

# Gujarat: So Why Are These Men In Jail?

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**Thirteen persons have been arrested in Gujarat as Maoists since February. But they are merely human rights activists, not Reds.**

ALL OF June 17, Anju had no idea where her husband was. She couldn't have imagined even in a nightmare that 41-year-old Abdul Shakeel Basha had been picked up from near his house in RK Puram by the Special Cell of Delhi Police as he was leaving for work. Later that evening they brought him back to his house. The plainclothes policemen told her nothing except that they were from the Special Cell, taking her to a separate room for interrogation. After a thorough search, they confiscated Basha's passport, credit cards, laptop and some books. No search or arrest warrant or seizure memo was produced, and despite Anju's pleas she was not told why her husband was being taken away again.



**Climate of fear** *Shrinivas Kurapati, an employee of NGO Darshan, arrested from Ahmedabad in May*

Through the night, Basha's wife and friends including some lawyers tried to ascertain whether he was detained by the Special Cell and why. No information whatsoever was forthcoming. Next morning, they woke up to media reports that a 'wanted' Maoist by the name of Shakeel Pasha had been arrested in Delhi.

Clearly, police sources were less reticent in telling the media about Shakeel's arrest than they were in letting his family in on it. But there was more than one discrepancy in their account. To begin with, his last name is Basha, not Pasha. He is known to Delhi's civil society as anything but a 'Maoist'.

In the preceding months, similar stories have played out in several homes in Gujarat. Basha is 13<sup>th</sup> in a line of people arrested under FIR number 1-37/2010 Police station Kamrej, Surat range, dated 26<sup>th</sup> of February, u/s 120(B), 121(A), 124(A), 153 A&B of the IPC, and Sec 38, 39 and 40 of the UAPA, 2004. The police claim all the detainees are involved in a conspiracy to start a Maoist revolution in Gujarat and parts of north Maharashtra. But there is little evidence to support this claim. On the contrary, most of these people are widely known for their social activism in one of two areas tribal welfare or rights of industrial workers.

In December 1992, as Mumbai burnt, Abdul Shakeel Basha, the son of an army man from a middle-class family, decided to take a break from postgraduate studies and volunteer to help rehabilitate

riot victims. Soon he would travel to Gujarat and take up the cause of mill workers, moving on to campaign for legal justice for victims of the 2002 Godhra riots as part of Nyayagraha, (a campaign by Aman Biradari, an NGO started by writer and member of the National Advisory Council Harsh Mander.)

***'Modi's agenda is a bhelpuri of Hindutva, regional parochialism and Vibrant Gujarat his brand of anti-poor development'***

ACHYUT YAGNIK, Political analyst and writer

In 2004, he got married and moved to Delhi to set up home. Hereon he worked extensively to alleviate the plight of the homeless first as part of Aman Biradari's Dil Se campaign for street kids and later as the architect of an independent programme called Haq for homeless adults.

As he moved from one cause to another, he strengthened the faith of colleagues. Nyayagraha in Gujarat is still fighting 200-odd cases for the victims of state terror a fact that underpins the myriad ironies of Basha's story, as his family and friends struggle to garner legal and civil support to get him out of Surat jail, where he is serving time with the other 12. Even before his first hearing, it is apparent that getting out of jail would be a difficult proposition. To call the accused, the reader announced: 'Maowadi ko lao' (Bring the Maoist), sealing the smear campaign that was all over the national media even before a chargesheet had been filed.

SO FAR, chargesheets have been filed in 11 out of the 13 cases. Shrinivas Kurapati, 34, arrested from Ahmedabad, awaits his chargesheet along with Basha. On May 30, he was picked up from near his in-laws' house in Gomtipur. End-June, the Gujarat police called his wife Hansa's uncle Ambubhai Waghela for questioning. Ambubhai, a widely known cultural activist, has taken on the VHP and RSS head-on to counter their attempt to polarise Dalits against Muslims in the ghettos they cohabit. He assured the police of Shrinivas' innocence and offered to bring him to the police station to clarify. The police refused this offer, choosing instead to pick him up themselves, creating a spectacle for the local media to broadcast.

Hours after his arrest, Hansa's entire family including her little sisters and old aunt, were summoned to the police station. While the others were allowed to leave late that night, Hansa and Ambubhai were illegally detained for two nights and three days for further questioning. Soon the local newspapers started carrying reports saying Hansa was forced into marrying Shrinivas by 'Maoists' and that she would possibly be the prime witness against him. Huddled with her family in a tiny ground floor flat, Hansa tells a very different story. "I married Shrinivas because I fell in love with him after we met at a protest march. He spent all his time outside of work with me and our son Viplav, cooking dinner and helping me with chores. When would he have time to plan Naxal activities?"

***'All major allegations are innocuous and attached to non-violent social acts like association with certain organisations'***

**KIRIT PANWALA, Defence counsel in 10 of 13 cases**

HIREN GANDHI who runs Darshan, the NGO where Shrinivas worked, remembers the man came to him in 2006 tormented by poverty and asked for any work at all. "There is no way he was involved in Maoist activities during the time he worked with me. He borrowed money from everywhere to buy a simple house. Would he be so hard-pressed if he were with a movement?" he asks.

But where answers do not exist, they can be manufactured. Hansa says she was beaten up in detention and made to sign statements she did not read: "In Ahmedabad they hit me with a danda (baton) when I got confused answering a question. In all they must have struck me about four times

but I didn't cry," she says, leaving one speechless.



**United stand** *Civil society gets together in Ahmedabad to protest what it believes are wrongful arrests of pro-poor activists*

The case of Avinash Kulkarni (57) is even more baffling. For over 20 years, Kulkarni, an MPhil in Political Science, currently writing his PhD thesis, has been working in the Adivasi district of Dangs. There is hardly anyone in the academic and civil circuits of Gujarat who will not vouch for him personally. From 1998, the saffron brigade led by Swami Aseemanad (now wanted in the Malegaon blasts case) unleashed its two-pronged communal agenda in Dangs superimposing Hindutva on tribal culture on one hand and attempting to instigate tribals against other minorities on the other. Kulkarni fervently opposed this agenda with his colleagues, succeeding in checking divisions and riots in the areas he was active in.

As part of organisations like Adivasi Mahasabha and Dangi Mazdoor Union, Kulkarni campaigned for the land rights of tribals. Instrumental in the passage of the Forest Rights Act 2006, he later helped tribals file claims to land. Raju Solanki, author of *Blood Under Saffron*, a book on the communal agenda of the state, says about Kulkarni, "One day he told me: 'I hope the PWG don't land up in these forests. What will become of the villagers then?' How can he be accused of being a Naxalite?"

Kulkarni is spoken of as pacific and upright to a fault. Which must be right, for two months ago when some prisoners broke out of the barrack Kulkarni was imprisoned in, he stayed back. It was once said of Binayak Sen (the public health activist arrested in Chhattisgarh in 2007 on charges of being a Maoist) that even if his supporters stormed the jail to free him, he would stay back. If that hypothesis was testimony for Sen's character, this incident certainly establishes Kulkarni's.

## **EARLY WARNING SIGN**

This Gujarat government publication of 2006 says on its cover *Activiston Savdhan Aa Gujarat che* (Beware Activists This is Gujarat). Inside there are cartoons projecting Medha Patkar as anti-development and anti-tribal welfare. On the last page is a poem lampooning activists, written by Bhagyesh Jha who was then the director of information in the government. Roughly translated its first few lines read: We (activists) twist/What the meaning of good and better/That is our manifesto/What to do? All you need/Is some borrowed English/A plain car, some slogans, some crowds/And a dirty old sari

BHARAT PAWAR (40) also arrested from Dangs, was a local resident who housed Kulkarni. Jesuit priest Father Stanley Pinto knew Bharat from when the former was researching his PhD in the area. He says, "Bharat knew every government official around. He would walk into offices and demand an explanation when there was injustice." Bharat worked for the rights of bamboo workers, tribal farmers, village lawkeepers (Police Patils), and housed victims of communal riots. His wife would cook for all of them despite a hand-to-mouth existence. His daughter, who works as a tailor, is the sole breadwinner of the family.

Similar narratives echo when you talk to the family, friends and colleagues of the others arrested. Makabhai Chaudhuri (49) and Jayaram Goswami (52) fought for the rights of quarry workers and diamond labour, organising them to protest and fight legal battles in the Songadh area of South Gujarat. Their wives, less articulate, tell the story of their husband's arrests, which mirror the tales told by Anju and Hansa.

Satyamrao Ambade (47) and Niranjana Mahapatra (37), arrested from Surat, worked with textile workers' trade unions. Living in a single room with no electricity, Mahapatra also edited a local magazine. He was extremely popular for his work with migrant labourers. Textile workers are exploited by their contractors who deny them permanent status and wages prescribed by law despite making them work 12 hours a day. Today, sources who refuse to be quoted for fear of harassment say some of these workers are being coerced by the Gujarat police to testify against Mahapatra and Satyamrao. They have been threatened with arrest if they don't toe the police line.

KN Singh (47), arrested from Bhavnagar, worked for a mix of local and migrant industrial workers, representing individual cases in labour courts. Alang and other parts of Bhavnagar are notorious for the abysmal conditions of workers in the area. Prakash Patel, an advocate from Bhavnagar who has known Singh since the 1980s and is named as a witness in the chargesheet, vehemently denies Singh's involvement in any kind of violent activity.

EACH ONE of these people has worked for years in specific regions of Gujarat to look for solutions to problems of the poor within the framework of law. All of them were overground and known to Gujarati civil society and the administration. Why then have they suddenly been branded enemies of the state and put behind bars?

This question should be answered when the chargesheet, remand applications and FIR are read in conjunction. Instead, it becomes more pronounced in the process. None of these people have any previous criminal record nor have they been charged with any specific instance of violence. No weapons have been recovered from any of them.



**Under the scanner** *Hansa Solanki, wife of accused Shrinivas, was illegally detained by the police and beaten up in custody.*

Kirit Panwala, defence counsel in 10 of the 13 cases, says, "All major allegations are innocuous and attached to non-violent social acts like association with certain organisations. 10 out of the 13 were alleged members of the CPI (Janashakti) party, which the police claim is a front for the banned People's War Group." But Janashakti is an overground party that contests elections. Panwala explains, "The case under Unlawful Activities Prevention Act does not hold because the Act clearly states that for an offence to be committed the organisation should be banned under the schedule, which Janashakti is not. As for PWG associations, they are all alleged before 2004 when the Act which outlaws the PWG had not come into place."

The most serious charge is that a few of the detainees attended training camps for warfare. However, the chargesheet does not give any details or evidence of this activity. Other charges are

pegged on alleged 'secret' meetings and recovery of incriminating literature. The police claim that Shrinivas and Basha helped draft a document that lays out a conspiracy to start a Maoist revolution in Gujarat, called the Surat Perspective Plan.

Panwala points to lack of evidence yet again, "Under Section 120 (b) of the IPC very little evidence is required to establish conspiracy. Kehar Singh was executed in the Indira Gandhi assassination trial with meagre evidence. But even in that case, there was an actual event to link the evidence with. Given that nothing has been executed here, the charges of conspiracy will be difficult to prove."

The most gaping hole in the prosecution's case is the absence of any prominent instance of Maoist violence in the state of Gujarat. But there is little chance the accused will get bail. Veteran Ahmedabad-based lawyer Girish Patel says, "One could have even tried to quash this faulty FIR if the Centre had not politicised the issue so much." Panwala adds, "10 years ago it would have been easy to get bail in the case, but the judiciary in Gujarat no longer believes in personal freedom as laid out by Article 21 of the Constitution. There is presumption of guilt until proven innocent."

Colin Gonsalves, Founder of Human Rights Law Network, expresses concern over the logic of this case: "When all over the country actual Naxal warriors are being offered money and rehabilitation to surrender, why is the Gujarat police anxious to prosecute social workers whose alleged connection with Maoists and that too of many years ago is highly disputed? "

Political analyst Achyut Yagnik offers a disturbing answer to this question, "Modi's agenda is a bhelpuri of Hindutva, regional parochialism and 'Vibrant Gujarat' his brand of anti-poor economic development. By putting away activists who advocated the rights of tribals and labourers, he wants to improve the investment climate of the state."



**Future tense** *Kusum Chaudhuri, wife of accused Makaram Chaudhuri, speaks of the harassment her family has been facing since the arrest*

Uttam Parmar, activist for social justice is more specific. "The state wants the tribal corridor from Omargaon to Ambaji cleared of activists so the land can be usurped for corporates," he says. This claim is backed by a statement made at a press conference in April by Tushar Chaudhary, Union Minister of State for Tribal Affairs (elected from Bardoli) who accused the Gujarat government of sabotaging the Forest Rights Act by denying claims under it en masse.

Mukul Sinha, eminent lawyer from Ahmedabad says, "Ignorance can be due to lack of information or absence of actuality. My ignorance of any such movement in Gujarat is due to the latter. With POTA the government was 'producing' terrorists rather than 'preventing' them. One gets a sense the same thing is being done with the UAPA in the case of these so-called Naxals. The problem with the Act is that it criminalises any sort of connection with a banned organisation financial, ideological, perhaps even a pat on someone's back!"

Civil rights activists are comparing this to the Emergency era when Indira Gandhi used oppressive laws to suppress political rebellion. But perhaps this is worse in that it seeks to curb not just political

but also social dissent.

Yagnik believes Modi thrives by creating a fear psychosis to project himself as a saviour. "Muslim and Pakistan-bashing are passe now and are alienating him from the Western markets, so a new enemy has been invented," he says. The propaganda also promises to legitimise attacks the state has been making on activists for years now.

Consider an incident that took place in Bhavnagar district in February. The government had sanctioned land from the fertile area of Mahuva to Nirma Ltd for a cement plant and limestone mining. The project is likely to have an adverse effect on the lives of over 50,000 people who live there.

AFTER A year of unheeded peaceful protests, 11,115 people signed in blood on a petition to the CM. On the 20<sup>th</sup> of February 2010, some 8,000 people took out a silent march in the district. Police lathi-charged this procession, injuring a number of villagers. A day later, local MLA Kanubhai Kalsariya who was supporting the protesters was attacked by assailants believed to be company goons, landing him and his wife in hospital. Incidents like this are commonplace in the state, where land is constantly being acquired for industrialisation at the cost of small farmers and farm labourers.

Earlier this month, the Gujarat government asserted that less than 10 percent of claims by tribals under the FRA are genuine. Prasad Chacko, human rights activist, believes this outrageous statement has not met with opposition from the tribal leadership because of the climate of fear created by these arrests. With rumours of a spate of prospective arrests in the air and major NGOs and academic institutions under the scanner, there is apprehension that even speaking for the poor can brand you a Naxalite.

Meanwhile in the forests and industrial underbelly, the poorest of poor are running out of representatives in our democracy, even as the state's oppressors intensify the attack on their lives and livelihood. This is exactly the kind of circumstance that proponents of violent movements look for. If their frustration is not allowed legitimate channels, Modi might soon really be up against the wolf of extremism he has been crying about

***'They led double lives by hiding their past'***

*AK Singh, IG Surat Range, says the police conducted thorough investigations before making arrests*

**The general mood within civil society is that the activists who have been arrested are being persecuted for the good work they have done. How would you respond to that?**

I don't agree that this is the general mood because a large amount of reports in the media put our work in correct perspective.

**But there have been protest meetings and marches all over the state by activists who knew a lot of these people personally.**

Many of these people got entrenched in various roles which had an external appearance. So it is quite natural for people who have come into contact with them to base their judgement on that. But we added another perspective based on the covert life which they had led. Now civil society and more importantly the judiciary have to make up their minds based on the [covert] roles they played.

**At a time when the GoI is looking for channels to talk with the Maoist leadership and giving actual warriors incentive to surrender, even if it can be proved that these people have had associations in the past, don't you think they should be given another chance**

**given that they are now working as activists for the poor?**

I am only a law enforcement officer and I have a limited brief and a limited role, but in my personal capacity I feel very positively about any surrender or reform policy that can contribute to a national resolution of this issue.

But let us not give credit to any of these people by saying they had reformed because none of them came clean to a law enforcement agency and said 'We were so-and-so and now we want to give up.' In contrast there were some others in Surat itself who have surrendered to the police in Andhra Pradesh and are being given the benefit of a surrender policy. There is a difference between someone who comes clean about what he believed in once and someone who continues to lead a double life by hiding his present and past.

**Pragya Tiwari**

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Watch a video of Uttam Parmar, a human rights activist from Gujarat, explain why naxalism cannot exist in Gujarat:

[http://www.youtube.com/v/Pam6SqwzhtE&hl=en\\_US&fs=1?rel=0](http://www.youtube.com/v/Pam6SqwzhtE&hl=en_US&fs=1?rel=0)

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