

July 8, 2021

5 July 2021

By: Peter Ronald deSouza

The day Fr. Stan Swamy died marked a collective national failure; we are all guilty of his death, either by omission or by commission. We now need symbolic as well as bold gestures to reclaim the moral ground we ceded on 5 July 2021.

First there was anger. But now it is gone. Then there was a burning desire to protest. But that too is fading as it gets replaced by an enveloping cloud of anguish —not grief — which fills the soul at the senselessness of Fr. Stan Swamy’s death. My initial reaction was to point an accusing finger at the villains out there, but I soon realised that it was a vacuous gesture for there are none.

The problem is much deeper. All the villains are over here. We are all guilty of his death because we have allowed things to come to such a pass. Some of us are guilty through our acts of commission, others through acts of omission, and all of us through our cowardice and our silence.

When I was thinking about 5 July 2021, the day he died, I wrote to a friend on hearing the news and told him that two other dates immediately flashed across my mind: 30 January 1948 and 28 January 1939. We all know the first date since it is a day of national shame. It was the day Gandhiji was assassinated. When the news of how he died came across the radio a hush fell across the nation as we, unable to see our own faces in the mirror, looked within ourselves to understand the ethical implications of this act of parricide. The Congress leaders at the time asked: "Gandhiji is gone, who will guide us now?"

Of course, Fr. Stan was nowhere near being the moral compass that Bapuji was. But he was a moral compass, nevertheless. He gave six decades of his life fighting for the rights of the Adivasis and Dalits in the forgotten regions of the Chottanagpur plateau, six decades asking only for their dignity and livelihood security, six decades demanding, protesting, and challenging an Indian state that continued to deny and deprive them. From what one has heard, he was not cynical about the promise made by the Constitution; although he was despairing of its implementation by its custodians: bureaucrats, police officers, politicians, governors, and of course the learned judges, the privileged heirs of Kesavananda Bharati.

|| We have all become the little people willing to barter the greatest gift we have as humans, to dream of another world, for the comfort of making peace with the evils of this one.

I do not wish here to extol Fr. Stan’s works and deeds. Many have done that in many places. I only wish to reflect on my conclusion, that we are all villains, all guilty of the way he died.

The day of Bapuji’s death was one of the dates that came to mind. The second was the day of W.B. Yeats’s death, 28 January 1939. This was not because I saw any similarity between the poet and the priest, except that they both believed in the basic goodness of all human beings, of their dignity, but because of the poem written by W.H. Auden in tribute to W.B. Yeats titled “[In Memory of WB Yeats](#)”. I googled it on 5 July when I heard the news and read it with an increasing sense of the smallness that we have become. We have all become the little people willing to barter the greatest gift we have as humans, to dream of another world, for the comfort of making peace with the evils of this one.

Auden’s poem is magisterial. It seems as if he had written it for Fr. Stan. I am tempted to quote many verses from it but I shall restrict myself to offering just two lines which, I believe, say it all:

“What instruments we have agree The day of his death was a dark cold day.”

What are these instruments? The great traditions and concepts of this sacred land.

Take *karuna*, inadequately translated as compassion, a concept elaborated in great philosophical depth by the Buddha. What ever happened to it? Where was *karuna* when Fr. Stan needed a straw, denied to him in jail that he had to go to court to be granted one? Would a lowly jail superintendent have been punished if he gave one, even granting that it was not in the jail manual to make a concession, when he witnessed the effort that his Parkinson-stricken inmate had to make to take a sip of water? Where was *karuna* when the doctors, both in the jail and at the government hospital, sent their report to the ‘authorities’ choosing to err on the side of

caution — a conservative reading of rules — rather than on the side of a suffering 84-year-old? Where was karuna when the NIA officials in statement after statement before the judicial authorities declared Fr. Stan a threat to the security and stability of the Indian state? Where was karuna when the learned judges ruled that Fr. Stan’s continued incarceration was “in the public interest” and this justified not conceding him “his rights?”

Where was 'karuna' when the Bombay High Court and the Supreme Court of India [...] allowed the legal farce to be played out in tortuous detail over eight months.

I always thought that the most important public interest in a constitutional democracy was the protection of rights. But apparently I am wrong; this is the folly of a political philosopher. Where was karuna when the Bombay High Court and the Supreme Court of India believed that they were upholding the ‘rule of law’ and ‘promoting justice’ and allowed the legal farce to be played out in tortuous detail over eight months?

I have followed the case very closely and strongly feel that these honourable gentleman and ladies in black gowns are not promoting justice as they, in their delusion, believe. They are only performing the rituals of a statist court. They gradually shift from being independent authorities of the constitutional order to becoming high-status members of the power order.

This is a social process of cooption that remains unnoticed and unfelt. This has happened to officers of the court over the centuries. Think of the Dreyfus case in France between 1894 and 1906. Think of Nelson Mandela’s statement "[A Black Man in a White Court](#)" in a South African court in 1962. Think of Gandhiji’s trial in an Ahmedabad court in 1922 on charges of sedition. Think of Andrei Sakharov’s internal exile in Soviet Russia during 1980–86. And think of Fr. Stan's trials and tribulations in an Indian court. In case after case, we find only illustrations of statism, not justice; of support for state power, not for the accused citizen.

I am not making an argument about law here. I am making an argument about ethics in society, about the creation of a constitutional morality that must become an integral part of the law officer’s personality. This requires continuous introspection.

By the first principles of jurisprudence Fr. Stan should have been considered innocent, irrespective of what the silly UAPA says. Fr. Stan was kept in jail for eight months. For argument’s sake let me assume that the charges against Fr. Stan are valid, that he was a co-conspirator. Does our system of justice justify the way that he was treated, even if he was guilty, as acceptable good practice? I ask this of the NIA officials, the jail authorities, the doctors, and the learned judges. If the answer is "yes," then I have to rethink my understanding of karuna, and of its centrality in the ethos of our great Indic civilization.

Karuna is not a *chalta hai* word. It is not a concept that we learn about in a law classroom and forget once the semester tests are over, and we have received our Bar Council certificates. Karuna is at the heart of who we are, as Indians and as human beings.

I am making an argument about ethics in society, about the creation of a constitutional morality that must become an integral part of the law officer’s personality.

If our great legal officials think that their treatment of Fr. Stan (and of all other undertrials who suffer similar incarceration) was right, and just, I will then have to agree with the great Indian philosopher K.C. Bhattacharya, who in his germinal 1928 talk "[Svaraj in Ideas](#)" said that in the land of the *vishwaguru* the minds of these men and women of integrity, who occupy important offices of the state, “have been enslaved.” He stated it powerfully: their “real minds have become shadow minds.”

In Fr. Stan's case we saw in the justice system the working of “shadow minds.” They are colonised minds, trapped in the working of a colonial legacy legal order that has lost its way. These colonised minds and colonised legal practices are being used by a regime that talks about cultural nationalism. Whatever happened to building karuna into our legal system as an act of creative decolonisation?

We are small men and women. We have to step outside ourselves to do something bold.

That is why there is no anger but only pain and anguish. What I have written is not a tribute to Fr. Stan but a requiem to ourselves. Now that he has gone, we have to begin the process of healing. We need symbolic gestures, bold gestures, to reclaim some of the moral ground that has been lost.

Do we have the courage to announce to the public sphere that this targeting of ‘Fr. Stan Swamy types’ must stop? We are small men and women. We have to step outside ourselves to do something bold. It is difficult. Almost impossible. But then do not forget that in this very land a group of unknown monks carved from barren granite the magnificent Kailasa temple at Ellora. They were determined to produce from nothing a moral message in stone for the ages. They dared to dream.

The views expressed here are personal.