

In April this year, an issue of *The Illustrated Weekly of India* carried an article titled "Myth and Supermyth". It was written by a 21-year-old Bombay University student. She explored the legends of Shivaji and the Rani of Jhansi in the article, and in doing so, was occasionally critical of both of them.

It might have gone the way of most other articles in *The Illustrated Weekly*: read by its patrons and subsequently forgotten. It might have. Except that we live today in times when people—in particular, our friends who wrap themselves in saffron—are anxious to seize every chance they get to beat their chests in a self-righteous display of patriotism.

There was an immediate uproar in the Vidhan Sabha and the Municipal Corporation of Bombay. Our elected representatives—led by those from the BJP and their ilk in the Sangh Parivar, but followed zealously by numerous others—fell over themselves in their desire to spew venom against the article, its author, the editor of the *Weekly* and anyone else in their line of fire. Declaring that the article cast aspersions on Shivaji, a national hero, they unanimously demanded immediate action against them all.

The next day, every paper in the *Times of India* group carried a prominent and abject front page apology for the article. A board outside the Times building in Bombay had the same apology, naming the 21-year-old who had written it. The Bombay police immediately and with stunning efficiency registered cases against all concerned under Section 153A of the Indian Penal Code, which refers to promoting enmity on the basis of religion. (Excerpts from Sections 153A and 153B of the IPC are given below).

Quite apart from the issues of freedom of expression, of whether this

Follow Up: Bombay Riots

Crime and Punishment

Combating the Shiv Sena Menace in Bombay

Dilip D'Souza

article really violated Section 153A, of why a revered national hero like Shivaji needed to be defended against criticism at all, least of all by legislators, the irony of the whole episode is quite obvious. If this article was so deserving of action under Section 153A, what prevented the police from taking action based on the far more inflammatory, sinister writings in *Saamna*, the Shiv Sena mouthpiece, during the riots in December and January?

Bal Thackery, the Shiv Sena supremo, wrote a number of signed editorials in *Saamna* during the weeks that rioting engulfed Bombay. Here is just a sample of what they contained:

December 5, 1992: "Which is this minority community? The Muslim

traitors who partitioned the country and haven't allowed us to breathe ever since."

December 8, 1992: "Muslims should draw a lesson from the demolition of Babri Masjid, otherwise they will meet the same fate as Babri Masjid. Muslims who criticise the demolition are without religion, without anation."

December 9, 1992: "Pakistan need not attack India. Twenty-five crore Muslims in India will stage an insurrection; they form one of Pakistan's seven atomic bombs."

January 1, 1993: "Muslims, Sikhs, Christians and people of other faiths...indulge in anti-national activities. Such activities should be completely defeated. Muslims have



Nikhil Wagle, editor of *Mahanagar*, being roughed up by shiv Sainiks at a seminar organised at the Indian Merchants' Chamber on Wednesday

been able to hold Hindus to ransom."

January 8, 1993: "Muslims of Bhendi Bazar, Null Bazar, Dongri and Pydhonie, the areas we -call Mini Pakistan...must be shot on the spot."

There is much more, just as sickening. As is clear, these were written during the riots, and were instrumental in provoking large scale destruction, looting and killing in Bombay. Sena leaders openly admitted that their "boys" were out on the streets rioting.

Action of any kind against Thackeray was and still remains conspicuous by its absence. Confident of his invulnerability, he continues to spew venom in the pages of *Saamna*, abusing not just Muslims but anyone who dares to criticise him and the Shiv Sena. The same elected representatives, so quick to pretend offence over an article in *The Illustrated Weekly*, maintain a loud silence about Bal Thackeray. Clearly, a 21 year-old student—a girl, to boot—is a far easier target.

Soon after the riots, the People's Union for Civil Liberties (PUCL) came up with the idea of taking Thackeray to court for his writings, since the government and the police seemed

reluctant to do so. Various options were discussed. Eventually, the PUCL decided that the best route was to file a writ petition in the High Court. The petition would point out that the government and the police, by not taking action against Bal Thackeray, were abdicating from their statutory duties. It would request the court to direct the government to launch proceedings against Thackeray under Sections 153A and 153B of the Indian Penal Code.

The petition was drafted by late February. It cited nine different signed editorials from *Saamna*, on the above mentioned dates and also on December 2, December 15, January 5 and January 9. They were chosen specifically from the time of the riots, to indicate the inflammatory effect they had on the mobs. It is worth repeating that they were signed editorials, not articles that could later be denied.

The PUCL thought that the petition would have more impact if prominent Maharashtrian Hindus filed it. This was precisely because Bal Thackeray and the Shiv Sena promote themselves as the guardians of the interests of Marathi-speaking

Hindus today. Several such persons in Bombay were approached. Perhaps indicating the degree to which Bal Thackeray holds Bombay to ransom, all of them declined to sign the petition. All, of course, had good reason to do so. Some actually agreed when they were first asked, but later decided against it.

In fact, the petition was signed by four prominent Maharashtrians and was ready to be filed about the second week of March. On the day it was to be filed, however, they withdrew, and the effort to bring Thackeray to book had to be further delayed.

Finally, J.B. D'Souza, ex-Chief Secretary of Maharashtra, decided he would sign the petition. Dilip Thakore, noted columnist, had been urging in his articles that Thackeray be prosecuted. D'Souza approached him, and Thakore readily agreed to sign. Neither petitioner is Maharashtrian, but they are both well-known in Bombay.

The petition was filed in the High Court in early April. Several Bombay groups—PUCL itself, CPDR, Ekta, the Bombay Sarvodaya Mandal and others—applied to intervene in the



Shiv Sainiks listening to Bal Thackeray speech from Sena Bhawan

petition, thus lending their support. It came up for hearing for admission about the end of that month. When it did, the police filed an affidavit claiming that they had already initiated action against Bal Thackeray, and thus the petition should not be admitted.

What was this action that the police had initiated? Even a cursory look at it speaks volumes for the resolve of the authorities to punish this man. They had filed four cases under Sections 153A and 153B, based on four news reports—not editorials—in *Saamna*, dated January 10, 11, 12 and 21. These dates are towards the end of the two phases of riots. Not only that, these articles were tirades against the then Additional Commissioner of Police A. A. Khan, a Muslim, accusing him of killing Hindus. While certainly deplorable, the articles could by no stretch of imagination be considered as inflammatory and provocative as the editorials cited in the petition. Yet, the police claimed in their affidavit that the editorials were not deserving of action, whereas these articles were.

Having filed these cases, the police had applied to the government for sanction to chargesheet Thackeray. This application had been made on January 22, 1993. At the end of April —three months later—no word had come from the government on this application for sanction.

The court directed the government to decide whether to grant sanction in these cases by June 9, and set June 14 for further hearing of the petition.

In June, the government told the court that it had granted sanction to the police to proceed in the four cases. Therefore, the government counsel S.G. Page argued, the petition should not be admitted, as “now the law would take its own course”. Atul Setalvad, counsel for the petitioners, pointed out that no sane person

could, on reading the nine editorials, conclude that they were not deserving of action.

The petition was admitted. The police were given six weeks to decide whether they intended to take action based on the editorials.

Meanwhile, the police filed a few more cases against Thackeray for other writings in *Saamna*. These

The Indian Penal Code

Section 153A: “Whoever, by words either spoken or written, promotes or attempts to promote on grounds of religion, disharmony, enmity, hatred and ill-will between different religions ... shall be punished with imprisonment to three years or fine or both.”

Section 153B; “Whoever by words either spoken or written makes any imputation that any class of people cannot, by reason of their being members of any religious group, bear true faith and allegiance to the Constitution of India or asserts or publishes that any class of people shall by reason of their being members of any religious group be denied or deprived of their rights as citizens of India... shall be punished with imprisonment to three years or fine or both.”

articles were written well after the riots.

As it turned out, it was late August when the police finally filed an affidavit—only after being reminded by the advocate-on-record for the petitioners—urging once again that the petition be dismissed. They repeated that cases had been filed and that they would carry on in due course. They repeated that the editorials cited in the petition had been examined and not found “actionable when examined in totality”. However, said the affidavit, “all these writings were referred to the

Press Council of India ... for such action as may be deemed fit. In all these cases it was thought that the Press Council of India was the proper authority to take action if found necessary .

In other words, the police was willing to take action for the less serious writings in *Saamna*. A willingness fuelled, no doubt, by the knowledge that these cases were unlikely to stick to Thackeray. For the far more grave offences in the editorials cited by the petition, however, the police preferred the Press Council to take action, which if it took place at all, would amount to a mild slap on Thackeray’s wrist. Could our elected government, our tax-funded police, possibly be more obvious in their reluctance to punish Bal Thackeray for his offences against a large section of the people?

This really sums up neatly what the petitioners are up against. No government in Maharashtra has ever taken action against Bal Thackeray in the three decades or so of the Shiv Sena’s existence. They prefer to look away when faced with his innumerable violations of the law. So, too, do our elected representatives. Thakore and D’Souza are now waiting for a chance to apply to the Chief Justice of the High Court for an expeditious hearing of the petition. Considering it has been over five months since it was first filed, “expeditious” is hardly an appropriate word. However, if the Chief Justice grants this request, it should be heard sometime in October or November.

Knowing that he will successfully evade punishment, Thackeray is now once again on the offensive. In recent months, he has targeted journalists for attack. At two meetings in August, on the 18th and the 28th, Nikhil Wagle, editor of *Mahanagar*, aroused the ire of the Sainiks when he spoke out against *Saamna* and the Shiv Sena’s brand of communalism. On August 18,

Sainiks had also stormed the office of *Aaj Dinank*. They broke furniture, abused the chief reporter and assaulted a pregnant staff member, Kalyani Thombre. *Aaj Dinank*'s only offence was that the previous day it had carried a news report with the information that Dattaji Salvi, leader of the Bharatiya Kamgar Sena (the Shiv Sena's trade union wing) was going to be sacked by Bal Thackeray. Both *Mahanagar* and *Aaj Dinank*, incidentally, are Marathi papers, and thus aim at *Saamna*'s own audience. *Saamna* has indulged itself in an orgy of abuse and vitriol against Nikhil Wagle in particular, even calling for

his "liquidation". Elsewhere, *Saamna* referred to its opponents as "kutte ki aulad" (offspring of dogs), all of whom needed to be thrashed. These statements are of a piece with Thackeray's opinions on the judiciary, which the Hindi newspapers *Sanjh and Jansatta* reported in June. Referring to the cases that had been registered against him, he said in a speech: "I piss on the decisions of the courts. The judges are like rats who spread plague. There must be direct action against them." The battle against Wagle began on August 18, 1993, when he was speaking at a seminar on "Communal-ism in the

Press", organised by the

Hindi Patrakar Sangh. The other speakers at the seminar had spoken in general terms of communal forces in the media and the danger they posed, while steering clear of naming any particular paper, party or person. From the beginning of his speech, however, Wagle minced no words about the Shiv Sena. Hardly had he made his now famous remark, "I don't consider *Saamna* a newspaper," when there was complete pandemonium. Irate Shiv Sainiks in the audience got up, hurled abuses at him, and proceeded to attack him.

This was the second attack on



Shiv Sainiks on a rampage at Jogeshwari East, Bombay during the January 1993 riots

Soumitra Ghosh

Wagle. In October 1991 Shiv Sainiks, at Thackeray's urging, dug up the pitch at Wankhede Stadium, disrupting a scheduled cricket match against Paki-stan. This action was criticised by Wagle in *Mahanagar*. In response, Sainiks attacked the *Mahanagar* office. To protest against this hooligan-ism, a day-long *dharna* was held by journalists outside Sena Bhavan in Dadar. While they were dispersing at the end of the day, the Sainiks swung into action again. Four journalists were assaulted and one of them, a woman, Manimala, suffered grave head injuries.

Following the Shiv Sena's second onslaught on the press, the journalist community was up in arms. Wagle and other citizens of Bombay formed the Dahshat Virodhi Kruti Samiti (DVKS or Anti-Terrorism Action Committee). The DVKS re-solved to hold regular meetings all over the city to build up support against these attacks on the very fabric of society.

On August 28, the first meeting of DVKS was held at Vanmali Hall, Dadar. The hall was packed. Significantly, the majority of those present were middle class Maharashtrians: the very constituency the Shiv Sena has always claimed as its own. Predictably, Sainiks tried to disrupt the meeting. Unsuccessful in this attempt, they went outside and beat up a BBC correspondent and tried to damage Wagle's car.

The participants at the meeting went out with a rousing rallying cry, "Nirbhay Bano!" (Be fearless). The DVKS then went on to hold more packed public meetings at Virar, Goregaon and Mazgaon. More recently, in response to a taunt from Thackeray that they would not dare to hold one in Madanpura, a Muslim area of central Bombay, they did just that. Speakers were severely critical of the Shahi Imam and other fundamentalist Muslim leaders, in

addition to the Shiv Sena and Thackeray. As Wagle pointed out, if Dawood Ibrahim is the face of Muslim terrorism, Thackeray is the face of Hindu terrorism and both must be fought. With this end in view, the DVKS plans to hold frequent meetings all over the city. It even has plans to hold one in Kala Nagar, outside Thackeray's home.

Each time he feels threatened by the popular antipathy to communalism, Thackeray reacts in the only way he knows—a show of violence. For instance, after the assaults on Wagle, journalists formed the Committee Against Attacks on the Media. An all-day *dharna* was held outside Sena Bhavan on September 11, in which the Editor's Guild also took part. It was attended by media personalities such as Dileep Padgaonkar, Nikhil Chakravarty, Mrinal Pande, and N. Ram. The day before, Thackeray magnanimously announced that he

would be willing to talk to the editors from Delhi if they came to meet him at Sena Bhavan, an invitation which they declined in order to stay on at the *dharna*.

A large crowd of angry Shiv Sainiks began shouting slogans against the *dharna* participants. They had to be restrained by policemen. Unintimidated, hundreds of Bomba-ites turned up at the *dharna* site in a gesture of solidarity. To loud cheering from the Sainiks below, their leader Thackeray made a brief appearance at a tiny window high up in Sena Bhavan. "Show your discipline. Let them have their *dharna*. We'll take care of them later. Disperse quietly now," were his ominous words to his Sainik followers.

Ultimately, the only weapon that can bring Bal Thackeray to justice is public opinion. The spontaneous support of Bombay citizens to the public protests against Shiv Sena's *goondaism* is an important step in that direction. □