

## Understanding the Khairlanji Verdict

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The Khairlanji Verdict, in which six persons were awarded the death penalty for the massacre of Dalits, is anything but historic. In treating the massacre as a purely criminal act, it actually masks caste realities. On 24 September 2008, judge SS Das of the ad hoc sessions court in Bhandara district, Maharashtra, pronounced the death sentence for six persons and life term for two in the case related to the massacre of four Dalit-Buddhists of the Bhotmange family in Khairlanji village on 29 September 2006. This was hailed as a "historic verdict". For the first time in post-independence India, we were told, "capital punishment was given to killers of Dalits". In an editorial comment headlined "A Strong Message", The Times of India (26 September 2008) wrote, "The Khairlanji verdict sends out a clear message that perpetrators of caste violence would not be allowed to get away." The reports filed by Meena Menon for The Hindu echoed this view. Menon quoted Milind Fulzele of the Khairlanji Action Committee as saying: "This was the first time the court conducted a speedy trial and awarded the death penalty" (25 September 2008).

However, on 15 September 2008, judge Das had made it clear, in no uncertain terms, that "Khairlanji was a case of murder spurred by revenge for an earlier case of assault involving the police patil of a nearby village." He did not see any ground for invoking the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, (known as the PoA Act) — a legislation regarded as radical though it is rarely invoked in letter and spirit. Das also did not invoke Sections 354 (assault or criminal force with intent to outrage the modesty of a woman) or Sections 375 (that deals with rape) of the Indian Penal Code, though it had been amply demonstrated by several independent fact-finding reports in October–November 2006 that the mother and daughter, Surekha and Priyanka, had not just been raped repeatedly but tortured in ghastly ways (stripped and paraded naked, with reportedly even bullock cart pokers being thrust into their vaginas, and Priyanka being raped even after her death). Destroying evidence Before the CBI took over the investigations in November 2006, the initial two post-mortem reports had also incredulously ruled out rape and ensured that what little evidence was there was destroyed. After the judge's September 15 ruling, the sole survivor and key witness, Bhaiyalal Bhotmange and most activists who had worked on the case and led agitations demanding a CBI inquiry and justice, expressed shock and disappointment. They feared that the criminals would be let off with some light punishment. Dalit leaders expressed concern over the ruling out of caste hatred, for this would embolden caste-Hindu aggressors. Economist and Pune university vice-chancellor Narendra Jadhav demanded stringent punishment for the eight who had been convicted. Meira Kumar, Union Minister for Social Justice and Empowerment, too, expressed concern, saying if such episodes were treated as mere criminal acts, devoid of any casteist motivation, the Prevention of Atrocities Act would lose its relevance. Kumar even wrote to Maharashtra Chief Minister Vilasrao Deshmukh and Home Minister Shivraj Patil demanding a judicial review and action against the State police personnel for any dereliction of duty. Clearly, between the day of the verdict (15 September 2008) and the day of the announcement of quantum of punishment (24 September 2008), there was social and political pressure mounting for something radical and dramatic. In this sense, the death sentence seems to have been over-determined, almost in compensation for not invoking the PoA Act or rape laws. How do we then understand the verdict? Having weakened all the grounds for stringent punishment, when people were expecting acquittal, the judge slammed death penalty. However, since the judge has ruled out rape, conspiracy and caste hatred, there is a good chance that the High Court would not ratify the death sentence. The little "gain" that seems to have been made would be forfeited in no time. In many ways the Khairlanji case came to symbolise the everyday injustices Dalits suffer — most of which go unnoticed and unreported. The National Crime Records Bureau says every day two Dalits are killed, three Dalit women are raped and a Dalit is assaulted every 18 minutes. And this is the count of only cases that enter the records. According to the 2005 annual report of the Ministry of Social Justice and Empowerment, the conviction rate under the PoA Act is a mere 15.71 per cent while the conviction rate for cases registered under IPC was over 40 per cent in the same year. In Maharashtra, with a backlog of 6,535 cases under PoA Act as of 2004, the rate of disposal of cases filed under the Act between 2000 and 2004 has ranged between 0.24 and 0.84 per cent. Given such pervasive apathy and hopelessness, the death penalty in the Khairlanji case, even when the judgment jettisons caste as a ground for the crime, deludes people into thinking that there is some justice at last. However, in treating it as just another criminal act and by offering death for death, the judgment de-contextualises one of the most horrific caste crimes in post-independence India, and gives us the vicarious pleasure of avenging the brutal killing of the Bhotmanges. By making many feel that those convicted "deserve to be hanged", the verdict manages to successfully mask caste realities. It reduces both the crime and the punishment to abstract "human rage", stripped of all social and political underpinnings. Besides, capital punishment for a handful of the Khairlanji killers cannot be a symbolic compensation for the backlog of cases and the spate of acquittals under the PoA Act. The fact that even as the Khairlanji verdict was being delivered, three Dalit women must have been raped and two Dalits murdered somewhere in India should bring some sobriety. Far from acting as a deterrent to caste crimes, such a generalised judgment under provisions of the Indian Penal Code even offers the ground to argue that the PoA Act can itself be repealed — a longstanding demand of OBCs-led parties like Shiv Sena and Samajwadi Party. Vicarious revenge How do we relate this judgment to the campaign to abolish death penalty, a campaign in which many Dalits have actively taken part since Dalits and other social minorities are the worst victims of this extreme punishment? If some Dalits seem to be celebrating, it is because neither the social order nor the State gives them any avenue to avenge the everyday murders. The judgment, then, seems to offer vicarious, temporary revenge. The authority of the State first makes the Dalits

powerless, and then dons in the garb of their saviour. Reflecting on the issue in 1998, Ravikumar, then president of PUCL's Tamil Nadu unit, contrasted the kind of symbolic death brought about by the State through death penalty with the routine murder of Dalits in India. "There is indeed a kind of death which has no value &mdash; the death of a Dalit. Such a death is unnoticed and passed over by society. The State does not acknowledge guilt and such deaths do not cause any disturbance in the social order. One does not even need to justify the killing of a dalit as he or she is not considered a part of society. The killing of a Dalit is viewed as normal. Even a dead dog makes an impact on the atmosphere because it stinks, but the death of a Dalit does not make any.&rdquo; (The author is the publisher of Navayana.) (Courtesy: The Hindu 05 October 2008) <http://spoonfeedin.blogspot.com/2008/10/india-understanding-khairlanji-verdict.html>