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THE UNIVERSALIST

How to be a Dictator legally

Emergency State

(Source: Sunday Times, October 31, 1976)

ELECTIONS in India were yesterday put off for another year, the second postponement since Indira Gandhi declared a "state of emergency" in June last year. Meanwhile, the government is consolidating its powers. DILIP HIRO examines Mrs Gandhi's tightening grip on the country.

MRS INDIRA Gandhi's Government is now on the road to permanent dictatorship in India, and the Prime Minister intends to achieve it by parliamentary means. With the passage through the lower house of the Indian parliament last week of the blandly-titled Constitution (44th amendment) Bill, Mrs Gandhi is giving herself the power to end the democratic rule that, however faltering, has existed in India for the 29 years since independence.

But Mrs Gandhi denies this; she claims the changes are "to meet the changing needs of the people". Her Law Minister says they are aimed at "removing the stress and strains to which those institutions

[of government] have become subjected, particularly in their role with regard to measures for achieving socio-economic revolution".

Yet examination of the Bill's provisions explains why one of India's most respected lawyers said last week that it "aims at altering or destroying the basic structure of the constitution".

The 59 amendments in the Bill will:

- *End the power of the courts to rule on the validity of these or future constitutional amendments.

- *Deprive courts of the power to compel the executive to produce documents (technically, the rules framed by the executive in the conduct of its business).

- *Empower the president to amend the constitution himself, without needing subsequent parliamentary approval.

- *Make the president expressly bound to act on the advice of his prime minister (robbing him of his present discretion).

- *Authorise parliament to pass laws for the prevention or prohibition of

a wide range of "anti-national" activities, including "creating internal disturbances or disrupting public services" (definitions so wide as to cover most traditional forms of Indian political activity).

- *Empower the central government to send forces into any of India's 22 states without the invitation of that state's government.

WHEN MRS GANDHI declared a state of emergency in June 1975, banning 26 political groups and arresting between 100,000 and 125,000 people (including 32 MPs), she also suspended articles in the constitution guaranteeing "equal protection of the laws", protection of "life and personal liberty" and protection against "unwarranted arrest and detention".

No evidence has ever been produced to support Mrs Gandhi's claim that the emergency declaration was justified by "the deep and widespread conspiracy that has been brewing". But with her political opponents thus jailed or demoralised, the main opposition to Mrs Gandhi has come from judges,

lawyers and the more courageous sections of the press. The new constitutional amendments provide Mrs Gandhi with the means to shackle even these remaining sources of dissent.

Detainees have been arrested under the Maintenance of Internal Security Act. (Piloting this through parliament in 1971, Mrs Gandhi's spokesman said that it would never be used against political opponents or trade unionists. But in 1974, 30,000 striking railwaymen were detained under the Act; and in 1975 it was used to pick up the entire parliamentary opposition in one north-eastern state. So its use was scarcely unexpected.)

But, after the 1975 emergency, when 45 prominent politicians and journalists challenged their detention in the courts, the judges insisted that the government must divulge the grounds for their detention. When the government refused, the orders were usually quashed.

(Continued on Page 13)

Parody of a fair trial against back-drop of a police state

Anandamurti convicted — Worldwide protest

Ananda Marga Demo. Inside Indian H.C.

London Officials of the Indian High Commission rushed out of their offices as shouts of "Down with Indira Dictatorship, release Shri Shri Anandamurti and all other political prisoners" rent the air of November 29.

The slogans were being raised enthusiastically by some 20 English members of the Ananda Marga to whom fell the distinction of staging the first-ever demonstration within the precincts of the Indian High Commission here since the proclamation of emergency on June 25, 1975.

Two members of the group handcuffed themselves to the door. They carried placards denouncing emergency and demanding release

on bail of their spiritual leader Shri P.R. Sarkar who on November 26, was found guilty by Sessions Court in Patna on charges of conspiracy and abetment of murder of six former defectors.

Contingents of London Metropolitan Police rushed in on request of the Indian High Commission. Police also brought with them devices to cut the handcuffs. Later they got the keys.

Acharya Bharadwaj, Chairman

P.R. Sarkar Defence Committee who was leading the demonstration said that they would withdraw from the High Commission if the High Commission agreed to telex their demand to Mrs Gandhi. A first Secretary of the High Commission agreed to do that upon which the demonstrators came out of the High Commission.

The letter addressed to High Commissioner B.K. Nehru con-

(Continued on Page 13)



Step by Step to Dictatorship

A Chronology of events

JAN 3

Rail Minister assassinated.

Railway Minister Lalit Narayan Mishra, 52, and 23 other persons were wounded by a bomb explosion in Samastipur, Bihar State Jan 2. Mishra died Jan 3.

Prime Minister Indira Gandhi declared Jan 3 that "the forces of disruption which have spread hatred and indirectly encouraged violence" were responsible for Mishra's death.

Narayan had disclaimed responsibility for Mishra's death and warned that the government might use the incident to crack down on his campaign.

Mrs Gandhi Jan 7 again blamed Narayan's movement for the rail minister's slaying and said she, not Mishra, was the "real target" of the assassins. She discounted reports that the government might have decided to kill Mishra because he had become an embarrassment to her regime as a result of his involvement in an import licence scandal.

JAN 21

Congress Party loses by-election.

Ravi Mohan, candidate of the ruling Congress Party, was defeated in a parliamentary by-election held Jan 21 in the Jabalpur district of Madhya Pradesh State. The winner was Dharey Yadav, a so-called "people's candidate" backed by a new alliance of four opposition parties supporting the anti-corruption movement led by Jayaprakash Narayan. The seat had been held by the Congress Party for more than 50 years.

MARCH 2

Mrs Gandhi dismisses Minister.

Prime Minister Indira Gandhi March 2 had dismissed State Minister for Works and Housing Mohan Dhar for publicly urging her to open contacts with Narayan. Dhar said his suggestion was unavoidable because "I am saying what people want and that is a dialogue with the opposition," especially Narayan. Dhar was among a group of Congress Party leaders who favoured avoidance of a confrontation with Narayan.

MARCH 6

Narayan leads anti-government protest.

Some 100,000 persons marched through New Delhi March 6 in an anti-government demonstration led by Jayaprakash Narayan, whose anti-corruption movement served as an umbrella for the opposition.

Speaking at a gathering near the Parliament building, Narayan said: "There is corruption all around, mismanagement, poverty, illiteracy." He pledged a nationwide "month-long agitation" to press demands for the ouster of corrupt ministers, an overhaul in the education system and an austerity program.

A delegation led by Narayan went to the lower house of Parlia-

ment to submit these demands and others that called for the lifting of the 1971 national emergency measures adopted during the India-Pakistan war, political and economic reforms, and new elections in Narayan's native Bihar State.

MARCH 18

Gandhi faces vote-fraud charges.

Prime Minister Indira Gandhi made an unprecedented appearance at a preliminary hearing in the High Court in Allahabad, Uttar Pradesh State March 18-19 on charges that she had been illegally elected to her Parliament seat from a constituency in the state in 1971. The case was brought by Raj Narain, a Socialist Party candidate whom the prime minister had defeated in the elections. He accused Mrs Gandhi of misusing the services of her private secretary, a government official, by naming him her campaign manager, of spending more money on the campaign than the law permitted and of wrongfully using religious symbols to gain votes from the majority Hindu community. Mrs Gandhi denied all charges.

If convicted, the prime minister could lose her parliament seat and be barred from politics for six years.

JUNE 12

Gandhi convicted of election law violations.

The judge in the political corruption trial of Prime Minister Indira Gandhi heard testimony in March and found her guilty on June 12 of illegal practices in winning her parliamentary seat in the 1971 election. Gandhi announced through an aide that she would appeal against the conviction and did not intend to resign.

Justice Jagmohan Lal Sinha of the High Court of Allahabad, Gandhi's home town in the state of Uttar Pradesh, found her guilty on two counts of having violated election laws in her battle for the parliamentary seat in the Rae Baraili constituency. He said she had used a government official, Yashpal Kapoor, to head her campaign and she had used local officials and policemen to organise election rallies. (Kapoor, then a member of Gandhi's secretariat in New Delhi, had been first a servant and then personal secretary to her father, Jawaharlal Nehru, India's first prime minister.)

Justice Sinha found Gandhi not guilty of exceeding the legal limit on campaign expenses and improper use of religious symbols, and he said he did not consider her use of military aircraft for election travel a corrupt practice. He barred her from holding public office for six years, ordered her to pay court costs and granted her 20 days in which to lodge an appeal with the Supreme Court.

Gandhi received a letter June 12 from Devakant Barooan, president of her Congress Party, urging her to remain in office "in view of the immense faith and confidence

of the party and the people in your leadership." She told a Congress rally that day that she had "promised the people to work for their betterment, and I will continue to do so with their support. We have faced challenges in the past, and we will continue even now to face them with courage."

JUNE 13

Communists support Gandhi.

The pro-Soviet Communist Party of India had adopted a resolution June 13 supporting Mrs Gandhi.

Congress Party loses Gujarat.

The Congress Party was defeated in local elections held in Gujarat State June 13. A five-party front of non-communist opposition parties won and formed a government in the state. Prime Minister Gandhi had personally campaigned for her Congress Party, visiting each of the 19 districts in the state.

JUNE 14

Drive to oust Gandhi.

The Old Congress Party and other opposition groups opened a nationwide drive June 14 to oust Gandhi from office. They said they would take further legal action against her and had ordered provincial party workers to carry out "anti-Indira" rallies and other non-violent demonstrations. The parties outlined their campaign to newsmen in front of the Presidential Palace in New Delhi, where they were staging a protest against the prime minister.

JUNE 24

Court ruling bars Gandhi.

The Indian Supreme Court June 24 ruled that Prime Minister Gandhi was entitled to remain in office pending the tribunal's consideration of her appeal of her conviction by the High Court of Allahabad on charges of electoral corruption, but deprived her of her right to vote in parliament. The tribunal also temporarily barred Gandhi from participating in parliamentary proceedings and from receiving her salary as a Parliament member.

JUNE 26

Internal threat cited.

India declared a nationwide emergency June 26 and carried out a widespread roundup of political leaders opposed to Prime Minister Indira Gandhi and of others involved in anti-government demonstrations and violence. The crisis was precipitated by Gandhi's conviction on charges of election fraud and an oppositions campaign to drive her from office.

A proclamation issued by President Fakhruddin Ali Ahmed declared "that a grave emergency exists whereby the security of India is threatened by internal disturbances." Press censorship was imposed. The proclamation, which required parliamentary approval within two months, also authorised the government to suspend court proceedings regarding enforcement of civil rights and to conduct military operations to maintain public order.

A government spokesman, A.R. Baji, said 676 persons had been arrested including "all the leaders" of the opposition parties. Among those seized were Jaya Prakash Narayan, head of an anti-corruption drive aimed at Gandhi's rule; former Deputy Prime Minister Morarji Desai, who had broken with Gandhi's ruling Congress Party in 1969; Raj Narain, whose court suit against the prime minister precipitated the current crisis; P. V. N. Mody, leader of the right-wing Swantara Party; and Asoka Mehta, founder of the Socialist Party.

The arrests were carried out under the 1971 Maintenance of Internal Security Act, which had been drawn up shortly before the Indian-Pakistan war. Baji said that while the act then had been "necessitated by war and external aggression," the current proclamation was "related primarily to internal disturbances." He did not explain his use of the term "emergency."

Baji reported widespread disorders and demonstrations, which, he said, had been carried out "generally to protest" the detention of the political leaders. According to Baji: Most of the arrests, 450, had been made in Madhya Pradesh State. An attempt to call a general strike in Bihar State "failed to materialise." A "few acts of hooliganism" occurred in Ahmedabad, capital of Gujarat State. The right-wing Jan Sangh Party initiated a general strike in another town in Gujarat. About 1,000 persons demonstrated and stoned buses in Poona, south of Bombay.

Gandhi defends action.

In a nationwide broadcast on the state of emergency, Prime Minister Gandhi June 26 declared the government was forced to act because of "the deep and widespread conspiracy which has been brewing since I began introducing certain progressive measures of benefit to the common man and common woman of India in the name of democracy." The alleged plot, she charged, "sought to negate the very functioning of democracy. Duly elected governments have not been allowed to function, and in some cases, force has been used to compel members to resign in order to dissolve lawfully elected assemblies."

Alluding to the electoral corruption charges against her, Gandhi called them "false allegations" and said they were "a political attempt to denigrate" the office of the prime minister.

Gandhi assured the Indian people that "the new emergency proclamation will in no way affect the rights of law-abiding citizens." She expressed confidence "that internal conditions will speedily improve to enable us to dispense with this proclamation as soon as possible."

Newspapers harassed.

Most Indian newspapers in New Delhi failed to appear June 26-27

(Continued on Page 3)

Step by Step to Dictatorship

(Continued from Page 2)

after their power supply had been cut off without explanation.

JUNE 27

Suspension of rights.

President Fakrudin Ali Ahmed June 27 implemented another part of the emergency rule by ordering a suspension of the rights of Indian citizens and foreigners in India to seek court protection of their fundamental rights. Under another emergency decree issued June 30, persons arrested since the start of the emergency could be kept in jail for a year.

Opposition to the government curbs was reported among members of Mrs Gandhi's own Congress Party. Deputy Solicitor General F.S. Naikman was reported to have resigned. An attorney for Mrs Gandhi in her election fraud case, N.A. Paldhiwala, was said to have quit in protest against the mass arrests and the emergency declaration. Five senior Congress members of the West Bengal State Assembly were suspended from the party for a "gross breach of discipline."

JUNE 28

Press rules tightened.

The Indian government, citing danger to its "security and stability" during the current crisis, imposed the toughest press censorship since independence in 1947, according to an announcement made June 28 by Information Minister Vidya Charan Shukla, who had been appointed to the post earlier in the day. The guidelines, which had gone into effect June 26, barred the publication of rumours, the reproduction of objectionable matter in any Indian or foreign newspaper, and the printing of any article likely to arouse opposition to the government. Dispatches based on the two daily government briefings could be sent by foreign newsmen without official inspection. Other dispatches required censors' scrutiny before being sent.

JUNE 27-30

More arrests, curbs widened.

In the wake of the national emergency imposed June 26, more anti-government demonstrators were arrested, the government imposed further restrictions on individuals' freedoms, including a tightening of press censorship, and introduced economic reforms in what critics said was an attempt to draw attention away from the political crisis.

JUNE 30

Washington Post correspondent expelled.

The government June 30 ordered the expulsion of Washington Post correspondent Lewis M. Simons and gave him 24 hours to leave the country. Simons said he had been told by a government official that he was being ejected primarily for an article he had dispatched June 20, six days before censorship, in which he reported that Indian army officers "are known to be annoyed over the refusal of Prime Minister Indira Gandhi to resign from office" after

her conviction on charges of electoral corruption. Simons said he was also told he had refused to abide by censorship rules.

JULY 2

Press curbs tightened.

Press censorship was further tightened July 2, according to a government order circulated to news offices. The extended regulations required that "all cartoons, photographs and advertisements which are likely to come within the purview of censorship regulation should be submitted for being censored."

A group of employees of the Times of India in New Delhi adopted a resolution July 7 denouncing press censorship. The statement pledged not to co-operate in the "publication of government propaganda, untruthful items and malicious attacks on the democratic opposition."

The press curbs had been denounced at a secret meeting of 100 lawyers in Gujarat state July 5. Because of its censorship rules, the government had forfeited "its claim to be democratic," the statement said.

JULY 4

Opposition parties banned.

The Indian government July 4 banned 26 opposition parties and allied groups in a further action aimed at crushing anti-government activities. The major national parties were not affected. The outlawed organisations, including rightist and leftist parties, were accused by the government of "indulging in activities prejudicial to internal security, public safety and maintenance of public order."

Among groups declared illegal: the Rashtriya Swayamsevak Sangh, the cultural wing of the rightist Hindu militant Jan Sangh (the Jan Sangh itself was not banned); the Anand Marg, a sect of Hindu fanatics, which had long been condemned by the government as subversive and criminal; the Naxalites, a pro-Maoist Communist Party, which was largely a terrorist organisation based in northeastern India; and the Jamaat-e-Islami, a Moslem extremist organisation that was pro-Pakistan.

Addressing a group of supporters July 4, Prime Minister Indira Gandhi again expressed hope that the emergency rule she had ordered would be only "a temporary phase. I am proud of democracy in the country, and want to see it strong."

JULY 5

Gandhi gathers support.

Several of the country's top labour leaders assured Gandhi of "fullest cooperation from the workers" at a meeting with the prime minister July 5. She told the gathering that, "the present opportunity should be used for increasing production and to improve service to the people." "This is not the time," Gandhi said, "for any strike or go-slow."

Gandhi's assumption of sweep-

ing powers received strong support July 4 from India's Moslem leaders. A communique issued from the national president and general secretary of the Moslem League, the country's chief Islamic party, endorsed Gandhi's new economic programme as well as the government's state of emergency. Similar backing was given by Syed Ahmed Hashimi, head of the Jamiat Ulama, a relatively moderate Moslem communal organisation.

JULY 16

MISA strengthened.

The emergency rule was further tightened July 16 with an amendment to the Maintenance of Internal Security Act, which authorised the central or state government to arrest foreigners without giving reason and barred court appeals to those arrested. The amendment also provided for the confiscation of property of those fleeing arrest.

JULY 19

Fernandes calls for resistance.

Socialist Party chairman George Fernandes called for an underground resistance to overthrow what he called "the fascist dictatorship" of Prime Minister Gandhi, according to a mimeographed manifesto circulating in New Delhi, it was reported July 19. Fernandes, president of the All-India Railwaymen's Federation, urged the formation of "action units" that would carry out general strikes and the non-violent obstruction of transportation and communications. Fernandes was in hiding to escape arrest.

JULY 21

Foreign press curbs tightened.

The Indian government July 21 issued a new set of rules further restricting the activities of foreign correspondents in the country. At the same time the government dropped the previous regulation censoring news articles before they were filed from India and instead required newsmen to submit copies of their dispatches to the government censor after they had been sent abroad.

Among the latest press curbs: Governing Congress Party spokesmen in parliament debate could be quoted at length by foreign newsmen, but opposition speakers could not be quoted at all; no mention was to be made of the arrest of political prisoners; "there should be no indication in the published material that it had been censored"; "nothing should be published which is likely to denigrate the institutions of prime minister or president"; and the guidelines themselves should not be published. (In a dispatch from New Delhi July 21, the New York Times published the text of the guidelines.)

Three foreign correspondents were expelled from India for refusing to sign pledges to abide by the previous press censorship rules and after rejecting a government offer permitting them to remain if they signed the new pledge. They were

Loren Jenkins of Newsweek, Peter Hazlehurst of the Times of London and Peter Gill of the Daily Telegraph of London.

Representatives of the New York Times, the Washington Post and United Press International said July 21 their organisations would not sign the pledge to abide by the new guidelines. The Los Angeles Times said it would obey the rules.

Refusal to comply with the censorship rules was announced July 22 by the British Broadcasting Corporation, the Voice of America and the Columbia Broadcasting Co. and the National Broadcasting Co. said they would accept.

Opposition protests jailings.

At the opening of the reconvened special Parliament session July 21, opposition members assailed the government for the state of emergency. One legislator, Jambhant Dhote, complained that some of his fellow parliamentarians were in jail and demanded that all of them be released so they could take part "in proceedings of this house."

JULY 22

Parliament approves emergency rule.

The Indian government's state of emergency imposed June 26 was approved by the upper house of Parliament July 22 by a 136-33 vote and by the lower house July 23 by a 336-59 vote. The required parliamentary ratification in effect authorised the government to maintain the emergency rule indefinitely.

Opposition walks out of Parliament.

After the vote in both houses, opposition legislators walked out of both chambers in protest. Following the upper house balloting July 22, Socialist Party leader, N.G. Ghoray read a statement saying that "no useful purpose will be served by our taking part in the further proceedings of this session." He said the opposition had agreed to the boycott because of the suspension of parliamentary rules which permitted members to question cabinet members, and the government's decision to apply the strict press censorship proceedings to parliament. Under the new regulations, newspapers were prohibited from quoting statements by opposition Parliament members.

JULY 23

Emergency law supercedes courts.

The lower house of the Indian Parliament July 23 approved by a 341-1 vote a constitutional amendment putting the current state of emergency above challenge in the courts and authorising the president to proclaim any number of emergencies. The upper house approved the measure July 24 by a 164-0 vote. Opposition members continued their boycott of both houses.

(Continued on Page 4)

Step by Step to Dictatorship

(Continued from Page 3)

JULY 25

Crackdown continues.

The government crackdown on dissidents continued with the arrest July 25 of Kuldip Nayar, a prominent journalist, on charge of being a threat to internal security. Nayar, senior editor of the Indian Express, the country's largest English-language newspaper, and a correspondent of the London Times, was seized at his home.

Amnesty International reported July 29 that 6,229 persons had been detained under the emergency rule as of July 18.

JULY 26

Anti government demonstrations.

Anti government demonstrations were held throughout Gujarat State July 26 in defiance of the emergency law that prohibited such rallies. At one of the gatherings, Chief Minister Babubhai Patel addressed a crowd of 10,000 in Ahmedabad, the capital, and vowed to wage a continued campaign against Prime Minister Indira Gandhi's authoritarian government "until our fundamental liberties" were restored. Saying that similar rallies were being held in all 18 districts of the state, Patel declared, "I have allowed my government to speak against" the prime minister and the "police will not step in." According to the Chief Minister, 709 persons had been arrested in Gujarat since imposition of the central government's stringent regulations and that most had been released soon after detention.

AUG 4

60,000 reported held.

A report from London Aug. 4 quoted opponents of Mrs Gandhi and Indians who had recently left New Delhi as saying that 55,000-60,000 people had been arrested since the imposition of emergency rule June 26. A leader of the underground movement in India, George Fernandes, president of the All-India Railwaymen's Federation, was said to have informed the London group that 60,000 persons had been detained and that the anti-government drive was gaining momentum in Bihar State. The government had been forced "to hand over to the military the power-generating plants" in the state following "widespread sabotage of vital installations," according to Fernandes. He said "the underground press has started proliferating everywhere."

AUG. 5

New vote law clears Gandhi.

New government electoral legislation that in effect invalidates Prime Minister Indira Gandhi's June 12 conviction for violating India's election laws was approved by acclamation in the lower house of Parliament Aug. 5 and by the upper house Aug. 6. The action came one week before the Supreme Court was to begin hearing arguments on Mrs Gandhi's appeal of her conviction.

One of the constitutional amend-

ments changing the electoral law stated that the alterations "shall have retrospective operation so as to apply to any election held before the commencement of this act, in respect of which appeal from any order is pending before the Supreme Court."

The new law stated that the work done on an election campaign by civil servants as part of their official duties would no longer be considered promoting the candidates election. This would reverse a court ruling that the prime minister had wrongfully used civil servants to build rostrums and set up loud-speaker systems during her election campaign.

Another amendment had the effect of nullifying the second count of the prime minister's conviction, that a senior civil servant was employed as her campaign manager before his resignation from the government. Under the new ruling, a court would be required to accept the resignation date given by the government. During Mrs Gandhi's trial, the court had refused to accept the government position, saying it did not believe some of the prime minister's witnesses.

The mandatory penalty barring the prime minister from elective office for election law violations was reversed by another amendment, which gave the president power to decide whether a convicted official should be deprived of office for that period.

Law Minister Hari Ramachandra Gokhale had explained in the lower house Aug. 5 that the new bill "seeks to remove loopholes" in the current law. "It is not introduced for the benefit of any single individual, and if any individual benefits from it, that does not effect the merits of the legislation."

India's strict censorship rules permitted newspapers Aug. 5 to publish only a few lines on the election law amendments, with no explanation of the objectives of the

explanation of the objectives of the measure, and no mention of the prime minister.

AUG. 7

Gandhi exempt from court challenge.

A constitutional amendment designed to free Prime Minister Indira Gandhi from her conviction on charges of corrupt election practices was approved by the upper house of Parliament Aug. 7 by a 336-0 vote and by the lower house Aug. 8 by a 161-0 vote. The measure was ratified by a majority of the 22 state assemblies Aug. 9 and signed into law Aug. 10 by President Fakhruddin Ali Ahmed.

The legislation prohibited lawsuits challenging the election of the prime minister, president, vice-president and house speaker. It stated that current challenges to election of a prime minister should be deemed never to have taken place, and that any court judge-

ment that declared the election of a prime minister void, as in the case of Mrs Gandhi, "shall be deemed always to have been void and of no effect." The latter clause had the effect of nullifying the six year ban on Mrs Gandhi's holding office. The ban had been stayed pending her appeal to the Supreme Court.

The amendment also barred judicial consideration of the four-year old Maintenance of Internal Security Act, which had been used as the basis for political arrests.

In a further action aimed at protecting Mrs Gandhi from entanglements with the courts, the upper house Aug. 9 unanimously approved a constitutional amendment that prohibited any lawsuit civil or criminal, against a prime minister. The measure, which also applied to the president and to the governors of 22 states, was to be sent to the lower house when it reconvened. Gokhale explained that the amendment would prevent "frivolous suits" that "hamper the efficient discharge of duties and cause unnecessary and unwarranted harassment."

AUG. 8

Congress Party ousts Dharja.

Mohan Dharja was ousted Aug. 8 from the Congress Party for 10 years because of anti-party activities. The sole parliamentary critic of the law that had cleared Prime Minister Gandhi of election abuses, Dharja had been suspended from party membership in June and his case was referred to the party disciplinary committee, which ruled on his expulsion.

AUG. 24

Gandhi defends trial suspensions.

Prime Minister Gandhi had reaffirmed her decision to suspend trials of arrested dissenters in an interview broadcast Aug. 24. She said: "Court cases go on for years and years and it's very difficult to prove anything. What we have done in a large number of cases is preventive detention because we had information that a crime was being created which would lead to violence."

SEPT. 22

Court backs

A New Delhi high court Sept. 22 upheld the right of the Press Council of India, a quasi-judicial watchdog body, to consider the case of Hindustan Times editor B.G. Verghese, who faced dismissal by his publisher, K.K. Birla. The court rejected Birla's objections to council intervention in the case, but did not rule on his right to fire Verghese, which he did on Sept. 23.

Some journalists had charged that Birla was seeking to remove Verghese from his post at the instigation of the government because Verghese was a critic of Prime Minister Indira Gandhi. Birla was a political ally of the ruling Congress Party.

Verghese's dismissal Sept. 23 prompted more than 100 staff members of the Hindustan Times to stage a one-day protest strike.

SEP. 15

Jailed journalist released.

A New Delhi high court Sept. 15 ruled that the jailing of the journalist Kuldip Nayar Aug. 25 was illegal and said that Prime Minister Indira Gandhi must provide specific charges to support her use of the Internal Security Act to arrest critics of her government. Nayar had been released unconditionally Sept. 12, two days after hearing ended on his petition challenging his detention.

A government statement issued after the high court decision said all state governments and other federal territories had been asked to make certain that arrest warrants issued since the emergency had been carried out legally. "Orders of detention which do not conform to these legal requirements may be reviewed and necessary corrective action taken," the statement said.

The West Bengal State government Sept. 8 had released several 1,000 opposition leaders arrested under the emergency act after a review board said there was insufficient evidence for detaining them. Among those freed were Haripada Bharati of the Jan Sangh Party and Shishla Dharja of the Bharatiya Lok Dal Party.

SEPT. 26

U.S. newsmen ordered expelled.

Los Angeles Times correspondent Jacques Leslie was ordered expelled from India Sept. 26 for "repeated violations" of the country's self-censorship code. He was given 24 hours to leave.

The Indian Government had chastised Leslie in recent weeks for his reports on the activities and views of anti-government figures and speeches of opposition parliament members in violation of the press regulations.

The U.S. embassy in New Delhi and the Times protested against the ouster. The newspaper said the expulsion order "reflects the political repression that has gripped India since the end of June."

United Press International's New Delhi bureau had its communications severed Oct. 1 for the second time in two months. A government spokesman said the action was taken because of UPI's "added violations" of the censorship rules.

The government Oct. 8 severed the communications of the New Delhi offices of Reuters and the Australian Broadcasting Commission. Reuters' telex and telephone lines were cut and the home telephones of three of its reporters were disconnected because of the report Oct. 6 on the beating of political prisoners the previous week in a New Delhi jail, chief censor Harry J.D. Penha said. The Australian News service's home and office telephone lines were cut, apparently for the same reason. The report on the jail beatings had not been denied, but D'Penha said it was a violation of the self-censorship rules. (Opposition Party leaders had protested the jail beatings to the government Oct. 6.)

(Continued on Page 5)

Step by Step to Dictatorship

(Continued from Page 4)

They said several imprisoned politicians had gone on hunger strike to protest the incident.)

Foreign Minister Yashwantrao Bawantao Chavan said Sept. 26 that his country's state of emergency was misunderstood in the U.S. because of "distorted and slanted" reporting in the "Western media." Speaking to a New York meeting of the Association of Indians in America, Chavan said, "Democracy has not only not suffered a demise in India, but is more living and throbbing than ever."

Prime Minister Gandhi had accused the Western media Aug. 13 of "slandering and malicious reporting" of events in India. "Our doubts and fears are confirmed by the behaviour of important sections of the Western press, television and radio," she said.

OCT. 18

Emergency act widened.

Under a presidential audience Oct. 18 amending the Internal Security Act, the government was no longer required to disclose to anyone, including the judiciary, reasons for arrests carried out under the act. The ordinance was made retrospective to June 29 to keep persons already imprisoned from challenging their arrests.

The amendment, the third since the imposition of a national emergency June 26, was connected with a court ruling Sep. 15 that journalist Kuldip Nayar had been illegally detained because no specific reasons were given for his imprisonment.

A West Bengal journalist, Gour Kishore Ghosh, was arrested at his Calcutta home Oct. 6 under the Internal Security Act. No reasons for his detention were given.

OCT. 9

UPI lines restored.

The Indian government Oct. 9 restored communications in the New Delhi bureau of United Press International, which it had severed Oct. 1 for violation of censorship rules.

In further action against Reuters, the Government Oct. 9 cut the news service's international news circuit.

OCT. 23

Church group makes rights appeal.

Prime Minister Indira Gandhi had been urged by the World Council of Churches to "restore the democratic rights of the people for free expression," the Council announced in Geneva Oct. 23. The appeal, contained in a letter from general secretary Dr. Philip Potter, expressed "distress" over the jailing of political figures without trial, asserting that the governments' emergency powers constituted a "very serious abridgement of human rights."

The prime minister had defended the state of emergency Oct. 4 as being "in the correct order of priorities" as contained in the Constitution. The charter's preamble mentioned social and economic justice first and then only

referred to political justice, Mrs. Gandhi said.

NOV. 7

Court reverse Gandhi decision.

The Indian Supreme Court Nov. 7 unanimously reversed Prime Minister Indira Gandhi's conviction on two electoral offences June 12 in the lower court — offenses committed during her 1971 campaign for Parliament. The lower court's ruling barring Mrs. Gandhi from elective office for 6 years also was quashed.

The five main tribunals verdict was not based on the facts of the case, but rather on the election law amendment adopted by parliament in August that in effect cleared her of her June 12 conviction.

The prime minister's opponent in the 1971 election who had filed charges against her, Raj Narain, had asked the Supreme Court to strike down the electoral amendment on the ground that it was unfair to alter the election laws retroactively, and that the change interfered with the "basic structure" of the Constitution. Narain also argued that the new election law was illegal because at least 24 Parliament members had been in jail under the emergency act when the legislation was passed.

In a third decision, the Supreme Court by a 5-3 vote nullified part of a special constitutional amendment adopted by parliament in August that divested the courts of power to adjudicate the election of the prime minister. This ruling upheld Narain's contention that this sweeping power of immunity violated the basic spirit of the Constitution.

NOV. 12

Government paroles Narayan.

Opposition leader Jaya Prakash Narayan was paroled from prison Nov. 12 because of ill health. Narayan, 73, arrested with other anti-government dissidents at the start of the national emergency rule June 26, had been confined to a government hospital for most of the time in Chandigarh, 150 miles north of New Delhi. The government announcement did not give the terms of Narayan's parole. His political associates said he had been freed to receive treatment.

NOV. 16

Emergency powers widened.

A presidential decree Nov. 16 provided for the rearrest of a person on the same charges at the end of a period of detention or even after being released by the courts or government. Heretofore, legal experts had held that once a person was released under the Maintenance of Internal Security Act, it was not possible to detain him again on the same charges. The extension of the emergency arrest powers was the fourth time the security act was amended since its imposition June 26.

DEC. 8

Press censorship widened.

The government Dec. 8 tightened control over the press, pro-

hibiting publication of anything regarded by authorities as objectionable, removing immunities in press coverage of Parliament and abolishing the Press Council, the semi-official body aimed at promoting higher standards of journalism. The three executive ordinances were approved by the cabinet and signed by President Fakhruddin Ali Ahmed.

The principle decree, the "prevention of Publication of Objectionable Material," was described by the official announcement as "intended against all objectionable publications in general." The law was aimed at prohibiting the publication of any material "likely to incite disaffection against the constitutionally established government" according to the statement. The decree, however, protects such writers as are intended to criticize the actions of the government in a "constructive manner," the announcement said.

Under the new press restrictions, the government was empowered to demand cash bonds from printers, publishers and editors held responsible for publishing proscribed matter. The government was also authorized to prevent distribution of any objectionable publication and to close down the press that printed it.

DEC. 10

Newspapers assail press laws.

India's newly enacted laws imposing further restrictions on the press were assailed by the country's newspapers, it was reported Dec. 10-11. Newspaper publishers met with government officials urging greater press freedom and expressing objections to the Information Ministry's censorship powers.

The Indian Express said that "in its own and the country's interest, the government should reconsider" its latest curbs.

The Finance Express said, "This is a case in which the accused has been sentenced without being given reasonable chance to vindicate himself."

The pro-government Communist newspaper Patriot cautioned that "any restraints on the press ... must not be achieved in a hurry."

The Times of India, which usually supported the government, expressed misgivings about the new ordinances, saying there was a danger that officials at the state district levels, who "tend to be unduly sensitive to any form of criticism," might abuse the statutes.

DEC. 10

Gandhi son gets party post.

Sanjay Gandhi, youngest son of Prime Minister Indira Gandhi, was appointed Dec. 10 to the executive committee of the ruling Congress Party's youth wing.

DEC. 15

Government attacks rights.

Attorney Gen. Niren De appeared before the Supreme Court Dec. 15 to seek suspension of all habeas corpus petitions by prisoners to thwart their right to challenge

their arrests. De said, "In times of emergency, the interests of the state must be placed above those of the individual in respect of fundamental right."

DEC. 19

Former Gandhi aide arrested.

Mohan Dharia, dismissed in March as state minister for works and housing, was reported Dec. 19 to have been arrested in the Bombay area as part of the government's continuing crackdown against dissidents. An associate of Dharia said the opposition forces were hoping that Prime Minister Gandhi "might start releasing people" seized since the imposition of emergency rule June 26, "but she's going the opposite direction."

DEC. 19

Emergency rule extended.

India's ruling Congress Party announced Dec. 29 at its annual convention in Chandigarh extension of the state of emergency imposed June 26 and a year's postponement of national elections that had been scheduled for March 1976.

1976 JAN. 5

Opposition condemns repression.

Opposition party members assailed the government's emergency measures as Parliament opened a new session Jan. 5 to consider, among other things, the ruling Congress Party's recommendation to extend the state of emergency imposed June 26, 1975 and to postpone elections scheduled for March. The party had approved these proposals at the conclusion of its national convention in Chandigarh Jan. 1.

Most of the opposition boycotted the opening parliamentary session at which President Fakhruddin Ali Ahmed spoke. After his address, in which he outlined the government's program of new assistance for the poor, a more vigorous family planning program and the easing of some controls on business, the anti-government members took their seats and attacked the state of emergency. P.G. Mavalankar asserted that "parliamentary democracy has been twisted and perverted." Another member, Samar Mukherjee, said, "The role of Parliament has been eroded and there is a danger that it will be eroded further."

JAN. 7

Free speech, other rights suspended.

The Indian government Jan. 8 suspended seven rights guaranteed by Article 19 of the Constitution: freedom of speech; freedom of assembly; freedom to form associations and labour unions; the right to move freely throughout India and to live in any part of the country; the right to own property; and the right to pursue any profession, trade or business.

The order signed by President Fakhruddin Ali Ahmed also barred appeals to the courts to enforce

International Observer Reports

6

I — INTRODUCTION AND DESCRIPTION OF MANDATE

The undersigned was commissioned by the International Commission of Jurists, Geneva, and by the International League for the Rights of Man, New York, to attend, and report on, the trial in Patna, capital of the Indian Province of Bihar, of Mr Prabhat Ranjan Sarkar. Copies of the relevant *Ordres de Mission* are annexed hereto as Appendixes 'A' and 'B'. Mr Sarkar, also known as Shrii Shrii Anandamurti, is the founder and leader of the Ananda Marga movement.

He and four others were charged at the end of 1971 with offences relating to the alleged murder in the summer of 1970 of a number of Ananda Marga defectors. After protracted preliminary hearings, the trial opened on December 22nd, 1975. At the time of writing, it has not yet been completed.

It would appear that from the very beginning this case aroused widespread concern, not only among Ananda Marga followers in India and abroad, but also among many individuals and organisations throughout the world concerned with the protection of civil liberties. Eventually, even, various international defence committees were created for Mr P.R. Sarkar and are still active.

Alarm was expressed over what appeared to be excessive delays in the court proceedings; over the obstacles the accused were encountering in securing funds to pay for their legal defence; over alleged interference with their right to counsel; and over the practical difficulties in India's present political climate of presenting a full defence to charges which were said to be based on questionable or trumped up evidence. There were also fears about the general fairness of the trial.

Whether these apprehensions were well-founded or not, they were reinforced by the avowed hostility of the Indian authorities to Ananda Marga and by the clearly political overtones of the prosecution. The proceedings, if not actually designed to stamp out the movement, seem to have been manipulated by some so as to destroy the credibility of Ananda Marga and disillusion its followers.

Finally, considerable concern has been shown continuously, especially among Margia, over the state of health of Mr Sarkar. Indeed, after a supposed attempt on his life, on February 12th, 1973, he decided to begin a hunger strike and to take in only liquids. This voluntary fast still continues to this day, more than three years later, and renders it physically and mentally impossible for Mr Sarkar to attend the proceedings. He remains in Patna's Bankipore jail while the trial goes on in his absence.

These were the misgivings that induced both the International Commission of Jurists and the International League for the

Rights of Man to become involved and to despatch an observer to the trial.

The present report is based not only on the undersigned's personal observations in the course of a relatively brief attendance at the trial in the Patna District Court from June 11th to 18th, 1976 but on many meetings with defence and prosecution counsel, with various other observers, and the examination of hundreds of pages of documents, briefs and transcripts. The fact that the proceedings are almost entirely conducted in English greatly simplified the task. Some practical problems encountered in carrying out the mandate will be described in Appendix 'C'.

Finally, it should be noted that this report is prepared in the light of contemporary notions of fair and objective justice. The criteria used are the generally accepted basic rules of natural justice. The undersigned is in no way attempting to assess the merits of any political, ideological, social or spiritual point of view. Nor does he wish to take sides in the controversies between the Indian authorities and the Ananda Marga or pass judgement on the policies of the Government of India.

The sole question this report tries to answer, on the strength of the principles outlined hereinabove, is the following: is the trial of Prabhat Ranjan Sarkar fair? In other words, is he enabled to make a full and complete defence before an impartial tribunal?

Simple as the question may appear, answering it has proved far from easy.

II — HISTORY OF ANANDA MARGA AND ITS RELATIONSHIP WITH THE INDIAN AUTHORITIES

A proper understanding of the issues involved in the Sarkar trial requires a minimum of familiarity with the history of the Ananda Marga movement itself and of the increasing hostility towards it of the Indian authorities.

The movement was founded in Bihar in 1955 by Mr Prabhat Ranjan Sarkar, who was then employed as a railway accountant. It describes itself as "an organisation to propagate Ananda Marga (the Path of Bliss), a synthesis of traditional Tantric and yogic practices with a carefully planned programme of service and social reform". Mr William T. Wells, Q.C., the British barrister who visited India in the spring of 1974 at the behest of the International Committee to Obtain Justice for Shrii Shrii Anandamurti, in his report spoke of its "twin objectives of individual regeneration through spiritual practices and of liberating and purifying the society, and ultimately of creating a world government by substituting rule by moralists for the corrupt rule, as he saw it, of the government around him".

The religious and social tenets of Ananda Marga were evidently quite appealing to many people and the movement spread to var-

ious parts of India where it eventually attracted more than two million adherents, including apparently, many government and police officials. Abroad it is represented in dozens of countries on various continents, including Europe, Asia and North America.

Ananda Marga was critical of the existing social order and it was rapidly suspected of political ambitions. It soon incurred the anger of the Indian administration. Its infiltration of government circles obviously also disturbed the authorities. Hence, in 1969, the authorities, on the ground that Ananda Marga was a political party organisation, unsuccessfully attempted to prohibit civil servants from membership in the movement. In fact, not only the government, but various other elements in India opposed Ananda Marga. It even occasionally encountered mob violence. Ananda Marga made no secret of its formidable array of enemies and in one pamphlet even boasted:

"Conservative Hindus reacted against Anandamurti's programme to abolish the caste system; prosperous businessmen and landowners felt threatened by his socialistic ideals; and most importantly, communists found his organisation eroding their base among the poor and among disaffected intellectuals. The Communist Party of India (CPI), the pro-Soviet bloc was an important factor in Mrs Gandhi's rising power, and it was not adverse to contributing its power to the effort to suppress Ananda Marga. Anandamurti has accused the Soviet KGB of organising much of the anti-Ananda Marga activity; recently, the Soviet press carried articles denouncing Ananda Marga and calling for its abolition not only in India, but throughout the world."

One objection to Ananda Marga which has surfaced time and again is its insistence on a society led by moralists or "advipras". According to Ananda Marga, only the "morally strong and selfless individuals" are entitled to govern society. This has led its critics to assert that the movement is basically anti-democratic and seeks to establish a fascist-tinged dictatorship.

The Indian government eventually came to the conclusion that Ananda Marga wanted to capture political power by violence and armed revolution and that its so-called Voluntary Social Service or V.S.S. was really a para-military organisation set up for the purpose of overthrowing the government.

This increasingly strident campaign was substantially bolstered by the discovery in the fall of 1971 of an alleged plot of the Ananda Marga leadership to assassinate some defecting adherents.

Indeed, in the course of a police raid in June 1971 on the former Ananda Marga headquarters at Ranchi, in Bihar, the police arrested an Ananda Marga monk or awadhoot called Gour Mazumdar,

but better known as Madhavananda, who had been general secretary of the V.S.S. and close to Mr Sarkar. Four months later he was turned over to India's Central Bureau of Intelligence (C.B.I.), at the latter's request. After being detained and questioned by the C.B.I. for seven days he apparently confessed to them the murder of several disaffected Ananda Marga followers and implicated Mr Sarkar and others in these killings as well as in plots to assassinate at least another fifty defectors. On October 31st, 1971, the police took him to court where, after pleading innocent to a charge relating to explosives supposedly found during the Ranchi raid, Madhavananda was asked by the magistrate if he had anything to add. According to the official story, he then spontaneously provided the magistrate with an extensive account of a number of murders of Ananda Marga defectors in which he claimed to have participated. He eventually admitted committing, or participating in, eighteen murders and agreeing to commit another fifty.

When asked later why he had waited in custody four and a half months before finally confessing, he explained that he had not told the Bihar police about these crimes because he did not trust them: many of them were members of Ananda Marga; he only felt confident enough to implicate himself and Mr Sarkar when in the hands of the C.B.I.

At the end of December 1971, Mr Sarkar and others were arrested and charged with complicity in, and/or perpetration of, the murders. In the meantime, Madhavananda had been pardoned for his participation in these same crimes. Under Indian law, the testimony of an accomplice such as Madhavananda apparently can only be received if he has first been pardoned and no longer faces prosecution for his crime.

It was not until 26th of June 1972 that Mr Sarkar and his four co-accused were formally charged. As we shall see in the next chapter, it took almost two and a half years for all the preliminary and committal hearings to terminate and for the actual trial to begin. In the meantime, the official campaign against Ananda Marga seemed to increase in ferocity. Eventually, when the State of Emergency was proclaimed by Prime Minister Indira Gandhi on June 26th, 1975, and all civil liberties were suspended, many Margis were placed in preventive detention and Ananda Marga was among the twenty-six Indian organisations banned. All Ananda Marga activities were prohibited and all the funds and property of the movement confiscated. No accurate estimate exists of the number of Margis arrested or still detained.

At the present time, Ananda Marga is still forbidden in India. It

(Continued on page 7)

is ironic that the only country where it is prohibited is that where the movement was created.

III — HISTORY OF THE SARKAR PROSECUTION AND TRIAL

(a) Arrest and committal hearings.

This historical and political background is essential to appreciate fully the context of the judicial proceedings against Prabhat Ranjan Sarkar and the basis for the uneasiness described in Chapter 1.

Mr Sarkar's arrest on charges relating to the murder of defecting awadhoots took place in Patna on December 29th, 1971. Specifically, he was accused of conspiracy and abettment to murder in 1970 of six former members of Ananda Marga.

Four other persons were arrested simultaneously: Sarveshvarananda, an awadhoot, Sarkar's general secretary; Satyananda, another awadhoot; and two Ananda Marga workers: Barun Kumar Mukherjee and Pavitra Kumar Roy. Sarveshvarananda and Satyananda face the same charges as Mr Sarkar while the remaining two are accused of the actual murders. Two other Margis allegedly involved absconded and have not been found.

It took almost five months after their arrests — until May 5th, 1972 — for formal charges to be laid against the five accused.

The pre-trial or preliminary hearings lasted from June 22 to November 22, 1972. Madhavananda gave evidence for seven days on behalf of the prosecution and was subjected to nine days of cross-examination. All accused, including Mr Sarkar, testified and denied the charges. The presiding magistrate, even though noting that there were "several probabilities of the correctness of the defence version" and despite the "inconsistencies, probabilities, contradictions, omissions, interestedness, etc." of the prosecution, stated that the law did not require at this stage the prosecution to prove its case beyond shadow of doubt. He ruled that a sufficient prima facie case had been made out to justify committal to trial.

The defence attacked this committal order. Nine months later, on August 22nd, 1972, it was quashed by the Patna High Court because Madhavananda's pardon — as we have seen, the legal prerequisite to the validity of the testimony of an accomplice — was improperly granted. However, the accused were kept in jail and this technical defect was cured by the granting of a new and valid pardon in January 1974. New committal hearings began in June 1975 and continued until December of that year. The accused were then committed to trial once more.

(b) The trial itself

As was pointed out hereinabove, the trial is still in progress and has been going on in somewhat desultory fashion for almost eight months.

It began on December 22nd, 1975, before Patna District Court Judge Radha Ballabh Singh. In India there are no juries in criminal cases.

Before reviewing the course of this trial, it is important to bear in mind that all the accused, including Mr Sarkar, in the course of the preliminary hearing, had denied the charges, and sworn to their innocence.

It should also be noted that the accused stand trial only in relation to six murders: those of Tapeswaranand, Sudhamand, Subhitanand, Mirtunjayamand, Japeshanand and Amulya Kumar. Charges in relation to the other alleged killings are either pending or have not yet been laid, confronting the accused with the inevitable but ominous prospect of facing a further series of trials whether or not they are acquitted in this case.

The prosecution began its evidence with its star witness, Madhavananda, who repeated his story, and again claimed to have acted under the orders of Mr Sarkar. He again admitted participating in eighteen actual murders between July 1970 and March 1971 and added that he had intended, or planned, to commit another fifty.

In cross-examination, Madhavananda acknowledged that he had been pardoned only for the six murders mentioned in the current prosecution and that he was awaiting trial on the others. He admitted knowing that he might be hanged for these other murders and said: "I am prepared to be hanged if the law desires." Despite a very lengthy cross-examination, he steadfastly denied concocting his testimony or tendering fabricated proof.

In the midst of his evidence, on January 19th, 1976, at the request of the defence and over the prosecution's objections, the trial was adjourned to February 2nd, in order to allow the defence to obtain government permission to receive money from abroad for fees and disbursements. Indeed, it would appear that one of the major difficulties facing the accused is a complete lack of funds to finance their defence. All the Ananda Marga assets have been seized and contributions from abroad are not permitted by the Indian authorities.

On February 24th, over the prosecution's renewed objection, the case was adjourned again for one month, to March 24th, in response to the accused's renewed petition praying for time to raise money for legal fees. Judge Singh added that it would be the last adjournment and that if necessary he would name court-appointed lawyers to represent the accused.

We will return to this subject in the next Chapter.

The trial resumed on March 24th, 1976 and on the 31st another key prosecution witness, Sarkar's private secretary, Vishokanand, was quoted as testifying that Mr Sarkar had expressed the desire to

establish "through militant revolution and violent methods" a moral state ruled by moralists.

Vishokanand added that to Prabhat Ranjan Sarkar moralists meant "those who blindly followed his principles and were ready for sacrifice". He also stated as some other witnesses had said, that Mr Sarkar claimed to be divine incarnation of Lord Shiva and of Lord Buddha. He asserted that one Sambohanand had told him in August 1970 that the killings had taken place under Mr Sarkar's orders. This piece of hearsay evidence is characteristic of much of the prosecution's evidence.

On April 29th, the case was adjourned to May 3rd due to the illness of Judge Singh. On May 19th, another awadhoot, Tadgaanand, was reported as testifying for the prosecution that Mr Sarkar had aimed at capturing political power through armed revolution to be achieved through the V.S.S. whose sole function, according to him, was collecting arms and ammunition and protecting Ananda Marga activities. He further accused the V.S.S. of operating para-military training camps.

Another witness for the prosecution, former awadhoot Rafulla Dev Nath, alias Krishnanand, testified on May 30th that Mr Sarkar had told him that the killings of the defecting awadhoots was justified as they were police agents, members of the Marxist wing of the Communist Party, working against Ananda Marga and leaking out organisational secrets on the outside.

Further examples of this type of questionable hearsay evidence can be found in the testimony of Mr Sarkar's wife, Uma, alias Marga Mata, and of the former Ananda Marga worker, Anil Kumar Sarkar, alias Amrendra Kumar. Mrs Sarkar, who surprisingly was called to testify against her husband, reportedly told the court that she "was convinced" on the strength of what had been told her by Vishokanand — mere speculation wrapped in double hearsay! — that her husband had ordered the killings of the defecting awadhoots. However, she admitted that when she asked her husband about the murders, he denied any involvement. As for Amrendra Kumar, he is said to have testified on July 3rd, that he had been told by Tapas Kumar Banerjee, one of the two absconding accused, that Mr Sarkar had ordered the abduction and the killing of defectors.

One of the more surprising witnesses was a former Margi, unsuccessful politician and current journalist, called Nawal Kishore Sahay. This witness is the author of several virulent anti-Ananda Marga pamphlets, two of which were published in October and December 1975 by the Ministry of Information and Broadcasting of the Government of India. While denying any special animosity towards Ananda Marga, he described its leader as a "perverted

megalomaniac". He stated that Ananda Marga had taken a political and had participated in the 1967 general election (in which he himself was a candidate) and in the 1969 mid-term elections. He described the Proutist Block of India (P.B.I.), set up in 1969, as the organisation created to run the political activities of Ananda Marga. According to the witness, P.B.I. got its money from the Ananda Marga relief funds. It was controlled by Sarkar.

It is this type of evidence, not even remotely relevant to charges of murder and conspiracy to murder, which open the proceedings to the general suspicion of their being used for political purpose and to discredit the movement. The intrinsic spiritual merits, or demerits, or the political virginity of Ananda Marga, have little bearing on whether the accused in fact conspired to commit certain murders or did perpetrate these killings. It is also somewhat difficult to understand the relevance in this type of criminal case of testimony to the effect that a particular religious or spiritual movement had — or appeared to have — electoral prospects.

Certainly the legal issue in the case is whether Anandamurti conspired to kill dissenters and not whether he had political ambitions or fancied himself to be a divine reincarnation!

Many more witnesses for the prosecution were called to present various types of proof: technical evidence, scientific evidence, identification of the victims or of the accused, and corroboration of various peripheral points. But it cannot be stressed enough that the only substantial testimony appearing to implicate the accused directly is that of Madhavananda.

At this stage, it is impossible to predict which witnesses, if any, the accused will call, and what will be the outcome of this very long trial. In fact, we will see in the next chapter that it would be very difficult for the defence to find any witnesses at all.

Anyhow, both the specific restrictions of the undersigned's mandate, and the limitations of the material available to him, would preclude a plausible assessment of the substantive merits of either prosecution or defence cases. But when such extraordinary accusations are levelled at a previously respected spiritual leader of apparently unblemished record, it is well to remember the grave dangers (although not the impossibility) of convicting basically on the sole direct evidence of so questionable a witness as Madhavananda. It is difficult for the undersigned not to echo the warning given by Mr William T. Wells, Q.C. in a letter dated February 24th, 1976, against relying on the testimony of Madhavananda who is not only a self-confessed mass murderer, but implicated the accused only after being in custody for several months

(Continued on Page 11)

International Observer's Report

and being turned over to the dreaded C.B.I. Mr Wells also recalled the reasoned judgement of the first committing magistrate who drew attention to the many inconsistencies in Madhavananda's evidence. Finally, it must also be borne in mind that Madhavananda expects to be hanged for the other murders unless the authorities decide to pardon him for these crimes as well. It is easy to imagine what the price for these additional pardons might be!

The credibility of Madhavananda is not high. On the other hand, if a conspiracy took place, it is unlikely that its participants would be found to be of sterling character. As is to be expected, prosecution witnesses in murder conspiracies are not normally pristine individuals.

IV — FINDINGS

The object of the undersigned's mandate was to determine whether the Sarkar trial is being conducted according to the generally accepted rules of a fair and impartial system of justice.

More particularly, the undersigned was concerned with finding the answers to the following particular questions:

- Were there excessive delays in bringing the accused to trial?
- Is the accused's right to instruct freely counsel of his choice restricted by lack of funds, by the risk of arrest for counsel, or by lack of free and confidential communications between lawyer and client?
- Is the trial being conducted according to acceptable and reasonable rules of justice?
- Is it possible, in the present political context of India, for the accused to have a fair trial?

These questions will be dealt with one by one in this Chapter.

(a) DELAYS IN BRINGING THE ACCUSED TO TRIAL

There is no doubt that the protracted proceedings in the present case create a very onerous burden on the accused and on defence counsel. It is also quite probable that in other countries, whether they have the same British-based system of criminal justice or not, the same proceedings could have been concluded more rapidly. But both from an examination of the records and from personal observation, it would be difficult to argue that, given all the circumstances (and in particular the hunger strike of Mr Sarkar, and slower processes of justice in India, and the very considerable latitude allowed by the trial judge in their examination to both prosecution and defence counsel) the delays were deliberate, or designed to damage the defence, or such as to cause an injustice.

Admittedly, the prolonged detention of the accused without bail constitutes a heavy hardship for them but it is not unusual in equivalent or even more progressive systems of justice for criminal trials

to take several years and for the accused to remain in custody when capital charges are involved. This is a highly deplorable — and perhaps incurable — state of affairs but should be no reason to single out the Sarkar trial for particular criticism.

It might also be noted that the lawyer leading for the prosecution, Mr Prem Shankar Gupta, expressed forcefully to the undersigned the view that the trial would have long since been finished had it not been for what he considered to be the dilatory tactics of the defence. While not necessarily agreeing with his description of the defence strategy, there is no evidence of unusual delays (except perhaps during the period between the original arrest in December 1971 and the formal charges in June 1972) which are imputable to the prosecution. If anything, the prosecution seems most anxious to terminate the case. However, with hearings which sometimes last less than one hour a day and with numerous prolonged (and perhaps inevitable) adjournments, it would be rash to expect a speedy conclusion of the case.

(b) RIGHT TO INSTRUCT COUNSEL FREELY

One fear which was expressed in the West in connection with the defence was that there was undue interference with the confidential communications between defence counsel and their clients. Both from personal observation and from conversations with two senior defence attorneys, Nageshwar Prasad and B.K. Banerjee, the undersigned has concluded that the accused have reasonably free and confidential access to their lawyers, both in prison and in court. In prison, the lawyers can meet the accused privately although under visual surveillance. This is not unusual. As for the courtroom, the accused are not shackled and seem to be able to roam freely from the box to the defence table to speak to counsel, exchange documents, and discuss the evidence.

The issue of defence funds is more serious however. The accused are apparently destitute and all funds and assets of Ananda Marga have been confiscated or frozen by the authorities. There are no funds available to pay for the expenses (i.e. indispensable copies of transcripts and documents) and fees of defence counsel. In such prolonged proceedings and of which the end is not even in sight this is particularly grave. As we saw, the trial was interrupted twice to permit the defence to try and raise funds. Formal and informal attempts to persuade the Indian authorities to allow foreign sympathisers of Ananda Marga to contribute funds to the defence have met with complete official inaction.

This places an intolerable burden on the defence bench, and particularly on the two very senior counsel representing the accused.

The alternative — court-appointed defence lawyers — is totally unacceptable in this type of case. If the Indian government wants to avoid the accusation of trying to stifle the defence by starvation, it should either release solely for defence purposes sufficient quantities of the confiscated Ananda Marga assets, or permit under similar control the payment of lawyers from sources abroad. There is really no justification for the present situation which smacks of bad faith.

On the other hand the undersigned has been assured by defence counsel themselves that there was no real ground for the fear expressed in some circles that if they continued to represent the accused without fee they might face arrest as Ananda Marga sympathisers. Although under the present Emergency Rules in India, it is difficult to predict who might be detained as allegedly endangering the security of the state, most defence lawyers seem to feel that as long as they confine their role to the purely professional function of providing the accused with the best defence admissible under the law, they do not face personal risks. Judging from their energetic conduct in court and their biting cross-examinations, they do not appear personally intimidated.

But this equanimity may result more from their own moral strength than from the absence of real danger.

On the other hand there is little doubt that Ananda Marga's defence counsel are watched and followed. Some observers in India say they owe their immunity to the eminence of Messrs Prasad and Banerjee who are among the country's senior practitioners. But the uncertainty adds to the pressure on the defence.

(c) RULES OF EVIDENCE AND CONDUCT OF THE TRIAL

The trial appears to be conducted generally in accordance with British rules of evidence. Witnesses are called by the prosecution and are then subject to thorough defence cross-examination. Presumably the same principle applies to witnesses called by the defence. Judge Singh seems fairly liberal and objective in his handling of objections. The defence appears to enjoy the fullest latitude in cross-examination of prosecution witnesses. The relationship between prosecution and defence counsel is courteous and in fact they sit together on the same bench facing the judge. If senior defence counsel has to be absent, there is a gentleman's agreement with the prosecution that no important witness will be called.

When the undersigned's presence was noted by the court and it was ascertained that he was a practising barrister, he was invited by Judge Singh to sit at counsel's bench between the defence and the prosecution and be continued to do so during the rest of his attendance

in court.

It would also appear that Mr William T. Wells, Q.C., of the British Bar, has been allowed to assist the defence and will participate in the final argument.

Nothing deserving of criticism could thus be observed in the actual conduct of the proceedings by Judge Singh.

(d) DEFENCE DIFFICULTIES DUE TO THE POLITICAL CLIMATE IN INDIA

The political connotations of this trial are inescapable. They are apparent in the testimony of some witnesses whose evidence appears to be designed more to discredit Ananda Marga than to implicate the accused in the commission of a criminal offence. They are also evident in the manner in which the Indian authorities make use of the trial to attack at every opportunity the motivations and conduct of Ananda Marga and of P.R. Sarkar.

Reading the Indian press and official comments about Ananda Marga, as well as listening to some of the witnesses called by the prosecution, one cannot avoid the conclusion that a governmental witchhunt has been instituted against anyone associated with Ananda Marga. Nothing favourable to Ananda Marga seems to be permitted to appear in the press.

In this connection, it is highly significant that on January 29th, 1976 the State Censor issued a confidential Order No. BC/276-PAT addressed to all accredited correspondents representing Indian news organisations and foreign agencies, newspapers, television and radio, ordering that "all news, comments (including editorial comments), rumour or other reports relating to the Court proceedings against Sri P.R. Sarkar alias Anandamurti and all others Anandamurti ... shall be submitted for scrutiny and shall not be published without permission in writing."

The trial is thus taking place in a judicial vacuum, its fairness threatened by government denunciations of Ananda Marga, by the exercise of untrammelled arbitrary powers under the Emergency Rules, and by the enforced silence of the press and of public opinion.

Although inside the courtroom the somewhat stilted rites of justice continue to be performed in the finest British tradition, on the outside — in Kafkaesque contrast — the police state extends its wide-ranging tentacles. Fear is rampant, and justifiably so. And it is this fear which presents the single biggest obstacle to a fair trial for Mr Sarkar and his co-accused.

For in the authoritarian climate of India today it is virtually impossible to find witnesses willing to brave the authorities by testifying on behalf of the accused. Indeed, many Margis are either in detention, or in hiding. Even if they could be found, such witnesses are said to be utterly afraid to come

(Continued on Page 9)

International Observer's Report

forward. Their testimony would expose them almost certainly to arrest. In other words, the accused not only have arrayed against them, the entire power of the Indian police establishment, but even if they had all the funds necessary to prepare an adequate defence, it is highly unlikely that they could find, or if they found them, could produce, witnesses

willing to testify on their behalf. Fair trials in a dictatorial framework are difficult to conceive and probably impossible to achieve.

What use is judicial fairness if the defence is unable to secure the information on which to found effective cross-examination or is incapable of finding the witnesses necessary to refute the charges? This is the real dilemma of the

Sarkar trial. For false or questionable witnesses will be found in every political system, but only in a free society does the accused have any hope of presenting his defence with any chance of success.

The formalities of justice in Patna may not be gainsaid, but the substance of justice may leave a lot to be desired.

The undersigned's most fervent

wish is that the ultimate outcome of the Sarkar case will disprove these fears.

Montreal, Monday, August 9th, 1976
CLAUDE-ARMAND SHEP-PARD

Step by Step to Dictatorship

(Continued from Page 5)

Article 19. No reason was given for the additional curb against constitutional rights, the fourth since the imposition of emergency rule June 26, 1975.

JAN. 6 Strikers protest bonus ban.

Indian workers staged a one-day nationwide strike Jan. 6 to protest the government's recent ban on annual bonuses as part of its emergency rule. The walkout was spearheaded by the pro-Communist All India Trade Union Congress, many of whose members were arrested when they congregated in factory yards and shops. Most were reported released later.

JAN. 22 Parliament approves wider arrests.

A government amendment to the Maintenance of Internal Security Act widening the government's powers of arrest was approved by the lower house of Parliament Jan. 22 by a 181-27 vote. The measure permitted the detention of political prisoners without having to disclose reasons to anyone, including the courts, and allowed the rearrest of persons whose detention orders had expired or been revoked.

Members of the pro-Moscow Communist Party, which had supported the government's emergency powers, sided with the opposition for the first time to vote against extension of detention powers. The Communists also joined a brief walkout to protest introduction of a law that cut in half the annual industrial workers' mandatory bonus of one month's pay in 1976 and eliminated the payment entirely in 1977 in firms that made no profit.

JAN. 31 Government takes over Tamil Nadu.

The central government took over the administration of Tamil Nadu Jan. 31 after accusing the state government of misrule and of failing to obey the laws imposed under the national state of emergency declared in June 1975. The ordinance imposing presidential rule also dissolved the state legislature and dismissed Chief Minister Muthuvel Karunanidhi. The term of the legislature and the government was to have expired March 21. Tamil Nadu was one of two Indian states governed by a party opposed to the ruling Congress Party, the Dravidian Progressive

Federation. The other state was Gujarat.

The takeover was followed by the arrest of hundreds of members of the Dravidian Party Feb. 2. About 100 were said to have been seized in the capital city of Madras and 600 followers of the federation and other opposition groups were jailed in other parts of the state. An opposition source in New Delhi said Feb. 2 that 2,000 persons had been rounded up, all Dravidian party members.

FEB. 1 News agencies merge.

A government proposal to merge the country's four news agencies into a single press group went into effect Feb. 1.

The Press Trust of India, the largest of the four, had decided Jan. 20 to help carry out the proposal on a voluntary basis with the three others — the United News of India, the Hindi language Hindustan Samachar and Samachar Bharati agencies. The Press Trust said the news agency "should be totally free from any control or interference by the government or its agencies."

Under the government plan, disclosed Jan. 7, the President of India would nominate the chairman and 15 members of the agency's first governing council, which would be composed of journalists, other news professionals and prominent public figures. The government's potential involvement in setting policy for the agency was evidenced by the guideline empowering the president to "require the governing council to take appropriate measures" if "he is satisfied that the agency is not functioning efficiently."

FEB. 2 Gujarat threatened.

Hitendra Desai, leader of the Congress Party in Gujarat, released a party report Feb. 2 charging that the opposition state government had been unable to keep order in Gujarat, and that political violence was increasing there. Gujarat, like Tamil Nadu, had been resisting the central government's emergency rule regulations.

FEB. 4 Parliament approves election delay.

The government's bill to postpone national elections scheduled for March was approved by the lower house of Parliament Feb. 4

by 165-20 vote. The vote was preceded by three hours of tumultuous debate in which the opposition attacked the legislation and accused the government of tyranny. Opposition member Erasmo de Sequeira charged that more than 100,000 political prisoners had been detained during the seven months of emergency rule, a figure higher than other opposition estimates and one disputed by the government.

A bill approved by the lower house Jan. 28 establishing permanent press censorship after the lifting of the emergency was adopted by the lower house Feb. 2.

FEB. 13 Narayan assails emergency rule.

Opposition leader Jayaprakash Narayan assailed Prime Minister Indira Gandhi and the ruling Congress Party for the country's repressive emergency laws, it was reported Feb. 13. His remarks were contained in a statement sent to the prime minister July 21, 1975 as a "last will and testament" while still imprisoned and was made available by opposition sources. Narayan, who was ailing, had been paroled in November 1975.

Asserting that he was "appalled" at Mrs. Gandhi's speeches and interviews, Narayan took her to task for "having muzzled the press and every kind of public dissent" and for her campaign of "distortions and untruth without fear of criticism and contradiction."

FEB. 14 Newsmen's accreditation dropped.

The government had withdrawn the accreditation of more than 40 Indian newspaper correspondents, it was reported Feb. 14. The ruling permitted the journalists to continue to represent their newspapers, but deprived them of such privileges as admission of major news conferences and sessions of Parliament.

MARCH 26 Opposition parties plan merger.

Four anti-government parties and political independent groups March 26 announced plans for a merger to oppose the Congress Party more effectively. Nineteen political leaders had agreed at a meeting in Bombay the previous weekend to create a four-member steering committee to complete the coalition within two months, according to a group statement. The action was necessary, the group explained, because the government "has been deliberately destroying our democratic structure...

and now has established an authoritarian regime which it wants to perpetuate."

Jaya Prakash Narayan, a leading opposition figure, had given the group "advice and guidance," the statement said.

The parties planning to coalesce were the Socialist, the Jan Sangh, the Dravida Munnetra Kazhagam of Tamil Nadu State, and a faction of the Congress Party that had gone into opposition.

MARCH 27 Congress Party widens house majority.

In nationwide elections held March 27 among state legislatures for a third of the 244-member upper house of Parliament, the ruling Congress Party won 18 seats from the opposition, increasing its strength from 146 to 164 seats. The party thus regained its two-thirds majority in the house, giving Prime Minister Indira Gandhi the necessary legislative support to push through constitutional changes.

APRIL 24 Overseas Indians oppose curbs.

An international conference of nearly 300 overseas Indians was held in London April 24 to plan a drive against restrictive rule in India.

"Propaganda" by Indian officials overseas and censorship in India had prevented the question of political prisoners and their treatment from becoming an international issue, several delegates said. A number of them said that more than 175,000 political dissidents were in jails and that many prisoners were ill-treated.

Assailing Prime Minister Indira Gandhi's rule, Desai said, "What started as a manoeuvre to safeguard her leadership from challenge within the Congress Party had been extended to a safeguard from challenge to a party's unilateral power."

APRIL 28 Court upholds jailings.

The Indian Supreme Court April 28 upheld the government's right to jail political opponents without court hearings. The 4-1 ruling supported the government's claim that during the state of emergency imposed in 1975, political prisoners did not have the right of habeas corpus to seek freedom through appeals to lower tribunals.

Speaking for the majority, Chief Justice A.N. Ray said, "Liberty is confined and controlled by law. It is not an absolute freedom."

Dissenting Justice H.R. Khanna

(Continued on Page 16)

Ananda Marga Violent Political Sect or Socio-Spiritual Movement?

Since its inception in India in 1955, and its subsequent spread in the late 1960's outside of India, Ananda Marga has been well known for its humanitarian activities, its social programs, and its progressive ideology. Then in 1967, the Indian governments attitude began to change, virulent attacks were made on Ananda Marga by Government officials, including even the Prime Minister himself. Ananda Marga came under increasing pressure and harassment, including several violent incidents, where Ananda Margis were killed and injured. In 1969 the Government tried to ban civil servants from being members of Ananda Marga, an order which was stayed by the Supreme Court. The culmination of this campaign was the arrest of Shrii Shrii Anandamurti in 1971, and the subsequent use of his trial as a platform from which to defame him and the movement he founded. A recent observer at Mr. Sarkar's trial, M. Claude-Armand Sheppard, a Canadian barrister sent in June of 1976 to Patna on mandate from the International Commission of Jurists and the International League for the Rights of Man, had the following comment to make regarding the witnesses at Mr. Sarkar's trial who had been led into making defamatory statements against Anandamurti and Ananda Marga.

"It is this type of evidence, not even remotely relevant to charges of murder and conspiracy to murder, which open the proceedings to the general suspicion of their being used for political purposes and to discredit the movement. The intrinsic spiritual merits, or demerits, or the political virginity of Ananda Marga, have little bearing on whether the accused in fact conspired to commit certain murders or did perpetrate these killings. It is also somewhat difficult to understand the relevance in this type of criminal case of testimony to the effect that a particular religious or spiritual movement had — or appeared to have — electoral proclivities."

What then caused the government to take such strong measures to suppress Ananda Marga, what could have made them so afraid? To understand this one must have some understanding of the ideology of Ananda Marga and the pressures in India which might have led to the current situation.

ANANDA MARGA — THE IDEOLOGY

Ananda Marga ("the Path of Bliss") is a spiritual movement which seeks to apply spiritual principles to the problems of the world today. It maintains that neither spiritual nor material endeavor will be fully successful if a

proper balance between the two is not maintained. If people neglect their spiritual aspect, they may become materially successful, but they will not satisfy their innermost longings. If they abandon the worldly life to concentrate exclusively on spiritual pursuits, their efforts will be of no use to the society.

Moreover, Ananda Marga teaches that social progress is not possible without the inspiration and leadership of morally strong and selfless individuals. It attempts to instill these qualities by teaching meditation.

Service to humanity is an integral part of Ananda Marga's teachings. Involvement in social service makes tangible the sentiment of compassion and empathy which is awakened by meditation.

The social philosophy of Ananda Marga is grounded in the view that all humanity constitutes one extended family. Distinctions based on nationality, religion, race and language may express the natural variations between people, but all attempts to divide the world and set people against each other by exalting one group above another must be denounced. Ananda Marga's scheme of social development proposes that, in the progressive evolution of the planet, all should develop together. The resources of the planet are the common heritage of all. It is the responsibility of a moral government to see that all of society progresses unitedly and that no one lags behind.

ANANDA MARGA — THE ORGANIZATION

Mr. Sarkar founded the Ananda Marga organization in India in 1955 to counteract what he saw as a serious moral and spiritual degeneration in society. The rationality of his approach, as well as his personal inspiration, attracted many followers throughout India; in the years after its inception, thousands of people joined the organization. With this base the Education, Relief and Welfare Section of Ananda Marga was launched in 1963. Within a few years Ananda Marga had gained a reputation for vigorous and compassionate social service. Hundreds of schools, dispensaries, orphanages, cheap kitchens, relief camps, and other projects flourished. Later the mission of Ananda Marga spread to over forty five countries, where it likewise gained popular support.

REASONS FOR PERSECUTION IN INDIA

To understand the reasons for the persecution of Ananda Marga, it is necessary to recognize the tremendous pressure under which the Indian governmental system operates. The long standing

problems of factionalism, poverty and resistance to change impeded the growth of the nation. The people looked to the government to solve these problems, but the government has proved unable to deal effectively with them. Ananda Marga, by combining a spiritual philosophy with a dynamic social reform policy, was very successful in solving many of the problems. Many people were attracted to this practical, non-governmental approach. As a result, Ananda Marga's increased support by the people was viewed by the government as a threat. As was stated in *The Current*, a newspaper of Mrs. Gandhi's Congress party,

Many people were attracted to this practical, non-governmental approach. As a result, Ananda Marga's increased support by the people was viewed by the government as a threat. As was stated in *The Current*, a newspaper of Mrs. Gandhi's Congress party,

In India it is a generally well known fact in well-informed circles that a large number of SENIOR government officials are Ananda Margis, as the expression goes. This is said to have been a greatly disturbing fact to the government ... The Home Ministry is also believed to have come to the conclusion that the 'Ananda Marga has during its short history created a base in almost all the states, from Kashmir to Kerala and from Rajasthan to Assam.' This was done at a striking pace and with great vigour ... A more recent assessment made of the movement is said to have revealed that half the number of police superintendents in Bihar State belong to Ananda Marga. This is said to have greatly disturbed the government of India.

Official animosity towards Ananda Marga eventually led the government to take action against the organization. In 1969 the government tried to ban such membership. Several senior government officials, who were members of Ananda Marga, challenged the government's order in the Supreme Court. While the government claimed Ananda Marga was a political organization, the members countered by showing that it was a socio-spiritual organization. They contended that the government had mistakenly characterized Ananda Marga's social service efforts, which were aimed at promoting progressive social change, as being politically motivated. The Supreme Court stayed the government's prohibitive order and allowed Ananda Marga members to remain in their posts.

POLITICAL ASPIRATIONS?

Ananda Marga has been repeatedly accused of being a front for a

political organisation which intended to overthrow the government by violent means. There is little or no substance in this statement either practically or theoretically, but it of course serves as a convenient excuse by which to suppress the movement and the spread of its ideals. It is true that Mr. Sarkar expounded an extensive social philosophy in his writings, which all Ananda Margis studied. But that he tried to translate his social theories in political action is an accusation unsupported by fact. In a series of speeches and publications in 1958-1962 Mr. Sarkar criticised capitalism, the caste system, and vested political interest, called for a "progressive socialist society" and expounded the Progressive Utilization Theory (PROUT) which stands for the progressive utilization of all physical, mental and spiritual resources in the interests of the whole community; all without opposition from the authorities.

The PROUT theory attracted a number of adherents, including one MP, who decided he would organize candidates for election based on PROUT principles. Mr. W.T. Wells, QC and former MP, in his memorandum of 1974, addressed himself to this question of the political implications of Ananda Marga.

The second question is, to what extent is it reasonable to treat Ananda Marga as a political rather than a religious or spiritual movement? Mr. Sarkar appears to have made a number of speeches with political implications. There was, also, what appeared to be a political wing of the movement called the Proutist Bloc of India (P.B.I.) which had one member of Lok Sabha, Mr. Shashi Ranjan Sahu, and recently fielded several candidates for election, and it would seem a little difficult to run candidates for election and at the same time to argue that the movement was a spiritual non-political one. The facts appear to be that Mr. Shashi Ranjan Sahu, formerly a member of the Congress Party, was an adherent of Ananda Marga, that he became increasingly disillusioned with, and ultimately resigned from, the Congress Party, and founded a Bloc (P.B.I.) with a membership of one, that he and about twelve others stood as P.B.I. candidates at the last General Election, and that they all lost their deposits. I was told that had all the Margi supporters in their constituencies voted for them, none of them would have forfeited their deposits. This I take as clear evidence that there is no direct connection between Ananda Marga and P.B.I.

Anandamurti has been accused of being a 'fascist' opposed to

Ananda Marga Violent Political Sect? or Socio-Spiritual Movement?

11

democracy. Fascist is of course an emotive word, now being used by Mrs. Gandhi to try and defame her opponents, of wide-ranging political or moral beliefs, who are now languishing in jail, or if they were unlucky, with ashes scattered into the Gange. In the meantime, Mrs. Gandhi continues to enact laws and take measures which go beyond many of the laws and edicts of Hitler in Nazi Germany. One can find little resemblance between the universal and humanistic philosophy of Anandamurti, and the reactionary and repressive measures usually labeled as 'Fascist'.

The Indian Government, however, seem to view Ananda Marga as a fascist organisation desiring to overthrow the government of India by force of arms and establish its own dictatorship in its place. India's Home Minister, Uma Shankar Dixit, said, "Violence and dictatorship are the cornerstone of Ananda Marga philosophy. This is an organisation which wants to lead the country to fascism." (The Washington Post, 4/3/73) As further events proved, no one needed to lead India into fascism, as the Government itself has run headlong into its intimate, but deadly, embrace. The Current Newspaper states: "The views of the leader of the Marga on democracy, as found in his literature, are most extraordinary. He is believed to have stated 'Democracy means mobocracy, foolocracy. The best form of government is dictatorship'..."

This is a complete distortion of the view of Anandamurti. (It is interesting to notice the preface of 'he is believed to have stated') Anandamurti states that there are certain fundamental requirements for the successful functioning of democracy:

"Democracy can be successful only where there is no exploitation. One of the fundamental and basic needs for the successful and smooth running of a democracy is public education. In some places, people cast their votes according to the dictates and persuasion of the pseudo-leadership. To march like herds of animals to the polling booth and cast their votes is useless. Is it not a farce in the name of democracy?"

"Morality is the second fundamental factor for the success of democracy. In the absence of morality, people sell their votes. Can we call it a democracy? Is it not a farce?"

VIOLENCE?

The other most serious charge brought against Ananda Marga is that it advocates violence. Although certainly not a moral coward, Anandamurti preached the practice of ahimsa. (non-injury) and the practice of trying to see the Divinity in all things and to treat them accordingly. Non-violence does not mean not to use force, for our every action or thought is due to the exertion of force. Rather it implies that one should never use

force with the intent of injuring others. Therefore, the use of force to defend ones life or liberty, or that of those around one, would not be against ahimsa, the intention being protection not aggression. Regarding the necessity of violent change, Anandamurti has commented,

SOCIAL REFORM

Can a world federation or Ananda Parivara ("Blissful family") be established without physical force? To this question, I will reply in the affirmative. The ultimate union of the human race can be achieved by mobilizing the vital spirit of those who wish to establish this world union through service and constructive labor rather than by political rivalry. One must remain engaged in the task of social welfare with all sincerity and without a single hidden motive in one's deepest self.

The people, by cooperating with those undertaking the austerity of social welfare, will also want to establish this world federation. If and when governments balk at this task, people will become agitated and rise up and establish the world federation by force. Therefore it is not necessary for those engaged in the service of humanity to enter the dirt of politics.

A pretrial hearing was held in the summer of 1972. Besides Madhavananda, the prosecution presented another former monk, Vishokananda. This witness said that one of the primary aims of Ananda Marga was to capture political power through armed revolution. He said that different wings had been created in the organization to fulfill these violent aims. Under cross-examination, Vishokananda admitted that he had been in charge of the wing (volunteers in Social Service or VSS) whose aim he said was to engage in armed revolution. His testimony continued as follows:

Q. Do you know how to operate a machine gun?

A. No.

Q. Do you know how to fire a gun?

A. No.

Q. Do you know bomb manufacturing?

A. No.

Q. Did the Marga followers ever attack police stations or police officers like the Naxalites (Communist terrorists) in this country?

A. No.

Q. Do you know that the Naxalite boys get training in parade drill and gun shooting?

A. Yes.

Q. Is this type of training given to members of the VSS wing of the Ananda Marga?

A. NO.

Q. Then how do you say that the aim of this organization is violent overthrow of the government?

A. (No reply).

Before the time of the emergency the Government was not able to bring a single successful case against Ananda Marga. Within the present repressive environment a fair trial is an impossibility, and all dissent is ruthlessly suppressed, leaving only the government propaganda machine to listen to its own empty echoes. The true nature of Mrs. Gandhi's tactics become more evident daily as her paranoia grows and her repressive measures become more draconian. Her survival instinct aroused, she will stop at nothing to crush those who oppose her, whether it be by murder, slander or imprisonment. That Ananda Marga was one of the first groups to bear the brunt of her attack, can only be seen as a credit to its progressive ideology and the moral strength of its attack on corrupt and immoral government. Let us hope that its efforts, and those of countless other moralists now suppressed, will not be in vain and that the Indian Nation can again raise its head proudly as the world's largest democracy, and as the haven of spiritual truth and human compassion upon which its foundation was built.

Human society is a singular entity. It is one and indivisible; since the Father is common to all there cannot be two societies. The relation between man and man is that between brother and brother; there is

to be no quarrel. Mankind has the same origin and the same destination, the same goal. All are coming from God and going to God. Everything comes from God and everything remains in Him and everything goes back to Him. This cycle is life and life is a struggle; life is a fight. You come from the abode of peace and go to the abode of peace, but life is a constant struggle to maintain an equilibrium. Life is a fight against depraving forces and degenerating propensities. But you are not only to fight against these depraving forces, you are also to encourage elevating forces. If you try to keep at a safe distance from this fight, you cannot say that you are a human being.

In all walks of present-day life, the dark shadows of immorality are fast taking definite shapes and hampering human progress. It requires a very strong moral force to wipe out this filth of immorality. One cannot expect this moral force from a government power functioning within a democratic structure. We must expect it from the non-political side. The government, be it fascist, imperialist, republican, dictatorial, bureaucratic or democratic, is sure to become tyrannical if there is no moral force to check the capricious activities of the leaders of the party in power.

Source: The Great Universe, Discourses on Society by Shrii Shrii Anandamurti



English Q.C. Investigates charges of Repression

A SUMMARY OF THE WELLS REPORT ON P.R. SARKAR AND THE ANANDA MARGA.

THE following is a summary of the report of William T. Wells about the spiritual movement known as Ananda Marga and about Mr. P.R. Sarkar (Shri Shri Anandamurti), the leader of Ananda Marga, who has been imprisoned without trial since December 1971, in the state of Bihar, on a charge of conspiracy to murder some former followers. William T. Wells is a Queen's Counsel, former member of the British Parliament and Recorder of the Crown Court.

Mr. Wells went to India in March/April 1974, on the request of members of the International Committee to Obtain Justice for Shri Shri Anandamurti to make an independent inquiry into the case of Mr. Sarkar. It is their belief that the charge against Mr. Sarkar is based on fabricated evidence and is part of a campaign by the authorities against Ananda Marga in general and Mr. Sarkar in particular.

While in India Mr. Wells had consultations with members of the Indian bar including Mr. C.K. Daphary, Senior Advocate, and a former Attorney-General of India; advocates representing Mr. Sarkar and Ananda Marga in various proceedings; members of the Ananda Marga movement; members of the Ministry of Home Affairs, of the Central Bureau of Investigation and with Mr. Misra, an official of the Cabinet Secretariat.

Ananda Marga was founded in Bihar by Prabhakar Rainjan Sarkar in 1955. Mr. Sarkar launched the movement with the twin objectives of individual regeneration through spiritual practices and of liberating and purifying society. His doctrines, with its insistence both on the predominant importance of the spiritual element in life and on the fundamental equality of all human beings, found itself in conflict with the capitalist system, with the Marxist doctrine of dialectical materialism, and with the caste system implanted in the Hindu religion. This it was, and is, seen by some to pose a challenge both to the capitalist system, supported by the conservative elements in the ruling Congress Party of India, to the Communists one part of whom, the Communist Party of India, has lent its support to the Government led by Mrs. Gandhi, and to the conservative Hindus adhering to the caste system. The issue underlying the hostility with which the rulers of India avowedly view Ananda Marga is whether, as the

Margis claim, theirs is a spiritual movement seeking to influence politicians and administrators, in India and ultimately elsewhere, by spiritual means; or whether they are an essentially political movement seeking to overthrow the present Government of India by constitutional means if possible but if necessary by force. The question immediately presents itself why, if the official view be the right one should the Margis have taken the trouble, as they have done to recruit adherents outside India?

From 1955 to 1967 there was no great conflict between the Indian authorities and Ananda Marga. During this time Ananda Marga was becoming increasingly concerned with social issues. In a series of speeches and publications in 1958-62 Mr. Sarkar criticised capitalism, the caste system, and vested political interests, called for a 'progressive socialist society', launched what he called the 'Progressive Utilization Theory' (PROUT), which appears to mean the progressive utilization of all physical, mental and spiritual resources in the interests of the whole community, and attacked a number of features of the existing social order: all without any interference from the authorities.

In the 1960's the movement grew rapidly. Many persons came forward as whole time workers who renounced their personal lives in order to devote themselves to serving humanity. A great many schools, welfare units, children's homes, student's homes, hostels, cheap or free kitchens, and lepers' homes, are a few examples of the work initiated.

1967 is the watershed which divides the period of peaceful development from the period of government hostility. What happened in 1967 to change the attitude of the authorities? This is a topic which could, and should, Mr. Wells believes, be the subject of a major judicial inquiry, carried out in India by Indians. There seems to have been no new development in Mr. Sarkar's thought or teaching which could explain the change, though by 1967 the movement had become a powerful one, with it, it is estimated, over 2,000,000 adherents and a large proportion drawn from the educated classes.

The trouble seems to have started in West Bengal at a time of considerable distress and disruption in which Ananda Marga teams participated in relief work. The State Government was a coalition in which the Communists took part and it may be that, since the Margis by definition oppose the teachings of the Marxists, the latter regarded this outburst Ananda Marga activity with suspicion and hostility.

On 5th March 1967, a mob attacked the Ananda Marga headquarters at Purulia in West Bengal, murdered five of the Ananda Marga workers and did a great deal of damage to property, while the local police stood by. A number of charges were subsequently brought and the trial judges in passing sentence criticised the local administration and police in scathing terms. A number of prison sentences were passed on those who initiated the disorders. A somewhat similar incident took place in Cooch-Bihar, also in West Bengal, in 1969.

1969 witnessed an even more ominous development. In May of that year the Government of India for the first time openly directed an attack on Ananda Marga by prohibiting members of the Indian Administration Service from being members of the organisation. The constitutionality of this ban was challenged in the courts. Members of Ananda Marga say that one of the main reasons for the ban was the friction created by the Margis insistence on purity in administration and their refusal of bribes amid what they see as the prevailing corruption. All that can be said is that the Government's handling of the problem cannot have shaken their belief.

Although events did not stand still in the meantime, the next important phase of governmental activity against Ananda Marga opened in 1971. In May a large congregation of Margis assembled at Ranchi, in the state of Bihar, where the Ananda Marga headquarters were then located. Some of the workers were attacked by professional thugs, but the Ranchi police, instead of prosecuting the attackers, initiated a series of raids on Ananda Marga buildings. At the end of May Mr. Sarkar moved his headquarters to Patna, the capital of Bihar. A few days later, the police raided the house in Ranchi which he had just left. They found nothing. The raid was repeated a few weeks later, when one or two bombs and a few firearms were found on the premises (said by the Margis to have been planted by the police) and some arrests were made.

Among those arrested, and so brought into contact with the police, in connection with the Ranchi events in June 1971 was one Madhavananda. Evidently in the course of police questioning he volunteered, or was induced or persuaded to make, statements that implicated himself, but also Mr. Sarkar and others, in a conspiracy to murder former members of Ananda Marga who had defected from the organization. Mr. Sarkar and four others were arrest-

ed on the 29th December 1971; he was later committed for trial on the charge of conspiracy to murder. The history of the proceedings is long and complex.

The learned magistrate who heard the committal proceedings delivered a long and careful judgement on the question whether he should, as he ultimately decided to, commit for trial. In the course of this he said:

"I find that on every material point there is some defect or error in the evidence of Madhavananda. These statements may create doubts about the reliability of these witnesses or even about the truthfulness of the whole prosecution case in the final trial."

Would it be right to regard the charge of conspiracy to murder as a genuine prosecution or not? Normally, one would hesitate to make any comment on a matter that is sub judice whether at home or abroad, but the reply given by Mrs. Gandhi to a Canadian inquiry does modify the reluctance one feels in commenting at this stage. Mrs. Gandhi said in her reply that Mr. Sarkar had been "proved" guilty of "many heinous crimes". One would not necessarily expect the Prime Minister to be informed of the details of such a prosecution as this, but that she should commit herself this way would appear to suggest that she had been given some singularly biased and inaccurate information. Along with other circumstances it may be difficult to believe that the authorities, whether Delhi or Patna, are treating the allegations against Mr. Sarkar seriously except in the sense that they are a useful stick with which to beat a difficult and embarrassing movement.

To what extent is it reasonable to treat Ananda Marga as a political rather than a religious or spiritual movement? Mr. Sarkar appears to have made a number of speeches with political implications. There was, also, what appeared to be a political wing of the movement called the Proutist Block of India (P.B.I.). However, there is clear evidence that there is no direct connection between Ananda Marga and P.B.I.

The final matter of fact with which it is necessary to deal, and in a sense perhaps the most important because so much the revolves on it, is Mr. Sarkar's fate. The circumstances in which he started this were that, following a number of complaints made regarding his health and his treatment in jail, a request for a visit from the Civil Surgeon was refused and the Prison Doctor, who visited him, prescribed some medicines, following the taking of which he was completely paralysed for some time and was blind for some days. He thereafter announced his intention, which he has carried out, to abstain from the 1st April 1973 from all solid food, until food demands be made were conceded. These are—

- 1) Restoration of facilities existing on the 31st December 1972. These were:
 - (a) Restoration of facilities of taking meals cooked from his residence;
 - (b) Granting interviews in the jail to his friends and relations;
 - (c) Bringing back his four co-accused in Bankipore Central Jail and allowing them to live with him or at least see him.
- 2) Withdrawal of false cases against Ananda Marga workers.
- 3) Unconditional release of such workers.
- 4) The appointment of a judicial commission to inquire into his alleged poisoning on the 12th February 1973.

Mr. Sarkar's last has now continued for over a year. There can be no doubt that he is in a state of extreme weakness. Mr. Sarkar was recently visited in prison by four members of Lok Sabha (the Federal Parliament) belonging to opposition parties, and they have confirmed Mr. Sarkar's condition. One of them, a Socialist member, Mr. Suresh Chandra, left no doubt. The ending of the fast is a matter of great urgency from a humanitarian standpoint.

The attitudes on both sides being as deeply entrenched as they are, a change of heart could only result from an inquiry in depth, wide ranging in scope. Such an inquiry could not be held until Mr. Sarkar's trial has been concluded. It is hardly possible that the trial should take place until he has broken his fast. Mr. Sarkar will not break his fast until his last conditions have been satisfied. These conditions cannot be satisfied until he has been brought to trial. Is it possible to break this chain, and if so, how?

A public judicial inquiry would not be possible while the charge against Mr. Sarkar is pending. But in relation to two, at least, of the four conditions, it would be possible for some personality such as a retired judge to be appointed by the government to enquire privately into the conditions under which Mr. Sarkar is (Continued on Page 13, col. 4)

HOW YOU CAN HELP

1. Circulate this paper to as many people as possible.
2. Unite with us in our fight for the restoration of democracy and human rights in India as incorporated in the U.N. Universal Declaration of Human Rights.

3. Send any information regarding persecution or torture of political detainees or their families. The information should be as factual as possible, containing times and dates of any mistreatment. Any pictures of such incidents would be a great help to our movement.

4. Send any contributions to our Committee. Cheques should be made payable to "Ananda Marga".

3 Cazenove Road
London N16

How to be a dictator legally

(Continued from front page)

Mrs Gandhi reacted by amending the Act to state that grounds for detention were to be divulged to nobody, and placing the law beyond judicial review. Now the amendment depriving courts of the power to call for documents transforms this "emergency" expedient into a permanent limitation of judicial protection.

That simple example might fall within Mrs Gandhi's claim that the new changes are procedural and not "structural". But the claim itself reveals the main targets of the amendments: the power of the supreme court. India's present constitution was drafted in 1946 by a constituent assembly set under Jawaharlal Nehru by the then rulers of India, the British Government. It makes the Indian supreme court, like its American counterpart, the highest lawful authority. And in April 1973, during a case involving the right to property, the supreme court ruled that parliament had no right to change "the basic structure and framework of the constitution".

So, while claiming that the changes are merely "procedural", Mrs

Gandhi is in fact stripping the supreme court of its crucial powers under that constitution.

At the moment, Article 74 of the constitution specifies that the prime minister and council of ministers "aid and advise" the president. But the new amendment to this, forcing the president to act on that "advice", affects the supreme court too. The constitution is clear that, in the unlikely event of a clash between the president and his council of ministers, the president is the final repository of executive power and the supreme commander of the armed forces. In his exercise of that power, the president can consult the supreme court on questions of "law or fact... of public importance". (he could, for example, consult the supreme court on whether the state of emergency was justified). Now that reserve power is to go. The president must accept his prime minister's (i.e. Mrs Gandhi's) advice. And the supreme court is to be forbidden to query the validity of Mrs Gandhi's amendments.

But it will not be parliament that will now have the power to amend

the constitution. That power, under another amendment, is to reside with the president (which, because of the previous amendment, of course means the prime minister). So Mrs Gandhi is effectively given total power over India's constitution.

Whether the law has the moral right to another matter. Under the emergency legislation, Mrs Gandhi has already extended the life of parliament for a year. Yet at the last elections five and a half years ago — when her party got 43% of the vote, against the opposition parties' 36% — the view of the former chief justice of the Bombay high court and an ex-Foreign Minister, M.C. Chagla, is that Mrs Gandhi's only proper course is to seek a fresh mandate in an election. But yesterday, Mrs Gandhi put off elections for yet another year.

Against this background, it is fair to examine the other constitutional amendments to see what power they could give Mrs Gandhi. The conclusion has to be that the Bill gives her the power to cripple political opposition permanently.

Given India's extreme diversity of religion, language, race and caste — and since these are the bases of virtually all Indian political groupings — this amendment confers on Mrs Gandhi the power to ban any group she dislikes. And the courts will not be able to interfere.

Opposition parties safe from this threat could still be banned for creating "internal disturbances" if they tried to organise popular agitation in the streets — a tradition in Indian politics.

The power of the Press to combat these

things has already been dealt with. The Prevention of Publication of Objectionable Matter Act, pushed through by Mrs Gandhi last February, says that. Everything from books to leaflets, is covered. "Objectionable" is again so broadly defined as to mean anything the government dislikes. And the nationally voluntary censorship of the Press is in fact endorsed by daily "guidelines" from the government offices.

"The constitutional changes should be discussed in depth and all suggestions should be considered with an open mind," Mrs Gandhi had said publicly. But when a Delhi weekly tried to publish a leaked copy of the proposed changes, the government promptly prevented it. And the editor had finally to flee the country to avoid imprisonment under the Maintenance of Internal Security Act.

(Continued from Page 12)

held in custody and as to the truth underlying the alleged attempts to poison him in prison in February 1973. If the Government were to accept some such course it would show their sincerity in this matter. But if they were to evince unwillingness to give it serious consideration, there would be grounds for suspicion that the actions of the Indian authorities, and their attitudes, have been actuated by considerations other than those they have expressed; and which they are reluctant to show.

The Government of India and of Bihar have taken no precautions to protect themselves from criticism to protect them if they are behaving in a high-handed and tyrannical manner to a spiritual movement with a message that is antithetical to them. But whoever is responsible, the fact is that Mr. Sarkar is, almost unquestionably, approaching a terminal state because of a fast undertaken basically because he believes he and his movement are victims of injustice. Cannot the Government of India, a country with a great civilisation, be persuaded to break the deadlock?

Parody of a fair trial (Continued from front page)

tents of which were promised to be teleaxed to Prime Minister Mrs Gandhi (Usurper P.M. in our View), read as follows:

"That Shri Anandamurti be released on bail and be allowed to leave the country with guarantee that he returns at the time of his appeal hearing. If he were to remain his security could not be guaranteed due to various fanatic elements who are opposed to his ideas. Due to his long protest fast his health has become precarious. We therefore request he be allowed to take treatment with a doctor of his choice in an environment more congenial to his recovery which could be guaranteed outside of India."

Besides the above demand Acharya Bharadwaja said in a letter to the High Commissioner Mr. Nehru:

"Dear Mr. Nehru, It is the firm belief of our Defence Committee that the recent conviction of Shri Shri Ananda Murti is a result of political pressure rather than legal evidence and that it is impossible to conduct a fair trial within the current repressive environment under the State of emergency."

This view is shared by several respected international barristers who have been involved with the trial including Mr. W.T. Wells Q.C. and former MP and Mr. Claude Armand Sheppard, a Canadian Barrister who was sent to observe the trial on a mandate from the International Commission of Jurists and the International League for the Rights of Man.

"Copies of their reports on the trial are enclosed with this letter. Our Committee requests that you convey the above demands and the enclosed documents to your Prime Minister, Mrs. Indira Gandhi."

GRAVE DOUBTS ABOUT FAIRNESS

In a note headed "Parody of a trial against the backdrop of a Police State Acharya Bharadwaja said grave doubts had been expressed about the fairness of the trial by various international observers, especially as the political overtones of the trial became evident and the trial became a medium for trying to defame P.R. Sarkar and the Ananda Marga Movement.

VERDICT AFTER FIVE YEARS

"The verdict comes after five years imprisonment without bail, during which time Anand Murti was subject to continual harassment including an attempt on his life by poison in February of 1973. Since that time he has been on a protest fast on liquids only demanding a judicial enquiry into the incident his current condition is critical because of his prolonged fast." He said.

BARRISTER'S COMMENT

M. Claude Armand-Sheppard a Canadian barrister commissioned by the International League for the Rights of Man, who went as an observer to Mr. Sarkar's trial in June of this year, had this comment to make in his recent report:

"It is difficult for the undersigned not to echo the warning given by Mr. William T. Wells, Q.C. in a letter dated February, 24th, 1976, against relying on the testimony of Madhavananda who is not only a self-confessed mass murderer, but implicated the accused only after being in custody for several months and being turned over to the dreaded C.B.I.

"Mr Wells also recalled the

reasoned judgement of the first committing magistrate who drew attention to the many inconsistencies in Madhavananda's evidence.

"Finally, it must also be borne in mind that Madhavananda expects to be hanged for the other murders unless the authorities decide to pardon him for these crimes as well.

"It is easy to imagine what the price for these additional pardons might be!"

FAIR TRIAL IMPOSSIBLE

In regard to a fair trial within the current political climate M. Sheppard said:

"Although inside the courtroom the somewhat stilted rites of justice continue to be performed in the tradition, on the outside — in Kafkaesque contrast — the police state extends its wide-ranging tentacles.

"Fear is rampant, and justifiably so. And it is this fear which presents the single biggest obstacle to a fair trial for Mr. Sarkar and his co-accused.

"For in the authoritarian climate of India today it is virtually impossible to find witnesses willing to brave the authorities by testifying on behalf of the accused.

"Indeed, many Margis are either in detention or in hiding.

"Even if they could be found, such witnesses are said to be utterly afraid to come forward. Their testimony would expose them almost certainly to arrest.

DICTATORSHIP

"In other words, the accused not only have arrayed against them, the entire power of the Indian police establishment, but even if they had all the funds necessary to prepare an adequate defence, it is highly unlikely that they could

find, or if they found them, could produce, witnesses willing to testify on their behalf.

"Fair trials in a dictatorial framework are difficult to conceive and probably impossible to achieve."

Acharya Bharadwaja said: "Mr. William T. Wells, Q.C. is currently in India and will be making appeals for the release of Mr. Sarkar on bail as well as assisting the defence lawyers in filing their appeal. (Ed. Note: He has since returned, see enclosed memorandum.)

"The P.R. Sarkar Defence Committee will be continuing its campaign worldwide for the release of Mr. Sarkar and the other Ananda Marga leaders (who are held under MISA).

A FABRICATION

"It is the firm belief of this Committee that the charges against Mr. Sarkar were fabricated for purely political reasons and that the verdict was made with political as well as legal considerations.

MOTIONS IN COMMONS

"In the U.K. the Committee has put forward an early day motion in the House of Commons. The motion was tabled on Dec 1st by 5 ruling party, MP's and has since been supported by MP's of all parties.

"The motion requests HMG to back the Committee's petition to the UN to investigate the case of Mr. Sarkar and the Ananda Marga.

IN LORDS

"In the House of Lords Lord Brockway has agreed to put a petition down regarding our

Ananda Marga adherents claim mistreatment

By Colin Legum
London Observer

LONDON — Two disciples of the Ananda Marga spiritual and political movement, recently arrived here after seven months in Indian jails, said they were interrogated for almost four weeks, usually at night, and never formally charged with any crime.

Richard White, a New Zealand student, and Andrew Colbert, an Australian, said they were on hunger strike for 10 weeks before being released.

Ananda Marga, which has followers in 35 countries, combines meditation and practical social work.

The leader and founder of the movement, P.R. Sarkar, known as Anandamurti, has been on hunger strike for three years, while awaiting trial in India on murder charges.

"One of the people he was accused of murdering was in fact in prison with us up to the time we left," White said.

A month before White's arrest, in September 1975, Prime Minister Indira Gandhi accused Ananda Marga of responsibility for the assassination of her minister of railways, of an attempt on the life of India's Chief Justice and of plan-

ning to kill her.

White strongly denies all these allegations. "Ananda Marga", he said, "fell foul of Congress and Communist Party leaders in Calcutta because of the practical side of our work. We had become a popular organisation in India because of our campaign against corruption. It was for this reason that Congress and the Communists began to persecute Ananda Marga before banning it and arresting our members."

In 1973, White decided to take time off from his engineering studies at Auckland University to go to Australia where he met Colbert. They went to India as disciples and trainee workers of Ananda Marga.

They were arrested. They said they were interrogated throughout the night in the Calcutta Security Control Office.

"The police kept asking what spectacular things we were intending to do on Sept. 25," (the date Sarkar's trial was to begin) White said. "Who were we planning to kill? I told them it was absurd to them even to ask such questions."

White said that he and Colbert feared they might be detained under the Maintenance of Internal Security Act, which would mean that no information about their detention would be released.

"So we decided to attempt to escape to our consulates, when they took us back from the police lock-up, where we were kept, to the Security Control Office," White said. When the police car in which we were travelling was in the vicinity of the consulates, Anirudha [Colbert] reached over, grabbed the steering wheel and the car stalled. I jumped out but was caught by a policeman. A large crowd quickly gathered, among them a second secretary of the British High Commission ... I yelled out our names and nationality. The police then detained the diplomat as well, but later released him."

They said they were interrogated, mostly at night, for 24 days before being transferred to a prison.

"During that time in the police lock-up," White said, "we were confined night and day in a cell approximately 30 feet by 40 feet with 25 other prisoners, nearly all of whom smoked. The windows were high and barely gave adequate ventilation. We were not supplied with soap, nor had any change of clothing, or even a comb. We were fed only two small slices of white bread, five small chappatis [Indian flat bread], a little vegetable and a teaspoon of yoghurt

twice a day."

White said there were a number of prisoners whose feet were bruised and swollen and, in some cases had become infected.

"We discovered that they had been hung upside down and beaten on the soles of their feet," he said. "This was the standard method employed to extract confessions for petty crimes. Many people confessed just to avoid the beatings."

"The police," White continued "used threats and obscenities when we didn't answer questions."

After five months of investigations and several court appearances, White and Colbert finally told the magistrate that they intended to begin a hunger strike until proper charges were laid against them.

The British and Australian high commissions finally obtained their release.

White said his greatest concern now is about the future of Anandamurti (Sarkar).

"After three years of high strike, taking just a few cups of tea a day, Anandamurti is reported to have wasted away and is very frail. It is difficult to know how much longer he can preserve his physical being," White said.

APPEAL TO SAVE THE LIFE OF ANANDAMURTI — Worldwide appeal for release

To

Mr. S. Haidar,
Director,
Prime Minister's Secretariat.

MEMORANDUM
P. R. SARKAR.

1. In putting forward this memorandum in the hope that it may be considered by the Government of India, after the conviction of P.R. Sarkar on charges, *inter-alia*, of abetment to murder and conspiracy to murder, I must make it clear that I do so only in the capacity of a lawyer instructed to watch his interests on behalf of a group of his followers and sympathizers drawn from North America and Western Europe.

2. The points I shall try to develop are the following:-

(I) That, to put it at its lowest, there exists a possibility that the findings of the Sessions Court may be reversed on appeal.

(II) That the problem of how to treat P.R. Sarkar may prove a source of some difficulty and embarrassment;

(III) That an act of clemency now, before the matter comes to appeal, and conditional upon his permanent departure from Indian Territory, might prove an act of statesmanship that would yield considerable advantages.

3. It is obvious that any opinions I venture to express on matters of law may be checked by reference to the Government's legal advisers and I do not propose to elaborate all the grounds on which the decision of the learned Trial Judge may be open to attack but merely to give some examples, namely:-

(i) It was common ground between the court, the prosecution, and the defence that the whole case for the prosecution depended upon the evidence of the approver, Madhavanand (and of course upon its being adequately corroborated). It can, and doubtless will, be argued that the whole approach adopted by the learned trial Judge to the conditions and circumstances in which the evidence of an approver can be accepted was inconsistent with guidelines laid down by the Supreme Court in previous cases, and in particular where, as here, the approver was himself a principal malefactor.

(ii) It is an essential precondition to the acceptance of an approver's evidence that he should have been granted a valid pardon before giving it. Whether the second and operative pardon granted to Madhavanand was in law a valid one appears to involve a difficult question of construction, namely whether the old or the new Code of Criminal Procedure applies to it. The learned trial Judge took one view. Another court might take a different one, and if it did a reversal of the Sessions Court's decision would be inevitable.

(iii) As I understand it, the law of India is the same in this respect as the law of England, that on a criminal charge the guilt of any ac-

cused must be proved beyond a reasonable doubt, or, to use the expression now prevailing in English Courts, the tribunal must be "satisfied and sure". At a late stage of the trial, after the evidence and the prosecution argument had both been concluded, the learned Judge said in court that he could not sleep for worrying where the truth lay in this case. What supervened to remove his doubts? Further, from the point of view of an advocate called upon to uphold his decision, it is perhaps unfortunate that in a crucial passage in his careful and elaborate Judgement the learned Judge used (al though he subsequently qualified) the expression "the broad probabilities of the case" — probabilities not being the test. These matters may be susceptible of explanation, but I would submit that they must constitute difficulties for the respondent to an appeal.

4. None the less, an appeal may fail. Assuming that it does, what advantages does the Government of India derive from his dying in custody that it would not equally draw from sending this man, diabetic, more than half starved for over three years, (of course of his own volition), to die abroad? One has to appreciate that the decision of a court (of any country) in a case with a political content or atmosphere (which this, even if it lacked it before, inevitably acquired when Ananda Marga Organisations were banned under the Emergency

powers) does not command the same degree of acceptance as do decisions in cases where there are no political overtones. What harm could this physically broken man do to India when outside the country, except perhaps to make some criticisms of the Indian Government to which that Government's clemency towards him would afford the best possible answer? Inside India, on the other hand, he may be a menace because, to those who do not accept the truth of the evidence against him or who may think that his defence was handicapped by the manifest impossibility, in the circumstances, of finding witnesses to come forward in his defence, he will be a martyr. Outside India, he would only be the physically broken leader of a sect with virtually no links with India because of the ban.

5. If these arguments and proposals were acceptable in principle, many details would remain to be worked out, but I would respectfully submit that by sending P.R. Sarkar into exile the Government would at once remove a man whom they regard, rightly or wrongly, as a danger, and attract widespread commendation both in and outside India for an outstanding act of mercy and humanity.

Copies to:-

Mr. R.C. MISRA,
Joint Secretary,
Department of Personnel,
Cabinet Secretariate.
Mr. P.V. HINGORANI,
Additional Director (C),
Central Bureau of Investigation.

Chronology of Events

CRONOLOGY

1921
Shrii Shrii Anandamurti born in West Bengal, India.

1955
The organization ANANDA MARGA formed.

1966
Ananda Marga starts ERAWS (Education, Relief & Welfare Section).

1967 March:
raid on Ananda Marga headquarters in Ananda Nagar by tribal mob incited by local official. Five workers killed.

1968 May:
raid on Ananda Nagar by Purulia police.

1969
Government bans civil servants from belonging to Ananda Marga; Supreme Court stays the ban.

1969 Cooch Bihar:
communists attack spiritual meeting. Shrii Shrii Anandamurti and others arrested, then released on court orders.

1971
vacated office searched — "incriminating evidence found".

1971 June 29:
Shrii Shrii Anandamurti arrested; released August 16 by order of Patna High Court.

1971 Dec. 29:
Shrii Shrii Anandamurti and general secretary of Ananda Marga arrested without warrant, held 6 months without bail or charges.

1972 June 26:
chargesheet filed ("murder and abetment") and commitment proceedings begin.

1972 Nov. 22:
Commitment proceedings end; charges against Shrii Shrii Anandamurti reduced to abetment.

1973 Jan. 4:
defense advocates petition High Court to quash commitment; Magistrate says commitment to Sessions Court pending outcome.

1973 Feb. 12:
Shrii Shrii Anandamurti poisoned in jail; denied proper medical care; no response to petition for judicial inquiry into poisoning.

1973 March:
petitions, protests demonstrations all over the world.

1973 April 1:
Shrii Shrii Anandamurti begins a fast with liquids only; continues to fast after more than 5 months demanding just and humane treat-

ment for himself and his followers.

1973 April:
two monks of Ananda Marga self-immolate in a desperate move to break the press blackout and draw international attention to Shrii Shrii Anandamurti's condition.

1973
Many large demonstrations held all over the world; harassments, arrests, and detentions without warrant or charges increased; Ananda Marga offices frequently raided, files taken, vehicles confiscated; members beaten.

1973 August:
Quashing Petition upheld by Patna High Court, whole commitment proceedings thrown out.

1973
At present no charges against Shrii Shrii Anandamurti, being held again without bail while prosecution reforms their case.

1974 February:
Madhavananda, confessed murderer and main approver in the case of Anandamurti, was granted a fresh pardon by the Patna High Court.

1974 March:
A four member non-official parliamentary team met the Ananda Marga chief, P.R. Sarkar, alias Anandamurti, in the Bankipur central jail today and expressed anxiety over his health.

They said they had tried in vain to persuade Mr. Sarkar to give up his fast. He said that he considered his ideals of dharma, morality and humanity more important than his life.

They demanded a judicial inquiry into the alleged poisoning of Ananda Murti.

1974 March:
For the third time, the Supreme Court today refused bail to Ananda Marga chief P.R. Sarkar, alias Anandamurti.

1974 March:
Mrs Gandhi told a delegation of Congress and CPI MP's today that the government was seriously considering the legal and constitutional implications of the demand for banning the RSS, the Ananda Marga and similar organisations.

1974 April:
Mr. William T. Wells, Queens Council and former Member of Parliament, made a fact finding visit to India April 10th on behalf of the International Committee to Obtain Justice for Shrii Shrii Anandamurti.

1974 May:
On May 13th 1974, the International Committee sent a memorandum to Mrs. Gandhi urging humanitarian treatment of Shrii Shrii Anandamurti.

1974 July-Sept.:
Letters calling for humane treatment of Shrii Shrii Anandamurti were sent after the publishing of Mr. Wells report in the fall of '74. Letters were received from Members of the US Congress, Canadian

Parliament, British Parliament, a professor from Oxford University, as well as the International Commission of Jurists and Amnesty International.

1974 Oct:
The Supreme Court today dismissed two petitions of the Ananda Marga Chief, Mr. P.R. Sarkar alias Anandamurti, now lodged in a Bihar jail, seeking to get his cases transferred to a place outside Bihar.

1974 Nov:
Both Tass (28-11-74) and Pravda (21-11-74) attacked the JP Narayan Movement, RSS and Ananda Marga, labelling them as "Reactionary forces" trying to undermine democracy. The Soviet papers issued a call to the Indian CPI and Congress Party to unite together to 'uphold the democratic gains of the Indian people'. It was this same coalition, with Moscow backing, which later enacted the Emergency Act, removing almost all the democratic and civil rights of the Indian people.

1974 Nov 26:
Jail officers searched the cell of Shrii Shrii Anandamurti on 26-11-74, ostensibly in search of a radio transmitter with which they believed he was communicating with the organisation worldwide. During this search Shrii Shrii Anandamurti was caused great discomfort by being roughly moved to search beneath his mattress. While in the cell the jailers stole a ring of Anandamurti which was a family heirloom.

1974 Dec 10:
Ac Atulananda Av., a personal attendant of Shrii Anandamurti, was made to stand naked during the search. This incident plus many other incidents of harassment against Anandamurti, in his state of frail health, caused Atulananda great anxiety. This caused him to threaten to self-immolate himself in the jail if the ring is not returned.

1974 Dec 11:
On the 11th December he was able to carry out this threat. AM accused the authorities with negligence in protecting his life.

1974 December:
On the third anniversary of Shrii Shrii Anandamurti's arrest (29-12-74) the Chakraborty Non-Official Enquiry Commission issues a report which concludes that Shrii Shrii Anandamurti was poisoned in Bankipur jail on the night of February 12, 1973.

1975 January:
The death of the Indian Railway Minister, Mr. L.N. Mishra, on January 3rd 1975, brought a wide variety of accusations as to the forces behind the murder. CPI Chairman, Mr. S.A. Dange, alleged that J.P. Narayan and Ananda Marga were behind the murders, while in March of the Nation, January 18th, it was alleged that the CPI were involved, and that was why they were so eager to blame

their ideological opponents — J.P. Narayan and Ananda Marga. In the Motherland of January 12, 1975, the correspondent suggested that there was strong evidence that implicated Mrs. Gandhi.

1975 January:
The General Secretary, Ac Keshavananda Av., was arrested under the MISA on the grounds of a previous explosives case for which he had received bail, — the case being currently sub-judice. Ananda Marga officials claimed that his arrest was an attempt by the government to interfere with the trial of Anandamurti soon to begin. Acharya Keshavananda was the organisational representative supervising the case of Anandamurti and maintaining liaison with the lawyers.

1975:
The Commital Hearing was held beginning 2-10-75, but was postponed until June 17th.

1975 April:
PROUT Weekly, April 12th, 1975, "New Delhi, Thursday. The truth triumphed when the Additional District and Sessions Judge, Mr. M.K. Chawla, gave a historic judgement on April 7th, acquitting all the four dedicated Ananda Marga followers in the case of self-immolation by Acharya Dineshvarananda Avadhoot on April 24, 1973.

Mr. Chawla observed in his 42 page judgement, "It is true that an Ananda Marga immolated himself inside the pound of a mosque on Old Fort, but the prosecution miserably failed to bring on record if it was done on the abetment of any of the accused."

1975 April:
In the early morning hours of April 12th, 1975, a party of about 200 persons, including members of the State Police, Special Branch, State Intelligence Branch, Central Intelligence Branch, C.B.I. and some lady police, raided simultaneously three Ananda Marga establishments in Calcutta. All three places, Central Office, the quarters of Anandamurti and the Ananda Marga press were painstakingly searched, but nothing incriminating was found.

1975 June-July:
During the first weeks of June, the commital hearing was completed and the case committed for trial, but no date was set. At the commital hearings the approver, Madhavananda, gave testimony altering his previous confession.

1975 July 4:
After the declaration of emergency on June 25th most Ananda Marga offices and schools were raided and eventually closed down. Ananda Marga was officially banned on July 4th, along with three other organisations. Several thousand monks, nuns and lay members are arrested and imprisoned. All funds were seized and institutions ransacked.

Step by Step to dictatorship

(Continued from Page 9)

said that even in times of national emergency the state "has got no power to deprive a man of his life and liberty without the authority of law."

The Supreme Court decision was in direct response to government appeals of lower court rulings in the case of 43 political prisoners. The lower courts had held that the right of habeas corpus could not be suspended, even in an emergency.

JULY 25

India press curbs widened.

Two English language journals that had been critical of India's emergency regulations were forced to halt operations, it was reported July 25.

One publication, the weekly *Opinion*, was ordered closed by the Maharashtra State government because it had violated the Publication of Objectionable Matter Act and censorship rules.

The other periodical, the monthly *Seminar*, decided to cease printing voluntarily after it had reflected a July 15 government order to submit to censorship. Publisher Ramesh Thapar wrote in the final issue that *Seminar* "cannot surrender the integrity and right of free expression this way."

No Indian newspaper had printed the news of the closing of *Seminar* and *Opinion*.

AUG. 24

Gandhi foe gets U.S. asylum.

The U.S. granted political asylum Aug. 24 to Ram Jethmalani, a critic of Prime Minister Indira Gandhi. Facing possible arrest for an anti-government speech he had made in Kerala, Jethmalani left India by plane April 28, went to Montreal, Canada and arrived in the U.S. in May. He asked for asylum July 7.

Jethmalani, chairman of the Bar Council of India, was a visiting professor of comparative constitutional law at Wayne State University, Detroit, Mich.

The upper house of Parliament Sept. 2 voted to establish a committee to investigate another defector, Subramanian Swamy, who was a member of the right-wing Jan Sangh Party. Swamy was accused of engaging in anti-government activity and fleeing from justice. He had appeared in the upper house in August but was believed to have left the country again. Swamy had been living in Britain, the U.S. and Canada before returning to India.

SEP. 24

Fernandes charged as plotter.

George Fernandes, Socialist Party chairman, and 24 others were indicted in a New Delhi magistrate's court Sep. 24 on charges of conspiring against the government. They were to go to trial in October.

The defendants were accused of obtaining explosives and plotting to "create countryside chaos through large-scale sabotage of the railway system."

OCT. 4

Major Newspaper shut, reopened.

New Delhi police Oct. 4 pad-

locked the presses of the Indian Express, the English language newspaper opposed to government policies. In response to the paper's appeal, the Delhi High Court Oct. 6 ruled that the padlocking was improper and ordered the seals and locks removed. The court did not address itself to the paper's charge of government harassment, but permitted resumption of publication pending the outcome of future hearings.

OCT. 6

Opposition leader freed.

Piloo Mody, imprisoned leader of the right-wing Swatantra Party, was released from jail Oct. 6. Mody was among 30,000 political dissenters arrested in June 1975 when the government declared a national emergency. He said he would seek a merger of the major non-Communist political parties opposed to Prime Minister Indira Gandhi. Creation of this political front, Mody said, was "fundamental to the survival of democracy" in India.

Mody said that the government had offered to free him in August on condition that he remain at home, stay out of politics and not meet with journalists. He said he rejected the offer and decided to serve the additional two months in order to gain his unconditional release.

OCT. 11

Self-immolation in protest of Emergency.

Mr. Prabhakar Sharma, aged 65, a worker in the Sarvodaya movement and colleague of Vinobha Bhave, self-immolated himself at Surgaon outside Wardha in Maharashtra on Oct. 11 in protest against Mrs. Gandhi's dictatorship methods of government.

Before self-immolating Mr. Sharma sent a letter to Mrs. Gandhi explaining the reasons for his action, with copies to Mr. S.B. Chavan, the Chief Minister of Maharashtra, and others.

An unconfirmed report said that several thousand people attended his funeral in spite of efforts to stop them.

The translation of his letter reads in part, "Forgetting God and humanity and arming itself with wide, brutal powers the government last year deprived the newspapers of their freedom of expression and attacked all those qualities of Indian living which can be decent, great and noble. This year it has shamelessly attacked the nation's spiritual and non-violent civilisation."

"Your MISA rule transforms the bureaucrats into monsters and makes the people cowards. One who does his duties fearlessly will get interminable imprisonment. There will be no justice. The judges are your stooges. Under these circumstances it would be an acceptance of suppression to go to jail. I shall never tolerate your bullying me like a swine."

Quoting Gandhi's 'Young India' the letter said: "We must be content to die if we cannot live as free men and women."

Sharma added, "I know writing such a letter itself is a sort of crime. Therefore, I do not intend to live under your sinful regime."

NOV. 2

Parliament approves charter changes.

The lower house of the Indian Parliament Nov. 2 approved 366-4, a sweeping series of constitutional amendments that would expand the powers of legislature and the prime minister and would diminish the authority of the courts. Most opposition members boycotted the session in protest. The measure required ceremonial passage by the upper house of Parliament and by a majority of state legislatures and the signature of the president before becoming law.

Opposition leader Asoka Mehta charged after the vote that the government was "codifying the state of emergency [imposed June 1975], giving force of law to the concentration of power in [Prime Minister Indira] Gandhi's hands."

Most members of the opposition had stayed away when Parliament convened Oct. 25 to consider the constitutional changes. A joint statement issued by a coalition of four parties said that the amendments would "eliminate the whole system of checks and balances provided in the Constitution and leave the arbitrary exercise of authority to the detriment of the citizen."

Gandhi had taken issue with opponents of the bill, saying during debate that "those who want to fix the Constitution in a rigid and unalterable frame are entirely out of tune with the spirit of the new India."

NOV. 26

Anandamurti convicted.

Shrii Shrii Anandamurti (alias P.R. Sarkar) was convicted in Patna Sessions Court of murder, conspiracy to murder, and destruction of evidence. Anandamurti and the four co-defendants were all given life imprisonment for their alleged crimes. Worldwide protests have been launched protesting the convictions which are thought to be of a political nature.

NOV. 29

Indian High Commission occupied.

Members of Ananda Marga in Great Britain occupied the Indian High Commission in protest of their leader's conviction on Nov. 26. Spokesman for the group said that a worldwide protest is being launched to protest the conviction which is known to be influenced by political motives. Anandamurti was an outspoken critic of the present government's widespread corruption when he was arrested Dec. 1971 on what his followers believe to be false charges. Several international organisations have been investigating Anandamurti's case, including Amnesty International, Commission of Jurists and the International League for the Rights of Man. They had expressed grave doubts about the substance of the proceedings and the possibility of a fair trial within the present repressive climate. A motion has been tabled in the British House of Commons asking for Her Majesty's Government to help bring the case to the attention of the UN Human Rights Commission.



"Who's the fairest one of all?"