THE RADICAL HUMANIST

ESTABLISHED : APRIL 1937
(Formerly in the name of 'INDEPENDENT INDIA' from April 1937 to March 1949)

Founder
M.N. ROY

Vol. 86 Number 5 | AUGUST 2022 | Rs. 15 / MONTH

On 75th Anniversary of India's Independence

Gandhiji asked God as to what became of the three monkeys he had left behind in India. God replied: "The one with eyes closed has become judge; the one with ear closed has become government and the one with mouth closed has become citizen..."

629

In memory of UAPA victim Fr Stan Swamy.... Lest we forget....

REPEAL UAPA

"..to the dead we owe nothing but the truth."

JUSTICE FOR STAN SWAMY

(26 Apr 1937- 5 July 2021)

THE RADICAL HUMANIST

Vol. 86 Number 5, August 2022

Monthly journal of the Indian Renaissance Institute
Devoted to the development of the Renaissance Movement and to the promotion of human rights, scientific temper, rational thinking and a humanist view of life.

Founder Editor:
M.N. Roy

Advisor:
Dr. Narisetti Innaiah

Editor:
Mahi Pal Singh

Editorial Board:
Vinod Jain, Dr. Ramesh Awasthi, N.D. Pancholi, Dr. Dipavali Sen

Printer and Publisher:
Sheoraj Singh

Send articles and reports to:
Mahi Pal Singh at Raghav Vihar, Phase- 3, Prem Nagar, Dehradun- 248007. (Uttarakhand) (M) 9312206414, (Landline): 013-53549624.

or **E-mail** them to:
theradicalhumanist@gmail.com or **mahipalsinghrh@gmail.com**

Please send Subscription/Donation Cheques in favour of :

The Radical Humanist to:
Sheoraj Singh,
3821/7, Kanhaiya Nagar,
Tri Nagar, Delhi- 110035. (M) 9891928222.
Email ID: srsingh3821@gmail.com

Subscriptions can also be transferred directly to : **The Radical Humanist**, Current Account Number 0349201821034, IFSC Code CNRB0000349, Canara Bank, Maharani Bagh, New Delhi- 110014.

CONTENTS :

Editoral :

How Shall We Defend our Democracy?

Mahi Pal Singh

This August in 2022 we are going to celebrate the 75th anniversary of our Independence and pay our homage to the freedom fighters, who spent their lives in jails and even laid down their lives so that the people of their country may breathe in an independent country and live a dignified life. This is also an occasion for stock taking whether the rulers of Independent India have fulfilled the dreams of our forefathers and lived upto the expectations of We, the People of India and how the four pillars of our democracy have worked in that direction, or the State has failed the people of the country.

A lot can be said about the Legislature and the Executive wings of the State. They are elected, directly or indirectly, by the people. Obviously, the people have great expectations from them. They are also accountable to the people of the country for their acts of omission or commission. The experience of the last 75 years shows that most of their hopes and aspirations have been belied by them. Once elected for five years, the legislators by and large do not care for those who elected them. A large number of them do not even show their faces in their constituencies before the next elections are declared. They remain busy in amassing large sums of black money through illegal means. In order to come to power or to remain in power, political parties indulge in all kinds of immoral acts and the legislators get sold or purchased like commodities in the hands of power hungry politicians. Anti-defection laws passed by the Parliament fail to deter them from doing so. Once they acquire power and money, they find it easy to get re-elected through the use of ill-gotten money and muscle power.

The Executive wing of the State, which is supposed to be accountable to the legislatures, hardly cares for them because the people in the government are leaders of the parties which have majority in the legislatures. The higher the number of the legislators of the ruling party in the house, more the chances of the head of the government turning into an autocrat. This exactly is happening in our country today where the Prime Minister at the centre and some Chief Ministers in the States, like Yogi Adityanath in UP, act like autocrats. They have become even greater autocrats by adopting the majoritarian agenda of Hindutva supported by a large number of religious fundamentalists in the majority community. In order to remain in power and enjoy the support of the majority community during the elections, they have to keep the pot of religious polarisation boiling all the time even if it means dividing the society. For that they allow the hate mongers to issue statements inimical to the minority community and also spread communal riots after which members of the minority community are further persecuted by the state police leading into further division in society as the suffering community is bound to alienate further.

The media, which is the fourth pillar of democracy, seems to have fallen prostrate completely, with some honourable exceptions, at the feet of the ruling party and keeps singing their paeans 24*7 for fear or favour, perhaps more for fear as those speaking against the ruling party or its leader mostly find themselves hounded by the police/ED/ CBI/IT or other officers of the State.

The only hope of saving the democracy, fundamental rights, civil liberties of the people, the rule of law and the secular character of our country was from the higher judiciary of the country which is the custodian of the Constitution of the country. There is no doubt that whatever freedom and democracy has remained protected is because of our judiciary. But it seems that it has not remained true to its character and reputation in some judgements. People like Muhammed Zubair, the Alt News co-founder, who is being hounded by police in several cases filed against him, at least three by known Hindutva supporters, is just one example. A Delhi court granted him bail in one case relating to his alleged objectionable tweet in 2018 observing that "the voice of dissent is necessary for a healthy democracy, on 15.7.2022 but he will still remain in jail in UP as there are six FIRs against him in Sitapur, Lakhimpur Kheri, Ghaziabad, Muzaffarnagar and Hathras districts in UP for the same tweet. When he is out in one case, he is arrested in another. Obviously, the forces behind these FIRs do not want him to go free. And of course, they want to keep the hate mongers like Nupur Sharma, a former spokesperson of the ruling BJP, and other leaders of the BJP like Kapil Mishra, Anurag Thakur, Parvesh Verma and Abhay Verma free, and they will remain free. In all these cases, the judiciary has not shown its commitment as a defender of the rule of law, protector of the civil liberties of the people and the custodian of the Constitution of India. It always had the power to *suo motu* take cognisance of these matters/violations and punish the guilty. But it failed to do so. In the matter of Nupur Sharma the Judges did make scathing comments against her. But these comments were made orally and, as some people have opined, not at the right time. So they only invited adverse comments from some motivated people.

In the Zakia Jafri case relating to the 2002 riots, Teesta Setalvad, the rights activist who pursued 2002 riots case against Modi, and R.B. Sreekumar, and Sanjeev Bhatt, two IPS officers from Gujarat, (Sanjeev Bhatt – already in jail for another matter) at that time, have been sent to jail on the suggestion of the Supreme Court. In another case, the Supreme Court has imposed a fine of Rs. 5 lakhs on Himanshu Kumar, a Gandhian and rights activist, for seeking a CBI probe into alleged torture and extra-judicial killings of 17 people by the Chhattisgarh Police and Central forces during the anti-Maoist operations in Dantewada in 2009. "The stiff penalty on the petitioner also echoes the stance of the state in case after case — of labelling or ascribing ulterior motives to all those who raise questions, and demand answers, justice, or redress," as an editorial in The Indian Express says.

If the court had acted in right earnest in all these matters, it would have immensely increased the faith of the people in the judiciary and also resulted in the punishment to hate mongers and dividers of our secular society and also encouraged those who help the poor and the destitute in seeking justice.

But the greatest defenders of our democracy are the people themselves. They must remain vigilant, support the Constitutional rule in the country and also punish in a legal manner the wrong doers and the hate-mongers. They must understand that the whole edifice of our democracy stands not so much on the four pillars of the Legislature, the Executive, the Judiciary and the Press or Media but on their own shoulders. If they buckle down, the other pillars will not be able to hold the weight of the falling structure. But if they stand upright, even weaker pillars will be able to support it. But it is they who will have to bear the main burden to keep it standing stronger.

Articles and Features :

Modi govt's assault on democracy is more sinister than the Emergency. Look at the differences

While the Emergency was brutal and sudden, Modi govt's moves are far more insidious and systemic and will undermine our society for a long time.

India's dark Emergency era commenced on the midnight of 25 June 1975, as the president proclaimed: "In exercise of the powers conferred by clause (1) of Article 352 of the Constitution, I, Fakhruddin Ali Ahmed, President of India, by this Proclamation declare that a grave emergency exists whereby the security of India is threatened by internal disturbances." Though the imposition of the Emergency was brutal and sudden, the present occurrences under the Narendra Modi government are far more insidious, systematic and systemic and likely to undermine our collective being as a society for a long time to come.

This nocturnal proclamation, issued at the behest of Prime Minister Indira Gandhi, almost extinguished India's nascent democracy. Fundamental rights guaranteed by Part III of the Constitution stood suspended. Over a lakh were subsequently detained and the escalation of the Internal Security Act (MISA) and Rules made it impossible for the courts to review these cases. But that wasn't all. The noose around the neck of the Indian people tightened further with the autocratic laws that the Parliament enacted.

Experiences of the Emergency

I have vivid memories of the night and the day following the proclamation of Emergency. In Chandigarh, where I was the District Magistrate, the first and ferocious assault was on the media and freedom of expression. Soon after the Presidential proclamation, Giani Zail Singh, then chief minister of Punjab, called up the Chief Commissioner of the Union Territory N. P. Mathur and asked him to come down heavily on the media represented in Chandigarh by The Tribune. He wanted its premises to be sealed, its editor arrested, and the newspaper was stopped from coming out the next morning.

M.G. Devasahayam

Deeply perturbed, Mathur passed on these instructions to then Senior Superintendent of Police SN Bhanot. Being a seasoned policeman, Bhanot was unwilling to carry the instructions out without any formal order and did not disturb me because he knew that I would never agree. Hence, the morning newspaper came out as usual with banner headlines on the Emergency and the arrest of Jayaprakash Narayan and others. This annoyed Haryana CM Chaudhry Bansi Lal who went to the extent of saying he would order the Haryana Police to raid and silence The Tribune. Both chief ministers had scores to settle with the newspaper and its editor Madhavan Nair.

As civil servants running the Chandigarh administration, we were cautious and decided to be very objective in exercising the awesome 'Emergency' powers and making arrests under MISA. We managed things by imposing Section 144 CrPC throughout the Union Territory as a precautionary measure. We were also firm in

not raiding and sealing The Tribune and we conveyed this to both the chief ministers. The Tribune continued its publication, but with the main news censored. They did not publish news favourable to the Emergency regime. For instance, when Rashtriya Swayamsevak Sangh elements detained under MISA surrendered en masse by writing apology letters to Prime Minister Indira Gandhi, there was hardly any media coverage. **RSS' 'second freedom struggle'**

Be that as it may, the RSS literature describes Emergency as the "second freedom struggle" with them in the lead. In fact, barring rare exceptions, the functioning of this behemoth during the Emergency was appalling. Eminent lawyer AG Noorani was categoric when he wrote this: "Every year on the anniversary of the Emergency, the RSS and its foot soldiers, especially those in its political wing, the BJP, go to town denouncing the sin. It boasts of the "sacrifices" made by it and its political front, the Jana Sangh, ancestor of the BJP, during the Emergency… They have no locus standi to make noises about the Emergency. Its own leaders groveled before the Congress dispensation to win reprieves from jail terms and have the ban lifted on their organisation."

More evidence of this lies in then RSS Chief Balasaheb Deoras' correspondence with Indira Gandhi. Not once did he talk of democracy being integral to the country's wellbeing. In fact, he convinced his compatriots to sign a standard form prepared by the government that included the promise: "I shall not indulge in any activities which are prejudicial to the present emergency."

Now, under the Modi government, even without any formal Emergency, institutions have surrendered to the government and party diktats. Tragically, this time, even the Armed Forces have not been spared. Parliament passes harsh laws as Money Bills; Prime Minister Narendra Modi 'demonetises' the currency, throwing people on the streets; citizenship is being questioned and porous Aadhaar is being rammed down their throats, and linked to Voter ID with the danger of disenfranchisement. Rapes, lynchings and killings take place with abandon. Political rallies are held to rationalise these gruesome crimes. "Welfarism" is being thrust on the pauperised population through crumbs, while India is morphing from a 'welfare' to a 'market' state—handing over the public sector to private interests on a platter. Those who oppose these are branded as 'urban-Naxals' and 'anti-nationals', and draconian laws, including Sedition and Unlawful Activities (Prevention) Act, are invoked against them.

Modi govt's assault on democracy

I don't believe that the Narendra Modi government has any right to shout against the Emergency era. There was no call for Muslim genocide, retaliatory "bulldozer justice", killing and assaults on Dalits, communal hate-mongering, Hindutva majoritarianism, targeted killings of liberal intellectuals and journalists, cow vigilantes roaming the streets attacking and killing animal traders and meat-eaters during the Emergency.

As I have pointed out before, there were also no religion-based senas, dals or vahinis of goons, louts and street lumpens harassing, extorting, assaulting and killing defenceless citizens. No arms training for young innocent girls and boys in parks and institutions. No fear of the majority community among minorities. No hate crimes against fellow citizens. No pub attacks or private kitchen searches for beef. No restrictions on the food and clothes of citizens. No moral policing in parks or public places. There was no forcible closure of NGOs and declaration of civil society as "the new frontier of fourth-generation warfare." States were not torn apart or reduced to Union Territories. No doubt there was censorship of the media, but not near-total enslavement and ownership.

We are living in times when bigotry and communal hate are no longer an exception. It

is an institutional norm and a State project, where 'democracy' and 'democratic values' are a farce. The 'federal and plural structure' ingrained in the Constitution is being cast away in favour of unitary authoritarianism with clarion calls for one religion, one language, one culture, one code and one election. Education policy and history lessons are being re-written to fit into the pre-fixed Hindutva agenda.

Describing the Republic of the United States, its Supreme Court judge Joseph Story wrote: "Republics are created by the virtue, public spirit and intelligence of the citizens. They fall when the wise are banished from the public councils because they dare to be honest, and the profligate are rewarded because they flatter the people in order to betray them." The Republic of India was structured along similar lines. But it is tottering and sinking because the virtues, public spirit and intelligence of India's citizens are under severe assault. Democracy has shrunk and has been replaced by a creeping kleptocracy marked by slavish flattery, autocratic arrogance, unbridled greed and unabashed corruption.

No wonder, within five decades India's Democracy is experiencing a double whammy'—can it survive? That is the billion-plus people question.

M.G. Devasahayam *is a retired IAS officer and chairman of People-First. He also served in the Indian Army. Views are personal.*

(Edited by Srinjoy Dey)

An Apeal For Donations

For Republishing books written by M.N. Roy & other Humanist Literature

Indian Renaissance Institute has embarked upon republishing/reprinting the large amount of books & other material written by M.N. Roy as most of them have gone out of print, though requests for these books continue to pour in into our office. Connected humanist literature will also be published. Following books, at the first instance, require immediate publication:

'New Humanism'; 'Beyond Communism'; 'Politics, Power and Parties'; 'Historical Role of Islam'; 'India's Message'; 'Men I Met'; 'New Orientation'; 'Materialism'; 'Science & Philosophy'; 'Revolution and Counter-revolution in China'; 'India in Transition; Reason, Romanticism and Revolution'; 'Russian Revolution'; Selected Works – Four Volumes(1917-1922), (1923-1927), (1927-1932) and (1932-1936); 'Memoirs' (Covers period 1915-1923).

We request readers and sympathizers to donate generously for the above project as this literature will go long way in enriching the humanist and renaissance movement in the country.

Cheques/Bank drafts may be sent in the name of 'Indian Renaissance Institute' to: **N.D. Pancholi,** Administrative Office, Flat No.F-1/A-75, Shalimar Garden Main, Near Konark Public School, Sahibabad, Ghaziabad-201005. (U.P.) Ph. 0120-2648691, (M) 9811099532.

Online donations may be sent to: 'Indian Renaissance Institute' Account No. 02070100005296; IFSC Code: UCBA0000207, UCO Bank, Supreme Court Branch, New Delhi (India)

Mahi Pal Singh — **Secretary**

Vinod jain — **Chairman**

(M) 9312206414, Email: <mahipalsinghrh@gmail.com>

Neither ISHWAR nor ALLAH nor GOD can command POLLUTION to disappear.

Pollution is endangering humanity, life forms and planet earth. Pollution is a consequence of thoughtless human activity. Thoughtful human action as suggested by countless number of scientists the world over can help us course-correct. Let us (youth especially) heed our scientists and take up responsibility individually.

Vinod Jain, Chairman, Indian Renaissance Institute (IRI)

Gujarat Police Arrest Teesta Setalvad, Activist Who Pursued 2002 Riots Case Against Modi

The arrest comes less than a day after the Supreme Court held that there were no grounds to investigate Modi and that the petitioners had engaged in an "abuse of process" by pursuing this matter for so many years.

The Wire Staff

Social activist Teesta Setalvad. Photo: YouTube

New Delhi: Less than a day after the Supreme Court dismissed a petition appealing a lower court's refusal to file a case against Narendra Modi for his role in Gujarat's anti-Muslim violence of 2002, the state's police have arrested one of the petitioners– activist Teesta Setalvad– for what they claimed was a conspiracy to send innocent persons to jail.

Setalvad was picked by the anti-terrorism squad (ATS) of the Gujarat Police from her house in Mumbai, taken to a local police station and then driven to Ahmedabad, her family told *The Wire*. It is unclear why the ATS detained the activist, though the case was registered by the crime branch of the Ahmedabad police.

The FIR cites various provisiions of the Indian Penal Code including 468 (forgery for the purpose of cheating), 471 (using as genuine a forged document or electronic records), 120(B) (criminal conspiracy), 194 (giving or fabricating false evidence with the intent to procure conviction of capital offence), and 211 (false charge of offence made to injure). Also accused with Setalvad are two IPS officers from Gujarat, Sanjeev Bhatt – already in jail for another matter – and R.B. Sreekumar.

Sreekumar has also been arrested, according to reports. The former police officer was arrested from his residence in Gandhinagar on

Saturday afternoon and taken to the crime branch's headquarters.

R.B. Sreekumar and Sanjiv Bhatt. Collage: The Wire

The three are accused of conspiring to mislead the Special Investigation Team tasked with probing the Gujarat riots and the role, if any, Modi played as chief minister in the unfolding of violence which took the lives of more than 1,200 people, most of them Muslim. The SIT was set up by the Supreme Court following complaints that the Gujarat Police – under Modi – was not serious about investigating the anti-Muslim violence. The court itself, in 2004, had referred to Modi as "a modern day Nero" who was "looking elsewhere when … innocent children and women were burning, and … probably deliberating how the perpetrators of the crime can be protected." But in 2012, the SIT concluded no case was made out against Modi and its findings were accepted by the trial court and upheld by the Gujarat high court in 2017. It was this matter which was then brought before the Supreme Court in 2018.

The Supreme Court concluded its hearings and reserved judgment last December, but pronounced its verdict only on Friday, June 24.

Significantly, the police's FIR cites a portion of the Supreme Court's judgment dismissing Zakia Jafri's plea challenging the SIT's rejection of a larger conspiracy behind the mass violence. The top court had observed:

"At the end of the day, it appears to us that a coalesced effort of the disgruntled officials of the State of Gujarat along with others was to create sensation by making revelations which were false to their own knowledge … Intriguingly, the present proceedings have been pursued for last 16 years (from submission of complaint dated 8.6.2006 running into 67 pages and then by filing protest petition dated 15.4.2013 running into 514 pages) including with the audacity to question the integrity of every functionary involved in the process of exposing the devious stratagem adopted (to borrow the submission of learned counsel for the SIT), to keep the pot boiling, obviously, for ulterior design. As a matter of fact, all those involved in such abuse of process, need to be in the dock and proceeded with in accordance with law."

This observation, a former judge of the Supreme Court told *The Wire* on condition of anonymity, is "shocking" and legally unprecedented. "At the very least", he said, "Setalvad should have been served notice about the court coming to this conclusion and she should have been given a chance to respond. That is what proper procedure mandates."

The first information report (FIR) was filed on the basis of a complaint by Darshansinh B. Barad, who is a police inspector in the Ahmedabad police's crime branch. The FIR accuses Setalvad, Bhatt and Sreekumar "and others" of conspiring to abuse the process of law by fabricating false evidence to get several persons convicted for an offence that is punishable with capital punishment. They also instituted "false and malicious criminal proceedings against innocent people with the

intention to cause injury", it says.

Setalvad has filed a complaint against the Gujarat ATS with the Santacruz Police Station, saying they barged into her house and assaulted her when she demanded to speak to her lawyer. In her complaint, Setalvad has also stated that the assault left her with a bruise on her left hand.

She was prevented from contacting her lawyer, the activist said, adding that she fears for her life.

Bhatt and Sreekumar, who were serving police officers when their alleged acts of commission and omission were committed, had "framed incorrect records with intent to cause injury to several persons", which is culpable under section 218 of the IPC, the FIR says.

The accused also "conspired and prepared false records" and dishonestly used those records as genuine with the intention of causing damage and injury to several persons, which is punishable under Section 468 (forgery) and 471 (fraudulently or dishonestly using forged documents) of the IPC.

Union home minister Amit Shah on Saturday lashed out at Setalvad in an interview with ANI. He said the NGO run by the activist "gave baseless information about the Gujarat riots" and accused her of instigating Zakia Jafri — the lead petitioner in the case which was dismissed by the Supreme Court on Friday.

"I have read the judgment very carefully. The judgment clearly mentions the name of Teesta Setalvad. The NGO that was being run by her – I don't remember the name of the NGO – had given baseless information about the riots to the police," Shah said.

The Gujarat government, which was a respondent in Zakia Jafri's plea challenging the SIT's clean chit, gave a "serious objection" to Setalvad joining the petition, the Supreme Court noted in its judgment. The government not only argued that she did not have any locus standi but also said that her "antecedents… need to be reckoned and also because she has been vindictively persecuting this *lis* for her ulterior design by exploiting the emotions and sentiments of … Zakia Ahsan Jafri".

Who are the accused?

Setalvad's organisation, Citizens for Justice and Peace, has canvassed and litigated cases

Zakia Jafri. Photo: PTI/Files

stemming from the 2002 anti-Muslim massacres in Gujarat, especially the Gulberg Society and Naroda Patiya killings. The latter case led to the conviction of prominent BJP leader and former minister Maya Kodnani.

Meanwhile, Sanjiv Bhatt – who was the deputy inspector general of police at the time of the 2002 riots – filed an affidavit in the Supreme Court accusing Modi of complicity in the violence. He was arrested in 2018 in a custodial death case that was more than two decades old. His family has labelled his arrest as state persecution for the affidavit.

Sreekumar told the Nanavati Commission that he was informed by the DGP of Gujarat police in 2002 that Modi had asked the police to "allow the Hindus" to "vent their anger" against the alleged planned killing of 59 *kar sevaks* in the Godhra train fire. Sreekumar was in line to become the DGP but was superseded.

Courtesy **The Wire**, 25.6.2022.

The Supreme Court Has Made Progress. It Now Directs 'Those Seeking Justice' to Be Put in the Dock

The apex court judgment on Zakia Jafri's plea has made the victims of the alleged state-sponsored violence lonely, threatening them against seeking the help of human rights workers.

Apoorvanand

Revenge for seeking justice. This is not coming from a Bharatiya Janata Party (BJP) government. It is the Supreme Court, which calls for revenge against those who seek to pursue the cause of justice. It describes the long battle for justice fought in the courts as a nefarious design to keep the pot boiling. For some ulterior motive. And it wants them to be punished.

So, it is the Supreme Court which condemns those who have the audacity to question officials. Not only that, it seeks them to be put in the dock.

The court is heard by the law abiding Gujarat police and as its first response, Teesta Setalvad and Sreekumar, former DGP of the Gujarat police, are arrested promptly. Between the outrage by the court against the trouble-makers and the arrest was an interview in which the home minister of the Union government of India names the organisation of Teesta Setalvad and indicates that some officials of the state worked to defame the then state government and the chief minister.

"The Supreme Court has said that Zakia Jafri used to work at someone else's insistence. Many victims' affidavits were signed by the NGO. Everyone knew Teesta Setalvad's NGO was doing it. The UPA government helped Teesta Setalvad's NGO a lot, the whole of Lutyens Delhi knows it. This was solely done to target Modi*ji*, to tarnish his image," he said.

It seems that the interview and the work on the first information report (FIR) by an officer of the Gujarat police naming Teesta, Sreekumar and Sanjiv Bhatt were going on simultaneously. What else explains the knock on the doors of Teesta and Sreekumar within hours of the airing of the interview.

It is not only the home minister who infantilised Zakia Jafri but the Supreme Court itself which suggests that she did not have an independent mind and had been tutored by Teesta and others as they had to settle scores with the then chief minister of Gujarat.

Zakia Jafri – wife of late Ehsan Jafri, who was burnt to death when the Gulberg Society in Ahmedabad, where he lived, was attacked by a mob on February 28, 2002, the first day of the violence targetting Muslims – ran from court to court asking for justice. She pleaded that the murder, which was part of the larger violence, could not have been possible without a conspiracy. In 2012, the Special Investigation Team gave a clean chit to the state government and rubbished the allegation of a conspiracy by Zakia Jafri.

Not satisfied, Zakia returned to the court pleading for a fresh investigation. It is this plea which has now been thrown into the dustbin by the court. Not only that, it said that she was not doing it on her own. She was being prompted by "the protagonists of quest for justice sitting in a comfortable environment in their air-conditioned office may succeed in connecting failures of the state administration at different levels during such horrendous situation, little knowing or even referring to the ground realities and the continual effort put in by the duty holders in controlling the spontaneous evolving situation

unfolding aftermath mass violence across the state."

Note the mention of the "air conditioned office." One hopes the lordships had not switched off their ACs while writing this judgment to be more honest or sincere. This remark reminds one of the warning that the present prime minister had issued before a gathering of the judges in April, 2015. He had told them to be wary of five-star activists: "It is easy to deliver judgments based on the law and the Constitution. There is a need to be cautious against perception-driven verdicts... perceptions are often driven by five star activists."

The prime minister had said that courts fear these activists and hence cannot judge independently. With the arrest of Teesta and others, felicitated by the highest court, he must be a contented man today. The courts have truly become fearless. They have developed the courage to direct the state to arrest the people seeking justice.

Zakia Jafri could not have pursued this course alone. The lordships have to ask Bilkis Bano, who had to fight for 15 years to get justice after she was gang-raped while fleeing attack by the Hindutva-driven mobs in 2002. She had to leave her state, keep changing her address. Her case was transferred out of Gujarat as the then judiciary felt that impartiality could not be ensured in her state.

Why was this the judicial understanding then? Even if we accept what the apex court believes that the violence was spontaneous and there was no state-backed conspiracy behind it, what explains the reluctance of the state to secure justice for the wronged. How do they see the campaign by the then chief minister of the state in the form of a 'Gaurav Yatra' after the violence to lead his constituents into a state of denial that the violence had happened? Why did he try to persuade them that those who were talking about it and seeking justice were in fact defaming the people of Gujarat?

Why did the Supreme Court feel compelled in 2004 to compare the state authorities of Gujarat with Nero? While discussing the Best Bakery case, it had said: "The modern day Neroes were looking elsewhere when Best Bakery and innocent children were burning, and were probably deliberating how the perpetrators of the crime can be protected."

It is a fact and no ruling from any court can erase that murder and violence was allowed to happen. Ehsan Jafri was not an ordinary Muslim. He had been a member of the parliament of India, a prominent politician of the state. It was this reputation which made many Muslims assume that if they took shelter in his home, they could be saved from the crowd.

The mob surrounded the society. According to Zakia Jafri, the former MP called everybody he could and that included the then chief minister to do something to prevent violence. Even then the society was attacked, burnt and he was dragged out, butchered and killed.

Just before his killing, a senior police officer had met him but after his departure violence took place. Jafri was murdered. Was it as spontaneous as the court innocently believes and wants us to trust its judgment?

Zakia Jafri decided to fight for justice. She knew what she was up against. But she could not have taken forward this struggle alone. That is where the role of activists like Teesta becomes crucial. As said before, ask Bilkis, ask the victims of the Best Bakery, Naroda Patiya and numerous other mass killings, could they have done it alone? Without the support from the human rights activists?

What the present Supreme Court has done is unpardonable. It has made the victims of the alleged state-sponsored violence lonely. It has issued a threat that they cannot seek the help of the human right workers. And it has warned the human right workers: do your work at your own risk.

(To be Contd....on Page - 19)

Supreme Court Judgment in Zakia Jafri Case Missed Both the Woods and the Trees

The court ignored large swathes of the petitioner's arguments, and instead fixated on a meeting that wasn't meant to be up for consideration.

Nizam Pasha

On August 16, 2017, Justice A.M. Khanwilkar was part of a bench of the Supreme Court that, 33 years after the heart-wrenching events, reopened 241 cases arising out of the 1984 anti-Sikh pogrom and appointed a Supervisory Commission to examine the closure reports filed in these cases by the Special Investigation Team (SIT).

Despite the fact that multiple SITs, Commissions of Enquiry and individual trials in the matter including, incidentally, a commission of enquiry headed by Justice Nanawati and another earlier commission headed by the then sitting Chief Justice of India, Justice Ranganath Mishra, had already gone into the matter, the Supreme Court felt, and rightly so, that cases where the SIT had filed closure reports needed to be looked into again.

Cut to June 24, 2022 and another bench headed by Justice Khanwilkar expressed its indignation at the attempt by a widow, whose husband, a former member of Parliament, had a burning tyre put around his neck, had his hands and legs dismembered, and was burned alive on a pyre by a rioting mob in the 2002 Gujarat riots, to "*keep the pot boiling*".

Throughout the *Zakia Jafri* judgement, one finds missing the soft handling one associates with an exercise which is in the nature of addressing societal wounds left open after a pogrom. At one place, the widow of the murdered parliamentarian and those helping her are described as "*protagonists of quest for justice sitting in a comfortable environment in their air-conditioned office*" having little knowledge of "*ground realities and the continual effort put in by the duty holders*". Instead of a word of commiseration, the judgement speaks of the petitioners' "*audacity to question the integrity of every functionary involved in the process*". As someone who believes that the most elementary function of a constitutional court is to entertain those who have the audacity to question the actions and motivations of functionaries of the State, I wholly failed to understand the chagrin of the bench.

The tone of what is to follow is set by the opening paragraph that condones delay in filing of the petition while chiding the petitioners for the fact that "*the explanation offered in the application for condonation of delay is blissfully vague and bereft of any material facts and particulars*". Ordinarily, a judgment where there is some delay in filing that is being condoned simply begins with the words 'Delay condoned'. In this justice system plagued with delays, did condonation of a delay of 216 days in filing a petition where the annexures ran into thousands of pages by the widow of a victim of genocide really merit an indignant paragraph about lack of justification for the delay? Just to put matters into perspective, the judgement itself was pronounced 197 days after hearing was concluded and orders were reserved by the court.

But then, what to speak of ordinary because ordinarily a case begins with issue of notice to the other side. In this case, despite the fact that the State of Gujarat and the SIT were both represented from day 1 and both made extensive submissions, no formal notice was ever issued, nor were the respondents called

upon to file formal affidavits in reply. This departure from normal practice fortuitously saved high functionaries of the present government the embarrassment of an initial news piece that would perhaps have said 'SC issues notice to the State in the Gujarat riots conspiracy case'.

And so this case came to be heard by the Supreme Court over 14 full final-hearing days spread over six weeks. During this period, senior advocate Kapil Sibal spent a considerable amount of time reading evidence that had been placed before the SIT and which, he argued, had not been considered in its proper perspective. He repeatedly emphasised that he was not inclined to press the issue of the meeting held on February 27, 2002 at the residence of the chief minister of Gujarat and the culpability of the then chief minister Narendra Modi, as he did not wish the matter to be politicised, and instead, he just sought to establish that the other material placed by the petitioners made out a case for a larger conspiracy between members of the political establishment, bureaucrats, police officers, private organisations and individuals.

Not once was any reference made to the then chief minister, nor was any role attributed to him. On the contrary, a written statement was submitted clarifying that the petitioners did not wish to contend that a larger conspiracy emanated from the meeting of February 27, 2002. Although the judgment reproduces this statement, it glosses over it and instead proceeds to devote page after page to the meeting at which the then chief minister was alleged to have instructed top officers of the state administration to stand back and allow the Hindus to vent their anger, and then proceeds to give Modi yet another clean chit. Once a certain submission had been given up in course of argument so as not to distract from the focus of the matter, it defies understanding why the court instead chose to ignore the submissions made and gave a judgment on the basis, primarily, of the original petition. The zealousness to hand out a clean chit to the current prime minister when the petitioners had taken a decision to not question his role is heart-warming, to say the least.

The court has proceeded further on the flawed premise that since the case of conspiracy among the accused tried in the Gulberg Society case was rejected and it had been held that there was no pre-planned intention to commit violence at Gulberg Society, "*it is unfathomable*" that any larger conspiracy could have been hatched at a higher level. This itself reveals the error in the reasoning of the court.

The violence at Gulberg Society on February 28, 2002 could well have been spontaneous, without any prior planning on the part of the persons who actually committed the dastardly acts. However, what was alleged in the complaint made by Zakia Jafri was that before Godhra, members of political organisations created at atmosphere conducive to the outbreak of violence in Gujarat and actively cultivated a state of preparedness for violence in the state to erupt. Thereafter, following the Godhra incident, the political establishment including the VHP wantonly stoked passions by conducting the post mortem in the open in public view, parading the dead bodies etc., the immediate consequence of which was the violence which broke out.

After the outbreak of violence, politicians, police, fire brigade etc. ensured that the state machinery did not respond to distress calls and made little or no attempt to contain the violence. And finally, private individuals and organisations subsequently interfered with the justice delivery system to ensure that the guilty in the riot cases were not brought to justice.

None of this takes away from the spontaneity and lack of pre-planning on the part of the individuals forming part of the mob that murdered Ehsan Jafri and 68 other persons in Gulberg Society that day or of the accused in

other riot cases. It is only this latter pre-planning/ conspiracy of the mob that the trial court in the Gulberg Society case was considering, whereas Zakia Jafri's complaint pertained to the former. A negative finding on the latter does not preclude, and in fact has no bearing on, the former.

The case for this larger conspiracy was clearly much broader than just the alleged instruction given by the then chief minister at the alleged meeting on February 27, 2002. Despite this, the judgement finds that the allegations regarding the larger conspiracy "*is founded on the alleged utterances made by the then Chief Minister in an official meeting*" and therefore remains fixated on the truth or falsehood of the alleged role of the chief minister in this meeting. Referring to the fact that the allegations against the chief minister were not pressed, the court came up with the strange reasoning that a conspiracy at the highest level could have emanated only from the meeting at the residence of the chief minister and not otherwise, and giving up the allegations against the chief minister amounted to giving up the claim that there was any conspiracy at all and abandoning the appeal.

The rest of the judgement, although voluminous, is surprisingly light in content. The format followed is as follows: brief statement of the argument made (without reference to the supporting evidence that was read in court) – reproduction of the findings of the SIT on the issue with some portions highlighted – bald statement that the findings of the SIT cannot be faulted because "*it is unfathomable*" or "*we find no reason to deviate from the opinion* [of the SIT]" or "*it would be beyond comprehension of any person of ordinary prudence*" – rounded off with a rhetorical question along the lines of, so where is the conspiracy? Argument after argument is meted out this treatment. The several days spent by the counsel for the petitioners reading out the evidence that was ignored by the SIT were as if they never happened. No finding is returned as to why the evidence in support of a particular proposition was inadequate and did not deserve to go to trial, instead the arguments are summarily held to be "*pure conjecture and surmises*" or dismissed with "*such a view would be preposterous*".

For instance, in relation to the Godhra incident, the judgement observes that if it were to be held that there existed a larger conspiracy and the parading of dead bodies and giving of hate speeches inciting violence was as a result of this conspiracy, then the Godhra incident would have had to be pre-planned and since all the way to the Supreme Court, it has been held in the trial of that case that there was no pre-planning involved, finding a larger conspiracy now would be to "*question the wisdom of this Court*" and would therefore be "*preposterous*". Again, at the cost of repetition, the case of a larger conspiracy was never that each incident was planned and executed by meeting of minds of the individual accused concerned, but that there was a series of deliberate acts and omissions that formed the context and facilitated the occurrence of the individual acts of violence, with the Godhra incident acting as an unplanned trigger that was subsequently deliberately mishandled and exploited to inflame passions. The court has thus merely set up a straw man argument and demolished it without addressing the issue raised at all.

It had been argued by the petitioners that the confessions recorded on video during the Tehelka sting operation, which had since been authenticated by the CBI and had been used as evidence by the very same SIT in other trials, also included detailed descriptions by members of the VHP and other individuals as to how the pogrom was organised and orchestrated. These were dismissed by the court on the ground that the SIT had already "*thoroughly investigated*"

the tapes. This thorough investigation by the SIT comprised of recording the statements of the offenders, who denied commission of the acts confessed to by them on tape by giving lame explanations like they had been asked to read from a script for the recording.

The Supreme Court had by its order dated February 7, 2013 held that the statements recorded by the SIT would be considered statements made to the police under Section 161 CrPC. The SIT has therefore discredited the evidence presented by the petitioners in the nature of confessions forming part of the Tehelka tapes, IB reports, call records of calls made to the police control room and fire department etc. on the basis of inadmissible Section 161 statements of the potential accused persons denying the allegations. The judgment now reproduces these findings of the SIT and re-affirms them without much analysis, primarily on the basis of the inherent reliability of the SIT and its investigation.

In constantly emphasising that the investigation was monitored by the Supreme Court and therefore could not be doubted, the judgment completely overlooks the fact that while finally disposing off the earlier petitions and discharging itself of the role of monitoring the case by its order dated September 12, 2011, this court had made it clear that it had not concerned itself with the merits of the investigation, which was to be taken to its logical conclusion in accordance with the ordinary procedure prescribed by law. The court had further specifically left it open to the petitioner to file a protest petition in case the SIT opined that there was no ground for proceeding against the persons named by the petitioner in the complaint made by her on June 8, 2006. If the SIT findings are deemed to have been blessed by the Supreme Court in its earlier role, then the right to file a protest petition was superfluous.

The present judgment also repeatedly emphasises that the *amicus curie* appointed by the Supreme Court "*playing the role of devil's advocate*" had also given his own comments on the evidence available to the SIT, and therefore, for that reason also, the findings of the SIT are reliable. Besides the delicious irony that the court calls its own amicus curie, which in Latin means 'friend of the court', the devil's advocate, what is important is that the court completely overlooks the fact that the amicus curie, in fact, disagreed with some key findings of the SIT and gave an opinion that the evidence before the SIT made out a case for prosecution of the then chief minister. Instead of addressing the contrary opinion expressed by its amicus, the court simply reproduces the entire 100-odd pages of responses given by the SIT to the observations of the amicus curie as appendix to the judgment. The fact that the Supreme Court's own amicus disagreed with the final report submitted by the SIT on material issues should by itself have been sufficient ground for the court to pause and re-examine the findings of the SIT.

In relation to the messages by the intelligence agencies indicating inaction or lack of effective measures by the concerned officials to respond to the riots despite clear warnings being given well in advance by the IB, the court holds that mere inaction does not imply criminal conspiracy as the administration had simply been overrun by the sudden turn of events. The court notes that the remedy for this was departmental action against the erring officials for their inaction and negligence, which had already been taken. Surely, the sheer coincidence of ministers of the state government parking themselves in the police control room and the fire department and at the same time the police and fire department being "*overrun by the sudden turn of events*" and neglecting their duties during a riot merited a trial. However, even the second part of the court's finding is incorrect since, in fact, the case of the petitioners was that forget departmental action, these "*erring officials*" had been

rewarded for their "*negligence*" with out-of-turn promotions and lucrative postings. However, when this issue was raised, the judgement holds that the SIT was not constituted to look into administrative matters.

Finally, the court has returned findings on the actions, motivations and intentions of individuals involved without hearing them. For instance, the court finds that the testimony of Sanjiv Bhatt, R.B. Sreekumar and Haren Pandya (who was since murdered under mysterious circumstances) collectively described as "*disgruntled officials of the State of Gujarat*" was only to "*create sensation by making revelations which were false to their own knowledge*". The court also refuses to entertain the petition at the instance of activist Teesta Setalvad on the basis of the attack mounted by the Solicitor General appearing for the State of Gujarat on her character and antecedents, all without even having to place these supposed 'facts' on affidavit.

Subsequent events have shown that the damning of the role played by Setalvad, Sreekumar and Bhatt by the court in its judgement has had an immediate impact on the liberty of the individuals concerned as the court's finding that they "*need to be in the dock and proceeded with in accordance with law*" has been acted upon with alacrity by the Gujarat Police, which moved to arrest Setalvad (from Mumbai) and Sreekumar (from Ahmedabad) the very next day, which happened to be a Saturday since the judgement happened to have been pronounced on a Friday.

It is a fairly elementary rule of natural justice that no finding can be returned by a court about an individual without first giving them an opportunity of being heard. Setalvad, although before the court as a petitioner, was not called upon to defend her own conduct, and Sreekumar and Bhatt were not before the court at all. It is contrary to all known principles of natural justice for the court to have indicted them for their respective roles in the saga. In fact, it was specifically stated by Sibal that he did not wish to rely on the evidence of Bhatt as Bhatt's evidence was disputed and he was arguing his case only on the basis of undisputed evidence that was before the SIT. Further, since Bhatt's evidence related to the meeting on February 27, 2002, which itself was not being pressed, there was no occasion for the court to concern itself with his character and antecedents.

The remit of the SIT, the magistrate in the protest petition, the high court in revision and now the Supreme Court was merely to look at the evidence available and decide whether a trial was necessitated to weigh the evidence and decide the truth of the allegations. At this stage, all that the court was required to do was to look at the body of evidence collected by intelligence agencies demonstrating the failure of the administration at every step, note the confessions that were part of the Tehelka tapes that had already been forensically verified and which made out a clear case that these failures of administration were deliberate and were, in fact, carefully organised and orchestrated, note the fact that the amicus curie appointed by the Supreme Court had disagreed with key findings of the SIT and felt that a trial was necessary, note that the SIT had recorded the denials by the accused and there were contradictory statements of witnesses such as Bhatt and Sreekumar all of which required cross examination and send the matter for trial.

Instead, the SIT as well as each of the courts have conducted a mini trial where they have weighed evidence, discarded video recorded confessions on the basis of lack of corroboration, discarded corroborating evidence on the basis that it establishes the act but not the intention to commit a wrong, accepted inadmissible exculpatory statements made to police by the potential accused persons without any opportunity of cross examination, discredited witnesses on the basis of their supposed

antecedents, explained away inconsistencies and returned findings of innocence, all of which can be done only during a trial.

In the end, all that remains to be done is for us, as historians of the Supreme Court, to read the judgement and explain to future generations of lawyers what the judgement leaves to be desired, until our audacity to criticise judgements of this court too is indicted and this privilege taken away.

Nizam Pasha *is a lawyer practicing in the Supreme Court. He was part of the team that assisted the counsel for the petitioners in the present case, but the views expressed here are solely his own. He can be reached on Twitter @MNizamPasha.*

The Supreme Court Has Made...

Contd. from page - (13)

It has put all human right workers in danger. It seeks to put those in the dock who have, in its own words, the "audacity" to 'question the integrity of every functionary' when seeking their accountability.

In every case of such violence, whether in Mumbai, Bhivandi, Bhagalpur, Nellie, Delhi and many other cases, had it not been the support of the human rights activists and organisations, the victims would not even have thought of standing against the might of a vindictive state.

It was earlier the state which sought revenge against those who stood up to its wrongdoing and crimes. But now the Supreme Court has become vengeful. Some progress, we must say.

Apoorvanand *teaches Hindi at Delhi University.*

Courtesy **The Wire**, 26.6.2022.

SC penalising petitioner, whatever the merits of the case, is unjust; sends a chilling signal to those who question state

The Supreme Court must reflect on this worrisome inversion and call a halt to it before it does more damage to its hard-won reputation as the upholder of the constitutional check and balance.

Editorial, The Indian Express

The Supreme Court rejected a petition Thursday seeking a CBI probe into alleged torture and extra-judicial killings by the Chhattisgarh Police and Central forces during anti-Maoist operations in Dantewada in 2009. What the bench of Justices AM Khanwilkar and JB Pardiwala did next raises troubling questions. It **imposed a penalty of Rs 5 lakh** on the main petitioner. The court did not just say that the investigation indicated that Maoists, not security forces, were responsible for the killing of 17 people in separate incidents on September 17 and October 1, 2009, but also slapped an "exemplary" cost on Himanshu Kumar, who runs an NGO in Dantewada. The court's heavy fine sends a chilling signal to all those who would knock on its door in the future armed with nothing more than a plea against the state. It upends and overturns the court's own approach so far of accepting petitions, from anywhere, and in whichever form, even as a postcard addressed to a judge, or as a newspaper report. In the public interest litigation jurisdiction, in fact, the petitioner is often rendered incidental to the case, as the court takes over the cause, appoints local commissioners and officers, ensures due diligence in the search for truth. The stiff penalty on the petitioner also echoes the stance of the state in case after case — of labelling or ascribing ulterior motives to all those who raise questions, and demand answers, justice, or redress.

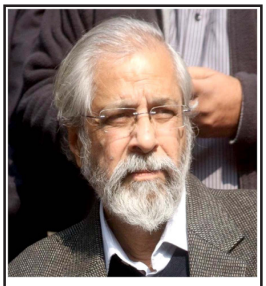
The imposition of penalty on the petitioner in the Dantewada case is part of an emerging judicial pattern. It includes the SC ruling, last month, in a Gujarat 2002 case. Here, the apex court upheld the SIT clean chit to the Gujarat government led by then chief minister Narendra Modi and quashed allegations of a larger conspiracy by high state functionaries. But it did not stop there — it also, in effect, asked for punishment for the petitioners. It cast in the dock those who, in its view, "keep the pot boiling" "obviously for ulterior design" and urged that they be proceeded against. As if on cue, activist Teesta Setalvad and former Gujarat DGP RB Sreekumar were arrested the very next day, the FIRs quoting extensively from the apex court verdict. Whatever the merits of the case, and notwithstanding its inability to hold up in court, the cornering and punishing of the petitioner is unjust and unwarranted. Most fundamentally, it violates the basic compact in a democracy between the citizen and an independent court — the SC is and should be the custodian of individual rights and freedoms, protecting them against transgression by the state but its recent approach suggests that it sees these individuals as irritants and the state as the one that needs protection.

The Supreme Court must reflect on this worrisome inversion and call a halt to it before it does more damage to its hard-won reputation as the upholder of the constitutional check and balance. Every petitioner who approaches the court against those more powerful than her must feel, she must know, that even if her plea is thrown out, she was heard but not punished or made to pay.

Courtesy **The Indian Express**, July 16, 2022.

As Zubair Is Hounded by Deliberate Chicanery and Legal Malafides, Is UAPA Next?

It is clear to see that Mohammed Zubair will be chased, humiliated and kept in confinement for one reason or another for as long as possible.



Madan B. Lokur

Franklin D. Roosevelt was wrong when he said, 'The only thing we have to fear is fear itself.' We have also to fear the Unlawful Activities (Prevention) Act.

Let me examine the case of Zubair Mohammed, the *Alt News* co-founder.

A First Information Report (FIR No. 172/ 2022) was lodged against him by Sub-Inspector Arvind Kumar a police officer of the Special Cell, Delhi on June 20, 2022 at 2.10 am. As per the complaint, Zubair had committed an offence being a violation of sections 153A and 295 of the Indian Penal Code (IPC).

Note, Section 295 was invoked and not Section 295A of the IPC.

For the present purposes, Section 153A of the IPC relates to promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony between different religious etc. groups. In other words, the act must be conscious and with an intention (or *mens rea*) to promote enmity between groups. Alternatively, the offender must commit an act prejudicial to the maintenance of harmony between groups.

An offence under this section is cognisable, that is to say that the police can act on it without an order from a Magistrate, and it is non-bailable. That an offence is non-bailable does not mean that the offender must necessarily or compulsorily be arrested; it only means that if the offender is arrested, he or she must apply for bail to be released. The maximum period of imprisonment on conviction under this section is three years.

Section 295 of the IPC relates to injuring or defiling a place of worship, with intent to insult the religion of any class. The title of the section is self-explanatory. This too is a cognisable and non-bailable offence. The maximum period of imprisonment for a person convicted under this section is two years.

What does the FIR against Zubair say?

It says that during social media monitoring, Arvind Kumar came across a Twitter handle, 'Hanuman Bhakt' which shared a tweet by another Twitter handle (of Zubair) stating "Before 2014: Honeymoon Hotel. After 2014: Hanuman Hotel." Zubair's tweet also has a picture of a sign board of a hotel named 'Honeymoon Hotel' (in Hindi) changed to 'Hanuman Hotel' (in Hindi).

'Hanuman Bhakt' tweeted that, "Linking our God Hanuman ji with Honey Moon is direct insult of Hindus because he is brahmchari. Kindly take action against this guy."

The complainant goes on to say in his FIR that, "These words and picture…used…against a particular religious community and are highly provocative and more than sufficient to incite feeling of hatred against people which can be detrimental for maintenance of public tranquility in the society."

The complainant further says that, "Transmission and publication of these posts has been deliberately done by…Zubair… through electronic media to insult the religious feelings

The tweet (now deleted) on the basis of which Mohammed Zubair was arrested.

of a particular community with intent to provoke breach of peace which attracts offence under section 153A/295 IPC and hence from the contents of above mentioned post from the Twitter handle…offence U/s 153A/295 IPC is made out. Please register a case U/s 153A/295 IPC and mark the investigation of the case to me."

Please note again, one of the sections repeatedly referred is 295 of the IPC and not 295A.

The complaint is of June 20. What happened over the next few days is not clear, but what should have happed is this: Arvind Kumar should have identified "Hanuman Bhakt" – was he a real person or a bot?

If the tweet directly insulted Hindus, why didn't "Hanuman Bhakt" himself take action by filing a complaint?

When did Zubair put out the allegedly offensive tweet?

As a follow-up to the tweet, did Arvind Kumar try and investigate if the tweet actually caused any adverse reaction or disturb public tranquility or harmony?

Is it that only one person ('Hanuman Bhakt') felt offended or did anybody else feel offended? Everyday, there are hundreds of tweets that are not liked by somebody or the other. Will all such tweeters be subject of a criminal complaint because only one person is offended? Is that the scope and intent of sections 153A and 295 of the IPC?

More importantly, why did Arvind Kumar allow his shoulder to be used to fire the gun (so to speak)? His intention is quite obvious when he says in the complaint "mark the investigation of the case to me." Why? Why not to any other police officer? This is tell-tale and highly suspicious.

Anyway, it appears that Arvind Kumar did nothing for a week – yes, seven days – in spite of the tweet being, as he described it, "highly provocative." So much for keeping the peace, harmony and public tranquility.

Also it should have been obvious to Arvind Kumar (without any investigation, except into the IPC) that there was no way that the tweet could have attracted the provisions of section 295 of the IPC. Total non-application of mind.

On June 24, a notice was issued to Zubair calling him to appear before the Special Cell in connection with FIR No. 194/2020. In that case, Zubair had earlier obtained anticipatory bail from the Delhi high court. So appearing before the Special Cell was not something to be apprehensive of. Moreover, in February this year, the Delhi high court had asked for a status report with regard to the case and on May 26, a status report was filed by the Special Cell to the effect that no cognisable offence was made out.

As directed, Zubair appeared before the Special Cell and it is said that he was not

questioned about FIR No. 194/2020 as indeed it was not necessary or even advisable since no cognisable offence was made out.

In a move that can only be described as deliberate chicanery, Zubair was served with a notice under Section 41A of the Criminal Procedure Code (CrPC) requiring him, while he was in the Special Cell, to join investigations in respect of FIR No. 172/2022. At that time, Zubair was not a free man – he had been summoned by the Special Cell in respect of FIR No. 194/2020 and apparently had not yet been discharged by the Special Cell.

Zubair was then asked some questions and it is said that he refused to answer most questions. It is said that he refused to even sign some paper, apparently acknowledgement of the Section 41A notice. In effect, he was not cooperating with the Special Cell.

What were the questions? What was the need of the Special Cell to resort to devilish subterfuge to entrap Zubair? What does non-cooperation mean in such circumstances – refusal to accept guilt?

It seems that the only cooperation extended that evening was between officers of the Special Cell. "Come into my parlour," said the spider to the fly. That officers of the state should use such disgusting tactics against a citizen of our own country speaks volumes of their intent and mindset.

This is also an example of both factual and legal *mala fides*.

Armed with the FIR, a story of "refusal to answer most questions" and an allegation of non-cooperation, the Special Cell arrested Zubair and produced him before the Duty Magistrate close to the witching hour.

What did the learned Magistrate do and what should the learned Magistrate have done?

Well, the learned Magistrate recorded that Zubair had joined investigations pursuant to a notice issued to him under Section 41A of the CrPC. It seems, therefore, that he did initially cooperate. However, he refused to answer questions put to him and so it could be said that he was not cooperating in the investigations. Since he was not cooperating, he did not deserve bail. Accordingly, he was remanded to police custody for one day.

What should the learned Magistrate have done?

Before answering this, let me be very clear – I have nothing against the learned Magistrate and the idea is not to criticise the Magistrate, but only explain the procedure that should be followed. Please do not misunderstand me.

First, the legal aspect.

The law requires a Magistrate to be satisfied that a meaningful notice under Section 41A of the CrPC was issued to Zubair and not a *pro forma* kind of notice only to put on record that the required procedure had been followed.

Due process? In other words, the law declared by the Supreme Court in the case of *Arnesh Kumar v. State of Bihar* (2014) must be followed. Before laying down the law in that case, the Supreme Court made an important observation: "The existence of the power to arrest is one thing, the justification for the exercise of it is quite another. Apart from power to arrest, the police officers must be able to justify the reasons thereof."

This is a very significant observation. Please note.

Then (and importantly) while interpreting Section 41A of the CrPC, the Supreme Court held:

"Law mandates the police officer to state the facts and record the reasons in writing which led him to come to a conclusion covered by any of the provisions aforesaid, [in Section 41A of the CrPC] while making such arrest. Law further requires the police officers to record the reasons in writing for not making the arrest. In pith and core, the police office before arrest must put a question to himself, why arrest? Is it really required? What purpose it will serve? What

object it will achieve? It is only after these questions are addressed and one or the other conditions as enumerated above is satisfied, the power of arrest needs to be exercised."

The matter doesn't end there. The Supreme Court went on to lay down an obligation on the court and held:

"…[W]hen an accused is produced before the Magistrate, the police officer effecting the arrest is required to furnish to the Magistrate, the facts, reasons and its conclusions for arrest and the Magistrate in turn is to be satisfied that condition precedent for arrest under Section 41 Cr.PC has been satisfied and it is only thereafter that he will authorise the detention of an accused. The Magistrate before authorising detention will record its own satisfaction, may be in brief but the said satisfaction must reflect from its order. It shall never be based upon the ipse dixit of the police officer…"

The law, therefore, requires a Magistrate to be satisfied on documentary material produced in the form of the case diary or a document that records "the reasons in writing" for making the arrest. There should be a proper scrutiny because the police is seeking to curtail the liberty of the alleged offender.

The law also requires the Magistrate to record his own (and independent) satisfaction which must be reflected in the order passed by him. Merely perusing the case diary is not enough.

Last year, the Supreme Court reiterated the conclusions arrived at in *Arnesh Kumar*. It was noted in *Siddharth v. State of Uttar Pradesh* (2021): "We may note that personal liberty is an important aspect of our constitutional mandate…Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it."

Is anybody listening?

A mere oral submission or a simple written statement by the police that the accused is not answering most questions is not enough. What were the kind of questions asked and could he have answered them in the normal course?

What is the kind of cooperation expected? Is the accused required to admit his guilt and thereby cooperate?

Take a hypothetical example. Assume the police had asked Zubair where he got the picture of the hotel signboard from and whether he had morphed it. Zubair's answer would have been that it's a grab from a 1983 Hindi movie and it is not morphed. The police could very well have concluded that it was a smart alec kind of answer and that Zubair was not answering the question.

What happens in the case? Non-cooperation in such a case is entirely subjective and let's be clear, no accused will ever objectively cooperate (unless tortured) and that is why the need for good, wholesome interrogation.

That the *ipse dixit* of the police should not be accepted leads to the question about the investigation carried out by the police. What did the police do from June 20 to June 27? Is there anything on record, except an allegation of not answering most questions and not cooperating? Was the Magistrate informed of the investigations made?

On the facts of Zubair's case, if the Special Cell had done an iota of investigation, it would have found that the tweet is more than four years old. Four matters of significance arise from this simple fact.

First, because of its vintage, no court can take cognisance of the offence under Section 153A of the IPC. Section 468 (2) of the CrPC prohibits the court from taking cognisance of an offence beyond the period of limitation. In the case of an offence punishable with three years imprisonment, such as section 153A, the limitation period is three years. The tweet being four years old, no court could have taken cognisance of the offence punishable under section 153A of the IPC. QED.

Second, the tweet did not even cause a ripple.

Remember, in *Balwant Singh v. State of Punjab* (1995), two Sikh gentlemen shouted three slogans on the day Indira Gandhi was assassinated, one of them being, 'Khalistan Zindabad'. In a prosecution under Section 153A, the Supreme Court held:

"The facts and circumstances of this case unmistakably show that there was no disturbance or semblance of disturbance of law and order or of public order or peace and tranquility in the area from where the appellants were apprehended while raising slogans on account of the activities of the appellants. The intention to cause disorder or incite people to violence is the sine qua non of the offence under Section 153A IPC and the prosecution has to prove the existence of mens rea in order to succeed."

The Supreme Court then concluded:

"It appears to us that the raising some slogan only a couple of times by the two lonesome appellants, which neither evoked any response nor any reaction from anyone in the public can neither attract the provisions of Section 124A or Section 153A IPC Some more overt act was required to bring home the charge to the two appellants, who are Government servants. The police officials exhibited lack of maturity and more of sensitivity in arresting the appellants …"

Apply this principle in Zubair's case. There is no mention in Zubair's case that public order or peace or tranquility was disturbed. Only one person, not even two, reacted and that too anonymously and after several years. Is it enough to warrant the arrest of Zubair? Is it an exhibition of maturity and sensitivity?

Third, some investigation would have revealed to Arvind Kumar that the picture in the tweet was a grab from a 1983 movie. It is quite likely that Zubair would have told him about this but was disbelieved. How could a picture from 1983, almost 40 years ago and from a movie perhaps watched by millions, have inflamed passions so as to disturb peace and tranquility in 2022?

Fourth, how does section 295 even come into consideration? This section deals with injuring or defiling a place of worship. How can a tweet ever injure or defile a place of worship? This completely beats me. It shows a clear and complete non-application of mind by the arresting officer. It is difficult to say anything more on this topic.

Coming back to the legality of 'operation arrest'.

The Constitution of India (no less) provides under Article 22 clause (1) that "No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice." The last six words of this clause are very important.

Was Zubair allowed to consult a lawyer of his choice and be defended by him? It is possible, but unlikely given the circumstances. Zubair was produced before the Duty Magistrate at 11.30 pm and it is more than likely that the lawyer provided to him was a panel lawyer of the Delhi Legal Services Authority and not a lawyer of his choice. If this is so, then a constitutional right of Zubair was denied to him, if not violated.

Can a constitutional violation be overlooked or ignored?

In the matter of *Madhu Limaye* (1968) the Supreme Court observed that "Article 22 (1) embodies a rule which has always been regarded as vital and fundamental for safeguarding personal liberty in all legal systems where the rule of law prevails."

Was Zubair informed of the grounds of arrest, so that he could brief a legal practitioner of his choice? Possibly not. Madhu Limaye (and others) were not informed of the grounds of arrest. The Supreme Court, therefore, found a violation of Article 21(1) of the Constitution which vitiated the detention. The Supreme Court went on to hold that, "If their detention in custody could not continue after their arrest because of the violation of Article 22(1) of the Constitution they

were entitled to be released forthwith."

The orders of remand are not such as would cure the constitutional infirmities. It follows from this that the entire exercise of arresting Zubair was constitutionally infirm and a remand order cannot cure the infirmities.

A bail application was moved by Zubair before the learned Magistrate but it was summarily disposed of on the ground that he was not cooperating with the investigative agency. What about the constitutional infirmity?

Moreover, since when did absence of cooperation become a ground for denying bail?

It is well-settled (hopefully) that bail should be declined if there is good reason to believe that the accused will not be available for questioning and may abscond or that the accused will tamper with the available evidence thereby frustrating the investigation or that he will influence the witnesses to exonerate him or provide an alibi. Occasionally, the gravity of the crime and the possibility of the accused committing a similar offence is also taken into account. But the important and supervening factor for all these considerations is that there must be existence of good reason to believe; the *ipse dixit* of the police is not enough – it has to be backed by some cogent and credible material.

Failure to cooperate is incredibly subjective and how is it to be defined and how is it to be proved except by placing on record the questions and answers to enable the Magistrate to determine whether the individual has cooperated or not? In fact, I believe that non-cooperation is a handy excuse trotted out by an inefficient and ineffective interrogator who does not know how to get his job done.

Madhu Limaye's case referred to an earlier decision of the Supreme Court in *Ram Narayan Singh v. State of Delhi* (1953) in which it was stated that the court has often reiterated that "…those who feel called upon to deprive other persons of liberty in the discharge of what they conceive to be their duty must, strictly and scrupulously, observe the forms and rules of law."

None of these aspects of the duty of the police was discharged and unfortunately, the learned Magistrate did not pull up the Special Cell for its special inability to follow the law and resort to cheap and disgusting subterfuge in the manner of arresting Zubair.

Regrettably, the judiciary continued to fail the cause of justice the next day when Zubair was produced before the regular court. At the outset, it must be noted that rather surprisingly, the alleged offence under Section 295 of the IPC was suddenly converted into an offence under Section 295A before the regular court on June 28. How did this happen? It is quite a mystery.

That apart, the learned judge holding the regular court on June 28, after Zubair had spent one day in police custody, noted that remand had been granted by the learned Magistrate since Zubair did not cooperate with the investigating agency. A perfectly correct conclusion. The question that should have been asked is the same: when did failure to cooperate become a ground for denying bail or ordering remand? Even during the British Raj, non-cooperation was not a ground for denying bail granting remand, otherwise the Mahatma would have spent his whole life in jail.

Yes, Zubair was give a Section 41A notice, but the regular court should have also seen whether it was only a mechanical exercise to complete a procedural formality. Imagine a situation in which an officer of the Special Cell comes to your house or place of work and serves you with a section 41A notice, asks you a few questions and then arrests you for non-cooperation. Does this make sense? What happened to Zubair was slightly different, of course, but essentially the same and I think perhaps worse, because he was served with a Section 41A notice while he was physically with the Special Cell officers in connection with another FIR.

Two factors ought to have been seriously considered by the regular court but were given

short shrift.

One, the non-mystery of the photograph in the tweet. It was the basis of the "offensive" tweet. If that photograph had not existed, perhaps there would have no tweet. It was and is Zubair's contention that the photograph is a still or a grab from a 1983 movie. Factually correct. Unfortunately, a rather simplistic view was taken and it was concluded that it is "of no assistance to the accused at this stage". Pray, at what stage will it be of assistance? After a protracted trial? And why is it not of assistance – it is the very basis of the arrest?

Two, the mystery of the so-called offending phone from which the tweet was uploaded. It appears from the record that a submission was not made that the mobile phone used to upload the tweet in 2018 was not available with Zubair. This is somewhat surprising and is a bit difficult to accept. But let's leave it at that.

The Special Cell was given four days remand of Zubair to take him to Bengaluru to recover the device (the mobile phone or a computer) from his residence/ place of work. One question: who pays the airfare and what is the cost incurred for this journey to Bengaluru and back? Not only Zubair, but it seems that tax payers are also perhaps being taken for a ride.

For the record, when Zubair's case again came up for consideration on July 2 (after four days police custody), it was contended that the mobile phone used by Zubair in 2018 had been lost and that a 'Lost Article' report had been lodged on March 20, 2021, with the Crime Branch of Bengaluru City police. Nobody disbelieves this.

It is not necessary to delve into the merits of the order passed by the learned Judge on July 2, declining bail to Zubair and remanding him to 14 days judicial custody. The order is based on shaky foundations, but hush! The order may be challenged before the high court.

A new charge

However, it is more than interesting to note that after meeting a dead end everywhere, the Special Cell has now alleged criminal conspiracy by Zubair (with whom?) and 'charged' him under Section 120-B of the IPC. The Special Cell has also made out a possible offence under section 35 of the Foreign Contribution (Regulation) Act, 2010. It is alleged that Pravda Media Foundation illegally received contributions from Pakistan, Syria, Australia etc. and that Zubair is a director in this Foundation. As per newspaper reports, the amount is said to be Rs. 2.31 lakh. A few days earlier the police was telling everybody, as reported in the media, that Zubair had transactions worth Rs. 50 lakh "in the last few days". Whats going on? Any answers?

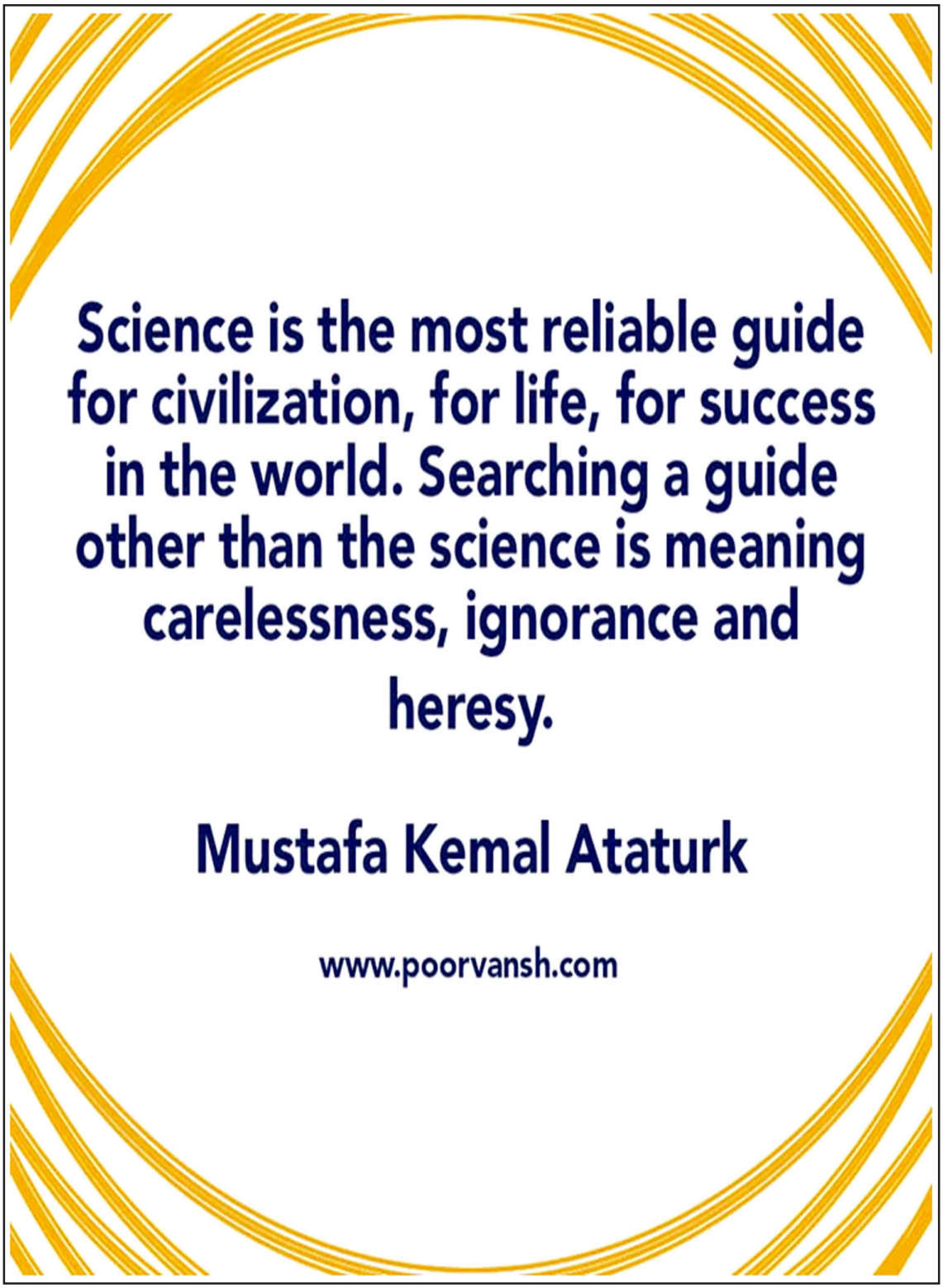
Notice, I have not mentioned anything about the police having announced a few hours before the learned judge remanded Zubair to judicial custody for 14 days, that that is the order. Advance breaking news?

While all this is happening, Zubair has been taken to Sitapur and arrested in another case which is equally ridiculous. Nothing more. He has also been arrested in another case from Lakhimpur.

What about the future? I apprehend one of two scenarios. First, Zubair will be hounded, humiliated and kept in confinement for one reason or another for as long as possible. Witness Delhi, Sitapur and Lakhimpur. In one-day cricket, it would be said that it is not important how the runs come, as long as they come. It's the same with Zubair. It's not important how or why he remains in custody, as long as he remains in custody. Tragic.

The second scenario is fearsome. One city after another; one charge after another, Section 295 becomes 295A, criminal conspiracy added, then FCRA and now "larger syndicate". Is UAPA far behind? I fear that is the next step. Will somebody look into the case with a hawk-eye and let us have the truth, the whole truth and nothing but the truth?

Justice Madan B. Lokur *is a former judge of the Supreme Court.*


Science is the most reliable guide for civilization, for life, for success in the world. Searching a guide other than the science is meaning carelessness, ignorance and heresy.
Mustafa Kemal Ataturk
www.poorvansh.com

Indian democracy is marching towards authoritarianism, under the garb of pluralism

The arrests of Teesta Setalvad and Mohammed Zubair mark a critical point

Rohit Chopra

Almost every other day now, the spokesperson of the Ministry of External Affairs seems to issue a statement condemning some international body or the other that criticises the unjust actions of the Indian state. The latest of these are the arrests of activist Teesta Setalvad and journalist Mohammed Zubair.

Arindam Bagchi puts forth the usual bromides: India "strongly objects...", India "rejects...", India is a pluralistic, diverse society committed to rights. (Many of these statements come up if you do a Google search for India + Bagchi + rejects).

These statements harmonise quite beautifully with the platitudes about the importance of free speech, Gandhian values, the robust nature of Indian democracy, and the like, that are routinely uttered by Prime Minister Narendra Modi on his frequent international jaunts.

Back home, though, Indian authorities routinely violate the basic constitutional rights of citizens, arresting journalists, activists, opposition leaders, and ordinary citizens on ludicrous charges and then conjuring up absurd reasons to keep them incarcerated.

Whether it is the Central Bureau of Investigation, the Enforcement Directorate or the police in Bharatiya Janata Party-ruled states, there is now not even a half-hearted attempt by these institutions to pretend to be autonomous any more. In effect, they serve to put into action the orders of the BJP, at hand to quash anyone who is considered a threat – or just a mere annoyance.

The arrests of Setalvad and Zubair are another move in the long endgame of settling scores that Modi and Shah set in motion a while ago. Their goal was not hard to discern: it was to get even with every individual that they considered to have been responsible for Modi's political exile in the aftermath of the Gujarat riots of 2002 and Shah's incarceration in the Sohrabuddin Sheikh fake encounter case.

Having grabbed the Indian mainstream media by the scruff of its neck soon after 2014, Modi and Shah, through various proxies, quite quickly rendered ineffectual a whole host of Indian celebrity television journalists, all of whom figure prominently in the Hindutva imagination as Congress sympathisers given their apparent support for liberal and secular values.

The next target has been the whistleblowers and human rights activists who sought to hold Modi and Shah accountable for the Gujarat model of communalisation-conflict-and carnage. Former Gujarat police officers Sanjiv Bhatt and RB Sreekumar, and Setalvad are now all in jail, while journalist Rana Ayyub has been relentlessly harassed and on occasion prevented from leaving the country.

The Setalvad and Zubair arrests are also a significant step on the part of the BJP towards completely dominating the flow of information, a crucial aspect of what activist-politician Yogendra Yadav recently described as the modality of total politics. In this model, there is no space for an independent or autonomous media, nor for any consensus about truth norms, nor, indeed, for inconvenient facts.

In German political and legal theorist Carl Schimitt's argument about political theology as

the governing principle of modern political order, all power ultimately flows from the sovereign.

It follows, then, that all truth is also determined by the sovereign as are the criteria for what counts as truth. Control of the arenas where truths are contested – which necessarily include legacy and new media, given their centrality to present-day life – accordingly become essential to the exercise of modern political sovereignty.

The immediate provocation for Zubair's arrrest may have been payback for highlighting the comments made by BJP spokesperson Nupur Sharma about Islam; remarks that resulted in considerable international embarrassment for the Modi government.

The larger purpose, though, is to signal that the BJP will now not brook anyone or any organisation that questions its version of the truth, whether that concerns the scores of destroyed temples that allegedly lie submerged beneath mosques, the grand successes of the Tughlaqesque folly of demonetisation or India's valiant response to China's incursions into national territory.

The retribution meted out to social media organisations such as Twitter and Facebook over the last few years by the Indian government for occasionally daring to hold Hindutva voices and BJP officials accountable for spreading fake news or engaging in abusive behaviour reflects the same imperative. So does the exhaustively documented program of the BJP to implement a revisionist, Hindu nationalist account of Indian history at every level of the national educational system and even in universities abroad through its Hindutva affiliates in the US and elsewhere. Questioning the BJP's version of any event, past or present – and of Modi's grand proclamations about India's future under his stewardship – is now blasphemy of the same order as "hurting religious sentiments".

Finally, the act of arresting Setalvad and Zubair, covered avidly by television channels, is pure totalitarian theatre.

Like his kindred authoritarian spirit, former US President Donald Trump, Modi has an intuitive sense of the histrionic. Like Trump, Modi is given to elaborate bouts of self-pity, often reducing himself to tears in front of an audience at the memory of his own struggles. Like many a strongman, Modi meets several criteria that Peter York, author of *Dictator Style: Lifestyles of the World's Most Colorful Despots*, describes in this article, whether it involves wearing ostentatious brands on his person or destroying historical monuments to replace them with buildings that many consider to be monstrosities.

Central to the aesthetics of authoritarianism is the public disciplining and humiliation of enemies. The Income Tax department's needling of actor Sonu Sood, the repeated summoning of Congress leader Rahul Gandhi by the Enforcement Directorate, the made-for-television arrests of Modi critics fall within this category. But in the Indian context they are be cloaked in the language of democracy, constitutionality and rule of law.

India's refutations of international criticism bring to mind the efforts of the late Iraqi President Saddam Hussein's information minister, Mohammed Saeed Al-Sahaf, who boldly claimed on television that there were no American tanks in Baghdad, even as said non-existent tanks could be seen rolling in the background.

In much the same manner, there is no censorship in India, no violations of minority rights, no unconstitutional arrests, and no quashing of religious freedom. India just needs to be a little more convincing in letting the world know.

***Rohit Chopra** is an Associate Professor of Communication at Santa Clara University and the author most recently of* The Gita for a Global World: Ethical Action in an Age of Flux.

Courtesy **Scroll.in,** Jul 07, 2022.

Hate Speech: What Bajrang Muni, Yati Narsinghanand, Anand Swaroop Said In The Past

On Alt News co-founder Mohammed Zubair's bail plea, the Additional Solicitor General on Friday said that calling a 'respected religious leader' like Bajrang Muni a hate-monger creates problems.

By - **BOOM Team**

"Bajrang Muni is a respected religious mahant in Sitapur with a large following," Additional Solicitor General SV Raju said during the hearing of a plea by Alt News co-founder Mohammed Zubair seeking bail in a complaint filed against him by the Uttar Pradesh Police in Sitapur for hurting religious sentiments. "When you call a religious leader hate-monger, it raises problems," Raju said in court.

Uttar Pradesh Police filed a case against Zubair on the basis of a tweet where he termed Mahant Bajrang Muni, Yati Narsinghanand, and Swami Anand Swaroop as 'hate mongers' following their provocative hate speeches against Muslims. The Supreme Court granted Zubair an interim bail of 5 days but he will continue to be in judicial custody in the ongoing case filed by the Delhi Police. In his defence, the co-founder of Alt News submitted before the Supreme Court that persons who made hate speech have been released on bail, whereas the person who exposed them is in jail. ASG S V Raju, while justifying keeping Zubair in custody, said that insulting a respected mahant like Bajrang Muni does have the prospect of inviting violence since he has a large following.

BOOM does a recap of all the vicious threats made by the three men through their public speeches in late 2021 and earlier this year. What Muni said in Sitapur In a hate speech made in UP's Sitapur in April this year, Muni, a religious leader, had issued rape threats against Muslim women. "Even if a single Hindu woman is harassed, I will pick your daughters and from your homes and rape them," he had said while addressing a gathering, which included police personnel as well, from his vehicle in Sitapur's Khairabad town on April 2. The crowd cheered as he issued threats. The video of the hate speech had gone viral following which an FIR was lodged. Hours after the police case, Muni released another video where he apologised for his statement. "To all the mothers and sisters, I would like to apologise. If my video, which is viral, has hurt them, please forgive me for it. All sisters and mothers are worth worshiping for me. I respect all women," he said in the video. He went on to say that the video was distorted and taken out of context and that Khairabad has just 20% Hindu population. Muni was arrested a week after the hate speech and was released around two weeks later. "I have no guilt for what I said," he had said upon his release adding that he would go to jail a thousand times to 'safeguard' religion and women. Yati Narsinghanand's Dharam Sansad The other Hindu seer whom Zubair called a 'hate monger' in his tweet is Yati Narsinghanand Saraswati, head of the powerful Dasna Devi temple in UP's Ghaziabad. In a religious conclave, called Dharam Sansad, held in Haridwar in December last year, Yati had given open calls for Muslim genocide in India. The event had speakers like Annapurna Maa, Dharamdas Maharaj from Bihar, Anand Swaroop Maharaj, Sagar Sindhuraj Maharaj, Swami Premanand Maharaj, and BJP leader Ashwini Upadhyay. At the event, Narsinghanand had asked Hindus to have 'better weapons' to 'win the battle'.

(To be Contd....on Page - 36)

An Open Letter to Our Hon'ble MPs

Dear Sirs/Madams,

The auspicious occasion of 75th anniversary of our Independence is a time to take stock of what has been done on the solemn *unanimous* Resolution passed by the Parliament **in 1997** on the occasion of Golden Jubilee of Independence. Hence this letter to by way of a reminder for it.

In his address to the Constituent Assembly on 26.11.1949 at the time of adoption of the Constitution, its President Dr. Rajendra Prasad had said-

"Whatever the Constitution may or may not provide, the welfare of the country will depend upon the way in which the country is administered. That will depend upon the men who administer it. *If the people who are elected are capable and men of* ***character*** *and* ***integrity****, they would be able to make the best even of a defective Constitution.* If they are lacking in these, the Constitution cannot help the country. After all, a Constitution, like a machine, is a lifeless thing. **It acquires life because of the men who control it and operate it**, and *India needs today nothing more than a set of honest men who will have the interest of the country before them."*

Again during the debate on the Bill relating to the Representation of the People Act 1951, Shri Krishna Chandra Sharma emphasized, "*It is of great importance that altars of democracy in our land should be kept* ***pure and unblemished*****"**. (Parliamentary debates, Lok Sabha, Volume 11 Part II, page 8458).Likewise, Shri Munishwar Datt Upadhyay had cautioned that "*But so far as this Bill is concerned, it has an intimate relation with our life and everyone among us who is present here thinks that if any defect or any other thing is left out then we may not be able to set up this House and the States' Legislatures and Councils properly,* ***and such a thing may cause a grave harm to the Country***." (ibid page 8566).

7

The degeneration in the country's polity during the last 75 years shows how prophetic these observations were. Taking note of it, *the very first resolve* in the Resolution titled **'Agenda for India'** adopted in **1997** by the Parliament, ran as follows-

"*That* ***meaningful*** *electoral reforms be carried out so that our Parliament and other Legislative bodies be balanced and effective instruments of democracy;* ***and further that political life and process be free of the adverse impact on governance of undesirable extraneous factors including criminalization***."

However, the said resolve in 'The Agenda' has been consigned to dustbin since, while swearing by commitment for electoral reforms, nothing worthwhile has been done by the successive governments as well as by your worthy predecessors and you in the last **25** years to restore and maintain purity of the Parliament and State Legislatures by preventing entry of persons with criminal background in these August bodies despite-

i. The proposal of the Election Commission in **1998**.
ii. The recommendation of the National Commission to Review the Working of the Constitution in **2002**.
iii. The observation of the Constitution Bench in the case of K. Prabhakaran [JT **2005** (1) SC 173] that "***persons with criminal background pollute the process of election***."
iv. The 18th Report by the Parliamentary

Standing Committee on Electoral Reforms in **2007**.

v. The Law Commission's 244th report in February **2014** that *"Disqualification upon conviction has proved to be incapable of curbing the growing criminalization of politics*" and that "*disqualification at the stage of charging, if accompanied by substantial attendant legal safeguards to prevent misuse, has significant potential in curbing the spread of criminalization of politics.*"

vi. Order dated **10.3.2014** in the WP (Civil) No. 536/ 2011 that trial of cases against sitting legislators for the offences specified in Section 8 of the RP Act,1951 be concluded within one year from the date of the framing of charge(s) by the court.

vii. Public declaration in 2014 by the present Prime Minister of ***taint-free Parliament*** **by 2015**.

viii. The observations of the Constitution Bench in the case of Manoj Narula vs. Union of India, **(2014)** 9 SCC 1 (Para 1).

ix. Observation of the Apex Court in para 17 of the judgment in the Contempt Petition (C) No. 656/2020 that "*The nation continues to wait, **and is losing patience**. Cleansing the polluted stream of politics is obviously not one of the immediate pressing concerns of the legislative branch of government."*

This track record of inaction on the reports of various committees, Commissions and even directions/observations of the Apex Court speaks for itself inviting the following observation in the Law Commission's 255th Report in March 2015, *"Unfortunately, their recommendations were not followed by legislative action, required for the enhancement of the quality of democracy, be reducing the influence of money and media in politics and ensuring free and fair elections"*. Likewise, the CEC in his Foreword to the ECI's Proposed Electoral Reforms (December 2016) lamented "*Many of the proposals put forth by the ECI have remained unresolved*"

Consequently, due to lacunae in the existing law, even after introduction of the requirement for giving details of criminal cases in the additional affidavit by candidates, over the years, number of persons with criminal background has shown an alarming increase in Lok Sabha and State Legislatures. As per the information compiled by the Association for Democratic Reforms, the percentage of tainted Lok Sabha members with criminal cases increased from 30% in 2009 to 34% in 2014 and 43% in 2019 *and of those with serious criminal cases has doubled from 14% to 29% in the last ten years. Remarkable achievement indeed.*

Not only this, despite vigorous follow up in WP (C) No.699/2016 by the Apex Court of the aforesaid order dated 10.3.2014 and the directions dated 13.2.2020 in the Contempt Petition (C) No.2192/2018 in WP (C) No.536/ 2011,the percentage of MLAs with criminal cases increased from 20% to **53**% in Delhi and from 40% to **51** % in Bihar state Assembly elections in 2020 and in the elections in Assam from 8 to **22**, in West Bengal from 32 to **39,** in Tamil Nadu from 19 to **25**, in Kerala from 19 to **27** and in Puducherry from 13 to **20**.

Likewise, in the recent Assembly elections in 5 States this year, out of the total 690 MLAs analysed by the ADR the number of MLAs with criminal cases is 312 (45%) and **those with serious criminal cases is 219 (32%), almost one third.** Except for Uttarakhand, the percentage of MLAs with serious criminal cases **has gone up**

substantially in all 4 other states *which shows the utter disregard and contempt of the political parties for the directions of this Hon'ble Court* ***last year*** *in the Contempt Petition* No 656/2020 in Contempt Petition (C) No.2192/2018. At this rate, soon our democracy will be government *of the tainted, and for the tainted.*

The reason is obvious. The political class as a whole is the beneficiary of the existing lacunae in law. That is why none of the major recommendations of the Election Commission of India and Law Commission to check increasing number of members with even serious criminal cases adorning legislatures have been acted upon by the Central Government. An RTI query to the CPIO of the Ministry of Parliamentary Affairs about action taken on the 1997 Resolution was transferred to CPIOs of Lok Sabha and Rajya Sabha Secretariats who retransferred to the CPIO of the Legislative Department. *Apparently, the Secretariats of both the Houses have no information about it, nor did they bother to know the fate of this 'historic' Resolution, literally consigned to history*. A similar RTI query to the CPIO of the Cabinet Secretariat, which processes and follows up all matters going to the Cabinet, was also transferred by him to the CPIO of the Legislative Department drawing a blank on the information sought about implementation of the said Resolution. To cap it all, the reply dated 7.7.2021 of the CPIO of the Legislative Department, which is responsible for taking requisite legislative measures to implement the **1997** Resolution says that **the said Resolution has not even been received in the Department,** leave alone the question of taking requisite action for amendments in the existing law for effectuating its implementation. *So much about the respect the Executive has shown to this solemn Resolution. The Parliament also has not even bothered to see as to what has been done to implement the 'Agenda' set by it putting a question mark on its seriousness about it and showing the wide chasm between its words and actions which does not lend glory to it.*

What is worse, not only the Central government and the Parliament have been loath to any meaningful electoral reforms, they have on the other hand actively resisted any such move. The reason is obvious. As beautifully put by Aradhya Sethia in the article **'For cleaner, fairer elections**' in the Hindu dated 21.2.2018, *"Electoral reforms in the hands of politicians is a classic example of a fox guarding a hen house. While there are many policies that both major parties disagree with each other on, they form a remarkable tag team when it comes to electoral reforms"*. Consequently, during the last two decades the Supreme Court had to step in to introduce several electoral reforms on the PILs filed by civil society.

The responses filed by the Union of India to the various PILs on electoral reforms are a testimony to this. Such non-aderversarial PILs have been opposed on the ground that the issues raised therein fall within the domain of the Parliament without doing anything about this. Unfortunately, some of you and your worthy predecessors have been a party to it as is evident from the following two major instances-

(i)) The Apex Court direction on the PIL by ADR for declaration of assets by the candidates was sought to be nullified by enacting Section 33-B of the Representation of the People Act,1951 which was subsequently struck down by the Supreme Court.

(ii) Section 62(5) of the RP Act,1951 was amended to nullify the Apex Court decision in 2013 upholding the Patna High Court judgment on the PIL filed by Jan Chaukidar, that in view of the

relevant constitutional and statutory provisions contained in Article 326 of the Constitution and Section 62(5) of the RP Act, 1951 persons in jail or in police custody have no right to contest, without even waiting for the outcome of the review petitions against the said decision. Sadly, the aforesaid Bill was passed in Lok Sabha without detailed discussion ignoring the suggestion to refer it to the Standing Committee for detailed examination and recommendation.

What is worse, the Parliament has yet to act on the following pious hope expressed by the Constitution Bench at the end of their judgment dated 25.**9.2018** in WP (C) No. 536/ 2011 by Public Interest Foundation-

"We are sure, the law making wing of the democracy of this country will take it upon itself to cure the malignancy. We say so as such a malignancy is not incurable. It only depends upon the time and stage when one starts treating it, ***the sooner the better, before it becomes fatal to democracy****. Thus we part."*

The following observations of the Apex Court in para 72 of the judgment **a year ago** in the Contempt Petition (C) No. 656/2020 in the aforesaid matter have also not yielded any result so far-

"This Court, **time and again**, has appealed to the law-makers of the Country to rise to the occasion and take steps for bringing out necessary amendments so that the involvement of persons with criminal antecedents in polity is prohibited. ***All these appeals have fallen on the deaf ears. The political parties refuse to wake up from deep slumber…*** …. We can only appeal to the conscience of the law-makers and **hope that they will wake up soon and carry out a major surgery for weeding out the malignancy of criminalisation in politics**." (emphasis supplied)

Your failure to act even on these exhortations of the Apex Court has recently prompted Lucknow Bench of Allahabad High Court to observe, while rejecting the bail plea of BSP MP Mr. Atul Kumar Singh, that despite the Supreme Court having taken notice of criminalization of poilitics and imperative need of electoral reforms, the Parliament and Election Commission have not taken adequate measures to protect the Indian democracy from going into the hands of criminals, thugs and law-breakers. This does not go well with the Prime Minister bowing to the Parliament building after his election in 2014.

The indifference of Parliament to ensure requisite follow up action on the unanimous 1997 Resolution has encouraged the Executive also to flout with impunity even the well considered observations, and even directions, of the Apex Court as in the following cases-

(i) Even persons facing serious criminal charges have been appointed Ministers at the Centre and in the states in utter disregard of the observation of the Constitution Bench in the case of Manoj Narula JT 2014 (9) SC 591 that while living up to trust reposed in him the Prime Minister/ Chief Minister would consider not choosing such a person to be a member of Council of Ministers.

(ii) Non compliance of directions in paras 61,64 and 67 of the judgment dated 16.2.2018 of the Apex Court in WP (C) No. 784/2015 by Lok Prahari regarding disclosure of sources of income etc. on the specious plea that these require amendments in the law.

Significantly, the counter affidavits filed in the PILs for electoral reforms did not mention even one instance of any of the major recommendations of the Election Commission

of India and Law Commission having been acted upon so far. At this rate one does not know as to when the requisite reforms will be affected. We already have instances of Mobocracy every now and then. Soon it may degenerate into anarchy if the requisite reforms for restoring and maintaining the sanctity of 'Temples of Democracy' are not put in place to ensure that only men and women of integrity and character are elected without which good governance will remain a dream. As observed by the Apex Court in the case of PUCL & Anr. vs. Union of India & Anr., AIR 2014 SC (Supp) 118,"*For democracy to survive, it is essential that the best available men should be chosen as people's representatives for proper governance of the country. This can be best achieved through men of high moral and ethical values, who win the elections on a positive vote."*

We earnestly hope and pray that on the occasion of the 75th anniversary of our Independence the Hon'ble Prime Minister will tell the Nation as to why the very first resolve in the unanimous Resolution on the occasion on Golden Jubilee of Independence in **1997** has remained unimplemented so far; who all are responsible for it; whether it does not amount to breach of privilege of the House; and what action is proposed against them. Simultaneously, the Nation would also like to know as to what and by what time action will be taken on the pious hope expressed by the Apex Court cited above to and to fulfill the Hon'ble Prime Minister's **8 years old** promise of 'taint free Parliament'.

Hope this letter will be taken in the right spirit in accordance with the intention and expectations of the founding fathers of our Constitution.

With regards,

Yours Truly,
S.N. Shukla
General Secretary, Lok Prahari
B-7, Nirala Nagar, Lucknow-226020
Mobile-91-9415464288
Email-shukla.sn@gmail.com

Hate Speech: What Bajrang Muni...

Contd. from page - (31)

"Economic boycott won't work. Hindu groups need to update themselves. Swords look good on stage only. This battle will be won by those with better weapons," he had said. He asked the Hindus to have advanced weapons and a higher number of children to 'save themselves'. Calling for violence against Muslims, Annapurna Maa had said, "If you want to finish them off, then kill them... We need 100 soldiers who can kill 20 lakh of them to win this." Yati was arrested on January 16 and was released almost a month later in February. Out on bail on the condition that he could not participate in such events, Yati in April organised another religious conclave in UP's Una where calls for violence against Muslims were reiterated. In a gathering in Delhi's Burari in April, Yati had again given a similar hate speech.

Anand Swaroop's call to pick weapons for 'Hindu Rashtra' In January this year, Hindu leader Anand Swaroop called for an economic and social boycott of Muslims. Swaroop, Varanasi-based outfit Shankaracharya Parishad, had said that people who read Quran (the religious book of Muslims) become 'beasts and are no longer humans'. "For those who wish to remain connected to India, they must give up the Quran and namaz. If we start boycotting Muslims socially and economically, they will embrace Hinduism," he had said. Swaroop, in the video, was heard asking Hindus to pick guns and swords to declare India a 'Hindu Rashtra'.

8 July 2022.

Agnipath an ember that can consume India. Why it's an invitation to civil war

The Agnipath scheme poses threat to the Indian national State itself as it can disperse violence and weaponry back to the social order.

Shruti Kapila

Would you like to live in a society where young men have training and access to weapons? This is the fundamental question that the government's latest Army recruitment scheme Agnipath compels us to ask. The question, and its answer, however, has been obscured by the fires raging across India. Yes, it's also about India's youth and employment but others have already weighed in on this.

The Agnipathscheme poses the greatest threat, in fact, to the Indian national State itself as it will disperse violence and weaponry back to the Indian social order. It will create more, not fewer challenges, to the State's monopoly of violence.

Violence is the essential political question. Who gets to prosecute violence, and towards what end has defined the making of the modern age of the nation-State? The modern State emerged as the correct and sole author of legitimate violence.

Simply put, the modern State bled out internal strife or possibilities of social and religious violence while literally pushing violence to the borders where it is conducted in State uniforms. The simple but hard-won idea is that for societies to be free to flourish, internal peace is a pre-condition and as such, access to violence must be negated in every respect.

This passage to modern life created our era of national armies, based on loyalty, that replaced mercenary armies of princes, pirates, popes, and whatnot that were based on ultimately the ability to pay. The modern State makes social violence illegitimate but also, rather impossible. In short, wars between States, indeed even catastrophic World Wars are ethically wrong yet legitimate. But internal violence such as civil wars, are rendered as wars that only deplete order, are deemed illegitimate but above all, can produce no real winners.

Who wields the stick?

The primary social exception to the Indian State's monopoly to violence remains the Rashtriya Swayamsevak Sangh (RSS). As the largest paramilitary volunteer body, it wields sticks in your neighbourhood. You might even approve of this and maybe are even a member. But you need to think about it a little bit beyond any passionate attachment to the RSS. That *danda* might turn on you!

Consider no other than the original Indian strongman Sardar Vallabhbhai Patel. He ensured that the RSS was not dismantled in 1948 but cautioned that their *danda* in the social body had to be defanged and won over. For Patel, who forged the Indian State's monopoly over violence, to be sure, their access to violence in society was unacceptable. This was because the evidence before him was overwhelming.

The lifting of the bans on voluntary paramilitary forces of both the Muslim League and the RSS in early 1947 had fuelled the civil war of Partition. New evidence also demonstrates that de-mobbed soldiers after the Second World War were active in the lethal spread of that civil combat that ushered in India's freedom.

But banning the RSS was, for Patel, not going to be a lasting solution, it needed a change of hearts of the body's members. If the Modi government is serious about a strong India, it

would dissolve the RSS in its centenary year and cut off a competing source of violence to the Indian State. It will be a true tribute to its hero Sardar Patel. Though no writer himself, Patel was all too aware of India's path to deep colonisation.

British Brutal India

India's colonisation by the British was in large measure due to multiple sources of violence in the polity and society. By contrast, the State's monopoly on violence has ensured the ascendancy and domination of the West even as it exported violence offshore to colonies.

With the loss of central Mughal authority, India became a society at war even though it was a commercial boom-time. Petty and not-so-petty-kings and big zamindars marshalled violently against one another for supremacy. The East India Company (from c.1750 -1857) aggressively manoeuvred through India's decentralised but heavily militarised society. India's loss of freedom to the British was not simply at the rather small battle of Plassey in 1757 when the *Company Bahdur* gained through that shameful victory the right to collect and spend taxes.

A major driver was the rise of middle castes and groups that created a new dynamic of a large market in military service plus the arrival of new paymasters. Within short years, regional magnates such as those in Awadh, and even sub-empires such as the Marathas were in debt to Indian moneylenders and commercial groups only to keep up the internal warfare. The East Company systematically and aggressively cut through this chase by getting first into business with the moneylenders while fuelling the wars that it finally took over.

By 1770, as the bugles of freedom and democratic revolution were raised in France and America, India became fully colonised and the East India Company became the largest standing army in the world. It became the supreme paymaster with easy access, thanks to slavery and spices, to the world's silver at its disposal. Tellingly, from 1800 onwards, the Company turned its attention to de-militarising Indian society that included the large and wandering Indian warrior groups, including small rulers, tribal groups including the Bhils and Gosains, and militarised monks such as the *gorakhpanthis*. It focused on and pursued the prized wars for ultimate supremacy over the big two contenders to the Indian crown, the Marathas and the Sikhs, that were in effect also new warrior-states.

The year 1857 was the last hurrah of the standing order. Soon after that, the British Indian army was created on a strict pattern of recruitment and discipline based on detailed social engineering and that by and large exists to date.

By usurping and controlling but redirecting and centralising violent authority, the British Empire became supreme as India was fully de-politicised. For the next 100 years, Indians had no access to commerce or freedom but routinely waged and won wars on behalf of the British Empire. India's founding fathers understood this all too well.

They produced a new and difficult compact that undid the Empire but crucially equated violent capacities with the Indian national State. You don't have to read my book but suffice to say that the arch political antagonists Gandhi and Ambedkar jointly prosecuted a new and democratic compact that squarely addressed the political question of violence as it steered Indian society to nonviolence. Needless to say, and since Independence, there have been violent challenges to India's order and with varying costs, the Indian State has by and large, prevailed.

But now, to have opened a scheme of temporary military recruitments where large numbers of men are trained to kill only to return to society after four years without the supervening authority and discipline of the State is to invite and open the door to civil war.

(To be Contd....on Page - 40)

'This Will Make Army The Last Choice For Young People'

'Military is too serious a matter to be taken as a tour for a few years.'

Rediff News

"The most important factor to be considered is whether this policy will make our soldiers fight better — or not."

"What impact will it have on operational preparedness and efficiency against our present and future adversaries?"

"These should be the first priority. Everything else is secondary," says Lieutenant General **K. Himalay Singh** (retd), former general officer commanding, 16 Corps in Kashmir.

Commissioned into the Rajput Regiment, General Singh commanded a battalion in Siachen and a division on the Line of Control.

The general, who spent 14 years serving on the LoC in separate tenures during a military career spanning 40 years, speaks to ***Rediff.com*** about apprehensions about the newly launched **Agnipath** scheme for recruitment of soldiers in India's armed forces.

Opinion is deeply divided about the Agnipath recruitment scheme with a majority being critical of the scheme.

Indian soldiers take part in a firing exercise on Netaji Subhas Chandra Bose Island (Ross Island), Andaman and Nicobar.
Photograph: Kind courtesy ADG PI - Indian Army/Twitter

"The most important factor to be considered is whether this policy will make our soldiers fight better — or not."

"What impact will it have on operational preparedness and efficiency against our present and future adversaries?"

"These should be the first priority. Everything else is secondary," says Lieutenant General **K. Himalay Singh** (retd), former general officer commanding, 16 Corps in Kashmir.

Commissioned into the Rajput Regiment, General Singh commanded a battalion in Siachen and a division on the Line of Control.

The general, who spent 14 years serving on the LoC in separate tenures during a military career spanning 40 years, speaks to ***Rediff.com*** about apprehensions about the newly launched **Agnipath** scheme for recruitment of soldiers in India's armed forces.

Opinion is deeply divided about the Agnipath recruitment scheme with a majority being critical of the scheme.

The objectives of the scheme that have been released so far are the following:

1. Save the ballooning pension cost;
2. Get a younger profile of soldiers in the armed forces;
3. Provide good citizens from qualities imbibed by spending four years in the armed forces when Agniveers return to civil society.

The modalities spelt out so far to achieve the above objectives are short of practicalities. All the above objectives may be achieved, but the most important factor to be considered

is whether this policy will make our soldiers fight better — or not.

What impact will it have on operational preparedness and efficiency against our present and future adversaries?

This should be the first priority. Everything else is secondary. I do not see anything spelt out about what quative positive change will it bring to war fighting in modern warfare.

Military is too serious a matter to be taken as a tour for a few years.

The Agnipath scheme should have first been tried in the CAPF (*Central Armed Police Forces*) or police organisations like the BSF (*Border Security Force*).

Secondly, those who want stable jobs will not sign up because 75% Agniveers will be relieved of service after four years. They will leave service after four years without a job.

It is quite likely that this will make the army the last choice for young people when in fact it should be the first choice.

The home ministry has said **Agniveers will get priority** in the CAPF and Assam Rifles recruitments. A lot will depend on the implementation of the scheme.

Thirdly, soldiers do not fight for salaries, they fight for comrades in arms. They fight for the *izzat* of their unit, brotherhood and camaraderie.

My concern is how will this impact the feeling of camaraderie and unity.

I have seen war closely. I know that in a life and death situation, it is camaraderie, kinship, brotherhood and unit spirit that is the only thing the matters.

Soldiers give their lives for fellowmen and this comes from years of training in arms and training of the mind.

This is known in the army as *naam, namak aur Nishan* whichis the ethos of the army.

I am yet to see some answer to that.

Fourthly, the training standard for war is another concern.

It takes years and years to train a soldier. How will Agniveers train on the more than 50 weapon systems in this short time?

Every soldier needs to learn how to operate a minimum of 10 weapon systems. He has to be able to use it at the right time in a war or a war-like situation. Soldiers normally achieve this kind of a level after 7 years.

After 10 years, Agniveers will comprise more than half of a unit — around 100-150 men in a unit. A unit is as good as its weakest part.

If you have 100-150 people who have to be carried by the other half it will weaken the fighting capability of the unit.

These are some of my apprehensions, but we have a system in the army that once a decision is taken, we make sure that it achieved.

I am sure the government will do a mid-course correction if it finds that it is hitting too many road blocks depending on the need of the time.

Courtesy **Rediff.com**, June 18, 2022

Contd. from page - (38)

Agnipath an ember that can...

The exact motivations of this dramatic policy announcement are far from clear. Is the RSS the model of a new militarised society, one wonders? That it has been done without consensus or consultation is now an entirely predictable pattern for Narendra Modi's style of leadership. It has already set large parts of India ablaze and that in itself serves as a red hot and clear warning.

Agnipath is an ember that will, without a doubt, ignite and could consume India. If not rolled back, be warned, every Indian will become vulnerable to violence.

***Shruti Kapila** is Professor of Indian history and global political thought at the University of Cambridge. She tweets @shrutikapila. Views are personal.*

(Edited by Anurag Chaubey) Courtesy **The Print**, 20 June, 2022.

Declaration of Modern Humanism

- DATE / 2022
- LOCATION RATIFIED / GLASGOW, UNITED KINGDOM
- RATIFYING BODY / GENERAL ASSEMBLY
- STATUS / CURRENT

(also known as 'The Amsterdam Declaration'), declared by the 2022 General Assembly of Humanists International, replacing The Amsterdam Declaration of 2002.

Humanist beliefs and values are as old as civilization and have a history in most societies around the world. Modern humanism is the culmination of these long traditions of reasoning about meaning and ethics, the source of inspiration for many of the world's great thinkers, artists, and humanitarians, and is interwoven with the rise of modern science.

As a global humanist movement, we seek to make all people aware of these essentials of the humanist worldview:

1. Humanists strive to be ethical

We accept that morality is inherent to the human condition, grounded in the ability of living things to suffer and flourish, motivated by the benefits of helping and not harming, enabled by reason and compassion, and needing no source outside of humanity.

We affirm the worth and dignity of the individual and the right of every human to the greatest possible freedom and fullest possible development compatible with the rights of others. To these ends we support peace, democracy, the rule of law, and universal legal human rights.

We reject all forms of racism and prejudice and the injustices that arise from them. We seek instead to promote the flourishing and fellowship of humanity in all its diversity and individuality.

We hold that personal liberty must be combined with a responsibility to society. A free person has duties to others, and we feel a duty of care to all of humanity, including future generations, and beyond this to all sentient beings.

We recognise that we are part of nature and accept our responsibility for the impact we have on the rest of the natural world.

2. Humanists strive to be rational

We are convinced that the solutions to the world's problems lie in human reason, and action. We advocate the application of science and free inquiry to these problems, remembering that while science provides the means, human values must define the ends. We seek to use science and technology to enhance human well-being, and never callously or destructively.

3. Humanists strive for fulfillment in their lives

We value all sources of individual joy and fulfillment that harm no other, and we believe that personal development through the cultivation of creative and ethical living is a lifelong undertaking.

We therefore treasure artistic creativity and imagination and recognize the transforming power of literature, music, and the visual and performing arts. We cherish the beauty of the natural world and its potential to bring wonder, awe, and tranquility. We appreciate individual and communal exertion in physical activity, and the scope it offers for comradeship and achievement. We esteem the quest for knowledge, and the humility, wisdom, and insight it bestows.

4. Humanism meets the widespread demand for a source of meaning and purpose to stand as an alternative to dogmatic religion, authoritarian nationalism, tribal sectarianism, and selfish nihilism

Though we believe that a commitment to human well-being is ageless, our particular opinions are not based on revelations fixed for all time. Humanists recognize that no one is infallible or omniscient, and that knowledge of the world and of humankind can be won only through a continuing process of observation, learning, and rethinking.

For these reasons, we seek neither to avoid scrutiny nor to impose our view on all humanity. On the contrary, we are committed to the unfettered expression and exchange of ideas and seek to cooperate with people of different beliefs who share our values, all in the cause of building a better world.

We are confident that humanity has the potential to solve the problems that confront us, through free inquiry, science, sympathy, and imagination in the furtherance of peace and human flourishing.

We call upon all who share these convictions to join us in this inspiring endeavor.

Suggested academic reference

'Declaration of Modern Humanism', Humanists International, General Assembly, Glasgow, United Kingdom, 2022

Rare Historical Event

Dr. B.R. Ambedkar

Lala Lajpat Rai

M.N. Roy

During the beginning of First World War four outstanding personalities were in Columbia university campus at New York.

The first person was B R Ambedkar who was doing his Ph. D.

The second freedom fighter was Lala Lajpat Rai, known as Punjab Kesari, who gave series of lectures about the need for freedom for India from British rule.

The third was Mrs Evelyn Trent who helped Lajpat Rai in his work by writing drafts. And lastly M N Roy, husband of Evelyn, who was playing revolutionary role from exile.

Surprisingly Ambedkar and Roy never met in the campus! This went on for about two years. The British police chased Roy and he along with his wife escaped to Mexico. Unfortunately, there are no pictures of them.

At one stage Roy prepared Bengali sweet *rasa gulla* for Lajpat Rai at his request.

This was at the beginning of WWI in New York.

Innaiah Narisetti, From USA

From Gandhi to Godse: Prashant Bhushan

Prashant Bhushan ✓
@pbhushan1

From Gandhi to Godse; From our national emblem with lions sitting majestically & peacefully; to the new national emblem unveiled for the top of the new Parliament building under construction at Central Vista; Angry lions with bared fangs.
This is Modi's new India!

10:05 AM · 12/07/22 · Twitter for Android

Postal Regn. No.: DL(E)- 20/5537/2021-23 Total Pages : 44 RNI No. 43049/85
Posting: 1-2 August 2022 at Krishna Nagar H.O. Delhi-51 Date of Pub.: 27-28 July 2022

What Prashant Bhushan, a leading Human Rights lawyer says on the Solicitor General & Additional Solicitor General's defence of Bajrang Muni, Yati Narsinghanand & Anand Swaroop on their Hate Speech

Prashant Bhu... · 2h

When the Solicitor General & the Additional Solicitor General stand up for those (Yati Narsinghanand & Bajrang Muni) who openly call for the genocide & rape of a community & argue for jailing those who call them out, we know that we are in an openly fascist State

No man is a holy man. no book is a holy book. no place is a holy place.
taslima nasreen, @taslimanasreen

Printed and Published by **Sheoraj Singh,** on behalf of the Indian Renaissance Institute at A-1/103, Satyam Apartments, Vasundhra Enclave, Delhi- 110096. (M.) 9891928222
printed at **Subhashini Offset Printers, F-10, Jagdish Nagar, Patel Nagar III, Ghaziabad-201001 (UP)**
Editor: **Mahi Pal Singh,** Raghav Vihar, Phase- 3, Prem Nagar, Dehradun- 248007. (Uttarakhand)