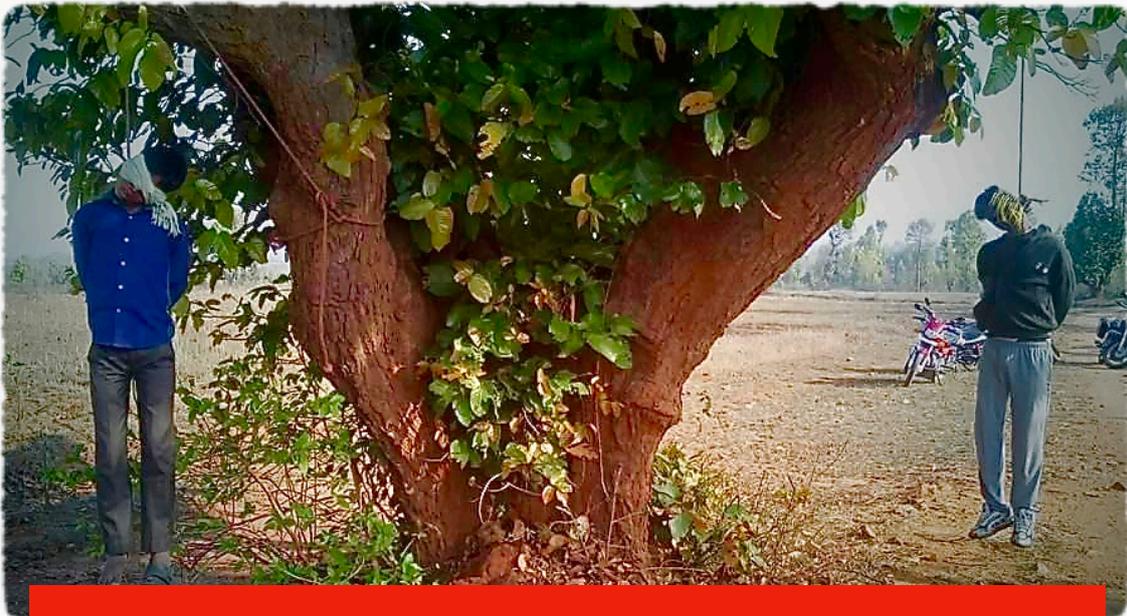


INDEPENDENT INVESTIGATION

H A N G E D
BY GAU RAKSHAKS
DENIED JUSTICE
BY THE STATE



JHARKHAND POLICE SABOTAGE LYNCHING PROBE

Report Endorsed By:

Alliance for Justice and Accountability, New York • Citizens for Justice and Peace, Mumbai • Dalit American Coalition, New York • Indian American Muslim Council, Washington D.C. • Jamia Teachers' Solidarity Association, New Delhi • National Alliance of Peoples' Movements, New Delhi • Rihaee Manch, Lucknow • South Asia Solidarity Group, London • South Asian Solidarity Initiative, New York • The Quill Foundation, New Delhi • United Against Hate, New Delhi

APRIL 2, 2018 NEW DELHI

FIRST HANGING BY GAU RAKSHAKS

On March 18, 2016, in a remote rural part of Latehar district of Jharkhand, a group of Hindu men self-styled as gau rakshaks kidnapped two Muslims, Mazloom Ansari (32) and Imtiaz Khan (12), beat them mercilessly, and hanged them to death by a tree. At the time the group waylaid the victims that fateful day, Mazloom, a livestock trader, and Imtiaz, his business partner's son, were walking eight oxen to a cattle fair to sell.

Though gau rakshaks attacks had already shot up since Prime Minister Narendra Modi came to power in May 2014, this killing was the first to meet the classic definition of a “lynching” — *hanged by a mob* — originating in the racist history of the U.S. where for centuries White supremacists lynched thousands of Africans, Latinos and even native Americans.

The brutal murders of Mazloom and Imtiaz in Latehar instantly reverberated across the world. Various speakers called it out at a hearing on India's human rights, held in June 2016 at the Tom Lantos Human Rights Commission of the U.S. Congress at Washington, D.C. Numerous reports submitted to the U.N. Human Rights Council ahead of its Universal Periodic Review (UPR) in 2017 of India's record of human rights violations also prominently mentioned this specific crime. To this date, however, neither the Government of India and nor the Government of Jharkhand has condemned the hangings and the gau rakshaks. No compensation has yet been made to the victims' families.



INDISPUTABLE FACTS

As with most lynchings by gau rakshaks across India, this ghastly incident, too, is backed by eyewitness accounts and other testimonies. These clearly establish the following:



Imtiaz Khan (L), Mazloom Ansari (R)

- At least three people saw the crime being committed;
- The eyewitnesses knew at least some of the murderers by face and name;
- The murderers had previously threatened to kill the victims unless they stopped trading in cattle

Yet, as this report shows, not only did the police not fully investigate the crime, basis these eyewitness accounts and testimonies, but also failed to press appropriate charges against the accused. This has considerably weakened the case, as a consequence of which every one of the accused was able to secure bail from the Jharkhand High Court.

EYEWITNESS ACCOUNTS

The three eyewitnesses of the crime are Manowar Ansari, the younger brother of Mazloom; Azad Khan, the father of Imtiaz Khan; and Mohammad Nizamuddin, a business partner of Mazloom's and Azad's. Nizamuddin had been accompanying Mazloom and Imtiaz on his motorcycle but had fallen behind by a few minutes before the abduction. Similarly, Azad Khan had left home on his motorcycle to follow his son who had left a half

hour earlier with the oxen.

Nizamuddin and Azad separately reached the spot after Mazloom and Imtiaz had already been abducted and their oxen stolen.



Manowar saw gau rakshaks hang his brother to death

Nizamuddin fled the scene and phoned Manowar, who was home. He, too, rushed to the spot. Manowar and Azad Khan hid nearby and watched in horror as Mazloom and Imtiaz were beaten and strung by a rope to a tree. Nizamuddin

returned shortly and joined Manowar and Azad, also hiding at a distance.

Manowar Ansari:

Manowar says once the crime was over the police arrived on the scene at around 7 a.m. He immediately gave the police details of the crime he had witnessed. But the police did not write down anything, a claim he reiterated in his deposition before the court in November 2017. (Whereas most witnesses present on the scene corroborate that the police arrived at that time, the FIR, as we see later in this report, gives a much later time.)

In his deposition before the court, Manowar named and recognised five of the eight accused — Arun Saw, Mithilesh alias Bunty Saw, Manoj Sahu, Avdesh Saw and Vishal Tiwari. He said Manoj had been his schoolteacher. Manowar told the court he recognised the other assailants as well but did not know them by name. He said his brother, Mazloom, had earlier purchased building material from Bunty Saw's store.

Manowar says he narrated the crime's details to the police right after it occurred but they did not write it down

Azad Khan:

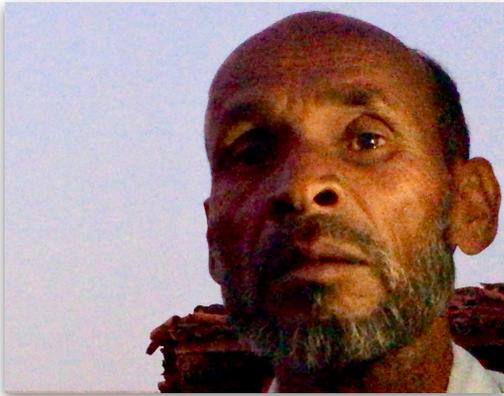
Imtiaz's father, Azad, had suffered a fracture in the leg two-and-a-half years previously. He had therefore drafted his son, Imtiaz, to help him walk the cattle to and fro the fairs. On that fateful morning at about 2.30 a.m., as his son and Mazloom began a long walk with eight oxen, two of them Azad's, for the cattle fair, Azad, too, left shortly on his motorcycle. In his deposition at the court in January 2017 Azad detailed his eyewitness account.

Azad told the court that upon reaching a certain place on his motorcycle he found the eight oxen grazing on the side but Mazloom and Imtiaz were missing. Shortly, he heard his son's screams for help and, as he went ahead following the voice, he saw a group of people armed with pistols abusing and assaulting Mazloom and Imtiaz.

"I immediately hid in the bushes. I saw Arun Saw had climbed a tree and was fixing a rope. The others were on the ground trying to push Mazloom and Imtiaz up to hang from the tree," Azad said in his deposition.

Mohammad Nizamuddin:

In his statement given to the police on the day of the murders, Nizamuddin corroborated the sequence of events as narrated by Manowar. Additionally, Nizamuddin identified one man by name: Vinod Prajapati, a well-known local BJP leader. In his statement, Nizamuddin said as he reached the spot he found Prajapati standing near the oxen. Upon seeing him, Prajapati shouted to his companions that he (Nizamuddin) was the "real



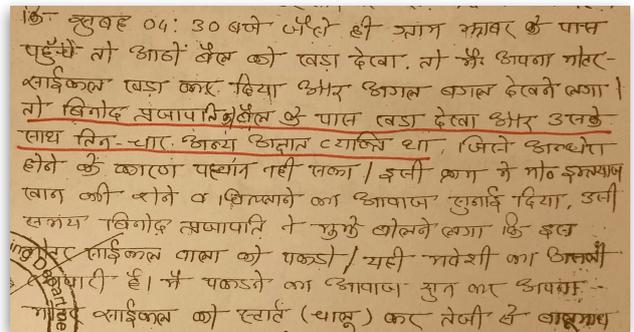
Nizamuddin identified Prajapati

and they should catch him.

"Upon hearing that I

quickly started my motorcycle and fled"

from the location, and then telephoned Manowar. He returned to the location a while later.



OTHER TESTIMONIES

Najma Bibi:

On March 20, 2016, two days after the brutal murder of her son, Imtiaz's mother gave a detailed statement to the Investigating Officer, Sub-Inspector Ajay Kumar. In it, she categorically asserted that her son often told her that the eight accused — Mithilesh Sahu, Manoj Kumar Sahu, Avdesh Saw, Pramod Saw, Manoj Sahu, Arun Saw, Sahdev Soni and Vishal Tiwari — would often accost him near their villages and threaten him with murder if he did not stop working as a cattle trader.

Najma Bibi's testimony, and that of Mazloom's widow, Saira Bibi, unambiguously show that the accused not only knew the victims but had also long harboured explicit intentions to murder them.



Najma Bibi, Imtiaz's mother

Saira Bibi:

Shortly after her husband was hanged to death, Saira Bibi rushed to the crime scene. On March 19, a day later, she told the police that about a month-and-a-half previously several men had visited her home and openly threatened her husband with death if he did not stop buying and selling cattle. The names of the people who visited her home that she gave the police matched the names of the accused who were subsequently arrested.



Saira Bibi, Mazloom's widow

Naimuddin:

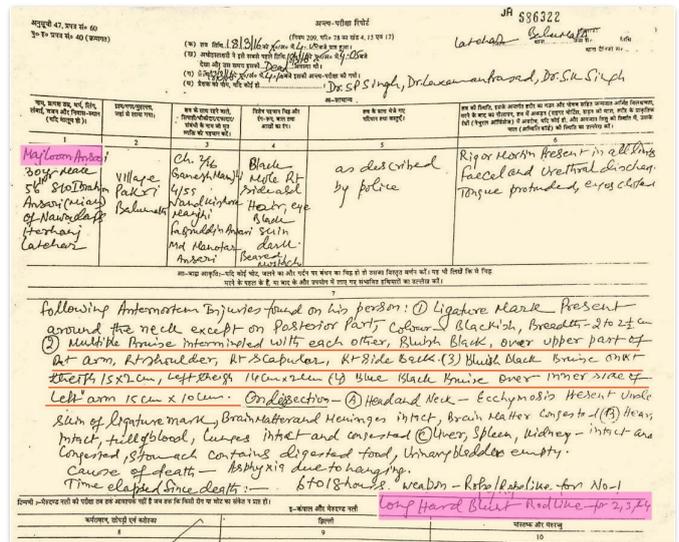
Also on March 20, 2016, two days after the murders, Saira's father, Naimuddin, told Sub-Inspector Kumar that the eight accused had threatened Mazloom, too, with murder if he did not cease trading in cattle.

UNEQUIVOCAL AUTOPSY REPORT

Besides the powerful eyewitness accounts and other testimonies of the family members, the other substantial piece of evidence that should help adequately establish the crime are the post-mortem reports. In both cases the autopsies clearly suggest the victims were brutally set upon before they were hanged. Indeed, Dr. Laxaman Prasad and Dr. S. K. Singh, the government doctors who conducted the autopsies, explicitly wrote in their remarks that “long, hard, rod like, blunt” weapons were use for various injuries on the two victims’ bodies.

For Imtiaz, the underage victim, the doctors described these injuries as “Blue Black bruise on Rt [right] thigh, Blue Black bruise on Left Knee, Blue Black bruise over outer part Both arm...”

In the case of Mazloom Ansari, the doctors described his injuries as “(2) multiple bruise[s] intermingled with each other over upper part of Rt arm, Rt shoulder, Rt scapular (3) Bluish Black Bruise on Rt thigh, Left thigh (4) Blue Black Bruise over inner side of Left arm...”



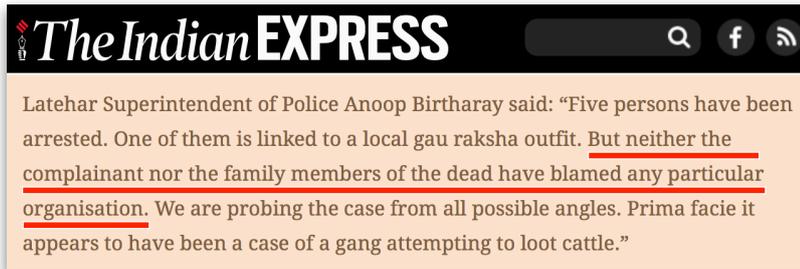
Mazloom's autopsy report

Both deaths, of course, were due to “asphyxia caused by hanging”, as supported by ligature marks on the necks of the two victims, caused, no doubt, by “rope/ rope like”.

POLICE SABOTAGE

Taken together, the eyewitness accounts, the testimonies and the post-mortem reports should have clearly made the police pursue an investigation along the following lines:

- The murders were premeditated as the accused knew both victims from beforehand and had threatened them weeks before the crime
- The accused had hatched a conspiracy to carry out the killings
- At least one alleged conspirator is linked with Prime Minister Narendra Modi's Bharatiya Janata Party (BJP), which also rules the state of Jharkhand
- The attackers were armed, with pistols and hard, blunt rod-like weapons



However, though the police acknowledged the involvement of a gau rakshak, they were quick to suggest these weren't vigilante killing but actually the result of a "gang attempting to loot cattle". Instead of probing the gau rakshak's link to the murders, just three days after

the brutal hangings *The Indian Express* quoted Latehar SP Anoop BIRTHARAY as saying that the family members of the victims had not "blamed any particular organisation".

COVER-UP BEGINS WITH F.I.R.

The failures of the police, deliberate or otherwise, began soon as the crime ended. It is stunning that though the crime occurred during 3.30-6 a.m., the police registered the First Information Report (FIR) nearly 17 hours late, at 10.47 p.m. Incredibly, even the autopsies

FIRST INFORMATION REPORT
(Under Section 154 Cr.P.C.)
प्रथम सूचना रिपोर्ट
(धारा 154 टि.डी. अधिनियम के तहत)

5.2.97/16

1. District (ज़िला): लातेहार
FIR No. (प्र.सू.नं. सं.): 0042
Original Date and Time (वास्तविक दिनांक और समय):
P.S. (थाना): बान्नाथ
System Date and Time (सिस्टम दिनांक और समय): 18/03/2016 11:00 बजे
Year (वर्ष): 2016
18/03/2016 22:47 बजे

2. S.No. (क्र.सं.) Acts (अधिनियम)
1 भा ट स 1860
2 भा ट स 1860
3 भा ट स 1860

Sections (धाराएँ)
302
201
34

3. (a) Occurrence of offence (अपराध की घटना):
1. Day (दिन): शुक्रवार
Time Period (समय अवधि):
Date From (दिनांक से): 18/03/2016
Time From (समय से): 03:30 बजे
Date To (दिनांक तक): 18/03/2016
Time To (समय तक): 06:00 बजे

(b) Information received at P.S. (थाना) जहाँ सूचना प्राप्त हुई: Date (दिनांक): 18/03/2016 Time (समय): 11:00 बजे

(c) General Diary Reference (रोजनामचा संदर्भ): Entry No. (प्रविष्टि सं.): 013 Time (समय): 22:16 बजे

4. Type of information (सूचना का प्रकार): Oral

5. Place of Occurrence (घटनास्थल):
1. (a) Direction and distance from P.S. (थाना से दूरी और दिशा): पश्चिम, 09 किमी
(b) Address (पता): उपरैल बर गाम झाबर, बान्नाथ लातेहार

Dist. No. (बीट सं.):

Inexplicably filed 16 hours late, the F.I.R. failed to incorporate key details

had been carried out before the FIR was registered. Nowhere does the FIR explain this delay. During the trial that started in August 2016, neither the prosecution and nor the presiding judge expressed any concern over this lapse and asked for an explanation.

The FIR also claims the police first learnt of the incident at 11 a.m. via Nizamuddin. But the police contradict themselves on when Nizamuddin informed them of the incident. Per court documents, Investigating Officer Sub-Inspector Kumar had recorded Nizamuddin's formal statement at 9.30 a.m., full 90 minutes before, as the FIR says, the police first learnt of the crime. But even if we leave aside the claim by the eyewitnesses that the police had arrived on the scene at 7 a.m., and presuming that the police indeed learnt of the crime at 11 a.m., why did they wait until 10.16 p.m. to enter it in the General Diary?

7. Details of known/suspected/unknown accused with full particulars (जात / संदिग्ध / अज्ञात अभियुक्त का पूरे वि

S.No. (क्र.सं.)	Name (नाम)	Alias (उपनाम)	Relative's Name (रिश्तेदार का नाम)
1	विनोद प्रजापति		पिता का नाम : अंकित नहीं
2	अजल1		
3	अजल2		

The response of the police to Nizamuddin's statement is nothing short of negligent. As noted earlier in this report, Nizamuddin had in his statement to the police identified Vinod

Prajapati, a prominent BJP leader in Latehar, as one of the perpetrators of the attack. Nizamuddin had also said in his statement that he was convinced that Prajapati and his other accomplices had murdered the victims by hanging them by a tree.

No doubt because of Nizamuddin's statement, the FIR names Prajapati as an accused. In fact, he is the only accused named in the FIR, even though Manowar and Azad Khan had named other attackers, too, in their statements to the police. And yet, two years after the crime the police are yet to question Prajapati, leave alone arrest him for his role in it.

Though Nizamuddin identified Prajapati and the FIR named him, he was not arrested or tried

In fact, Prajapati isn't even standing trial even though eight other men, not named in the FIR but named by Manowar Ansari and Azad Khan, are. In the charge-sheet the police claimed that "as yet, the investigation has not found evidence of primary accused Vinod Prajapati's involvement in the crime" and therefore "investigation (in his possible role) was still continuing". Even though his name continues to be part of the FIR, the prosecution is yet to bring charges against Prajapati 20 months after the trial started.

STARTLING CONFESSIONS

The charge-sheet filed in May 2016 included elaborate confessions from all the eight accused. Not only did these detail the crime they also detailed their actions hours prior to the murders, establishing that the crime was premeditated.

And yet, despite the fact that under the Indian Evidence Act a confession made to a police officer is not admissible as evidence, the police made no effort to get these confessions recorded before a magistrate under Section 164 of the Criminal Procedure Code (CrPC), which would have made them admissible as evidence.

Manoj Kumar Sahu's Confession:

Arrested the day after the crime, Manoj Kumar Sahu (30), a school-teacher-turned-manager, told the police that he had been drawn into the gau rakshak dal by his namesake co-accused, Manoj Sahu, who he had known for several years. Manoj Kumar told the police that all the other accused, too, were members of this group. Two or three times, he said, they had already snatched cattle from Muslims. At about 3.30 a.m. on March 18, 2016, Mithilesh Sahu alias Bunty Sahu called Manoj Kumar on his mobile and informed him about Mazloom and Imtiaz walking with cattle.

When Manoj Kumar reached the location he found Sahdeo Soni, Vishal Tiwari, Bunty Sahu and Avdhesh Saw already assembled there. Shortly, Arun Saw and Manoj Sahu too arrived. These men then began following Imtiaz and Mazloom and stopped them after a few minutes.

Arun Saw ordered Manoj Kumar and three others to take the cattle a short distance and tie them there. At the same time, after tying Mazloom's and Imtiaz's hands behind their backs, Arun Saw and Manoj Sahu (the namesake of this confessor) sat them on motorcycles and rode away.

When Manoj Kumar and the three others returned after tying the cattle to the trees, Manoj Sahu and Arun Saw told them that they had hanged the Muslims to death.

Avdhesh Saw's Confession:

Avdhesh Saw (32) had stepped out of the house at 3.30 a.m. for toilet when he saw two people walking down with cattle. He immediately telephoned Manoj Sahu (not to be confused with Manoj Kumar, whose confession is detailed above). Shortly, all the team members collected at the location and proceeded to abduct the two Muslims.

Thereafter, Avdhesh Saw's confession corroborates Manoj Kumar's chronicle of events as given above. Avdhesh Saw also said in his confession that before the assault and murder, Arun Saw had told them that they should kill the Muslims who, he alleged, sold the cattle to the "Qureshis", apparently a reference to members of a Muslim butcher caste. Avdhesh confirmed that their vigilante group had earlier, too, stalked Muslims with cattle and stolen their livestock, selling some of them while abandoning the others in the forest.



Vishal Kumar Tiwari



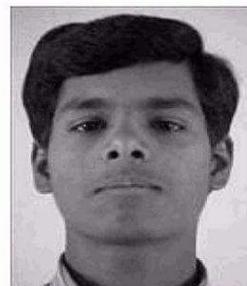
Sahdeo Soni



Manoj Saw



Avdhesh Saw



Manoj Kumar

Five of the eight accused

Pramod Saw's Confession:

Pramod Saw (28) was among those who hanged Mazloom and Imtiaz. Pulled out of the bed, he, too, joined the group at the location. He said in his confession that he sat behind on one of the two motorcycles that took Mazloom and Imtiaz, their hands tied on their backs, to the spot where they were hanged by a tree. His confession confirms that Arun Saw had tied the rope to the tree while others, including Pramod Saw and Sahdeo Soni, pushed the two Muslims up so that they could hang.

Manoj Sahu's Confession:

Manoj Sahu (27) (not to be confused with Manoj Kumar Sahu) was among those who hanged Mazloom and Imtiaz. Pulled out of the bed by the 3 a.m. call, he joined the others on the location. He added a new claim to the narration: that about six months previously, some of the Qureshi men had beaten Arun Saw. Manoj Sahu suggested that since then Arun Saw had been looking to even the score.

Arun Saw strangled Mazloom, pulled the rope over a branch, and asked others to push his body up

Mazloom was made to sit on Manoj Sahu's motorcycle and taken to near the tree where he would be hanged. Manoj Sahu told the police that after they had beaten the Muslims, Arun Saw strangled Mazloom and told the rest of the group to keep an eye on Imtiaz as he went and fetched ropes. Manoj Sahu said that Arun Saw then returned with the rope and tied it around Mazloom's neck, and pulled it over a branch. He then asked others to the others to push Mazloom's body up. Then he hanged Imtiaz, too.

Mithilesh alias Buntly Sahu's Confession:

In addition to the all above, Mithilesh alias Buntly Sahu (22), a cement trader, told the police that Manoj Sahu had roped him into the gau rakshak dal. Buntly said Manoj Sahu told him that the Qureshis had assaulted Arun Saw and he was looking to take revenge.

Arun Saw's Confession:

Arun Saw (35) was the group's ringleader. In his confession, he disclosed that he had spent five months in prison in 2005 in a case of dacoity. He was back in prison next year, again for planning a dacoity, for 11 months. He got involved with gau rakshak work in 2012 and had twice been to prison again after picking up fights with Muslims involved in cattle trade. More prison visits had followed after he bought a truck and began transporting coal illegally.

After some Qureshi men assaulted him once, he vowed revenge and formed a gau rakshak team, he told the police. On that fateful early morning of March



Main accused Arun Saw

18, 2016, Manoj Sahu phoned Arun Saw at around 3.30 a.m. and told him of Mazloom and Imtiaz walking with cattle. Arun Saw quickly assembly the group at the location, and captured the two Muslims. “I asked Mithillesh alias Bunty Sahu, Manoj Kumar Sahu, Avdhesh Saw and Vishal Tiwari to take the eight oxen to the forest,” he told the police.

Arun Saw further confessed he had tied Mazloom’s hands behind his back and made him sit on Avdhesh Saw’s motorcycle, which he then drove himself. He also made Pramod Saw sit behind Mazloom, with the three of them riding on the motorcycle. Likewise, he tied Imtiaz’s hands behind his back and made him sit on the other motorcycle between Manoj Sahu, who was driving, and Sahdeo Soni. Then they drove towards the tree and first proceeded to beat up both Mazloom and Imtiaz.

“I strangled Mazloom, who then died,” Arun Saw further says in his confession. He then went to a nearby village to collect a rope. When he returned, he found that Imtiaz was dead, too. He was told that Pramod Saw had strangled Imtiaz. Then the men together hanged Imtiaz, too, by the same tree. Afterwards, all eight men went back to their homes.

Arun Saw strangled Mazloom and left to fetch ropes. Then Pramod Saw strangled Imtiaz

Sahdeo Soni’s and Vishal Tiwari’s Confession:

In their confessions, both Sahdeo Soni (20) and Vishal Tiwari (34) corroborated the sequence of events as detailed in the other six confessions, confirming that while Arun Saw strangled Mazloom, Pramod Saw strangled Imtiaz, before hanging them by a tree.

IPC SECTIONS INVOKED

What is most astounding is that despite the unassailable eyewitness accounts, confessions and the very definitive post-mortem reports, the police invoked only three sections of the Indian Penal Code (IPC) in the FIR. They did not add more charges even in the charge-sheet that they filed with the court after two months of investigation.

It must be noted that Sec 302 for murder is non-bailable. Yet the arrested accused secured bail at Jharkhand High Court largely because the charge-sheet itself is constructed weakly and the prosecution failed to defend the arrests and successfully oppose the bail applications. More than 18 months after the accused were bailed, the Jharkhand government is still to move the Supreme Court for the cancellation of the bails.

Table 1

IPC	PERTAINS TO	PUNISHMENT
302	Punishment for murder	death or life imprisonment
201	Disappearance of evidence; giving false information	imprisonment of up to 7 years
34	Crime committed by several people with common intention	—

IPC SECTIONS IGNORED

The prosecution's case would, in fact, have been far stronger if the police had done their investigation efficiently. For example, the testimonies of various prosecution witnesses, especially from Imtiaz's father and mother, Azad Khan and Najma Bibi, and Mazloom Ansari's widow, Saira Bibi, clearly establish conspiracy and premeditation. Yet, the police did not conduct any investigation on those lines, and therefore the charge-sheet failed to invoke the appropriate charges. Indeed, many IPC sections the police ought to have included in the FIR, investigated, and invoked in the charge-sheet, have been ignored.

The IPC Sections not invoked in the FIR/charge-sheet include:

Table 2

IPC	PERTAINS TO
120B	Criminal conspiracy for an offence that is punishable with death
362	Abduction
357	Assault or criminal force to wrongfully confine a person
342	Wrongful confinement
324	Causing hurt by dangerous weapons
153A	Promoting enmity on grounds of religion
143, 149	Joining unlawful assembly; every member equally guilty of offence committed
396	Committing dacoity with murder
397	Committing dacoity with attempt to cause death
399	Making preparation to commit dacoity
402	Assembling for the purpose of committing dacoity

Criminal Conspiracy / IPC 120B

Most glaring is the failure to invoke Sec 120B in the FIR and the charge-sheet, given that the confessional statements explicitly detail the formation of the vigilante group and the preplanning of this crime. That Saira Bibi and Najma Bibi told the police that the accused had threatened Mazloom and Imtiaz weeks earlier proved a conspiracy. It is pertinent to note that the charge-sheet in the murder of Alimuddin Ansari by gau rakshaks in June 2017 in the nearby Ramarh district did invoke Sec 120B. On March 16 this year, 11 accused in that case were convicted for murder and sentenced to life imprisonment. Three, including a local BJP leader, were also found guilty of conspiracy.

Section 120B. Punishment of criminal conspiracy

120B. Punishment of criminal conspiracy.—(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, [imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.

CLASSIFICATION OF OFFENCE

Para I

Punishment—Same as for abetment of the offence which is the object of the conspiracy—According as the offence which is the object of conspiracy is cognizable or non-cognizable—According as offence which is object of conspiracy is bailable or non-bailable—Triable by court by which abetment of the offence which is the object of conspiracy is triable—Non-compoundable.

Abduction / IPC 362

According to eyewitness accounts, the accused had stopped Mazloom Ansari and Imtiaz Khan while they were on their way to a cattle fair, and forcibly abducted them. The victims were then, also forcibly, taken a considerable distance, of approx. 2 km, before they were assaulted, strangled and hanged by a tree. Yet, the police failed to invoice Sec 362 that defines the crime of abduction.

Assault, Criminal Force for Wrongful Confinement / IPC 357

Once again, the eyewitness accounts underline the fact that both victims were physically assaulted and wrongfully confined. Both Nizamuddin and Azad Khan, Imtiaz's father, told the police in their statements that they heard Imtiaz scream for help at the crime scene. Both these eyewitnesses as well as Manowar Ansari have described in great detail how they saw the attackers mercilessly assault the two victims. The post-mortem reports, too, established beyond doubt that the two victims were criminally assaulted.

And yet, neither the FIR and nor the charge-sheet have invoked Sec 357 that specifies the crime of assault or use of criminal force to wrongfully confine someone.

Wrongful Confinement / IPC 342

In addition to Sec 357, the FIR/charge-sheet should have also invoked Sec 342 which defines the crime of wrongful confinement.

Causing Hurt by Dangerous Weapons / IPC 149

Azad Khan, Imtiaz's father, in his statement to the police and in his deposition before the court specified that he saw the assailants armed with at least a revolver, besides other weapons. As noted earlier in this report, the post-mortem findings, too, specified that the injuries on the bodies of the two victims were made by "long, hard, rod-like, blunt" objects. Yet, the police failed to invoke the IPC provisions relating to the use of weapons.

Equally Guilty / IPC 143, 149

The FIR and the charge-sheet both failed to invoke Sec 143, which details the criminality of an accused "being a member of an unlawful assembly", as well as Sec 149, which stipulates that everyone in such unlawful assembly equally guilty of an offence "committed by any member... in prosecution of the common object".

Promoting Religious Enmity / IPC 153A

The FIR/charge-sheet also did not include Sec 153A that pertains to "promoting enmity between different groups on ground of religion". Regardless of how police officials tried to spin the murders of Mazloom and Imtiaz as not being connected to cow vigilantism, there can be no denying that both victims were assaulted and killed only because they were Muslims and had been involved in cattle trade. The statement from Saira Bibi and Najma Bibi categorically assert that the accused had threatened the lives of Mazloom and Imtiaz if they refused to heed their warning and stop his work as a cattle trader.

Dacoity / IPC 396, 397, 399, 402

As noted earlier, the eight attackers also stole the eight oxen that Mazloom and Imtiaz were walking to a cattle fair that day. This cattle was legally purchased by Mazloom, Nizamuddin and Azad Khan, who also had receipts to them. As the attackers-cum-looters numbered over five, this crime attracts the various IPC provisions on dacoity (*Table 2*).

Section 396. Dacoity with murder

If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or [imprisonment for life], or rigorous imprisonment for term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Death, imprisonment for life, or rigorous imprisonment for 10 years and fine—Cognizable—Non-bailable—Triable by Court of Session—Non-

An investigation of the crime under Sec 120B (conspiracy) would establish that the attack was preplanned with the intention of looting the cattle by using weapons, and

had attempted to cause death, leading to murder. By not invoking the sections on dacoity the police and the prosecution have further weakened the case against the accused.

On March 19, 2016, the day after the murders, the police were able to recover two oxen after one of the arrested accused, Mithilesh Sahu, told them where they were kept. This would clearly establish that the oxen were stolen from Mazloom and Imtiaz, and therefore attract the penal provisions for dacoity.

WAY FORWARD FOR JUSTICE

It is demanded that Latehar Police and the prosecution immediately undertake the following steps to ensure that the justice is eventually served:

- **Arrest Vinod Prajapati and charge-sheet him for trial**
- **Move the Supreme Court for the cancellation of the bail of eight accused**
- **Magistrate should record statements of the accused under Sec 164 CrPC**
- **Include other IPC sections for conspiracy, abduction and assault, wrongful confinement, use of weapons, and promoting religious enmity**
- **Investigate Hindutva groups for possible link with the double murders**
- **Take action against police officers responsible for the delay in the registration of the FIR as well as the failure to include all details in it**