

August 22, 2022

Nari Shakti and the Elusive Quest for Justice: The Story of Bilkis Bano

By: Vinay Lal

A poor, semi-literate woman, who withstood death threats when she pursued justice after she was gang-raped, her daughter murdered, and her mother and a cousin too killed, now sees remission of the life imprisonment of the 11 convicts.

Bilkis Bano: this is the name of a 41-year-old woman who, besides the liabilities that most of her sex ordinarily encounter in goddess-loving India, is poor, from a working-class background, largely illiterate—and, if all this were not enough, a watched and wanted Muslim. Her various identity tags mean that she has absolutely no claim on the world’s attention. But in her own native land her story keeps on popping up every few years to make the headlines, though, unlike those who crave their 15 minutes of fame, and more if they have the wealth, looks, talent, or showmanship to muster attention from the press and adoring fans, Bilkis Bano has no desire to be known to the world. She only wants to be left alone. The world, however, would have it otherwise. I suppose that, in telling her story, I am perhaps contributing to the noise around her, the noise which is a noose around her neck and from which she desperately wants to escape. But sometimes, as in the tales that one heard in one’s childhood, it is but necessary to make a din to keep the wolves away.

The events

On 15 August, on the 75th anniversary of India’s independence, just hours after Prime Minister Narendra Modi spoke in glowing terms of “nari shakti” (the power of women) and the moral imperative to respect women, 11 men convicted of rape and murder were set free after serving 14 years of a life sentence. But let us turn back two decades to the year 2002. What happened in Godhra in late February 2002 and then in the cities and villages of Gujarat in subsequent days is a narrative that need not be recounted in detail. Communal killings, where by far the greater majority of those killed were Muslims, would shake the state in February-March that year. The chief minister of Gujarat at that time, Narendra Modi, later claimed before a special investigative team that he was, for instance, [unaware until much later of the killings at the Gulberg Society](#) that were taking place practically under his nose. Bilkis Bano was among the tens of thousands of innocents who were targeted for on other reason that their religion marked them and rendered them vulnerable. Among the thousand or more who were killed—the official figure of the dead stood at less than 1,050, though reliable human rights organizations and investigators placed the tally of the dead at around 2,000—and a greater number who were injured, few suffered as much as Bilkis Bano.

Bilkis Bano has no desire to be known to the world. She only wants to be left alone. The world, however, would have it otherwise.

Bilkis Bano and her family of Singwad village, in the Limkheda taluka of Dahod district, some 200 km from Ahmedabad, watched all the Muslim homes in their village being burned to the ground. She and her family, and several other villagers, fled for their lives. They apparently found refuge in the home of the village sarpanch before taking shelter in a village school in Chunadi and then a mosque in Kujaval. But since violence reached every corner where they had sheltered, they continued to be on the run—until the killers, a mob of some 20-30 men, caught up with them. Bano was 21 years old and five months pregnant at the time: she pleaded with the men to show some mercy and spare her and her unborn child, invoking in part her family’s connections with the assailants. Her family had a cattle shed and provided milk to one of the assailants; another assailant had sold her bangles, and a third was the son of a medical practitioner who had treated Bano’s father. Her three-year-old daughter, Saleha, was snatched from her hands and killed by smashing her head on the ground. Altogether 14 members of her family were murdered—just like that. Bano was gang-raped, with three men taking turns to ravage her, and Bano later described how she played dead and consequently survived the ordeal. Perhaps she didn’t even have to play dead: the sheer bravado and insolence of such killers should never be underestimated, and she could have been left alive to serve as a palpable reminder to members of her community of how they should mind their place in a predominantly Hindu society.

Among the thousand or more who were killed..and a greater number who were injured, few suffered as much as Bilkis Bano.

In January 2008, nearly six years after Bilkis Bano's ordeal, a special court convicted 11 men of murder, rape, and criminal conspiracy and sentenced them to life imprisonment. One might be tempted to think that, to rehearse the old expression, the wheels of justice may grind slowly, but they do grind. But it merits a brief description to understand the Herculean perseverance and sheer courage that Bano had to exhibit to prevail in her conviction that that even a poor Muslim village woman in India can find justice. Her rapists and the killers of 14 of her family members, at least eight of whose bodies were found by a local photographer, were known to her. Among the dead were her mother, Halima, and her cousin Shamim. She sought to file a police complaint but the head constable, Somabhai Gori, rebuffed her. He sent her to the Godhra relief camp, where she was reunited with her husband, Yakub Rasool, who has, much to his credit, stood by her throughout and with whose encouragement she approached the National Human Rights Commission (NHRC) and was finally able to file a First Information Report (FIR). The FIR is a colonial-era practice and has been subjected to enormous abuse by the powerful and lately by those who use it to hound human rights activists and liberals; at the same time, the oppressed and the poor are seldom able to file a FIR. Death threats to Bilkis and her husband would ensue; they have not ceased. At the behest of the Supreme Court, the Central Bureau of Investigation (CBI) was called to take over the police inquiry.

The trial, convictions and afterwards

Eventually, 19 men would be charged, including six police officers and a government doctor. Six months after the pogrom of 2002, the Gujarati middle class voted resoundingly to bring Narendra Modi back to power for another term as Chief Minister. Some say that this was an endorsement only of the “Gujarat model of development”, the merits of which we need not discuss at this time, but it can with equal plausibility be argued that a majority of Gujarat's voters were determined to signal their approbation of the transformation of the state into a laboratory for seeding a new model of militant Hindu nationalism and *asmita* (pride). The opinion in the state was certainly hostile to Bilkis Bano, whose charges against men deemed to be respectable members of society were construed as outlandish and a conspiracy wielded by those determined to bring Modi's government into disrepute. In such a Gujarat, and in the face of death threats to Bano and her family, her apprehensions that witnesses might be harmed and the evidence tampered with were doubtless well-grounded. Her lawyers justly argued that a fair trial against the charged could hardly be assured, and they prevailed upon the Supreme Court to have the venue for the trial shifted to Maharashtra.

The trial would drag on. A special CBI court headed by UD Salvi convicted 11 of the accused and sentenced them to life imprisonment on charges of rape and murder. One of the accused died during the trial, and seven were acquitted. On 8 May 2017, the Bombay High Court upheld the conviction and sentence; significantly, it also set aside the acquittal of the remaining seven, among whom were police officers and a doctor of a government hospital. Judge Salvi had observed that Bano's “courageous deposition” had been “the turning point in her case”. Bano is not an educated woman, but that shortcoming may also have spared her the cynicism and craftiness found among some of the educated. The [judicial proceedings in the Bombay High Court](#), which heard and rejected the appeal of Radheshyam Bhagwandas Shah and the other convicted, make for sober reading. Bilkis did not wilt under the withering gaze of the defence lawyers, unflinchingly identified the accused in court, and could not be cowed into abandoning or contradicting her testimony. Throughout, the state government offered not an iota of assistance to Bano, failing even to provide her with police protection though she had received death threats. Indian politicians, a significant percentage of whom have serious criminal charges pending against them, are notoriously obsessive about their own security, and the public discourse around their security would be comical if it were not ominous, but of course not a thought was to be expended to provide for the security of a woman whose courage has been exemplary. One might argue that, since the convicted included police officers, Bano was perhaps thankfully spared another ordeal from her would-be protectors.

Had the story of Bilkis Bano ended there, there may not have been any reason to resurrect it now—more particularly because she and her husband have not sought the limelight. In 2019, a three-person bench of the Supreme Court, comprised of Chief Justice Ranjan Gogoi, Justice Deepak Gupta, and Justice Sanjiv Khanna, directed the Gujarat state government to pay Bilkis Bano Rs 50 lakhs in compensation, furnish her with accommodation, and provide her employment. Whether the government of Gujarat, which has abandoned all semblance of decency and moral probity over the last so many years, has met its obligations is not clear, but the justice that was then delivered to one woman should not obscure the fact that atrocities against other women go largely unpunished in India.

|| Judge Salvi had observed that Bano's “courageous deposition” had been “the turning point in her case”.

The Gujarat government, moreover, appears to have had other forms of compensation in mind—compensating the convicted for apparent good behaviour during their time in jail, for being from “good families”, and exhibiting a sound moral background. On what other grounds might we explain that the convicted rapists and killers have had their sentences remitted and that, unbeknownst to Bilkis Bano

and her family, they were released into society on August 15. One might have thought that if the government was in a charitable mood, inclined to allow prisoners who have served considerable time in jail the blessings of liberty on the auspicious occasion of the anniversary of India's freedom from the yoke of colonial rule, it would have, as happens in most law-bound societies, first sought Bilkis Bano's opinion on the possible release of her rapists and tormentors.

The remissions and the justifications

Much has already been written in the week since 15 August on the circumstances that brought about their release. It suffices to summarize the most salient points. In anticipation of the 75th anniversary celebrations [*azadi ka amrit mahotsav*], the central government proposed by an order conveyed to all state governments on 10 June 2022 to grant "special remission to certain categories of prisoners." The guidelines issued by the government state, under paragraph 5, that the special remission "is NOT to be granted" to convicts falling under certain categories, including those convicted with the death sentence or life imprisonment, those convicted of terrorist activities, and prisoners convicted for the offence of rape and human trafficking. Thus, as some commentators have pointed out, the remission of sentence in the case of Bilkis Bano's rapists and the killers of members of her family appears to be in direct and one might even say brazen violation of the central government's deadlines. Surely, even if the Gujarat government was inclined or determined to take a different view of the matter than proposed by the guidelines, it would have consulted the centre before doing so. On this argument, it is not only the Gujarat government that stands indicted, but the central government itself—and thus, some are suggesting, the home minister himself. As one can imagine, the critics of the Gujarat's government have been struck by the sheer hypocrisy and the callousness behind official pronouncements about respect for women and the marvels of "*nari shakti*".

While the criticisms are well-intentioned and animated by the sense of revulsion that many people rightly feel at the travesty of justice, it is in principle possible to argue that the Gujarat government was within its rights in exercising executive power. The power of remission and pardon lies, in fact, with the executive in democracies, and the strongest criticism may well be that we have here an instance of considerable executive over-reach. The Muslims convicted of the violence in Godhra who were convicted might similarly have their sentences remitted, but in their case the Gujarat government has an appeal pending before the Supreme Court to have their life imprisonment terms enhanced to death sentences. It would be obvious to anyone that the cancerous growth of communalism in the Gujarat government prevents the state from exercising even its power of remission evenly. But one might consider a graver point in the matter of whether the power of remission should have been exercised by the Gujarat government. A number of countries, and not in Europe alone, have been moving towards shortening prison terms: those handed life sentences typically serve around 20 years before they are released. In India itself a life sentence often amounts to 14 years in jail, and the additional chief secretary (home) of the Gujarat government, Raj Kumar, who spoke to the press stressed the fact that the prisoners had served out their term of 14 years and were recommended for release by a committee. The right-wing extremist, Anders Behring Breivik, convicted of the murder of 77 people in 2011, is currently serving a 21-year term, the maximum that is permissible under Norwegian law.

Though the criticism at the release of the convicted men has been directed at the BJP and the state government, the problem lies elsewhere.

The point here is not that India should seek to emulate Norway, or indeed any other country, but rather that it is also critically important that one should not be moved by those advocating relentlessly for life sentences without the possibility of parole or remission or for other forms of cruel and unusual punishment. It beggars the imagination, however, to suppose that "mercy" is any part of the thinking behind the Gujarat government's action or that they have in mind the fact that prisoners, even those who have committed heinous crimes, can be rehabilitated. Nothing so remotely noble seems to be part of the calculus that led to the decision to release rapists and killers. If people get the government that they deserve, we can witness in the nauseating adulation with which the released prisoners were received outside of the Godhra Sub-Jail the most ominous signs of the rank communalist hatred which fed the killings in Gujarat, which has informed much of public life in Gujarat and other parts of India, and which makes the Muslim feel not only insecure but wholly unwanted in the country of his or her birth. As a video that has been widely circulated unambiguously shows, the released prisoners were felicitated with sweets and their blessings sought by those who had come to receive them. One might think that they were being celebrated for some extraordinary achievement. It is, perhaps, an achievement, perversely so, to number among rapists and killers and to be felicitated.

Bano may have just cause to rue her faith in the idea of justice and the Constitution of India's promise of due process and equality for all.

Some of the released prisoners have already claimed their innocence. In the days ahead, there is little doubt that others will rise to their defence even as the outrage over their release will similarly intensify. The BJP Gujrat MLA, C K Raulji, who was a member of the panel that recommended their release, [is already on record as saying](#) that the released men are “Brahmins, men of good sanskaar [values and disposition].” Though the criticism at the release of the convicted men has been directed at the BJP and the state government, the problem lies elsewhere. The state has certainly played a key role in India in fomenting communal discord and animosity, but something is rotten and debased in a society that has become permissive of hatred. [The recently concluded survey by the Stimson Center](#), a Washington D.C.-based think tank, avers that India is the most nationalistic country in the world, a finding that reaffirms other surveys in the last decade. Most disturbingly, the authors of the report noted that, “worryingly, supporters of Modi or the BJP were more likely to express discriminatory attitudes toward Muslims, such as stating that they did not want to have a Muslim as a neighbour or that they believed India’s Muslim population was growing too fast. It is worth stating, however, that among all non-Muslim respondents, including both Modi supporters and sceptics, such discriminatory attitudes were widespread.” The suspicion of the Muslim runs very deep in many communities across the country.

|| If the problem extends far beyond the state into the deepest recesses of Indian society, we may have to search for the solution in civil society as well.

It is far too easy to suppose that the BJP is singularly responsible for the virulent and jingoistic nationalism that is all too pervasive in India, or that caste is the byword for all forms of oppression in India. Some who are cynical about claims made on behalf of India’s traditions of tolerance will dispute that there ever was any ethic of hospitality in India, but there is little doubt that the capacity to host the otherness of the other within oneself has diminished. A prognosis of where one might go would call for a very extended set of reflections, but one can return to what the singular achievement of Bilkis Bano has been thus far. In the simplest language, one might just aver to her persistent quest for justice—all the more remarkable for being pursued in the teeth of determined opposition from men wielding immense power and threats to her life. As I wrote in a previous piece on her in 2019, “Bano’s courage, dedication to the truth, and faith in the judicial system offer a faint glimmer of hope that Indian democracy is not entirely moribund. It appears that her husband and lawyers stood by her through the long dark years while she struggled for justice, but the greater marvel is that Bano sustained her faith in the Constitution of India when all the odds were stacked against her.”

The future

At this juncture, I am tempted to use yet stronger language. Bano may have just cause to rue her faith in the idea of justice and the Constitution of India’s promise of due process and equality for all. Powerful though the call of the Constitution may be, it is quite likely insufficient to lift India out of the moral morass into which the country has fallen. If the problem extends far beyond the state into the deepest recesses of Indian society, we may have to search for the solution in civil society as well.

It is, I would like to think, serendipitous that Bilkis Bano’s namesake, the Bilkis Bano of the Shaheen Bagh *dadis*, became the public face of an extraordinary movement that initiated a new chapter in the global history of nonviolent resistance. Each Bilkis Bano is a *satyagrahi* of a new breed. The plight and equally resilience of both these Bilkis Banos, Muslim women who are two generations apart but equally of the soil of India, suggests that grim, murky, and ominously dark as the political landscape of India appears to be, the country has within it deep and wholly unacknowledged reservoirs of strength to overcome the present state of acute anxiety, insecurity, and moral turpitude.

Vinay Lal is a cultural critic, blogger, and Professor of History at University of California Los Angeles.