No One Killed the Dalits

Text of the Seventh Anuradha Ghandy Memorial Lecture 2015

Today, we are haunted and outraged by what has just happened a few days ago in Faridabad. Two little children, two-and-a-half-year-old Vaibhav and eleven-month-old Divya were burnt to death. These are the latest victims, in a long list of victims that caste has consumed.

And yet, even as we are moved to tears and rage by the sheer inhumanity and the cruelty, let us remember, and let us make it a point to never forget that this is not the first time that caste-Hindus have killed children. Enough to make us borrow Rushdie’s words and say: “The killing of children is a caste-Hindu specialty.”

What are our most stark memories of the Gujarat genocide in 2002 where thousands of Muslims were killed by Hindu mobs? Can we ever forget the row of dead bodies of children, arranged one next to the other, lined up endlessly? It is not only something that exhibits itself in

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1 On 20 October 2015, a Dalit family’s hut was burnt by Rajputs in the village of Sunpedh in Faridabad near New Delhi, killing the two children Vaibhav and Divya, and seriously burning their parents Rekha (23 years) and Jitender (31 years). The oppression of the Dalits by the landowning Rajputs was well-known, and seven police personnel had in fact been directed to provide protection to Jitender’s family for the previous months. They failed to protect the family.

2 Salman Rushdie, writing in The Guardian, in the immediate aftermath of the Gujarat riots in March 2002, observed: “The murder of children is something of an Indian specialty.” His article also ended on the characteristically flamboyant note: “So India’s problem turns out to be the world’s problem. What happened in India has happened in God’s name. The problem’s name is God.” To extend his metaphor, those of who look at the history of atrocities against Dalits might also add that the problem’s name is caste.

3 For details please refer the Human Rights Watch report, “We Have No Orders to Save You: State Participation and Complicity in Communal Violence in Gujarat”, April 2002; and “Threatened Existence: A Feminist Analysis of the Genocide in Gujarat” by the International Initiative for Justice, December 2003 among a host of other fact-finding reports that highlight the violence, murder and brutality that children and pregnant women faced.
these inter-religious clashes, but let us realize that this is something that constitutes the caste mindset, the Hindu mindset. There is an undeniably long history of the killing of children. And especially the killing of Dalit children—it requires a treatise in itself.

It would do well to remember Kilvenmani. On Christmas Day 1968, 44 men, women and children were burnt alive to death—all of them were Dalit and landless, all of them from the village of Kilvenmani, striking for higher wages, demanding their little, immediate rights. 23 of those burnt to death in Kilvenmani were infants and children. Even as we talk of this atrocity, I want to tell you a story that is repeated again and again, by all those who have survived the massacre in Kilvenmani, by those who are their descendants. Almost everyone of them who has stayed in the village has taken refuge in Pandari Ramayya’s hut. When the mob of landlords comes to burn them to death, a young mother tries to save her one year old son by throwing the little boy out of the hut, hoping, in that moment of complete, total despair, that someone in the mob will take pity, that someone will at least spare the life of the child. That does not happen. That child is caught by the mob, hacked into pieces, and its body is thrown right back into the burning hut.

This happens again and again, all through India’s glorious history of killing Dalit children. It happens in Villupuram⁴, it happens in Bathani Tola⁵, it happens in Laxmanpur Bathe⁶.

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⁴ On 25 July 1978, 12 Dalits are butchered in broad daylight by a mob of caste-Hindu Mudaliars who attacked the Dalit settlement of Periyaparacheri in Villupuram. Among the dead was a 12-year-old boy.
⁵ On 11 July 1996, the private militia of dominant caste landlords, drawn from the Bhumihar and Rajput castes, went on a carnage murdering the women and children in the village of Bathani Tola in the Bhojpur district in central Bihar. They killed 12 women, six children and
In the massacres perpetrated by the Ranvir Sena, a private army of Bhumihars (oppressor caste of landlords), at Bathani Tola, all but one of the twenty who were murdered were women and children. In Laxmanpur Bathe, where 58 Dalits were massacred, 16 children and 27 women were killed. Eight of these women were pregnant. Five women had their breasts chopped off. And Brahmeshwar Singh, the chief of this heinous caste army of landlords, the mastermind of these massacres, went around town giving interviews: “Hanuman in his fight against Ravan set on fire the whole of Lanka. It is fair if the fight against demons involves destroying the womb.” To justify the killing of children, he

three infants. Reports speak of how the abdomen of a pregnant woman was slit open, of how an infant’s tongue was cut off before the child’s head was chopped off, and how a baby’s fingers were severed from his hand. In the endless list of horrors, a child nestling in the mother’s lap was butchered, their hut was burnt. Watch Kumud Ranjan’s documentary *After the Aftermath*, on the Bathani Tola massacre to understand the horror in greater detail. Accessible here: [https://www.youtube.com/watch?v=12tiKnma57M](https://www.youtube.com/watch?v=12tiKnma57M)

6 On 1 December 1997, members of the Ranvir Sena crossed the river Sone, entered the village of Laxmanpur Bathe, and killed 61 people, including 16 children, 27 women and 18 men. According to documented reports, it is believed that the landlords of the area wanted to seize fifty acres of land that had been earmarked for distribution to the landless agricultural labourers. The administration had been aware of the tensions, but took no efforts to safeguard the lives of Dalits.

7 Articles from scholars like Bela Bhatia, or from the Human Rights Watch (HRW) report *Broken People: Caste Violence Against India’s Untouchables*, peg the number of the dead at 61. However, the prosecution case, and the courts, consistently maintain this number at 58. Such a discrepancy in the handling of atrocities is a common feature. For instance, in Kilvenmani, the villagers, the descendants, the Marxists and almost everyone on the ground will swear that the death-count was 44 Dalits. On the other hand, in the police case, and in the High Court judgment, and in sections of the media, the reported death toll is only 42. In some ways, there is an erasure of deaths, almost as if some Dalits can be invisibilized once they are dead, and refusing to even accept the extent of horror that caste perpetrates.

8 Eyewitness testimony, recorded in the HRW-report *Broken People*, speaks of how five girls, all younger than fifteen had their breasts chopped, shots fired in their chest and their vaginas, and of ensuing rapes.


10 For those who require some understanding of the epic references: Ramayana, the epic authored by Valmiki, at present used by rightwing forces to further their own divisive,
used the language of the *Ramayana*. To justify the killing of the pregnant women, he used the easily available rhetoric: “Tomorrow, these children will provide shelter to the Naxals.”

So, today, even as we grieve, even as we are shell-shocked by the cruelty that can burn children alive let us remind ourselves that the killing of children is a watermark that runs through caste atrocities.\(^{11}\)

And there is something else that also defines caste atrocities. I wrote about Kilvenmani, studying it extensively, and what accompanies caste carnages hand-in-hand, is the cruelty of the state machinery.\(^{12}\) And that, the betrayal of justice to Dalits by the state apparatus, is going to be key point of my talk today.

When one looks at what happened in Kilvenmani, there is the massacre. The chilling, cold-blooded killing of women and children and old people. The choreography of caste hatred against the Dalits. The landlords taming the anger of the landless. And quickly on the heels of this feudal crime, we have the police forces. The police who aid the landlords, who look away, who file a flimsy case, who water down testimonies, who provide escape routes for all the guilty. Then, come the politicians, who never take the threat seriously of Kilvenmani being

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\(^{11}\) Apart from the few stand-out examples that I have used here, the same is the story with a majority of these massacres. In the massacre in the village of Shankarbigha in Jehanabad district in Bihar, on 25 January 1999, 23 Dalits were killed and this includes five women and seven children, including a ten-month old infant. Two weeks later, on 10 February 1999, at the massacre that took place at the Dalit hamlet of Chamartola in Narayanpur, 12 Dalits were shot dead, including five women and a child. A three-month-old child Om Prakash received a bullet injury.

\(^{12}\) Trying to develop a fictionalized reconstruction and rendition of the Kilvenmani massacre, I ended up writing the anti-novel *The Gypsy Goddess*. The need to expose the complicity of the state apparatus was one of the reasons why I chose to try and write about it.
reduced to ashes. Days before the massacre, Gopalakrishna Naidu holds a meeting, right in the village of Kilvenmani and warns that it will be burnt, unless the people give up their demand for higher wages—which in this case is an extra half measure of paddy, which is something like three or four handfuls of grain, nothing really more than that. He wants them to stop being organized under the red flag of Communism, give up their struggle and join the Paddy Producers Association being run by the feudal landlords. The local Communist leader writes a letter to the Chief Minister, asking for protection for this village—it is said that the letter never reached the Chief Minister, or it reached him in January, a month after the massacre takes place. The Congress Party—the grand old party that prides itself as being the freedom fighters party—in Nagapattinam, in East Tanjore, is merely a front for Gopalakrishna Naidu. He is the President of the Congress Party in that region, and his word was command. It was not only the feudal Congress which was behaving in this manner. How different was the Dravidian movement? Annadurai, who formed the first non-Congress government in Tamil Nadu, spoke after the massacre: “People should forget this as they forget a feverish nightmare or a flash of lightning.” His solution to this massacre was to prescribe amnesia as a remedy. What about Periyar, the Self-Respect ideologue, whom I respect greatly for his views on women’s liberation? Periyar spoke about wage—said that wage was not something a worker demanded, but something that the market decided—and he blamed the Communists for the massacre. This is how the entire political

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13 Speech made by Periyar on 12 January 1969, in Sembanarkoil, in southern Tamil Nadu, published in *Viduthalai* dated 20 January 1969. His allegation was that this massacre was an
establishment of the day functioned. So much for a democratic system, so much for the state machinery.

But the biggest betrayal was in the Madras High Court judgment, through a judgment that was as merciless as the massacre itself.

If we were to revisit the undivided East Tanjore district in the immediate aftermath of the Kilvenmani massacre, if we look at the many articles and petitions made by the landlords organized under the banner of the Paddy Producers Association, if we look at the material recorded by the Communists, we will discover a fresh insight. The year is 1969. The landlords are taking out victory processions, they are rejoicing in the terror they have unleashed. And there are things they say, to gloat in their caste victory, their feudal bloodthirsty victory, and these things find their way into written material like memorandums and letters and pamphlets. These things remain in public memory. One of the things they say, which is indelible from the people’s mind: “100 men like Gopalakrishna Naidu will be born. A 100 Kilvenmanis will burn. A 100 landlords will be ready to embrace the gallows.”

This was the state of mind of the perpetrators of the massacre, the necessity, or more really, the apprehension of having to face the legal consequences of their action. But when the judiciary stepped in, not one landlord was sent to the gallows, no one was imprisoned for life, no one served a life term, and on the contrary all of them were acquitted. The effort of the Communists to topple the government under his protégé Annadurai. He blamed the Communists for causing this “clash,” and said that they have failed to teach the workers how to live within the wage that was paid to them. Instead of supporting the wage struggle, it is lamentable that a leader of his stature—someone who had visited Soviet Russia, someone who routinely named children after Russian stalwarts—failed in his duty, and instead laid the blame on the Communists who were actively mobilizing the workers.
murderers, as depraved, as cruel, as casteist, as feudal as they were, at least sounded for rhetorical purposes, as if they anticipated that they would have to face the terrible reckoning they deserved. They used a language which reflected the understanding that crime would result in punishment. Their machismo about facing the gallows, for all its false valour, enshrines this idea. Though we know that such empty bravado is nothing but a tool to reassert their power and masculinity, there is nothing in their boast to believe that all of them expected to walk away without having to suffer a legal consequence.

This is where I think that the judgment in the Kilvenmani massacre marks an important turn, and an important moment in our country’s history—because the Madras High Court set a dangerous precedent. By allowing all the landlords to walk away scot-free it made it clear that under the existing state structure, it was perfectly normal to massacre an entire Dalit village. This normalization of the brutal has been an achievement of the state system that upholds the oppressive tyranny of caste. Today, if a similar massacre were to happen, the caste and feudal elements will go into town proclaiming, we will burn a hundred villages, we will grow in strength, these courts shall set us free. Kilvenmani not only emboldened the caste-Hindus who commit massacres, but also became a trendsetter for other courts in our Indian states, who have repeated this feat time and again, in at least a dozen other instances, and that shall form the basis of my talk today.

It is outrageous in a sense, and naive in another, for someone like me to talk about the role of India’s judiciary in aiding and abetting and perpetuating caste violence in this country. I have no formal training or
knowledge in law—but I have the eyes of a tramp, I have a sense of fairness and the ability to read. There looms over me the powerful words of Dr. Ambedkar, who wrote the Constitution of this country, but who was clever enough to know the nature of justice that will reach the citizens, especially its Dalit citizens. His words will guide me.

Also, I do not know if I can actually do justice to such a broad topic as the one I have taken upon in this lecture. When I wanted to learn the story of Kilvenmani, and to tell it in the form of a novel that would be accessible to a lot of people around the world and in India, it took me six years to get the story, the words, the village and its people right. It took me a dozen trips to Tanjore and Nagappattinam and the village of Kilvenmani itself. At the end of it, I could say, look, here is what I found. Read it. Burn with rage, burn with shame, burn with the urge to break these shackles.

Today, on the other hand, I have not had a similar privilege of time to prepare this talk. This is not about one massacre. This is about several of them. This is not a rendering into a format that I am comfortable with—this is neither poetry or fiction or a grey mélange that combines the two, this is a prepared speech—and I flounder, to find the right words, and above all, unsure of what to do with my anger.

Broadly, before I begin to explain, before I use examples and instances to substantiate my claims, let me lay out before you, what I find as a common thread that runs through the judicial pronouncements on these massacres: victim blaming by always making it the fault of the Dalits, dismissing the evidence of witnesses on one pretext or the other, being completely unbothered by the fate of the case, not betraying any
anxiety in bringing the killers to book, not getting worried when all witnesses turn hostile, not taking any steps to protect these witnesses, denial of a caste background to these killings, denial to recognize these massacres as caste atrocities, denial of the background of wage struggle and class issues, reducing it to a ritual of offering compensation to the Dalits, believing that the lives of Dalits are worth merely their wage, contemplating what must have actually happened, deciding what is “natural”—in a completely convoluted way, and using the victims as a scapegoat for the injustice that the state machinery perpetrates. This has not only been the behaviour of the courts, but even the judicial commissions have also replicated the same kind of justice.

All of these points that I have listed, vague and broad as they may sound, but I will take them up as I go, and illustrate with examples the compromised nature of the justice delivery mechanism in this country, and highlight how and why our struggle for a revolutionary society, must begin not only through an attack on the well-entrenched system of caste, or the exploitative nature of capitalism, but the centrality of having to hold the state and its various apparatus responsible for their complicity.

The judiciary in this regard, is especially an important organ of the bourgeois democratic state, priding itself on its autonomy and its neutrality, even as it serves to protect the interests of the ruling classes, which in the Indian context is synonymous with the dominant, oppressor castes. From time to time, the judiciary has made the right noises, has pulled up the government and has expressed the occasional
outrage. However, a closer look will perhaps reveal to us more about its true face.

In this context, I think it is important to invoke Foucault:

“The real political task in a society such as ours is to criticize the workings of institutions that appear to be both neutral and independent, to criticize and attack them in such a manner that the political violence that has always exercised itself obscurely through them will be unmasked, so that one can fight against them.”

This is the precise reason why we must turn the spotlight on the judiciary. There cannot be a better place to unmask and understand the caste-Hindu cruelty of the judiciary than in their attitude towards the 44 murdered victims of Kilvenmani.

Let us begin with Kilvenmani itself. Like the village of Lidice that was wiped out by the SS in the Second World War, or the Spanish/Basque town of Guernica, Kilvenmani is a village that has

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14 The Indian judiciary has occasionally played the role of sincere-watchdog-meets-Good-Samaritan—pulling up the government on the coal block allocation, the spectrum scam, the black money issue and the criminal background of politicians. While such a posturing from the judiciary has granted it the image of being an independent player, not much attention has been paid to the judiciary’s regrettable attitude towards the question of caste, and caste atrocities.


16 The Nazis liquidated and annihilated the small village of Lidice in Czechoslovakia on 10 June 1942, killing every adult male and fifty-two women. More than 173 men were executed. The surviving women and children were sent to concentration camps. Of the 104 children who were transported away, only 16 were traced at the time of the Nuremberg trials, and included the children who had been selected for Germanization. Hitler had vowed to teach a lesson to the Czechs following the assassination of his right-hand man Reinhard Heydrich in an ambush, and because of an intercepted letter, the village of Lidice had become implicated in this assassination.

17 Guernica, immortalized in Picasso’s painting of the same name, was bombed on 26 April 1937 by German/Nazi bombers. It’s widely considered a precursor to the blitzkrieg tactics of intense aerial bombardment. It was later revealed that the two-hour long bombing was
witnessed great horrors, and also had within itself a heart of resistance that one sometimes stumbles upon in remote, far-flung, off-the-map places. And yet, in Kilvenmani justice failed the people. It’s not only the atrocity of Kilvenmani that reincarnates itself on another place in the Indian map, but it is the miscarriage of justice as well.

The Madras High Court acquitted all the accused for lack of evidence in this massacre in 1973. In 2012, the Patna High Court did the same in its verdict in the Bathani Tola massacre (21 Dalits were killed in 1996, acquittal of all accused) and a year later, in the Laxmanpur Bathe massacre (58 Dalits were killed in 1997, acquittal of all accused). The Andhra Pradesh High Court in April 2012, also entered this hall of shame when its division bench acquitted all the accused in the Tsundur massacre of 1991. The massacres of Dalits in Kamabalapalli, and in Shankarbigha also met similar fates—with all

undertaken by the Germans to test their air force, and as a means for their men to gain experience. Guernica was selected because the fascists supported General Franco, and this town of 5000 allowed them to do a test-run. Several hundred people died in the bombing that day and the town was entirely devastated.

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18 Eight Dalits were killed and several others grievously injured when a mob of Reddy landlords attacked the village of Tsundur in Guntur district on 6 August 1991. In 2007, a special court set up to prosecute the accused sentenced 21 men to life imprisonment, and another 35 others to rigorous imprisonment for a year. However, the Andhra Pradesh High Court overturned the judgment of the lower-court and acquitted citing the “lack of evidence” and absence of total and absolute corroboration between two different eye-witnesses.

19 On 11 March 2000, seven Dalits were burnt alive to death in the village of Kambalapalli in Kolar district in Karnataka. The trial takes place between July and October 2006 in the trial court in Kolar, and all the accused were acquitted because all the witnesses turn hostile, including Venkatarayappa who filed the initial complaint—and who had lost his wife, his two sons and his daughter in this massacre. When the trial court’s decision was appealed in the Karnataka High Court, it dismissed the demand for a retrial.

20 On the night of 25 January 1999, members of the Ranvir Sena attacked the village of Shankarbigha and butchered 23 men, women and children. All fifty prosecution witnesses turned hostile. For an engaging and insightful commentary on what happened at this trial, please read Manoj Mitta’s article Shankarbigha: A Foregone Verdict, datelined 5 April 2015, in the Times of
witnesses turning hostile, and the courts doing nothing to salvage the cases.

When you see something like this happen over and over again, you realize that Kilvenmani has not stopped happening in India. Not the massacre, not the miscarriage of justice. Let us hear the guardians of the law, as they understand the tragedy:

“It is truly regrettable that the forty-two agricultural labourers who sought refuge in the hut of Ramayya lost their lives because that house was set on fire. However, it is a little comforting to learn that the accused did not have any intention to burn them to death.

In our opinion, the onus for responsibility of the tragic incident that took place on the night of 25 December 1968 lies with the accused, who have to accept the blame. But we regret the fact that we have not found sufficient evidence on record to implicate the accused in this incident. We have tried our best to separate chaff from grain, to lengthen the punishment for at least a few of the accused, and at the same time to ensure that the witnesses depose in a natural manner. But the subliminal shortcomings of the prosecution witnesses prevented us from punishing individuals whom we consider innocent.

Here, we have judges drawing a little “comfort”—that the accused did not have any intention to burn them to death? Then what, burn them as a masochist act? Burn them for performance art? Burn them because it is a prank? The court makes a complete mockery of the murders. Was the court unaware of the history of the struggle against untouchability that was being waged by the Communist parties? Were

they not aware of the long wage struggle, the several strikes in the erstwhile undivided Tanjore district demanding six measures of paddy?

Was Kilvenmani not threatened again and again?

On 15 December 1968, Gopalakrishna Naidu came to the village of Kilvenmani, and held a public meeting there, and warned that the village would burn if it refused to give up its demand. Ten days later, the village was reduced to ashes. And here, the judges talk about the intention of not burning people to death.

In the face of all the evidence that points to the hand of Gopalakrishna Naidu’s direct involvement in the massacre, we encounter a High Court bench which is keen to absolve him, and all the other landlords of any role in this massacre. Letters of Gopalakrishna Naidu to the Chief Minister—letters in which he referred to himself as a walking corpse, letters in which he claimed that he was being hassled for higher wages—were quoted word for word in the judgment of the Madras High Court to prove that he had been implicated in this massacre only because he was an enemy of the Communists. The testimonies of the many witnesses who saw him at the scene of crime, the letter of the local Communist leader seeking police protection for the village, the many threats and economic boycott which that village faced, were all rubbish in the eyes of these judges. Instead of seeking the truth, the judges come up with their own homegrown theory: the victims and the witnesses had found it “difficult to contain their urge to make Gopalakrishna Naidu the villain of this episode.”

Are we to expect anything different from our courts? Are they not hard-wired to be caste-Hindu institutions? Revolutionary Dr.
Ambedkar\textsuperscript{21} talks about the impossibility for the Untouchables to obtain any protection from the police or justice from the courts.

“The police are drawn from the ranks of the caste-Hindus. The Magistracy is drawn from the ranks of the caste-Hindus. The police and the magistracy are the kith and kin of the caste-Hindus. They share the sentiments and the prejudices of the caste-Hindus against the Untouchables.

As every untouchable will be able to testify, if an Untouchable goes to a police officer with a complaint against the caste-Hindus instead of receiving any protection he will receive plenty of abuse. Either he will be driven away without his complaint being recorded or, if it is recorded, it would be recorded quite falsely to provide a way of escape to the Touchable aggressors. If he prosecutes his offenders before a Magistrate the fate of his proceedings could be foretold. The Untouchable will never be able to get Hindus as witness because of the conspiracy of the villagers not to support the case of the Untouchables, however just it may be. If he brings witness from the Untouchables, the Magistrate will not accept their testimony because he can easily say that they are interested and not independent witness, or if they are independent witness, the Magistrate has an easy way of acquitting the accused simply by saying that the Untouchable’s complaint did not strike as a truthful witness. He can do this fearlessly, knowing full well that the higher tribunal will not reverse his finding . . .”\textsuperscript{22}

\textsuperscript{21} It is essential to understand the crucial significance of Dr. Ambedkar. Even as he is seen as the revolutionary leader of the Dalit people and India’s oppressed, there has been a tendency by the mainstream, and the rightwing to reduce his significance by boxing him within his role as the man who drafted India’s Constitution. While Dr. Ambedkar’s role in making the Indian Constitution what it is, is second to none and unparalleled, we have to understand at the same time that Dr. Ambedkar was extremely skeptical of the state apparatus and had cautioned systematically against its inherent casteism in the Indian context.

\textsuperscript{22} Dr. BR Ambedkar, \textit{Essays on Untouchables and Untouchability: Political}, accessible online at \url{http://www.ambedkar.org/ambcd/24.%20Essay%20on%20Untouchables%20and%20Untouchability_Political.htm} (emphasis mine)
This is exactly what happened in Kilvenmani, when the case was heard by the Madras High Court in 1973. All the testimonies of the villagers were rejected—in the words of these elevated magistrates—as faulty, unreliable, contradictory, smacking of falsehood, lacking in credibility, or a deliberate afterthought. Forty years later, in the Bathani Tola judgment, every witness of the prosecution is taken up and dismissed for one reason or the other. In the Laxmanpur Bathe judgment, we hear the judge Sinha say: “I am of the view that the prosecution witnesses are not reliable, appellants deserve grant of benefit of doubt, which is, accordingly, granted.”23 Ooh la la, open the champagne, let the caste-Hindus celebrate their acquittal from a massacre.

And even as these courts pave the way for the culprits who killed an entire village of Dalits to walk away, let us hear the honourable judges find excuses for the mass exoneration.

“There is something astonishing about the fact that all the twenty-three persons implicated in this case should be mirasdars. Most of them are rich men, owning vast tracts of lands and it is clear that the first accused, Gopalakrishna Naidu, possessed a car. Such mirasdars might have harboured cowardly thoughts of taking revenge on Communist agricultural labourers. However much they might have been eager to wreak vengeance on the peasants, it is difficult to believe that they would walk bodily to the scene, and set fire to the houses, unaided by any of their servants. Owning plenty of lands, these mirasdars were more likely to play safe, unlike desperate hungry labourers. Anyone would rather expect that the mirasdars, keeping themselves in the background, would

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23 Paragraph no. 76, by Justice VN Sinha and Justice Amaresh Kumar Lal, Patna High Court, judgment dated 09 October 2013.
send their servants to commit the several offences which, according to the prosecution, the mirasdars personally committed.”

This is from the judgment on the Kilvenmani case, where Justice Venkataraman and Justice Maharajan of the Madras High Court decide to be astonished by the fact that the accused are landlords (mirasdars). Almost as if guilt cannot associate itself with the feudal lords. This is Class Analysis according to the Madras High Court. The equation they have derived is land ownership bestows upon men a merciful, non-gory nature. Even as a class-war is unfolding, this is the court’s analysis, but please understand that class in India is never about class alone. The land-owning mirasdars also carry with them the traits of not just the rich, but also the dominant caste, the safe-players. The desperation of the oppressed class renders them capable of doing anything. The labourers of Kilvenmani are not just the landless, but they are also untouchable. It becomes easy to demonize them even in the moment of their deaths. It is the desperate and the hungry, the people who are fighting for a handful of rice, who will commit such a crime. Even if the truth was otherwise, even if it were they who died the judges cannot be bothered to pay heed to it. Facts can be twisted in shapes of stringhoppers to serve caste justice.

Let us go and visit another scene of crime. This time, Bathani Tola in Bihar, where 19 Dalit women and children and one man were massacred on 11 July 1996. I wish to highlight two excerpts from the judgment delivered by the Patna High Court on 16 April 2012:
“In the present case, we find it quite conflicting that the allegation and the act are such that the miscreants had come to eliminate everyone in the village. After killing, they set fire to the houses. How could they did not bother to look for people in hiding in the close vicinity of the village itself? The witnesses and the accused are neighbours and of neighbouring Tola. They would not be exposing their identity in broad day light giving people opportunity to identify them.”

And again, the words of Justice Navaniti Prakash Singh of the Patna High Court:

“People who were intent to liquidate everybody, naturally would have seen that there are no male members, they would have searched for male members who were all hiding in close proximity to the village itself. This is unnatural for the prosecution witnesses. Because of these reasons, we have found the identifications made by the prosecution witnesses not worthy of reliance for the purposes of this extreme punishment of either death or life imprisonment.”

What is “natural”, and what is “unnatural” is a category that this judiciary decides. To kill everyone, is *natural*, because the feudal, caste-Hindu brain of the judiciary cannot accept anything else as the norm. For a mob to specifically kill all the male members—because this is what the Brahmin Parasuram did to annihilate the race of Kshatriyas—*is once again, natural*. What is unnatural is that the Dalits managed to survive, managed to hide, managed to live to tell their tale. This is very

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24 According to legend, Parasuram was a reincarnation of the Lord Vishnu, and his single great act of infamy/achievement was annihilating the race of Kshatriyas (the Hindu martial caste), twenty-one times over in revenge for the killing of his father Jamadagni by a Kshatriya king. According to the myth, he travelled all over the world, killing all men, guilty or innocent of the Kshatriya caste.
similar to the Bhanwari Devi case, where it was deemed by the court that it was unnatural for “upper” caste men, especially middle aged men, unlike the young who would not stop to think, to defile themselves through the rape of a Dalit woman. This is the sore thumb, the inconvenient truth. So inconvenient that it can only be a lie. The natural here, is the dreadful natural, the natural that is the fantasy and the imagination and the settled tradition of the Brahminical, oppressor caste judiciary. Here, the justice peddled is a caste justice.

This is the Indian Judiciary that asks: Why did they spare the men? Why did they not seek them out and kill them? These are the same judges who asked in Kilvenmani: Why did they not burn all the streets?

We need to say their names to shame these casteist fanatics, these retrogrades who occupy powerful positions. Working my way through these judgments, I was happy that these very educated, very respected criminals have been confined to the court rooms, that they are not leading the mobs personally. Their rationale of questioning makes one believe that had the task of a caste massacre been left in their hands, they would have done a more thorough jobs than feudal, caste-Hindu militias.

The murderous, genocidal instinct of questioning by the judiciary, is accompanied by its penchant for finding the flimsiest pretexts to fling out these cases.

25 On 5 November 1995, the Sessions Court, Jaipur passed this judgment in the Bhanwari Devi rape case. Bhanwari Devi, a Woman Development Project worker, was gang-rape on 22 September 1992 by five dominant caste Gujjar men because of her efforts to prevent a child marriage from taking place. The court argued with the perverse logic that rapes were usually committed by teenagers, whereas the alleged rapists were middle-aged, respectable citizens. It also reinforced its caste thinking, holding that since the offenders were upper caste men, whereas Bhanwari was from a lower-caste, the rape could not have taken place.
In Bathani Tola, the delay—of a single night—is whipped into a conspiracy as large as the massacre itself. The fact that a man has just seen the corpses of his immediate family is an excuse not reasonable enough. The fact that such a carnage took place in that tiny hamlet, in spite of the presence of several police pickets around the village would not in any way make a survivor run to the same police, who failed to protect them, does not arise in the minds of the judges. It is ironical, that courts which deliver judgments decades after some cases are filed, make such a hue and cry about delay.

In Tsundur, it is the police forces who chase away Dalits from their homes, and into the fields—into the trap of death where feudal, dominant caste Reddys lie in wait to kill them—and the judges take to

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26 Here, I quote the relevant excerpts from the Bathani Tola judgment: “It may be noted that though the informant claims that he had hid himself in a ditch and escaped death at the hands of the miscreants who ransacked the village, killed or attempted to kill everybody inside and in sight, he has not stated in the Fardbayan as to why he gave his Fardbayan only in the next morning, i.e. 12 hours after the carnage.” And in another subsequent paragraph: “in his deposition he builds up a story. In his deposition, he now gives the reason for his long absence. He states that seeing the dead bodies including of his wife and two children, he became sick and went to the nearby village of Colodih to Dr. Patiram for treatment.”

27 A police personnel, who subsequently becomes a witness for the prosecution is quoted in the Bathani Tola judgment. “He admits that police pickets, at all three camps surrounding the village Bathani Tola, were unable to prevent the carnage.”

28 I cite relevant portions that highlight police complicity in the atrocity from the Human Rights Forum book, *Tsundur: An Atrocity and its Aftermath* (October 2014): “Around 11 am, [Tenali Rural Circle Inspector] Saibaba and Vemuru Sub-Inspector Sheik Madarvali came to the Dalit quarters and asked them to flee as CRPF men from Mangalagiri might raid the village anytime to pick them up following a complaint lodged by the upper castes. When the Dalits were hesitant to leave the village, the police virtually chased them away. However, all the Dalit women stayed back. The Dalits, unaware that they were virtually walking into a death trap began fleeing into the fields only to be chased by the upper caste men from all corners of the village.” (p.61). Read this, along with the eyewitness testimony from an old woman in Tsundur. “As 60-year old Sampurna recalls: “On hearing the cries of our men folk from the nearby jasmine grove, I pleaded with the policemen to protect them from the Reddys. But the police brushed aside my request saying that our men were not being attacked by anyone but were only singing songs while working in the fields.”” (p.62)
task the young Dalit man Dayiri Dhanraj, a crucial eyewitness, for not going to the police earlier. These judges, who themselves criticize the police negligence that caused this massacre, did not even stop to think that perhaps the Dalits too would have been as skeptical of the police forces, and their role. And because, to borrow Dr. Ambedkar’s phrase, a chamber of horrors like the caste-Hindu judiciary, cannot stop with a single act of betrayal, there is so much more that sparks outrage about the judgment in the Tsundur massacre: Here, the prosecution witnesses are blamed for not being able to fix the timing of the incident. Here, the judges who pull up the living witnesses for not approaching the police immediately, forget that the same police forces, in the weeks following the carnage, opened fire on a hunger-strike organized by the Dalits of the village of Tsundur, and shot dead a young Dalit man Kommerla Anil Kumar, a key eyewitness to this massacre.

On the one hand, the delay in giving the complaint becomes a reason to discredit the complaint itself. On the other hand, the mere fact that the prosecution witnesses give elaborate details becomes yet another reason to reject the veracity of their testimonies. The courts, sitting in cross-legged judgment like khap panchayats mock those who give witness. I share here the lamentable words of the Patna High Court:

In the words of the judgment: “Otherwise, it is just unthinkable that in a village of which, one end, which can be seen from the other end, and where hundreds of police were already deployed, as many as 8 deaths that too not in a clandestine manner, but as a result of groups of about 20 or 30, having been chased by about groups of about hundred each; remain unnoticed by the police. Still astonishing is the fact that the police is also said to have chased the assailants up to some distance.”


Khaps are unofficial formations—unaffiliated to the state—of caste groups from neighbouring villages. Although they are extra-legal, often, their pronouncements, diktats and decrees carry more weight in rural India as opposed to the legal apparatus itself. A khap panchayat is a
“Informant is able to identify over 30 persons of different villages with their parentage from his hiding without being detected by the mob who were intent upon killing everybody including infants, having surrounded the village. So much for the Fardbayan[^32] and the foundation of the prosecution case.”

Likewise, the Andhra Pradesh laughs about the witness for the prosecution in the Tsundur case:

“Witnesses, who are not able to furnish the names of their companions, were made to spell out not only the names of hundreds of accused, but also their fathers.”

Perhaps, for the benefit and the entertainment of the Courts in this country, it would do well to educate everyone, especially the Dalits and the Muslims and the Adivasis, and of course, from time to time India’s raped women, who are at the receiving end of brutality and caste and religious and state violence, a checklist of “Things to be done in the event of a massacre”. An education we might have to provide each one of ourselves even before we learn the alphabet. Don’t cry, don’t get sick,

[^32]: Kangaroo court of khan elders. A similar organizational structure exists in Tamil Nadu, along caste lines as well, and is called the *nadu kattamaippu*. “Nadu” literally refers to state, and often, it is this ‘state’, that supersedes the notional nation-state of India. The functioning of these khaps, or these nadus, are not under the control of the Indian government, and they exist for the sole purpose of safeguarding caste structures. Khaps have been known to exercise their writ in a wide spectrum of people’s lives: banning young girls from using mobile phones, banning Dalits from contesting elections, blaming rapes on the consumption of Chinese fast-food.

[^32]: In other words, the “information received by an individual”—is how Bela Bhatia translates this in her piece *Justice Not Vengeance* in the Economic and Political Weekly, 21 September 2013. The activist Kavita Krishnan tells me that when appealing against the said Bathani Tola judgment in the Supreme Court, the translator, Lakshmi Krishnan decided to leave the word in its original form. So, Fardbayan is actually the first oral statement that forms the basis of the “First Information Report” that later forms the basis of a police complaint, or a judicial case.
don’t go to the hospital. Run to the police. Even when the police are the ones who led you into the death trap, even if the police are the ones with a picket within a kilometer radius of your village, even if the police will shoot you down a month later to silence you from giving witness. Remember only a reasonable number of the lynch mob—too few and the courts will doubt your presence, too many and the court will suspect your deposition. Remember to not name their fathers; remember that paternity is a hazy, unreliable construct. Remember to teach the unlettered women to go looking for a clock even as they hear their husbands being hacked to death. Timing is everything. Remember to carry out group rehearsals of the exact number of attackers and their first names—because if one of the witnesses who has barely escaped death himself leaves out one name, all the accused walk free. This is the price to pay for the terror you have experienced. In the wisdom of the courts, there is no space for fear psychosis, no allowance for post-traumatic stress disorders. The courts expect supreme levels of perfection—as if it were not a massacre at all, which the mind needs to forget—as if it were, instead, a theatrical production of a Shakespearean drama, where the lines, the commas, the full-stops, the intonations, the asides have to be memorized.

From a common sense position, why would the Dalits even report to the police? Was it not the same police forces who had tricked them into their deaths in Tsundur—asking them to leave their homes and walk into the ambush? Did the police not mean certain death? Dayiri Dhanraj was caught by a lynch mob of Reddy men, beaten with rods, his leg twisted to prevent him from escaping and kept as a prey so that
Mallikarjuna Reddy—who could not hunt a Dalit victim owing to his disability—could have the supreme satisfaction of having personally killed a Dalit with his own hands. Dhanraj who was urinated upon when he begged for water, who had a bottle of blood drained from his body to incapacitate him, while the mob went to fetch Mallikarjuna Reddy. Dhanraj, who was left on the bund of a canal and held hostage for this final act of murder, who escaped by swimming, who was saved by village women, who was dressed up in women’s clothes to avoid detection and taken to the railway station in order to reach the hospital. Would he even think about approaching the police as he battles for his life from these merciless forces? Will he trust, when he was just lucky to be alive, the same uniformed men who pushed him, and the others, into the killing fields? Will anyone in their right minds, who have witnessed the camaraderie between the police and the killers, try to take shelter with them?

Dayiri Dhanraj was lucky thrice over: lucky to have been left alive, lucky to have made good his escape, lucky to have stayed alive through the course of the trial without being killed in a police-firing. But he was not lucky where it counted. His words were thrown in the dustbin of history by the judges, proving that caste is stronger than mercy, caste is more spontaneous than righteous anger.

We see in the judiciary, an attitude which marvels and discredits someone because they can remember names and names of the guilty.

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Tsundur: An Atrocity and Its Aftermath, Human Rights Forum, Hyderabad, Oct 2014, p. 63. These macabre incidents—including the drawing of the blood, and the urination into Dhanraj’s mouth when he begged for water, are not unknown to the court, and are documented in the High Court judgment itself.
person’s parents (saying it is too incredible to be true) and simultaneously a judiciary that dismisses immediately the witness who forgets to name a detail, furnish an episode, or to tolerate a testimony that is even slightly divergent\textsuperscript{34}. Even as it dismisses witnesses citing the lack of credibility, what do our courts do with hostile witnesses—or, witnesses who cannot speak the truth before the law because they have to safeguard their own lives?

Kambalapalli, a tiny village in the South Indian state of Karnataka, witnessed a carnage, which, in terms of its execution, was a copycat atrocity that follows the pattern of Kilvenmani. Even as India was making its great big leap into the millennium, on 11 March 2000, Dalits were attacked by a gang of Vokkaligas/Reddys. In order to escape, they took shelter in their homes which were set on fire. Seven Dalits were burnt alive to death: Ramakka, Anjanappa, Sriramappa, Papamma, Narismhappa, Subbamma, Kunti Pappamma. Several others suffered extensive injuries.\textsuperscript{35}

\textsuperscript{34} To cite a small instance of how this absence of total corroboration works against Dalit victims, I’m using the Tsundur judgment to illustrate how the judiciary rides on this fragile spider web to escort the guilty to safety. “For example, PW.1 stated that A1, A6, A11 and A20 attacked D1, whereas, PW.4 stated that it is A1, A2, A6, A11, A20 and A26 attacked D1. PW.7 stated that the attackers are A2, A6, A11, A20 and A26. The trial Court recorded a finding to the effect that A6 and A20 are guilty of killing D1. [. . .] The trial in a criminal case is not something like a mathematical exercise where the common minimum factors from various numerical can be taken and put outside a bracket. Once the Court finds that the evidence of a particular witness that a particular set of accused attacked the deceased; cannot be accepted; part of that evidence cannot become acceptable, simply because, some accused occurred common in the depositions of other witnesses. With the finding of the trial Court that the version of a witness with a particular number of accused attacked the deceased cannot be believed, the evidence of that witness become shaky. A thread from the evidence of such witness cannot be picked up, to make a fabric with the similar threads picked up from other truncated depositions.” This argument was stretched to its logical extreme to exonerate all the Reddys.

\textsuperscript{35} All the accused were acquitted by the trial court in Kolar on 4 December 2006. Although witness after witness had turned hostile, the court did not take any measures to provide security,
When the case reached the Karnataka High Court, the testimony of the prosecution witness 1, the man in whose hut these people were charred to death, is labelled vague. Even though every single witness to the massacre turned hostile, including the one man who lost his wife and two sons and a daughter, the court went along with its assumption that none of them were threatened. The trial itself began in 2006, more than six years after this massacre, and yet, when there is a request for retrial, the court dismisses that demand. The court does not seem to care, or consider that the Dalits in Kambalapalli were living at the mercy of the Reddys. The court does not calculate the cost of life that the Dalits would have to pay if they were to speak the truth, if they were to say what they really saw. The court sees nothing out of the ordinary that all 22 witnesses—including blood relatives of the murdered people—have turned hostile in this case, it does not set off alarm bells.\textsuperscript{36} It is not hesitancy that the court displaces, but an utter stubbornness in ordering a retrial.

\textsuperscript{36} In the words of the Karnataka High Court division bench of Justices Kumaraswamy and Mohan Shantanagoudar, dated 21 August 2014: “None of the eye-witnesses including father, mother, sister and brother of the deceased have come forward to support the case of the prosecution. The trial court could not have compelled any witness to depose in a particular manner. Under these circumstances, this is not a fit case either for granting permission to the Prosecution to lead further evidence or for de novo trial.”
The same story repeats itself at the Sessions Court where the Shankarbigha massacre is being investigated. Again, not a murmur. The callousness of the court machinery has to be seen to be believed.

Another dimension of this issue, is the question of punishment. Even though the Constitution Bench of the Supreme Court held in Bachan Singh versus State of Punjab (1980) that murders arising out of caste prejudice must be considered as “rarest of the rare” cases and must attract the death penalty, the courts have been extremely reluctant to hand out even minimum punishment to caste fanatic criminals.

These are murders by caste, murders where caste has gone on a rampage and come home with a big body count. There are deaths by water, deaths by fire. Bodies that are charred in Kilvenmani and Kambalapalli, bodies that have become black like coal, bodies that have singed beyond identification. Bodies from Tsundur that are bloated in the Tungabhadra canal, bodies that surface after days, bodies that have turned pale and whitish, bodies with gaping mouths, bodies where the skin has entirely peeled off from the effects of staying in water. Bodies of

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37 As noted earlier, 23 Dalits were massacred in Shankarbigha on 25 January 1999. During the trial, all fifty witnesses turned hostile. Writing about the attitude of the court towards these (made-to-become) hostile witnesses, Manoj Mitta notes: “While witness after witness was disclaiming all knowledge of the involvement of any of the accused persons, the court showed no inclination to interrupt the proceedings at any stage to check whether extraneous factors were at play. In his 14-page verdict, the trial judge expressed no misgiving about why all the 50 witnesses, without exception, had turned hostile.” Shankarbigha: A Foregone Verdict, Times of India, datelined 5 April 2015.

38 I’m thankful to the report on ‘Reservation in the Judiciary’ published by the National Commission for SC/ST to gain this insight. As someone fervently opposed to the capital punishment, and who was part of the group of activists who initiated the first series of online campaigns against death penalty in India, I do not want this reference to be taken out of context. By saying that caste atrocities can legally warrant the death penalty does not mean that I am pushing the case for the death penalty. On the contrary. I’m pointing out that the Indian law, at least on paper, allows for caste atrocities to be taken seriously and handled with utmost graveness.
women with their breasts chopped off, bodies of women left in positions suggesting rape. These haunting images of massacre may rouse a young woman’s anger, a young man’s anger, but these do nothing to invoke the court’s sense of justice. Caste is brutality-blind. All caste Hindus are immunized at birth.

Let us remember that the Naidus and the Mudaliars the Reddys and the Bhumihars and the Rajputs and the Yadavs and the Kunbis—the ones who have massacred entire villages of Dalits have been allowed to go scot-free. They are not Afzal Guru\(^39\)—not Kashmiri, or Muslim, or anything capable of easy criminalization. They are not the poor, or the Dalits, or the Muslims—the ones who have been systematically at the receiving end of the death penalty in India.\(^40\) Hanging any caste-Hindu does not satisfy the “collective conscience of society.”\(^41\)

As in the old Tamil saying—the person who has pinched the baby is the one who is now rocking the cradle—it appears that the judiciary goes to great lengths to build an elaborate charade to ensure that its reputation is not sullied. In caste atrocity after caste atrocity, it blames

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\(^{39}\) Afzal Guru, a Kashmiri, was hanged on 9 February 2013 for his alleged role in the Parliament attack case. For a seething critique of the role of the state machinery, and particularly of the judicial pronouncement which sentenced him to death, read Arundhati Roy’s brilliant essay: *And His Life Should Become Extinct*, Outlook, 30 October 2006. Accessible online at [http://www.outlookindia.com/article/and-his-life-should-become-extinct/232979](http://www.outlookindia.com/article/and-his-life-should-become-extinct/232979). In the aftermath of his hanging, she wrote an op-ed in the Guardian calling this a stain on India’s democracy. Accessible here: [http://www.theguardian.com/commentisfree/2013/feb/10/hanging-afzal-guru-india-democracy](http://www.theguardian.com/commentisfree/2013/feb/10/hanging-afzal-guru-india-democracy)

\(^{40}\) A study carried out by the National Law University students in Delhi, analyzing data from 373 death row convicts over a 15-year-period pointed out that 93.5% of those sentenced to death were Dalits, or belonged to religious minorities. News report in *Times of India*, dated 21 July 2015, accessible online at: [http://timesofindia.indiatimes.com/india/Heres-proof-that-poor-get-gallows-rich-mostly-escape/articleshow/48151696.cms](http://timesofindia.indiatimes.com/india/Heres-proof-that-poor-get-gallows-rich-mostly-escape/articleshow/48151696.cms) I thank my friend Nilesh Kumar from TISS for pointing me in this direction.

\(^{41}\) In upholding Afzal Guru’s death penalty, the Supreme Court in 2005 argued that the “collective conscience of society” will be satisfied only if he was hanged.
the police and the prosecution for not providing sufficient evidence to sentence anybody, never utilizing its own powers to step in, to order a fresh investigation, to render justice.42

What I have learnt from my extensive reading of all these judgments about massacres, is that it is the foremost duty to give the benefit of doubt to the guilty. In that sense, let us give the benefit of doubt to the judiciary.

Let us assume for a moment, that all the accused are always left off because the court is not convinced of the guilt—and the court cannot implicate these innocent people because they are trapped and victims of the police framing false cases—what has this court done to pull up the police? Have they instituted inquiries? Have they ordered action against the police? Have they tried to hold them responsible in any of these carnages?

Let us put down the apathy of the courts not bothering about the killing of Dalits down to their deep-rooted casteism. But should the Courts—as a glorious arm or leg or some other precious part of the body of the world’s most vibrant democracy—not be upset and angry that the police force, which is another arm or leg or part of the body of the same democracy, has been treated in this manner? Beyond seeking justice for

42 To understand the workings of the judiciary, especially for a close examination of the Khairlanji massacre, among others, please refer to Anand Teltumbde’s speech “Caste Massacres and Judicial Impunity” which was delivered as the Third Comrade Naveen Babu Memorial Lecture 2014. One of the most interesting points that his lecture highlights, which I have been unable to take up within my own lecture, is the systematic manner in which lower courts in India often hand out sentences and death penalties (to some of the accused who are not the primary guilty parties), rendering the judgment to be easily overturned at the higher court. Accessible online here: http://www.countercurrents.org/teltumbde050314.htm
those who have been killed, should the courts not sit up in outrage that their police force have been rendered impotent?

They are but different parts of the same diseased organism—and therefore, they rush to each other’s aide. The police who provide protection to these judges for the regular miscarriage of justice, the judges who absolve this police force for its repressive methods time and time and time again.

When plain, unrefined injustice is doled out to the Dalit people, the courts are undoubtedly aware that such a brutality will not go unchallenged. Knowing fully well that there will be widespread unrest, we see instances of how the long arm of the law takes away the right of the people to protest legitimately. Take the High Court of Andhra Pradesh judgment, delivered by Justice L Narasimha Reddy (#JeSuisReddy) and Justice M S K Jaiswal in the Tsundur massacre:

“The Superintendent of Police, Guntur Rural, shall also ensure that no celebrations or protests in the Villages of Tsundur and Modukur, on the eve of this judgment; take place, at least for a period of three months and utmost vigilance is kept on the Villages.”

After three months, the Reddys and the Telagas, who perpetrated the massacre can bring out their fireworks. The Dalits can bring out their loudspeakers and their placards. Celebrations for the caste-Hindus, road-rokos for the Dalits—this is the prize-distribution ceremony of the Indian judiciary. Allow a moment for this shock to settle in, for the High Court’s heartlessness of equating Reddy celebrations with Dalit
protests, and denying both of them as if they were one and the same. The Reddys, denied the perverse pleasure of gloating over their scandalous act of getting away with a massacre, and the Dalits, their righteous anger, an anger that has to be kept under wrap until the period of silence, the period of outrage, the period of mourning the miscarriage of justice can pass. Do these courts conveniently forget that the right to protest is a civil right?

What else do they do? How else do they barter the injustice? How else do they seek to quell the anger of the oppressed?

There’s somehow, in these state institutions, the belief that the rage of the people can be annulled by giving them money. Otherwise, the theory called People Can Be Purchased. The idea of compensating Adivasis for the forests that are stolen from them, the idea of displacing people to make way for big dams, the idea of taking away the lands of farmers to make way for corporate loot and in all these cases, paying money in exchange for uprooting them. However, it is never only about land, or history, or the roots of the people. The judiciary of the country has been following a pattern of establishing that it is normal to not just take land and hand over a compensation, but perhaps take a person’s life, and pay money in exchange.

This mentality of the higher judiciary, believes that monetary compensation will equal the price of the injustice that has been meted out upon the Dalits. And this has been a settled tradition in cases of caste atrocity, right from the days of Kilvenmani. I’m pulling out a quote from the Madras High Court judgment:
“We believe that the dependents of those who lost their lives in the holocaust will be generously compensated by the government.”

To cover up for the brazen travesty of allowing all the accused to walk away scot-free, the judgment of the High Court is dressed up in false sympathies. If this was indeed the holocaust, where are the Nuremberg trials? Where is your sense of justice?

And again, look at the deliberate use of the word: “holocaust” coming from a criminal justice system which did not even treat the killings of the 44 men, women and children as a “murder” but merely as an act of arson, or what the Indian Penal Code, calls in its funny language, “Mischief By Fire.” Does not the use of the word holocaust immediately ring a bell? Does it not remind us that these murders of Dalit people are not aberrations that otherwise scar a beautiful India, but that these murders are part of the systemic genocide that is unleashed upon the Dalits?

Let us come back again to this question of money replacing life. This time, the disgrace goes to the Patna High Court, to that Division Bench chaired by Justice V N Sinha and Justice A K Lal.

“I would like to observe that there being no dispute about the factum of death, injury having been caused to 58, 4 members of the weaker sections of the society in village Laxmanpur Bathe in the night of 01.12.1997, the State is obliged to pay compensation to the next of kin of the 58 deceased and 4 injured from its fund. The amount of compensation is to be calculated by the trial court taking into account the age, income of the deceased and the injured in the light of the provisions of Section 163-A and Second Schedule of the Motor Vehicles Act, 1988. In absence of any
documentary proof of any of the victim, trial court will calculate the income of the victim on the basis of minimum wage payable on the date of occurrence.”

This is the flippant, offhand manner in which the 58 dead people in the Laxmanpur Bathe massacre are treated. Their lives relegated to the sum of money based on minimum wage. Did the court even stop to think about the fact that four families were completely, entirely wiped out in that massacre? How does one “compensate” a horror like that, a horror of having your entire lineage wiped out, the family trees abruptly removed from the face of the earth? And what gall does it take, I really want to know, for the judges of the High Court to treat the death of Dalits on par with a death that takes place in a vehicular accident? How do we come to terms with the triviality and the mockery of justice, a caste-Hindu, feudal justice that reduces Dalit lives to such cheapness?

Where the judiciary has not directly intervened, it has used the idea of a judicial commission, usually a one-man commission constituted by a sitting or retired judge to inquire into the happenings and come up with recommendations. These judicial commissions have often served to distort the truth of what happened, to criminalize Dalits, to buy time and to serve as a distraction, to defend the abuses of the state.

I shall briefly outline three of them, from my home state of Tamil Nadu, to show the nature of their functioning.

1. In the Villupuram atrocity, where 12 Dalits were butchered in broad daylight on 24 and 25 July 1978, and their settlement set on fire, the Justice Sadasivam Commission was appointed to make
inquiries into what happened. It is very telling that Sadasivam belonged to the Mudaliar Community—the same caste as the perpetrators of this carnage. Although the victims did not have any trust in this Commission they testified in its presence. All their testimonies were rejected on the flimsiest of pretexts. Sadasivam decided to reject their statements saying that it was either not genuine, a mixture of imagination, and in one case, where it was a non-Dalit man who lived with a Dalit woman, and testified to what he had seen, and in a manner that was sympathetic to the Dalits, the judge wondered about the legality of the marriage itself. The Commission’s finding decided to blame the Dalits as anti-social elements.  

2. The Justice Mohan Commission inquired into the Manjolai massacre that occurred on 23 July 1999 where the police brutally attacked Dalit tea-plantation workers who were marching to the Collectorate to demand higher wages and ended up killing 17 of them. The Commission decided that most of the deaths were due to drowning because the protesters ran in panic and jumped into the Thamirabharani river, and also justified the “counter stone-throwing by the police.”

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43 For a detailed deconstruction of the report of the Sadavisam Commission, the people’s misgivings about the same, the fact-finding missions undertaken at that time, do read J Balasubramaniam’s excellent paper “Villupuram Atrocity: Physical and Symbolic Violence Against the Dalits” which is accessible online on his blog http://baluyash.blogspot.co.uk/2014/07/villupuram-atrocity-physical-and.html

44 The Justice Mohan Commission of Inquiry, in its report submitted in 2000, concluded that 11 of the 17 deceased died as a result of drowning. Drawing fire against the Puthiya Tamilagam, a Dalit political party that organized these labourers, he blamed political parties for not
bizarre recommendation to ban political rallies in the state—as if the cause of violence was not unbridled exercise of power by the repressive state apparatus, but instead the workers claiming their right to take to the streets to demand a decent wage.

3. The Justice Sampath Commission that was appointed to look into the police firing that happened in Paramakudi in September 2011 where 7 Dalits were killed, held that the police had to fire in self-defence and it completely exonerated the culprits.45

This trend of using the commission as a deflection-and-delay mechanism becomes very apparent in a few cases. At a protest in Kalinganagar, Orissa, on 2nd January, 2006 state police opened fire on a protest by locals against the takeover and seizure of their land by Tata for its six million tonne steel plant.46 Sixteen people died on the spot, four more died in the hospital. When the people got back the bodies of their dead, after the post-mortem, they received few of the bodies with the maintaining discipline and that welfare governments should formulate laws to ban such political processions. He blamed these “unfortunate incidents” on the failure of the crowd “to exercise restraint.” He justified the lathi-charging, and held that the later act of chasing the protestors on the banks of the river was an excessive use of force.

45 The Justice Sampath Commission, to probe into the police firing that killed 7 Dalits in Paramakudi on 11 September 2011 gave a clean chit to the police. The two-volume report of the Commission was submitted to the government of Tamil Nadu on 07 May 2013, claimed that the police firing was “absolutely warranted to maintain peace and restore normalcy.” The Commission went on to observe: “If the firing had not been resorted to, the consequences would have been disastrous.”

46 For a fact-finding report of what happened at Kalinganagar, please read this report: http://www.countercurrents.org/hr-im060106.htm Moreover, what has the so-called development actually done to the village of Kalinganagar? Javed Iqbal visits the place four years after the brutal firing, and says many unsettling truths. Read his reportage on his blog here: http://www.moonchasing.com/kalinganagar-development-death-and-despair/ The Kalinganagar plant is set to be commissioned by Tata in December 2015.
hands chopped off. In response to the people’s protests that followed this corporate-directed shoot-at-sight, the state government appointed the Justice A.S. Naidu Commission. But the commission was closed in May 2007 after a directive from the Supreme Court that sitting judges of the high court cannot head inquiry commissions. Subsequently, Justice R.K. Patra Commission was constituted in January 2008, but when he was appointed as Lokpal, this commission, too, was closed, although it had recorded the statements of key police personnel, and the Justice P.K. Mohanty Commission was formulated. The formation of judicial commissions becomes a game of musical chairs, and through these intervening years, the people’s anger is contained.47

What happens in the worst case scenario, where a Commission decides to take itself seriously, and decides to indeed go on a truth-seeking mission? Amir Das Commission, appointed to probe into the violence that ravaged Bihar in the wake of the Laxmanpur Bathe massacre was strategically disbanded by the Nitish Kumar government, for fear that it would expose the ties of the ruling political class with feudal caste armies. Not only did his government fight weak cases against the Ranvir Sena that resulted in the infamous string of acquittals for all the massacres committed against Dalits in Bathani Tola, Odisha is a case in point, but the picture is most likely very similar in states across India. Addressing the Odisha Assembly in 2014, the Chief Minister Naveen Patnaik said that only nine of 20 Commissions of Inquiry had submitted their reports. Commissions appointed even fifteen years ago had not come up with their findings. Set up at the cost of crores of rupees from the public exchequer’s money, these Commissions often are expensive exercises used to buy time, and create an illusion of state’s commitment to addressing grievances. News report: http://odishasuntimes.com/2014/06/24/reports-11-inquiry-commissions-yet-come-odisha-cm/
Shankarbigha, Sendani\textsuperscript{48}, Laxmanpur Bathe and other places as a vulgar strategy of retaining his Bhumihar support base—but he also pulled away the life-support on this commission for fear that it would reveal the deep roots of the political patronage that the Ranvir Sena enjoyed. Reports emerge that the Amir Das Commission was poised to name politicians like Murli Manohar Joshi (former cabinet minister, BJP), Sushil Kumar Modi (former Bihar deputy chief minister) among others.\textsuperscript{49}

What we’ve just seen is not only the truth about how judicial commissions serve as massive cover-up operations, but also how the state is not only an accomplice that affords protection of caste Hindu crimes, but also becomes a perpetrator by itself. The police firings and assaults that killed people in Manjolai, in Paramakudi, in Kalinganagar—that I addressed within the context of Commissions—is not an exhaustive list by any means.\textsuperscript{50} Their involvement is not only about protecting the caste

\textsuperscript{48} The Ranvir Sena massacred 12 Dalits in Sendani, in the Gaya district in Bihar on 21 April 1999.

\textsuperscript{49} The Amir Das Commission was disbanded (retrospectively from January 2006, if such a thing were actually possible), by the Bihar state government in April 2006. An interview with Justice Amir Das himself is available online here: http://www.tehelka.com/2013/10/obviously-some-people-from-the-government-were-also-involved/ and details the background to the formation of the Ranvir Sena, as well as the complicity of several top politicians. Some from the Nitish Kumar Government Were Also Involved, Tehelka interview with Nirala, 17 October 2013.

\textsuperscript{50} The list of police brutality and atrocity is an endless list, and most often directed at Dalits and Muslims. On 7 April 2015, 20 poor woodcutters were executed arbitrarily by the police in the Chitthoor district of Andhra Pradesh, and it was made to appear like an “encounter”. Such encounter killings are very common. Another stand-out example is the Bhagalpur blindings where 31 undertrials were blinded by the police in 1979-1980, the Hashimpura massacre on 22 May 1987 where 19 men of the Provincial Armed Constabulary rounded up 42 Muslims and shot them dead, and these police personnel were all acquitted on 21 March 2015 for lack of sufficient evidence. The list of atrocities is too long to fit into a footnote, and I advise you to read this Human Rights Watch report from August 2009, Broken System: Dysfunction, Abuse and Impunity in the Indian Police accessible online here: https://www.hrw.org/sites/default/files/reports/india0809web.pdf
order, but they have also become the running dogs for the capitalist class. The rot is not just in Nandigram\(^{51}\) and Kalinganagar—police blackmailing is what happens when a small village of Ambittanthurissu\(^{52}\) in the Western Ghats fights quarrying—there are lathi charges and look out notices, employed to contain dissent. It extends from tiny unmapped places, to the center of our cities, and there’s no accountability to police repression, to the encounter killings that take place in the service of big business.

I sometimes wonder, that even before multinationals came up with the idea of outsourcing in order to exploit cheap labour conditions and easy availability of raw material in the third world, the idea of outsourcing existed in another sense. Since it was not always possible for the caste Hindus to get down and do all the killings themselves, it got outsourced to the police. Sometimes, they join forces. Sometimes, the police step in to eliminate those who provide resistance so that the caste Hindu feudal patriarchs can sleep and snore and dream of their national flag saluting them. When the corporates cannot clear the lands, the

\(^{51}\) The Marxist (CPI-M) party led Government in West Bengal tried to expropriate 10,000 acres of land from farmers in Nandigram to set up a Special Economic Zone. People were protesting against this move, and the government sent in more than 3000 police personnel to repress the protests. On 14 March 2007, 14 people were killed in police firing.

\(^{52}\) I quote this example because I had the opportunity to observe first-hand how even in a small village, the police were upholding the status-quo, protecting the business interests of the mining mafia, and simultaneously, crushing dissent by all means possible. Following my visit, and participation in a people’s protest meeting on 23 February 2014, I wrote a long article for the Malayalam Varika. The English original of the essay The People of Ambittanthurissu, Kerala versus The Quarry Mafia, Politicians, Police & Others, is available for download at: http://porterfolio.net/articles/meena-kandasamy-the-people-of-ambittanthurissu-kerala-vs-the-quarry-mafia-politicians-police-others
operation is outsourced to the police and the paramilitary.\textsuperscript{53} State terror in a sense is an extension of the ruling classes and castes.

In the Indian context, the superimposition of gender, caste, class, region, religion, national question, creates a complex cauldron. To call into question, and to critique each of these oppressive systems, we cannot do without a radical critique of the state—that sustains these structures, legitimizes them, and establishes them through its brute use of force. Even as we understand, endorse and participate in struggles for the democratization of the existing structures, we also owe it to ourselves to consistently highlight that the state protects the caste system and protects the most brutal manifestations of violence, and that this state has an interest in preserving the status quo. Moreover, the state is inherently incapable of addressing the issue of caste because its many arms are defending it actively.

Even as we have seen the police forces compete and collude with the caste-Hindus in the project of decimating Dalits, let us not forget that other interloper: the Indian Army. Apart from its outrageous rape and murders committed in Kashmir and the North-East, apart from the everyday trigger-happy violence of the paramilitary forces in Central India, the killing of Dalits has proved to be an occasional pastime activity for their armed forces.

The investigative website Cobrapost, undertook a sting operation on the Ranvir Sena, codenamed Operation Blackrain. One of the startling revelations of the undercover investigation was the links

\textsuperscript{53} This has been the case with the Anti-POSCO struggle, the anti-Vedanta struggle, the anti-Coca Cola struggle at Plachimada in Kerala and the struggle in Singur (West Bengal) against the Tata-Nano plant and so on.
between the Indian army and the Bhumihar landlords private militia, the Ranvir Sena. Not only were AK47s, LMGs and SLRs used by the Ranvir Sena in their all-out war to annihilate the two overlapping categories of Dalits and the Naxalites, but these weapons were acquired through an auctioning of army-reject weapons. Interviews with the Ranvir Sena men implicate even the then Prime Minister of India, for his role in helping the private army procure the auctioned weapons. The state’s tacit support of the war to eliminate Dalit people has been documented in several other places, most explicitly bringing out how military forces trained the Ranvir Sena on the usage of these weapons. I wish to take this moment to quote from Ashwani Kumar’s book “Community Warriors: State, Peasants and Caste Armies in Bihar”:

“In creating the armed squads, the Sena has been helped immensely by the Bhumihars working in the Indian Army and various paramilitary organizations such as the CRPF (Central Reserve Police Force), BSF (Border Security Force) and so on. Evidence of the involvement of army men and the BSF personnel came in the aftermath of the Sendani massacre when Gaya police arrested two serving army men and a BSF constable. Their recruitment has been sourced from men of their caste serving in the Indian Army, and according to a report from PUDR, the military prowess of Ranvir Sena, unlike other private armies run by amateurs, was as a result of the extensive traning given to the Sena members by retired army personnel.”

54 The complete details of their sting Operation Blackrain, is available on the Cobrapost website, here: http://cobrapost.com/index.php/news-detail?mid=8983&cid=23 It has many revealing insights that tie-up the political ruling class, the caste militia of Ranvir Sena and the Indian Army in their massacre of the Dalits.

55 p.145
Now, Indian democracy begins to make a lot of new sense to me. Now, I can read the good old slogan *Jai Jawaan Jai Kisaan* in an entirely different light. There, we have it. The nexus between the Army and the Feudal Landlord. Victory to the Solider. Victory to the Farmer. Both of them, victoriously united in their project of murdering Dalits.

We can clearly see that the struggle against caste cannot be a struggle only against the powerful ruling landed caste Hindu patriarchy but it should also be a struggle against the repressive state machinery—the police, the army, the courts—which protect and sustain the interests of the ruling class.

On the one hand, Dalits are denied justice in the courts. They are not even able to testify the truth because they are threatened, because their lives are at the mercy of the oppressors, because the state fails in its duty to protect them. They are lampooned when they turn hostile witnesses. They are deliberately killed when they turn up to testify the truth. The little slips of tongue in their deposition is held against them. Nowhere is the state’s failure to protect the Dalits called into question. At no point is the state held responsible, or is the state punished for its callousness. Neither does the state step up its act even as a face-saving measure. On top of all this, the police routinely lead a charge and attack Dalit settlements, open fire on Dalit rallies, and even individual, actively-serving members of the Indian army take part in massacres of Dalit people. State terror on Dalits becomes the norm. Just as the caste-Hindu mobs get away without punishment, these police and armed forces who wreak havoc on Dalit lives are never called into question.
On the other hand, witness what the state is actually doing to the Dalit people. Those who kill Dalits will be released from jail. And instead, Dalits will be thrown into jail on the easiest pretext. Can anyone deny the mad haste to criminalize Dalits? A Human Rights Watch report, *Broken People*, published more than a decade ago spoke of how Dalit assertion was always followed by criminalization of the Dalit activists.56 It is common knowledge that oppressive laws like the Unlawful Activities Prevention Act (UAPA), or National Security Act (NSA) have been used to incarcerate Dalits. Even parliamentary Dalit political parties like the Viduthalai Chiruthaigal who have been militant have faced the wrath of the state machinery, with hundreds of their cadre being left to languish in jail under NSA/Goondas act.57

The National Crime Records Bureau survey, Prison Statistics India 2013, showed that 53% of Indian prisoners belong to Dalit, Adivasi and Muslim communities, clearly revealing the bias of the police and the judicial system.58 And because we are discussing India under Modi, let us also take a little detour from this talk to look at the situation of Dalits in the Gujarat Model.

“Around 32.9 per cent of all convicts and 23.4 per cent of undertrials in Gujarat’s prisons are Dalits, a community that forms just

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56 Read pp.153-164 of the HRW report *Broken People: Caste Violence Against India’s Untouchables* for further insight.
57 “VCK concerned at arrest of party workers under Goondas Act, NSA”, news item in The Hindu, Chennai, 2 September 2010.
about 6.7 per cent of the state’s overall population. Put simply, the data suggests that the proportion of Dalits among Gujarat’s convicts is nearly 4.9 times higher than their share in the state’s population, with its undertrial numbers up to 3.5 times higher.”

If this is Gujarat Model is what awaits the rest of India, we are surely racing towards depressing times.

What then are the factors that enable the state machinery, in this case, the police and the judiciary to get away such an atrocious handling of massacres on Dalits, and simultaneously repress them using every apparatus possible?

From a Marxist perspective, it would do well to recall that the state is an instrument for the exploitation of the oppressed class. In understanding how this state apparatus was intertwined with the caste structure, Dr. B. R. Ambedkar drove home the point most tellingly:

“From the Capital of India to the village the whole administration is rigged by the Hindus. The Hindus are the life of the omnipotent almighty pervading all over the administration in all its branches having its authority in all its nooks and corners. There is no loophole for anyone opposed to the old order to escape. If the old order has continued to exist, it is because of the unfailing support it received from the Hindu officials of the state. The Hindu officials are not merely administrators, administering the affairs on the merit, they are administrators with an eye to their parties. Their principle is not equal justice to all. Their motto is justice consistent with established order. This is inevitable. For they carry

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over into administration the attitude towards different classes in the society under the established order.”

As critical as he was of the officials of the state system, and aware that they would manipulate the administration according to their own casteist whims and fancies, he was also unwavering in his observation that inequality formed the backbone of Hinduism, and he used the system of its criminal jurisprudence as one of the examples where this inequality is enshrined.

“The most striking feature of Manu’s Penal Code, which stands out in all its nakedness, is the inequality of punishment for the same offence. Inequality designed not merely to punish the offender but to protect also the dignity and to maintain the baseness of the parties coming to a Court of Law to seek justice; in other words to maintain the social inequality on which his whole scheme is founded. The principle of graded inequality has been carried into the economic field.”

It is important for us to pause here to try and understand how Dr. Ambedkar talks about the Hindu Social Order, in other words, caste, and how it permeates the economic field.

Instead of making a full-frontal attack on capitalism and the unequal method in which it crystallizes wealth in the hands of a tiny minority, Dr. Ambedkar actually takes upon the Marxist dictum: “From

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60 Dr. B R Ambedkar, Untouchables or The Children of India’s Ghetto, in Dr Babasaheb Ambedkar, Writings and Speeches, vol. 5, Bombay: Govt. of Maharashtra, 1989.
each according to his ability, to each according to his need” — which, when realized by a society, will be the most advanced stage of Communism. As Lenin observed, when a society adopts this rule—where labour is so productive that people voluntarily work according to their ability, and where there will be no necessity to distribute the products, which the people can freely take according to their needs—this will be the stage where the state will have withered away completely. This, in Lenin’s words, mark the move from formal equality to actual equality. The anti-thesis of this objective of equality, is the core of the Hindu Social Order where caste reigns supreme. To quote Dr. Ambedkar again:

“From each according to his ability; to each according to his need” is not the principle of Hindu social order. The principle of the Hindu social order is: “From each according to his need. To each according to his nobility.”

In Dr. Ambedkar’s perspective, the casteist mindset would wreak havoc upon the very idea of even moving towards such a goal. He illustrates this inhuman nature of caste, and simultaneously shows us how deep its roots run.

“Supposing an officer was distributing dole to a famine stricken people. He would be bound to give greater dole to a person of high

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62 First used by the French socialist politician Louis Blanc in 1851, and subsequently popularized by Karl Marx in his 1875 Critique of the Gotha Program.

63 VI Lenin, State and Revolution, Chapter 5: Economic Basis of the Withering Away of the State, accessible here: https://www.marxists.org/archive/lenin/works/1917/staterev/ch05.htm

64 Dr. B R Ambedkar, India and the Pre-Requisites of Communism, also accessible here; http://www.ambedkar.org/ambcd/18.India%20and%20pre-requisite%20of%20communism.htm
birth than he would to a person of low birth. Supposing an officer was levying taxation. He would be bound to assess a person of high birth at a lower rate than he would to a person of low birth. The Hindu social order does not recognise equal need, equal work or equal ability as the basis of reward for labour. Its motto is that in regard to the distribution of the good things of life those who are reckoned as the highest must get the most and the best and those who are classed as the lowest must accept the least the worst. Nothing more seems to be necessary to prove that the Hindu social order is based on the principle of graded inequality. It pervades all departments of social life. Every side of social life is protected against the danger of equality.”

The struggle for a socialist society, the struggle towards Communism cannot happen unless the Hindu Social Order is shattered, until the all-pervading caste mentality is dismantled beyond all recognition.

This is not the fashionable reading that exists among the neo-liberal elite who believe in the salvation of the free market. They are blind to the horror of caste, they do not realize that such an intrinsically unequal system like caste will combine with the vicious, mercilessness of capitalism to consolidate its own monstrosity. In absolute contrast to these capitalist handmaidens, we have the cautionary voice of Dr.Ambedkar, writing on “India and the Prerequisite of Communism”, pointing out to us how the poisonous, well-entrenched divisions of caste can thwart and pose an insurmountable resistance to the most revolutionary paradigm from even taking root.

Even within the four corners of bourgeois democracy, Dr.Ambedkar was very perceptive to the dangers posed by a criminal
justice system that was totally infused by caste and inequality. He took
great pains to point out how justice could be, and would be thwarted.

I quote his prophetic words:

“The official is anti-Untouchable and pro-Hindu. Whenever he
has any authority or discretion it is always exercised to the
prejudice of the Untouchable.

The police and the Magistrate by reason of their motives,
interest and their breeding do not sympathise with the living forces
operating among the Untouchables. They are not charged with the
wants, the pains, the cravings and the desires, which actuate the
Untouchables. Consequently they are openly hostile and inimical
to their aspirations, do not help them to advance, disfavour their
cause and snap at everything that smacks of pride and self-respect.
On the other hand they share the feelings of the Hindus,
sympathise with them in the attempt to maintain their power,
authority, prestige and their dignity over the Untouchables. In any
conflict between the two they act as the agents of the Hindus in
suppressing this revolt of the Untouchables and participate quite
openly and without shame in the nefarious attempt of all Hindus
to do everything possible by all means, fair or foul, to “teach the
Untouchables a lesson, and hold them down in their own place.”

In these words of Dr. Ambedkar you can already foresee how the
demands of the Dalits for justice will play out in India. Has not
“teaching the Untouchables a lesson” been one of the main aims of each
of these massacres?

In Kilvenmani, teach the Dalits a lesson for carrying the red flag of
Communism, for demanding higher wages, for fighting untouchability.

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65 Dr. B R Ambedkar, *Essays on Untouchables and Untouchability*
In Villupuram, teach the Dalits a lesson for daring to try to rise themselves to the level of the caste-Hindus, teach the Dalits a lesson because one of their women objected to her molestation.

In Tsundur, teach the Dalits a lesson for staking a claim to equality, for being educated, for being self-sufficient.

In Bathani Tola, teach the Dalits a lesson for being sympathizers of the far Left.

In Laxmanpur Bathe and Shankarbigha, teach the Dalits a lesson because they too were waging a struggle for land, a struggle for wages, a struggle for dignity.

In Manjolai, teach the Dalits a lesson for the temerity to march to the Collectorate, for demanding living wages in the tea plantations.

In Melavalavu, teach the Dalits a lesson for standing in the Panchayat elections, for getting politically organized.66

In Paramakudi, teach the Dalits a lesson because they wanted to celebrate the anniversary of one of their revolutionary leaders, Immanuel Sekaran.67

In Faridabad, teach the Dalits a lesson for their political aspirations.

Elsewhere in India, teach the Dalits a lesson because otherwise your caste-Hindu itch for superiority will not subside . . .

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66 Six Dalits were beheaded to death, including Murugesan, the Panchayat President of Melavalavu, near Madurai on 30 June 1997, for daring to contest local elections against the diktats of caste-Hindu groups who ruled that no Dalit could occupy the post of their village president. For more information, refer to *The Rule of Caste, is the Rule of India*, in Talisman: Extreme Emotions of Dalit Liberation, Samya (Kolkata 2003).

And as Dr. Ambedkar pointed out, in any conflict between the Hindus and the Dalits, the police and the magistrate act as the agents of the Hindus to suppress the revolt of the Dalits participating OPENLY and WITHOUT SHAME in teaching a lesson. There cannot be a clearer condemnation of the casteist nature of the Indian state mechanism than this.

Let us then understand that injustice, so deeply rooted within the system, is the rent that parliamentary democracy and its extensive state apparatus pay to caste. In order to satisfy the purpose of its creation—the state, the by-product of the antagonism of the oppressed and the oppressing class—has to ensure that this injustice becomes the order of the day.

Sometimes, to keep this structure in place there is the use of brute force. That’s why, when the caste-Hindus cannot kill, the police do the job for them. But always, they cannot be pressed into action. It’s reserved for special occasions, special people: Kashmir, the Red Corridor, the North East, the militating Dalits.

For the rest of the masses, on the rest of the days, this is ensured through a wide variety of devices. For instance, and this is something that I want to point out though it does not have a lot of relevance to my topic today: The language of the legal is a language that is opaque, a language that is out of access, a language that is meant to confuse, a language that is meant to send you scurrying to the dictionary. Is this not, in itself, deliberate? Again, why is it that in the high courts in this country, the language of jurisprudence is not the language of the local people, but English?
I think that this usage of language is not an accident. One can even say that this pronouncement of the judgment which denies justice, at the end of a long, prolonged trial is Act Two of the massacre. The upholding of the crime because it is found unpunishable through a series of loopholes. The legitimizing of the crime by reducing it into a set of incidents and procedures and material objects. The trivializing of the crime by reducing the dead individuals to a long list of unnamed dead bodies. The escape provided to the caste-Hindu criminals from facing the wrath of the people by allowing them to abscond, and sometimes by arresting them to place them under total police protection, providing a safety net for the caste-Hindu who has raped and murdered and massacred and pillaged. It’s a language that’s used to cause delay even in the stimulus-response of feeling angry. It’s a language that’s meant to bury your humanity, your sense of outrage within a complex web of technicalities. It is a language that mines deep into people’s words, to use the inconsistencies in Dalit (or women or Muslim or Adivasi) depositions and testimonies to send them home with no justice. To wear out everyone who seeks justice. Because, these courts know that any man, any woman requires fists of gold and the feet of steel to traverse the corridors of law.

Those who believe that this towering sense of authority is merely followed in the realm of the argument and the text, have to visit a court, any court in India, on a random day.

Why are our esteemed judges blind to their own narcissism? I have a lot of questions for them. Instead of enjoying the pomp and the parade, should you not feel uncomfortable as you are piloted by a
tabedar in a fancy dress? Do you not feel ridiculous as this tabedar hisses, demanding that everyone stop their speech, so that a silence descends upon the courtroom when you enter? Do you enjoy the way the corridors have to clear, like the parting of the seas, when you make your way to your chambers for lunch? Do you particularly relish that long stare into nowhere, because given its track-record, any justice in India cannot meet anyone’s eye? Do you not shift uncomfortably in your chair when you are constantly called Your Honour, My Lord, My Lord, My Lord? I have never seen royalty but I guess the supplication that is required from the public must be slightly less over the top than such petty tyranny.

Call this a colonial hangover, call this a caste hangover, call this the decorum-of-the-court hangover, call it whatever it pleases you—but for an outsider, it becomes difficult to distinguish between the self-aggrandizement in the conduct of the courts, and the self-importance that is reflected in their judgments.

Part of the problem is also the judiciary’s narcissism. Admiring itself from head to foot, in between every line of its exalted observations, it has, in the instance of caste massacres, tried to follow the ugly precedent that it has set for itself, to try and find any argument—however heartless, however lame, however illogical, however stupid, however brazenly casteist—in order to never convict those who carry out the most dastardly crimes.

If anyone in this system paid attention, they would see the judiciary for its rotting teeth and its festering wounds and the deathly stink of casteism. However, beneath the shroud of pressed white shirts
and long black robes—there is no one paying attention to its grievous illness. So convinced and hysterical is the judiciary in its belief that it is beyond reproach that it takes recourse to slapping contempt proceedings on anyone who dares to make the slightest murmur of disapproval. One of the funny benefits of bourgeois democracy is that you can call the Prime Minister a communal fanatic, you can call the President a rubber-stamp, you can call out the Human Resources Development Minister for her absolute lack of educational qualifications but the freedom of speech stops there. You cannot even cast a shadow of doubt upon the judiciary in this country. You cannot say that the caste of the judges has a definitive role to play in why those accused of committing the massacres of Dalits are allowed to go scot-free year after year. You cannot say that the caste of the judges plays a role in deciding the composition of the judiciary itself. You cannot say that the caste of the judges decisively dictates the reasoning behind their staunch opposition to the reservation policy. You cannot say that the judges are communal when they hang a man to satisfy the collective conscience of the society. You cannot say that a judge of the Supreme Court has no business quoting a racist, casteist, misogynist text like the Manusmriti in order to justify the bloodlust of the death penalty. These, and many things of a similar character can never be uttered. Like, a self-worshipping, long-serving dictator, the slightest sign of defiance is enough to set this monster on a revenge spree, and the first threat made to the dissenter is the threat of being thrown in jail. The word of our judges, like the word of Jehovah, like the word of an Old Testament God, is beyond question. Anyone
who questions these almighties might as well prepare for their future by packing their toothbrush for the stay in Tihar.

What happens when someone decides to question or criticize the functioning of the judiciary? Let me point out to the case in Tsundur, where I have access to the judgment of the Andhra Pradesh High Court. This is where the feudal caste of Reddys perpetrated a massacre and killed 8 Dalits, and this case was being heard by a Division bench that included Justice Narasimha Reddy.

“An affidavit by one Sri Moses, said to be associated with an organisation and who did not figure as a witness in the case; was filed stating that he lost faith in the Bench, having regard to the way, the proceedings were going on.”

And this is where it is easy to be mislead. Days after I read this judgment of the court, days after I heard about the proverbial, almost wrathful Moses enter the picture, I had the opportunity to read a book Tsundur: An Atrocity and Its Aftermath that was brought out by the Human Rights Federation in Hyderabad. That’s when I learnt, that Mr Moses, who was being described by the court with the words: ‘said to be associated with an organization and who did not figure as a witness in the case’, was actually not some wayfarer who put his nose into the affairs of this Bench. He was the son of one of the murdered victims, and the nephew of another murdered victim, and he was therefore, a party who had a lot to lose if justice was not rendered. Once again, the veil of words. Once again, the play of hide-and-seek, which when played by the courts means hide the fact, seek to distort.
Let us come back again to how this court dealt with the matter. Let me quote the words of Justice Reddy and his counterpart:

“To be guided in this behalf, we requested the learned Attorney General of India to render assistance. On his behalf, the Additional Solicitor General, Sri Wilson, appeared and advanced arguments. According to him, raising an objection as to hearing of a matter by a Bench, that too half way through; amounts to gross impropriety, and of all the persons, the Public Prosecutors cannot resort to that. He further submitted that it is a fit case for issuing contempt notices to the persons, that have raised objection for hearing of the matter. He cited fairly good number of precedents.

After hearing the learned Special Public Prosecutors, we passed a detailed order on 21-03-2014. The Registry was directed to issue contempt notices. Even before any notice was issued, the person, who filed the affidavit, tendered apology and has withdrawn his affidavit. Therefore, we dropped further proceedings, against him.”

Additional Solicitor General of India, appearing on behalf of the Attorney General of India. Repeat that again.

This is when we have to highlight that no Solicitor General has appeared on behalf of the state when Dalits are killed. No Additional Solicitor General of India has fought tooth and nail to see that those who killed Dalits are locked up for life. But when the casteist functioning of the court is called into question the Solicitor General of India makes an appearance.

This power of contempt that has been vested in the courts—when used in a manner that has just been outlined reminds me not only of the most ruthless dictators, but also remind me of some of the worst caste
atrocities. Can we forget that when two Dalits tom-tommed their anger and spoke back against caste-Hindus, they were fed human excrement in Thinniyam in 2002? Sometimes, in rural India, the price for speaking truth to power is shit being force-fed to you. Sometimes, in a more sophisticated place, such as in the court room, it is a contempt notice. Either way, the message to Dalits is crystal clear: Swallow your self-respect. Swallow this shit.

Even as we discuss Tsundur, I want to highlight another facet. We have looked so far at the judges. Who turns up in court to defend these murderers? This judgment notes this down:


Almost as if the need to defend the caste-fanatics was a religiously enshrined duty of the caste system. Reddys defending Reddys. In Kilvenmani, Thambiah Naidu defending Gopalakrishna Naidu, and all other Naidu landlords. And this happened in those times when the Chief Justice of the Madras High Court was himself a Naidu, and the Court was sometimes called, the Tamil Naidu High Court. Just as scientists speak of a carbon-carbon bonding that gives strength to diamond, someone has to discover the DNA of this caste-caste bonding that makes this entire depraved system an impenetrable fortress.

68 On 22 May 2002, two Dalits Murugesan and Ramasami in the village of Thinniyam near Tiruchi in Tamil Nadu were forced to feed each other human excreta, because they stood in solidarity with Karuppiah, who was engaged in a long struggle to retrieve the money he had given as a bribe to a panchayat president and her husband.
Having said this, I think that the task of exposing the judiciary’s casteism cannot be complete without pointing an accusatory finger at each one of us. If the courts had been pulled up for their horrific miscarriage of justice in the Kilvenmani massacre, would they have found the brazen courage to repeat their actions in atrocity after caste atrocity? Where is our sense of collective outrage? Why does our civil society not bring the functioning of these courts to a standstill? Where are our politicians, each of them vying for their share of Ambedkar’s legacy, each party—whether it is Congress or Communist or BJP—that portrays itself as the saviour of the Dalits trying to take upon these ivory towers. Where is the media?

When Kilvenmani happened, the media was eager to blame the Dalits for their own deaths. Because we live in a society where the media is in charge, not only of the manufacture of consent as Chomsky would say, but also of the manufacture of outrage, one has to begin wondering why this “free press” has often stayed silent when Dalits have been denied justice? Why has the idea of campaign journalism been forgotten in these cases? Is this perhaps directly linked to the absence of Dalits and Adivasis in the media? Is this merely a by-product of the fear of what the courts will say?

Is it perhaps a class factor? Because it is not only that Dalits died, but also that they were the most poor, the completely landless, the extremely oppressed? Because those who were killed were not like us, middle-class, urban? The anger—and of course it was a rightful anger—that journalists and film-makers expressed over the murder of Delhi bartender Jessica Lal was absent for the women of Bathani Tola and
Laxmanpur Bathe? The anger over the debauched handling of the Arushi Talwar case by the police and the judiciary, the books and reams of newspaper columns that have been written about this one child, has not happened for the Dalit children of Bathani Tola, the Dalit children routinely massacred in this country.

Sometimes, there are crimes that are worse than silence. One of that is sophisticated victim blaming. Here is an example. After a landmark-benchmark-trademark-agmark-castemark judgment where a Reddy Judge acquitted all the Reddy murderers in the Tsundur massacre using the flimsy pretext of delay and lack of complete corroboration between the witnesses, the fortnightly magazine Frontline, that often pretends to be radical, doled out this advice:

“many feel that Dalit organisations should start looking inwards to understand why prosecutions were failing quite frequently even though dedicated human rights lawyers have argued these cases. They must pay more attention to pursuing cases vigilantly by filing proper first information reports (FIRs) and gathering unimpeachable evidence and witnesses’ accounts, which are crucial to ensuring justice.”

Brahmin media, then, is no different from the Brahminical judiciary. We cannot expect this Brahmin media to wake up to reality and start accusing the courts of their casteism.

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69 In all fairness, Frontline has been one of the few Indian media outlets that have covered caste atrocities with the attention that it deserves. I personally grew up reading S.Visvanathan’s coverage of massacres and violence against Dalits in Tamil Nadu, and the magazine documented a lot of things that were otherwise ignored by the mainstream press. This particular patronizing quote is from Tsundur’s Agony, Frontline, 30 May 2014. Accessible online: http://www.frontline.in/social-issues/tsundurus-agony/article6004571.ece
What we have here is the system of Manusmriti--where every caste gets a different justice, and the outcastes get no justice at all. You can give them the laws of Manu, and the justice is the same. You can create colonial laws under the British, you can start a jury system, and the justice is again the laws of Manu. We can create the modern courts, we can have a Dr. Ambedkar who burnt the Manusmriti, we can have an Indian Constitution, and yet, our courts behave in the same way, they dole out the same Manusmriti justice.

Let us not forget, that Justice Dave of the Supreme Court of India can quote Manusmriti to send Yakub Memon to the gallows.\(^70\) One day, on the dusty tomb of the Indian judiciary, we might well inscribe the epitaph: *Descended from Manu, here lies the legal arm of the caste system.*

This deep-rooted connection between Hinduism and the Indian state is something that cannot be ignored. This is the Hinduism of the Indian state which makes them circumscribe the category of Dalit within Hinduism. In the Tsundur judgment--which is fast becoming a textbook case of how the courts handle caste atrocities--watch the mischief of the judges who take time to point out:

> “Almost every witness examined by the prosecution, hailing from the Village pleaded that he is a Hindu Mala or Madiga. The defence cross-examined the witnesses at length to prove that they have been converted into Christianity.”

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\(^70\) According to news-reports, Justice Dave recalled verses from Manusmriti to state that the king, must punish the sinners or the sin will fall on him. An Indian Express new item (accessible here: [indianexpress.com/article/india/india-others/yakub-memon-death-plea-sc-bench-differs-on-execution-refers-plea-to-larger-bench/](https://indianexpress.com/article/india/india-others/yakub-memon-death-plea-sc-bench-differs-on-execution-refers-plea-to-larger-bench/)) refers to his remarks made to the defense lawyers of Yakub Memon, “I hope you know who you are trying to save.” The religious slant brought into this act of sentencing was distasteful, and unbecoming of a judge of the Supreme Court of India.
Does it matter? Did the fact that the Dalits were Christian or Hindu matter in the slightest regard when it came to their massacre? The sooner we wage a successful struggle to ensure that Dalit Christians and Dalit Muslims are given the same rights as Dalits—we cannot prevent Kandhamals\textsuperscript{71} and Eraiyurs\textsuperscript{72} from happening. Such a poisonous mindset not only percolates from the judiciary into the wider society, but also fans the already existing hatred. We already have caste-Hindu politicians like S. Ramadoss of the Pattali Makkal Katchi, who have become emboldened enough to seek the repeal of the Prevention of Atrocities against SC/ST Act, and building a coalition of similar caste-Hindu groups in Tamil Nadu to give momentum to this demand.\textsuperscript{73} The mere existence of such an act—a paper tiger in its most majestic moments given the caste nature of the judiciary—becomes an affront to caste supremacy.\textsuperscript{74}

\textsuperscript{71} In Kandhamal in Odisha, in the violence that happened in the days following Christmas 2007 until New Year 2008, by Hindu fundamentalists led to the loss of life of more than 50 (mostly Dalit) Christians, the burning of nearly 700 homes and the ransacking and destruction of nearly a 100 churches. Women and minor girls who were Dalit Christian were raped, and their bodies were burnt to hide the signs of sexual violation. Justice continues to elude the people of Kandhamal, and the incident seems to have disappeared from public memory.

\textsuperscript{72} Dalit Christians in Eraiyur have been ostracized and treated in a discriminatory manner by the Vanniyar Christians at Eraiyur. These include not allowing Dalits to use the main entrance to the church, but a side-gate, not allowing them to enjoy equal treatment. At the same time, the Archbishop failed to give official recognition to the chapel built by the Dalit parish in Eraiyur. Dalits went on an indefinite fast, and on the third day of their fasting, their village was attacked by Vanniyar Christians on 9 March 2008, injuring several Dalits and causing extensive damage to property.

\textsuperscript{73} Apart from consistently making a hue and cry about the alleged misuse of the SC/ST (Prevention of Atrocities Act), Ramadoss of the Pattali Makkal Katchi has also sought vital sections of the act to be dropped, including sections that warrant non-bailable arrest of offenders.

\textsuperscript{74} The conviction rate under the Prevention of Atrocities to SC/ST Act has remained under 30\% according to statistics released by the Indian Government. [http://pib.nic.in/newsite/PrintRelease.aspx?relid=115777](http://pib.nic.in/newsite/PrintRelease.aspx?relid=115777)
Since I mention Tamil Nadu, I shall also immediately touch upon something which is very important to me as a Tamil—the reservation policy, which is enshrined in India’s Constitution to ensure affirmative action in favour of Dalits and others.

This might be beyond the ambit of my lecture, but the caste-infested mentality of the Courts are betrayed not only in the cold-blooded manner in which they exonerate the caste-Hindu murderers, but also in the frenzy they adopt to prevent the benefits of reservation policy from reaching the Dalits, Adivasis and the Other Backward Classes.

When the Dalit revolutionary Ayyankali opened a school for Pulayar children in Venganoor because they were being denied admission, the caste-Hindus burnt his school down. The urge to prevent Dalits and other oppressed communities from achieving the benefits of education has never been lost in all these years. The hate-hate story of the judiciary—reservation policy is a long epic of betrayal. Several judgments, from the High Courts and the Supreme Courts will attest to it. Even two days ago, Justice Deepak Mishra, of the Supreme Court of Caste Discrimination, spoke about the need to scrap reservation in higher education citing “national interest.”

Again, we observe, how national interest is not national interest—but basically Brahminical, caste-Hindu, ruling-class interest.

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Let us not be careless and complacent, and think that the education which is being denied to the Dalits and the oppressed people is some kind of bourgeois education, an education that is not going to radically empower the people, an education that does not prepare one for revolution. Let us not also sit on the high pedestal of academia, and reduce education into one medical seat, or one cut-off mark, or some stupid notion of merit.

Education is intrinsically linked to revolution. It is not for nothing that the Brahminical Hindu social order tries to prevent the Dalits from gaining access to education.

Writing on the preservation of social order, Dr. Ambedkar notes:

“The outbreak of a Revolution is conditioned by three factors.

(1) The existence of a sense of wrong,
(2) Capacity to know that one is suffering from a wrong and
(3) Availability of arms.

The second consideration is that there are two ways of dealing with a rebellion. One is to prevent a rebellion from occurring and the other is to suppress it after it has broken out.

The third consideration is that whether the prevention of rebellion would be feasible or whether the suppression of rebellion would be

For an excellent critique of education and how it has been used as a tool to preserve bourgeois ideology, refer to Alain Badiou’s *The Communist Hypothesis* (Verso, 2010). He conceives the educational system as the institution “that was always given the task of overcoming the following contradiction: how can the theoretical consciousness of ever-expanding groups be heightened without calling into question the supremacy of bourgeois ideology, which is based upon ignorance and intellectual repression?” (p. 73) Even as much as a Marxist critique of what constitutes education needs to be undertaken, it is even more pressing and urgent to democratize these structures and make them inclusive, and to ensure that Dalits and other oppressed people, including women, can enter into higher education.
the only method open, would depend upon the rules which govern
the three prerequisites of rebellion.

[. . .] The Hindu Social Order has adopted [. . .] has fixed the
social status of the lower orders for all generations to come. Their
economic status is also fixed. There being no disparity between the
two there is no possibility of a grievance growing up. It has denied
education to the lower orders. The result is that no one is
conscious that his low condition is a ground for grievance. If there
is any consciousness it is that no one is responsible for the low
condition. It is the result of fate. Assuming there is a grievance,
assuming there is consciousness of grievance there cannot be a
rebellion by the lower orders against the Hindu Social Order’
because the Hindu Social order denies the masses the right to use
arms.”

This is the reason why the merit argument is used, the national
interest argument is used, the youth-for-equality argument is used. This
threat of a revolution is the reason why the state uses every power to
thwart the reservation policy. This threat of revolution is the reason why
education, in the rare cases where it is provided to the Dalits and other
oppressed people, is often tied up to heavy bank-loans, so that even an
awakened individual is a victim of the debt trap.

If you look at Dr.Ambedkar’s analysis carefully, you will also
understand that this is also why any political group that advocates the
right to the oppressed people to use arms in their own defence, and in
the defence of their own rights, is banned from functioning in this
country. This is why we have Operation Greenhunt. Sorry for having

78 Dr. B R Ambedkar, *Preservation of Social Order*,
http://www.ambedkar.org/ambcd/58.%20Preservation%20of%20Social%20Order.htm
strayed so far away, and already ended up in the Red Corridor. Let us come back to these courts, these citadels of caste power.

There may be a few who believe that it is the chair that decides, the chair that hears both sides, the chair that passes judgments, and hence stay away from making any comments about the nature of work the chair does or the kind of discrimination that it perpetuates. There might be a few people who really believe that among these chairs, there is no space for individual bias, because, well, chairs after all are chairs.

Unfortunately, these chairs, we have learnt from bitter experience also wear the sacred thread and other markers of caste. These chairs flaunt their caste surnames. These chairs alone select other chairs\textsuperscript{79}—you see it is a matter of taste—and for this selection procedure they go shopping once in a while. Of course, speaking about the choice of chairs can cause great offense and hurt sentiment. Sometimes, it can even invite the boundless wrath of the chairs, who might slap you in the most chairly fashion possible and abuse you with the chairest curses.

It does not take a lot of effort to unmask the chairs, to show their true caste colours. In fact, this project has been undertaken not by foreign-funded NGOs, or that so-called greatest internal security threat that is seeking the overthrow of the Indian state, but by the National Commission of Scheduled Castes itself. But before I go on to that

\textsuperscript{79} This system, otherwise called the Collegium system—where an apex body of senior judges presided by the Chief Justice of India select other judges—is presently at work in the Indian judiciary. Even as there have been cries about its opacityness and lack of transparency, others have boldly pointed out that this favours only “high” caste candidates. Justice CS Karnan for instance has alleged caste bias in this system and has called for it to be rooted out “lock, stock and barrel.” The National Commission for SC/ST has called the Collegium an “extra-constitutional authority.”
report, let us hear a little from Justice Ratnavel Pandian, in 1993 in the
Supreme Court Advocates-on-Record versus the Union of India case:

“I venture to express that the right of entry into superior judicial
office is not the exclusive prerogative of any particular coterie or
privileged class or group of people. To say differently, it is neither
inheritable nor a matter of patronage. The above view of mine
regarding inadequate representation of various sections of people is
neither illusory nor imaginary but is the actual and real existing
fact.”

“On the basis of the above statements, as on 1-1-1993, out
of 18 High Courts in the country, 12 High Courts are without a
single Judge belonging to Scheduled Caste and 14 High Courts are
without a single judge from Scheduled Tribes. The backward
classes are also not better placed and only 6 High Courts are
shown to have Judges belonging to OBCs and 12 High Courts are
without a single Judge belonging to the OBCs.

However unpalatable the above scenario may be to some, it
is nevertheless a ground reality. Our democratic polity is not only
for any self-perpetuating oligarchy but is for all people of our
country. If the vulnerable section of the people are completely
neglected, we cannot claim to have achieved real participatory
democracy.”

Eighteen years later, when the National Commission for SC/ST
got to find the ground reality, it was observed that are only 24 judges
belonging to SC/STs against a total of 850 judges in all High Courts.
Out of the 21 High Courts, 14 High Courts do not have a single judge
from the SC/STs. As of 2011, when the Commission published its

80 Paragraphs 324 – 330, where these points are made. Supreme Court Advocates-on-Record
Association and another versus Union of India, judgment dated 06 October 1993. Available
online at http://indiankanoon.org/doc/753224/
report, there was no SC/ST judge in Supreme Court with its strength of 31 judges.\textsuperscript{81}

Taking a strong and committed stand against this exclusion the Commission made it clear that the only remedy was to initiate a firm policy of reservation in the judiciary, and called upon the Government to change its policy of “running with the hare and hunting with the hounds.”

One of the highlights of the report was the manner in which it called out the judiciary for its discriminatory treatment of judges belonging to the SC/ST communities. Sharing the story from Chattisgarh where 17 district judges, all belonging to the SC/ST Community where removed, when they had 5 to 10 years of service left, the Commission pointed out that this was merely because they were maturing for elevation as High Court judges. It took issue with the way Justice CS Karnan of the Madras High Court was being treated.\textsuperscript{82}

The Commission report also observed that the Bombay High Court and Delhi High Court have not followed the policy of reservation for the last 61 years. The Madras and Rajasthan High Courts did not follow any policy of reservation for SC/ST in the case of Gazetted and Promotion-based posts.\textsuperscript{83} It is important to note that the unmasking of the caste nature of the judiciary did not merely stop with head-counts. Pointing out the manner in which the justice delivery mechanism failed the Dalits, and the double-standards adopted by these legal institutions, the Commission observed:

\textsuperscript{82} Ibid. p. 2
\textsuperscript{83} Ibid. p. 7
“Supreme Court took *suo moto*\(^8^4\) cognizance of the police action against Baba Ramdev and his followers in Delhi Ramlila Maidan on 4 June 2011—in which there was no casualty. Such *suo moto* actions are taken by the courts in other cases also. On the other hand, there are so many cases of kilings and other cases of atrocities or social boycott of SCs throughout the country, but High Court/Supreme Court have hardly taken *suo moto* action in such cases.”\(^8^5\)

Finally, the Commission reserved its parting comments to these upholders of merit, these Courts that live merit and breathe merit and speak merit, and exposed the casteism inherent in the appointments. This is not some tramp-writer who is casting aspersions about your meritorious courts, but this is from an apex body.

“About 67% of the appointments are made out of the advocates practising in the courts. An analysis of the appointments made in the last six decades would show that the appointments revolve around a few families only even among the privileged sections of the society, who do not constitute even 1% of the country’s population. To perpetuate the hereditary system, which is akin to the system of archakas and village officers, career of the persons belonging to the families and acquaintances of the judges, who are already holding posts in High Courts and Supreme Court is nurtured very carefully from the very beginning.

In North India, advocates belonging to these privileged sections are appointed to the superior courts in their 40s keeping their ultimate eye on the Chief Justiceship/Justiceship of the Supreme Court. To build the necessary atmosphere, encomiums are paid to them in the judgment etc. while they work as a layer

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\(^8^4\) *suo moto* in the Latin literally means, on its own motion. In Indian legal terminology and the popular press, it is used refer to instances where the courts initiate a legal process on their own, without someone having to approach the court asking for relief, directives or injunctions.

before their appointment to the courts. Judges from the weaker section are invariably appointed in their 50s and are thus kept out of consideration on the principle of seniority, which along with merit was propounded as theory behind the appointments. No tests are held for assessing the merit of a person though, and appointments are made simply on the recommendation of the concerned Chief Justice.86

It would be naive to imagine that merely affirmative action will radically alter the character of the Indian judiciary overnight, but it will, no doubt change its composition. This leaves us with one last question: Can a Dalit judge do justice under the existing state structure? Can even a Dalit police officer work unimpeded and bring a culprit to book. In the Gokulraj murder case, where a young Dalit man was beheaded by caste-Hindus for daring to talk to a girl from the dominant intermediary caste, the investigating officer was a brilliant Dalit officer Vishnupriya. She was all of 27-years of age. She came under pressure from higher officials to implicate innocent people in the case, and to let go of the criminal mastermind and perpetrator Yuvraj. Unable to bear the pressure, unable to cope with the act of arresting innocent people, she decided to take her own life.87 There is no doubt that Dalit judges also will come under similar pressure and similar threats.

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86 Ibid. p. 18
87 Deputy Superintendent of Police (DSP) Vishnupriya committed suicide in her office on 18 September 2015 because she came under pressure to implicate innocent people in the murder of Dalit youth Gokulraj. Yuvraj, a Gounder muscleman who headed the caste outfit Dheeran Chinnamalai Peravai, had abducted Gokulraj and later killed him because he had dared to talk to a girl of the Gounder caste. The state government and the entire police officials, barring Vishnupriya’s close friend DSP Maheswari, tried to cover-up the reasons for her suicide, and the establishment’s protection to Yuvraj, who was absconding and refusing to surrender.
We can revisit our oft-visited atrocity spot, Tsundur to see what happens when a Dalit judge is asked to sit in judgment over a Dalit massacre. This is from the book *Tsundur: An Atrocity and its Aftermath*

“Dr. Prabhakar Rao was appointed as the Special Court Judge. The defence counsels also threatened in open court that if Rao continues to be the Judge, they would stop defending their clients and the judge was free to conduct the proceedings in their absence.”

This is the nature of the judiciary. Where only caste Hindus can deliver a caste justice on behalf of other caste Hindus.

Where do we begin to show our anger? When do we bring these judgments and burn them in a public bonfire, to show that this kind of caste-justice will not be carried out in our names, carried out under this Constitution? How do we avenge our dead? Will it not be the last wish of each of the victims of each of these massacres, who died in a state of unforgiving terror that the cold-blooded, caste fanatic police and judges who betrayed them, who made it possible for the guilty to escape be sent to jail, to spend time along with the murderers?

The failure of the judiciary is only one half of the story. When justice delivery mechanisms fail, when courts stand exposed as an extension of khap panchayats and caste institutions, people are forced to take justice into their own hands, they have to pursue their own methods to get a fair deal.

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Let us not forget that no matter how convinced the Madras High Court was about his innocence, and how impressed they were with the vast tracts of land which he owned and the Ambassador that he drove, that in spite of the heavy political clout that he enjoyed with the Congress Party, Gopalakrishna Naidu, the butcher of Kilvenmani was killed in retaliation to the massacre. What survives, in the form of an oral legend in those parts, is how his body was hacked into forty-four pieces, wrapped up in palm fronds, and distributed among those who had lost their families. What happened to Brahmeshwar Singh, the chief of the Ranvir Sena, the butcher of Bihar? He was killed as well.

There are limits to which this justice system, this police state, this caste society can shield these murderers from the wrath of the people. It took 12 years to avenge Gopalakrishna Naidu. But on the 14th day of December 1980, people delivered the justice that the courts had failed to deliver. In the case of Brahmeshwar Singh, could not survive a year after he was let out of jail.89 This could not have happened if only there was a properly functioning impartial judiciary.

This systematic denial of justice to the Dalit people is a genocidal hate. Yes, I use the word knowing that it will not hold in a court of law, but nevertheless, there’s so smaller word to describe the macabre degree of hate that your courts reserve against Dalits. Of course, I give you the contempt that you have worked so hard to earn. I spit at you, because you have repeatedly, systematically, purposefully failed to deliver justice. I curse you because you have allowed the most fanatic caste-Hindu

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89 On 1 June 2012, he was shot-dead when he went on his morning walk by unidentified gunmen. He had been released on bail in 2011. His Ranvir Sena had massacred close to 300 Dalits and Naxalites in Bihar, earning Brahmeshwar the epithet “Butcher of Bihar”.

killers to walk away without any punishment. I wish you dead because you do not treat the life of a Dalit with any value or respect. I wish nothing grows on your tomb, because the remnants of a corrupt, caste-ridden institution like the Indian judiciary, cannot give birth to anything but poison of the worst kind. I dare you, I dare all the courts in this land, because you can send writers and dissenters and cartoonists to jail, but the men who massacre will be sheltered and honoured and feted. You kill the Constitution on an hourly basis. You trample upon the rights that were hard-won by people’s struggles. You forgive corporates for their loot, for their non-payment of taxes to the tune of thousands of crores of rupees, and yet, you turn a blind eye when Dalit people are criminalized for no fault of theirs, when young and innocent Dalit and Adivasi and Muslim men fill up your horrible prisons.

You lack any grand vision of justice. Your talk of being the epitome of judicial activism is nothing but I have read enough already to know that it is only empty advertising. You sit on judgments about the reservation policy, you call for it to be scraped, you even say that it is a privilege and that it is against national interest, when your own ranks, like Indian media houses, are Dalit-free zones. Just like the Nazis used the term *Judenfrei* to designate the Jew-free zones for areas that were “cleansed” of the Jews, you now want to make the higher education, and the judiciary in this country into Dalit-free zones.¹⁰ Let us not forget that

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¹⁰ I must credit the comparative usage of this expression to my friend and comrade Chittibabu Padavala. In the immediate aftermath of the Dalit journalist Koppula Nagaraju’s death, we were discussing the state of India’s media houses that completely excluded Dalits, and he suggested this term. I use the term here, in a similar manner, to refer to the systematic exclusion of Dalits from the higher judiciary in India, and the continued efforts that are taken to keep Dalits out of higher education institutions in the country such as IITs, IIMs and AIIMS.
14 of the 21 High Courts do not have a single Dalit judge. Let us never forget that in the long history of the Indian Supreme Court, only four, yes only four judges have belonged to the Dalit community.\textsuperscript{91}

You have become synonymous with injustice. Your pronouncements merely reflect your patriarchal, misogynist, casteist, feudal, Hindu-fundamentalist, corporate apologist, state-terrorist mindsets. Your judgments, over the course of decades, have made caste maniacs know that they can kill an entire village of Dalits without having to spend a day in jail.

To the girl from Suryanelli\textsuperscript{92} raped by 42 men over a 40 day period, the question that you unfailingly, unflinchingly ask: Why did she not escape when she had the opportunity? To the young Dalit man who survived the Tsundur massacre, you wonder why he got himself admitted in a hospital without informing the police. To the Dalit man

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\textsuperscript{91} This was the state of affairs when the National Commission for SC/ST came up with its study on \textit{Reservation in the Indian Judiciary} in 2011.

\textsuperscript{92} This refers to the kidnapping and systematic gang-rape of a 16-year-old girl from the small town of Suryanelli in Kerala on January 16, 1996. She was abducted from her school hostel in the Idukki district, and from there onwards, over the course of the next 41 days, she was transported throughout Kerala and Tamil Nadu where she was subjected to rape on 67 occasions. The high-profile, and shocking case met with a callous judiciary. News reports document the kind of questions she was subjected under the guise of cross-examination: “How many pairs of underwear did you have?” or “Did you underwear get torn when you were raped?”, and including suggestions that the rapes were consensual. The trial judge sentenced all the 35 men who were identified and accused in the case, but the Division Bench of the High Court overturned that order. Part of the reason the legal establishment did this was because of the involvement of PJ Kurien, a former Union Minister, and who was a part of the Congress Party that was then in power in the state. In later days, the same PJ Kurien would chair the Parliament of India when the rape ordinance would be discussed. Not only were the accused allowed to walk away, but the High Court judges also launched a full-fledged character assassination of the victim. Incidents from childhood such as bed-wetting was used against her, and she was labelled a woman of “deviant character”. Their grand theory was that she needed money for her needs, holding that the rapes were instead, consensual sex. The trial was reopened following a directive from the Supreme Court, and the girl’s fight for justice continues even as this is being written.
from Bathani Tola, who has witnessed the murdered corpses of his family, you will ask why he took time to make a complaint. This casteism, this complete heartlessness is your true face.

While you are at it, you will also elucidate your grand truths.

Upper-caste men would not have raped a Dalit woman. A land-owning *mirasdar*, who also owns a car, would not have walked to a village to set it on fire. A murderous caste mob would not have allowed male survivors. A mob of landlords set fire to a locked hut with forty-four people but they did not have the intention to kill.

Please keep your injustice to yourself.

I too believe in the revolution like Comrade Anuradha Ghandy did. Unlike her, I do not know where the revolution will being in India. But wherever it begins, the revolution will replace your courts, no later than by the first sundown. I want to remind the courts in this country of that famous slogan: No justice, No peace.

Red Salutes.