

# THE FRAGRANCE

OF EAST

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Nadwat - ul - Ulema, Post Box 93,  
Lucknow 226 007

FAX (0522) 2787310

e-Mail: [nadwa@sancharnet.in](mailto:nadwa@sancharnet.in)

Rs. 30/-

# The Fragrance of East

Founder : Syed Abul Hasan Ali Nadwi (RAH)

Advisory Board :

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Shariq Alavi

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U.S.A.	:	Dr. AM. Siddiqui 98-Conklin Ave. Woodmere, New York 11598

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**Editor's Note:**

## **Herr Modi in Focus Again**

Politics is not our forte but when the existence of the community is under threat and religious freedom granted to us in the Indian constitution is in peril we must take a serious note of the situation. What struck us now is the unbearable agony of Muslims in Gujrat. Their persistent persecution, efforts to shatter their ideological faith and render them homeless and economically weak are those agonising steps which send shivers down our spines. Recent revelation of Mr. BR Sreekumar who was chief of the state Intelligence Department of Gujrat in 2002 confirms that Gujrat riots were "organised" and under the guidance of a tamed bureaucracy and police. Narendra Modi's instructions were implemented to eliminate the minorities. The massacre of Muslims in Ahmadabad, Godhra, Surat, Baroda and other places in 2002 was unprecedented tragedy in free India. We restrained our feelings then because a battery of secularists had come out in open to condemn the Gujrat government and its Chief Minister Narendra Modi. However, we had presented a compilation of the newspaper reports, editorials and articles which had appeared in different papers and magazines in our special issue on Gujrat Carnage-2002.

The denial of visa by the USA to Narendra Modi has brought the whole issue of Gujrat riots in focus again. Ninety year old senior Journalist Khushwant Singh writes in the Hindustan Times (April 2, 2005):

"There are several reasons for Indians to rejoice over America snubbing Modi. Gujrat had a special place in our hearts. Gandhi was a Gujrati. So were Vitthalbhai and Vallabh Bhai Patel, Morarji Desai and Vinoba Bhave. We admired the Gujratis gentle ways, their business acumen and, above all, their spirit of tolerance, Modi destroyed our love and esteem for Gujratis. He exonerated the killings of

thousands of Muslims by saying that it was a natural reaction to the burning of Hindus at Godhra by Muslims. Now that the Bannerji Commission has rubbished his assumption does he not owe an apology? This is what Gandhiji, with whom he had the audacity to compare himself, would have done had he been in Modi's shoes". Khushwant Singh further warns Modi that Islamophobitis is a dangerously infective disease which can impair the mental faculties of people harbouring ill-will against Muslims.

A noted writer and intellectual, A.G. Noorani writes in the Frontline (April 2) that the refusal to let in Narendra Modi, Chief Minister of Gujrat, by the American government is not an insult to India. It is a stinging international censure of a man who carved his name indelibly in the annals of infamy, of the party to which he belongs (the BJP), its mentor (the RSS), and of the men who shielded him (A.B. Vajpayee and L.K. Advani). He not only presided over a pogrom in Gujrat and ensured that the perpetrators went scot free but also that victims were not rehabilitated. Censures there have been before. This one comes from a powerful friend and goes beyond words. It brands and excludes him as an untouchable.

The Britain in its proverbial courtesy also showed its unwillingness to allow Modi to enter England-another blow to Modi's ego. It may be recalled that according to a cable sent by the British High Commissioner in India to his government after visiting Gujrat that a team of High Commission held the view that the attacks on Muslims in Gujrat had been planned well before the Godhra carnage and that in some places, the police had been instructed not to act. Similar conclusions appear to have been drawn by German and Dutch missions in Delhi, as well as by the E.U.

According to Noorani the last and the most damning censure of all, the Supreme Court of India's historic judgment in the Best Bakery Case: Zahira Habibullah H. Sheikh vs. State of Gujrat (2004) 4 Supreme Court cases 158. At page 198 occurs the famous reference: "the modern day

Neros'.... were looking elsewhere when Best Bakery and innocent children and helpless women were burning and were probably deliberating how the perpetrators of the crime can be saved or protected."

Subhash Gatade writes in the Mainstream (March 25-31, 2005) that the denial of visa to the posterboy of the Hindutva brigade has raised a tempers high at least in the Hindutva fraternity. Many of them have called it an affront to the Constitution of India and a disgrace to national honour. And to recover from the snub the Hindutva brigade people have suddenly remembered the Constitution of India and have started singing paeans to it. These very forces who only a few years ago were cleverly trying to subvert the Constitution via the Constitution Review Committee these very forces- who did not bat an eyelid when the Gujrat genocide was organised- have suddenly woken up to the virtues of the Constitution, Nobody can deny that they have once again shown their utter contempt for the basic tenets of the Constitution.

Elsewhere in this issue we have again given a compilation of public reaction on the denial of visa to Modi. This will help our future historians to asses how a saner element in the society stood up to face the challenge of the destructive forces and enemies of a plural society. ■

## **SAYINGS OF THE HOLY PROPHET (PBUH) ON KNOWLEDGE**

- To seek knowledge is the duty of every Muslim women and man.

Maja, Darmi

- Whose walks in the way of knowledge, God makes the way to Paradise easy for him.

Muslim

- A scholar excels over a devout worshipper as the full moon excels over the stars.

Muslim

- A scholar is heir of the Prophets. The heritage of the Prophets is not money but knowledge of which a scholar is the heir, so whoso acquires knowledge gains the complete faith.

Ahmed, Trimizi, Maja, Dawood

- Impart knowledge to others, be kind, make them take interest, do no tire them off; if you get angry remain quiet.

Mishkat



# A FEW REMINISCENCES ABOUT AZAD

Syed Abul Hassan Ali Nadwi

It was at the beginning of my schooling or rather mental cultivation when Maulana Abul Kalam Azad was the reigning litterateur of India. No other penman or poet of the country could, perhaps, have claimed that distinction in those days, for every educated person seemed to have been mesmerised by Maulana Azad's sparkling eloquence and forceful writings in the *Al-Hilal*. All those around me thought in the same way, and there were also several amongst them who were personally acquainted with the young Assistant Editor of *Al-Nadwa*, who had come here to brush up his learning under the guidance of Allama Shibli Nomani.

The Nadwa was then housed in the Khatoon Manzil of Mohalla Gola Ganj. (This building later became the Lucknow resort of the late Maulana Abdul Majid Daryabadi). My elders who have had the opportunity of enjoying the company of Maulana Azad used to narrate stories about him, which spoke of his extraordinary brilliance and nimble wit as well as his self-respecting and dignified behaviour in a way that one often took them to be fictions of the old Greek philosophers or fairy tales of Arabian Nights. None of them paid any undue reverence to the Maulana, nor extolled him as a prototype of perfection. They sometimes even criticised him but everyone conceded extraordinary brilliance, strong retentive memory, self-reliance and stately demeanour to the Maulana.

I came later to know of several incidents illustrating Maulana Azad's sharp-wittedness from my revered teacher, Syed Sulaiman Nadwi. He told me that on several occasions when Allama Shibli was not satisfied with an article or paper he wanted to be penned by one of his students, Maulana Azad would quietly enquire about it and sit down to produce the paper instantly which also met the approval of Allama Shibli. Often, Allama Shibli wanted the article to be written

on some delicate philosophical or dialectical issue. The persons present on such occasions thought that the young man who had won the hearts of others by the gift of his gab rather than by his erudition was sure to expose himself on that occasion, but Maulana Azad always came off with flying colours.

### **Close association**

Maulana Azad must have come, because of his close association with the Nadwa, to see my father Maulana Hakim Syed Abdul Hai. Once I found a visiting card bearing the signatures of Masih-ul-Mulk Hakim Ajmal Khan and Maulana Abul Kalam Azad in the manuscripts of my father. There are also a number of letters written by the Maulana to my father. There is another reason, too, for a close relationship between my father and the Maulana. The latter had been once in the company of Shamsul-Ulama Maulana Muhammad Yusuf Ranjoor of Azimabad (Patna), when the latter resided in Calcutta. He belonged to the famous Sadiqpur family which had undergone great sacrifices for supporting the earliest anti-British-cum-revivalist movement of Saiyid Ahmad Shaheed. When the first Urdu book about Sadiqpur family written by Maulana Abdur Rahim Sadiquri was published under the title "*Ad-Durr al-Manthoor*" or "*Tazkirah-i-Sadiqa*", it had an introduction by an unknown writer, Muhiuddin Abul Kalam Azad. The old diction of this introduction scarcely suggests that its writer would one day be acclaimed as the finest writer of Urdu. Anyway, I do not remember to have seen Maulana Azad at my house. My father died on February 3, 1923, when I was nine and a half years of age, and if he ever came to see my father in connection with the affairs of Nadwa or the Khilafat Movement, I have no recollection of it.

### **First impact**

So far as I recollect, I saw him first in the Ganga Prasad Memorial Hall, Lucknow, in a public meeting which was held to impress the need of Hindu-Muslim unity. The meeting was

also addressed by Maulana Muhammad Ali. I still remember a portion of Maulana Azad's speech in which he had laid great emphasis on the equality and brotherhood of the entire human race. He had told his audience that the Prophet of Islam always used to recite in his prayers, offered in the dead of night when everybody was fast asleep, a supplication which ran, "O Allah, I bear witness that all human beings are brethren unto one another."

When the time arrived for Maghrib prayers, Maulana left the rostrum to offer prayers in the north-eastern corner of the hall reserved for it. I also offered the prayer behind him and thus had the opportunity of watching him closely. Tall and well-built, fair with a tint of reddish hue, broad forehead, pleasing countenance and sparkling eyes, whose bearing showed a majestic mien - this was Maulana Azad. His dress was simple, the cap was a bit broader and he was wearing Salem Shahi shoes like the old nobility of Lucknow.

### **Old files of *Al-Hilal***

The old files of *Al-Hilal* which are now treasured as precious manuscripts were then available both at my Lucknow residence as well as in my village house at Raebareli. Our elders used to ask us to be specially careful while giving them to us. This was the time when I had learnt reading and writing and I used to read avidly the articles of Maulana Azad, specially those written about the battles of Tripoli, Balkans, Adrianople and Symarna. They described Anwar Pasha's feats of valour and in a similar strain was the Maulana's description of the martyrs of Kanpur mosque. I used to go through all these masterpieces of eloquence and ornate writings time and again and considered them to be the finest specimen of Urdu prose. I still remember his portrayal of a battlefield of Tripoli wherein Anwar Pasha had arrived to witness the dead bodies of the martyrs. The dusty field consecrated by the blood of valiant martyrs and the touching regard paid to them by the gallant Anwar Pasha,

depicted by the forceful pen of Maulana Azad, always made me burst into tears.

### Masterly Style...

I had also read, somewhat earlier, his famous *Tazkirah*, which, despite its profusion of long-winded Arabic and Persian words and phrases, is as racy and fluent as a torrent. If any other writer were to use these grandiloquent phrases, he would succeed in producing an ornate yet artificial prose, but the Maulana's artistic use of Arabic and Persian phrases does not at all impair the fluency of his writings but rather increases its vigour and force. The Maulana brings in these imposing words and phrases in such a way that the reader is so bewitched by the sublimity, grandeur and sparkling flow of his style that he hardly gets time to pause and think over the long-spun words and their meanings.

This was his style, difficult as well as dangerous to be copied by others. Maulana Azad gave up this mode of expression later on, or perhaps the fervour of his style declined with the advancing age and experience, for he took to simple form of speech as can be seen from his Presidential Address to the Tripura Session of the Indian National Congress. Yet, he often took recourse to his old, fiery articulation which reminded one of the *Al-Hilal's* Abul Kalam. Then, in 1933-34, when I was teaching exegesis of the Quaran in the Nadwatul Ulama, the first two volumes of the famous *Tarjuman-ul-Quran* were brought out. I read these volumes with benefit to me. The manner in which he has narrated the story of three companions, referred to in the Chapter of Repentance, especially that in the words of Kab bin Malik, who was one of the taught in the Nadwa - and expressed his opinion about Arabic literature was impressive.

Maulana Azad came to Lucknow several times in those days. Once, the students of Nadwa even succeeded in making him pay a visit to the institution. How were they able to do is quite interesting. Among those few whom

Maulana Azad held in esteem, the foremost was Nawab Sadar Yar Jang Maulana Habibur Rahman Khan Sherwani. The letters written by the Maulana in the Ahmednagar Jail which later on came to be published as *Ghubar-i-Khatir* were addressed to Sherwani. However, Maulana Sherwani was in Lucknow in those days and was staying as usual at the Kakori Kothi. Maulana Syed Sulaiman Nadwi and Maulana Masud Ali Nadwi were also present in the Nadwa but the boys knew that if Maulana Azad could come to Nadwa to see anybody, it could be Maulana Sherwani only. They met Maulana Azad and told him about Maulana Sherwani's presence in Lucknow but made no reference to his place of stay. The Maulana came to Nadwa.

I got the news of his arrival while I was teaching in a class. I hurriedly went to see him in the Guest House of Nadwa but found him sitting in the mosque, Maulana Syed Sulaiman Nadwi and Maulana Masud Ali on his either side, and a large number of students in front of him. He was complaining of the trick played upon him although it was a friendly complaint without the least touch of displeasure. He came to the Nadwa once again to address the Students' Union, *Al-Eslah*. He was then accompanied by Maulana Abdul Qadir Kasuri. I, however, do not recollect whether this visit was earlier or after the one just mentioned by me.

### **Arab studies**

The Maulana came to Lucknow again as President of the Committee set up by Dr. Sampurnanand for the Promotion and Reform of Arabic Education. A meeting was also held in a spacious hall of the Council House on this occasion which was attended by the teachers connected with the Arabic Madrsas besides the ministers and officials. In his speech the Maulana threw light on the evolution and components of the curricula of Arabic institutions. His speech showed that despite his political preoccupations, he had still not lost his interest in the literary pursuits. He had before him a small piece of paper on which he had

taken some notes during his air journey from Delhi to Lucknow. Those present in the meeting included Maulana Husain Ahmed Madni, Maulana Syed Sulaiman Nadwi, Maulana Qari Muhammad Tayyib and other learned scholars of Firangi Mahl, but everyone acknowledged the great sweep of Maulana Azad's learning. I had the opportunity of meeting Maulana Azad on several other occasions. Once when he had gone to Kashmir for taking rest after his release from Ahmadnagar Jail, I also happened to be present there. The Maulana was staying in a house boat in Nasim Bagh with Syed Asaf Ali. I went to see him with Syed Muzaffar Husain Nadwi. Although I had met the Maulana after a lapse of quite a few years, he remembered even the subjects I had told him I was teaching in the Nadwa. I presented him my latest Urdu work *Maulana Muhammad Ilyas aur Unki Deeni Dawat*, which had just come out of the press.

### **At Cairo airport**

I also remember one of my meetings with him in 1951 at Al-Maza, the Cairo's international aerodrome. Maulana Azad was on his way to certain European countries on his first trip as Education Minister of India. Some of my friends proposed that since the Maulana was to land at Cairo for the first time, the Indian citizens present there ought to give him a reception at the aerodrome. I gladly agreed to the proposal. His plane landed rather late in the night and when he came out of the plane he appeared to be a bit tired. We escorted him to the place where he was to take rest and have tea. Egyptian press reporters were asking all sorts of questions in English and Arabic from the Maulana, who, while avoiding to go into details, was giving answers to their questions with complete self-confidence. He had not seen me yet when we came to tea table, nor, I think, he expected me there. He was talking to Abun Nasr of Bhopal who had since long taken up residence in Cairo and had also translated certain parts of Maulana's *Tarjuman-ul-Quran* into Arabic. He had once been directed by the Maulana to see my father with whom he had stayed for some time. He

invited Maulana's attention towards me. The Maulana continued to talk throughout with us. He was expressing his opinion about the desirability of taking advantage of the new researches and discoveries in the exegesis of the Quran. His view was that one should be extremely cautious in citing the new discoveries in explaining the Quranic verses, for nobody could be sure if any new research accepted today would continue to be acceptable tomorrow. The Maulana criticised the Quranic commentary of an Egyptian scholar, Tantawi Jauhri, who had freely drawn upon modern researches in his explanation of the Quranic verses. The Maulana also asked me if I had been to Yemen during my present tour. Another question he asked me was about certain manuscripts relating to the life of Saiyid Ahmad Shaheed available in Tonk, about which he had been told by my father. In the meantime, the Indian Embassy officials were trying, albeit unsuccessfully, to divert his attention towards them and had even complained of the extremely short time available at his disposal. The Maulana, however, continued to talk to us till the time came for boarding the plane again. He was then accompanied by his Private Secretary, Muhammad Masud. I think the Indian Embassy officials were feeling quite embarrassed because of the Maulana's indifference to them in the presence of those whom they were accustomed to deal with the usual official contempt. I had myself had a similar experience hardly a few days back when I happened to visit the Indian Embassy at Cairo.

### **As Education Minister**

I met Maulana Azad thrice thereafter when he was the Education Minister of India. On the first occasion I had been asked to come to Delhi by Maulana Husain Ahmad Madni who wanted to remind Maulana Azad about the publication of my father's work entitled *Nazhatul Khawatir*. Its four or five volumes had been published by the Dairatul Maarif, Hyderabad, which had given up its publication after the Police Action. Maulana Azad had come to attend a meeting

of the Jamiat-ul- Ulama's Working Committee held in Gali Qasim Jan. Maulana Azad readily agreed to resume the publication of the remaining volumes of the book and when I enquired if he needed to be reminded again, he had assured me that I need not do so. The Maulana lost no time in obtaining the manuscript from Hyderabad and arranging its publication. I met him next in his office in Parliament House with Saeed Ramadhan of Egypt. The Maulana had a friendly talk with him in Arabic and asked him about the Majsumi Party of Indonesia. Thereafter I saw him last at his residence.... at Akbar Road, New Delhi, with Maulana Imran Khan Nadwi. We had gone to see him about an affair of the Nadwa which was quickly solved to our satisfaction through his good offices.

It is not possible to throw light on all the different aspects of the many-sided personality of the Maulana, nor to review his literary works in this brief article which has been written somewhat in a hurry. I have only tried here to give my reminiscences and impressions that I gained in the few meetings I had with the Maulana which might be of use to his biographers or other writers. ■



# THE TERM "TERRORISM" AND ITS CONNOTATIONS

The world in its entirety is now preoccupied with the issue of terrorism. In fact terrorism is now a catchword dominating the media as well as scientific and political forums. But despite the extensive use of the term "Terrorism", the world has yet to concur on a specific definition for it.

This has consequently highlighted the need for a serious, scientific study of the term as a prelude to a wise, rational and scientific approach to the issue.

Although the word *Irhab* (terror) is originally an Arabic word, studying the term should not be confined to its semantic meaning. The word has now been transformed to a term with new connotations. Researchers make a mistake if they look into certain translated terms, refer them to their linguistic roots and hence to their meanings in Shariah provisions, albeit overlooking their historic dimensions. It is true that to know Shariah terms one has to refer to the language used by the Legislator and the meaning intended by Him. Whereas political and man-made terms or those related to altered religions and civilizations are studied differently with each term being taught according to certain fundamentals.

Linguistic studies dealing with semantic development and terminology evolution include:

1. Derivation
2. Metaphor
3. Coining of words
4. Translation

When studying any term one has to know how it has evolved, including its historical background. If the term evolved through derivation and was formulated from an Arabic root within the nation itself it would be appropriate

to revert to words' root and the origin of derivation.

As the term Irhab (terrorism) has been spawned by Arabization, we need to revert to its original culture to ascertain whether the meaning is compatible with the Arabic word.

It is extremely important when translating any term from a foreign language to revert to its meaning in that foreign language to fully understand it.

With regard to religious and intellectual terms it is vital to revert to the religious and intellectual origins to better understand their meaning. We also need to know the religious or intellectual history of the nation using them as well as the history of their usage and evolution to strictly know their intention.

To differentiate between the current usage of the word Irhab (terrorism) in the Arabic language and how it is mentioned in the Holy Quran, we need to clarify the linguistic meaning of the root (Rahaba) and its derivatives compared to its usage and derivatives in the Holy Quran.

### **First: The Linguistic Meaning:**

The word Irhab (terrorism) is the infinitive of the verb (Arhaba) which means fear, according to Al-Qamoos Al-Moheet.

### **Second: Usage of the Root (Rahaba) and its Derivatives in the Holy Quran**

The word Rahaba has been mentioned in the Holy Quran 12 times with various connotations, showing that the different usage of the word in the Holy Quran was based on the linguistic origin and that it has no special meaning.

Consequently, it is quite astonishing that those who address the term (Irhab) punctuate their speeches with verses from the Holy Quran or the saying of the Messenger of Allah, peace be upon him, to explain its meaning while those who launched and used the term pay no attention to

## Shariah provisions.

A wide gulf separates the current political use of the word (Irhab) and if you study the root (Rahaba) and its derivatives in Shariah provisions you will come across great meanings.

Fearing Allah All-Mighty is a great act of worship required according to Shariah. Allah said: **"O Children of Israel! Call to mind the (special) favour which I bestowed upon you, and I shall fulfill my covenant with you, and fear none but me."** (A-Baqarah:40)

Allah also said: **"When the anger of Moses was appeased, he took the tablets: In the writing thereon was Guidance and mercy for such as fear their Lord."** (Al-Araf: 154)

Moreover, Allah said: **"Allah has said: Take not (for worship) two gods: For He is just One God: Then fear Me (and Me alone)."** (Al-Nahl:51)

Meanwhile, Allah Al-Mighty described His Prophets, peace be upon them, by saying: **"so we listened to him: and We granted him Yahya: We cured his wife's (barrenness) for him. These (Three) were ever quick in doing good works: they used to call on Us in yearning and awe. And humble themselves before Us."** (Al-Anbiyaa':90)

A supplication repeated by the Prophet, peace be upon him, included: "My Lord: help me to remember You, praise You and fear You."

It is a source of great happiness for a human being that his heart be filled with such fear of Allah that makes him glorify Allah Al-Mighty, uphold His **Shariah**, follow what He has ordained and avoid what He has forbidden.

The believer should always be conscious of the fear of Allah in order to avoid His wrath and punishment and expect his mercy and forgiveness. Allah said: **"Those**

**whom they call upon do seek (themselves) means to access to their Lord - as to who are nearest: they hope for His Mercy and fear His Wrath: for the Wrath of the Lord is something to take heed of."** (Al-Israa': 57).

Man should not tend to be desperate of Allah's Mercy while at the same time he should not feel secure of His punishment. Fearing Allah should be associated with His glorification, a status of worship worthy of praise. Allah said: **"Allah has said: Take not (for worship) two gods: for He is One God: then fear Me (and Me alone)"**. (Al-Nahl:51).

On the other hand, the believers are required according to Shariah to arm themselves with the best weapons as this may yield certain benefits and forestall certain evils. Allah Al-Mighty said: **"Against them make ready your strength to the utmost of your power, including steeds of war, to strike terror into (the heart of) the enemies Allah and your enemies, and others besides, whom ye may not know, but whom Allah doth know."** (Al-Anfal:60)

Striking terror into the hearts of those harboring criminal intentions and deterring them from committing such crimes through the application of penalties is not a deplorable form of striking terror into the hearts. On the contrary it is praiseworthy as the security of people depends on it.

This illustrates how meanings derived from the root (Rahaba) found their way into the text. Harmful meanings such as aggression on the innocent and other crimes are described by strict Shariah terms on which specific rulings are based.

Meanwhile, the word terrorism has been translated to (Irhab) to convey the feelings and meanings when addressing us.

**Terrorism in Current Political Terminology:**

The term terrorism as is known in English does not reflect the above mentioned linguistic meaning. At the same time other terms such as extremism, violence and fundamentalism have also pervaded the media as well as political and legal domains. For historic, religious and political reasons these terms took the Western World by storm before filtering gradually into the Muslim World.

Special attention should have been given to the moral differences in concepts and implications carried by terms shared by various civilizations. Indifference to this fact may result in huge misunderstanding of these concepts in our contemporary information, political and cultural life. The Muslim Nation is culturally distinguished from other civilizations and should, therefore be independent with regard to its concepts and quintessential characteristics.

A host of researchers have compiled a wide array of definitions of the term terrorism, highlighting the huge problem posed by the concept issue.

We list below, with minor addition, the definitions compiled by Dr. Abdul Rahman Al-Lauaheq in his research of the term terrorism:

### **Meaning of the Term Terrorism in Arab and Foreign Studies:**

First: The Definition of Terrorism in Foreign Studies:

1. The definition of Oxford Dictionary: (A policy or method aimed at terrifying opponents of a certain government. The term terrorist refers to a person trying to back his views by threats and intimidation).
2. The definition of the Organization of American States' Legal Committee formed to prepare an anti-terror draft agreement: (Acts that could be a form of traditional crime such as killing, setting fire intentionally and use of explosives. But the only difference is that they are premeditated with a view to spreading fear and anarchy in an orderly society to undermine social order

and exacerbate misery and suffering).

3. The Definition of Venezuela (Any use or threat of violence that endangers the innocent or threatens basic freedoms, committed by an individual or a group of individuals on the territory of a foreign country, or in the high seas or on board a plane over the open seas to realize a political goal. This is in addition to the inhumane international acts of terror adopted by racist colonial regimes).
4. French definition (An appalling act committed in the territory of another state, by a foreigner against a person of a nationality other than that of the perpetrator, with a view to exercising pressure in a dispute that has no domestic nature).
5. The definition of the International Geneva Convention of 16-11-1937: (Criminal acts directed against any nation, that by their nature or objective are likely to terrify certain persons or groups of persons or the public).
6. The American Social Encyclopedia defined it as: (A term used to describe a method or an approach or a theory or an idea behind that method by means of which an organized group seeks to realize its declared objectives, using mainly organized violence. Acts of terror are directed against persons who in their capacity as individuals, agents or representatives of the authority interfere with realization of this group's objectives).
7. Sotel defined it as: (A criminal act involving terror, violence and fear in order to achieve a certain goal).
8. Fredland defined it as: (Tactical use of violence to create an atmosphere of fear among the vast majority of the people).
9. Wardlo defined it as: (Use or threat of violence by an individual or a group working either for the existing

authority or against it if the intention is to create tension among a large group of direct victims of terror, forcing the group to agree to the political demands of the perpetrators of the act of terror).

10. Lakeor's definition: (A political act directed towards a specific target. It involves the use of maximum threat and is carried out to achieve a material impact. Its victims are mere tokens who are not necessarily directly targeted. Terrorism is the deliberate use of threat to the use of violence against a temporary target, threatening later a more important one. This way its aim is to spread fear and domestic tension to force the target to surrender or modify its stance).
11. Canadian Encyclopedia definition, in 2000: (Using an operation to realize a political goal through a random violence campaign or acts of terror such as bomb attacks, assassination and abduction. It is used by whoever wants to challenge the existing political order (rebellious terrorism) or preserve the existing political order (suppressive terrorism). Fierce debate is still going on to distinguish between terrorism and the justified use of force. The following adage encapsulates the issue: (A terrorist in one man's eye is a commando in another man's eye).
12. US State Department's definition: (Terrorist activity as referred to in this resolution: any illegal movement under the laws of the place where it occurs (If it occurs in the United States of America, it shall be illegal under its laws) including:
  - ❖ Hijacking or sabotaging any means of transport (including planes, ships or trucks).
  - ❖ The seizure, obstruction, death threats, harming or continued seizure of an individual by another to force him (including governmental organization) to carry out or not carry out any act as an implicit or explicit condition for the release of the person taken hostage.

- ❖ A violent attack on an internationally immune person as specified in 1116 part (4) (5) of title (USA constitution) or on the freedom of similar person).
- ❖ Assassination
- ❖ Use of biological element, chemical element, or nuclear weapon or a device or a bomb or weapon (except for theft purposes to steal money for personal ends only) with the intent to directly or indirectly endanger the safety of one individual or more or cause substantial damage.
- ❖ The threat or attempt or conspiracy to carry out any of the above mentioned acts.

### **Extent of Involvement in Terror Activity:**

As referred to in this resolution, the term involvement in terror activity is to participate in your capacity as an individual or member of an organization, in an act of terror or an act whose nature the perpetrator knows or should reasonably know that it extends material support to any individual or organization or government in guiding an act of terror at any time, including the following:

- ❖ Preparation or planning of a terrorist act.
- ❖ Gathering information of potential targets for a terrorist act.
- ❖ Supplying any type of material support, such as safe shelter, contact, financial resources, fake documents, weapons explosives or training to any individual he knows or believes will carry out or intends to carry out act of terror.
- ❖ Seeking financial or other resources as a result of an act of terror by any terrorist organization.
- ❖ Requesting membership in a terrorist organization or a terrorist government or participation in a terrorist activity.



13. Colombian Encyclopedia defined it is: (Threat and use of violence, mostly against civilian population to realize political objectives. Terrorism involves such activities as assassinations, explosions, random killings and hostage taking and plane hijacking).
14. The League of Nations 1937 Conference defines it as: (All criminal acts directed against any nation to create fear for certain individuals or a group of people or the people in general).
15. A 1999 UN resolution defines it as: (Any unjustified, criminal act wherever it occurs and whoever its perpetrator may be, should be condemned).
16. Collective academic definition (United Nations): (Terrorism is a sort of repeated violence used by an individual or a clandestine or semi-clandestine group or by government representatives for political or criminal reasons. The targets of such violence are not major targets as its victims could be chosen randomly or selectively from among the targeted group. What is important here is to send a message of threat or violence from the terrorist organization to its victims so that the threat could then take the form of terror or acceptance of certain demands or attraction of attention, depending on the intended goal).
17. In the US constitution, terrorism was defined as: (politically motivated violence against unarmed citizens by a secondary group to spread fear among them. Whereas international terrorism means global terrorism targeting several countries rather than one state. Terrorist groups mean all groups participating in acts of terror).

## **Second: Definition of Terrorism in Arab Studies:**

1. The definition of Social Sciences Terms Dictionary: (Terrorism is the act that spreads fear and through which an organized group or party seeks to realize its

- goals, using violence. Acts of terror are directed against individuals or representatives of the authority who oppose the objectives of this group).
2. The definition of Diplomacy and International Affairs Dictionary: (terrorism is a means used by autocratic government, including the spread of fear, killings, assassinations, arbitrary detentions and confiscation of personal freedoms with a view to forcing the people to surrender to the government's arbitrary demands).
  3. The definition of Political Dictionary: (An attempt at spreading fear for political ends).
  4. Eid's definition: (terrorism is anti-state criminal acts intended to spread fear amidst certain persons or groups of persons or the people in general. Acts of terror are characterized by fear and violence, such as explosions, destruction of public facilities and sabotage of railway lines, bridges and culverts as well as poisoning drinking water, spreading contagious diseases and genocide).
  5. Sharif Basiony's definition which was adopted by regional experts panel, meeting under UN auspices in Geneva Center during the period March 14-1-1999: (A strategy of internationally prohibited violence, united by ideological motives and aimed at spreading terrifying violence among a special specimen of a certain society to seize power or publicize a certain demand or justice, regardless of whether the perpetrators are acting for and on behalf of themselves or on behalf of another state).
  6. The definition of the Syrian penal code for the year 1949, in article 304 added by law No36 for the year 1978: (acts of terror include all acts aimed at creating a state of fear. The means used include explosive devices, military weapons incendiary substances, poisonous products, epidemic or bacteriological elements that could result in a public threat).

7. The definition of Egyptian law: (Any use of force or violence or threat or act of terror adopted by a criminal while implementing an individual or collective criminal plan seeking to disrupt public order and endanger the safety and security of the society, if such an act will harm individuals, spread fear among them or threaten their lives, freedoms and security or affect the environment, transports, communications, buildings, public or private property or occupation or seizure thereof or prevent or hinder the exercise of public authority and the functioning of places of worship and educational institutions or suspend the application of constitution, laws and regulations).
8. The definition of the committee charged by the Arab League Council to work out a common definition for the concept of terrorism in 1989: (Any organized act of violence or threat of violence that causes terror or fear, including killings or assassinations or hostage taking or hijacking of planes or ships or the detonation of explosives or any other politically motivated act leading to anarchy and disturbances).

In the light of the above, a whole range of observations comes to the fore:

1. **The concept is ambiguous and undefined:** The ambiguity of the term could be attributed to the contradictory ideologies adopted by states.

People not only differ on the term terrorism but also on the origin of religion. They could not concur on understanding this term unless they unify their understanding of life.

2. **Discrepancy in definition of the term:** Western researchers have noted this fact. The federal section of the Congress Library said (Definitions of terrorism differ widely and are often inconvenient. Even terror researchers often ignore the need for defining the term. However, a violent act could be viewed in the U.S. as

an act of terror while in another country it could be regarded otherwise).

3. **Multiple definitions:** People are confused by the innumerable definitions of the term supposed to unify them.
4. **Definitions are relative and liable to different explanations:** Terms and their definitions should be very strict to avoid different explanations. Reading the various definitions of the term (terrorism) shows that it could easily be interpreted to give different meanings. The westerners themselves have noted this fact. Research papers of the federal section of the Congress Library include this comment: However, a violent act could be viewed in the US as an act of terror while in another country it could be viewed differently. Also the type of violence distinguishing terrorism from other types such as ordinary crime and army actions during war could be defined in such terms that make it look reasonable.
5. **Need for yardstick:** For the settlement of a certain dispute there should be a term of reference respected by all. Such a reference or criterion should be unanimously agreed, sincere and correct. And this could only be achieved by a Holy Book sent down by Allah.

The issue of terrorism should have a firm term of reference covering all aspects of the problem.

- ❖ There should be a criterion for defining the real nature of terrorism.
- ❖ There should be a criterion to judge whether a certain act or utterance is a form of terrorism.
- ❖ There should be a criterion for determining the causes leading to terrorism.

It is astonishing that laws and constitutional

frameworks set a criterion for defining (terrorism) while these laws differ from one country to another. Consequently, laws could not be considered as a sound criterion for trying terror suspects, particularly as some of those suspects proceed from a religious basis and should be referred to their religion. And Muslims, based on their religion, strictly value credibility and truth.

6. **The term doesn't cover all the intended meanings:** the specific state called (terrorism) is so wide that a single term couldn't cover it. Aggression occurs in numerous forms, depending on perpetrators, targets and prevailing circumstances. Therefore, containing all these forms in one word tends to be a generalization incompatible with the strict definition of meanings, a quintessential prerequisite for rulings.

While these shortcomings are related to existing definitions and concepts, some studies and resolutions on terrorism even lack such concepts.

Muslim Ulema have worked out a definition for terrorism based on the provisions and rules of Sharia. It was issued by the Islamic Jurisprudence Council in its 16th session held in Makkah Al-Mukarramah under the patronage of the Custodian of the Two Holy Mosques King Fahd Ibn Abdul Aziz Al-Saud during the period 21-26/10/1422 (5-10/1/2002).

The definition includes all Sharia rulings on the so-called terrorism. It states: (Terrorism is the aggression unjustly carried out by individuals, groups or states against the human beings (his religion, life, mind, property and honour). It includes all forms of unjustly terrifying, harming, threatening and killing of people and banditry. It also includes any violent act or threat carried out as part of an individual or collective criminal plan aimed at terrifying or harming people or endangering their lives, freedom or security. Its another forms include harming the environment or public or private facilities or endangering natural resources. All these

are forms of spreading mischief in the land. Allah Al-Mighty said: **"And seek not (occasions for) mischief in the land: For Allah loves not those who do mischief."** (Al-Kasas:77)

Allah has preached a deterrent punishment for terrorism, aggression and mischief equating that with waging war on Allah and His Messenger. **"The punishment of those who wage war against Allah and His Messenger and strive with might and main for mischief through the land is: execution, or crucifixion, or the cutting off of hands and feet from opposite sides, or exile from the land: that is their disgrace in this world, and a heavy punishment is theirs in the Hereafter."** (Al-Maidah:33)

No man-made law contains such a severe punishment commensurate with the danger posed by this transgression, which in Islam is tantamount to waging war against the limits set by Allah.

Referring to state terrorism, the Council said the most appalling form of this type is being practised by Jews Palestine. It was also practised by the Serbs in Bosnia Herzegovina and Kosovo. The Council drew attention to the danger this type posed to international peace and security, and considered standing up to it a self defence and a **Jihad** in the Cause of Allah).

Meanwhile, Arab Ministers of Interior and Defence defined it in the Arab Anti-Terror Agreement in 1998 in Cairo as: (An act of violence or threat for whatever motive in implementation of an individual or collective criminal plan aimed at terrorizing or harming people or threatening their lives, freedom and security or affecting the environment or harming, embezzling or seizing public or private property, or endangering a national resource).

A terrorist crime is: any crime or commencement theory, perpetrated in implementation of a terrorist objective in any of the contracting states or against its nationals,

property or interests, and is punishable under its internal law. Terrorist crimes also include crimes stipulated in the following agreements, save those excluded under contracting state's legislations or those it has not ratified:

- a. Tokyo agreement on crimes and acts committed on board planes, signed on 14-9-1963.
- b. The Hague agreement against illegal seizure of planes, signed on 16-12-1970.
- c. Montreal agreement for combating illegal acts against civil aviation safety, signed on 23-9-1971 and the attached protocol signed in Montreal on 10-5-1984.
- d. New York agreement on preventing and punishing crimes committed against persons enjoying international protection, including diplomats, signed on 14-12-1973.
- e. Plane hijacking and hostage taking agreement, signed on 17-12-1979.
- f. UN 1983 maritime law agreement, and parts related to sea piracy.

Paragraph (a) of article 2 of this agreement stipulates instances that are not deemed to be crimes, such as:

- Various means of struggle, including armed struggle against foreign occupation and aggression to achieve freedom and self-determination in accordance with principles of international law. Excluded from such instances are all acts affecting the territorial integrity of any Arab state.
- Name of the terrorist crimes referred to in the previous article shall be a political crime.
- In the application of provisions of this agreement the following crime, even if politically motivated, shall not be deemed to be political crime:
  - ❖ Attacks on kings and presidents of contracting states,

- rulers, their wives, lineage or descendents.
- ❖ Attacks on Crown Princes, Vice-presidents, Prime Ministers or ministers in the contracting states.
  - ❖ Attacks on internationally protected persons, including ambassadors and diplomats of contracting states or those accredited thereto.
  - ❖ Premediated murder, robbery under duress against individuals, authority or means of transport and communication.
  - ❖ Sabotage and damage of general service-oriented public and private property, even if owned by another contracting state.
  - ❖ Crimes of manufacturing, smuggling or possessing weapons, ammunitions, explosives or other materials prepared for perpetration of terrorist crimes. ■

*(Extracts from "Saudi Arabia's Stance on Terrorism")*



# TSUNAMI - FOOD FOR THOUGHT

S.M. Rabey Hasani Nadwi\*

The recent Tsunami disaster, technically a combination of deluge and earthquake, brought in its wake immeasurable havoc over the affected area, inundating towns, villages and almost unprecedented loss of life and property. Those carrying out a probe into the phenomenon, have focussed on physical and material reasons and possible future action, being totally oblivious to the reality that it is a scourge of Allah for the misdeeds of some dwellers upon His earth.

Entire emphasis is on the fact of non-availability of means and equipment capable of foreseeing the event, much less to forestall the occurrence. Future planning and research is directed towards development of technology capable of forecasting and for minimising the consequences. The causes leading to Tsunami have been attributed to collision between sub-terranean tectonic plates and with such collision taking place under the ocean, deluge and quake would be simultaneous. Obviously, even if some technical advancements do come up with a warning in advance, precautionary measures would, at best, be limited to evacuation of areas likely to be affected. There seems hardly any chance of devising means capable of preventing an occurrence of such nature; not in foreseeable future at least.

Such disasters as mentioned, occurring off and on, anywhere upon earth, in varying intensity, do not fall within human control, whereas man made calamities could be amenable to prevention or defence. Like in case of a bomb attack, however severe, causes and magnitude of effects are already known and in case of being forewarned, can be thwarted or, at least the resultant damage minimised. Disaster of a ship taking to high seas during raging of the skies, can be avoided with proper forecast of weather conditions. On the other hand phenomenon like Tsunami or

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\*Rector, Nadwatul Ulama Lucknow.

even a normal tremor or a fierce deluge, typhoon, leave humankind helpless, being a whiplash from the Almighty upon derelict population.

Tsunami may be categorised as a manifestation of nature's fury and a deep thought is needed as to whether humankind have not been blatantly and ostensibly guilty of disobedience to Him. The Divine law stipulates punishment, accurately commensurate with the nature and gravity of the infringement. Yet, God being profoundly Merciful accords sufficient leeway before His wrath actually descends. Quran clearly declares:

"Whatever misfortune happens to you is because of the things your hands have wrought, and for many (a sin), He grants forgiveness" ..... Al-Shura:verse 30

Final reward, for all doings during life upon earth, is reserved for the Day of Judgement when every commendable and despicable performance shall be scrutinised with precision, yet some acts of omission or commission, at His discretion, are punished for or rewarded, during worldly life. History bears irrefutable testimony to the above surmise. The discerning believers ascribe such events to His Will, whereas those who pass them off as mere material phenomenon, suffer, often total annihilation. It is recorded history that the recent Tsunami is not the first calamity of such magnitude but that the world has been at the receiving end repeatedly for misdeeds of its inhabitants and for wilfully flouting the Divine commandments. Holy Quran has several warnings to this effect already.

Currently, tourism has acquired the status of an organised, profitable industry at the international level and almost all means of attracting tourists by throwing in all glitter and glamour, caring little for mores of sobriety. Stark exhibitionism to the extent of vulgarity as integral to facilities are ever to the fore. The region hit by Tsunami stretches over the coasts of South Asia to South Africa and providing a respite for the inhabitants of cold countries of Europe and

North America, constitutes favourite resorts. All activities, purportedly to avail of salubrious climate, were in full swing when the calamity struck in all its fury upon not only the visiting revellers but also the locals.

The magnitude of moral degradation to which flag bearers of so-called development and progress, pioneered by USA and Europe has landed the human kind into an inescapable is all too apparent bog. Yet when the wrath of the nature descends it is passed off as a matter of course, with no remorse and no thought, much like the ostrich, to the real reasons.

It is for those endowed with genuine insight and power of perception to derive a lesson and acknowledge such events as the whiplash from the Omnipotent and also that it could strike wherever and whenever He Wills. The only recourse is for them to walk in all commandments and justifications, palacate before Him and also to implore all and sundry for following suit.

The palacation has already been prescribed by the Almighty in his Holy Book:

"Our Lord! we have wronged ourselves. If you forgive us not, and bestow not upon us Your Mercy, we shall certainly be the losers.

.... Al-Aaraf: verse 23

"Our Lord! we are believers, so forgive us, and have mercy on us, for You are the Best of all who show Mercy!

.... Al-Muminun-verse 109■

English rendering: Mashhoon Ahmad

Mankind is acutely conscious of the necessity of living together in peaceful co-existence. The practical realization of such an objective demands a common conceptual foundation acceptable to all on which a humane and universal system of world relations might be built. Islam believes that it can offer such a foundation, basing its conviction on certain fundamental tenets, in particular its tolerance of and identification with other faiths, notably Judaism and Christianity; its recognition of the sense of God or 'natural religion' inherent in all men; its faith in man which represents a new humanism. Islam provides a platform for constructive dialogue in the hope that this will produce a concerted effort to formulate and harness man's awareness for the creation of a new world order in the service of God and humanity.

Ismail R.al-Faruqi

# A REVISED COURSE OF ACTION NEEDED

S.M. Wazeh Rasheed Nadwi\*

The politico-economic-cultural analysts, discussing the problems confronting the muslims all over the world do admit that anti-Islamic, the western, powers are engaged in depicting muslims in an abnoxious image, go the whole hog in laying the entire blame at the door of the muslims, attributing their decadence, chaos, absence of mutual cohesion and economic depravity, to the Islamic philosophy and teachings. In the same breath they enlogise the western culture, overtly or covertly, dwelling no end upon their allround progress, achievements and simultaneous aid to such nations, who despite greater natural resources of their own lands have failed to make any headway, given their lethargy and lack of initiative.

Side by side there is a discourse on the long history of despotism and domination by Europe over almost the entire world and exploitation, plunder of the natural wealth of the vanquished countries. What is more, the victors brain-washed a sizeable number of citizens in their dominions, to act as mercenaries against their own nations. Such elements continuously implement a well-organised plan to lure the masses towards aping the western ways. Simpletons, not in a position to see through the ploy, are totally sold on to the glitter, oblivious of lack of morality and ethics of humanity, which once, as real muslims, had been their hall-mark.

In hindsight, the twentieth century CE, just gone by, presents a panorama comprising hardships and torments at the hands of western despotism, not only for muslim nations but several others also. In fact some have suffered to a degree even greater than the muslims. Germany and Japan ended up as vanquished in long drawn-out fierce armed combat against more powerful nations, yet with allout effort, fortitude and internal solidarity, re-emerged, not only

\*Professor Nadwa College, Lucknow

surviving, but claiming political and technological parity with other powers.

Chinese, since times immemorial, were a dormant people, languishing in deprivation and having no perceptible role in contemporary developments, till the onset of Communist movement acted as a spur. The metamorphosis has been beyond recognition. To quote the poet of the East:

*Garaan khwab Cheeni sambhalne lage  
Himala ke chashme ubalne lage*

(Chinese stumbled out of the torpidity,  
Springs in the Himalayas oozed forth)

In the face of stiff opposition from capitalist forces, withstanding all threats and pressures, China, without any external support or even a request for aid, relying entirely on internal resources of men and material, established its identity at par with world powers. The world recognised it as a potent force and admitted it as a member of United Nations Organisation. All along, China had made no compromise on its philosophy and principles and asked for no quarters.

The vendatta waged by the West against Communism was no less incisive and virulent than the on-going one against Islam, hurling all philosophical, conceptual, political, military, commercial, technological resources, backed by an organised media, into the fray.

North Korea is faced with almost similar situation but continues to hold out, what with American super power hell bent upon its subjugation.

During twentieth century, the Western powers, declaring Islam as a potent threat, more than that of Communism, to their cultural, political supermacy, have been targeting it with all their might, with an ostensible intention of annihilating it entirely. The need of the hour is for muslims to muster up confidence, erudition, systematic planning, with firm faith in the spirit and message of Islam, treating the

teachings as their beacon lights. The courage and steadfastness of the Communists and Nazis in protecting their identity and maintaining their status, should serve as examples, irrespective of the differences in philosophies.

The anti-Islam forces are forever indulging in planning an offensive, as of right. Early Islamic history bears undeniable evidence that muslims, ill-equipped and bereft of resources vanquished all military, cultural and social on slaughter with exemplary fortitude in confrontation with enemy possessing vastly superior and adequate means. It was the unwavering faith and mutual cohesion which saw muslims through all tribulations and turmoil, and enabled them to become a virtual wall of bronze.

The present state of affairs is almost reverse. Whereas the other nations, with highly developed scientific know-how and resources at their beck and call are all well organised and brimming over with national pride, muslims having demitted these characteristics, languish in abject deprivation and disgrace. The root cause can be traced to them being enamoured of the western culture and aping it blindly for nearly two centuries. Imitating a culture in quest of advancement could have been short-term policy, after which striving for originality of concepts, putting them into practice to develop the scientific and technological equipment on their own, rather than simply borrowing from alien powers, should be the right course. The western culture has harmed the human values no end, so much so that even some of their own intellectuals and thinkers are deriding it. What is obviously reprehensible is that it was the self-styled flag-bearers of Islamic prestige and national dignity that pioneered and advocated adoption to western culture most arduously, albeit sans insight.

It is the high time that the bluff of the West is called and the Muslim world rediscovers its pristine glory in the footsteps of the pious associates of the prophet pbuh (*sahaba*) and follow once again a life-style in accordance with real message of Islam. This would be the way not only

to combat the anti-Islam forces but also to their own ascent, and rid them of the lure of the west.

An example, illustrative of how the muslims have gone astray of their righteous path, which once was a guide and beacon even for others, is worth narration, and serves as an eye-opener. A Palestenian delegation approached the leader of a South Asian country, which had succeeded against the Western dominance, for advice and to derive advantage from the experience. The South East Asian leader rebuked the delegation with the remark that it was the jihadi zeal and valour of early muslims that had shown them the way to freedom and that it was a bane for the Palestinians to have become oblivious of the glorious deeds of their own precursors.

A way out of the ongoing tussle between the rulers and muslims at large lies for the latter in adopting a conciliatory attitude and in understanding of each other's viewpoint. These groups who often, too frequently vent their feelings violently, are better advised to be patient, shun violence, avoid confrontation and in all earnestness follow and propagate the intrinsic message of Islam, in word and deed. This approach would bring around the authorities to see light and endeavour to disentangle not only their own country but the entire muslim community (ummah), from the clutches of anti-Islamic domination.

To once again quote the Poet of East:

*Ilaj iska wohi aab-i-nishatangez hai saqi*  
(The cure lies in same vintage ebullient elixir)

God the Almighty exhorts all thus: (Surah 16, verses 125-128).

Invite all to the Way of thy Lord with wisdom and beautiful preaching; and argue with them in the ways that are best and most gracious; for thy Lord knoweth best, who have strayed from His Path and who receive guidance.

And if ye punish, let your punishment be proportional



to the wrong that has been done to you: but if ye show patience, that is indeed the best (course) for those who are patient.

And do thou be patient, for thy patience is but with the help from Allah, nor grieve over them: and distress not thyself because of their plots.

For Allah is with those who restrain themselves, and those who do good. ■

English Rendering: Mashhoon Ahmad,

## Good and Evil in the World Order

A man once asked Muhammad's cousin, Ali, about predestination. Ali answered: 'Predestination is a deep sea; do not embark on it'. The man asked a second time. Ali answered: 'Predestination is a steep mountain; do not climb it.'

The mystery of predestination consists of three propositions. The first is that the world is ordered. There is nothing in the entire world which does not have God as its ultimate cause, which is not known by God, and which God does not move according to His will. On the contrary all things are caused by God, known by God, and moved according to His will.

This world, which he know, is affected by both good and evil forces; and its inhabitants act sometimes righteously and sometimes wickedly. We conclude therefore that good and evil are both parts of the world order; without both of them the world order would not be complete. If only pure righteousness prevailed in the world, the world would not be the one which we know; it would be another world. God has ordered the world to include evil as well as good.

(Ibn Sina: Kitab al-Najat)

# GUJARAT RIOTS STILL HAUNTING

Former President of India K.R. Naraynan has endorsed the view that Gujarat experienced a well planned pogrom in 2002 in which thousands of innocent Muslim men women and children were killed. Arson and loot resulted in making lakhs of them shelterless. Mr. Narendra Modi's name will forever be implicated with worst pogrom carried out in India.

Soon after the Gujarat carnage, The Fragrance of East had taken out a special issue in which we restrained ourselves from expressing our own views and instead compiled and published the news reportages, editorials and write-ups of some eminent persons. They were quite reflective and good enough for Mr. Narendra Modi and his colleagues to look their faces in that mirror.

Recent condemnation of Mr. Modi by US government in refusing visa to him has again raised a storm. It is now more than three years when Muslims living in Gujarat were killed and uprooted but not a single perpetrator of crime has been brought to book. This is all because of the umbrage provided to them by Mr. Modi's government. The strong worded observation of Supreme Court, condemnation of government's apathy by NHRC, NMC and NCW firstly in not containing the riots and subsequently on the indifferent attitude about investigation and prosecution of cases have had no effect on Gujarat government.

Now when Mr. Modi is again in focus for violation of religious sentiments we have made an attempt to collect together views expressed by newspapers and common men (who write in 'Reader's forum'). After going through this 'collection' our faith in democracy and secularism is further strengthened and we see a ray of hope for justice.

## USA DENIES VISA TO MODI

Two days after the visit of the US secretary of state,

Ms Condoleeza Rice, India today lodged a vehement protest against the denial of visa to Mr. Narendra Modi to travel to the United States.

The US embassy today said the Gujarat chief minister has been denied a diplomatic visa and his tourist/business visa - which had already been granted - was being revoked as per provisions of the US Immigration and Nationalities Act. A US embassy spokesperson said the diplomatic visa "had been denied under Section 214(B) of the Immigration and Nationality Act because he was not coming for the purpose that qualified for diplomatic visa".

"His tourist/business visa was revoked under section 212(a)(2)(g) of the Act which makes any government official who was responsible for or directly carried out at any time, particularly severe violations of religious freedom, ineligible for visa," the spokesperson added.

The US deputy chief of mission, Mr Robert Blake, was summoned to the ministry of external affairs. In a 30-minute meeting, the foreign secretary, Mr Shyam Saran, conveyed India's concern and regret at the decision.

In an unusually blunt statement lacking in usual diplomatese, India said the "uncalled for" action on the part of the US embassy "displays lack of courtesy and sensitivity towards a constitutionally elected chief minister of a state of India". The MEA had earlier sent a Note Verbale to the embassy on 28 February to grant a diplomatic visa to Mr. Modi. India has asked for an "urgent reconsideration" of the decision.

Emerging from South Block, Mr. Blake said that he would forward India's request to the State department.

A US embassy official said Mr Modi, as the head of a state government, was responsible for the working of state institutions. "The state government's stand on the issue is documented clearly in the human rights report as well as the NHRC report," he said.

While Mr Modi reportedly held 10-year multiple entry visa, an application for diplomatic visa was made as he held a diplomatic passport by virtue of occupying a constitutional post of chief minister.

The Gujarat chief minister had been invited to attend the annual meeting of the Asian-American Hotel Owners' Association - 95 percent of whose members are of Gujarati origin.

Mr Modi was scheduled to leave on Sunday for a five-day visit, travelling first to New York where he was to address a public meeting of the Association of Indian-Americans of North America at Madison Square Garden. Then, he was to attend, as chief guest, the function of the AAHOA from 24 to 26 March. Ever since Mr Modi's intention to visit the USA had been announced, human rights activists had lobbied with the State department and Congressmen to deny him a visa by flooding them with e-mails.

No leadership change.

Also tonight, the BJP brass ruled out a leadership change in Gujarat, sending a clear message to the anti-Modi camp.

Statesman News Service

### **PURELY LEGAL MATTER: STATE DEPARTMENT**

The USA today described its decision to deny a visa to Mr Narendra Modi as a purely legal matter and not a reflection on India's political or judicial system.

This was the first time the US law under which Mr Modi was denied the visa has been used, State Department official Mr Len Scensny said. Asked if the decision had been taken by Ms Condoleeza Rice, Mr Scensny said: "It is not the secretary's job to make this decision, but she is aware of it. We sent out the instructions to our Delhi office last night and told Modi people this morning."

The US law used to deny Mr Modi a visa has been in

existence for several years. But before December 2004, it applied to religious rights violations committed in the two-year period prior to a person's applying for a visa. A December 2004 revision removed the two-year provision and it now applies to anyone who had anything to do with severe religious persecution, regardless of when that occurred. So when Mr Modi applied, though it was just a little over two years since the Gujarat violence occurred, he was held accountable. "We looked at the law and the judgement we made in our own human rights report," Mr Scensny said. "The law says any foreign government official who was responsible for or directly carried out, at any time, particularly severe violations of religious freedom, is ineligible for a visa to the USA," he said. Mr Modi had applied for a diplomatic visa and was denied that because he was not coming on a diplomatic visit. "But he also had a B-visa and we cancelled that as well," he said. Asked whether it was a well-thought-out move, Mr Scensny said: "I think a lot of thought went into this." However, Mr Scensny emphasised: "This is not an attempt by the US to intervene in India's justice system."

IAN S

### **STATE DEPT. REBUKE FOR GUJARAT GOVT.**

The US State Department's report on Human Rights in India 2004 has expressed concern on the "failure of Gujarat government" to nab post-Godhra riot suspects.

It cited the Gujarat government's affidavit submitted to the Supreme Court which said that out of 4,252 complaints, 2,032 were closed despite abuses being substantiated. The report then said after the Supreme Court ordered the re-examination of the closed cases, Gujarat government has reopened cases against 5,384 people in the city of Ahmedabad and 24,683 people in the state as a whole. "Only 3 cases related to the Gujarat rioting completed trial in the lower level courts by the end of the year," it added.

The State Department's 2003 report had also

complained that Muslims continued to be harassed and discriminated against by the Gujarat government while Hindus received limited punishment for the 2002 riots.

SNS

### A SLAP IN MR. MODI'S FACE

In a singular instance of the Ides of March for the Gujarat Chief Minister, Narendra Modi, the United States has rejected his application for a diplomatic visa, while simultaneously revoking his tourist/business visa under Section 212 (a) (2) (g) of the US Immigration and Nationality Act. It is intriguing why Mr. Modi chose to ask for a diplomatic visa for a trip that was ostensibly to address the Asian-American Hotel Owners' Association and meet business leaders. Was he apprehending something so untoward that the protection of a diplomatic visa would come in handy? In denying a diplomatic visa under Section 214(b) of the Immigration and Nationality Act, the U.S. Government has clarified that Mr. Modi was visiting the United States for a purpose that did not "qualify for a diplomatic visa." In revoking the business/tourist visa, Washington has been even more forthright, arguing that any foreign government official who was responsible or had "directly carried out, at any time, particular severe violations of religious freedom" was ineligible to enter the U.S. Not too long ago, Mr. Modi had exulted about the similarities between President George W. Bush's election speeches and his own communal vitriol in 2002. He even challenged political pundits to analyse the spiritual consanguinity between Mr. Bush and himself. Now that the U.S. Government has formally given international recognition to Mr. Modi's responsibility in the post-Godhra genocide, he must be puzzled as to why and how these assumed similarities could have been given such short and ignominious shrift.

The United States has effectively barred Mr. Modi from entering its territories and declared him *persona non grata*. This significant decision owes a lot to the active protests

by human rights activists across America. What helped matters was the U.S. State Department's international Religious Freedom Report, which was released on September 15, 2004. The report extensively deals with specific instances of the systematic derailment of the rule of law in Gujarat during and after the post-Godhra riots and traces the genesis of violent acts against minorities to the Hindutva philosophy espoused by the Bharatiya Janata Party. The U.S. Commission on International Religious Freedom found Mr. Modi's complicity in the riots in Gujarat in its May 2004 report. The denouement came in the form of a resolution in the American House of Representatives, moved recently by John Conyers, Jr., an influential Democrat Congress- man from Michigan. It asked the House to condemn "the conduct of Chief Minister Narendra Modi for his actions to incite religious persecution and urging the United States to condemn all violations of religious freedom in India." Quoting the State Department, Congressman Conyers spoke about the role of the Modi Government in promoting racial hatred and fanning communal passions.

Predictably, Chief Minister Modi has reacted to the denial of U.S. visa by calling it an "insult to India and the Constitution". This is precious coming from a man who not only violated every single norm enshrined in the Indian Constitution, but was also asked by the pre-eminent leader of his party, Prime Minister Atal Bihari Vajpayee, to follow his rajdharma. Mr. Modi has now resorted to the rhetoric of being popularly elected as well as the spurious legalism of the absence of indictment of the Gujarat Government or the Chief Minister in the "Incidents" - Mr. Modi's euphemism for the pogrom conducted against the minorities - that happened after the Godhra massacre. Dissidents within the BJP in Gujarat have been active in recent weeks demanding his scalp. With this additional setback over his U.S. visa, the Gujarat Chief Minister could be in for a long, hard summer.

Hindu (9-03-05)



## **PERSONA NON GRATA**

### **US denies visa to Modi over Gujarat genocide**

The horrors of Gujarat 2002 have returned to haunt Narendra Modi. The US government has refused entry to the Gujarat chief minister invoking two provisions in the US Immigration and Nationality Act: One of them concerns diplomatic visas while the other regulates tourist and business visas. The diplomatic visa has been denied because Modi's visit was at the behest of some Indian-American organisations, including the Asian-American Hotel Owners' Association; the business visa request was dumped because one of the provisions in the Act "prohibits anybody who was responsible for or directly carried out at any time, particularly severe violations of religious freedom". The BJP, as expected, has taken umbrage at the US immigration department: It has described the decision as 'unwarranted' and one which 'caused insult to the entire nation'. The party wants the Central government to intervene in the matter on the grounds that the manner in which Modi was told that he is not welcome in the US, and the reasons given, were unacceptable. New Delhi should steer clear of the issue. The right to issue a visa is discretionary, and the reasons cited for denying it in this case are valid. Modi has the mandate to govern Gujarat, but that has not washed off the stains of the genocide his government perpetrated in the state for three months in 2002. Investigations by the media and depositions by senior police officials have confirmed the involvement of the Modi government in the riots. Even the Supreme Court had questioned the role of Modi and his government during the riots as well as in investigating the pogrom. Yet, Modi has continued in office, protected by mentors in the party who are now busy shielding him from his own MLAs.

Modi acolytes are certain to harp on the fact that he is a democratically elected leader. Hence to shut the door on the chief minister is to insult the people who elected him. In a globalising world, no state or politician can afford to be

an island. Democratic credentials have to be validated not just locally but also by the global community. This has been central to New Delhi's foreign policy. When South Africa was under the apartheid regime, India refused to have bilateral relations with its 'democratically elected' white government. The BJP should now realise that it can't shield its poster boy of hate under the pretext of electoral mandate. This logic has failed to cut ice even in India: The protests in Kolkata when Modi visited the city recently being the latest instance of public disapproval. Howls of shame will follow him as long as he and his party refuse to admit guilt and willingly stand for trial for the pogrom that shook the very foundations of the secular Indian state.

The Times of India (19-3-05)

### **MODI, MARTYR!**

The US government has achieved the impossible:  
Modi can now play the persecuted

When Narendra Modi talks democracy and human rights, even "violation of judicial norms" and "religious freedom", and he gets away with it, you know the plot has gone terribly astray somewhere. The US government accomplished a marvellous feat on Friday. It denied the Gujarat chief minister a diplomatic visa and revoked and already granted tourist visa, for being a government official who was "responsible for or directly carried out, at any time, particularly severe violations of religious freedom". In the process, it allowed Modi not only to affect the genuine outrage of the persecuted but also to legitimately divert the spotlight from his own earned notoriety to US hypocrisies on issues of religious freedom.

The revoking of visa to Modi is objectionable because it harks back to US double standards and because it is simply bad in principle. On the first count, the evidence is long and compelling. The US has memorably played hospitable host to, among others, the armed conspirators

of Khalistan. Among its best friends, it counts the Saudi regime that continues to deny religious freedom to its people as a matter of course. In the visa rejection's aftermath, the spurned Modi himself has made bold to question the US record in Iraq. Clearly, the US is not always, nor nearly equally, agitated about violations of people's religious freedoms. But even if it had been so, the barring of Modi from US soil on these grounds is highly problematic, if not self-defeating. Banning and proscribing always ends up by lending more power to the politics of those who are banned and proscribed. If the purpose was to register its censure of Modi's brand of hate politics, which propelled his government's criminal abdication during the communal violence of 2002, the US would have done far better to let Modi travel to the country and then face protest groups and demonstrations of the kind that so embarrassingly greeted him in the UK not very long ago, instead of getting him this opportunity to pose as martyr.

Democracies have ways of enforcing accountability from those like Modi and India is a mature democracy. Political and institutional mechanisms are at work. They are slow and tortuous, and they don't always deliver unmixed results, but they will hopefully ensure that justice is done for Gujarat 2002 and its ghosts are fully laid to rest. As is well known, the Supreme Court has shown a remarkable commitment to this process, so has a fearless and independent media. India's government has done well to register its protest at the US decision. The US government must rest assured that India can deal with its Narendra Modi. ■

The Indian Express (19-3-2005)

## **KEEPING MODI OUT**

**Policy, not conviction, in US stand**

Narendra Modi has reason to feel done in by America's decision to ban him from its shores. The reason

given by the State Department, that he was responsible for or directly carried out severe violations of religious freedoms, while correct is also dubious. The Americans have cited reports of the National Human Rights Commission in support of their decision. Modi might be entitled to ask why the State Department doesn't place similar faith in its own reports before, for instance, laying out the red carpet for even minor Saudi princes.

After all, as the State Department notes in its report on religious freedoms in the kingdom, Saudi Arabia, a staunch American ally, "does not provide legal protection for freedom of religion, and such protection does not exist in practice. Islam is the official religion, and the law requires that all citizens be Muslims. The Government prohibits the public practice of non-Muslim religions." Not just that, the Saudis allow as the report notes, only "the officially sanctioned version of Islam".

Extreme though Modi's methods of managing cultural diversity in Gujarat were, there would be some hesitation in accusing him of going that far. Modi, as a senior member of the Bharatiya Janata Party, is also entitled to feel peeved because the Americans during the first instalment of the Bush presidency spent considerable effort trying to cobble together an axis comprising themselves, the Israelis and India (under the BJP) to counter the growing threat from Islam. To now be summarily dismissed for having been so blatantly anti-Islamic, must rankle.

There is more to the American decision, though, than mere compliance with the Immigration and Nationalities Act. President Bush has long been criticized by American commentators for the lack of a strategic thrust to his foreign policy. The criticism has come even from the evangelical Right that is part of his core support group. Increasingly, it must be becoming clear to American planners that the war on terror is widely identified as a war on Islam. America thus feels the need to woo at least moderate Islam. Just a few days ago, Washington dropped its previous stance of

non-negotiation with Iran and offered to a country it had described a few weeks ago as "rogue" several concessions in exchange for dismantling its nuclearweapons programme.

Many Islamic states have long seen the bomb as a deterrent to American hegemony, and with North Korea having opened up another flank in east Asia, the Bush administration cannot afford to be fighting too many enemies at the same time. The denial of a visa to Modi must not therefore be seen as affirmation of Washington's faith in religious freedoms; within the larger perspective of American foreign policy, it is a minor confidence-building palliative to moderate Muslims. Modi, though, must resent missing out on an opportunity to hobnob with affluent Gujarati moteliers in the US. He needs only to remind himself that in foreign policy, as in politics, there are no permanent allies. ■

The Statesman (20-3-2005)

### **A WINNER AND A LOSER IN GUJARAT**

In May 2002, the Directorate of Advertising and Visual Publicity of the Ministry of Information and Broadcasting brought out a publication titled, "Prime Minister Shri Atal Bihari Vajpayee on the Communal Violence in Gujarat". It was a compilation of Mr. Vajpayee's speeches and other pronouncements on the Gujarat violence. The introduction, penned in the name of "Prime Minister's Office", noted that "Prime Minister Shri Atal Bihari Vajpayee spoke for the entire nation by calling these incidents 'blot on India'." The central theme of the compilation was to make the point that as Prime Minister, Mr. Vajpayee did not approve of Narendra Modi's lapse from his "rajdharm".

After the national Democratic Alliance was voted out of power, Mr. Vajpayee went on record that he wanted to ease Mr. Modi out of the Chief Minister's office in Gujarat. Obviously the rest of the Sangh Parivar did not agree with

him. The Gujarat violence became one of the prime causes of the BJP's defeat in the 2004 Lok Sabha poll. Mr. Vajpayee did not exhibit the requisite leadership resolve and he and his party had to pay a price.

The strategic problem before the BJP was - and remains - how to reassure the citizens of India that the party had left its lumpen instincts behind and that it is capable of living up to the obligations and responsibilities of lawful authority. This problem cannot be addressed unless the BJP finds a way of removing the Modi albatross from its collective neck.

Now the Americans have presented the BJP an opportunity with Washington denying the Gujarat Chief Minister a diplomatic visa. It was a test to Mr. L.K. Advani's leadership. But before Mr. Advani could formulate his response, a clever Mr. Modi has cranked up "the swabhiman" emotionalism.

A leader is known by his or her capacity not to let the mob define the issue; a leader knows what is right and what is wrong and should have the courage and self-assurance to speak up even if it means defying the clamour of the crowd or of the party managers. Mr. Advani gave in to Mr. Modi's summons to super-patriotism. This is of a piece with his earlier caving in to Uma Bharti within months of her public show of defiance.

Mr. Modi is a winner but Mr. Advani has not enhanced his leadership profile. By announcing that he would be attending Mr. Modi's "swabhiman" rally in Gandhinagar, he had not earned any brownie points with the Americans once again. The first time he earned negative marks was when he virtually promised, during his visit to the U.S., that India would be sending troops to Iraq. That was when the Cabinet Committee on Security had not taken any view in the matter.

For a party that all these years has made so much of its approval ratings in the international community (meaning the United States), the Modi visa matter is a perfect

opportunity to square up with the global public opinion. Mr. Advani has flunked the leadership test. ■

The Hindu (20-3-05)

## **SPOTLIGHT BACK ON NHRC REPORT'S INDICTMENT OF MODI GOVERNMENT**

With the US state department claiming to rely on the report of the National Human Rights Commission for the denial of visa to the Gujarat Chief Minister, Mr. Narendra Modi, the spotlight is back on the role of the state government during the riots as recorded by the NHRC.

NHRC had begun looking into the Gujarat riots with a suo-moto notice on 1 March 2002, on the basis of media reports on communal flare-up, which "suggest inaction by the police force and the highest functionaries in the State to deal with this situation".

Within a month, it received a preliminary report from its special team in Gujarat, which was sent to the Centre and Gujarat government for comments and action. The Commission had already noticed that the events in Gujarat from the burning of the Sabarmati express on 27 February at Godhara and the riots that engulfed the state led to "grave questions arising of fidelity to the Constitution and to treaty obligations".

It observed that the tragic events have serious implications for the country as a whole, affecting both its sense of self-esteem and the esteem in which it is held in the comity of nations. After not getting any adequate response from the state government on the special team's report, NHRC made its finding and recommendations public on 31 May 2002, which included stinging criticism of the "comprehensive failure of the State to protect the constitutional rights of the people of Gujarat, starting with the tragedy of Godhra on 27 February 2002, and continuing with the violence that ensued in the weeks that followed".

It also pointed out that there had been a massive

intelligence failure for failing to predict to make security preparations for the return of karsevaks. "Regrettably, immediate and stringent measures were not adequately taken; the response, of the Government thus proved to be unequal to the challenge, as vividly illustrated by the numbers who lost their lives, or were brutally injured or humiliated as the violence spread and continue," the NHRC said on 31 May 2002.

Contrary to the state government's claim, the NHRC's special representative Mr. Nampoothri had reported that first information reports filed by the police unusually listed the accused as "unknown", even in cases where the offenders were known. "Further - for far too long-politically-connected persons, named by the victims of the crimes committed, remained at large, many defying arrest," the Commission said.

It expressed deep concern over the NHRC special representative's report that out of the 16,245 persons arrested till 28 May 2002, only 2,100 were left behind bars - the rest were out on bail.

Also, the Commission's report said that of the 11,363 Hindus arrested, 8 per cent remained in custody, while 20% of the 4,882 Muslims thus arrested remained in such custody. "This does not provide a particularly reassuring commentary on the determination of the State Authorities to keep in check those who were arrested or to bring them to justice," it observed. ■

The Statesman (20-03-05)

## **DECISION WAS BASED ON NHRC'S FINDINGS: US**

Sridhar Krishnaswami

The United States says the decision to deny a diplomatic visa to the Gujarat Chief Minister, Narendra Modi, was based not on any determination made by Washington but on the findings of the National Human Rights



## Commission of India.

The Deputy Spokesman of the U.S. State Department, Adam Ereli, said that it was incorrect to say that the Bush administration had determined that Mr. Modi was behind the Gujarat riots of 2002. "The fact of the matter is that it was the Indians who investigated the riots and it was the Indian Government who determined that State institutions failed to act in a way that would prevent violence and would prevent religious persecution."

"So this is not a matter of the United States saying something happened or something didn't happen. It is a matter of the United States responding to a finding by the Indian National Human Rights Commission pointing to comprehensive failure on the part of the State Government of Gujarat to control persistent violations of rights," the spokesman said. Mr. Ereli said the U.S. administration officials had made a determination on two things based on the NHRC findings. "Number one, we determined that [on] an application for a diplomatic visa to come to the United States that the terms for issuing that visa under U.S. law had not been met, and so we decided not to issue the visa based on U.S. law and based on findings of fact by the Indian National Commission," Mr. Ereli said.

"And number two, we determined that an existing visa that Mr. Modi had - an existing tourist/business visa - should be revoked under section 212(a)(2)(G) of the Immigration and Nationality Act, which says that any foreign government official who is responsible for or directly carried out at any time particular severe violations of religious freedom should not be eligible for a visa," he said.

Asked why was the tourist/business visa that now stood cancelled issued in the first place, Mr. Ereli said: "The visa was given before the events [Gujarat riots] of 2002 in my understanding." ■

The Hindu

## LETHAL AMMO IN RIOT REPORT

The National Human Rights Commission report, which

America cited to justify the visa action against Narendra Modi, has evaluated the Gujarat government's response to the post-Godhra riots and dubbed it "abysmal" or "non-existent".

The facts pointed to "gross negligence in certain instances", the commission held in its final report, or, "worse still, as was widely believed, to a complicity that was tacit, if not explicit".

The report finalised by the commission after hearing out the Modi government and indicted the government on every count, from intelligence failure to "extraneous influences" that were alleged to have resulted in distorted FIRs.

The commission had gone to the extent of recommending to the central government that all significant cases be referred to the CBI.

"The commission would like to underline that it is a central principle in the administration of criminal justice that those against whom allegations are made should not themselves be entrusted with the investigation of those allegations... To depart from that principle would, therefore, be to invite a failure of justice," the report, made public in June 2002, said.

The then NDA government had refused to accept this recommendation, prompting the commission to move the Supreme Court for directives to at least shift the trial of important cases out of Gujarat.

In observations that establish the complicity of the Modi government, the NHRC had referred to reports that spoke of interference from the political leadership of the state.

However, NHRC chief A.S. Anand today declined to comment on the denial of the US visa to Modi, saying appropriate authorities were already looking into the matter. ■

## LETTERS TO THE EDITOR OF INDIAN EXPRESS

The US cannot be faulted for denial of a visa to the Gujarat CM. The grant of a visa is the privilege of a country. It cannot be claimed as a right. Also, Modi's proposed visit was not a part of any diplomatic assignment. The only thing the Indian government can do is to act on a reciprocal basis. Modi is wrong to claim that this denial is an insult to the Constitution. It was the failure of his government to control the riots and bring the culprits to justice that has made mockery of our constitution.

J.M. Manchanda, New Delhi

Narendra Modi alleges that by denying him a visa, the US is interfering with our Constitution. That would be so if they told us who we should give visas to. This is their internal matter. Like so many Indians who fail to get permission to visit that country, Modi could just accept this.

Lalit Mohan, Gurgaon

The US embassy's move to debar Modi's from entering their country should serve as a wakeup call to all Hindutva hardliners. We live in a global village and no incident in isolation.

Vimalksh Gautam, on e-mail.

I support the US government's decision to revoke Modi's visa. He has participated in a serious violation of religious freedom. His role in the pogrom and its aftermath is well known. What is even more sad is the total lack of remorse in Modi for what happened in 2002. India should not ask US to reconsider its decision since he deserves to be condemned.

Pranav Sachdeva, New Delhi  
21-3-05

## LETTERS TO THE EDITOR OF THE HINDUSTAN TIMES

The denial of a diplomatic visa to Gujarat Chief Minister

Narendra Modi to visit the United States should come up as a wake-up call for the UPA government. Modi and the Gujarat genocide are a blot on the secular face of India, and so it is revolting that the ministry of external affairs is taking up the issue with the US government.

Huma Hasan, Aligarh

Numerous Indians all peace-loving, who never had the remotest connection with any genocide, have been denied US visa. So what is special about Modi?

Lalit Mohan, Gurgaon

It is the sovereign right of every country to bar any person who they believe could disturb their peace. What reinforces the right of the US to debar Modi is the heavy protests by the Indian community itself which wanted him to be kept at bay.

T.W. Balchandani, via e-mail

This is one of the fittest punishments for Narendra Modi for his involvement in the Gujarat genocide.

Humaira Ahsan, via e-mail

Modi's visit was not part of any diplomatic assignment. The only thing the Indian government can do is to act on a reciprocal basis.

J.M. Manchanda, via e-mail

The UPA government should not forget the frequent reprimands and snubs meted out to Modi by the Supreme Court, the media and NGOs at various platforms over his failure to uphold constitutional responsibilities as chief minister of Gujarat.

S. Srinivasa Rao  
21-3-05

## LETTERS TO THE EDITOR OF THE HINDU

Sir, It is laughable to see Gujarat Chief Minister Narendra Modi carying murder of democracy merely

because he has been denied a visa to enter the United States. A Chief Minister who was barely three years ago accused of the most flagrant violation of constitutional and democratic ideals is now invoking the honour of the entire nation and that of "five core Gujaratis" just because he has been given a taste of his own medicine.

V. Sumeet, Ahmedabad

Sir, If anyone has insulted India, it is Mr. Modi - by continuing in office despite the 2002 Gujarat riots. By denying a visa to him, the U.S. has done a good thing in a long time.

S. Srinivas, Visakhapatnam, A.P.

Sir, While the centre should be praised for taking up the issue with the U.S., the situation arising out of the denial of visa should in no way be seen as downplaying the excesses committed by the Modi administration during the riots. It is certainly not an insult to India or its pride; rather it should be taken as a dent on India's image as a secular country caused because of having inadequately responded to the cries of the victims.

B. Sarath Babu, Hyderabad

Sir, - The UPA Government should let the matter be, lest it should shatter the confidence of the minorities with whose support it was able to come to power.

Mohammed Taher Osmani, Hyderabad

Sir, - Mr. Modi is well known for generating sympathy and we as a nation should not fall prey to his tactic. The Gujarat Government, under his leadership, not only failed to contain the riots but also fuelled anti-Muslim sentiment.

V. Ajit Subramaniam, Coimbatore

Sir, - How can the U.S. move be deemed an insult to the Indian Constitution? Is travelling to the U.S. a constitutional right?

Air Commodore (retd.) V.V. Nair, Alappuzha, Kerala

Sir, - For three long years, the nation has let Mr. Modi be. The dismissal of the Modi Government alone can restore the dignity of the nation.

Atoofa Nasiha, Chennai

Sir, - By denuing visa to Mr. Modi and citing the reason for the denial, the U.S. Government has brought a smile to the faces of the victims of the Gujarat violence and the secular-minded citizens of India. What the Gujarat voters failed to do to Mr. Modi, human rights activists and Washington have done - cut him to size.

A.A.H.K. Ghori, Chennai

Sir, - The editorial, "A slap in Mr. Modi's face (March 19) is apt and timely. Mr. Modi presided over one of the worst ethnic cleansings of post-Independent India. I am glad that even though a deadlier version of Mr. Modi ruling the roost in the U.S., the Americans have decided to make an example of him.

Chitrabhanu Thekkedath, Secunderabad

Sir, - The U.S. denial of visa to Mr. Modi is no doubt a slap in his face. Had Mr. Modi, who is now crying foul in the name of the Constitution, even a fig leaf of faith in the secular spirit of our Constitution, the riots would not have occurred. Yet there is a curious irony of the pot calling the kettle black when it is the George Bush administration that denies visa to Mr. Modi.

K. Ramachandran Kannur, Kerala

Sir, - By taking such a step, the U.S. has given a positive signal to Muslims worldwide that its fight against terrorism does not mean lack of concern for common Muslim masses. We must appreciate the firm stand of all the American Congressmen who sent a letter to the U.S. State Department with a strong recommendation that Mr. Modi be refused a visa.

Kancha Ilaiah, Denver, U.S.

## Some Questions

Sir, Mr. George Fernandes said on television this past Saturday that the denial of a U.S. visa to Narendra Damodardas Modi was a "zulm". How would this old master of double-speak describe Mr. Modi's treatment of Muslims in Gujarat, in particular on and after February 28, 2002, echoes of which continue to this day? As "reheem-dili", perhaps, or, in the words of the poet-statesman Atal Bihari Vajpayee, "raj-dahrma"?

The stand of the Congress party on the visa denial issue also raises a question. If it is based on Mr. Modi's being a constitutionally elected figure in a supposedly sovereign nation, what was all that noise that the Congress leadership made about his having defiled the Constitution.

Mukul Dube, D-504 Purvasha, Mayur Vihar 1, Delhi-110 091  
22-03-05

### Denial of Visa

Sir, - The U.S. denial of diplomatic visa to Gujarat Chief Minister Narendra Modi and the revocation of his tourist/business visa on the ground that he violated religious freedom have rendered him an emperor without clothes. Mr. Modi has been stripped of the veneer of respectability he was wearing, and exposed thoroughly.

The worst genocide in recent times took place during his rule and under his direction. The only regret is that it has taken a foreign power to expose him. Had it been done by his own people, it would have done India proud.

Khadirullah Khan, Chennai

Sir, - Mr. Modi has been accused of violating religious freedom by the U.S. immigration officials. Time and the ongoing investigation into the Gujarat riots will reveal the extent of his involvement. In the meantime, there is abundant evidence to deny George Bush a visa to enter India, on similar grounds. He has been speaking of a constitutional amendment to outlaw gay marriages. Such marriages have

the acceptance of the United Church of Christ, one of the largest Protestant Denominations. Is the proposed amendment not religious discrimination?

Premkumar, Devanbu, Davis California

Sir, - The heinous crime perpetrated against Muslim community and Mr. Modi's various utterances on the Godhra and post-Godhra incidents are not easily forgotten. Certainly the U.S. is well within its rights to enforce its law on persons like Mr. Modi.

R.G. Bhaniwad, Dharwad, Karnataka

Sir, - The charge that the Constitution has been insulated is unfounded. On the contrary, its secular ideology has been upheld.

George Paul, Salem, T.N.

### **Action-reaction?**

Sir, - This refers to the title of the editorial, "A slap in Mr. Modi's face" (March 19). On whether he deserves this slap, the only thing that can be said with conviction is every action has an equal and opposite reaction.

Mushtaq Ali, Chennai

Sir, - Where is the insult to India, and the Constitution? The U.S.' move is only a reinforcement of the Newton theory.

A Jesu Raj, Tiruchi, T.N.

Sir, The snub has come as the nemesis for Mr. Modi's own actions. As a good Hindu, he should accept the fate as reward for his *karma*.

P.P. Sudhakaran, Bangalore

Sir, - It is gratifying to note that the Centre has risen above political considerations in dealing with the matter. Its prompt reaction to the denial of visa to an elected Chief Minister is in the right direction.

T.V. Kalyanasundaram, Chennai

Sir, - The U.P.A. Government's move of summoning



the U.S. *Charge d' Affaires* and lodging a strong protest was perhaps aimed at preventing the BJP and Mr. Modi from deriving mileage out of the issue. Otherwise, why should the Centre interfere? What loss is India going to incur if Mr. Modi does not visit the U.S.?

T. Anbumani, Tiruchi, T.N.

Sir, - Why are Mr. Modi and the BJP so outraged? Where were they when the Shiv Sena ran amuck, and even smashed the office of a magazine, in a bid to prevent Mani Shankar Aiyar, a legitimately elected member of Parliament, from attending functions in Mumbai? The Sainiks publicly declared they would not let Mr. Aiyar enter Maharashtra. So much for the saffron brigade's respect for the Constitution!

Pramod Arikal, Mumbai

Among the things  
that complete one's  
Islam is giving up  
that which does not  
concern him.

(Prophet Muhammad as quoted by *Imam* Tirmidhi)

# MODI, THE U.S., AND THE VISA POWER

Siddharth Varadarajan

The denial of a U.S. visa to Gujarat Chief Minister Narendra Modi has evoked a predictably strong reaction from the Bharatiya Janata Party, less strident objections from the Congress party and a formal, diplomatically correct protest from the government of India, whose *note verbale* requesting a visa went unheeded.

For Mr. Modi, who identified closely with many of the policies of the Bush administration, the visa denial is a particularly cruel blow. After all, the United States was perhaps the only major (or minor) country in the 'West' not to express its concerns about the Gujarat violence while it was going on. Even tiny Finland saw fit to raise its voice, inviting a stinging rebuke from the External Affairs Ministry, but not Washington.

The BJP says the visa rejection has hurt India's national pride but this does not appear to be a perception that is shared widely by Indians, who see the saffron party's appeals to *swabhimaan* (self-respect) and constitutionalism as largely self-serving. There is no Constitution in the world that requires a country to grant foreign nationals a visa to enter its territory; on the other hand, every Constitution, India's included, obliges governments to investigate and punish individuals involved in large-scale violence against its citizens.

Investigations by the National Human Rights Commission, the CBI (in the Bilkis Bano case), and scores of non-governmental bodies have documented numerous acts of omission and commission, suggesting official connivance with the perpetrators of the violence. Even if one accepts the argument that Mr. Modi knew nothing at all about the manner in which more than 2,000 Muslims were targeted and killed across his State in the weeks following the Godhra incident of 2002, his failure to investigate these

crimes and punish the guilty is manifest. No less a judicial authority than the Supreme Court of India has pointed this out.

All countries exercise their right to issue visas (and even passports) keeping in mind their own definition or perception of national interest. Thus, the National Democratic Alliance Government tightened the procedure for granting foreign scholars visas to attend conferences on "political" subjects or conduct research on "sensitive" topics or areas. More recently, a Dutch professor and expert on Assam and the Northeast had his application for an Indian visa rejected.

Foreign governments can protest, concerned Indians can criticise their Government's pig-headness and agitate for a more liberal approach, and the courts may intervene but that is unfortunately the way the law works.

In the United States, perhaps more than any other country, visas have always been used as a foreign policy tool. During the Cold War, membership in a Communist party or allied organisation was grounds for a visa rejection, as was former membership of the Nazi party. Over the years, hundreds of dissident or progressive intellectuals and artistes were denied U.S. visas because of their Leftist views (and this continues to happen on a slightly diminished scale even now). In practice, being a Nazi was much less of a disqualification - since the U.S. was interested in recruiting German rocket and nuclear scientists and intelligence assets - but that issue need not detain us here.

Ever since the end of the Cold War, the U.S. has started rejecting visas on the grounds of involvement in corruption, torture and human rights abuses, and violations of religious freedom. These restrictions have developed in tandem with the growing tendency to consider gross violations of human rights as transgressions of international law and international humanitarian law. However, unlike the attempt to prosecute offenders in jurisdictions other than that of their own

countries - for example the well-known case against former Chilean dictator Augusto Pinochet in a Spanish court - the denial of visas per se does not represent the extra-territoriality of law enforcement.

Prominent U.S. visa rejects in recent years include Lt. Gen. Prabowo Subianto, the son-in-law of former Indonesian President Suharto, who was denied a visa in 2000 on the grounds of being suspected of involvement in torture, former Philippine President Joseph Estrada, who was denied a U.S. visa for medical treatment ostensibly because Washington said it could not "guarantee his security," and two senior Yugoslav parliamentary officials - Srdja Bozovic, who was president of the Chamber of Republics, and Ljubisa Ristic, president of parliament's foreign policy committee - because their names figured on a list of "regime associates" of Slobodan Milosevic.

For many years, the U.S. has informally used the existence of corruption charges against public officials as a reason to deny a visa. Last year, for example, Gregory Surts, a Ukrainian MP and close ally of then Ukrainian Prime Minister Viktor Yanukovych, was denied a U.S. visa for allegedly interfering with his country's electoral process. The then Ukrainian Interior Minister Mykola Bilokon was put on a visa watch list with the presumption of denial in case he ever applied. In 1996, Ernesto Samper's U.S. visa was revoked when he was Colombia's President.

On January 12, 2005, President George W. Bush formally issued a proclamation amending section 212 of the U.S. Immigration and Nationality Act to "suspend" entry into the U.S. of public officials "whose solicitation or acceptance of any article of monetary value, or other benefit, in exchange for any act or omission in the performance of their public functions has or had serious adverse effects on the national interests of the United States." The new rule has already been invoked against Panamanian and Kenyan officials and elected representatives.

There is no denying the subjective, arbitrary and ultimately political nature of these provisions. For every alleged money-launderer, corrupt official, violator of religious freedom or torturer kept out, hundreds of others have had no problem getting a U.S. visa. Indeed, double standards have been explicitly written into the law: Section 2 of Mr. Bush's January 12 proclamation says the visa ban "shall not apply with respect to any person otherwise covered by (the ban) where entry of the person into the United States would not be contrary to the interests of the U.S." And this determination is at the sole discretion of the Secretary of State.

But if Mr. Modi today cries that he is a victim of double standards, BJP leaders have also benefited from these double standards in the past. When the human rights of Muslim Gujaratis were being violated on a large-scale in 2002, for example, the U.S. preferred to keep its counsel. Had 2,000 Bahais been killed in Iran or Christians in Indonesia or Malaysia, there would have been howls of protest from Washington.

But those were the days of great bonhomie between the BJP leadership and the Bush administration and Washington perhaps did not want to bring up an issue that might come in the way of the strategic realignment it was trying to engineer in Indian foreign policy. L.K. Advani, who travelled to the U.S. as Deputy Prime Minister in June 2003 and promised Indian soldiers as cannon fodder for the U.S. occupation of Iraq, had no trouble getting a visa despite being formally charge-sheeted in a major case involving religious discrimination - the demolition of the Babri Masjid.

Even as he leads the raby for Mr. Modi's right to accumulate frequent-flyer miles, Mr. Advani should ask why it was in U.S. national interest to give him a visa in 2003 and why it is not in U.S. national interest to let the Gujarat Chief Minister in today. My own guess is that given the defeat of the BJP-led NDA at the Centre, Washington can

now afford to pay heed to its own domestic lobbies - including the patriotic Indian-American community - that believe that Indian officials suspected of involvement in mass violence should not be allowed to travel to the U.S. Simply put, denying a visa to Mr. Modi is a relatively low-cost political decision.

For all those concerned about U.S. double standards, the Modi visa affair throws up a number of challenges. Denying a visa to one alleged violator of religious freedom but granting it to another is a matter of domestic U.S. policy that public opinion in the United States will have to take up. But if the BJP is serious, it cannot cherry-pick which instances of double standards it will oppose. When the party was in power, it endorsed the underlying discourse of hegemonic arbitrariness (whereby, for example, some countries get designated as 'terrorist sponsors'), applauded the growing extra-territorial reach of the U.S. and sought closely to align India with the projection of Washington's military might.

Today, BJP leaders are referring to the Iraq invasion and Abu Ghraib. If they are serious, let them declare that senior U.S. officials whose memos created the legal cover under which Iraqi prisoners were tortured (including the Attorney-General and Defence Secretary) should not be given visas to visit India. I don't think any right-thinking Indian would oppose such a demand.

It is a well-established principle in international law that sovereignty does not provide an inviolable shield behind which gross violations of human rights can be committed. Countries that are powerful (such as Israel or indeed the U.S. itself) can get away with murder, but others cannot. Smaller states can buy impunity by aligning themselves with the U.S. but as and when contradictions emerge, that impunity can rapidly melt away. For India, a fitting answer to the insult Mr. Modi has brought upon the country in having his U.S. visa revoked is to put in place legal systems that

**deliver quick and impartial justice in all instances of mass violence like Delhi 1984 and Gujarat 2002. That is the only way to guarantee we never again find ourselves in the embarrassing position of having high officials and functionaries accused of abetting mass murder. ■**

Courtesy: The Hindu



## STUNG BY THE WEST

Ramachandra Guha

Back in the 1850s, Karl Marx wrote a series of essays on the results of British rule in India. These essays were marked by an ambivalence that was uncharacteristic as well as profound. On the one hand, Marx saw that the British had come to the subcontinent to dominate and exploit, objectives that were deeply repugnant to a radical socialist such as himself. On the other hand, the encounter with a progressive, modernizing society might be a wake-up call to a society frozen by feudalism. Thus, Marx argued that while the British had come to India with "the vilest of motives", they yet might be remembered as the "unconscious tool of history". With luck, colonial rule would force a backward, hierarchical society to take aboard such liberating modern values as equality and justice.

I read Marx's essays years ago while a student in Calcutta. But I was reminded of them in the aftermath of the denial, by the government of the United States of America, of a visa to the Gujarat chief minister, Narendra Modi. For while the Americans were motivated by less than noble motives, it is just possible that their act might inspire a long-overdue cleansing of Indian democracy.

I have no doubt that the decision to deny Modi entry to the US was inspired, not by abstract ideals of justice, but by hard-nosed realpolitik. For, outside their own borders, the Americans don't really care for democracy at all. They have armed and supported a legion of dictators, from Ferdinand Marcos to Pervaz Musharraf - and they have also wined them at the White House. Nor do they care, specifically, about the human rights of Muslims. In fact, their best friend in the world is the Israeli prime minister, Ariel Sharon, who has the blood of many more Muslims on his hands than does Narendra Modi. But, deep into a damaging war in Iraq, they do care about their image in the region. It is

this consideration that most likely lies behind the closing of the door on Modi. By denying a known Muslim-baiter a visa, the Americans hope that they can somewhat redeem their reputation in west Asia. The hypocrisy of the Americans has prompted a wave of nationalistic outrage in the Indian press. The pack has been led by sanghparivar sympathizers, but some estimable liberal voices have been carried along. Thus, Vir Sanghvi of the Hindustan Times says that while he detests Modi and his variety of communal politics, he was yet indignant that the Americans chose to deny him a visa. "Modi may be a mass murderer, but he's our mass murderer," writes Sanghvi.

Sanghvi also writes that "logic and patriotism don't always go hand in hand". I think he meant "nationalism" rather than "patriotism". For a patriot is one who loves his own country, whereas a nationalist is someone who scorns other people's countries. A nationalist might wish to defend Modi against arrogant Americans: a patriot shall find it impossible to defend him against the Constitution and the Republic of India.

My own hope is that the American rebuff to Modi will make Indians recognize, and attempt to reverse, the continuing degradation of our democratic institutions. Once, the taunts of British colonialists and Christian missionaries stung Indian social reformers - from Rammohan Roy to Mahatma Gandhi - to work at emancipating our women and ending the discrimination of the lower castes. Now, the insults of the Arnericans should provoke us to bridge the gap between what the late Nani Palkhivala once called "a first class Constitution and a third class democracy". For while India still retains the "hardware" of democracy - a multi-party sysem, regular and reasonably fair elections, free speech and free movement of people-the "software" of democracy has become badly corroded over the years, in four respects in particular.

First, the integrity of the all-India civil services has been compromised. It was Indira Gandhi who introduced the idea

of a "committed bureaucrat"; committed to the individual politician in power, rather than to the principles of the Constitution and the letter of the law. Since the Seventies, the politicization of the administration has proceeded - apace. As PS. Appu writes in a recent issue of the *Economic and Political Weekly*, officers of the IAS and the IPS have shown "a marked tendency to carry out the wishes of their political masters without pausing to consider if the contemplated action is in accordance with the law. Many of them have behaved like servile hatchet men, not as members of elite services owing unshakeable allegiance to the Constitution, the laws of the land and the principles of democratic governance."

The judiciary has been affected likewise. Especially in the lower courts, many judges are swayed by considerations other than those of the law; by the prospect of monetary gain, and by the pressures of politicians (the two often working together). In the high courts and the Supreme Court, these pressures are attenuated but never wholly absent. In particular, the prospect of a plum post-retirement posting has been known to have made some judges unduly respectful to the wishes of the government of the day.

Third, the Indian press too has lost some - perhaps much - of its once robust independence. The movie, *Page Three*, is quite true-to-life here, in describing how the politician-industrialist complex is insidiously at work in spinning one kind of story and suppressing another. My own experience has been that while local papers kill stories for fear of losing government advertisements, national papers kill them for fear of losing corporate ads or because the editors or proprietors are seeking political preferment.

Fourth, politicians themselves have become completely amoral. When the first non-cooperation movement turned violent, Mahatma Gandhi admitted to having committed a "Himalayan blunder". Jawaharlal Nehru acknowledged errors and made amends for them; as for instance, when he created the linguistic states he had

previously opposed. But from Indira Gandhi onwards, no Indian leader has admitted to having made a mistake. They are not accountable to the judicial process - thus no major politician has been convicted for corruption. But they are not accountable to their conscience either - indeed, few, recently, have shown signs of having one.

The degradation of Indian democracy began in the Seventies, under the Congress regime of Indira Gandhi, but it reached its lowest point with the Gujarat riots in 2002. The senior civil servants cravenly followed the politicians. As P.S. Appu writes, "Gordhan Zadaphia, a VHP activist functioning directly under Modi as minister of state in the home department, took charge of the Ahmedabad police commissioner's control room." The Gujarati press abdicated its role; some sections turning a blind eye to the violence, others justifying it. The local judiciary manipulated or disregarded evidence so as to free those accused of incitement to riot and murder. All this was supervised and rationalized by a chief minister who remains unrepentant about his very proactive role in the proceedings.

That the Gujarat riots took place at all; that they spread so far and so fast; that those who perpetrated the violence went scot free; that relief has been so tardy and inadequate; that the politicians who directed the riots remain in power - these are a consequence only of the frailties of the democratic process in India. In this sense, Narendra Modi is certainly "our mass murderer"; in that it was we, collectively, who created the conditions for the mass murder over which he presided. It's here that the denial of an American visa to him can prove salutary. Rather than direct our nationalist ire without, we should channel our patriotic energies within, towards the renewal and reform of our democratic institutions. Let us ensure that no foreign government shall in future make an Indian politician the target of its hypocrisies- by making certain that no Indian politician can in future so comprehensively violate the human rights of the people he has been chosen to represent and serve. ■

The Telegraph (2-4-05)

## ACTING WITH HIGHEST MORALITY

Nafisa Ali\*

Does it really insult India and our great Democracy, when the US - going by the it revoking Modi's visa - pointed to the fact that Narendra Modi had violated religious freedom in his state?

I was elated and felt that finally, human voices were speaking out and not remaining silent against the perpetrators of crime. We Five Star activists - as Narendra Modi calls us - have finally been heard. Now we pray that the new Government takes the necessary action in accordance with the rights of the Indian people, so that we are not shamed internationally.

How can we forget what happened in Gujarat, yet find many in the administration in support of a Modi who has been denied a visa by the US? What happened in the 1984 Sikh riots - being married to a Sikh - has haunted me since, and what happened in Gujarat sent me on a direct collision course with Modi and his government. Advani, the then Home Minister, and Modi, both protectors and abettors of crime, are crying out that 'Indian Pride' has been hurt. What about the pain and reign of terror that Modi unleashed on his own state of Gujarat, the heart of economic progress in India, and the state that gave birth to Gandhi.

Let us reflect what Modi's action plan was. It was simply to polarise and divide a state along religious lines and ignite the fascist passions of the Hindutva cult that the BJP, RSS and VHP represent. These pseudo-Hindutvas have hurt our magnanimous Indian culture, rich in diversity. They now rally again for an unjust cause, instead of acting in sincerity according to the Indian constitution.

I have visited the homes and shelters of thousands of members of the riot-ravaged minority in Gujarat, that was left to fend for itself ever since Modi was sent to replace the then CM Keshubhai Patel. There have been so many national and international reports on the systematic attack on the minority population for political gain. Some even pointing out that it was along the lines of genocide. Why has our legal system not acted? Why are the inquiries and commissions not giving us the true picture? Democracy is a great system of governance but when the state and the centre are working together, it is not necessarily

*\*Member of the Congress Party.*

morally governed as Gujarat has shown us. It is a blot on the face of Indian democracy!

It is not that the new UPA Government, under its constitutional obligations, is complacent about the accountability of the Modi administration; rather due to respect for the position. The defensive attitude of the UPA Government in strongly criticising USA is understandable and appreciated as the MEA was not consulted on this issue. This is purely a matter of protocol but by going against this US decision, I strongly feel that the UPA Government is not at all shielding Modi's patronage of the Gujarat riots. Therefore, the National Human Right Commission Report should not be ignored and appropriate action, if the report is found to be true, should be taken instantaneously.

Modi is aggressively questioning the US Government and proudly stating that no court of law in India has indicted him. Even when taped conversations of what transpired leading up to the riots, three years ago, have won Ahmedabad-based *Indian Express* journalist Stavan Desai an award, the proof that exists on the tapes and also with the Nanavati Commission, still lies there unable to nail Modi's plan.

Politicians in India now need to recognise that the electronic media, with its global reach, makes them answerable not only to their own electoral constituents but to Indians globally and international pressure groups also. I must give full marks to the NRI pressure groups that were instrumental in revoking Modi's visa. This is a positive development and perhaps, will lead to an urgent shift of prioritisation in the domestic policies, and result in our Chief Ministers genuinely fulfilling the needs of their states rather than creating religious discord and divisions along caste lines. India is poised for a quantum leap forward and it is time our political system marches in step with human rights and the great democracy that we represent. For some of us who have been traumatised by the earlier tragic happenings in Gujarat and the pathetic opportunism shown by the political leaders of the state, the rejection of a visa for Modi is just one appropriate consequence of an unjust action.

Let us also agree that there is a substantial Indian mainstream that is delighted at Modi's embarrassment. I am one of them and hope that more follows. Even as my mind says that the visa should be granted, my intellect and my heart rejoice. ■

Indian Express (24-3-05)

# ISLAM AND CASTE INEQUALITIES AMONG MUSLIMS

Yoginder Sikand\*

## Introduction

Although the Qur'an insists on the radical equality of all Muslims, caste (zat, jati, biraderi) remains a defining feature of Indian Muslim society, with significant regional variations. While the severity of caste among the Indian Muslims is hardly as acute as among the Hindus, with the practice of untouchability being virtually absent, caste and associated notions of caste-based superiority and inferiority still do play an important role in Indian Muslim society. In most parts of India, Muslim society is based on the existence of numerous endogamous and generally occupationally specific caste groups that have their own caste appellations. This disjunction between Qur'anic egalitarianism and Indian Muslim social practice has been theorized by Muslim scholars in different ways. While some have sought to reconcile the two by interpreting the scripturalist sources of Islam to support social hierarchy, others have pointed out that the continued existence of caste-like features in Indian Muslim society is a flagrant violation of the Qur'anic world view.

Most studies of caste in India deal with the classical Hindu caste system or with its present forms among the Hindus. Since caste is the basis of the Hindu social order and is written into the Brahminical texts, studies of caste have been largely Hindu-centric. Following from this, the existence of caste-like features among non-Hindu, including Muslim, communities in India is thus generally seen as a result of the cultural influence on these communities of their Hindu neighbours or of Hinduism itself. This claim is based on the untenable assumption of a once pure, radically egalitarian Muslim community in India later coming under the baneful impact of Hinduism. However, as several studies

*\*Reader Hamdard university, New Delhi*

on caste among the Indian Muslims have shown, while the influence of Hindu social mores on the Muslims might partially explain the continued salience of caste among them it does not fully explain how the Muslims of the region came to be stratified on the basis of caste in the first place. It also ignores the role of sections of the 'Ulama', scholars of Islamic jurisprudence, in providing religious legitimacy to caste with the help of the concept of *kafa'ah*.

This article begins with a brief note on caste among the Indian Muslims, seeking to provide an explanation of the phenomenon based on the historical evolution of the Muslim community in India. It then looks at how, through the notion of *kafa'ah*, important sections of the '*ulama*' sought caste and caste-based social hierarchy to be accepted as normative and binding. Through an examination of a text penned by a contemporary Indian Muslim scholar it then provides a critique of widely-held notions of *kafa'ah* and caste based on the principle of Qur'anic egalitarianism.

### **Caste Among the Indian Muslims**

The vast majority of the Indian Muslims are descendants of converts from what is today called "Hinduism". Individual conversions to Islam in medieval times were rare. Rather, typically, entire local caste groups or significant sections thereof underwent a gradual process of Islamisation, in the course of which elements of the Islamic faith were gradually incorporated into local cosmologies and ritual practice while gradually displacing or replacing local or "Hindu" elements. In other words, conversion was both a social as well as a gradual process. Because it was a collective social process, the original endogamous circle prior to conversion was still preserved even after the group undergoing the process had witnessed a significant degree of cultural change. Hence, even after conversion to Islam marriage continued to take place within the original caste group. This is how Muslim society came to be characterized by the existence of multiple endogamous caste-like groups. Because mass conversion to Islam was also rarely, if ever,



a sudden event, but, rather, generally took the form of a gradual process of cultural change, often extending over generations, many of the converts retained several of their local, pre-Islamic beliefs and practices. It was thus not the influence of Hinduism among a previously "pure", "uncontaminated" Muslim community as such, but, rather, the continued impact of Hindu beliefs and customs on the converts who still remained within a largely Hindu cultural universe and retained many of its associated beliefs and practices, that explains the continued hold of caste-related practices and assumptions among large sections of the Indian Muslim community.

### **The *Ashraf-Ajlaf* Divide**

Scholarly writings on caste among Indian Muslims generally note the division that is often made between the so-called "noble" castes or the *ashraf* and those labeled as inferior, or the *radhil*, *kamin* or *ajlaf*. The *ashraf-ajlaf* division is not the invention of modern social scientists, for it is repeatedly mentioned in medieval works of the *ashraf* scholars themselves. To these writers, Muslims of Arab, Central Asian, Iranian and Afghan extraction were superior in social status than local converts. This owed not just to racial differences, with local converts generally being dark-skinned and the *ashraf* lighter complexioned, but also to the fact that the *ashraf* belonged to the dominant political elites, while the bulk of the *ajlaf* remained associated with ancestral professions as artisans and peasants that were looked down upon as inferior and demeaning.

In order to provide suitable legitimacy to their claims of social superiority, medieval Indian *ashraf* scholars wrote numerous texts that sought to interpret the Qur'an to suit their purposes, thus effectively denying the Qur'an's message of radical social equality. Pre-Islamic Persian notions of the divine right of kings and the nobility, as opposed to the actual practice of the Prophet and the early Muslim community, seem to have exercised a powerful influence on these writers. A classical, oft-quoted example

in this regard is provided by the *Fatawa-i-Jahandari*, written by the fourteenth-century Turkish scholar Diya'al-Din Barani, a leading courtier of Muhammad bin Tughlaq, the Sultan of *Zia-i-Barni* Delhi. This text is the only known surviving Indo-Persian treatise exclusively devoted to political theory from the period of the Delhi Sultanate.

The *Fatawa-i-Jahandari* shows Barani as a fervent champion of *ashraf* supremacy and as vehemently opposed to the *ajlaf*. In appealing to the sultan to protect the *ashraf* and keep the *ajlaf* firmly under their control and submission, he repeatedly refers to the Qur'an, from which he seeks to derive legitimacy from his arguments. His is not a rigorous scholarly approach to the Qur'an, however, for he conveniently misinterprets it to support the hegemonic claims of the *ashraf*, completely ignoring the Qur'an's insistence on social equality. In the process, he develops a doctrine and social vision for the ideal Muslim ruler, which, in their implications for what Barani calls the "low-born", are hardly different in their severity than the classical Hindu law of caste as contained in the *Manusmṛiti*, the Brahminical law code. As Barani's translator, Mohammad Habib, writes, "Barani's God, as is quite clear from his work, has two aspects - first, he is the tribal deity of the Musalmans; secondly, as between the Musalmans themselves, He is the tribal deity of well-born Muslims." Barani was not a lone voice in his period, however, for he seems to echo a widely shared understanding of *ashraf* supremacy field by many of his *ashraf* contemporaries, including leading '*ulama*' and Sufis.

Barani's disdain for the "low" born is well illustrated in his advice to the sultan about education of the *ajlaf*. While the Qur'an and the traditions attributed to the Prophet repeatedly stress the need for all Muslims, men and women, rich and poor, to acquire knowledge, Barani insists that the sultan should consider it his religious duty to deny the *ajlaf* access to knowledge, branding them as "mean", and "despicable". Thus, he advises the sultan:

Teachers of every kind are to be sternly ordered not to thrust precious stones down the throats of dogs or to put collars of gold round the necks of pigs and bears - that is, to the mean, the ignoble and the worthless to shopkeepers and to the low-born they are to teach nothing more than the rules about prayer, fasting, religious charity and the hajj pilgrimage, along with some chapters of the Qur'an and some doctrines of the faith, without which their religion cannot be correct and valid prayers are not possible. But they are to be taught nothing else, lest it bring honour to their mean souls.

As Barani sees it, if the *ajlaf* were allowed access to education, they might challenge *ashraf* hegemony. Therefore, he sternly warns the sultan:

They are not to be taught reading and writing, for plenty of disorders arise owing to the skill of the low born in knowledge. The disorder into which all affairs of the religion and the state are thrown is due to the acts and words of the low born, who have become skilled. For, on account of their skill, they become governors (*wali*) revenue-collectors (*amil*) auditors (*mutasarraf*), officers (*farman deh*) and rulers (*farman rawa*). If teachers are disobedient, and it is discovered at the time of investigation that they have imparted knowledge or taught letters or writing to the low born, inevitably the punishment for their disobedience will be meted out to them.

In order to bolster his assertion that the sultan should ensure that the *ajlaf* remain subservient to the *ashraf*, Barani seeks appropriate religious sanction. Thus, he asserts:

[...] to promote base, mean, low-born and worthless men to be the helpers and supporters of the government has not been permitted by any religion, creed, publicly accepted tradition or state-law.

He then goes on to elaborate a theory of the innate inferiority of the *ajlaf* the superiority of the *ashraf* and the

divine right of the sultan to rule, based on a distorted interpretation of Islam. Thus, he writes that the "merits" and "demerits" of all people have been "apportioned at the beginning of time and allotted to their souls". Hence, people's acts are not of their own volition, but, rather, an expression and result of "Divine-commandments". God Himself, Barani claims, has decided that the *ajlaf* be confined to "inferior" occupations, for He is said to have made them "low born, bazaar people, base, mean, worthless, plebian, shameless and of dirty birth". God has given them "base" qualities, such as "immodesty, wrongfulness, injustice, cruelty, non-recognition of rights, shamelessness, impudence, blood-shedding, rascality, jugglery and Godlessness" that are suitable only for such professions. Furthermore, these base qualities are inherited from father to son, and so the *ajlaf* must not attempt to take up professions reserved by God for the *ashraf* even if they are qualified to do so, for this would be a grave violation of the Divine Will. Likewise, Barani claims, God has bestowed the *ashraf* with noble virtues by birth itself, and these are transmitted hereditarily. Hence, they alone have the right and responsibility of taking up "noble" occupations, such as ruling, teaching and preaching the faith.

Since God is held to have made the *ajlaf* innately despicable and base, to promote them would be a gross violation of the divine plan. "In the promotion of the low and low-born beings", Barani argues, "there is no advantage in this world, for it is impudent to act against the wisdom of Creation." Hence, he insists that if the sultan confers any post in his court or government service to the *ajlaf*, the "court and the high position of the king will be disgraced, the people of God will be distressed and scattered, the objectives of the government will not be attained, and, finally, the king will be punished on the day of Judgement". In this regard, he refers to a tradition attributed to the Prophet, according to which Muhammad is said to have declared, "The vein is deceptive." Although this tradition might be interpreted to

suggest that one's social status does not depend on one's heredity, Barani offers a novel explanation of the tradition to suggest precisely the opposite conclusion, that "the good vein and the bad vein draw towards virtue and vice," and that "in the well-born and the noble only virtue and loyalty appear, while from the man of low birth and bad birth only wickedness and destruction originate." Likewise, he provides a novel interpretation of a Qur'anic verse (49:13) to support his claim of the *ashraf* superiority. He quotes the Qur'an as saying that God honours the pious, a statement that has generally been read to suggest that superiority in God's eyes depends on one's piety and not birth, to arrive at precisely the opposite conclusion. The verse, he says, implies that "[...] it ought to be known that in the impure and impure-born and low and low-born, there can be no piety."

As Barani's writings on the *ajlaf* so clearly suggest, many medieval *ashraf* scholars shared a common understanding of the "low-born" as born to serve the *ashraf*. Accordingly, to legitimize this claim they interpreted the Qur'an as sanctioning a sternly hierarchical social order, with the subordinate status of the *ajlaf* ascribed to the Divine Will. As H. N. Ansari, a contemporary Indian Muslim scholar and an activist of a "low" caste Muslim organization, remarks, this represented a profoundly "un-Islamic" reading of the Qur'an, which stresses the equality of all Muslims and lays down piety as the only criterion for merit in God's eyes. Yet, Ansari adds, men like Barani exercised a powerful influence in their times with their wrong interpretations of the Qur'an, resulting in the "complete betrayal of the Qur'anic precepts of brotherhood".

To imagine, as some writers today assert, a solidly egalitarian Muslim community pitted against a sternly hierarchical Hindu community in medieval India is thus hardly convincing. Nor, for that matter, is the explanation of the existence of caste and social hierarchy among Muslims as a result of the baneful impact of hierarchical Hinduism on egalitarian Islam. Although the impact of the wider Hindu

society on the beliefs and practices of the Muslims is obvious, in the face of hierarchical notions of religion and the normative social order as reflected in the writings of Barani, it is obvious that the Muslim elite played an equally central role in promoting and preserving social hierarchy by seeking to provide it with suitable "Islamic" sanction. The effort to legitimize caste in "Islamic" terms was given further impetus by the '*ulama*' through the notion of *kafa'ah*, to which we now turn.

### ***Kafa'ah* and the Legitimation of Caste by the Indian '*Ulama*'**

The Qur'an and the genuine Prophetic traditions consider Muslims as equals, and hence allow for any Muslim to marry a suitable Muslim spouse. In deciding an ideal marriage partner the Qur'an suggests the criteria of piety (*taqwa*) and faith (*iman*), regarding these, rather than birth or wealth, as the only mark of a person's nearness to God. It is clear from the records of the Prophet and his companions that this principle was actually acted upon. Thus, for instance, we hear of instances of slave men or recently freed slaves marrying free women with the Prophet's consent.

Over time, however, as Islam spread to new regions outside the confines of the Arabian Peninsula, the early egalitarian Muslim society was transformed into a complex, sharply hierarchical social order. This owed to several factors, including the "feudalisation" of Islam accompanying the emergence the Umayyad empire; the incorporation of non-Arab groups as subordinate "clients" (*mawali*) of ruling Arab tribes; and the impact of other cultures, particularly Greek and Persian, in which social hierarchies were already deeply entrenched. These developments exercised a profound influence on the emerging schools of Islamic law (*madhahib*). As a result, notions of social hierarchy based on birth that were foreign to the Qur'an and to the early Muslim community were gradually incorporated into the

corpus of writings of Islamic jurisprudence or *fiqh*.

One manifestation of this was the central importance that the *fuqaha* scholars of the different schools of Islamic jurisprudence now began paying to the notion of equality of status in matters of marriage or *kafa'ah*. Elaborate rules were constructed built on the notion of *kafa'ah* that specified the "equals" who could legitimately marry. Taking a spouse from outside one's *kafa'ah* was sternly frowned upon, if not explicitly forbidden by the *fuqaha*'. In the face of Qur'anic and genuine Prophetic traditions that stressed that the only basis for selecting one's marital partner was piety, the scripturalist sources of Islam were suitably misinterpreted to provide legitimacy for notions of *kafa'ah* based on wealth and birth, including ethnicity.

These debates on *kafa'ah* have a direct bearing on how the Indian Muslim '*ulama*' have looked at the question of caste, caste endogamy and inter-caste relations. Since the vast majority of the Indian Muslims follow the Hanafi school, the opinions of the classical Hanafi '*ulama*' on *kafa'ah* continue to determine the attitudes of the Indian '*ulama*' on the question of caste and social hierarchy. Most Indian Hanafis seem to have regarded caste (*biraderi*), understood here as hereditary occupational group, as an essential factor in deciding *kafa'ah*, and in this way have provided *fiqh* legitimacy to the notion of caste.

The detailed debates among the *fuqaha*, of the law schools about *kafa'ah* need not detain us here, and it is sufficient to mention that they differed somewhat on the criterion for deciding it. Abdul Hamid Numani, a contemporary Indian Muslim scholar, writes that many classical *fuqaha*' considered the following issues to decide one's *kafa'ah* for purposes of marriage: legal status as free or enslaved (*azadi*); economic status (*maldari*); occupation (*pesha*); intelligence ('*aqi*'); family origin or ethnicity, (*nasab*); absence of bodily defects and illness; and, finally, piety (*taqwa*). All these are said to have been deciding factors for *kafa'ah* for the Hanafis and the Hanbalis, while according

to Imam Malik, the real basis of *kafa'ah* is said to have been piety. Imam Shafi'i is said not to have included wealth in *kafa'ah*. On the whole, however, most fuqaha' insisted on taking factors other than simply piety in deciding *kafa'ah*. In the Indian context, this expanded notion of *kafa'ah*, representing a considerable departure from the Qur'an, was accepted as laying down the norms for deciding on the legality of a Muslim marriage. By restricting marriage to one's occupational and ethnic group, caste, which is, in theory, an endogamous birth-based occupational category, came to be regarded as essential to establishing *kafa'ah* for purposes of marriage. In this way, the notion of *kafa'ah* helped to provide legitimacy to the existence of caste along the Indian Muslims by effectively restricting marriage within the endogamous caste circle. This is readily apparent even in the fatwa literature produced by some recent Indian 'ulama', an issue that we now look at.

To illustrate the ways in which significant sections of the Indian 'Ulama' have sought to employ the concept of *kafa'ah* to legitimize caste and social inequality I focus here on a slim Urdu tract on the subject penned by a contemporary Indian Muslim scholar, Maulana Abdul Hamid Numani. A senior leader of the Jam'iyyat al-'Ulama'-i-Hind (The Union of the 'Ulama of India), Numani belongs to the Ansari caste of hereditary weavers, traditionally considered by the *ashraf* as "low" in social status. His tract is a modified version of a speech that he delivered in 1994 at the request of the Anjuman Khuddm al-Qur'an, a Muslim missionary organization based in the town of Vaniyambadi in the southern Indian state of Tamil Nadu. The Anjuman had invited him to deliver a lecture on the subject of Islamic mission (*tabligh*) and the question of *kafai'ah*, for the Anjuman had itself discovered that one of the major hurdles in its missionary outreach work among the low-caste Hindus of the area was that while the converts were readily accepted as religious equals by other Muslims, the latter were unwilling, on grounds of *kafa'ah*, to intermarry with them.



For the Anjuman, this problem appeared as a central concern. Accordingly, "true" Islamic perspective on *kafa'ah* and to oppose notions of *kafa'ah* that legitimize caste and social inequality; the Anjuman requested Numani to deliver a scholarly paper on the subject in the light of the teachings of the Qur'an. The speech was apparently very well received, and was shortly published as a booklet, suitably titled *Masla-i- Kufw Aur Isha'at-i-Islam* ("The Problem of *Kafa'ah* and the Spread of Islam").

Numani begins his tract by arguing that the single most important factor for the spread of Islam in India was the Qur'an's message of radical social equality (*masawat*) and respect for all humankind (*ihitiram-i-admiyat*). This naturally appealed most to the downtrodden "low" castes who were sternly oppressed by the Brahminical religion and the caste system on which it was based. The Sufis who propagated Islam among the "low" castes are said to have been seriously committed to their welfare, but because their scale of work was so immense they were unable to properly tend to the proper Islamic instruction of their neophytes. Therefore, Numani says, the converts retained several of their pre-Islamic beliefs and practices, including notions of caste. Further, he writes, caste and related concepts of birth-based ritual status were given added legitimacy by Muslim rulers and missionaries who had come to India from the lands of 'ajam, Iran, Turkey and Central Asia, where concepts of social inequality were already well entrenched.

Numani quotes extensively from Barani's *Fatawa-i-Jahandari* to show how discriminatory attitudes towards low-caste converts were widely shared by medieval Muslim elites. He also comments on the absence of any effective opposition to such views. In fact, he goes so far as to claim that, "From Barani's time till 1947 the notion of Muslim society being divided into *ashraf* and *ajlaf*, high and low, was continuously present." He refers to some twentieth century Indian *ulama'* of his own Deobandi school as opposing caste-based inequality among the Indian Muslims

but laments that "this sickness has not as yet been fully eliminated." He admits that although the caste system is less severe among the Muslims than it is among the Hindus, in that untouchability is absent among the former, with caste playing a determining role only in marriage among Muslims. Yet, he pleads for Muslims to combat notions of caste-based superiority and inferiority, for only then, he argues, can efforts to spread Islam among "low" caste Hindus be effective. For this purpose, he says, a radical revisioning of the concept of *kafa'ah* is urgently required.

The remainder of the text consists of an elaborate discussion of the notion of *kafa'ah*. In the process of developing a Qur'anic notion of *kafa'ah*, Numani surveys notions of *kafa'ah* as developed by the classical *fuqaha* and further elaborated upon by various Indian '*ulama*'. Since his concern is to revive the original Qur'anic notion of *kafa'ah*, which alone he sees as normative and binding, he engages in a process of *ijtihad* (although he does not refer to it as such), refusing to remain tied down by formulations of *kafa'ah* as contained in the corpus of *fiqh*, including of the Hanafi school with which he is associated. In evoking what he calls the true Islamic position on *kafa'ah*, he has four broad objectives. Firstly, to revive the original message of radical social equality of the Qur'an which he sees many later '*ulama*' as, having distorted, willfully or otherwise. Secondly, to combat caste-based divisions among the Muslims and thereby to promote Muslim unity. Thirdly, to disprove claims of critics that Islam is not an egalitarian religion and that, therefore, it cannot provide equality to "low" caste Hindu converts. Finally, to provide an understanding of *kafa'ah* that, being liberated from notions of caste, can help in integrating converts into the mainstream of Muslim society through inter-marriage and thereby remove a major hurdle in the path of Muslim missionary work, particularly among "low" caste Hindus.

In doing so, Numani has to deal with reports attributed to the Prophet and some of his close companions that seem

to legitimize social inequality, as well as the writings of the classical *fuqaha'* on the subject of *kafa'ah*. As regards certain *ahadith* that seem to promote discriminatory attitudes towards people who follow certain "low" professions, Numani subjects the lines of transmission (*isnad*) as well as content (*matn*) of these reports to close scrutiny, concluding that they are fabricated. He explains some statements by the companions of the Prophet that militate against social equality by reading them contextually, and hence argues that they are not applicable for all time. On the restrictive provisions related to *kafa'ah* that the *fuqaha'* have prescribed Numani insists that the Qur'an and the genuine *Hadith* should be the sole criterion for judging them. Since the corpus of *fiqh* is a post-Qur'anic development, and since the *fuqaha'* were mere mortal although they might have been well intentioned, Numani suggests that Muslims should not blindly follow their prescriptions if they violate the Qur'an and the genuine *Hadith*. However, rather than opposing the opinions of the *fuqaha'* directly he points to the differences between the different schools of *fiqh*, and within each school the varying opinions of different *fuqaha'*, on the question of *kafa'ah*, highlighting those views that support his own radically egalitarian understanding of *kafa'ah*.

After providing a brief note on the varying definitions of *kafa'ah* in different schools of Islamic jurisprudence, Numani writes that according to the Qur'an *kafa'ah* is based only on piety. Hence, the only criterion for deciding a marriage partner should, ideally, be his or her personal character and dedication to the faith. In other words, he suggests, there is no religious bar for a Muslim man from a low caste or a low caste Hindu convert to Islam to marry a Muslim girl from a high caste or vice versa. This, of course, goes completely against dominant notions of *kafa'ah*. Numani does not openly question the schools of *fiqh* as such. Rather, he points to possibilities within the existing schools and to differences among the *fuqaha'* of the

different schools as well as within each school to press his claim for an egalitarian reading of *kafa'ah*.

In arguing the case for an egalitarian interpretation of *kafa'ah* Numani has to contend With traditions that have been used by many scholars to insist on the need for people to marry within their same social class. He does not deny the veracity of such claims but interprets them in a novel way to bolster his argument that cross-class marriages are to be regarded as legitimate as well. Thus, for instance, he refers to a tradition according to which the second caliph, 'Umar, refused to let a girl from a rich family marry a man from a lower class. Numani does not say that the caliph was wrong in his pronouncement. Rather, he says, his opinion was correct because it might be difficult for such a girl to live in poor family without the comforts to which she was used to before marriage. Hence, for marital compatibility a rough equality of economic status is indeed preferable. However, Numani argues, this does not mean that a girl from a rich family cannot marry a poor man or that equality in economic status is an absolute necessity in marriage. Numani recognizes that rough equality of economic status is preferable in marriage partners, but insists that it is not absolutely essential. To use 'Umar's decision to argue the case that marriage must take place only within one's social class or caste, is therefore, untenable. Numani here quotes another, conflicting report attributed to 'Umar, according to which the caliph declared that in deciding a man's marriage partner he did not consider her ethnic or economic status.

Likewise, on the question of occupation (*peshā*) in determining *kafa'ah*, Numani writes that many '*ulama*' have adopted what he calls an "unnecessarily restrictive" attitude, which has led to notions of caste superiority and inferiority since caste is, in theory, also an occupational category. Numani remarks that this is particularly unfortunate, given that Imam Abu Hanifah, whose school of jurisprudence most Indian Muslims claim to follow, did not himself consider

occupation as a factor in determining *kafa'ah*. This is because one's occupation does not always remain the same and can, in theory, change. Numani also refers to some Hanafi jurists who placed knowledge (*'ilm*) above profession in deciding *kafa'ah*, thereby allowing a learned Muslim from a family following a "low" profession to marry a woman from a "respectable" family." On the other hand, Numani notes that some Hanafi '*ulama*', including Imam Abu Yusuf, a student of Abu Hanifah, did include occupation in deciding *kafa'ah*, going so far as to single out the profession of weavers, barbers and tailors as "despicable". On the basis of this, Numani says, numerous Hanafi '*ulama*' have issued *fatwas* declaring weavers, barbers and tailors to be outside the *kafa'ah* of those who pursue other, more "respectable", professions. He notes that some *fuqaha*' have adopted a somewhat less severe position on the matter by declaring that if a weaver gives up his profession and takes to trade, then he can be considered the *kafa'ah* of a trader and can marry a trader's daughter. Not all Hanafi '*ulama*' were ready to provide this concession, however. Numani refers to Ibn Najim who opined that even if a person were to abandon a "low" profession he would not be able to remove the "stains" that, allegedly, inevitably form on his character from such an occupation and hence he cannot be considered as the *kafa'ah* of a person from a family that follows a "respectable" profession. Closer to our times, Numani notes. Ahmad Raza Khan (1856-1921), the founder of the Bareilwi school, is said to have declared that weavers, cobblers and barbers, even if learned in religion, could not be considered the *kafa'ah* of those following "respectable" professions. Hence, Numani remarks, the notion that one should not marry outside one's occupational group, which in India is generally the caste group, is widely accepted by many Indian Hanafi '*ulama*'.

In discussing the Hanafi position on *kafa'ah* being determined, among other factors, by one's profession, Numani writes that Hanafi '*ulama*' have resorted to two

sources to legitimize their argument. Firstly, popular custom or '*urf*'. By regarding caste-based occupation as a legitimate '*urf*' they have sought to incorporate it into the corpus of *fiqh*. This, however, says Numani, is a gross violation of Islam and "a conscious or unconscious imitation of the Indian Brahminical social system". The other source that the *fuqaha'* have invoked to support their claim of *kafa'ah* being dependent on occupation is a single *Hadith*, attributed to the Prophet. According to this narration, the Prophet is said to have declared that weavers and barbers are not to be considered as the *kafa'ah* of others. This means, therefore, that weavers and barbers cannot marry people who belong to families that follow other professions. Numani remarks that this *Hadith* is "very weak" (*intiha'i da'if*) and adds that numerous scholars of *Hadith* have argued that it is a later fabrication wrongly attributed to the Prophet. How could the Prophet, who is considered as a source of mercy for all, consider any members of his community as despicable simply because they were weavers or barbers, Numani asks. Indirectly critiquing these anti-egalitarian reports, Numani here refers to several prophets before Muhammad as well as numerous companions of Muhammad who engaged in occupations that some later *fuqaha'* wrongly described as "low". Thus, he notes that the Prophet David was an artisan and that numerous companions of Muhammad were weavers and carpenters.

Numani writes that all legitimate (*halal*, *jaiz*) occupations are noble and praise-worthy in God's eyes, and hence to claim that weaving, barbering and other such trades are "despicable" as some *fuqaha'* have done, is completely against basic Islamic teachings. Therefore, he argues, from a strictly Qur'anic perspective, a person pursuing any legitimate profession may be considered the *kafa'ah* of any other similar person for purposes of marriage. In this regard he quotes Mufti Kifayatullah, a leading Indian Deobandi scholar, whom he singles out as one of the few Indian '*ulama'*' to have taken a correct position on *kafa'ah*, as having

declared in a *fatwa* that "To consider someone inferior simply because he follows a legitimate profession is opposed to the teachings of Islam." In approvingly quoting Mufti Kifayatullah here, Numani does not deny that several other leading Deobandi scholars, such as Ashraf Ali Thanwi and Mufti Muhammad Shafi, had adopted a divergent stance by supporting the dominant Hanafi position on *kafa'ah* as being determined, among other factors, by occupation. He also admits that Thanwi had gone so far as to declare weavers and oil-pressers as "low" castes. Yet, he claims, in contrast to their Barelwi opponents, the Deobandi '*ulama*' have never hesitated to correct each other's views. Indeed, does this himself explicitly in critiquing the views of his fellow Deobandis, renowned '*ulama*' such as Thanwi and Shafi, on the matter of *kafa'ah*.

Family, tribe or ethnic group (*nasab*) have also been considered by several classical *fuqaha*' as well as Indian '*ulama*' as an essential basis for deciding *kafa'ah*. Yet, Numani writes, not one of the several traditions attributed to the Prophet that have been adduced for this purpose have been proved to be fully genuine (*sahih*). They are all said to be "very weak" and even "fabricated" (*mawdu*). Numani examines five traditions attributed to the Prophet that are generally used to argue the case for *nasab* to be included in *kafa'ah*. All of them, he contends, are fabricated, have weak chains of narration (*isnad*) or else do not have any direct bearing on the question of *nasab* in marriage. To illustrate his argument, he focuses on one particular tradition, according to which the Prophet is said to have laid down that all members of his Quraysh clan are of the same *kafa'ah*; that all Arabs belong to the same *kafa'ah*; that members of one tribe are the *kafa'ah* of each other; and that all people are of the same *kafa'ah* except for weavers and barbers. Like other similar reports, this one, too, Numani claims, is not to be regarded as absolutely authentic for it has a weak narrative chain. Indeed, several Islamic scholars have insisted that it is "completely fabricated". This report is said

also to completely contradict the teachings of the Qur'an, the genuine prophetic traditions and the practice of the companions of the Prophet, and, for that additional reason, is not to be regarded as authentic. The Qur'an repeatedly stresses that all Muslims are equal, and one such Qur'anic verse, Numani writes, is said to have been specifically revealed to the Prophet to refute the belief that people should marry only within their own tribe. Likewise, numerous genuine Prophetic traditions are said to directly oppose the belief in *nasab* being essential to *kafa'ah*. Thus, several companions of the Prophet are said to have married outside their tribe with the Prophet's consent. The Prophet advised one of his followers, an Ansari from Medina, to give his daughter in marriage to one of his closest companions, Bilal, a freed black slave. Abu Bakr, the first caliph, accepted the marriage proposal of Salman al-Farsi, a Persian companion of the Prophet, to marry his daughter. All this very clearly proves, Numani writes, that it is indeed legitimate to marry outside one's ethnic group or caste and that the bar on such marriages placed by numerous *fuqaha'* is not Islamic.

Despite the clear evidence in the Qur'an and the Hadith that *nasab* is not to be included in *kafa'ah*, Numani notes that several *fuqaha'* have expressed contrary opinions. However, he writes that there is no complete consensus among the *fuqaha'* on the matter. Thus, Imam Malik as well as some Hanafi '*ulama'*' did not include *nasab* in establishing *kafa'ah*, while Imam Abu Hanifah and Imam, Shafi'i did so. There are conflicting views on Imam Ahmad ibn Hanbal's opinion. According to one report he ignored *nasab* in establishing *kafa'ah*, while according to another report he regarded all Arabs as being equal for marriage purposes, and all non-Arabs ('*ajami*') as equal, thus forbidding marriage between Arabs and non-Arabs. Numani argues that those *fuqaha'* who included *nasab* in *kafa'ah* probably did so because of the particular social conditions prevailing at their time. However, he adds, because of the



"unnecessary importance" which the contemporary Indian '*ulama*' give to *nasab*, "numerous social problems have been created" and non-Muslims are "getting a wrong message" about Islam. Hence, he appeals for "serious thinking" on the matter of *nasab* in establishing *kafa'ah*. A mark of the remarkable flexibility of Numani's approach to *fiqh* is his approval of the few Indian Hanafi '*ulama*' who have adopted the position of Imam Malik on the question of *nasab* in *kafa'ah* in their *fatwas* instead of blindly following the dominant Hanafi position.

Further on the question of linking *nasab* to *kafa'ah*, Numani deals with the distinction that many Hanafi scholars have established between old Muslims (*qadim al-islam musalman*) and new Muslims (*jadid al-islam musalman*), and arguing that the two may not intermarry because they are not the *kafa'ah* of each other. According to these scholars, a man who converts to Islam cannot marry a woman who was born to a Muslim father. The son of a convert to Islam cannot marry a woman whose paternal grandfather and father were Muslims, but the grandson of a convert can marry a woman from an "old" Muslim family. Accordingly, a convert to Islam can only marry a fellow convert. This holds true only for non-Arabs, there being no distinction between "old" and "new" Muslims for Arabs.

Numani sees this restrictive provision as making life for converts to Islam even more difficult and, therefore, making conversion to Islam a difficult choice for non-Muslims. By making this distinction between "old" and "new" Muslims, he says, "rather than welcoming our new guests we are insulting them." Accordingly, he fervently appeals to his fellow '*ulama*' to relax or abandon this rule, which in any case he sees as having no sanction in Islam. He reminds them that because they insisted on this un-Islamic provision, a large group of Hindus of the Tyagi caste in northern India who were ready to convert to Islam finally decided not to because the Muslim Tyagis refused to intermarry with them on the grounds that "old" Muslims could not establish

marital relations with converts. Likewise, Numani writes, it was because of the discriminatory and anti-Qur'anic rules that the '*ulama*' have devised on *kafa'ah* that Dr. Ambedkar, the leader of the "low" caste Dalits, declined to convert to Islam, choosing Buddhism instead.

Numani admits that some of his fellow Deobandis have argued that "old" and "new" Muslims are not of the same *kafa'ah* and so cannot intermarry. In addition, he notes that they have also argued that Muslims from different castes cannot marry on the grounds of not belonging to the same *nasab*. Yet, Numani refuses to be bound by their views. In order to press his claim that *nasab* should not be regarded as an essential factor in determining *kafa'ah* he points to alternate opinions within the broader Deobandi tradition. Thus, he refers to *fatwas* by such scholars as Mufti Kifayatullah and Sayyed Sulaiman Nadwi asserting that *nasab* was not to be considered as an essential component of *kafa'ah*, and that a convert could indeed marry into a family of "old" Muslims on the grounds that all Muslims are equal. Numani notes the existence of what he calls "very weak" prophetic traditions stressing *nasab* in *kafa'ah*, but says that in their light "at the most" what can be said is that it might be better to marry within one's ethnic group or caste (*biraderi*) than outside. However, he says, this clearly does not mean that marriage must only take place within one's caste but only that marrying outside one's caste is not disallowed by the *Shari'ah*. If marriage outside one's caste were thus to be recognized, Numani suggests that it would promote Muslim unity, help converts to Islam find spouses within the Muslim community, and counter the perception among non-Muslims of the existence of caste discrimination among Muslims.

After reviewing the writings of the classical *fuqaha'* and some influential twentieth century Indian Hanafi scholars on *kafa'ah* being determined by wealth, occupation and ethnicity, Numani writes that, notwithstanding their differences, all the schools of Sunni jurisprudence are

agreed that piety should be a determining factor in deciding *kafa'ah* in marriage. "It should not be", he writes, "that a pious girl who regularly says her prayers and keeps her fasts should be married to a criminal" simply because he belongs to the same ethnic or occupational group. He approvingly refers to some classical *fuqahad'* who opined that the piety was to be the only determining factor in selecting a marriage partner. In order to further support his contention that piety alone should be the criterion for *kafa'ah* he quotes a Prophetic tradition to the effect that a marriage proposal from a man of high morals should be accepted, otherwise it would lead to strife. In another *Hadith* the Prophet is said to have warned against marrying a woman simply because of her beauty or wealth. Her good looks might lead her to evil ways, while her wealth might make her rebellious and proud. On the other hand, a pious black slave girl, Muhammad declared, made a much better marriage partner. Thus, Numani concludes, the Qur'an and the genuine Prophetic traditions clearly suggest that it is piety alone that should be basis of *kafa,ah*, with other factors "having no real importance".

In effect, then, by subjecting the existing corpus of *fiqh* and the writings of the classical and later Indian '*ulama*' to a critical reading, Numani argues for the need to go back to the Qur'an and the genuine Prophetic traditions to develop a new *fiqhi* perspective on *kafa'ah* and caste. By appealing to the radically egalitarian social ethics contained in the Qur'an and the genuine Prophetic traditions, by subjecting some traditions that seem to promote social inequality to a critical contextual reading, by dismissing anti-egalitarian traditions as inauthentic, and by pointing out the divergent views of the *fuqaha'* and '*ulama*' of different schools of jurisprudence and within each school on the matter of *kafa'ah*, Numani argues that piety alone should be considered as the essential basis of *kafa'ah*. In this way, he critiques both the notion of caste as well as the arguments of the *fuqaha'* who have sought to incorporate caste as a

major factor in deciding *kafa'ah* and thereby grant caste a certain religious legitimacy.

## Conclusion

As this paper has sought to show, although the Qur'an and the genuine Prophetic traditions suggest a radically egalitarian social vision, actual Muslim social practice, including in India, points to the existence of sharp social hierarchies for which numerous Muslim scholars have sought to provide appropriate "Islamic" sanction through elaborate rules of *fiqh* associated with the notion of *kafa'ah*. This was further boosted by distorted interpretations of the Qur'an and the invention of reports attributed to the Prophet that sought to legitimize social inequality based on ethnicity and occupation. In the Indian context, numerous leading '*ulama*', almost all from the "high" castes, have used these arguments to sanction caste and caste-based distinctions, particularly in matters of marriage. Yet, as Numani's case shows, today at least some Indian '*ulama*' are willing to critically examine the corpus of medieval *fiqh* and seek inspiration and guidance directly from the Qur'an and the genuine Prophetic traditions instead, in order to recover the original Islamic vision that is robustly opposed to social hierarchy determined by birth, the very basis of the caste system. ■

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