



By ALBERTINA ALMEIDA

Ashpak Bhengre: An Alert Against Manufacturing Consent

Who killed Ashpak Bhengre while he was lodged in Colvale Jail? That is something the police are supposed to investigate and it is not the domain of this author to guess. It is said that a fellow inmate assaulted him, but many have reasons to think that this fellow-inmate was actually the executer of a contract killing.

But *what* killed Ashpak Bhengre? A cold and calculating State, that is happy to manufacture consent for violation of human rights, by inveighing against someone with regard to whom there is popular middle class disapproval. And an indifferent society. So Ashpak Bhengre is seen as dispensable. So we slip from no one should be assaulted or killed even in custody, in fact certainly not while in custody, to some 'bad' people can be killed in custody, in a way that it no longer shocks the conscience of humanity.

It moves then to the argument that he can be killed by anybody, be it the State through its agents or a fellow citizen while the State glosses over the killing. So somebody decides that some people are dispensable, and the State is either actively complicit or turns a blind eye. This is the kind of attitude we are generally seeing vis-a-vis the death of Ashpak Bhengre in Colvale Jail.

Sometimes the State may violate human rights by commission and at other times by omission, that means by negligence, lack of due diligence, and sometimes both. In the case of Ashpak Bhengre, with murder in judicial custody, and the State almost looking the other way, the State can in fact find a way to legitimise torture because of the popular sentiment against him. This way, slowly, by justifying such a death, we provide the opening through which the State can justify all kinds of draconian and undemocratic acts, just as torture of some people begins to get justified.

The State then gets emboldened to commit acts that have the effect of asserting a fascist agenda of homogeneity, by repressing freedoms and even taking away life. It is about giving

legitimacy to systemic killings and torture, to justifying murders . We need to call out our prejudices against the person killed in custody that may cloud our thinking on the issue. The State also has to accept responsibility for gross failure of duty of care. We need to stress that torture is always wrong.

Today in the country we already have gau rakshaks portrayed as social worker vigilantes, wittingly or unwittingly sanctioned by the State, PM Modi's recent statement notwithstanding. How much time before decisions about who is dispensable will be taken by these very people or the likes of them? Despite the fact that the basic principle of human rights is that everyone is equal before law, and no human being can be subjected to torture?

Voices need to be raised. Our silence about Ashpak Bhengre's murder will end up being the proverbial foot in the door, through which the State will then justify the dispensability of political dissenters, those that it has profiled as terrorists, those convicts who are yet to have the opportunity of proving their innocence at an appellate stage.

A quick run down memory lane will remind us about Abdul Gaffar who was killed in custody in the mid 90's. The Government has a long history of introducing draconian laws in the name of countervailing circumstances. Ben Zuratovich has rightly called it the ticking bomb theory. To use his words in a paper 'Torture is Always Wrong', published by the University of Illinois Press in its Public Affairs Quarterly of April, 2008, "In a ticking bomb scenario, a known terrorist has planted a bomb and the only way to discover its location is to torture the terrorist. Those who advocate torture in such extreme circumstances are apparently not dissuaded by the artificiality of the examples on which they base their moral judgements, or by arguments that the existence of a power to torture in extreme circumstances means that the power will be used in other circumstances."

We cannot forget that torture has an uncanny knack of generating more torture or terrorism and counter-insurgency, if it is not addressed through due process of law. More importantly, we must remember that the Universal Declaration of Human Rights came to be conceived and eventually adopted in 1948 in the face of Nazi fascist torture. India is a republic whose Constitution guarantees the rule of law, whose Constitution under Article 14 guarantees being equal in the eyes of law, equal protection of the law, justiciability for wrongs committed to anyone, and remedies or punitive measures against any person who commits a crime,

after giving all parties concerned a fair hearing. By not standing up against custodial murders, we will only be paving the way for a disbanding of rule of law, and a justification of torture by whomsoever it may be, the individual or the State.

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