

# The Nanavati Report: Its Impact and Consequences

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*@ HKL Bhagat has since passed away.*

The Nanavati Report requires no knowledge of law to make comment on it. It was the 9th Commission to find out the truth in 20 years, excluding two unofficial Commissions, regarding the riots in Delhi - in fact, the genocide of the Sikhs. This report can really be called the 9th coating of white wash for whatever truth was left during the last 20 years. Even an honest Third Class Magistrate could have written a better report than this one. It is beyond the comprehension of any person who has basic knowledge of law to understand, how Justice G.T. Nanavati, a former judge of the Supreme Court of India, can say that no probe regarding H.K.L. Bhagat is required because he has seriously fallen ill and admitted to the hospital. Very strange reasoning, coming from a former Judge of the Supreme Court. @ It is really embarrassing and, in fact, it puts a question mark on the independence of judiciary, appointment of judges and their conduct on the bench. Such a report was expected from Nanavati, looking at his conduct of going on T.V. before the General Elections in the country, to say something of what would be there in his report. This type of conduct of a former Supreme Court judge tells volumes about the nature of this report.

Khushwant Singh, the well-known journalist and historian of the Sikhs, commenting upon Nanavati's Report says, '**It is utter garbage**'. "Nanavati made broad hints about the involvement of Congress leaders HKL Bhagat, Jagdish, Tytler, Dharam Dass Shastri and Sajjan Kumar. He gives them the benefit of doubt and suggests yet another inquiry commission to look into the charges against them. **Yet another commission? For God's sake, is he serious?**" Even A.G. Noorani, a distinguished advocate and jurist, in his article, 'Such forgetfulness - Matters of Policy', brings out the true facts regarding all the inquiries and commissions so far constituted for political purposes only, not to find out the truth. Neither the Congress nor the BJP have the courage to face the important persons at positions of power, when grave injustice was inflicted on the Sikhs in 1984, changed sides and became part and parcel of the BJP when Nanavati Commission was constituted. Dr. P.C. Alexander, the then Principal Secretary of the Prime Minister and Arun Nehru, Minister for Internal Security at that time, both joined BJP and are members of Rajya Sabha to take care of the interest of the Congress and the BJP. Surprisingly, both these persons were never summoned by the Commission, nor the opportunity of cross examination was given to the victims of 1984, who were still waiting for justice and hoping after hope. His following remarks bring out the real picture:

'Neither the Congress government in 1985 nor the BJP in 2000 was interested in knowing the truth. Nor were the judges, they had nominated. Misra J. was made head of NHRC by Rao. With the BJP's approval in the appointments committee, he became a Congress MP. It would be interesting to watch Nanavati J.'s career graph'.

Surprisingly enough, the first and the second report made by two independent commissions, i.e. 'Citizen's Commission' and 'People's Union for Democratic Rights and People's Union for Civil Liberties', published in 1984 itself, were not taken into account. The members of the Citizen's Commission were - Justice S.M. Sikri, Former Chief Justice of India; Sh. Badr-ud-Din Tyabji, Former Commonwealth Secretary & Vice Chancellor, Aligarh

Muslim University; Sh. Rajeshwar Dayal, former Foreign Secretary, Visiting Fellow, Oxford University; Sh. Govind Narain, former Governor of Karnataka; Sh. T.C.A. Srinivasvaradan, former Home Secretary. Similarly were the distinguished members of the second Commission. All these persons were of impeccable integrity and high intellectual honesty.

The gravity of the crime committed during those dark days clearly comes out from the case histories mentioned in their report. The involvement of the Congress leaders is clearly mentioned, and to give the real feel of what had happened during those three days, reading of one case No.6, would be good enough:

'... ... While the (Congress) block pradhan identified Sikh houses and urged the mobs to loot, burn and kill, the women were herded together into one room. Some of them ran away but were pursued to the nearby nallah where they were raped. Their shrieks and cries for help fell on deaf ears. From among the women held in the room, the hoodlums asked each other to select whomsoever they chose. All the women were stripped and many dishonoured. She herself was raped by ten men. Their lust satisfied, they told the women to get out, naked as they were. For the fear of their lives they did so, hiding their shame as best as possible. Each begged or borrowed a garment from relenting neighbours and sought shelter wherever they could'.

Is it not a crime against humanity? And the perpetrators of these crimes have gone scot-free for 21 years! Himself ignoring all the vital evidence against the important people (Lt. Gen. Jagjit Singh Aurora, Khushwant Singh, I.K. Gujral, former Prime Minister of India, Amarjit Singh Brar, Commandant of C.R.P.F in Delhi and many other) and, this Nanavati is still proposing another Commission, perhaps expecting the dead people to come to depose before that Commission. **Is it not the biggest joke with the Sikhs?**

In April, 1987, People's Union for Democratic Rights and People's Union For Civil Liberties, published a critique of the Mishra Commission Report on the riots in November, 1984. This report brings out the true nature of Mishra report:

'The arbitrary decisions and functioning of the Commission made the inquiry a one-sided affair. This feature perhaps explains the fact that of the total number of the affidavits (2905), as many as 78 per cent (2,266) are classified as "affidavits against the victims" (Vol. II, p. 3). This preposterous category called affidavits against the victims, in an inquiry into a carnage in which thousands of people were killed, it should be noted, is an innovation of the present Commission. If the context in which the Commission was appointed damaged the standing of the Commission in the perception of the public the procedures adopted by it contributed to its complete loss of legitimacy even before it submitted its report.'

Same is also true of Nanavati report. Not even a few questions find answer in this report, to the 36 questions raised by the late Justice R.S. Narula, a former Chief Justice of Punjab and Haryana, in his well researched article, The Ghalughara-1984, published in '*The Sikh Review*' of Sept. 2000, immediately after the creation of Nanavati Commission in May 2000. This was really unlike a Judge's conduct for Justice Nanavati.

Harsh Sethi, an intellectual and a journalist of repute, makes appropriate comments on the Nanavati Report in his back page article of *Seminar* issue of September, 2005. I find it difficult to improve, what he has said, therefore, I borrow his words:

'Clearly what we saw in 1984 and subsequently was more than the failure of the state; it was a precursor to what is likely to happen in the other high-profile case of ethnic cleansing with state complicity if not sponsorship, Gujarat. **In their thinking and action, there is today little to choose between the Congress and the BJP, the 'secular' parties and their 'other'.**\*

People will, as they must, move on. But if that is all that is made available to them, a

recourse to the politics of memory rather than justice, then not only is there no reconciliation, there is also a heightened cynicism about the state and rule of law. Even as our political class scurries to save its own skin, it's worth considering whether, at this rate, there will be much to save.' Nothing more is required to be said on the fall out of such a situation created for a short term political objective.

After the publication of Nanavati Report and its tabling in the Parliament along with the Action Taken Report, strong protests were raised in the media as well as on the T.V. for the injustice done to the Sikhs. The media made a pointed attack on the Government for days together and this broke government's resistance to take any action against the guilty persons. The first important head to roll was that of Jagdish Tytler, making him to resign from the Union Cabinet.

The climax of the whole episode came when the Congress made a helpless Dr. Manmohan Singh to apologize to the Sikhs for whatever had happened during the riots of 1984. It is ironic – if not bizarre - that after 21 years a Sikh Prime Minister had to apologize to the Sikhs, when seven earlier Prime Ministers since 1984 did not think it proper and necessary to do the same. However, nothing concrete has been proposed to be done to heal the wounds of injustice of the Sikhs.

Surprisingly enough, the Sikhs are being asked to forget the past, and 'move forward', joining the main stream of the Indian Society. **The rulers of India are forgetting that nothing rankles more in the human mind than the brooding sense of injustice.** The people can forget their illness but not the injustice done to them for generations.

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