
SACH

SOUTH ASIAN COMPOSITE HERITAGE

MAY—JULY 2011 ■ VOLUME—1 ■ ISSUE—23

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In the previous issue of SACH we presented poems from Afghanistan. The poems reflected the agony and pain of the land and its people are faced with. In this issue we have Habib Jalib, who transcends the boundaries of nations and talks about the pains and agony of all people across the region. Though he belonged to Pakistan and country of his birth was fighting fierce battle to keep its territorial boundaries intact in the face of uprising in the then East Pakistan in 1971, the oppression and agony of the people in 'East Pakistan' was equally painful to the peoples' poet that Habib Jalib was. This can be seen in the first poem. The second poem again shows how Habib Jalib always related to people instead of those sitting in Corridors of power. 'God is ours', is a symbol of people's power and power for people.

Jalib is truly a symbol of compositeness in South Asian region.

[I] The Garden Is a Bloody Mess

This poem is about the oppression in East Pakistan in 1971

Our eyes yearn for greenery
The garden is a bloody mess
For whom should I sing my songs of love
The cities are all a wilderness
The garden is a bloody mess

The rays of the sun, they sting
Moonbeams are a killing field, no less
Deep shadows of death hover at every step
Life wears a skull and bone dress
All around the air is on prowl
With bows and arrows, in full harness
The garden is a bloody mess

The battered buds are like a sieve
The leaves drenched in blood smears
Who knows, for how long
We'll have this rain of tears
People how long do we have to bear
These days and nights of sorrow and distress
This oppressor's blood bath is a frolicsome play
For the mighty of the world, a mark of their prowess
The garden is a bloody mess

[I] Bagiya Lahoo Luhan

Haryali ko aankhen tarsen bagiya lahoo luhan
Pyar ke geet sunaon kis ko shehar hue weeran
Bagiya lahoo luhan

Dasti hain suraj ki kirnen chand jalaye jaan
Pag pag maut ke gehre saye jeewan maut saman
Charon ore hawa phirti hai le kar teer Kaman
Bagiya lahoo luhan

Chhalni hain kaliyon ke seeney khoon mein lat paat
Aur nahjaney kab tak hogi ashkon ki barsaat
Dunya walon kab beeteinge dukh ke yeh din raat
Khoon se holi khel rahe hain dharti ke balwan
Bagiya lahoo luhan

[II] God is Ours

Addressed to religious hucksters of any
denomination and the system they
defend – translator's note

God is not yours, to Him we have access
He does not look kindly on those who oppress

How long, you men of pelf, will you bleed us white
Get off our backs, you who in filthy lucre take delight
You satans it is dust that you will soon bite
We believe that He treats mankind with loving
tenderness
He does not look kindly on those who oppress

Light of new wisdom we are going to see
A fire flares up, seeing our agony
In this new magical dawn will burst forth the
blossoming tree
He brings hopes to those who are mired in distress
God is not yours, to Him we have access
He does not look kindly on those who oppress

We'll break the shadowy spell of fear and dread
Onwards we will march, chains of despair we will
shred
We'll not betray the hopes of the people, our dear
kindred
And long we will remember this time of duress
He does not look kindly on those who oppress

[II] Khuda Hamara Hai

Khuda tumhara nahi hai khuda hamara hai
Use zamin pe yeh zulm kab gawara hai

Lahoo piyoge kahan tak hamara dhanwano
Badhao apni dukan seem-o-zar ke deewano
Nishan kahin na rahega tumhara shaitano
Hamein yaqeen hai ke insaan usko pyara hai
Khuda tumhara nahin hai khuda hamara hai
Use zameen pe yeh zulm kab gawara hai

Nai shaoor ki hai roshni nigahon mein
Ek aag si bhi hai ab apni sard aahon mein
Khilenge phool nazar ke sahar ki bahon mein
Dukhe dilon ko isi aas ka sahara hai
Khuda tumhara nahin hai khuda hamara hai
Use zameen pe yeh zulm kab gawara hai

Tilism-e-sayah-e-khauf-o-hiras todenge
Qadam bandhayenge zanjeere-e-yaas todenge
Kabhi kisi ke na ham dil ki aas todenge
Rahega yaad jo ehd-e-sitam guzara hai
Use zamin pe yeh zulm kab gawara hai

Jinnah's Speech in the Central Legislative Assembly on September 12 and 14, 1929

Sir, one is placed somewhat in a difficult position when one has got to deal with a speaker like the last one. It was his maiden speech, and it is the tradition of this house, that when a Member makes his maiden speech, he is in a privileged position and is not to be attacked. Whatever reasons or grounds, therefore, he may have given me for criticizing him. I will not wish to depart from that tradition which, I think, ought to be maintained in the House, but I would say this, that in his concluding portion he remarked that the Hon'ble Members may have admiration and sympathy for the accused in the Lahore case. I think I am speaking on behalf of a very large body of people when I say that, if there is sympathy and admiration for the accused, it is only to this extent, that they are the victim of the system of government. It is not that we approve or applaud their actions if they are guilty, which still remains to be proved. If they are guilty of the offences of which they are charged, then I am sure it is not that we admire them or approve of their actions, but, on the contrary. I am sure a large body of thinking people feel that these young men, whatever be the provocations, are misguided in resorting to actions for which they now stand charged.

Now, sir, the Hon'ble Home Member asked the House that we must approach this question without prejudice, and impartially. Sir, I am sure the Hon'ble Home Member himself tried his best to follow the same principle, but has he been able to apply the same principle when he brings this before the House? Do the facts justify that? The last speaker, whom I am not going to attack, almost gave away the case in his concluding remarks when he said that the only way to break the hunger-strike is to pass this Bill.

Well, I am not concerned at present so much with the account that was given by the Hon'ble Member with regard to the treatment in jails of various classes of prisoners, but one thing is clear, and it is this. From the statement that was issued by Bhagat Singh and Dutt, what is an admitted fact now, even from the speech of the Hon'ble Member who spoke last, is that they were not

given the treatment-not on racial grounds-but according to the standard and the scale which is laid down for Europeans in the matter of diet and bare necessities of life. It is not a mere question that they want to be treated as Europeans. As a matter of fact, according to the admission and the definition given by the Hon'ble Member who spoke last on behalf of the Treasury Benches, so far as I know, Bhagat Singh and Dutt were topees, and their figures appeared in shorts. Therefore, they ought to have been treated as Europeans. The Hon'ble Member in reply to a question said that whether the man is a European or an Indian-and he accepted the definition of my honourable friend Mr. Neogy-if one wears a topee, then one is a European for the purpose of jail rules. Then why should you not treat Bhagat Singh and Dutt. Who wear topees and European clothes, as such for the purpose of treatment in jails? Why do not the Punjab Government give them the treatment that they are entitled to, at once, and be done with? They wear topees and they are entitled to that treatment.

What do they say in their statement which was read out? This is what they say:

"We, Bhagat Singh and Dutt, were sentenced to life transportation in the Assembly bomb case, Delhi on 19th May, 1929. As long as we were under-trial prisoners in Delhi jail we were accorded very good treatment and we were given good diet. But since our transfer from the Delhi Jail to Mianwali Jail and Lahore Central Jail,-

Which is represented by the Hon'ble Member, who spoke last-the Punjab seems to be a terrible place...

Mian Muhammad Shah Nawaz (West Central Punjab): Don't go there.

M.A. Jinnah: I won't. To continue what they say:

"We are being treated as ordinary criminals".

So, in Delhi they received very good treatment and in the Punjab they are treated as ordinary criminals. Surely, Sir, if the Government of the Punjab was not wanting in statesmanship.

If the government of the Punjab had any brains, they would have found a solution to this question very easily and long ago. But, Sir, it is a question—the more I examine it and the more I analyse it, I find—it is a question of declaration of war. As far as the Punjab Government are concerned, the Government do not merely wish to bring these men to trial and get them convicted by a judicial tribunal, but Government go to war against these men. They seem to me in this frame of mind: “We will pursue every possible course, every possible method, but we will see that you are sent either to the gallows or transported for life, and in the meantime we will not treat you as decent men.”

Sir, the whole spirit behind this is that and nothing else. I do not for a moment wish to say that the Government are not bound—in fact, it is their bounden duty—to prosecute those people that commit offences. I do not wish to say that the Government should not do every thing in their power to see that their convictions are secured. But may I ask, with whom are you at war? What are the resources of these few young men who, according to you, have committed certain offences? You want to prosecute them, and after due trial, you want to secure their convictions. But before they are convicted, surely this is not a matter on which there should be this struggle that you should not at once yield to their demands for bare necessities of life. After all, so far as the Lahore case prisoners are concerned, surely they are political prisoners and under trial. You ask me, what is a political prisoner? It is very difficult to lay down any particular definition. But if you use your common sense, if you use your intelligence, surely you can come to the conclusion with regard to the particular case and say, here are these men who are political prisoners, and we do not wish to give them proper treatment. We want to give them treatment as under-trial prisoners. If you had said that, the question would have been solved long ago. Do you wish to prosecute them or persecute them?

Sir, I do not wish to base my opposition to this Bill on this issue of bad treatment, because this is only one aspect of the issue, or rather one aspect of the Bill before us. This Bill has got to be looked at, as far as I can see, from three points of view. The *first*, from the point of view of criminal jurisprudence; *second*, political point of view or the policy of the Bill; and *third*, treatment to the accused when they are under trial. I think it will be admitted. I think even the Hon’ble Home

Member conceded, that by the Bill which he has brought before the House, he is introducing a principle, in the criminal jurisprudence, of a very unprecedented character. I do not think, Sir, there is any system of jurisprudence in any civilized country where you will find such a principle in existence as is involved in this Bill. Some of the Hon’ble Members who are not lawyers might not have appreciated fully the implications of this Bill. This Bill not only dispenses with the presence of the accused at the trial, but I will give you a picture as to what will happen under this Bill. Under this Bill the Government will apply to the Magistrate before whom the inquiry is going on and say: “Here is a law which we have secured from the Legislature. Now the accused have voluntarily made themselves incapable of attending the Courts and, therefore, you have to dispense with their presence” the inquiry will then proceed *ex parte* before the Magistrate. Evidence will be led, oral and documentary, which will go without being tested by cross-examination. The documentary evidence will go without being even seen by the accused, against whom it is produced, and how will you identify the accused in their absence? Then we know, and particularly those who are lawyers would know, that when the Magistrate has concluded the recording of the evidence for the prosecution, under Section 209 of the Criminal Procedure Code, he must ask the accused whether he has any explanation to offer with regard to the evidence which is recorded by him against the accused. It is after that statement is made that the Magistrate has got the power either to commit or discharge the accused. That statement of the accused under Section 209 is absolutely obligatory. It is not the choice of the Magistrate. The Privy Council has laid down that an omission in that regard would vitiate the whole trial. Under this Bill the accused will not be there to give any explanation to the Magistrate with regard to the evidence that has been already recorded *ex parte*.

Then, Sir, we come to important Sections. Under Section 287 that statement again will have to be made before the Sessions Court. There also, the accused will not be present. The evidence before the Sessions Court will be recorded *ex parte* and if it is a jury, the jury will be asked to return their verdict. If it is a case of assessors, they will be asked to express their opinion, and the Judge will pass his judgement or sentence, as the case may be. I ask the Hon’ble Home Member,

and I ask the Hon'ble Law Member of the Government of India whether that will be a trial or a farce?

Sir Brojendra Mitter (Law Member) : Not a farce. The accused can always go before the Court if she chooses to.

Gaya Prasad Singh : But what about the evidence that has already been recorded in his absence?

M.A. Jinnah: I am very glad that the Hon'ble Law Member has given me a reply. Then you want by this Bill really to break the hunger-strikes. You want this House to give you a Statue laying down a principle generally in the criminal jurisprudence for this particular case, so that you may use it for breaking the hunger-strike in the Lahore case. Remember, you have no other case that you can cite. One swallow does not make a summer. It is the Lahore case. Well, you know perfectly well that these men are determined to die. It is not a joke. I ask the Hon'ble Law Member to realize that it is not everybody who can go on starving himself to death. Try it for a little while and you will see. Sir, have you heard anywhere in the world, except the American case, which may honourable friend Mr. Jamnadas Mehta pointed out, of an accused person going on hunger-strike? The man who goes on hunger-strike has a soul. He is moved by the soul and he believes in the justice of his cause; he is not an ordinary criminal who is guilty of cold-blooded, sordid, wicked crime.

Mind you, Sir, I do not approve of the action of Bhagat Singh, and I say this on the floor of this House. I regret that, rightly or wrongly, youth today in India is stirred up, and you cannot, when you have three hundred and odd millions of people, you cannot prevent such crimes being committed, however much you may deplore them and however much you may say that they are miss-guided, it is the system, this damnable system of Government, which is resented by the people. You may be a cold-blooded logician: I am a patient cool-headed man and can calmly go on making speeches here, persuading and influencing the Treasury Bench. But, remember, there are thousands of young men outside. This is not the only country where these actions are resorted to.

It has happened in other countries, not youths, but greybearded men have committed serious offences, moved by patriotic impulses. What happened to Mr. Congrave, the Prime Minister of Ireland? He was under sentence of

death a fortnight before he got an invitation from His Majesty's Government to go and settle terms? Was he a youth? Was he a young man? What about Collins? So what is the good of your putting forward this argument? You have got a situation which you have got to meet, not by introducing and enacting measures which go to the root of the fundamental principles of criminal jurisprudence, and lightly, saying, "oh! But it is common sense!" Law is common sense; it is not common sense of one individual

Mr. President : I hope the Hon'ble Member is not inconvenienced when I ask him to resume his speech at the next meeting.

Pandit Madan Mohan Malaviya : Sir, cannot we go on for another 15 minutes?

Mr. President : What is the idea of going on for another 15 minutes? I can understand the House asking me to sit till 6 o'clock, but there is not idea in sitting for another 15 minutes only.

The House was then adjourned. Mr. Jinnah concluded his speech at the next sitting, after the adjournment motion has been admitted for discussion.

Sir, when the House last adjourned I was dealing with this Bill from the point of view of criminal jurisprudence-and I brought to the notice of the house what would be the position if this Bill was passed, so far as the trial and proceedings of this particular case, or any other case under it, were concerned. It is quite clear, as I said, that the trial will be a travesty of justice. Let us consider the point further. The trial would proceed in the absence of the accused. I ask the Home Member, is there a Judge or jury who would feel that they were administering law or justice in that case? The moment this Bill is passed, the prosecution can go before the Court and say: "Here is a voluntary act of the accused persons; he has or they have incapacitated himself or themselves, and we ask you now to proceed *ex parte*", Remember, Sir, that in a particular case that procedure may be adopted from the very start. Even the plea of the accused may not be recorded, guilty or not guilty. Then the Judge will be asked to proceed to empanel a jury and the jury will be empanelled: You will have a Judge on the Bench and the jury by his side. What will they do? They hear the *ex parte* evidence, oral and documentary. I ask the Home Member, I ask this House, what would you consider of that Judge, what would you think of that Judge or jury, sitting there solemnly, seriously, proceeding with a charge of

murder, going through this farce as His Majesty's Court-what conclusion do you think any jury can come to under those circumstances? That prisoner stands already condemned. What is the good of this farce? I say that no Judge who has got an iota of a judicial mind or a sense of justice can ever be a party to a trial of that character and pass sentence of death without a shudder and a pang of conscience. This is the farce which you propose to enact under this procedure! I say this, that if ever there was a conscientious Judge and he was strong enough, if he had a judicial mind, and if he had any independence, let me tell you, that, in spite of this provision of yours, he would say. "True, the law has to be administered; I am obliged to make the order that the trial shall proceed *ex parte*. But I realize and I feel that it will be a travesty of justice and I cannot be a party to it; and I shall, therefore, adjourn this case until further orders". Have you considered that? I suppose you have not. It seems to me, Sir, that the great and fundamental doctrine of British jurisprudence, which is incorporated and codified in the Penal Code and the Criminal Procedure Code, has very wisely not made such an absurd provision in the criminal law of this country and I am not satisfied that there is a lacuna in our system of criminal law.

The Home Member said that it is a well-known doctrine and a fundamental doctrine of criminal jurisprudence that the man is taken to be innocent until he is proved to be guilty. May I remind him of another doctrine which goes to the very root of the criminal jurisprudence, or for the matter of that of even civil law, that no man is to be condemned until he is given a hearing? Sir, I think there cannot be the slightest doubt that we are now engaged in considering a cardinal principle, a principle of very vital and paramount character, to be introduced into the criminal jurisprudence of this country. It must be admitted that this is a most revolutionary, unheard of, unprecedented change that is proposed in our criminal jurisprudence. I know the Home Member will tell me, "Yes, the doctrine is that no man shall be condemned unless he is heard and until he is given a hearing; but here it is the voluntary act of the accused, and if he chooses not to go there and insist upon his being heard, it is his fault, "Sir, this is not a new question; it has been considered in England and there is a long history about it and behind it and you find that in old days there was the strictest formality observed as

to the recording of the plea of the prisoner. And if the prisoner was mute of malice, that is to say, if he refused deliberately to open his mouth when he was arraigned in a Court of law and when the question was put to him as to whether he pleaded guilty or not-he had to make his plea, and there are cases where he refused to speak, and the old law was-even England has advanced-in that case he was condemned and executed or must be committed to imprisonment...

E.I.Price (Bombay: European): Torture.

M.A. Jinnah : I am glad that you are up to date. I know that. I am only dealing with this one point, that he used to be executed or committed to prison. Further, when it was thought that it was rather a serious things that, because a man was mute of malice, he should be condemned to death or imprisonment-then comes the point of my learned friend over there, who I understand is a member of the Bar-that they resorted to torture. Torture for what? That he should make his plea, not that an *ex parte* trial should proceed. That is what you want to do here by this Bill, that *ex parte* trial should proceed. The old law was then altered, because the result of the torture was that some of them died and the form of torture was the most cruel form of torture, and I will read to you a passage from Stephen's *History of Criminal Law*:

"If he was accused of felony, he was condemned, after much exhortation to the *peine forte et dure*, that is to be stretched, naked on his back, and to have "iron laid upon him as much as he could bear and more". And so to continue, fed upon bad bread and stagnant water on alternate days, till he either pleaded or died."

But they did not proceed *ex parte*. Then the old form of trial was trial by ordeal. That was done away with because the plea that a prisoner had to put forward was in a particular form. When he was asked he had to say that he wanted to be tried "By God and by my country". That was the trial by ordeal. That was done away with and in 1827 by a Statue it was enacted that in such cases a plea of not guilty should be entered. Now, Sir, before that Statute was passed there is one case which I will bring to the notice of this House and which will illustrate how much importance was attached to the form and the procedure even in olden days. Of course, my honourable friend Sir Darcy Lindsay will say that matters of this kind can be decided by the common sense of a single individual such as

himself. Sir, I must remind him—for he is a man of peace, and especially when we get old we love peace, and common sense is sometimes regulated by that state of mind—I will remind him, and I think the House will agree with me, that law is nothing but the essence of common sense, that law is the concentrated essence of experience, of knowledge, of practice of centuries and generations, and even Sir James Stephen will point out to you that, when these rules, when these forms have been laid down as the essence of common sense and experience of generations, they are not lightly to be departed from.

What do we find in this House now? Have we not got forms and are we not slavishly following them? Some of them would appear to the strangers in the gallery or any outsider to be most absurd and against common sense, at first sight. If any one passes across between you and the speaker he will be guilty of a gross breach of the forms of this House and you would call him to order at once. Why is that? Without meaning? Without reason? Without experience? What common sense is there? Why should the man not pass across? It is, therefore, no use treating these matters lightly and saying that we have got to decide everything by the common sense of an individual. The instance that I was going to refer to is this. In one case;

Mr. Pike produces some evidence to show that in the early part of Edward its reign, people who refused to put themselves on their trial were executed...

Better, people who refuse to put themselves to trial, execute them, rather than go through the farce of an *ex parte* trial; much better.

"...but this practice was opposed to the statute which provided that "notorious felons" and which openly be of evil name and will not put themselves in inquests of felonies that men shall charge them with before the justices at the King's suit, shall have strong and hard imprisonment, as they which refuse to stand to the common law of the land."

Then he cites a case which I think will interest the House. He says this:

"But this is not to be understood of such prisoners as be taken of light suspicion." According to Barrington this meant that the prisoner who refused to plead was to be starved till he died, but not tortured—(so they improved later on)—and he quotes in proof of it a pardon granted in the reign of Edward III to a woman

who *pro eo quod se lenuir mutum* was put in *areta prisona* and there lived without eating or drinking for forty days. Which was regarded as a miracle."

Well sir, I know that there is a passage which is likely to be quoted in this House in Stephen's *Digest of Criminal Procedure*. It is a curious thing that the Government of India, who have hardly given this House even seven days' notice and call upon this House to endorse a vital, cardinal principle of a novel or unheard of character, do not possess in their library even an edition of the *Law of Criminal Procedure* by Stephen of a later date than 1883. And they seriously ask this House. "The Government case is that they find that a deadlock is created. The law is paralysed, and in fact, even the Government of India might tumble down altogether, and we, therefore, call upon the Legislature to come to our rescue—we admit it is unprecedented, we admit it is unheard of, we admit it is unknown to any system of jurisprudence; but you as a responsible body—would you not endorse this Bill straightaway within these few days' notice?" You do not possess in your library an edition of a textbook which is the standard book except of the year 1883! And it is a tail order to ask the House to pass the Bill now and here. I will read the passage now, which is likely to be quoted, and I want the House not to be misled by it. But before I do so, I will request the Law Member, to consider what I am going to submit. That is a branch of the law which comes under the category of contempt of Court, and we know that the King's Bench in England and Superior Courts in India, who have inherited the jurisdiction under the Charter, have got unfettered power to deal with cases of contempt. That is the one branch of the law which is neither codified nor restricted by any law. It is entirely left to the Supreme Court or the High Courts in India to deal with cases of contempt as they think proper. That is a branch which comes under that doctrine of law of contempt of Court and even there, while the Courts have asserted that they have the power to refuse to hear the party who is guilty of contempt of Court, the footnote says that it has never been done in a criminal case. I will read to you what it says:

"The Prisoner has a right to be present at the trial so long as he conducts himself properly, but the Court may, in its discretion, permit his absence in cases of misdemeanour, and may proceed with the trial in his absence in cases in which he has pleaded to an indictment or

information in the High Court (Queen's Bench Division).

"If a Prisoner so misconducts himself as to make it impossible to try him with decency, the Court, it seems, may order him to be removed and proceed in his absence."

The footnote says this :

"I have never known or heard of this being done, but Lord Cranworth (then Rolfe, B.) threatened to have Rush removed from Court, at his trial for murder at Norwich in 1849, if he persisted in a singularly indecent and outrageous course of cross-examination. I have heard from eye-witness an account of a trial before Shee, J. (then acting as Commissioner) at Dorchester, where the prisoner (a convict at Portland, tried for the murder of a warder) behaved with such desperate violence that it was necessary to fasten him down with chains and straps. He was not, however, removed from the Court, and it is obvious that in capital cases, or indeed in any trial involving severe punishment, almost any measures, short of removing the prisoner, should be resorted to."

The *raison d'être* of this principle is very different and requires no more words to understand it. Now, Sir, I shall not weary the House with any further legal quotations. I am driven to think the object of Government in bringing in this Bill is political, but if their real object is to supply a lacuna, not for the purpose of this particular case, but in the general interest of the country and the administration of justice, if that is their object, let them remove this case from their mind, for Heaven's sake. Come to us dispassionately and without prejudice. Let them tell us that they find a lacuna, and that it is necessary to make some provision. If that is their object, then their honest and straightforward course is to come before the House and place all the facts before us. Now, I do not admit for a moment that there is a lacuna, and I do not admit that such a principle should be introduced in the criminal jurisprudence of our country, especially and admittedly when it does not exist anywhere else. I am prepared to assume that you honestly and sincerely believe that it is necessary, in the interest of the people and the administration of justice, that some such measure of the kind should be introduced. Then your honest course is to go slowly. Pause and consider. Let those outside this House who are competent to speak, express their opinion. What are you going to lose? What is the harm that will be done? Remove from your mind

this Lahore conspiracy case. But if you say that this course will cause you inconvenience and that you want this instrument now and at once, then I say that I am not satisfied with your plea and I can't support it, nor am I satisfied with the version that you have placed before the House about your difficulties. I am not going to give you this power standing on the floor of this House, today, now and here.

Sir, can you imagine a more horrible form of torture than hunger-strike? If, Rightly or wrongly, these men are inflicting this punishment upon themselves and thereby you are inconvenienced, is that any reason why you should ask us to abandon one of the cardinal principles of criminal jurisprudence? If these young men pursue this course, and I am sorry to hear that one of them has died, what will happen? Is this a matter which can continue indefinitely? Certainly not. As I say, I am not satisfied with the version that you have placed before this House. I understand that some of the prisoners are not on strike. If you are solicitous and anxious that their trial should proceed and should not be delayed, then split up the trial. Proceed against them and bring home the guilt to them if you can. I am told that it means expense. I am told that 400 witnesses are going to be produced and 200 more may be added. Now, I appeal to the common sense of the House and not only of Sir Darcy Lindsay. Can you imagine that 600 witnesses are necessary to prove the case against each one of the accused? And, Sir, I ask, is it not an amazing fact that, in order to prove this case 600 persons should have been cited as witnesses? Well, Sir, it may seem a joke and it may seem that I am making fun of the statement made to this effect, but the first impression that one gets is that, when a case cannot be proved without the testimony of 600 witnesses, that case is a very bad case. Therefore, I say that it is open to Government to split up the case. You think of expense? But are we here to abandon this cardinal principle because it is going to cost some money to Government? Is that the reason? Is that a plea which can be accepted by any responsible Legislature?

Well, Sir, I was told that some of them go on a hunger-strike for a short time and then they get better for a little while and again they start, and so it goes on. Sir, I cannot understand the anxiety of the Government to proceed with this trial when these men are inflicting the greatest possible punishment upon themselves by prolonged

fasting? Is it your fault? Does it mean that you are not treating them properly and therefore you are compelling them to resort to these extreme methods? Well, then I appeal to you with all the emphasis I can command, do not be vindictive. Show that you are fair, generous, that you are willing to treat these men decently. At any rate, before they are released or sentenced, give them proper treatment. What treatment do they want? What is it that bothers them? Do they want spring mattresses? Do they want dressing tables? Do they want a set of toilet requisites? No, Sir, they ask for nothing but bare necessities and a little better treatment. I ask you in all decency, why cannot you concede this small thing? Well, Sir, if this Bill is passed, perhaps I might ask the Hon'ble Member when he goes to Court how would he base his application? Will he base his application on the point that the period of a hunger-strike which has already taken place for a short period is not to be counted? Or is it to be counted? Supposing I tried to put myself in the position of a Judge when the application is made that the presence of the accused in this case should be dispensed with, because by their own voluntary act they have rendered themselves incapable. Now, from what period shall I take the disability? From the period after this statute is passed? Shall I disregard the disability which has already taken place before the passing of the Act? Supposing something else happens to these men on hunger-strike and they do not get well for two or three months. Will the trial not be delayed? Do you think you can avoid considerable delay even if the Bill is passed? Further, can you give a guarantee that all the prisoners will be well enough in the course of these two or three months from now to stand their trial. Even if they abandon hunger-strike? When you say that this Bill will not have retrospective effect, how is it going to work? Then will you give them notice that in view of the fact that this measure is passed, if you do not cease your hunger-strike from today and if you are not better within two or three months, as you ought to be, then we shall apply to the Court that your presence will be dispensed with and we shall proceed *ex parte*? Does it not come to this, that you want to carry this Bill, you want to have this Bill placed on the Statue-book, and then you want to give notice to the prisoners that, unless they cease their hunger-strike within a certain period, you are going to proceed *ex parte*? Under that threat you think these prisoners will cease their hunger-strike? Can you give the House that

assurance, and if they do not cease their hunger-strike, what will you do? You will proceed *ex parte*? Just imagine the absurdity of the whole position.

Sir, now I have finished from the point of view of the jurisprudence. I do not wish to go into details so far as their treatment is concerned. I have, in the course of my speech, already indicated their grievances and how they can be met. But there is a political aspect of this Bill and the policy underlying this measure. I think the Hon'ble the Home Member must admit that this is not a measure which is only brought here for the purpose of putting the law in order. Sir, it reminds me of a story, an Old Persian story. A man got stomach-ache because he had eaten some very rotten bread. So he went to the doctor and told him that he had stomach-ache. The doctor said, yes, and he promptly started treating his eyes. Then he said, "what have my eyes got to do with my complaint?" then the doctor said. "Well, if you had eyes, you would never have got stomach-ache because you would not have eaten rotten bread"

Similarly I would say to the Hon'ble the Home Member, "Have you got eyes? Well, if you had, you would never have got this stomach-ache". Now, will you open your eyes? Will you have a little more imagination? Have you got any statesmanship left? Have you got any political wisdom? This is not the way you are going to solve the root cause of the trouble. You may temporarily, provisionally, get over this particular trial. But now let us see what is the real cause of the trouble.

I ask this House to consider this. Is there today in any part of the globe a civilized government that is engaged, day in and day out, week in and week out, month in and month out, in prosecuting their people? You have read the daily papers for the last six, eight months. You will find prosecutions in Bengal, prosecutions in Madras, prosecutions in the Punjab, prosecutions all over the country. In fact I am afraid you will soon have to open a new department and to have an additional Member to manage these prosecutions if you go on at this rate and in this way. Do you think that any man wants to go to jail? Is it an easy thing? Do you think any man wants to exceed the bounds of law for the purpose of making a speech which your law characterizes as a seditious speech, knowing full well the consequences, that he may have to go to jail for six months or a year? Do you not realize yourself,

if you open your eyes, that there is resentment, universal resentment, against your policy, against your programme?

Then, Sir, what has happened so far as this House is concerned? What have you done since 1924 with regard to the protests that we have made session after session? Have you accepted the proposal or suggestion of any reasonable section of this House? I do not wish to go into the details, Sir, but what has been the attitude of the Government towards this House and the country outside over the constitutional reforms since 1924, leave alone the past prior history? The reply is "We have appointed the Simon Commission and we must await its Report." Well, the Simon Commission was not accepted by this House-but that does not matter. What is the answer in regard to the indianisation of the Army? You appointed a Committee to go into that very important question: I attach more importance to it than to any other question. What have you done with the unanimous Report of the Skeen Committee which was endorsed by this House, without a division, the responsible House as you call it today and to which you appeal today in the name of "responsibility"? This House endorsed that Report without a division. What have you done with it? The attitude of Government has been an amazing one. The Army Secretary stood there on the floor of this House last session and said: "We cannot get even 20 suitable candidates". Sir, the apparent untruth of that statement is enough to condemn the Government. You cannot get 20 young men out of 300 odd millions of people, who are suitable candidates for the King's Commission?

Then, there are many other matters. What has been your attitude always? Don't you think that instead of trying to proceed with an iron hand and pursuing a policy of repression against your own subjects, it would be better if you realized the root causes of the resentment and of the struggle that the people are carrying on? Don't you think that it is high time that you made your position more clear? I understand that there is something in the atmosphere-I hope it is true-that some satisfactory announcement is going to be made in Parliament very soon, when it meets next, which I trust will satisfy this House and the people. Do you want to prepare an atmosphere for it, or you do not? Do you want reconciliation between the Government and the people or you do not? Don't you think that these officials and troubles of yours are of a temporary character?

They are an obstruction in the trial of this particular case which can be managed by other methods, but that is a very small matter when you compare it with the bigger issues which are awaiting the decision of the Government, this House and the country.

Sir, the Hon'ble Member asked, what are the Government to do? I think I understood the Hon'ble Member aright when he said that the Government have no other course. What are the Government to do? They are, therefore, compelled to bring this Bill. Now, let me tell you that your course is to open your eyes, have more imagination, do not be guilty of bankruptcy of statesmanship, do not merely sit there as if the wheels of the Secretariat must not be clogged at any cost, but try and understand the root cause and deal with the situation as politicians, as statesmen and not as bureaucrats, who can see no other way but to come forward before this House and ask for more statutory powers the moment any difficulty arises. You have got several courses open to you. The first and the foremost course open to you is this. Give these men decent treatment, and I think you will get over your difficulty. At least I hope so. If you do not, you will, at any rate, be exonerated in the eyes of the public and at the Bar of public opinion. Behave as a humane and decent Government, and that is enough for you. I am not going to urge upon the Government to withdraw prosecution cases against men if they have evidence enough to bring home to them their guilt. So try that better treatment first. Secondly, if you do not succeed, split up the trials. Try those with whose trial you can proceed, and leave the rest. After you have made it clear to them that you stand for a decent treatment being given to them and they still wish to torture themselves and follow that course, then you cannot help it; and I venture to say that it will not last very long or indefinitely, and the last words I wish to address the Government are, try and concentrate your mind on the root cause and the more you concentrate on the root cause the less difficulties and inconveniences there will be for you to face, and thank Heaven that the money of the taxpayer will not be wasted in prosecuting men, may citizens, who are fighting and struggling for the freedom of their country.

Legislative Assembly Debates. Vol. IV, Part I, pp. 752-55 and 757-65.

Ustad Mohammad Omar- Afghanistan's greatest musician

Tariq Zaman

Pashto language and culture has had a long tradition for music, dance and traditional folk songs, producing a number of singers, musicians, and poets. The word *Tung* in Pashto means to create a sound while striking at something with a force and *Takore* means to give a soothing effect with a warm piece of cloth to a body part swollen up owing to acute pain, burnt or hurt due to infection, or inflammation. According to Afghans no musical instrument creates a sound like *rabab* and no musical instrument casts such a soothing effect on the listeners. So the onomatopoeic word straightly comes from the playing of *rabab* only. The *rabab* is the best known of all Afghan musical instruments and holds a special place in the minds and hearts of many Afghans. It originated in the Kabul-Ghazni region and is also popular outside of Afghanistan in Kashmir and in some regions of Pakistan. Today, it is revered by Afghans all over the world as Afghanistan's "national instrument."

Ustad *Mohammad Omar* (1905-1980) was one of the most influential instrumentalists in Afghani music in the 20th century. He brought the *rabab* into the realm of Afghani classical music, which had been heavily influenced by Hindustani (Indian) music. Born in Kabul,



Mohammad Omar grew up in a family of musicians in the musicians' quarter known as *kharabat*. In the 1860s, Indian classical musicians were brought to Afghanistan to play at the court in Kabul. The *kharabat* was an old section of the city given to the imported Hindustani musicians. These transplanted musicians gained distinguished status among Afghan musicians, receiving the title of *ustad*. The descendants and students of these musicians continued to foster musical traditions from India and Pakistan. As a result, Indian classical became the elite art tradition of Afghanistan.

Ustad Mohammad Omar joined Radio Afghanistan in his early 30's and began his work as Director of the National Orchestra of Radio Afghanistan. He became known throughout the country, and is responsible for the *rabab* gaining the unofficial status as Afghanistan's national instrument. Mohammad Omar shows the incredible emotional depth which can be achieved with this instrument in Afghani classical music. While Director of the National Orchestra of Radio Afghanistan during the mid-20th century, he composed over a hundred melodies known as *naghma* and brought acclaim to the short-necked plucked lute, the *rabab*. Over the airwaves, Ustad Mohammad Omar presented a diverse collection of songs from

Afghanistan's rich musical heritage. His radio orchestra, with its regional folk instruments, introduced the nation to a variety of folk traditions rooted in the country's many ethnic and linguistic groups.

In 1974, Ustad Mohammad Omar received a Fulbright-Hays Foreign Scholar Fellowship to teach at the University of Washington. Although Ustad spoke no English but he became the first Afghan musician to teach at a major American university. On November 18, 1974, Ustad Mohammad Omar gave a public concert at the University of Washington, displaying his virtuosity on the *rabab* to a Western audience for the first time. The concert consisted mainly of Ustad Mohammad Omar's specialty—Afghan classical music. For this concert, he was accompanied by Zakir Hussain on the *tabla*. Zakir Hussain (*tabla*), son of the legendary Ustad Alla Rakha, has built a reputation as one of the most formidable *tabla* players in Indian classical music. Zakir Hussain began performing as a child prodigy at the age of 8. In constant demand as an accompanist, he has performed with most of India's greatest musicians and dancers. While he has few equals as a traditional *tabla* player, he has also been an innovator, bridging the Hindustani and Carnatic traditions by performing with both North and South Indian masters and presenting percussion concerts both as a soloist and with other drummers. In addition to his dedication to the Indian classical music tradition, Zakir has been a pioneer in introducing the *tabla* to wider audiences in the West through his collaborations with jazz and rock musicians, and with percussionists from Latin America, Africa and Europe. As a member of the East/West fusion group Shakti, he won critical acclaim for his virtuosity.

Zakir Hussain and Ustad Mohammad

Omar met only on the morning of the show and they did not speak the same language. This proved to be no barrier to their music making; Ustad Mohammad Omar and Zakir Hussain spoke with their instruments, weaving a graceful tapestry of sound. The concert was so well received that recordings of it were bootlegged around the world for years thereafter.

The 1974 concert was also memorable to Ustad Mohammad Omar, as reported by Larry Porter, a *rabab* student who later studied with Mohammad Omar in Kabul: "His eyes would light up whenever he talked about the concert he played with Zakir Hussain in Seattle. Apparently, he really enjoyed traveling to America and sharing his music with the people there. Unfortunately, as far as I know, the Seattle concert was the only time he did that..."

The concert offers a glimpse into generally South Asia and especially Afghanistan's past, endowing the present with a reminder of the region's rich musical Composite Heritage and inspiring the future with a virtuosity never to be forgotten.

In 2002, a year after the Taliban forces retreated from the Afghan capital, Smithsonian Folkways Recordings released *Ustad Mohammad Omar: Virtuoso from Afghanistan (SFW40439)*, a commercial recording of Ustad Mohammad Omar and Zakir Hussain's legendary concert.

Source of Information :

Smithsonian Folkways Website (http://www.folkways.si.edu/explore_folkways/ustad.aspx)

Moment Records Website (<http://www.momentrecords.com/zakir.html>)

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MF Hussain : The legacy of painting India

Celebrated Indian artist, exiled during his final years by attacks from

Hindu right, leaves a rich legacy at home.

He was one of India's most renowned artist and his paintings fetched millions of dollars at international auctions. But he did not have a studio and walked barefoot most of the time.

"Wherever you go, the first thing they see is your footwear, then they will decide your status," he told al-Jazeera in an interview last year. "I said ok, you recognise me as I am."

Maqbool Fida Hussain died in self-exile in London on June 9 at the age of 95, leaving behind close to 40,000 paintings, an open debate about the state of India's democracy, and tremendous respect for Indian art on the international stage.

"On different levels, Hussain made the idea of a contemporary artist real in India - an artist as a wandering free spirit, but he also made the market," says Ram Rahman, photographer, art-activist - and a friend of Hussain.

"He always believed that Indian art had not been given its due recognition," says Dadiba Pundole, whose Pundole Art Gallery in Mumbai has exhibited Hussain's work since the 1960s. "So he tried to push the boundaries, not only in his style and subject matter, but also in how exhibitions were presented."

Despite having a remarkable body of work displayed in museums and galleries around the world, friends say Hussain saw himself as a folk painter. A globe-trotter, Hussain constantly moved around, painting wherever he felt a spur of inspiration and often leaving behind a mark of his work.

"He worked 18 hour days at times, but he did it his way," Pundole says.

Hussain constantly drew for newspapers and for his favourite restaurants around India where he dined. "If an inspiration came to him while having a cup of coffee, he would call for a canvas and brush - or even chalk and blackboard," says Rahman. Numerous small cafes around India have precious sketches and paintings of his hanging on their walls.

"He was an exceptionally modest man," remembers Dr Oliver Watson, the former director of Qatar's Museum of Islamic Art. In 2008, the museum exhibited a series of Hussain's paintings, the beginnings of a relationship with the country

that would end with Hussain dying a Qatari citizen. Watson says the artist personally saw to the hanging of each piece.

"He took a pen and wrote the captions and details of each piece by hand on the wall next to it."

HUMBLE BEGINNINGS

Born in 1915 in Western Maharashtra, Hussain was raised by his grandfather, who fixed lanterns for a living. His father remarried after his mother passed away before Hussain was two years old.

As a child, painting was one of Hussain's hobbies, soccer being the main other. He never had much interest in formal schooling or acquiring a degree.

"This brush in my hand - if nothing happens, I will whitewash the wall of the people - but I will never leave this," Hussain recalled telling his father.

When he was seventeen, Hussain moved to Bombay. He slept on pavements while he searched for work. His love for the movies landed him a job as a painter of cinema hoardings. The skills that he learned working with large brushes and expansive canvases would become a trademark of his art that always sided on grandiosity.

In the 1940s, when Hussain made his first splashes as an artist, the art scene in Bombay was quite small. Dominated by well-educated figures such as Francis Newton Souza of the Progressive Artists Group, they looked towards European Modernism for inspiration. Hussain, who was discovered by Souza, came onto the scene with an entirely different mentality.

"Hussain came from a humble background, a really working class," says Rahman. "What distinguished him right away was that he brought the subject of working class and a theme of ordinary life."

By the 1970s, Hussain had grown to prominence, exhibiting alongside artists such as Pablo Picasso. His focus on distinctly Indian themes brought Indian art to eminence at the international level as he began appearing in exhibits and auction houses.

"Hussain, more than anyone else, really

delved into the vast corpus of Indian mythology," says Rahman. "Ever since he was a child, he had grown fascinated with the tales of the Ramayana. He even acted in some performances as Hanuman when he was a child."

The other fascination of his art was the female form. And in his search for the perfect form, he watched a movie featuring Madhuri Dixit, the Indian actress and Hussein's friend, sixty seven times. Each time in a theatre.

"The whole search in the female form is for my mother," Hussain said in interview.

THE EXILE YEARS

In 1996, at the height of communal violence in India, Hussain became a target of the Hindu right wing. An article in a Hindi magazine that dug up a series of nude paintings of Indian goddesses from the 1970s became the basis for calls of blasphemy. His home and several galleries that displayed his work were attacked by violent protestors. Under the auspices of Shiv Sena, the Hindu right wing political party, numerous cases were filed against him in local courts that were then sent to Delhi. MF Hussain, all of a sudden, was the villain.

"It was not Hussain who attacked Hindu religious sensibilities," says Bruce Lawrence, professor of religion and humanities at Duke University. "It was politically minded Hindu right wing activists that made him their special project for vilification, harassment and destruction of his art or threats to those who exhibited it."

Ram Rahman points to the fact that such campaigns had started long before they turned on Hussain. The destruction of the Babri Masjid in 1992 is a prime example. "The Hindu right tried to reframe the notion of modern Indian culture, impose a mono-culture that was Hindu and excluded Muslims, Christians, and even Buddhists," Rahman says.

"He was a soft target for he was a practicing Muslim at the height of his career and popularity," Pundole agrees. Despite the controversy, Pundole's gallery continued to display Hussain's paintings throughout the period. "Not to prove a point, but simply because of the quality of his art."

A narrowly partisan group intensified a massive campaign against him, displaying his nude paintings of goddesses along with fabricated titles and captions. They also coupled the paintings next to Hussain's fully-clothed depictions of female Muslim figures, claiming Hussain was deliberately defaming Hindu goddesses.

"He was never a radical artist, not attempting to shock anyone," says Rahman. "He was not trying to go against traditional iconography, rather he followed traditional iconography." Rahman points to the fact that traditional sculptures of Indian goddess, even in temples, are bare-breasted. There are numerous depictions of the goddess Kali in the nude. For Muslim depictions, there is no tradition of nudes. Hussain simply followed the existing iconography, said Rahman.

"In Calcutta ... all these goddesses, there are thousands of them already there," said Hussain himself. "I wanted to communicate. I thought my metaphor, my images should connect with the greatest *Mahabharata* and *Ramayana*, which is the folklore of the country."

In his defence, Hussain also pointed out that the attacks on him were not from religious specialists. "They (religious gurus) have not spoken a word against my paintings, and they should have been the first ones to have raised their voices. These politicians, who have nothing to do with religion, take out all these *rath-yatras* "processions", for political reasons only," he said.

As the attacks on Hussain increased and other political parties did not resist the Hindu right - fearing they would lose votes for being soft - Hussain moved to Dubai in self-exile. He spent his final years shuttling between Dubai and London.

At the time of his death, 95 years old, he was working on three major projects: a history of Indian civilisation, a series of paintings on Arab and Islamic civilisation, and another series on the history of Indian cinema.

"His art, especially the large amount of work he did in his 90s while in exile, stands as an indictment to the shortfall of Indian democracy," says Bruce Lawrence. "Ironically, Maqbool could not be stopped, or stunted, by the demagogues and thugs who attacked at home."

As one of his final projects before he left India in 2006, Hussain took on the designing of the store for a shoe-maker friend at Mumbai's Taj Mahal Hotel. From the shelves to the ceiling to the furniture he obsessively planned everything. At the entrance of the store, Hussain's bare feet are cast in bronze.

He died in exile, but the marks of his bare feet and long brush remain across India - and museums around the globe.

Courtesy : <http://english.aljazeera.net>

U.N. : Sri Lanka's crushing of Tamil Tigers may have killed 40,000 civilians

Colum Lynch

UNITED NATIONS — Sri Lanka's decisive 2008-09 military offensive against the country's separatist Tamil Tigers may have resulted in the deaths of as many as 40,000 civilians, most of them victims of indiscriminate shelling by Sri Lankan forces, according to a U.N. panel established by Secretary General Ban Ki-moon.

The panel recommended that Ban set up an "independent international mechanism" to carry out a more

thorough probe into "credible" allegations of war crimes and crimes against humanity by the Sri Lankan government and the Liberation Tigers of the Tamil Eelam (LTTE), which held more than 300,000 civilians "hostage" to enforce a "strategic human buffer between themselves and the advancing Sri Lankan army."

Extensive portions of the report were published over the past several days by a Sri Lankan newspaper, the *Island*, and have been quickly repudiated by Sri Lankan authorities. U.N. officials confirmed the authenticity of the report but said the disclosure was incomplete. They said Thursday that the release of the report had been delayed amid discussions with Sri Lanka over the possibility of including a rebuttal

in the report.

The panel's findings constituted a devastating indictment of the country's military conduct during the final stage of the 28-year war, accusing government forces of shelling hospitals, no-fire zones and U.N. facilities, and blocking the delivery of humanitarian aid to victims of the war. The panel calls on Sri Lanka to "issue a public acknowledgment of its role in and responsibility for extensive civilian casualties in the final stages of the war."

But investigators also faulted the United

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Nations for failing "to take actions that might have protected civilians" and called on Ban to conduct a "comprehensive review" of the U.N. system's response to the crisis.

The Sri Lankan government launched an all-out offensive in 2008 in an effort to crush the Tamil Tigers, one of the world's most violent and ruthless insurgencies. The operation, which centered on a Tamil stronghold in the Vanni region of Sri Lanka, succeeded in wiping out the armed movement in May 2009. But the operation took a devastating toll on ethnic Tamil civilians, who were largely trapped between the rival forces.

"This campaign constituted persecution of the population of Vanni," according to panel member and University of Michigan legal

scholar Steven Ratner. “Around 330,000 civilians were trapped in an ever-decreasing area, fleeing the shelling but kept hostage by the LTTE. From February 2009 onwards, the LTTE started point-blank shooting of civilians who attempted to escape the conflict zone, significantly adding to the death toll in the final stages of the war.”

The Sri Lankan government challenged the report’s finding as “fundamentally flawed.” In a statement, the country’s Foreign Ministry said the “report is based on patently biased material, which is presented without any verification.”

Sri Lankan Foreign Minister G.L. Peiris urged Ban not to publish the report, saying it could undercut efforts to promote reconciliation between the ruling Sinhalese and the Tamils. “The publication of this report will cause irreparable damage to the reconciliation efforts of Sri Lanka,” he told reporters, according to the Agence France-Presse news agency. “It will damage the U.N. system too.”

After the war, Sri Lanka established an eight-member commission to address abuses during the last seven years of the civil war and recommend ways to avoid a recurrence. The U.N. panel said that the commission “represents a potentially useful opportunity to begin a national dialogue on the Sri Lanka conflict” but that “it has not conducted genuine truth seeking about what happened in the final stages of the armed conflict.”

The Sri Lankan commission is “deeply flawed, does not meet international standards for an effective accountability mechanism and, therefore, does not and cannot satisfy the joint commitment of the President of Sri Lanka and the [U.N.] secretary general to an accountability process,” according to the report.

The report offers an implicit criticism of Ban’s attempts to use quiet diplomacy to persuade Sri Lanka’s president, Mahinda

Rajapaksa, a longtime friend, to bring a halt to the worst excesses in the conflict. It also faulted the U.N. reluctance to publish casualty estimates to rally international pressure against Sri Lanka.

At the time, the United Nations had informed diplomatic missions that more than 7,000 civilians may have been killed during the final stages of the conflict but was reluctant to make those figures public. Some U.N. officials in Colombo, the Sri Lankan capital, thought that the toll was far higher.

“Although senior international officials advocated in public and in private with the government that it protect civilians and stop the shelling of hospital and United Nations or [International Committee of the Red Cross] locations, in the panel’s view, the public use of casualty figures would have strengthened the call for the protection of civilians while those events in the Vanni were unfolding.”

Still, human rights groups praised Ban for authorizing the panel’s examination of excesses in the Sri Lankan war and pressed the United Nations, the United States and other key governments to establish an international investigation into the alleged crimes.

“The Sri Lankan government has thus far gotten away with doing the very thing the Security Council stopped [Moammar] Gaddafi from doing in Libya,” said Tom Malinowski, Human Rights Watch’s advocacy director in Washington. “The least the council can do is to pursue the truth about these tens of thousands of civilians who died.”

Malinowski said it would be reckless for the United States and other key powers to turn a blind eye to Sri Lankan excesses, saying it would encourage others to ignore the rules of war in prosecuting wars on their own insurgencies.

courtesy <http://www.washingtonpost.com>

The Killing of Juliano Mer Khamis

Sudhanva Deshpande

Delhi, INDIA

On 4 April 2011, the Israeli-Arab actor, director and film maker Juliano Mer Khamis was shot dead in Jenin, Palestine.

This was not an unexpected attack. The Freedom Theatre that he had established had been attacked with Molotov cocktails in the past, its door torched, and Mer Khamis himself had received threats. 'But what choice do I have? To run? I am not a fleeing man,' he said in an interview. 'I am an [Israeli] elite force man, formerly of the paratroopers. The only two things I gained from Israeli culture are Shlonsky's translations of Shakespeare and adequate field training. Now I need it.' In the end, even the field training given to Israeli elite troops proved inadequate to save Mer Khamis.

In his death, the world lost a brave and imaginative artist.

Juliano Mer Khamis was 52 years old. He was an actor and a director. He had acted in several films, including opposite Diane Keaton in the adaptation of John Le Carre's thriller, *The Little Drummer Girl*, and in Amos Gitai's *Kippur*. He got many offers from Hollywood, where they wanted to make him the next Antonio Banderas. He certainly had the looks. But he preferred to stay in Israel/Palestine, and work at the Freedom Theatre he had set up in 2006.

The Freedom Theatre itself has a fascinating history. The precursor to the theatre was the Care and Learning Project set up by Juliano's mother Arna Mer in 1989 during the first Intifada. Arna was an Israeli Jew, and had taken part in the Arab-Israel war of 1948. Subsequently, she joined the Communist Party of Israel and there she met, and later married, Saliba Khamis, a Christian Arab and Secretary of the Party. Juliano was named after Salvatore Guiliano, a handsome Italian bandit who led a revolt of landless peasants against landlords in Italy.

A man with a hyphenated identity, Juliano, then, was an Israeli-Arab-Christian-Jew. Or, as

he famously put it, 'I am 100 per cent Palestinian and 100 per cent Jewish'.

Arna worked in the Jenin refugee camp, possibly the worst of all camps in Palestine. She drew the children into the theatre. These were children for whom destruction of homes and livelihood was a fact of life. For whom death was a fact of life.

'WE'RE NOT GOOD CHRISTIANS'

Juliano's 2003 award-winning documentary, *Arna's Children*, chronicles this work, and much more. This film is a most remarkable document of our times – it gives an insight into life under occupation, and even more remarkably, it showed the world, for the first time, the faces and biographies of the young men who fought and resisted during the second Intifada. These were pre-adolescent children when Arna worked with them in the late 80s and early 90s. In 1993, she was awarded the 'Alternate Nobel Prize', the money from which went into the theatre. By the time the second Intifada began in September 2000, the children had grown up to be young men. Many took to arms. Many fell to arms.

In the film, we see young Ala sitting listlessly on the rubble of his home. Arna talks about it to the children. Why did Ala sleep in his aunt's home last night, she asks. They tell her. Sitting next to Ala is Ashraf, with an angelic face. His house was next door to Ala's. It got destroyed when they destroyed Ala's house. Who did that, asks Arna. The Israeli army, says Ashraf. What will you do to the army, asks Arna? I'll kill them, says Ashraf. Show me, says Arna, I'm the army. Ashraf gets up, and starts hitting Arna playfully. She then gives the children paper, which they tear to shreds. All right, says Arna, this is anger. And when we get angry, we have to express it. She then gives them paint and paper, and asks them to express their anger in a painting.

Years later, when Ashraf is already dead and Ala has become a fighter, Juliano meets him and asks if he remembers the painting he had

done as a child in Arna's workshop. Yes, says Ala. It was a house with a Palestinian flag on it. At the end of the film, Ala is dead too.

One of the critiques of the film has been that Arna's work did not prevent the children from taking up arms in later life. Such a critique misses the point of the work that Arna – and Juliano – were doing. It would have been so nice had Arna been a simple do-gooder, who healed tormented children by drawing them into the world of art. But Arna was not a do-gooder. She was a militant. In an interview with Maryam Monalish Gharavi in 2006, Juliano spoke about his mother's work, as well as his own in the Freedom Theatre:

You don't have to heal the children in Jenin. We didn't try to heal their violence. We tried to challenge it into more productive ways. And more productive ways are not an alternative to resistance. What we were doing in the theatre is not trying to be a replacement or an alternative to the resistance of the Palestinians in the struggle for liberation. Just the opposite. This must be clear. I know it's not good for fundraising, because I'm not a social worker, I'm not a good Jew going to help the Arabs, and I'm not a philanthropic Palestinian who comes to feed the poor. We are joining, by all means, the struggle for liberation of the Palestinian people, which is our liberation struggle. . . . We're not healers. We're not good Christians. We are freedom fighters.

THE FREEDOM THEATRE

Arna Mer died of cancer in 1994. Her theatre was demolished during the second Intifada in 2002. Four years later, the Freedom Theatre was born. 'The Freedom Theatre will provide the children of the camp a tranquil environment to express themselves and create,' wrote Juliano. Some of the key people involved in the establishment of the theatre, apart from Mer Khamis, were Zakaria Zubeidi, a former military leader of the Al Aqsa Martyrs' Brigades, Jonatan Stanczak, a Swedish-Israeli activist and Dror Feiler, a Swedish-Israeli artist. A number of artists from across the globe have also gone and worked with the Freedom Theatre in the past

five years.

Working in Jenin is not easy. Try doing an image search on the internet for 'Palestine children'. Thousands of images show up – of children injured and dead, of boys throwing stones at Israeli tanks. Yet, strikingly, there is none of a park or a playground. Palestine is a country without a playground. Working with children in these circumstances poses its own challenge. 'Each and every one of our students bears marks of bullet wounds, severe beatings, torture or psychological traumas. This is the language of the occupying power,' Mer Khamis said in an interview. Israel has destroyed libraries, cultural centres, schools in the Palestinian areas, and has prevented people from one area to communicate with others. It is as if 'the switch of light and life of the Palestinians was turned off,' as Mer Khamis put it. Life under occupation is hard not simply because of the physical conditions of existence. The occupation oppresses the imagination and distorts the personality of children, it takes away their right to childhood.

Before the Freedom Theatre was established, many residents had not even seen a play, let alone taken part in theatrical activity. The theatre had to win the trust of the community, an incredibly challenging task, given that boys and girls work together, and the theatre often takes up issues that are considered taboo. 'One of the aims of the Israeli occupation is to conquer and divide, and I am sorry to say that they are succeeding,' Mer Khamis said. In addition, being under occupation means that the culture and identity of the Palestinians is also sought to be erased. Theatre helps restore a colonised people's dignity and becomes a weapon in the struggle for equity and justice.

Zakaria Zubeidi is living testimony to how theatre can change lives. The former militant has given up arms, gained a full amnesty from the Israeli state, and has joined the cultural struggle against the occupation. As Mer Khamis put it, 'Zakaria now devotes his life to pave the way for The Freedom Theatre in the hearts of the people in the Camp and protects it from negative elements that see the theatre as a threat to religious and/or traditional values.' The Freedom Theatre today runs a three-year professional

Theatre School programme, the only one of its kind in Palestine. In addition, it also runs regular photography and video filmmaking workshops. Visiting artists also offer workshops in different arts and skills. Over the past five years, the theatre has done incredible work, and hopefully Juliano's comrades will find ways of overcoming the tragedy of his killing and continue the work.

The question, obviously, is who killed Juliano Mer Khamis. One would think that the Israelis would consider his work a threat. Maybe they did. But his work was equally a threat to the Islamic fundamentalist organisations in Jenin itself. The Freedom Theatre's production of *Animal Farm* earned their ire because one of the characters is a pig. *Alice in Wonderland* challenges patriarchal authority. Someone had distributed pamphlets against the Freedom Theatre in Jenin and Mer Khamis was denounced as a Zionist agent. 'It makes [the Islamic fundamentalists] crazy that a man who is half-Jewish is at the head of one of the most important projects in the Palestinian West Bank and it is just hypocritical racism,' Mer Khamis said. 'I have never been as Jewish as I am right now in Jenin. After all this work at the camp it would be extremely unfortunate to die of a Palestinian bullet,' he added presciently. Unsurprisingly, the man arrested for the murder is a former Al-Aqsa Brigades militant.

A section of the ultra-left in India equates the anti-Americanism of Islamic fundamentalists in the Middle East with anti-imperialism. The killing of Juliano Mer Khamis, among other things, underlines the myopia of this approach.

DYING IN PALESTINE

Life in Palestine is unlike anywhere on the planet. But death in Palestine is also unlike anywhere else. When Arna died, it was impossible to bury her. Mer Khamis narrated the story in an interview:

"My mother could not be buried because she refused to be buried in a religious ceremony or funeral. Israel is not a democracy; it's a theocracy. The religion is not separated from the state so all issues concerning the privacy of life—marriage, burial and many other aspects—are controlled by the religious authorities, so you cannot be buried in a

civilian funeral. The only way to do it is buy a piece of land in some kibbutzim, which refused to sell us a piece of land because of the politics of my mother. . . . I had to take the coffin home. And it stayed in my house for three days and I could not find a place to bury her. So I announced in a press conference that she was going to be buried in the garden of my house. There was a big scandal, police came, a lot of TV and media [came], violent warnings were issued against me. There were big demonstrations around the house, till I got a phone call from friends from a kibbutz. . . . They offered a piece of land there. And the funny thing is that while we were looking for a place to bury my mother, there were discussions in Jenin to offer me to bring her for burial there, in the shahid's [martyr's] graveyard. They told me there was one Fatah leader, who was humorously saying, 'Well, guys, look, it's an honour to have Arna with us here, a great honour, the only thing is maybe in about fifty years' time some Jewish archaeologists will come here and say there are some Jewish bones here and they're going to confiscate the land of Jenin.' [Laughs] They do it. Even if they find the Jewish bones of a dog, they take the place. . . . Every place they confiscate they find the bones of a Jew and that's how they justify the ownership of the land, by finding bones."

Like his mother, Juliano was bid farewell to on both sides of the divide. He was buried in the same kibbutz, next to Arna. Mother and son, artists and freedom fighters, shining lights in a dark world.

Palestine, more than any other place on earth, is an emblem of humankind's conscience. Juliano Mer Khamis is the name of the belief that justice will win in the end. In this spring of the Arab revolt, Juliano will not be mourned. His courageous and creative life will be celebrated, his passion and integrity saluted. Juliano Mer Khamis is the name of a dream that will not be extinguished.

courtesy <http://bargad.org/2011/04/12/juliano-mer-khamis/>

The New Footsoldiers!

The Ideological and Institutional Incorporation of Dalits into Hindutva Maelstrom

Subhash Gatade

Delhi, INDIA

...Continued from previous issue

HINDUTVA'S LOVE FOR MANUSMRITI

It was late '60s when Maharashtra witnessed a massive mobilisation of people, cutting across party lines, which was precipitated by a controversial interview given by Madhav Sadashiv Golwalkar, the then Supremo (Sarsanghchhalak) of RSS, to a Marathi daily *Navakal*. Golwalkar in this interview had extolled the virtues of *Chaturvarnya* (the division of the Hindus in four Varnas) and had also glorified Manusmriti, the ancient edicts of the Hindus. Ofcourse, it was not for the first time that the Supremo's love and admiration for Manusmriti, which sanctifies and legitimises, the structured hierarchy based on caste and gender, had become public. In fact, at the time of framing the constitution also, he did not forget to show his disapproval towards the gigantic effort, claiming that the said ancient edict could serve the purpose.

K.R. Malkani, a leading ideologue of the RSS admits in his book 'The RSS Story', that Golwalkar, the second supremo of the RSS, 'saw no reason why Hindu law should break its ancient links with the Manusmriti'. Similarly, in his 'Bunch of Thoughts,' Golwalkar, quoting from the Rig Veda and echoing Manu, empathically declares, 'Brahmin is the head, Kshatriya the hands, Vaisya the stomach, and Shudras the feet. This means that the people who have this four-fold arrangement, the Hindu people, is (sic) our God'.

In fact it would be more prudent to say that the very edifice of RSS, which yearned for a Hindu Rashtra based on Brahminical worldview, was built on an inbuilt antagonism towards the assertion of the *Shudras-Atishudras* and women. And Maharashtra which never had a significant Muslim presence became a home to this project

as it was witness to the massive social-cultural movement challenging the stranglehold of Brahminism and Patriarchy under the leadership of Mahatma Jyotiba Phule and Savitribai Phule. The Phule's struggle against the *Shetjis* and *Bhatjis* (Traders and Brahmins) got a new fillip with the emergence of Dr. Ambedkar whose first historic struggle for the dignity of Dalits culminated in the burning of *Manusmriti* itself in 1927. Interestingly most of the studies of the origin and expansion of Hindutva brigade have rather concentrated on the anti-minority aspect of its foundation and have inadvertently or so skipped the anti-Dalit or anti-shudra aspect of its formation which has led us to a situation where a concerted attack on the foundations of the politics Hindutva has not been possible. Although of late one does notice a significant change in the appraisal and also a growing realisation that anti-caste struggle needs to be made an integral part of anti-communal struggle.

Explaining the reasons behind the formation of RSS Dr. Hedgewar rightly tells his biographer Mr. C. P. Bhishikar (considered the only 'official' biography, 'Sanghvriksha Ke Beej') two component parts of its emergence. Of course like any Sangh activist he does not say it so explicitly and one has to gather inferences from what he said. In it he talks about the rising communal tension because of end of Khilafat movement and secondly, the way non-Brahmin movement (which was founded by Phule) had raised its head.

It was not surprising that Golwalkar did not take kindly to the affirmative action programmes undertaken by the newly independent state for the welfare & empowerment of scheduled castes and scheduled tribes. He expressed his disapproval by saying that rulers were digging at the roots of Hindu social cohesion and destroying the spirit of identity that held various sects into a harmonious whole in the past. Denying that Hindu social

system was responsible for the plight of the lower castes, he held constitutional safeguards for them as responsible for creating disharmony.

Dr. Ambedkar had envisaged the special privileges for 'Scheduled Castes' for only 10 years from the day we became a republic in 1950. But it is going on, being extended. Continued special privileges on the basis of caste only, is bound to create vested interests in them in remaining as a separate entity. That would harm their integration with the rest of the society.

It was the same period when attempts were made to give limited rights to Hindu women in property and inheritance through the passage of the Hindu Code Bill, which were opposed by Golwalkar and his followers, with the contention that this step was inimical to Hindu traditions and culture. Looking back one could say that RSS was one of the leading force of this all India campaign to stop enactment of the bill. Shyama Prasad Mukherjee, who later became the founding President of Jan Sangh - the mass political platform floated by RSS-, and who happened to be a minister in Nehru's cabinet then also expressed his opposition to the passage of the bill in no uncertain terms. It is now history how the bill could not be passed when Ambedkar was the law minister and he resigned from the cabinet mainly on these grounds only.

Vinayak Damodar Savarkar, another leading light of the Hindu Right, who is supposed to be the pioneer of the idea of Hindutva, also expressed his admiration for Manusmriti in no uncertain terms. According to him :

Manusmriti is that scripture which is most worshipable after Vedas for our Hindu nation and which from ancient times has become the basis of our culture-customs, thought and practice. This book for centuries has codified the spiritual and divine march of our nation. Even today the rules which are followed by crores of Hindus in their lives and practice are based on Manusmriti. Today Manusmriti is Hindu law.

Although much water has passed the Ganges (and the Jamuna), it cannot be said that

there is any rethinking in the camp of Hindutva about Manusmriti or the social system sanctioned by it. The only difference which has occurred is that the critique of the present constitution - which at least formally (to quote Dr. Ambedkar) 'ended the days of Manu' - has become more sophisticated. Not a day passes when one of the stalwarts of the Sangh Parivar criticises the constitution for 'bearing colonial imprints' or supposedly 'not caring to local traditions and culture'. It was not for nothing that the BJP had even appointed a commission to review the constitution under some specious plea.

Of course there are occasions when the criticism does not remain so guarded and it manifests itself in a blatant manner. One still remembers how Giriraj Kishore, a RSS pracharak, who happens to be a leading light of the Vishwa Hindu Parishad, had rationalised the killings of five Dalits in Jhajjar, Haryana (October 2002) by a mob for committing the 'crime' of skinning a dead cow by saying that 'in our religious scriptures (*Puranas*) life of a cow is more important than any number of people'.

It is now history how Uma Bharati (then a senior leader of the Bharatiya Janata Party) led M.P. government promulgated an ordinance for banning cow slaughter with an official statement which extolled the virtues of Manusmriti. (January 2005) It said : *Manusmriti ranks the slaughterer of cow as predator and prescribes hard punishment for him*'. As Shamsul Islam, in his piece 'Hindutva and Dalits' (Ed. Anand Teltumbde) writes '*It was for the first time in the legal history of independent India that a law was being justified for being in tune with Manusmriti.*' It had no qualms in declaring its commitment to Manusmriti although it very well knew that it was in contravention to the basic principles of constitution.

It is the same BJP which helped install a magnificent statue of Manu in the precincts of Jaipur (capital of Rajasthan, perhaps the only state in India) highcourt in early'90s when Bhairon Singh Shekhawat - a longtime RSS worker and present incumbent to the Vice Presidents' chair- happened to be the Chief Minister.

Yoginder Sikand, a leading scholar on interfaith relations, in one of his perceptive

writeup *Hindutva And The Dalit-Bahujans : Dangerous Portents* (www.countercurrents.org) shares his experience interviewing Hindutva leaders :

'Top Hindutva leaders are on record as arguing that the Hindu Rashtra of their dreams would, in emulation of the classical Hindu state that they so ardently espouse, be ruled according to the draconian Bible of Brahminism, the Manusmriti, that consigned the 'lower' castes and even 'upper' caste women to the most cruel form of slavery that humankind has ever devised.'

Interestingly, despite its fascination for Manusmriti, the RSS alongwith its affiliated organisations have been able to win over significant number of Dalits as well tribals to its side. Question would naturally arise how could it do it ?

Whether it is related to the dynamics of the Dalit movement itself which underwent splits after splits in the post-Ambedkar era and could not figure out its correct bearings in the present polity ? Or it could be explained on the basis of the changed lifeworlds of the Dalits and the process of Sanskritisation which has slowly overtaken wider concerns among them? The ensuing discussion would remain incomplete if we do not take a look at the changes in the modus operandi undertaken by the Hindutva project itself to make itself 'attractive' for the subalterns.

UNFOLDING OF A MOVEMENT

Nineties happened to be a decade of great turmoil in the life of the nation. Apart from the neo-liberal changes undertaken in the economy under the canopy of globalisation, there were two parallel (at times overlapping) streams which made their presence felt in the socio-political arena - namely the phenomenon of Dalit-backward assertion and the ascendance of the Hindutva right. In popular parlance it was projected as 'mandal' versus 'kamandal' politics. The assertion of the subalterns was on the one hand a slow reflection of the coming into own of these sections as well as reflection of their growing frustration with the Congress, which had accomodated them under its typical

paternalistic mode for quite sometime. The famous 'Congress system' was in fact a carefully carved out block of Brahmins, Dalits and Muslims mainly in northern India, which had proved to be one of its winning combination.

One could even say that the nineties which started with a bang wherein the whole phenomenon of Dalit- Backward assertion helped check the growth of communal fascism at various levels ended in a whimper with a significant part of the Dalit-Backward swell submerging itself into the 'kamandal' politics. This despite the bitter fact that the Sangh Parivar, the fountainhead of BJP, had never deprecated the *Chaturvarna* system largely responsible for the plight of the Dalits nor apologised, nor have missed any opportunity to castigate Dr. Babasaheb Ambedkar for his alleged 'pro-British' opinions or oppose the policy of reservations under one or the other pretext.

It would be opportune to look at the post Ambedkar Dalit movement and do a stock taking of the changes within the Dalit politics to understand the phenomenon. The ups and downs through which the Dalit politics passed through after the death of Dr. Babasaheb Ambedkar can be broadly divided into three phases - Rise and decline of the Republican Party of India, emergence of the *Dalit Panthers* and thirdly the growing assertion of Dalits for political power and their consequent refusal to remain satisfied merely with education and job opportunities arising out of the policy of reservation.

There is no need to underline the immense potentialities in the phenomenon of Dalit assertion in today's caste ridden polity. There is no denying the fact that it is a step ahead in the real democratisation of the Indian society and the polity dominated by Brahminical values and traditions despite fifty plus year experiment in electoral democracy. The impressive intervention of Bahujan Samaj Party under Kanshiram-Mayawati in the national politics underlines this third stage. It is noteworthy that while in the earlier two stages in the post Ambedkar Dalit movement, the unfolding Dalit politics in Maharashtra guided its orientation, its role has been increasingly marginalised in the third stage. The success achieved by BSP has certainly

encouraged emergence of similar experiments in different parts of the country.

It is noteworthy that at this stage there is another apparent *groundswell* in various Dalit castes also. One could say that the phenomenon of assertion of identities has trickled down to even subsections of the community/caste itself. These are organizing themselves under the banners of their respective caste and sub-caste for achieving their rights. Consequently their guns are trained besides the *Varna* system also on the so-called rich Dalit castes or the creamy layer in them which they feel have monopolised a large part of the reserved posts. The Mahar/neo-Buddhists vs. Matang and Charmakar debate in Maharashtra, Mala vs. Madiga in Andhra Pradesh are symptomatic of this rising trend. So much so that in Andhra Pradesh the dispute between Malas and Madigas, both of them coming under scheduled category, gave rise to a militant agitation of the Madigas. The Madigas under the banner of *Madiga Reservation Porata Samity* launched a statewide militant mass movement for castewise categorisation of reserved seats in educational institutions and jobs etc. so that extremely depressed castes which could not avail of the quota for historical reasons could avail of it now.

It is indeed ironical that at a time when the issue of Dalit assertion has got acceptance even in the mainstream polity in the 90s a counter tendency has emerged which seem to fracture the new found identity. One could also perceive the whole process as an explosion of identities hitherto suppressed by the hegemonic caste and class structure. In the beginning of the 70s the term Dalit denoted a broad, homogenous fraternity. This is no more the case. If you just say Dalit you are making an incomplete statement. It would be necessary to also specify whether he is a Mala or a Madiga or a Matang or a Charmakar. This process has thrown up new 'icons' from among the different castes and the subcastes as well. There is also a danger of the old leaders who earlier claimed pan Dalit status being reduced to their 'own' caste leaders. The emergence of Avantikabai Pasi in UP or of the famous author Annabhau Sathe in Maharashtra as new leaders of the Matangs underlines this ground reality. Incidentally it is interesting to note that Mr. Sathe remained a

Communist Party worker all his life and was a leading light of the progressive writers movement. Nobody would have imagined in his lifetime that one day he would be projected as the leader of 'his caste' and a saffron alliance in power would present his selected writings before the people.

Parties opposed to Congress have skillfully used the persisting differences between different Dalit castes. For example, when the Shiv Sena-BJP government held the reins of power in Maharashtra in mid-nineties, it saw to it that there was representation of Matang and Charmakar in the ministry and the Mahars or Neo-Buddhists are kept out.

It is worth noting that within the Dalit movement especially among its intelligentsia there are three sets of opinions as far as alliance with the saffrons is concerned. Whereas one stream of opinion advocates such an alliance on tactical grounds and says that such temporary unity would be beneficial in the longer run. Essentially its argument revolves round the inherent contradictions between the upwardly mobile backward caste people and the Dalits especially in the countryside. They feel that at the turn of the 20th century Dalits are more oppressed by these new kulaks largely coming from the backward castes and that their alliance with upper caste party like the BJP can save them from their onslaught. They clearly say that 'social fascism' (as represented by the emergent Kulak leadership) is more dangerous than communal fascism. They even belch out statistics to show the number of Dalits killed at the hands of the Kulaks in different parts of the country.

The other stream while categorically opposing any type of alliance with the saffrons even for a shorter period advocates that the Dalits should search for their natural allies which according to them can only be the leftists of various hues? According to them the fascist project is essentially aimed at the restoration of the Brahminical order and nothing should be done to sanctify such a medieval project.

The third stream advocates equidistance from both the opponents of 'communal fascism' or adversaries of 'social fascism'. It talks of developing a strong Dalit movement on its own strength and then only become a key player in the polity.

To be continued...

Published by : INSTITUTE FOR SOCIAL DEMOCRACY, New Delhi
for
Peace in South Asia

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