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Lucknow

U.D. Vidhan Salha

Ex-MP. / Ex-Minister

## 1984 के दंगाईयों को सज़ा गुजरात के दंगाईयों को सत्ता

अपने एक लिखित वक्तव्य में मो.आज़म खां ने कहा कि पूर्व कांग्रेसी सांसद सज्जन कुमार को 1984 के दंगों के आरोप में उम्र कैद की सज़ा सुनाई गई है, जो समाज में अन्याय करने वालों और क़त्ल-ओ-ग़ारतगरी फ़ैलाने वालों के लिए एक सख्त नसीहत है | माननीय उच्च न्यायालय दिल्ली ने अपने फैसले में यह भी ज़िक्र किया है कि न सिर्फ 1984 के सिख दंगों में बल्कि 2002 के गुजरात और मुज़फ्फर नगर दंगों में भी ठीक उसी तरह अल्पसंख्यक लोगों की हत्या कि गई जैसे अन्य दंगों में अल्पसंख्यकों को निशाना बनाया गया है अपराधियों ने राजनैतिक संरक्षण का उपयोग किया और बच निकले l

देश की दूसरी अल्पसंख्यक आबादी (मुसलमान) देश की न्यायिक व्यवस्था से यह जानना चाहते हैं कि वोह इस बात पर क्यूँ और कितना भरोसा करें ? और यह भी जानना चाहते हैं कि क्या माननीय उच्च न्यायलय गुजरात ने दंगाइयों के सिलसिले में जो निर्णय दिया, साथ ही एस.आई.टी. गुजरात और सी.बी.आई. ने दंगाइयों के नाम निकाल कर न्यायिक प्रक्रिया का सिर ऊंचा किया था या नीचा ? गुजरात के कमज़ोर मारे गए लोगों की लाशों पर उच्च संवैधानिक पदों पर बैठ कर क़ानून,संविधान और इंसाफ़ की जो धज्जियाँ उडाई गई वोह सही हैं या नहीं ? माननीय उच्च न्यायलय ने गुजरात दंगों को लेकर राजनैतिक और प्रशासनिक व्यवस्था पर जो टिप्पणी की है वोह सही है या नहीं ?

मो आजम खां ने सर्वोच्च न्यायलय से यह उम्मीद ज़ाहिर की है कि वह उच्च मान्यताओं का निर्वाह करते हुए माननीय उच्च न्यायलय दिल्ली की एतिहासिक टिपण्णी पर जो कि गुजरात तथा मुज़फ्फरनगर दंगों से सम्बंधित है उस पर सुमोटो संज्ञान लेने का कष्ट करेंगे ?

माननीय सर्वोच्च न्यालय के ऐसा करने से न तो कोई जिन्दगी वापस आ सकती है और न ही इन मज़लूम परिवारों की आँख से निकला आँसू लेकिन सर्वोच्च न्यायलय के द्वारा लिए गए इस संज्ञान से भविष्य में एक शांत और सम्रद्ध हिन्दोस्तान बन सकेगा | साथ ही आमजन

का भरोसा क़ानून की बालादस्ती पर और मज़बूत होगा |

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Lauterpacht, was Prof. Raphael Lemkin whose academic efforts were instrumental in bringing about the Convention on the Prevention and Punishment of the Crime of Genocide (the Genocide Convention) and Punishment of the Crime of Genocide (Weidenfeld & Convention) which has been ratified by India. In a book titled East West Street (Weidenfeld & Nicolana and Punishment of the Crime of Convention) which has been ratified by India. In a book titled East West Street (Weidenfeld & Nicolana and Punishment of the Crime of Convention) Nicolson, 2016) p. xxix, Prof. Philippe Sands explains the distinction between the two concepts as

"What is the difference between crimes against humanity and genocide?

Imagine the killing of 1000,000 people who happened to come from the same group.....Jews or Poles in the city of Lviv. For Lauterpacht, the killing of individuals, if part of a systematic plan, would be a crime against humanity. For Lemkin, the focus was genocide, the killing of the many with the intention of destroying the group of which they were a part. For a prosecutor today, the difference between the two was largely the question of establishing intent: to prove genocide, you needed to show that the act of killing was motivated by an intent to destroy the group, whereas for crimes against humanity no such intent had to be shown.... proving intent to destroy a group in whole or in part was notoriously difficult, since those involved in such killings tended not to leave a trail of helpful paperwork."

367.6. In India, the riots in early November 1984 in which in Delhi alone 2,733 Sikhs and nearly 3,350 all over the country were brutally murdered (these are official figures) was neither the first instance of a mass crime nor, tragically, the last. The mass killings in Punjab, Delhi and elsewhere during the countrys partition remains a collective painful memory as is the killings of innocent Sikhs in November 1984. There has been a familiar pattern of mass killings in Mumbai in 1993, in Gujarat in 2002, in Kandhamal, Odisha in 2008, in Muzaffarnagar in U.P. in 2013 to name a few. Common to these mass crimes were the targeting of minorities and the attacks spearheaded by the dominant political actors being facilitated by the law enforcement agencies. The criminals responsible for the mass crimes have enjoyed political patronage and managed to evade prosecution and punishment. Bringing such criminals to justice poses a serious challenge to our legal system. As these appeals themselves demonstrate, decades pass by before they can be made answerable. This calls for strengthening the legal system. Neither crimes against humanity nor genocide is part of our domestic law of crime. This loophole needs to be addressed urgently.

367.7. Elsewhere too, the legal systems of the world are grappling with crimes against humanity. The Supreme Court of Bangladesh, in Abdul Quader Molla (supra), considered the appeal of the government against the acquittal of the accused of mass killing of Bangladeshi citizens committed in 1971 by sympathisers of the Pakistani Army. The trial commenced in 2009, 38 years after the incident, and concluded in 2013. The following observations of the Supreme Court of Bangladesh resonate with the fact situation in the present appeals:

"88. The investigation, prosecution, and adjudication of core crimes against humanity often take place years or decades after their actual commission. Such delay usually results as societies recovering from mass atrocity are faced with a variety of more pressing reconstructive needs; a fragile political environment; or a lack of