

A State at War with Its People

Report on State Action in UP Targeting
Dissent and Muslim Minorities



Photo: PTI



KARWAN E MOHABBAT

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Introduction

As peaceful protests were organized around the country against the Citizenship Amendment Act (CAA), National Register of Indian Citizens (NRIC) and the National Population Register (NPR)¹, the state of Uttar Pradesh stands out for the intense harshness of state action to crush the voices of dissent. As in most corners of the country, people, especially women in large numbers, spilled onto the streets to protest the amended citizenship law. It is only in UP (and to a much smaller degree in coastal Karnataka and Bihar) that these protests have turned violent; in all of these significantly, it is the Bhartiya Janata Party which is at the helm of government.

As of 27th December 2019, the spokesperson of the Home Ministry reported that 19 people have died in UP in protest related violence since 19th December 2019, 1,113 people have been arrested for their alleged involvement in protests and 5,558 preventive arrests have been made². The numbers since have grown.

Through all of this, Chief Minister Adityanath made a call for revenge, followed by even more brutal police raids and assaults. Muslim people have received notices to pay high damages for alleged destruction of public property (including even police batons broken while beating people), without any judicial finding as required by law to prove their responsibility for destroying the properties.

And as news began filtering in of the police rampaging in UP, the Chief Minister issued a triumphalist message of self-congratulation

from his official Twitter account: “Every rioter is stunned. Every troublemaker is shocked. Everyone has fallen silent, awed by the strict Yogi government”³.

A number of citizen fact-finding groups visited Muslim homes in many towns in UP and reported the rampage of hate by men in uniform even inside these homes. Cars and scooters were overturned and burned, television screens and washing machines smashed, cash and jewellery looted, crockery, even toys shattered, a lifetime of a family’s belongings devastated in minutes, the family inconsolable. They banged and broke down doors. The beat with their batons old people, women, even children, if they tried to block their way, pleading for mercy. They shouted the most vulgar slurs about Muslim people.

The police registered literally thousands of ‘unnamed’ police complaints in several cities with high Muslim populations. They use this to detain Muslim people at will, and as a weapon to silence anyone who may complain or testify against the police. People were scared to speak to anyone holding a camera, and if they did, they covered their faces. There is an intense sense of terror among the entire Muslim population in urban UP, the men dreading being charged with grave crimes, the women of attacks to their homes. Large parts of Muslim settlements have emptied out.

A Public Tribunal was held on the 16th of January in New Delhi, to bring to light the nature and scale of the events in UP. The

¹ Scroll.in (20th January 2020) “The Political Fix: After a month of Citizenship Act protests in India, what have we learned?” at <https://scroll.in/article/950351/the-political-fix-after-a-month-of-citizenship-act-protests-in-india-what-have-we-learned>

² IndiaToday (27th December 2019) “Uttar Pradesh CAA protests in numbers: 19 dead, over 1,100 arrested for violence” at

<https://www.indiatoday.in/india/story/caa-protests-uttar-pradesh-numbers-1631855-2019-12-27>

³ Scroll.in (28th December 2019) “CAA protests: Adityanath justifies police crackdown in UP, says everyone has been silenced” at <https://scroll.in/latest/948079/caa-protests-adityanath-justifies-police-crackdown-in-up-says-everyone-has-been-silenced>

tribunal brought together the observations of various fact-finding missions, and heard testimonies from organisations and individuals from across the state, which were presented before a jury consisting of former Supreme Court judges, former civil servants and distinguished members of the civil society. The Tribunal also included video testimonies and reports, a few of which have been embedded in this report. The testimonies presented during the Tribunal were by victims of police brutality, various activists both present and who have since met victims, and experts on the various issues that the tribunal exposed. During the proceedings, testimonies were presented the intensity of police violence perpetrated on innocent citizens, including against minors, the role of the Chief Minister and senior leadership in inciting this violence, the role of medial officers who were complicit in perpetrating violence and its impact on people. The following report is a compilation of various fact-finding missions conducted in UP,

testimonies from the People's Tribunal as well as relevant news reports in order to expose the gravity of what has unfolded.

In this report, we have tried to bring together the Jury Report with a consolidation of various fact-finding and media reports on state action against dissent and the Muslim minority in Uttar Pradesh. What emerges is an extremely disturbing picture of the wilful subversion of all democratic principles by a state which has declared war on both dissent and a section of its people.

In this report, we have taken care to maintain the confidentiality of the identities of many victims of state violence who we felt would become more vulnerable if their identities were made public.

Harsh Mander and Navsharan Singh

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Chronology of Events: 19th and 20th December 2019

Fact-finding teams of Karwan e Mohabbat visited Meerut, Muzaffarnagar, Firozabad and Sambhal between 26th December 2019 and 14th January 2020. During the tribunal, we also hear testimonies from Lucknow, Kanpur, Varanasi and Mau. Information from these sites, and a range of other fact-finding reports, show that the protests had the following common patterns.

Since the Citizenship Amendment Act was passed in the Parliament on the 11th of December, 2019, the state of UP witnessed a significant number of citizens coming out on the streets to mark their dissent. In the week following, citizens had begun mobilising across different cities and towns of the state. These protests were accompanied by large deployments of local police and other civil defence groups such as the Rapid Action Force (RAF). However, on the days of 19th and 20th, the situations in almost all the cities had become tense. The 20th was a Friday, the day of the *Jumma* prayers. Therefore, Muslim men were expected to come together in large numbers to the mosques.

In some cities, civil society groups and/or political parties had called for protests on the 19th. However, the administration adopted several measures to undermine them. In Sambhal, on 19th December, two protests were planned. One by the Samajwadi Party MLA and MP, and one by the Zilla Sangharsh Samiti (ZSS), a prominent local civil society organisation (CSO) that is largely run by Muslims. However, the administration withdrew the permission for the ZSS protest. They made the planned venue inaccessible, imposed section 144 in the city and coerced leaders to sign undertaking guaranteeing their

absence at the protests. The protest organised by SP was carried out. However, at city's Chandausi Chowk, it was met with water cannons, lathi charge, tear gas and police firing in the air. Two buses were stoned and set ablaze, and police were pelted with stones, according to newspaper reports⁴.

Regardless, on the 20th, people across cities have reported that protests emerged organically after the *Jumma* prayers. This was the case in Sambhal, Muzaffarnagar, Meerut and Firozabad. In Muzaffarnagar, eye witnesses have noted that “No one expected people to come out in such large numbers” and that “the number of protestors was touching five thousand. This was spontaneous, without any leadership or call from any organization”. In the Meerut, Firozabad and Sambhal too, the situation was very similar. They apparently did not even have placards or flags. Local leaders noted that people had decided to protest peacefully on the 20th because previously, there was a strong atmosphere of fear in the community that prevented them from mobilising for a protest alone.

In all cities, people had assembled in different points hoping to march to the city centre.

At some point however, in all of these cities, police used extreme force on the protestors. In a few cities, fact-finding reports have been unable to establish with evidence as to what exactly triggered action by the forces deployed at the fatal scale that it was. In all cities, citizens have reported that the protests were peaceful initially. In Muzaffarnagar, the situation was peaceful until the sitting Member of Parliament, Sanjeev Baliyan, entered the scene with hundreds of his supporters and private security. He is reported to have pressurised the police

⁴ <https://www.indiatoday.in/india/story/anti-caa-protests-up-sambal-violence-1629632-2019-12-19>

administration into taking strict violent actions against the protestors. The police and RAF began lathi-charge and tear gas shelling. It was at this point of time that violence including stone pelting and arson of public property also took place, although many details regarding who exactly engaged in this remain unclear. The police are reported to have been joined by 'non-administrative people' in attacking the civilians.

In Meerut, everything was peaceful until about 3 pm. According to local community leaders, after that, about 20-25 men came from the direction of Bhumia Pul and created a commotion. The police stationed at the Tiraha in the area retaliated with lathi charge. As a result, the crowd scattered in all directions. Some people are reported to have pelted stones. The police then further intensified their actions with tear gas and rubber bullets, until they finally resorted to firing. Around 6:00 – 6:30 pm, the Islamabad police chowki on Hapur road was set on fire, which seems to have further incentivised harsher police action.

In Meerut, the violence on the 20th largely happened at two major sites. First on Hapur Road, a busy road that goes through the centre of the city where the Islamabad police chowki and City Hospital are located. Second, in the predominantly Muslim areas of Tarapuri and Ahmednagar. In Tarapuri, police are reported to have chased people into the bylanes and shot them.

In Sambhal, the procession was met by a heavy police force led by the SP City at the Chandausi Chowk, blocking the slogan-shouting however the peaceful procession continued. Subsequently, police began to lathi-charge, there was a stampede and teargas shells were lobbed.

In Firozabad, the police had blocked the protesters in their respective neighbourhoods. Local people told us that the police were accompanied by men in plain clothes who had

their faces covered. They report that these men provoked the crowd by hurling abuses and stones at them. Locals agree with reports that some protesters indulged in stone pelting and violent agitations. However, it is not clear exactly who fired the first shot, but very quickly the police escalated the situation to the point of a complete crackdown. Eyewitnesses claim that Police fired directly into the protesters, most of them above the waist killing six people.

In Muzaffarnagar, however, the attacks by police and its allies did not end with direct firing at protestors or bystanders. Late at night, the police, RAF and un-uniformed men in police jackets entered in numbers of 50 to 100 into two Muslim dominated areas – names of the two localities - destroying and vandalising all in its wake, there were all relatively well-off households. Street lights were switched off in the town about 10.30 at night as the forces entered mosques, homes and shops, demolishing all that came their way. They also entered and destroyed the glass panes of a mosque. Inside several, relatively opulent homes, everything that could be broken was thoroughly destroyed. Cars were overturned, so were washing machines and fridges, heavy furniture was hacked to pieces, and every single item of kitchenware - pots, pans and dishes and kitchen cupboards - were broken systematically.

In summary, the police systematically attempted to prevent protests, then when protests went ahead anyway. they used disproportionate and violent means to subdue protesting citizens, including the suspension of emergency medical and legal services.

In order to perpetuate the atmosphere of fear, with a longer view of breaking the economic spine of the Muslim community, the police destroyed and looted private residences.

The police further detained citizens, including minors, en masse and illegally, carried out custodial torture. Throughout all of this,

customary judicial and medico-legal procedures were denied and manipulated, including wrongly or not filing FIR's and preventing families from seeking justice by denying Post-Mortem Reports (PMR) and Medico-Legal Certificates (MLC).

The police and administration have further weaponised the legal system to target and intimidate the community at large by filing anonymous FIR's that target thousands of

people, randomly picking up people from their homes and the streets and charging citizens with counter-cases and recovery notices for damage of property.

All of this has led to the complete breakdown of state mechanisms that were designed to protect citizens against exactly the kinds of violations that the state unleashed in UP on the 19th and 20th of December 2019.

Complete breakdown of state mechanisms

The police systematically attempted to prevent protests, then when protests went ahead anyway, they used disproportionate and violent means to subdue protesting citizens, including the suspension of emergency medical and legal services. In order to perpetuate the atmosphere of fear, with a longer view of breaking the economic spine of the Muslim community, the police destroyed and looted private residences. The police further detained citizens, including minors, en masse and illegally, carried out custodial torture. Throughout all of this, customary judicial and medico-legal procedures were denied and manipulated, including wrongly or not filing FIR's and preventing families from

seeking justice by denying Post-Mortem Reports (PMR) and Medico-Legal Certificates (MLC). The police and administration have further weaponised the legal system to target and intimidate the community at large by filing anonymous FIR's that target thousands of people, randomly picking up people from their homes and the streets and charging citizens with counter-cases and recovery notices for damage of property. All of this has led to the complete breakdown of the state mechanisms that were designed to protect citizens against exactly the kinds of violations that the state unleashed in UP on the 19th and 20th of December 2019.

Crippling citizens' right to protest

CrPC Sec 144 and internet shut down

One of the bedrocks of democracy is the free right of its people to peacefully and fearlessly register its dissent against the government. In fact, India has had a long tradition of political, cultural and social dissent and protest. However, in recent times, especially since the 2014 BJP government has come into power, the response to protests has been frequently intolerant and authoritarian⁵. It has taken two forms: The expansive imposition of Section 144 of the Code of Criminal Procedure (CrPC) for extended time over large swathes, and the shutting down of the internet. Both of these were deployed extensively in UP to crush peaceful dissent.

The colonial era provision of Section 144 was intended to stop breaches of public order or spread violence by making large gatherings unlawful. There have been several supreme court judgements intended on limiting the scope of Section 144. Essentially, "the State can take preventive action if there is a clear case of incitement to violence or riots — but it cannot do so on a mere "apprehension" that public disorder might result from protests. In the latter case, it is the State's job to ensure that adequate security arrangements are in place, that allow protests to proceed in a non-violent fashion"⁶.

In UP specifically, a day before the mass protests against the CAA/NRC were to take

place, the government-imposed Section 144 across the State, making it illegal for people to protest peacefully. The state government also served 3,000 notices under Section 149 of CrPC, ostensibly to prevent the conduct of crimes⁷. In a press conference on 19th December 2019, Mr OP Singh, director general of Uttar Pradesh police said arrests have been made in Mau, Varanasi, Aligarh, Prayagraj and Lucknow, and over 3,000 people have been served notices to maintain law and order in the state. Further adding, "we are monitoring on social media, we have made few arrests and kept few people under observation. I appeal to all to not spread fake news and rumours using social media."⁸ In the following days the UP police, under the charge that since Section 144 has been imposed rendering all forms of protest in UP illegal, perpetrated brutal violence on largely peaceful protestors and egregiously violated their fundamental rights, with impunity. In fact, Abhirr Palat⁹ testified that in Varanasi, even though, "for 350 days in a year Section 144 is imposed on the city, pro CAA rallies are allowed to assemble and march freely, while anti-CAA rallies are faced with brutal crackdown".

It becomes clear that in the case of UP, Section 144 was pre-emptively imposed the day before thousands of people were to gather to register their protest. Furthermore, there was no indication until then that the protests would turn violent. It was reported to us by various people, including Mohammed Suleiman¹⁰ that there

⁵<https://www.hindustantimes.com/analysis/how-section-144-and-internet-shutdowns-shrink-democratic-rights/story-9D8J8DrbjKfzLXEtlQ8k2K.html>

⁶<https://www.hindustantimes.com/analysis/how-section-144-and-internet-shutdowns-shrink-democratic-rights/story-9D8J8DrbjKfzLXEtlQ8k2K.html>

⁷ Section 149- Police to prevent cognizable offences. Every police officer may interpose for the purpose of preventing, and shall, to the best of his

ability, prevent, the commission of any cognizable offence.

⁸<https://www.livemint.com/news/india/sec-144-imposed-across-up-as-protests-against-kaa-spreads-in-the-country-11576744974673.html>

⁹ Abhirr Palat presented his verbal testimony at the People's Tribunal on State Action in UP on 16th January 2020

¹⁰ Mohammed Suleiman presented his verbal testimony at the People's Tribunal on State Action in UP on 16th January 2020

had previously been peaceful protests of thousands of people in Kanpur (and other parts of the state) from the 13th of December after the CAA was passed. After coming onto the streets and registering their protest, the people peacefully returned home without any sign of violence.

On the 20th of December 2019, internet services were suspended in at least 18 districts of UP, including Hapur, Moradabad, Saharanpur, Muzafarnagar, Shamli, Lucknow, Prayagraj, Unnao, Agra, Sultanpur, Mau, Bagpat, Meerut, Bulandshahr, Azamgarh, Ghaziabad, Kanpur, Pilibhit due to the anti-CAA protests¹¹. Internet services are presumably suspended to prevent people from acquiring information about protests and coordinating assembly. However, Gautam Bhatia notes “What is particularly concerning about Internet shutdowns is not only the severe disruption that they cause in an era where the Internet is indispensable to daily life, but that — as research has shown — there is no connection between Internet shutdowns and containing violence (indeed, the correlation is the opposite)”¹².

With regards to the impact of internet shutdowns on daily life, it was reported that there was major disruption to basic banking systems such as cash disbursement by ATMs, digital banking transactions, OTP-related services including electronic KYC (know your customer) verification, remittance transfers and UPI (Unified Payments Interface) and AEPS (Aadhaar-Enabled Payment System) due to the internet shutdown¹³. Therefore, the brunt of State crackdown against peaceful protestors was faced by millions of residents of the state,

whether or not they were involved in the protests.

The procedure for suspending the Internet is entirely bureaucratic in nature, and with no substantive oversight. It is unsurprising, therefore, that India leads the world in Internet shutdowns — ahead of countries such as China, Pakistan, Iran, Chad, and Egypt. Abhir Palat¹⁴, a human rights activist, concluded from his experience in Varanasi, that “what we are seeing is a very biased administration which is very intolerant towards any criticism of this government”. Furthermore, the Jury of the People’s Tribunal on State Action in UP concluded that the state administration, through arbitrary and extensive imposition of Section 144 CrPC in several districts and shutting down of internet services, violated citizen’s rights and facilitated police violence.

We can easily derive from all this that the imposition of 144 and the shutting of internet was intended to have the cumulative effect of preventing people from exercising their right to organise and protest, and restricting communication about police violence from travelling within the state and across the country. On the local level this prevents people from seeking redress, looking for family, organising further action, understanding what is happening in other parts of the state. The lack of any news or information from outside of UP ensured impunity and that the state govt is not held accountable by the national or international community, but completely controlling the narrative.

“police ki galti hai islie Dilli tak khabar nahin pahunchi. Humari hoti toh ab tak pahunch jati.” “The news of what

¹¹ <https://internetshutdowns.in/>

¹² <https://www.hindustantimes.com/analysis/how-section-144-and-internet-shutdowns-shrink-democratic-rights/story-9D8J8DrbjKfzLXEtIQ8k2K.html>

¹³ <https://economictimes.indiatimes.com/news/politics-and-nation/internet-suspended-in-21-up->

[districts-over-citizenship-amendment-act/articleshow/72989827.cms?from=mdr](https://www.hindustantimes.com/analysis/how-section-144-and-internet-shutdowns-shrink-democratic-rights/story-9D8J8DrbjKfzLXEtIQ8k2K.html)

¹⁴ Abhir Palat presented his verbal testimony at the People’s Tribunal on State Action in UP on 16th January 2020. See also:

happened here has not reached Delhi yet because it is the police which is at fault. Had it been ours, Delhi would have known by now.” - *Family member of young man who was shot dead in Meerut.*

Targeting community leaders

Community leaders have been a crucial link between everyday citizens and protests. They do the groundwork of informing people about relevant issues, mobilising people around a cause that has direct implications on their lives, and supporting members of the community if situations turn sour. It is no surprise therefore that the UP police chose to target these people as a means of blocking protests. The case of the Zilla Sangarsh Samiti (ZSS) in Sambhal clearly demonstrates this.

The ZSS has been working in Sambhal since 2011 on various community initiatives like education, finance and municipal activities, as well as taking an active role in mediating previous communal tensions. The fact-finding mission that visited Sambhal observed that the ZSS seemed to have a fairly prominent role in the community, especially for the local Muslim population. On 19th December, two protests were planned. One by the Samajwadi Party, and one by the ZSS. The administration initially granted permission to the ZSS, however, by the night of 18 December, the administration withdrew permission, and filled the grounds with water of the college where the protest was due to take place the following day. Furthermore, the leading members of ZSS were asked to sign an undertaking not to participate in any public or private protest, which they did.

The day of the planned protests, several leading Muslim members of the ZSS were put under house arrest, under constant police surveillance. Members of the fact-finding team heard that those who were under house arrest feared arrest if they attempted to leave the premises, or they

would be accused of inciting the protestors on the streets at the time to turn violent. Around 4 pm, one of the members under house arrest heard that his brother was in hospital in Delhi and left immediately. In his absence, charges of rioting were brought against him and five other ZSS members (including a former policeman) though at no time had any of them been anywhere near the site of violence as CCTV cameras and police stationed at the house could testify.

Similar reports of intimidation of local leaders were heard by the fact-finding team in Muzaffarnagar. In discussions with local functionaries of the Samajwadi Party (SP), it emerged that SP's ward leaders who were Muslim received letters from the police warning them that if people from their area protested, they (the ward leaders) would personally be held responsible.

Ayesha Kidwai, who was part of the fact-finding team to Sambhal in her deposition before the Jury said that the story of ZSS demonstrates how insidious the violence was. Local Muslim community leaders were systematically targeted in an attempt to intimidate protestors. She concluded from this that this was an attempt to cause disenfranchisement of Muslims from the civic and social leadership of the community.

The consequences of rendering community leaders ineffective is not limited to the two days of the protest, but impacts the ability of the community to mobilise around civic and political issues in the long term. The targeting of organisations, like the ZSS who also work on issues like health, infrastructure development etc means that the community has also lost access to those essential services.

Identifying and intimidating human rights defenders

“It is my opinion that I was specifically targeted by the UP police because of my history of speaking for human rights and against the fake encounters and other forms of violence perpetrated by the state in UP.”

S R Darapuri (former IPS officer and local activist from Lucknow who faced arrest)

Lawyers, activists, journalists and other human rights defenders who are standing up to injustice are being persecuted, intimidated, harassed and tagged as urban naxals, anti-nationals and terrorists by the state.

76-year-old Mohammad Shoaib, an advocate and well known human rights activist was first put under house arrest, later detained by the UP police ahead of the scheduled nationwide protest¹⁵. Robin Verma, associated with the work of Rihai Manch, was picked up by the police along with Omar Rashid, a journalist with The Hindu. Rashid was detained by four men in plain clothes as he, Verma and two other journalists, were “trying to grab a quick meal at a dhaba outside the Uttar Pradesh BJP office, waiting to hear about a press conference to be held by the UP government a few blocks away¹⁶. Verma and he were then taken to the Hazratganj police station 1 km away. They were escorted to a room which looked like a cyber cell. Within seconds of entering, cops who were already stationed there, started thrashing Robin with a thick leather belt and slapped him many times. Rashid was released

after a few hours but at the time of writing, Verma who was charged under the same sections that have been used against Adv Shoaib, was released on bail on the 14th of January, nearly one month after his arrest¹⁷. His family is scared to speak out. They see him as paying a price for his “goodness”.

S R Darapuri testified that on the 19th of December, police were stationed outside his house from 7 am and he was kept under house arrest till that evening. However, even under house arrest, he posted a photo of himself in front of his house with a poster stating “Nagarikta Bachao” (save citizenship) and the caption “*house arrest main bhi mera virodh jaari hai*” (even under house arrest my protest continues). He was later taken to the police station and detained for the next four days.

In these various ways, the UP state administration systematically crippled the network of dissent. The democratic right of people to protest was curtailed and criminalised by all arms of the state through the imposition of Section 144 and internet shutdown. By arbitrary arrests, torture in police custody, and specifically attacking and threatening community leaders, the administration and police attempted to dismantle the long-standing structures of social and political mobilisation in the community. This led to the creation of a crowd without any leadership when the protests eventually took place, which is both difficult to manage and rendered the protesting citizens more vulnerable to state crackdown.

¹⁵<https://www.nationalheraldindia.com/india/caa-protests-lucknow-lawyer-mohammad-shoaib-activist-sadaf-zafar-untraceable-after-arrest>

¹⁶[https://www.thehindu.com/news/national/a-first-person-account-by-the-hindu-correspondent-omar-](https://www.thehindu.com/news/national/a-first-person-account-by-the-hindu-correspondent-omar-rashid-of-how-he-was-picked-up-threatened-and-released-by-cops/article30361909.ece)

[rashid-of-how-he-was-picked-up-threatened-and-released-by-cops/article30361909.ece](https://www.thehindu.com/news/national/a-first-person-account-by-the-hindu-correspondent-omar-rashid-of-how-he-was-picked-up-threatened-and-released-by-cops/article30361909.ece)

¹⁷<https://scroll.in/latest/949850/why-do-you-have-muslim-friends-up-police-allegedly-asked-activist-arrested-during-cao-protests>

Protectors turn perpetrators: Violent crackdown on protests

Despite the imposition of Section 144 in the State and various forms of intimidation on human rights activists and community leaders, in several parts of UP thousands of people spontaneously gathered to protest after the Friday afternoon prayers. Eyewitnesses during the protests in Muzaffarnagar who spoke to the fact-finding team observed:

“Kisi ko ye andaza nahi tha ki itni public aa jayegi. Utne hi public us din nikli thi (during the anti-emergency protests in 1976), bus itna difference tha ki is ghatna ke din log khaali haath the”. (No one expected people to come out in such large numbers. The difference now (over the anti-emergency protests) is that during the recent incident, the people were empty handed).

Fact-finding teams heard from locals who were present at Chandausi Chowk in Sambhal, Jama Masjid in Meerut, Parivarthan Chowk in Lucknow, Mahavir Chowk in Muzaffarnagar, at the city centre chauraha in Firozabad, various parts of Kanpur and Varanasi who attested that the crowd had assembled entirely spontaneously, without any political or social organisation leading, and often without banners or posters to protest against the CAA. However, in all these areas and many more, the fact-finding team heard of the heavy police presence around the gathered crowds. This quickly, and in some cases without provocation, turned into lathi charge, tear gas, and indiscriminate police firing on the protestors. What follows is an account of the various forms of police violence perpetrated on the protestors.

Violent protests or planted miscreants?

It was stated during several fact-finding missions as well as subsequent reports from locals present that the police defence was that its action was a reaction, in a few cities, to civilians turning violent. On 21st December 2019, it was reported that in Kanpur police were provoked to retaliate after crowds set a police post on fire and began stone pelting from rooftops. Similar incidents were reported in Lucknow, Gorakhpur, Bulandshahr, Meerut, Muzaffarnagar, Bhadohi, Firozabad, Bahraich and Jaunpur, where “angry mobs” were allegedly burning vehicles and pelting stones. The situation got particularly tense in Bulandshahr and Firozabad.

However, as Anirban Bhattacharya¹⁸ noted in his testimony, there is ample evidence of planted miscreants within these so called “riotous crowds”. Though this might have been difficult to verify in every instance, the fact that some such miscreants were nabbed and identified as agent provocateurs indicates that there could be more as part of a nefarious ploy.

Sadaf Jafar, for instance, recounts that while a peaceful gathering was undergoing in Lucknow at Parivartan Chowk, suddenly a number of rioters reached there – all of them wearing distinctive skull caps and kaifia, almost like a uniform. Sadaf recalls that they started stone pelting and arson on two ends, while on the third end was the police barricading. Sadaf appealed to the police to catch one of the miscreants as he came close, but the police seemed reluctant. A couple of people in the peaceful gathering caught him and handed him over to police, but the police did take any action against him. On the contrary, the ones in the peaceful gathering including Sadaf and Pavan

¹⁸ Anirban Bhattacharya presented his verbal testimony at the People’s Tribunal on State Action in UP on 16th January 2020. See also:

<https://scroll.in/article/951187/a-dangerous-pattern-of-police-violence-in-uttar-pradesh-has-been-masked-by-clever-propaganda>

Rao Ambedkar were brutally beaten up in police custody.

In Meerut, the police firing and repression on protestors was justified by spreading news that the Islamabad police chowki was ransacked and torched by rioting masses protesting against CAA. When Advocate Akram and others reached the chowki to verify, they found that the said building had been freshly painted with even the glass windows of the chowki intact, and no signs of ransacking. It was alleged to the fact-finding team that some stationery and files seemed to have been burnt in a corner of the chowki by BJP leader Lakshmikant Bajpai and his goons to manufacture a story and legitimize the police brutality. Local doctors in fact confirmed that the shots were fired and the first reported death happened before this staged arson. It is speculated that the fabricated arson was staged later to justify the earlier police firing.

In Sambhal, fact-finding teams heard from locals that there were two narratives regarding the alleged stone pelting and bus burning by protesters on 19th and 20th December 2019:

1. The local police allegedly keep some men on its rolls as police informers. According to people who spoke to fact-finding teams, the stone pelting at Chandausi on the 19th was initiated by these men. One of them was spotted in a video footage by his neighbour who spoke to the team. They also pointed out that while there are videos of as yet unidentified young men stoning a bus, there are no videos showing who set the bus on fire.
2. That the local Valmiki community is mobilized by the BJP and the police against local Muslims on various occasions. In one locality, around Shankar Chauraha, Dalits live one side

of the road and Muslims on another. On the 20th from here young Valmiki men gathered to pelt stones on the protesters and the latter pelted stones back at them. Local people reported that these Valmiki men had the full support of the police and were not stopped or hindered in any way.

Ex-Member of Parliament Subhashini Ali¹⁹ testified that the UP government, at least in Western UP, has recruited what they call “police *mitr*” (friends of the police). These people are recruited without any advertisement, qualification, rules and regulations, presumably to aid the police in various situations. She further reported that these ‘police *mitr*’ have been issued lathis (sticks), badges, jackets, id cards, and are reported to have accompanied the police in breaking and vandalising property and perpetrating violence. Fact-finding teams heard that in Muzaffarnagar, ‘half uniformed’ people (in civilian clothes, but wearing police jackets and helmets) entered homes to destroy property, and in Firozabad, local activists reported that the police were accompanied by men in plain clothes who had their faces covered. They were presumably part of this ‘police *mitr*’ vigilante group.

It is prudent to note that, while the local media (detailed ahead) and police have popularised this impression of “violent protesters”, it becomes clear from the aforementioned accounts that the events on those two fateful days are far from clear. It is natural for there to be varying accounts of the events. However, the hasty conclusion that the protesters were the ones who instigated the violence and the police’s use of this presumption to legitimise disproportionate retaliation is rooted in rumours, prejudice and malice and is an ill-founded and unjust alibi for the police action.

¹⁹ Subhashini Ali presented her verbal testimony at the People’s Tribunal on State Action in UP on 16th January 2020

In fact, on 30th January 2020 it was reported that a judge in Bijnor, when hearing the bail applications of 48 of the 83 accused in the violence that took place on the 20th of December ruled that “The police FIR in the case claims that the mob vandalised private and government vehicles and indulged in arson in shops. But no proof has been presented that any private vehicles or shops were vandalized. A police report about damage to one government vehicle has been presented, but the report was prepared at least 20 days after the violence took place. Government lawyers say 13 policemen sustained injuries in the incident, but medical reports of all these people suggest these injuries are very minor in nature²⁰” the judge added. Thus putting into doubt the claims that police retaliated to ‘violent mobs’.

Navsharan Singh argued in her testimony at the tribunal that the joining of plain-clothed miscreants with local police reflects a new trend where the police has graduated from the role of a silent spectator in attacks to the marauding mob itself. This seems to reflect a paradigm shift in the state’s involvement in mass violence. Seen within the larger context of the systematic legitimisation of cow vigilante groups²¹, the use of ‘police *mitr*’ so blatantly in UP sets the ground for an extremely dangerous new form of arbitrary “policing”.

***Policing through bullets:
Disproportionate escalation of violence***

The narrow streets of Khalapar, Nayabadi Mohalla of Muzaffarnagar led the fact-finding team to the family of Noor Mohammad, a tempo driver who often sought work as a daily wage worker. He was the sole breadwinner of the family

²⁰<https://www.ndtv.com/india-news/in-up-town-bijnor-singed-by-caa-violence-48-get-bail-where-is-the-proof-asks-court-2171855>

²¹ For more on cow vigilantism read Human Rights Watch (2018) <https://www.hrw.org/report/2019/02/18/violent->

and is survived by a pregnant wife and a two-year-old daughter. According to a family member, on the fateful afternoon of 20th December, Noor Mohammad was returning home in his tempo when he took a wrong turn and ran into the protests. He abandoned his tempo and fled for his life only to have sustained fatal wounds from a police bullet.

In Meerut,

- *Mohsin, 28, shot in the chest*
- *Zaheer, 40, bullet went through one of his eyes.*
- *Aleem, 23, shot in the head*
- *Asif, 20, bullet hit his chest*
- *Aasif, 33, a bullet landed on his back*

In Sambhal

- *Bilal, 31, shot under the lower lip*
- *Shehroze 19, shot in the stomach*

In Muzaffarnagar,

- *Noora 25, hit on chest*

In Firozabad

- *Mukeem, 19, hit in the stomach*
- *Rashid, 27, bullet hit on head*
- *Armaan, 24, shot in the chest*
- *Haroon, hit in the jaw*
- *Shafiq, 39/40, hit near the ear*

The police were quick to resort to firing at protesting citizens. In town after town, it was reported that the police fired on protestors without attempting other means of containing the crowd. Fact-finding teams reported police firing in Meerut, Muzaffarnagar, Sambhal, Firozabad, Bijnor, Kanpur, Gorakhpur, and many other areas. In Varanasi, it was reported by Abhirr Palat²², that the only reason there was no police firing was because it is Prime

<https://www.pib.gov.in/Press-Release-2020-01-16-11-00-AM>

²² Abhirr Palat presented his verbal testimony at the People’s Tribunal on State Action in UP on 16th January 2020

Minister Modi's constituency and the crowds were largely Hindu.

Maitreyi Gupta, an activist²³ testified that in Kanpur, police responded with lathi charge, tear gas and firearms. Police callously resorted to firearms immediately after tear gas, without trying to use any other pre-emptive measures such as rubber bullets or water cannons. This resulted in the death of two people.

The processions in Sambhal, Muzaffarnagar and Meerut, were countered by heavy police presence. In all these cities, a clear pattern of police resorting to firing shortly after lathi-charging emerges. Police have fired directly into the protesters, many of them above-the-waist killing. In Firozabad, contrary to police code of conduct, the police first fired at the crowd and only then used non-fatal measures such as tear gas and lathi charge. In addition to this, in Meerut, police are reported to have chased people into the by-lanes and shot them. According to the lawyers who spoke with the fact-finding team, there were also civilians, about 50-100 of them, who were firing at the crowd, alongside the policemen.

Fact-finding teams visited families of the dead in 4 towns; Muzaffarnagar, Meerut, Firozabad and Sambhal – totalling 16. All of the 16 killed in Western UP are young men from Muslim working-class families. Almost all their families said that they were not part of the procession, they were at the wrong place at the wrong time. They died of bullet injuries. Of the 16, for which fact-finding teams gathered information, 14 of them were hit above waist – on chest, face, head, neck.

The doctors who met with fact-finding teams in Meerut insisted that in the case of the mass shooting, it was a 'straightforward police firing

with an intention to kill.' All shots were fired on vital organs. In Firozabad too, locals allege that police took aim at the protestors standing upright, going against protocol which requires the police to shoot below the waist and to take aim sitting down on one knee. A senior doctor of Bijnor district hospital confirmed to news reporters that Anas who was shot in his left eye by the police was shot in close range²⁴.

On 20th December, around 4 pm Arshad (name changed) was flying a kite when he heard some commotion happening on Lisari Road, Meerut close to his house. He went to check out what the commotion was, when he was shot in his hand by police firing. He fainted immediately. He recalls that the bullet went right through his palm and fingers, fracturing three of his fingers.

Despite multiple reports that indicate the contrary, a day after the brutal violence, UP police claimed on the 20th of December that they did not fire a single bullet or cause any deaths. "All the deaths that took place have been in cross firing and this will become clear in post-mortem examination," the Director General of Police (DGP) told reporters. Police had no option but to resort to lathi charge to chase them away he claimed.²⁵

Sohail (name changed) from Khadarwala in Muzaffarnagar town was saved by a whisker even as a bullet entered his throat and went out from the other end leaving a wound that may leave him without a voice for the rest of his life. Members of the fact-finding team met his family, who said this was another instance of being in the wrong place at

²³ Maitreyi Gupta presented her verbal testimony at the People's Tribunal on State Action in UP on 16th January 2020

²⁴ <https://www.theweek.in/news/india/2020/01/07/up-postmortem-shows-anti-caa-protester-killed-in-police-firing-was-shot-in-eye.html>

²⁵ <https://www.indiatoday.in/india/story/up-anti-caa-citizenship-law-violence-clashes-dead-police-injured-ig-1630398-2019-12-21>

the wrong time and arbitrary firing by the police.

On Tuesday 24th December, Superintendent of Police (Rural) Vishwajeet Srivastava admitted that a 22-year-old man was killed when a policeman opened fire while facing a violent mob in Nahtaur, Bijnor. "On December 20, after Friday prayers, a violent mob attacked a police station and snatched the pistol of sub-inspector Ashish Tomar", he said. A constable was fired at when he tried to get it back, he added. "When the constable open fired in self-defence, it hit an *upadravi* [troublemaker] Suleiman and he died," the SP added. Till date, this is the only incident of police firing that the police have taken responsibility for despite ample evidence, including video footage, to the contrary.

The order allowing the bail applications concerning seven persons accused of rioting and attempt to murder during the protests passed by Additional Sessions Judge Sanjiv Pandey of a Sessions Court in the Bijnor district of UP, on January 24 reads that,

"The prosecution has argued that the police official was injured during stone-pelting. However, no such evidence has been placed by the prosecution to show that the accused persons indulged in vandalising shops or setting houses on

fire... The police have shown that it has seized .315 bore bullets. However, it has not shown any seizure of weapons from any of the accused persons. According to the prosecution itself, no police official has received any bullet injury. I have been told that police officials have received injuries due to stone-pelting however, no evidence has been produced that proves that anyone sustained serious injuries."²⁶

Thus, demonstrating that in the case of Bijnor, there is no evidence to show that any action from protesters warranted such brutal reaction from the police. It is another matter that only in Bijnor has the police even taken responsibility for firing on protesters. Who must be held accountable for all the others who have been killed or injured?

The police action in UP is in grave violation of the Code of Conduct for Law Enforcement Officials²⁷, the Model Police Act²⁸ and the Apex court judgement in the case of Anita Thakur v. State of Jammu and Kashmir²⁹, which collectively require the principles of impartiality and human rights norms to supersede any police action, regardless of how violent the situation is, and considers the use of such excessive force a violation of human rights and dignity.

²⁶ <https://www.livelaw.in/news-updates/caa-protests-no-evidence-of-violence-by-protesters-or-injuries-to-police-up-court-grants-bai-152120>

²⁷ Police action in UP stands in grave violation of Article 3 of the Code of Conduct for Law Enforcement Officials which states that law enforcement officials may only use force when strictly necessary and to the extent required for the performance of their duty.

²⁸ Section 58 (d) of the Model Police Act, 2006 states that "every police officer shall...ensure that in all situations, especially during conflict between communities, classes, castes and political groups, the conduct of the police is always governed by the principles of impartiality and human rights norms, with special attention to protection of weaker sections including minorities."

²⁹ the Apex court in the case of Anita Thakur v. State of Jammu and Kashmir# observed that "in those cases where the assembly is peaceful, use of police force is not warranted at all. However, in those situations where crowd or assembly becomes violent, it may necessitate and justify using reasonable police force. However, it becomes a more serious problem when taking recourse to such an action, police indulge in excesses and crosses the limit by using excessive force thereby becoming barbaric or by not halting even after controlling the situation and continuing its tirade. This results in a violation of human rights and human dignity. That is the reason human rights activists feel that police frequently abuse its power to use force and that becomes a serious threat to the rule of law."

The law is, therefore, clear that the right of private defence is limited by the requirement of proportionality of response³⁰. From the various accounts that have been presented in this report, including eyewitness testimonies that the police did not take appropriate proportional measures to contain the supposedly ‘violent’ crowd. Rather, the police resorted to indiscriminately shooting into the crowd, in some cases even running after people into small lanes to shoot at them.



Watch:
https://www.youtube.com/watch?v=ssy_TvdnjPM&pcr=1581342498

Hate Speech by police

In all incidents of violence by the police – on the streets, inside houses or in custody, one common thread has been the continuous and intentional use of religiously charged hate speech.

Fact-finding reports and testimonies ascertain that communally charged words were used by the police and its allies to provoke violent reactions from the crowds. In several places the police encouraged, persuaded and in a few cases even compelled the Hindu mob to burn and loot Muslim shops and houses. Instead of controlling it, the police had in fact, invited

more violence. In Firozabad, people have reported to fact-finding teams that the police chased protesters into Hindu dominant streets and said to Hindu onlookers, “*Hum Hindu hai, tum bhi Hindu ho, maro!*” (we are Hindu, you are also Hindu, hit them!). This was when a Iqbal (name changed) who was there to fill his prescription was caught by a mob and brutally beaten until his leg was broken. They further provoked the local Hindu community by saying that “*ye to Miyan bhaiyon ko humare Hindu bhaiyon ne muh laga rakha hai, warna inki auqat nahi hai ki ye kuch bolen*” (Our brothers have encouraged these Mian (Muslims), otherwise they do not have the right to say something). Further, the police said, “*hume to abhi do ghante diye hai agar do din de den to inhe bata de ki hum kaun hai*” (We have been given only two hours now, if we are given two days, we would show them who we are.)

On 20th December, in Meerut the Superintendent of Police (SP) Akhilesh Narayan Singh, while wearing uniform and riot gear, was caught on camera threatening Muslims. He used phrases such as

- "*Kahan jaoge? Is gali ko main theek karoonga* [Where will you go? I will set this lane straight] to a group of people wearing skull caps.
- "*Jo kaali patti aur neeli patti baandh rahe ho unko keh do Pakistan chale jaayein* [These black and blue badges you people are wearing, tell them to go to Pakistan].
- "*Desh main agar nahin rehne ka mann hai to chale jao bhaiya...khaoge yahan, gaoge kahin aur ka Yeh gali mujhe yaad ho gayi hai. Aur jab mujhe yaad ho jaata hai toh mein naani tak pahunch jaata hun* [If you don't want to live here, go to Pakistan...you eat here but sing praises of some other place. I am now familiar with this lane. And once I

³⁰ Omkarnath Singh v. State of UP where it, *inter alia*, observed that, “A right of private defence given by the Penal Code is essentially one of defence or self-protection and not a right of reprisal

or punishment. State of U.P. v. Ram Swarup and Anr., the Supreme Court, *inter alia*, observed, “The right of private defence is a right of defence, not of retribution

remember, I can even reach your grandmother].”

- "Ek ek ghar ke ek ek aadmi ko jail mein bhar doonga main. [I will throw every man from every house in jail]”.

He ended his rant by saying, "I will destroy them”. Six working class men were killed by police firing that day. In Sambhal, locals reported that they have an audio recording of the District Magistrate of Sambhal asking some Hindu journalists why they were helping the Jihadis.

Anirban Bhattacharya testified on the basis of his fact-finding visit to Muzaffarnagar that in the city, family members of victims and those arrested reported that regardless of Muzaffarnagar’s history of communal tensions, the violence broke out in such scale this time was because the police deliberately provoked the masses. According to one family member of a minor who was tortured in custody, the police inspector Sanjay Tyagi abused and threatened the community, which angered the crowd. This was corroborated by the family member of another victim, who also argued that the inspector hurled communal slurs at the Muslims to provoke the gathering, and the police subsequently took advantage of the same.

Hate speech was also rampantly used by the police, RAF and allies while they were attacking individuals and their houses. Terms like “Kat-mulla”, “Jihadi” and “Pakistani” were commonly used. While talking about the attacks in people’s homes in Muzaffarnagar, Navsharan Singh testified members of families, told the fact-finding team that the attacking police told them that they will live in their houses now as Muslims will have to leave. The police had interpreted the citizenship law as giving them license to force Muslims to Pakistan.

Reports from across the state reveal that this behaviour continued well into custody., the

specific targeting of Muslims was made clear by the language used by the police. In Sambhal, where over forty minors were illegally detained, a family member of a detained minor reported that the police released all the arrested Hindus and refused to release Muslims. The Station House Officer (SHO) was heard saying “*Mullon Maulana ko side karke todo*” (take the Mullahs and Maulanas to the side and break them).

Such targeted hate was extended to human rights defenders as well. Deepak Kabeer, an activist from Lucknow who was arrested and tortured in police custody testified at the tribunal that when the police were hitting him, they said phrases such as “*krantikarikta inka sara nikaal do, inka Bhagat Singh nikaal do*” (remove all his revolutionary spirit). Sadaf Jafar, another human rights defender from Lucknow who was also illegally detained and tortured testified

Every time the policemen passed by, they would ask my name and call me a ‘Pakistani’. They kept abusing me and said that “I eat here, but loyalties are there.”. It was horrible. They always addressed me as ‘tum log’ (you people). More than the thrashing, it was the word ‘tum log’ that pained me.... I felt like a Jew in Hitler's Germany. The fact that they could call me a Pakistani, torture me, and strip men in front of me, is shocking. My Muslim identity is the only reason that such treatment was meted out to me. I am a social activist, poet and theatre activist. All these years, my identity never mattered to me. But that my religion defines me as a person now is disturbing.

Indiscriminate detention

One of the characteristic features of this wide scale police violence has been indiscriminate, often illegal detention of civilians en masse, and of human rights defenders and community leaders. Large scale arrests have taken place by

picking up people from the protest sites and streets.

Amir (name changed) is a 22-year-old resident of Sambhal. He was picked up from a bus stand where he had gone to inquire after his friends. Along with him, police had also broken into homes and arrested other boys. They were taken to Dhanari police station. None of his relatives were allowed to meet them at the station instead they were threatened with arrest and detention. Amir's sister reported to the fact-finding team that he has been brutally beaten in custody and slapped with a recovery notice to the tune of Rs. 2,63,000/-.

The police have argued that they have used video footage from the protest to identify people. They have picked people from houses and streets long after the protests were over. In many cases, families did not know where people had been detained. This is an important aspect of mass arrests in such incidents. No concrete information is made available by the police for considerable lengths of time, and thus many languish in jail with no legal assistance, as their arrest is not even known to their families.

In Firozabad, Iqbal (name changed), who has a severe illness was on his way to the police station when he was attacked by the police on the street. His tibia fibula (shin bones) was completely shattered. He was subsequently arrested on charges of rioting and arson and kept in police custody without any medical treatment for his leg for two days. On his arrest however, he was not taken to the police station directly. His brother reported that he was first taken to the RSS run Kalavati Devi School, where people on civil clothes, reportedly belonging to RSS, beat them up for hours. Along with Nabi here were also the minors who were detained. He was later taken to Rasoolpur Police Station and then finally to Makhanpur Police Station.

In Sambhal, Police made large scale arrests over the 19th and 20th, including in one case, of a boy going home after tuition, or of people picked up off the streets. According to Advocate Qamar Husain, they knew of at least 55 people who had been arrested, including minors.

According to Maitreyi Gupta, in Mau, police entered homes late at night, with no female officers. Under the pretext of needing assistance in investigation, many were taken to the police station. At the time of the tribunal, it had been over two weeks since their arrest and none had been released. In Lucknow, SR Darapuri was also arrested under false pretexts. He has been under pressure from the police to not get involved in the protests before-hand. However, on 20th night at 11pm. Police visited him at his house and insisted that he come to the police station. Upon enquiry, they asserted that this was not a formal arrest, but that he was supposed to remain at the police station nevertheless.

In Meerut, the fact-finding team was not initially able to visit families of those who had been arrested or detained due to the fear in the community. The community reported that they were frightened due to reports that the police were picking up people from homes at night. In their second visit, the community members reported to the team that they are all anticipating some more arrests. Fact-finding teams also heard that people who are being picked up are being taken to unknown locations, and the families do not have any information on their arrests or detentions.

Family members of victims, and a journalist from Muzaffarnagar, informed the fact-finding team that in the city, more than 2000 people were arrested during the protests, of whom only a few were released later. According to the local journalist, forty-two students were picked up from a Madrasa by the UP police, even though their participation in the protests was extremely

unlikely. They were illegally detained and tortured.

Various lawyers, activists and locals told the fact-finding team to Muzaffarnagar that a large number of boys and men who were picked up were detained not in the police station but informally in a training centre for police recruits in Civil Lines, where they were beaten and kept naked under the fans through the cold night. The people administering the torture were reportedly masked, possibly, these were new recruits. Over the next few days, the detainees were released slowly, and formal charges have been framed against about a 100 people. It's important to note that in relation to the larger number of men and boys (some as young as 11) who were detained and tortured, there is no record of their detention, because it was not just illegal but completely informal.

Attacks by police on property

Fact-finding missions and testimonies confirm that the RAF and UP police, along with 'police *mitr*' carried out extensive destruction of property across the state. In some cases, they have attacked private vehicles and shops on the streets, in others, they have entered the houses of Muslim citizens and destroyed everything.

Fact-finding reports and testimonies from Muzaffarnagar, Meerut and Kanpur have attested that the police and RAF have destroyed property on the streets, after street lights had been switched off. In Muzaffarnagar, this was done at about 10:30 in the night as the forces entered mosques, homes and shops. In Meerut, the community has reported that along with switching of street lights, the police have also destroyed CCTV cameras and other things that could have potentially implicated them.



Watch:

<https://www.youtube.com/watch?v=4qLfMyeY7XU>

The largest extent of property destruction by police was carried out in Muzaffarnagar. Locals told the fact-finding team that on the intervening night of 20th December 2019, some 250-300 RAF and police personnel entered the locality to vandalise and terrorise the local population. It was said that the police along with people in civil clothes and masked faces were shouting anti-Muslim slogans and frequently taunted “*Azaadi chahiye tumhe? Ye lo Azaadi*” (You want freedom? Well here it is). Harsh Mander testified to the tribunal that in home after home in Muzaffarnagar, he saw that the police itself entered homes and destroyed every single piece of property, fridges, crockery, cutlery.

The fact-finding team visited one home in Darziwali Gali and two homes on Sarwat Road that were completely trashed and vandalised by the police and RAF personnel. When moving towards one of the victims' family in Darziwali Gali we found a mosque severely rattled with its big iron gate, electricity meter, and glass panes completely shattered. Broken police batons and a blue RAF uniform cap were still lying in the houses, along with the families' destroyed personal belongings.

The fact-finding team visited a shoe trader's house which was completely destroyed by the police. The owner told the fact-finding team that on the night of 20th December, around 50-60 police

personnel broke the main gate and barged into his home. The owner, the only male family member present at the time, and three other women of the house were rudely awakened. Inside the house, we saw a scene of wanton vandalism and destruction of property. Their Maruti car (Dezire) and four scooters were completely trashed, and everything inside was shattered including toilets, washbasins, furniture, almirahs, crockery, fans, coolers, refrigerator, lights, plumbing pipes of washroom, and wall hangings. The elderly owner was brutally beaten with lathis and the women were manhandled. The victims claim that the police stole all the cash and jewellery in the house which had been collected for his granddaughters wedding.

Subhashini Ali testified that in Kanpur there is evidence of the police having entered a particular area called Chamangunj on the 22nd night, and resorted to vandalism there. They broke many cars, and other things belonging to

the people of that area. In Firozabad, the fact-finding team found evidence of the police having vandalised the brand new sewing machine of one Rashid (name changed) and further threatened the life of the community members. As explored earlier, in Muzaffarnagar, the police were accompanied by half-uniformed police-mitr in destroying and looting homes.

In response to lawyer Anjali Bharadwaj's tweet³¹ from the Tribunal on the 16th of January about the destruction carried out by UP police in Muzaffarnagar inside the homes of private citizens, the Muzaffarnagar police said - "Malicious Campaign and False Rumours by interested parties is being circulated regarding police action in Muzaffarnagar. This is to inform that on 20.12.2019, a violent mob did arsoning, stone pelting and firing at multiple places in the district which was repelled with min use"³². They have made this statement regardless of the overwhelming evidence of vandalism and violence by police in the city.

³¹<https://twitter.com/AnjaliB/status/1217721814496886784?s=20>

³²<https://twitter.com/muzaffarnagarpol/status/1218055420645801984?s=20>

The dangerous dream of justice: the weaponising of legal systems against citizens

Anonymous omnibus FIR's

One of the immediate aftermaths of the violence surrounding the 20th of December has been the expansive filing of 'unnamed FIRs' across cities. In Kanpur, the Senior Superintendent of Police (SSP), Kanpur Anant Deo has said that "At least 15 FIRs have been lodged against 21,500 people in various city areas and 13 have been arrested so far. Twelve persons have been arrested by the Beconganj police while one man was held in Bilhaur." Nearly all of the accused here were unidentified. Similar reports have been filed against 5000 people by the Babupurwa police and 4000 people in Yateemganj. As per the details in FIRs, almost all the accused were unidentified.³³ In Muzaffarnagar, the police have registered 300 FIRs against "unknown rioters" under Section 436³⁴ and 304³⁵ of IPC. In Meerut, the number was 3000.

Such unnamed FIRs have been historically used by the police to further terrorise the community and justify arbitrary arrests or detention. It gives ample scope to the police administration to frame, intimidate and terrorize common people. Every fact-finding report has attested to a great sense of fear and insecurity felt by the community. Community members have pointed out that these FIRs put them in a particularly precarious position, especially since legal procedures of arrest and detention were not being followed in the state.

Upon hearing testimonies on unnamed FIRs, Mr. Chaman Lal, a member of the jury noted that "What has been done in UP is totally

outside the natural process of the law. There should be a separate FIR for every single case. A FIR is case wise, and then that case is allotted to a single investigator. What is happening in UP is that all the cases are clubbed and then given to one individual."

Intimidation of community/family

Over and above the general fear generated in the community, the police have also adopted a very targeted approach to intimidating, and therefore restricting the rights of the community further.

Suroor Mander, lawyer and member of multiple fact-finding teams, testified at the tribunal that when attempting to pursue legal recourse against the police, the kind of pressure exerted by the state administration on local lawyers and communities became extremely tangible. She reported that a lot of the legal professionals, especially senior advocates who are well known in the bar, have been asked by the state to intervene compromises. They have also been used to pressurise communities, especially where deaths have taken place, to not intervene in the cases.

Families have also been intimidated with the intention of preventing legal action against the police. The police have resorted to multiple strategies to ensure that policemen are in no way implicated in any of the deaths or injuries.

In Firozabad, when they rushed to the place of incident, they found Rashid's body on the ground, lying next to three other dead bodies one of which was a 7-

³³ <https://www.indiatoday.in/india/story/21-500-booked-for-violence-in-kanpur-1631048-2019-12-24>

³⁴ Section 436 IPC: Mischief by fire or explosive substance with intent to destroy house, etc (<https://indiankanoon.org/doc/1517318/>)

³⁵ Section 304 IPC: Punishment for culpable homicide not amounting to murder (<https://indiankanoon.org/doc/690321/>)

8-year-old boy. When they took the body to the Firozabad Hospital, the doctor right away said that he was wounded by a police bullet. Due to pressure from the police, no post mortem examination was conducted on Rashid's body. The police accompanied the family from the point of picking up the body and taking it to the hospital and then to their house. They pressured the family into hurriedly performing his funeral rites. The police even accompanied the family to the burial ground and made them bury the body at night. They strictly instructed the family not to call anyone, not even their neighbours next door for the burial ceremony.

In all cases of death in Meerut, the families were pressured similarly into burying the body immediately, and almost always, they were not allowed to take it back to their own area or traditional burial grounds since the police feared that it could incite further tensions.

Asif was a twenty-year-old rickshaw puller who was shot in the chest allegedly by the police. His body was taken to the hospital at around 1 am and by 3 am he was buried. His neighbours report that even his final ritual bath was not done properly. Moohsin was a 23-year-old daily wage labourer who was also shot in the chest. After knowing that Mohsin had been shot, his sister was on her way to pay her respects, but the police did not allow the family to wait until she reached. He was buried in the dark hours of the morning, not in their traditional burial ground and without much family present.

The police have also attempted to intimidate families and restrict news of police violence by denying the families' right to the body of the deceased person. In order to access Alim's body, the family had to run from pillar to post.

Alim's brother went to the Nishad police station in search, but was beaten up there, and as has become custom, he was yelled at with islamophobic cuss.

Intimidation measures have also been used to directly influence how FIRs are reported and to manipulate and generate evidence in the police's favour. In Muzaffarnager, a journalist reported to the fact-finding team that there are several instances where such pressures were exerted by the police. In the case of Noor Mohammad, one of the persons killed, the family members took the name of the culprit, a close associate of the BJP MP, but the police intimidated them and forced them to change that to "agyat upadrawi" (unknown miscreant).

Over and above completely destroying the homes of several people, individuals arrested from these homes have also been forced to register wrong or manipulated evidence, as has been the case below.

The last house the team visited in Muzaffarnagar belonged to an old timber trader. On the night when the police attacked his home, this 80 year old man was beaten black and blue with lathis. His teenage granddaughter was hit across the head with lathis, suffering significant injury. The police arrested his son Sajid, a 40 year old man who runs a medical shop close to his house and his 13 year old grandson, who they released after a day of brutal torture in detention. After his release the minor said that the police not only tortured Sajid but also coerced him to sign a 'kaboolnama' and forcefully took his fingerprints on a hand made pistol in order to have him framed. The granddaughter and the young boy were so traumatised that they started trembling the moment we entered the room. When the fact-finding team met him, he kept pleading "Mujhe sirf

mera beta wapis kar do, mujhe kisi ke khilaf koi shikayat nahi karni hai" (please bring back my son, I don't want to file any complaint against the police).

Zaheer was a 45-year-old man from Meerut who was shot dead by the police in the by-lanes of his locality. When his family went to file a complaint in the police station, the police were abusive, and accused them of killing Zaheer themselves and then blaming it on the police.

Filing counter cases against family members has also been a potent method of intimidation (discussed in detail ahead). Mohsin's brother Imran has been slapped with counter cases, now, whenever the family goes to the Brahmपुरi police station to enquire about Mohsin's case, they are asked to first turn in the elder brother.

Where people have been arrested, families have not been allowed to meet them. In many cases, people have remained untraceable until the news of their arrest reached the family days later.

In the case of Ahmed (name changed) in Sambhal, when the family rushed towards the police station to meet him after they came to know of his arrest, the police officers did not allow them to meet Ahmed and threatened them as well. Shehroz was a young man killed by police firing in Sambhal. Shehroz's family was visited by Crime Branch officers on Jan 1 and asked to identify in a photograph, the two young men on a bike who were carrying Shehroz's body to the hospital. His father said he could not identify them.

The fact-finding team to Sambhal noted that this visit is intimidating, as rather than inquiring into the circumstances of his death, the police

seemed keener to find the names of those who helped him. They have argued that given the role of the police in Sambhal, it is not beyond the realms of possibility that those young men could be held responsible for the shooting.

Flaws in investigation

Along with preventing families from accessing proper legal recourse, and subjecting the community to arbitrary arrests through anonymous FIRs, investigations on the violence have been severely compromised by various means. Testimonials and fact-finding reports have indicated a complete breakdown of legal procedures, aided by the intimidation of the community and therefore undermining the legitimacy of the legal system completely.

- Not filing or wrongly filing FIRs

While all attempts have been made to discourage families from filing FIR's against the crimes committed by the police, where the families have braved the situation and attempted to file an FIR, the police have misconstructed their facts to protect police officers. Sohail's case is a poignant example here.

In the case of Sohail (name changed) who was shot in the throat, his family did not file a report at the outset as they were afraid that they would be harmed or even arrested. The fact-finding team procured the copy of the first report that they finally submitted on the 26th of Jan from the family, where they reported that Sohail was shot as he was passing by when the police were firing at demonstrators. However, the police insisted that they must change the report. They said "Gawah kahan se laaoge?" ("Where will you bring the witness from?") So, they typed a different report where once again the blame was put on an "agyat upadrawi" (unknown

miscreant) and the description was thinned down.

Bilal and Shehroz were among the people killed by police firing in Sambhal on the 20th. Bilal's family registered a complaint in the police station on the evening of the 20th stating that Bilal was on his way to Moradabad for work when he was killed by a bullet fired by the police with the intention to kill. Even though the family has a stamped copy of the complaint they filed, later on the same day, the police filed another FIR mentioning that Bilal died of an injury caused by a heavy object (*chot lagne se maut ho gayi*). In no place does the FIR mention that a bullet was the cause of injury and subsequent death. Similarly, Shehroz's family too filed a complaint in the police station mentioning specifically that he was hit by a bullet. But the FIR states that he died in the stampede, therefore completely removing from the picture the culpability of the police.

The police have also gone the extra mile to ensure this. In Firozabad, the victim Rashid's family tried to register an FIR but the police, unsurprisingly, did not entertain their complaints. Later they called the family member to the police station and asked him to change his statement if he wants the FIR to be registered at all. They even wanted to record the family member on video with the new doctored statement written by the police for him, which he refused to do. Later with the help of an advocate the family filed an online FIR describing the incident, as they know was true. They have however not received a copy of an FIR or a post-mortem report from the police.

- Not acquiring or destroying forensic evidence

After the violence of the 20th, UP DGP OP Singh had claimed that "All the deaths that took place have been in cross firing and this will become clear in postmortem examination". The irony in this statement cannot be overlooked considering the absolute disregard shown by the

medico-legal system in UP in collecting crucial forensic evidence. In Meerut, the police did Mohsin's post-mortem but a copy of the report was never given to the family. The next day around 6 AM the family got the body back. The body was accompanied by 20-50 police jeeps and was asked to bury immediately.

With a majority of victims being denied emergency medical care (detailed ahead) and medico-legal procedures subsequently disregarded, forensic evidence has rarely been collected in any of the cases. In several circumstances, medico-legal certificates (MLC) themselves have been used by the police as a way of targeting and intimidating people. As a result, several victims have themselves declined their right to an MLC. The legal right of a family to a person's post-mortem report has been denied in all cases. None of the victims' families written about in fact-finding reports have received the post mortem report, even if it has been conducted. In Meerut, in one case where a family member was present at the post mortem examination, as required by law, they have reported that it was done under very hurried circumstances. According to the family, it had not been done thoroughly, with details of his bullet injury omitted. In the event of a mis-constructed FIR, post mortem reports and medico legal certificates play a crucial role in ensuring the police's role in the violence.

The fact-finding report from Muzaffarnagar states "Multiple criminal charges face those arrested and there is hardly any way of disproving them. Evidence is made to disappear. The wounded cannot procure Medico Legal Certificates from hospitals to show that they had been shot at or lathi charged. In order to be treated, they are forced to write that their wounds have been the result of some accident. FIRs and medical reports are falsified."

- Filing counter cases

Another disturbing trend noted in the UP police's handling of the protests has been to

impose a charge under Section 307 of the IPC, i.e. attempt to murder (of the police persons here), against persons detained/arrested by them. Section 307 is a non-bailable offence punishable with imprisonment of up to 10 years and fine, and may extend to life imprisonment/death (based on the circumstances). It is evidently a very serious charge that should have been invoked only if, at the very minimum, there was an actual attempt on the lives of the police persons by those accused. However, as is evidenced by a mass FIR filed against 83 persons by the police in Nagina, UP, which carried charges under 15 sections of the IPC, including Section 307, such charges are being imposed by the police without any evidence, to threaten those accused with prolonged confinement without any respite, and quite possibly to justify their excesses as acts of self-defence against an allegedly murderous mob. Counter cases have been filed against human rights defenders, retrospectively against people who have been arrested from the protest sites and even deceased persons and their family members who are seeking legal action.

In Lucknow, human rights defender Sadaf Jafar and 33 others were charged with 18 offences including sections 147 (charges of rioting), 148 (charges of rioting with a deadly weapon), 152 (assaulting a public servant), 307 (attempt to murder), 323 (violently causing harm), 506 (criminal intimidation), 435 (mischief by fire or explosive substance), 436 (mischief by fire or explosive substance with the intention to destroy a house) and 120B (being party to a criminal conspiracy), all non-bailable offences, among others.

In Meerut, Mohsin's family had filed a complaint regarding his death due to police bullets, a copy of which they have not yet received. In response, the police have lodged an FIR against a family member under Section 147, 148, 149, 307, 332, 153, 188, 336, 342, 427, 109, 34 Indian Penal Code and Section 3 and 4 of Prevention of Damage to Public Property Act 1984. Of the six officially recognised deaths in Meerut, the police have also filed FIRs against three of them on the grounds of inciting violence and rioting.

Custodial violence and sexualised torture in custody

Testimony by Sadaf Jafar at the tribunal on her treatment in custody

Once arriving at the station, I was separated from the other male detainees. From where the male detainees were kept, I could constantly hear sounds of screaming, insults and beating. An officer then came to me and asked my name, I said Sadaf Jafar. Since that night, I realised that despite being a social activist, theatre actor and other things, the only thing that I was associated with was immediate identity, was the fact that I am a Muslim.

Then they kept telling me, in not so sophisticated words, what have we not done for you. You live here, eat here, have children here. The language the female officers were using, surprised me that how can women speak to other women this way. It was clear that the officers coming from the protest site were angry. They kept hitting and slapping me. An officer tried to slap me, at which point I covered my face with my hands. She then scratched me with her nail and pulled my hair.

None of the officers present were wearing their badges, so I don't know their names or designations.

As it got late at night, I was worried that my children would be worried about my whereabouts and safety. My legal right to call a lawyer was taken away from me and therefore my children were not informed about my arrest. I was then told that IG was asking for me. As I entered the room I was greeted with the choicest of abuses. He asked "what do you even know about the CAA. You have just come to stand against Yogi (Adityanath) and Modi (Narendra). What do you Pakistanis even want? Why do you continue to live here, why don't you just go there?"

A male senior constable present in the room said "We should put 307 on you and let you rot in jail". He then ordered a female constable to slap me, which she dutifully did. But he was not satisfied, he then came very close to me, pulled me by my hair, kicked me in the stomach, and then on my knee.

There was no hope now. I came back to where they were holding me initially. There was no food and water for 24 hours. I got it only when I was taken to jail later on. The medical check up was very peripheral, they only checked my blood pressure and gave me an injection as it was high and asked me to leave. By that time, I was bleeding internally and my trousers were soaked. I did not know what had happened. The only thing they gave me was two layers of newspapers so that their chair and car seat don't get dirty.

I could see all my friends and people being stripped in front of me in jail. I felt so dehumanised and humiliated, so I requested to sit elsewhere. It was only then that they gave me a sanitary napkin. By then I was soaked in blood. I remained like this for another couple of days or more until my clothes reached me. Those 19 days in jail were such a relief because I had already lived in a concentration camp on that night between 19th and 20th.

The Supreme Court, in the case of D.K. Basu v. State of West Bengal, has held that "Police is, no doubt, under a legal duty and has legitimate right to arrest a criminal and to interrogate him during the investigation of an offence but it must be remembered that the law does not permit use of third-degree methods or torture of accused in custody during interrogation and investigation with a view to solve the crime. End cannot justify the means. t."

Similarly, the Apex court in the case of Shakila Abdul Gaffar Khan v. Vasant Raghunath Dhoble held that "Custodial violence, torture and abuse of police power are not peculiar to this country, but it is widespread. It has been the concern of the international community because the problem is universal and the challenge is almost global". The Universal Declaration of Human Rights in 1948 which marked the emergence of a worldwide trend of protection and guarantee of certain basic human rights stipulates in Article 5 that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". Despite this pious declaration, the crime continues unabated, though every civilized nation shows its concern and makes efforts for its eradication.

India is also a signatory to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984, although it is yet to ratify the same. However, Article 21 of the Indian Constitution that is 'Right to Life' in its ambit includes one's right to be treated fairly and prohibits torture. Similarly, Article 5 of the UDHR, 1948 also prohibits torture.

Regardless of the wide array on judgements, constitutional and international conventions that protect people in custody from inhumane treatment, the UP state authorities have inflicted severe violence – physical, sexualised and psychological – on the individuals including minors, that they have arrested, legally or illegally, over the course of the past couple of months.

In Firozabad, police took away 14 people from different places to Rasoolpur Police Station and from there to Makkhanpur Police Station. At first, the police beat and tortured them inside the Rasoolpur Police Station and then again in the Makkhanpur police station. Amir, a labourer was beaten so brutally that he received serious internal injuries. The police denied him medical treatment inside the custody and gave him third-degree treatment despite the fact that he was not even part of the protest. In Meerut, police had arrested more than 100 people and they still roam around in the night in the Muslim localities in order to intimidate the local residents threatening to arrest more people.

In Muzaffarnagar Jameel (minor, name changed) was frail and visibly shaken even after nearly twenty days, he narrated the details of his captivity to the fact-finding team. While he was looking for his brother in the chaos, he landed in the hands of the police who after beating him mercilessly, used a hot iron rod to inflict burn injuries in his hands. He was then put in a car and further beaten. Kept in illegal detention in the barracks, for two days he was not given any food – and this is the story of all in police stations. He was beaten badly on the first night as they repeatedly asked him to "give them hundred names". He witnessed several other detainees being most brutally beaten, particularly those wearing kurta pajamas and having beard.

Daanish (minor, name changed) and his father were picked up from Meenakshi chowk. The minor was released only after two days allegedly in exchange for money and he narrated as to how he witnessed 4-6 masked men (not police) being let inside the police compound. Detainees would be taken out of lock up for them to be beaten up by the masked men to their

heart's content. He said that only after the information reached the higher ups and when Priyanka Gandhi said she would visit the torture chambers, he was hurriedly released even without the usual protocol of their family members being called. Families said that pain caused from brutal beating, made the detained very vulnerable. We were told their fingerprints were put on desi pistols in police custody, if they refused, they were tortured more.

People have been detained in police stations and informal holds, where they were not only physically assaulted, but also coerced into aiding the police in manipulating evidence. In certain instances, as was with the case of Deepak Kabeer in Lucknow, friends and family who visited the police station to enquire about persons previously arrested, were arrested and tortured themselves.

Ex IPS officer SR Darapuri who was held in custody by the Lucknow police testified that all his legal rights were denied in custody.

When they made me sit all night at the police station, I asked for a blanket as I was feeling cold, which they refused to give me. When I was later taken to the remand magistrate, I asked to be able to call my lawyer. The police refused saying I do not have the right to access this facility. Finally, when I notified them that they have not recorded my written statement after my arrest, the police claim that there is no need to record my statement, that they have already done so.

I was not given any food for at least 3 days that I was in custody in the police station. I was then transferred to the jail where I learned that all of the people who had been arrested before me had been brutally beaten up by the police, Muslims were beaten more severely. Additionally,

none of those arrested before me were given either food or water in the time of their arrest. In this way, all the rights of a person arrested; the time of my arrest, the location, access to a lawyer, providing me with a blanket, food and water in custody, was not followed. For me, an IPS officer of 32 years who is aware of all my rights under the law, this has been the treatment, you can only imagine how severe it would have been for a common person.

Even though people had sustained extensive injuries at the hands of the police, no medical care was provided in custody. Iqbal (name changed), who has a severe illness, was beaten brutally and was shifted to the jail medical department only after three days. Even there, he was only given pain killers. The family of the victim approached the court and despite a court order, the police refused to take him to the hospital. It was only after the third court order directing the police to admit the victim to the hospital and under pressure from the media, the police admitted the victim to the Agra Medical College.

Navsharan Singh testified that there is a clear evidence of sexual torture the detained have been subject to. She argued that sexual torture was perpetrated to inflict extreme pain, and to humiliate and degrade the community.

The prolonged 24-48 hours of torture that people were subject to can be seen as sexualised torture to inflict pain. In Sambhal, one young person was beaten and tortured by the police only because they found out that he was a Jamia student. The police beat him brutally in the custody and stripped him naked and beat him with belts and batons. The beatings carried out against especially sensitive body parts, including genitals. His sister told us that when she went to see him in jail, *nazar mila ke nahi dekha* (he didn't meet eyes with me).

In Firozabad, when Nabi Ahmed's family went to visit him at the jail, Nabi told him that he was sexually tortured. He admitted to his testicles being squeezed by the police in Rasoolpur Thana. He told his brother that several of them on that night in the thana, were tortured in this way. The detainees were screaming in excruciating pain, their screams so loud that they could be heard in the entire area. The police also stripped and then whipped them with batons and belts to inflict pain and mentally break them.

To have the body stripped naked throughout the process of custody appeared more a rule than exception. This story of hitting the genitals was also common in all cities. In Sambhal, where all of the 54 arrested were shifted to Bareilly jail – 130 kms away, a local lawyer said that he was relieved that they were taken to Bareilly, as the boys will be spared of rape. The local jail is well known for rapes.

In three cases, fact finding teams were specifically told by the families of the deceased that when their loved ones were taken to hospitals after they sustained bullet injuries their pants were removed at the first instance but given no hospital clothes. The families were not allowed to cover them either. This stripping was done with the intention to sexually humiliate and degrade the community.

In Firozabad, Mukeem 19, a daily wage worker who received a police bullet in his stomach. They took him to the Firozabad Trauma Centre who referred him to a hospital in Agra where he was kept for

two days but was not given any medical treatment whatsoever. In Agra hospital, he was stripped off his clothes and not even given a blanket or a sheet to cover his body. His grandmother who objected to his trousers being removed when the wound was on the stomach, was told by a hospital staff, 'let everyone see who the patient is.' The family pleaded with the hospital staff to cover him but he remained uncovered throughout the days he spent in the Agra hospital.

Mohammad Shafique, another victim who was shot near his ear who survived for 6 days before succumbing to the gun wound, was kept naked and uncovered the entire time in several district hospitals. When he was brought to Delhi, his wife called his 16 year daughter to say, please bring a blanket, tera abbu nanga pada hai (your father is lying naked).

Haroon, a poor man, hit in the jaw, died 6 days later. He was stripped naked in the first hospital and remained naked as he was shifted from one to the other hospital.

Such enforced nakedness, an apparent breach of the Geneva conventions, was openly practiced and with complete impunity. It is crucial to note here that the detained who were tortured include children, who were not registered as minors and therefore were denied any and all protections they are entitled to in the Juvenile Justice Act.

A state against its children: the merciless and unlawful treatment of minors

Near Madina Chowk, Muzaffarnagar, the fact-finding team met Jameel (name changed) with members of his family. 14 years old, he had just stepped out of the masjid on 20th December after namaz to look for his younger brother in a crowd of protestors that had gathered. He was picked up and severely beaten by the police. n. He was kept in illegal detention for three days while his mother had no news of his whereabouts.

Horrors unfolded as the fact-finding team spoke to Jameel. Frail and visibly shaken even after nearly twenty days, he narrated the details of his captivity. While he was looking for his brother in the chaos, he landed in the hands of the police who after beating him mercilessly even threatened to put him in a fire till another couple of policemen dissuaded them from doing so. They satiated themselves with a hot iron rod to inflict burn injuries in his hands. He was then put in a car and further beaten. Kept in illegal detention in the barracks, for two days he was not even given any food. He was beaten badly the first night as they repeatedly asked him to “give them hundred names”. He witnessed several other detainees being most brutally beaten, particularly those wearing kurta pajamas and having a beard. “Tumhare allah bachane aayga kya?” (“will your allah come to save you?”) they said.

Finally, when his family was called to collect him, the police said “paida karke chhod diye ho humare gaadi jalane?” (“have you birthed him so that he can burn our cars?”). They also asked for money, but she said she has none. They made a member of his family sign on a piece of paper, the contents of which they are till date unaware of.

The family showed us his blood-stained shirt. They said, “takreer kie toh fasadi kahe, takraar kie toh jihadi...aur jo arakshan ke khilaaf todfof kie, kya unko atankvaadi kahe” “when we demonstrate they call us rioters, when we resist they call us jihadis. But did they call those who violently protested against reservations terrorists too?”

In any law and order situation, it is extremely possible that many children may get swept up by the police. However, the Juvenile Justice Act demands that the Police first verify the age of everyone detained so that the child protection

mechanisms can come into play. In all the testimonies given, there is not one incident where the children were sent handed over to the Special Juvenile Police Unit³⁶. The state cannot claim non-awareness of local police

³⁶ Section 107. Child Welfare Police Officer and Special Juvenile Police Unit.

In every police station, at least one officer, not below the rank of assistant sub-inspector, with aptitude, appropriate training and orientation may be designated as the child welfare police officer to exclusively deal with children either as victims or

perpetrators, in coordination with the police, voluntary and non-governmental organisations. To coordinate all functions of police related to children, the State Government shall constitute Special Juvenile Police Units in each district and city, headed by a police officer not below the rank of a Deputy Superintendent of Police or above and consisting of all police officers designated under

administration because the act³⁷ places the onus on the state to train its officials. Moreover, there was not even a single attempt made in any district to involve the existing mechanisms of District Child Protection Unit (DCPU), Child Welfare Committees (CWC) or Juvenile Justice Boards (JJB) to deal with the apparently erring children.

In every incident it was reported that detained children were kept with adults inside the Police Station, overnight and on many occasions over 24 hours. Many of these children were released by the Police from illegal detention after having been tortured and brutalized by them. Outside the Police Stations, the families spent hours and days running pillar to post trying to extract even basic information such as the Police Station where their children were detained. Many families stated that the Police and/or the district administration actively hid the whereabouts of the children from the family. This completely

contradicts one of the most basic tenets of the Juvenile Justice Act (JJA).

After his arrest, Rashid, a 17-year-old daily wage worker was sent to Moradabad but since the Moradabad jail was over-crowded he was shifted to Chandausi and finally he was shifted to Bareilly Central Jail. A member of Rashid's family was able to visit him in Bareilly jail informed members of the fact-finding team that there were around 43 minors inside the jail and the police while arresting them asked their names. Police released all the Hindus whom they detained but arrested all the Muslims.

Children were verbally, physically and sexually abused by the Police before and after detention. Fact-finding teams also met many families who had age proof but found that nobody including the local magistrate had followed the provisions of the law³⁸ which means that many minors are currently still in adult prisons across UP.

sub-section (1) and two social workers having experience of working in the field of child welfare, of whom one shall be a woman.

All police officers of the Special Juvenile Police Units shall be provided special training, especially at induction as child welfare police officer, to enable them to perform their functions more effectively.

Special Juvenile Police Unit also includes Railway police dealing with children.

³⁷ 108. Public awareness on provisions of Act.—

The Central Government and every State Government, shall take necessary measures to ensure that—

(a) the provisions of this Act are given wide publicity through media including television, radio and print media at regular intervals so as to make the general public, children and their parents or guardians aware of such provisions;

(b) the officers of the Central Government, State Government and other concerned, persons are imparted periodic training on the matters relating to the implementation of the provisions of this Act.

³⁸ Section 9. Procedure to be followed by a Magistrate who has not been empowered under this Act.—

(1) When a Magistrate, not empowered to exercise the powers of the Board under this Act is of the opinion that the person alleged to have committed the offence and brought before him is a child, he shall, without any delay, record such opinion and forward the child immediately along with the record of such proceedings to the Board having jurisdiction.

(2) In case a person alleged to have committed an offence claims before a court other than a Board, that the person is a child or was a child on the date of commission of the offence, or if the court itself is of the opinion that the person was a child on the date of commission of the offence, the said court shall make an inquiry, take such evidence as may be necessary (but not an affidavit) to determine the age of such person, and shall record a finding on the matter, stating the age of the person as nearly as may be:

Provided that such a claim may be raised before any court and it shall be recognised at any stage,

The JJA, 2000 & its further amendment was a promise to the children of India and to bring the values and principles of the Convention on the Rights of Child (CRC) into life and practice in India. India is not just a signatory to the Convention but has also ratified it and is therefore obligated to follow the principles laid down by it. The Preamble of the 2015 Act invoke the CRC 1989, the Beijing Rules 1985 and the Riyadh Rules 1990. All of these provisions talk about the creation of a humane and protective mechanism to ensure that children are effectively rehabilitated and not stigmatized.

It is also important to iterate that the rights and protections enshrined in the Act or the Constitution cannot be waived³⁹, thereby placing an additional responsibility on the state to ensure that its actors are aware and equipped to manage the progressive and protective provisions of this act.

On 20th December 2019, Arif (name changed), aged 15, son of a daily wage labourer was picked up, along with several other minors, by the police with charges of rioting and arson. When the family approached the local Kotwali police station, they were told not to ask questions as their “children were little devils raised to create chaos”. After a whole week the families finally met their kids who recalled the fearful conditions they were facing in jail. Most parents found their kids inconsolable and

understandably so as they were jailed with adult convicts. Arif recalled to the fact-finding team that he was slapped around but not as much as the older boys and men. They were verbally abused and witnessed the torture and beating of other arrested men were subjected to. Arif was not registered as a minor during his arrest. At the time of writing, it is yet unclear whether Arif has been granted bail or remains in custody.

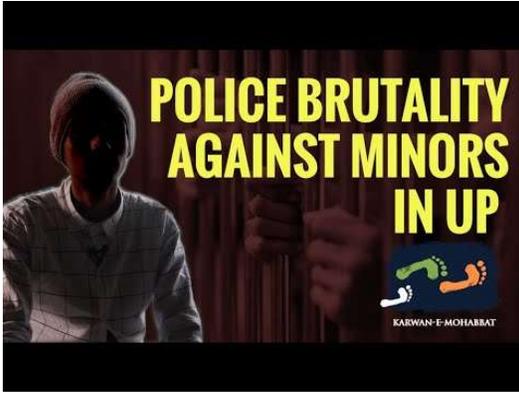
The design of the law somewhere acknowledges that in some instances the police and other authorities, in their complicity to violence against children, might not abide by these provisions for the protection and children and therefore empowers the Child Welfare Committees (CWCs) and Juvenile Justice Board (JJBs) to take suo-moto cognizance of crimes against children occur in their jurisdiction. However, in the case of UP, they have remained silent. Not just at the District level, but even monitoring agencies such the UP State Commission for Protection Child Rights (UPSCPCR) and the National Commission for Protection of Child Rights (NCPCR) have not issued even a statement despite the issue of illegal detentions of children having been brought to light by many media houses.

even after final disposal of the case, and such a claim shall be determined in accordance with the provisions contained in this Act and the rules made thereunder even if the person has ceased to be a child on or before the date of commencement of this Act.

(3) If the court finds that a person has committed an offence and was a child on the date of commission of such offence, it shall forward the child to the Board for passing appropriate orders and the sentence, if any, passed by the court shall be deemed to have no effect.

(4) In case a person under this section is required to be kept in protective custody, while the person's claim of being a child is being inquired into, such person may be placed, in the intervening period in a place of safety.

³⁹ **Section 3. General principles to be followed in administration of Act.**— (ix) *Principle of non-waiver of rights:* No waiver of any of the right of the child is permissible or valid, whether sought by the child or person acting on behalf of the child, or a Board or a Committee and any non-exercise of a fundamental right shall not amount to waiver



Watch:
<https://www.youtube.com/watch?v=qR4sEnLCr5s>

Suroor Mander testified that, “what the Protestors expected from the Police was not “*reham*” (mercy) or humanity, the expectation was simply for them to do their duty which was to implement the Constitution and the laws that flow from it”. This report will detail ahead the immediate and long term impact of this type of violence, however it is imperative to note here that the countless abuses against minors, some of whom are still in police custody, will leave scars that might never heal.

Vengeful governance: role of senior leadership and administration

The events in UP show that there is no dearth of communal sentiments within all ranks of the police. However, the CM and various other ruling party leaders' own communal speeches and stance have created an environment where violent hate against Muslims is condoned and welcomed. The unrestrained violence and breakdown of the state therefore were all possible due to an environment of impunity that has been created in the state.

At a press conference on 19th December 2019, UP Chief Minister, Yogi Adityanath swore revenge against those protesting the CAA by claiming that "those involved in violence are identified through video footage. *We will take revenge* by making them pay for damage to property⁴⁰". Subhashini Ali testified to the tribunal that the CM's statement was made before there were any clashes during protests in the state (including the protest on 13th of December). In her opinion, what the CM said was taken very seriously by many people in the administration thus enabling the police and other state machinery to incite violence against people. It is therefore not surprising that leaders such as MP Sanjeev Balyan in Muzaffarnagar, and BJP representative Laksmikant Bajpai in Meerut were present at the protest, actively investigating the police to crack down against peaceful protests.

Former IAS officer Harsh Mander testified that in such circumstances, it is very well within the mandate and capacity of district administrative officials to prevent violence from breaking out. In this case, the district administration not only failed to quell tensions, but also actively

worked towards facilitating it. It was reported by newspapers that in Gorakhpur, when the mother of a detainee enquired about her son, the ADM said that he should have been shot for being at the protests⁴¹. It was alleged by locals to members of the fact-finding mission in Meerut that the DM had ordered against allowing victims of police violence to be admitted to local hospitals for emergency care. It is therefore imperative to focus on command responsibility here, and hold those in higher ranks of the administration culpable.

The well-respected political scientist Nivedita Menon felt compelled after participating in a harrowing fact-finding in UP to conclude grimly, "*There is no doubt that the Muslim population of UP is held hostage by a criminal mafia consisting of the BJP government, the coercive apparatus of the State and local criminals.*"



Watch:
<https://www.youtube.com/watch?v=fODcgOLvPcc&t=22s>

⁴⁰<https://economictimes.indiatimes.com/news/politics-and-nation/up-cm-warns-of-revenge-against-vandals-says-will-auction-their-property/articleshow/72888605.cms?from=mdr>

⁴¹<https://theprint.in/india/in-yogi-bastion-gorakhpur-residents-say-police-strictly-obeying-cms-revenge-statement/342216/>

Erosion of medical ethics and morality

The complete breakdown of the medico-legal system following police violence in UP took the situation of unprecedented impunity and breakdown of legal systems to an entirely new level of frightening collapse.

In case after case, it was reported that emergency medical care was denied to those injured or shot during clashes with the police, doctors refused to treat patients and kept ushering them from one hospital to another, post-mortems were either not conducted, or when conducted families didn't receive the copies. Such grievous atrocities have caused extreme pain, suffering and long-term anxiety among UP's minority populations.

Denial of emergency medical care

On the 20th of December, Mohsin was shot on his chest by policemen during the firing. Once the family realised that Mohsin was killed, the ambulance they called refused to reach the site. Instead, they had to bring Mohsin to a separate location as decided by the ambulance driver. From there, the police accompanied the family. The fact-finding team heard that he was taken to Santosh Hospital, where the staff refused to admit him saying that they were ordered to not admit any victims of police firings. He was then taken to Medical College where he was declared dead on arrival. The police put pressure on the family to hurriedly bury the body; they didn't even allow time for his sister to attend the funeral. The family has not received the post-mortem report.

On the 20th in Tarapuri, Meerut, Zaheer was shot by the police. Police men had begun marching into his gali, and they

shot him from a 300m distance. The bullet went through one of his eyes. The family panicked and called 100 and informed them what happened, but nobody came. They called the number 112 for an ambulance, but no one turned up. Then they had to carry him to the hospital by themselves. They went to Lala Lajpat Rai medical college, where he was declared dead on arrival.

Health workers, including ambulance services, are frequently among the first to see victims of violence. In very few cases of violence are health workers not allowed inside to provide emergency care. The denial of emergency ambulance services and medical attention not only undermined the international commitments that the government of India had undertaken at the international level but also the Constitution of India, Article 21, Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations 2002; various judgments of the Supreme Court of India and decisions of the National Consumer Disputes Redressal Commission.

Every doctor, whether at a government hospital or otherwise has the professional obligation to extend his services with due expertise for protecting life. Every medical professional agrees to abide by the general guidelines of the Indian Medical Council Act, 1956. This states that, in emergencies, resuscitation and stabilization of the patient will be carried out first and medico-legal formalities may be completed subsequently.

As per Supreme Court, all hospitals both in the government and in the private sector are duty bound to provide basic Emergency Medical Care, and injured persons have a right to get Emergency Medical Care⁴². It is the duty of the

⁴²<http://lawcommissionofindia.nic.in/reports/rep201.pdf>

hospital management to ensure provision of such emergency care through its doctors and staff, rendered promptly without compromising on the quality and safety of the patients.

In Sambhal, Shehroz was taken to one Sewa hospital where he was denied treatment and referred to Asian hospital. Asian hospital informed his father that the bullet hit his stomach and he had lost a lot of blood; they referred him to TMU hospital in Moradabad. Shehroz died on his way to TMU Moradabad. After that, his body was taken to Sambhal hospital for post-mortem and his final rites were performed that 2 A.M in the night. The family of the deceased has still not received the copy of PMR.

In town after town, fact-finding teams met with families of victims who had ferried their injured family members from hospital to hospital because they were being denied medical care. Several of the victims of bullet injuries succumbed to their wounds when in fact timely and adequate medical care could have prevented these deaths.

In Firozabad, members of the fact-finding team learned that the Government Medical College denied the treatment to the injured claiming to be following orders from the administration. Treatment was even denied to people with bullet injuries. Further, the Medical College referred all the injured to SN Medical College, Agra, who again referred the injured to AIIMS and Safdarjung for further treatment. The delay in providing crucial emergency care led to the death of three people in AIIMS and Safdarjung.

Dereliction of medical duty by health care professionals

The principle of non-discrimination seeks “to guarantee that human rights are exercised without discrimination of any kind based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status such as disability, age, marital and family status, sexual orientation and gender identity, health status, place of residence, economic and social situation⁴³”.

This principle is also reflected in Indian law. Every patient has the right to receive treatment without any discrimination, based religion, caste, ethnicity, gender, age, sexual orientation, linguistic or geographical /social origins. The hospital management has a duty to ensure that no form of discriminatory behaviour or treatment takes place with any person under the hospital’s care. “It is imperative that a physician provides high quality care with a neutrality that is extremely important, and impartiality expected of him. Every physician has a responsibility to see the human being behind the suffering, nothing else. The medical profession is duty bound to provide medical care” testified Dr Mathew Varghese. These principles have been clearly violated by the entire medical system in several places in UP.

According to his family, Mukeem was on his way back from work when he was shot in the stomach in the police firing in Firozabad. They took him to the Firozabad Trauma Centre where instead of providing him emergency medical care, he was referred to a hospital in Agra. Here too, he was admitted for two days without any medical treatment whatsoever. The family says that Mukeem’s life could have been saved had there been a timely and attentive

⁴³<https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health>

administration of medical services. His family claims that for the two days that he was in Agra, his wound was not even cleaned and bandaged properly, and the doctors kept denying more medical attention.

They told members of the fact-finding team that he was stripped of his clothes with not even given a blanket to cover his body and his wound was taped with a piece of plastic. The family was only allowed to meet him once a day. When he was finally referred to be taken to AIIMS in Delhi, the police and the doctors did not let anyone from the family to be with him in the ambulance. The family claims that his medical treatment only started in earnest in Delhi but it was too late by then. The infection from the gunshot had spread all over his body. The doctors in Delhi told that had Mukeem been given proper and timely medical treatment he would have been alive today. Mukeem died of his wounds on 24th December 2019 for which his family still awaits the post-mortem report. His family alleges that police personnel regularly visit their home only to harass them for hours to sign some undeclared documents.

The fact-finding team in Meerut was told that the orders had come from the DM himself to deny admission of those injured in and around the protests. The doctors whom the fact-finding team spoke to reported that although many have been injured, several of them have not sought medical help since the police were often present in the hospitals and have even gone looking for the wounded to intimidate them against seeking medical assistance. In other areas, fact-finding teams were told that doctors had been intimidated and threatened by police against providing aid to those injured and were told that their licences would be revoked if they provided medical treatment. In response to this claim, Dr Mathew Varghese testified that “the threat of revoking licenses by state authorities

is a false threat, the doctors should have known that. No authority other than the state medical council or the national medical council has the right to revoke license. No one else can do it.” In other cases still, the doctors themselves, exercising their bias against protesters denied medical care. The fact remains that whatever the cause, the doctors and other health care professionals went completely against the terms of their duty in doing this.

In the case of Danish in Muzaffarnagar, the district hospital authorities asked family members to take the patient to Meerut the next day after wasting an entire night. It was reported by his family members that had medical attention been provided, some of the people who were killed could have survived. They were scared to travel to Meerut as there were reports of violence coming from there too, and they were afraid that they would end up being targets themselves. So, they went to a private hospital in Muzaffarnagar and got the injury treated. They have received no monetary assistance from the government or anyone else yet.

Break down of medico-legal services and procedures

It has already been alleged that the police and the state are denying access to the post-mortem reports and in some cases failed to conduct a post-mortem despite the fact that the victims died in suspicious circumstances and gunshot wounds. However, health facilities too have a role in ensuring that treatment is provided and that the patient or their caregiver has the right to access originals/ copies of case papers, indoor patient records, investigation reports. It was further attested by Dr Mathew Varghese, that there is enough legal precedent to confirm that every patient who has got care in a hospital has the right of access to their medical records.

For a majority of the fatal cases in UP after the police clashes, no post-mortem reports have been given to the family of the deceased. In fact, Subhashini Ali testified that of the three families who have been given reports, the cause of death has been attributed to “bullet injury”. No additional details have been mentioned. As a result, for all the other people who have been killed, the government is not going to give compensation, but crucially, the families are not able to file any cases against police due to the lack of post-mortem reports.

In Noor Mohammed’s case, his family informed members of the fact-finding mission that police did the post-mortem but a copy of the report was never given to the family. The following day around 6 AM the family got the body back. The body was accompanied by 20-50 police jeeps and was asked to bury immediately.

For Aasif from Tarapuri, Meerut, although the post-mortem examination was done, it was done under hurried circumstances. According to his family, it has not been done thoroughly, with details of his bullet injury omitted. Asif’s post-mortem was done long before the family could get there, even though law requires a family member to be present. In Mohsin’s case, the police tried to convince the family that post-mortem examination was not necessary, after first trying to not let the family access Mohsin’s body at all.

There are only few cases that fact-finding teams could get access to among the many across the state. It clearly demonstrates that medical

professionals have, along with the police, been complicit in destroying evidence of crimes committed. It is the duty of medical professionals to conduct adequate, timely and accurate post-mortem reports. This is a crucial recourse for victims, especially in cases where the members of state authorities have perpetrated crimes. This report has previously detailed how medical practitioners have also not provided victims medico-legal certificates, therefore not collecting crucial forensic evidence. By denying families this, medical professionals in UP have denied families their right to justice.

The trauma of being denied medical care, legal recourse and the freedom to grieve is immense and long-lasting. Justice A P Shah, a jury member of the people’s tribunal, upon hearing testimonies of medical negligence commented that this was an “extremely serious issue and this level of denial of medical services doesn’t even happen in times of war!



Watch:
<https://www.youtube.com/watch?v=i467ojktSRQ>

Living with violence: Impact on survivors

The grave violations committed by the police and medical professionals causing a complete breakdown of all legal and medical structures has serious long-term impacts on the community at large. This section of the report will delve deeper into the possible impact on livelihoods and long-term economic health of the community, as well as the impact on mental health.

Impact on livelihoods and economic consequences

For the most part, the victims of police firings were young Muslim men from poor backgrounds, who were also the sole breadwinners in their families and are survived by wives, young children and elderly parents.

Zaheer in Meerut was a working-class man residing in Tarapuri who was chased and shot by the police on the 20th. He sold cattle fodder for a living and lived in a small two storeyed building. The family is yet to repay the debts that they incurred in constructing this house.

This report has demonstrated how, due to the lack of post-mortem reports, wrongly filed FIR's, and the police denying firing on innocent civilians, the threat of counter cases and various other medico-legal failures have worked together to ensure that Zaheer and his family are unlikely to receive any compensation from the government for his death. Thus pushing the family, and countless others, into further economic distress.

In Meerut, members of the fact-finding mission found that Mohsin is survived by his wife, two children and widowed mother. The younger child, only four months old, is suffering with pneumonia at the moment. He was the sole bread

earner of the household, as his brothers live away.

Dinesh Abrol testified that during his visit with a fact-finding mission to Muzaffarnagar, it was reported that the police specifically targeted the homes of 'well-off' Muslim families and their shops and businesses (including pharmacies). Several families have incurred direct losses adding up to lakhs of rupees.

In fact, in a complete reversal of natural justice, the UP government has slapped thousands of recovery notices for damage to property on victims themselves. Nonetheless, the fact remains that families are left with completely destroyed homes, shops and vehicles, things that might have taken years to accumulate, and no legal recourse to hold those accountable. The question of state compensation is so far, and so unlikely that it seems almost futile to demand it at this point.

Impact on mental health

"Prashasan ka dar hai" "hum sab mazdoor hai idar, sarkar se kahan ladenge" said one of the men in the community. A mother of the deceased complained of not being able to sleep because everyone is scared that the police might come to pick them up. There is abject fear throughout the community.

The violence and destruction have resulted in absolute fear in the community. It is significant to understand that when the state is the perpetrator themselves, there is no sense of security for those affected. This only makes them more susceptible to severe mental and physical illnesses. The violence has led to long-lasting trauma, lack of sleep & appetite and left victims feeling directionless as to how to proceed with their future.

During one of the fact-finding visits, a mother in tears said, “*Police ke naam sunke bache bahot ghabra jathe hain aur raat ko lipat ke chote hoke sote hain. Bahar bhi nahi nikle*” (Children get very scared when they hear of the police, they don’t even leave their homes of fear). Women were saying that they couldn’t eat or sleep because of what had happened. As most of those who died were the sole breadwinners of their family, the women have been left with their children with not just emotional distress but also to carry the economic burden to sustain their lives.

When one individual experiences structural trauma, i.e when violence has been initiated through the structure they are a part of, the community at large also gets affected. People lose a sense of security and belonging during these instances. Trauma further spreads not just amongst the community but travels intergenerationally. Taking cognisance of this the jury of the people's tribunal, that included a prominent psychologist Dr Anirudh Kala, warned of the possibility of large scale Post Traumatic Stress Disorder in UP’s Muslim population if adequate measures are not implemented to address the trauma caused by this incident.

Families and entire neighbourhoods in many locations visited by fact-finding missions reported being in a constant state of fear that the

police will come anytime to either enter their homes and destroy property or pick up young boys. Members of the fact-finding team in Meerut heard that community members have been patrolling their streets to warn families of any further police attacks, and young men have been largely staying indoors after dark to avoid being targeted. This is especially potent for young children in the community. Harsh Mander testified that in many areas he visited, he met families who claim that their children are unable to sleep and get scared and cry every time they see a khaki uniform.

“He keeps asking us if the police will arrest him. We tell him he has done nothing and has nothing to worry about. But he is only 13, so of course he will be petrified. Even if a police car passes by our home, or if he hears a police siren — he starts having anxiety.” another sister added” (Family member of a minor who was arrested in Gorakhpur)⁴⁴

While talking to members of the fact-finding team in Sambhal, the men broke down several times. They were in shock and unable to make sense of the cases against them. They were also painfully aware that they were being targeted as Muslims, and one of them said “*Where are we to go? This is our country, isn’t it?*”

⁴⁴<https://theprint.in/india/in-yogi-bastion-gorakhpur-residents-say-police-strictly-obeying-cms-revenge-statement/342216/>

Reversal of natural justice: Recovery notices

The UP police, seemingly following the statements of UP CM Adityanath to “seek revenge” on those who have damaged public property during protests, has sent recovery notices to over 400 people without any investigation. 56 people in Sambhal, 200 in Firozabad including a notice served to an old man who died six years ago and another 90 year old person who has been confined to bed for the last many years, 46 in Muzaffarnagar and 134 in Meerut, 28 people in Rampur, 33 people in Gorakhpur and various other places to claim damages.

"Notices have been issued to 28 people who have been identified for violence during the protests. They have been given seven days' time to respond why action should not be taken against them, failing which, proceedings will be initiated to recover money from them for destruction of public and private property," District Magistrate Rampur Aunjaneya Singh told reporters on 25th December 2019⁴⁵.

In Lucknow, Prime Minister Narendra Modi slammed those who damaged public property during protests, saying they should introspect. "They (the vandals) should ask themselves if it was right. Whatever was torched, was it not of their child's use? What has happened to those common people and policemen who got injured?" Modi asked. He said he wanted to tell those who damaged public property "not to forget that rights and duties go hand in hand"⁴⁶.

The Prime Minister's statement made no mention of those who had been shot and brutally beaten up during the protests, neither of the role of the police is vandalising and

destroying public property even though there is ample CCTV footage confirming the same. This indicates that, from the highest level of government, there is a clear bias against those protesting the CAA/NRC. Ironical that the Prime Minister should remind people “not to forget that rights and duties go hand in hand” when the very police and medical professionals, backed by state administration in a state ruled by his party, perpetrated some of the most brutal violence against innocent people.

In Ferozabad the Fact Finding team met the family of Banne Khan who received a notice to furnish personal bond of one lakh as a follow up action following arson and violence in the city. Banne Khan died six years ago at the ripe age of 94! The Fact Finding team also met a 92 year old man who suffered from dementia and had been confined to bed for the last many years. He too received a notice to furnish a bond of one lakh.

In Firozabad, the families of some of those who were served notices told the Indian Express that they are daily wage labourers who were working when the violence was reported. Most recipients of the notices were in jail. A similar story unfolded in most of the locations that fact-finding teams visited.

Following the footsteps of Uttar Pradesh, Karnataka, Gujarat and Delhi governments are also trying to recover the costs of the damaged public property by enacting a legislation which will seize the properties of those involved in damaging public property⁴⁷. Thus setting an extremely dangerous precedent that might deter

⁴⁵<https://economictimes.indiatimes.com/news/politics-and-nation/anti-kaa-stir-notice-to-28-people-for-recovery-of-rs-25-lakh-for-damage-to-property-in-rampur/articleshow/72966921.cms?from=mdr>

⁴⁶[https://economictimes.indiatimes.com/news/politics-and-nation/anti-kaa-stir-notice-to-28-people-for-](https://economictimes.indiatimes.com/news/politics-and-nation/anti-kaa-stir-notice-to-28-people-for-recovery-of-rs-25-lakh-for-damage-to-property-in-rampur/articleshow/72966921.cms?from=mdr)

[recovery-of-rs-25-lakh-for-damage-to-property-in-rampur/articleshow/72966921.cms?from=mdr](https://economictimes.indiatimes.com/news/politics-and-nation/anti-kaa-stir-notice-to-28-people-for-recovery-of-rs-25-lakh-for-damage-to-property-in-rampur/articleshow/72966921.cms?from=mdr)

⁴⁷<https://indianexpress.com/article/cities/bangalore/kaa-protests-karnataka-mulls-following-up-in-making-rioters-pay-for-damage-6186943/>

dissent in the future for fear of being asked to pay for any damages caused.

Reversal of Natural Justice

Vrinda Grover⁴⁸ testified that whereas “usually the state machinery takes its own time to do the most minimal thing, in UP the recovery notices were issued in remarkable time and very efficiently”. Further remarking that “the basic principles of natural justice have been completely done away with when submitting recovery notices. Whereas the burden should be on the state to prove that someone has damaged property, here the burden has been shifted onto citizens to show that they have not damaged property.”

There has clearly been no investigation into whether the people who have been sent notices were actually involved in the damage to property. A local journalist in Muzaffarnagar told members of the fact-finding team that 72 people have been served recovery notices for property damage of 78 lakhs. However, there is no clarity on how these 72 names were arrived

at. It was his understanding that the serving of recovery notices is yet another form of revenge that has been used against people who speak out against the government and its policies.

These recovery notices are further being used to deny people bail. It was reported that around 925 persons arrested in connection with violent protests may not get regular bail easily till they pay up for the losses as they have to be given “conditional bail” only after they deposit the amount, the petitioner submitted⁴⁹. There is ample evidence to show that the recovery notices were arbitrarily sent. For example, it was reported that such a notice was also issued to a man who died six years ago at the age of 94, along with several other people who were over 85 years of age⁵⁰. After listening to testimonies during the people’s tribunal, the jury concluded that “Obviously, this (recovery notices) cannot be done without establishing the culpability of the person in a court of law. These are intimidating and illegal tactics being employed by the police”.

⁴⁸ Vrinda Grover presented her testimony during the People’s Tribunal on State Action in UP held on 16th January 2020

⁴⁹<https://www.tribuneindia.com/news/damage-to-property-during-anti-kaa-protests-sc-notice-to-up-on-plea-for-quashing-recovery-notices-34059>

⁵⁰<https://www.tribuneindia.com/news/damage-to-property-during-anti-kaa-protests-sc-notice-to-up-on-plea-for-quashing-recovery-notices-34059>

The patterns of violence continue

The violence and state repressions of protests continued in UP well after the events on 19th and 20th December 2019. On the 19th of January 2020, about 50 women gathered for an indefinite sit-in against the CAA at Lucknow's iconic clock tower⁵¹. The crowd swelled by the next night as scores of women and children joined the demonstration. A mobile phone video shot by a protester showed a police officer who, it seemed, had confiscated their blankets in an attempt to disperse the crowd. Dozens of protesters have been identified and accused of "rioting" and "unlawful assembly" in three criminal cases filed by the Lucknow Police.

The Lucknow Police gave an unconvincing and strange clarification - "At the clock tower in Lucknow, during an illegal protest, some people tried to pitch a tent and they were denied permission. Some groups were distributing blankets in the park and many people who were not even part of the protest, came to take the blankets. We had to disperse the crowd there. The blankets were seized after due process. Please don't spread rumours⁵²".

Parallely, rallies in favour of the CAA have been allowed to take place with full support of the UP police. The Union Home Minister Amit Shah addressed one such rally in Lucknow on 21st January, the third pro-CAA rally by the

BJP in Uttar Pradesh. Rallies have been held in Varanasi on January 18 and in Gorakhpur on January 19 where other prominent members of the ruling party have given addresses. Representatives of the government have also simultaneously argued that 'opposition parties are misleading the people' and that the 'CAA will not affect any citizens'. Further, Mr. Adityanath accused the opposition of trying to "spoil the atmosphere" through propaganda by pushing women to the forefront. Paying no heed to the scale of dissent and the sacrifices citizens have had to make to exercise their rights, he said "Let me say this here and now, this law will not be withdrawn, no matter who protests"⁵³.

The indiscriminate detentions also continue. As of 3rd February 2020, the Uttar Pradesh police has arrested 108 persons associated with the Popular Front of India under charges of inciting violence during the protests on 19th and 20th December 2019⁵⁴. So does the specific targeting of activists and community leaders. In December 2019, the Uttar Pradesh Police had sought a ban on the PFI after its complicity was suspected in the state wide violent protests against the amended Citizenship Act. Further counter cases have also been lodged against the activists who testified at the Tribunal.

⁵¹<https://www.thehindu.com/news/national/other-states/up-police-accused-of-stealing-blankets-of-women-cao-protesters/article30598986.ece>

⁵²<https://www.ndtv.com/lucknow-news/citizenship-amendment-act-accused-of-seizing-food-blankets-at-protest-lucknow-cops-clarify-2166277>

⁵³<https://timesofindia.indiatimes.com/india/despite-protests-cao-will-not-be-withdrawn-amit-shah/articleshow/73481252.cms>

⁵⁴<https://www.thehindu.com/news/national/other-states/108-popular-front-of-india-supporters-detained-in-uttar-pradesh/article30725964.ece>

Conclusion

“We seem to be proceeding under the assumption that some system is still prevalent in the State of UP. This is why we are all searching for answers. Based on the testimonies and videos, it appears that there is a collapse of liberal constitutional values in the entire state of UP... We constantly talk about economic recession; this is a case of democratic recession. This is to me a terrible situation.”

Just. Sudarshan Reddy (Retd.), Supreme Court of India, and Jury Member, People’s Tribunal

On hearing victims’ testimonies and the fact-finding teams’ reports, the jury said it was “deeply worried and dismayed”. It stated that it is “convinced that the entire state machinery, led from the top, acted with grave prejudice and perpetrated violence targeting one particular community, the state’s Muslim population, and the social activists leading the movement.” The jury came down heavily on the police, saying not only had it indulged in violence, it had also filed false cases against Muslims and activists, beat children and minors in custody, and preventing medical personnel from treating the injured. The jury also added that the authorities’ decision to impose a ban on the assembly of more than four people or Section 144 of the Code of Criminal Procedure in several districts, snapping internet services violated people’s rights.

Over 19 young men have been shot by the Uttar Pradesh police men and were further denied medical treatment in all the local and neighbouring hospitals. Many people testified that hospitals denied emergency medical aid to seriously injured victims, adding that this may have been done under pressure from the police and state authorities. The jury also took note of the prevailing anxiety within families of those impacted by the violence. It also condemned the alleged attacks on journalists, human rights activists and lawyers for speaking out against the injustice.

The Jury of the people’s tribunal decried that ‘the entire state machinery, led from the top,

acted with grave prejudice and perpetrated violence targeting one particular community, the state’s Muslim population, and the social activists leading the movement’. The intensely damning findings of the Jury may not in themselves have legal force, but they have high moral value, calling out the grave injustice and debasement of public office in Uttar Pradesh, and compassion and empathy with the suffering people targeted by the state violence.

This detailed report confirms every finding of the Jury, and supports it with detailed evidence. The report finds that the Chief Minister of UP indulges in culpable hate speech, and speaks openly of revenge against citizens of his state of a particular religious identity. The state administration is utterly intolerant of dissent, and has tried to crush it through massive banning of peaceful assembly and cutting internet. The police have been found to sometimes behave like a lynch mob, and also to chase and shoot both protestors and innocent bystanders with an intent to kill. They are also found to indulge in communal hate speech. Most regrettable, they have targeted children and minors with both violence and illegal lockups. They have engaged in both torture and sexual humiliation. Human rights defenders have been particularly and cruelly targeted. Medical personnel have also been found to be gravely culpable, both refusing treatment to people of a particular religious identity, and hiding or destroying evidence.

Overall, the report establishes that Uttar Pradesh is in the throes of what is fast threatening to become a gravely culpable crime against humanity. It appears that the Chief Minister Adityanath has declared war on the Muslim citizens of his state, inciting and encouraging his police forces to unleash upon them an unlawful and brutal reign of terror. It is not as though police bias and violence against minorities is unusual in communal violence, however what we are witnessing in Mr.

Adityanath's UP is the police force itself becoming the riotous lynch mob. What is unfolding in UP is on a scale and with a methodological deliberateness not witnessed so far outside Kashmir and the North-East, touching a highly dangerous new low.