

In Conversation with Rights Activist and cofounder of the Centre for Social Justice, GaganSethi



Gagan Sethi

“And they reply that we have been told that your *kok* (womb) produces terrorists.” Forty-five minutes into the interview, GaganSethi looks right into my eyes and recounts BilkisBanu’s deposition before a special court set up after the Godhrariots.

The then 19-year old Bilkis was being attacked by men she thought were part of her family, and she was pleading for the men to stop tearing her clothes, stop raping her. For a moment, the only sound in the room is that of the whirring fan above. He blinks and the conversation meanders on, Sethi sharing his plans on professionalism in the world of voluntary organisations and his days as a “young boy with rosy ideals”. By the end of the hour, Sethi will speak about a lot many things, including some revolutionary ideas on providing legal services and more. We don’t really discuss the Godhra riots in detail; a few cursory questions are all that are asked. That line about BilkisBanu though remains, lurking somewhere in the darkness.

GaganSethi is quite an imposing personality, with a deep baritone that almost always means business. Starting off as a student at St. Xavier’s, Sethi initially worked with the Behavioral Science Center, a unit of St. Xavier’s that was working with Dalit farmers. Remembering his early days, Sethi smiles and shakes his head dismissively.

“I was this young boy from Delhi, experiencing the concept of un-touchability for the first time.”

A few years later, he went on to complete his master’s degree and then returned to Xavier’s. Once again, he resumed working on Dalits' rights, working for those whose rights had been denied. It was not an easy job and a few years into this profile, two of his close friends who were working with him were shot dead by individuals belonging to the upper castes. He was twenty-nine years old. The trial that ensued changed him in more ways than one.

“That was the first time we used the “pre-incarnation” of the current anti-terrorist Act, the TADA. Of course the government of India had not made TADA for inter-caste violence but we applied it to this dispute between two communities. The best part was we got a special judge, a special court so the trial moved like that (snaps his fingers). We got a conviction as well!”

It was this trial that also proved to be one of the most educative phases in his life, especially when it came to the subject of law. The assigned driver of the special public prosecutor, Sethi would drive the lawyer every morning from Ahmedabad to the special court in Nadiad. Sethi would interact with the witnesses and also follow up on the legal procedures involved. While the rest of his colleagues were happy when the judgment was delivered, Sethi had had enough.

"It was quite funny because when we got the judgment [in our favour] everyone was so happy and congratulating all of us. And I said, "Come on. If this is the price you have to pay to get one murder [conviction] we had just proved that justice is not really accessible at all!

All my understanding of Rule of Law, of a young boy who had some rosy ideas - it was a demolition of the entire construction of what a Constitution is in practice, what laws are in practice, how far away access to justice really is."

It was this particular experience that led Sethi and some of his friends to start the Centre for Social Justice, an organisation that devoted itself to facilitating and improving access to justice. Initially CSJ focused on training paralegals and working on providing free legal aid. Sethi's primary critique of the institution of the judiciary being that it was too "incestuous". With trained paralegals, this "incestuous" nature of the profession could be fought, to some extent.

"Any institution that only has one type of profession will see to it that its own profession is upheld at the cost of the community or the national interest. And I say that with great responsibility. Look at the irony of the legal profession – who runs the legal services authority? Lawyers.

Suppose I have to complain that the legal service authority act is not operational, whom do I complain to? To the same guy in another hat. Is that fair? Do they think that they are gods who can play both roles fairly whereas all others cannot? What I am trying to say is that you cannot have a service provider sitting in judgment of his own services."

The CSJ would also train fresh law graduates, teach them to view the law from the eyes of the community rather than as simple text. In essence, Sethi and his team were asking lawyers to "take off their black coats" and view problems as members of a community, to go back to their roots and then examine whatever dispute has arisen. The other goal was to improve the competency of the lawyer's themselves, a topic that Sethi is quite blunt about.

"Do you know how lawyers charge their fees? A poor fellow will come to them and the lawyer will say, "Oh these are the charges. Okay, let us total the sections."

So say it is Section 376 plus S. 165 etc and the total *ho gaya* (adds up to) 2,800 "section"s. Then they will say, "I will charge Rs. 20 per "section" so that becomes Rs. 56,000." This is the way lawyers deal with people. It is like saying, "*Kelebechrahahoonmein, ek keleka do rupia. Aur who kelebhinahihai, section hai*" (I am selling bananas at two rupees for one. And these are Sections not bananas)

On the other hand, I could actually stand up in the court and say I needed to make an affidavit and then have them bid for it. And I have done this and got it down to ten bucks for an affidavit."

Gradually, the free legal services became extremely popular, even garnering support from the judiciary. Justice RA Mehta, the then Acting Chief Justice of Gujarat, even provided an office space within two district courts for the CSJ to operate from. Others, though, were less than impressed. Six months after the office spaces were given, the Baroda Bar went on strike. "See once free legal aid started becoming functional, the word spread that quality legal service is available. So why should you pay usurious fees elsewhere? Even middle class women started coming for free legal aid.

If all these people were to be given quality legal services that would mean about 70% of the cases filed in the court would be eligible to a legal services authority. Now if this were the case in whose interest is it that the legal services should fail? Lawyers."

Following the strike, the CSJ lawyers had to move out of the district courts and set up shop outside. Hostility from the Bar was not the only problem they faced; the other was far more operational in nature. A lot of lawyers, after working for CSJ for two or three years, wanted to move on and it was impossible to stop them. And it is while discussing these operational issues that Sethi breaches upon one of the most interesting developments in the legal sphere, Nyayika (<https://www.facebook.com/nyayika>).

Put simply, Nyayika works as a franchise model of legal service providers. Currently in a pilot phase of sorts in ten districts in Gujarat, the Nyayika model means lawyers provide legal services at fixed rates, with each district office identical to the other. In other words, a standardization of a legal aid delivery system built on self-sufficiency as opposed to relying on financial assistance.

"In a sense all offices would look like a McDonalds, uniforms would be brought in, all offices would have a management information system (MIS) and a rate card that would be prominently displayed. Receipts would be given for fees paid. We want to open up the legal profession."

But doesn't this go against the very fundamental donor-based model that voluntary organisations have traditionally followed?



Quips Sethi,

"Kyakarega?Beessaalkebaad, begging bowl lekejatarahoo? (What should I do? After 20 years, should I still go around begging?)

We provide the training, set up a Section 25 company, we will franchise etc. In fact, we have 6 such franchises already. They have started getting cases. We are trying to put in place systems of quality control.

We are learning. I am now looking now at social venture capital ready to support this model. I am telling them to wait because I want to perfect the entire chain. And then they would offer the capital at a much reduced interest rate."

When it comes to funding, a number of voluntary organisations have been targeted by the State through the Foreign Contributions Regulation Act, a legislation as the name suggests that controls all donations receivable by a voluntary organisation. Without an FCRA clearance, this supply is cut off, often forcing organisations to either toe the government line or shut shop completely.

"I think we still have a State that is progressive at one level but at another level it is so scared. I mean there is foreign capital coming in anyway. If I am a company and I pay 30%, I can get as much money as I want. But if you are getting money for free or as a donation, it will be used for anti-national purposes.

Come on. The country is not so weak but this is a myth constructed because most NGO's are raising demands. As long as you are a supply side NGO, [the government] is very happy with you. You take their contracts, implement it etc. [It is] cheap labor at half the cost."

For all his misgivings against the State, Sethi does not shy away from the fact that misuse of funds is a serious problem for voluntary organisations. He has in fact, sought a self-regulatory mechanism for such organisations and is pushing for greater oversight on how these organisations are run. In fact, Sethi is routinely asked by organisations to strengthen their internal structure and not just finances alone.

"I will challenge [these NGOs] internally so that nobody externally can challenge them. So I will not allow a balance sheet pass till I scrutinize it for all its veracity. I want a program report; I want the outcome versus output report.

Call it management talk or call it setting up your own internal house in order. After all it is just not about love and fresh air."

The Nyayika model as well as introducing a regulatory body for voluntary organisations, both of these are potentially revolutionary ideas and coming from someone like Sethi, both carry a certain sense of credibility. Their success though, rests on a number of variables and it will be interesting to see how things pan out.

As the conversation meanders this way and that, one of the questions relates to “Lest we forget history” a book on the post-riot events that Sethi had co-authored. Given that Sethi was on the special monitoring group constituted by the NHRC, he was a first-hand witness of much that took place following the Godhra riots. And even though the book itself is marked by a very dispassionate rendering of accounts, there is no doubt that the riots affected Sethi in a deeply, deeply personal way.

“Towards the end though I almost got into a depression and I needed to take one year off [to recover] That’s the personal price you pay. We were not just into [the monitoring] but also into the larger rehabilitation that even today we have not been able to handle. Till today, the government of Gujarat says that there are no camps. We have done four independent studies [on this] but the Supreme Court is not willing to send a team down and see [the rehabilitation camps] there.

[The Supreme Court] can send a team left, right and center to Honolulu or where ever it is for conferences and other thing. *Idharaajao*(Come here).

Now you see my anger coming out and it is frustrating.”

Yet despite these frustrations, Sethi stubbornly clings onto the hope for a better future. Partly he says, this hope stems from the young men and women who are his colleagues. Partly from the realization that being frustrated helps no one.

In the past hour, we have covered legal services, regulating NGOs and brushed ever so slightly onto the Godhra riots and Indian politics. That deep growling baritone also makes it difficult to lose attention, difficult and ever so slightly frightening. His words are an interesting mix of a very *real* reality and the hopeful thoughts of a dreamer.

The conversation remains interesting for its practical insights and rather unconventional points of view. For example, when asked why young people continue to join organisations such as the CSJ, Sethi’s replies, “I think a lot of young people are facing this duality in their lives, this doublespeak in their own families. So there is a contradiction that is induced at a social level by the State, by the education system and this contradiction is what they cannot handle. So when they see energies being put into taking this contradiction head on, they get energized.”

(Premium Account readers can read the entire interview here

(<http://barandbench.com/content/212/conversation-rights-activist-and-co-foundercenter-social-justice-gagan-sethi-premium#.UzORDdwRZg0>). This article is based on an

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interview that took place on March 14, 2014 in Ahmedabad