

JUSTICE FOR ALL – “THE OMNIBUS”

AND MR MODI PROMISED.... “JUSTICE FOR ALL.....”

By the time I heard Yunusbhai’s story I had heard hundreds of tales of sorrow and hopelessness. But still there is something about a man in tears that makes you stop and listen. This man had lost so much. His wife. His son. His parents.

With his fractured arm he asked me if I could help him lodge his complaint with the police station. He like all the other Muslims of his village in Dehlol had fled during the riots on 1st March 2002. They clambered onto a tempo to escape the mob. They didn't get far. The tempo was stopped, overturned and attacked near Ambica Society in Kalol. 13 human beings were killed in cold blood. Some old, others young. Hiding Yunusbhai saw it all. He recognised the killers. He even knows their names. Half dead with fear, terror and shame for surviving the onslaught he went walking to the nearest relief camp. A month later the officer in charge told him that an FIR had already been lodged Yunusbhai had no idea of how the FIR had been lodged without his or any other eyewitnesses having visited the police station before. When he asked for a copy of the FIR, he was refused. He repeated his visits hoping that someone might recognise his pain and record his complaint. But luck was not on his side.

I found Sultana at the Kalol Police Station. She said she was raped by three men on the 1st of March 2002. She was one of the many ill-fated persons who boarded the tempo that was attacked at Ambica Society. As she tried to flee she was caught. She has three eyewitnesses to her gang-rape. But a month after the event and many visits later the police station would not register her complaint. Each time she went she had to tell her story one more time. There was no quiet corner, no police woman to listen respectfully, no trauma room or counseling. She was forced to recount intimate details of the rape to a gawking crowd of constables. One brazen policeman then told her to forget it, there was going to be no separate report filed for "simply rape". An FIR that dealt with the Ambica Society ‘incident’ already existed and at the most, she could get her testimony attached to it. So be it. Sultana’s statement was attached to the FIR.

Idris’s brother Imran was also killed in Kalol on the 1st of March 2002. As they were trying to flee the murderous mob Imran was caught by the mob, dragged into the Rabbani Masjid, hit with sticks and swords, rolled in a carpet and burnt alive. There were police from the Kalol police station there who saw it. They watched but did nothing to save him. Instead from a distance they fired in the air. That’s all. Some bullets were aimed at the rioting mob but somehow managed to hit only Muslims. Idris also went to lodge his complaint at the Kalol Police Station. He was told that an FIR had already been lodged.

1st March was unlucky for Ibrahim as well. He was a victim of police firing in Kalol. He was trying to flee. Run away from the riotous mob. Save his life. The bullets were targeted at the riotous mob but somehow managed to seriously injure Ibrahim. Ibrahim’s nephew Hussein rushed him to the hospital in a tempo but the mob followed the tempo. Hussein fled. The tempo was set ablaze. Half conscious, immobilized and bleeding, Ibrahim could not manage

to save himself. A month later Hussein went to lodge his complaint at the Kalol Police Station. He was told that an FIR had already been lodged.

Unable to unravel the raw facts from the pain and suffering in which they were steeped I decided to find out what was contained in this 'mysterious OMNIBUS FIR' which took account of crimes without needing to hear the witnesses. What investigations could have been done? What evidence discovered?

Yunusbhai, Sultana, Idris, Hussein and I decided to go the police station together. I was scared but my presence instilled some confidence in them. As if I were some kind of talisman. They were certain that with me there they were sure to get copies of their FIRs. At the station the routine repeated itself. They told their stories again. The response was the same. No fresh complaints would be taken. "An FIR has already been lodged." This time we got a copy. It was just one single FIR for all the different grievous offences that had happened in four different places. It was the mysterious FIR.... the OMNIBUS FIR.

In Sub Inspector Patil's version of events in the FIR faceless mobs of the majority and minority communities were responsible for the violence in Kalol. Muslims were trying to flee but Patil notes that there was a face-off between the two communities. There was no mention of the murder of Imran instead the very obvious and unavoidable mention of the destruction of the Rabbani masjid. Patil records that one of the Muslims injured in the firing was moved to the hospital in a tempo. The mob followed. And in the hospital premises set the tempo ablaze with the injured Muslim inside. No mention of the name of this Muslim. Once again there is no individual to blame- just that faceless mob of Hindus responsible for the murder.

The Ambica murders, registered in the same FIR, were recorded in the same negligent way. Instead of 13 murders, which Yunusbhai says took place before his eyes, only 10 are recorded. No names of the murderers and rapists that were present in the mob were mentioned in the FIR Sultana's rape found no mention. Maybe it was not important enough. Or maybe it just did not matter.

I could see the anguish on their faces. This was not a record of what they had said. This was not their story. They were eye-witnesses who had seen at close quarters, specific people killing their loved ones. This did not name those specific individuals who had killed, raped and burned at different times in different places in ways, which was seared, into the memories of these eyewitnesses. Since an FIR dictates the direction of investigations the vaguer it is the more likely it is to obfuscate the issue and draw attention away from individual investigation for a single crime. The only thing that was common to all the four incidents was the day on which the crimes occurred AND THAT THEY CAME UNDER ONE POLICE STATION. Nothing more nothing less. We argued with the police officer that this FIR had not recorded facts correctly. Yunus, Idris, Hussein were pleading. Sultana standing by the side trying to hide her pain behind her dupatta. She could barely speak. The policeman was not interested. With the whole might of the state behind them maybe the policemen at that station knew how best to handle crime. It was just that what was in their best interests was not the same thing that was in the best interests of Yunus, Sultana Idris

and Hussein. There was no level playing field. A mockery of the poor pitted against the powerful.

Months passed. Yunusbhai doggedly pursued his case. Made countless visits to the police station. Finally the police went with him to the scene of the crime. It had never been secured. Never been sequestered. Never been investigated for forensics. All things that are required to be done immediately and always. Still they did find some remains. A few bones. A lot of ashes. A fine cremation for those who bury their dead! Yunus insisted on giving his statement to the police. He mentioned all the names of the men who allegedly killed his wife and son and others - J P Shah, Jaggubhai, Vijay, Sheetal. He would never forget their faces. Idris and Hussein were losing hope. They gave their stale statements to the police. But did not know what was written on that paper. Sultana too gave her statement. The process was set in motion. Sultana was sent off to be medically examined – two months after the rape! Insult was added to injury- rape was not confirmed!

They all waited patiently for their cases to be investigated. Meanwhile living in camps and depending for survival on charity added to their pain. After eight long months their wait seemed to come to an end. The chargesheet was filed on 12th November 2002 by Patil.

The chargesheet, like the FIR, clubbed different incidents that took place in Kalol during the course of the day. No specific crime was attributed to any one accused. The police had in fact avoided the responsibility of identifying individual culprits responsible for committing specific crimes. How does the prosecutor take this to court? What was the evidence adduced to support each crime. If there was none because no specific individual is attached to each individual crime just say that....The ground work was laid for a sure shot failure of the prosecution.

Till now Yunus, Sultana, Imran and Idris had received only despair and dejection in their search for justice. All hopes were pinned on the court. They wanted the machinery of justice to be so effective that every victim will benefit from its impartiality and fairness. None wanted compassion. Only justice. They were confident that the state could not possibly turn its face away from their pain or from its primary duty to provide them justice. But the message was clear: It was possible to get away with murder, provided you belong to the right religion, caste, class or power structure.

Imran had died in the riots. He was caught by the Hindu mob and burnt alive. However eight months later in the chargesheet Imran is listed as an accused who took part in the riots and was killed in police firing. Ibrahim injured in police firing and then burnt alive by a mob in the premises of the hospital is also listed as an accused responsible for rioting. The idea of including the names of the dead in the accused list is clever if you are biased and bizarre if you are human. Was it possible to conduct a trial of the dead? But this neat ruse has eliminated all possibility of an investigation into the murders. Unquestioned until it went to court.

Post-mortem reports should have shown the causes of the deaths. But in every case the cause of death was the same: shock due to extensive burns. Unprotected in life, for the state these people have become ciphers in death. Their families know how they died. Where they died. But in death they have become anonymous corpses. No post mortem report mentions

bullet injuries as the cause of death for any of these corpses. Had Imran died due to police firing his corpse ought to reveal bullet wounds during post mortem. Who will solve these mysteries? Is it enough to keep them unsolved? These people are dead and gone. They were poor. They were not from us. Does it matter? What's to be served by raking it all up; selective crime and selective punishment seem okay now.

The *panchnama* –a record of the situation as it existed when the police first arrive at the scene of crime, says they recovered a male of 40 who was burnt beyond recognition. But Idris knows it was young Imran no more than 18! The *panchnama* was done on 3rd March. However the post mortem report records that the body was received on 2nd March and the examination conducted the same day. Things somehow do not fall into place here; as such instances constitute a major discrepancy in the investigation process. Clearly someone is not telling the truth. Who is lying? What is in it for them?

As for Yunusbhai the police failed to protect his family from the murderous mob during the days of the riots. Now the investigation that was conducted into the 13 murders at Ambica was so shoddy that there was no possibility of a single conviction. Once again like the FIR, the chargesheet takes into account only 10 murders and not 13, which actually took place as mentioned by Yunusbhai. Does that mean that they did not die? Or if they did it doesn't matter to court or state or anyone. Or does it mean that in a case so weak one more or less corpse matters little where the outcome is near foregone.

Here the chargesheet at least mentions the names of the accused- Sheetal, JP Shah, Jaggubhai and Vijay Thakore who butchered the occupants of the tempo. But they are all 'absconding'. The police are unable to trace these murderers despite them living in the same town, despite them threatening Yunusbhai regularly to withdraw his statement and despite Yunusbhai having complained to the police about this.

Another *panchnama* on 2nd March describes the location of the ten bodies found near Ambica Society. According to post mortem reports all ten bodies removed from the vicinity of Ambica Society were received at the hospital on the same day. The post mortem was done, cause of death was identified and reports signed right away. A post mortem of ten bodies done in less than a day speaks volumes. But there is more. Patil has recorded another *panchnama* on 3rd March. There seems to be no reason for this. But reason had become a stranger in this part of the world. It states that all 10 bodies were lying in the vicinity of Ambica Society at various places near the gutted tempo. If the bodies had been sent for post mortem on the 2nd the report of the *panchnama* procedure conducted on the 3rd must be treated as unreliable. If it is a reliable document then the veracity of all post mortem reports is under doubt. Someone again is hiding the truth.

For Sultana, her case was literally an 'open and shut' one. Even though the chargesheet does record that she was gang raped the charge of gang rape has not been listed. Sultana's testimony has been merely tagged to the chargesheet. There is no mention of the identity or names of her rapists. Though Sultana was unaware of their names she was confident that she would be able to identify them if produced before her. However Patil has done nothing to investigate who the culprits could be. The minimum that could have been done was to conduct a Test Identification Parade of all suspects accused of participating in the communal incidents, that would enable Sultana to identify the rapists. The delayed medical examination resulted in the obliteration of all physical evidence of rape. The entire investigation

overshadowed by police inaction. Sultana at her end waits for justice, which never seems to reach oppressed people like her.

Yunus, Sultana, Idris and Hussein are just few of the many victims, both men and women who stumble about the blind alleys of the judicial system asking for attention, asking for justice, asking for some closure to the torment of mind that they have suffered. Mr Modi are you listening?

Mr Modi's promise of justice has allowed such gross miscarriage of justice. And can it still be that we must hope against all hope that a secure and well ensconced popular government like that of Mr Modi's will make a beginning and prove to the world that there is more there than popular demagoguery and the politics of hate?