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Implement Police Commission report: NHRC

By J. Venkatesan

NEW DELHI, DEC. 29. Describing the "Godhra-related riots" in Gujarat as a warning for the rest of the country, the National Human Rights Commission has urged the Central and State Governments to implement the recommendations of the National Police Commission to ensure independence of the police in the investigation of crimes.

The Commission, in its report for 2001 and 2002 laid in Parliament in the just-concluded winter session, pointed out that the Police Commission's recommendations had not been acted upon and were pending with the Centre despite the best efforts of the NHRC to have the report implemented.

In response to the NHRC's earlier letters in this regard, the Centre had informed the

Human Rights
Commission that 'Police' being a State subject, the Centre at best could lead and give guidance. The Centre also said that "crucial recommendations of the Police Commission relating to constitution of State Security Commission/selection of Director-General of Police, insulation of investigation from undue pressure etc could not be implemented."

Reacting to this, the NHRC said "the Commission is fully familiar with this melancholy history of failure and of the lack of political and administrative will that it signifies to revive the quality of policing in this country to save it from the catastrophic 'extraneous influences' that are ruining the investigative work of the Police."

It, therefore, urged the Central and State Governments once again, taking the Gujarat situation as a warning and catalyst, to act

with determination to implement the various police reforms.

The Commission said there was an urgent need for the State Governments to set up a credible mechanism for selection of police chiefs and the Centre must pursue the matter with the States. "It is shocking to hear, a matter of common knowledge, that in some States the tenure of Superintendent of Police is on an average only a few months and transfers are made for whimsical reasons.

Apart from demoralising the police force, it has also the adverse effect of politicising the personnel."

It urged that the matter of police reform receive attention at the highest level at the Centre and in the States and that this issue be pursued with greater interest. "The rot that has set in must be cured if the rule of law is to prevail," the report added.

THE HINDU

30 DEC 2001

Bakery retrial vetoed, acquittal stands

for men fees 5-6 27/12



Zahira Sheikh

OUR CORRESPONDENT

Ahmedabad, Dec. 26: Gujarat High Court today dismissed the state government's amended appeal seeking retrial of the 21 abso- lved in the Best Bakery case and confirmed their acquittal by a lower court.

The division bench of Jus- tices B.J. Sethna and J.R. Vora, however, did not specify its rea- sons for the rejection. This being the last day before the winter ses- sion, and since the day is practi- cally over, "the reasons will fol- low later", it said.

Gujarat had filed the amend- ed appeal on September 29 after

being chastised by the Supreme Court for filing an "eyewash of an appeal" earlier.

The plea had followed protests over the June 27 acquit- tal by the fast-track court in Vadodara of the 21 accused of charring 14 people at Best Bak- ery on March 1, 2002, during the post-Godhra communal riots.

The bench also rejected the government's appeal seeking the court's permission to produce the affidavits of four witnesses, including key witness Zahira Sheikh, and to record further evi- dence. The affidavits were part of a special leave petition filed by the Mumbai-based NGO, Citi-

zens for Justice and Peace, which is sheltering Zahira.

The bench agreed with Sushil Kumar Jain, the counsel for the accused, that the affi- davits by the four persons, who directly approached the apex court, could not be taken on record of the high court as these were never a part of the trial court's record.

Jain also pointed out the "contradictions" in Zahira's statement to the police and in her affidavit, and said the "iden- tity" of the accused was a "lacu- na" in the case. Later, he told re- porters: "The dismissing of this appeal will have an effect on the

legal history of India as the en- tire judicial system was on trial."

Harish Salve, appointed an amicus curiae by the apex court to assist it with a related peti- tion, said the "matter is not closed".

A leading high court advo- cate, Girish Patel, said: "The Best Bakery chapter is closed for Gujarat." The only option left, he added, is Article 136 of the Con- stitution that empowers the Supreme Court with special leave to appeal.

The government can thus ask the apex court for special leave to appeal against the high court judgment. Gujarat law minister

Ashok Bhatt, however, said he had "nothing to say" on the gov- ernment's next move.

Special public prosecutor Nitin Amin was as cautious though he did not rule out the possibility of challenging the judgment.

"After we get the text of the judgment, the legal department of the state government will de- cide what is to be done. At this stage, it is too early to talk about our next step — whether we will appeal in the Supreme Court or not," Amin said. The detailed judgment is awaited once the high court reopens on January 16, 2004, after the vacation.

Videos prove guards abused 9/11 prisoners

The Guardian
Washington, December 20

VIDEOS RECORDED inside a New York jail show Arab and Asian detainees, who were picked up in a sweep of immigrants in the wake of the September 11 attacks, being slammed and bounced off the prison walls by guards, according to an official US government report.

After viewing more than 300 of the videos recorded by cameras placed around the Metropolitan Detention Centre (MDC) in Brooklyn, justice department investigators have published a long list of cases of physical and verbal abuse.

Across the country, more than 1,200 people, mostly Arabs and Asians, were detained on immigration violations after the 2001 explosions and held while they were investigated for possible links with terrorist groups. None was ever charged with terrorist-related crimes.

The tapes show detainees being escorted to and from their cells and assaulted in the corridors along the way.

"We observed officers escort detainees down a hall at a brisk pace and ram them into a wall without slowing down before impact," the report by the justice department's office of the inspector-general said of two videotaped cases.

"In another incident, we saw staff members forcefully ram a second detainee into two walls while he was being escorted from the recreation deck to a segregation cell."

Still pictures from the videos, released with the report, show detainees being thrust against walls by guards. The report found evidence on the



A file photograph shows one of Camp X-Ray's 660 inmates escorted by guards. Another 1,200 people have been detained across the US in the war on terror. Two courts on Thursday told the government it cannot detain people without giving them access to lawyers.

tapes — discovered in a prison storeroom in August this year — to support detainees allegations that they were routinely abused verbally.

The report found no evidence that detainees were "brutally beaten", but added: "We determined that the way these MDC officers handled some detainees was in many respects unprofessional, inappropriate and in violation of (bureau of prisons) policy."

Nancy Chang, a lawyer for the Centre for Constitutional Rights, a pressure group that is pursuing a lawsuit over the treatment of the detainees, welcomed the report: "These detainees were targeted based on their religion and ethnicity alone, and the emotionally charged atmosphere following the tragedy of September 11 cannot serve as an excuse for this brutality." The prisons bureau made no comment.

Punishment with a human touch

Human
Rights
1-11

2 18/12

Case 3: Stateless Punjabi refugees in Jammu and Kashmir since 1947: Over a hundred thousand Punjabi refugees had migrated to Jammu and Kashmir from the neighbouring Sialkot district of Punjab province (now in Pakistan) in 1947 during the Partition. Until now, they have not been granted citizenship. These refugees, mainly belonging to the scheduled caste communities, had settled in the area along the border in R.S. Pura and Kathua sectors. As Jammu and Kashmir had its own citizenship, namely permanent resident of the state, only a person having this citizenship was entitled to vote. Hence these refugees have been denied the right to vote until today. They are also not eligible for any government job and cannot buy land. The descendants of these stateless people continue to be denied the right to nationality. According to surveys done in the border belt, most of the refugees are poor, landless labourers belonging to the lower socio-economic strata of society. In the last assembly elections in Jammu and Kashmir in September-October 2002, the issue of granting citizenship status to the Punjabis was incorporated in the manifestos of all the parties. But no action has yet been taken.

Case 4: Pakistani refugees in Rajasthan: There are 17,000 Hindus from Pakistan who sought refuge in India in 1965 after the Indo-Pakistan war. They are scattered in Jodhpur, Barmer, Jaisalmer, Jalore and Pali districts.

In 2001, a review commit-

tee was formed with six members to be headed by the additional chief secretary (state home secretary), R.K. Nair. The other five members of the committee were to be the rehabilitation secretary, the revenue secretary, the divi-

tee was formed with six members to be headed by the additional chief secretary (state home secretary), R.K. Nair. The other five members of the committee were to be the rehabilitation secretary, the revenue secretary, the divi-



Unwanted

sional commissioner, Jodhpur, the deputy secretary-home (member secretary) and a representative of the refugees.

On November 24, 2001, the committee made its first recommendation to the Central government to accept applications for citizenship after they renounce Pakistani citi-

zenship on a simple affidavit. This would exempt them from paying Rs 1,680 to the Pakistani embassy for renewal and renunciation of the passport.

The refugees are also prohibited from visiting the districts bordering Pakistan. The committee in its second set of recommendations on February 24, 2002, stated that Pakistani nationals who had resided in India for 5 years should be allowed to visit the border districts. It was endorsed by the chief minister who stated that the powers to grant citizenship should be given to the district magistrate. As of August 2003, these refugees and their children are denied right of nationality.

Article 28...of the convention on the rights of the child urges states to "take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present convention". Yet, corporal punishment continues to be applied across India with legal sanction. Many state education boards legally permit corporal punishment.

The government of India has failed to ban corporal punishment in schools. Indeed the government of India's response to corporal punishment is similar to its response on torture by law enforcement personnel — it does not exist and therefore, it makes no reference to the corporal punishment issue.

TO BE CONCLUDED

18 DEC 2004

SC orders CBI probe into Gujarat gangrape

*Human
Rights*

Our Legal Correspondent

NEW DELHI, Dec. 16. — The Supreme Court (coram, Babu, Mathur, Lakshmanan, JJ) today ordered a CBI probe into the mass rape and murder of 17 women near Limkheda during the post-Godhra riots in Gujarat.

Acting on a petition filed by the sole survivor, Bilkis Rasool Yakub, who was gangraped despite her advanced stage of pregnancy, the court directed the investigating agency to submit a report within eight weeks.

The court passed the order after the Additional Solicitor General, Mr Mukul Rohtagi, appearing for Gujarat, did not oppose the move. "In view of the apprehensions expressed by the petitioner, the matter may be referred to the

CBI," Mr Rohtagi said in his statement. "There must be a fair investigation into the matter," the court observed.

Earlier, appearing for Bilkis, the senior counsel, Mr Harish Salve, pointed out that a CBI inquiry was needed as the case had been closed despite minor inconsistencies in the statement of the petitioner, who is illiterate.

The judicial magistrate, Limkheda, had accepted the Summary A report of police, that effectively closed the case for all purposes.

Summary A is made when the police officer investigating a case is of the view that the offence is true, but undetected and where there is no clue whatever about the culprits, or where the accused is known, but there is no

evidence to justify his being sent up for trial.

Riot victims accuse cops
Minority community riot victims today accused police and Rapid Action Force personnel of committing severe atrocities during the post-Godhra communal violence in Gomtipur area of the city, adds PTI from Ahmedabad.

Riot victims, deposing before a two-man probe panel, alleged that police beat up women, sexually assaulted them and incited armed mobs to attack people of minority community. Mumtaz Ansari, a resident of Salat Nagar in Gomtipur, named a police inspector, Modi, as the man who was inciting armed mobs and alleged that the officer gave petrol from his official vehicle to torch the apartment.

17 DEC 2004

The right choice

Ebadi accepts Nobel Peace Prize

Human Rights
It was fitting that the Nobel Peace Prize was given to Iran's Shirin Ebadi, a tireless human rights activist who has been working for women's and children's rights for over a quarter of a century, on World Human Rights Day. It was also fitting that Ebadi in her acceptance speech lashed out at the West for hiding behind 9/11 to violate the rights of others, proving to her critics that she was no stooge of the West, but stood steadfastly against wrongs perpetrated in any part of world. The choice of Ebadi for the prestigious prize had created a controversy among hardline clerics in Teheran who saw it as a political decision by western countries to embarrass the Iranian government. But Ebadi's stern words, particularly against the USA for its breach of the Geneva convention at the Guantanamo Bay military jail, for ignoring UN resolutions in West Asia and yet using them as a pretext to go to war in Iraq, and accusing the same western democracies which initiated human rights of violating them, must have shocked her detractors in Teheran out of their turbans.

At a time when Islam is being depicted as a militant religion, Ebadi's bold anti-war message was perfect. She becomes the first Muslim women to receive the Nobel Peace Prize, and the image that has been created is that of a woman fighting Islamic laws. On the contrary Ebadi has been very clear in insisting that human rights and Islam can go hand in hand. Her fight is against male-chauvinistic laws which use Islam as a shield. By attacking the West she has shown that wrongs are not only committed by hardliners in Iran, but by self-serving fundamentalists everywhere. Her acceptance speech proved that she was the right choice for the prize.

THE STATESMAN

15 DEC 2004

15 DEC 2004

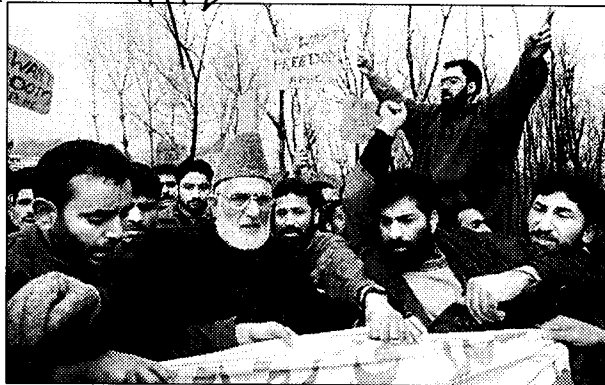
J&K activists protest for rights

Masood Hussain

SRINAGAR 10 DECEMBER

WHILE legislators delivered fierce speeches and staged a walkout in the state legislature at Jammu, the police in Srinagar spent most of the day in quelling mobs and detaining separatist activists who came out on streets to protest against the violations of human rights in the state. The state legislature started its brief session at Jammu on Wednesday, which also coincided with the World Human Rights day.

A number of activists were admitted to the hospital with fractures and the police confirmed the arrest of as many as 60 people. The detained include hawk-



BASIC INSTINCT: Syed Ali Geelani leads a demonstration during the World Human Rights Day in Srinagar on Wednesday. — AFP

ish separatist Syed Ali Shah Geelani, Mohammed Yasin Malik, Javed Mir and many others from

Mirwaiz led Awami Action Committee. National Conference (NC), the main Opposition in the

state Assembly, delivered harsh speeches on the state of human rights. Pooh-poohing chief minister Mufti Mohammad Sayeed's "healing touch," NC legislators accused him of "misleading the public opinion by offering wrong information." "You (Mufti) have told the house that eight custodial killings have taken place in your tenure and here is the list of 67 killings," former minister Ali Mohammed Sagar said.

Admitting "NC inherited the special operations group (SOG)" when it took over in 1996, Mr Sagar said action was taken against 210 soldiers and 125 BSF personnel besides 29 cops "but in one year, you have just attached one station house officer (SHO)," Mr Sagar added.

The Economic Times

11 DEC 2004

Human Rights

JUSTICE WITHIN PRISONS

10-10
\$12 ✓

DESPITE LANDMARK JUDGMENTS by the Supreme Court in the 1990s that spelt out the norms of humane and fair procedures of arrest, the track record of the police continues to be marked by disregard for legal niceties and human rights laws. Execution of arrests without warrants and failure to produce detenues before the magistrate within 24 hours thereafter are habitual violations the police commit with impunity. The lot of the population within prisons is equally appalling, notwithstanding the apex court's sustained intervention for nearly two decades. According to a study conducted by the Commonwealth Human Rights Initiative (CHRI), the system of prison visitors has been rendered, by and large, defunct. The study points out, in particular, that the appointment of Non-Official Visitors, who are supposed to be socially conscious and eminent citizens, is often highly politicised. The CHRI blames the general state of affairs on the intransigent attitude of prison officials and a lack of adequate training for Visitors. However, prison manuals vest elaborate authority in them so as to ensure transparency and accountability in the functioning of jail officials. Visitors could keep a tab on the provision to inmates of nutritious food, decent surroundings, avenues for the acquisition and advancement of basic skills, work, wages, security against recidivism, scope for moral and intellectual growth, leisure and recreation. Revitalising the mechanism of Non-Official Visitors is therefore of the utmost urgency considering the vital role it can play in creating a more humane atmosphere within jails.

Way back in the 1980s, in a commentary on conditions within jails, the A.N. Mulla Committee observed that the need was to protect detainees from exposure to the harmful effects of prison life. Its criticism does not appear to warrant much revision twenty years down the line, except for small advances in terms of remedial and therapeutic interventions for the benefit of inmates. Hardened criminals, remand prisoners, under-trials and oth-

er detainees accused of petty crime — all continue to be lodged under the same roof. Such an arrangement breeds a socially unhealthy influence on inmates and could even produce disastrous results. Thus the segregation of different categories of prisoners is an imperative. Moreover, according to the National Human Rights Commission, as on June 2002, under-trials constituted 75 per cent of the population in jails. If the indiscriminate use of the powers of arrest accounts for much of this malaise, a good part of the problem relates to the failings of the subordinate judiciary in checking this misuse and in resisting pulls and pressures. This situation is in itself a serious cause for concern; it contributes substantially to the overcrowding of prisons by more than 30 per cent of their maximum capacity. There is also an urgent need for closer introspection on the vexed issue of judicial delays. In the absence of a humane and reformatory policy on handing down sentences in India, the utility of the Probation of Offenders Act, 1958, is limited.

According to the National Bureau of Crime Records, India registers five million crimes annually. Against this backdrop, the extent of adherence to human rights by the criminal justice administration ought to receive much higher priority than is generally recognised. Else, its own credibility in dispensing speedy justice as well as infusing citizens' faith in the fairness and efficacy of the system will be put in serious jeopardy. At another level, official as well as voluntary human rights bodies point out that the overwhelming majority of detainees are booked mostly for petty offences and that they invariably belong to the deprived and weaker sections of society. The other side of the story is that the culpability of hardened criminals is often hard to establish. Correctives to this state of affairs may be built into existing laws but for any meaningful change to happen on the ground, society needs to improve its sensitivity to issues of justice within prisons and intervene pro-actively to have it delivered without further excuses.

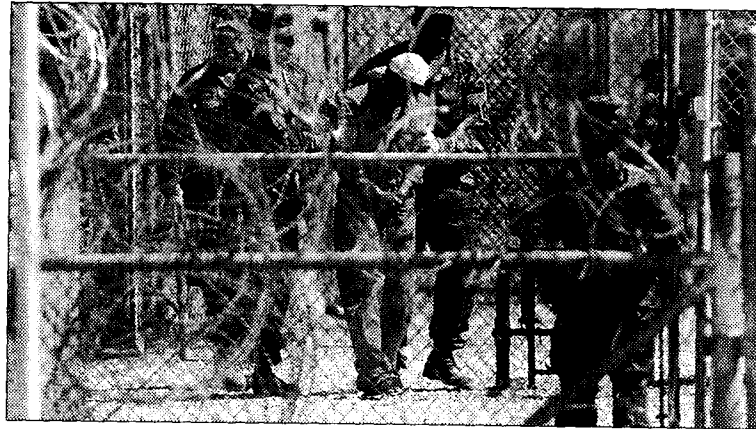
THE HINDU

8 DEC 2004

A glimpse of life in a prison camp inhabited by people that the law forgot

Kafka's in Guantanamo Bay

BY JAMES MEEK



HUMAN RIGHTS ARE FOR AMERICANS: At Camp X-ray, Guantanamo Bay

W HI-6 6/12

ONE SUMMER'S day in Cuba in 2002, a 31-year-old Pakistani teacher of English named Abdul Razaq noticed something unusual in the familiar patterns of movement among the orange-suited figures in the mesh cages on either side of him. Two or three cages along from his own, a fellow Pakistani prisoner, Shah Mohammed, was silently going about trying to hang himself from a sheet lashed to the mesh. He had the cloth around his throat and he was choking. Other prisoners had noticed and, as they usually did when a detainee in the US prison camp in Guantanamo Bay tried to kill himself, they raised a hue and cry.

"First we shouted at Shah Mohammed to stop, but when he didn't, we called the guards," says Razaq, who was released from Guantanamo in July, and returned to his hometown in October after three months' detention by the Pakistani authorities. "The guards came in and saved him. It was the first time he attempted this in my block, then he was taken to another place. He appeared to be unconscious."

It was one of four suicide attempts by Mohammed while he was in Guantanamo. He was released in May and lives in the Swat Valley, on the far side of the Malakand Hills from Peshawar, a few dozen miles from Razaq's home. It is a district of God-fearing, conservative, cricket-loving yeomen, who are passionate about their land and liberty, and protective of their right to bear arms; the fields of sugarcane and tobacco are well tended, and prices in the gun shops are more reasonable than their counterparts in America. In the mornings, a crocodile of small boys in black berets, walking to school, stretches for miles.

Mohammed, who is 23 and a baker by trade, is 5ft 3in and light on his feet. He has been having nightmares ever since he came back. His face peers out from behind a lustrous black beard and long hair like a child hiding between the winter coats in a wardrobe. In Kandahar and Guantanamo, he was interrogated ten times. His face only lights up when you ask about fishing. He has been doing a lot of it — mostly for trout — since his return. The other day he caught a five-pounder with his Japanese rod. "The biggest damage is to my brain. My physical and mental state isn't right. I'm a changed person," he says. "I don't laugh or enjoy myself much."....

....In India Block, as the block of punishment cells is known, "there

were no windows. There were four walls and a roof made of tin, a light bulb and an air-conditioner. They put the air-conditioning on and it was extremely cold. They would take away the blanket in the morning and bring it back in the evening. I was kept in this room for one month. We'd ask them: 'Is this a sort of a punishment?' And the translator would say, 'No, this is being done on orders from the general.'....

....One of the few political statements to slip past the censors by a man still detained there is contained in a short postcard from a French prisoner, Nizar Sassi, to his family, dated August 2002. "If you want a definition of this place," he wrote, "you don't have the right to have rights.".... Because the roughly 660 detainees still on Guantanamo have no voice, and because the US has never explained case by case why it locked them up, the outside world has only the accounts of their families and the catch-all US definition of "enemy combatant" to understand who they are and why they are there.

Most were arrested in Afghanistan but many were handed over to the US by other countries.... The road for many detainees, including the small number who have since been released, began with, they claim, a non-combatant reason for being where they were when they were caught. Mohammed says he went to work for the Taliban as a baker; Razaq says he was a missionary. They were held by the Northern Alliance in northern Afghanistan, selected by the Alliance to receive a cursory interview from US special forces or the CIA, and flown to Kandahar, where they were held for weeks or months before being flown to Cuba....

....For the flight to Cuba, the prisoners were given the orange jumpsuits familiar from television footage of their arrival at Guantanamo. They were bound hand and foot, blindfolded, gagged and their ears were muffled. Once on board the military transport plane, their feet were chained to the floor, their hands bound to the handrests, and restraining straps stretched across their bodies. "The translator told us: 'Don't make any movement, don't worry, you are being taken home,'" says Mohammed. "I don't remember how many hours but we left at night from Kandahar and arrived in Cuba in the evening. We stopped somewhere and changed planes."....

....The bizarre set-up of Guantanamo itself, a fortified American toehold in one of the world's last outposts of communism, added to the sense of prisoners being cast into the centre of concentric circles of isolation. Cubans remember, if few others do, that the world's first concentration camps were built on their island by the Spanish in the 1890s....

....Swedish activists campaigning for the release of Mehdi Ghezali have used Sweden's freedom of information laws to obtain a censored version of a report by an intelligence officer, Bo Eriksson, on a visit to Guantanamo with another Swede in February 2002. It and other documents reveal that the US was so obsessed with security that it drafted in a Swedish-speaking US army officer to listen in on the meeting between the agents and Ghezali, and, even so, got an envoy in Stockholm to ask the Swedes for a copy of their report into the meeting that they had already listened in on.

"The cells measure approximately 2x3 metres with walls of wire

mesh, concrete floors and metal ceilings," wrote Eriksson. "Inside the cells, the detainees have a mattress, a blanket, a hand towel, a couple of buckets and water bottles made from soft plastic. Outside their cells, the detainees wear orange overalls and plastic slippers. Their freedom of movement is not restricted to the cells, although outside their cells they wear hand and feet restraints. The handcuffs are fastened to a belt around their waist allowing them only restricted movement with their hands and arms. [Ghezali] only just managed to drink water from a mug with hand restraints on...."

....In April 2002, the prisoners were moved to new accommodation, Camp Delta, and Camp X-Ray was closed. Their beards grew back. The new facilities, which make up the main part of the prison camp to this day, feature blocks of 48 cages each, with two rows of mesh cages separated by a narrow corridor. The blocks have no external walls, only a pitched roof; they stand on concrete bricks in areas of raked gravel surrounded by high, opaque green fences topped by razor wire. The cages are about as long and wide as a tall man lying down, and contain a metal bunk, a tap and a toilet. Besides this standard type of accommodation, there are at least six others. There is the more relaxed regime of Camp Four, where docile, cooperative prisoners are rewarded with dormitory-style living and free association with other detainees....

....One of the US justifications for holding the Guantanamo prisoners for so long in isolation is that they need to be interrogated for valuable intelligence. There has been an enormous amount of interrogation; each prisoner has typically been questioned between 10 and 20 times, which would, assuming interviews last 90 minutes on average, have generated some 15,000 hours of transcripts, containing perhaps 200 million words, the equivalent of around 250 Bibles. Yet, without exception, the detainees say they were questioned by different interrogators each time, and each time the questions were the same.... "They would ask: 'Where is Osama? Do you know any of the al-Qaeda leaders? Have you met them?' Things like that," says a former detainee. "They would not get angry with my answers. We would ask them and they would say: 'We don't know when you will be let free. Only our bosses know, we are here to do our job.'"

The Guardian

SC raps Modi again, warns of trial shift

HT Correspondent
New Delhi, November 21

THE SUPREME Court on Friday again rapped the Gujarat government for casual and inept handling of the riot cases and indicated that it could transfer the trials of at least 10 of these outside the state.

"If this is the state of affairs (in conducting the prosecution), we shall transfer all the cases," Chief Justice V.N. Khare remarked.

For now, the bench of Justice Khare, Justice S.B. Sinha and Justice A.R. Lakshmanan has stayed the trial in these cases, including the Gulbarga Society and the Naroda Patia massacres.

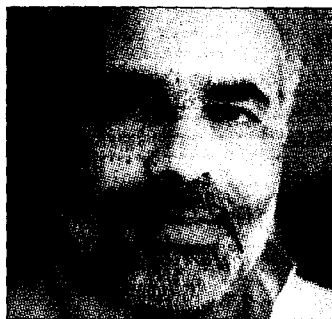
The court issued notices to the state government and the accused in 13 cases, including these ten sensitive cases, on petitions seeking their transfer outside the state. The respondents have been given two weeks to reply.

The National Human Rights Commission, the Citizens for Justice and Peace, an NGO, and other individuals had filed the transfer petitions on the ground that fair trial was not possible in Gujarat.

Friday's order came after amicus curiae (friend of the court) Harish Salve told the court that the prosecution had not opposed the release of the accused on bail in the cases. The CJI said it was the duty of the government to move a higher court if any accused were wrongly granted bail. Salve also produced several affidavits in which complainants had alleged that the public prosecutors owed allegiance to controversial organisations.

Salve made three suggestions to the court to ensure free and fair trial in all the riot cases in Gujarat. One, that a special investigating team of the state po-

Gujarat must explain



- ▶ In how many riot cases the accused were acquitted and in how many cases the state appealed to HC against this
- ▶ Why a special investigating team of state police should not probe riot cases under the SC's supervision
- ▶ Why committees of retired judges and lawyers shouldn't control selection of public prosecutors
- ▶ Why some of the riot cases shouldn't be transferred to courts in Maharashtra

lice probe the cases under the apex court's supervision. Two, local committees made of retired judges and lawyers be formed so that they can suggest candidates for appointment as public prosecutors in the riot cases. Third, the Supreme Court transfer some of the sensitive cases to courts in Maharashtra.

The apex court has sought affidavits from the Gujarat government on the suggestions. Narendra Modi declined to comment on the court order.

American justice on trial

Guantanamo Bay in the Supreme Court

News emanating from Washington that the Supreme Court of the United States of America has agreed to hear arguments on the territorial limits of American jurisprudence and whether American jurisdiction can be ousted by the simple expedient of indulging in violations beyond normal territorial limits, is heartening for all those who believe that the American system will survive Bush and Bushism. At issue is the gross violation of human rights and the fundamental principle that no one may be detained except by authority of law. America has leased Guantanamo Bay from Cuba, set up a detention camp there and is holding some 650 *al Qaida* suspects in conditions that beggar description. To describe these unfortunates as *detainees* not prisoners of war, is a piece of sophistry of which we should all be ashamed.

Nothing that is said here should be understood to be in defence of *al Qaida* and its dastardly aim to deal death and destruction to whoever it considers to be enemies of Islam. Surely the principle is that our concept of the rule of law and equality before the law must apply to everyone, not only to those who agree with us. A participant in a BBC talk show expresses it well when he says — *This is against everything America stands for. This is the land of the free, not the land of the killers!* It must be wrong to argue that our principles should only apply to those who agree with us and the rest are beyond the pale. If what free men stand for is to spread around the world, it must be true that it must apply to everyone not merely those who think like us.

Arguments that will be addressed to the Supreme Court are bound to include the question whether jurisdiction can be avoided by the simple expedient of taking these actions, which incidentally no one can defend, on soil that is technically not American. Surely land that is leased and over which America has total control as to the use to which it can be put is as much an American responsibility as say Washington DC or New York city. It cannot be argued that the detention camp there is by courtesy of Fidel Castro. If Castro protests, President Bush will be the first to point out that this is no part of his concern and invite him to mind his business.

It is a sobering thought that at least two cases have come to light where the *detainees* have had to be set free — one of a simple taxi driver in Afghanistan and the other a mere bystander in Iraq. In fairness it must be recognised that this has been at the instance of internal review procedures, not the result of any international pressure. But it is established nonetheless, that at least in these two cases, innocent people have been subjected to indescribable tortures in Guantanamo Bay for several months. At the same time they are a blot on American justice and would not have occurred if the jurisdiction of American courts had not been so crudely excluded.

We await the verdict of the Supreme Court of the United States with confidence.

THE STATESMAN

12 NOV 2003

12 NOV 2003

O-C suspended for lock-up death

9/11
Sukumar Deb Nath
Kolkata, November 8

THREE POLICEMEN, including an O-C, have been suspended and two people were arrested in Canning on Friday for the death of a local goon in custody last month.

Heday Mali alias Mollah was put behind bars on October 22. A day later, he was found hanging in his lock-up cell. Mali had used the lungi he was wearing to hang himself. Sub-inspector Sudhir Nandi had him examined.

Mali's pulse rate had dropped to 8 beats per minutes while the blood pressure couldn't be recorded. Medical officer Dr Ruma Roy referred him to Bagur Hospital, but Mali died on the way.

His relatives said the police delayed in taking him to hospital despite their ap-

peals. They also alleged that he was tortured during arrest and in custody. After the cops picked him up at Saptmukhi Haat, they made him stand in the sun and beat him up mercilessly.

The police said Mali was a cattle thief, a charge that his wife Marjina Biwi denied this and added that he was a CPM supporter. She alleged that the cops assaulted Mali even in custody.

Her brother-in-law Rahamat Ali complained against the policemen.

Acting on this complaint, the top brass has arrested ASI Tarapada Ghosh and constable Pradip Patra. The two have been sent to jail custody till November 21. Dhrubojyoti Banerjee, the O-C, was suspended while SI Nandi was transferred to Basanti. Locals claimed that Nandi was the main culprit but he got off lightly.

Guantanamo: notices to Pak., U.S. on compensation

HD-14
5/11
ISLAMABAD, Nov. 4. A judge ordered the Pakistan and U.S. Governments on Tuesday to respond next month to a suit filed by a former Guantanamo Bay prisoner claiming \$10.4 millions compensation for his detention, his lawyer said. Mohammed Sanghir (51) was captured in Afghanistan in 2001 after U.S.-led coalition forces launched operations to overthrow the Taliban regime and hunt down operatives of the Al-Qaeda terrorist network, held responsible for the Sept. 11,

2001 attacks in the United States. Mr. Sanghir was among 250 suspects rounded up in the northern city of Kunduz and transported inside shipping containers to a prison at Shibergan. More than 50 other people suffocated in the containers, said the lawsuit and news reports at the time.

Mr. Sanghir's suit says he was held in Shibergan for six weeks, guarded by 15 to 20 Americans, with inadequate food or medical care. He was freed from the U.S. detention facility in Cuba last November. His lawyer claims

Mr. Sanghir had been in Afghanistan to teach Islam, and was not involved in anti-U.S. activities. Mr. Sanghir is demanding \$10 millions for mental anguish and physical suffering during 10 months of interrogation and imprisonment, and \$400,000 compensation for damage to his business and for family debts incurred while he was in jail. After a brief hearing, the judge issued notices to the Pakistan Government and the State Department through the U.S. Embassy in Islamabad to submit their response on Dec. 12. — AP

NHRC puts TN, MP on notice

Statesman News Service

NEW DELHI, Oct. 17. — The National Human Rights Commission has taken into account two separate cases of “grave human rights violation” involving a Dalit woman of Tamil Nadu and a resident of Madhya Pradesh, who were allegedly forced to eat human excreta by a group of “upper caste” people and some policemen respectively.

Taking suo motu cognisance of these reports, the commission has issued notices to the Tamil Nadu and Madhya Pradesh governments, asking them to submit their replies within four weeks and three weeks respectively.

A 38-year-old Dalit woman, Muthumari, wife of a labourer Pitchai, was allegedly forced to consume human excreta in the presence of her husband and children after she spurned the “advances” of an upper-caste man, Raju, in their village, Keela

Urappanur, in Madurai district of Tamil Nadu. The accused also “splashed human excreta on the family”.

The incident reportedly occurred on 22 September when Raju allegedly tried to grab Muthumari’s hand. The victim managed to escape from Raju’s clutches and reached home. But, a group of 15 upper-caste people soon barged into Muthumari’s house and humiliated her family, besides trying to outrage her modesty. Raju’s wife was alleged to have thrown a bucketful of human excreta on them. The victims lodged complaints with police, but the accused are still at large. The second incident is related to police excesses in Ittoli village of Mazgawan area in Madhya Pradesh. Some policemen allegedly forced an accused Rajesh Tiwari to drink urine and take human and pig excreta. They also placed a shoe on his head, hung a placard with an offensive slogan around his neck, and paraded him across the village.

Human Rights

Saudi Arabia holds landmark meet on rights

RD-15
RIYADH, OCT. 14. Saudi Arabia hosted a human rights conference on Tuesday, the first in the conservative kingdom, which has faced international condemnation over its own rights record.

15/10
The Gulf state, the cradle of Islam, has come under harsh criticism from Western human rights groups for severe Sharia law punishments, including public beheadings, and for discrimination against women. They also accuse Saudi Arabia of torture and arbitrary detention without trial.

But the more controversial issues were unlikely to be addressed at the Human Rights in Peace and War Conference in Riyadh, organised by the Saudi Red Crescent Society.

The conference was officially opened on Monday night, while the speeches and debating sessions began on Tuesday. The organiser, Saleh al-Tuwaijri, said the forum would discuss issues such as human rights under Islam, implementation of international human rights laws and the rights of refugees.

"There is a misunderstanding between Islamic and Western societies and we believe the reason is a lack of intellectual contact. The more we can provide such contact, the wider the understanding for Islamic Sharia in the West," he said.

"The West regrettably now looks at Islam and Arabs through certain groups of Muslims defaming Islam and we must show them the real picture of Islam," he said, in reference to militant organisations such as Osama bin Laden's Al-Qaeda network.

Saudi Arabia, the birthplace of Osama, is under pressure from Washington to implement reforms and crack down on militants after the September 11, 2001 attacks on U.S. cities, carried out mainly by Saudis. Western critics blame Riyadh for allowing Islamic militants to seize on a lack of political freedoms to gain followers.

The Interior Minister, Prince Nayef, today rejected Western criticism of the kingdom's rights record as one-sided. "We are used to hearing such accusations but unfortunately, we never hear (the critics) when human rights... are violated by their own communities," Prince Nayef said.

He warned against protests — banned in the kingdom — during the forum after calls by exiles for vigils.

Riyadh has pledged more reforms, including improving job opportunities for women, and the Cabinet on Monday approved the country's first polls to vote for municipal councils. Saudi Arabia is an absolute monarchy and its laws are based on a strict interpretation of Islam.

Forum organisers said some Saudi women would speak about violence against women and women's rights, and that Amnesty International and other international human rights bodies would attend. Women in the kingdom are still not allowed to drive and cannot travel without a male companion.

In January, a team from New York-based Human Rights Watch became the first international independent human rights group to visit the oil-rich country and said then that Riyadh signalled its intent to implement tougher human rights standards. It said Riyadh was reforming its judiciary. The kingdom punishes theft with amputation of the right hand and beheads murderers, rapists and drug smugglers. — Reuters

THE HINDU

OCT 16 2002

NHRC's role is challenged

11/5
14/10/2

By Presley Thomas
TIMES NEWS NETWORK

Vadodara: The 21 persons, accused of killing 14 people in the Best Bakery massacre and who were later acquitted by the Vadodara fast track court, have challenged the role of the National Human Rights Commission (NHRC) and an NGO in the case.

One of the acquitted, Mahendra Jadhav, on behalf of others, has filed a counter-affidavit in the SC questioning the stand of the NHRC and of the NGO Citizens for Justice and Peace. The NHRC's petition led to the SC pulling up the state government which in turn had led to amend its appeal in the case.

Citizens for Justice and Peace on the other hand has been instrumental in the key witness Zahira Sheikh accepting that she had been threatened into turning hostile.

The affidavit states that the NHRC does not have the standing to file an instant writ petition. The only role the NHRC or the Centre for Justice and Peace can legally perform in cases like the Best Bakery is to provide legal advice to the victims or witnesses in presenting their cases before the high court, it adds.

Quoting a SC ruling in the case of Janta Dal versus H.S. Chaudhary (1991), the affidavit states that the SC has always frowned at public interest litigation in criminal cases.

If the aggrieved party has any grievance against the investigation or in the manner in which the trial has

been conducted, then the remedy lies under section 378 of the Code of Criminal Procedure, the affidavit adds.

Even if the state government's appeal was not satisfactory according to the complainant or the victims, they can challenge the acquittal in the high court independently under section 378 of the Cr PC, it goes on to say.

If the prosecution or the police were to provide protection to the witnesses against their will, they could

in turn be accused of intimidating the witnesses. If

they registered cases on their own against third parties for interfering with the witnesses, the court could have hauled up the state government for interfering in the administration of justice, states the affidavit.

Talking to TNN from Delhi, the lawyer for the 21 acquitted Lalit Chauhan said, "The accused also have rights to defend their case. I can't comment further."

However, Mahendra Jadhav said, "I know that an affidavit has been filed, but I don't know anything about the details of the affidavit."

"In the Best Bakery case the accused are virtually supported by lawyers connected with the BJP, VHP and RSS. This happens to be the main reason of the Gujarat government extending a whole-hearted support to them. Human right groups have entered into the case as it is a genocide which has been politically motivated," said Rohit Prajapati, a human rights activist.

**BEST BAKERY
CASE**

Pragyan
Jadhav

'He is emasculating the judiciary and marginalising opponents'

Rights body raps Musharraf

12/10
PRESS TRUST OF INDIA

NEW YORK, Oct. 11. Criticising the human rights record of four years of Gen Pervez Musharraf's rule in Pakistan, the Human Rights Watch has demanded the military ruler to stop harassment, torture and blackmail of political opponents, journalists and former government officials.

In a letter to the Pakistani President on the fourth anniversary of his seizing power in a coup, the US-based human rights watchdog agency charged him with emasculating judiciary and marginalising mainstream Opposition political parties and demanded he immediately restore democracy in the country. The letter also criticised Gen. Musharraf government for the continuing discrimination against women and minorities.

Raising concerns about Pakistan's collaboration with the USA in the "so-called" war on terror, it said the cooperation has been exemplified by a "disregard for due process". "Arbitrary arrests and detentions, allegedly with the support of the US authorities in Pakistan, have taken place with depressing regularity," it added. The last four years have seen the rise in activity by extremist religious groups and an increase in sectarian killing, it said, adding the military government's policy of marginalising political parties is partly to blame for it.

"Opposition legislators have told Human Rights Watch that they have been beaten, harassed and subjected to

OIC SUMMIT TO DISCUSS KASHMIR

PUTRAJAYA (Malaysia), Oct. 11. — Kashmir figured at a meeting of Organisation of Islamic Conference officials ahead of a next week's summit when its secretary general bracketed it with Afghanistan even as Pakistan plans to press for a resolution on the issue.

In his opening speech, OIC secretary general Mr Abdelouahed Belkeziz enumerated the "challenges" facing the Islamic religion worldwide, namely terrorism, globalisation, human rights and the campaigns against Islam and Muslims and said these required OIC's attention. "Others include the situation in Afghanistan, J&K, situation of Muslims in Azerbaijan, Philippines and Somalia as well as the economic situation in the Islamic world in many others."

OIC officials, who met here ahead of next week's summit, also called for the eviction of foreign forces from Iraq and blamed Israel for the worsening situation in Palestine. "The UN should take over the administration of Iraqi affairs in accordance with a clear and short timetable," Mr Belkeziz said. — Star/ANN & PTI

blackmail for opposing Gen. Musharraf's policies. In Pakistan, the judiciary has been emasculated, political parties rendered powerless, and extremist and sectarian religious parties strengthened under Gen. Musharraf's rule," said Mr Brad Adams, executive director of HRW's Asia Division. "Gen. Musharraf should transfer power to a legitimate government now."

The growing influence of extremist religious elements, it said, has impinged on the rights of women and religious minorities. Laws regarding rape and honor killings still discriminate against women.

"The number of blasphemy cases registered has risen while discrimination and persecution on grounds of religion persist. Adherents of the Shia branch of Islam have faced numerous violent attacks by Sunni Muslim militant groups," it added.

Pakistan's parliamentary

Opposition, the HRW said, has contested Gen. Musharraf's efforts to ensure that federal and provincial governments remain subordinate to the military. But the administration has sidelined the mainstream political Opposition and negotiated only with the Muttahida Majlis-e-Amal, an alliance of religious political parties that have historically enjoyed close links with military, it said.

Two soldiers killed: Two soldiers were killed and two wounded when gunmen fired on a jeep carrying paramilitary soldiers in a remote tribal region in southwestern Pakistan, police said today, AP adds from Quetta.

The attack occurred yesterday near a checkpoint of a paramilitary camp in Degari, a small town about 100 km north of Quetta. Nobody claimed responsibility for the shooting and police said they were still investigating.

Best Bakery: RSS spits fire at NHRC



A march by RSS workers in Bhopal on Saturday. — PTI

NAGPUR, Oct. 4. — The RSS today launched a tirade against the NHRC for “raking up” the Best Bakery case. RSS chief Mr K Sudarshan questioned the propriety of the NHRC approaching the Supreme Court when the accused were set free because the main eye-witnesses turned hostile.

In his annual address to swayamsevaks on the occasion of Vijaya Dashmi, Mr Sudarshan alleged that the NHRC was “raking up” the issue.

Wondering about the logic behind the NHRC asking the SC to conduct retrial of the case outside Gujarat, he asked: “Why had the NHRC remained mum about taking up with the Supreme Court the incident of the burning down of the whole of Radhabai Chawl in

Mumbai on 1 February 1993... in that case too, the accused were set free for want of evidence. Why did not NHRC come forward to take that case? Is it because those killed in the Radhabai Chawl episode were all Hindus?”

The RSS chief also flayed NHRC’s role after the 1984 anti-Sikh riots in Delhi. “After the assassination of Indira Gandhi, thousands of Sikhs were killed by mobs led by Congress leaders, but almost all the accused were set free because the prime witness had changed her statement.”

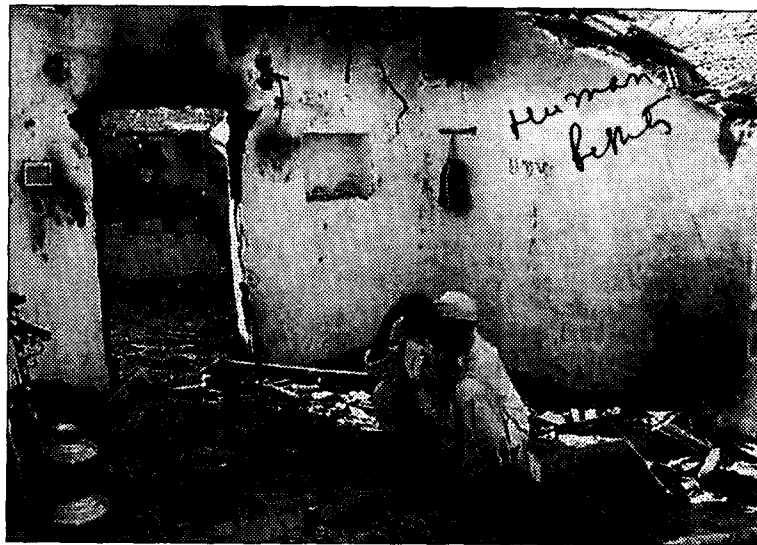
Mr Sudarshan also slammed the Madhya Pradesh chief minister, Mr Dohvijay Singh, for his call to Dalits to come out of the Hindu fold.

— PTI

Justice for Gujarat demands a new tribunal and special prosecution and protection agencies

Judging genocide

BY PRAFUL BIDWAI



HOME ALONE: Outside a house destroyed by mobs in Sasan Nava village, Gujarat

AS THE public awaits the Supreme Court judgment in the Best Bakery case with bated breath, we are fast approaching the 65th anniversary of Kristallnacht (Night of Broken Glass), the Nazis' infamous pogrom of Jews after a German diplomat's assassination in Paris. The comparison is not hyperbolic. Last year's butchery in Gujarat was 200 times greater in scale and much more bestial than Kristallnacht — the prelude to the gassing of 6 million Jews.

The Supreme Court's pronouncements last Friday — including its unsparing admonishment of Narendra Modi, its description of his government's appeal as an "eye-wash", and its declaration that "we have no faith in [Gujarat's] prosecution or government" — have raised hopes that it will take extraordinary steps to do justice to the victims of Gujarat.

Those hopes were buoyed by the judgment convicting the Bajrang Dal activist/supporter Dara Singh for the gruesome burning alive of Graham Staines and his two children. That this followed two eye-wash attempts, the first by a central ministers' group and the other by the Wadhwa inquiry, affirms the citizen's faith in the possibility of justice in India.

If Staines' murder belonged, as President Narayanan put it, to the "world's inventory of black deeds", the post-Godhra killing of 2,000 Muslims opened a disgraceful new book of horrors — unprecedented globally for a half-century, except perhaps in Rwanda and Bosnia. Special international tribunals are now trying those genocidal crimes. The post-February 27 Gujarat violence was unique in independent India. Never before did a state government collude so openly with communal thugs, rapists and murderers to target one religious group. (Indeed, it planned and organised some of the violence.) And never before did central functionaries, including the prime minister, so persistently shield the guilty by advancing the repugnant logic of "action-reaction" and citing non-existent "security threats".

There could be two opinions on whether the thoroughly condemnable Godhra episode was spontaneous or organised. (Evidence supports the first view.) But this is emphatically untrue of the planned, premeditated, systematic, violence that followed. In that danse macabre, thousands were torched or speared to death by frenzied anti-Muslim mobs. Horrific sexual violence was unleashed. Property worth hundreds of crores was destroyed/looted. Lakhs became refugees in ethnic cleansing in vast areas.

Crimes Against Humanity, the report of the Concerned Citizens' Tribunal, comprising eminent jurists and scholars, documents this after examining 2,094 statements and 1,500 witnesses. The pattern of violence shows the selective targeting of Muslims, inhuman forms of brutality, military precision and planning, the key role of the RSS, the BJP and the VHP-Bajrang office-bearers, use of Hindu religious symbols and complicity and participation of policemen and bureaucrats. This was planned, sustained and prolonged through hate-speech, intimidation and terror.

The defining characteristic of this violence was that Muslims were targeted simply because they were Muslims. The attackers' main slogans were: "Kill, burn, destroy their society, finish them off..." This highlights the genocidal nature of the violence.

Article II of the International Convention on Genocide, 1948, defines genocide as "any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group" like: "(a) killing [its] members; (b) causing [them] serious bodily or mental harm; (c) deliberately inflicting on the group conditions... calculated to bring about its physical destruction...; (d) imposing measures intended to prevent births within the group; (e) forcibly transferring [its] children... to another group".

Gujarat unambiguously fits the definition. The violence involved the (partial) physical destruction of a community; economic destruction; sexual assault as an instrument of domination and terror inspired by "dark obsessions" with destroying women's sexual organs; sabotage of relief and rehabilitation; and the publicly declared

intention to liquidate, mentally harm, humiliate and subjugate Muslims.

India is a signatory to the convention. This casts on it a duty to punish those responsible for genocide through a competent legal forum. This could be best done by creating a special independent national tribunal for hate-crimes and genocide. The Supreme Court must go beyond the specifics of the Best Bakery case to create this tribunal, composed of personnel selected by the Chief Justice of India, the prime minister and the leader of the opposition. Put in perspective, Best Bakery involved the killing of 14 people. Gulberg was much bigger (70), as was Naroda-Patiya (200).

Justice for Gujarat entails going beyond even these discreet cases. Its genocidal hate-crimes must be seen in their totality, not just as this or that case of murder, arson, rape or psychological subjugation. This means that there must be fresh investigation, re-framing of (wrongly dropped) charges, and re-trial.

Equally relevant are some related issues. Gujarat witnessed a fundamental, total, prolonged breakdown of the rule of law and the Constitution, in which the Centre became complicit. It refused to defend fundamental rights, or investigate or criticise the barbaric violence. Vajpayee first vaguely, mildly, criticised Modi, but soon started blaming the victims. Fanciful conspiracies were concocted to link Godhra to al-Qaeda and demonise Muslims. This continues. All 240 people charged under POTA in Gujarat are Muslims.

Because the Gujarat case is extraordinary, the court is called upon to do extraordinary things, the more because the government failed, and because the state ad-

ministration has little integrity or autonomy to conduct a fair trial. This entails the creation of new, independent investigation and prosecution agencies which take their directions from the Supreme Court. The trials must take place primarily outside Gujarat.

It is equally imperative to extend the prosecution to the links between the pogrom and the hate-speech which became part of Modi's electioneering — a clear case for invoking Section 153 of the IPC. These organic links concern the political use of hate-speech.

That still leaves a huge problem: How to ensure that witnesses survive Gujarat's vitiated climate and are not terrorised into changing their testimony? (Even Ehsan Jaffrey's widow was intimidated by Sangh parivar goons this week). This can only happen if there is serious, humane, rehabilitation and adequate protection for the victims through a comprehensive supportive infrastructure. The Gujarat government cannot be trusted to provide this.

The infrastructure should have come into being 18 months ago, but the governments of the day failed. In particular, the Centre refused to apply Article 356 and impose President's Rule when a constitutional breakdown was manifest. Thus, even the processes of recording and registering crimes, listing witnesses, collecting evidence, etc., got corrupted.

To rectify this, the Supreme Court must step into an area which is not its classical, normal, domain — simply because the ends of justice cannot be met in any other way. The court is empowered to do "complete justice in any cause or matter" before it by Article 142.

This might seem onerous. But there is no alternative to a comprehensive *sui generis* process of creating a national tribunal, and independent agencies for investigation and prosecution. We have failed far too often to bring the perpetrators of hate-crimes to book — to the point that the government's lawyer last week cited that failure as an excuse for condoning the Gujarat genocide! India cannot afford a culture of impunity for grave human rights violations and hate-crimes. That will make a cruel mockery of our democracy. Democracy is an empty shell without fundamental rights, norms of public accountability, representative institutions and the rule of law.

Letting the Gujarat culprits get away and papering over the gravity of what happened would be the surest way of destroying the constitutional edifice of governance — indeed, this society. The Supreme Court must not disappoint the public.

Best Bakery accused untraced

Govt act shameful, says Vaghela • Lawyers upbeat

Rathin Das
Ahmedabad, September 12

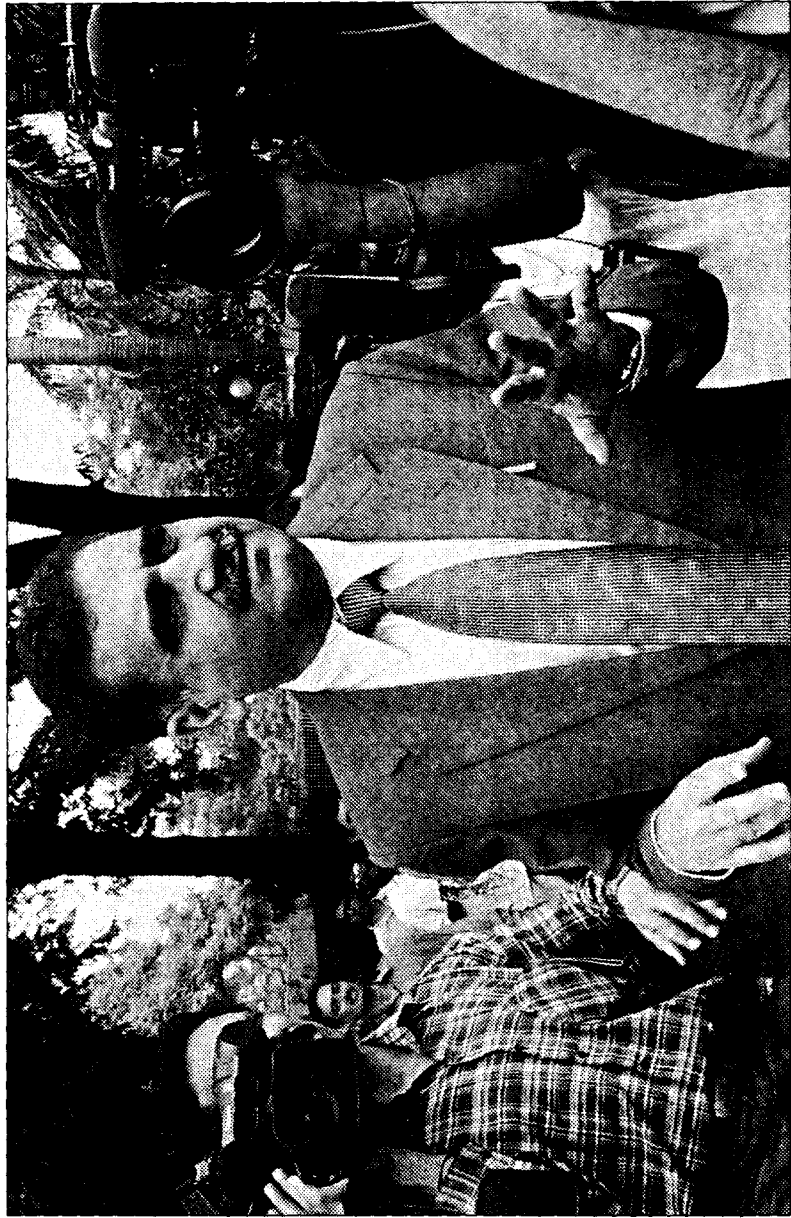
TWENTY-ONE PEOPLE acquitted in the Best Bakery massacre on March 14 last year are untraceable.

Sources in Vadodara said all these accused had already left for their native places in UP soon after the Supreme Court indicated its intention of considering the demand for a trial of the case outside Gujarat. It will be difficult to trace them as the retrial procedure requires serving of notices to the accused at their local addresses, a Vadodara-based lawyer said on Friday.

State Congress president Shankersinh Vaghela said Chief Minister Narendra Modi should decide whether to step down on moral grounds. "For the first time in history, Supreme Court has expressed such no-confidence in a state government", Vaghela said. He added it was "shameful" for the government.

Even as the court observation on the Best Bakery case came as a big jolt to the Gujarat government, the BJP maintained a stoic silence. Government spokesmen refused to comment on the SC remark before studying the actual judicial pronouncement on the matter.

The chief secretary and the director-general of police, who have been summo-



VINDICATED: The NHRC registrar comes out of the Supreme Court after the hearing of the Best Bakery case on Friday.

ned by the Supreme Court to be present on September 19, held a closed-door meeting on Friday afternoon with other senior officials to chalk out a strategy.

Though the state government is apparently unfazed over the apex court comment on its conduct, political

observers here believe it will have an adverse impact on the image of the state, especially in view of the vibrant Gujarat' global investors meet planned to coincide with the forthcoming Navratri festival. The ruling will influence the decision of global investors, too,

since international business leaders demand a "quick and reliable" justice system, said human rights activist Girish Patel.

"The state government's shameless strategy of filing an appeal in the high court to forestall the SC has actually boomeranged," he said.

Usually articulate BJP leaders refused to comment on the court observation. State BJP spokesman Nalin Bhatt said he would comment after studying the ruling. Legal luminaries in the state are upbeat since the ruling establishes the judiciary is very independent.

PTI

SC reserves order on Gujarat appeal

Press Trust of India

NEW DELHI, Sept. 1. — The Supreme Court today reserved its verdict on a Gujarat government appeal challenging grant of bail to four persons accused in the Godhra train carnage on the ground that as Pota had been invoked against them, the High Court had no jurisdiction to entertain their bail pleas.

A Bench comprising Mr Justice S Rajendra Babu and Mr Justice GP Mathur reserved their order on the appeal after hearing counsel for the Gujarat government, Mr Harish Salve and Mr Sushil Kumar, and the counsel for the four accused, Mr Amarendra Sharan.

The appeal pertained to grant of bail to Salimbhai Abdulgaffar Shaikh, Mohd Hussein Abdulrahim Kalota, Siraj Abdulla Jamsa and

Court to hear Zahira plea

Rights Commission and four other related petitions. The Bench was delivering its verdict on a petition filed on Zahira's behalf by the NGO — Citizens for Justice, Peace and others. Zahir a's petition was mentioned by the NGO's counsel, Ms Aparna Bhatt, when the NEHRC's SLP came up before the court. Zahira, a key witness in cases related to the post-Godhra riots in Gujarat, had sought retrial outside the state on the ground that "crucial evidence was shut out through threats and intimidation". — SNS



NEW DELHI, Sept. 1. — The Supreme Court (coram Khare, CJ, Sinha, A Kumar, JJ) today said it would hear Zahira Sheikh's plea for retrial of the Gujarat riot cases outside the state along with a similar petition by the National Human

Mohd Abdul Sattar Giteji, who were arrested in connection with their alleged role in the burning of the Sabarmati Express at Godhra on 27

even before invocation of Pota provisions and the High Court had entertained their bail petitions despite the prosecution contending that the bail pleas should go before the Special Court constituted to try Pota offences.

RSS on Ansari snap

NEW DELHI, Sept. 1. — Stung by a fresh round of publicity to the telling photograph of Qutubuddin Ansari as the face of post-Godhra violence in Gujarat, RSS has questioned the very authenticity of the story behind his tearful eyes and folded hands. The pro-RSS weekly, *Panchjanya*, in its latest editorial, said Ansari was not killed and yet became a front-page news. — PTI

February last year resulting in the death of 57 passengers.

The state argued that the sessions court had rejected their bail plea

A system on trial

The Best Bakery case highlights the need for new changes and use of old provisions

WE are prima facie of the opinion that the criminal justice delivery system is not in sound health." So said a three-judge Supreme Court bench headed by the chief justice on Friday, as it dealt with the NHRC's special leave petition on the Best Bakery case. The acknowledgement of systemic culpability is immensely welcome. And it is enormously reassuring that the court has decided to seize this moment to search for a larger response to the erosion of the criminal justice system. Because the Best Bakery case is not merely about assuring justice to the survivors and relatives of those who perished in the inferno near Vadodara in Gujarat 2002. It is not just about making sure that Zaheera Sheikh and others like her in Gujarat are not let down by the law and the court. This case is also about the absconding justice in the 1984 Delhi massacre cases. In which, 18 years and many commissions after, victims still wait for just resolution and closure. The Best Bakery case is important because it seems to have something to say about those unspectacular cases as well. Which may never make the headlines but in which the miscarriage of justice is just as total, just as inexcusable.

Cases, particularly sensitive ones, take forever to come to trial. As Chief Justice Khare pointed out, trials in most sensational cases are not started till witnesses are "won over". Witnes-

ses are defenceless, while criminals seem to have easy influence with the police and politicians. In this context, the court's direction to the Gujarat government to provide "full and complete" protection to witnesses in the riot cases, and to the Centre to report on the steps taken to implement the recommendations of the Malimath Committee, is entirely welcome. We need to look again at what Justice Malimath said in his report on judicial reform. We need to talk about assigning a more proactive role to the court "to search for truth". To frame a witness protection programme of the kind that exists in several countries. Make the changes in the police system without which such a programme could never be successful. Dust out the proposals made by the National Police Commission to free the force from political interference. Yes, we may need to frame new laws and amend the criminal procedure code.

But we also need to ensure existing laws and processes work. In the Best Bakery case, Judge Mahida failed to avail himself of statutory remedies that exist: Such as the power to hold proceedings in camera, or to recall and re-examine witnesses, or to order further examination. No, we do not need to invent a new justice system. Most of all, we need to keep alive our sense of scandal at the miscarriage of justice, each and every time it occurs.

Best Bakery: Gujarat moves HC

HT Correspondent

Gandhinagar, August 7

THE NARENDRA Modi government filed an appeal in the Gujarat High Court on Thursday, urging it to re-evaluate the judgment in the Best Bakery case by a fast-track court in Vadodara that acquitted all 21 riot accused.

The state government also filed another appeal — against the verdict of the Panchmahals district sessions judge acquitting one Sadiqbhai for attacking a Harijan hamlet in Lunawada.

The government's move comes a day before the Supreme Court is to hear a National Human Rights Commission petition, seeking retrial of the Best Bakery case outside Gujarat. It is clearly an attempt by the Modi government to keep the retrial

confined to Gujarat, at least for now.

Chief Minister Narendra Modi took potshots at the rights commission on Thursday, saying its move had raised a question mark on India's federal structure and would divide the society.

Modi had a few days ago tried to silence human rights groups and the Opposition by writing to the President that he should release details of all cases relating to earlier riots, including how many were convicted. But that effort didn't bear any result.

With Thursday's appeal, the BJP has effectively muffled its critics for the time being, for the Best Bakery case has become sub-judice again.

The appeal was filed in the high court by government pleader Arun Oza. The state government seemed to finally realise that the verdict of

the Vadodara fast-track court judge, H.U. Mahida, contained "flaws".

The government said that while pronouncing the acquittal orders on June 27, "the trial court had acted illegally and with material irregularities by not treating the statement of Zaheera Shaikh, the key witness, as an FIR right from the start".

The government pleader argued that the trial court in Vadodara had "materially erred in law" and had ignored a settled legal position that "merely because witnesses turned hostile the entire evidence could not be discarded in toto".

Mahida had said that all 21 accused were being acquitted for want of enough evidence against them. Thirty-five of the 70 witnesses in the case had turned hostile during the proceedings.

NHRC's legal limitations

Shahid Parvez in New Delhi

Aug. 6. — NHRC would like to intervene, as it has in the Best Bakery case, in cases like the 1984 Sikh killings. But it can't. The commission is hamstrung by the law which formed it.

Section 36(2) of the Protection of Human Rights Act, 1993 stipulates that the "commission (NHRC) or the state commission shall not inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed".

In the wake of its recent special leave petition in the Supreme Court for a fresh trial outside Gujarat in the Best Bakery case, the NHRC was criticised by, among others, BJP leaders and veterans of the Sikh community, who asked whether it would also take note of other equally serious cases dating back to the past decades.

A Sikh body has asked the commission to take up one of the 1984 anti-Sikh riots cases in which the senior Congress leader, Mr HKL Bhatgal, was acquitted. Kashmiri Pandits have also requested the commission to look into the killings the community suffered some years back.

The commission, aware of this and "other impediments in the Act, has already proposed major amendments, including the one relating to Section 36(2)," an official said. The commission has proposed to amend Section 36(2) to provide for inquiry into a complaint of human rights violation by national and state commissions even after the expiry of one year from the date of its occurrence, subject to "there being good and sufficient reasons for the same".

The commission had set up a committee under the chairmanship of Mr Justice AM Ahmadi to review the Protection of Human Rights Act. Based on the report of this high-level advisory committee, the commission had sent its proposals for amendments in March 2000 to the government, which is still "considering" them.

Gujarat BJP to protest NHRC move: The Gujarat BJP has decided to stage dharmas all over the state on Friday to protest against the NHRC move to approach the Supreme Court for trial of riot cases outside the state, SNS adds from Gandhinagar. State BJP president, Mr Rajendrasinh Rana, said party workers would stage protests in all district headquarters and submit memoranda to the district collectors.

Panel moves SC to shift Gujarat cases

Riot retrial cry reaches court

OUR LEGAL
CORRESPONDENT

New Delhi, July 31: The National Human Rights Commission today petitioned the Supreme Court to transfer key riot cases out of Gujarat and set aside a fast track court's verdict that acquitted all the accused in the Best Bakery massacre.

The acquittals had raised a big judicial question mark after main witness Zahira Sheikh, whose father was among the 14 people burnt alive by a mob on March 1 last year, publicly said she had been forced to lie in court.

The rights panel's petition requested that cases relating to the Godhra train burnings, Champanura Gulbarg society, where former Congress MP Ehsan Jafri was killed, and Naroda-Patia and Sadarpura — two of the worst affected areas — be shifted for "free and fair trial".

The commission said it was "deeply concerned about the damage to the credibility of the criminal justice delivery system and negation of human rights of victims" of the riots. It sought a directive that the cases be probed by an "independent agency".

The BJP frowned on the commission's extraordinary move, but the RSS and the VHP reacted with outrage. While the RSS said the rights commission "should not cross its mandate", VHP



Zahira

leader Praveen Togadia said the move to take riot cases outside the state carried "the seeds of partition in its womb". BJP chief M. Venkaiah Naidu said there has been no such precedent. "It will set a precedent."

The commission based its plea on the report of a team it had sent to Vadodara to record statements of a few survivors of the bakery massacre. This was after Zahira's accusation at a recent news conference in Mumbai that BJP MLA Madhu Srivastava had threatened her.

"Madhu Srivastava asked me to lie in court. There were threats all the time. Those who called repeatedly told us that my mother, too, would be killed if I didn't go back on my statement to the police..." Zahira had said at the news conference on July 7.

Her refusal to identify the 21 accused led to their acquittal, but the verdict of the fast track court was slammed by rights commission chairman A.S. Anand as a "miscarriage of justice". Zahira later appealed to the commission for help to reopen the case.

In its petition, the rights commission contended that "fair trial is a constitutional imperative" and "violation of a right to fair trial is a violation of a fundamental right under our Constitution" and also "violative of internationally recognised human rights". The commission said "whenever a criminal goes unpunished, it is the society at large which suffers because the victims become demoralised and criminals are encouraged".

The petition said it was "the duty of the court to use all its powers to unearth the truth and render justice so that criminals are punished".

The commission said it was "imperative in the interests of justice" that the apex court lays down "guidelines and directions in relation to protection of witnesses and victims of crime in criminal trials".

"This is essential in order to enhance the efficacy of the criminal justice delivery system," it added. If the apex court upholds the petition, it will create legal history in the country.

The Gujarat government refused to comment on the plea.

0 1 AUG 2003

NHRC concern over plight of under-trials

By J. Venkatesan 18-13

NEW DELHI, JULY 17. The National Human Rights Commission (NHRC) has expressed concern over the plight of under-trial prisoners and suggested regular holding of special courts in jails and their monitoring by the Chief Justice/senior judges of High Courts.

Pointing out that 75 per cent of the prisoners are under-trials, the Commission has suggested monthly review of such cases, releases on personal bonds and visits of district and sessions judge to the jails.

The suggestions are contained in a letter from the Chairperson of the Commission, Justice A.S. Anand to the Chief Justices of High Courts.

The Commission has found that a number of under-trials are languishing in jails even after being granted bail, simply be-

cause they are unable to raise sureties.

Mr. Justice Anand has suggested that these cases be reviewed after 6 to 8 weeks to consider their suitability for release on personal bonds, especially in cases when they are first offenders and the punishment is also less than 2/3 years. "Slow progress of cases in courts and the operation of the system of bail to the disadvantage of the poor and illiterate prisoners is responsible for the pathetic plight of these forgotten souls who continue to suffer all the hardships of incarceration although their guilt is yet to be established," Mr. Justice Anand has observed. An analysis of the prison population as on June 30 last year showed that 3,04,813 persons were in jails throughout the country, against the prison capacity of 2,32,412, indicating an overcrowding of 31.2 per cent and 75 per cent of them were under-trials. In some States and Union Territories such as Delhi, Jharkhand, Chhatis-

garh, Gujarat, Haryana and Bihar, the prison population is two to three times the total capacity of the jails.

The Commission has observed that in most States jails are overcrowded, the standard of sanitation and hygiene is poor, medical facilities are inadequate and the overall atmosphere is depressingly sad.

"Overcrowding which throws every system and facility out of gear is found to be the root-cause of the deplorable living conditions in our jails.

It constitutes a glaring violation of the basic human right to life, which means life with dignity," the Commission has said.

Mr. Justice Anand has requested the Chief Justices of all High Courts to keep the Commission informed of the action taken in this regard to enable it to circulate it to other States with a view to bringing about "uniformity" and "intensity".

Witness seeks Best Bakery trial outside Gujara

HT Correspondent
Ahmedabad, July 7

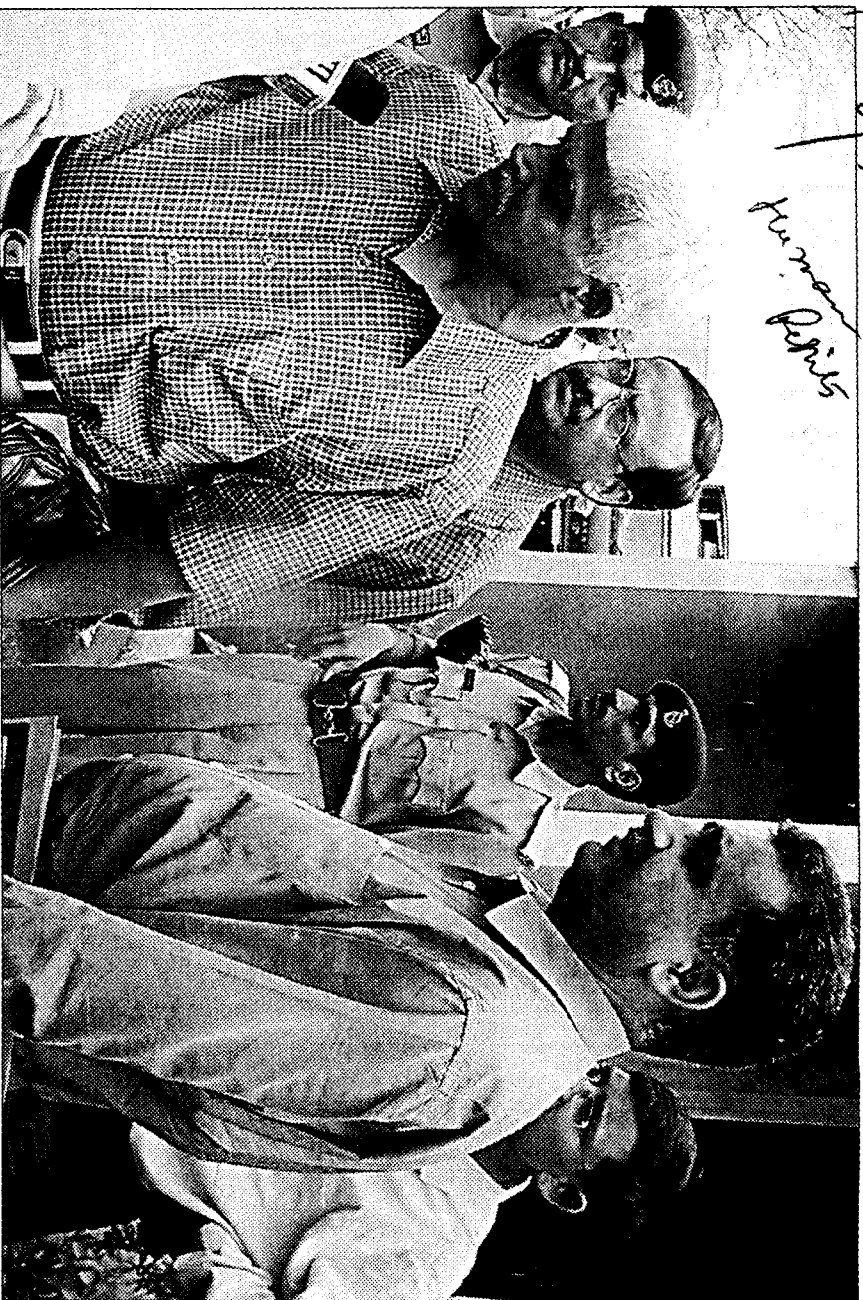
KEY WITNESS in the Best Bakery case Zahira Sheikh and her mother Seherunisa held a news conference in Mumbai on Monday demanding a re-trial of the case outside Gujarat.

They admitted they had turned hostile in the Gujarat court when the case was being heard because they had been threatened by BJP MLA Madhu Shrivastava and others.

Zahira and her mother (whose family and employees had died in the fire that had burnt down the Best Bakery in the post-Godhra riots) said they would never get justice in Gujarat as the public prosecutor, the police and politicians were all protecting the accused who owed allegiance to the ruling BJP, they alleged.

"I am too scared to return to Gujarat and want to stay in Mumbai. I want the case to be reopened and retried in Mumbai. The authorities in Vadodara are all hand-in-gloves with each other and I don't see justice being done to my family," said Zahira.

She said nobody not even the Muslims, helped her when it came to fighting the case in the court of law. "Some of them even demanded Rs four lakh from my family for legal expenses and they wanted the share of our riot relief. Apart from this, my family and I were constantly surprised by the accused to retract from our statements in the court. Since we did



NHRC members talk to journalists in Ahmedabad on Monday morning.

not get any help and were under threat, I chose to recognise the accused," admitted Zahira.

The mother and daughter were at the news conference with some NGO workers.

Teesta Setalvad, a member of the Citizens for Justice and Peace (CJP), an NGO, said the CJP would take up Zahira's cause and ensure the case reaches its

logical conclusion. Asked if such retrial was legally valid, advocate Mihir Desai of the CJP said, "It is theoretically and constitutionally valid, though it is exceedingly rare. The Supreme Court has the powers to this effect. There has been one such incidence in the past."

Meanwhile, a two-member NHRC team has come here in an effort to re-open

the Best Bakery case. The local Fast Track court has, for "lack of evidence", acquitted all 21 accused of burning to death 14 people on March 1 last year.

The NHRC team will visit Vadodara on Tuesday to examine the records of the court proceedings and to try meeting the victims' families and witnesses in the case. However, the state gov-

ernment has not reacted to either the judgment or the NHRC's visit yet.

An official said the government had not yet finalised its stand on the issue. "We are still studying the judgement," he said.

The NHRC team arrived here on Monday and were joined by the commission's rapporteur for Gujarat, P.J. Namboodiri.

BJP legislator denies allegation

Press Trust of India
Vadodara, July 7

BJP LEGISLATOR Madhu Shrivastava on Monday denied reports of issuing threats to Zahira Sheikh and her mother Seherunisa, witnesses in the Best Bakery massacre case, who had turned hostile due to alleged pressures.

Reacting to allegations levelled by Zahira at a news conference in Mumbai on Monday, Shrivastava said here that he had never met Zahira or her mother and had nothing to do with it.

Zahira had reportedly alleged that Madhu Shrivastava and local Congress councillor Chandrakant Shrivastava alias Bhatthru, had threatened them, which was conveyed through Lal Mohammed, another key witness in the case.

Additional district judge H.U. Mahida harped on the deposition of Lal Mohammed in his judgment which set free all the 21 accused in the case. Madhu Shrivastava said both Zahira and her mother have lost their mental balance and were levelling baseless allegations to tarnish the image of BJP.

"If they are Muslims and had taken oath by placing

hand on the Koran, why should they speak a lie in the court?" he asked. However, he admitted that he had been to court to meet another lawyer in connection with other legal matters but denied acquaintance with Lal Mohammed.

Meanwhile, Chandrakant Shrivastava demanded a mental check up of Zahira and her mother for changing their statements after the announcement of the verdict. "It is a part of a conspiracy to defame the Congress party", he said. Chandrakant said he had never met Zahira and her mother. In fact, it was he who had informed the police and the Fire Brigade about bakery incident, which, in turn, rushed to the spot immediately and took steps in controlling the situation, he added.

"Who will take statement of Zahira and her mother seriously as they keep on changing it. They are mentally deranged people", he alleged.

On June 27, a court in Vadodara had acquitted 21 accused in this case due to lack of evidence, mainly due to witnesses turning hostile. Twelve people were burnt alive in the bakery and two persons were reported missing.

NHRC team to study court records in Best Bakery case

By Manas Dasgupta

49-11 87

AHMEDABAD, JULY 7. A three-member team of the National Human Rights Commission arrived here today to study the records before the fast track court of Vadodara in the controversial Best Bakery case in which all the 21 accused were acquitted by the additional sessions judge.

The two-month long trial and the subsequent judgment in the Best Bakery case on June 27, the first in any of the post-Godhra communal riot-related cases in Gujarat, virtually set the tone for all such cases where the members of the minority community were burnt alive during last year's communal riots.

The NHRC had taken a strong exception to the acquittal of all the accused in the absence of any evidence and witnesses to testify the criminal acts during the riots. The NHRC team comprising its registrar, Ajit Bharihoke, the DIG (investigation), Sudhir Chaudhary, and its Ahmedabad-based special rapporteur, P.G.J. Nampoothri, called on the Acting Chief Justice of the Gujarat High Court, Justice J. N. Bhatt, to discuss the case.

Despite repeated efforts by the media, the team refused to disclose the content of its discussions with Justice Bhatt or about any other

details of its activities. Human Rights

The team would leave for Vadodara tomorrow where it would study "all the documents pertaining to the case including the judgement passed by the fast track court", Mr. Nampoothri said.

The additional sessions judge of the fast track court, H. U. Mahida, while acquitting the 21 accused in the Best Bakery case in which 12 persons were burnt alive and two others were reported to be missing, had passed strictures against the police investigation into the case and the alleged lack of police protection to the witnesses that led to almost all the 70 or so witnesses turning hostile. The fate of the case was almost sealed when the main complainant in the incident, Zahira Sheikh, turned hostile and either refused to recognise the accused or actually described them as "saviours" of other trapped Muslims.

'Gujarat Govt. can appeal'

PTI reports:

The Gujarat Government said it could appeal against the acquittal of the accused in the Best Bakery case. "The case cannot be reopened. The Government can appeal (before a higher court)," the Minister of State for Home, Amit Shah, told *Aaj Tak*.

NHRC team to vet Best Bakery case

Statesman News Service

NEW DELHI, July 3. — After asking the Gujarat government to submit a report on steps against the acquittal of 21 accused in the Best Bakery case, the National Human Rights Commission has decided to send a three-member team to Gujarat to “examine the records of the case, examine the judgement and all other relevant materials.”

The team, consisting of the NHRC registrar, Mr Ajit Bharihoke, DIG (investigations), Mr Sudhir Chowdhury and special rapporteur, Mr PGJ Nampoothiri, will have to submit its report within a week. In its order, the Commission said the team had been sent in view of the “seriousness of the issue involved in the order of acquittal in the Best Bakery case”.

Human Rights
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NHRC fiat to Gujarat on Best Bakery case verdict

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By Our Special Correspondent

NEW DELHI, JUNE 30. The National Human Rights Commission today directed the Gujarat Government to state what steps it intended to take against the acquittal of all 21 accused in the Best Bakery case.

Responding to media reports on the verdict, the Commission directed the Gujarat Chief secretary "to forward within one week a copy of the judgment of the trial court (and) also inform the Commission what steps, if any, the Government of Gujarat is preparing to take against the order of acquittal".

This is the third intervention by the NHRC in this case. In its report on the Godhra carnage last year, the NHRC recommended that the CBI investigate the killing of 14 persons on March 1, 2001 in Best Bakery in Vadodra's Hangman Tekri area.

Earlier this month, responding to media reports that the majority of witnesses/survivors had turned hostile, the Commission had directed the Director-General of Police to provide protection to witnesses/survivors so that they depose before courts and the Government-appointed commission of inquiry without fear.

Ring leaders 'roaming free'

By Sridhar Krishnaswami

WASHINGTON, JUNE 30. Human Rights Watch has charged that the ring leaders of the

"massacres committed in 2002" are still "roaming" free in Gujarat.

A 70-page report titled 'Compounding Injustice: The Government's failure to Redress Massacres in Gujarat' looks at the track record of the State authorities in holding those responsible for the events of 2002 accountable as also the issue of humanitarian relief to the victims of "state-sponsored" massacre of Muslims last year.

Human Rights Watch had urged the Central Government to take over the cases of the largescale massacre in Gujarat "where the State Government has sabotaged" the investigations. "The Government's records on the massacre is appalling. Sixteen months after the beginning of the violence, not a single person has been convicted," the author of the report, Smita Narula, has said in a statement.

"More than 100 Muslims have been charged under India's much criticised Prevention of Terrorism Act (POTA) for their alleged involvement in the train massacre in Godhra.

"No Hindus have been charged under the POTA in connection with the violence against Muslims which the Government continues to dismiss as spontaneous and unorganised", the report argued.

"Although the Indian Government initially boasted of thousands of arrests following the attacks, most of those arrested have since been acquitted, released on bail with no further action, or simply let go. Po-

lice regularly downgrade serious charges to lesser crimes — from murder or rape to rioting, for example — and alter victims statements to delete the names of the accused," it said, adding that in numerous instances with a view to covering up their own participation, the police have "instituted" false cases against men and women injured in police shootings.

On the issue of the displaced persons, it has argued that the living conditions of more than 100,000 people "continue to be grossly inadequate". Those interviewed for the report have told the organisation that they had received "negligible amounts" as compensation that ranged from a few hundred to a few thousand rupees.

Human Rights Watch has said that Hindus in Gujarat have suffered as well with thousands of small businesses owned by this community closed down during the violence and strongly condemns the September 2002 massacre of Hindus at Akshardham in Gandhinagar.

What is being pointed is that potentially explosive campaigns are currently under way in States such as Rajasthan and Madhya Pradesh. "Members of the Vishwa Hindu Parishad... are distributing weapons similar to those used in Gujarat as well as literature depicting Muslims as sexual deviants and terrorists. Members of both communities live in fear that a simple altercation could become the pretext for large-scale violence," it has observed.

ICRC barred
from seeing
Suu Kyi

YANGON, JUNE 18. The International Committee for the Red Cross (ICRC) said today the Myanmar junta had refused to allow it to see detained democracy leader, Aung San Suu Kyi, but had agreed to visits to all other Opposition members rounded up after violent clashes last month. The ICRC delegation head in Myanmar, Michel Ducraux, said after a meeting with the Home Affairs Minister, Tin Hlaing, that he was optimistic the organisation would be allowed to see Ms. Suu Kyi at a later date. "For the time being the access is denied," he told AFP. "We are hopeful and we continue to ask for immediate access to her." Ms. Suu Kyi was put under "protective custody" after the May 30 clashes during a political tour of northern Myanmar. Dissident groups say dozens were killed when National League for Democracy (NLD) supporters were attacked. — AFP

THE HINDU

19 JUN 2003

NHRC urged to probe 'disappearances' in Punjab

NEW YORK, JUNE 12. The National Human Rights Commission (NHRC) must fulfil its mandate to investigate "forced disappearances" in Punjab, the Human Rights Watch said on Tuesday.

Six years ago, the Supreme Court directed the NHRC to investigate 2,097 cases of illegal cremation in Punjab's Amritsar district. The NHRC is yet to hear testimony even in a single case.

The Human Rights Watch commended the Committee for Coordination of Disappearances in Punjab (CCDP), a Punjab-based human rights organisation, for its 634-page report documenting 672 of the "disappearance" cases currently pending before the NHRC.

The first volume of the report, 'Reduced to Ashes: The Insurgency and Human Rights in Punjab', is based on six years of research and was released in the United States on Wednesday. "Ending State impunity for abuses in Punjab

must become a priority," said Smita Narula, senior researcher for South Asia at the Human Rights Watch. "The NHRC has shown great courage and leadership with its work on the 2002 massacres in Gujarat. We hope it will do the same in Punjab."

The CCDP's report builds on the work of Jaswant Singh Khalra, a lawyer and human rights activist, who was abducted and "disappeared" in September 1995.

Mr. Khalra filed the initial public interest litigation petition that eventually led the Supreme Court to order an NHRC investigation into the illegal cremations. "Thousands of family members still await justice," said Ms. Narula.

"The CCDP report demonstrates that investigations into the abuses is possible, if the political will exists to hold the perpetrators responsible."

THE HINDO

13 JUN 2003

NHRC to probe 'atrocities' on Dalits in Haryana

By Our Special Correspondent

NEW DELHI, JUNE. 6. The National Human Rights Commission will investigate allegations of atrocities against Dalits in Haryana, which was raised in both houses of Parliament on May 5.

Acting on a complaint by the Lok Sabha member and former Home Minister, Buta Singh, the former Haryana Chief Minister, Bhajan Lal, and R.K. Punia, a retired civil servant and head of Janhit Sewa Sangathan, the Commission has directed its investigation division to "expeditiously" conduct an enquiry.

The complainants said that on February 10, about 275 Dalit families of Harsola in Kaithal district were beaten

and driven out of the village by the upper caste persons.

They alleged that this happened "in the presence of a large police force under the command of a Deputy Superintendent of Police" and that the local MLA, Ram Pal Majra, who was the Government's Chief Parliamentary Secretary, supported the attackers.

The Dalits returned to the village on February 20 only to leave a day later when their attackers were released on bail and were carried in procession through the village and the Dalit neighbourhood.

The local administration neither tried to solve the problem, nor pursue the criminal case against the accused.

The conduct of the Deputy

Commissioner of Kaithal, Anurag Aggarwal, the complaint said, was also questionable.

He had blamed the Dalits for the situation and told the media that the Dalits had not returned because they were indebted to some upper caste people.

The complaint said this had been found to be false, as also Mr. Aggarwal's other assertion that the Dalits were refusing to return as a ploy to get plots of land as compensation.

The NHRC said the allegations, if true, were of a very serious nature and showed "grave violation of the human rights of the Dalits of Harsola village".

It expects the inquiry report within three weeks.

Amnesty International slams India

By Hasan Suroor

LONDON, MAY 28. Amnesty International, in its annual report released here today, has pointedly included India among the countries considered guilty of widespread human rights abuses, particularly relating to its religious minorities.

The report, which focuses on the way the war against terrorism has been used by Governments around the world to curtail civil liberties, slams the Indian Government for "misusing" new anti-terrorist laws to "target" political dissent in areas of "armed conflict" — a reference to Jammu and Kashmir — and "elsewhere". It also says that the constitutional right of the minorities in the country to live as equals was "increasingly undermined by both government and non-state actors" during 2002.

"Religious minorities, particularly Muslims, were increasingly targeted for abuse," the report says and adds that the Indian authorities "failed" to protect the minorities from the communal violence which killed "hundreds" of people in Gujarat last year.

India is repeatedly lumped with Pakistan, Bangladesh and other countries in the region where human rights abuses "worsened" in the name of fighting terrorism and cracking down on crime.

"New and stringent security legislation which gives wide powers of arrest and detention to the police was misused to target political dissent in areas of armed conflict and elsewhere," it says referring to the sweeping powers acquired by the Vajpayee Government under the Prevention of Terrorism Act.

Releasing the report, Irene Khan, secretary-general of Amnesty International, said the way the "war" against terrorism was conducted had made the world a more "dangerous" place and people were more "insecure" today than at any time since the end of the Cold War.

"The war on terrorism, far from making the world a safer place, has made it more dangerous by curtailing human rights, undermining the role of (the) law and shielding governments from scrutiny. It has deepened divisions among people of different faiths and origins, sowing the seeds for more conflict. The overwhelming impact of all this is genuine fear among the affluent as well as the poor," she said in a summary of the report which documents human rights violations in 151 countries since the start of the U.S.-led war on terror after 9/11.

About its effect on Asia, the report said: "Human rights abuses worsened in many Asia-Pacific countries, particularly in the context of the war on terrorism as well as cracking down on

crime. In the name of combating terrorism, governments stepped up the repression of their political opponents and introduced sweeping and often discriminatory laws that undermined the very foundations of international human rights and humanitarian law in several countries including Pakistan, Malaysia, Indonesia, Bangladesh (and) India..."

Attacking the U.S. Government for "undermining" international law, the report says: "...while claiming to bring justice to victims in Iraq, the U.S. has actively sought to undermine the International Criminal Court, the mechanism for universal justice." It also criticises Britain and the U.S., without naming them, for invading Iraq in the name of destroying its weapons of mass destruction but doing "nothing... to stop the well-documented flow of arms that fuel conflicts and cause massive human rights abuses in many parts of the world".

It expresses concern over the post-war situation in Iraq and warns that there is a "very real risk that Iraq will go the Afghanistan way" where 18 months after the war ended people are still facing an "uncertain future". It portrays a bleak picture of the human rights situation worldwide and blames it on a very "narrow" interpretation of the "definition" of security by Governments.

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THE HINDU

29 MAY 2003

NHRC calls for report on blacklisted Sikh NRIs

By Our Special Correspondent

NEW DELHI, MAY 22. The National Human Right Commission today issued notice to the Union Home Secretary asking for a report on Sikh NRIs who had been blacklisted and denied visas "even on humanitarian grounds." The Commission was acting on information from the national Commission for Minorities that a number of Sikh NRIs had been blacklisted by the Ministry of Home Affairs "for shouting slogans outside Indian Embassies in 1984 during the Golden Temple episode."

The NHRC has asked the Home Secretary to report, in two weeks, on the total number of Sikh NRIs who were blacklisted by the Ministry for the reason cited by the National Commission for Minorities, the date when the list was last revised and the possibility of its expeditious revision.

Directive to Gujarat DGP

The Commission directed the Gujarat Director-General of Police to report to it on measures it had taken to protect last year's violence victims and witnesses who had to depose either in court or before the Government-appointed Commission of Enquiry. In its directive, it asked "whether

any measures have been taken to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses" and if measures had been taken then the nature of that protection which would "enable them to depose freely and fearlessly."

The directive comes in a week when survivors of the Best Bakery attack in Vadodara, who were the primary witnesses in the case, turned 'hostile' and Justice Nanavati, who heads the Commission of Enquiry told the media that he had so far not received any evidence implicating political leaders, Government officials, members of the VHP or the Bajrang Dal in last year's violence in which over 2,000 Muslims were killed.

The Commission said today that the right to fair trial was a constitutional imperative. The fairness of a trial necessarily includes "proper protection of the rights of the accused as also the capacity of witnesses to come forth and make true and faithful statements in respect of matters within their knowledge without any fear or favour." Stating that the directive comes in the light of its recommendations made in April and May last year, and because "critically important issues" are involved, the NHRC asked DGP to submit his report in two weeks.

23 MAY 2003

THE HINDU

U.P. Govt. 'insensitive' to rights violation cases: NHRC

By Our Special Correspondent

NEW DELHI, MAY 20. The National Human Rights Commission today said that the Uttar Pradesh Government's conduct in respect of cases of violation of human rights of citizens in general and custodial crimes in particular was insensitive. The State Government had repeatedly refused to honour the principle of 'interim relief' to victims of custodial violence. It lacked the 'requisite sensitivity' on the issue, despite the fact that its attention had been repeatedly drawn to the authoritative judicial pronouncement which established the principles of compensation and the States' obligation to pay it.

The Commission illustrated the Uttar Pradesh Government's attitude with a recent case of custodial torture in Bu-

landshahar. It had received a complaint in 2001, on behalf of Zameer Ahmed Khan, of police excesses and harassment. A report of the District Magistrate of Bulandshahar established the fact that Khan had been tortured while in police custody. Following this the Commission recommended payment of Rs. 20,000 as 'immediate interim relief.'

However, the State Government had responded to the NHRC directive by asking it to "reconsider" its recommendation on the ground that the victim had not suffered any "serious injury." The Commission, remarking on the insensitivity of the response, maintained that custodial torture even without inflicting any visible injury would justify award of compensation and disciplinary action against po-

lice personnel. The State Government again responded by saying that since there was "no allegation of financial loss" in the complaint of torture there was "no justification" to pay immediate interim relief.

Calling on the Uttar Pradesh Government to implement its recommendation immediately, the Commission said that the grant of interim relief was by way of compensation for the violation of human rights of the victim and not for "realisation of financial loss." The State Government had "conveniently forgotten the observations of the Supreme Court that 'custodial crime is perhaps the worst of crimes in a civilised society' and is enough 'to lower the flag of civilisation to half-mast' because custodial violence makes civilisation take a step backward."

NHRC takes J&K state to task over 'missing persons'

TIMES NEWS NETWORK

New Delhi: Disturbed over reports about the large number of "disappeared" people in Jammu and Kashmir, the National Human Rights Commission (NHRC) on Wednesday asked the state government about its system of recording allegations of enforced or involuntary disappearances.

The J&K government has also been asked to furnish details about the number of allegations of disappearances recorded by it, details of the system to investigate such allegations and the results of such investigations. The state government would also have to write about measures being taken to prevent the occurrence of enforced or involuntary disappearances and measures being taken to bring to book those who may have been involved in such disappearances. The J&K government has been given six weeks to respond.

While civil liberties groups allege that the bulk of disappearances are the result of covert arrests and ex-

tra-judicial killings by the security forces, the government insists most of those missing are terrorists who have crossed over into Pakistan.

In September 2000, the NHRC had taken suo motu cognisance of a news report in 'The Times of India' which stated that 2000 people between the ages of 10 and 70 disappeared from the Kashmir valley since 1990. The report referred to a document prepared by the Association of the Parents of Disappeared Persons (APDP). The commission issued notice to the state chief secretary and director-general of police as well as the secretaries of the Union home and defence ministries. The APDP was also requested to produce its document.

The APDP sent a list of 364 missing persons and told the commission that it was preparing an overall list of enforced/ involuntary disappearances in the valley since 1990. The NHRC forwarded the list to the Union home and defence ministries and J&K government, asking them to look into the matter and report

back.

The defence ministry claimed that army personnel had allegedly been involved in only 85 of the 364 cases mentioned by the APDP. It further said that of 85 cases, essential details were missing in the case of 29, thus rendering an investigation impossible. About the remaining 56 cases, the ministry later sent its comment on about 31 cases, indicating that it is continuing its effort to investigate the allegation since the information by the APDP was sketchy and lacked rudimentary details. The J&K government responded in respect of only 93 cases.

But the commission noted that since a variety of figures are being mentioned by different agencies, the state government should proceed with "care" and "coherence" on the vexed issue. Figures range from the APDP's 364 in 2001 to more than 8,000 in April 2003 to various statements reportedly made in the state assembly. On July 18, 2002, the then state home minister had mentioned that 3,184 persons were missing.

15 MAY 2003

THE TIMES OF INDIA

Prisons filled with undertrials: NHRC

By Anjali Mody

NEW DELHI, MAY 2. India's prisons are filled with undertrials, according to the National Human Rights Commission. Statistics compiled by its custodial justice cell reveal that 2,25,817 of 3,04,893 or 74.06 per cent of the total prison population, are those awaiting trial.

The States and Union Territories that lead the list are Dadra and Nagar Haveli, whose entire prison population is comprised of undertrials, followed by Meghalaya with 94.66 per cent undertrials, Manipur with 92.19 per cent, Jammu and Kashmir with 91.67 per cent, Nagaland 89.87 per cent, Uttar Pradesh 87.37 per cent, Bihar

86.27 per cent, Jharkhand 83.24 per cent, Mizoram 79.14 per cent, Karnataka 79.34 per cent and Delhi 78.52 per cent undertrials.

Andaman and Nicobar and Tamil Nadu recorded the lowest number of undertrials as a percentage of total prison populations with 24.05 per cent and 36.16 per cent respectively.

The total jail capacity in India is for 2,32,412 prisoners, which makes the total prison population 31 per cent higher than capacity. Delhi tops the list for States with overcrowded prisoners with 217 per cent more prisoners than it has room for. The other States that have prisons filled way beyond capacity are Jharkhand with a 165 per cent

overflow, Chhattisgarh 110 per cent, Gujarat and Haryana 100 per cent each, Bihar 74 per cent, Sikkim 72 per cent, Uttar Pradesh 70 per cent, Madhya Pradesh 66 per cent, Orissa 54 per cent Goa 39 per cent and Tripura 35 per cent.

The NHRC also found that 10,414 women were in jail in India, accounting for 3.42 per cent of the jail population. Mizoram leads with 10 per cent of prisoners in the State being women. This is followed by Tamil Nadu with 6.59 per cent of all prisoners being women and Dadar and Nagar Haveli with 6.45 per cent.

The Commission said children younger than 5-6 years are allowed to live with their moth-

ers in jail, and 1,369 women prisoners had their children living with them. But it does not say how many children in total are part of the prison population.

The only let-up in the grim lists of figures is the fact that in an international comparison of the number of prisoners per 100,000 of population India does well. It has 29.69 prisoners per lakh of population against 700 per lakh in the U.S. 650 in Russia, 400 in South Africa, 300 in Thailand, 132 in U.K. and 102 in Canada.

What the Commission does not say is that none of these countries has undertrials as the majority of their prison populations.

China criticises human rights report by US

Beijing: Countering the US State Department's global human rights report this week which flayed China for its gross violation of human rights. Beijing for the first time on Thursday linked the American-led unilateral war against Iraq with Washington's right to comment on the rights situation in some 190 developing nations.

In a report titled, 'The human rights record of the United States in 2002' pointed out that "the US is following unilateralism in international affairs and has frequently committed blunt violations of human rights in other countries."

The US has criticised other nations on human rights "when the US is facing condemnation from people of various countries in the world for unilaterally launching a war against Iraq," the report, published by the information office of China's state council. China's cabinet, said.

"The war, which has openly violated the purpose and principle of the UN charter,

has caused casualties of innocent Iraqi civilians and serious humanitarian disasters," the report said.

During the 2002 war in Afghanistan, the Americans dropped "nearly a quarter million cluster bomblets" causing more than 3,000 civilian casualties, the official Xinhua news agency reported.

"Hundreds of thousands of US troops are stationed overseas, and such troops have committed crimes and human rights abuses wherever they stay," it said.

The eight-part article, uses the latest published evidences to show that the US has been releasing annually country reports on human rights practices, censuring other countries for their human rights situations, but it has turned a blind eye to the serious violations of human rights on its own soil.

Pretending to be "the world's judge of human rights," the US once again assessed the human rights situations in over 190 countries and regions in the world.

4 APR 2003

THE TIMES OF INDIA

Rights: U.S. report angers China

Human Rights *KN-15* *2/4*

BEIJING, APRIL 1. Lashing out at the "double standards" of the United States in judging the human rights situation of other nations, China has urged Washington to stop interfering in others' affairs.

"We would like to take this opportunity to ask the United States not to interfere in other people's internal affairs, not to have double standards and not lose the trust of the people around the world," the Chinese Foreign Ministry spokesman, Liu Jianchao, said today. Commenting on the U.S. State Department's annual Human Rights Report, Mr. Liu noted that the report has disregarded the achievements made by China in the field of human rights. "We express our strong dissatisfaction and opposition to the U.S. report," he said while claiming that

the human rights situation in China has greatly improved over the years, and that this is a fact recognised by the international community.

The State Department said China's "human rights record throughout the year remained poor, and the Government continued to commit numerous and serious abuses." It also expressed concerns that Beijing would try to exploit the U.S. anti-terror campaign as a ruse to crack down on Muslim separatist dissidents in north-western Xinjiang province it regards as "terrorists."

The report also rapped the "axis of evil" foes Iraq, Iran and North Korea, for what it said were gross abuses of human rights. China is no stranger to U.S. criticism on human rights. — AFP

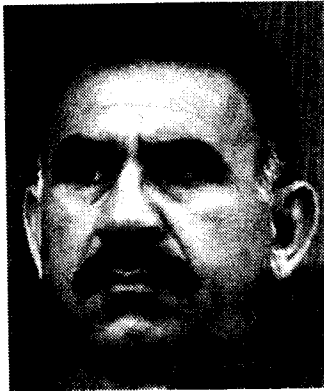
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'Ocalan's trial was unfair'

BRUSSELS, MARCH 12. Europe's top human rights court on Wednesday upheld a complaint by the Kurdish rebel leader, Abdullah Ocalan, that he did not receive a fair trial in a Turkish court.

"The Ankara State Security Court, which convicted the applicant, had not been an independent and impartial tribunal," said the European Court of Human Rights in Strasbourg, France.

On some of the other 11 complaints lodged by lawyers of the jailed rebel leader, the court ruled in



Turkey's favour.

It rejected charges that Mr. Ocalan's conditions of detention were inhumane or

that he had been illegally detained.

Both sides have three months to lodge an appeal.

One of Mr. Ocalan's lawyers said the court's decision backed what the defence lawyers had been arguing since the trial.

"This decision supports our arguments that the rights of the defence were violated, that we as lawyers were pressured, and that the trial was not fair," he said.

The panel of seven European judges awarded Mr. Ocalan 100,000 euro (\$110,000) in costs.

Mr. Ocalan was snatched

by Turkish commandos in Kenya in 1999 and flown to Turkey.

Turkey blames Mr. Ocalan for leading a 15-year insurgency against it that left 37,000 people dead. The rebels declared a cease-fire after his capture.

At his trial in 1999, Mr. Ocalan was sentenced to death. The sentence was commuted to life in prison last year when Turkey abolished capital punishment, but an appeal by opponents of Mr. Ocalan is pending in a Turkish court against that ruling.

—AP

1 3 MAR 2003

SEE FILED

NHRC notices on J&K massacre

Statesman News Service

NEW DELHI, March 26. The National Human Rights Commission has sent notices to the Centre and the Jammu and Kashmir government, after taking suo motu cognizance of the killing of 24 Kashmir Pandits in the state.

The Commission has asked the Union home secretary and the J&K chief secretary to prepare a "factual" report on the incident. The massacre took place on 24 March at Nandimarg.

Describing the incident as an

unspeakable act of violence, the Commission said that the act was testimony to the depravity of those engaged in terrorist acts and their indifference to human rights. The Commission said that the attack was "doubly reprehensible as it had taken place when efforts were underway to bring peace and reconciliation in J&K."

The NHRC took note of media reports that the victims were massacred despite the presence of a police picket. It has asked the Centre and state governments to indicate in their reports the meas-

ures which may have been taken. Yesterday, the Kashmir Samiti submitted a petition to the Commission relating to the incident which has been forwarded to the state and Centre who have been asked to submit reports.

Sonia directive: A day after her visit to the site of the Nandimarg massacre, Mrs Sonia Gandhi has asked Mr Ghulam Nabi Azad, and the Congress deputy chief minister Mr Mangat Ram Sharma, to look into the security arrangements for the people in the state and present a report to her.

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THE STATESMAN

NHRC notice to A.P. Chief Secretary

By J. Venkatesan

10-13
10/3

NEW DELHI, MARCH 9. The National Human Rights Commission has issued notice to the Chief Secretary of Andhra Pradesh on a complaint from a social activist and economist seeking compensation to the family of a farmer who died at the hands of forest officers.

The Commission has asked the State Government to respond within four weeks to the complaint from the president, Forum on Social and Human Rights, P. Pulla Rao, who sought a direction to the Government to pay compensation to the victim's wife and provide other relief.

According to the complainant, on January 29, Nageswara Rao was summoned by the local forest officers at a nursery in Veersettigudem panchayat, Kamavarapukota Mandal, West Godavari district.

He reached the forest around 4 p.m. and within two hours he was dead.

When the villagers came to know about Rao's death, they resorted to an agitation. Senior revenue officials assured that the culprits would be apprehended and action taken against them.

The victim's wife was also assured suitable compensation and rehabilitation measures

for her two children.

Dr. Pullarao complained that no action was taken against the culprits and no relief was provided to the family.

He urged the Commission to direct the Government to honour its public commitment — promise of land with financial compensation and education and welfare of the two children.

Further, he wanted the Commission to lay down guidelines on summoning of villagers by the Forest department staff and to fix responsibility on the delinquent officials for any violation thereof.

10 MAR 2003

THE HINDU

E.U. team warns Dhaka on rights situation

By Haroon Habib

DHAKA, MARCH 2. A European Parliament delegation to Bangladesh has warned that if the state of democracy, human rights and the rule of law in the country deteriorated, the European Union may block many of its programmes envisaged in the Cooperation Agreement with the country. "It has happened in Myanmar because of severe attacks on human rights there," the delegation leader, Thomas Mann of Germany, said while releasing a communiqué at the delegation office here recently. The Cooperation

Agreement signed on May 22, 2000, is based on ensuring mutual respect for human rights and democratic values, he noted.

Referring to a E.U. Parliament resolution adopted on Nov. 23, 2002, that raised concerns about the human rights situation in Bangladesh, the communiqué observed: "After four extremely dense days here, we are forced to confirm that many of the concerns expressed in it are still justified." The Khaleda Zia Government, however, had ignored the European Parliament's resolution, describing it as based on "wrong

information". The communiqué has obviously displeased the administration as it has also included strong words about the indemnity law that Parliament passed on Feb. 23.

"It is a blatant violation of the responsibility of Bangladesh to abide by the rule of law.

This indemnity law casts a doubt on the real nature of the system of Government of Bangladesh," as do the hampering of the work of the Election Commission, the denial of permission to create independent bodies to protect human rights and to fight widespread

corruption, it said, expressing serious concern at the recent custodial deaths and the subsequent passage of the bill indemnifying the armed forces for their actions during the countrywide anti-crime drive. "We have serious reservations about the indemnity. Nowhere in the world, forget about the Western countries, can deaths in custody be tolerated," the British parliamentarian, Robert JE Evans, said.

The European Parliament criticised the "Operation Clean Heart" of the Bangladesh armed forces and expressed concern over custodial deaths.

3 MAR 2002

Anand appointed NHRC chief

By Our New Delhi Bureau

NEW DELHI, FEB. 12. The President has appointed Justice A.S. Anand, retired Chief Justice of India, as Chairperson of the National Human Rights Commission to succeed Justice J. S. Verma, who retired last month.

The President also appointed another retired Judge of the Supreme Court, K. T. Thomas, to fill the vacancy caused by the retirement of Justice K. Ramaswamy. However, the Commission has one more vacancy to be filled.

A high-level committee headed by the Prime Minister, Atal Behari Vajpayee, at a meeting on January 27, cleared the names of Mr. Justice Anand and Mr. Justice Thomas and the former Chief Secretary of Madhya Pradesh, Nirmala Buch, for the three vacancies and sent them to the President.

The former Law Minister, Ram Jethmalani, had earlier written to the Prime Minister, and the Deputy Prime Minister, L. K. Advani, not to appoint Mr. Justice Anand in view of the alleged controversy surrounding his date of birth. However, Mr. Jethmalani's campaign came to an end when the President cleared the former CJI's name for the post.

Mr. Justice Anand joined the Bar in 1964 and practised in the Punjab and Haryana High Court. He was appointed a judge of the Jammu and Kashmir High Court in 1975. After serving as the Chief Justice of Madras High Court, he was elevated to the Supreme Court in November 1991 and became the Chief Justice in October 1998. He retired in October



2001. Mr. Justice Thomas, who has been appointed a member of the NHRC, retired in January last. He has pronounced several landmark judgments, giving a new dimension to the law of criminal jurisprudence. Presiding over a Division Bench, he had admitted a special leave petition in the 'TANSI case' involving the Tamil Nadu Chief Minister, Jayalalithaa.

The NHRC remains a member short after Ms. Buch today "withdrew" her name from the list sent to the President. Ms. Buch was censured by a judicial inquiry for not having taken necessary action to contain the communal riots in Bhopal in 1992. The inquiry was headed by the Madhya Pradesh High Court Judge, S. K. Dubey.

Ms. Buch was removed as Chief Secretary pending completion of the inquiry. The inquiry concluded that although she had been informed of the lack of necessary forces to control the riots, she had done nothing to augment the forces in time. Apparently after a query from the Rashtrapathi Bhavan, she was advised by her "well-wishers" to send in her regret.

Protecting killers

human rights Khaleda Zia is riding a tiger *SV8*

Not unexpectedly the recent ordinance by the Bangladesh president granting a general amnesty to the armed forces and law enforcement agencies for actions during their current countrywide drive against crime has evoked widespread condemnation both at home and abroad. And it is becoming louder by the day. The reason? It gives legal cover to prime minister Begum Khaleda Zia's personal decision to deploy armed forces without following the constitutional process besides providing a reprieve to those who in the name of fighting crime have indulged in mindless excesses including extra-judicial killings. The ordinance nullifies cases filed for killing about 50 innocent people in custody in 86 days. Some have been killed in fake encounters in cold blood.

More than 100 have been crippled for life because of inhuman torture. All this has unleashed a fierce outcry in the local press. But the deaths in military custody have caused the most concern. The military claim that all custody deaths were, in fact, caused by heart attacks has convinced no one. Irene Khan, herself a Bangladeshi and secretary general of Amnesty International, has demanded an independent inquiry into the allegations that most of the victims were tortured to death. As she rightly says, killing people in cold blood to improve Bangladesh's law and order situation is an unacceptable and indefensible proposition as it amounts to a gross violation of human rights. The government and the military must come clean through an independent inquiry as otherwise the people's faith in both would be badly shaken. She also ticked off Begum Zia for not holding an inquiry into large-scale persecution of the minorities in the wake of the parliamentary election. What was unprecedented was that the Amnesty chief openly accused Begum Zia's government of subverting the rule of law and democracy. She cited instances of how the administration and the government — controlled lower courts on "instructions from above" had violated High Court orders for arresting and torturing "political opponents and unfriendly columnists" like Muntasir Mamun and Shahriar Kabir without specific charges.

The Bangladesh Opposition, the media and international human rights groups have warned Begum Zia that she cannot avoid responsibility for custodial deaths and persecution. She is also blamed for tarnishing the military's image, which has earned kudos for its role in international peacekeeping operations. The military is afraid that the custodial deaths may dissuade the UN from requisitioning its services in future.

But what must cause concern is the granting of outright indemnity to the armed forces which is bound to make them more reckless and affect their discipline and professionalism and alienate them from the people. Some commanders want the military to immediately return to barracks; it is not their function to act as the police for an indefinite period. But their withdrawal means risking encouraging criminals resulting in an inevitable rise in the crime graph which Begum Zia can ill afford. Actually she is caught in a catch 22 situation of her own making. She has to figure out how to get out of the mess she has created.

29 JAN 2003

THE STATESMAN

Who will apologise to Gilani?

By Kalpana Sharma

human rights

SCORES OF questions about the false case against the recently released Kashmiri journalist, Syed Ifthikar Gilani, remain unanswered. These questions are likely to remain unaddressed as the case disappears off the news pages and is relegated to the archives. But what happened to Mr. Gilani should make everyone in the media sit up, particularly those who disagree with this Government's stated position on several issues, especially those pertaining to "national security". Those words are advisedly put in quotes as they carry different meanings for different people.

The first question that needs to be asked is how can a Government hold a man in jail for seven months on trumped up charges under the Official Secrets Act, disregard a report by the Military Intelligence confirming that the documents he possessed were not secret, and then blatantly withdraw the case without a word of apology? In a one-and-a-half page application, the government merely states, "Looking into the evidence on record and the circumstances, we are withdrawing the case in public interest". What circumstances? That the Government was shown up by its Military Intelligence? What evidence? Did it take seven months to establish what would have been known on Day One of the case? And what "public interest"? Whose interest was served by jailing Mr. Gilani? And who will compensate him for the loss of seven months of his life and livelihood? Who will compensate his young children and his wife for the pain and anguish caused by his unnecessary incarceration?

When asked whether the Government would at least apologise to Mr. Gilani, the Minister of State for Home, I. D. Swami, countered, "Withdrawal only means there is not enough evidence to prosecute him. It does not mean innocence or guilt." This is truly an astonishing statement against the background of what has happened in these seven months.

Of course, if we question the Government's motives, especially on issues that involve "national security", we are termed "anti-national". But as

journalists in particular, and as citizens of a country that constantly boasts about being the world's largest democracy, we must question the Government, its motives and its actions. And we must continue to demand that an outdated law like the Official Secrets Act is either scrapped, or thoroughly revised. In its present form, it allows the Government unfettered power to hide information that ought to be in the public domain and move against individuals it finds inconvenient.

What happened to Mr. Gilani is not necessarily an aberration al-

ments in Italy are of particular interest. In 2001, when anti-globalisation protestors gathered in the city of Genoa, Italy, where the G-8 meeting was being held, over 20,000 police and armed personnel were mobilised to manage the 100,000 protestors. A virtual "ring of steel" was formed around the city. Train stations and airports were closed and all roads leading into the city were watched. Despite this, thousands of anti-globalisation protestors managed to come into the city and demonstrated their opposition to the issues being discussed by

mits that planting the bombs was a "silly" mistake. But the repercussions for that mistake were borne by blameless men and women who were exercising their right to protest peacefully. Although all those arrested from amongst the protestors were eventually released, who will compensate them for the injury and trauma caused by police brutality?

Our Government's representatives have not acknowledged that they made a "silly" mistake in the case of Mr. Gilani. But the Government's callousness towards Mr. Gilani will have far wider repercussions. For, many people will have noted that even as the Government at the Centre shows such diligence in rounding up ostensibly "anti-national" elements, it seems oblivious to the fact that people against whom there are clear-cut cases of loot, murder, rioting are being let off. In Gujarat, almost every one of those charged for the carnage that followed the Godhra train fire is now free. At least one of these people, identified by scores of people as being part of the mob that attacked people in Naroda Patiya, has been elected to the Gujarat Assembly.

Also, the Gilani episode is a definite setback to efforts to work towards peace in Jammu and Kashmir for it reinforces the deeply held suspicions of many ordinary Kashmiris about the Central Government and its motives. A Kashmiri school-teacher and activist at the Asian Social Forum at Hyderabad earlier this month asked me, "Why, when we have finally elected a government under reasonably free circumstances, does the Delhi Government not allow it to govern?" She was referring to the continuous challenges to the Jammu and Kashmir Government's authority, and the questioning of its motives, by the Central Government.

And finally, the Government has shot itself in the foot by its handling of the Gilani case. It could not have done more to undercut its own credibility. Tomorrow, if people express scepticism when someone else is picked up and charged for being "anti-national", the Government has only itself to blame.

You do not have to be a Kashmiri or a Muslim to worry. Anyone who dissents from the dominant order today is under threat.

though his release might deter the Government for a while from using the same tactic to detain a journalist. It is not outside the realm of the possible to envisage a time when the Government's representatives, under any excuse, raid the offices of a newspaper, inspect the computers, and find supposedly incriminating documents on them. Many journalists rely on the Internet for information. We are constantly downloading all manner of documents, printing them or saving them for future reference. Once the state has decided you are "anti-national", every document you possess takes on a different hue. You do not have to be a Kashmiri or a Muslim to worry. Anyone who dissents from the dominant order today is under threat. If you have inconvenient politics, or inconvenient relatives, you better be alert.

Cooking up evidence is, of course, not unique to India. Many democracies resort to unsavoury methods to control dissidence, not least "the land of the brave and the home of the free", the United States. But fortunately, as in India, there still exist certain self-correcting mechanisms, like the judiciary, or honest people within government who bring out the truth.

In this context, recent develop-

the heads of state of the G-8 nations. Everything went off peacefully until, in a confrontation with the police, a young man was killed. The police shot him in the head. The 21-year-old, Carlo Giuliani, became the first martyr of the movement. That same night, police stormed a school where mostly Italian activists participating in the Genoa Social Forum were sleeping. They ruthlessly beat up the startled men and women, accused them of hoarding weapons, and arrested 93 people of whom 72 were severely injured. Many of them had to be carried out on stretchers.

The universal outrage at this incident led to a parliamentary inquiry. Last week, the Italian police admitted that they had fabricated evidence against the protestors. A senior Genoa police officer, Pietro Troijani, admitted that two petrol bombs were planted in the school where the Genoa Social Forum activists were living. This was used as the excuse to storm the school on July 22. Now that these facts have come out, three police chiefs have been transferred and charges against 77 policemen for brutality are being investigated.

The inquiry also revealed that a senior police officer had faked a stabbing of a policeman in order to frame the protestors. Mr. Troijani now ad-

U.N. troops ¹⁸¹ accused of rape

^{180-19 Human Rights}
FREETOWN (SIERRA LEONE), JAN. 17. Rebels, government troops and United Nations peacekeepers were all guilty of raping women on a systematic scale throughout Sierra Leone's brutal civil war, an international human rights group said on Thursday.

The mutilation of civilians was a trademark feature of the 10-year civil war, but Human Rights Watch said sexual abuse was much more common in the unstable West African nation.

"The war in Sierra Leone became infamous for the amputation of hands and arms" said Peter Takirambudde, the head of Human Rights Watch's Africa division. The group's 75-page report makes harrowing reading, with accounts of children being forced to rape grandmothers and fathers made to watch daughters being raped.
— *The Telegraph Group Limited, London, 2003*

THE HINDU

'USA turning blind eye to rights abuses'

Agence France Presse

WASHINGTON, Jan. 15.
— The USA has rejected criticism that it supports regimes that stifle human rights around the world in the name of its war against terrorism.

The Human Rights Watch released its 13th annual survey in which it accused the USA of turning a blind eye to repression in countries providing important support for the US-led campaign against terrorism. "The USA is far from the world's worst human rights abuser," said Mr Kenneth Roth, executive director of Human Rights Watch. "But Washington has so much power today that when it flouts human rights standards, it damages the human rights cause worldwide."

However, State Department Spokesman Richard Boucher said the USA has "made no changes to our policy of promoting democracy and freedom around the world."

Hijack hoaxer freed: A British tourist, Thomas Lilico, a 22-year-old university tutor, jailed after joking about hijacking an Australian airliner, walked free today as civil liberties groups assailed his harsh treatment as a "knee-jerk response" to fears of terrorism.

1 5 JAN 2003

THE STATESMAN

A crime against an Indian

THERE ARE only two possible responses to the government's decision to withdraw the case against journalist Iftikhar Gilani of the *Kashmir Times*. The first response is to welcome the decision. Mr Gilani is plainly innocent. Despite this, he has been humiliated, tortured and kept in captivity. The government has done the right thing by admitting that his arrest was a mistake and that the charges against him could not possibly be sustained — though, of course, it should have come to this conclusion several months ago.

But there is also a second response. The circumstances of Mr Gilani's arrest and the manner in which the police tried to frame him are a national scandal, one that should perturb every patriotic Indian. The principal charge against him was that he possessed a classified document. He was arrested under the Official Secrets Act. The media and Mr Gilani's lawyer were able to demonstrate that this document was widely available in India and elsewhere and that it could be downloaded from the net by anyone who wished to do so. Nor was the information contained in the document remotely secret — most of it had appeared in different forms in the media.

In any free country, Mr Gilani would have been set free once this had been established — even if a mistake had been made in first ordering his arrest. It says something about the Delhi Police that they ignored the rules of commonsense, continued to try and frame an innocent man, leaked lies

about his alleged treachery to the media and watched as a decent and helpless individual was assaulted and his life destroyed.

The home ministry also emerges from this sorry saga with no credit. Last week, the director general of military intelligence told the court what everybody already knew: the document found was not incriminating and the information was not classified. Even then, the home ministry stuck to its stand and actually disputed the army's claim. It's also time the archaic Official Secrets Act — first used by the British to crack down on freedom fighters — should be redefined. Parliament must debate the relevance of this act, especially after the Right to Information Bill has been passed. Besides, knowingly or unknowingly, in the course of his professional duties, a journalist may have access to all kinds of information from various sources. So should he be put behind bars for 'possessing' information?

The progress of these cases — like the Ansal Plaza shoot-out — raises serious questions about the manner in which the police are willing to trample on the rights of citizens in the name of national security. But India's security will never be protected as long as those in charge lie, frame innocent people, leak false stories to the media and seek to cover themselves in personal glory over the blood of innocents.

There must be an inquiry; somebody needs to be held accountable. Such crimes against Indians must not go unpunished.

13 JAN 2003

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TRIAL AND TRIBULATIONS

Human Rights

THE ORDEAL OF Iftikhar Gilani will end shortly, but who can return the seven months during which he was made to languish for no earthly purpose? The bizarre case of the Delhi bureau chief of the *Kashmir Times*, who has been accredited to the Government of India since 1996, is a tragedy of errors. It is a story of a bumbling and callous prosecution and an insensitive establishment that behaved heartlessly and took unconscionably long to redress what was an obvious blunder. The exact circumstances which led the Government to withdraw the case against the Kashmiri journalist are not fully clear; if anything, the timing of the withdrawal is a cause for surprise since it was only a few days ago that the Union Home Ministry had opposed Mr. Gilani's discharge plea. However, what is much more mystifying is why the Union Home Ministry continued to maintain — at the risk of absurdity and against the opinion of military intelligence — that the material recovered from Mr. Gilani's possession was prejudicial to the security of the country and violative of the Official Secrets Act.

The manner in which Iftikhar Gilani, son-in-law of the Hurriyat leader and hardliner Syed Ali Shah Geelani, became embroiled in this case is instructive. It began with a raid on the Kashmiri journalist's Delhi residence by the Income Tax Department, which around that time was conducting a joint probe with the police into the Hurriyat leader's source of funding. The journalist's problems really began when the Income Tax Department handed over to the special cell of the Delhi police a document downloaded from the hard disk of his computer that related to the deployment of Indian troops in Kashmir. Despite his counsel's plea that the allegedly incriminating documents were no state secret and that the Pakistani document on Indian troop deployment was available in libraries and could be freely downloaded on the Internet, Mr. Gilani's bail pleas were opposed. A chargesheet was finally filed in the case that suggested, among

other things, that Mr. Gilani was a Pakistani spy, a tax evader and had a possible connection to the assassination of the People Conference leader, Abdul Ghani Lone.

The first error was committed by the military intelligence, which said the documents in Mr. Gilani's possession were sensitive and contained information detrimental to the country's security. On what basis this mistaken conclusion was drawn is not clear. What is really shocking though is that even though the Director-General of Military Intelligence (DGMI) revised this early opinion and finally certified that the documents were of "negligible security value", the Home Ministry and the prosecution disregarded this, resulting in the suspicion that there was a conspiracy to prevent Mr. Gilani's release on bail. The really ironic twist here is that the positions staked out by the Home Ministry were seemingly at odds with that of the Union Home Minister, L.K. Advani, who, reportedly on more than one occasion, had privately expressed the view that the case against Mr. Gilani under the Official Secrets Act was false and unsustainable.

The manner that this case was handled, from institution to withdrawal, has done nothing but cause damage. On one side, there is the trauma inflicted on Mr. Gilani and members of his family, who have suffered because of the flawed and misguided attitude of officials. At another level, there is the injury inflicted on the image of the nation. Recent events have only reinforced early suspicions that the Official Secrets Act was slapped against Mr. Gilani only because the police failed to find any other evidence against him. Handling a case in this manner will only encourage people to believe that Mr. Gilani's real crime is that he is the son-in-law of the separatist Jamait-e-Islami leader, Syed Ali Shah Geelani. For a Government that proposes to engage representatives of Jammu and Kashmir in a dialogue, a case like this will only create doubts about the seriousness of such an endeavour and its true objectives.

THE HINDU

1371

Devaluing the NHRC

By Rajindar Sachar

The Government of India and State Governments of all political hues continue to be indifferent to remedying the deficiencies in the working of the National Human Rights Commission.

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THE ANSAL Plaza incident has pitchforked the National Human Rights Commission (NHRC) into the centre of uncalled for controversy. Its critics have seized the opportunity to attack the Commission's jurisdiction — some have even gone to the extent of calling it a National Commission for Terrorists. This is slander. Such criticism goes against the very core of our Constitution which enshrines the fundamental rights to life.

It may be sobering especially for young critics to inform themselves of the compelling international pressure which forced the Central Government to legislate the Protection of Human Rights Act, 1993, notwithstanding the reservations of the Executive and the bureaucracy.

In a background note on the imperative need for setting up the NHRC, Government of India itself emphasised "that National and International organisations in this field have been highlighting alleged violations of Human Rights by various Government functionaries. There is a growing feeling that the Government is not serious about such violations and excesses and bringing the guilty persons to book. Against this background, any impression of Government's lack of seriousness on the issue of Human Rights is a matter of serious concern and needs to be dispelled."

Notwithstanding the above, the Government of India and State Governments of all political hues continue to be indifferent to remedying the deficiencies in the NHRC's working. To improve its functioning, the then Chairperson of the NHRC, Justice Venkatachaliah, constituted a Committee of some of us under the Chairmanship of the former Chief Justice of India, Ahmadi. Based on the Committee's report, the Commission sent its recommendations to the Ministry of Home Affairs on March 7, 2002. The NHRC considers these proposed amendments absolutely essential if its purpose of safeguarding human

rights is to be served.

In the present Act, the Armed Forces have been defined to include all the security agencies, including the BSF and the CRPF. Section 19 permits the Commission only to send reports to the Centre with regard to the Armed Forces; it cannot on its own take any action. This is a big drawback considering that most of the Human Rights violations are done by these security agencies. The recommendations, therefore, suggest that Armed Forces should mean only the Army, the Navy and the Air Force thus striking a balance between the felt need to keep the Armed Forces outside public controversy and the people rights (though some of us would want to include the Armed Forces too within the Commission's jurisdiction). It may be noted that the present provision excluding paramilitary forces is the subject of adverse comment, which affects the NHRC's credibility and calls into question the Government's commitment to human rights.

At present, the only qualification for the two members of the public to be appointed to the Commission is that they should have knowledge or practical experience in matters relating to human rights. This is too vague. The amendment suggests that they should be persons who are working or had worked in the field of human rights so as to make certain that the composition of the NHRC shall ensure that the Commission reflects the pluralist character of society. Another important amendment suggested is that the chairperson who is at present kept out of the selection of the members be included in the selection committee.

Section 11 is sought to be amend-

ed to provide that the staff for the NHRC be made available with its concurrence, to stress its autonomy. The present provision that the Commission can visit a jail only after intimation to the State Government is also sought to be deleted. Power is sought to be given to the Commission to recommend to the Government for grant of interim relief to a victim during the pendency of the inquiry, where there is a *prima facie* case for giving relief. At present, Section 19 only requires the Central Government to inform the Commission of the action taken on its report. In order to give more teeth to NHRC's report, it is proposed that if the Government does not accept the recommendations, it shall communicate the reasons for its inability within three months and that the Commission shall consider the same and make final recommendations.

The annual reports of the Commission are to be laid before Parliament. But Parliament has unfortunately not yet even discussed the report submitted for period ended March 2000. As the Commission can publish its report only after it has been discussed in Parliament, it is suggested that the Government shall within three months from the date of report cause it to be laid before Parliament with the action taken on the recommendations. And where such a report is not laid before Parliament within that period it shall be open for the Commission to publish it. Shockingly, even after a lapse of two years, the Government continues to maintain a studied silence and the work of the Commission continues to suffer.

The Commission consists of Chairperson who is a retired Chief Justice of India and four members —

a former Judge of the Supreme Court, a former Chief Justice of a High Court and two persons having knowledge in matters relating to human rights. The appointments are to be made by the President on the recommendation of a Committee consisting of the Prime Minister, the Speaker of the House of People, the Union Home Minister, Leaders of the Opposition in the Lok Sabha and the Rajya Sabha and the Deputy Chairman of the Rajya Sabha.

But such is the total indifference of the Central Government to the functioning of the Commission that even its full strength is not maintained. One member, Sudarshan Aggarwal, retired about two years back and another, Justice Ramaswamy, retired on July, 2002. Both these posts are still unfilled. It is distressing that even the Leaders of the Opposition should not have taken up this matter which touches on the human rights of the common person. But then the Opposition at the Centre has its Government in various States and, as figures reveal, in the matter of violations of human rights, Governments of various political hues are equally guilty. The total number of complaints registered in the Commission in 1999-2000 was 50,634 — Uttar Pradesh accounted for the most complaints, 56.5 per cent. Bihar followed with 4,409 complaints, and Delhi was third, with 3,077 complaints. As for custodial deaths, there were 1,093 in 1999-2000. Maharashtra had the highest (30 deaths) followed by West Bengal (19).

The indifferent attitude of the Central Government is further highlighted by the fact that the present Chairperson, Justice J.S. Verma, is to retire by January 18, 2003, and there is no announcement as yet of his successor. Considering that, under the Act, the choice is limited to three available retired CJIs, this delay seems a deliberate attempt to devalue the institution. A sad commentary on the present state of political morality.