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## Ram Narayan Kumar: Democracy, collective violence and Human Rights in fifty-five years of independent India: some reflections and recommendations

On 15 August 1947, M. K. Gandhi failed to see any cause for celebration. Deeply anguished by the communal carnage that attended the partition of the subcontinent as India and Pakistan, Gandhi had said, '*Swaraj* [self-rule] that has come is not worth celebrating by illumination. It is a day when we should fast, spin and pray.' (Bhashyam Kastuni, *Walking Alone - Gandhi's Partition*, Delhi, Vision Books, 1999, p. 103)

Today, when India celebrates the fifty-fifth anniversary of its independence, we are gathered here in London in shock and consternation at the officially orchestrated carnage of Muslims in Gujarat from where Mr Advani started his September 1990 campaign for the December 1992 destruction of the Babri Masjid in Ayodhya.

Let me suggest to you that we cannot understand Gujarat outside the larger context of what is becoming the 'cognitive canvas' of the Indian State, and the distortions that have crept into the matrix of political relations between the rulers and the ruled. If we are meeting here with the intention of exploring remedies for the problems that account for what appears to be India's runaway decline into a fascist State, we cannot afford to shy away from some basic questions about its constitutional nature, the process of transubstantiation it has been undergoing, and what they are doing to the consciousness and existential enterprise of a very large number of its people.

**1. India today is under the regime of a political party whose record of parliamentary ascendancy compares closely with the Nazi graph of growth in Germany between the First and Second World Wars.** Their political philosophies and programs match, as do their tactics. More than anything else, the BJP's project of a Hindu State owes much to the Nazi vision of an Aryan Germany. Mr Advani has openly argued that better governance in India requires that we have a fixed term of parliament, and take away the special status of Jammu and Kashmir as well as the concessions available to the minority communities to run their educational-cultural institutions under Articles 370 and 30 of the Indian Constitution.

I ask: Can a people who claim their entitlement to national resources on the basis of an imagined religious identity, that also makes them numerically the strongest ever, succeed in harnessing the forces of democracy for their long-term interests - without ensuring protection of religious minorities, defence of Human Rights of politically discontented segments of the population and non-dominant communities in India's peripheries? The answer, with some knowledge of India's modern history, is a clear 'No'. And I dare suggest that it is largely on the dynamics of this recognition that the Indian subcontinent had so rapidly moved towards self-rule in the last fifty years under the British Empire. However, on the eve of the impending and inevitable transfer of power in the period between May 1946 and August 1947, the leaders of the Indian National Congress sabotaged this vision and instigated the 'surgical operation' of the subcontinent because, as Morris-Jones pointed out, 'if the Muslims remained a political force in the State, it could only be at the cost of radical concessions to their distrust, and a weak central government would have been the first of the concessions.' [W. H. Morris-Jones, *Parliament in India*, Longmans, Green & Co,

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London, 1957, p.7]. In the preface to his monumental work on the Indian Constitution, H. M. Seervai points out that by rejecting the basis on which the subcontinent had become politically united since 1857, the Indian leaders had abandoned the path of 'peaceful construction, cooperation and ordered progress'. Seervai argues that the Constituent Assembly created a strong centre under the conviction that it would put down the fissiparous tendencies in the provinces. If so, the conviction was misplaced. Once the basis of India's unity in the division of powers and the communal safeguards was dissolved, a strong centre by itself was inadequate to eliminate the civil strife, disunity and confusion that are rooted in the heterogeneous nature of the India society. [H. M. Seervai, *Constitutional Law of India, A Critical Commentary*, vol. i, 4th edition, 1991, Bombay, pp. i-ix]

This is a conclusion that appears helpful to me not only to understand the forces of history that have contributed to India's transformation from a secular democratic State into an incipient fascist power, but also seems to broadly indicate the outlines of what can be done to remedy the situation.

The time has now come for us to undertake a comprehensive appraisal of historical and political factors that account for the stultification and dissipation of the civilizational potential of the people in the region, perversions of their collective identities, ethno-national insurgencies, religious violence and erosion of State institutions, their secular credentials and their capacity to uphold and enforce fundamental Human Rights. For this purpose, I recommend the constitution of an International Commission for the study of democracy, constitutional safeguards for minorities and protection of Human Rights in South Asia. The Commission should comprise internationally renowned scholars, constitutional experts, leaders of Human Rights, community and peace activists. The Commission should examine how violently engendered geography of Nation-States in the subcontinent, which neither exemplify inter-generational memories of people residing in them, their histories and locations of 'identity-formation' nor fulfil instrumentally effective standards of territoriality as viable and defensible demarcations, contributed to the gradual erosion of the basic values and the constitutional principles that had guided the freedom struggle in the subcontinent. The Commission should also examine the historical and political factors that explain the scale and contours of 'collective violence' in the region from the 1947 partition to 2002 Gujarat and also the spirit of equivocation with which large segments of our people seem to condone State atrocities committed against religious and ethnic minorities.

**2. In my opinion, the popular pressure to remedy the fascist tendencies of the Indian State comes primarily from its peripheral parts: Tamil Nadu, Bengal, Nagaland and other northeastern States, Kashmir and Punjab.** The Union government and its agencies have tried to either co-opt these pressures by cajoling and bribing their leaders, or to brutally crush them when failing to do so. For nearly the last two decades, I have been struggling to understand not only the sources of religious violence in India, but also to

figure out the hard core of political discontent in its peripheries, mainly Punjab, but also Nagaland and Kashmir, that feeds the violent unrest in those parts and instigates pervasive and brutal violations of fundamental Human Rights by the State forces. In examining these problems I have been guided by the conviction that to find solutions to conflicts that have been so enduring, we must not only understand their histories and ideologies, but also their configurations of political power and manners in which they affect civil and political societies on all sides. This required me to interrogate 'grand narratives', which gain referential weight on the strength of their 'respectable' authorship, against the evidence that comes from the silent spheres of counter-memory, the oral evidence based on experiences of common people that gets suppressed by the exulting voices of the victors. By paying close attention to the vocabulary and imagery of the people who represent discontent, I discovered that their 'inner landscapes' of politics, in spite of their experiences of State atrocities, are not riveted to notions of power as ends in themselves, but more as instruments of tangible objectives, like justice, religious and cultural freedom, governance in harmony with indigenous traditions and development in accord with the knowledge of local resources and needs. However, the instruments of propaganda, which share the political objectives of the stereotyping, seem to ensure that their experiences and perspectives never get coherently communicated. This helps the State to contrive a climate of popular sanction for their persecution, and even to shut up international attention to their plight under atrocities.

I have also encountered sufficient evidence to suggest that Indian State agencies themselves fabricate, through subterfuge and covert operations, the virulence of terrorism and fundamentalism. This is my assessment of how immensely popular and democratic movements in Punjab and Kashmir got metamorphosed as fundamentalist and violent struggles. The obvious strategic objective is to divert focus from the substantial issues, and to conduct the discourse on the nature of the unrest in terms that strengthen the State's oppressive powers.

I recommend that the proposed International Commission should include within the purview of its inquiry the roles of the media, the State intelligence and counter-insurgency agencies in spawning and exacerbating the atmosphere of religious intolerance, sectarian strife, fundamentalism and terrorism.

**3. I hope friends of democracy, development, Human Rights and peace in South Asia, gathered at this conference, will resolve to work towards developing a new perspective on regional accountability.** The main objective should be to develop a framework, and the necessary mechanism to reconcile claims of State sovereignty with international obligations to enforce Human Rights and the contentions of territorial integrity of the States with the imperatives of self-governance for religious ethnic minorities and non-dominant nations and communities within the States.

Our attempt should be to educate the people and the politicians in our countries to resolve the apparent conflicts between claims of sovereignty of the States and the right to self-governance and self-

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determination of the people, spanning the guarantees under Articles 1 and 27 of the ICCPR, through an internal but internationally accountable political process. International opinion and pressure to facilitate such a process against the inflexibility and hubris of the governments that do not tire of using force to deal with independent aspirations of their people should be mobilised, with reference to the increasing body of opinion in international law that the referent of sovereignty are the people who live within the States as contracting entities. The hypocrisy of the body of nations under the United Nations regime in silently acquiescing in the brutalities of the member States against their people, while paying lip-service to Human Rights as a universal concern, and the double standards they practice in endorsing intervention in politically selective manners, should be vigorously challenged.

After all, the NATO warplanes did not hesitate to carpet-bomb the Federal Republic of Yugoslavia to force it to confer political autonomy on Kosovo, one of its provinces. Earlier, the NATO countries, led by the United States, engineered the Dayton Agreement of November 1995, which upheld the sovereign status of the Republic of Bosnia and Herzegovina, but forced it to create the Republika Srpska to allow the Serb minority a fair measure of self-rule. The Agreement created an International Implementation Force to supervise its realisation just as the later Rambouillet Agreement for Kosovo provided for the KFOR, comprising the NATO military personnel. It is in this context that we must view the position now being adopted by the members of the United Nations Security Council on their role in Jammu and Kashmir. India brought its dispute over the territory with Pakistan to the United Nations on 31 December 1947, in the middle of a war, under Article 35 of the United Nations Charter, and followed it up with a formal appeal to the Security Council on 1 January 1948 under Article 36 of the Charter. It was through the deliberations on this reference from India that the two warring countries signed a ceasefire agreement on the understanding that the dispute would be resolved through a plebiscite in Jammu and Kashmir under the UN auspices. It was to implement this understanding that the first United Nations Commission for India and Pakistan was created in June 1948, under the Chairmanship of Joseph Corbel, father of the future US Secretary of State Madeleine Albright. Yet, the United States and its powerful allies today seem willing to treat Kashmir as a bilateral dispute because within their new perspective of world order it does not suit them to arm-twist the two countries to respect the commitment they had made to the Kashmiri people, and to stop exterminating them for the sake of occupying their land.

We must require the United Nations to ensure that the India regime keeps its fifty-five-year-old pledge to the Kashmir people.

**4. Finally, it is my assessment that the vehemence and the strength of Hindu fascism, which it has been displaying for some years, draws on the pervasiveness of the human waste that exists in India today.** Hundreds of millions of stunted lives, with nothing to expect from existence, human minds and limbs unemployed or employed to a ridiculous fraction of their real potential,

in occupations often demeaning, or parasitical, or reeking of futility. I suspect that the vast majority of those who join Advani's campaigns and marches to Ayodhya to demolish the Babri mosque and, back home, with the same fervour carry out these pogroms on receiving signals from their instigators in the government or outside, are actually the flotsam of India's failed experiment in socialist economy. In their wretchedness they are not able to extricate themselves from a malevolent collective process that merely reinforces their material misery, self-alienation and spiritual decay.

I strongly believe that we cannot stem the tide of Hindu fascism, nor succeed in protecting minorities in States like Gujarat, much less in enforcing minimum Human Rights standards on the State forces, unless we are able to create a larger solidarity: of down-trodden people from the heartland and the people victimised by the conquering State of India in its peripheral parts, to jointly work for the realisation of India's original vision of *Swaraj*.

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