produced as can be sold profitably. The maximum amount of goods that can be sold is limited by the poverty of the bulk of the Indian people. Therefore, under capitalism the creation of wealth is bound to be restricted and the capitalist mode of production will preclude equitable distribution even of the limited wealth created. The problem of poverty will not be solved.”

“Under capitalism, the rise in the standard of living of the people will be restricted by the purchasing power that capitalism can distribute. The distribution of purchasing power takes place through the medium of wages and the purchase of raw materials; that is to say, ultimately it is

conditional upon the total volume of production. But, given the poverty of the bulk of the Indian people, production for exchange cannot be expanded beyond a certain limit without creating the crises of over production.”

“That is a vicious circle. **The Plan** indicates the only way out. Production is to be planned, not with the object of increasing the purchasing power of the people, but with that of supplying their requirements. *The object is not to create effective demand, which for reasons given above is bound to be restricted, but to estimate human demand and to equate production with it.*”

In the People’s Plan, it was written that its mode of production would be “production for use as distinct from production for exchange . The production for use “means the production for the use of the producers”. **That would be possible when the means of production would be owned by the producers themselves.** This sort of economy has been named as the **Co-operative Economy**. When all the citizens will own their own means of production, then they will have to be co-operative with their neighbours to augment production and to get facility for its exchange. Hence it is Co-operative Economy.

To elaborate this idea of Co-operative economy, a seminar was held at Mussoorie in 1956. The proceedings of which was printed in a booklet published by Com. Ellen Roy, the Secretary of the Indian Renaissance Institute under the title “**Humanist Approach to Economic Development.**” Therein it is written, “The central economic problem is to visualise *the framework of an economy which will reconcile economic betterment with individual freedom*, in the present age of huge national States and rapid technological advance.

“While the social injustice and economic instability that characterise the capitalist order have been generally recognised, the dangerous potentialities opened up by socialism in the shape

of vast concentration of power in the State, with the consequent increase in the helplessness, insignificance and regimentation of individuals, is not widely appreciated. Indeed, with the moral collapse of capitalism which is so evident in the contemporary world, it is becoming fashionable to look upon socialism as synonymous with progress. Socialism, however, is not the only alternative to capitalism, nor is it the lesser evil. The transfer of allegiance from the one to the other is very much like the proverbial jump from the frying pan to the fire.

“The term ‘Socialism’ as used here, means the economic system in which the main means of production, such as land and machinery, are owned by the State.” “Careful students of Marxism will notice that the Marxian critique of capitalist economy does not, by itself, lead to the conclusion that State ownership should take the place of private ownership. *The basic contradiction of capitalist economy, according to Marxian theory, consists of what has been called ‘social production and individual appropriation.’*”

The contradiction between “social production and individual appropriation” can be resolved, not by placing the workers under the employment of the State but by investing them with the ownership of the means of production and thus of the goods produced. **The conflict between the employer and the employed is not eliminated by transferring the workers from private employment to State employment. Its elimination lies on transforming a wage-earning society into a largely self-employed society.**

To put it in a Marxist terminology, appropriation should be socialised to the same extent to which production is social; if a particular social unit of production consists of a hundred workers, the same should be the unit of appropriation. This is the feature of the cooperative economy advocated by Radical Humanists.” That is to say in the Humanists

economy, land would belong to the peasants, and factories to the workers. In the People’s Plan it was also visualised that *without the peoples effective control over the state, this sort of people’s economy would not be possible*. Such sort of radical democratic state would be reared on the base of an Organised Democracy composed of a country wide net work of People’s Committees wherein the entire people would exercise their sovereignty directly for controlling the executive and legislative functions of the state through their elected representatives who would remain responsible to them instead of any party or to himself.

After the adoption of New Humanism as the philosophy of Radical Democracy, the Party was liquidated in 1948. *But in the programme for the Radical Humanist Movement, the same principle of the political and economic programme was adopted*. Since then, the Radical Humanist Movement with that programme has been carried individually. But that have not been effective at all. In the mean time various problems of the country both old and new have been multiplied and aggravated very rapidly, the sufferings of the people are growing day by day; and no other solution what so ever is before the country. **So it is high time that the Radical Humanists should act and act quickly and organisationally. So this All India Conference of the Radical Humanists resolves that the Radical Humanist Association will launch a movement with the following programme based on the above political and economic principle. The Plan of Action** will be to appeal the voters to vote for such candidates in the election who will agree to remain responsible to them and will try to legislate the following programme, and also agree that if they neglect and disobey this mandate, they will resign as soon as the organised voters in the Gram Sabhas exercise their **rights of recall**.



## PROGRAMME

(1) **To give political power to the people:** The Constitution and the Panchayat Raj Act will be amended so that all the voters sitting in their respective Gram Sabhas can directly control the legislative and executive departments of the State through their representatives who will remain responsible to their respective Gram Sabhas of their constituencies. **Gram Sabhas** will have the *power to recall* the disobedient representatives. The Gram Sabhas will also carry the functions of the local self government, the Gram Panchayats will act as their executives and always remain responsible to the Gram Sabhas which hold the power of recall to all the elective representatives. The jurisdiction of the Panchayat Raj Act will be extended to municipal areas including metropolitan Municipal Corporations also.

(2) **To give economic power to the people:** Every able bodied man will get an adequate and economic unit of means of production either in the form of land or machine or a profession except the key and heavy industries,

i) All the consumer goods industries will be decentralised throughout the country—village by village. To build all weather roads connecting the villages, providing with power, supplying of raw materials and marketing of the manufactured goods will be the task of the State. State will plan the production according to the human demand of the country.

(ii) The ownership of the present State-owned industries will be transferred immediately to the hands of the respective workers. The capital invested (asset) according to the balance sheet will be the liability of the workers jointly, and will be repaid from a portion of the profit in twenty equal annual installments so long. These liabilities are not liquidated; the factories will remain **as a lien**.

The profit will be appropriated according to the ratio of their respective salaries and wages. The managing board of directors 'will be composed of the representatives of the Government, and the workers. For the first five year period, the ratio of Govt. representatives will be fifty-one percent, in the second five years period, equal with the workers representatives, the third five years period one-third and after the liquidation of the capital liabilities, the Govt. representative will be one fourth and it will act **as the liaison** with the state.

(iii) The industries owned and controlled by the private parties will remain in the hand of the present management as before so long the respective workers are not willing to take it over. If the two-thirds of the workers of any factory demand to take it over, then the state will first nationalise it with Government's rate of compensation to the owners by non-transferable bonds and then to transfer that factory to the respective workers according to the above system.

(iv) To give the land to the peasants in a consolidated form, the first step for such act will be to nationalise all the land, then in lieu of compensation, the present holdings will be returned in a consolidated form. The ceiling of such consolidated holdings will be three hectares and floor will be one hectare (2.5). This minimum limit of consolidated plots will be indivisible, and no fraction will be allowed to own by breaking this unit of the hectare. In this reorganisation of holdings who will lose will get compensation, who wins will pay.

(v) Those who will not get land and are unemployed in villages and towns, will get small scale industries. The capital will be supplied by the state on loan with easy instalments and the state will take the responsibility of supplying raw materials and of marketing. Industries run by more than one worker will run in a partnership basis; the profit will be distributed according to merit of one's merit of labour.

In this economy, there will be no unemployed, no destitute, no poverty. This programme of the Radical Humanist Association does not promise anything to give to the people. Because the Association believes that *man is capable of solving his own problems, provided his present chains of various laws, rules, customs and traditions are broken and he becomes a free man*. This programme only breaks that chains made of those laws and rules and nothing more.

As soon as politically and economically free men of India sit in their respective Gram Sabhas (in cities and towns also) with full rights and

responsibilities, they will not only feel the necessity of solving the economic problems but also of moral and educational problems. They will discover from their own experiences *that an objective moral standard is the cement of society; without it, society breaks and individuals suffer. They will be moral*. They will discover that their sons and daughters will be future makers of history like themselves. Accordingly they require to learn a technology to earn their livelihood; the method of **correct thinking**, so that they can solve their problems of life; and the method of increasing the power of **abstract thinking** which will help them in understanding the value of culture and creating new values. Reading of Humanities will help them in this respect.


They will then also provide pension to the old and infirm and orphans. Gradually but very rapidly they will begin to be educated with the socio-political-cultural life of the society from their experiences. **These Gram Sabhas will be the schools for such education**. The gap between the intelligentsia and the common people will be narrower day by day. Step by step as their cultural level rise, they will go on creating a free society of free men which will open an unlimited horizon of a new cosmopolitan civilization based on love and good will free from strife, struggle and war.

Sent by **Ms. Anjali Chakraborty** 

**Contd. from page - (36)**

### **From Ramrajya to Rammandir...**

The genni released by Gandhi tore the country apart and now we have three illiberal democracies where citizens enjoy much less freedom than they did under British and where religious minorities - Muslims in India, Shias in Pakistan and Hindus in Bangladesh face continuous persecution and in India and Pakistan, even genocide. The violent politics of Rammandir is a continuation and culmination of the non-violent politics of Ramrajya.

Taken from the Facebook post of Bhaskar Sur. 

## **What is Humanism**

Humanism is a philosophy and a mental attitude which gives primacy to the human individual and recognises his or her right to live in freedom and with dignity. It believes that “the human individual is the measure of all things”. Humanism opposes the sacrifice of individuals at the altar of any imaginary collective ego like a nation or class. Historically as well as logically, humanism is the philosophy of democracy.

(From the Preamble to the **Constitution of Indian Radical Humanist Association**)

**Demolition of Babri Masjid was not pre-planned?  
How did these Kar-Sevaks gather there with all these implements?**

**Dr. Ramesh Awasthi**



Ever since the verdict came that freed 32 accused I have been thinking hard if none of them is involved in the demolition then how did the mosque disappear. After some more harder thinking along with some less hard drinking the divine revelation dawned. I could not resist the temptation of sharing it with you. The large number of tourists who climbed to the top of the mosque did so to have a total view of the historic sight. Because of the weight of huge number of tourists, the mosque being too old to bear the weight, started going down very slowly and quietly and the moment it disappeared completely the tourists started dancing with great gusto for having accomplished a great miracle. It deserves a thunderous applause. So do it now or later depending on your concerns.

**- Vinod Jain**

## Humanist Poet Laureate Philip Appleman dies at the age of 94



(1926-2020)

Philip Appleman, the poet laureate passed away in the USA on 11 April 2020 at the age of 94. He was a poet, novelist, editor, and humanist. 'The Radical Humanist' journal published some of his poems in the past issues. He was also Charles Darwin expert. At the time of his death, he was professor emeritus in the Department of English at Indiana University, Bloomington.

Appleman was a lifelong writer, producing numerous volumes of poetry, three novels, and many collections of prose. He was well known for his social commentary on politics, sex, and morality and was a recognized expert on Charles Darwin, editing the critical anthology Darwin, and penning two books of poems on the theme of evolution. He published eight volumes of poetry. He was a recognised expert on Charles Darwin and published two books on Darwin - Darwin's Ark (2009) and Darwin's Beastiary. Through his poetry he contributed to the promotion of Humanism.

Appleman was a longtime member of the American Humanist Association. He received the Humanist Arts Award in 1994 and was a signer of the third Humanist Manifesto. His contributions to humanism have made a lasting impact on the AHA's work.

"Phil Appleman wanted the world to be a better place," says Daniel Thomas Moran, the Humanist magazine's arts editor, "and I can say, without hesitation, that the world is a better place because of Phil Appleman." He is survived by his wife Marjorie Appleman, a playwright.

- Dr. Innaiah Narisetti