

## Foreword

It is now beyond doubt that the UPA government first leaked and then laid on the table of Parliament the Report of the Liberhan Commission with an ulterior, political motive. The objective was obvious. It wanted to distract the attention of the people from the hardship they were passing through because of the daily rise in prices of essential commodities, growing farmer unrest increasing threats from China and Pakistan, rise in the water and electricity rates.

The Report has ended into a fruitless exercise that has wasted the precious time and hard earned money of the aam aadmi. It has disclosed everything but the truth.

We decided to bring out this booklet to let the readers know the reality of the Report. We hope our readers will find it interesting to get to the bottom of the truth about the Commission and the intentions of the Government.

The Chapter "Neither Fair, nor impartial nor objective, only self-contradictory" is being published courtesy the Vishwa Hindu Parishad, which compiled the matter under the guidance of Shri Champat Raiji, Joint Secretary, Vishwa Hindu Parishad, assisted by Shri Amba Charan Vashishth, Shri K. K. Sharma, Shri Vinod Bansal and Shri Rakesh Upadhyay.

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## Who's guilty for the Leak - Home Minister or Commission?

A fruitless effort that ends up  
generating a new controversy

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By Prabhat Jha

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For what reasons and under what circumstances has the Report of the Liberhan Commission been 'leaked' before being laid on the Table of Parliament as per the mandatory requirement remain well-known even though efforts are being made to make them appear not known. Only two persons are responsible for the offence - the Union Home Minister (HM) or the Commission itself. The HM says he didn't; Commission says it didn't. The question arises: Then who did it and for what purpose in view?

Liberhan Commission Report is not a simple piece of paper; it is the result of deliberations for 17 long years. Who's responsible? Who's guilty? When the Opposition raised a great hue and cry, the UPA Government reaction was: The Report will be laid. That is not the answer to the question. The intentions of the Government are suspect. A wrong precedent has been established. It also puts the two institutions of the Home Ministry and Liberhan Commission in the dock. In these circumstances would it be wrong to conclude that the ruling party did 'leak' it deliberately in view of the elections to Jharkhand assembly? The hunch gets strengthened by the past record of UPA. Before the Gujarat Vidhan Sabha elections, it had similarly

leaked the Banerjee Committee Report on Godhra carnage.

Who was to benefit from the 'leak' of this report? Was the Commission to benefit from this leak in any way? The Opposition didn't have the report. Then who is responsible?

When the Opposition raised a great furore in Parliament over the 'leak', it was only then that the Report was laid on the table of the House the very next day. The Report was lying with the Government for quite some time. Why was this not laid earlier? The inference is clear. The intentions of the government were not honest.

People have the right to know as to what extent had the Liberhan Commission come to touch the bottom of the truth. Government does have a period of six months to lay the Report in Parliament. But why should it wait for all the time for the last day of the six month period and that too only to divert the attention of the people when felt cornered on the burning issues facing the country?

What has the country gained from the marathon proceedings of the Liberhan Commission which went on for 17 years? In the concluding part of the report, it has touched certain aspects of principles and given a long discourse on secularism.

It is worth recalling that the Liberhan Commission was constituted on December 16, 1992 and it was required to submit its report within three months. Had the report come at the right time within the stipulated period, people would have benefited from the reaction of the then Narasimha Rao government.

From a perusal of the Report it transpires that the Commission digressed from the task assigned to it and concentrated more on extraneous matters. The Report has lost its relevance and utility after 17 years. Yet, our legal experts say that the Report is a fact-finding document. But where are the facts in the Report? It is full of opinions, speculations and recommendations. Can anybody sift the facts in the Report?

Has the Commission gone through all the factual aspects in its quest to go to the bottom of the truth? Had it done so, it could not have afforded to ignore what appeared in the media at that time. In September 1997 late Shri K. R. Malkani had said that ISI agents had infiltrated into the *kar sevaks* and pulled down the disputed structure. Did the Commission summon Shri Malkani to know his version?

In the terms of reference, the Commission had been asked to go into the circumstances that led to the demolition of the disputed structure. In the Report, the Commission has concentrated less on this aspect and whiled away its years in caring for other extraneous matters with which it was concerned the least. Instead of coming out with facts, the Commission has turned the Report into a treatise of sermons. That is why the conclusions drawn in the Report appear wrong and far from the truth.

Had the Report come out within three months, it would not have cost more than 5-7 lakhs. But in 17 years the cost to the country went up to eight crores. As a result the nation has been presented with a document that is partial, politically motivated and written with pre-meditated notions.

What was the role played by Shri Atal Bihari Vajpayee? If he was involved in any way, why was he not called by the Commission to present his case? In the Commission of Inquiries Act 1952 (Part 8 P) it is clearly provided that the Commission cannot hold a person guilty who is not present. Then how did Atalji's name figure in the Report? On Atalji the Commission has commented 22 times in the report. Can it be called right?

On the other hand, persons like Shahabuddin, who were in the forefront of the Babri Masjid movement, have not been found guilty of vitiating the communal harmony in the country. It is worth recalling that they are the persons who had given a call for boycott of the Republic Day celebrations in 1987. Why is the Commission silent on the

activities of such people? It is but natural that the Report should be charged with suffering from colour-blindness.

The Report gets exposed on its own when it exonerates the then Prime Minister P. V. Narasimha Rao of his involvement in any manner. It lets him off with just saying that he was used to day-dreaming. Not only that. No arm of the Central government at that time has been found guilty or charged with dereliction of duty. It is unbelievable that such a major incident, like demolition of the disputed structure, should take place and the Central government should not get even a smell of it. It is funny that the Commission does not stumble against involvement of the then Government at the Centre in any way.

Everybody knows, except the Liberhan Commission, that the Congress Party had held Shri Narasimha Rao guilty in the matter and as a punishment he was denied the party nomination for fighting Lok Sabha elections in 1998. Further, the Congress Party has two times sought apology for the disputed structure having been brought down -- first the then Congress President Shri Sita Ram Kesri and later Smt. Sonia Gandhi. But, surprisingly, Liberhan Commission is fully silent on the role of Shri Narasimha Rao and the Congress Party.

The Report says that after the demolition of the disputed structure, the demonstrators let loose a reign of loot and murder. More than 20 persons belonging to a single community lost their life. But why were they cremated secretly and in haste? What was their identity and to which country did they belong? Were they not the terrorists who had come from abroad? Police arrested 35 persons on the suspicion of organizing a riot but were later released in the absence of any proof. Why was TADA not invoked in their case?

The whole country knows that on August 14, 1988 the High Court had declared as undisputed Plot No. 586 adjacent to the disputed land. After this verdict on August 17 an agreement was signed between the then Home

Minister Shri Buta Singh and VHP leader Shri Vinay Katiyar. On November 7 the High Court stuck to its decision (but *Kar Seva* did take place in November). Next day the then Prime Minister Shri Rajiv Gandhi launched Congress Party's election campaign from Faizabad, the town adjoining Ayodhya and declared ushering Ram Rajya as his goal. Yet the Commission has felt shy of mentioning the names of Shri Rajiv Gandhi, Shri Buta Singh and Shri P. V. Narasimha Rao in the Report. The interesting part is that although the Commission has given various epithets to describe the role of various individuals, yet it has failed to nail the evidence against them. What type of inquiry is it?

To understand the Report in two lines, it only says that politics and religion should never be mingled under any circumstances and a provision for deterrent punishment should be made for people doing so to get political power.

In the Report, the Commission has given some political parties the opportunity to realize their political objectives, instead of undertaking a fact-finding mission. That is why the Report suffers from the absence of facts and is full of politicking only

How far has the Government been able to achieve the purpose for which the Liberhan Commission was established, can better be known only to the present Government. But the common man will only conclude that there can be no other instance of wastage of time and energy like this anywhere else. What was the result? The Report was 'leaked' before it was laid on the Table of Parliament. This deprived the element of seriousness from the Report. Ultimately, the Liberhan Commission Report has ended up giving rise to another controversy after a wait of 17 years, 400 sittings, 48 extensions and an expenditure of 8 crores. There has only been wastage and not a single gain to the country.

*(The writer is the BJP National Secretary and Rajya Sabha MP)*



## *Liberhan Ayodhya Commission of inquiry report*

# **Neither Fair, nor impartial nor objective, only self-contradictory**

The Commission was constituted with the following terms of reference to enquire into the following issues:-

1. Sequence of events leading to, and all the facts and circumstances relating to, the occurrence in the RJB complex at Ayodhya on 6th December, 1992 involving the destruction of the RJB structure.
2. The role played by the Chief Minister, Members of the Council of Ministers, Officials of the Government of Uttar Pradesh and by the individuals, concerned organizations and agencies in or in connection with the destruction of the Ram Janambhoomi-Babri Masjid structure.
3. The deficiencies in the security measures and other arrangements as prescribed or operated in practice by the Government of Uttar Pradesh which might have contributed to the events that took place in the Ram Janambhoomi-Babri Masjid complex, Ayodhya town and Faizabad on 6th December, 1992.
4. The sequence of events leading to, and all the facts and circumstances relating to, the assault on media persons at Ayodhya on 6th of December, 1992 and
5. Any other matter related to the subject of enquiry.

Preliminary observations:

**At Page 931, Para 162.2** of its Report, the Commission says: "There is no requirement that the media must be unbiased or independent or that it must not take sides". It

is for the media to decide whether to act according to this dictum of Justice Liberhan. But his Report certainly proves that he has acted according to it in letter and spirit. The honourable (retired) Justice has proved that for him there "is no requirement that (in this case, his Report) must be unbiased or independent or that it must not take sides".

The Commission took seventeen long years to present its final report. The Commission has cost the nation tens of crores of rupees (Rs. 8 crores his own wages). It has failed to come up to the expectations of the people. It has failed to dig out facts and serve the purpose for which it was constituted. The report appears to be the handiwork of a prejudiced mind was pre-determined to give the report on a particular persons and or institutions. The Commission seems to have decided beforehand to give a report selectively nailing some individuals and organizations and to give a clean chit to others. In the process, the Commission has ended up exposing itself more than exposing the truth behind the episode. The report stands punctured with numerous contradictions and anomalies.

It is important to note that the Commission rarely made on the spot visits where the alleged incident took place. Its report is paralyzed with the absence of spot visit and the fact that it has been written only in office. Further, the office of the Commission was declared by the Government of India to be in Lucknow, but it never functioned from there but from Delhi.

Went beyond the terms of reference:

The Commission in its report in **Chapter No. 14 (Conclusions) on Page 942,**

Paragraph No. 166.8 says...."The much repeated and much denied remarks attributed to Govindacharya.....

**Comments:** *It is absolutely misplaced and irrelevant to the terms of reference. The alleged comments are also reported to have been made (and also denied) much after December, 1992.*

**At Page No. 958, Para No. 171,** the Commission has listed as culpable, among others, persons, viz., Deoraha Baba, A.B. Vajpayee, Badri Prasad Toshniwal, Moropant Pingle, Onkar Bhave, Prof. Rajendra Singh, Gurjan Singh, G.M. Lodha, Champat Rai.

**Comments:** *But all these persons were never called to defend themselves by the Commission. If there was any evidence or proof against any individual, then it was a legal and moral duty of the Commission to have called them to present their case and defend themselves. As a judge of High Court he should have known that this was a primary requirement for justice under the law of jurisprudence and nobody could be held guilty unless given a chance to prove himself innocent.*

In this list, Commission has mentioned the name of Shri Pravin Togadiya also. On or before December 06, 1992, the sphere of activities of Shri Togadiya was limited to Gujarat only. So he was neither on the dais nor amongst the speakers on that day.

**At Page 931, Para 162.2** Commission says: "There is no requirement that the media must be unbiased or independent or that it must not take sides"

**Comment:** *Everywhere in the world in any form of govt. has anybody so far said that the media should not be free, fair, impartial and objective. The above comment of the Commission ventures to promote a fourth state that is unethical, irresponsible and not honest to itself.*

**At Page No. 935, Para No. 163.2** the commission says

"For instance, the intransigent stance of the High Court of Uttar Pradesh, the obdurate attitude of the Governor, the inexplicable irresponsibility of the Supreme Court's observer and the shortsightedness of the Supreme Court itself are fascinating and complex stories, the depths of which I must not plumb."

**Comment:** *This is a highly irresponsible comment by the Chairman of the Commission who himself was a judge of the High Court. This unbecoming comment*

*amounts to contempt of the Supreme Court. Interestingly, the Commission did not call the then Governor of Uttar Pradesh to appear before it. Yet, he made these disparaging remarks against the Governor. The Commission also failed to understand that he was only a judge of the High Court and a judge of the High Court has no right to comment on the superior Court, that is the Supreme Court.*

## Conspiracy

**At Page 917, Para 158.9** the Commission says ".....Prognosis of evidence leads to the conclusion that the mobilisation of the Karsevaks and their convergence to Ayodhya and Faizabad was neither spontaneous nor voluntary. It was well-orchestrated and planned....."

**But, at Chapter No. 1, Page No. 15, Para No. 7.4,** the Commission states

..."...no evidence was lead or information provided to the Commission with respect to the conspiracy or pre-planning or the joint common enterprise by any of these counsels..." (of the Muslim organisations).

In the same chapter in Para 7.5, the Commission adds ".....there was no effective participation on behalf of Muslims as a community or otherwise. No alternative theory or any version was put forth on behalf of the Muslims before the Commission..."

In the same paragraph 7.5, it states "...responsible educated literate citizens claiming to be the leaders of a particular community or the ones who participated in negotiations preceding the demolition etc. never came forward to disclose any material or fact in any form....."

**At Chapter 10, page 775, para 130.5,** the Commission says: "No documentary or direct evidence is possible in a conspiracy of this nature, nor unimpeachable and firm evidence of some action of planning of demolition was obtainable"

**At page 782 para 130.24** Commission says:

"....Home secretary Godbole stated that there was No information of planning and as such it could not be inferred that there was a conspiracy of the Congress & BJP for demolition,..."

**Comment:** *Then, on what grounds, evidence and justification has the Commission come to the conclusion that it "was well-orchestrated and planned".*

At the same time the fact needs to be taken note of that after demolition of the alleged structure on December 06, 1992 three organizations namely RSS, VHP and Bajrang Dal were banned through Government notifications under the Unlawful Activities (Prevention) Act, 1967 on 10th December, 1992. As per the requirement of this Act, a Tribunal headed by Justice P.K. Bahri, the sitting Judge of Delhi High Court, was constituted on 30th December, 1992. Being a constitutional body, after due trial, the Tribunal delivered its verdict on 18th June, 1993 which has been published by the Government in official gazette (The Gazette of India Extraordinary, Part-II, Section-3, Sub-section-II).

**At Page 71** of this gazette, the Tribunal holds "...It is pertinent to mention that PW-7 has categorically admitted that there was no material evidence to show that these associations had pre-planned the destruction of the disputed structure. It is admitted by PW-7 again that a video recording of the events which took place on the fateful day on December 06, 1992 at Ayodhya was prepared by the IB..."

**On page No. 72** in the same verdict Justice Bahri states "...even the white paper prepared by the Central Government does not support this theory of pre-planning for destruction of the disputed structure by these associations or their workers..."

It is worth mentioning that PW-7 was Mr. Padhi, a very senior officer of the Intelligence Bureau, who was authorised by the Government of India to present the case

before the Bahri Tribunal.

The above facts clearly establish the prejudiced mind of the Commission which has written its report in a pre-meditated manner. Justice Bahri was a sitting judge of the Delhi High Court and the Tribunal he was heading was a judicial body whose verdict was binding on the Government. On the other hand, the report of the Liberhan Commission has no legal binding on the Government and is just recommendatory in nature which the Government may or may not accept.

The Commission seems to have been suffering from the same ailments which it mentions on **Page No. 1, Chapter No. 1 (Introduction), Para No. 1.1** "...For some, the temptation of power is supreme. The usual means for acquiring power is through politics.

There is always an urge and quest to use politics for acquiring power and for one's own purpose -- nothing matters beyond political desirable results, however achieved. In the process of acquisition of power the consequence of the process on the institution, the nation, individuals and society as a whole does not matter. Life itself becomes politicised.

Objectivity or intellectual honesty or logic is lost in the process..."

**Comment:** *His words apply more aptly to the Commission itself. Despite government orders and wish, he never functioned from Lucknow. He stuck to Delhi with "an urge and quest to use politics for acquiring power and for one's own purpose".*

Supports Ramjanambhoomi

By accident or design, the Commission seems to have made some inadvertent observations which cannot be contradicted or controverted. He has ended up supporting the Ramjanambhoomi case:

**In Chapter No. 2 (Ayodhya & its Geography) page**

**No. 23 Para 9.1**, the Report says::

"Ayodhya is accepted in popular Hindu tradition as the birth place of the Hindu God Rama and is therefore regarded as a holy and historical city."

**Para 9.2:**

"Ancient Ayodhya was traditionally the epitome of Hindu life, culture and a paradigm of coexistence of a multi-religious society. It was a peaceful place with a regular influx of visitors, pilgrims, Sadhus and Sants, monks, travellers, tourists."

**Para 9.3::**

"Ayodhya was also known variously as Vishala, khosla(sic) or Maha Khosla, Ikshvaku, Ram Puri, Ram Janam Bhoomi"

**Para 9.4:**

"Ayodhya is of special and specific importance for the sect of Ram believers or those loosely term as the Ramanandis in Hindu Religion. The place was the place of unequaled pilgrimage for Hindus, Monks, travelers, pilgrims, sadhus & sants irrespective of their region & faith."

**Para 9.5:**

..."This Place had become emotive issue owing to its position as the birth place of Ram, a theme present in every facet of the culture, connecting the past with the present & the future. this religious fervour had kept the town for centuries alive after successive rulers had gone by"

**Page 25, Para-10.3**

"On the East of Ayodhya is Faizabad town with a population of about 2,10,000. It has a large number of temples mostly dedicated to the Hindu God Vishnu."

**Page-26, Para-10.10**

"The town is currently inhibited (sic) (inhabited!) With a multi-religious population consisting of Muslims, Buddhist, Sikhs, Christians, Jains, etc., but the majority of the population is Hindu. The temples were open to public

of all denominations."

**Page 29, Para 12.1**

"There are large numbers of temples, mosques, shrines, tombs, gardens and other religious monuments spread over a large area; rather, metaphorically it is said that in Ayodhya every house is a temple."

**Page 29, Para 12.2**

"Prominent temples were Sankat Mochan Mandir, Shakti Gopal Mandir, Shesh Avatar temple, Ved Mandir, Maniram Ki Chawni, Hanuman Garhi, Preethi Ke Thakur, Kanak Bhawan, Rang Mahal, Anand Bhawan, and Kasushalya Bhawan....."

**Page 32, Para 12.12**

"The topography and facts about Ram Katha Kunj, Ayodhya town or the Ram Janambhoomi complex or Ram Katha Kunj or the disputed structure are however not disputed. The facts are corroborated by NC Padhi in his statement with no contradiction."

Chapter-4 (Sequence of Events)

**Page 61, Para 18.6**

"In the year 1528, the Mughal Emperor Babar ordered his commander Mir Baqi to erect a mosque at Ayodhya. Protagonists of the present movement claimed that after demolishing the temple at the birth place of Ram, Mir Baqi constructed the mosque i.e. the "disputed structure."

**Page 61, Para 18.8**

"Worship of idols installed on the Ram Chabutra by Hindu devotees in general was performed for a considerable period. There was no objection from the Muslims staking the counter claim prior to the shifting of idols into the disputed structure in 1949.

**Page 62, Para 18.9**

"It is, however, not the Commission's mandate to record a finding with respect to the exact question of history and

a discourse on whether a mosque was constructed at the place of temple is outside the Commission's purview.

**Comment:** *Suffice to say, the construction of the mosque by Mir Baqi in 1528 is now an admitted fact."*

**Page 63, Para 18.13**

"Although, there was no order restraining the Muslims from going to the disputed structure or from offering Namaz therein either by the judiciary or from the administration, yet namaz was not offered at the disputed structure since 1934. No processions were taken out inside the disputed structure nor any grave dug there about."

**Comment:** *This clearly shows that the Commission indirectly confirms that a mosque was constructed at the site of the temple. Ayodhya is in existence since times immemorial while Babur came much afterwards and the mosque was constructed in 1528 CE.*

**Page 88, para 26.2 say:**

"...It is noteworthy that no member of the Muslim community from Ayodhya was a member of the Babri Masjid Action committee or other committee protesting the opening of locks at the disputed structure. Sultan Shahabuddin Owaisi, a Member of Parliament from Hyderabad challenged the opening of locks alongwith some others became a forerunner for taking on the Hindu organisation"

**Page 89 Para 26.4 says:**

"Muslims variously protested between 1st of January to the 30th of March, 1987. Apart from giving calls for, boycotting Republic Day (which call was later withdrawn), Bandhs were observed and a public rally held at Boat Club in Delhi. Public threats of violence were made by personalities no less than the Shahi Imam of the Jama Masjid, Shahabuddin and Suleiman Sait, etc."

**Comment:** *Yet the Commission fails to make any adverse comment on these individuals.*

Commission contradicts itself

**In Paragraph 158.3** the Commission says that it "...never became a movement...".

**Whereas, in Para 158.9 & 159.10**, it contradicted itself with the contention as to "...entire process of the movement" and "...leaders of the movement".

## Chapter 1 (INTRODUCTION)

### **Page 15, Para 7.3**

"Prominent members of the Muslim community claimed on behalf of their constituents, to be adversely affected by the demolition, in their sentiments and emotions. They claimed that their religious feelings were hurt. Initially various councils (sic) (counsels) representing the Babri Masjid Action Committee, Waqf Board, other Muslim organizations and individuals appeared and associated with the Commission before and during the framing of the Commission's rules."

### **Page 15, Para 7.4**

"Thereafter, it was in the last stages, i.e., almost after a decade, that the counsel for the Muslim Law Board joined the proceedings. Mushtaq Ahmed started appearing before the Commission after half a decade of its existence; before the joining or associating of the Muslim Law Board before the Commission. Azad Makhmal representing Shahabuddin and another lawyer A. Haq showed up once or twice but made no worthwhile contribution to the inquiry. Mushtaq Ahmed did, however, cross-examine some witnesses intermittently. After a decade of the Commission's inquiry, one Bahar-ul-Barki representing the AIMLB appeared along with senior Counsel, Yusuf Muchhala representing the Muslim Personal Law Board and cross-examined some key witnesses like L.K. Adjani in part. No evidence was led or information provided to the Commission with respect to the conspiracy or pre-planning or the joint common enterprise, by any of these

counsels. O.P. Sharma, advocate who also joined almost the fag end of the inquiry conducted himself equally ineffectually."

### **At Page 17 Para 8.3 the Commission says:**

"The dispute with respect to disputed structure is proclaimed to be as ancient as history.

Innumerable writings in books and research papers, commission proceedings were placed on the record of the commission. The title of the property was never settled much less finally by any civil court which is still pending before the honourable high court till date.

From time to time rulers of the time permitted the people of their faith the possession."

Story of acquisition of 2.77 acres of land surrounding the structure:

The 2.77 acres land was acquired by the UP Government on Oct. 1991 for public purpose. This acquisition was challenged in the Lucknow bench of Allahabad High court by a local Muslim. The case was heard by full bench comprising of Hon'ble justice H.C. Mathur, Hon. Justice Brijesh Kumar & Hon. Justice S.H.A. Raza. The arguments were over by November.04, 1992. The date fixed for the pronouncement of the judgment was 4th December, 1992. Justice Mathur & Justice Brijesh Kumar had already written their opinion regarding this acquisition order. But Justice Raza delayed the pronouncement of its Judgement to the 11th of December 1992 which was after the 6th December, date fixed for commencement of karsewa.

This deliberate delay in pronouncement of the order infused a sense of disappointment in the mind of the people to get justice and ultimately led to the incidents. The Kar sevaks broke loose and climbed up the disputed structure. The structure was made to collapse in five hours and a temporary canopy (makeshift structure) was erected on the debris of the disputed structure where the Pooja is going

on.

A few words regarding the civil suits:

The first civil suit regarding the title of Ram Janambhoomi was filed in 1950 (presently Numbered as O.O.S No. 1/1989). The second suit was filed in 1959 (presently Numbered as O.O.S No. 3/1989). The third suit was filed in 1961 (presently Numbered as O.O.S No. 4/1989). The fourth suit was filed in 1989 (presently Numbered as O.O.S No. 5/1989).

For 40 years the cases remained hanging fire in district court of Faizabad.

After 40 years, in 1989 these cases were transferred to the Lucknow bench of the Allahabad High Court. Since then another twenty years have passed. Due to the retirement of one or the other judge, the bench had to be reconstituted eleven times and consequently, justice has not only been delayed but also derailed and denied.

■

## **BJP condemns the 'Leak'**

Shocked : L.K Advani

The Leader of Opposition in Lok Sabha, Shri Lal Krishna Advani said: "I was shocked to see this report. This report is talking about my senior Atal Bihari Vajpayee. This report was given to the government in June, it is November now. The Home Minister didn't table this report in the last session. Government should table the report in the House.

"I am proud of my association with the Ayodhya movement. I was grieved over the demolition of that structure but the establishment of a huge Ram Temple on that spot in keeping with people's aspiration is my aim in life and until it happens, I will keep pursuing it".

## **Selective leak with eye on Jharkhand elections : Rajnath**

BJP National President Shri Rajnath Singh stated:

"Selectively leaking" the Liberhan Commission report on Babri Masjid demolition to the media with the aim of "polarizing" voters ahead of the assembly elections in Jharkhand.

Keeping the upcoming elections in view, the UPA Government has selectively leaked the report to the media so that there is a polarisation of votes.

The selective leakage was intentional. A report of any commission is traditionally placed on the first day of the

Parliament session. The Government could have placed it in the House in July as the Liberhan Commission report was given to the Government on June 30. The Central Government will have to explain how the report was leaked.

The country admires Vajpayee's towering personality. Efforts are being made to tarnish his image just ahead of elections in Jharkhand, a State created by the BJP-led Government.

The people will give a fitting reply as the BJP has never been communal. Because of political rivalry, political and secular groups should not be defamed...I fail to understand why the Government is jeopardizing peace in the nation for its political interests. The manner in which the report was leaked has "saddened" the people.

Top leaders like Vajpayee, Advani and Joshi being blamed together surely indicates a well-planned conspiracy. The Congress is the biggest communal party of the country. In spite of the nation entering its 62nd year of freedom... The party has pursued its political interest by creating social discrimination. Whenever there is an election, the Congress always brings up an issue.

## All planned and motivated : Sushma Swaraj

Deputy Leader of BJP Parliamentary Party in Lok Sabha, Smt. Sushma Swaraj said:

"Selective leaks" of the Liberhan Commission report to the media were planned and motivated. It has come at a time when the whole opposition is united against the government.

The UPA government did not intend to table the full report as it indicts the then Congress government of P V

Narasimha Rao. The Home Ministry leaked the report to divert attention from the issues being raised by a united opposition.

This is a planned leak. It is a motivated leak. The first motivation for leaking the report is the unity in opposition on the sugarcane price issue which the government wanted to break. This unity would have continued on price rise and other issues.

The government wanted to divert attention from the opposition's plan of raising Madhu Koda and 2G Spectrum allocation scams in Parliament.

Thirdly, the government wants to influence the Jharkhand elections where the first phase of polling will be held on November 25. Since there were just two copies of the report -- one with Justice M S Liberhan and the other with the Home Ministry "under lock and key" -- if the government did not come clear on how the report was leaked, the report was leaked by the Home Ministry.

Home Minister P Chidambaram cannot evade government's responsibility by merely saying that leakage of the report was "unfortunate" as the incident showed contempt of Parliament.

I was also "shocked and surprised" at the mention of its veteran leader Atal Bihari Vajpayee in the report. The leakage of the report shameful. The report has been leaked by the officials of the Home Ministry. The Government calls it unfortunate but we say it's shameful.



## Rajnath demands apology from

*The BJP President Shri Rajnath Singh talks to The WEEK on the Liberhan Commission report. Excerpts from the interview:*

### **Your comments on the Liberhan Commission report.**

The report has talked about Vajpayeeji disparagingly. It says that the leaders of the BJP are controlled by the RSS. It has spent its precious pages on comments on the leaders of the BJP. Its job was to unearth the truth of the demolition of the Babri Masjid. This commission has failed to shed any new light on the demolition.

### **So has Justice Liberhan favoured the Congress?**

I am not saying it is a report that is favourable to the Congress. I would say it looks politically motivated. The content of the report makes me doubtful of the credibility of the commission. The time chosen for leaking the report to the media makes me question the intention of the government.

### **Who do you think leaked the report?**

One copy was with the commission and another copy was with the home ministry. I want the government to express regret. The minister of home affairs should take the moral responsibility and express regret before Parliament. Before the winter session ends, this issue should be investigated by a joint parliamentary committee.

### **Kalyan Singh says he has no regrets about the demolition of the Babri Masjid. What about you?**

Demolition of the Babri Masjid was a spontaneous act by the karsevaks. There was a lot of anger among the

karsevaks about the police firing on the karsevaks by the Samajwadi Party government.

### **Is the BJP's obsession with Ram temple sufficient to blunt the development of the Congress?**

Ram Mandir and development are complementary to each other. Development is necessary for the country. But we are also concerned about the culture, identity, heritage and faith of our people. For us the culture, development and faith have to move in unison.

### **Ram or development-which is dearer to you?**

Both are dear to us. I request the Muslims to let us build a temple at the place of birth of Shri Ram. We shall resist attempts to demolish mosques elsewhere.

## Pertinent Questions

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By Ram Lal

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- \* Whose locks were opened -- of the Mandir or the Masjid? Foundation-stone (Shilanyas) of what was laid - of the Mandir or the Masjid? If of the Mandir, then why is there reservation or sense of shame in raising a Mandir on this foundation?
- \* In whose hands was the administration after the 6th December 1992 evening?
- \* In spite of all the proofs of the existence of the Mandir at that place, why has the administration failed to take a decision during the last fifty years? If the issue is very sensitive, where is there no display of sensitivity in the efforts to resolve the issue? Why has there been no progress in the matter since 2004?
- \* A court can decide the matter of ownership of a land,

but no court can deliver a judgment on a matter of faith whether it is a place of birth of Lord Ram or not. Faith does not evolve itself in 2-4 months. It is based on the faith subsisting for the past thousands of years. Government is trying to shift the onus on the court and the court doesn't want to involve itself into matters of faith. It is because of this that there has been no progress in the matter for the past 60 years.

- \* India is the only country in the world where the sentiments of the majority community are being ignored for so long. It is unfair to put the 'patience' to such a long and rigorous test.
- \* If the problem is allowed to drift for too long deliberately, can the possibility of the revival of the movement ruled out? It will be futile to assume that the agitation has subsided. The zeal and spirit to see that a magnificent Ram temple is built there still persists. The youth of the country are still brimming with the sense of devotion to Ram and the nation.

*The writer is BJP National General Secretary (Organisation)*



## *Editorial in the Organiser*

### **Liberhan report as a one-day wonder**

Babri had to go

Country should be proud of it

When retired Justice MS Liberhan sought extension after extension for 17 years and spent crores of public money to 'unravel the conspiracy' behind the demolition of a structure that looked Islamic from outside and which was and continues to be one of the holiest Hindu pilgrim places, optimists expected him to deliver some kind of report that could be discussed across benches in Parliament and then given a decent place in the archives. The Liberhan Commission did not even achieve that. Not only was the report a damp squib, it did not even get the privilege of being placed on the table of the Parliament first. It was reduced to a newspaper scoop and a TV newsbreak.

Ayodhya is a Hindu issue. Neither politics nor any other community has a say in it. There was no question of a conspiracy. Hindus had been demanding that they be allowed to construct a grand temple befitting the place of birth of Sri Ram. While secular politicians dithered over it and dragged it to the courts, the Hindu society for once took the matter into its own hands and set about to do that task. What happened in Ayodhya on December 6, 1992, was a spontaneous manifestation of the collective Hindu angst and faith. Anyone who was in Ayodhya that day and witnessed that historic moment would not be looking for a "conspiracy". Justice (Retd) Liberhan was not there that day so he was only reconstructing as his fancy took him.

And that was the biggest undoing of the report. No one is happy with the report. The pseudo-secularists, a section predominantly made of Hindus, feel that not

enough has been said to implicate the 'culprits'. The Muslims are unhappy that some home truths have been said about them. Uncomfortable facts like why they consider themselves deprived and backward while they had been the rulers of the country for centuries (the answer to that would show up their leaders in bad light). The natural question that the public is asking is, if Kalyan Singh is culpable, why not PV Narasimha Rao?

On the one hand, Liberhan says that there was no public involvement in the movement. Almost in the same breath he accuses the leaders of the movement of collecting money from the public. If public were not involved, why would they contribute money to the movement? And if 68 people shared an information, can it be called a secret or a conspiracy?

If the demolition of one structure, which the Muslims and their cohort pseudo-secularists believed was an insignia of an invader's victory to be preserved for future generations, pushed the nation to "the brink of communal discord", how many times should the nation have been pushed to the brink and beyond when temples were destroyed in hundreds in independent secular India? The Sikhs have cried hoarse about the violation, one violation, of the sanctity of the Golden Temple, and that too because terrorists were holed up there and were violating the spirituality of the sacred precincts. But the Hindus have said nothing and done nothing, except to quietly document them and put up exhibitions, when temples were demolished in Kashmir and elsewhere. The Dravida Kazhagam movement of atheism in Tamil Nadu targeted only the Hindu idols and temples. Even today, the Tamil Nadu government issues ordinances taking over temples, whose income exceeds a certain amount. Dare they do it any other religion? And dare the politicians and editors who breast beat for the 'Babri structure', raise the issue?

December 6 is etched in the memories of Hindus as a day of bravery, to be celebrated and sung in folk narratives

for centuries to come-as the day when the Hindu unleashed his power and demonstrated what he can do when pushed against the wall. Push back he will.

The only beneficiary of the Liberhan report, only because of its timing of leak, is the UPA. Home Minister P Chidambaram asked the Lok Sabha if he would be foolish enough to bring embarrassment on himself and the government wilfully by leaking the report. This embarrassment is nothing compared to the scene they would have faced and the questions they would have had to answer if the attention of the MPs had not been diverted from price rise, internal security and the scandal series that have fallen out of the can of worms that UPA is sitting over. Liberhan has served one more purpose for the Indians. They would never again expect and hope for any good to come out of a commission of inquiry.

*(Courtesy: Organiser)*



## Liberties Liberhan took

Chandan Mitra

Remember Gulzari Lal Nanda? Although he was Prime Minister twice, I can bet only the 60-plus generation of informed citizens and quiz show participants will recall the name, fame or lack of it. GL Nanda last hit the news pages about 20 years ago when he was unceremoniously thrown out bag and baggage from a flat in Delhi's Defence Colony for non-payment of rent. The elderly Gandhian leader died shortly thereafter in near-penury after leading a long ascetic life. The ramrod straight Congress leader of yesteryear used to wash his own clothes and cook his own meals till he was too old, infirm and bed-ridden. Upon the death of Jawaharlal Nehru in 1963 and Lal Bahadur Shastri in early 1966, Nanda was sworn in as Prime Minister for brief periods by virtue of being the senior-most member of the Cabinet. Although described as Acting PM by the media, his name adorns the record books because the Constitution does not recognise any category as 'Acting'. He dutifully resigned on both occasions after the party chose Shastri and Indira Gandhi respectively to head the Government and was re-inducted into the Cabinet by both his successors.

Poor Gulzari Lal Nanda has been resurrected once more, this time in rather unflattering light. On page 336 of the 1,000-page-plus Justice MS Liberhan Report, there is a stinging indictment of Nanda along with former RSS chief Prof Rajendra Singh (Rajju Bhaiyya) and Dau Dayal Khanna (a respected advocate of post-Partition refugee rehabilitation). They have been blamed for being "ardent Hindus" who created an atmosphere in which radical Hindu sentiment could grow. Nanda's ashes must be

churning in their urn at the bracketing. But more sinisterly, Liberhan insinuates that the efforts by leaders like GL Nanda eventually culminated in the demolition of the Babri Masjid!

If anyone has the patience or masochistic passion to labour through Liberhan's voluminous essay on the state of the Indian polity since Independence, he will discover many prize gems of this nature. Still one thing must be said in Liberhan's favour: Loyalist ho toh aisa! The man who appointed him to the job to which Liberhan clung on for 17 long years emerges as the silent hero of the so-called inquiry report. And why not, for thanks to PV Narasimha Rao, the retired Supreme Court judge was able to secure a bungalow in Central Delhi, a posse of staff, vehicles and other facilities at his disposal. As a result of Rao's largesse and the indecision of subsequent United Front, NDA and UPA Governments, Liberhan's Commission cost the exchequer a whopping Rs 8 crore in salaries alone! We don't as yet know what the total extent of us taxpayers' money that was squandered on producing the costliest essay in history!

Having plodded through much of this alleged report, I was left wondering who actually wrote the document. Almost every page reeks with JNU's left-secularist ardour, barring the occasional bad grammar. It seems so pre-determined that the entire purpose of undertaking what was meant to be an "impartial inquiry" becomes a breathless blitz against Hindu sentiment. Terms like pseudo-moderate, used particularly to lampoon Atal Bihari Vajpayee give the game away. It's typically JNU intelligentsia's too-clever-by-half retort to LK Advani's famous coinage - pseudo-secularist. There are long passages of pedestrian political philosophy lamenting how some politicians prioritise pursuit of power, as if politicians are supposed to renounce politics, abjure power, migrate to the jungles and meditate over their destiny!

Copious tears are shed over the presumed attempt by

some people to perpetuate casteism (what's that got to with Babri?) and damage India's secular fabric although that is a basic feature of the Constitution. (The word 'secular', incidentally, was introduced in the Preamble of the Constitution along with 'socialist' only by an amendment passed during the Emergency years by Indira Gandhi). Also ironic is the fact that Justice Liberhan took nearly 182 months to compile his report when the same thing was completed by the CBI in 9! Cases are going on in various courts on the basis of CBI charge-sheets since then. In other words, the Liberhan report is of mere academic interest today although the use of 'academic' in the context of this boring essay is rather misplaced.

It is not my intention to compete with Justice Liberhan to produce an antidote for insomnia. I shall, therefore, refer only to something that concerns me personally. Having just come across LK Advani's testimony before the Commission spanning from April 2001 to January 2002, I was surprised by the number of references to my reports regarding the fateful events of December 6, 1992, that appeared in Hindustan Times (of which I was then Executive Editor). On several occasions, the Commission's counsel Anupam Gupta, whose ideological affinities are well known, attempted to trip up Advani by referring to passages in two reports I filed from Ayodhya ("All domes collapse under kar sewaks' onslaught" published December 7 and "Control room that had no control", December 8, 1992). In his reply to one of Gupta's queries, Advani said: "I would think that as Chandan Mitra has said this, Chandan Mitra would be a very valuable witness before the Commission because I can affirm that he was present on the terrace (Ram Katha Kunj, makeshift dais where BJP/VHP leaders had assembled) for most of the time. And, therefore, if the Commission were to hear from him what precisely he saw and heard, that would be a very valuable testimony."

Interestingly, I never got any summons from the Commission although it questioned 1,500 witnesses and virtually every journalist who was present in the Ram

Mandir/Babri Masjid complex that day. In its report, the Commission narrates at length the alleged manhandling of Ruchira Gupta who was reporting for Business India those days. It reproduces without verification her (patently false) claim that she was manhandled by kar sewaks and her clothes torn. Had the Commission summoned me I would have testified under oath that nothing of the kind happened. She accompanied me, despite my pleas to the contrary, when I decided to visit the structure under destruction. In fact, she was saved by an assistant to Pramod Mahajan who pushed her out of the way because some kar sewaks got agitated by her remarks and demanded to know who she was, doubting her claim to be a kar sewak despite the saffron bandana she wore to pretend being a member of the demolition squad.

I was not remotely associated with the BJP those days and my reports in HT were factual and non-commentative, unlike those of my Leftist compatriots. Those two reports are still widely referred to by Western researchers into the demolition and its aftermath. Yet, the Commission never thought it fit to call me for evidence. But then, I am in august company. Justice Liberhan who liberally savages Atal Bihari Vajpayee in his report, never called him to testify either. After the leak of the document, Liberhan even denied on camera that Vajpayee had been pilloried. I can excuse the retired judge. If anybody takes 17 years to compile a litany of half-truths and untruths, memory can well play truant. Unless, of course, the report's authorship itself is in some doubt!

*(The writer is the Editor-in-Chief of Daily Pioneer)*

*(Courtesy: Pioneer)*



## The Liberhan farce

By MN Buch

The report of the Liberhan Commission of Inquiry glosses over the role of various Congress leaders in the demolition of the Babri Masjid structure on December 6, 1992. It took Liberhan 17 years to prepare a report that says nothing. The commission should be made to pay back Rs 8 crore

On December 6, 1992 the structure at Ayodhya known as Babri Masjid was demolished by a mob of frenzied kar sevak who owed allegiance to the Sangh Parivar. This was done in full public view and was broadcast live throughout the world by television teams of various news channels covering the event. There was nothing secret about this operation and even today various aspects of the demolition of Babri Masjid are discussed in the newspapers, in public speeches and over the television. The facts are well known, the people involved in the demolition of Babri Masjid are well known, the sequence of events is in the public domain and nothing about the whole affair required any judicial inquiry. All it needed was the decision of Government about what was to be done in the matter, including prosecution of the offenders, restoration of the mosque or otherwise, and any consequential action necessary to prevent the recurrence of such an event.

Instead of acting decisively, the Government set up a Commission of Inquiry under the chairmanship of Justice MS Liberhan, who took 17 years to submit his report which should normally not have taken him more than two months to compile. Mr Liberhan has exonerated the Narasimha

Rao Government of any blame; indicted a number of BJP leaders, including Atal Bihari Vajpayee who was neither called upon by the commission to give evidence nor asked to explain any charges against him; blamed the Uttar Pradesh Government for not taking adequate steps to protect the Babri Masjid; and, suggested some steps for consideration in the future. One of these is that there should be a Central police force to deal with such incidents. Unless the Constitution is amended and police made a Union or Concurrent List subject, this recommendation cannot be implemented, a fact which Mr Liberhan should have appreciated.

What Mr Liberhan seems to have put together is a compendium of various newspaper reports on various aspects of the incident. Had he bothered to delve deep into the subject, he would have found that for over 200 years the structure called the Babri Masjid had not been used for prayers by Muslims because the Shia Nawab of Oudh had prevented worship therein because there was a dispute about ownership between Shias and Sunnis. Whether this deconsecrated the mosque or not is a question I cannot answer, but the only worship performed in the compound was of Ram. Even this was stopped in 1948 in the wake of partition by then Chief Minister Govind Ballabh Pant on the recommendation of the District Magistrate of Faizabad that such worship was leading to unnecessary communal tension.

This was a wise step, which was undone by Rajiv Gandhi, the then Prime Minister, consequent upon the District Judge of Faizabad ordering the opening of the temple in a civil suit before him. Why the Centre or the State Government did not immediately reseal the temple beats me. It is said that this decision followed the cowardly surrender by the Government to bigoted mullahs agitating against the Supreme Court judgement in the Shah Bano case. The opening of the temple, therefore, was Rajiv's way to appease outraged Hindu sentiments.

The unlocking of the gates was followed by a second attempt to appease Hindus by way of laying the foundation stone of a new Ram temple in the compound of the Babri Masjid by Buta Singh, Home Minister of India. Did not Mr Liberhan see these two acts as clear signals to the people that the Government of Rajiv Gandhi was for the construction of a Ram temple on the disputed land? Did not Mr Liberhan think that these signals sent out by the Congress Government were sufficient to encourage the kar sevaks to attack Babri Masjid structure? That Mr Liberhan has left Rajiv Gandhi out of the reckoning speaks volumes about his own incompetence.

In 1992 my batchmate, Mr S Rajgopal, was Cabinet Secretary and two colleagues of the Madhya Pradesh Cadre, Mr Amar Nath Varma and Mr Naresh Chandra were Principal Secretary to the Prime Minister and Adviser to the Prime Minister on the Babri Masjid respectively. On December 1, 1992, I spoke to all three of my friends and, considering the gravity of what was likely to happen on December 6, 1992 I suggested that three courses of action were available to the Government. First, the Union Government could use Article 356 of the Constitution to dismiss the Uttar Pradesh Government and assume the administration of the State. My friends appreciated the suggestion but said that it was unlikely to be acted upon because the Supreme Court could set aside such an order. Second, under Article 3 the Government of India could carve out a separate Union Territory comprising Faizabad district of Uttar Pradesh, post Central officers there as the Administrator, District Magistrate and Superintendent of Police, and directly take on the protection of the Babri Masjid. This idea, too, was appreciated but I was told it could not be acted upon because as per the proviso to Article 3 any Bill in this regard would have to be referred by the President to the State Legislature of Uttar Pradesh for its opinion and the time available did not permit this. My suggestion was that even if the act was not strictly

constitutional, expediency demanded immediate action, whether to dismiss the State Government or to declare Faizabad a Union Territory. Even if the Supreme Court were to later strike down the order of the Union Government, that would take time and meanwhile effective steps could be taken to save the Babri Masjid. Third, if both suggestions were to be rejected, a third option was to flood the Babri Masjid area with more than 20,000 troops, all dressed in civilian clothes and sitting around the mosque chanting "Ram Dhun". I could lay a bet that no kar sevak would physically remove this human barrier and, therefore, the mosque could be saved.

My friends agreed with me but neither they nor the Prime Minister did anything and six days later, the Babri Masjid was a thing of past. Is not the Government culpable for its inaction? If the Sangh Parivar is to be indicted, should not Rajiv Gandhi and Narasimha Rao be included in the list of people in the dock? By glossing over their respective roles, the Liberhan Commission has produced a report which is not worth the paper on which it has been printed.

If there is any justice in the world the Liberhan Commission and those who constituted it and subsequently, gave it innumerable extensions, should be made to cough up Rs 8 crore spent on the commission. That is the least restitution we expect.

*(Courtesy : The Pioneer)*

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## Out of commission

*Why are inquiry commission reports allowed to gather dust for so long?*

AS if 17 years and 48 extensions were not enough, we had to wait nearly six months more. The Liberhan Commission, one of India's longest running inquiry commissions, submitted its report to the government on June 30, 2009. For the next five odd months, there was official silence as the government refused to table the report before Parliament. Meanwhile rumours grew, uncertainty spread. Did it need to take this long to table the Liberhan report in Parliament?

The simple answer is no. The ostensible reason for the six-month window the government has after commissions submit their reports is to gain elbow room to prepare "action taken reports". But is such secrecy really essential? In any case, when was the last time the government actually took strong action on the basis of a commission's recommendation? To give the most recent examples, what action has been taken against those indicted by the Nanavati Commission Report on the anti-Sikh riots of 1984? The fate of the Srikrishna Commission's findings on the 1992-3 Mumbai riots is as tragic and revealing. First of course, there were attempts to terminate the inquiry altogether.

But even after it was re-instituted and delivered a scathing report, most of those the judge indicted roam scot-free. The secrecy that surrounds commissions of inquiry has no clear rationale. It merely fuels the worry that these

commissions are established to deflect an angry popular mood and to stave off inconvenient questions.

The long years of the Liberhan Commission's investigations, and the delay in tabling it before Parliament, only added to the mystery. Meanwhile, all kinds of rumours gained currency, defeating the very point of the exercise - to establish truth for the greater public good. Justice Liberhan's conclusions now seem almost anticlimactic, as they compete with the parallel narratives the delay has spawned. As the blame game over the events of December 6, 1992, recommences, the findings are drowned in a cacophony of conspiracy theories. If any cautionary tale emerges from this chaos, it is this: inquiry reports, once submitted, must be promptly tabled in Parliament.

*(Courtesy : Editorial- Indian Express)*



## SEATS OF POWER

Liberhan report a key the vote-bank

By Arun Nehru

THE JUSTICE LIBERHAN Commission, appointed to investigate the December 6, 1992, demolition of Babri Masjid in Ayodhya, has taken 17 years and 48 extensions to submit its report, at a cost of approximately Rs 8 crores to the taxpayer.

I am a little surprised that all the political parties are trying to score debating points on a report that was leaked to the media with the sole purpose of playing votebank politics and creating divisions within our society. The leak did not result in the desired controversy but instead brought together the Opposition and forced the United Progressive Alliance (UPA) to table the report within 24 hours. This decision was a good damage-control exercise.

Justice Liberhan's report places individual culpability for the demolition on 68 people, the bulk of whom are drawn from the Sangh Parivar -Rashtriya Swayamsevak Sangh, Vishwa Hindu Parishad, Bajrang Dal and the Bharatiya Janata Party (BJP).

The report should be consigned to the archives at the earliest to avoid political damage.

Motives will be attributed to the fact that while former Prime Minister P.V. Narasimha Rao has been exonerated, former Prime Minister Atal Behari Vajpayee has been named in the report. This is very sad. The government's Action Taken Report (ATR), according to media reports, indicts no one in particular and has little substance. If the

government proceeds on this report it will lose credibility with both the majority and the minority community. Media reports already indicate negative reactions from the Muslim community which has demanded an apology from Justice Liberhan for certain remarks made against their community. I have a feeling that few in the media will devote much time to the report after reading the ATR.

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The Liberhan Report and its contents may well leave everyone confused and I don't see any advantage in this for any party. The cases relating to the Babri Masjid are already filed in Lucknow and Rae Bareli and they will probably go on for another five to ten years. Thereafter, appeals will go to higher courts. I don't think this issue should be allowed to fester for another decade.

.....

Prime Minister Manmohan Singh expressed regret and promised a full investigation into the leak. But I have grave doubts if anything will happen.

Had anyone been serious about this lapse, the Central Bureau of Investigation would have been called in.

Sensitive issues have been leaked before and it will happen again.....

*Arun Nehru is a former Union Minister  
(Courtesy: The Asian Age)*

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## A 17-year, 48-act farce

By Balbir K. Punj

Are all judicial enquiries a farce that end up making the country no wiser, after spending crores of taxpayers' rupees? This question was raised earlier when the Justice Milap Chand Jain Commission, investigating the conspiracy-assassination of Prime Minister Rajiv Gandhi, submitted its report after 11 years of a fruitless inquiry with nothing more than a few sphinx-like conclusions. The issue has now been revived, after the Liberhan Commission Report - on the demolition of Babri Masjid on December 6, 1992 - was leaked to the media recently.

Even the critics of the Bharatiya Janata Party (BJP) are surprised that the Liberhan Commission, which comes 17 years after the demolition, has found former Prime Minister Atal Behari Vajpayee guilty merely on the basis of his statements that a temple should be built at the place known as Ram Janmabhoomi.

No one has ever said that Mr Vajpayee ever advocated or condoned the demolition. Nor was he present at the site of demolition or in the mass meeting that was held on the fateful day. The commission did not even question him before making such a sweeping remark, thus violating all principles of justice.

It seems that the chairman of the commission was not even bothered about getting his facts right. For instance, Justice Liberhan says that general elections were needed in 1991 because the BJP had withdrawn support from the Janata government. Whereas the fact is that the March 1991 elections became inevitable because the Congress withdrew

support from the Chandrasekhar government after keeping it in power for four months. Without checking these basic facts the commission concludes, "Religion was used for political objectives".

The commission's prejudice shows up in many places throughout the report. The commission was not asked to lecture on the BJP, it was set up to probe the demolition issue and the culpability of some leaders in that. The report says, "Advani's rath yatra in 1990 brought the BJP and its allies to power in many states in 1991". But the fact is that the BJP came to power only in Uttar Pradesh and elections were due in that state as well as in Kerala, West Bengal and Tamil Nadu.

As an arbitrator, Justice Liberhan should have examined the background more deeply and listed the obdurate policy adopted by the leaders of the Muslim community. At the early stages of the controversy, the Sangh Parivar was intensely seeking a compromise but it was the Congress government of Rajiv Gandhi that revived the issue by holding a shilanyas and then kowtowed to Muslim orthodoxy by nullifying through a law the interpretation of a Muslim Personal Law provision regarding maintenance to divorced women. This move strengthened the Muslim orthodoxy - liberal Muslim leaders left the Congress and the more orthodox ones, like C.K. Jaffer Sharief, increased their hold on the party.

As a result, the Muslim orthodoxy was alert to any attempt to liberalise Muslim Personal Law and started stonewalling all attempts at a compromise on the mandir issue. The Chandrasekhar government also tried to push through a compromise but did not succeed primarily because the Muslim leadership would not hear of any compromise whatsoever.

The dispute over the ownership of the plot and the historical background - the existence of a Ram temple before it was demolished to make way for a mosque by a conquering general - went on and on in the courts for ages,

with no attempt to conclude the hearings and give a verdict.

The background to the demolition should have been brought out while deciding on the event itself. Hindu public opinion did not receive any hope of a decision either through negotiation or through the courts.

Why this freeze on the issue of building a temple did not enter the commission's perspective in its consideration of the act of demolition is a mystery. It only speaks of the criteria that Justice Liberhan applied, transposing his own views of what secularism should be on to the job he was entrusted with. That alone explains the long lecture he has given on secularism, politics, media and other matters instead of concentrating on the demolition itself. When the report is debated in Parliament there will surely be questions about the Commission's views on secularism, Hindutva and other ideological issues.

Opponents have often used the event of demolition itself to beat the BJP with and demonise it. This had been going on for the last two decades without any of these critics offering any solution to the basic issue of an emotional demand getting blocked both in the courts and in one-to-one negotiations.

The "liberals" in India remain silent when it comes to Islamic orthodoxy and obduracy but are vociferous in denouncing a demand from the Hindus that touches the core of their faith. The Liberhan report has failed to examine this long history of obduracy and obfuscation of Islamic leadership in all issues concerning its interaction with people of other faiths.

What is the fate of non-Muslim populations in Muslim-majority countries? Is even carrying a Bible allowed in Saudi Arabia or holding of public non-Islamic worship in any Muslim-majority country? Why is it so when almost all non-Islamic countries freely allow public demonstration of Islamic rites? Do the Baha'is in Iran, the Shia Muslims in Saudi Arabia or Ahmaddiyas in Pakistan - let alone Hindus - come up in the public discourse of liberals in India? Why

is a disused mosque in Ayodhya so important while temples demolished in Kashmir receive no attention?

While all are flabbergasted at Justice Liberhan's convoluted and confused treatment of the Ayodhya agitation, his recommendations on the role of the media are bizarre. He wants media regulation and licensing of journalists. Surprisingly for a judge of his stature, Justice Liberhan seems to overlook the constitutional impropriety of trying to licence journalists (even if it is by an independent body) as it flies in the face of Article 19(1) of the Constitution.

In short, the Liberhan report moves from being farcical to ridiculous.

*(The writer is a BJP National Secretary and Rajya Sabha MP)*

*(Courtesy : Asian Age)*



## The report is flawed, both in terms of procedural correctness and content

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Ravi Shankar Prasad

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THE Liberhan Commission report relating to the events of December 6, 1992 at Ayodhya is the big political issue of our time. However, reading the report clearly demonstrates that it is deeply flawed both in terms of procedural compliance, and on substance.

The Commission's very first mandate was vide para 2.1.1 of the report, to examine the sequence of events leading to and all the facts and circumstances relating to the occurrence at Ayodhya on December 6, 1992. If this was the very first mandate then it was incumbent on the Commission to examine the role not only of P.V.

Narasimha Rao, who was prime minister during the crucial period but also the role of Rajiv Gandhi and Buta Singh, who was home minister when Rajiv Gandhi was the prime minister; because during that regime the locks were opened in the Ram Janmabhoomi Temple and the shilanyas was permitted. The Commission's silence is baffling, because one cannot understand how their role would not come under scrutiny while examining the sequence of events leading to December 6, 1992. The Congress Party even now admits Rao's culpability, because of which he was denied the Lok Sabha ticket in 1998. One can draw necessary conclusions from the Commission's eloquent silence.

Similarly, at page 958 of the report, the Commission has held sixty eight individuals culpable. Under section 8B

of the Commissions of Inquiry Act, it is incumbent to give reasonable opportunity of defence to a person whose reputation is to be prejudicially affected. There has to be a notice. Nearly 25 out of the 68 persons held personally culpable, which is prejudice indeed, were not given any notice at all. This includes Atal Bihari Vajpayee, one of the country's most popular leaders and a former prime minister. In his case the Commission, on July 29 2003, by an elaborate order rejected the plea to summon him. Yet, he too has been held individually culpable in patent violation of law. The sweeping comment that merely because one supports the demand of the construction of the Ram Temple at Ayodhya (feeling shared by millions all over) perforce he is also responsible for the destruction of the structure, is not only based on no evidence but laughable indeed. This list includes Devaraha Baba, a much respected saint worshipped by many in the country, who has already taken samadhi over ten years ago. Even the former acting Prime Minister Gulzarilal Nanda, who was hardly part of the movement, has come under cloud in the report.

Even on substance, there is a conscious attempt to ignore relevant material while determining culpability, and that too in a sweeping manner. The report's conclusion is replete with very critical references against the RSS as solely responsible for the incident. It may be relevant to note that after December 6, 1992 the RSS was banned under the Unlawful Activities Prevention Act 1967 and one of the grounds was its involvement in the demolition. The notification declaring RSS unlawful was sent for adjudication by the tribunal headed by Justice P.K. Bahri, Delhi high court judge, as is the legal requirement. The adjudication by Justice Bahri was notified by the home ministry on June 18, 1993 wherein, at page 71, the learned judge noted the evidence of PW-7, a very senior IB officer, that there was no material evidence to show that these associations (RSS) had pre-planned the destruction of the disputed structure. The report also notes the white paper prepared by the Central government, which does not

support the pre-planning theory. The tribunal accordingly held that there is no sufficient ground to declare the RSS unlawful.

Obviously, the judicial verdict of June 18, 1993, just seven months after the events of December 6, 1992, which exonerated the RSS, would carry greater sanctity than the Commission's report which has come after seventeen years and which holds the RSS as a villain. One is entitled to ask why Justice Liberhan did not take into account the 1993 decision at all. There is another serious flaw. On page 334, vide para 57.4; the Commission has held that the RSS is communal and against the secular principle of the Constitution because it supports Hindutva or cultural nationalism. While doing so, the Commission surprisingly ignored the Supreme Court judgment in the Ramesh Yeshwant Prabhu Case (1996 (1) SCC page 130) where on para 44 the Supreme Court has clearly held that "It is a fallacy and an error of law to proceed on the assumption that any reference to Hindutva or Hinduism in a speech makes it automatically a speech based on the Hindu religion or, that the use of words Hindutva or Hinduism per se depict an attitude hostile to all persons practicing any religion other than the Hindu religion." If this is the legal position settled by the Supreme Court which is equally binding on the Commission, then how can Justice Liberhan take a sweeping contrary view against the RSS on the ground that it is communal to espouse Hindutva or cultural nationalism?

L. K. Advani, as the deputy prime minister, deposed before the Commission for a full three days and replied to all the relevant questions. Apart from his deposition there was enough material before the Commission to show that he tried his best to stop the kar sevaks. Yet, the Commission has come to a curious conclusion that his attempt was feeble. The BJP is perfectly within its democratic right to take a position that the Ram Temple must be constructed there, because Hindus have believed for thousands of years

that Lord Ram was born there and its denial itself is the worst manifestation of pseudo-secular politics. Yet, the Commission has a problem with the BJP because it held such view.

The Commission cannot become the arbiter of political or social choices. Its recommendation no. 1.16 that a government which has religious issues on its political agenda must be barred is patently undemocratic. If the people of the country elect a political party which advocates and opposes the discriminatory character of religion-based politics and the resultant competitive vote-bank, the Commission holds that it be prevented from coming into power even if the voters have given it a massive majority. We are being advised about a new rule of democracy by the Commission whose bias is self-evident. (Courtesy: The Indian Express)

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