

Europe Solidaire Sans Frontières > English > Asia > India > Fundamentalism, communalism, extreme right, secularism (India) > **'Soon India's jails will be choc-a-block with Muslims'**

'Soon India's jails will be choc-a-block with Muslims'

Saturday 11 August 2007, by [NAQVI Jawed](#) (Date first published: 6 August 2007).

TV JOURNALIST Sagarika Ghose said those worried words in a column last week. She was referring to a controversial verdict in which a hundred persons were handed stiff sentences, including death, by an anti-terror judge for alleged involvement in a string of blasts, which killed 257 people in Mumbai in 1993.

It must be a record of sorts. Of the 123 actually accused, 100 were sentenced, 12 to death, 20 given life terms, 15 of them with rigorous imprisonment. And what are the names of those who will die? The question was vestigial. Ghose and a majority of Indians who have followed the murky trial know the answer. In her own words: "Among others, Memon, Turk, Tarani, Shaikh, Mukadam, Ghansar, Malik, Pawle, and Khan. What are the names of those who will serve life terms with RI? Among others, Shaikh, Khairulla, Qureshi, Memon, Rehman and Kadar. In the 1998 Coimbatore blast verdict this week, the main accused Abdul Nazar Mahdani has been acquitted, but SA Basha, founder of al-Umma has been found guilty, along with 157 others. Muslim after Muslim has stepped up to be convicted and sentenced. Soon India's jails will be choc-a-block with Muslims."

One of the convicts in the Mumbai case was popular film star Sanjay Dutt. He got six years RI, admittedly for possessing a gun to protect himself from a nightmarish communal carnage, which preceded the blasts. Shiv Sena hordes and policemen owing allegiance to their leaders had summarily killed most of the 900, mostly Muslims. The Justice Srikrishna Commission investigated the carnage and specifically named 31 policemen and Shiv Sena activists, all based on eye-witness accounts. It was to be in vain.

Ghose has written a brave column. She knows the consequences. "To voice any doubts about the long delayed (blasts) trial is considered

'anti-national', 'unpatriotic' or 'pseudo-secular'." Yet she and senior lawyers she has quoted have cast doubt on the blast case and how it is a shame on the judiciary. "How can justice be thoroughly done through the mountains of documentation, the sheer bulk of facts and contradictions, the long delayed trial and lapses in human memory that must have faced poor Justice PD Kode?" "Lawyers have called the case a "mistrial" and a case of "playing to the gallery".

Writing in the *Sunday Express*, respected journalist Maseeh Rehman recalled how several members of the convicted Memon family had in fact returned from Karachi, where they had reportedly fled, to prove their innocence. The father of Tiger Memon, the man who actually masterminded the blasts, was livid over the cold-blooded murder of fellow Indians by his son.

Rehman was the chief correspondent for *India Today* in Mumbai when the blasts occurred. He recalls how Tiger Memon, who had fled to Dubai had become an outcast in his own family after they learnt of his involvement in the serial blasts. "After the bombings, Tiger turned evasive, and it gradually dawned on them that the reports from Mumbai were true - a Memon was behind the outrage.

"This provoked father Abdul Razzak to physically thrash Tiger in front of the others soon after they landed in Karachi. The strongly built, hot-tempered Tiger took the beating quietly (just as he later accepted their decision to return to India), though, as Yakub said in court, Tiger warned him: "Tum Gandhiwadi ban ke ja rahe ho, lekin wahan atankwadi qarar kiye jayo ge (You are going as a Gandhian, but over there you will be labelled a terrorist)." The upshot is that Yakub Memon faces the hangman's noose for keeping his faith in India's fabled democracy and judiciary.

A dozen death sentences in one trial is not a joke. Has India become a more bloody-minded state than its founders had envisaged? An Indian judge perhaps sought to correct this nagging perception in his own awkward way. He had to order the deportation of a suspect wanted by the British police for raping and killing an English girl. The judge set an implausible condition. The deportation, he declared, should not lead to the man's execution in UK! Now either the judge is

not aware that unlike India, Britain abolished the last remnants of death penalty in 1998, or the reports quoting his condition for deportation were wrong.

Actually, there is a persistent trend internationally to abolish the death penalty and India is among the countries that retain it. A pity in Gandhi's land. Studies cited by Amnesty International suggest that death penalty is more likely to be imposed on those who are poorer, less educated and belong to the marginalised segments of society. Moreover, since death penalty is irrevocable, there is an inherent risk of error in its application.

In the 1983 India's Supreme Court ruled that the death penalty can only be applied in the "rarest of rare" cases. Since this is not further defined and no clear guidelines exist, the use of capital penalty is largely dependent on the interpretation of this phrase by individual judges.

There is room for bias too. Indian authorities have opposed the death penalty in some cases but condoned it in others. In 2004, the government requested mercy for Indian national Ayodhya Prasad Chaubey, who was executed in Indonesia on August 5, 2004 on drug-trafficking charges, but the government is understood to have condoned other executions of Indian citizens.

Even more seriously, Amnesty says the number of executions carried out in India is unknown. PUDR, an Indian human rights group, called on the government in 2005 to make public all information on executions since independence in 1947. Indian media have reported that there have been 55 executions since independence. PUDR has challenged this figure, stating that according to a 1967 Law Commission report, at least 1,422 people were executed between 1953 and 1963. Who were these people? It would be interesting to find out.

There is no consistency across Indian states with regard to disclosure of death penalty statistics. The Delhi Deputy Director General of Prisons stated it was not "in the public interest" to publish such figures. Well-known death sentences in India are of persons convicted of

assassinating major political leaders, as in the killings of Mahatma Gandhi, Indira Gandhi and Rajiv Gandhi, or for crimes under 'terrorist' laws, as in the attack on the Indian Parliament in 2001. These sentences were by their nature very well known throughout the country but hundreds of other sentences have been awarded without considerable attention.

The recently published legal casebook, *Can Society Escape the Noose? The Death Penalty in India*, contends that of the thousands of murders committed each year in India, it is the poor and underprivileged and persons belonging to minority groups who eventually receive the death sentence and are executed for their crimes.

The point raised by Sagarika Ghose appears to blend with the overall state of affairs. But neither she nor Maseeh Rehman seemed to be perturbed by the fact that India is a rare democracy to retain capital punishment. Even its mistaken role model in the controversial war on terrorism - Israel - had declared capital punishment illegal way back in 1954.

The important question raised by Ghose about the inequality of justice and implied communal bias can be addressed without being bloody-minded in our own version of retribution. She herself asks: "As Muslim after Muslim has walked to his death, as 'terrorist' after 'terrorist' has been taken away for life, what about the Hindu mobs and Hindu police officers who were named and indicted by the Justice Srikrishna Commission that inquired into the bloodcurdling 1992-93 riots of Mumbai in which 900 died?" It's a valid question. Justice Srikrishna indicts 31 "trigger-happy" policemen: among others, the names here are sub-inspector Vasant Madhukar More, police inspectors Patankar and Wahule, Jt Commissioner of Police RD Tyagi, not to mention political names like Gopinath Munde, Madhukar Sarpotdar and Ram Naik of the BJP, all accused of inciting mobs. Aren't riots too not an act of terror? A terrorist is defined as one who kills innocent civilians for a political purpose. So aren't those Hindu rioters too not 'terrorists' and shouldn't they too face the same law as Muslim 'terrorists'? To answer the key question raised by Ghose, yes, riots too are an act of terror.

But can they be addressed by spilling more blood
even if by supposedly legal means?

P.S.

* From DAWN, August 06, 2007. Circulated by South Asia Citizens Wire | August 10-11, 2007 |
Dispatch No. 2433 - Year 9.