

JUSTICE MICHAEL F SALDANHA **PEOPLE'S TRIBUNAL ENQUIRY REPORT**

SUMMARY OF FINDINGS AND CONCLUSIONS:

Before recording the summary of my findings, I need to clarify that I have not specifically dealt with incidents in the Districts other than Dakshina Kannada, Udupi and Bangalore, because none of those are as serious, incident-wise and consequences-wise and more so because they have followed the general pattern and the same findings hold good. In the procedure which I have followed, which was extremely laborious and time consuming and involved huge amounts of travel, an effort has been made to do a forensic job – comprehensive and all inclusive. It involved visits to 413 places, many of them repeatedly, examination of 673 witnesses, 2114 victims not to mention hospitals, courts, police stations, jails, government offices and of-course, the Churches and grottoes. The exercise was undertaken at high speed because human memory and evidence both fade get polluted and even get obliterated. In the majority of instances, records, videos, photographs etc. required to be carefully examined and researched. I have also had to obtain a lot of expert advice in many areas such as the medical field, the chemical field and even the finer points of the Law. The effort has been to produce a Report of high quality, one of total credibility absolutely transparent and unbiased and above all, a faithful exposition of the absolute truth. I am conscious of the fact that it is strong in many areas and that is because the incidents themselves are so horrifying. There is also a powerful indictment of some of the Politicians and Police Officers but that was inevitable on the facts of this case. I have tried very hard to look for any mitigating and extenuating circumstance but none exist

SYNOPSIS OF FINDINGS:

- (a) That these incidents are representative of the **hidden agenda** of the party in power in this State, the BJP, which is driven by a very strong casteist force and which is no longer a secret after Gujarat and Orissa. Firstly, it consisted of a violent attack against minorities and that is why I have briefly indicated as to how the Muslim Community was simultaneously targeted. Next comes the hatred and the venom which the leaders have successfully transmitted to their followers which explains the abnormal levels of savage brutality in everything that took place, particularly whenever violence was used. Thirdly, and the most unfortunate distressing and shameful aspect of the operation which will take this country backwards to the days of the caste system, the results were manifested on the poor, the down-trodden, the weak, the aged and all the others who did not have the power to fight back.
- (b) That every one of the attacks and incidents which took place were instigated and pre-planned. They were State sponsored and not only supported by the State but were covered up for by the State. The responsibility for this devolves squarely on the Home Minister – Dr. B.V.

Acharya and the Chief Minister – Dr. B.S. Yediyurappa (the Doctorate was awarded by some obscure foreign university).

- (c) That in all the incidents involving violence, the principal culpability rests with the State Machinery namely the Police Department. Not a single instance of violence be it Lathi charge, use of teargas, smashing of vehicles and Church property or religious objects like the crucifix at the Adoration Monastery and the Statues and sacred objects can either be condoned or justified. These are all rank criminal offences for which the concerned Officers and Staff deserve to be prosecuted. I have named some of the Police Officers who have crossed all conceivable limits, who, even at this stage, deserve to be suspended, an enquiry held, and dismissed from service and prosecuted. The same applies to the then D.C., Mangalore.
- (d) That the promulgation of the so-called Order under Section 144 Cr.PC is thoroughly illegal and unjustified.
- (e) That the procurement of the rock pebbles, the arming of the saffron militants with lathis and other deadly weapons and use of these persons against members of the Minority Community was totally unjustified and Criminal.
- (f) That the use of lethal and toxic gas which emanated from teargas shells which were beyond the expiry date by 4 to 6 years was not only Criminal but was life threatening and is reminiscent of the use of fascist methods by the Nazis who gassed six million Jews to death.

The culpability and the gravity of this crime gets immensely compounded because the media exposed this factor on the 14th September 2008 itself after which, the Police repeated the use of toxic gas in five subsequent events which establishes that it was not accidental but DELIBERATE.

- (g) That as far as the many many occasions when a lathi-charge was resorted to, the facts do not justify the action at all. There was no cause and it was naked aggression, savage brutality was displayed, abnormal levels of violence and above all, the intention to maim and kill was 100% evident when the victims were deliberately hit on vital parts of the UPPER BODY, they were followed, chased and assaulted. The liability of the State for these actions is 100%.
- (h) The police violence committed inside the primary school at Kulshekar is unpardonable and unprecedented and does not seem to have occurred anywhere else in the world where Police Officers and the Police in partnership with the other assailants stormed a primary school with 607 young children and a staff of over 35 women teachers and nuns and resorted to unmitigated violence on them, it was savage, barbaric and unpardonable. Nothing can condone these acts.

- (i) The Police storming the Church at Pemannur obstructing and stopping the Mass and assaulting the celebrant Priest and then standing on top of the altar and directing the assault of the congregation followed by total vandalism of the entire Church and the theft of all the holy objects by the S.P., apart from being downright Criminal are absolutely reprehensible. The further use of out-dated teargas shells containing toxic gas inside the Church and as also inside the Primary School at Kulshekar was downright Criminal and can only be defined as an attempt to murder. The same applies to the assault by the Police on the congregation after they were brought out of the Church with their hands above their heads, all of whom were heavily bleeding and were already injured and the savage attack that followed was downright Criminal and inhuman.
- (j) The removal of the vehicles from each of the places where the violence took place, the stripping of the vehicles and the collection of massive amounts of money for their return by the Police is not only Criminal but indicative of deep seated corruption.
- (k) The false arrests of innocent persons, custodial violence, refusal to afford medical aid to the injured persons who had been taken into custody and the retention in custody of all these persons for periods of time extending up to three months has absolutely no legal sanction. These are grave infringements not only of the Law but of human rights and the responsibility rests entirely and squarely with the State of Karnataka.
- (l) The ancillary damage in all these cases where the numbers are not small is real and massive. Though, I could not get to every single one, they exceed 2300 persons, out of which, 891 have suffered serious injuries such as fractures and the like and as many as 36 have suffered permanent damage and disability such as loss of an eye, damage to the kidneys, permanent damage to joints and lifelong crippling back injuries. The complaints made indicate that 107 of these persons who had their own little businesses like Motor Mechanic, Tailor, Carpenter etc. have lost their livelihood completely. This is in addition to the fact that none of these persons come from the richer class, they have had to spend unaffordable amounts of money on medical treatment, transport etc. which they could ill-afford and which has landed them in debt. 38 of them who are employed have lost their jobs and 231 boys who were students have had their careers seriously affected. The State of Karnataka is liable for all of this damage because the injuries were caused in the course of Police action which was illegal and unjustified. As a façade, the Government announced that compensation would be paid and then announced that compensation had been paid, I was not able to find out a single person who had received even one rupee as compensation and if it was sanctioned, the money has gone astray.
- (m) More importantly, the Government announced that all the cases would be withdrawn which has not happened. These poor people have been attending Courts, losing their salary and not a

single case has come up for hearing so far. On the other hand, in all those instances, where cases were filed against the Assailants, the number is few and far between because the Home Minister himself would never disclose the figure, have been clandestinely withdrawn and it is amazing that when the Home Minister was questioned about this in the Assembly, he gave one more of his unique answers by stating that these persons are not Criminals, the activity they indulged in was political according to him and they should therefore be categorized as **political activists** and that is why, the cases were withdrawn! Why this argument does not hold good as far as the victims are concerned, only Mr. Acharya knows.

- (n) I have elaborately set out that all the major incidents were commenced with something unique and unusual, viz. protracted and violent stone throwing. These stone / rock pebbles were specially brought in tempos by the saffron activists and the evidence indicates that this part of the operation of stone throwing was conducted by them in all the cases. These stones have caused serious injuries, but I am on an entirely different aspect. Historically, the act of pelting stones is an act of hatred and contempt of the highest order and one finds references in earlier times to this form of activity indulged in against poor human beings who were condemned to be stoned to death under the barbaric Laws or customs at that time. The very act of stoning human beings is the vilest form of venom and hatred and the object is to mortally maim and to kill. This is very representative of the entire operation that was planned against the members of the minority community and it indicates the abject hatred and contempt that runs through this entire operation and from this angle, I would single out this part of the violence as the very most horrible and disgusting part of it. Much thought must have gone into the planning and it must have been done at the organizational level either at Kalladka or at Udupi or at both places. I would like serious cognizance to be taken of this positively disgusting facet.
- (o) The police entering the Churches is again ultra serious and assaulting the celebrant in the course of a holy service is something globally unprecedented in this day and age. The arrogance of the Police Officers standing with their boots on the sacred altar table is again unpardonable and unforgivable. Like the stone throwing, the nature of this operation when directed against the Catholics is a clear indication of the hatred and contempt with which these operations were carried out. These are serious dangers to the nation because the entire saga of attacks is in complete violation of the Constitutional rights of the Catholics to practice and profess their faith. The position of the State Government is totally and completely indefensible.
- (p) As far as the role of the Chief Minister and the Home Minister are concerned, at no point of time, did they ever even express lip sympathy for what had happened. They have in their official capacity at all times through their conduct and their speeches abetted what had happened and covered up for what the Government Machinery did and more importantly, for the whole of the saffron brigade. The fact that both of them openly flaunt the fact that they are RSS Pracharaks is not the issue because their personal background is their own business but in their official

capacity, it is not an expectation but a requirement that you cannot carry your communal hatred into your official position but this is what has unfortunately happened. From the recorded sequence of events, the presence of the Home Minister in the District at all crucial times, from the instructions that have come from him particularly to the Police, the manner in which he has rewarded the errant Police Officers and above all, the steps taken to grant total immunity to the saffron brigade to run absolutely wild in the State and to even order withdrawal of the few cases filed against them are all personal acts of abetment from the Home Minister, Unfortunately, the Chief Minister has gone along with him at all times and therefore, he would be equally responsible.

(q) As far as the saffron activists are concerned, the Bajrang Dal leader and the leader of the Rama Sene have at all times boldly and openly admitted that it was their organizations which had undertaken all the attacks, all the intimidation and every single act of terrorizing the minorities. There is no way that it can ever be argued that the responsibility does not devolve on them, but more importantly, the organizations which they represent. The evidence clearly establishes that the BJP Government made no distinction between the party in power and these two organizations but it is also clearly established that as far as Dakshina Kannada and Udupi Districts are concerned that the RSS was very deeply involved. What stares one in the face is the fact that despite this dismal record, no action according to law was taken against these two leaders and all the others who were responsible for a virtual reign of terror in these two districts particularly and the State in general. This aspect assumes great significance because in the first place, it conclusively establishes the total collusion between the BJP Government and these organizations. Secondly, it establishes protection and cover up and thirdly, total and complete approval. The culpability and liability of the State Government, the Politicians who are involved, the Government Machinery and the Bajrang Dal, Ram Sene and the RSS is joint and several and no distinction can be made because there was 100% collusion at all times. This had resulted in a total breakdown of the law and order situation and in a deliberate breach of the Constitutional mandate that guarantees rights to the minorities and more so, complete infringements of the Human Rights Law.

(r) I need to record with extreme distress that the role of the subordinate Judiciary right through this entire period of time was extremely disappointing. It is with grave concern that it has to be recorded that almost without exception, the Judiciary put out the unmistakable impression that the saffron influences were guiding every decision. It is unimaginable that despite over 2000 applications that were filed indicating injuries that required medical treatment, custodial torture and above all, wrongful detention that every single application was dismissed and no relief(s) were granted. When the State and the Police Department are pulled up for atrocities, one has no words to describe the fault of the Judiciary for having refused to render Justice in every single one of these instances. What was most serious was the indiscriminate refusal to grant Bail in thousands of these cases which is totally indefensible in Law. Another ploy that was

adopted was to reject Bail applications on the ground that the Police are objecting and in cases where the Lawyers insisted, the hearings were protracted and there are instances where the Magistrates have taken 6-8 weeks to pass Orders. If this was not compounding of illegality and a total breakdown of the Law and Order situation that too within the Court Room, it also brought a very bad name to the Judiciary. At the same time, we have the astounding situation of the Judiciary acting as an extension of the Police Department and the State Government by willingly discharging Accused persons who belong to the saffron lobby and conversely issuing the harshest possible Orders against the other side. **The absolutely disastrous consequences of what happens when Courts lean in favour of the wrong doers who get emboldened to use violence was demonstrated with horrifying consequences in Mangalore when the brilliant young lawyer Naushad who fought relentlessly for those wrongly targeted by the Police was openly threatened in the Court premises BY THE POLICE that he would not appear in Court again and that very evening, he was shot dead – the Police has a cover up, arrested a few anti-social elements but the whole world knows who did it.**

I have added on the Chapter relating to the Editor – Seetharam case where for the first time anywhere in the world, an Editor was brought to the Court in chains and handcuffs and the Judge did nothing about it. There was no case against him and he had been refused Bail the previous night and when finally, the Court had no option except to pass a Bail Order, the Police pointed out that they had obtained Nine Non Bailable Warrants against him from different Courts in respect of one and the same complaint. The Press Council of India and the State Human Rights Commission as also the Karnataka High Court have passed the severest strictures in this case. The Hon'ble Chief Justice of the Karnataka High Court is requested to kindly look into what has happened and take firm steps to ensure that the Rule of Law is restored. In an oppressive situation where human rights have trampled upon and the Laws are breached, if the Courts let down the citizens and openly assist and encourage the law-breakers, it is total chaos and disaster resulting in political anarchy and that is what has resulted in this State. **ATLEAST AT THIS POINT OF TIME, IF THE STATE HAS ANY RESPECT FOR THE LAW, BECAUSE THIS IS NOT AN ACT OF COURTESY OR GOODNESS BUT A LEGAL REQUIREMENT, ALL THE PERSONAL INJURY AND DAMAGE AS ALSO PROPERTY DAMAGE WILL HAVE TO BE ASSESSED AND COMPENSATED FOR IN KEEPING WITH THE WELL DEFINED PRINCIPLES AND THIS WILL HAVE TO BE DONE ON A TIME BOUND AND PRIORITY BASIS.**

- (s) A serious allegation was leveled particularly by the Chief Minister and the Home Minister that the minorities namely the Christians are indulging in conversions. I had devoted special attention towards examining this allegation thread-bare and found it to be downright false. It was pleaded as a Justification for the violence, it is a sham allegation and an after-thought but all the same it merited a deep examination and my finding is that it is factually incorrect that it is completely baseless and that it should not have been pleaded at all.

- (t) There was an allied charge that was making the rounds to the effect that foreign funds have been received which have been channelised towards conversions. I have pointed out that the allegation regarding the conversions is false and baseless but I have also investigated very thoroughly as to whether any foreign funds have been received and channelised for any unlawful or anti-social purpose and the answer is that there is not only zero evidence but that there is also no ground for suspicion as far as this is concerned. The congregations that have been attacked, even where the big Churches were concerned are absolutely in the clear. There were a large number of small Prayer houses where the attacks took place and most of these are exceedingly poor and some of them are at the subsistence level and in this background, this allegation is a rank absurdity.
- (u) Another allegation that was doing the rounds was that one of the denominations or some of them are alleged to have circulated offensive literature in the form of the booklet Satyadarshini. I have dealt elaborately with this charge and given conclusive reasons to establish that it is completely groundless. This was a ploy to justify the unpardonable and indefensible attacks and when the hollowness was exposed, copies of this offensive material were procured and an attempt was made to plant them in some of the Prayer Houses which also failed. This charge is also completely false and unsubstantiated. Strange as it may sound, I have recorded the fact that the only available copy of this publication was a brand new print and it was provided to me in the Bajrang Dal office. That this was procured and printed by these people and attempted to be foisted on the members of the Christian community is more than obvious.

CONCLUSION:

It is true that this Report reads like a disaster story but unfortunately, it deals with a disaster situation and can reflect nothing else. It is shameful that these incidents took place in the State of Karnataka, my home State which I love very dearly, and what is worse, is that **while the intensity of the incidents may have been altered at later times, the number of attacks on the minorities have only gone up during subsequent period.** It does not matter which party is ruling the State, the Rule of Law has to prevail and the Constitution has to be respected. This State has a long history of communal harmony and of very high cultural standards and these incidents have seriously eroded on that record. To my mind, while reputation is a matter of consequence, respect for human life, tolerance, good Government and good behavior are areas where there can be no compromises. More importantly the forces of evil that have seemingly gone out of control will have to be stamped out. Having spent 15 years in the Judiciary, I expect that when all else goes wrong, the Judiciary will be there to correct the position. This confidence has also been eroded by happenings in the recent past, but I am confident that the Indian Judiciary which is one of the best in the world will ensure that it lives up to its reputation.

(This investigation has been extremely long and tiresome as also dangerous but God has been there to protect us. It has been very depressing and unpleasant but like a diagnosis in a case of serious medical ailment, it is something that was absolutely essential. At all times, I have been assisted and

helped and supported by a team of very dedicated persons to whom I am immensely grateful. As far as the preparation of this Report is concerned, it involved hundreds of man hours spread into the early part of the morning and I would never have been able to undertake and complete this massive operation on a time bound basis but for the immense efficiency, help and tireless support from Venkatesh to whom I am deeply obliged and grateful. It was essential from the point of view of the community, the public interest, the State and the Country and I have done it willingly and I know it will be well received and appreciated both Nationally and Globally).

SOME BURNING AND RELEVANT QUESTIONS:

1. In the light of the findings in this Report, the question arises as to whether the two Politicians who have been indicted for a variety of reasons should continue to hold important positions in the State Government ?
2. What is the action required to be taken by the Centre and the State Government in order to curb the unlawful activities of the Bajrang Dal, Rama Sene and the VHP and those who profess allegiance to these organizations while unleashing violence against minorities, intimidating them, persecuting them and otherwise targeting them ?
3. Whether it is not necessary in the public interest to make an example of the Police and other Government Officers who have grossly mis-conducted themselves in the public interest and as a deterrent to other like minded persons, whether it is not essential that exemplary punishments be awarded to them ? Whether the Police Dept. of the State should not be reformed and reminded that they are required to safeguard life, property and rights of All communities and not only one of them and conversely that the minorities are not their enemies?
4. Whether it is not absolutely essential for the subordinate Judiciary of the State to remember that they function as guardians of all citizens and that it is a Constitutional mandate that fundamental rights and human rights have to be safeguarded at all times and that there can be no discrimination in the functioning of the Courts and above all, that Justice has to be expedient and immediate ?
5. Whether it is not high time that the Governments and the Public authorities, understand, realize and accept that the rights and property of the common citizens, the tribals, the poor, the weaker sections and the downtrodden are not to be trampled upon by the dominant class and the persons who wield power and authority and that they realize that under our Constitution millions of these human beings have a right to equality and a decent life and whether the principle of survival of the weakest has been forgotten ?

6. Whether it is not equally necessary to identify all the other individuals who have been indicted in this Report and that action according to Law be taken against them ?
7. Since serious unfounded allegations were made under the heads of alleged conversions and alleged misuse of foreign funds officially at the Government level, whether it is not essential from the angle of good sense and good governance that the Government apologize to the communities for having leveled these charges ?
8. In the land of Gandhiji, who prescribed that every tear should be wiped away, whether it is not absolutely essential that every injured person be identified and every head of loss be evaluated and fair compensation be awarded to them ?
9. Whether it is not absolutely essential that all the false prosecutions instituted be withdrawn and the victims be compensated for the consequences of these proceedings ?
10. More importantly, whether it is not absolutely essential that the Central and State Government take all necessary steps to restore the confidence and security of the minorities in the State of Karnataka and do all that it is necessary to ensure the guarantee of their constitutional rights ?
11. Whether it is not equally important that the indiscriminate donations to only Hindu Temples and Mutts and Institutions which have exceeded Rs.3,000/- Crores at the hands of the Chief Minister be stopped and that the citizens of Karnataka be informed as to how the Government justifies personal donations of public funds and whether it is legal that such disbursement should be to only one community ?
12. Above all, whether the Government of Karnataka does not owe an explanation to the Citizens as to how massive Sammelanas of only one community are regularly held all over the State at State expense as a muscle flexing exercise in order to intimidate all the other communities (172 so far) and whether all the other functions under all sorts of heads which are organized in the name of Hindutva (218 so far) can be at public expense and whether it is legal to take over every town, city and village by displaying saffron flags, banners and the like almost all round the year, again as a muscle flexing exercise, or whether the time has come to accept that all communities are entitled to live in harmony in Karnataka?
13. **THESE WERE ESSENTIALLY HATE CRIMES – THIS COUNTRY WILL GO UP IN FLAMES UNLESS RIGOROUS ACTION FOLLOWS TO STOP THIS. WHAT DO THE AUTHORITIES PROPOSE AS A PERMANENT ANTIDOTE ?**
14. **THESE WERE NOT ONLY ACTS OF VIOLENCE THEY WERE SEVEN DELEBRATE UNPARDONABLE AND SHAMEFUL INSTANCES OF DESECRATIONS OF THE HOLIEST**

SYMBOLS OF CHRISTIANITY WHICH IS GLOBALLY UNPRECEDENTED AND SOMETHING WHICH CANNOT BE ALLOWED TO PASS. WHAT DO THE GOVERNMENT PROPOSE TO DO AS AN ALL TIME PREVENTIVE ?

These are all very serious and burning issues to which the Citizens of the Sub-Continent want immediate answers and solutions.

