

# **LYNCHING WITHOUT END**

**REPORT OF FACT FINDING INTO RELIGIOUSLY MOTIVATED VIGILANTE VIOLENCE IN INDIA**

## Published by

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Citizens Against Hate is a collective of individuals and groups committed to a secular, democratic, caring India. It seeks to provide practical help to victims of hate crime, and to counter, through research, outreach, advocacy and litigation, hate in all its forms. Constituents that took part in the fact finding study were:



- Aman Biradari Trust, New Delhi



- Anjuman Islamiya, Ranchi



- Quill Foundation, New Delhi



- Misaal, New Delhi

- Yuva Ekta Jagruk Manch, Nuh, Haryana

- Afkar India Foundation, Shamli, Uttar Pradesh

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This report is the result of fact finding investigation of lynchings and vigilante violence, conducted through July 2017. A large number of people contributed to its production. Johanna Lokhande, Sharib Ali, and Fawaz Shaheen helped design the fact finding study. Mangla Verma helped with field research, documentation and analysis - and supporting with litigation outputs. Practical assistance and companionship during field research was provided by Akram Akhtar (in Uttar Pradesh and Haryana), Mohammad Arifand Salman Ahmad (in Nuh, Haryana), and Tanweer Ahmad and Afzal Anis (in Jharkhand). Baljeet Kaur helped with additional documentation and analysis. Shikha Dilawari provided generous support with detailed comments and copy editing of the draft of the report. Mariya Salim helped proof read and copy edit the text. Ghazala Jamil provided helpful publishing contacts. Shahnaaz Khan coordinated design and publishing. Rizwan Khan designed the cover. Sajjad Hassan led the study and report writing.

# **‘NOTE ON REPRINT’**

## **CONTINUING VIGILANTE VIOLENCE AGAINST MINORITIES**

### **(FEBRUARY 2018)**

It has been almost six months since we released our report of investigation into recent cases of hate-inspired violence against minorities, especially Muslims in India - what are being called lynchings and vigilante violence. Regrettably, religiously motivated hate crimes have not stopped since, rather they seem to have moved to newer locales. Rajasthan has emerged as a major centre, as has Gujarat. Also notable has been the widespread support that vigilante groups seem to enjoy in society. This was exemplified in a most perverse way, when the accused in the most recent case of vigilantism – Shambhu Lal Regar, who filmed himself killing and burning the body of Mohammad Afzarul in December 2017, had a crowdfunding page created by his supporters to raise money for him. These social media actions were supplemented by actions on the ground, with large number of his Hindu right wing supporters, taking out protest marches in his support, unfurling Hindutva flags at the Udaipur district court complex and attacking the police. It also seems the state has little interest or appetite to halt this haemorrhage of hate, whether through speedy investigation and prosecution of the perpetrators of hate crimes, or through directly signaling to anti-minority vigilante groups that such crimes would not be tolerated. And only feeble attempts have been made by those with the authority to denounce such attacks. The state’s inertia goes to further reinforce impunity, common in hate crimes against minorities in India.

Since our report counted, in July-August 2017, 24 incidents of vigilante violence across the country, resulting in the death of 34 persons and rape of two women and 6 further Muslimmen have been killed in vigilante attacks – 2 of these have been in West Bengal (August 2017), 3 in Rajasthan (Sept, Nov, Dec. 2017) and one in Delhi (Sept. 2017). Around the same time, 3 dalits were killed in similar acts in Madhya Pradesh (Sept 2017) and Gujarat (Oct. 2017). The sites of vigilantism have spread from Haryana and West UP, to these other states. This was even as hate motivated attacks continued in these former states, although no killings have been reported in these months. 6 Rohingya refugees, all Muslims, two of them women, were attacked by mobs in Ballabgarh (Sept 2017), and a Muslim auto-rickshaw driver and his passengers were attacked in Faridabad district (Oct 2017), both Haryana. And 3 Muslim clerics were beaten up on a train, in western Uttar Pradesh’s Baghpat district (Nov. 2017). Interestingly, elections to Municipalities were held in West Bengal in August 2017, general elections to state assembly in Gujarat in December 2017, and by elections to state assemblies in Rajasthan and West Bengal in January 2018. It can be argued that perhaps killings were, yet again, being used instrumentally to polarize society, mobilise Hindu vote, and benefit political parties that gain from this consolidation.

The Supreme Court, responding to a Public Interest Litigation, directed all state governments in September 2017, to take measures to prevent vigilantism in the name of cow protection. It ordered appointing senior police officers as district nodal officers, to keep a close watch on vigilante groups. The court, soon thereafter, asked all states to submit compliance reports on the directions. But persistence of cow vigilante violence proves that the directions of the highest court in the country were not having much effect. In January 2018, the Court issued notices to three states – Rajasthan, Haryana and Uttar Pradesh – on a plea seeking contempt proceedings against these states, for not implementing Supreme court’s order on preventing violence in the name of cow protection. The hearing on that is pending.

## Access to Justice for victims.

Our study had revealed that access to justice for families of those killed and raped in vigilante attacks – almost entirely from poor vulnerable families - was proving to be an uphill task, across the cases, primarily because of the poor working of the criminal justice system for victims. Citizens Against Hate's engagement with survivor families, since the fact finding investigation in July 2017, reveals that this is still the case. Whilst some arrests have been made, there have been no convictions reported. The failures of the criminal justice system are systemic and consistent; our recent evidence only confirms past trends.

Investigations have been deliberately slow, evidence has not been gathered systematically and scientifically, and in most cases, influenced by political and social biases. In some cases, police cases have not been filed yet (Surajkund, Aug. 2013), despite survivor families having made attempts to get those lodged. This is the case involving 3 deaths (2 Muslims, 1 dalit) in lynching in Surajkund, Haryana. Where cases were initiated, they have also often been summarily closed, police claiming they have been unable to trace out the perpetrators (Panipat, Haryana, Aug. 2013). Elsewhere, the Police has dropped more serious charges against the accused, in its investigation reports (Karnal, Haryana, Dec. 2015, involving Police itself), and has also, as reported by families, tried to either intimidate family members to drop cases/or coerced them into doing a deal with the perpetrators.

In Mustain Abbas's murder (Kurukshetra, Haryana, March 2016), despite Punjab & Haryana High Court, severely censuring the police, and having transferred the case to the Central Bureau of Investigation (CBI) for investigation, CBI has, despite the passage of almost two years not arrested any one. In other case, where the accused have been arrested, most have got bail, quite easily. This includes case of Ghulam Ahmad (Bulandshar, Uttar Pradesh, 2017), killed in cold blood by Hindu Yuva Vahini member and the Ballabgarh lynching case where in Junaid Khan's case (June 2017), a senior government lawyer was pulled up by the court for helping the defence counsel. And bail applications by the accused have been contested only lightly.

Across all cases, investigation has been slow and labored, including by specialised central agencies – the CBI mostly – tasked by courts and state governments to avoid exactly such lacunae. And in some cases, the police as well as courts have also filed cases against the victims themselves - the deceased and injured – thus, putting to grave risk the chance of families obtaining justice. This is the case with Mohammad Akhlaq's (Dadri, Uttar Pradesh, 2015) and Pehlu Khan's (Alwar Rajasthan, 2017) lynching cases. There are also reports of witnesses being threatened (Ghulam Ahmad, 2017) and in some cases, already turning hostile, as in the case (Tahsin, 2015), where this resulted in the court passing a lenient judgement against the accused.

The practical difficulties of trying to obtain justice within India's already overburdened criminal justice system, are compounded by the fact that these are religiously motivated hate crimes, perpetrated by groups and individuals with strong networks and public support behind them. Fact that many cases are of an inter-state nature – survivor families belonging to one state, cases are going on in another – complicates the struggle for justice for survivors. This is further made difficult by the fact that survivors are all socio-politically and economically marginalised, and come from communities that are not organised, hence unable to sustain the long road to justice.

The silver lining in all this is the little civil society mobilization there has been to challenge rising hate crime and the structures that enable that. This is of course not without its challenges, as we saw in the case of Hindustan Times newspaper having pulled down its hate tracker portal, reportedly after the national

government pressurized it to do so. In the absence of any state attempt to document and track hate crime against religious minorities, this and the other efforts at tracking hate are the first steps in creating evidence and a counter narrative to the hate mongering rife in the country today. There are other civil society efforts too, to provide legal aid and support to victim families as well as to make duty bearers accountable, and for rule of law to be strengthened.

As situation worsens in the country, our conclusions today are the same as they were when we released the report. Unless drivers of hate crime are addressed, there is little hope for justice, both for survivors families and for justice, rule of law and inter-community relations in the country. We still recommend and demand:

- Speedy investigation and prosecution, and the rehabilitation of victims of hate crime.
- Appropriate action against perpetrators as per law, as well as action against the organisations and networks behind them. This is to include legal action against hate speech, and financing of hate groups and networks
- End of state patronage to groups perpetrating these crimes. Strong denunciation of these acts – without the rationalisations- by state actors and those in positions of authority
- Legislative:
  - o Scrutinize and reform laws that facilitate hate crime against minorities, such as those for cow protection and against religious conversions.
  - o Enact legislations to better deal with hate crime against religious minorities. Currently we have no hate crime law in the country for religious minorities
  - o Count and track hate crime against religious minorities

# LYNCHING WITHOUT END:

Fact finding investigation into religiously-motivated vigilante violence in India

September 2017



New Delhi

# TABLE OF CONTENTS

*Executive summary*

*Abbreviations*

*List of Boxes*

*List of Tables*

*Conversions*

1.	Introduction: Religiously-motivated vigilante violence in India - The context	14
1.1	Mob violence and lynchings in India	14
1.2	The phenomenon	15
1.3	What is new about the recent lynchings?	16
1.4	What numbers are we talking?	18
1.5	What explains their persistence?	20
1.6	How the law facilitates violence against minorities?	21
2.	Fact finding objectives, Methodology, and data collection	25
3.	The Findings:	27
3.1	Hate attacks: The geography, mechanics and the drivers	27
a.	Cross-border cases	31
b.	Role of Police in the violence	32
3.2	The legal process	34
a.	First Information Reports	36
b.	'Cross Cases'	36
c.	Action against the accused	37
d.	Investigations by Police	38
e.	Trial and Intimidation	40
3.3	Relief and restitution	40
a.	Compensation	40
b.	Legal Aid	41

4.	Conclusion	41
4.1	‘Communal riots’ vs Lynchings	41
4.2	Access to Justice	42
4.3	Hate crime laws in India	43
5.	Recommendations	44
5.1	For state parties	44
5.2	For civil society	45
5.3	For international community	45
	<b>References</b>	46
	<b>Annexures</b>	49
I	Reported cases of hate crimes committed after the fact-finding study	49
II	Further cases of targeted attacks/‘encounters’ we came across	50
III	State cowprotection laws – a comparison	51
IV	Schedule of interview questions, and checklist of documents collected	54
V	Status of mob lynching and vigilante violence cases investigated – detailed	57



## EXECUTIVE SUMMARY

1. This is a report on hate-inspired violence against minorities in India – these crimes variously called lynchings, vigilante violence, murders - of which there has been a spate in recent times. An overwhelming majority of these attacks have been against Muslims, although Dalits too are targeted often. Most of these are bovine (cow and beef) related, with vigilante groups who consider the bovine, holy, accusing victims of smuggling cattle, slaughtering cows, possessing beef, or just being beef eaters. Worth noting here is that India has strict laws against cow slaughter and for their protection with twenty four states in India already having some sort of a law either prohibiting or limiting the slaughter of cows and other cattle. But vigilantism against minorities is not limited to cow and beef. Inter-faith couples and their relatives have been the target of many attacks, as have some Muslims who have been lynched without attributing any specific offence to them.
2. The study sought to understand the circumstances of the violence in all cases of attacks that resulted in death and sexual violence and to identify the perpetrators as well as the networks behind them. More importantly, the investigation sought to shed light on the post violence actions of law enforcement and prosecution agencies and to document the working of the criminal justice system for victims of hate violence. The findings are depressing, representing the failures of the state, both of omissions and commissions, with regard to the victims.

### Findings:

3. The violence
  - 3.1 According to a recent count, there have been 24 incidents of lynching and vigilante violence, resulting in the murder of 34 persons and rape of 2 women, in recent years (mostly 2015 onward), almost all of the victims belonging to the minority Muslim community. The bulk of these were in Haryana (9killed, 2 raped), Uttar Pradesh (9killed), and in Jharkhand (8 killed). West Bengal has been seeing a consistent increase (5killed, including two after the study) in hate crime numbers as well.
  - 3.2 94 per cent of deaths took place at the hands of vigilante groups – members of Hindu extremist groups. In majority of the cases these involved Gau Rakshak Dals (Cow Protection Units) – vigilante groups, in many cases, their existence linked to governments’ efforts for cow protection. 91 per cent of these attacks were bovine related, i.e. involved accusations of smuggling cow and other cattle, or of possessing or habitually consuming beef.
  - 3.3 On the whole, cases in Haryana were more in the nature of directed vigilante attacks, by Gau Rakshak Dals on cattle traders on main national and state highways. Elsewhere, for eg. those in Jharkhand, West Bengal, and Assam, all bovine related, were more typically mob lynchings, involving large congregations. But even in these cases, the violence was planned and instigated by organised vigilante groups.
  - 3.4 The victims in all cases were poor backward caste Muslims identifying themselves as Qureishi, Meo, Gujjar, and Ansari, mostly those who traditionally make a living by engaging in animal husbandry, dairying, and in the meat supply chain sector.
4. Role of police in the violence
  - 4.1 The role of the police in violating the right to life of victims, involved both acts of omission as well as commission. Mostly, police forces failed to protect victims many of whom were lynched

publically, (eg. Alimuddin Ansari, June 2017), in some cases despite prior requests for security having been made by the victims (Ghulam Mohammad, May 2017). Police inaction, both to protect as well as take action against perpetrators also emboldened the latter, resulting in repeated attacks resulting in deaths. (Tehsin, March 2015; and Mohammad Akhlaq, Sept 2015).

4.2 But police complicity goes beyond omission to also failures of commission in the attacks. These included police's collusion with extremist group members in the murders (Minhaj Ansari, Oct. 2016), as well as the many instances of Gau Raksha Dal's (GRD) fatal attacks, with police in toe (eg. Khushnud Khan, Dec 2015). Many of these cases of police involvement, either as active members or mute spectators to fatal attacks are from the province of Haryana. This is also where state efforts for cow protection (laws and structures), have provided a formal role to private bodies and networks, including gau raksha dals, with documented instances of anti-minority violence, resulting in private vigilante groups acquiring quasi-formal authority.

## 5. Investigation and prosecution

5.1 Of all the cases we looked at, two murders (Arif Qureishi's, and Farid and Sher Singh, August 2013), had not been registered as murders with the police at all. In their place, both have 'cross cases' registered against the victims and witnesses themselves. Without a formal entry, no murder can be said to have taken place and no investigation is warranted. Elsewhere, survivor families have had to struggle hard to get murders recorded as such. Mustain Abbas's family (March 2016) had to approach the High Court for directions to the police, and Anas Qureishi's family (Aug 2015) had to undertake appeals to higher authorities and protest for the simple act of filing an FIR for the murders to be formally recorded and for investigation to begin.

5.2 There were other problems too with the FIRs – in several cases, the murders were recorded not under relevant sections of the law, but under lighter offences. In almost all cases, even where murders had been recorded, parallel 'cross cases' have also been filed against victims and witnesses, mostly under cow protection laws (eg. Tehsin, March 2015). Cross cases act as disincentives (due to fear of police harassment) for family members to have the murders of their wards investigated and justice obtained. Many FIRs also did not name the assailants, rather recorded them as 'unknown' (eg. Junaid Khan, 2017).

5.3 Police action against the accused in murder cases have generally been tardy. Named accused have not been arrested (eg. Anas Qureshi et al, Aug. 2015). Those arrested have obtained bail without much resistance from prosecution. (eg. Mohammad Akhlaq, June 2015). In some ongoing cases, survivors and witnesses are being reportedly harassed and threatened. (Mazloom Ansari et al, March 2016). Investigation by the police has been evidently slow with charge sheets not submitted by police to the magistrate within stipulated timeframe. This contributes to the accused obtaining bail easily from courts. This includes cases transferred to central investigating agencies - the Central Bureau of Investigation. (Mustain Abbas, March, 2016; Ibrahim et al, Aug. 2016).

5.4 Most cases have yet to reach the stage of trial – investigations, police filing of charge sheet, and courts framing charges are processes that have prolonged. (eg. Akhlaq's, Sept 2015, where the accused are deliberately delaying framing charges). Where trials have begun, the early signs are not encouraging. Of all the cases, Tehsin's (March 2015), is the only one where the trial court has passed a judgement - awarding imprisonment to the main accused, and acquitting the other three. Neither the prosecution nor the family has challenged this.

6. Compensation has been a distant dream for victims of lynchings and their families. It has also been very erratic across provinces. Of the 7 cases of lynchings in Haryana, only 2 (Ibrahim et al, Aug. 2016; and Junaid Khan, June 2017) have been provided support, both monetary as well as in the form of government jobs. The others have attracted no government attention. Jharkhand has followed a more consistent policy, by providing, although very nominal, ex gratia relief to families. (Mazloom Ansari et al, March 2016; Minhaj Ansari, Oct. 2016; Alimuddin Ansari, July 2017). Those from other states have neither received any compensation nor any acknowledgement of their loss.

## 7. Conclusion:

7.1 Our rapid fact finding reveals serious flaws in the working of the criminal justice system for victims of hate crime. There are the usual flaws of police and prosecution omissions and commissions – sustained by bias and poor commitment to rule of law, rather than mere capacity and resource issues. There is also the specific role in this poor working, of the state formalising stringent laws against cattle transport and trade, as well as, in some cases, creating space for private parties to aid the police in enforcing those laws. Haryana’s wide-ranging instruments and practices aimed at bovine protection is perhaps the most advanced example of this, although other states particularly Gujarat and Maharashtra are not far behind. Besides aiding in anti-minority violence, these also severely limit the ability of victims to fight what are long drawn legal battles.

7.2 Impunity of state and private actors in cases of hate crime, including lynchings and vigilante violence – as a result of the poor working of the criminal justice system - ensures that hate violence persists. Ultimately, impunity is aided by the victims’ disadvantaged condition. They are too poor, unaware, unconnected, and demoralised, to pursue the legal cases strongly. The protracted police processes, lack of transparency, and the long delays in courts, means only those who have the resources and the optimism of seeing justice, will pursue it through to the end. In our interactions with families of those brutally lynched, not many have either.

## 8. Recommendations:

### 8.1 For state parties

- Ensure speedy investigation and prosecution of the perpetrators and instigators of lynchings and vigilante violence; also investigate inaction by police where relevant
- Ensure provision of relief and rehabilitation along with free and accessible legal aid to families of survivors
- Investigate hate speech and instigation of hate crime, and prosecute the guilty
- Revoke the centre’s notification, restricting trade in cattle
- Ensure states amend cattle protection laws to prevent the out-sourcing of law enforcement
- Enact hate crime law, stronger than existing provisions, and collect and publish data on hate crime, disaggregated by social groups and hate crime categories

### 8.2 For civil society:

- Document hate crime and hate violence; and report those to wider audiences
- Enable, through discussions and dialogue, acceptance in society for hate crime laws
- Advocate with stakeholders for safeguards against hate crime, and improved outcomes
- Legal awareness and legal training to victims/vulnerable communities on hate crime

### 8.3 For international community

- Encourage India to investigate and prosecute perpetrators and instigators of hate crime
- Support India to reform/strengthen its legal framework on hate and incitement crimes
- Encourage India to abide by its commitment to relevant international instruments

## Abbreviations

CBI	Central Bureau of Investigation
CrPC	Criminal Procedure Code
FIR	First Information Report
GGVB	Gauseva and Gauchar Vikas Board
GRD	Gau Raksha Dal
HRS	Hindu Rashtra Sena
HYV	Hindu Yuva Vahini
IPC	Indian Penal Code
PUDR	Peoples' Union for Democratic Rights
RSS	Rashtriya Swayamsevak Sangh
SHO	Station House Officer
SIT	Special Investigation Team
VHP	Vishwa Hindu Parishad

## List of Boxes:

**Box 1:** Lynching

**Box 2:** Hate Crime – Definition, Significance and international comparisons

**Box 3:** Hate crime law and hate crime statistics in India

**Box 4:** International and national instruments on right to life and against discrimination

**Box 5:** The criminal justice system in India – rights and procedures

## List of Tables

**Table 1:** Status of mob lynching and vigilante violence cases investigated – summary

## Conversions

One lakh/lac = 100,000

One crore = 10,000,000

Rs 84.68 = 1 Pound Sterlings

Rs. 64.13 = \$ 1

# 1 Introduction: Religiously-motivated vigilante violence in India - the context

## 1.1 Mob violence and lynchings in India

This is a report on hate-inspired attacks against minorities in India – these crimes variously called lynchings, vigilante violence, murders - of which there has been a spate in recent months. An overwhelming majority of these attacks are bovine (cow and beef) related, although there are other circumstances to these attacks, too. The immediate trigger for this fact finding study was the infamous lynching, on 22nd June 2017 of Junaid Khan, on a busy commuter train, around 40 Kms from the capital, Delhi. What struck everyone anxious about growing majoritarianism in India, was how, in this particular instance, members of the public in the coach – the site of the crime – participated in the lynching, and those at Asaoti railway station platform, where later on, a severely bleeding Junaid lay, stood as mere bystanders, none coming to the rescue of the victim and his associates. Clearly the environment had been primed for violence.

The Junaid case was a culmination of sorts, with lynchings and vigilante violence against minorities seeing a rising trend in recent years. This was followed just a few days later on 26th June 2017, by another lynching, perhaps more gory, of Alimuddin Ansari, on a busy road in Ramgarh town, in the state of Jharkhand in eastern India. The rising trend is the result of a certain legitimacy that these acts seem to have acquired in public minds. This is due to stricter cow protection legislation brought in over recent years, as also of impunity enjoyed by the actual perpetrators of the crime, and those that instigate it. Media reports describe how rather than taking swift action against perpetrators, law enforcement agencies act mostly against the victims themselves, booking them for violating cow protection laws. There is also little condemnation of the lynchings by those in positions of authority. This has resulted in the normalisation of this extreme violence against minorities. That victims are unable to obtain justice, also feeds into impunity that acts as a vicious cycle.

This study is imagined as a counter to that normalisation of violence against vulnerable minorities in India. We try, through looking at the reports of lynching and vigilante attacks, as well as visits to the families of victims, to document not just the attacks by vigilante groups and the circumstances leading to those, but more specifically to shed light on the working of the criminal justice system for the victims and for survivors to obtain legal justice, reparations and some closure.

**The rest of the report is structured as follows:** In the rest of this part 1, we introduce the phenomenon of vigilante violence and lynchings in India, explaining its key characteristics; showing how the current epidemic of these attacks is different from anything in the past, and also accounting for the numbers. Part 2 presents the report of the fact finding study. First, we summarise the attacks under review, describing their geography, and identify the attackers involved. We also provide a brief account of the role of police in these attacks. This is followed by the sub-section on the legal process – what must kick in after an incident of hate crime. Here we go through the process of reporting, based on our evidence, our findings on the process of registering complaints with the police, the cross-cases filed; police investigations and action, or rather inaction, against the accused, concluding with the trial process. In section 4, we provide some conclusionary remarks, opening out from the findings of the study to broader issues of hate crime against minorities, and the question of impunity, and finish with a set of recommendations.

## 1.2 The Phenomenon

Lynching is defined as putting to death (as by hanging) by mob action without legal approval or permission. (Merriam Webster). It stands for extrajudicial punishment - such as public executions - by an informal group, such as mob, to punish an alleged transgressor. At its core it is an extreme form of informal group social control, with a drift toward the public spectacle. (Wikipedia). Lynching is one form of vigilantism, itself the act of law enforcement undertaken without legal authority by a self-appointed group of people. (Cambridge English dictionary).

Junaid Khan's murder by a mob on a commuter train (June 2017, in Haryana province); Alimuddin Ansari's, by Gau Rakshaks (self styled cow protectors), on a busy street (July 2017, in Jharkhand); Pehlu Khan's, also by Gau Raksha Dal on a busy highway (May 2017, in Rajasthan); and that of the many other cases of vigilante violence in India recently, all fit the pattern – perpetrators are private gangs, that invite onlookers to join in, in dispensing ready justice, on victims accused by the mob of a crime with the act of the punishment itself committed in full public view. Indeed, in most cases, the attackers take pictures and videos of the attack, with them in it, and share it widely on social media platforms. The common accusation made against the victims is of possessing and eating beef and slaughtering cows.

In Hindu majority India, where cow is a revered animal, slaughter and consumption of beef are crimes, although until now, only lightly enforced. Muslims and Dalits, partly because they have no taboo against consuming beef, and also because it is cheaper than other meats and thus an affordable source of protein, commonly consume beef. Since Hindu right wing BJP took power in many provinces (through the 2000s) and in the centre (in 2014), with majoritarianism having gained ground, anti-cow slaughter laws have been more strictly enforced, and laws themselves made more stringent. Alongside, Hindu vigilante groups calling themselves Gau Rakshak Dal, enjoying the protection of the ruling party, have targeted Muslims and Dalits over cow and beef slaughter, consumption, trade and even possession. In these vigilante attacks, whether the victim actually possessed beef, or whether cows were actually being transported for slaughter, or even that cows were not involved, rather other forms of cattle – buffalo for eg – is not relevant. It is enough that Muslims or Dalits were involved somehow. Neither of relevance is the fact that if the cow laws are broken, it is for law enforcement agencies to take action, and not for private groups to dispense summary justice.

In the last few years, cow vigilantism has been the catalyst of much hate violence against Muslims particularly, across India. But there are other excuses too for vigilantism – such as the lynching to death of the elderly Ghulam Mohammad by Hindu Yuva Vahini (HYV) members in Bulandshahr district, Uttar Pradesh province (July 2017) for no other reason than being a neighbour to a Muslim boy who was in a relationship with a Hindu girl from the vicinity. In effect, much vigilante violence is about punishing Muslims in particular, the ostensible reason provided depending on the specifics of the case.

### Box 1: Lynching

The individual nature of the crime of lynching – the targeting of one person, lies in direct contrast with its wider impact on an entire group of people. It is with this aim that lynching was used so systematically to disempower Blacks in America through the 19th century. Ida B. Wells-Barnett, leader of anti-lynching crusade in the 1890s recognized lynching as attacks not only against individuals but also against the “peoplehood”, humanity and economic security of African Americans. Lynch mobs intended to instill fear in all African Americans, to enforce submission and racial subordination, and to “emphasize the

limits of black freedom.” (Litwack, 1998). Added to it the fact that lynching is a form of collective violence that can take place in a seemingly peaceful time further instills an undercurrent of fear. It is not committed in the garb of a riot or conflict, instead examples are made while normal life carries along uninterrupted, which means no one is safe at any time.

In what has been described by William Oliver as the “Inferiorisation Process” this physical violence was a part of “the systematic stress attack involving the entire complex of political, legal, educational, economic, religious, military, and mass media institutions controlled by Whites” (Oliver 1989). For minorities in India facing becoming the targets of such mob lynching, this process seems to be underway as well. The denouncement of the rule of law and mob justice, further their marginalisation and discrimination, the effects of which can carry over generations. Collective violence also degenerates the humanity of the perpetrator, committing extreme violence against a stranger, or a neighbour. This includes harmful defense mechanisms such as “diminish[ed] empathy for victims” (Nina Berman, 2014), which can lead to intensified violent behaviors and target victims outside the original group. Thus, what may be created is a growing group of desensitized people willing to take the law in their hands and commit brutalities against whoever they choose as their target.

### 1.3 What is new about recent lynchings?

Mob violence and lynching are not new to India, but rather have a long history in the country, often linked to historical injustices such as those related to the caste system. Mob violence has traditionally taken three forms:

- i. What is called ‘witch-hunting’, of mobs lynching mentally challenged women in parts of rural India, accused of stealing and sometimes murdering children, the Hindi term for witch being ‘dayan’. An estimated 2097 such murders were committed between 2000 and 2012 in at least 12 states of the country. (Bakshi and Nagarajan, 2017)
- ii. Historical caste violence against Dalits, including rape, murder, and other forms of physical attacks, all by mobs.<sup>1</sup>
- iii. Lastly mob violence during communal conflagrations, such as against Sikhs (1984), Christians (Kandamahal, 2009, and other times) and against Muslims, in Gujarat (2002), Muzaffarnagar (2013), and Baksa (2015), most recently.

But the current spate of mob violence and lynchings represents creation of a new category of violence and new targets – bovine-related mob lynching deaths. 97 per cent of these have occurred in the last 3 years, mostly after the BJP took power in the centre in 2014. 61 of the total 63 cases reported in the media, took place after enactment of revised, more strict, cow protection laws, and formation of cow protection squads (gau rakshak dals) in different states. 86 per cent of those murdered were Muslims. (Abraham & Rao, 2017)

According to the authors, “this recent spate of mob lynching indicates state indifference and a majoritarian denial of reality, that it is the deliberate persecution of minorities based on hate, an anti-Muslim feeling buoyed by the current RSS – BJP dispensation (Hindu majoritarian parties represented by the Rashtriyra

<sup>1</sup> Una case of cow lynching, where 7 dalit youth were publically flogged by Gau Rakshak Dals for skinning a dead cow in Gujarat (20 July 2016), was one of the first bovine related lynching.



Swayamsevak Sangh its political wing, the ruling Bharatiya Janta Party, and that a lynching is a majority's way of telling a minority population that the law cannot protect it". (Bakshi and Nagarajan, 2017)

## **Box 2: Hate Crime - Definition and significance, and International comparison**

"Any crime that is motivated by hostility on the grounds of race, religion, sexual orientation, disability or transgender identity, can be classed as a hate crime". It is usually violent, which occurs when a perpetrator targets a victim because of his or her membership (or perceived membership) in a certain social group. "Hate crimes are pernicious; they send the message that some people deserve to be targeted solely because of who they are or who they are believed to be. As such, they have impact over wider society, beyond that on individual victims. (Home Office, 2016)

Hate crimes have severe psychological consequences, principally:

- Impact on the individual victim
- impact on the targeted community
- Effect on other vulnerable groups
- Effect on the community as a whole.

Because these acts are thought to inflict greater individual and societal harm, they are also expected to provoke retaliatory crimes, inflict distinct emotional harms on their victims, and incite community unrest – these are fit case for penalty-enhancement hate crime laws to fight them.

Among good practice cases on hate crime laws, USA has a strong legal framework to combat hate crime. Besides several state laws, there are strong federal laws, specifically:

- The Civil Rights Act, 1968, that created the hate crime offence, on grounds of race and religion
- Shepard and Byrd, Jr. Hate Crimes Prevention Act, 2009; that expanded coverage to sexual minorities,.
- The Violent Crime Control and Law Enforcement Act, 1994. This enables increased penalties for hate crime
- Hate Crime Statistics Act, 1990, which requires state authorities to collect and publish hate crime data

Similar is the case of the UK. The specific laws there include:

- Public Order Act, 1986
- Protection from Harassment Act 1997
- The Crime and Disorder Act 1998
- Criminal Justice Act 2003 (Sections 145 & 146), this last has provisions for enhanced sentencing

Source: UK Hate Crime Action Plan 2016 (Home Office. 2016) & Wikipedia

## 1.4 What numbers are we talking?

There is no official count of lynchings in India - national and state crime records data do not distinguish between general crime and cow related or lynching violence. Infact, there is no count of hate crime too – those motivated by prejudice against identity groups. (see Box 1). In the absence of official data, we must rely on private sources.

A recently created dataset –the Hate Tracker – on hate crime (defined by the source as “acts of violence, threats of violence, and incitements to violence based on religion, caste, race, ethnicity, region of origin, gender identity and sexual orientation”), based on English media and civil society reporting, records 132 hate incidents (including 35 murders) across India since 28 Sept. 2015. (Hindustan Times, 2017a). These include honour killings against women, atrocities against Dalits, and cow-related lynchings, mostly against Muslims.

Another recent dataset, speaks more directly to bovine related violence. (Abraham and Rao, 2017). This data, based on content analysis of English media, contained in the India Spend portal records 63 incidents of bovine-related attacks, over an eight year period (2010-2017, upto June 25) in which 28 persons died, and 2 were raped. The attacks included mob lynchings and violence by vigilante groups. Muslims were the target of 51 per cent of the violence, but comprised 86 per cent of those killed. Dalits were the target in 8 per cent of the attacks, Hindus 14 per cent, Sikhs 5, Christians, 1. In 20 per cent of cases, religion was not known, or not mentioned. As many as 124 persons were also injured in these attacks.

Notably, 97 per cent of these cow-terror attacks were reported after Prime Minister Narendra Modi’s Hindu-nationalist Bharatiya Janata Party (BJP) took power in the centre, in May 2014. (Abraham and Rao, 2017). Just over half of the cases of cow-related violence – 32 of 63 incidents – were from states governed by BJP, when the attacks were reported. Bovine related attacks are widely spread out across the country - reported from 19 of 29 Indian states, with Uttar Pradesh (10), Haryana (9), Jharkhand (6) Gujarat (6), Karnataka (6), Madhya Pradesh (4), Delhi (4) and Rajasthan (4) reporting the highest number of cases. These were also states where BJP was in power, or where not, it was running winning election campaigns.

More than half (52 per cent) of these attacks were based on rumours, specifically, false allegations targeted against a particular person on the basis of their identity, Abraham and Rao’s analysis found. In 23 attacks, the attackers were mobs or groups of people who belonged to extremist Hindu groups, such as the Vishwa Hindu Parishad (VHP), Bajrang Dal (BD) and local Gau Rakshak Dals or Samitis. (Abraham and Rao, 2017). The analysis found Police action against perpetrators to be tardy - in 5 per cent of the attacks, there was no report of attackers being arrested - and in many cases, the victims were facing further harassment both by police and the attackers. In 13 attacks (21 per cent), the police registered cases against the victims/survivors themselves. According to the Hindustan Times Hate Tracker data set, this figure of cases registered by the police against survivors, was even higher - 46 per cent of the 75 incidents of hate crime reported.

Cow terror attacks or attacks aimed at terrorising the minorities in the name of the holy bovine, the data confirms, are increasing. In the first six months of 2017, 20 cow-terror attacks were reported – more than 75 per cent of the 2016 figure, which was the worst year for such violence since 2010. There was a lull in killings by cow vigilantes, since Alimuddin Ansari’s murder, late in June 2017, although attacks have continued. (Annex I). This lull was broken on 27th August 2017, when two Muslim men transporting cattle, were beaten to death in Jalpaiguri district in the eastern state of West Bengal. (Hindustan Times, 2017b). With this, the state’s count of such killings has risen to five persons this year, making it the deadliest state for bovine-related violence in 2017 till date. (Hindustan Times, 2017c)

### Box 3: Hate crime law and hate crime statistics in India

National Crimes Records Bureau (NCRB), the principal source of official statistics on crime in India, does not record lynchings; and there is no law against lynchings in India. This is strange, given India has a long history of lynchings. Section 223(a) of the Code of Criminal Procedure, 1973 says that persons or a mob involved in the same offence in the same act can be tried together. But, this has not proved to have given enough legal teeth to (the) justice delivery system.” (Abraham and Rao, 2017, quoting India Today).

NCRB does not record hate crime either. India, despite its long history of caste and communal and gender violence, has no law against hate crime. Murders, regardless of their hate-motivations, are recorded in NCRB returns as ‘murder’ (the primary offence) rather than separating out those that are ordinary murder and others as hate inspired.

Provisions in Indian law that proximate to hate crime law, are those under section 153A IPC (promoting enmity between groups and acts prejudicial to maintenance of harmony); 153B IPC (acts prejudicial to maintenance of national integration); 295A IPC (acts intended to outrage religious feelings); and 295B IPC (words intended to hurt religious feelings). There are several issues here: There is little use of these provisions of the law, by law enforcement agencies, to investigate hate crime. Of all the 24 cases of lynchings and vigilante violence we examined as part of our fact finding investigation, not one case had these provisions included in police FIRs against the accused. NCRB’s own data that is available to the public, records only 7 cases under Sec 153 A and Sec 153B of IPC in the year 2014, a minuscule figure, compared to the large number of cases reported in the media. Moreover, even where hate crime has been recorded under these sections, data is not provided disaggregated by identity groups. There is no way to know then, the difference between the ‘victim’ and the ‘perpetrator’ in these cases. Similar is the case of ‘communal violence’ that finds mention in NCRB reports, with little recording of agency – who was the victim, and who the perpetrators.

Lastly, at best, the above are conservative laws – that create an offence, when order and harmony, are disturbed and religious feelings hurt. There is little that penalises action that is ‘hate inspired’, and which implicitly involves crimes by majority groups against a vulnerable community. “Hate crimes are acts of violence and intimidation, usually directed towards already stigmatised and marginalised groups” (Minority Rights Group, 2014:11). In effect then, hate crime laws are not power neutral, rather they exist to protect the vulnerable. The absence of hate crime law in India was acknowledged, when the Law Commission, in its Criminal Law Amendment Bill 2017, proposed insertion of a new provision, viz. 153C in the IPC, prohibiting ‘incitement to hatred’, going beyond that to incite enmity and disturb national unity.

The closest thing in the Indian legal system to a hate crime law is The Scheduled Caste and Scheduled Tribe (SC ST), Prevention of Atrocities Act, 2015, which criminalises violence and atrocities against dalits and adivasi/indigenous community – the most marginalised of Indian society. Hate inspired crimes against them are then also recorded as SC-ST crimes. But SC ST Act does not cover other socially disadvantaged groups in its ambit – religious, ethnic, and sexual minorities and the disabled. And neither does it cover groups among Muslims and Christians that consider themselves as Dalits.

Consequently, there is no counting of hate crime against these minorities. In the absence of official records, it is media reports and the odd scholarly works that are the main sources of hate crime data against religious minorities in India. These are not adequate.

## 1.5 What explains their persistence?

According to commentators, it is the culture of impunity that explains the rising trend of lynchings and vigilantism. So even as Prime Minister Narendra Modi made a late and feeble attempt at denouncing lynchings in response to the murder of Junaid Khan, the same day, gau rakshaks linked to his own party<sup>2</sup> lynched to death, in full public view, and with public support, Alimuddin Ansari in Ramgarh, Jharkhand (26th June 2017). One is not sure to what extent these calls were sincere. Modi's own bid for power in the 2014 general elections to the national Parliament, as well as campaigns that BJP ran in Bihar state assembly elections in 2015, (and to a lesser extent in Assam, 2016, and in Uttar Pradesh, 2017), were based on false claims of Pink Revolution (of the previous Congress Government giving subsidies to slaughter houses and meat exporters, and the resultant spectre for cow killings on a mass scale, *The Hindu*, 2014), and promises to the Hindu electorate of protecting the cows through strict action.

Engaging in meat politics and calling for cow protection has been a favourite tool for many Hindu nationalist politicians, all part of the wider atmosphere of hate and suspicion against Muslims. This is created through a sustained political campaign, encouraging various hateful beliefs about Muslims – they are “cow eaters”, a threat to Hindu women, and members of terror sleeper cells. This atmosphere of sustained hatred against Muslims makes attacks on them seem spontaneous and the product of mob anger – yet it is clear that they are part of a long process. (Apoorvanand, 2017). Central to the transformation in this process, of anti-minority sentiment into an act of hate crime, is the role of incitement by Hindutva leaders. Yet, it is remarkable that no hate speech cases have been made out against those instigating. (Aljazeera. 2014)

An examination of the aftermath of each case highlights a lack of action of police against the perpetrators, which reflects broader discrimination within the criminal justice system, against minorities in general, and Muslims in particular. Contributing, indeed further reinforcing the discrimination here, is the vicious atmosphere created by cow politics and the stigmatisation of Muslims that goes with it. Anti-cow slaughter laws act as a cover.

We noticed in the presentation of the incidence of cow related attacks above, the weak police action against perpetrators of the crime, in fact, of the police registering cases against victims themselves. Media accounts are full of how public prosecutors are not vigilant, and states do not pursue bail applications by the accused.

Lending legitimacy to the lack of adequate state action against perpetrators are the statements and actions of high level officials. Haryana Chief Minister, ML Khattar, rather than condemning cow related violence, has asked Muslims to give up eating beef (*Time*, 2015), while Mahesh Sharma, a senior cabinet minister at the centre, attended the funeral of the prime accused in the mob lynching of Mohammad Akhlaq (*The Wire*, 2016). And the Union home secretary, Rajiv Mahirshi, the senior-most law enforcement officer in the country, was blaming the media for ‘over-hyping’ lynching incidents - calling it a case of over reporting. (*India Today*, 2017)

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<sup>2</sup> According to reports, the ring leader was the district's BJP media cell coordinator. And BJP's past MLA from Ramgarh, has been leading a movement for the release of all accused arrested in the case. Since then, victim families and civil society members claim, the police has been going slow on arrests.

See also Aijaz Ashraf. 'A short account of India's long history of hypocrisy on cow slaughter laws' – where, 'the cow protection movement has been a useful vehicle for targeting Muslims. <https://scroll.in/article/759157/a-short-account-of-indias-long-history-of-hypocrisy-on-cow-slaughter-laws>

Clearly, it is not for want of capacity and resources that serious hate crime against Muslims and other minorities have not stopped. There is a government with a comfortable majority, led by a powerful leader in the centre, and many states where vigilante violence have occurred with regularity have been ruled by similarly placed BJP governments. According to observers, there is actually no incentive for the BJP to make vigilante violence against Muslims, stop.

‘The opposition is powerless, the police are bystanders, courts have not shown interest, the ruling party feels that it will no longer lose elections and so it has no dread of the hustings. There is also notably no fear of violent retaliation. Muslims in India are effectively hostages in their own land, unable to take on a section of the majority that is fortified by a State that looks the other way in the face of gratuitous violence’. (Aron, 2017)

These encourage the perpetrators.

But there is more to the impunity, than mere encouragements by those in positions of authority. There are structural factors too at play.

## 1.6 How the law facilitates violence against minorities?

Part of the problem is the laws that exist to protect cow and cattle - 24 out of 29 states in India currently have various laws on cow protection. These laws take their inspiration from Article 48 of the Indian Constitution, that mandates the state to prohibit the slaughter of cows and calves and other milch and draught cattle. This privileging of the religious belief of the majority Hindu community – that holds the cow in great reverence – is remarkable, given the fact that the Indian Constitution is widely regarded as secular.

### **Art 48 of the Indian Constitution reads as follows:**

*‘Organization of agriculture and animal husbandry: The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle’.*

State laws on cow protection vary greatly. Some states allow the slaughter of cattle with restrictions like a “fit-for-slaughter” certificate which may be issued depending on factors like age and gender of cattle, and continued economic viability. Others, completely ban cattle slaughter, while there is no restriction in a few states. In October 26, 2005, Supreme Court of India in a landmark judgment (on Gujarat banning all cattle slaughter) upheld the constitutional validity of these anti-cow slaughter laws.

Many states have enacted stricter cow protection and transport laws recently. For example, in March 2017, Gujarat amended its cow protection law to make the slaughter of cows punishable with life imprisonment. And in Chhattisgarh, the BJP chief minister, Raman Singh, was threatening to “hang anyone who kills a cow”, (Deccan Chronicle, 2017), indicating a possible movement towards stricter cow laws there. (See Annex III for comparison of state cow laws).

All state cow protection laws create criminal offences, most of cognizable and non-bailable kind, and mostly have extraordinary provisions, among them, that the burden of proof is on the accused. Many empower the police to arrest suspects without a warrant, or to enter search and seize vehicles, suspected of carrying banned items. This use of the law to protect majority religious beliefs through the criminal procedure code, is remarkable, for a constitution that claims no state religion.

Indicative of the importance of the cow protection agenda for the ruling BJP is the fact that the central government too has begun weighing in on the subject – a departure from the bifurcation of functions between the federal and provincial governments, where agriculture and animal husbandry fall within the remit of the provinces. On 26 May 2017, vide a notification under the Prevention of Cruelty to Animals Act of 1960, the central ministry of Environment and Forests, sought to impose a ban on the sale and purchase of cattle for slaughter at animal markets across India. This notification - put on hold for now by the Supreme Court on grounds that it adversely impacts the livelihoods of those affected (Firstpost, 2017) - puts a complete ban on slaughter of any kind across India, including in states where cow protection laws are not enacted – notably west Bengal, Kerala, and Northeastern states, all with large indigenous and Christian and Muslim populations. It also bans any animal markets within 25 Km of state borders and 50 KM of international. The procedures for trade too are sought to be tightened – with requirements of identity and farmland ownership documents of buyers and sellers; undertakings that animals bought would be used for agriculture purposes only, not for slaughter; and multiple copies of the sale receipts required to be deposited with different agencies – revenue, veterinary, market committee, among others.

Apart from making stringent laws for protecting cows and their transport, including some that violate due process provisions, some states have been accused of empowering private cow protection groups too. In 2011, Gujarat Government, then with Narendra Modi as Chief Minister, increased the annual grant to the Gauseva and Gauchar Vikas Board (GGVB) —a state-run entity whose main objectives are “to coordinate with groups involved in preventing slaughter of cow and progeny” and to ensure “effective implementation of cow protection laws”—from Rs 1.5 crore to Rs 150 crore. (Dave, 2017).

Between 2011 and 2014, the Gujarat government disbursed Rs 75 lakh in cash rewards to 1,394 vigilantes for raiding illegal cattle transporters and filing FIRs against them, the GGVB website states. The GGVB was set up under the animal husbandry department in 1999, but remained defunct for almost a decade before Modi revived it in 2010. To give it some steel, his government introduced a slew of schemes, including a cash reward of Rs 500 for every FIR registered against cattle smugglers and transporters. There was even a biennial Best Cow Protector award worth Rs 25,000. (Ibid)

In 2010, Haryana created Gau Raksha Ayog (state Cow Protection Commission), to supervise and assist in the working and functioning of institutions engaged in cow welfare, and notably, “for proper implementation of laws with respect to prohibition of slaughter and/or cruelty to cows...”. Haryana’s Gauvansh Sanrakshan and Gausamvadhan Act, 2015, that repealed the older 1955 cow protection law, authorises (in Sec 16) the police and any person authorised by the state (emphasis author’s) to enter, stop and search, any vehicle used or intended to be used for the export of cows, and seize the vehicle and the cows. Section 17 of the Act authorizes police or any person authorized by the state (emphasis author’s) to confiscate vehicles. These provisions create openings for vigilantism.

In 2016, in Haryana, the official Gau Raksha Ayog had members of the RSS and other Hindu extremist outfits in the state, including VHP and Bajrang Dal leaders, identified in many cases as being the organisers behind cow terror. (Sharma, 2016). A newspaper report noted:

Acharya Yogendra Arya, president of the Gau Raksha Dal (GRD, an NGO by that name), is another member of the cow commission (Gau Raksha Ayog). Self-appointed gau rakshaks of his outfit prowl the streets at night to prevent cow smuggling and some of them are facing police cases for clashes with those carting cattle. (Hindustan Times, 2016)

Another report notes how members of the GRD, the aforementioned vigilante outfit, were said to be behind a particularly shocking incident reported in June (2016) from near the Badarpur border. A group of self-proclaimed gau rakshaks assaulted alleged 'beef-transporters' from Mewat and forced them to eat a concoction of cow-dung and cow-urine. (Kartikeya, 2016)

In August 2016, Haryana government was reported to be considering providing ID cards to members of the GRD – in effect providing state accreditation to the group, in a purported attempt to regulate gau rakshaks -with Arya, GRD's head, arguing,

“The Ayog does not have any personnel of its own. We act as its agents. So far, over a hundred volunteers have forwarded their names to the Ayog for identity cards.” (Dey, 2016)<sup>4</sup>

**A report by the Peoples Union for Democratic Rights (PUDR) on the impact of the Gauvansh Sanrakshan and Gausamvardhan Act, 2015 in Karnal, the site of much gau rakshak vigilante activity, says this:**

“...the legal ban (under the act) has empowered the self-styled cow vigilante groups resulting in growing incidents of violent attack on minority community, transporters of cattle in general and ordinary sale and purchase of cattle. While the increased powers related to vigilantism in the new law under sections 16 and 17 can be exercised only by those authorized by the government, in practice the gau rakshaks have been acting incessantly with legal impunity. There has been an increase in the number of gau rakshaks who act as 'eye and ear' of the administration and also as enforcers of law and dispensers of 'lynch justice'”. (People's Union for Democratic Rights, 2017: 25)

**Termining the role of Police and the Administration, as ambivalent, the report concludes:**

The ambivalent role of the police, explains why these acts continue.....on the one hand they claim the gau rakshaks are independent volunteers and criticize them for taking law into their hands, but on the other hand they use them as informers and tends to play down the illegal activities carried out by them”. (Ibid).

**According to a recent Human Rights watch report on cow vigilantism:**

Group members are often seen patrolling the streets, especially highways, at night, stopping vehicles, checking them for cattle, intimidating drivers, and reacting with violence if they find cows. These vigilantes have also physically assaulted legitimate cattle transporters even when they are transporting other animals, such as buffaloes. (Human Rights Watch, 2017)

Haryana Government's commitment to cow protection is clearly strong. It has set up a 24-hour helpline for citizens to report cow slaughter and smuggling. It has also appointed police task forces to respond to the complaints, headed by a senior police officer. Its then chief, Bharati Arora, is reported to have admitted to the press that genuine(emphasis, author's) cow protectors worked with the police and helped it arrest cow smugglers.

“There are times when even police officials have to tip-off genuine cow protectors to help chase vehicles that break past police barricades. This is one form of community policing....”. (Dey, 2016)

<sup>4</sup> It turns out that the Haryana Cow commission advised its Punjab counterpart to issue similar I-cards, a proposal that was turned down by the Punjab commission. <http://www.tribuneindia.com/news/punjab/community/pb-gau-sewa-commission-rules-out-i-cards-to-gau-raksha-dals/281049.html>

There are other states too that include volunteers in their so-called cow protection efforts. The Indian Express reported in July 2017 that more than 1,900 people in Maharashtra had enrolled as volunteers to monitor the beef ban, in a special drive conducted by the state's animal husbandry department. (Indian Express, 2016) An NDTV report found that a group of 20 men violently apprehended a truck driver, seized his phone and forced him to a police station simply because one of them had been certified as an Animal Welfare Officer. (NDTV, 2016)

#### **Box 4: International and national instruments on right to life and non-discrimination**

##### **- Universal Declaration of Human Rights (UDHR):**

**Art 7:** Equality before the law, and equal protection of the law. Also protection against discrimination in violation of this declaration, and against any incitement to such discrimination

##### **- International Covenant on Civil and Political Rights (ICCPR):**

**Art 20(2):** Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

##### **- International Convention on the Elimination of All Forms of Racial Discrimination (CERD):**

Art 4 particularly, regards incitement and actions based on ideas of racial superiority or hatred, among others.

##### **Indian Constitution**

**Article 14:** Right to Equality, that guarantees equality before the law and equal protection by the law

**Article 15:** Prohibition of discrimination on grounds of religion, ethnicity and gender

**Article 21:** Guarantee of life and liberty to all citizens

According to a Human Rights Watch report, the ban on beef – that tacitly legitimises vigilante activity - together with government inducting the help of cow vigilantes has meant that cow protection groups formed in Haryana in 2012 see themselves to now be “acting upon the mandate of the government. They undertake actions that they know to be illegal, because they believe that they have the support of the government”.(HumanRights Watch, 2017)

Cow vigilantes have thus been emboldened, and attack Muslims suspected of smuggling cattle for slaughter.

A recent news item, reported:

On 5 August, Times Now broadcasted a sting operation, showing interviews with five top leaders of the Vishva Hindu Parishad and the Bajrang Dal—both prominent factions of the ‘Sangh Parivar’. The footage showed the leaders admitting, and at times gloating over, the fact that their organisations fostered such vigilantism among their ranks, and that the Gau Rakshak Dal had the full support of the BJP government and the RSS. (Caravan, 2016)

And when the BJP took power in Uttar Pradesh in March 2017 (the most populous state in India, which has the largest numbers of Muslims in any state), and appointed Yogi Adityanath, a Hindu cleric accused of inciting violence against Muslims and other minorities, as its Chief Minister, he cracked down on slaughterhouses and meat shops, mostly run by Muslims. Adityanath contended that he was shutting down illegal establishments, but the businesses said they were forced to close without notice or due



process. Cow protectors and members of an extremist Hindu group, Hindu Yuva Vahini (HYV), founded by Adityanath in 2002, aided the police in some of these operations. (Human Rights Watch, 2017).

Collusion, indeed collaboration between law enforcement and anti-minority vigilante groups, to enforce laws protecting religious rights of the majority community, has the obvious consequence of indiscriminate attack on minority groups. An India spend report headlines captures the rising trend: “26 Cases Of Cow-Related Violence In 7 Months Of 2017, Equalling 2016 As Worst Year”. (India Spend. 2017)

It is clear from a survey of the material available publically that BJP’s coming to power in the centre and in states has created fertile ground for anti-minority mobilisation, including by violent groups affiliated to the BJP with avowed anti-minority stance. A helpful tool in this mobilisation has been legislations that in effect restrict the rights of minorities guaranteed in the constitution – particularly anti cow slaughter and anti-conversion laws - and which have been further consolidated recently by BJP regimes in states and the centre, to make their provisions more stringent. These anti-minority laws have also created space for private actors to help state agencies enforce the laws. This coming together of state laws and actors working in cohort with private anti-minority groups has created a hopeless situation for vulnerable minority communities, who often find themselves on the wrong side of the law, as well as the target of violence by extremist Hindu groups, while eking a living for themselves, or making simple life choices. This targeting of minorities through lynchings and vigilante violence is different from anything before, and has been taking place with regularity, with the perpetrators secure in the impunity they enjoy, being a part of the ruling dispensation. The present fact finding is an attempt at contributing to reversing that trend, to challenge the normalisation of hate crime, specially mob lynchings and other forms of vigilante violence against Muslims and other vulnerable groups in India.

## 2. Fact finding: Objectives, Methodology And Data Collection

The objective of our fact finding was to document instances of religiously-motivated lynchings and vigilante violence reported in the press in recent years. We wanted to do this to be able to describe the violence that took place, and specifically on the failures of the state, of omissions and commissions, with regards to the victims. We hoped, based on the evidence we would collect, including by physically visiting victim families, to approach higher courts and grievance redressal bodies, to seek their intervention towards ensuring speedy relief and rehabilitation. We also hoped that the evidence we gathered would help contribute to the ongoing civil society efforts to push for reform of laws – strengthening provisions against hate speech/crime, and against vigilante violence, as well as for safeguards for vulnerable minority groups.

Given the limited resources and time at hand, we focused on the most grievous cases – murders and rape. We sourced our initial long list of religiously-motivated lynching and vigilante violence cases from media reports and IndiaSpend dataset. These we filtered for deaths and rape, that had occurred in the past 3-4 years, giving us a total of 24 cases, resulting in 34 murders and 2 rape cases, almost all having occurred 2015 onward, except 3 from 2013 and 2014.<sup>5</sup> The vast majority of these were in Haryana, Jharkhand, and west UP, the rest in Assam, Jammu & Kashmir, Gujarat, Rajasthan, and West Bengal. (Table 1 below). These we grouped by states, for conducting the investigation. Barring a few cases, (Pune, Bulandshahr, and Faridabad), all are cow and beef related.

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<sup>5</sup> These excluded 2 cases of lynching to death, one in Manipur (of M. Hasmat Ali, Imphal East district, Nov 2015) and another in West Bengal (of Kaushik Purkait, South 24 Pargana district, May 2016). We have not included these in our fact finding report, as both, we felt, did not qualify as being religiously motivated.

As a first step, we developed profiles of each case so identified – by collecting basic information, viz. date, incident, victim and family details - available in media reports over the Internet. In those cases where the facts were scanty, we contacted community activists and human rights defenders in the area, to obtain further details.<sup>5</sup> These profiles formed the basis for our fact-finding visits to survivor families, for detailed data collection, to understand the background to the incident and to document state response. These visits were grouped by states – with the focus on the 3 with the largest number of cases (Haryana, UP and Jharkhand), but also including cases in other states.

#### **The fact finding, specifically, sought to collect:**

- a. **Basic facts of the hate crime:** Date, time, identity of assailants, nature of injuries, name and address of victims, medical records if any, photographs, complaints to the police or any other authority if any, newspaper reports, FIRs if any, name and telephone number of the SHO (Station House Officer) along with the address of the police station, copies of the court proceedings and status of the case, victims' lawyer contact details, contact details of PP, court in which case going on, charge sheet if any, bail applications, bail orders granting or rejecting bail, etc.
- b. **Status update of the cases:** whether arrests had been made; bails had been granted or denied; if granted, whether the prosecution had opposed the bail; also, if the accused have filed “cross complaints” against the victims, what was the status of those cases? It was felt, a comparison between police action on the two cases could show up police bias very clearly.
- c. **Information on relief and compensation:** Whether government had provided any relief and compensations; if not, whether, applications had been made for compensation using existing provisions of the Indian Penal Code, if so, what was the result of those?

We met with the next of kin of the deceased, and interviewed the family, as well as other members in the village, especially those better aware of the police/court cases. We also spoke to community leaders in the village, and in the clusters generally, besides lawyers and activists, to understand the local dynamics to vigilante violence and mob lynchings, as well as to obtain relevant information of the status of the case.

We did not meet state actors – police or administration – or members of ‘perpetrator’ community/assailants identified in the FIRs. We wanted for our fact-finding to privilege survivors’ perspective, and designed the study, not so much to understand the violence or its aftermath, but to document state action for survivors, so as also to plan action for civil society legal aid to victims. Given access to justice for victims of hate crime is such an uphill task,<sup>7</sup> the privileging of the survivor’s perspective, also helped focus our attention on the victims situation – the poverty, hopelessness and lack of awareness among others – that contribute to their inability to fight for justice. For evidence on state actions, we relied on official documents – FIRs, case records, charge sheets et al, easily obtained from victim’s families and their lawyers.

As data collection tool, we used checklist of questions and an interview schedule. Documents we collected included: FIR, case diary, arrest memos, charge sheets, where available, fact finding reports, press clipping, and pictures. (Annex IV)

In Haryana, we heard during our fact finding, of many more instances of deaths due to vigilante attacks and lynchings by GRDs, not reported in the media, and thus not included in the scope of our fact finding.

<sup>5</sup> Yuva Ekta Jagruk Manch (Nuh), Afkar India Foundation (Shamli), and Anjuman Islamiya (Ranchi).

<sup>6</sup> See Chopra and Jha (2014), for some useful insights here.

We have tried to list down these cases. Cases of violence by GRDs not resulting in deaths too have surged in the past couple of years, in Nuh and Faridabad districts mostly, but also in districts adjoining Saharanpur and Shamli in UP – Yamunanagar, Panipat, Kurukshetra. And, we also heard of many cases of ‘encounter killings’ of Muslim youth by the police, euphemism in India for extra-judicial summary killings by police and security forces. These are mostly on the suspicion of them being criminals. A rapid listing of such cases identified 11 cases involving 15 deceased, in Nuh district alone! (see Annex II). We heard of similar increase in attacks and killings of Muslim youth also from west UP now, in Saharanpur/Shamli – since the BJP came to power in the state in March 2017. These cases were beyond the scope of our fact finding. An attempt is being made to list down those cases too.

### **3. The Findings:**

#### **3.1 Hate attacks: The geography, mechanics and drivers**

The total number of instances of religiously-motivated lynchings and vigilante violence reported in the press in recent years is 24. These resulted in 34 deaths, and two women being raped. (Table 1) An overwhelming majority (94 per cent) of deaths took place at the hands of vigilante groups – members of violent anti-minority groups, all fashioned as local Gau Raksha Dal members. In some cases, they also involve incitements to spectators to take part in the attack, with the classic lynching characteristics of creating a public spectacle. 91 per cent of these attacks were bovine related, i.e. involved accusations of smuggling cow and other cattle, or of possessing or habitually consuming beef.

On the whole, cases in Haryana were more in the nature of directed vigilante attacks, by Gau Rakshak Dals of cattle traders on main national and state highways – typically those coming out of Muslim-majority Nuh district. Sometimes these groups were, according to witnesses we spoke with, part of teams that also included the police. Elsewhere, for eg. those in Jharkhand, West Bengal, and Assam, all bovine related, were more typically mob lynchings, involving large congregations. But even in these cases, the violence was planned and instigated by vigilante groups. Some were opportunistic attacks - Anas Qureishi et al; Junaid Khan – where the motive was more local (conflict between former business partners; an argument that escalated; a tiff that blew up..), but was given a communal colour, with accusations of smuggling or stealing cows for slaughter, or of eating beef, providing a ready excuse to calls for violence, and to settle scores.

Ghulam Mohammad and Mohsin Shaikh were the only cases that did not involve cow or beef. The former was a vigilante attack (by Hindu Yuva Vahini members, as recorded in FIR) using the ‘love jihad’ trope, to bludgeon an old man to death to avenge a Muslim boy from the locality, having eloped with a local Hindu girl. The latter attack involved Hindu Rashtra Sena (HRS) members, venting their wrath on a helpless Muslim boy passing by, for the morphed pictures of Shivaji and Bal Thackeray that had anonymously been posted on social media.

What links all these cases of lynchings and vigilantism, is the Muslim identity of their victims. The object clearly is to target Muslims. The justification is devised to suit the situation – sometimes its cow or beef, at others ‘love jihad’, and at yet another, any grievance, real or imagined. This is exactly what the Bombay High Court judgement on Mohsin Shaikh case ruled, granting bail to the three accused members of the HRS. The three, along with other members of the HRS, beat to death Mohsin Shaikh, after being instigated in a meeting chaired by Dhananjay Desai, head of HRS, who made provocative speeches against Muslims.

“The meeting (referring to the HRS meeting) was held prior to the assault. The accused had no other motives, such as any personal enmity, against the innocent victim. The fact that the victim belonged to another religion is in favour of the accused, who were clearly provoked in the name of the religion, and thus committed the murder”. Justice Mridula Bhatkar. (Hindustan Times, 2017d)

Hate crime laws, in countries where they exist, place these crimes as aggravated, for the damage they do, not just to individual victims but to communities as a whole and to the fabric of society itself. (See Box 2 on hate crime). But here is the case of a high court judge justifying bail to the murder accused, in a case clearly involving hate crime, citing, what should be an aggravated circumstance, as actually a mitigating factor!

The victims in all cases were poorer backward caste Muslims, mostly those who traditionally make a living in the animal husbandry, dairying, and meat supply chain sector, such as Qureishi, Meo, Gujjar, and Ansari. Since most of these communities belong to the Ajlaaf or the lower caste among Muslims, they face double disadvantage, both on the basis of their religious as well as caste identity. Most were asset-less, or only had a marginal assets base – mostly their own house and a few heads of cattle. They all took great risks, in these communalised times, to continue to trade in cattle, and in meat. Their traditional skills in these professions and the absence of alternative avenues of livelihoods, acted to keep them locked in these high risk professions. Literacy levels are low, and education attainment only poor for victims and their dependents.

**Table 1: Status of mob lynching and vigilante violence cases investigated – summary**

Incident and the deceased	Attackers	Present status of the case	Compensation
<b>Haryana</b>			
Ibrahim & Rasheedan 24-08-16, Dingerheri, Nuh	Gau Raksha Dal	Case being investigated by CBI. Family unaware of progress. No charge sheet yet.	- Rs. 10 lacs each for death and rape, Rs. 2-1 for injury, from state - jobs, waqf board.
Pehlu Khan 01-04-17 Incidents: Alwar (Rajasthan) Home: Jaisinghpur, Nuh	Gau Raksha Dal	Police investigation underway. No charge sheet yet. Police recently closed investigation against named accused in the case.	None
Arif Qureishi	allegedly by Police	Cross cases against Arif. No FIR of his murder yet.	None
Farid, Sher Singh, Taufiq (injured) 06-08-13; Incident: Surajkund, Home: Kheda, Nuh	Gau Raksha Dal	- Cross case filed against 8 unnamed persons... -body obtained after difficulty. -no police action	None

Junaid Khan 22-06-17 Ballabgarh	Mob lynching, instigated by a few.	Investigation on; no charge sheet yet. 6 arrested, but not the main ring leader. One arrested also bailed out.	-Railways, Rs 8 lacs - State Waqf Board job
Alisher, 15-04-14, Yamunagar	Gau Raksha Dal	No action against accused.	None
Tehseen, 15-03-15, Yamunanagar	Gau Raksha Dal	2nd case of lynching, by same accused trial court judgement: 5 years rigorous imprisonment to main accused, acquitted other 3.	None
<b>Uttar Pradesh</b>			
Mustain Abbas, 05-03-16, Kurukshetra Home: Saharanpur, UP	Gau Raksha Dal	Body after 15 days, on HC intervention. Investigation transferred to CBI by HC No charge sheet yet. No arrests.	None
Mohammad Akhlaq 28-09-15 Gautam Budhanagar	self style Gau Rakshaks	18 accused arrested. 2 juveniles released on bail. Charge sheet filed (Dec '15). Cross case filed, on orders of HC after 2nd forensic report confirmed beef.	None
Khushnud Khan, 09-12-15, Karnal Home: Saharanpur, UP	Police and Gau Raksha Dal	Sec 302 added in FIR on HC directions Charge sheet filed. 9 arrested. No bails. case pending in Karnal sessions court	None
Nouman Zahid, 17-10-15 Sirmour, Himachal Pradesh Home: Saharanpur, UP	Gau Raksha Dal	-FIR for murder etc. filed, incl 302. -Cross case against victims and witnesses (6) filed simultaneously. Charge sheet filed in dec 2016. 12 accused arrested. 3 bailed out.	None
Salim 23-08-13, Panipat. Home: Shamli, UP	Gau Raksha Dal	No mention of sec 302 IPC in FIR Cross case made against victim	None

Anas Qureishi, Arif Qureishi, Nazim, 02-08-15 Kaimarala, Gautam Budhnagar	Village Pradhan and Gau Raksha Dal	FIR incl. 302, registered only after family protested. No news of progress Cross case filed on day of incident No arrests.	None
Ghulam Mohammad, 01-05-17 Bulandhshar	Hindu Yuva Vahini	FIR filed. Incl 302. 1 named, 6 unnamed. charge sheet filed. 9 arrested. Village putting pressure on family to cut a deal.	None
<b>Jharkhand</b>			
Alimuddin Ansari Ramgarh 29-06-17	Gau Rakshak Dal members; BJP IT cell district head	Main case (302), and cross case investigation on. 12 of 17 accused, arrested.	Rs. 2 lacs ex-gratia, and Rs 20,000 for burial expenses
Mazloom Ansari Imteyaz Khan, 18-03-16 Latehar	Gau Rakshak Dal members. Inciters – Baba Chintamani.	FIR against Binod Prajapati, and 3-4 others Arun Sao, member of Bajrang Dal and GRD. Mithilesh Sao, ditto. All 8 accused released on bail by HC, 6 months after arrest.	Rs. 1 lac ex-gratia from state govt turned down. Rs. 5-7 lacs each, through philanthropy
S. Naeem, S. Haleem, S. Sajju, S. Seraj, 18-05-2017 East Singhbhum	Gau Raksha Dal inciting mobs; Alleged police inaction	4 separate FIRs lodged. 18 persons arrested. Investigation underway	Rs 2 lac to each family
Minhaj Ansari, 03-10-2016 Jamtara	Police	FIR against police SI Harish Pathak, and and an unidentified person, reported in newspapers to be a VHP local functionary. Police SI suspended.	Rs 2 lacs to family
<b>West Bengal</b>			
Utera Begum 27-06-17, Murshidabad	Mob instigated by a few. Police failed to rescue attack.	FIR has no mention of sec 302 IPC. 12 persons arrested, but not the main accused.	None
Samiruddin, Nasirul, Md. Nasiruddin.	Mob instigated by gau rakshaks	Principal accused arrested. Currently out on bail. Investigation	None

22-06-17; North Dinajpur Incitors – Baba Chintamani.		on. Police claim deceased were cow smugglers FIR against Binod Prajapati, and 3-4 others	
<b>Assam</b>			
Riyazuddin Ali, Abu Hanifa. Nagaon, 30.04.17.	Gau Raksha Dal members. Allegedly instigated by district SP.	FIR against those whose faces recognisable in video cross case too against victims 10 accused arrested.	None
<b>Gujarat</b>			
Mohammad Ayyub Mev 13-09-16; Ahmedabad	Gau Raksha Dal	Sec 302 IPC added to FIR after protest. Cross case filed against deceased and another. Case handed over to SIT.	None
<b>Jammu &amp; Kashmir</b>			
Zahid Rusool 09-10-2015; Udhampur	Gau Rakshak Dal	9 persons arrested Investigation underway.	None
<b>Maharashtra</b>			
Mohsin Shaikh, 02-06-14; Pune	Hindu Rashtra Sena members; instigated by their leader, Dhananjay Desai	14 accused granted bail, by HC. Desai refused bail. Trial underway	None

## a. Cross border cases:

Particularly problematic, from the victim's standpoint, were the inter-state cases of bovine violence we came across, i.e. those where the incident took place in provinces outside the victim's own. These pose additional challenges for survivors in their efforts to obtain justice – anyways an uphill task for poor, unconnected and devastated families. These were made worse by their having to travel long distances to police stations and court houses in another province, spend dearly, and organise practicalities of the long legal battles in unfamiliar circumstances. Inter-state cases, in our fact finding, largely affected victims from Nuh district in Haryana and Saharanpur and Shamli districts in Uttar Pradesh (UP). Pehlu Khan, resident of Jaisinghpur village in Nuh District, was lynched to death in Alwar district Rajasthan (which shares a border with Nuh). Arif Qureshi, resident of Singar village, also Nuh, was beaten allegedly by the police, in Delhi. In UP, all the cases of vigilante killings from Saharanpur and Shamli districts, took place in neighbouring districts of Haryana (Mustain Abbas in Kurukshetra; Khushnood Khan in Karnal; and Salim Khan in Panipat)

and Himachal Pradesh (Noaman Zahid, in Sirmour). Finding justice in these cases is going to be even more of a protracted battle.

### **Who were the attackers?**

All perpetrators are members of Hindu extremist groups. In majority of the cases these involved Gau Rakshak Dals – vigilante groups formed to prevent slaughter of cows, and, as we saw in our initial analysis, in many cases their existence is linked to governments' efforts for cow protection. Elsewhere it was groups like the Hindu Rashtra Sena (Maharashtra) and the Hindu Yuva Vahini (Uttar Pradesh), all with documented cases of hate violence against minorities. (Indian Express, 2014). These have seen a steady increase in their spread and membership – contributing to this is active support by powerful political figures in respective provinces and the centre. (Economic Times, 2017). The HYV for instance was formed by the current Uttar Pradesh Chief Minister, Yogi Adityanath, and has a history of violent attacks and instigation of hate crime against Muslims. (Aljazeera, 2017).

BJP ruled states also had more of a direct Gau Rakshak Dal involvement. This was due to two facts. BJP ruled states provided a greater degree of autonomy to Hindu extremist formations to operate – thus Gujarat supported formation and nurturing of private cow protection groups and volunteers. Many BJP states also had brought in stricter cow protection laws, and had also provided formal space to these groups to help enforce the laws – as is clearly the case in Haryana, with private GRD members provided official accreditation. As we discussed earlier on, Sec 16 and 17 of Haryana's 2015 cow protection law empowers private parties, to help enforce the state's draconian cattle laws – including searching vehicles and confiscating them. Similar is the case for Maharashtra and Gujarat. And Haryana Gau Seva Ayog, established to oversee implementation of cow protection laws in the state, has members that run cow vigilante groups, with several accusations of vigilante attacks.

According to newspaper reports (Mail Online India, 2016), in September 2016, the Haryana Police constituted Special Task Forces in the districts of Haryana to check cattle smuggling across the state. These STF's have been deployed on the borders of Haryana State adjoining western and southern Uttar Pradesh and on major highways - the Grand Trunk Road connecting Sonapat, Panipat, Karnal and Kurukshetra; the Manesar-Palwal Expressway, connecting Gurugram, Mewat and Palwal; National Highway # 2, connecting Palwal with Mathura and Agra; and National Highway # 8, connecting Gurugram, Rewari and parts of Rajasthan border. The instances of killings by GRD that our fact finding came across, have been reported from these areas.

Victim families and witnesses we spoke with, informed that Gau Rakshak Dals along with the police, petrol these highways in the night and are armed with sticks, rods, and guns. They stop lorries carrying cattle, extort money from passengers, and assault them, on suspicion of being cattle smugglers. In some instances, these assaults have resulted in deaths. After the assault, the alleged smugglers are handed over to the police and the vehicle seized. The victims and their families told us that at times the police is present at the site when the attack is underway. In all our conversations, eye witnesses to the attacks, mentioned that neither the police nor the GRDs asked them if they had the relevant documents for transporting cattle – it was assumed that all those transporting cattle, if Muslim, were breaking the law. Also, in most cases, the trucks were carrying buffaloes or oxen, and not cows.

## **b. Role of police in the violence**

The role of the police in violating the right to life of victims, involved both acts of omission as well as commissions. The abiding picture is mostly of a police force overwhelmed – in terms of resources, training



and complicity - by the vigilantes. In Giridih, where a mob of 200 persons attacked Usman Ansari because a dead cow was found near his house, police came too late to save his house from being torched (June 2017). (India Today, 2017b). Similar acts of omission were the story in Ramgarh, where Alimuddin Ansari was lynched to death in broad day light by GRDs (June 2017). Jharkhand also provides stories of police collusion with GRDs, as in the Jamtara case of custodial death of Minhaj Ansari (October 2016). Initially police claimed the death was due to a bout of encephalitis. This was refuted on production of post mortem report, that confirmed the death was due to physical injuries to the victim's body.

### **A more common pattern is of police inertia to respond to requests for security.**

This was on show in Yamunanagar, Haryana where two cases of vigilante attacks – one year apart (Alisher and Tehsin, April 2014 and March 2015 respectively) - have the same accused, showing how police inaction gives a blow to the rule of law. Similar inaction resulting in repeat attacks took place in Gautam Budh Nagar district in Uttar Pradesh. The lynching in Kaimarala village of the district, of three youth (Anas Qureishi et al, August 2015), in front of a police check post, was the first reported case of mob lynching in UP. It was to be followed only a few months later, by the lynching of Mohammad Akhlaq (September 2015) in Bisara village of the same district, some 25 kms away. There are other glaring examples of police inaction to calls for help. Despite written complaints by family members of Ghulam Mohammad, of threats of murder received from Hindu Yuva Vahinimembers – on account of a Muslim boy in the neighbourhood having eloped with a Hindu girl from the adjoining village - the police took no action. HYV members beat to death the elderly Ghulam Mohammad, the next day, (May 2017) on the road connecting the village to Pahasu town.

Inaction is also mixed up with police bias, against victims. This was the case in display in Latehar lynching of Mazloom Ansari et al (March 2015), when those protesting the gruesome lynching were themselves set upon by the police, and a case of violence registered against them. National Commission of Minorities recommended action against police officers accused by the victims in this case of police high handedness.

In the case of Kaimarala lynchings (Anas Qureishi and two others, August 2015), the police refused to file FIR for six days, in fact threatened victims' families, acting more as agents for the accused. So devastated are family members today that they are still unable to visit Dadri police station to pursue the case, fearful that police in collusion with the accused will harass them again, three years after the lynching took place. In Mohammad Akhlaq's case (Gautam Buddha Nagar, September 2015), this bias was demonstrated in the way the police and prosecution tampered with evidence (meat seized and the multiple and conflicting forensic lab reports on it); threatened the family; and stopped them from speaking with media. Akhlaq's family was therefore forced to leave the village. And in the Ahmedabad case of Ayyub Mev (September 2016), police maintained that the murder was actually a case of an accident, and even attacked the family members protesting in the hospital, when the body was brought in.

There were acts of commission too – those that implicated the police directly in the murders. This was in show in the case of Minhaj Ansari in Jamtara (Oct. 2016), where the police Sub-Inspector - along with an unidentified private person - beat the victim so badly that he succumbed to his injuries, all for posting pictures of beef on his Facebook account. So was the case of Khushnud (December 2015), a factory worker in Kurukshetra, who was shot at fatally by a combined team of the police and GRD, when making his way home to Saharanpur to cast his vote in Panchayat elections. The case of Mustain Abbas from Saharanpur (March 2016) too involved the police, actively working, as we were told by the victim's father, with the local Gau Raksha Dal, to deprive Mustain of his right to life. Arif Qureshi too, was tortured by the police in Delhi and succumbed later to his injuries – we were informed by his father – and also had a case foisted on

him. Police personnel are named accused in the first two cases. Senior police and administrative officers were reprimanded by the Punjab and Haryana High Court in the third case, and the case itself handed over to the Central Bureau of Investigation (CBI), a federal investigating agency. In the last, the family is afraid even to file a complaint against the murder.

In Haryana, the police seemed to have a greater involvement in the commissions of the crime. Their role legitimised by state cow protection laws, and empowered by their heads sitting on official bodies overseeing enforcement of cow protection laws (see above), notorious GRDs cross over from being vigilante groups (meaning informal, non-state) to acquiring quasi-formal authority, helping police task forces with law enforcement. The police are reduced to minor partners at best, mute spectators, at worst, while the vigilantes pick and choose their victims and the methods of their vigilantism. The consequences of this unholy alliance of police and vigilante groups can be devastating for minorities. A good example of this collusion is the Kuruskshetra murder of Mustain Abbas (March 2016), where the Punjab and Haryana High Court, seized of the matter due to a habeas corpus petition filed by the father of the victim, ordered action against the police and administration (severely censured the district police chief, and asked for their immediate transfer to inconsequential posts), whilst ordering the police to produce the body of the victim.

## 3.2 The Legal Process

What of the legal process followed, after the commission of the crime? Did the police follow the correct procedure on registration of cases, arrests of the accused, investigation of the cases, and prosecuting the accused – in terms of framing charges, and ensuring, during the trial process, that the guilty were punished. (see Box 3) And did the state provide victims relief and compensations? This account, presented below, is based on examination of documents we could obtain from the families of victims (specifically First Information Reports, arrest memos, case diaries, and charge sheet where available, among others), and interviews with them. We tried everywhere also to speak to lawyers that the family may have hired.

All cases are recent – three years to under a couple of months – as a result, most are still at early stages of trial at best. Only in one case (murder of Tehsin, Yamunanagar, 15th March 2015), the session court has already passed orders (in January 2016).

### BOX 5: Guide to the Criminal Justice System

from the point of view of victim

Source: Nyaaya (<http://nyaaya.in/crpc/victim/intro/>)

**First Information Report (FIR)** With more serious or urgent crimes, the police must register an FIR immediately, and start investigation. These are called cognizable offences, such as rape, murder, burglary etc. If police refuse to file, approach a local magistrate to direct the police, or approach the State Human Rights commission and State Police Complaints Authority. The complainant has a right to get a copy of the FIR for free. The contents of the FIR cannot be changed, once registered, but still opportunity to provide additional information to the police, at any point.

**Police** Police must start investigation as soon as FIR is registered, after informing the magistrate. They have the authority not to proceed with investigation, if they feel there is not enough reason. But must file a closure report to the magistrate and also send a copy to complainant. Complainant can oppose that before the magistrate.

Investigation involves various steps, including: visit to the scene of crime, searching people and seizing items, questioning people, and organising post-mortems. Victim or witness duty bound to cooperate with the police in the investigation. Women, children and the elderly, and mentally and physically disabled can only be examined in their home. Police must file the final report (of investigation, also called charge sheet) with the magistrate, within 90 days. If closure report filed, and accused released, complainant can file a protest petition.

#### Trial

For a case to move to trial, all the following must happen:

- Magistrate must take cognizance of the case. For this the Police must present the magistrate with a charge sheet.
- The magistrate initiates the 'issuing process', asking the accused to appear before her/him. Police must have given the accused all relevant papers.
- The magistrate commits the case to a specific court – sessions court in the most serious cases.
- The judge can then, either discharge the case – is she believes it has nothing, after hearing lawyers from both parties, or frame charges against the accused, and trigger the trial process.
- Trials are long drawn processes, usually 2-10 years. No time-bound nature.
- Not too many rights of the victim, if the government has taken over a case.
- Can appoint a private lawyer, even when government is prosecuting the case. If a case is before a Sessions Court, can only 'assist' the Public Prosecutor. In all other trials, have equal standing, if you file an application explaining why you want to fight the case and not leave it to the prosecutor.
- if the accused is granted bail, one can, through one's lawyer, go to a higher court for cancellation of the bail.

If the accused are threatening the witnesses, are there any remedies?

- Move judge to hold trial in closed quarters, or move the trial to safer location
- Move a higher court to move the trial to another location or state
- File an application for cancellation of bail, if granted earlier on

If court finds the accused 'not guilty', can move higher court to appeal against the judgement.

#### Compensation

Three routes:

- From the guilty person: court can order compensation, to be paid out by those found guilty, for the harm caused to victim. But only after all appeals are completed.
- From the government: Most states have scheme for victim compensation. Central Government issued minimum threshold amounts for different crimes.
- Special cases: here the court orders compensation, because it has wide ranging powers. Some laws too (like SC ST Act 2015) mandate payment of compensation to victims.

## a. First Information Reports (FIR).

Here we will check the validity of the police registering cases on the criteria of whether the complaint was registered or was there a delay?; whether the right sections of the law were applied; and whether the FIR recorded the names of the accused when named by the complainants? All these test checks are crucial, as a great deal of the forensic strength of any case depends on the content of the FIR. Getting a crime as serious as murder, registered under the relevant laws, is a basic right of all, as it triggers the access to justice process, although, for the crime of murder, no FIR is necessary for the police to begin the legal process.

Of the cases we investigated, two murders (Arif Qureishi's, and Farid and Sher Singh, August 2013, both Punhana block of Nuh, Haryana), had not been registered with the police at all. In the former case, the victim's father was too apprehensive of the police, to file a complaint. In the latter case, parents of the deceased had moved the High Court for directions to police to register FIRs, but could not follow up the case. In another incident, again from Haryana (Mustain Abbas, Kurukshetra, March 2016), victim's family were able to get FIR filed after a delay of a month, but only through the intervention of the High Court. In yet another, this one from Uttar Pradesh (Kaimarala, Gautam Budh Nagar, August 2015), FIR was filed by the police only after sustained protest by family members over many days, that included petitions to the state Chief Minister and the central Ministry of Home Affairs.

In several cases, the FIRs were filed without the application of section 302 of IPC (Indian Penal Code), meaning thereby, in police records, no murder had taken place, and only cases against the victims were recorded (see 'cross cases' below). These included the following deceased: Tehsin from Yamunangar (Haryana, March 2015); Salim Khan from Shamli (UP, August 2015), and Md. Samiruddin and Md. Nasiruddin from North Dinajpur, and Utera Bibi in Murshidabad (both, June 2017, both West Bengal). In the case of double murder and gang rape in Dingerheri, Nuh (Haryana, August 2016), section 302 was added only after sustained public mobilisation.

And despite victims in their dying statements or witnesses having named the accused, in the following cases, FIRs did not name the accused, rather recorded assailants as unknown – Junaid (Faridabad), Ibrahim and Rasheedan (Dingerheri, Nuh, Aug. 2016), Salim Khan (Panipat, Aug. 2015), Khushnud Khan (Yamunangar, Dec. 2015), all Haryana, and Ayyub Mev (Ahmedabad, Gujarat, Sept. 2016). In the case of Ghulam Mohammad (Bulandshahr, UP, May 2017), only one accused is named, the rest of the assailants recorded as 'unknown'.

Further, the FIRs in all the cases have been registered as cases of murder or attempt to murder. Sections in the IPC which pertain to hate speech and acts of hate crime (Sections 153A, 153B, 295A, 298, 505 etc) are not invoked in these cases. Thus, the law enforcement agencies look at these heinous crimes as individual cases of murder and not as acts which are prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturb public tranquillity – in effect, not as hate crimes.

## b. Cross cases

Almost all cases, those involving cattle, have 'cross cases'<sup>8</sup> against victims, parallel to cases registered for murder. The police have in these cases, registered FIRs against the victims under respective Cow Slaughter

<sup>8</sup> Defined as: two different versions of the same incident resulting into two criminal cases. Also called "case and counter case".

acts and the Prevention of Cruelty to Animals Act, accusing the victims of smuggling cattle. Many are accused of stealing cattle, as in the case of triple murder in Kaimarala (Gautam Budha Nagar, UP, August 2015), where police filed an FIR against the three deceased on the day following the incident, stating that the three were caught by villagers stealing cows and were assaulted by the mob. An FIR under section 302 IPC (for murder of the victims) was filed by the police, six days after the incident. Some cross cases also include sections of the Arms Act, making it even a bigger crime against the victims themselves. Other sections used in these cross cases we studied, included provisions of IPC such as 307 (attempt to murder), 429 (maiming cattle), 304A (rash and negligent driving), 279 (rash driving), 323 (causing hurt), 337 and 338 (causing hurt/grievous hurt by endangering the life and personal safety of others). The case made by the police is typically along these lines: The police tried to intercept and stop the truck carrying cattle, the smugglers tried to run away. The police chased the vehicle. During the chase, the smugglers fired at the police, the police apprehended the smugglers after the chase or the vehicle met with an accident.

Many of these cross cases have been registered without naming the deceased, rather in the name of 'unknown persons'. This is curious, given the police would surely know the identity of the victims – wrongly made the accused in these cross cases. The fact that this occurs repeatedly in many cross cases, suggests the possibility that there is systematic use of cross cases by the police to weaken the victims' case. These cross cases could be acting as handy tools for the police to harass the already demoralised family members of victim of the attacks, and to blackmail them, should they take the fight against the accused in the murder cases, seriously. If that is indeed the intention, these have had the required chilling effects. This was definitely so in the case of Arif Qureishi (Singar village, Nuh) and Farid and Sher Singh (both Kheda village, Nuh, August 2013), whose families have shied away from even getting FIRs registered for the murder of their kins. In the former case, the accusation against the victim is of smuggling cattle for slaughter and having fired at the police when challenged. In the latter case, besides the above accusations, there is also those of attempt to murder. When we met Arif Qureishi's father, he seemed too scared of the police – the culprit in his son's murder - to file a complaint and get the murder registered. Farid and Sher Singh's parents, in our interaction with them, seemed willing to take up the matter with higher authorities. They had also moved the High Court for direction to the police to register the FIR. But a cross case meant that the main witness in the case, a co-passenger, seemed too unsure to take the fight on.

And in Akhlaq's lynching case (Gautam Budh Nagar, Sept. 2015), a cross case was filed against the deceased nine months after the lynching incident, on the orders of the court, when a second forensic report on the meat tested positive for beef. The original report had tested negative. (Indian Express, 2016) Combined with the fact that the principal accused has obtained bail, the case against the perpetrators of the lynching has gone weak since.

If the idea of the cross case is to weaken the victims and their families in their quest for justice, other methods too could serve the same purpose. In the Dingerheri double murder and rape case (Aug. 2016), the father of deceased, Zafruddin, has been made an accused in a case of murder (of one of the accused) that occurred six months after the initial incident. And, in the case of Mazloom Ansari et al, Latehar (Jharkhand, March 2015), police filed an FIR – under various sections including 307 IPC, against family members of the deceased and others protesting against Mazloom's gruesome murder and police inaction there. These cases against the victims or survivor families serve their intended purposes – to weaken the ability of the families of the victims, already burdened, to pursue court cases.

### **c. Action against the accused**

Police have been slow to move against the accused in lynching and vigilante violence incidents. No arrests have yet been made in Kaimarala (Gautam Buddh Nagar, Aug. 2015) triple lynching case, despite all the

prime accused - Babu Ram, Lilu Pradhan, Vijay Bhatti - being named in the FIR, and the passage of over two years after the incident. Similarly in Kurukshetra murder of Mustain Abbas (March 2016), despite the case being transferred to Central Bureau of Investigation (CBI), the family inform, no arrests have been made yet. And in the case of Pehlu Khan, Alwar district (April 2017), persons named by the deceased in his dying declaration were neither named in the FIR nor have been arrested. No arrests were also made by the police when they reached the scene of the crime. In Ramgarh lynching of Alimuddin Ansari (June 2017), whilst seven of the twelve named accused have been arrested, arrests of the rest have stopped, according to family members, after former BJP MLA from the area, Shankar Chowdhury, began a campaign against the arrests of the accused. Police had clearly succumbed to political pressure.

In most cases, those that have been arrested – all members of Gau Raksha Dals and other Hindu extremist outfits - have obtained bails. This includes all accused in Akhlaq's case (Gautam Budhanagar, June 2015); all in Mohsin Shaikh's case, except the HRS chief (Pune, June 2014); all in Noaman Zahid's case, Sirmour, Himachal Pradesh, Dec. 2015); and all those in Mazloom Ansari's case (Latehar, Jharkhand, March 2016). Family members of Mazloom Ansari informed us how those accused are now threatening witnesses and intimidating them. Whilst obtaining bail is a right of an accused, early bail in heinous cases such as death by lynching, represents a pathology in the working of the criminal justice system. Either the police delayed completing the investigation, and could not submit the charge sheet within the stipulated 90 days, allowing the accused to claim that the police did not have a strong case. Alternatively, the prosecution did not oppose the defendant's bail application sufficiently robustly. Both these factors seem to have helped the accused in our cases.

At the time of the fact finding, most cases had crossed the ninety day mark, and yet investigation was still on in those cases. This is a weaknesses of police investigation, the burden of which is borne by the victims. But even in cases where the permissible ninety days has not lapsed –and no charge sheet filed - accused have been successful in obtaining bail. In Junaid Khan's case (Faridabad, June 2017), where the investigation is still on, one accused has already been granted bail, and victim family fear other accused too will be bailed out. Similarly, in the triple lynching case in North Dinajpur, three accused have already been bailed. Bail applications have also been filed by the accused in the cases involving Ghulam Mohammad, Pahasu (May 2017) and Alimuddin Ansari, Ramgarh (June 2017). In most instances, and based on our interview with victim families and activists, the reason cited for easy bails were twin: public prosecutors, fighting the cases are not interested enough to contest bail applications. And victim families – due to a combination of poverty, poor awareness of the legal processes, and the sense of hopelessness of finding justice – do not take the legal process seriously, thus do not challenge bail applications.

#### **d. Investigations by Police**

Regrettably, in India, the police is not required to inform the families of victims of the progress with investigation. So the earliest that the family becomes aware of how the investigation has gone, is when the police file a chargesheet or a closure report with the courts. Consequently, in cases where chargesheets have not been filed, there was little that the families we visited were able to tell us about investigation, apart from their experiences with the investigation process.

In the Kaimarala (Gautam Budhanagar, Aug. 2015) triple murder case, the family chased up the police for six months. Finding themselves ranged against strong men supporting the accused, and a biased police, they lost hope and gave up very soon, resigned to accept the murder. The high cost of pursuing legal cases

– both the fees charged by lawyers as well as the bribes demanded at every stage of the legal process – in police stations and court houses – were an important factor in this family that ekes a living through manual work and hawking bottled water on highways, quickly losing their interest. They have not kept track of the investigation since, and neither have the police informed them of the progress. Other families were equally unaware about the progress with investigations. In the case of Noaman Zahid (Sirmour, Dec. 2015), finding the cost and the inconvenience of following up a case in far away Simla and Sirmour, in neighbouring Himachal Pradesh state, too burdensome, and having little hope for results, family members have given up pursuing the case.

But slow and delayed investigations are also common when special investigations agencies – including federal ones, like the Central Bureau of Investigation, CBI – are deployed, and where it is expected the speed and quality of police investigation would be better than those by provincial police forces. The Haryana High Court transferred to the CBI Mustain Abbas's case (murdered by gau rakshaks in Kurukshetra, March 2016), unhappy with the way state police had conducted itself in the murder incident. Despite the passage of almost 18 months, family members are unaware of any arrests having been made of the accused, and certainly no charge sheet had been filed. Indeed, family members we spoke with, felt the CBI was actually harassing them, asking them repeatedly to turn up in distant Chandigarh, half a day's bus drive away, to record statements, including about phone calls they might have made to the deceased. In the Dingerheri double murder and rape case (Nuh, Haryana, Aug. 2016), another lynching case transferred to the CBI, this time by the state government, we were informed by the family, that no CBI team had ever visited the crime scene or spoken with family members yet. Likewise, though the case of the lynching of Ayyub Mev on a busy Gujarat Highway (Ahmedabad, Sept. 2016) was transferred to the Special Investigation Team of the state police immediately after the incident - the family is still unaware of the outcome of the investigation.

Slow investigation meant delays in filing chargesheet, in many cases beyond the stipulated ninety day period, providing an opening for the accused to obtain bails, despite the heinous nature of the crimes they had committed. And where chargesheets had been filed, these we found to have many weaknesses.

One of the first cases to have been investigated was Khushnud Khan's (Dec. 2015, of unprovoked firing at unarmed persons by a party of police personnel and GRD members).

Chargesheet was filed by the police 45 days after the incident, on 2nd February

2016. What the police delivered in terms of speedy investigation, it took away by compromising its findings. It completely left out section 302 of the IPC, thus watering down the crime committed by the accused (that also included 2 police personnel). Sections used in the Chargesheet were 304, 109 and 285 r/w 34 IPC and 25/30/54/59 of the Arms Act. It was only on the intervention of the High Court that section 302 IPC was later added.

In Mohammad Akhlaqs' case (Gautam Buddhanagar, Sept. 2015), the charge sheet was filed within the stipulated time, against the eighteen accused. But here too, the findings were dressed down. The charge of criminal conspiracy to murder u/s 120B IPC was not included and its absence weakened the murder charges filed under, Section 302 of the IPC. And in the case of lynching of Mazloom Ansari and Imteyaz Khan (Latehar, Jharkhand, March 2015), the charge sheet was filed within the stipulated time, against eight accused u/s 302, 201 and 34 IPC. But it left the main accused in this case, Binod Prajapati, named in the FIR by the principal witness, from its ambit. (Catch News, 2016)

In all these instances, it was reported by the families of the victims that the police rather than acting as the custodian of the law, acted in a biased manner, against the victims. In Dingerheri double murder and

rape cases (August 2016), despite the police reaching the crime scene immediately after the killing, with dead bodies still around, the FIR was not registered under sec 302 IPC. The seizures in the rape case were also tampered with. Similarly, in Mustain Abbas's murder case (March 2016), the police did not cooperate with the family, until directions were issued by the High Court. In Noaman Zahid's case (Sirmour, December 2015), the district Superintendent of Police, the family informed us, reportedly threatened the family and asked them to agree to a compromise with the accused assailants. Similar police role – to push for a compromise - was reported by family members of Salim Khan, lynched in Panipat (August 2015). In the Ramgarh case of Alimuddin Ansari (July 2017), the police acted unprofessionally - post mortem was conducted without consent and knowledge of the family. The police has also been spreading rumours about the deceased – about his alleged misdeeds – rumours that were later refuted by a senior police officer.

## **e. Trial**

Fraught investigation by the police have implications for passage of cases to trial too. In the case of Mohammad Akhlaq (Gautam Budhanagar, Sept 2015), trial is being deliberately delayed by the accused, by moving multiple applications seeking additional documents, medical reports and meat examination report from forensic labs. As a result, and remarkably, seventeen months after the chargesheet had been filed in the present case, the court has been unable to frame charges against the accused persons. But there are other ways too, in which cases can be compromised beyond delaying them. In Junaid Khan's case (Faridabad, June 2017), we were informed of threats and intimidations of the family by local power brokers, notto continue the cases against the accused. In the lynching case of Mazloom Ansari et al (Latehar, Jharkhand, March 2015), the accused have mostly been bailed, and family members we met informed how the accused now free, have started threatening the family and witnesses, creating problems for witnesses to give evidence in the trials. And finally, in Tehsin's killing in Yamunanagar (March 2015), Haryana, the trial court has already passed judgement, awarding a lenient imprisonment to the main accused, whilst three other accused have been acquitted. The orders have not been contested by either the prosecution or the family members.

## **3.3 Redress and Restoration**

### **a. Compensation:**

Compensation to victims is the most tangible way the state can attempt to remedy the harm that victims have suffered. International law, under the 'Reparations Principles' provides that a state must provide reparations for acts or omissions that can be attributed to the state, and constitute gross violations of international human rights law, or serious violations of international humanitarian law. (Chopra and Jha, 2014:322). Indian law is weak on reparation, the only practice being for the state to provide some sort of ex gratia relief. Regrettably there is no policy or a common standard laid out. (Chopra: 2016:39) In communal violence cases, the figure has ranged between Rs 5000 provided to Nellie massacre victims (1981) to Rs. 8 lakhs provided by the Indian railways to the family of Hafiz Junaid, lynched on a commuter train near Delhi. (India Express, 2017). For most of the victims of lynchings, compensation and rehabilitation, has been a distant dream.



Pehlu Khan's family (April 2017) has, according to information provided to us, been given no support from the state of Rajasthan, where the lynching took place. None has come from Pehlu Khan's home state too, Haryana, where his family live in Jaisinghpur village, Nuh district, trying to rebuild their shattered lives. Other cases in Haryana have varied. In the case of Ibrahim and Ayesha (Dingerheri, Nuh, August 2016), one relative has been awarded a government job, in the Waqf Department. Junaid's family, in Ballabgarh, Faridabad, has received Rs 8lacs as grant from Indian Railways, and a brother offered a government job (Grade IV), again in the Waqf Department. None of the cases where families belong to Uttar Pradesh— and the murders took place outside the state, or inside — have received any compensation at all.

In Jharkhand, the state seems to have followed a more consistent policy of providing — although nominal — ex gratia relief to families. These, we heard were handed by the district administrative heads themselves, signaling also restoring some dignity to the victims. Minhaj Ansari's family (Jamtara custodial killing, Oct. 2016) was given Rs 2 lacs, those of Mazloom Ansari and Imteyaz Khan (Latehar lynching, March 2015), same amount and a further Rs. 20,000 for burial. Alimuddin Ansari's family (Ramgarh, July 2017) was offered Rs 1 lac ex gratia. They turned down the offer, claiming it was too meagre a sum.

## **b. Legal Aid**

Everywhere we went, it was clear that families initially wanted to take up matters through the courts, but the long delays and especially the high costs involved, meant interests an commitment waned. These are poor families, constantly in struggle to make both ends meet. For them to pay hefty fees to lawyers, and make time to chase up the police investigators and attend to courts, is a long shot. Except for a singular case of Noaman Zahid (Sirmour, HP) we did not hear of any victim being provided legal aid under the much talked about Legal Services Authorities Act, 1987. The act, through its organisational creations, the National Legal Services Authority (NALSA), and their provincial and district versions, seeks, among other things, to provide free legal aid to the eligible candidates, mostly the needy and poor.<sup>9</sup> In the absence of formal legal aid, we heard of specific examples of philanthropic giving for providing assurance and legal aid. Jharkhand's was also a case where community action for legal aid/legal advocacy has meant that all cases have some oversight by civil society groups monitoring progress of investigations, arrests and bails, and the trial process. This unlike western UP and Haryana, where there was little of that civil society acting as watchdogs, following up and tracking progress of cases.

## **4. Conclusion**

### **4.1 'Communal riots' vs 'Lynchings'**

India has long history of violence against religious minorities. The principal form this has taken, has been what are called 'communal riots' in India, that in reality are mass violence, some bordering on pogroms, with violent elements of the majority community targeting minority groups, often with police support (or tacit connivance) - the most recent major incident being in Muzaffarnagar in Uttar Pradesh in September 2013 (52 persons killed) and in Assam in May 2014 when on a single day 46 persons, 28 of them young children, were murdered in Baksa district.

<sup>9</sup> The specific categories included here are SC/ST, women and children, mentally ill or disabled, victims of trafficking; victims of mass disaster, ethnic violence and caste atrocity, those in custody, and the very poor.

Of late, lynchings and vigilante attacks have become the instrument of choice for violence against minorities – particularly Muslims. Vigilante attacks and lynchings are different to ‘communal riots’. These are episodic acts of violence, of a localised kind, not mass; targeting individuals or groups of individuals, led mostly by decentralised groups, acting as vigilantes, affiliated to violent anti-minority groups, in some cases, acting with the authority of the state. Lynchings have taken place with regularity recently, threatening to grow into a “national epidemic”. As a result, “Indian Muslims are learning to endure an intense sense of foreboding – a lurking, unnamed, unspoken fear - the persisting danger of imminent violence, of being vulnerable to attack anywhere - on a public road, in a bus or train, in a marketplace, even in their homes - only for looking and being Muslim”. (Kaarwan-e-Mohabbat).<sup>10</sup> The shift in method, from mass violence to low intensity individualised ones, being perhaps a deliberate strategy by those behind the violence, to at once avoid too much publicscrutiny, whilst also ensuring that the minorities are constantly under attack. This reinforces their exclusion, already pronounced in the socio-economic sphere.

The impact this has on the minds of the Muslims and other religious minorities is immense, and of a very enhanced scale compared to that of mass violence. In the latter, the shock was intense, but there was also healing and a process of getting back to normality, of closure – if not through delivery of justice and reparation, then through the passage of time. With lynchings without end, there is no closure. There is no start and end date to these, making fear infinite, ever happening, everywhere. The exclusion is indeed complete!

Communal riots were always considered breakdowns (in the rule of law), creating spaces for non-state actors to attack minority groups. The repeat of these breakdowns has been attributed to weak accountability mechanisms – for those tasked to protect right to life of citizens and uphold the rule of law – violence being the result mostly of acts of omission by the state, although there are numerous instances where state actors took active parts too, in denying the right to life of minorities. Vigilante violence, our study shows, has a clearer element of state complicity; when state empowers private anti-minority groups, through formalising their role in helping enforce state laws to protect cows and other cattle. In Haryana, the head of the cow protection Task Force, a senior police officer, calls this, “one form of community policing”. Side by side, those in executive positions, rather than speak unequivocally against the violence, either blame the victims for attracting the violence, or express solidarity with the perpetrators and those inciting violence, thus reinforcing impunity.

Localised, low intensity violence, happening with regularity also serves a more political purpose. We know, violence is not just the manifestation and the outcome of hate, but often also serves instrumental purposes, as a recruiter to further hate. ‘Lynchings without end’ then, have the added danger of forever radicalising the youth, recruiting more lynching mobs itching for violence against minorities, and for advertising those acts among a willing audience fed on regular doses of hate and prejudice directed at minorities. They circulate videos of themselves in violent acts, confident in the impunity they enjoy. A society constantly on the boil, serves well the political purposes of ideologies and political formations that thrive on hate and polarisation. As a commentator noted, the BJP is – thanks to these hate crimes against minorities - constantly on election mode, reaping rich political dividends.

## 4.2 Access to justice

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The nature of free legal aid includes, representation by an advocate, preparation of pleadings, drafting of legal documents, and giving advice on any legal matter. (<http://nalsa.gov.in/content/legal-aid>)

<sup>10</sup> *Kaarwan-e-Mohabbat* public appeal – literally ‘caravan of love’, a civil society led effort for justice for victims of hate violence and peace building. (<https://www.facebook.com/KarwaneMohabbat/>)

Access to Justice for victims of violence - both mass as well as individual acts of lynchings - the barriers are many. A recent report examining large episodes of mass communal violence (in Delhi, 1984; Bhagalpur, 1989; and Gujarat, 2002), reveals how survivors were systematically denied justice. (Chopra and Jha, 2014). The failures began from stage one, in which a survivor came in contact with the state through the flawed writings of first information reports (FIRs) in cases in which they were recorded, to poor investigation resulting in a large number of cases being summarily closed with no evidence of the complainant being given a chance to represent against the closure as required by law. These were followed by a poor show on arrests of the accused and poorer outcomes on prosecution. This also included an acute weakness of efforts by the prosecution to contest bail applications. Rates of acquittal were significantly high, suggesting either a passive trial court or one that was complicit in subverting justice. (Ibid: 334). The authors contend, "...the scale of these failures, (and) the fact that they are repeated across different episodes demonstrates that these failures are systematic rather than occasional aberrations", going to conclude, "accountability of public officials 'comes forth as a particularly weak point. Gaps in the law and procedural barriers to prosecution, make it easier for complicit officials and politicians to escape.'" (Ibid)

Our rapid fact finding reveals much the same failures of the criminal justice system in the case of lynchings and vigilante violence - with one difference. Much of the latter violence is enabled by the state formalising laws against cow slaughter and transport, as well as, in some cases, creating space for private parties to aid the police in enforcing those laws. The access to justice then, in these cases, is also markedly different, from that of mass violence cases. We noticed how the largescale use of 'cross cases' against victims and witnesses of lynchings - mischievously, in most cases, given most were filed against unnamed individuals - severely limits the ability of victims to fight what are long drawn legal battles.

Ultimately, impunity is aided by the victims' disadvantaged condition. They are too poor, unaware, unconnected, and demoralised, to pursue cases vigorously. The protracted legal processes, lack of transparency, and the long delays in courts, means only those that have the resources and the hope of seeing justice through, will pursue it through to the end. Not many have either. Most families we visited, had not been able to engage lawyers beyond the bare minimum service of completing basic paperwork protecting themselves. They had resigned to accept the inevitable. Given the immediate and more urgent need to eke a living, for most victims of violence having already lost their main bread earners, the long road to justice does not appear a very fruitful one. Poor awareness and education aids in exacerbating this hopeless situation. Most victim families we visited were unaware of the progress of police investigation, of whether bail applications by the accused had been approved, or what the progress of the trials was in the court cases. Indeed, they seemed lacking in any agency. Yet the desire to see justice done, and for the guilty to be punished, was strong, everywhere we went.

### 4.3 Hate crime laws in India

One final observation: Violence against minorities - communal riots or lynchings - are extreme forms for hate crime. This has only poor acknowledgement in Indian jurisprudence, with only weak provisions for hate speech and hate crime. Sections 153 A and 153 B of the Indian Penal Code (along with sections 295a and 295b), are the only relevant clauses here, that forbid acts that would disturb social order and harmony. Yet these provisions do not acknowledge that hate crime is, ultimately, an exercise of power, by the powerful (in a particular circumstance) against the weak, and that laws against hate crime, to be effective, must assure the weak of protection from the majority, and not just act as a mechanism merely to

prevent disorder and disharmony. The consequences of this absence of hate crime law are clear: In none of the cases of lynchings we studied, had sections 153A or 153B of IPC been applied in murder cases, all of which potentially disturb social harmony, but which had members of powerful majority communities targeting weaker minorities.

And hate inspired lynchings and vigilante violence are still treated as normal murders and assaults, and recorded and prosecuted as such, as if the identify of the victim was of no consequence to the act of the violence. But these acts are clearly motivated by hate and prejudice, and need to be treated as such. India is one of the very few plural democracies without an inclusive hate crime law. Barring the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, 2015, there is little for other vulnerable groups - religious minorities, as also ethnic (students from Northeastern states are regularly attacked in Delhi and other cities for eg., where ethnic minorities such as those from the northeastern parts of the country are seen as outsiders) and sexual minorities, and those with disabilities, among others. There is little recognition that crimes against minority groups motivated by their identity, not only affect deeply, the victims directly, but also other members of the community, as well as the wider society - and thus are hate crime, that should be treated as 'aggravated', deserving higher levels of penalties.

## **5. Recommendations:**

With these conclusionary remarks, below are some recommendations for action:

### **5.1 For state parties**

#### **Individual cases**

- Ensure speedy investigation and prosecution of the perpetrators and instigators of lynchings and vigilante violence (including registering FIRs in cases of vigilante violence, where none have been made; quashing mischievous cross cases against victims; challenging bail applications by the accused; appeals against judgment of the lower courts – where accused only awarded minor penalties;
- Independently investigate why there has been inaction by the police in respect of investigation and prosecution of vigilantism, hanging, assaults, murder, and rape.
- Ensure provision of relief and rehabilitation of survivor families; including immediately victim compensation and witness protection, and to rehabilitate them generously in terms of government employment, land, education, medical treatment and other benefits.
- Provision of adequate legal aid to victims to be able to obtain justice

#### **Hate speech and hate violence**

- Investigate hate speech and instigation of hate crime, and prosecute the guilty
- Ensure use of existing provisions under section 153A, 153B, 295A, 298, and 505 of the Indian penal Code.
- Ban gau rakshak dals and other vigilante groups, and take strong action their working

## Laws

- Revoke the centre's notification, under the Prevention of Cruelty to Animals (Regulation of Livestock Market Rules, 2017), banning sale of cattle for slaughter in animal markets, given how it affects the livelihoods of a very large section of the population.
- Ensure changes by relevant states in their cow / cattle protection laws to provide safeguards against the out-sourcing of enforcement of cow protection to private parties, including Gau Rakshak Dals. Also simplification and making transparent systems and procedures for obtaining permits and licenses for those wanting to legally conduct business in cattle (dairying and animal husbandry);
- Enact hate crime law that recognises hate-inspired crime and violence against religious, ethnic, linguistic and sexual minorities, and those that are disabled.
- Strengthen hate speech laws; make use of those to prosecute hate violence instigators
- And publish data on hate crime, by social groups and hate crime categories

### 5.2 For civil society:

- Document hate crime and hate violence; and report those to appropriate audiences, to create awareness about these and the trends; and bring the issues in the public domain
- Advocacy with the executive, legislative and judicial wings for improved outcomes for victims of hate crime; and for creation and strengthening of safeguards (laws, systems and capacities) against hate crime
- Create wider acceptance in the country against hate speech and crimes directed at minority groups, and against impunity in these cases.
- Provide legal awareness and provide legal training to victims, and vulnerable communities on hate crime, accessing justice, obtaining compensation et al
- Provide legal aid, other support to victims to be able to fight cases and obtain justice

### 5.3 For the international community

- Encourage India to investigate lynchings and other hate crimes against minorities, and prosecute the perpetrators and instigators of hate crime
- Support India to examine its legal framework on hate crime and incitement to crimes directed at vulnerable groups, and propose enacting hate crime laws that are inclusive, and to report hate crime periodically
- Encourage India to abide by its commitment to relevant international instruments, regards incitements and actions based on ideas of racial superiority or hatred, specifically: Universal Declaration of Human Rights (Art 7); International Covenant on Civil and Political Rights, Art 20(2); and International Convention on the Elimination of All Forms of Racial Discrimination (CERD), Art 4 particularly,

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## Annex I

Recent cases of religiously motivated hate crime (after the fact finding)

SN	date	Description of religiously motivated hate crime
1	27th Aug. 2017	two Muslim men lynched to death by Gau Raksha dals, in Jalpaiguri district of West Bengal. Hindustan Times
2	26th August 2017	Hindu Yuva Vahini goons climb atop mosque in Adauli, Bulandhahr district, Uttar Pradesh, to hoist tricolour and chat vande matram. Janta Ka reporter
3	15th August 2017	School principal in Nandipet Ailapur, Adilabad, Telengana, heckled by mob for wearing shoes while unfurling the national flag on Independence Day. Forced him to say "Jai Shri Ram," "Bharat Mata Ki Jai" and shouted "Go to Pakistan". NDTV.
4	14th August 2017	pamphlets circulated in Narkhed town in Maharashtra, asking for a social and economic boycott of the Muslim community. Indian Express
5	August 03, 2017	Cow vigilantes assault three Muslim men on suspicion of carrying beef on NH 84, Ara-Buxar stretch, in Bihar Hindustan Times
6	July 23, 2017	Mob sets truck on fire suspected of carrying beef, in Orissa's Ganjam district. Bajrang Dal and VHP members accused. Hindustan Times
7	17th July 2017	Muslim man killed for marrying Hindu girl two years after marriage, in Muzaffarnagar, UP Indian Express
8	11th July 2017	Bajrang Dal activists slapped a Muslim man, traveling in his car on highway in Hisar, Haryana, and forced him to shout "Bharat Mata ki Jai." Shared video on social media. Hindustan Times
8	8th July 2017	Two dozen Muslim homes torched in Sehore district, Madhya Pradesh, after a Muslim boy eloped with a Rajput girl. Indian Express

Source: *Hindustan Times hatetracker. Database of identity-based hate crime in India*  
<http://www.hindustantimes.com/hate-tracker/>

## Annex II

Further cases of targeted attacks / 'encounters' (in police custody) we came across in Nuh district, Haryana

Date of occurrence	Name of deceased	Address	Place & manner of 'encounter' killing	Case details
17-02-2017	Ruddar		Baten village, Kosi, UP	
03-01-2017	Kamaluddin	Badwa, Nuh	Dadri, Kitlana village	FIR lodged but not in court
07-10-2016	Nizamuddin	Kot, Palwal	Police killing	FIR registered on friends/cross cases.
20-08-2016	Naseem	Adbar, Nuh	Bhiwari	No case, no post mortem, no FIR
10-08-2016	Wasim	Bawla village, Tauru block, Nuh	Near Mahendergarh	No court case yet.
01-01-2016	Ajruddin Tahir	Ghasera, Nuh Punhana, Nuh	Dharuhera, Rewari	FIR registered, but not in court
12-10-2015	Azad Alam	Dhandhuka, Nuh		No FIR
29-05-2015	Zahid Karar	Dhulawat village, Tauru block Nuh	PS: Kasola, Rewari district Haryana	Police defaced victim's face. Body recovered after 3 days. Case in High Court.
28-02-2014	Ershad	Uttawad, Palwal	custodial death	FIR registered. Rs 8.39 lac claim by family, released.
29-12-2013	Farid	Rud, Bharatpur		
2013	Niaz Mohammad	Dudoli m Punhana	custodial death	
16-05-2010	Azmat	Mamluka village, district, UP Punhana block, Nuh	Kosi Kalan, Mathura Unprovoked firing by UP Police. Body too not easily traceable.	NHRC awarded compensation. UP Police still not taking action against culprits. No court case yet.

Source: Rapid listing conducted by Citizens Against Hate team of HRLN, Quill Foundation and Yuva Ekta Jagruk Manch (YEJM) workers (August 2017)

## Annex III

### State laws on cow protection – a comparison

State laws	Banned	Procedures	Penalties
The Bihar Preservation And Improvement of Animals Act, 1955	slaughter cow, calf, bull, bullock or she-buffalo export cows, she-buffaloes, calves, heifers, buffalo calves buffalo-heifers, buffalo, bulls and bullock from the State of Bihar. Exempts: Bull, bullock, she buffalo, above 25 year.	arrested without any warrant by a police officer not below the rank of ASI.	imprisonment upto to six months or with fine which may extend to one thousand rupees with both.
The Gujarat Animal Preservation Act, 1954. with Gujarat Animal Preservation (Amendment) Bill, 2017	Slaughter any animal (unless, he has obtained in respect of such animal a certificate in writing from the Competent Authority appointed for the area that the animal is fit for slaughter). No certificate for: (a) a cow ; (b) the calf (c) a bull (d) a bullock. transport or offer for transport or cause to be transported any animal specified from any place within the State to any another place within the State sell, keep, store, transport, offer or expose for sell or buy beef or beef products in any form.	2017 bill: all offences made cognizable and non-bailable. Only 7 officials notified for issue of certificate, past 25 officers. No transport from 5 pm to 7 am. Sec 12 of the 1954 law, protects persons acting in good faith under the Act or rules. 2017 law maintains it.	No certificate: imprisonment for a term which may extend to 1 year and with fine which may extend to Rs 10,000. Slaughter at another place than specified: ditto Sec 1A animals: upto 7 years but shall not be less than 3 years and with fine which may extend to Rs 50,000. (2017 bill: min 10 years, max, life imprisonment) transport & sell and keep.. upto 3 years and with fine which may extend to Rs 25,000. (2017 bill: illegal transport for slaughter: 7-10 years)

<p>The Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 (amended the 1955 Punjab and Haryana Act) Haryana Prohibition of Cow Slaughter Rules, 1972</p>	<p>Sec 3: slaughter any cow in any place in the State. Sec 5: sell, keep, store, transport or offer for sale or cause to be sold beef or beef products Sec 8: export or cause to be exported cow for the purpose of slaughter no permit for export of cows shall be issued for a State where cow slaughter is not banned by law.</p>	<p>Offence to be cognizable and Non-bailable. burden of proof on the SI and above power to enter, seize, and confiscate the vehicle. Sec 16 and 17 of the 2015 law authorises police and any person authorised by the state to enter, stop and search, any vehicle used or intended to be used for the export of cows, and seize the vehicle and the cows.</p>	<p>For sec 3: rigorous imprisonment for a term which shall not be less than 3 years and may extend to 10 years and fine which shall not be less than Rs 30,000 and may extend to Rs 1 lac. for sec 5: rigorous imprisonment for a term which shall not be less than 3 years and may extend to 7 years and fine which shall not be less than Rs. 30,000 and may extend to Rs. 70,000 Sec 8: rigorous imprisonment for a term which shall not be less than 3 years and may extend to 5 years and fine which shall not be less than Rs 30,000 and may extend to Rs. 50,000.</p>
<p>Jharkhand Bovine Animal Prohibition of Slaughter Act, 2005</p>	<p>-slaughter any cow in any place in the State. -export cow for the purpose of slaughter -export cow for the purpose of slaughter -export cow within and outside state without a certificate -transit through the state without a certificate - cause bodily pain, disease or infirmity in a bovine animal which is likely to cause the death of the bovine animal. - sell, keep, store, transport, offer or expose for sell or buy beef or beef products in any form.</p>		<p>Section 3(Slaughter of Cow) or Section 5(Causing hurt) or Section 6(Possession of beef) or Section 7(Selling beef): rigorous imprisonment for 1-10 years, and fine which may extend to Rs 10,000. Section 4A and Section 4B (related to transport of bovine animals): rigorous imprisonment upto 3 years and fine which may extend upto Rs 5000.</p>

<p>The Maharashtra Animal Preservation Act, 1978 (As amended in March, 2015)</p>	<p>-slaughter any scheduled animal (bovines - bulls, bullocks, female buffaloes and buffalo calves), without a certificate. (no certificate issuable when affecting drought, breeding and dairying usage) -transport for slaughter - export for slaughter - possess flesh of cow, bull or bullock (slaughtered in Maharashtra) - possess flesh of cow, bull or bullock (slaughtered outside Maharashtra) (last sub judice in SC – struck down in HC)</p>	<p>cognizable and non-bailable Sec. 13 provides for protection of persons acting in good faith under the Act or rules.</p>	<p>5 years Rs 10,000</p>
<p>The UP Prevention Of Cow Slaughter Act, 1955 (as amended in 2002) The U.P. Govadh Nivaran Niyamavali, 1964</p>	<p>Sec. 3: slaughter of cow, bull or bullock in the any place in UP. Sec. 5: selling, transporting, offering to sell to transport and causing to sell or transport of beef or beef products in any form except for medicinal purposes as prescribed. Clause (1) of Section 5A: transfer of cows, bulls or bullocks from within the state to any place outside the state without any government permit</p>	<p>For transport of cow, bull or bullock a fee of Rs. 500 will have to be paid but if the transport is only for a duration of 6 months, no fee needs to be paid.</p>	<p>-All the offences are cognizable and non-bailable. - burden of proof on the accused -Any act or an abetment punishable with rigorous imprisonment for a term which may extend to seven years and with fine which may extend to ten thousand rupees.</p>

## Annex IV

### A. Schedule of interviews questions

#### 1. Incident:

- Date, time, place, police station
- Injuries: nature of injuries, medical records if any,

#### 2. background:

- family: profession/livelihood,
- history if enmity, threats
- State sanctioned actions for cow protection
- State authorisations to private groups for cow protection
- BJP and RSS political mobilisation in the locality, areas, district
- Gau Rakshak/Bajrang Dal/VHP/vigilante group mobilisation in the area
- Any past violence/tensions
- Any past threats to family, or in locality

#### 3. Incident account:

- (injured, NoK of those killed, victim of rape/sexual assault)
- details of victims: name, age, gender, caste, details of injuries
- details of witnesses: do
- any social media accounts of the lynching

Chain of events, according to different persons from victims' side

- role of Perpetrators
- role of the crowd/bystanders
- role of the Police

4. Victim's Loss:

- Death, injury, and
- loss to livestock and property
- Loss of livelihoods
- whether had to move residence
- whether victim of social boycott

5. Access to justice account

- Complaints to police:  
FIR filing – experience, whether appropriate sections recorded, whether accused recorded
- Police action: arrests, investigation, granting of bail to accused, making the charge
- Cross case: whether victim made accused
- Immediate relief/compensation  
legal aid offered/provided
- Trial
- witness protection

6. engaging other grievance redress institutions

- NHRC
- NCM
- NCW

**B: Checklist of documents collected**

- 1) Complaint given to the Police
- 2) FIR registered by the Police

- 3) Photographs showing injuries caused to the victims due to lynching
- 4) Post Mortem Report/MLC in cases of injured victims/Medical Examination Report in rape cases.
- 5) Report of Medical Examination of the accused (Imp in rape cases)
- 6) Report of Forensic Science Laboratory (FSL Report) - imp in cases where meat has been sent to FSL for determination.
- 7) CDRs (Call Detail Record) obtained by the Police, if any
- 8) Arrest Memos
- 9) Disclosure statements made by the accused
- 10) Seizure Memos
- 11) Statements of victims/witnesses u/s 161 CrPC
- 12) Statements of victims/witnesses u/s 164 CrPC
- 13) Charge Sheet filed by the Police or Closure Report filed by the Police
- 14) Order on Charge issued by the Court
- 15) Prosecution Evidence
- 16) Defence Evidence
- 17) Section 313 CrPC statement of accused
- 18) News Reports on the incident
- 19) Bail/Anticipatory Bail Orders
- 20) Cross Complaints filed against the Victims
- 21) Cross FIR filed against the victims
- 22) Documents mentioned in point 6 - 16 pertaining to the Cross FIR.



# Annex V

## Status of mob lynching/vigilante violence cases investigated – detailed

SN	Case/date & place/victim names (and home dist)	(local) instigation of the violence, if any	Main (private) actors involved	Role of Police in the violence, if any	Registering the case - FIR	Cross case, if any?	Arrests of accused and bail	Investigation	Chargesheet/ charges	Any compensation
State 1: Haryana										
1	Arif Qureshi, Nuh District, Haryana 1 killed		Police	Allegedly police tortured the deceased victim Family threatened and warned not to pursue the case	Not registered	FIR in PS Hazrat Nizamuddin u/s 279, 338 and 339 IPC, r/w section 25, 54, 27 and 59 of Arms Act and Section 3 and 12 of Prevention of Cruelty to Animals Act, 1960 against unknown persons	-	-	-	No
2	Aug 06, 2013. Farid Sher Singh, Nuh District, Haryana		Police, and Gau Rakshaks	Police involved in attacking the victims Police have harassed and threatened family	No information	FIR dated 7.08.2013, was filed against 8 unknown people in PS Suraj Kund Dist Faridabad u/s 179, 279, 304A, 429, 307, 34 IPC, Section 25, 54, 59 Arms Act, Section 3, 4 The Punjab Cow Slaughter Act, 1955	-	Writ petition filed in high court, but case not followed up.	-	No
3	April 15, 2014. Alisher. Yamunanagar District, Haryana.		Gau Raksha Samiti		On 16.04.2014, an FIR bearing No. 81 was filed in PS Bilaspur, Yamuna Nagar District, by Waledeen (brother of deceased) u/s 148, 149, 302 & 201 IPC naming the accused persons of the Gau Raksha Samiti	Yes, Alleging the victims of smuggling cattle	Not done	Not done	Not done	No
4	March 16, 2015. Tehsin. Yamunanagar District, Haryana.		members of Gau Raksha Samiti	Accused in this case were same as those involved in murder of Alisher. Police did not take any action in Alisher's case.	On 20.03.2016 an FIR bearing No. 39, was registered by Yameen S/o Rasheed in PS Khizarabad, District Yamuna Nagar, u/s 365 IPC		vide judgment dated 25.01.2016, the Sessions Judge, Yamuna Nagar District, convicted Subhash Chand u/s 304 Part II. The other 3 accused were acquitted. Accused Subhash Chand was sentenced to undergo rigorous imprisonment of 5			

5	April 01, 2017. Pehlu Khan, Nuh District, Haryana.	Gau rakshak Dal	Police made no arrests from place of incident, while rescuing the victims. Did not transfer victims to multi speciality hospitals The accused, named by Pehlu Khan, were not arrested.	FIR No. 255, was registered at PS Behror, Alwar District u/s 143, 323, 341, 308, 379 and 427 IPC. After the death of Pehlu Khan, Sec 302 IPC was added in the FIR.	Two FIRs bearing No. 252/2017 and 253/2017 were registered at PS Behror against the victims u/s Sections 5, 8 and 9 of the Rajasthan Bovine Animal (Prohibition from Slaughter and Regulation of Temporary Migration and Export), Act, 1995. On 20.07.2017, the High Court of Rajasthan granted anticipatory Bail to Arif & Irshad in S.B. CrI. Misc No. 5617/2017. The cases are at the stage of investigation and chargesheet has not been filed yet.	No Test Identification Parade conducted. The 161 statement of the injured victims was recorded while they were admitted in the hospital. After their discharge, they went to Alwar to record a supplementary statement.	6 arrested. One granted bail, probability of others being granted bail high	Investigation has been transferred to the CBI by the State Govt. However, till December 2016, CBI had not visited the place of occurrence and the statements of only a few witnesses had been recorded. Victims moved HC for court monitored investigation. Case is	underway	Furthermore, the Chargesheet has not yet been filed by the CBI.	Rs 40 lakhs from community and non-governmental organisations. But nothing from state government. Petition in court.	Rs 8 lacs from Indian Railways, besides other from state government and NGOs and community. Job assured. Rs 10 lac each for death and for rape. Job given.
6	June 22, 2017. Junaid Khan, Faridabad district, Haryana.			On 23.06.2017, the GRP Ambala Cantt. Registered an FIR at PS Faridabad u/s 323, 324, 302 and 34 IPC against unknown persons.					Not done			
7	Aug 25, 2016. Ibrahim, Rashidan, Nuh District, Haryana.		Police played partisan role Did not add IPC section 302 despite viewing the dead body at the crime scene. Police being biased in favour of the accused Tampering with seizures in sexual	FIR No. 247 in PS Tauru, Mewat District was registered against person u/s 376-D, 459, 460 IPC, Section 6 of POCSO Act, 2012 Section 25/54 of Arms Act, 1959. Only after sustained public pressure were Sections 302 and	Ibrahim's father informed the fact finding team that he had been made an accused in the case of murder of the father of one of the accused persons – perhaps to blackmail him into going weak on legal case.	4 arrested. 4 others proclaimed offenders.						

					violence evidence	396 IPC, added	State 2, Uttar Pradesh				pending in HC. On 18.08.2017, CBI was supposed to file status report CBI.		
8	March 05, 2016. Mustain Abbas. Saharanpur District, UP				Gurcharan Singh s/o Swaran Singh R/o Village Dua Majar, PS Shahbad; Salinder Singh s/o Gian Singh and Bisham Singh s/o Ajmer Singh both R/o village Habana, PS Shahbad, and police officials of PS Shahbad	Only after HC order on habeas corpus petition, was the family called to identify a severely tortured and mutilated body of the deceased. This was a month after the date of incident. Police did not cooperate with the family all this while. There was no attempt by the police to find the deceased, who was still alive for a number of days after the date of incident.	FIR bearing No.157 dated 02.04.2016 registered in PS Thanesar Sadar, Distt. Kurukshetra, u/s 302 and 34 IPC against members of Gau Raksha Dal namely, Gurcharan S/o Swaran Singh, Shailendra Singh S/o Gian Singh, Bisham Singh S/o Ajmer Singh & Rohir Pradhan, Gau Raksha Dal, Yamuna Nagar	FIR No. 124 dated 06.03.2016 u/s 11 of Prevention of Cruelty to Animals Act, Section 307 IPC and 25/24 of Arms Act 1959 at PS Shahbad has been registered against unknown culprits. No investigation is being done in this case, but co-passengers with the deceased, have refused to be eyewitness due to fear of being implicated in this cross case.	CBI has not arrested anybody yet	CBI registered a fresh FIR on May 23, 2016. Also, conducted the postmortem again. CBI undertook polygraph tests, mobile tracing etc. on the accused. But over time, CBI's attitude has changed. They are now harassing the relatives of the victim in the name of investigation – repeatedly calling them to Chandigarh.	CBI has not filed any charge sheet yet.	No.	
9	Dec 15, 2015. Norman Zahid. Saharanpur District, UP.				Members of local Gau Raksha Dal	Police was present during the incident but took no action to stop the perpetrators. SP, Sirmour District threatened and asked the family of the deceased to compromise on the case.	FIR No. 86/15 dated 15/10/2015 was registered u/s 302, 147, 148, 149, 323, 325, 382, 411, 212 r/w 120B IPC at P.S. Pachrad (Sarah) District Sirmour	Yes. FIR u/s 429, 34 IPC and provisions of the Himachal Pradesh Prohibition on Cow Slaughter Act 1979. 3 out of the 6 accused were in judicial custody for 40 days, now on bail. Case at evidence stage in court. Deceased's family says due to this cross case, the accused that are witness, are reluctant to pursue the case.	12 arrested, 3 given bail. Others also were given bail later by HC.	No information	No information were given any medical expenses.		
10	Aug 23, 2013. Salim, Shamli District, UP.				Sinna Fakir (the middleman in purchase of cattle), members of local Gau-Raksha Dal	Police is trying to protect the accused persons, and has reportedly threatened the family to compromise in the case.	On 26.08.2013, FIR No. 314 was registered at P.S. Panipat Sadar u/s 148, 149, 323 against unknown accused persons. No mention of sec 302 IPC.	FIR under the Punjab Prohibition of Cow Slaughter Act, 1955, as was applicable to the State of Haryana, was filed against Salim (deceased victim) and Afzal co-passenger.	A few were arrested, and were granted bail later. Family is not very sure, has not been following the case.	No information	No information	No.	

11	Dec 09, 2015. Khusnud Khan, Saharanpur District, UP.	members of the Gau Rakshak Dal and police officers of the Anti-Cow Slaughter Wing of the Haryana Police	Police involved in Firing.	FIR bearing No. 513/2015 was registered in PS Indri, Distt Karnal, on 09.12.2015 against unknown accused u/s 302, 34 IPC and Section 25 of Arms Act.	Police refused to register FIR initially. Family sent letters to all authorities including state Chief Minister and central Ministry of Home Affairs. FIR No. 300/2015 dated 08.08.2015, finally registered in PS Dadrli, after 6 days, against Babu Ram, Litu Pradhan, Vijay Bhatt & Others u/s 147, 148, 149, 342, 406, 427, 304 IPC. No mention of sec 302 IPC.	Police refused to rescue, refused to file FIR. Instead accused the deceased of stealing cattle. Later, kept on threatening and harassing the family.	Police refused to register FIR initially. Family sent letters to all authorities including state Chief Minister and central Ministry of Home Affairs. FIR No. 300/2015 dated 08.08.2015, finally registered in PS Dadrli, after 6 days, against Babu Ram, Litu Pradhan, Vijay Bhatt & Others u/s 147, 148, 149, 342, 406, 427, 304 IPC. No mention of sec 302 IPC.	9, including 2 police personnel, arrested. Currently, all in judicial custody.	Family visited PS for six months, but stopped after being threatened with life.	filed the chargesheet on 28.02.2016 u/s 304, 109 and 285 r/w 34 IPC and 25/30/54/59 of the Arms Act, omitting Section 302 IPC. Section 302 (murder) was added, replacing sec 304 (attempt to murder), on the intervention of the High Court. Case is currently pending in trial court (Karnal) for arguments on charge.	No.
12	Aug 02, 2015. Anas Oureshi, Arif Oureshi & Nazim, Ghaziabad District, UP.	Village pradhan, who was also the seller of the buffalo to the deceased.	Police refused to rescue, refused to file FIR. Instead accused the deceased of stealing cattle. Later, kept on threatening and harassing the family.	Police refused to register FIR initially. Family sent letters to all authorities including state Chief Minister and central Ministry of Home Affairs. FIR No. 300/2015 dated 08.08.2015, finally registered in PS Dadrli, after 6 days, against Babu Ram, Litu Pradhan, Vijay Bhatt & Others u/s 147, 148, 149, 342, 406, 427, 304 IPC. No mention of sec 302 IPC.	Police refused to rescue, refused to file FIR. Instead accused the deceased of stealing cattle. Later, kept on threatening and harassing the family.	Police refused to register FIR initially. Family sent letters to all authorities including state Chief Minister and central Ministry of Home Affairs. FIR No. 300/2015 dated 08.08.2015, finally registered in PS Dadrli, after 6 days, against Babu Ram, Litu Pradhan, Vijay Bhatt & Others u/s 147, 148, 149, 342, 406, 427, 304 IPC. No mention of sec 302 IPC.	No arrests have been made by the police as yet.	Family visited PS for six months, but stopped after being threatened with life.	Chargesheet was filed by the police on 18.05.2017 u/s 147, 148, 149, 302, 506, 364, 120B against 9 accused persons.	No.	
13	May 02, 2017. Ghulam Ahmed Bulandshahr District, UP.	Members of Hindu Yuva Vahini	Police was informed about the threat in a written complaint prior to incident. But police did not act. Family reports that threats to their lives continue even after the incident and arrests of the accused.	FIR No. 76/17 dated 02.05.2017 in PS Pahasu against Gavender and 5-6 unknown members of Hindu Yuva Vahini u/s 147, 148 and 302 IPC.	Police was informed about the threat in a written complaint prior to incident. But police did not act. Family reports that threats to their lives continue even after the incident and arrests of the accused.	The police has so far arrested 9 accused who are in judicial custody	Chargesheet was filed by the police on 18.05.2017 u/s 147, 148, 149, 302, 506, 364, 120B against 9 accused persons.	Family - one of the only 5 Muslims families in the village - is instead facing threats to their lives, and social and economic boycott.	No.		
14	Sep 28, 2015, Md Akhlaq, Gautam Budh Nagar District, UP.			FIR bearing No. 241/2015 dated 28.09.2015 PS Jarcha, Dist. Gautam Budh Nagar, u/s 323, 147, 148, 149,	on 9th June 2016, a Petition u/s 156(3) CrPC bearing CC No. 37/16 was filed before the Judicial Magistrate, Gautam Budh Nagar, Uttar	18 accused persons have been arrested by the police and remanded to judicial custody. Two accused persons were declared to be	Tampering with meat seizures, threatening the family, stopping them to speak with media etc.	Chargesheet against the 18 accused persons was filed on 22.12.2015, and the case was transferred from sessions court to Fast Track Court.	No.		

15	June 29, 2017. Md. Alimuddin, Ramgarh District, Jharkhand.	investigation establishes the pre-meditated nature of the crime and the use of a network of informers by the accused to spot, follow and target vulnerable people belonging to the minority communities	members of extremist Hindu groups & local Gau Rakshak Dals.	Police misled the family. Post mortem conducted without knowledge and consent of family  Police not arresting accused persons, post a protest rally by an ex-BJP MLA, Ramgarh - Shankar Chowdhury  Police reluctant to investigate role of extremist Hindu groups in the case, despite evidence.  Police also playing tricks - alleging that the deceased was involved in 'dubious activities', 'he had no credible source of income' and that he had been charge sheeted in a case of kidnapping & murder of a child and in a case of theft', all claims, refuted by state IG (Operations).	504, 506, 307, 427, 458 IPC and Section 7 of Criminal Law Amendment Act 1932 against Rupendra S/o Pramod Fauji, Vivek S/O Om, Sachin S/O Om, Hari Om S/O Raja Ram, Shri Om S/O Raja Ram, Vishal S/O Sanjay Rana, Shivam S/O Mukesh, Sandeep S/O Om Veer, Saurabh S/O Dheeraj, Gaurav S/O Dheeraj and 4-5 unidentified people.	Pradesh by a resident of Village Bisara. On 15.07.2016, the FIR against the victim's family was filed by the police on the orders of the Court. However, the family of the victim has stated that the police have not questioned them about the case yet.	a juveniles vide Order of the Juvenile Justice Board. On 31 <sup>st</sup> July 2017, Vishal Rana the main accused in the case was granted bail by the Allahabad High Court. 15 of the 18 accused are already out of jail.	Family had to leave their village.	However, in the chargesheet the charge of criminal conspiracy to murder u/s 120B IPC was not included. Its absence weakened the murder charges filed under Section 302 of the IPC. The trial in the case is also being deliberately delayed by the accused by moving multiple applications seeking additional documents, medical reports and meat examination report. 17 months after the Chargesheet had been filed, charges have not been framed against the accused persons.	Rs. 200,000 as compensation Rs.20,000 for burial expenses.	
State 3: Jharkhand											
15	June 29, 2017. Md. Alimuddin, Ramgarh District, Jharkhand.	investigation establishes the pre-meditated nature of the crime and the use of a network of informers by the accused to spot, follow and target vulnerable people belonging to the minority communities	members of extremist Hindu groups & local Gau Rakshak Dals.	Police misled the family. Post mortem conducted without knowledge and consent of family  Police not arresting accused persons, post a protest rally by an ex-BJP MLA, Ramgarh - Shankar Chowdhury  Police reluctant to investigate role of extremist Hindu groups in the case, despite evidence.  Police also playing tricks - alleging that the deceased was involved in 'dubious activities', 'he had no credible source of income' and that he had been charge sheeted in a case of kidnapping & murder of a child and in a case of theft', all claims, refuted by state IG (Operations).	504, 506, 307, 427, 458 IPC and Section 7 of Criminal Law Amendment Act 1932 against Rupendra S/o Pramod Fauji, Vivek S/O Om, Sachin S/O Om, Hari Om S/O Raja Ram, Shri Om S/O Raja Ram, Vishal S/O Sanjay Rana, Shivam S/O Mukesh, Sandeep S/O Om Veer, Saurabh S/O Dheeraj, Gaurav S/O Dheeraj and 4-5 unidentified people.	Pradesh by a resident of Village Bisara. On 15.07.2016, the FIR against the victim's family was filed by the police on the orders of the Court. However, the family of the victim has stated that the police have not questioned them about the case yet.	a juveniles vide Order of the Juvenile Justice Board. On 31 <sup>st</sup> July 2017, Vishal Rana the main accused in the case was granted bail by the Allahabad High Court. 15 of the 18 accused are already out of jail.	Family had to leave their village.	However, in the chargesheet the charge of criminal conspiracy to murder u/s 120B IPC was not included. Its absence weakened the murder charges filed under Section 302 of the IPC. The trial in the case is also being deliberately delayed by the accused by moving multiple applications seeking additional documents, medical reports and meat examination report. 17 months after the Chargesheet had been filed, charges have not been framed against the accused persons.	Rs. 200,000 as compensation Rs.20,000 for burial expenses.	
15	June 29, 2017. Md. Alimuddin, Ramgarh District, Jharkhand.	investigation establishes the pre-meditated nature of the crime and the use of a network of informers by the accused to spot, follow and target vulnerable people belonging to the minority communities	members of extremist Hindu groups & local Gau Rakshak Dals.	Police misled the family. Post mortem conducted without knowledge and consent of family  Police not arresting accused persons, post a protest rally by an ex-BJP MLA, Ramgarh - Shankar Chowdhury  Police reluctant to investigate role of extremist Hindu groups in the case, despite evidence.  Police also playing tricks - alleging that the deceased was involved in 'dubious activities', 'he had no credible source of income' and that he had been charge sheeted in a case of kidnapping & murder of a child and in a case of theft', all claims, refuted by state IG (Operations).	504, 506, 307, 427, 458 IPC and Section 7 of Criminal Law Amendment Act 1932 against Rupendra S/o Pramod Fauji, Vivek S/O Om, Sachin S/O Om, Hari Om S/O Raja Ram, Shri Om S/O Raja Ram, Vishal S/O Sanjay Rana, Shivam S/O Mukesh, Sandeep S/O Om Veer, Saurabh S/O Dheeraj, Gaurav S/O Dheeraj and 4-5 unidentified people.	Pradesh by a resident of Village Bisara. On 15.07.2016, the FIR against the victim's family was filed by the police on the orders of the Court. However, the family of the victim has stated that the police have not questioned them about the case yet.	a juveniles vide Order of the Juvenile Justice Board. On 31 <sup>st</sup> July 2017, Vishal Rana the main accused in the case was granted bail by the Allahabad High Court. 15 of the 18 accused are already out of jail.	Family had to leave their village.	However, in the chargesheet the charge of criminal conspiracy to murder u/s 120B IPC was not included. Its absence weakened the murder charges filed under Section 302 of the IPC. The trial in the case is also being deliberately delayed by the accused by moving multiple applications seeking additional documents, medical reports and meat examination report. 17 months after the Chargesheet had been filed, charges have not been framed against the accused persons.	Rs. 200,000 as compensation Rs.20,000 for burial expenses.	

16	March 18, 2015. Mazloom Ansari & Imteyaz Khan. Latehar District, Jharkhand.	The emergence of Gau Raksha Samitis in the area is a relatively new phenomenon. The residents mentioned a Baba Chintamani from Haridwar, Uttarakhnad who started coming to the region in 2012 and initiated this movement which incites hatred towards Muslims living in the area to target Muslims in the name of protection of cows. Incidents of attacks on Muslims, especially those dealing with cattle trading, increasing over the last two or three years.	the accused are members of local Gau Raksha Dal and have criminal cases in their name. While accused Arun Sao is a member of both the Bajrang Dal & the local Gau Raksha Samiti and is said to be very close to Jharkhand's Chief Minister. Raghubar Das; accused Mithilesh Sao is a member of the local Gau Raksha Samiti.	Police beat up and fired at crowd protesting against the lynching, and against police's tardy response. A case too was registered against the protestors. a team of National Commission for Minorities, Latehar lynching took strong exception to the Police's role.	FIR No. 42 dated 18.03.2016 was registered in PS Balumath, Latehar Distt., u/s 302, 201, 34 IPC against Binod Prajapati and 3-4 other unknown members of the Gau Raksha Dal.	An FIR bearing FIR No. 43/2016 was registered in PS Balumath dated 18.03.2016, u/s 147, 148, 307, 353, 323, 337 and 338 IPC against some named villagers and many unknown persons on the complaint of Aftab Alam, Block Development Officer, Bariyathu, Balumath for blocking the road, not parting with the dead body, and becoming violent through an unlawful assembly.	Police have arrested 8 accused in the case. All the arrested accused persons have been granted bail by the High Court of Jharkhand on 8 <sup>th</sup> September 2016, 6 months after their arrest.	Police is reluctant to investigate the role of organised Hindu-extremist groups	Charge sheet bearing no. 65/16 submitted on 31.05.2016 against the eight accused u/s 302, 201 and 34 IPC. Main accused Binod Prajapati not named as accused in the charge sheet. The case was committed to the Sessions Court, Latehar bearing G.R. Case No. 176/2016, which is currently at the stage of evidence.	Rs. 1Lakh offered by state government, which was refused by families who demanded higher compensation. NCM also recommended higher compensation. But no action taken yet by the state government.
17	Oct 3, 2016. Minhraj Ansari, Jamtara District, Jharkhand.	Vishwa Hindu Parishad's (VHP) district head alleged that the deceased victim uploaded photo of himself with a calf and later with beef on social networking app WhatsApp.	Police, and an unnamed private person, later identified in newspapers as a VHP functionary.	The deceased, was mercilessly beaten in several rounds in police custody. He was taken to hospital only when he lost consciousness, slipped into coma during the torture. He succumbed to his injuries later.	On 06.10.2016 the mother of the deceased filed an FIR in PS Narayanpur, Distt Jamtara Bearing FIR No. 154/16 u/s 354, 341, 342, 323, 325, 307, 504, 506 and 34 IPC against SI Harish Pathak and an unknown person from Pabya Village, who was later identified a, VHP official. After the death of Minhaj, Section 307 was changed to Section 302 IPC.	Sub-Inspector Harish Pathak has been suspended and an FIR u/s 302 IPC was registered against him in February 2017.	Initially, the police officials said that the cause of death was likely to be encephalitis, a viral infection. But this claim was refuted by the post mortem report.	Rs. 2Lakhs given by district administration		
18	18 <sup>th</sup> May 2017 East Singhbhum Shaikh Naeem, Shaikh Haleem, Shaikh Sajju, Shaikh Seraj,	It is reported that two rumors were spread in the area – of child lifters and consumption of beef. Members of the local Gau Rakshak Dal reported to be spreading rumors.	Members of local Gau Rakshak Dal	Family of the deceased have accused the police of not acting on time even though they were informed about the lynchings.	On 18.05.2017, 4 separate FIRs on behalf of the 4 families, have been lodged in Rejnagar P.S bearing Case No. 29, 30, 31 & 32 of 2017 u/s 147/148/149/353/325/427/452/435/332/333/506/504/302/535 IPC.	The police have arrested 18 persons so far. However, the families of the deceased state that initially the police had made arrests, but thereafter they have stopped arresting the accused and the investigation has slowed down.	The investigation in the case is underway.	A cheque of Rs. 2 Lakhs has been given by the State Government to each family		

## LYNCHING WITHOUT END

FACT FINDING INTO RELIGIOUSLY MOTIVATED VIGILANTE VIOLENCE IN INDIA

State 4: Assam		State 5: West Bengal		State 6: J&K			
19	April 30, 2017. Riyazuddin Ali & Abu Hanifa, Nagaon District, Assam	It has been reported that district police chief (Superintendent of Police) asked the villagers to attack thieves, dacoits etc.; SP also made communal statements against Muslims.	Families of the deceased persons have accused the police for their negligence and consequently failing to rescue the boys in time. Police outpost was few kms away only. They did not take one of the victims who was alive, to the hospital.	On 30.04.2017 FIR at Holiargaon, Police Outpost, against the persons whose faces could be recognised in the video footage, 341/302/34 IPC bearing Nagaon Sadar P. S. case no. 1070/2017. Later on, sections 147/148/149 of IPC, were added.	Yes. On 30.04.2017, an FIR was lodged by one Sri Brajan Nath against the two deceased boys alleging them of being cow thieves	only ten accused persons from Kachamari village have been arrested and the case is pending before the court of the Chief Judicial Magistrate, Nagaon. The names of the accused are as follows – Brajen Nath, Ananta Nath, Atol Bordoloi, Samir Bordoloi, Pawan Bordoloi, Deoram Bordoloi, Rabin Bordoloi, Nogen Nath, Rupul Borah and Prodeep Saikia.	No. AAMSU, Nagaon unit has filed representation before the Deputy Commissioner of Nagaon and DGP, Nagaon, for a speedy and fair trial along with payment of adequate compensation
20	June 27, 2017. Utera Bibi, Murshidabad, West Bengal	No direct investigation. But rumours of child-traffic from nearby state of Jharkhand, and disappearance of children from this area in the past is the background to which the incident is attributed.	Police did not take action when lynching was taking place instead left the place came back 5 hours later to rescue the victim	FIR 447/17 registered in PS Raghunath Gunj u/s 341, 323, 325, 308 and 34 of IPC against unknown persons	-	Family alleges police is not conducting proper investigation and is neither arresting accused persons, who are close to the ruling party of the state.	No
21	22 June 2017 Samiruddin, Nasrul, Md. Nasiruddin, North Dinajpur District, West Bengal.		Police has dubbed the three victims as cattle thieves with criminal record	FIR on 23.06.2017 at Chopra PS u/s 34, 34 of IPC		Asst. Ashim and Krishna Poddar have been arrested. Currently out on bail.	No
22	09 October 2015 Zahid Rasool, Udhampur District, Jammu and Kashmir.	Incident took place when petitions asking for enforcement of the old law banning cow slaughter, and another asking for scrapping of this provision were being decided upon by the courts. There were attacks and protests against Independent MLA, Engineer Rashid who organised a beef party on 7 <sup>th</sup> October 2015, and three	An Article published by NDTV <sup>11</sup> reports that Former Constable Jasbir Singh, one of the nine accused arrested in this case, was one of the men who instigated the mob that threw petrol bombs at the truck. Jasbir Singh -- who had	FIR no 368/15, was registered in Udhampur PS u/s 307, 336, 435, 337, 147, 148, 120-B, 427 of RPC and 3/5 of Explosive Substances Act against 9 accused persons. Section 302 IPC was added in the FIR after the death of Zahid Rasool.		Nine persons arrested for carrying out attack.	Families rejected meagre compensation of Rs.10,000. Later, Zahid Rasool's elder brother, Ghulam Nabi, was given a Govt. job as driver, on compassionate grounds.
						The charge sheet was submitted by the police on 17 <sup>th</sup> December 2015 and presently the trial is currently at the stage of examination of prosecution witnesses at the District & Sessions Court Jammu.	

<sup>11</sup> Article published in NDTV, titled "Cop-Turned-Criminal Led Mob That Killed a Trucker in Udhampur: Sources" dated 28th October, 2015 available at: <http://www.ndtv.com/india-news/cop-turned-criminal-instigated-mob-killing-in-udhampur-sources-1256201>

