

A person in a dark, quilted jacket is in the foreground, making a victory sign with their right hand. In the background, a crowd of people is visible, some holding up their phones. The scene appears to be outdoors during the day.

‘DARKNESS AT NOON’

**Incitement to Violence,
Obfuscation and Perversion
of Justice in Delhi**



Citizens Against Hate, New Delhi
www.citizensagainsthate.org

Citizens Against Hate (CAH) is a collective of individuals and groups committed to a democratic, secular and caring India. It is an open collective, with members drawn from a wide range of backgrounds who are concerned about the growing hold of exclusionary tendencies in society, and the weakening of the rule of law. CAH was formed in 2017, in response to the rising trend of hate and vigilante violence, to document violations, provide support to survivors, and engage with institutions for improved justice and policy reforms. Since then, we have also worked on other forms of violations –hate speech, sexual violence and state violence, and citizenship rights among others in Assam, Bihar, Haryana, Kashmir, Rajasthan and Uttar Pradesh. Our approach to addressing the justice challenge facing particularly vulnerable communities is through research, outreach and advocacy; and to provide practical to survivors in their struggles, also helping them to become agents of change.

The title of the report is inspired by Arthur Koestler's dystopian novel by the same name, that provides a glimpse into Stalinist totalitarianism.

<http://citizensagainsthate.org>

"Photo credits: Danish Siddiqui/Reuters"

CONTENTS

Page	
	<i>Executive summary</i> 04-07
	<i>Abbreviations</i> 08
	<i>List of boxes</i> 09
Chapter 1:	<i>Introduction</i> 11
1.1	Incitement and targeted attacks 10-12
1.2	Disinformation and propaganda..... 12
1.3	Perversion of justice..... 13
1.4	Research, sources and organisation..... 14-15
Chapter 2:	<i>Crimes against Humanity in Delhi: Targeted Attacks</i> 16
2.1	Introduction..... 17
2.2	Riot or pogrom? 17-21
2.3	Deliberate and systematic violence: BJP and Hindutva groups..... 21
2.4	Police omissions and commissions 22-24
Chapter 3:	<i>The Disinformation Campaign</i> 25
3.1	Introduction..... 25
3.2	Spin TV: Primetime ‘conspiracies’..... 25-26
3.3	The murder of Ankit Sharma, and the vilification of Tahir Hussain: A case study 27-29
3.4	Social media platforms amplifying disinformation..... 30-31
3.5	Validation by NGOs and think-tanks 31-34
Chapter 4:	<i>Incitement and Attacks: Violence Actors and their Methods</i> 34
4.1	Introduction..... 35
4.2	Timeline and dramatis personae..... 35-45
4.3	Methods and motives – pogrom?..... 46
4.4	The normalisation of anti-Muslim hate: the aftermath of CAA 2019 47-49
4.5	‘Feed them bullets, not biryani’: the hate-filled Delhi Assembly election campaign 50-52
4.6	Conclusion: BJP leaders leading anti-Muslim hate campaign 53
Chapter 5:	<i>Police Complicity and the Perversion of Justice</i> 54
5.1	Introduction..... 54
5.2	Policing a protest: the iron fist of Delhi Police on anti-CAA protests..... 54-57
5.3	Policing incitement to violence: ‘Hindu force’?..... 57-60
5.4	Post-violence investigation: Police crackdown by other means!..... 60-71
5.5	Conclusion 71
Chapter 6:	<i>Conclusion</i> 72
6.1	‘Delhi riot’: A model of majoritarian justice system..... 72
6.2	Recommendations 73-74
<i>Annexures:</i> 75
I.	Map of Delhi, and violence incidents 75
II.	List of persons killed in Delhi 76-79
III.	List of religious places targeted 80
IV.	Select list of HRDs targeted in Delhi 81
V.	Alleged BJP politician perpetrators 82-86
VI.	Alleged Delhi Police perpetrators..... 87-89
VII.	Delhi Police - a profile 90-92
VIII.	Domestic and international standards and commitments violated in Delhi . 93-95

Executive Summary

Introduction

- ◆ The North East district of Delhi witnessed widespread communal violence between 23rd and 26th February 2020. The official death toll is 53, in addition to reports of over 400 persons receiving injuries and at least 2000 being displaced. Around 200 houses, 300 shops, 3 schools and innumerable vehicles were also destroyed. While Hindus too faced deaths and injuries, Muslims overwhelmingly bore the brunt of the violence. The violence was localised in parts of North East Delhi with large Muslim concentrations, particularly locations that had witnessed, since early January 2020, widespread, women-led protests against the discriminatory Citizenship (Amendment) Act - CAA, enacted in December 2019.
- ◆ The violence was characterised by several disturbing facts: (i) a campaign of anti-Muslim hate speech leading up to the violence, and open incitement to violence by BJP leaders and party workers triggering the violence; (ii) organised nature of the violence and systemic breakdown of law enforcement, with Hindutva groups targeting Muslim localities whilst police stood by, and in some cases participated in the targeting; (iii) disinformation campaign by right wing media and NGOs, both with proven links to the BJP, that sought to shift the blame for the violence from the perpetrators to the victims; and (iv) the politicisation of criminal justice system, with police charging peaceful protesters and HRDs, including under anti-terror laws, whilst refusing to investigate those visibly inciting violence and carrying out the attacks. This report seeks to document these dimensions of the Delhi violence.

Hate and incitement

- ◆ Since the launch of anti-CAA protests late in December 2019, and in campaigning during Delhi state assembly elections in January 2020, several senior BJP leaders indulged in hate and vilification against Muslims, and tried to portray anyone speaking out against the government as 'anti-national'. These included Anurag Thakur (junior minister), Amit Shah (Home minister), Narendra Modi (prime minister), and Yogi Adityanath (chief minister of Uttar Pradesh), among others. The locations of the BJP's election rallies in Northeast Delhi where hateful speeches were recorded, and the sites of violence were closely correlated.
- ◆ Some instances of hateful speech were open incitement to violence against anti-CAA protesters. A particularly provocative slogan, 'desh ke gaddaron ko goli maaron saalon ko (shoot dead the bastard traitors)', was popularised by senior BJP leader Kapil Mishra, and repeated by several other top BJP leaders.
- ◆ The trigger for violence in Delhi was the open call to violence by Kapil Mishra on 23rd February 2020. A widely circulated video showed him, standing alongside Ved Prakash Surya, Deputy Commissioner of Police of North East district, threatening that his men would take matters into their own hands if police did not clear anti-CAA protesters from the Jaffrabad metro station area. Later that day and the following, several witness accounts, as well as social media feeds, reported Mishra and other BJP and Hindutva leaders and workers – such as Ragini Tiwari – chanting anti-Muslim and anti-Dalit slogans that openly called for violence.

including but not limited to Republic TV, Times Now and Zee News, claimed that the violence was 'orchestrated' by actors seeking to malign the country's image. Almost all major channels completely underplayed the role of BJP leaders in inciting and some in executing the violence.

- ◆ Simultaneously, popular right-wing social media accounts such as OpIndia, that have known BJP links, published false reports pinning the blame upon Muslims for the 'anti-Hindu riots'. The 'conspiracy' angle has been amplified by several 'fact-finding' reports led by individuals known to be friendly to the Hindutva dispensation. None of the reports adequately explain why Muslims overwhelmingly and disproportionately suffered more casualties and losses, despite the claims of meticulous planning and organising by them. All of them completely elide the role of BJP leaders and police officials.

Perversion of Justice

- ◆ Since the violence, authorities have attempted to criminalise anti-CAA protests, claiming – just as the disinformation machine has – that this was organised anti-state conspiracy. Whilst trial is yet to begin, investigation has been marked by bias at every stage: registering of cases has been opaque and police have refused to provide details about the First Information Reports (FIRs), or about the progress of investigations; registered FIRs have been found to have crucial distortions and discrepancies, displaying a clear trend of bias against Muslims and going easy on Hindus accused of violence. FIRs have rescripted the violence itself, from an anti-Muslim pogrom to a Muslim-led conspiracy.
- ◆ When investigating authorities have been questioned by courts for evidence against student leaders and activists leading peaceful anti-CAA protests, now accused of violence, Police have invoked more stringent sections of law, such as the Unlawful Activities (Prevention) Act, India's principal anti-terror law, in order to deny detainees the right to bail. Even as some courts have called out bias and ordered fair investigations, Delhi Police's anti-Muslim bias seems to have hardened, with one publicly available police memo revealing an advisory to 'take due precaution' while arresting Hindu suspects.
- ◆ Most serious of all, police have taken no action to investigate, let alone charge, BJP politicians – Kapil Mishra and Anurag Thakur, among others – who have publicly called for violence, not once, but several times.

Conclusion

- ◆ The violence in Delhi in February 2020 is increasingly seeing justice being systematically perverted, with propaganda being mobilised to manufacture false narratives that rationalise targeted attacks, while the perpetrators of violence and state functionaries who enabled them have often been shielded. That higher justice institutions have not been as vocal as in previous instances of violence and denial of freedoms, to come to the aid of victims, and to check executive excess, is disturbing. This inaction has emboldened the police and authorities, who have continued to target citizens engaged in peaceful community-led protests, while perpetrators, and senior politicians continue to be shielded from criminal prosecution.

Recommendations

- ◆ Institute a thorough and independent investigation into the violence, including role of Delhi police in failing to prevent the violence, and on accusations against it of bias, inaction and targeting of anti-CAA protesters and Muslims generally.
- ◆ Register criminal cases against politicians and others – including senior ruling party leaders - with evidence of having made speeches that incited violence.

- ◆ This was followed, according to published media accounts as well as several complaints by witnesses to police, by Hindu mobs led by BJP leaders and workers, from the afternoon of 23rd February, threatening, abusing and violently attacking Muslims and Dalits in areas close to the speech sites. Some of the BJP leaders mentioned in these accounts included current and past BJP legislators such as Mohan Singh Bisht, Satpal Singh, Jagdish Pradhan, Nand Kishore Gujjar, Kulwant Singh Bhatt, and Kanhaiya Lal, a BJP councillor.

Systematic violence

- ◆ Several independent observers have characterised Delhi riots as 'pogrom' against Muslims, due to the systematic and organised nature of the violence. Muslim individuals and properties have been found to have been selectively targeted, by organised gangs using vicious methods for maximum damage and visibility. Firearms, explosives and acid were widely used. After Muslims fled the violence-struck areas for safety, their homes and businesses were systematically ransacked, looted and burnt.
- ◆ While Delhi Police have often dismissed these claims as attempts to create 'distrust' and 'discord', their own investigations have shed light on the organised nature of the violence, as how Hindu men were inspired to action by the likes of Mishra and others. A WhatsApp group was found to have been used to mobilise Hindus, share arms and ammunition, and kill Muslims. Later, interviews with Hindu youth who had themselves participated in mob attacks against Muslims, revealed that mobs were given material support and guidance by Hindutva outfits, all while the police gave them a free hand.
- ◆ Several reports have documented the role of police in the violence, found to be complicit not just in not preventing violence against Muslims, but also participating in it often. The police also reportedly prevented emergency services from reaching Muslim victims, a situation that necessitated the Delhi High Court to conduct a midnight hearing on 25th February and direct Police to provide safe passage to injured victims to hospitals. Reports have also pointed to potential evidence-tampering by police, by delaying autopsies of Muslim victims.
- ◆ Delhi Police's complicity in violence against anti-CAA protesters can be traced back to the immediate aftermath of the enactment of the CAA, marked by a number of excessively violent police actions, including the storming of the campus of Jamia Milia Islamia—a Muslim university whose students have been at the forefront of anti-CAA protests—on 15 December 2019.
- ◆ During the violence in February 2020, despite the situation deteriorating rapidly from the afternoon of the 23rd February, the police took little preventive action. At most places, they were either mute spectators, or taking active part in the violence. Intelligence alerts were reportedly ignored, and special forces set up for riot control were mobilised only 48 hours after the violence broke out.

Disinformation Campaign

- ◆ The violence and its aftermath were marked by a coordinated disinformation campaign involving TV channels, social media actors, think tanks and other NGOs, all working in tandem to shift the narrative and portray the anti-Muslim violence by Hindutva groups as an anti-national conspiracy by Muslims and those protesting against the CAA. Most major TV news channels, after initially characterising the violence as emanating from 'both sides', focused on the 'conspiracy' angle, calling into question the suspicious 'timing' of the violence, which coincided with a state visit to India of United States President Donald Trump. Several channels,

Abbreviations

AAP: AamAadmi Party
ABVP: Akhil Bharatiya Vidyarthi Parishad
ACP: Assistant Commissioner of Police
AIMIM: All India Majlis-e-Ittehadul Muslimeen (All India Council for Unity of Muslims)
AISA: All India Students Association
AMU: Aligarh Muslim University
CAA: Citizenship (Amendment) Act, 2019
CFJ: Call for Justice
CPI- ML: Communist Party of India – Marxist Leninist
CrPC: Code of Criminal Procedure
DCM: Delhi Minorities Commission
DCP: Deputy Commissioner of Police
DP: Delhi Police
FIR: First Information Report
GIA: Group of Intellectuals and Academicians
GTB: Guru Tej Bahadur
HRD: Human Rights Defenders
ICCPR: International Covenant on Civil and Political Rights
ICJ: International Commission for Jurists
INC: Indian National Congress
IPC: Indian Penal Code
IPS: Indian Police Service
JCC: Jamia Coordination Committee
JMI: Jamia Milia Islamia
JNU: Jawaharlal Nehru University
LRO: Legal Rights Observatory
MLA: Member of Legislative Assembly
MP: Member of Parliament
NE Delhi: North-East Delhi
NFIW: National Federation for Indian Women
NGO: Non- Government Organisations
NHRC: National Human Rights Commission
NRC: National Registry of Citizens (NRIC National Registry of Indian Citizens)
NSA: National Security Adviser
OHCHR: Office of High Commissioner for Human Rights
OMCT: World Organisation Against Torture
PFI: Popular Front of India
PS: Police Station
PUDR: People's Union for Democratic Rights
RAF: Rapid Action Force
RSS: Rashtriya Swayamsevak Sangh
RTI: Right to Information
SC: Supreme Court
SHO: Station House Officer
SIT: Special Investigation Team
ST: Schedule Tribes
UAPA: Unlawful Activities (Prevention) Act
UNCAT: United Nations Convention against Torture
UP: Uttar Pradesh
VHP: Vishwa Hindu Parishad
WSJ: Wall Street Journal

- ◆ Institute a thorough and independent investigation into the violence, including role of Delhi police in failing to prevent the violence, and on accusations against it of bias, inaction and targeting of anti-CAA protesters and Muslims generally.
- ◆ Register criminal cases against politicians and others – including senior ruling party leaders - with evidence of having made speeches that incited violence.
- ◆ Register criminal cases against TV channels and others spreading and amplifying hate and disinformation against anti-CAA protesters and Muslims in North East Delhi, under existing laws and regulations
- ◆ Until investigations are conducted, judiciary must treat all riot related cases as 'emergency cases' as per their own admission for hearings during COVID times
- ◆ Higher justice institutions, including National Human Rights Council (NHRC) must act more to protect victims of violence, including Human rights defenders, and do more to ensure justice is ultimately done.
- ◆ Institute reform of Delhi Police, including implementing provisions of Supreme Court's directions in Prakash Singh judgement, particularly those on transparency, treating complaints against police, and other procedural changes. Training and sensitisation of police personnel on human rights precepts and practices, and better representation of minorities in Delhi police force too will help.

List of Boxes

Page

1. A tale of two hospitals 20
2. Arnab Goswami, Republic TV: A history of disinformation
and incitement 29
3. International condemnation of CAA-NRC 57
4. DevanganaKalita, co-founder Pinjra Tod,
accused in FIR 59/2020, Jaffrabad 66

Chapter 1: Introduction

The Special Adviser expressed concern over reports that demonstrations against the law (CAA)..... had reportedly resulted in the injury and death of civilians, attacks on religious sites, as well as an increase in expressions of hate against India's Muslim community.

[Note to Media on India by Under-Secretary-General Adama Dieng, United Nations Special Adviser on the Prevention of Genocide, New York, 18th May 2020¹]

1.1 Incitement and targeted attacks

Between 23rd and 26th February 2020, the North East district of Delhi experienced widespread violence. Police confirmed that 53 persons had been killed, over 400 injured, close to 200 houses and over 300 shops destroyed, along with 3 schools and large number of vehicles. At least 2000 persons were left displaced.² Authorities also confirmed that Muslims were, by far, the overwhelming victims of the violence, although Hindus too were killed and injured.³ There were also large scale attacks on Muslim places of worship.⁴ Providing an indication of its deliberate nature, Human Rights Watch described the violence as “targeted attacks by Hindu mobs”⁵

The violence was localised in parts of North East Delhi district that have large Muslim concentrations – particularly Karawal Nagar, Khajuri Khas, Chand Bagh, Gokulpuri, Jaffrabad, Mustafabad, Ashok Nagar, Bhagirath Vihar, Bhajanpura, KardamPuri, and Shiv Vihar.⁶ These are also locations where Muslim women particularly had been protesting, along with student groups, since at least early January 2020, against the controversial Citizenship Amendment Act (CAA), specifically in Seelampur, Chandbagh and Gokulpuri. The protests had taken the form of sit-ins, on the sides of roads, with groups of women and men singing the Indian national anthem, reading excerpts from the Constitution, and making speeches demanding that the government take back CAA.⁷ The sit-ins in North East Delhi were on the lines of the more famous protest site across the Yamuna river, at Shaheen Bagh, that had inspired anti-CAA protests across the country,

¹United Nations Press Release, Note to Media on India by Under-Secretary-General Adama Dieng, United Nations Special Adviser on the Prevention of Genocide

https://www.un.org/en/genocideprevention/documents/18052020_SA%20note%20to%20media%20on%20India_final.pdf (accessed on 20.10.2020).

²Delhi Police Affidavit Shows Muslims Bore Brunt of Riots, Silent on Who Targeted Them and Why, The Wire.

<https://thewire.in/communalism/delhi-police-affidavit-shows-muslims-bore-brunt-of-riots-silent-on-who-targeted-them-and-why> (accessed on 20.10.2020).

³The high cost of targeted violence in Northeast Delhi: A list of the deceased, The Polis Project <https://thepolisproject.com/the-high-cost-of-targeted-violence-in-northeast-delhi-a-list-of-the-deceased/#.XuSuWWpKiu7> (accessed on 20.10.2020).

⁴In photos: Fourteen Delhi mosques and a dargah that were burnt by Hindutva vigilantes in three days, Scroll

<https://scroll.in/article/955713/in-photos-fifteen-muslim-shrines-in-delhi-that-were-burnt-by-hindutva-vigilantes-in-three-days> (accessed on 20.10.2020)

⁵“Shoot the Traitors” Discrimination Against Muslims under India's New Citizenship Policy, Human Rights Watch,

https://www.hrw.org/sites/default/files/report_pdf/india0420_web_0.pdf (accessed on 20.10.2020).

⁶Delhi Minorities Commission. Report of the DMC Fact Finding committee on the North East Delhi riots pf February 2020. July 2020. (p 17).

⁷Seelampur to Jamia, Defence Colony to Govindpuri: Anti-CAA protests rumble on across Delhi, Hindustan Times,

<https://www.hindustantimes.com/delhi-news/seelampur-to-jamia-defence-colony-to-govindpuri-anti-caa-protests-rumble-on-across-delhi/story-YQYnggdPOY7lXdnJPGGUsM.html> (accessed on 20.10.2020).

a movement that has been hailed as 'the largest protests in decades'⁸ besides being credited for the “political awakening” of Muslims.⁹ These localities in North East Delhi were also sites of Bharatiya Janata Party's (BJP) polarising campaigning during Delhi state assembly elections - held on 8th February - including by senior most leaders, directed at anti-CAA protesters and Muslims generally, that were deeply Islamophobic. In the event, BJP - , the ruling party at the centre, but main opposition in Delhi state) lost the Delhi assembly elections badly, to the incumbent AamAadmi Party (AAP), winning only 8 of the total 70 seats. But its performance in North East Delhi bucked the general trend: winning two seats, and close second in the rest of the constituencies in the district.¹⁰

The onset of the violence in North East Delhi followed immediately after BJP's spectacular losses in Delhi elections announced on 11th February 2020, despite high-pitched all-star campaign.¹¹ The trigger was the much-reported threats made publicly by senior BJP leaders to the Delhi Police on 23rd February 2020 to put an end to anti-CAA protests – else they would take things in their own hands. This was preceded by 'call to action' to their supporters to take to the streets against anti-CAA protesters. Amnesty International reported how the “riots were preceded by hateful speeches made by political leaders”, naming specifically Kapil Mishra of the ruling BJP.¹² Targeted attacks followed with BJP leaders and supporters in the forefront, aided by Police – against the protesters, and Muslims of North East Delhi generally. In media accounts of the four days of carnage, this was followed by groups of Hindu activists roaming the streets in Muslim neighbourhoods, pounding on hoods of passing cars, forcing them to chant *Jai Shri Ram* ('victory to Ram'), whilst others, who appeared to be outsiders, set fire to Muslim shops as Police looked on.¹³ The situation soon escalated into what has often been described as Delhi's worst violence in decades, with calls for Army to be deployed, as Muslims fled their homes, whilst police either looked the other way or participated in the attacks.¹⁴

Authorities had subjected anti-CAA protesters in Delhi, including children, to excessive force, arbitrary arrests and detentions and alleged torture in custody, since late December 2019, just after CAA was signed into law. Those in North East Delhi have been subjected to excessive force and arbitrary detentions, during and since the targeting in February 2020. At the same time authorities have taken no action against senior BJP leaders, their supporters as well as members of their affiliated groups who – according to publicly available information, and eyewitness accounts – incited and helped execute the violence targeting Muslims. These acts amount to continued violation of several rights of citizens guaranteed by Indian Constitution including Art 19 (1) (a) and (b), on freedom of speech and expression and peaceful assembly. They also violate international covenants that India is committed to implementing, including ICCPR (Art. 21 on the right to peaceful assembly, among others).

⁸India: largest protests in decades signal Modi may have gone too far, The Guardian,

<https://www.theguardian.com/world/2019/dec/20/india-largest-protests-in-decades-signal-modi-may-have-gone-too-far> (accessed on 20.10.2020).

⁹Modi is afraid': women take lead in India's citizenship protests, The Guardian,

<https://www.theguardian.com/world/2020/jan/21/modi-is-afraid-women-take-lead-in-indias-citizenship-protests> (accessed on 20.10.2020).

¹⁰It won another 4 seats from neighbouring areas of Shahdara and East Delhi.

¹¹Delhi violence: Meet the politicians taken to court for hate speech, NewsLaundry,

<https://www.newslandry.com/2020/02/28/delhi-violence-meet-the-politicians-taken-to-court-for-hate-speech> (accessed on 20.10.2020).

¹²India: Eight people killed in riots after 'hateful speeches' by political leaders, Amnesty International UK,

<https://www.amnesty.org.uk/press-releases/india-eight-people-killed-riots-after-hateful-speeches-political-leaders> (accessed on 20.10.2020).

¹³Worst communal violence in Delhi in decades leaves 17 dead as Trump visits India, The Washington Post,

https://www.washingtonpost.com/world/asia_pacific/worst-communal-violence-in-delhi-in-decades-leaves-13-dead-as-trump-visits-india/2020/02/25/ecac4b5e-57dd-11ea-8efd-0f904bdd8057_story.html (accessed on 20.10.2020).

¹⁴Delhi protests: death toll climbs amid worst religious violence for decades, The Guardian,

<https://www.theguardian.com/world/2020/feb/26/delhi-protests-death-toll-climbs-amid-worst-religious-violence-for-decades> (accessed on 20.10.2020).

1.2 Disinformation and propaganda

Soon after the violence sparked off, several establishment-leaning television channels began to portray the attacks as a 'conspiracy' by the '*tukde-tukde gang*' ('secessionist gang', term commonly used in rightwing circles and by BJP leaders to deride progressive student groups) to show India in poor light, against the backdrop of the state visit of US President Donald Trump to the country at the time. The role played by senior BJP leaders in instigating the violence was underplayed in these accounts. Right-wing Social media platforms, including pro-BJP outfits such as OpIndia and Swarajya chipped in, flooding the Internet with their own distortions and fake news. Two reports emerged, one in early March 2020, another a bit later in May 2020, purportedly fact-findings into what they termed was anti-Hindu violence. Both reports, led by members sympathetic to BJP's world view, were reported having been received by senior functionaries in the Home ministry that directly controls the Delhi police, one by the Home Minister, Amit Shah himself.

The first report, blamed "*Urban Naxal-Jihadi*' network" - naming specifically Sharjeel Imam, a Jawaharlal Nehru University (JNU) student leader, and several organisations active in democratic protests against the CAA: All India Students Association (AISA), the student wing of the Communist Party of India – Marxist Leninist (CPI -ML); Pinjra Tod a women's rights group; Jamia Coordination Committee (JCC), a student -alumni network and Popular Front of India (PFI) - as responsible for the violence, claiming that anti-CAA protests had links with international Islamist organizations and that foreign agencies were involved, including in funding the protests.¹⁵ The second blamed the "*tukde-tukde gang*" and "radical groups" Pinjra Tod, JCC, PFI, and local politicians from AAP" for 'targeted attacks' on an "unknowing Hindu community, in a pre-planned organised manner", that the report claimed, were also funded by a network of opposition parties, including the Indian National Congress (INC).¹⁶ Both reports relied heavily on OpIndia for its data and testimonies. OpIndia has been red flagged several times by media observers, for disinformation and fake news.¹⁷

¹⁵Group of Intellectuals and Academicians: '[Delhi Riots 2020: Report from Ground Zero- The Shaheen Bagh Model in North-East Delhi: From Dharna to Danga](#), (p36-37)

¹⁶Call for Justice. *Delhi Riots: Conspiracy Unraveled'* – Report of Fact Finding Committee on Riots in North-East Delhi during 23.02.2020 to 26.02.2020'

¹⁷OpIndia: Hate speech, vanishing advertisers, and an undisclosed BJP connection, NewsLaundry, https://www.newsLaundry.com/2020/06/23/opindia-hate-speech-vanishing-advertisers-and-an-undisclosed-bjp-connection?fbclid=IwAR1unUfxJ95cxK401_OK61wYZdP5uSSTH16w8NfU3LnNn4WDJ3Z6TCxlbNQ <https://newscentral24x7.com/opindia-international-fact-checking-network-fake-news/> (accessed on 20.10.2020).

Both accounts fail to explain the largescale casualty suffered by Muslims in the violence, despite the claim of the meticulous planning, organising and resourcing of the attack by anti-CAA protesters. They also elide over the role of either BJP leaders making provocative speeches that sparked the violence, or of Delhi Police in failing to prevent violence, protect the largely Muslim victims, and often participate in the one-sided attacks. On 30th July OpIndia released its own report on what it called were Delhi's 'anti-Hindu riots'.¹⁸ The 350 page plus report extends the previous claim to argue “it is an objective truth that the cycle of violence was not initiated by people of the saffron hue”,¹⁹ claiming rather that the violence was a result of “the Left and Islamists burning the country.”²⁰ Like the previous reports, this one too does not explain how then largescale damage was caused to Muslims and continues to underplay the role of BJP leaders and members of the wider Hindutva network reported to have led and executed the attacks, or of the Police's failures and complicity in them. Perhaps to overcome these fatal flaws, the report resorts to sophistry to argue, “whether a riot was aimed against Hindus or Muslims cannot be ascertained by the number of the dead, but by who started the violence and for what reason”. It also delves into the hypothetical: “What also needs to be analysed is which side was prepared to perpetuate violence and which side ended up retaliating as a means of self-defense” (sic).²¹

1.3 Perversion of Justice

This study seeks to show how the continuing disinformation campaign by what can best be described as the Hindutva 'media machine' with demonstrable links to the BJP government²² is seeking to shift the narrative, making what was understood - based on information widely available - to be an episode of targeted attack against anti-CAA protesters, and by extension against all Muslims in North East Delhi, into an anti-national conspiracy by a Muslim-Leftist student group nexus against Hindus. This disinformation campaign seeks to cover up the deep involvement of key BJP members in the incitement, organisation and execution of the violence, whilst it delegitimises and seeks to criminalise peaceful protests by citizens against a blatantly discriminatory law.

New material has emerged since the violence and that is available to the public – thanks to the fearless and intrepid work of sections of the media and legal activists - that is shedding new light on the role of BJP leaders like Kapil Mishra as well as others from Delhi and neighbouring Uttar Pradesh, on the depth and scale of their involvement and complicity in inciting, orchestrating, and executing the attacks against Muslims in North East Delhi. Crucially, they also shed further light on the role of the Delhi Police in failing to act fairly to protect Muslims from rioters, whilst they mostly participated in attacking Muslims together with Hindu rioters. These include victim testimonies, and accounts of residents and other witnesses, that tried to register complaints and record statements with police, of their version of what they saw and suffered, in many cases putting on record named perpetrators. Police first refused to lodge these complaints, and then, along with perpetrator groups, many assailants themselves, have started a campaign of threats and reprisal against complainants and witnesses, trying to force them to take back the complaints, and stop pursuing criminal proceedings.

¹⁸ OpIndia.com *Delhi Anti-Hindu Riots 2020: The Macabre Dance of Violence since December 2019*

¹⁹ Ibid, p19.

²⁰ Ibid, p14, 359

²¹ Ibid, p22.

²² OPIndia, Swarajya, the Rashtriya Swayamsevak Sangh, and other affiliated entities.

Another body of material available to the public now, is official documents presented by police and investigating agencies in courts either in hearings for applications for bail or as reports of investigation by prosecutors to charge the accused and initiate trials. These include First Information Reports (FIR), police affidavits, compliance reports and charge sheets, among others, that police have since the beginning, refused – in violation of their obligations – to share, including with parties to the criminal proceedings, and their counsels, but which, are now beginning to be publicly available through the courts. The narrative in these submissions – of the chain of events, actors and the motive behind the offences committed – seems increasingly to be an attempt by authorities to rescript the violence in Delhi, from being a case of targeted violence against Muslims to a conspiracy by Muslims against Hindus and wider national interest, including even “a secessionist movementby propagating an armed rebellion” against the government.²³ Where Police have acknowledged the role of Hindu attackers, it has been grudging, claiming they were acting to avenge the original sin of the Muslim/leftists attacks. Police have also claimed - on oath - that they found no evidence of incitement to violence by any BJP leader.

The coordinated claims, evidence and language used in police submissions and 'fact-finding' reports by private groups cited above speaks to the synchronised nature of the campaign between the disinformation industry and law enforcement agencies, both to blur the truth, criminalise the exercise of freedom of peaceful assembly and association guaranteed by the constitution, whilst providing a shield of protection to the perpetrators - with serious consequences for criminal prosecutions underway. Another, perhaps an even more grave aspect of this perversion of justice, is Police's targeting of anti-CAA protesters, victims of violence and Human Rights Defenders (HRDs) standing for them, in fabricated cases, arresting and detaining the activists under harsh penal provisions - including under India's principal anti-terror law, Unlawful Activities (Prevention) Act, 1967 (UAPA) and 'sedition' provisions of Indian Penal Code (IPC), claiming grand conspiracy. Human Rights Watch, among others, have highlighted the stark contradiction this exposes, between the police using draconian laws against critics of the CAA, and lack of action against violence by the supporters of the ruling BJP.²⁴ This is propaganda resulting in 'double impunity': perpetrators bear no accountability, while victims of violence are criminally penalised!

1.4 Research, sources and organisation

Research underpinning this report has been challenging, in part, because of problems with access to data and sources. These have been due to the opaqueness common to police working and investigations, compounded in this instance, firstly by authorities seeking to shroud criminal proceedings in a veil of secrecy, as well as due to the onset of COVID-19 and its related restrictions of movements very soon after the violence episodes. COVID restrictions have impacted working of courts, slowing down criminal proceedings, affecting also the rights of victims, to be informed, among others. We have tried to offset this problem of access to primary material with reliance on media accounts.

²³ Anti-CAA protests had secessionist motives, Delhi Police claims in affidavit on February violence, Scroll, <https://scroll.in/latest/967605/anti-cao-protests-had-secessionist-motives-delhi-police-claims-in-affidavit-on-february-violence> (accessed on 20.10.2020).

²⁴ India: End Bias in Prosecuting Delhi Violence, Human Rights Watch, <https://www.hrw.org/news/2020/06/15/india-end-bias-prosecuting-delhi-violence> (accessed on 20.10.2020).

A few media platforms (The Caravan, The Quint, Newslandry, to name a few), with their fearless reporting have helped keep the focus on post-violence proceedings (investigation and reprisals, among others), acting both to educate public and to act as watchdog, despite intimidation and violence they have themselves faced.²⁵ We have also engaged with civil society justice networks to especially access legal documents and victim accounts, which have been used as our primary material. And we have relied on our own legal aid work with victims of the violence, for better insights into the access to justice experience of survivors, and for interpretation of data.

The following section (2) is a rapid catalogue of the violence episodes of 23rd - 26th February in North East Delhi, along with its key dynamics: the organised and targeted nature of the violence, key actors involved, and the role of police and authorities, their omissions and commissions. This account is based on police data; media accounts, especially foreign press; reports of reputable human rights organisations and statutory bodies; and some testimonies we collected ourselves. Section 3 maps the coordinated disinformation campaign by TV news channels, online portals, and think tanks producing slanted reportage to rescript an alternative narrative of the violence, that makes perpetrators of victims, and seeks to whitewash the role of the perpetrators of incitement and violence. This account is based again on media reports, as well as a critical perusal of the alternative 'fact finding reports'. Section 4 profiles the actors involved in the violence, and their methods, including of the incitement to violence, its orchestration and execution. This section is based on complaints by victims of violence and eye witnesses sought to be registered with police authorities, that have recently been given a new lease of life by lawyers and justice-minded journalists. These are supplemented by media accounts of the incitement in the run up to and during the violence.

Section 5 is devoted to examining police practices in the run up to, during and after the violence, as law enforcement agency. It also tries to assess the role of investigating agencies as they go about preparing the case for prosecuting those responsible for the crimes, and of the judiciary in its engagement with the cases so far. This is based on media accounts and review of reports by fact finding groups, as well as examination of official documents – FIRs, affidavits, and chargesheets available to us. Some of this research is also based on our own engagement with survivor families that are battling bias and impunity, as they run from pillar to post, in search of justice for the violence that visited them as retribution for daring to stand to protest against injustices, in most cases, just being of the wrong faith. In Section 6 we conclude, by trying to draw key lessons from the Delhi violence episode, of the working of law enforcement and justice systems, in the context of their increasing politicisation, and the implications of that for rule of law, accountability, and rights and wellbeing of India's minorities.

²⁵'Caravan' reporters attacked by a mob in North East Delhi, police yet to file FIR, Scroll, <https://scroll.in/latest/970059/caravan-reporters-covering-communal-tension-in-north-east-delhi-say-they-were-manhandled-by-a-mob> (accessed on 20.10.2020).

Chapter 2: Crimes against Humanity in Delhi: Targeted Attacks

Since 15 December Delhi is suffering from violence by Police and goons against peaceful protesters against CAA-NRC. The Situation went out of control in the North East district since late night 23rd February after the incendiary threat and ultimatum of one Kapil Mishra.The violence continued for days as a result of the attitude of the Police which has been seen in countless videos and audios supporting the rioters, hitting people and damaging properties and CCTV cameras.

The violencewas seemingly planned and directed to teach a lesson to a certain community which dared to protest against a discriminatory law.

[‘Report of the Delhi Minorities Commission Fact-Finding Committee on North East Delhi Riots of February 2020’, published, July 2020].

2.1 Introduction

23-26th February 2020 saw largescale violence in Delhi's North East district. *New York Times* reported how the capital's streets had turned into battle ground.²⁶ *The Guardian*, describing the violence as Delhi's worst in decades, reported calls for Army to be deployed as Muslims fled their homes after attacks by Hindu mobs.²⁷ *Washington Post*, reported groups of Hindu activists roaming the streets in Muslim neighborhoods, pounding on hoods of passing cars and forced them to chant *Jai Shri Ram*, whilst others, who appeared to be outsiders, set fire to Muslim shops as Police looked on.²⁸ Human Rights Watch described the violence as “targeted attacks by Hindu mob”.²⁹ Amnesty International noted how the “riots were preceded by hateful speeches made by political leaders”, naming Kapil Mishra of the ruling BJP, having made provocative speeches.³⁰

In the final count by Delhi Police, the 4 days of violence, left 53 persons dead, over 400 injured, close to 200 houses and over 300 shops destroyed, along with 3 schools and 301 vehicles. At least 2000 persons were left displaced.³¹ Police data also showed Muslims were the overwhelming victims of the violence: 40 of the 53 killed³², 288 of the 473 injured, 173 of the 300 shops destroyed. A police report counted 13 mosques as having been destroyed, although other reports claim a higher figure.³³

²⁶New Delhi Streets Turn Into Battleground, Hindus vs. Muslims, The New York Times, <https://www.nytimes.com/2020/02/25/world/asia/new-delhi-hindu-muslim-violence.html> (accessed on 20.10.2020).

²⁷Delhi protests: death toll climbs amid worst religious violence for decades, The Guardian, <https://www.theguardian.com/world/2020/feb/26/delhi-protests-death-toll-climbs-amid-worst-religious-violence-for-decades> (accessed on 20.10.2020).

²⁸Worst communal violence in Delhi in decades leaves 17 dead as Trump visits India, The Washington Post, https://www.washingtonpost.com/world/asia_pacific/worst-communal-violence-in-delhi-in-decades-leaves-13-dead-as-trump-visits-india/2020/02/25/ecac4b5e-57dd-11ea-8efd-0f904bdd8057_story.html (accessed on 20.10.2020).

²⁹Supra Note 5.

³⁰<https://www.amnesty.org.uk/press-releases/india-eight-people-killed-riots-after-hateful-speeches-political-leaders> (accessed on 20.10.2020).

³¹Supra Note 2.

³²The high cost of targeted violence in Northeast Delhi: A list of the deceased, The Polis Project, <https://thepolisproject.com/the-high-cost-of-targeted-violence-in-northeast-delhi-a-list-of-the-deceased/#.XuSuWWpKiu7> (accessed on 20.10.2020).

³³Supra Note 4.

Muslims also suffered most post-violence police action. As of late October 2020, in the 751 FIRs registered (based on which 200 chargesheets had been filed by 13th July), Police have made a total of 1340 arrests – 700 of these were Muslim.³⁴

The violence engulfed large parts of North East Delhi district, including Shiv Vihar, Khajuri Khas, Chand Bagh, Gokulpuri, Maujpur, Karawal Nagar, Jaffrabad, Mustafabad, Ashok Nagar, Bhagirath Vihar, Bhajanpura, and KardamPuri.³⁵ North East Delhi district is the most populous as well as the most densely populated of Delhi's 11 administrative districts, with migrant workers in the informal sector, making up a very large proportion. It also has a large Muslim population – 29.34 % of the district's total, a much greater concentration than Muslims in Greater Delhi overall (ratio being 10 % of the total population of 2.24 million, 2011 census)³⁶.

2.1 Riot or pogrom?

Foreign media³⁷ and independent experts have characterised Delhi violence as “pogrom” against Muslims, for the systematic and organised nature of the attacks.³⁸ Human Rights Watch noted that Muslim individuals, shops, houses, and mosques were selectively targeted, by organised gangs of youth, including some brought from outside.³⁹ These groups used a variety of weapons – firearms, swords, machetes, daggers – and methods, including burning property, setting off explosives, cutting up bodies, and sexually mutilating them, to target Muslims for maximum damage and high visibility.

Stories narrated by the family of the deceased show that they were killed for having a Muslim identity, and with the intent to cause harm on the entire Muslim community “to teach them a lesson” for rising in opposition against the controversial CAA. Mohammad Arshad was surrounded by a mob of around 30 Hindus who asked him if he was Muslim. When he refused to respond, they forced his trousers down and instantly beat him to death.⁴⁰ Amir Khan and Hashim Ali, brothers on their way back to their ailing parents, were also allegedly stripped and then killed.⁴¹ A few deceased were burnt to death and families had only their charred bodies for identification. Gulshan, a local resident stated that her father's body had been so badly burnt that only his right leg was found.⁴²

³⁴ Delhi violence: LG order appointing MHA picked officers way to defend the indefensible?, Sabrang, <https://sabrangindia.in/article/delhi-violence-lg-order-appointing-mha-picked-officers-way-defend-indefensible> (accessed on 20.10.2020).

³⁵ Delhi Minorities Commission. Report of the DMC Fact Finding committee on the North East Delhi riots of February 2020. July 2020. (p 17)

³⁶ Ibid, p21

³⁷ 'Pogrom', 'Hindu Nationalist Rampage': Foreign Media Doesn't Hold Back On Delhi Riots, Huffpost, https://www.huffingtonpost.in/entry/foreign-media-nyt-guardian-on-delhi-riots_in_5e5de3eec5b67ed38b378c75 (accessed on 20.10.2020).

³⁸ The violence in Delhi is not a 'riot'. It is targeted anti-Muslim brutality, The Guardian, <https://www.theguardian.com/commentisfree/2020/mar/01/violence-in-delhi-is-not-a-riot-it-is-targeted-anti-muslim-brutality> (accessed on 20.10.2020).

³⁹ Supra Note 5.

⁴⁰ 'I cannot find my father's body': Delhi's fearful Muslims mourn riot dead, The Guardian, <https://www.theguardian.com/world/2020/mar/06/how-can-i-go-back-delhi-fearful-muslims-mourn-riot-dead>. (accessed on 20.10.2020).

⁴¹ Hardest journey Babu Khan ever made, carrying bodies of his two sons killed in Delhi riots, The Print, https://theprint.in/in-pictures/hardest-journey-babu-khan-ever-made-bearing-bodies-of-his-two-sons-killed-in-delhi-riots/373448/?amp&_twitter_impression=true. (accessed on 20.10.2020).

⁴² Supra Note 4.

Musharraf, a 30-year-old man was dragged out of his home and beaten to death in front of his wife and children.⁴³ Approximately 11 bodies were recovered, all with body bruises, from open drains running by habitations worst affected by the violence.⁴⁴ The two brothers cited above, whose bodies were recovered from a drain, had injury marks all over their bodies – face, shoulders, back, chest.⁴⁵ A 20-year-old Muslim woman, Ekram, who was eight months pregnant when she was attacked recounted,

“I have never seen such terrible things in my whole life. They threw me to the ground, kicked my stomach and my whole body. I pleaded with them not to harm my baby, I said ‘please, please’ over and over, but they kept kicking.”⁴⁶

A fact-finding report by a group of physicians who were on site during the violence, provides a glimpse of the viciousness of the attacks, with large number of injuries - of which 75 per cent were due to firearms - being to the head. There were also instances of victims' private parts removed, testicles slashed.⁴⁷ At Guru Teg Bahadur (GTB) hospital, the main tertiary hospital to which victims were referred, the team of physicians on fact finding mission on 25th Feb. counted 38 bodies, of which 22 were brought dead. 9 of these had gunshot wounds, another 9 had burn and assault marks. Safdarjung Hospital, another Delhi hospital where injured were referred, reported 2 deaths due to acid burn.

These stories of targeted attacks are confirmed by media accounts from local hospitals, as the violence raged. According to doctors at Al-Hind hospital in Mustafabad area - the epicentre of the violence -⁴⁸ the more than 500 victims that had come through its doors from 23-25th February, mainly had gunshot wounds.⁴⁹ Police accounts confirm the use of arms – claiming, Delhi's was the first Hindu-Muslim violence that had seen such widespread use of guns.⁵⁰ Explosives were also used extensively – petrol bombs and cooking gas bottles - to destroy shops and houses.⁵¹ In one gory instance, a person who had been lynched by attackers, was then blown up using explosives.⁵²

Mobs also used acid extensively to attack Muslims. Describing the attacks, a community member, Mumtaz recounted,

⁴³Inside Delhi: beaten, lynched and burnt alive, The Guardian, <https://www.theguardian.com/world/2020/mar/01/india-delhi-after-hindu-mob-riot-religious-hatred-nationalists>, (accessed on 20.10.2020).

⁴⁴Delhi riots: One more body recovered from a drain in Gokalpuri, Hindustan Times, <https://www.hindustantimes.com/cities/delhi-riots-one-more-body-recovered-from-a-drain-in-gokalpuri/story-YbL9NS4vbK25CyCEHnRYJ.html>. (accessed on 20.10.2020)

⁴⁵Two Muslim Brothers Among Bodies Recovered From Drains in North East Delhi, The Wire, <https://thewire.in/communalism/delhi-riots-drain-muslim-bodies>. (accessed on 20.10.2020).

⁴⁶Supra Note 7.

⁴⁷Progressive Medicos and Scientists Forum (PMSF): *An Inquiry into the Anti-Muslim Violence in NE Delhi by a Team of Doctors that Visited the Area*. Feb. 2020. (visit on 26 and 28 Feb.), page 9.

⁴⁸the only hospital in the affected area that the injured could access, as no ambulances were being allowed to enter the area by the mob and police.

⁴⁹Even doctors cried treating shot, bleeding patients: Al Hind's Dr Anwar on Delhi violence, The Caravan, <https://caravanmagazine.in/conflict/dr-anwar-al-hind-even-doctors-cried-bleeding-patients-delhi-violence> (accessed on 20.10.2020).

⁵⁰Why Northeast Delhi violence is India's first Hindu-Muslim riots with guns, The Print, <https://theprint.in/india/why-northeast-delhi-violence-is-indias-first-hindu-muslim-riots-with-guns/372647/> (accessed on 20.10.2020).

⁵¹Dead and Buried, The Caravan, <https://caravanmagazine.in/crime/widespread-under-reported-use-of-explosives-by-hindu-mobs-in-delhi-violence> (accessed on 20.10.2020).

⁵²Ibid

“Anam said she heard the mobs chanting “Jai Shri Ram!” and Mumtaz said she could see smoke billowing out from houses in the neighbourhood – “there was fire everywhere”. Within minutes, a glass bottle landed on Waqil’s face, spilling acid on his eyes and on Anam’s mouth, chin and neck, Mumtaz said.”⁶³

While Anam has recovered a little, Waqil is yet to open his eyes. A doctor from Al-Hind hospital commenting on acid attacks, stated, “the body mass melts away and injuries are very deep. Most of the patients still come to change their dressing.”⁵⁴

After people fled their homes, mobs ransacked and burnt homes of Muslim families specifically. One of the victims, Mehtab, found his house destroyed after cooking gas bottles were exploded inside it. He said:

“Humari deewarein, chhat sab chitak gayi hain... Ghar dobara banana padega (The walls and roof have developed cracks ... We will have to construct the house again).

Cash, clothes, documents, belongings, things bought for the sister's wedding; everything has been lost.⁵⁵ Shops and businesses run by or owned by Muslims were burnt and ransacked.

The organised nature of the attacks are confirmed by the detailed fact finding conducted by the Delhi Minorities Commissions – a statutory body of the Delhi Administration – whose report was published in July 2020.⁵⁶ A total of 17 Muslim religious buildings (mosques, madrasa dargah, cemeteries) were vandalised, by burning and looting, the report concluded.⁵⁷ In the same area, according to the report, 5 Hindu temples, were all intact, and no signs of attacks were visible.⁵⁸ Saffron flag, a Hindu symbol, was raised on the minaret of a mosque in Gokulpuri. Imams and clerics were also beaten up by mobs.⁵⁹ Women, according to DCM report, were selectively assaulted. The nature of attacks was verbal, physical and psychological.⁶⁰ These accounts echo media reports of the sexual violence.⁶¹ Another report stated, “...women from Shiv Vihar reported that the mob was chanting.....: *“Shiv Viharjayenge, burqe wali layenge”* (“We will go to Shiv Vihar and get the hijab-clad women”). It was also reported that two women from Karawal Nagar were compelled to jump from the first floor of their home to escape a mob that had invaded their house and was molesting them.⁶² Police investigations have shed light on the organised nature of the violence, in how Hindu men were inspired to action by the likes of Kapil Mishra and others. A WhatsApp group was found to have been used to mobilise Hindus, share arms and ammunition, and kill Muslims. Later, interviews with Hindu youth who had themselves participated in mob attacks against Muslims, revealed that mobs were given material support and guidance by Hindutva outfits, all while the police gave them a free hand.

⁵³When acid became a weapon: One month after Delhi violence, revisiting three horror stories, Scroll, <https://scroll.in/article/956149/when-acid-became-a-weapon-one-month-after-delhi-violence-revisiting-three-horror-stories> (accessed on 20.10.2020).

⁵⁴ Ibid

⁵⁵ 'My House Was the First to Be Set on Fire': Stories of Suffering From Shiv Vihar, The Wire, <https://thewire.in/communalism/my-house-was-the-first-to-be-set-on-fire-stories-of-suffering-from-shiv-vihar>. (accessed on 20.10.2020).

⁵⁶ Delhi Minorities Commission. Report of the DMC Fact Finding committee on the North East Delhi riots of February 2020. July 2020.

⁵⁷ Ibid, p42

⁵⁸ Ibid, p55

⁵⁹ Mosque set on fire during Delhi's worst violence in decades, The Al Jazeera, <https://www.aljazeera.com/news/2020/02/death-toll-rises-violence-continues-day-delhi-200225054836893.html> (accessed on 20.10.2020).

⁶⁰ Delhi Minorities Commission. Report of the DMC Fact Finding committee on the North East Delhi riots of February 2020. (July 2020). p62, 66

⁶¹ Delhi Riots: Untold Stories of Sexual Violence and Attack, Newslick, <https://www.newslick.in/delhi-riots-untold-stories-sexual-violence-and-attack> (accessed on 20.10.2020).

⁶² An Account of Fear and Impunity, Fact Finding Report on Communally Targeted Violence in North East Delhi.

Box No. 1: A tale of two hospitals

Two hospitals in North-East Delhi stood at opposite ends providing a sharp contrast in the way they contributed to the violence. While one was using all their resources to help victims of the riots, the other hospital was the ground from which the mob was attacking anti-CAA protesters.

Al Hind Hospital

Headed by Dr. MA Anwar, Al Hind Hospital became a refuge for many violence victims in North East Delhi. It was the only hospital within a radius of 7-10 kilometres of the violence affected areas and with the blocking of routes by police and the attackers, injured persons had no other place to go. Influx of victims began on 24 February and continued till 26 February. In an interview given to The Caravan, Dr. Anwar stated that he attended around 500-600 victims between 24-26 February, despite not having more than 15 beds.⁶³ He also said that 75 percent of the victims had firearm injuries, most of whom could not get proper treatment as the hospital was running with a staff of 3 doctors, no surgeon, and low resources. According to Dr. Anwar, many patients who died, could have been saved had they been taken to the hospital on time. It was Dr. Anwar who Justice Muralidhar and Justice Bhambani spoke to in the night of 25th February, in order to assess the situation, following which the High Court directed Delhi Police to ensure that injured victims were allowed safe passage to hospitals. Al Hind hospital not only provided medical assistance to the victims, but also remained an important help for many victims who were being harassed by the police and hospital officials. Dr. Anwar also asked lawyers to sit in the hospital to help in legal assistance. On 26th February, many families who had fled their homes sought refuge in Al Hind Hospital.⁶⁴ Most of them were Muslim families who had to leave as the mob was targeting Muslim homes, and they also could not stay with their Hindu neighbours as the mob was attacking whoever sheltered Muslim families. A total of 30 Muslims were in the hospital as they could not go back to their homes. Despite providing critical and immediate aid to the victims, Dr. Anwar's name has appeared in the chargesheet filed by Delhi police in the murder of Dilbar Negi, accusing him of being involved in the organisation of anti-CAA protests at Farouqia masjid.⁶⁵

⁶³How Mustafabad's Al Hind hospital became a refuge for displaced Muslims, Th Caravan, <https://caravanmagazine.in/conflict/how-mustafabad-al-hind-hospital-became-refuge-for-displaced-muslims> (accessed on 20.10.2020).

⁶⁴Ibid

⁶⁵Waiter's murder: Delhi Police chargesheet names owner of hospital that treated riot victims, The Indian Express, https://indianexpress.com/article/cities/delhi/waiters-murder-delhi-police-chargesheet-names-owner-of-hospital-that-treated-riot-victims-6478365/lite/?_twitter_impression=true (accessed on 20.10.2020).

Mohan Nursing Home

The other health centre in the middle of violence playing out in North East Delhi was Mohan Nursing Home, in the news for very different reasons. Located close to Chandbagh anti CAA protest site, on Wazirabad road, a video became viral which showed around seven-eight men, firing gunshots, pelting stones and throwing petrol bombs at anti-CAA protesters, from the hospital's terrace.⁶⁶ Shahid Alvi was killed by a bullet that was fired from the hospital, which was corroborated by eye witnesses.⁶⁷ Akram Khan lost his hand due to a petrol bomb that was thrown at him from the nursing home.⁶⁸ In his complaint submitted to the Police, Akram states, "... one of them asked my name and I replied 'Akram'. The rioters ran after me and I fell down. Then from the top of Mohan Nursing Home, the owner (of the nursing home) and his employees began throwing stones and bombs at me."⁶⁹ In both these cases, the victim and eyewitness testimonies clearly state that the mob was attacking Muslims from Mohan Nursing home, but the health centre has not been mentioned in even a single chargesheet filed related to the riots. It is clear from video evidence as well, that the Nursing Home was used by attackers, yet the hospital and its owner face no enquiry.

2.3 Deliberate and systematic violence: BJP and Hindutva groups

All reports point to the deliberate nature of the attacks. Human Rights Watch reported that tensions had been building for weeks with ruling party BJP leaders openly advocating violence against anti-CAA protesters, portraying anyone who spoke out against the government, as working against nation's interests.⁷⁰

The trigger for the violence was the speech of a BJP leader, Kapil Mishra, on 23rd February, who gave an ultimatum to Delhi Police – recorded on camera and widely circulated - to clear the anti-CAA protesters from near the Jaffarabad metro station in North East Delhi district, or face consequences.⁷¹ Mishra had also popularised, since immediately after the CAA was enacted in December 2019, a provocative call to violence against Muslims: *desh ke ghaddaron ko goli maarons aalon ko* ('shoot dead the bastard traitors', aimed at Muslims). Other BJP leaders too have been named in fact finding reports having incited as well as participated in the violence. The report by Progressive Medicos and Scientists Forum named Jagdish Pradhan, former BJP MLA from Mustafabad constituency, as a prominent one, also playing the role of mobilising youth from neighbouring district of Baghpat in Uttar Pradesh.⁷² What followed was organised attacks by Hindu mobs, against Muslim neighbourhoods.

⁶⁶In Delhi's Yamuna Vihar, mob operated out of hospital, The Indian Express, <https://indianexpress.com/article/cities/delhi/in-delhi-yamuna-vihar-mob-operated-out-of-hospital-6293301/> (accessed on 20.10.2020).

⁶⁷Delhi violence: Police rule out rioters camp Mohan nursing home from probe, Maktoob, https://maktoobmedia.com/2020/06/18/delhi-violence-police-rule-out-rioters-camp-mohan-nursing-home-from-probe/amp/?_twitter_impression=true (accessed on 20.10.2020).

⁶⁸Lost My Hand to Bomb Thrown From Nursing Home: Delhi Riot Survivor, The Quint, https://www.thequint.com/news/india/north-east-delhi-riots-akram-hand-delhi-police-mohan-nursing-home?utm_source=wru&utm_medium=alsoread (accessed on 20.10.2020).

⁶⁹Ibid.

⁷⁰https://www.hrw.org/sites/default/files/report_pdf/india0420_web_0.pdf

⁷¹The Roots of the Delhi Riots: A Fiery Speech and an Ultimatum, The New York Times, <https://www.nytimes.com/2020/02/26/world/asia/delhi-riots-kapil-mishra.html> (accessed on 20.10.2020)

⁷²Progressive Medicos and Scientists Forum (PMSF): An Inquiry into the Anti-Muslim Violence in NE Delhi by a Team of Doctors that Visited the Area. Feb. 2020. p16.

This claim was also made by DMC.

Media accounts of conversations with those that had taken part in the attacks are revealing:⁷³

“Our opposition is to the opposition of those against the CAA. How dare they (read Muslims) protest like this in our country? Is it (their) country? It is our country. Are they bigger goons than us? We are the bigger goons. We will show them their place, not allow them to remain (even) in their homes.”

Another described how youth had been mobilised by organised Hindutva groups such as the Bajrang Dal, through a mix of hate and fear, and with material support, to attacks Muslims.⁷⁴ The coordinating role of other Hindutva groups - Rashtriya Swayamsevak Sangh (RSS), Vishwa Hindu Parishad (VHP) and others - too was revealed in complaints if not FIRs and chargesheets.⁷⁵ Social Media was used extensively to coordinate attacks⁷⁶ and incite violence.⁷⁷ These reports also hinted at the deep involvement of the police, to give the mobs a free reign to target Muslims.⁷⁸

It was in this context of the orchestrated campaign of hate and targeting recently of anti-CAA protests in Delhi as well as elsewhere, that the UN Special Adviser on Prevention of Genocide, Adama Dieng, spoke out against increased hate speech and discrimination against minority communities in India since the adoption of the CAA in December 2019. He specifically expressed concern over reports that demonstrations against the law, had reportedly resulted in the injury and death of civilians, attacks on religious sites, as well as an increase in expressions of hate against India's Muslim community.⁷⁹

2.4 Police omissions and commissions

If pogroms can be defined as 'deliberately organised - and especially - state supported killings and the destruction of property of a targeted group' (Paul Brass, 2006)⁸⁰ what makes the pogrom case for Delhi's mass violence, is the role of authorities, especially Police. Several reports have documented in detail, from since the violence broke out on 23rd February, the suspect role of Delhi Police and other law enforcement agencies. *New York Times* reported Delhi Police was complicit in not preventing violence against Muslims, often participating in it, at times also obstructing emergency services from reaching Muslim victims.⁸¹ *BBC* claimed similar, when it reported Police aiding Hindu mobs to attack Muslim localities.⁸²

⁷³'We Burnt the Mazar Down': Hindutva Men Talk About the Violence They Unleashed, *The Wire*, <https://thewire.in/communalism/delhi-violence-hindutva-mazar-burnt> (accessed on 20.10.2020).

⁷⁴Hate Speech, *The Caravan*, <https://caravanmagazine.in/crime/delhi-rioter-testimony-hindu-revenge-muslims-police-free-reign> (accessed on 20.10.2020).

⁷⁵Delhi Riots Exclusive: RSS Members Arrested for Murder, Rioting, *The Quint*, <https://www.thequint.com/news/india/delhi-riots-rss-vhp-members-accused-murder-rioting-arrested-delhi-police> (accessed on 21.10.2020).

⁷⁶'Tear Them Apart': How Hindutva WhatsApp Group Demanded Murder, Rape of Muslims in Delhi Riots, *The Wire*, <https://thewire.in/communalism/delhi-riots-hindutva-whatsapp-muslims-murder-rape>:

From planning murder to praising Modi: WhatsApp chats offer a window into the minds of Delhi rioters, *Scroll*, <https://scroll.in/article/966775/from-planning-murder-to-praising-modi-whatsapp-chats-offer-a-window-into-the-minds-of-delhi-rioters> (accessed on 20.10.2020).

⁷⁷TikTok Users Are Turning Delhi Riot Footage Into Music Videos, *Huffpost*, <https://www.huffingtonpost.in/entry/tiktok-delhi-riots-in-5e5d0553c5b6beedb4ee9a28> (accessed on 20.10.2020).

⁷⁸Supra Note 74.

⁷⁹https://www.un.org/en/genocideprevention/documents/18052020_SA%20note%20to%20media%20on%20India_final.pdf

⁸⁰Forms of Collective Violence. Riots, Pogroms and Genocide in modern India. New Delhi: Three Essays Collective.

⁸¹<https://www.nytimes.com/2020/03/12/world/asia/india-police-muslims.html> (accessed on 20.07.2020).

⁸²Video evidence of violence <https://vimeo.com/395094361> (accessed on 20.10.2020).

Revealing the deep police-perpetrator nexus, *The Guardian* reported a conversation with an informant who had participated in attacks against Muslims.⁸³

“There was a clear instruction of catch-and-kill action against any Muslim we could spot. I was in a group of around 15 boys. Many senior brothers said to us that police would not take any action against any member of our community and we could attack the people on the other side [Muslims] the way we liked.”

The report went on to describe the informant's account of how they caught hold of a middle-aged rickshaw puller, beat him until he appeared dead, and then threw his body in a drain. All this while policemen stood by, and also asked the assailants to destroy CCTV footage. The depth of Police's complicity was demonstrated by the need for the Delhi High Court to organise a midnight hearing on 25th February to direct Police to provide safe passage to injured victims of the violence huddled in Al Hind Nursing Home in Mustafabad, to specialist hospitals outside. The motion was in response to petitioners' claims that Police, along with rioters, was preventing injured Muslims safe passage.⁸⁴

The PMSF fact finding report had described Delhi Police behaving like a 'Hindu force', working with attackers to target Muslims.⁸⁵ At GTB tertiary hospital where a large number of those injured were admitted for treatment, the report claimed, Police was also attempting to prevent victims from speaking to the press and visiting NGO workers, in an effort to cover up the nature of violence and injuries that victims had suffered.⁸⁶ It also reported doctors claiming they had been instructed by authorities to delay conduct of autopsies on dead bodies, awaiting directions from Police to go ahead, hinting at possibility of tampering with evidence.⁸⁷

Select TV channels reporting from North East Delhi on 25th February had pointed to police's omissions. ASianet had stated “The centre can control the violence within hours, but no action has been taken till now”. Another channel, Media One noted: “It seems the vandals and police are hand in glove.”⁸⁸ Both channels were censored by the Government in the weeks ahead. *The Guardian* writing in the week following the violence, reported that allegations were mounting of police in Indian capital inciting and aiding recent mob violence, and failing to help Muslim victims.⁸⁹ It also claimed that in the weeks that have followed “the alleged bias of the police has extended to accusations of a cover-up to protect the Hindu rioters and a widespread refusal to file or investigate complaints made by Muslim victims”.

⁸³Delhi's Muslims despair of justice after police implicated in riots, *The Guardian*, <https://www.theguardian.com/world/2020/mar/16/delhis-muslims-despair-justice-police-implicated-hindu-riots> (accessed on 20.10.2020).

⁸⁴Delhi Riots: After Late Night HC Direction to Police, Injured Muslims Get Safe Passage, *The Wire*, <https://thewire.in/law/delhi-riots-give-injured-muslims-safe-passage-hc-directs-police-in-late-night-order> (accessed on 20.10.2020).

⁸⁵Progressive Medicos and Scientists Forum (PMSF): An Inquiry into the Anti-Muslim Violence in NE Delhi by a Team of Doctors that Visited the Area. Feb. 2020. p7-9.

⁸⁶Ibid p12

⁸⁷Ibid, P12.

⁸⁸Delhi Riots 2020: There Was a Conspiracy, But Not the One the Police Alleges, *The Wire*, <https://thewire.in/communalism/delhi-riots-2020-there-was-a-conspiracy-but-not-the-one-the-police-alleges> (accessed on 20.10.2020).

⁸⁹Supra Note 83

In post-violence investigations, police also began a campaign of targeting Muslim victims of violence as well as HRDs speaking for anti-CAA protesters, accusing them of a conspiracy and participation in anti-Hindu violence, whilst failing to act against senior politicians visibly inciting violence and directing violence against Muslims.

This was the backdrop to the Office of High Commissioner for Human Rights (OHCHR) reporting on 26th June, the joint letter written by a record 8 UN mandate holders to Government of India on actions against protesters wrongly detained, including under draconian anti-terror and security laws, merely for protesting against the discriminatory CAA.⁹⁰ On 20th July International Commission for Jurists and World Organisation Against Torture (OMCT), in a joint public statement highlighted a range of human rights violations, including of freedom of association and assembly, in India's repression of peaceful protests against the CAA, among others.⁹¹ Earlier ICJ had on 16th December 2019, just after the passage of CAA and the breaking out of anti-CAA protests, issued a statement titled 'authorities must cease their excessive use of force and ill-treatment of anti-CAA protesters'.

One of the most egregious instances of police partisanship in the entire episode was the case of Mohammad Faizan, a Muslim victim of the violence. A disturbing video emerged from near the Maujpur metro station in North East Delhi, as the violence raged, showing uniformed policemen on 24th February assaulting injured youth lying on the road. The video shows the police forcing the young men to sing the national anthem and repeatedly beating them with batons and picking up and smashing a young man's head against the road. The police can also be heard taunting the men about 'Azaadi' (freedom) slogans, which were often used at protest and sit-ins against the CAA. One of the men, 23 year-old Faizan succumbed to his injuries a few days later. After the assault, Faizan had been illegally detained by the Police for over 36 hours and - as per media reports based on official documents and eye witness accounts, which had not been refuted by the Police then - he was denied medical attention.⁹² It later emerged that the First Information Report registered by the Police of the incident, makes no mention of the clearly documented video footage of the police assaulting Faizan. Police also did not name any policemen as accused in the case.⁹³

⁹⁰UN experts urge India to release protest leaders, United Nations Office of the High Commissioner on Human Rights, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26002> (accessed on 21.10.2020).

⁹¹India: repression of protests violating freedom of association and assembly, International Commission of Jurists, <https://www.icj.org/hrc44-india-foa/> (accessed on 21.10.2020).

⁹²Delhi Police Actions Caused Death Of Man In Infamous National Anthem Video, The Huffington Post, https://www.huffingtonpost.in/entry/delhi-riots-police-national-anthem-video-faizan_in_5e5bb8e1c5b6010221126276 (accessed on 21.10.2020).

⁹³Four Months After Viral Video Of Policemen Beating Man To Death, FIR Says No Suspects-Ground Report: Supra Note. 92.

Chapter 3: Disinformation Campaign

*Prosecution Expert Witness, Alison Des Forges testified that a document was found in the Butare prefectural office, written by a propagandist who based his work on a French book *Psychologie de la publicite et de la propagande*. Drawing also on Lenin and Goebbels, he advocated the use of lies, exaggeration, ridicule and innuendo against the adversary and suggests that the public must be persuaded that the adversary stands for war, death, slavery, repression, injustice and sadistic cruelty. He stressed the importance of linking propaganda to events and suggested "simply" creating events, if necessary. He proposed the use of what he called "Accusation in a mirror", meaning that one would impute to the adversary one's own intentions and plans. "In this way" he wrote, "the party which is using terror will accuse the enemy of using terror." Such a tactic could be used to persuade honest people that attack by the enemy justifies taking whatever measures are necessary for legitimate defence.*

[The Prosecutor vs Ferdinand Nahimana, Jean-Bosco Barayagwiza and Hassan Ngeze. Case No. ICTR-99-52-T. International Criminal Tribunal for Rwanda. Judgement and Sentence, dated 3rd Dec 2003. (Para 111, page 36)]

3.1 Introduction

As if on cue, a disinformation campaign took over along with the violence, involving TV channels, social media platforms, think tanks and other NGOs, all with demonstrable links to Hindutva networks and the BJP government. This coordinated campaign points to an echo-chamber of actors inhabiting the Hindutva eco-system, all with links and access to the state, that are seeking to shift the narrative, making what was understood to be an anti-Muslim pogrom, into an anti-national conspiracy, directed at attacking Hindus, targeting the national government, even the national interest. This section seeks to examine the BJP disinformation effort.

3.2 Spin TV: Primetime 'conspiracies'

Whilst targeted violence against Muslims and other anti-CAA protesters was playing out in North East Delhi, coverage on Indian media from the 24th of February was taking a familiar vicious turn. Many media houses, particularly television channels, began to portray the violence as a 'conspiracy' by the '*tukde-tukde gang*' designed to defame the country before the world, against the backdrop of the state visit of US President Donald Trump. A look at the reporting by several news channels and newspapers paints a telling account of how India's media houses not only consistently toed the government's majoritarian line but also actively vitiated the general discourse against the Muslim community. In the process, TV channels completely underplayed the incendiary role played by senior BJP leaders in instigating and executing the violence.

As violence began to engulf Delhi on 24th January, India's news channels, describing the horrific scenes they witnessed in the various localities of north-east Delhi, initially apportioned blame to 'both sides', with most channels - including NDTV, Times Now, India TV, AajTak and ABP News - speaking of '*dono taraf se hinsa*'.⁹⁴ (violence from both sides). NDTV detailed how its reporters were attacked by Hindu mobs and questioned about their religious affiliation. News X and Republic TV, both of whose reporters faced the same mobs, reported the same, and focused on how all of this was happening due to the 'inaction of the police'.⁹⁵

⁹⁴Ibid.

⁹⁵Ibid.

Delhi Police's role in the violence, revealed to be openly hostile towards Muslims in many places,⁹⁶ was mostly described as 'inadequate' or 'inept'.⁹⁷ Few questioned the role of Home Minister Amit Shah, who Delhi Police report to directly. Times Now, which ran a 'Who Failed Delhi?' list, blamed the Delhi Police Commissioner, Delhi's Lieutenant Governor, Delhi's Chief Minister and Union Home Secretary Ajay Bhalla, but not Home Minister Shah. India Today's Rajdeep Sardesai, who asked a BJP spokesperson if Amit Shah should not be held responsible, was shouted down.⁹⁸

As the day went by, the focus shifted from the violence and the human suffering to the suspicious 'timing' of the violence, on a day when US President Trump was in the country.⁹⁹ '*Timing samajhiye*,' (get the timing) said a caption on India TV, while Times Now spoke of a possible 'plot to sully India's image'.¹⁰⁰ Zee News repeatedly showed visuals of evidently Muslim men hurling stones. As prime time approached and high-profile news anchors took over, the focus seemed to be almost entirely on the 'conspiracy' angle.¹⁰¹ Times Now's Rahul Shivshankar wondered if the violence was a deliberate and calibrated attempt to 'malign the image of India' during Trump's visit, with his co-anchor Navika Kumar echoing the same sentiment. Republic TV's Arnab Goswami went a step further and declared the violence as "orchestrated" by supporters of Shaheen Bagh and the Lutyens Delhi gang.¹⁰² Zee News' Sudhir Chaudhary also blamed the *tukde-tukde* gang, the Lutyens media and even the opposition. Everyone but the Hindutva mobs that perpetrated the bulk of the violence seemed to be blamed.¹⁰³

Earlier that day - marked by at least 13 deaths and over 200 injuries¹⁰⁴ - all private satellite television channels in India had received an advisory from the Information & Broadcasting (I&B) Ministry, asking them to be cautious about airing content that might instigate violence or promote 'anti-national' attitudes.¹⁰⁵

⁹⁶How Delhi's Police Turned Against Muslims, The New York Times, <https://www.nytimes.com/2020/03/12/world/asia/india-police-muslims.html> (accessed on 21.10.2020).

⁹⁷On Delhi riots, TV channels finally reported news. Then the anchors swooped in, The Print, <https://theprint.in/opinion/telescope/on-delhi-riots-tv-channels-finally-reported-news-then-the-anchors-swooped-in/371926/> (accessed on 21.10.2020).

⁹⁸Ibid.

⁹⁹Ibid.

¹⁰⁰Ibid.

¹⁰¹Ibid.

¹⁰²Ibid.

¹⁰³Ibid.

¹⁰⁴A Timeline of the Delhi Riots: Arson, Shooting and Police Indifference, The Wire, <https://thewire.in/communalism/delhi-riots-timeline> (accessed on 21.10.2020).

¹⁰⁵Delhi violence: I&B ministry asks TV channels not to air content promoting 'anti-national attitude', Scroll, <https://scroll.in/latest/954336/delhi-violence-i-b-ministry-asks-tv-channels-not-to-air-content-promoting-anti-national-attitude> (accessed on 21.10.2020).

On 26th February, Sudarshan TV aired a show titled '*Jihadiyon ka Jhund*' (mob of jihadis), which sweepingly blamed Muslims for the violence in Delhi. The anchor traced the genesis of the violence to Shaheen Bagh, without offering any proof. The show also repeated the channel's earlier assertion that a woman was murdered inside the house of Aam Aadmi Party member, Tahir Hussain.¹⁰⁶

The disinformation continued after the violence ebbed. On 5th March, Times Now broadcast a video that purportedly showed a man brandishing a gun and opening fire at policemen in Maujpur during the violence. The video was tweeted with the hashtag #ShaheenLynchModel, clearly implying that the shooter was a Muslim. The video was later debunked, and the shooter was later identified to be part of a pro-CAA mob.¹⁰⁷

Two Kerala-based news channels, Asianet News and Media One, were on 6th March 2020, banned for 48 hours and taken off the air, accused of covering the 25 February violence in a manner that "highlighted the attack on places of worship and siding towards a particular community".¹⁰⁸ The channels had extensively covered attacks on several mosques in north-east Delhi by Hindu mobs. The channels – whose transmission was eventually restored in under 48 hours – were also accused of "deliberately focusing on the vandalism of the CAA supporters", and of being "critical towards Delhi Police and RSS". "Such reporting could enhance communal disharmony across the country when the situation is highly volatile," one of the orders concluded. The ministry's orders did not question the veracity of the reports aired by the channels, nor did it furnish any proof that they had "enhanced communal disharmony" anywhere.¹⁰⁹ On the other hand, Sudarshan TV, Times Now and Zee News are yet to receive a notice from the Information & Broadcasting Ministry for "siding towards a particular community" or "enhancing communal disharmony".

3.3 The murder of Ankit Sharma, and the vilification of Tahir Hussain: A case study

The TV coverage of the murder of Ankit Sharma – an Intelligence Bureau employee who resided in the area – provides an interesting case study of the biases that were inherent in the Indian media's reportage of the violence. Sharma's murder was covered extensively, with Republic TV, Times Now, News18, News18 India, Zee News and AajTak all running "exclusive" stories. A Newslaundry analysis of the coverage revealed several, major inconsistencies regarding even basic facts.¹¹⁰

¹⁰⁶Delhi riots: A look at the news channels that passed the I&B ministry's 'unbiased' test, Newslaundry, <https://www.newslaundry.com/2020/03/13/delhi-riots-a-look-at-the-news-channels-that-passed-the-ib-ministrys-unbiased-test> (accessed on 21.10.2020).

¹⁰⁷Ibid.

¹⁰⁸Delhi Riots Media Coverage: Govt Ban on Asianet News, Media One Lifted, The Wire, <https://thewire.in/media/ib-ministry-asianet-media-one-tv> (accessed on 21.10.2020).

¹⁰⁹I&B ministry's aborted 48-hour ban of Malayalam news channels is a signal to media to toe the line, Scroll, <https://scroll.in/article/955433/i-b-ministrys-aborted-48-hour-ban-of-malayalam-news-channels-is-a-signal-to-media-to-toe-the-line> (accessed on 21.10.2020).

¹¹⁰No 'Girl's Clothes' in Tahir Charge Sheet. Did Sudarshan Mislead?, The Quint, <https://www.thequint.com/news/india/sudarshan-tv-claims-girl-clothes-found-tahir-hussain-house-delhi-violence-missing-police-charge-sheets> (accessed on 20.10.20)

Whilst confusion abounds about the circumstances of the murder, and Swarajya, a Hindu Right-wing online publication, claimed to have found a witness who said that Sharma had disappeared while walking past a “Muslim area”, The Wall Street Journal (WSJ) however, quoted Sharma's brother Ankur, saying that “a mob came armed with stones, knives and even swords; they shouted 'Jai Shri Ram'”.¹¹¹ Ankur later denied making this statement, but WSJ claims to be in possession of a recording of the same.¹¹² In the circumstance, WSJ itself became the subject of disinformation and targeting by Hindutva groups, including the right-wing platform OpIndia¹¹³ and an outfit calling itself Legal Rights Observatory (LRO) run by pro-BJP film maker, Vivek Agnihotri.¹¹⁴

On Twitter, Rahul Pandita, a journalist who claimed to have spent the whole day in the NE Delhi area, posted a video that showed a mob atop the residence of Tahir Hussain, AAP member from the area, hurling stones and petrol bombs. NewsLaundry revealed that if Pandita's video had panned a little to the side, it would have shown other, Hindu mobs, hurling stones from nearby rooftops. The video was immediately picked up by Amit Malviya, the head of the BJP's IT Cell, and soon by news channels, most of whom immediately apportioned the full blame for the violence to Hussain and his men.¹¹⁵ Multiple news channels soon stationed themselves near Hussain's building. Republic TV declared it a “riot factory”, with its reporters “exposing” crates of petrol bombs, bricks, etc. Arnab Goswami later remarked on air: “mountains of proof have emerged, clearly proving Arvind Kejriwal's right-hand man and Aam Aadmi Party-elected senior leader called Tahir Hussain, who is 43 years old, led one of the biggest riot attacks in North East Delhi.” Other channels such as Zee News provided similar coverage. Sudarshan TV, closely linked to the RSS, went as far as claiming that a woman was murdered in Hussain's building, producing a heap of burnt clothes as “evidence”, and a witness to boot. No such woman was ever found, and the report was later officially denied by the police.¹¹⁶ Police has recently filed its chargesheet – report of investigation – in the matter, providing a mirror image of the above claim. Experts have however pointed to the folly of relying on disclosure statements by those in custody – thus amenable to police pressure- as evidence of the claim.

¹¹⁰Ankit Sharma's murder: A ground report that tells you what several news reports didn't, NewsLaundry, <https://www.newslaundry.com/2020/03/05/did-the-media-spotlight-on-ankit-sharma-shed-clarity-on-his-murder-no> (accessed on 21.10.2020).

¹¹¹India's Ruling Party, Government Slammed Over Delhi Violence, The Wall Street Journal, <https://www.wsj.com/articles/indias-ruling-party-government-slammed-over-delhi-violence-11582734524> (accessed on 21.10.2020).

¹¹²Prasar Bharati Tweet on MEA 'Asking for Deportation of WSJ Reporter' Deleted, The Wire, <https://thewire.in/diplomacy/prasar-bharati-deportation-wsj-reporter-tweet> (accessed on 21.10.2020).

¹¹³WSJ fabricates quotes by murdered IB official Ankit Sharma's brother, puts blames on Hindu groups even as family blames AAP leader, OpIndia, <https://www.opindia.com/2020/02/wall-street-journal-ankit-sharma-delhi-riots-fake-quote/> (accessed on 21.10.2020).

¹¹⁴Supra Note 106.

¹¹⁵Indian media has made Tahir Hussain the face of Delhi riots. What's the evidence?, NewsLaundry, <https://www.newslaundry.com/2020/02/28/indian-media-has-made-tahir-hussain-the-face-of-delhi-riots-whats-the-evidence> (accessed on 21.10.2020).

English-language news channel founded in May 2017 by Arnab Goswami in partnership of a former BJP member of Parliament, Rajeev Chandrasekhar. A 2019 report noted the Republic TV to be the most watched English news channel in India for 100 weeks in a row since its founding.¹¹⁷

- a. In the context of anti-Citizenship (Amendment) Act protests in Delhi, a man attacked the protestors with a gun (Feb. 2020). Arnab Goswami during his primetime address repeatedly identified the shooter as a protestor (primarily Muslims and allies) without verification and alleged that weapons were being used in the name of the law and they were a result of the Shaheen Bagh (anti – CAA 2019) protests and their “liberal” supporters. He also compared this incident with one of a “Hindu minor” who had fired shots, giving it a communal colour.¹¹⁸
- b. In 2019, Goswami was asked to tender a public apology for almost bullying a Muslim panelist on his show, into chanting “Bharat Mata ki Jai” (a Hindu salutation to the motherland).¹¹⁹ In other news, he has called Muslims “anti-nationals”, for instance in the case of Waris Pathan (member of the Legislative Assembly) belonging to the AIMIM (roughly translates as All India Council for Unity of Muslims), for not standing up during singing of the National Anthem.¹²⁰
- c. In the context of the coronavirus spread, Republic TV went on airing videos along with Telugu language captions that spoke of Muslims asking people to defy the lockdown and to destroy India.¹²¹ Goswami also termed the Tablighi Jamaat (Muslim religious congregation) gathering in Delhi, one of the COVID hotspots, as a “conspiracy” against India.¹²²
- d. In the context of the lynching in Palghar Maharashtra, of two Sadhus (Hindu clerics) and the police's inability to prevent the lynching, Goswami continued giving the incident a communal colour- by inquiring if the opposition leaders would have maintained the same level of silence had there been lynchings of “maulvis or padris” (Muslim and Christian clerics) involved. Goswami also tried to stoke tensions by speaking of how Hindus are being attacked in “their own land”. This show was sponsored by EbixCash, PayTM, Amul, and Renault India (a subsidiary of the French car manufacturer Renault), with the last being the main sponsor.¹²³ Multiple FIR's have been filed against Goswami for hate speech and defamation. However, in an order on April 24, 2020 the Supreme Court allowed him protection from any 'coercive action' and 3 weeks-time period to apply for anticipatory bail.¹²⁴

¹¹⁷ Arnab Goswami buys back shares from Asianet; Republic TV now valued at this much, Financial Express, <https://www.financialexpress.com/market/arnab-goswami-buys-back-shares-from-asianet-republic-tv-now-valued-at-this-much/1569639/> (accessed on 20.10.20).

¹¹⁸ Jamia shooting: Know the companies that brought you Republic TV's misinformation campaign, NewsLaundry, <https://www.newslaundry.com/2020/02/05/jamia-shooting-know-the-companies-that-brought-you-republic-tvs-misinformation-campaign> (accessed on 20.10.20).

¹¹⁹ India's broadcasting regulator ordered Republic TV to air an apology, but it didn't. What happens now?, NewsLaundry, <https://www.newslaundry.com/2019/10/15/indias-broadcasting-regulator-ordered-republic-tv-to-air-an-apology-but-it-didnt-what-happens-now> (accessed on 20.10.20).

¹²⁰ India's Not-So-Free Media, The Diplomat, <https://thediplomat.com/2019/01/indias-not-so-free-media/> (accessed on 20.10.20).

¹²¹ After COVID-19 outbreak at Tablighi Jamaat conference, fake news targeting Muslims abounds, The Caravan, <https://caravanmagazine.in/media/after-covid-19-outbreak-at-tablighi-jamaat-conference-fake-news-targeting-muslims-abounds> (accessed on 20.10.20).

¹²² Who funded Arnab Goswami's communal tirade over Palghar lynching?, NewsLaundry, <https://www.thequint.com/voices/opinion/coronavirus-spread-tablighi-jamaat-tv-media-tiktok> (accessed on 20.10.20).

¹²³ Who funded Arnab Goswami's communal tirade over Palghar lynching?, NewsLaundry, <https://www.newslaundry.com/2020/04/23/who-funded-arnab-goswamis-communal-tirade-over-palghar-lynching> (accessed on 20.10.20).

¹²⁴ Defamation case: Supreme Court grants relief to journalist Arnab Goswami, The Hindu, <https://www.thehindu.com/news/national/defamation-case-supreme-court-grants-relief-to-journalist-arnab-goswami/article31421899.ece> (accessed on 20.10.20).

3.4 Social media platforms amplifying disinformation

Demonstrating also the coordinated nature of the disinformation is how WSJ was subjected to targeting by Legal Rights Observatory (LRO)¹²⁵ and specially¹²⁶ OpIndia. OpIndia was in the news recently, when in June 2020, about two dozen companies withdrew advertisements from the site, citing “insidious content” and “hateful views”, as part of a campaign by Stop Funding Hate, a UK-based advocacy group.¹²⁷ OpIndia claims to be a pioneer in factchecking in India. Ironically, in 2019 it was denied fact checker certification by the International Fact Checking Network, citing bias, lack of data and disparaging comment.¹²⁸ In February the website was blacklisted by Wikipedia.

On 27th February, as NE Delhi was limping back from the violence, OpIndia published a report claiming a Hindu temple in its Chand Bagh area had been forcibly occupied by 'frenzied Islamist Fundamentalists', that had converted the anti-CAA protests into 'anti-Hindu riots'.¹²⁹ NewsLaundry that describes itself as a media watchdog, factchecked the story with a ground report that included interview with the temple priest, and found the report to be false. The report went on to argue that OpIndia's “misinformation streak in the immediate aftermath of the communal carnage in Delhi amounted to criminal incitement against Muslims.”¹³⁰ The report led to several brands stopping advertising on OPIndia site.

OpIndia has been actively publishing fake news and purveying Islamophobia.¹³¹ In the last two years alone, according to a NewsLaundry database, fact checkers and news outlets have reported at least 25 instances of false news and 14 instances of misreporting by OpIndia.¹³² In May this year, Bihar police booked the website for introducing a fabricated communal angle to the death of a 15 year old boy in Gopalganj district.¹³³

¹²⁵Supra Note 106.

¹²⁶Supra Note 107.

¹²⁷OpIndia: Hate speech, vanishing advertisers, and an undisclosed BJP connection, NewsLaundry, https://www.newslaundry.com/2020/06/23/opindia-hate-speech-vanishing-advertisers-and-an-undisclosed-bjp-connection?fbclid=IwAR1unUfxJ95cxK401_OK61wYZdP5uSSTH16w8NfU3LnNn4WDJ3Z6TCxlbNQ (accessed on 20.10.20).

¹²⁸OpIndia a Fact-Checking Website? Nope, Says International Fact-Checking Network, News Central, <https://newscentral24x7.com/opindia-international-fact-checking-network-fake-news/> (accessed on 20.10.20).

¹²⁹Delhi anti-Hindu riots ground report: Islamist mob in Delhi's Chand Bagh forcibly occupied a Shiv Mandir, hurled stones at Hindus from the roof, OpIndia, <https://www.opindia.com/2020/02/delhi-chand-bagh-riots-islamists-occupy-shiv-mandir-hurl-stones/> (accessed on 20.10.20).

¹³⁰Fact-check: Did a Muslim mob 'forcibly occupy' a temple in North East Delhi?, NewsLaundry, <https://www.newslaundry.com/2020/03/06/fact-check-did-a-muslim-mob-forcibly-occupy-a-temple-in-north-east-delhi> (accessed on 20.10.20).

¹³¹Fake news, lies, Muslim bashing, and Ravish Kumar: Inside OpIndia's harrowing world, NewsLaundry, <https://www.newslaundry.com/2020/01/03/fake-news-lies-muslim-bashing-and-ravish-kumar-inside-opindias-harrowing-world> (accessed on 20.10.20).

¹³²https://docs.google.com/spreadsheets/d/1KZ8ub0NOOhGztxSMMJOHk5T7rP2IuB0dHya5yWxuE_8/edit#gid=0 (accessed on 20.10.20).

¹³³'Human sacrifice in mosque': How OpIndia communalised a Bihar boy's death, NewsLaundry, <https://www.newslaundry.com/2020/05/19/human-sacrifice-in-mosque-how-opindia-communalised-a-bihar-boys-death> (accessed on 20.10.20).

The platform has close ties to the ruling BJP. In 2019, Rahul Raj one of the three co-founders of OpIndia, no longer associated with the website now, had tweeted that he had distanced himself from OpIndia because it had become a blind mouthpiece of the BJP. The fact of the close association with the ruling party has been confirmed by recent revelation that the director of the company that owns OpIndia and its holding company, has ties to the BJP¹³⁴ and the Rashtriya Swayamsevak Sangh (RSS), something that OpIndia has not disclosed.¹³⁵

3.5 Validation by NGOs and think tanks

The 'conspiracy thesis' was soon being validated by several so-called fact finding reports – one even purporting to be that by a group of 'intellectuals'. One was led by an RSS ideologue, another had retired officers and others that had played a not so inspiring part in investigations in the Gujarat pogroms of 2002 as well as in the string of extra judicial killings in the state (2002-2006).¹³⁶ Both findings were reported having been presented to the central Home Ministry, former to the junior minister, latter to the Home Minister Shah himself, hinting at possible coordination between the writers and the authorities.

Soon after the violence, on 11th March 2020, a report, titled '*Delhi Riots 2020: Report from Ground Zero– The Shaheen Bagh Model in North-East Delhi: From Dharna to Danga*', was submitted by a 'Group of Intellectuals and Academicians (GIA)' to minister of State for Home Affairs, G. Kishen Reddy.¹³⁷ Comprising academics, journalists and Supreme Court advocate cum RSS ideologue, Monika Arora,¹³⁸ the group in its 48-page report held 'Urban Naxal-Jihadi' network' responsible for the arson, looting and bloodletting in North-East Delhi in February.¹³⁹ The term is often used by right wing groups for dissenters, liberals generally, and Muslims. The report claimed that anti-CAA protests had been violent from the start, with "high-decibel anti-government, anti-India, radical Islamic protests".¹⁴⁰ These, it claimed, had deliberate provocative, anti-Hindu content: Ma Kaali, the Hindu goddess and women wearing bindis were depicted in art work at protest sites in burkas. (face and head covering).¹⁴¹

¹³⁴Twitter: https://twitter.com/bhak_sala/status/1159736642694868998 (accessed on 20.10.20).

¹³⁵'Human sacrifice in mosque': How OpIndia communalised a Bihar boy's death, NewsLaundry, https://www.newslaundry.com/2020/06/23/opindia-hate-speech-vanishing-advertisers-and-an-undisclosed-bjp-connection?fbclid=IwAR1unUfxJ95cxK401_OK61wYZdP5uSSTH16w8NfU3LnNn4WDJ3Z6TCxlbNQ (accessed on 20.10.20).

¹³⁶India court orders probe into Gujarat 'fake encounters', BBC, <https://www.bbc.co.uk/news/world-asia-india-16722178> (accessed on 20.10.20).

¹³⁷Group of Intellectuals and Academicians. *Delhi Riots 2020: Report from Ground Zero– The Shaheen Bagh Model in North-East Delhi: From Dharna to Danga*, <https://www.theindiapost.com/wp-content/uploads/2020/03/Final-Report.pdf> (accessed on 20.10.20).

¹³⁸Forensic expert in Gujarat riots case, SC lawyer among 6 who handed Shah Delhi riots report, The Print, <https://theprint.in/india/forensic-expert-in-gujarat-riots-case-sc-lawyer-among-6-who-handed-shah-delhi-riots-report/433893/> (accessed on 20.10.2020).

¹³⁹138Supra Note 132.

¹⁴⁰Ibid, p7

¹⁴¹Ibid, p45.

The report attributed the violence to the role of 'outsiders',¹⁴² naming specifically Sharjeel Imam, the JNU student leader; and a group of organisations vocally defending the rights of marginalised groups, including in the context of CAA, through democratic means: Popular Front for India, All India Students Association, Pinjra Tod, and Jamia Coordination Committee.¹⁴³ The authors claimed that the anti-CAA protests had links with international Islamist organizations and that foreign agencies were involved, including in funding the protests.¹⁴⁴ On the day the report was released, *Organiser*, the RSS mouthpiece welcomed it, claiming, “it had exposed the conspiracy behind the anti-Hindu riots and also the media machinations behind it”. It went on to add that prior to the report, “.....a large section of the media and the western media aided by their sepoy in India gave a partisan outlook to the riots and made the perpetrators (meaning Muslims) into victims.”¹⁴⁵

'Delhi Riots: 2020' fails to explain why Muslims overwhelmingly suffered more casualties and losses, despite the claim of their meticulous planning, organising and resourcing, and timing it all to coincide with the US president's visit to Delhi. And more significantly, the report completely elides the role of either BJP leaders making provocative speeches that sparked the violence and that of the Police in failing miserably to prevent it.

On 29th May 2020, another report, titled '*Delhi Riots: Conspiracy Unraveled*'¹⁴⁶ – Report of Fact Finding Committee on Riots in North-East Delhi during 23.02.2020 to 26.02.2020', was submitted by members of the NGO 'Call for Justice' to Home Minister Amit Shah. The team comprised of a retired HC judge, a leading forensic pathologist, retired civil servants, and a 'public prosecutor'.¹⁴⁷ Although there have been other fact-finding reports on the violence by different civil society groups, this was the only one that had been able to secure an audience with Home Minister Amit Shah. The findings of this particular report are similar in tone to the earlier one. The authors largely blame the “*tukde-tukde gang*” ('secessionist gang' standing for student groups youth groups from Delhi universities) and “radical groups such as Pinjra Tod, JCC (Jamia Coordination Committee), PFI (Popular Front of India), and local politicians from AAP” for the violence that killed 53 people in Delhi in February, 2020. They argue that 'targeted attacks' on an unknowing Hindu community was executed in a pre-planned organised manner, even as US president Donald Trump was in town, “to create a gigantic bang”.¹⁴⁸ Large number of trained outsiders were mobilised, along with stones, petrol bombs, catapults, country made guns, acids packets, etc. In its final claim, the report linked anti-CAA protests and the Delhi violence to funding of these by groups such as PFI, and that opposition parties – AAP and Indian National Congress specifically - were a part of this network.¹⁴⁹

¹⁴²Ibid, p36

¹⁴³All left leaning radical individuals and organisations, at the forefront of anti-CAA protests

¹⁴⁴Ibid, pp.36-37

¹⁴⁵Group of Intellectuals and Academicians submit report on Delhi anti-Hindu riots to Home Ministry - Exposes the forces behind the 'Dharna to Danga' model, *Organiser*, <https://www.organiser.org/Encyc/2020/3/11/Group-of-Intellectuals-and-Academicians-submit-report-on-Delhi-anti-Hindu-riots-to-Home-Ministry.html> (accessed on 21.10.2020).

¹⁴⁶Call for Justice. 2020. *Delhi Riots: Conspiracy Unraveled* – Report of Fact Finding Committee on Riots in North-East Delhi during 23.02.2020 to 26.02.2020', p51, https://51ef9d28-d714-4ffe-b906-7b5468bf5d97.filesusr.com/ugd/68578f_7505993b314d44bd8a25d32338a4e010.pdf (accessed on 21.10.2020).

¹⁴⁷<https://theprint.in/india/forensic-expert-in-gujarat-riots-case-sc-lawyer-among-6-who-handed-shah-delhi-riots-report/433893/> (accessed on 21.10.2020).

¹⁴⁸Supra Note 141.

¹⁴⁹Ibid, p5-6.

Alt News, the most respected fact checking website in India, reviewed the CFJ report and found that “it cannot be categorised as a 'fact-finding' report because of the torrent of misinformation it carries”.¹⁵⁰ The most glaring weakness was its one-sided nature: most testimonies were from Hindus; there was little mention of the role of senior BJP leaders; and most critically there was no mention that 75 per cent of those killed were Muslims; no mention too of Muslims religious places destroyed. *'Delhi Riots: Conspiracy Unraveled'* also misreported the sequences of events leading to the violence, besides relying on fabricated video recordings of anti-CAA protesters to claim they had instigated violence. Alt News also claimed the report had sourced a dubious website for information: OpIndia was the source of information on at least at 10 occasions. And there is little on the role of the Police, its failure to prevent violence and maintain order.

On 30th July OpIndia released its report on Delhi's 'anti-Hindu riots'.¹⁵¹ The 350 page plus report argued “it is an objective truth that the cycle of violence was not initiated by people of the saffron hue”,¹⁵² claiming rather that the violence was a result of “the Left and Islamists burning the country.”¹⁵³ It too blamed “*Urban Naxal-Jihadi*’ network”, Sharjeel Imam, All India Students Association, Pinjra Tod, Jamia Coordination Committee and Popular Front of India, as responsible for the violence. It also claims that anti-CAA protests had links with international Islamist organizations and that foreign agencies were involved, including in funding the protests.¹⁵⁴ The report does not explain how Muslims were by far the worst victims of the violence. It also, crucially, underplays the role of BJP leaders and members of the wider Hindutva network reported to have led and executed the attacks, or of the Police's failures and complicity in them.

3.6 Conclusion

Between TV channels, social media sites and NGOs – we have an entire ecosystem that mobilises to deflect attention from the perpetrators to the victims. The claim of conspiracy by 'left jihadi model of revolution' (Group of Intellectuals and Academics), and 'radical group' (Call for Justice) by the reports, are a concerted attempt to deflect attention from the responsibility. In fact CFJ goes a step forward to also blame the named groups after the violence, continuing “with their misinformation campaign to shift the burden on government & Hindu community for planning and committing the attacks on Muslim community.”¹⁵⁵ In the process they also seek to completely delegitimise the mass peaceful protests against the CAA when the report alleges that ShaheenBagh protesters were working at the behest of CPI(Maoist) (a banned armed organisation); that they were Jihadi, claiming slogans were anti-Hindu, and that they were supported by foreign funding and other help from foreign agencies.¹⁵⁶

¹⁵⁰Delhi Riots: 'Fact-Finding' Report Accepted by Amit Shah Has 'Torrent of Misinformation', The Wire, <https://thewire.in/rights/delhi-riots-report-misinformation-amit-shah-ngo> (accessed on 21.10.2020).

¹⁵¹OpIndia.com *Delhi Anti-Hindu Riots 2020: The Macabre Dance of Violence since December 2019*

¹⁵²Ibid, p19.

¹⁵³Ibid, p14, 359

¹⁵⁴Group of Intellectuals and Academicians: *'Delhi Riots 2020: Report from Ground Zero- The Shaheen Bagh Model in North-East Delhi: From Dharna to Danga, (p36-37)*

¹⁵⁵Call for Justice: 2020: 67

¹⁵⁶Ibid. P37, para 2

They also whitewash the failures of Home Minister Amit Shah – directly responsible for law and order in Delhi - in not being able to control the violence; of BJP leaders such as Kapil Mishra and others in instigating, and along with other Hindutva groups, such as Bajrang Dal and RSS in executing the violence. Finally, they have nothing to say on the role of Delhi Police officers – leadership and local level - in cracking down against anti-CAA protesters, during the violence and after. Alongside the reports also take aims at international media, national media and the Delhi Commission for Minorities, its past chair, and the reports they published, blaming them for biases.¹⁵⁷

Chapter 4: Incitement and Attacks: Violence actors

*Kapil Mishra tum lathhbajao, hum tumhare saath hai
Lambe-lambe latth bajao, hum tumhare saath hai
Kheech-kheech ke latth bajao, hum tumhare saath hai
Mullo par tum lath bajao, hum tumhare saath hai
Chamaaro par tum latth bajao, hum tumhare saath hai
(Kapil Mishra, you beat them with sticks, we are with you
Beat them with long sticks, we are with you
Beat them with full force, we are with you
Beat the Muslims, we are with you
Beat the Dalits, we are with you)*

[supporters of Kapil Mishra, Kardampuri, North East Delhi, 23rd February 2020, quoted in complaint for registration of FIR by Jami Rizvi, 24th February 2020.¹⁵⁸]

4.1 Introduction

In June 2020, 4 months after the violence, The Caravan, a news portal, published a report on the incidents of February 2020 that provided, in elaborate details, a glimpse of the mechanics of the violence and targeting, and the role of BJP politicians in inciting, orchestrating and executing it.¹⁵⁹ This report was based on entirely new material – complaints filed between February and March 2020 by victims of the violence to police authorities, asking police to register FIRs against those the complainants accused as perpetrators, and for criminal proceedings to be initiated. These were also copied to higher authorities (Commissioner of Police, Lieutenant Governor of Delhi, Union Home Minister, and the Prime Minister's Office).¹⁶⁰

¹⁵⁷Group of Intellectuals and Academics, 2020:35

¹⁵⁸Dead and Buried, The Caravan, <https://caravanmagazine.in/politics/delhi-police-ignored-complaints-against-kapil-mishra-bjp-leaders-leading-mobs-delhi-violence> (accessed on 21.10.2020).

¹⁵⁹Supra Note 153.

¹⁶⁰It is a settled principle of criminal procedure that upon receiving any complaint that constitutes on the face of it, a cognisable offence, the police must register an FIR. Police refused to accept the complaints initially. It was only in mid-March 2020, at Delhi police set up help desk of riot survivors at Mustafabad Eidgah relief camp, that the complaints were accepted, that too after intervention by lawyers and activists assisting survivor. The report also

This report was followed by a series of exposes in the media - based again on the complaints and interviews with the complainants - on the role of Delhi Police itself in aiding and abetting the rioters;¹⁶¹ on the role of violent Hindu groups complicit in the attacks;¹⁶² and on how the Police had refused to register the complaints or pressured complainants to drop names in their complaints, as condition for registering those.¹⁶³

Up until then, public knowledge about the violence and its dynamics had been limited to press reports and the odd fact-finding reports conducted in the days just after the violence by civil society groups.¹⁶⁴ Delhi Police had itself avoided sharing information of cases registered and the update on investigation, going so far as to seek High Court's approval to exempt itself from making this information available – otherwise a legal obligation. Onset of COVID and related lockdown, since 25th March, further hindered availability of information on violence and the police investigations following it, along with access for victims to seek remedies. The new material that investigative pieces by *The Caravan* and followed by *The Quint* among other news sites made available, provided completely new light on the incidents of the fateful days in February 2020. This section tries to piece together the chain of events, based on this new material, to develop a narrative that demonstrates the depth and extent of the role of senior BJP leaders and Hindutva actors involved in inciting, planning and executing the violence. It also provides new evidence on the role of the Police not only in failing to act to prevent violence, but also in participating in anti-Muslim attacks.

4.2 Timeline and dramatis personae

Anti-CAA protests, by local women, students and civil society groups - in the form of peaceful sit-in demonstrations - had been underway in North East Delhi since at least January 2020. On 22nd February, after Bhim Army – a radical Dalit rights group - called for nation-wide protests against government's planned attempts to weaken reservations in promotion for Scheduled Caste and Scheduled Tribe members in public sector employment, anti-CAA protesters at Jaffarabad moved to occupy one of the two carriageways of the highway just under the Jaffarabad metro station.¹⁶⁵ This act of occupying roads is a tactic used by many citizens groups in India, in acts of civil disobedience – resorted to especially in this case due to active measures taken by authorities to prevent large-scale gathering.¹⁶⁶

noted that formal FIRs, with description of offence and names of accused according to complaints have still not been registered by the police, preventing investigation on those lines.

¹⁶¹Supra Note 153

¹⁶²Delhi Riots Exclusive: RSS Members Arrested for Murder, Rioting, *The Quint*, <https://www.thequint.com/news/india/delhi-riots-rss-vhp-members-accused-murder-rioting-arrested-delhi-police> (accessed on 21.10.2020).

¹⁶³Supra Note 153.

¹⁶⁴These included, among others: (i) Youth for Human Rights Documentation. An Account of Fear & Impunity. Preliminary Fact-Finding Report on Communally-Targeted Violence in North-East Delhi, February 2020; (ii) Progressive Medicos and Scientists Forum. An Inquiry into the Anti-Muslim Violence in Northeast Delhi by a Team of Doctors that Visited the Affected Area, (iii) Let us Heal our Delhi: Eyewitness Report from North East Delhi Date of visit: February 27, 2020; (iv) Government completely absent from relief operations in the aftermath of communal violence in Delhi. Status report based on visit to Bhajanpura, Chaman Park and Shiv Vihar on February 29, 2020 By Anjali Bhardwaj, Annie Raja, Poonam Kaushik, Geetanjali Krishna, Amrita Johri

¹⁶⁵Anti-CAA Protesters, Mostly Women, Block Major Road In Jaffarabad; Metro Gates Shut, *Outlook*, <https://www.outlookindia.com/website/story/india-news-anti-cao-protesters-mostly-women-block-major-road-in-jaffarabad-metro-gates-shut/347738> (accessed on 21.10.2020).

¹⁶⁶India Bans Public Protests as Part of Sweeping Effort to End Unrest Over Citizenship Law, *Time*, <https://time.com/5752753/india-protest-ban/> (accessed on 21.10.2020)

Just after midday on 23rd February, Kapil Mishra – a senior BJP politician who had lost elections as BJP candidate in just-concluded Delhi state assembly from Model Town constituency - put out a Twitter post at 1.22 pm, asking for pro-CAA groups to gather at Maujpur crossing on the Seelampur-Maujpur Highway, just half a kilometre away from the Jaffarabad metro station anti-CAA protest site. Videos circulating widely on social media from the day show Kapil Mishra, at 3 pm, standing alongside Ved Prakash Surya Deputy Commissioner of Police, North East district, threatening the Police to clear the Jaffarabad metro anti-CAA protesters (mostly Muslim women and men), or else his boys (mostly Hindu supporters of CAA) would take action.¹⁶⁷

“Main aap sab ke behalf pe ye baat keh raha hoon. Trump ke jaanetak to hum shanti se jarahein hain. Lekin uske baad hum aapki bhi nahi sunenge agar raaste khali na hihuey to.

(I am saying this on behalf of all of you. We will remain peaceful until Trump returns. After that, we won't even listen to you if the roads are not vacated.”¹⁶⁸

This speech shared widely on social media, was later identified by Facebook chief Mark Zuckerberg as an example of videos inciting violence, that his platform had taken down.¹⁶⁹

Earlier, on 21st December 2019, around the time anti-CAA protests were beginning to spread through out the country, Kapil Mishra – who had recently joined the BJP after breaking ranks with AAP - had posted on Twitter a video of a rally he had led in central Delhi the previous evening, in support of the CAA, where he can be seen exhorting his supporters to chant

“Deshke gaddaro ko, goli maaro saalon ko.”
(Shoot dead the bastard traitors).¹⁷⁰

The slogan, aimed at anti-CAA protesters, and by extension against Muslims, would quickly gain wide currency in BJP and Hindutva circles. Mishra had added the following message to this tweet: *“We too have hit the road. If we can win and come in the Parliament, we can win on the streets as well.”*¹⁷¹

¹⁶⁷Remove CAA protesters within 3 days or we won't listen to you: Kapil Mishra warns Delhi Police, The Indian Express, <https://indianexpress.com/article/cities/delhi/kapil-mishra-delhi-police-caa-protests-jaffarabad-6282870/> (accessed on 21.10.2020)

¹⁶⁸The incredible impunity of Kapil Mishra, The Print, <https://theprint.in/opinion/the-incredible-impunity-of-kapil-mishra/503968/> (accessed on 21.10.2020)

¹⁶⁹In Meet on Trump Posts, Zuckerberg Mentions NE Delhi Violence, The Quint, <https://www.thequint.com/news/india/mark-zuckerberg-meeting-on-violent-facebook-posts-india> (accessed on 21.10.2020)

¹⁷⁰Kapil Mishra leads pro-Citizenship Amendment Act protests in Delhi, crowd chants 'shoot the traitors', First Post, <https://www.firstpost.com/india/kapil-mishra-leads-pro-citizenship-amendment-act-protests-in-delhi-crowd-chants-shoot-the-traitors-7811131.html> (accessed on 21.10.2020).

¹⁷¹Ibid

On 23rd February, witnesses confirmed in complaints to police that just after his threats to Delhi Police in Maujpur, Mishra was seen brandishing a gun and inciting violence against Muslims and other anti-CAA protesters, even as police looked on.¹⁷² There are other corroborative evidence too, this from another media report: "I heard him and his supporters talking about sending a lot of messages to others to gather at the venue," said Rashiuddin Ahmed, a local leader from Seelampur, who was present during Mishra's rally. He also claimed, "I heard him talking to people. "Yahi sahi mauka hai. Isse bhuna lo. Ab chook gaye to dubaara mauka nahi milega. (This is the right moment. Exploit it. If you miss it, you won't get another opportunity)."¹⁷³ Later that afternoon pro-CAA protesters in the same Maujpur-Baburpur area were filmed chanting *desh ke ghadda ron ko goli maaro saalon ko* ('shoot dead the bastard traitors') that Mishra had coined, along with other anti-Muslim slogans (*Deshme in Rehna hai to Ram Ram kehna Hoga* ("to stay in India you must say Rama Ram"), hinting at religious minorities being the clear target of the threat.¹⁷⁴

According to Jami Rizvi, a resident of Yamunangar who was reported having filed a police complaint of the incident,¹⁷⁵ at 2 pm, in neighbouring Kardampuri area, Kapil Mishra and his accomplices, who Rizvi claimed were carrying guns, swords and tridents, spears, sticks, stones and glass bottles, were loudly chanting casteist and communal slogans:

*Kapil Mishra tum lathh bajao, hum tumhare saathhai
Lambe-lambe latth bajao, hum tumhare saath hai
Kheech-kheech ke latth bajao, hum tumhare saath hai
Mullo par tum lath bajao, hum tumhare saath hai
Chamaaro par tum latth bajao, hum tumhare saathhai
(Kapil Mishra, you beat them with sticks, we are with you
Beat them with long sticks, we are with you
Beat them with full force, we are with you
Beat the Muslims, we are with you
Beat the Dalits, we are with you)*

Soon, Rizvi claimed, Mishra's accomplices began throwing stones at anti-CAA protestors who were sitting at Kardampuri, and stopping cars, identifying Muslims and Dalits. While abusing and calling them anti-nationals, mullahs, and using casteist words against the Dalits, Mishra's accomplices beat up Muslims and destroyed their cars. Rizvi added:

"Kapil Mishra was brandishing his gun in the air and telling all the attackers, "Don't leave these fuckers. Today we will teach them such a lesson that they will forget how to protest."¹⁷⁶

¹⁷²Supra Note 153.

¹⁷³Delhi Riots 2020: Who Fanned The Flames of Hatred? Is Kapil Mishra Only To Blame?. Outlook India Magazine, <https://www.outlookindia.com/magazine/story/indianews-delhi-riots-2020-who-fanned-the-flames-of-hatred-is-kapil-mishra-only-to-blame/302875> (accessed on 21.10.2020).

¹⁷⁴<https://twitter.com/saahilmenghani/status/1231588967037816833>

¹⁷⁵Supra Note 153.

¹⁷⁶Ibid

These accounts are validated by the Delhi Minorities Commission, a statutory body of the state government, that concluded in its report on the Delhi violence, that violence sparked off in different pockets of around Maujpur-Kardampuri immediately after Mishra's speech that afternoon.¹⁷⁷

Kapil Mishra tweeted his threat to police once again at 5.11 pm.

*Delhi police has an ultimatum of three days. Empty out the Roads in Jafarbad and Chandbagh. After that don't explain anything to us. We will not listen to you. Kapil Mishra.*¹⁷⁸

According to Rizvi's complaint, Ved Prakash Surya, Deputy Commissioner of Police, North East Delhi, patrolled the streets of Kardampuri and threatened Dalits and Muslims, saying:

"We have received orders from above to ensure that there are no protests after two days. If anyone protests, there will be such riots here that both you and the protesters will be killed. You will all be killed."

This claim was made by another complainant (Mohammad Ilyas), who wrote that Kapil Mishra and his accomplices started targeting vehicles of Muslims and Dalits on Kardampuri road.¹⁷⁹ Ilyas also wrote in his complaint that he had tried to lodge a complaint in the police station many times, but police refused to record his complaint and threatened to implicate him in a riots case and to throw him in prison.¹⁸⁰

Yet another complainant, Rehmat Bano, at nearby Chandbagh protest site, claimed that day, DCP Surya reached the nearby Chandbagh protest site on Wazirabad road- National Highway-9 (3 kms away) along with Kapil Mishra and his goons, at 4 pm.

"As soon as he came, Kapil Mishra started chanting slogans loudly, 'Desh ke gaddaron ko, goli maaro saalo ko'; 'Jai Shri Ram'; 'Kattue Murdabad'"

[Shoot dead the bastard traitors; Jai Sri Ram; Down with Kattue (slur word for Muslims, referring to their being circumcised)]

And the police personnel started charging at the protesters - huddled in the protest tent - with batons. She also alleged

*"at night, the owner of Mohan Nursing Home his staff, Kapil Mishra, and his associates starting firing at the protesters and attacking them with lathis, sticks and swords. Many people were injured."*¹⁸¹

¹⁷⁷'Delhi Riots Began With Kapil Mishra's Speech, Yet No Case Against Him': Minority Commission Report, The Wire, <https://m.thewire.in/article/communalism/delhi-riots-kapil-mishra-minority-commission-report/amp> (accessed on 21.10.2020).

¹⁷⁸Delhi violence: Police sat on six intel warnings to step up security, The Times of India, https://timesofindia.indiatimes.com/city/delhi/police-sat-on-six-intel-warnings-to-step-up-security/articleshow/74326525.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst (accessed on 21.10.2020).

¹⁷⁹Supra Note 153.

¹⁸⁰Complaint finally recorded on 17th March, at Idgah relief camp help desk, by Dyalpur Police Station.

¹⁸¹Ibid

Mohan Nursing Home is a private hospital opposite the road from the Chandbagh protest tent on the Wazirabad road. (For more on Mohan Nursing Home see Annexure :)

Another complaint¹⁸³ from 23rd February night incident reported the arrival near Chandbagh protest site at 9 pm, of Ragini Tiwari along with her supporters. Tiwari, alias JankiBehen, is a self-styled Hindutva leader, who claims she has campaigned for BJP leader Abhay Verma in assembly elections in February 2020.¹⁸⁴ She also claims to be a follower of the preacher Yati Narshinghnanand Saraswati, in neighbouring Ghaziabad district of Uttar Pradesh, who has been reported having made several controversial videos inciting violence against anti-CAA protesters in the run up to the February violence.¹⁸⁵ According to the complaint, Tiwari, whose accomplices were armed, was making speeches. She wrote:

Often while making people chant slogans, she (Tiwari) would fire bullets in the air, after which the mob would go into a frenzy. The mob was chanting slogans "Ragini Tiwari Zindabad" "Deshke gaddaro ko, goli maaro saalo ko (shoot dead the traitors)", "Musalmaano ke do hi sthan, Pakistan ya qabristan (there are only two places for Muslims – Pakistan or the graveyard)".

The complaint claimed:

Ragini Tiwari was the first to shoot at us and it hit the head of a boy who was standing there.

Earlier Tiwari had shared a Facebook live video from near Maujpur the same day, where she urged her audience¹⁸⁶

"Bahut hua sanatan par vaar, ab nahi sahenge vaar. Sanataniyo baahar aao. Maroya maar daalo. Baad mein dekhi jayegi. Bahut hua. Ab jiska khoon na khaula, khoon nahi wo paanihai

(Enough attacks on Hinduism. We won't tolerate such attacks anymore. Hindus, come out. Die or kill. Rest shall be seen later. If your blood hasn't boiled even now, it's not blood but it is water)."

In the same video, Tiwari can be heard saying, *"Kaatdaalo, jo bhi hai, kaat daalo... Bhimti hai kya?*

(Cut him up, whoever it is, cut him up. Is he a Bhimta – a slur word used by Hindu extremists for dalits)"

¹⁸³ Handed in on 19th March 2020, for Gokulpuri PS

¹⁸⁴ <https://www.thequint.com/news/politics/delhi-violence-probe-riots-ragni-tiwari-hindutva-bjp-muslims> (accessed on 21.10.2020).

¹⁸⁵ Dasna Priest Called For 'War On Islam' in Run-Up to Delhi Violence, The Quint, <https://www.thequint.com/news/politics/narsinghanand-saraswati-hindutva-delhi-violence-muslims-dasna-ghaziabad> (accessed on 21.10.2020).

How Narsinghanand, a Russian-educated, London-returned engineer, became 'hate-spewing' sadhu, The Print, <https://theprint.in/india/how-narsinghanand-a-russian-educated-london-returned-engineer-became-hate-spewing-sadhu/310092/> (accessed on 21.10.2020).

¹⁸⁶ <https://www.thequint.com/news/politics/delhi-violence-probe-riots-ragni-tiwari-hindutva-bjp-muslims>

Video not available now.

Social media users reported Tiwari having conducted several Facebook Live during the night of 23rd February, inciting violence.¹⁸⁷ News reports also claimed she continued to be in the area throughout much of the night, to the wee hours of the morning.¹⁸⁸

Hate speeches and calls to violent action by Kapil Mishra, his accomplices, and the likes of Ragini Tiwari are the first reported incidents of incitement to violence in the Delhi mass violence episode. Anti-Muslim violence was first reported in the evening of 23rd February, in pockets close to Maujpur, site of Kapil Mishra's speech. Over the next few days, it would spread out across North East Delhi, including Jaffarabad, Shiv Vihar, Mustafabad, Chand Bagh, Maujpur, Gokulpuri, Kardampuri, Noor-e-Ilahi, Khajuri Khas and Bhajanpura.¹⁸⁹

24th February 2020

The next day, on 24th February, media accounts reported the Chandbagh anti-CAA protest camp being the focus of heightened targeting by youth affiliated to BJP. "*Desh ke ghaddaron ko goli mnaaron saalon ko*" slogans, along with *Jai Shri Ram*, *Vande Matram* and *Modi! Modi!*" were heard in nearby Yamunavihar area, largely Hindu concentrated area.¹⁹⁰ Several complaints filed with police refer to the Chandbagh incident of 24th February. An anonymous complaint claimed Police came to the protest tent in great strength, led by Ved Prakash Surya, Deputy Commissioner of Police North East Delhi; Anuj Sharma, Assistant Commissioner of Police, Gokulpuri Police Station; and RS Meena, Station House Officer, Bhajanpura Police Station. They allegedly threatened the women in the tent, saying the protests had gone on for too long, and that they would give them *azaadi* (freedom, sarcastically referring to calls for freedom from discrimination by anti-CAA protesters, as a common slogan). The complainant, claimed

"I saw SHO Dayalpur (Shri Talkeshwar), SHO Bhajanpura (Shri Meena) and ACP (Anuj Kumar) firing bullets at the men over there which led to the death of some".

The complainant also added that police had asked her to remove names of persons in the complaint as a condition for registering the case. She wrote, Dayalpur Police station personnel informed her that they had orders from above not to accept any complaints with named accused on them. She added.

"Now the police are threatening me that they will implicate me and my family in any FIR and throw us all in jail."

Another witness to the incidents, Imrana Parveen, in her complaint¹⁹¹ claimed there were civilian rioters along with police.... who were carrying various weapons, including

¹⁸⁷<https://twitter.com/saniaahmad1111/status/1259571882891735041>

¹⁸⁸Kaat Do' Said Ragini Tiwari, 'Eyewitness' Saw Her Firing Bullets, The Quint, <https://www.thequint.com/news/politics/delhi-violence-probe-riots-ragini-tiwari-hindutva-bjp-muslims> (accessed on 21.10.2020).

¹⁸⁹Supra Note 174.

¹⁹⁰Delhi violence: Cops shouted "Jai Shri Ram" with armed Hindu mob, charged at Muslims, The Caravan, <https://caravanmagazine.in/conflict/delhi-violence-cops-shouted-jai-shri-ram-with-armed-hindu-mob-charged-at-muslims> (accessed on 21.10.2020).

¹⁹¹(Eidgah camp) Dayalpur PS. "I couldn't sleep at night for two full months," Parveen said. "I was constantly fearful that they were going to come from any corner." She said the police had threatened her, "If you file a complaint, we will destroy your life and implicate you in a 302 case." Parveen said she continues to be fearful of the police and the locals

sticks, tridents, grenades, swords and stones. “They were chanting *'Desh ke gaddaron ko, goli maaro saalo ko,'* (shoot dead the bastard traitors)

Parveen also claimed police refused to accept her complaint, and threatened to implicate her in a murder case and destroy her life, should Parveen push for her complaint to be registered.

“This is the reason nobody is willing to come forward and lodge a complaint, and why people have been trapped in false cases.”

Parveen added,

“The police officers (at Dayalpur Police Station) told me, 'Withdraw your complaint or you will be tied up in a long legal case,'” . “But I told them, 'I will not take my complaint back. No matter what happens with me, I will continue seeking justice.’”]

The most disturbing complaint was one by Rubina Bano, also present at the Chandbagh site, who claimed

Station House Officer, Dayalpur Police Station, Talkeshwar Singh rushed to Assistant Commissioner of Police (ACP), Anuj Kumar to hand him a phone and said that Kapil Mishra was on the line. “The ACP was saying 'ji, ji' (yes, yes!) while talking to Mishra and then as he cut the call he said, 'Don't worry, we will strew the streets with their dead bodies such that it will be remembered for generations.’”

Bano wrote that as soon as he hung up, Kumar turned to the SHO and other police personnel and commanded, “*Maaro saalo ko*” (Beat the fuckers) and started shooting at the men.

Bano also referred to the police working together with rioters, among whom were workers of Mohan Singh Bisht, Karawalnagar MLA of the BJP. She named Dinesh Sharma, Assistant Commissioner of Police, Bhajanpura Police Station, who she claimed was telling the rioters:

‘Today we must do what Satpal Sansad ji (MP from Baghpat district in neighbouring Uttar Pradesh) has told us. Proceed forward, don't be scared. The police are with you. Pick them one by one and free them from their lives.’¹⁹²

Bano also claimed, while this was happening, the owner and staff of Mohan Nursing Home started firing at the tent, which she claimed, killed many protesters on the spot.

They also came with their accomplices in their cars and told the rioters 'Pick up all the young women and take them away,'” “They began to forcefully pull us away, they tore our clothes and sexually assaulted us. Seeing this, some men ran to save us, but they were shot down and killed by firing from the terrace of Mohan Nursing home. The men who were left managed to save us from the rioters with great difficulty.”

who attacked them. “If I remember the scene, I cannot stop crying,” she said. “Because I saw it all with my own eyes, the people who got hit by the bullets, who got wounded in their heads, the women who were beaten.”

¹⁹²Baghpat MP, Satpal Singh's name was also taken in another complaint (dated 11/3/20, Dayalpur PS), an anonymous female from New Mustafabad are who was at the Chandbagh protest site, whoc claimed *she heard* Dinesh Sharma (ACP Bhajanpura PS) shouting at the mob, *'Satpal sansad ji ne jo kaha thaaajwohkarkedikhanaha'*—The parliamentarian Satpal had said that today we have to show our strength through actions, the complainant wrote. “*Aagebadho, daro mat, police tumharesaathhai, ekek ko chunkarzindagi se azadi denihai*”—Proceed forward, don't fear, the police is with you, pick them one by one and give them freedom from their lives.

Sabir Ali, another complaint¹⁹³ confirmed this account. He claimed he saw Bhajanpura and Dyalpur Station House Officers (RS Meena and Tarkeshwar Singh, respectively) attacking women, and rioters picking up the bodies of all those (anti-CAA protesters) who were killed, put them in the vehicles belonging to the Mohan Nursing home, and take them away.

All this was going on in the presence of the police personnel who were there, claimed Ali.

Ali also claimed he saw among the rioters, men who had campaigned for Jagdish Pradhan, past MLA from Mustafabad constituency and Mohan Singh Bisht, standing Karawalnagar MLA, both of BJP.

Ali too claimed, Police refused to accept complaints.

“They got me and my son to sign on some blank papers, forcefully took his phone from him, and then said, 'We are busy right now, it will take us some time to register the FIR, you come tomorrow.’”

According to information we have, Police have not yet registered FIRs of these complaints.

Media accounts of the violence on the day corroborate these accounts of complaints. The Caravan, reporting that afternoon from Yamuna Vihar, across the road from the Chandbagh protest site, had written about Hindu rioters along with Police personnel on the Yamuna Vihar side of Wazirabad Highway, carrying iron rods, wooden planks and bricks, charging at anti-CAA protesters gathered on the opposite Chandbagh side, with cries of “Jai Shree Ram”, including by police personnel.¹⁹⁴ The report also mentioned Police constables complaining to the Caravan journalists of their poor strength, and how their senior officers had abandoned them to keep order amid the chaos. This, the report noted, had resulted, since the morning, in tit for tat stone pelting attacks from both sides: Hindu rioters and police on one side, and Muslim protesters on the other. Gunshots too were fired at Muslim protesters. At 6 pm, the report informed “hundreds of other Hindu rioters ...descended on Wazirabad road”. With the Hindu (and police) side now bolstered, they charged at Muslim protesters. By 6.30 pm, the report concluded, the exchange of stone pelting had concluded. But not before the police and rioters had set the Chandbagh protest tent complex on fire and chased away anti-CAA protesters.

An eyewitness to the incidents, quoted in the chargesheet submitted by Police on the violence of the day at Chandbagh – that also resulted in the death of a police head constable - claimed on oath, that he heard that it was supporters of Kapil Mishra who had, along with the Police, set the protest tent on fire.¹⁹⁵

¹⁹³Submitted on 16th March 2020 at Idgah Relief camp police help desk.

¹⁹⁴Supra Note 183.

¹⁹⁵Witness in Delhi Riots Chargesheet: 'I heard people shouting Kapil Mishra's men set pandal on fire', The Indian Express, <https://indianexpress.com/article/cities/delhi/witness-in-delhi-riots-chargesheet-i-heard-people-shouting-kapil-mishras-men-set-pandal-on-fire/lite/> (accessed on 21.10.2020).

The takeover of the Chandbagh site by Hindu rioters was also reported elsewhere, along with a picture that became iconic of the Delhi violence – the lynching of Mohammad Zubair, returning home from a religious congregation and caught off guard by the assembled rioters.¹⁹⁶ Similar attacks by Hindu rioters were reported by journalists from the neighbouring Jaffarbad – Maujpur – Gokulpuri area that day, same site where Kapil Mishra had made his provocative speech the previous day.¹⁹⁷ Reports claim, Police there too looked on and aided the anti-Muslim targeting.

As the day progressed, various incidents of violence, lynching, burning and destruction were reported from across the North East district. An anonymous complaint¹⁹⁸ reported of the violence in Bhagirathi Vihar area, a mix of Hindu and Muslim residents:

At around 8-9 at night, I heard a great deal of noise and commotion and came down from my home. Then I saw that towards Shiv Mandir, Pal Chowk, around 100-150 people were coming chanting 'Jai Shri Ram', 'Kattuon ko sabak sikhao' (teach a lesson to Muslims) 'Aaglagao (set fire)' 'Maaro (kill)'." "the mob was carrying swords, trishuls (tridents), large axes and pistols".

The complaint claimed he saw Yogendra Jeanswalla and Kanhaiya Lal, BJP Councillor (from Johripur in North East Delhi), who was leading the mob.

Kanhaiya Lal brought the mob towards Yogendra Jeanswalla's shop and they stopped there. The entire mob began shouting slogans loudly.

On 1st July 2001, The Quint reported the filing of a complaint by one Nisar Ahmad, a readymade garment trader from the area, in the Delhi High Court for registration of an FIR against Kanhaiya Lal, claiming he was witness to Lal instigating the violence in his neighbourhood in Bhagirathi Vihar in the evening of 24th February, followed by the attack on Ahmed's house itself the following morning. Ahmad's house – which also doubled as his clothing company warehouse – was looted and burnt down. In his pleas before the Delhi High Court, Ahmad also claimed that he was being threatened by Kanhaiya Lal and his men, to withdraw complaint he had filed with the local police station of the incident.¹⁹⁹

¹⁹⁶“You don't even slaughter animals like that”, The Caravan, <https://caravanmagazine.in/conflict/behind-the-picture-symbol-carnage-northeast-delhi> (accessed on 21.10.2020).

¹⁹⁷Delhi Police watched as Hindu mob brutally beat Muslim man, looted shop in Maujpur, The Caravan, <https://caravanmagazine.in/conflict/delhi-violence-riots-maujpur-muslim-northeast-police-hindu-mob> (accessed on 21.10.2020).

¹⁹⁸Delhi Riots Exclusive: BJP Councillor Led Mob, Claims 'Eyewitness', The Quint, <https://www.thequint.com/news/politics/delhi-riots-bjp-councillor-kanhaiya-lal-kapil-mishra-jagdish-pradhan-muslims> (accessed on 21.10.2020).

¹⁹⁹Delhi Riots: 'Witness' Against BJP Councillor Claims Intimidation, The Quint, <https://www.thequint.com/news/politics/northeast-delhi-riots-bjp-councillor-kanhaiya-lal-delhi-high-court> (accessed on 21.10.2020).

Another account from the night of 24th February reported Hindu mobs shouting *Jai Shree Ram* entering Gokulpuri locality and attacking a local mosque.²⁰⁰ Late that night, the Gokulpuri tyre market was burnt, destroying scores of shops, mostly Muslim owned.²⁰¹

25th February 2020

The next day, 25th February, anti-CAA protesters attempted to resume protest at Chandbagh protest site. The set of tents providing shelter had been set on fire by Police, the previous evening. Women gathered, spread mats on the floor and put up pictures of Dr. B.R. Ambedkar, the architect of the Constitution of India.

Imrana Parveen, in her complaint to the police alleged that at about 1 pm that day, the owner of Mohan Nursing Home (one Sunil) and some other people in khaki-coloured clothes, again started throwing stones and firing bullets from the terrace of the nursing home – whilst - Talkeshwar Singh, Dyalpur Station House Officer was present at the site.²⁰² She wrote

During this attack, one bullet hit the chest of a boy who lived on street number 17, and he lost his life on the spot.

The situation rapidly escalated that day.

According to another complaint of incidents of the day, by one Mohammad Ilyas,²⁰³ later in the evening, police together with a Hindu mob, attacked the neighbouring Brijpuri neighbourhood and set fire to the Farooqia Masjid there. Ilyas mentioned in his complaint, he heard that Mohan Singh Bisht, MLA and Jagdish Pradhan, ex MLA, led the crowds there. In the complaint, Ilyas mentions that he visited the Farooqui Masjid the next morning, 26th February, and found Station House Officer of Dyalpur Police Station (Tarkeshwar Singh) and one Chawla (local grocery store owner), along with others, ransacking the mosque and the adjoining *madrassa*, adding that the attackers were also destroying CCTV camera of the mosque, while police stood by.

"I told you so many times to put a stop to your protests but then you didn't listen." Ilyas claimed, the SHO retorted, when requested by Muslims to intervene to stop the attacks.

Ilyas also wrote:

Tarkeshwar spoke to the BJP Parliamentarian from Baghpat, Satyapal Singh, and then instructed Chawla to collect money from the mosque and the madrasa and take it to the MP's house.

²⁰⁰Driven by Islamophobia, Gokulpuri's Hindus justify targeted arson of mosque, Muslim homes, The Caravan, <https://caravanmagazine.in/conflict/driven-islamophobia-gokulpuri-hindus-justify-targeted-arson-local-mosque-muslim-homes> (accessed on 21.10.2020).

²⁰¹At Gokulpuri Tyre Market, Fire Rages as Hindutva Activists Shout Slogans, The Wire, <https://thewire.in/communalism/gokulpuri-tyre-market-fire-jai-shree-ram> (accessed on 21.10.2020).

²⁰²Supra Note 153.

²⁰³Complaint filed on 17-03-20, with Dyalpur PS help desk.

According to Ilyas, Chawla put all the money from safes in the madrasa into one bag, while the SHO threatened *those that had gathered on site* “Ask all Muslims to leave this neighbourhood and run away, or else they will all be killed.”

After which, Ilyas claimed, police personnel took out a can of petrol from Tarkeshwar's car and took it inside the madrasa.

“The police personnel then set the madrasa on fire, Ilyas wrote.

The Caravan had separately reported the attack on the Farooquia mosque in a report on 11th March, that it based on field report by its correspondents.²⁰⁴ They corroborate Ilyas's accounts, in the latter's complaint of 17th March 2020.

Other complaints seeking lodging FIRs against the violence point to the role of several other BJP leaders: Nand Kishore Gujjar (MLA from Loni, in neighbouring Uttar Pradesh) and Jagdish Pradhan (ex MLA, Mustafabad) in an incident of lynching at Ghonda Chowk,²⁰⁵ and Kanhaiya Lal, councillor (Joharipur), Jagdish Pradhan, Ex MLA at an incident involving burning of a mosque in Bhagirathi Vihar.²⁰⁶ A complaint also pointed to the role of various Hindu outfits – Rashtriya Swyamsevak Sangh, Vishwa Hindu Parishad, Hindu Manch - in the attacks resulting in the death on 25th February of a Muslim man in North Gonda.²⁰⁷ The prime accused, Naresh Tyagi, it was reported later – was a murder convict in another case, out on bail.²⁰⁸ Another politician, Kulwant Singh Bhatt, Delhi BJP state vice president, was also named in other reports.²⁰⁹

Similar incidents of BJP politicians leading mobs participating in attacks against Muslims have been reported from other areas of North East Delhi: the relentless attacks against Muslims in Khajuri Khas over 24-25th February,²¹⁰ attacks on Fatima mosque in the same area,²¹¹ and that on mosque in Subhash Mohalla/Ghonda on 25th February.²¹²

²⁰⁴Men in uniform torched Mustafabad's Farooqia Masjid, assaulted people inside: Locals, The Caravan, <https://caravanmagazine.in/conflict/men-in-uniform-torched-mustafabads-farooqia-masjid-assaulted-people-inside-locals> (accessed on 21.10.2020).

²⁰⁵Iqrar, New Seelampur. 08-03-20. Bhajanpura PS

²⁰⁶Anonymous, Bhagirathi Vihar, 11/03/20, Gokulpuri PS
<https://www.thequint.com/news/politics/delhi-riots-bjp-councillor-kanhaiya-lal-kapil-mishra-jagdish-pradhan-muslims> (accessed on 21.10.2020).

Delhi Riots: Several Complaints Name BJP Ex- MLA Jagdish Pradhan, The Quint, <https://www.thequint.com/news/politics/delhi-riots-jagdish-pradhan-kapil-mishra-bjp-mla-muslims> (accessed on 21.10.2020).

²⁰⁷Delhi Riots Exclusive: RSS Members Arrested for Murder, Rioting, The Quint, <https://www.thequint.com/news/india/delhi-riots-rss-vhp-members-accused-murder-rioting-arrested-delhi-police> (accessed on 21.10.2020).

²⁰⁸Delhi riots murder accused was a 2008 murder convict out on bail: chargesheet, The Indian Express, <https://indianexpress.com/article/cities/delhi/delhi-riots-murder-accused-was-a-2008-murder-convict-out-on-bail-police-chargesheet-6528479/lite/?> (accessed on 21.10.2020).

²⁰⁹BJP Leader Said Don't Spare Muslims' Alleges Delhi Riots Sur vivor, The Quint, <https://www.thequint.com/news/politics/delhi-riots-probe-bjp-leader-kulwant-singh-baath-muslims-mosque> (accessed on 21.10.2020).

²¹⁰The media focus on AAP's Tahir Hussain subsumed the brutalisation of Muslims in Khajoori Khas, The Caravan, <https://caravanmagazine.in/conflict/media-focus-ankit-sharma-tahir-hussain-subsumed-brutalisation-muslims-khajoori-khas> (accessed on 21.10.2020).

²¹¹Carnage in Khajoori Khas, The Caravan, <https://caravanmagazine.in/conflict/carnage-in-khajoori-khas> (accessed on 21.10.2020).

²¹²Delhi Police watched as Hindu mob brutally beat Muslim man, looted shop in Maujpur, The Caravan, <https://caravanmagazine.in/conflict/delhi-violence-riots-maujpur-muslim-northeast-police-hindu-mob> (accessed on 21.10.2020).

4.3 Methods and motives – pogrom?

Delhi Police responded to the above reports by The Caravan, questioning in a press rejoinder on by 26th June, the credibility of the complaints, “as they are afterthoughts, and submitted after considerable time”, suggesting that complainants were seeking to “create an atmosphere of distrust, a communal and social discord, by playing along the Faultline.” It criticised The Caravan claiming “the publication of such articles endangers the social fabric, creates animosity and communal discord and fuels undesirable sentiments”.²¹³

Yet, the Police's own investigation in one of the killings reveals the organised nature of the attacks and the involvement of actors evidently inspired to action by the likes of Kapil Mishra, among others.²¹⁴ This was about the WhatsApp group (Kattar Hindut Ekta – Hindu ekta Zindabad, Hindu Ekta Group), formed on 25th February with 125 members at its peak, mostly from Johripur area of North East Delhi. Conversation on the group set up to “mobilise rioters; keep an eye on their respective neighbourhoods; kill *mullahs* (slur term used in Hindutva circles against Muslims); and share arms and ammunition”,²¹⁵ involved tips on identifying Muslims, staying updated about the situation in respective neighbourhoods and pumping up the members' morale. According to police chargesheet, in the 36 hours from the formation of the group, members murdered 9 Muslims in Bhagirathi Vihar locality, by using the Hindu slogan, *Jai Shri Ram* to filter out Muslims, and threw the bodies in the Bhagirathi Vihar drain.²¹⁶ A perusal of the conversation on the group between 25th February and 8th March is revealing: On 25th February, a member claimed that 23 Muslims had been killed, and a madrasa burnt. On 28th February, members claimed they had prevented namaz (Islamic prayer) from being held in Bhagirathi Vihar, Gali # 1.

There were repeated references in the communication, to Kapil Mishra (15 times) – with a video of his speech shared often, defending his role in the ensuing violence.²¹⁷ PM Modi was mentioned 20 times. *Jai Shree Ram* was invoked 70 times. Conspiracy theory and fear-mongering in the group were common, with anti-Muslims tropes such as Love Jihad, rising Muslim population, Hindus under attack, and the coming ethnic cleansing of Hindu, invoked frequently, as were references to Hindu militant organisations such as RSS, Bajrang Dal, and Vishwa Hindu Parishad²¹⁸ – asking for their help. Throughout, there were calls to ban *azaan*, burn mosques, kill *mullahs*, rape Muslim women and create fear. Police investigation identified 11 persons, of which 9 were reported arrested, all belonged to the 18-23 age group.

²¹³<https://twitter.com/DelhiPolice/status/1276508134341656576>

²¹⁴'Tear Them Apart': How Hindutva WhatsApp Group Demanded Murder, Rape of Muslims in Delhi Riots, The Wire, <https://thewire.in/communalism/delhi-riots-hindutva-whatsapp-muslims-murder-rape> (accessed on 21.10.2020)

Delhi Riots Chargesheet: Rioters Used 'Jai Shri Ram' to Identify and Kill 9 Muslims, The Wire, <https://thewire.in/communalism/delhi-riots-chargesheet-kattar-hindut-ekta> (accessed on 21.10.2020)

²¹⁵*Ibid*

²¹⁶*Ibid*

²¹⁷#I-stand-with-Kapil-Mishra': BJP leader features prominently in WhatsApp group of Delhi rioters, Scroll, <https://scroll.in/article/966460/i-stand-with-kapil-mishra-bjp-leader-features-prominently-in-whatsapp-group-of-delhi-rioters> (accessed on 21.10.2020)

From planning murder to praising Modi: WhatsApp chats offer a window into the minds of Delhi rioters, Scroll, <https://scroll.in/article/966775/from-planning-murder-to-praising-modi-whatsapp-chats-offer-a-window-into-the-minds-of-delhi-rioters> (accessed on 21.10.2020)

²¹⁸Rastriya Swayamsevak Sangh (RSS): It is the parent organisation of the Sangh Parivar that places the Hindutva ideology at its centre.

Vishwa Hindu Parishad (VHP): An offshoot of RSS, the VHP is an organisation that works for enforcing the hindutva ideology.

Another report, based on interview with a 22 year old Hindu youth, himself part of several attacks on Muslims, and who described the violence as revenge against Muslims, claimed how although “people should not have been killed ...the violence was necessary to suppress Muslims.” The youth claimed: “earlier, they were like lions, and now they are scared mice.”²¹⁹ Youth claimed Bajrang Dal had provided him material support and guidance, besides urging him and others like him to unite against Muslims. WhatsApp was used extensively, with a barrage of messages everyday for Hindus to unite whatever their differences, and target Muslims. Also shared on WhatsApp were audio messages of Muslim seemingly planning to attack Hindu areas. The youth claimed that Delhi Police gave rioters a free hand to target Muslims, which had emboldened him to target vehicles and shops of Muslims and burn many bikes. Delhi Minorities Commission in an earlier fact finding report of the violence, published on 4th March, had also claimed that youth had been bussed in from outside Delhi, lodged in schools in the North East Delhi area, and pressed into action for executing the violence.²²⁰

4.4 The normalisation of anti-Muslim hate: The aftermath of CAA 2019

The extensive involvement of BJP leaders working along with militant Hindutva groups, to mobilise youth, locally and also imported from outside, during the 4 days of violence in Delhi 23-26th February, targeting Muslim individuals and establishments, was founded on a previous campaign of anti-Muslim hate mongering in the city. This was the toxic Islamophobia on display in Delhi against the first protests against the Citizenship (Amendment) Act, on 15th December 2019 non-stop through to the end of the campaigning for Delhi state assembly elections, in early February.

The passage of CAA on 11th December 2019 resulted in the eruption of the first, protracted mass protests against the BJP government since its assumption of power in 2014. From Assam to Uttar Pradesh to Kerala to Delhi, almost every Indian state reported several, large-scale protests demanding the rollback of the CAA and the cessation of the proposed National Register of Indian Citizens (NRI). These were led largely by Muslims locally, with support, especially in large cities, of students and progressive groups.

BJP leaders had been emboldened by their apparent success – seen especially during state and Parliamentary elections - in rallying a significant proportion of the population under the rubric of majoritarian nationalism. Authorities in BJP ruled state, and in Delhi where Police is controlled by the Centre, unleashed brute force against protestors: in Assam, where 5 deaths were reported, 2 in Karnataka, and Uttar Pradesh, where at least 22 protesters were killed in police crackdown. Along with harsh police action, members of Hindutva organisations, BJP included, organised several counter-rallies in support of government's CAA-NRI policies. These pro-CAA public protests, though heavily outnumbered by anti-CAA protests held across the country,²²¹ had state backing, including in areas where prohibitory orders were in place, preventing holding of public protests.²²² Several incendiary slogans, including some that were direct calls for violence, were reported from many of these counter-rallies.

Bajrang Dal: The Bajrang Dal is the youth wing of the VHP that often uses violence as a means of asserting their Hindutva ideology.

²¹⁹Supra Note 73.

²²⁰Over 2,000 people Brought in for violence : Delhi Minorities Panel Chief, Sabrang, <https://sabrangindia.in/article/over-2000-people-brought-violence-delhi-minorities-panel-chief> (accessed on 21.10.2020).

²²¹Protest Monitor Database: <https://protestmonitor.factchecker.in>

²²²Pro-CAA protest held in Bengaluru, but permission denied for anti-CAA 'sathyagraha', The News Minute [https://www.thenewsminute.com/article/pro-cao-protest-held-bengaluru-permission-denied-anti-cao-sathyagraha-114578](https://www.thenewsminute.com/article/pro-caa-protest-held-bengaluru-permission-denied-anti-cao-sathyagraha-114578). (accessed on 21.10.2020).

On December 20, 2019 - the same day 22 Muslim anti-CAA protesters were shot dead by police in Uttar Pradesh - BJP leader Kapil Mishra led a rally in support of the CAA in New Delhi. A video of the rally released on social media the next day showed Mishra exhorting his supporters to chant “*Desh ke gaddaro ko, goli maaro saalon ko.*” (Shoot dead the bastard traitors). The video was posted by Mishra himself on Twitter, along with the caption, “*We too have hit the road. If we can win and come in the Parliament, we can win on the streets as well.*”²²³ Two days later, at a rally organised by the RSS, the BJP and the Lok Adhikar Manch in RSS home town of Nagpur, a pro-government crowd was heard repeating the same chant, along with other provocative slogans: ‘*Kisko chahiye azaadi?*’ (‘Who wants freedom?’).²²⁴ And in a video posted on December 23, two young children, both wearing BJP caps, were pictured chanting,

'Aatankwad ki kya pehchaan? Mullah, masjid, Pakistan! Desh ke gaddaron ko, goli maaro saalon ko.' (what is the sign of the Terrorist? Mullah, Mosque and Pakistan. Shoot dead the bastard traitors).²²⁵

These inflammatory slogans quickly gained traction among BJP's supporters and were repeated undeterred at rallies across the country throughout the rest of December 2019 and January 2020.

Statements targeting Muslims by senior BJP leaders, including Prime Minister Narendra Modi and Home Minister Amit Shah, alongside, continued to vitiate the atmosphere in Delhi in the aftermath of the CAA. On 15 December, PM Modi remarked during an election rally in Jharkhand state that violent protesters across the country could be “identified by their clothes”, a brazen allusion to Muslims.²²⁶ A week later, after police personnel had violently assaulted Muslims in several locations across Delhi, Modi blamed “*urban Naxals*” for the protests, and asked his supporters to support the “martyrs” of the Delhi Police.²²⁷ Home Minister Shah, meanwhile, blamed the “*tukde-tukde gang* (secessionist gang) led by Congress” responsible and declared, “The time has come to teach them a lesson.”²²⁸

²²³Kapil Mishra leads pro-Citizenship Amendment Act protests in Delhi, crowd chants 'shoot the traitors', The First Post, <https://www.firstpost.com/india/kapil-mishra-leads-pro-citizenship-amendment-act-protests-in-delhi-crowd-chants-shoot-the-traitors-7811131.html> (accessed on 21.10.2020).

²²⁴Watch: 'Golimaarosaalon ko' slogans repeated at pro-Citizenship Act rally in Nagpur <https://scroll.in/video/947576/watch-goli-maaro-saalon-ko-slogans-repeated-at-pro-citizenship-act-rally-in-nagpur> (accessed on 21.10.2020).

²²⁵[Video] “DeshKeGaddaro Ko, GoliMaaro...!” Disturbing Video Of Children Shouting Communal Slogans In BJP Rally <https://thelogicalindian.com/news/bjp-children-rally-slogan/> (accessed on 21.10.2020).

²²⁶'Look at Their Clothes': Modi Plays Communal Card on CAA, Targets Muslim Protestors, The Wire, <https://thewire.in/communalism/narendra-modi-citizenship-amendment-act-protests-clothes> (accessed on 21.10.2020).

²²⁷'There's No Detention Centre In India, Nobody Is Going There': PM Modi At Ramlila Maidan Rally, The Outlook, <https://www.outlookindia.com/website/story/india-news-theres-no-detention-centre-in-india-nobody-is-going-there-pm-modi-at-ramlila-maidan-rally/344544> (accessed on 21.10.2020).

²²⁸'Time to Teach Them A Lesson': Amit Shah Blames Cong-led 'TukdeTukde' Gang for Anti-CAA Violence, News18, <https://www.news18.com/news/politics/time-to-teach-lessson-amit-shah-blames-cong-led-tukde-tukde-gang-for-delhis-anti-caa-violence-2436511.html> (accessed on 21.10.2020).

Despite these statements and the state violence unleashed at various place, protests at Muslim dominated Jamia Milia Islamia (JMI), a central university, led by students and at Shaheen Bagh - where a group of Muslim women continued to brave the winter cold, 24 hours a day, "raising slogans, chanting songs, seeking justice, shattering every stereotype"²²⁹ - continued to be bastions of Muslim-led resistance against the CAA.

The concerted efforts of senior BJP leaders to vilify the organisers of these protests, in fact, led to at least four incidents of violence or attempted violence by Hindutva-inspired vigilantes against the protestors, even prior to the mass violence of February 2020. On 30th January, a minor who called himself 'Rambhakt' (Ram's devotee) shot at and injured a student of JMI, in full view of over 20 policemen on duty at site. In the minutes leading up to the shooting, Rambhakt was seen shouting,

'Jai Shri Ram! Delhi Police Zindabad! Aaotumhe azaadi deta hun. Yeh lo azaadi!'

(Victory to Lord Ram! Long live Delhi Police! Come, I will give you freedom. Here is your freedom!).²³⁰

Earlier the same day, Rambhakt had posted on his social media, 'Shaheen Bagh, Game Over'.²³¹ Two days later, on 1st February, another Hindutva-inspired extremist fired two bullets into the Shaheen Bagh area, again whilst chanting 'Jai Shri Ram'. As he was being taken away by the police, the man was recorded saying,

'Hamare desh me aur kisiki nahi chalegi, Sirf Hindu ki chalegi.'

(Only Hindus shall have a say in our country, no one else.)²³²

On 2 February, a large group of BJP supporters gathered around the Shaheen Bagh sit-in in a bid to force the protestors to disband, raising several chants including '*Desh ke gaddaron ko, goli maaro saalon ko.*'²³³ The next day, two unidentified shooters are alleged to have opened fire again near Jamia Milia.²³⁴

²²⁹The fury of Shaheen Bagh's women, Hindustan Times, <https://www.hindustantimes.com/columns/the-fury-of-shaheen-bagh-s-women/story-KQHqZOCJFlxwS1IDAzD7L.html> (accessed on 21.10.2020).

²³⁰Massive Protests After Man Shoots Jamia Student, Shouts "Yeh Lo Azaadi", NDTV, <https://www.ndtv.com/india-news/man-waves-gun-at-protesters-near-jamia-university-in-delhi-shouts-yeh-lo-aazadi-2172057> (accessed on 21.10.2020).

²³¹Jamia Millia Shooting: Making of a Hindutva Terrorist, The Diplomat, <https://thediplomat.com/2020/02/jamia-millia-shootout-making-of-a-hindutva-terrorist/> (accessed on 21.10.2020).

²³²2 Bullets Fired in Shaheen Bagh: Second Attack on Anti-CAA Protesters in Delhi, Newsclick, <https://www.newsclick.in/2-Bullets-Fired-Shaheen-Bagh-Second-Attack-Anti-CAA-Protesters-Delhi> (accessed on 21.10.2020).

²³³Shaheen Bagh tense amid chants of 'golimaaro' and counter-protests, paramilitary forces on standby, India Today, <https://www.indiatoday.in/india/story/shaheen-bagh-tense-amid-chants-of-goli-maaro-protest-security-1642538-2020-02-02> (accessed on 21.10.2020).

²³⁴Second shooting in 48 hours: Two men open fire outside Jamia Millia Islamia, The Business Standard, https://www.business-standard.com/article/pti-stories/unidentified-miscreants-open-fire-at-jamia-millia-islamia-120020300009_1.html (accessed on 21.10.2020).

4.5 'Feed them bullets, not biryani': The hate-filled Delhi Assembly election campaign

The volatile atmosphere in Delhi following the enactment of the CAA was exacerbated by the notification of the 2020 Delhi state assembly elections, formally announced on 14th January 2020.

Determined to better its woeful display in the previous assembly elections in 2015 - when the ruling AamAadmi Party (AAP) had won 67 of 70 seats, and the BJP could manage only 3 - BJP is reported to have commissioned an internal survey to project the number of seats it would win this time around.²³⁵ The results of the survey, which predicted a measly 8 seats for the BJP, are said to have prompted Amit Shah – Home Minister, and PM Modi's number two in the party - to double down on its tried-and-tested tactic of communal polarisation for electoral gain.

In the days following the notification of the election, the entire top brass of the BJP - including senior Union ministers, Chief Ministers and over 200 Members of Parliament - camped out in Delhi for the campaign. Over 5,300 rallies, public meetings and road shows are said to have been organised in the capital in three weeks, across 70 assembly constituencies.²³⁶ These campaign-related public events were marked by extreme hate rhetoric, of a kind the national capital had perhaps never witnessed before.²³⁷ Muslim anti-CAA protestors at places like Shaheen Bagh faced the brunt of the BJP's vitriol. Below are some selected excerpts from various speeches made by BJP leaders during the campaign:

- ◆ *"Their (Muslims) ancestors broke this country apart. How is India still rising, they think. Their ancestors played around with the pride and self-respect of this country."*²³⁸
- ◆ *"What do Congress and Kejriwal feed these miscreants? Biryani .What do we feed them? Bullets . "*
*Yogi Adityanath ,Chief Minister of Uttar Pradesh*²³⁹
- ◆ *"Deshke gaddaron ko goli maaro saalon ko ! "*
*Anurag Thakur ,Central Minister of State*²⁴⁰
- ◆ *"Your vote to the BJP candidate will make Delhi and the country safe and prevent thousands of incidents like Shaheen Bagh "*²⁴¹

²³⁵Did Hindutva Overdrive Cost BJP Delhi Elections? Party Unlikely To Amend Path As Elections In Bihar, Bengal Loom, Outlook India,<https://www.outlookindia.com/magazine/story/india-news-did-hindutva-overdrive-cost-bjp-delhi-elections-party-unlikely-to-amend-path-as-elections-in-bihar-bengal-loom/302775> (accessed on 21.10.2020).

²³⁶<https://www.hindustantimes.com/delhi-news/bjp-s-hyper-local-delhi-campaign-to-win-delhi-after-21-years/story-OUFgZG0cMMAxTNEK3pAgGI.html> (accessed on 21.10.2020).

²³⁷Delhi Elections 2020: BJP mounts most aggressive campaign, turns heat on its rivals, Deccan Herald,<https://www.deccanherald.com/election-2020/delhi-elections-2020-bjp-mounts-most-aggressive-campaign-turns-heat-on-its-rivals-802538.html> (accessed on 21.10.2020).

²³⁸'Why do I fear to go out in my own country?' In Modi's India, rising unease among Muslims., The Washington Post,https://www.washingtonpost.com/world/asia_pacific/in-modis-india-shrinking-space-for-muslims/2019/05/12/7e6e47e2-5bb1-11e9-98d4-844088d135f2_story.html (accessed on 21.10.2020).

²³⁹<https://theprint.in/politics/shaheen-bagh-biryani-bullets-pakistan-what-yogi-adityanath-said-at-delhi-rallies/358759/> (accessed on 21.10.2020).

²⁴⁰<https://theprint.in/india/days-before-budget-minister-anurag-thakur-chants-desh-ke-gaddaron-ko-goli-maaro-saalon-ko/355124/> (accessed on 21.10.2020).

²⁴¹Delhi elections: Voting for BJP will prevent thousands of incidents like Shaheen Bagh, says Amit Shah, The Times of India,

*“Your voice should reach the supporters of Shaheen Bagh. Lift your hands, clench your victorious fists, shout with me: ‘Bharat Mata Ki Jai!’”*²⁴²

“Press the (voting machine) button so hard and with such anger that the current reaches Shaheen Bagh.”

*(Amit Shah, Central Home Minister)*²⁴³

- ◆ *“Whether it is Jamia or Shaheen Bagh, anti-CAA demonstrations have been going on for the last few days. Are these demonstrations random events? No, they represent a politics that is designed to destroy national harmony.”*
Narendra Modi ,Prime Minister ²⁴⁴
- ◆ *“What happened in Kashmir with Kashmiri Pandits could happen in Delhi also .Lakhs of people gather at Shaheen Bagh ,they could enter houses ,rape and kill your sisters and daughters .The people need to decide now . ”*
Parvesh Verma ,Member of Parliament ²⁴⁵
- ◆ *“This Shaheen Bagh protest is no longer an agitation .A group of suicide bombers is being raised here and a conspiracy against the country is being hatched in its capital . ”*
Giriraj Singh ,Central Cabinet Minister ²⁴⁶
- ◆ *We will not let Delhi become Syria and allow them to run an ISIS -like module here , where women and kids are used .They are trying to create fear in the minds of the people of Delhi by blocking the main route .We will not let this happen . ”*
Tarun Chugh ,BJP national secretary ²⁴⁷

²⁴²In BJP's Delhi campaign, 'Hindu samrat' Amit Shah sells Kashmir, Ayodhya, JNU and CAA, NewsLaundry, <https://www.newslaundry.com/2020/01/27/in-bjps-delhi-campaign-hindu-samrat-amit-shah-sells-kashmir-ayodhya-jnu-and-cao> (accessed on 21.10.2020).

²⁴³Delhi polls: 'Press the button with such anger that current is felt at Shaheen Bagh,' says Amit Shah, Scroll, <https://scroll.in/latest/951202/delhi-polls-press-the-button-with-such-anger-that-current-is-felt-at-shaheen-bagh-says-amit-shah> (accessed on 21.10.2020).

²⁴⁴Shaheen Bagh, Jamia are a plot to destroy harmony: PM Modi, The Times of India, <https://timesofindia.indiatimes.com/india/shaheen-bagh-jamia-are-a-plot-to-destroy-harmony-pm-modi/articleshow/73917319.cms> (accessed on 21.10.2020).

²⁴⁵BJP's Parvesh Verma courts controversy yet again, now calls Arvind Kejriwal a terrorist, India Today, <https://www.indiatoday.in/elections/delhi-assembly-polls-2020/story/bjp-parvesh-verma-controversy-arvind-kejriwal-terrorist-delhi-poll-1641160-2020-01-29> (accessed on 21.10.2020).

²⁴⁶"Suicide bombers" being raised in Shaheen Bagh, alleges Giriraj, Outlook India, <https://www.outlookindia.com/newscroll/suicide-bombers-being-raised-in-shaheen-bagh-alleges-giriraj/1728096> (accessed on 21.10.2020).

²⁴⁷'Won't Allow Them To Run ISIS-like Module At Shaheen Bagh And Turn Delhi Into Syria': BJP <https://www.republicworld.com/india-news/politics/tarun-chug-wont-let-delhi-become-syria-and-allow-them-to-run-an-isi.html> (accessed on 21.10.2020).

“Shaheen Bagh has become a hub of anti-nationals. On February 11, after the results, a surgical strike will be done on this hub.”

(Tajinder Pal Bagga, BJP candidate in Hari Nagar constituency)²⁴⁸

Despite its rancorous campaign and its attempts to demonise Muslims (and opposition parties as being loyal to Muslims), the BJP was handed yet another resounding defeat, managing to win only 8 of 70 seats, with AAP retaining power for a second time.

The attacks against Muslims of North-East Delhi later in February 2020 must be seen against the backdrop of this electoral defeat, as a re-assertion of Hindutva domination against Muslim resistance in places like Shaheen Bagh and the numerous protests it inspired elsewhere across the city and the rest of the country, and as a way to teach the Muslims a lesson, for daring to continue to protest.

4.6 Conclusion: Senior BJP leaders leading anti-Muslim hate campaign

The violence occurred in North-East district of Delhi, which is represented by the BJP in the Parliament. And despite BJP's measly performance overall in state assembly elections, nearly every locality that was attacked in February 2020 falls in assembly constituencies within NE district that the BJP managed to win in the 2020 assembly elections.²⁴⁹ Several analysts have seen a direct correlation between the BJP's election rallies and the violence.

A *News laundry* study revealed that Home Minister Amit Shah and UP Chief Minister, Yogi Adityanath had held a total of 16 campaign events in North-East and East Delhi, with areas covered by the duo encompassing neighbourhoods that later formed ground zero of the violence in February. Most of the areas covered towards the tail-end of the campaign were directly affected by the carnage.²⁵⁰ On 26th January, at a rally beside the Shiv Temple near the Maujpur-Badarpur metro station, Shah is reported to have spent less than half of his speech addressing local issues – spending most of his employing the tropes of Shaheen Bagh, Hindu unity, etc., all directed at other Muslims. When the *News laundry reporter* returned to the same venue a month later, “the area stank of anarchy and devastation. Smoke from small fires billowed everywhere and masked men postured around street corners shouting 'Jai Shri Ram'. Shops owned by Muslims were sacked and looted, and the street that had hosted Shah a month ago was filled with stones.”²⁵¹ Shah had repeated his remarks in several other places in North-East Delhi, including Karawal Nagar, Mustafabad, Gokalpuri and Ghonda - which had witnessed loud chants of “Deshke gaddaron ko.”²⁵² All these localities suffered significant violence in February 2020.

²⁴⁸ BJP's Tajinder Bagga warns Shaheen Bagh of surgical strike on Feb 11, India Today, <https://www.indiatoday.in/elections/delhi-assembly-polls-2020/story/tajinder-bagga-bjp-on-shaheen-bagh-1641578-2020-01-30> (accessed on 21.10.2020).

²⁴⁹ Hindu supremacist mobs orchestrate violence against Muslims where BJP won in Delhi elections, The Caravan, <https://caravanmagazine.in/religion/delhi-violence-north-east-maujpur-jaffrabad-babar-pur-muslims-hindu> (accessed on 21.10.2020).

²⁵⁰ Why are Amit Shah and Adityanath not being blamed for the Delhi carnage? News laundry, <https://www.news-laundry.com/2020/03/13/why-are-amit-shah-and-adityanath-not-being-blamed-for-the-delhi-carnage> (accessed on 21.10.2020).

²⁵¹ Ibid.

²⁵² Ibid.

Another report, in *The Quint*, revealed how the BJP had specifically polarised areas in North-East Delhi.²⁵³ Of the 8 assembly constituencies in which the violence was concentrated - Seelampur, Babarpur, Gokalpuri, Ghonda, Mustafabad, Karawal Nagar, Laxmi Nagar and Rohtas Nagar - the BJP had increased its vote share significantly in each, since last state elections in 2015. Apart from high-profile leaders like Home Minister Shah and CM Adityanath, BJP had also deployed an array of second-rung leaders to hold campaign events in each. These incendiary campaign events were flagged by Zafarul Islam Khan, the then chairman of the Delhi Minorities Commission, who wrote to the Election Commission of India – India's top election watchdog - on 29th January warning that “provocative and totally baseless statements” by BJP leaders could vitiate the atmosphere and polarise the voters using lies, and easily lead to “riots” in the city.²⁵⁴ Khan's words would prove prophetic less than a month later, with Delhi witnessing its worst episode of targeted violence in decades.

It is also a matter of record that to date, Police have not filed a single case against any BJP politician for hate speech and incitement, despite several recorded instances - Kapil Mishra's being the most clear, but also against others such as Anurag Thakur and Parvesh Verma, as well as a the many others that have normalised hate and vilification of Muslims. This is despite several attempts by affected individuals and civil society groups, and in a specific instance of the Election Commission of India – the election watchdog – banning some politicians from campaigning in Delhi assembly elections in February 2020. Courts have been as complicit in this inaction, as have Police. In the latest verdict, a lower court dismissed a plea for registering FIR against senior BJP politicians, purely on technical grounds, arguing that the petitioners had not obtained any prior permission from central government to have criminal proceedings initiated against the public servants.²⁵⁵ It is to these working of the criminal justice system that we turn in our final section.

²⁵³Delhi Violence: How BJP Poll Campaign Polarised Northeast Areas , The Quint, <https://www.thequint.com/news/politics/delhi-violence-election-bjp-hindutva-seelampur-karawal-nagar-amit-shah> (accessed on 21.10.2020).

²⁵⁴BJP Leaders' 'Baseless Statements' Could Lead to 'Riots', Delhi Minorities Body Tells EC, The Wire, <https://thewire.in/communalism/bjp-leaders-baseless-statements-could-lead-to-riots-delhi-minority-body-tells-ec> (accessed on 21.10.2020).

²⁵⁵Delhi court dismisses plea seeking FIR against Anurag Thakur, Parvesh Verma for hate speech, The Indian Express, <https://indianexpress.com/article/india/court-dismisses-plea-seeking-fir-against-anurag-thakur-parvesh-verma-for-hate-speech-6571231/> (accessed on 21.10.2020).

Chapter 5: Police Complicity and the Perversion of Justice

“Perusal of the case diary reveals a disturbing fact. The investigation seems to be targeted only towards one end. Upon enquiry from Inspector Lokesh and Anil, they

have failed to point out what investigation has been carried out so far regarding the involvement of the rival faction,”

[Additional Sessions Judge, Dharmender Rana, Patiala House Court, 27 May 2020, on bail application of Asif Tanha, accused in FIR # 59/2020, Delhi Police, Special Cell]

As per intelligence inputs, arrest of some Hindu youth from the Chandbagh and Khajuri Khas areas of North East Delhi recently in connection with Delhi riots has led to a degree of resentment among the Hindu community there.

Due care and precaution be taken while arresting any person..... All evidence Must be discussed with the Special Public Prosecutor assigned to each case.....Supervisory officers may guide the IOs (Investigating Officers) accordingly.

[Praveer Ranjan, Special Commissioner of Police, Crime & EOW, Delhi, Orders dated 8th July addressed to Additional Commissioner of Police, Crime(Hq.), Deputy Commissioners of Police, Special Investigating Team – I, II,III]

5.1 Introduction

This section looks at the working of the police and justice system in Delhi, resulting in the denial for Muslims, firstly of several basic freedoms of assembly and expression, and then the denial of right to life and property. This was followed, post violence, by authorities attempting to criminalise Muslims and others standing for their rights and against discrimination and denial, in what appears to be a systematic campaign of perversion of justice. We also show how the campaign of disinformation by news media and Hindu right wing groups around the violence has influenced Police investigation and prosecution, with authorities, on the one hand, ignoring documented incitement to violence by senior BJP leaders, and on the other, rescripting the violence in their recording of crimes, as a conspiracy by Muslims and those leading anti-CAA protests against Hindus. This has resulted in a witch-hunt against anti-CAA protesters that goes on to this day.

5.2 Policing a protest: The iron fist of Delhi Police on anti-CAA protests

To understand fully the police's complicity, one must go back to the days immediately after the passage of CAA and its signing into law on 12th Dec. 2019. A protest march was called by a coalition of student groups on 15th December from Jamia Millia Islamia (JMI) – a Muslim majority teaching university - to Parliament House, as a show of protest against the law. Police personnel were deployed in full strength to prevent students from taking out the procession – resulting in skirmishes with police reported that day.²⁵⁶ Several reports have documented the excessive use of force by police against students that evening, merely seeking to voice their dissent against the CAA.²⁵⁷

A fact-finding report on the episode by an HRD network, based on victim and witness testimonies claimed Police raided the JMI campus, and wreaked mayhem, forcing their way into the two libraries, vandalising everything they encountered: thrashing students, smashing glass doors,

²⁵⁶Delhi: More than 10 Jamia students injured as police stop CAA protest march to Parliament, Scroll, <https://scroll.in/latest/952754/delhi-more-than-10-jamia-students-injured-as-police-stop-cao-protest-march-to-parliament> (accessed on 21.10.2020).

²⁵⁷*Ibid.*

upturned tables, hurled tear gas shells into reading rooms, rained blows on the backs of those who had knelt to pray in mosques.²⁵⁸ Another report, by the People's Union for Democratic Rights (PUDR) claimed Police also forcibly entered a mosque inside the campus and beat up its Imam.²⁵⁹ The National Federation for Indian Women (NFIW) reported women were sexually assaulted and chemical agents used against them.²⁶⁰ Despite the surfeit of evidence, little action has been taken by authorities against police personnel responsible for these violations. An enquiry by the National Human Rights Commission (NHRC) gave Police, mostly a clean chit.²⁶¹ In a recent submission in one of the applications before Delhi High Court calling for independent investigation of the JMI violence, the counsel for the petitioners argued “purpose of police attacks at Jamia Millia Islamia was to threaten students to never participate in anti-CAA protests.”²⁶² If this was so, it amounts to authorities' attempt to deny the most basic of freedoms to assembly and expression to citizens, in this case against the adoption of a law that had universally been condemned for being discriminatory.²⁶³ In the event, the Supreme Court has been unable to date, to provide any relief to the students affected by the police violence.

It was the vicious police violence against students at JMI on 15th December that sparked Shaheen Bagh sit-in protest against the CAA. Similar protests followed suit throughout the country. Crackdown against the protests too ensued, especially in Delhi, ruled by the Aam Aadmi Party but where law and order is governed directly by the BJP-ruled central government, and Police report to the central Home Ministry, rather than to the elected state government. A peaceful protest march against CAA in Muslim locality of Seelampur in the North East district on 16th December was set upon by the police.²⁶⁴ On 19th December, protests against the CAA was called by a coalition of opposition groups across the country. Police responded by shutting down Internet in Delhi, and making arrests of several activists.²⁶⁵ On Friday, 20th December, a large protest march in Central Delhi (from Jamia Masjid – Delhi's iconic medieval-era mosque), and made up largely of Muslim worshippers and progressive Dalit and student groups²⁶⁶, was provoked by police's heavy handed methods, resulting in violence and the eventual arrest of some 40 persons and reported custodial torture of 3 minors.²⁶⁷ Another protest sit-in that day, at Jantar Mantar close to Parliament House and the seat of government, by Indian National Congress party among others, passed off peacefully.

²⁵⁸ Campaign against witch-hunt of anti-CAA protesters. 'Night of the broken glass. Testimonies from Jamia Millia Islamia'. P3.

²⁵⁹ People's Union for Democratic Rights. Press Statement. North East Delhi Riots – Demanding a status report. Make investigation transparent and FIRs public. 12th May 2020. (p5)

²⁶⁰ India: Islamophobic drift in Indian police, says women's rights group, The Muslim News, <http://muslimnews.co.uk/news/south-asia/india-islamophobic-drift-indian-police-says-womens-rights-group/> (accessed on 21.10.2020).

²⁶¹ NHRC Blames Jamia Students for Police Violence, Wants 'Real Motive' of Anti-CAA Protest Probed, The Wire, <https://thewire.in/rights/nhrc-blames-jamia-students-for-police-violence-wants-real-motive-of-anti-kaa-protest-probed> (accessed on 21.10.2020).

²⁶² Petitioners can't trust Delhi Police to conduct fair probe in 15 Dec Jamia violence, Delhi HC told, The FirstPost, <https://www.firstpost.com/india/petitioners-cant-trust-delhi-police-to-conduct-fair-probe-in-15-dec-jamia-violence-delhi-hc-told-8671271.html> (accessed on 21.10.2020).

²⁶³ Jamia Violence: 'Purpose Of Police Attack Was To Threaten Students To Never Participate In Anti-CAA Protests', Submits Sr Adv Gonslaves In Delhi HC, LiveLaw, <https://www.livelaw.in/amp/top-stories/jamia-violence-purpose-of-police-attack-threaten-students-in-anti-kaa-protests-gonslaves-delhi-hc-160936?> (accessed on 21.10.2020).

²⁶⁴ We were born in Hindustan, we will be buried in its soil": Seelampur residents protest CAA, The Caravan, <https://caravanmagazine.in/politics/citizenship-act-kaa-seelampur-riots-delhi-police> (accessed on 21.10.2020).

²⁶⁵ Pro-CAA Rallies Trigger Widespread Anger With Incendiary Slogans, The Huffington Post, https://www.huffingtonpost.in/entry/anger-slogans-pro-citizenship-amendment-act-rallies_in_5e005f3ae4b05b08bab79f4f (accessed on 21.10.2020).

²⁶⁶ Bheem Army, Chandrashekhar Azad. And AAP legislator.

²⁶⁷ At Delhi Gate, Police Crackdown and Detention of Minors Triggered Large Protest, The Wire, <https://thewire.in/rights/delhi-gate-daryanganj-police-water-cannons-lathis-kaa-protest>

3 minors among 50 detained, 46 injured during CAA protests in Delhi, Hindustan Times, <https://www.hindustantimes.com/delhi-news/violent-clashes-in-daryanganj-leave-46-injured/story-7u8U1s9DJiNZ6UacMDCbM.html> (accessed on 21.10.2020).

Elections to state assembly in Delhi were notified on 14th January. Votes were cast on 8th February, and results announced on 11th February. Despite being labelled as among the most polarising election campaign yet, BJP lost the elections to ruling AAP.²⁶⁸ The news channel, CNN described the elections as 'representing a mandate on Modi's divisive platform', and a loss of prestige for the BJP.²⁶⁹ BJP lost all constituencies where anti-CAA protests had been organised²⁷⁰. These were mostly Muslim concentrated. Despite reports of post-election review within BJP pointing also to the negative role of hate speech by their candidates in the electoral outcome,²⁷¹ and sentiments expressed by some office bearers against candidates such as Kapil Mishra,²⁷² BJP units continued to further target Muslims and anti-CAA protesters. Tweets from BJP's official handle seemed to taunt Muslims and dissenters for protesting against CAA and NRC.²⁷³

These and other uncertainties were not good news for anti-CAA protestors everywhere, including in North East Delhi, already charged up by BJP's divisive election campaign. Lack of any shift in stance on CAA by the central government, despite passage of over two months of protests in country, and all-round condemnation internationally, was bad enough. The Supreme Court too, where over 100 applications had been lodged by individuals and organisations challenging the constitutionality of the CAA, was failing to provide solutions. The court refused to order a hearing on the challenges, continuing to drag its feet by giving additional time to the central government to file its response.

Box No. 3: International condemnation of CAA/NRC

The protests against the discriminatory Act passed by the government were not just witnessed in India but across the globe, where people stood in solidarity with constitutional values of India.

◆ The United Nations High Commissioner for Human Rights [filed](#) an Intervention Application in the Supreme Court of India in the constitutional challenge to the

²⁶⁸ Modi's party concedes defeat in Delhi after polarising campaign, The Guardian, <https://www.theguardian.com/world/2020/feb/11/india-modi-ruling-party-poised-to-lose-delhi-election-after-polarising-campaign> (accessed on 21.10.2020).

²⁶⁹ Narendra Modi's BJP suffers big loss in New Delhi elections, The Edition, <https://edition.cnn.com/2020/02/12/asia/india-delhi-elections-bjp-intl-hnk/index.html> (accessed on 21.10.2020).

²⁷⁰ Delhi Results: AAP Sweeps Sites Of Anti-CAA Protests In The Capital, The Huffington Post, https://www.huffingtonpost.in/entry/delhi-results-seelampur-matia-mahal-anti-cao-protests-sites_in_5e424764c5b6f1f57f178580 (accessed on 21.10.2020).

²⁷¹ BJP holds meetings to review party's debacle in Delhi Assembly polls, The New Indian Express, <https://www.newindianexpress.com/cities/delhi/2020/feb/14/bjp-holds-meetings-to-review-partys-debacle-in-delhi-assembly-polls-2103363.html> (accessed on 21.10.2020).

²⁷² Those Giving Hate Speech Should Be Removed': Delhi BJP Chief, The Quint https://www.thequint.com/news/politics/delhi-polls-bjp-manoj-tiwari-on-hate-speech-parvesh-verma-kapil-mishra?utm_source=wru&utm_medium=alsoread (accessed on 21.10.2020).

²⁷³ India's BJP slammed for 'offensive' tweet on anti-CAA protesters, Al Jazeera <https://www.aljazeera.com/news/2020/02/india-bjp-slammed-offensive-tweet-anti-cao-protesters-200210070105369.html> (accessed on 21.10.2020).

CAA and prayed for it to be struck down.

- ◆ The US Commission on International Religious Freedom (USCIRF) released a factsheet discussing the CAA and condemned it for being discriminatory.
- ◆ The Organisation of Islamic Cooperation (OIC) stated it was closely following the recent developments affecting Muslims in India and also voiced its concern over the Citizenship Amendment Act.
- ◆ Six US cities- San Francisco, Seattle, Albany, St. Paul, Hamtramck and Cambridge passed resolutions to condemn the CAA and “exclusionary and bigoted worldview they represent”.
- ◆ The UK government also expressed its concern over the CAA and noted that it was following the events related to it in India closely.
- ◆ Australian politician and MP, David Shoebridge tabled a motion in the New South Wales parliament against CAA and called for review of trade links with India.
- ◆ Renowned universities of the world like Oxford, Harvard, Yale, and MIT witnessed demonstrations against the CAA and against police crackdown on students of JMI and AMU.
- ◆ Jakob Lindenthal, a German exchange student in India, who had participated in a protest against the CAA was asked to leave India by immigration authorities.
- ◆ Berlin, Germany witnessed three rounds of protests against the CAA and NRC. Over 200 people attended the protest marches.
- ◆ More than hundred Indian citizens, workers, and students protested against the CAA and NRC outside the High Commission of India in London on 18 December 2019.
- ◆ Indian citizens protested the CAA and NRC in Australia along with Socialist Alliance Melbourne’s Sue Bolton and National Tertiary Education Union’s Liam Ward outside the Parliament of Victoria.
- ◆ Paris-based International Federation for Human Rights (IFHR) wrote to the PM and Home Minister of the country urging the them to release the students and activists arrested during CAA protests.
- ◆ Indians across Europe held a peaceful protest outside the UN headquarters in Geneva against the CAA.

5.3 Policing incitement to violence: 'Hindu force'?

Situation began to escalate from 22nd February, with multiple developments. The Supreme Court responding to petitions by pro-CAA parties to close down Shaheen Bagh protest site, set up a 2 member committee of senior advocates to negotiate a closure of the protest site. A hearing was fixed to review the outcome of negotiations on 24th February. Alongside, Chandrashekhara Azad of the radical Dalit group, Bhim Army, gave a call for all-India protest strike against the recent Supreme Court judgement striking down reservation to promotion posts in the public sector. In solidarity, and also to give more visibility to their own grievance against the CAA, anti-CAA protesters at Chandbagh planned a protest march on 23rd February, to Rajghat, where Mahatma Gandhi's memorials lie.

Late at night on 22nd February, anti-CAA protesters in Jaffrabad, mostly women from the locality, moved from the side of the Seelampur road to under the Jaffrabad metro station, occupying one of the carriageways. This is a common tactics used by citizens groups in India in acts of civil disobedience. Following this, the next day, on 23rd February, at 1.22 pm, Kapil Mishra, BJP candidate in just concluded elections, was reported tweeting asking his supporters to gather at Maujpur crossing, a short distance away from the metro station, at 3 pm, to counter anti-CAA protesters.²⁷⁴ Reports later appeared of several intelligence alerts issued, with requests to senior Delhi police officers to beef up police presence at the site, fearing breach of peace. These seem to have been ignored by police top brass.²⁷⁵ At 3 pm, Kapil Mishra was reported issuing his ultimatum to anti-CAA protesters and the police to clear the Jaffrabad protest site. Both incidents show Delhi Police in poor light: unaware of the protesters' plans to take over the road under Jaffrabad metro station, and not taking preventive action after Mishra had issued his public call to action, via Twitter, against anti-CAA protesters. Police also took no action against Mishra after his ultimatum to protesters and the police, despite the presence of senior police officers at site. In short, despite the situation rapidly deteriorating from the afternoon of 23rd February, police took little preventive action against possible violence. At most places, police was either mute spectators, or as complaints published later showed, took active part in the violence, goaded or pressured by BJP leaders, including Kapil Mishra. This pattern would continue throughout the coming days.

On 24th February, clashes broke out between pro and anti CAA protesters in Jafarbad, Maujpur, Chandbagh, Bhajanpura, and Khureji Khas localities, with a report from the day describing the North East localities as a battlefield “with frenzied protesters torching houses, shops, vehicles, petrol pump and hurling stones”.²⁷⁶ According to complaints that police refused to register, policemen along with BJP supporters, attacked the protest site at Chandbagh in the morning of 24th February, and burnt it down. Police have themselves claimed, in submissions to courts, that that they were attacked by anti-CAA protesters at Chandbagh at 1240 pm.²⁷⁷ At 4.20 pm, journalists reporting from the site claimed there were widespread attacks against police both by pro- and anti CAA protesters.²⁷⁸ A police head constable was among the 5 killed that day along with some 50 injured, including Delhi Police personnel. Yet, the media report lamented, there was no concerted effort on the part of Police to control the situation, by deploying additional force. At 4.46 pm that afternoon, Delhi police tweeted that Sec 144 CrPC (banning public assembly) had been imposed – a full day after violence was reported having broken out on 23rd February. But there seemed to be only half- hearted attempt to enforce the prohibition. India Today reported Police rather withdrew from the site, after trying to pacify mobs.²⁷⁹

²⁷⁴Delhi violence: Police sat on six intel warnings to step up security, The Times of India, https://timesofindia.indiatimes.com/city/delhi/police-sat-on-six-intel-warnings-to-step-up-security/articleshow/74326525.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst (accessed on 21.10.2020).

²⁷⁵Ibid.

²⁷⁶Delhi violence: Clashes between pro and anti CAA protesters kill 5 | As it happened, India Today, <https://www.indiatoday.in/india/story/delhi-police-head-constable-dies-maujpur-violence-caa-jaffrabad-live-updates-1649511-2020-02-24> (accessed on 21.10.2020).

²⁷⁷Delhi violence: To show they were attacked by mob, police go door to door; seeking videos, Indian Express, <https://indianexpress.com/article/cities/delhi/delhi-violence-to-show-they-were-attacked-by-mob-police-go-door-to-door-seeking-videos-6301627/> (accessed on 21.10.2020).

²⁷⁸Supra Note 271.

²⁷⁹Ibid

Rapid Action Force (RAF) contingents – special forces set up for riot control - reached North East Delhi reportedly only on 25th January, at least 48 hours after violence broke out.²⁸⁰ An NDTV story on distress call logs (Number 100) with police control room also revealed that no action was taken by police until late night of the 26th of February. The report found 700 calls were made on 23rd February, 3500 on 24th February, 7500 on the 25th and 1500 on 26th February – all alerts of bullets being fired, vehicles set on fire, and stones thrown. Of the registers that NDTV accessed, the action taken report column was blank throughout, confirming citizens desperate attempt to reach police and take help all went unattended and unheeded.²⁸¹

Police in several states have reported using drones to monitor the situation of anti-CAA protests – Uttar Pradesh being an example of aggressive surveillance aiding crowd control method.²⁸² Similar has been the case with Delhi. But why drones were not used to provide Delhi Police with intelligence to monitor and control the violence playing out on 23rd and 24th February, and whether and how the data was being used as evidence in investigation, is also unknown. Request for information made by *Medianama*, a digital rights centre, under the Right to Information Act revealed some disturbing facts about Delhi Police's use of drones.²⁸³ To monitor elections and Delhi riots, North East division of Delhi Police was hiring drones from the open market, rather than buying them for its use. It also found that there was no transparency in specification and capability of the drones so hired. *Medianama* concluded, hiring drones from private providers poses, among other concerns, questions about private access to drone footage, and its uses. The RTIs also revealed that Police had not provided any authorisation orders for use of drones for surveillance. There was also no record of information collected by use of drones. These responses assume significance given government's reply on Delhi riots in the Parliament in March 2020, where Home Minister Amit Shah, claimed that facial recognition software was being used to identify rioters – adding that 1100 persons had been identified, including 300 from Uttar Pradesh.²⁸⁴

Shah, directly in-charge of Delhi police, claimed to have himself been monitoring the developing situation from evening of 24th February. Yet, and despite the vast amount of men and material available to Delhi Police, violence stopped only late night on 26th February 2020. Shah might also have misled the Parliament when he claimed on the floor of the house that the violence only lasted 36 hours, and that it was brought to a close by 11 am on 25th of February.²⁸⁵ In fact, violence continued at least until late night of 26th February.

²⁸⁰Supra Note 269.

²⁸¹No Action", "Case Pending": Delhi Police Call Logs Offer Clue To Why Violence Raged For 4 Days, NDTV, <https://www.ndtv.com/india-news/no-action-case-pending-delhi-police-call-logs-offer-clue-why-violence-raged-for-4-days-2187419>(accessed on 21.10.2020).

²⁸²Refer Citizens Against Hate. 'Everyone has been Silenced: Police excesses against anti-CAA protesters in Uttar Pradesh, and the post violence reprisal'. March 2020. P43.

²⁸³Delhi Police 'hired' drones to record assembly elections and Delhi riots: RTI, Medianama, <https://www.medianama.com/2020/03/223-delhi-police-drone-usage-rti/>(accessed on 21.10.2020).

²⁸⁴Amit Shah: Facial recognition software fed with government data used to identify over 1,100 rioters, Medianama, <https://www.medianama.com/2020/03/223-facial-recognition-amit-shah-delhi-riots/>(accessed on 21.10.2020).

²⁸⁵Amit Shah's FULL Reply On Delhi Riots In LS: Home Minister Answers Critics, Lauds Police, Republic, <https://www.republicworld.com/india-news/politics/amit-shahs-full-reply-on-delhi-riots-in-lok-sabha.html>(accessed on 21.10.2020).

Report emerged of a Member of Parliament from Punjab having written to Delhi Police Commissioner, complaining how his calls to Delhi Police late in the night of 26th February to assist a group of 16 persons that were trapped in the Maujpur area under attacks, fell on deaf ears.²⁸⁶ Reports point to, especially on 25th and 26th February, of Muslim neighbourhoods being left to fend for themselves to fight back the attacks by Hindu groups that seemed to be set up in an organised campaign of targeting.²⁸⁷

These alone are sufficient evidence of major failures of the Delhi Police leadership and Home Ministry directly in-charge of police working in Delhi: of failure to gather actionable intelligence on the worsening situation in NE Delhi; of ignoring intelligence that was shared of possible breach of peace; of not taking action against hate speech and incitement, and of not deploying force in adequate numbers to bring the situation under control. Many have argued that these failures – given the intelligence and vast resources available to Delhi Police – were deliberate, with an intent to go slow against rioters, to let the violence play out on 23rd and 24th February and then let Hindu groups a free run until 26th.²⁸⁸ It has widely been claimed that Delhi violence was used by authorities both to disrupt anti-CAA protests in Delhi once and for all, and to teach Muslims a lesson for daring to protest.²⁸⁹

5.4 Post violence investigation: Police crackdown by other means!

Failure of police has continued after the violence, with biased investigation. Human Rights Watch highlighted the contradiction between the police using draconian, anti-terrorism, sedition and other laws against students, activists and other critics of the CAA, and lack of action against violence by the supporters of the ruling BJP.²⁹⁰ Delhi Police has also been accused of using the restrictions in free movement caused by the COVID-19 imposed lockdown, of cracking down on peaceful protesters and using this “opportunity” to brutally silence anti-CAA dissent.²⁹¹ The violations here are several:

a. Opaque proceedings

First the registering of cases – they should be straightforward recording of the crime, invoking relevant sections of the law, and commencement of investigation. Delhi Police have not been transparent with either reporting of cases registered – despite its obligation to do so²⁹² - as well as with the progress in investigation of those.

²⁸⁶MP Naresh Gujral claims Delhi Police failed to rescue people trapped in riot-affected Maujpur despite his complaint, India Today, <https://www.indiatoday.in/india/story/mp-naresh-gujral-claims-delhi-police-failed-to-rescue-people-trapped-in-riot-affected-maujpur-despite-his-complaint-1650590-2020-02-27> (accessed on 21.10.2020).

²⁸⁷Tahir Hussain — the AAP councillor who faces murder charge now has left Chand Bagh divided, The Print, <https://theprint.in/india/tahir-hussain-the-aap-councillor-who-faces-murder-charge-now-has-left-chand-bagh-divided/373222/> (accessed on 21.10.2020).

²⁸⁸Delhi Riots 2020: What Were Amit Shah and the MHA Doing When Violence Raged in the Capital?, The Wire, <https://thewire.in/communalism/delhi-riots-2020-amit-shah-home-ministry-police> (accessed on 21.10.2020).

²⁸⁹Why Is the Modi Government Targeting Umar Khalid Now?, The Wire, <https://thewire.in/rights/modi-government-umar-khalid-delhi-riots> (accessed on 21.10.2020).

²⁹⁰India: End Bias in Prosecuting Delhi Violence, Human Rights Watch, <https://www.hrw.org/news/2020/06/15/india-end-bias-prosecuting-delhi-violence> (accessed on 21.10.2020).

²⁹¹#I-stand-with-Kapil-Mishra': BJP leader features prominently in WhatsApp group of Delhi rioters, Sabrang India, <https://sabrangindia.in/article/systemic-delays-charging-accused-mean-denials-justice-freedom-delhi-lawyers> (accessed on 21.10.2020).

²⁹²S 41B and 41C CrPC on arrest memos and providing information on arrests made.

Police chose not to publicly disclose copies of FIRs and the list of arrested persons, taking the position that FIRs connected to riots were 'sensitive', and thus not covered under relevant transparency guidelines.²⁹³ They were only willing to reveal that (as of 11th June 2020) a total of 1430 persons had been arrested, of which 700 were Muslim and 630 Hindus. Victims' and civil society actor's attempts at demanding information using RTI too have proved of little value. Finally, on 22nd July, Police revealed that 754 FIRs had been registered, of which 693 FIRs were being investigated by North East district, and 61 FIRs transferred to crime branch/special branch. Until then, Police reported, a total 1142 arrests had been made, and 171 chargesheet filed against accused.²⁹⁴ But police have continued to refuse to provide more details on the FIRs, and on progress with investigation, or provide copies of FIRs, claiming exemption.²⁹⁵

The onset of COVID-19 in March 2020 compounded the problem further. Restrictions on movement due to the pandemic from 24th March came as a double burden for survivor families and the displaced affected by violence – denied the little relief that they were slowly getting access to, besides access to livelihood. Lockdown also meant victim's access to hospitals and police stations to obtain documents, have FIRs registered, record statements, and engage with their lawyers, to move criminal proceedings against perpetrators, closed off completely.

a. One-sided investigation – free pass to hate and incitement

As with police's biased conduct during the violence, so too after, to register criminal cases and prosecute offenders. The human rights group Peoples' Union for Democratic Rights (PUDR) scrutinised 40 FIRs registered of the violence, and found that these represented crucial distortions and discrepancies in accounts of the violence, the perpetrators, and crimes committed.²⁹⁶ Omnibus FIRs, i.e. single FIR for several incidents, were common, thus vexing possibilities for investigation and prosecutions. Police officers were found to be the complainant in most, despite witnesses being amply present at scenes of crime. This also meant that victims could not demand the FIR as right, to use in trial proceedings. Content and nature of FIRs was found to be doubtful in most, with a clear bias in favour of Hindus named as accused. In cases where Muslims were able to lodge FIRs, Police forced the complainants to drop charges and withdraw statements against named Hindu accused. Often Police themselves dropped the more serious charges from these FIRs. The report concluded that there was a deliberate attempt to skew investigation, let the guilty, if Hindu, to escape, while innocent Muslims were sought to be charged and prosecuted.²⁹⁷

(accessed on 21.10.2020).

²⁹³Status report dated 11.06.2020 filed in Writ Petition (Crl) No. 669/2020 before the Delhi High Court. They have also relied upon the judgment of the Supreme Court in Youth Bar Association vs. Union of India (dated 07.09.2016 in WPCR no. 68/2016) for not providing copies of FIRs. Also refer DCM, p/94.

²⁹⁴Sabrang India, <https://sabrangindia.in/article/delhi-police-hiding-key-information-documents-riot-cases> (accessed on 21.10.2020).

²⁹⁵On 16th September a Delhi Police press release put the figure of FIRs registered at 751, of which 59 were assigned to the SIT set up in Crime Branch to investigate serious cases; 691 cases investigated by district police; and 1 by the Special Cell – DP's anti-terror investigation group
India Today, <https://www.indiatoday.in/india/story/delhi-riots-17-500-page-chargesheet-filed-against-15-accused-umar-khalid-sharjeel-imam-not-listed-1722452-2020-09-16> (accessed on 21.10.2020).

²⁹⁶People's Union for Democratic Rights. Press Statement. North East Delhi Riots – Demanding a status report. Make investigation transparent and FIRs public. 12th May 2020.

²⁹⁷Ibid.

And in a complete travesty of justice, authorities have resisted registering criminal proceedings against BJP politicians and other high profile individuals close to the ruling party that were so visibly involved in inciting violence and in its execution, as reported by journalist from the ground, and eye witnesses, as the violence played out. The case of Kapil Mishra and others is symptomatic. On 26th February, a bench of the Delhi High Court heard an urgent plea asking for directions to Police to register FIR against Mishra and two BJP ministers, Anurag Thakur and Parvesh Verma, against hate speech. This resulted in heated exchange between Justice Muralidharan, the judge on duty and Tushar Mehta,²⁹⁸ the Solicitor General of India – the second law officer of the country, after Attorney General - representing the central government that oversees the Delhi police.²⁹⁹ Besides Mishra, against whom there is much documented evidence of incitement and participation in the violence,³⁰⁰ Anurag Thakur³⁰¹ and Pravesh Verma³⁰² both have been recorded making hate speeches. Both had earlier been chastised by the Election Commission of India, for their speeches made during the course of Delhi assembly election campaigning.

Despite the High Court playing video clips of hate speeches by the three, and petitioners providing further evidence of incitement and speech crime by the BJP leaders, Mehta could only promise to the chief justice that FIR would be registered at an appropriate time, but providing no firm commitment. Ominously, Justice Muralidharan was transferred out of Delhi and posted to the High Court of Punjab and Haryana the following day. A new bench hearing the matter the next day adjourned the hearing and observed that the situation was not urgent enough to warrant ordering of FIRs immediately. It gave Delhi Police relief in the matter - a month's time to respond. On 14th July 2020, Delhi Police submitted its affidavit in the Delhi High Court on the matter, exonerating all three BJP leaders - Kapil Mishra, Anurag Thakur and Pravesh Verma - of being involved in the North East Delhi riots. Police argued that speeches by the three politicians had not caused any kind of disruption in law and order. The affidavit made another claim: violence did not occur because of any “sporadic or spontaneous violence” but rather seems to a part of a well hatched “conspiracy to destabilise the harmony in the society.”³⁰³ This document sworn by Rajesh Deo, of the Deputy Commissioner of Police, Legal Cell, stated that no action was required to be taken against the BJP politicians.³⁰⁴

²⁹⁸Delhi violence: HC says 'can't allow 1984 repeat', asks police to consider FIRS for hate speech' *LiveLaw*, <https://www.livelaw.in/top-stories/we-cant-let-another-1984-scenario-happen-delhi-hc-calls-for-reach-out-to-riot-victims-153167> (accessed on 10th March 2020).

²⁹⁹Saluja, Pallavi. 'Breaking: Tushar Mehta re-appointed as Solicitor General for India, six new ASGs for Supreme Court appointed', *Bar and Bench*, <https://www.barandbench.com/news/breaking-tushar-mehta-re-appointed-as-solicitor-general-for-india-six-new-asgs-appointed> (as accessed on 21.07.2020).

³⁰⁰Scroll, <https://scroll.in/article/966460/i-stand-with-kapil-mishra-bjp-leader-features-prominently-in-whatsapp-group-of-delhi-rioters> (as accessed on 21.07.2020).

³⁰¹Watch: Union minister Anurag Thakur leads 'golimaarosaalon ko' slogans at rally, Scroll, <https://scroll.in/video/951289/watch-anurag-thakur-minister-of-state-for-finance-lead-goli-maaro-saalon-ko-slogans-at-rally> (as accessed on 21.07.2020).

³⁰²'Shaheen Bagh protestors will 'rape your sisters and daughters', says BJP MP on women-led protest, Scroll, <https://scroll.in/latest/951341/shaheen-bagh-protestors-will-enter-houses-rape-sisters-and-daughters-claims-bjp-mp-parvesh-verma> (as accessed on 21.07.2020).

³⁰³No evidence to indicate role of Anurag Thankur, Kapil Mishra &Pravesh Verma in Delhi riots: Delhi Police tells Delhi HC', *Live Law*, https://www.livelaw.in/news-updates/no-evidence-to-indicate-role-of-anurag-thakur-kapil-mishra-parvesh-verma-in-delhi-riots-delhi-police-tells-delhi-hc-159903?utm_source=notification&utm_medium=izooto&utm_campaign=noti (as accessed on 21.07.2020).

³⁰⁴Complaints & Report contradict Police's clean chit to Kapil Mishra' in *The Quint*, <https://www.thequint.com/news/politics/delhi-riots-kapil-mishra-police-complaints-minorities-commission-bjp> (as accessed on 21.07.2020).

An earlier plea before a lower court for registering of FIR [Under S 156(3) of CrPC] against Anurag Thakur for his 'shoot dead the bastard traitors' speech at an election rally in January 2020, and Pravesh Verma, for misinformation and communal claims against ShaheenBagh anti-CAA protesters, was dismissed late in August 2020, because the court ruled – unreasonably, according to the applicants - that petitioners had not taken prior permission from government, required under Indian law for prosecuting public officials.³⁰⁵

Recent reports have confirmed accusations of Police's biased investigation. The Caravan Magazine revealed in June 2020 that several residents from North East Delhi had tried to file complaints about the role of BJP politicians and police officers in instigating, orchestrating and the executing the violence.³⁰⁶ These included Kapil Mishra, Satya Pal Singh (Member of Parliament from Baghpat, in neighbouring Uttar Pradesh state), Jagdish Pradhan (ex MLA from Mustafabad area in North East Delhi district), Nand Kishore Gujjar (Member of Legislative Assembly from Loni in Uttar Pradesh) and Mohan Singh Bisht, MLA from Karawalnagar, also in North East Delhi. These were made to respective Police Stations but were not entertained. In March 2020 Delhi Police set up a help desk at relief centre opened by Delhi state Government at Mustafabad Eidgah ground, for survivor families and those displaced. The residents were able only at this help desk to have their complaints lodged. Several complaints were copied to higher authorities including Home Minister, Prime Minister and Lieutenant Governor, and bore stamps of receipt from these offices. Yet, complaints wrote initially of refusal by Police to lodge submissions and register FIRs, and then of threats and pressure by police for complainants to redact names of accused persons from their submissions. It is a settled principle of criminal procedure that upon receiving any complaint that prima facie constitutes a cognisable offence, Police must register an FIR. (S 154 CrPC). From what we know, none of these complaints have still been converted into formal FIRs for initiation of investigation.

a. Fabricating offence against dissent: 'Conspiracy Theory'

While not registering FIRs against those on record for incitement and violence, Delhi Police have continued to target victims of the violence themselves, and other anti-CAA protesters. There are glaring parallels between the misinformation pedalled by TV channels, right wing media sites, think tanks and fact-finding reports (See chapter 4), and police's claims of the outcome of its investigation of the violence. The systematic miswriting of FIRs, besides resulting in further targeting of Muslims – victims made the accused – and the miscarriage of justice, also seems to be an attempt at formally re-scripting the Delhi violence itself, from an anti-Muslim pogrom to a conspiracy by Muslims against Hindus and wider national interest.

³⁰⁵Delhi High Court dismisses plea seeking FIR against Anurag Thakur, Parvesh Verma for hate speech, <https://www.barandbench.com/news/litigation/delhi-court-dismisses-fir-anurag-thakur-parvesh-verma-hate-speech> (as accessed on 21.10.2020).

³⁰⁶Supra Note 153

A particularly telling example of this rescripting is FIR No 59/ 2020 of the Crime Branch of Delhi Police, registered two weeks after the violence, on 6th March. Filed by a police officer of Crime Branch, based on, 'secret information by a police informant', the FIR made out charges against two named accused: Umar Khalid a student leader from Delhi's Jawaharlal Nehru University and one Danish, a local resident. The FIR originally invoked section 147 (rioting), S. 148 (rioting with deadly weapons), S. 149 (unlawful assembly), S. 124 A (sedition), S. 153 A (promoting enmity between different groups on grounds of religion, etc.) and S. 120 B (Criminal conspiracy), of Indian Penal Code (IPC) 1860. The complaint sets out that riot situation in Delhi that prevailed from February 23rd to 25th, 2020, was a well-thought conspiracy by Umar Khalid, who gave inflammatory speeches at many places and along with two groups, executed the riots, to show the condition of minorities in India in poor light, during the visit of the President of the United States of America, Donald Trump.

In court submissions, Police claimed that to give effect to the said plan, the conspirators stocked dangerous arms and explosives at various places in North East Delhi. On 23rd February, they sent children and women to block off Jaffrabad metro station to create tension and riot in the area. It was this act, the police claim, that resulted in the Delhi violence. Police went on to claim that during investigations “a deep-rooted conspiracy among rioters, instigators and conspirators was revealed to cause the riot in the name of religion to defame the country at international platform, along with international electronic and print media”.³⁰⁷

Whilst Danish, the original arrestee, was released on bail shortly after, several other students and anti-CAA activists were subsequently added to the list of the accused in the said FIR, and arrested – in most cases violating procedures of arrests.³⁰⁸ When courts questioned authorities on police's need to keep the accused in custody – amid COVID crisis and orders by the Supreme Court to decongest prisons – authorities added more serious charges: S. 302 (murder), S. 307 (attempt to murder) of IPC and sections of the Arms Act that are non-bailable. These were not disclosed to the accused or their counsels, thus violating rights of accused.³⁰⁹ Ultimately authorities added sections of the Unlawful Activities (Prevention) Act, 1967 (UAPA), India's principal anti-terror law, to FIR 59/2020, effectively denying to the detained the right to bail. All serious offences potentially invite punishment of life imprisonment. UAPA particularly, has draconian procedural provisions, including extended police and judicial custody, no right of bail, and reversal of burden of proof.³¹⁰ A total of 21 arrests have been made of this category³¹¹, and only SafooraZargar, granted bail on 23rd June, on humanitarian grounds after spending three months in a crowded jail amid COVID-19 lockdown, whilst in the 2nd trimester of her pregnancy.

³⁰⁷FIR 59/2020, Special Branch.

³⁰⁸Police didn't inform Delhi riots accused of serious charges, violated procedure: Lawyers, The Print, <https://theprint.in/india/police-didnt-inform-delhi-riots-accused-of-serious-charges-violated-procedure-lawyers/430347/> (as accessed on 21.10.2020).

³⁰⁹PT: 48/2020 Jaffarabad. Later 50/2020, CB. Safoora: 48/20 CB. Later 59/2020. (UAPA)

Ishrat Jahan. Later 59/2020 (UAPA). Meeran only 59/2020 (UAPA)

³¹⁰Guilty or Not, Umar Khalid Will Be in Jail for Years. Here's Why, The Quint, <https://www.thequint.com/news/law/no-bail-in-uapa-cases-regardless-of-evidence-watali-judgment-supreme-court> (as accessed on 21.10.2020).

³¹¹Delhi Riots: 17,500-page chargesheet filed against 15 accused, Umar Khalid, Sharjeel Imam not listed, India Today, <https://www.indiatoday.in/india/story/delhi-riots-17-500-page-chargesheet-filed-against-15-accused-umar-khalid-sharjeel-imam-not-listed-1722452-2020-09-16> (as accessed on 21.10.2020).

By arresting Umar Khalid – first named in the FIR – on 13th September, police are ensuring they get further time to file supplementary chargesheet, before trial even begins, thus prolonging detention. Police submitted the chargesheet in the case on 16th Sept 2020, naming 15 (of the 21 arrested) as accused, claiming in reports to media that the rest would be included in supplementary chargesheet.³¹²

An FIR registered in the name of a police officer, based on information provided by an unnamed police informant, with stringent provisions of IPC, Arms Act and UAPA 1967 added to it subsequently, and accused added to the list on the go, only demonstrates the malafide intentions of the Delhi Police. Media reports and lawyers representing the detained activists have claimed that their clients were forced by police to sign blanks sheets of paper, and that seizure memos were mostly not provided for phones and laptops taken away from them. By systematically targeting Muslim youth and using harsh penal provisions that allow indefinite detention without conviction, authorities are seeking to silence democratic voice that had so remarkably emerged among Muslims and civil society in India to challenge the democratic backsliding that CAA 2019 represented.

The targeted detainees (Annexure VI) are mostly students, from prestigious universities, that have, amid the anti- CAA 2019 protests since late December 2019, grown as pro-democracy youth icons, speaking out against discrimination and targeting of beleaguered minorities. All were exercising their democratic right to peaceful assembly and expression, when they led protest-organising and made speeches against CAA 2019 and other discriminatory laws and programmes that seek to deny Muslims rights at par with the rest of citizens. In their speeches they called for Gandhian resistance of non-cooperation, to prevent authorities to implement CAA 2019 and the planned National Register of Citizens. They invoked constitutional provisions of equality, non-discrimination and secularism.

This was the backdrop to the Office of High Commissioner for Human Rights (OHCHR) reporting on 26th June, through a press note, the joint letter written to Government of India by a record 8 UN mandate holders against action against protesters wrongly detained, including under India's anti-terror law merely for protesting against the discriminatory CAA.³¹³ On 20th July International Commission for Jurists and OMCT, Organisation against torture, in a joint statement highlighted a range of human rights violations, including freedom of association and assembly, in India's repression of peaceful protests against the CAA, among others. Earlier ICJ had on 16th Dec. just after the passage of CAA and the breaking out of anti-CAA protests, issued a statement on 'authorities must cease their excessive use of force and ill-treatment of anti-CAA protesters.'³¹⁴

³¹² Ibid.

³¹³ Supra Note 90.

³¹⁴

Devangana Kalita, Pinjra Tod (Break the Cage) co-founder, is accused in 4 FIRs relating to NE Delhi violence. She was arrested, along with co-founder Natasha Narwal, on 23rd May under FIR 48/2020 (Jaffarabad PS, dated 24th Feb.), accused of masterminding the violence on 24th Feb. at Jaffarabad metro protest site on Seelampur-Maujpur road. Kalita was granted bail the very next day – the duty Magistrate, observing there was “no reason to maintain the charge under Section 353 IPC” (deter or assaulting a public servant; the only non-bailable offence in the FIR), as “they were merely protesting against CAA and NRC”.³¹⁵ But the duo were immediately arrested by police under another FIR No. 50/2020 (Jafrabad PS, 26th February), with more serious offences made out, including murder, attempt to murder, rioting and conspiracy.³¹⁶ Magistrate granted police remand. On 30th May, Kalita was arrested under yet another FIR, No. 250/2020 (Daryaganj PS), in the case of violence during anti-CAA protests in Daryaganj in December 2019. And a few days later police invoked UAPA against her and Natasha Narwal, including them under Special Cell FIR 59/2020. Charges under the FIR include committing a terrorist act (S 16 UAPA), raising funds for a terrorist act (S 17 UAPA) and provisions of Arms Act, 1959.

Kalita has been granted bail in three FIRs. Besides that in FIR, 48/2020 above, in case of FIR 250/2019, duty magistrate granting her bail on 2nd June, noted, Police did not provide any concrete evidence to prove Kalita's role in the violence.³¹⁷ And on 1st September Delhi High Court granted Kalita bail in FIR 50/2020, calling her detention “unjustified”, going on to observe, that she had been involved in “peaceful agitation”, and the police had failed to produce any evidence of her speech instigating women of a particular community.³¹⁸ But her bail application under FIR 59/2020 was rejected on 28th August by lower court, despite police basing the entire case on witness statements without corroboration, and no videos or other evidence of Kalita's role in instigating riots, for which authorities have invoked 'disaffection' as well as terrorism sections of UAPA. The police case did not even accuse Kalita of conspiracy to cause rioting, rather of conspiracy to conduct *Chakka Jaam* (road blockade), a common practice of civil disobedience in India, and a bailable offence under S 339 IPC.³¹⁹ On 16th September, Delhi Police filed its chargesheet in FIR 59/2020, making out cases under UAPA against 15 (of the 21) persons accused in the FIR, including Devangana Kalita and Natasha Narwal, claiming supplementary chargesheets against the rest would be filed soon.

Source: Summarised from <https://www.theleaflet.in/what-was-the-mysterious-conspiracy-of-delhi-police-against-devangana-kalita/#>

³¹⁵When Law Shapeshifts: What Arrest Of Pinjra Tod Activists Signal, The Quint, <https://www.thequint.com/voices/women/arrest-of-pinjra-tod-activists-signals-anti-cao-protest-fir> (as accessed on 21.10.2020).

³¹⁶Ibid

³¹⁷'No Direct Evidence': Pinjra Tod's Devangana Kalita Gets Bail in Daryaganj Violence Case, The Wire, <https://thewire.in/law/no-direct-evidence-pinjra-tods-devangana-kalita-gets-bail-in-daryaganj-violence-case> (as accessed on 21.10.2020).

³¹⁸https://images.assettype.com/barandbench/2020-09/ad371cc3-f780-4eca-8c96-2f3a38bac5d0/Devangana_Kalita_vs_State__Sep_1_bail_order.pdf

³¹⁹What was the mysterious conspiracy of Delhi Police against Devangana Kalita?, The Leaflet, <https://www.theleaflet.in/what-was-the-mysterious-conspiracy-of-delhi-police-against-devangana-kalita/#> (accessed on 21.10.2020).

a. *Flawed investigation: Victimising survivors*

The limited access of detainees to courts and judicial systems during COVID-19 lockdown effective from 25th March, provided the authorities a perfect cover to slap

various charges on students and file uncontested FIRs. Police had been able to carry on extending remand, without victims' lawyers being able to do much to contest those and obtain bail. The PUDR press statement referred earlier, claimed, the combination of the threat of UAPA and lockdown conditions meant that possibility for those being thus accused to challenge this legally has been severely restricted.³²⁰ Lockdown and COVID-related slow working of the justice system generally, meant lawyers were not readily available. COVID -19 also resulted in jail authorities denying detainees access to family and lawyers. In recent weeks, the justice system has begun to resume functioning – although still slowly – and hearings in lower and higher courts are now beginning to be held, especially for bail applications deemed 'urgent'. Police have also been reporting filing chargesheets – reports of their investigation, to arraign accused before courts - in several cases. Examination of these submissions reveal several examples of discriminatory investigation, reinforcing the bias trend from the start of the investigation process.

An analysis of four chargesheets submitted on 8th June, by Special Investigation Team (SIT) set up by the Delhi Police into Delhi riots, throws up many serious questions about the investigation. First involved the murder of Maruf Ali,³²¹ killed on 25th February in Subhas Mohalla, North Ghonda locality, close to the site of Kapil Mishra's infamous speech on 23rd February. According to the report, Maruf's assailants were pro-CAA activists, yet it names 4 Muslims among the total six assailants. In the FIR registered at Bhajanpura Police Station, no names of accused were mentioned, although family members, including Haroon, Maruf's brother - who was also a witness to the crime - mentioning names in their statement. In the chargesheet, police claim that Haroon had said that he did not recognise people that shot Maruf. The report also claims that the family had informed that police were now urging them to resolve the matter informally, as both victims and perpetrators had to continue to live in the area.

Similar is the case of Shamshad, also from North Gonda, who was shot moments before Maruf, but survived. The chargesheet submitted by SIT claims Shamshad could not identify his assailants. Media reported Shamshad had mentioned names in his statement to Police. And other witnesses to the attack had also testified before the Police and had put it on record in applications to Bhajanpura PS. Haroon and Shamshad claim they are now being threatened by his assailants, who have not been arrested yet. They also claimed in interview to media persons that one of the assailants was present at the Daryaganj Crime Branch office, when on 19th May 2020, he was called by Police to record his statement. They were also threatened by the assailants for wanting to pursue criminal proceedings.³²²

Investigation has also been accused of 'manufacturing evidence'. In supplementary chargesheet in FIR No 50/2020 (Jaffrabad Police Station), disclosure statements have been made to act as proxy for evidence of crime. Most of these seem to be 'cut and paste' jobs too.

³²⁰ People's Union for Democratic Rights. Press Statement. North East Delhi Riots – Demanding a status report. Make investigation transparent and FIRs public. 12th May 2020.

³²¹ Who killed Maruf Ali in Delhi's communal carnage? Fellow Muslims, police say, NewsLaundry, <https://www.newslaundry.com/2020/07/18/who-killed-maruf-ali-in-delhis-communal-carnage-fellow-muslims-police-say> (accessed on 21.10.2020).

And examination of confessions statements by 12 accused in a case of murder of police head constable, Ratan Lal (FIR 60/20, Dayalpur Police Station), found that 9 were identical – 'words and sentences are repeated verbatim'.³²³ The report concluded that there clearly was a conspiracy to cook up evidence. Similarly in the Ankit Sharma charge-sheet (FIR 65/2020, Dayalpur Police station), presented by the Delhi Police, there were 4 identical 'confessional' statements. And there were 10 identical statements in the Jaffrabad police station, (FIR 50/2020) charge-sheet.³²⁴ In a fourth charge-sheet of the Dilbar Negi case (FIR number 39/2020, Gokulpuri PS), 9 out of 12 confessional statement were near-verbatim copies of each other.³²⁵

Reports have highlighted several instances of courts reprimanding Delhi Police for its poor investigation in the riots: involving delays in collecting video footage and photographic evidence from sites of violence, observing that DP was in a state of “inscrutable indolence”,³²⁶ and questioning the material provided in several instances, linking the accused to the crimes,³²⁷ elsewhere of the lack of a reasonable link between CCTV footage and the crime cited.³²⁸ In one instance, the court also charged Delhi Police of “misusing the judicial system” and “taking the system for a ride”, in a case involving police arresting the same person under different cases with the same allegations.³²⁹ Courts have also pointed out that the accused must be provided copies of investigation reports, for them to defend themselves, challenging the secrecy with which police have been carrying on the investigation.³³⁰

On 28th May, a sessions court, hearing the remand application in respect of Asif Tanha, accused by Delhi Police among the 'conspirators' of the violence, under FIR 59/2020, pulled up the investigation (Special Cell), for its biased stance.³³¹ It observed:

“Perusal of the case diary reveals a disturbing fact. The investigation seems to be targetted only towards one end. Upon enquiry from Inspector Lokesh and Anil, they have failed to point out what investigation has been carried out so far regarding the involvement of the rival faction,”

Additional Sessions Judge, Dharmender Rana, Patiala House Court, 27 May 2020. The court ordered the concerned Deputy Commissioner of Police to monitor the probe, to ensure a fair investigation.

³²² Ibid

³²⁴ Delhi Police claims February riots were a conspiracy by CAA protestors – but where is the evidence? Scroll, <https://scroll.in/article/967881/delhi-polices-grand-riots-conspiracy-where-is-the-evidence> (accessed on 21.10.2020).

³²⁵ Supra Note 318.

³²⁶ 'Inscrutable indolence': Delhi court raps police over footage recovery delay, Indian Express, <https://indianexpress.com/article/cities/delhi/inscrutable-indolence-delhi-court-raps-police-over-footage-recovery-delay-6524808/> (accessed on 21.10.2020).

³²⁷ Three get bail in a Delhi riots case, court says police can't tell how accused were identified, Hindustan Times, <https://www.hindustantimes.com/cities/three-get-bail-in-a-delhi-riots-case-court-says-police-can-t-tell-how-accused-were-identified/story-LL7A6OYU1CdhzBRHSuhAjj.html> (accessed on 21.10.2020).

³²⁸ Northeast Delhi riots: court grants bail to two accused, The Hindu, <https://www.thehindu.com/news/cities/Delhi/northeast-delhi-riots-court-grants-bail-to-two-accused/article31886979.ece> (accessed on 21.10.2020).

³²⁹ Misuse of Judicial System: HC Slams Delhi Police for Filing Twin Petitions in Riots Case, The Wire, <https://thewire.in/law/delhi-high-court-delhi-riots-police-school-owner-faisal-farooq>

³³⁰ Must Give Copies of Reports by Police, Jail to Accused Too, Delhi HC Orders, News 18, <https://www.news18.com/news/india/must-give-copies-of-reports-by-police-jail-to-accused-too-delhi-hc-orders-2693957.html> (accessed on 21.10.2020).

³³¹ 'Delhi Riot Probe Directed Towards One End': Court Pulls Up Police, The Quint, <https://www.thequint.com/news/india/delhi-riots-patiala-house-court-police-asif-tanha-cao-hindutva> (accessed on 21.10.2020).

a. *Hardening bias*

Rather than heeding the advice, Delhi Police seems to have hardened its anti-Muslim bias. On 8th July, news surfaced of a letter by Special Commissioner (Crime) in Delhi Police, Praveer Ranjan, one of the leadership team, addressed to Delhi police's district units, warning that the arrest of Hindu youth from North East Delhi was resulting in resentment among the Hindu community. Ranjan, further advised senior officers to guide the investigating officers suitably.³³² He asked investigating officers to “take due care and precaution” and not make arbitrary arrests, and for all evidence to be discussed with public prosecutors appointed in the case.

The direction was challenged by families of those killed in the violence, in the Delhi High Court, claiming that the advisory was a 'direct violation of the basic principles of criminal law, and also of frustrating the process of the criminal justice system' with its biased stand. The HC bench initially termed the order 'mischievous', and quizzed the Delhi Police on the necessity for issuing such an order.³³³ In its final order though, the court refused to quash the order, arguing that most criminal cases in the Delhi violence had been registered before the order of the 8th of June, and several Hindus had been chargesheeted, hence in their considered opinion, “no prejudice has been caused”.³³⁴

But more damaging than shoddy investigation is the degree of politicisation of the Delhi Police. BJP and the entire Hindutva ecosystem, including senior BJP leaders, TV presenters, social media platforms and think tanks - have all claimed from the beginning that the Delhi violence was the outcome of a conspiracy by anti-CAA protesters, especially Muslims, against Hindus and the national interests. They have all along refused to acknowledge the role of BJP leaders in vilifying and creating a toxic environment against Muslims since anti-CAA protests – all peaceful - commenced. They have also refused to take into account the role of these leaders more directly inciting, and in some cases leading violence in North East Delhi, in February 2020 – despite the well documented evidence available publicly. Authorities too, as if on cue, are pushing this line in their investigation of offences committed during the 4 days of violence, supporting the conspiracy theory.

We have seen how FIR no 59/2020 of the Special Cell, has tried to lend legal force to that theory. On 2nd June Delhi Police filed before the courts report of its investigation (chargesheet) in the Jaffrabad metro station case of 25th February, naming 10 persons, including two Pinjra Tod activists.³³⁵ Arrested initially under FIR no 48/2020 of Jaffr Abad PS, for obstructing public servants that day, but granted bail, the accused were rearrested within minutes, under a new FIR, No. 50/2020 of the Crime Branch PS, on Arms Act charges, and for murder, among others. According to the police, investigation revealed “a deep-rooted conspiracy to cause riots” by members of Pinjra Tod and others, adding that that they were part of a larger conspiracy, connected to United Against Hate group and Umar Khalid (named as principal conspirator in FIR 59/2020 Special Cell PS).

³³²Resentment in Hindus on arrests, take care: Special CP to probe teams, Indian Express, <https://indianexpress.com/article/cities/delhi/hindu-resentment-north-east-delhi-riots-special-cp-6506063/> (accessed on 21.10.2020).

³³³Delhi Riots: HC Seeks Copy of Police Officer's Note on 'Resentment' Among HindusThe Wire, <https://thewire.in/law/delhi-high-court-police-note-copy> (accessed on 21.10.2020).

³³⁴Why the HC Judgment Refusing to Quash 'Pro Hindu' Delhi Police Order is Flawed, The Wire, <https://m.thewire.in/article/law/delhi-high-court-police-pro-hindu-order/amp> (accessed on 21.10.2020).

³³⁵Pinjra Tod: Pinjra Tod is a collective of women student seeking just, accessible, non-discriminatory University and affordable accommodation in University spaces across India. They are based in Delhi.

Police have claimed elsewhere that the three SITs investigating Delhi violence cases have found enough evidence against Pinjra Tod, showing they not only triggered but also “orchestrated” the riots, “by provoking the other side”, implying Muslims. The police also blamed Tahir Hussain,³³⁶ AAP ex councillor and 14 others for playing “a pivotal role in organising the riots”. Another Chargesheet claimed Rajdhani Public Senior Secondary School owner Faisal Farooque, conspired with fundamentalist Muslim clerics, Popular Front of India, Pinjra Tod, Delhi Markaz (of Tablighi Jamaat), Deoband seminary and Jamia Coordination Committee, to cause riots – by attacking Anil Sweets, DRP Convent Public School, and parking lots in his neighbourhood.³³⁷

In one of these submissions before the court, the Police even claimed that the protesters wanted “to go to any extent possible”...including executing “a secessionist movement in the country by propagating an armed rebellion against the lawfully constituted government of the day.”³³⁸ This was the same submission, where the police deposed before the court that they had found no evidence to link Kapil Mishra to any instance of incitement of violence on 23rd February or later. Police claim that the anti-CAA protests organisers had a 3 tier structure of conspirators on top, local organisers in the middle, and rioters at the bottom.³³⁹ But examination of the reports reveal, while police had recorded a great deal of evidence about local rioters' involvement, there is no evidence of the role of 'conspirators' and the linkage between rioters and conspirators. It turns out, much of the police case is built on confession statements, but these are not admissible in courts. Witness statements too, provided as evidence, are not clear of the sequence of events.³⁴⁰

As proof of its fair stance, Delhi Police have also claimed that it has arrested 640 Hindus along with 700 Muslims.³⁴¹ And that after investigations, while 513 Muslims have been charge sheeted, so had 535 Hindus.³⁴² This is true. But a closer look at police reports reveals how an 'action-reaction' narrative is being built by the police, with the anti-Hindu conspiracy triggering the violence, claimed as the action, and the push-back by Hindu groups, by attacking anti-CAA protesters, as reaction.

³³⁶Tahir Hussain: Councillor of AamAadmi Party, Tahir Hussain was suspended after his name appeared in the Delhi riots case.

³³⁷Delhi school owner was in touch with radical Muslim clerics, Pinjra Tod to plan riots: Police, The Print, <https://theprint.in/india/delhi-school-owner-was-in-touch-with-radical-muslim-clerics-pinjra-tod-to-plan-riots-police/434785/> (accessed on 21.10.2020).

DCM chairperson had claimed that youth from outside Delhi had been brought in and who took over the DRP school for two days, and who, witnesses claimed acted as crack force going out to attack and. When Police was queried about the DRP school having been overtaken by rival groups, Police claimed that was the reaction to an earlier action of attacks by the school owners. <https://amp.scroll.in/article/967881/delhi-polices-grand-riots-conspiracy-where-is-the-evidence?> (accessed on 21.10.2020).

³³⁸Anti-CAA protests had secessionist motives, Delhi Police claims in affidavit on February violence, Scroll, <https://scroll.in/latest/967605/anti-caa-protests-had-secessionist-motives-delhi-police-claims-in-affidavit-on-february-violence> (accessed on 21.10.2020).

³³⁹Delhi Police claims February riots were a conspiracy by CAA protestors – but where is the evidence?, Scroll, <https://amp.scroll.in/article/967881/delhi-polices-grand-riots-conspiracy-where-is-the-evidence?>

³⁴⁰Ibid

³⁴¹Delhi violence: LG order appointing MHA picked officers way to defend the indefensible?, Sabrang India <https://sabrangindia.in/article/delhi-violence-lg-order-appointing-mha-picked-officers-way-defend-indefensible> (accessed on 21.10.2020).

³⁴²Why the HC Judgment Refusing to Quash 'Pro Hindu' Delhi Police Order is Flawed, The Wire, <https://m.thewire.in/article/law/delhi-high-court-police-pro-hindu-order/amp> (accessed on 21.10.2020).

In the infamous Whatsapp group case, involving the murder of two brothers Hashim Ali and Amir Ali, police are reported to have charged 20 Hindu rioters. The two brothers were on their way home on 25th February, when they were stopped by a Hindu mob, beaten, stripped, stabbed, and then thrown into a drain. The police claim the accused were part of a WhatsApp group *Kattar Hindu* (Extremist Hindu), all residents of North East Delhi. While charges invoked in the report include rioting, arson, and murder (Sec. 302 IPC), there is no mention of criminal conspiracy (sec 120B IPC) or promoting enmity between two groups on grounds of religion (sec 153A, IPC), given the targeted sectarian nature of the crime³⁴³ Muslims and other anti-CAA protesters accused in the violence, have all been slapped, besides murder and rioting charges, also sec 120B and S 153A IPC. This adds a hate crime angle to the offence, and of a deliberate thought through attempt, resulting in the compounding of their offence.³⁴⁴ According to police, members of the WhatsApp group, among other Hindus complicit in the violence, were only taking 'revenge' against Muslims for the prior act of anti-Hindu rioting and murders by Muslims. Police is clearly seeking to establish a hierarchy (and chronology) of offence of violence between Hindus and Muslims. This Muslim 'provocation' vs Hindu 'retaliation' line is also evident in some of the other charge sheet submitted by the police.³⁴⁵ This will colour the course of prosecution and trial.

5.5 Conclusion

As an indication of which direction prosecution might go, with trials likely to begin soon, is the recent decision of the Lieutenant Governor of Delhi - a central government appointee with extra ordinary powers over an elected state government, reporting to the Union Home Minister - deciding to reject Delhi cabinet's decision not to approve the panel of prosecutors proposed by the Delhi Police to represent the prosecution in the some 85 Delhi violence cases before the High Court and Supreme Court. The Delhi government cabinet had based its decision on allegations of bias in investigation by Delhi Police, and several instances of courts casting doubts on the quality of investigations by the police.³⁴⁶ Clearly the BJP-ruled union government thinks otherwise. It recently awarded Rajesh Deo, DCP (Crime) and head of DP's SIT investigating Delhi violence, Union Home Minister's Medal of Excellence in Investigation.³⁴⁷ Deo has been accused of biased investigation,³⁴⁸ and was reprimanded in January 2020 by the Election Commission of India for making statements with "political connotations", intended to harm opposition parties in the state assembly elections, and barred from election duty.³⁴⁹

³⁴³20 Hindus named in fresh Delhi riots charge sheets for killing 2 Muslim brothers, The Print, <https://theprint.in/india/20-hindus-named-in-fresh-delhi-riots-charge-sheets-for-killing-2-muslim-brothers/435724/> (accessed on 21.10.2020).

³⁴⁴Former AAP leader Tahir Hussain & Pinjra Tod named by Delhi Police in 2 riots charge sheets, The Print, <https://theprint.in/india/former-aap-leader-tahir-hussain-pinjra-tod-named-by-delhi-police-in-2-riots-charge-sheets/434238/> (accessed on 21.10.2020).

³⁴⁵Delhi Riots: New Charge Sheets Push 'Hindu Retaliation' Narrative, The Quint, <https://www.thequint.com/news/breaking-news/delhi-communal-violence-charge-sheets-hindu-muslim-kaa-police> (accessed on 21.10.2020).

³⁴⁶Delhi riots: LG vetoes cabinet's decision on lawyers, govt to now approve panel chosen by police, Indian Express, <https://indianexpress.com/article/cities/delhi/delhi-riots-lg-anil-baijal-lawyers-panel-6531138/> (accessed on 21.10.2020).

³⁴⁷Officers Heading Delhi Riots, Bhima Koregaon Probe Receive 'Medal for Excellence', The Wire, <https://thewire.in/government/delhi-riots-bhima-koregaon-probe-police-officers-rajesh-deo-vikram-khalate-medal-for-excellence-amit-shah> (accessed on 21.10.2020).

³⁴⁸Prominent Citizens Accuse Police of Botching up Delhi Riots Probe, Seek Inquiry, The Wire, <https://thewire.in/communalism/delhi-police-riots-probe-citizens-letter> (accessed on 21.10.2020).

³⁴⁹EC Strips DCP Crime of Poll Work for Revealing Information About Kapil Baisala, The Wire, <https://thewire.in/government/delhi-dcp-rajesh-deo-election-commission-kapil-baisala> (accessed on 21.10.2020).

Chapter 6: Conclusion

6.1 'Delhi riot': A model of majoritarian justice system

This is not the first time that justice has been perverted in India. The 2002 anti-Muslim pogrom in Gujarat is a template for how propaganda can be mobilised to manufacture a false narrative - including propounding the action-reaction thesis - rationalising targeted attacks resulting in mass massacre, whilst shielding perpetrators of the violence, including senior BJP leaders inciting, orchestrating and executing the massacre, and state functionaries who enabled it.³⁵⁰ Commentators and activists have informed us about the role that justice system – police, investigation agencies, prosecution - played in this whitewashing of the role of key perpetrators.³⁵¹ Ashish Khaitan, the investigative journalist with a track record of observing Gujarat pogroms and its aftermath,³⁵² recently reminded us: “the story of tainted evidence, tailored investigation, terrorised witnesses, unprincipled and compromised prosecution and perfunctory trial was repeated in case after case of Gujarat riots.”³⁵³

The silver lining in an otherwise compromised saga then was the role of higher justice institutions, especially the National Human Rights Commission (NHRC) and the Supreme Court (SC) that came to the aid of victims, reopened many cases that had been closed by the prosecution; set up an independent Special Investigation Team (SIT) to examine the cases afresh, and ordered trials outside the state of Gujarat, where victims and witnesses feared justice would be denied by courts in the state.

This time round, in Delhi, the perversion of justice runs the risk of going deeper, with little hope for remedy. The propaganda is more sophisticated – as the recent release of the OpIndia report shows, including its attempt to have reputable publishers back it.³⁵⁴ And higher justice institutions seem no longer interested in coming to the rescue of the aggrieved -, by acting as bastions of constitutional rights and guarantors of justice, to check executive excess - as they perhaps did in the case of Gujarat.

The extensive architecture of justice institutions in India – High courts, Supreme court, NHRC - have largely failed to protect both the right to peaceful protest against CAA, or adequately shield peaceful protestors from excessive force and brutality by the police, including in Delhi. With a few notable exceptions, neither the higher courts nor the NHRC have to date, intervened on their own to cease the denial by authorities of citizens' right to assembly and expression, prevent the use of excessive force against protesters, and hold police and other functionaries to account for their acts of omissions and commissions. They have also failed to hold to account law enforcement agencies for the latter's giving a free pass to senior leaders of BJP that publicly incited and instigated violence against anti-CAA protesters, and Muslims generally, in North East Delhi.

³⁵⁰ -Why Delhi violence has echoes of the Gujarat riots, BBC, <https://www.bbc.co.uk/news/world-asia-india-51641516> (accessed on 21.10.2020).

³⁵¹ -Delhi Riots: Is the Centre Importing the 'Gujarat Model' to Subvert Prosecution?, The Wire, [https://m.thewire.in/article/communalism/delhi-riots-is-the-centre-importing-the-gujarat-model-to-subvert-prosecution/amp?](https://m.thewire.in/article/communalism/delhi-riots-is-the-centre-importing-the-gujarat-model-to-subvert-prosecution/amp?_) (accessed on 21.10.2020).

³⁵² <https://timesofindia.indiatimes.com/city/ahmedabad/Journalist-identifies-3-riots-accused-through-sting-operation/articleshow/11151577.cms> (accessed on 08-11-2020)

³⁵³ -Delhi Riots: LG's Order on Appointment of Prosecutors Smacks of Bad Faith, Immorality, The Wire, <https://thewire.in/government/delhi-riots-lgs-order-on-appointment-of-prosecutors-smacks-of-bad-faith-immorality> (accessed on 21.10.2020).

³⁵⁴ -Bloomsbury India pulls Delhi riots book after anti-Muslim controversy, The Guardian, <https://www.theguardian.com/world/2020/aug/24/bloomsbury-india-pulls-delhi-riots-2020-book-after-anti-muslim-controversy> (accessed on 21.10.2020).

-Why Did the Authors of 'Delhi Riots 2020' Go to Bloomsbury in the First Place?, The Wire, <https://thewire.in/communalism/bloomsbury-delhi-riots-2020-garuda-free-speech> (accessed on 21.10.2020).

This inaction by justice institutions has emboldened the police and authorities, encouraging them to continue to target citizens engaged in peaceful community-led protests, whilst the latter continue to shield perpetrators, especially senior leaders of BJP from any criminal prosecution.

Similar has been the situation in Kashmir, and rights of citizens there, brute force working with judicial abdication, while propaganda acts as proxy for governance. The case of Bhima Koregaon is a similar attempt to delegitimise an entire generation of social justice workers and their struggles for rights of the most marginalised Dalits and Adivasis. These bode ill for India's vulnerable minorities, citizenry as a whole, and for rule of law generally.

6.2 Recommendations

a. For Government of India, and Delhi state government

Immediate

- ◆ Institute a thorough and independent investigation into the violence, including (a) role of police and law enforcement agencies in failing to prevent the violence and provide security to citizens in exercise of their rights, and (b) human rights violations by police and law enforcement agencies, through judicial enquiry with powers to direct police to register cases and prosecute the accused.
- ◆ Until then, judiciary must treat all riot related cases (AMU, JNU, Jamia, UP and Delhi) as 'emergency cases' as per their own admission for hearings during COVID times
- ◆ In ongoing investigation, Delhi Police must follow all due processes as per investigation procedures (like memo to magistrate on why arrest and charge sheet information is not being shared).
- ◆ Delhi Police must respond immediately to all attacks on lawyers, social workers and journalists who are reporting or providing relief in the riot impacted areas and come under attack.
- ◆ Delhi Police must also register cases as appropriate against individuals and TV channels having made hate speeches, incited violence, and spread hate and disinformation
- ◆ Court must take Suo moto cognizance on the reckless application of UAPA by the state police as with other cases and appoint a separate autonomous committee comprising of non-partisan authorities to understand the implications on the rising number of UAPA cases registered across the country
- ◆ Victims of violence, as well as those being targeted through false cases against them – anti-CAA protesters and activists – must be compensated for their losses, of limb, property, loss of livelihoods, of physical and mental torture and harassment. This must be done in a fair, free, efficient and transparent manner, so as to avoid the situation where the deserving are denied relief even when they are most deserving.

Reforms

- ◆ Ensure in-service training on hate crimes and communal violence, on the specific needs of the victims and the role of police in combating and protecting people against discrimination is imparted to all police officers periodically.
- ◆ Make Delhi police a representative force, that reflects the community it serves, in terms of recruitment and deployment, and undertake outreach with minority and other vulnerable communities, to improve Police- community trust.
- ◆ Create a comprehensive strategy aimed at preventing hate crimes against minority communities, in consultation with the civil society.

- ◆ Create comprehensive guidelines for the implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials in consultation with the civil society.
- ◆ Implement the guidelines laid down by the Supreme Court of India in the case of Prakash Singh v. Union of India for police reform.
- ◆ Ratify, without reservations, the United Nations Convention against Torture (UNCAT) immediately and enact implementing domestic legislation criminalizing torture.

b. Parliament

- ◆ Amend laws governing the police at the state and central level so that the grounds on the basis of which the police can investigate communal violence and arrest and detain persons are made more stringent and discrimination on the basis of race, religion, ethnicity, sex, gender and political opinion is explicitly prohibited.
- ◆ Amend criminal laws at both the state and central level to include an explicit duty for police authorities to investigate any discriminatory motive behind the perpetration of the crime.
- ◆ Amend laws at central and state levels that provide an undue shield of protection to public officials for crimes they commit, thus enabling impunity

c. Supreme court of India

- ◆ Review the Watali judgement on UAPA

d. National Human Rights Commission

- ◆ Conduct effective investigation into complaints of human rights violations in Delhi
- ◆ Acquire independent investigation capacity, to avoid conflict of interest by police central and state police officers seconded to NHRC
- ◆ Call for the implementation of its recommendation on establishing Human Rights Cells in state and city police headquarters.

e. Social media platforms

- ◆ Social media platforms Twitter, Facebook, Instagram and Whatsapp must constitute investigation committees (in a time bound manner) with participation of suitable civil society representatives in light of the way the platforms have been used to incite violence and discrimination and perpetuate anti national and fake news.

f. International community

- ◆ Encourage India to abide by its commitments to UN Declaration on HR and other international human rights standards and covenants - ICCPR, the Rome statute, Rabat declaration, among others
- ◆ Encourage and support India to help protect its HRDs, activists and other civil society actors working to expand and deepen democracy and the freedoms guaranteed by the Constitution, against silencing, vilification, physical attacks, and fake criminal proceedings.
- ◆ Support Government of India to develop technical and institutional capacity of its central and state law enforcement, investigation and prosecution agencies., as well as oversight mechanisms, to uphold due process and rule of law.
- ◆ Support the Supreme Court of India to develop technical and institutional capacity of judiciary at central and state level upholding their independence and fairness

Annex I: Map of Delhi, and violence incidents (23-26 Feb. 2020)



Source: <https://www.mapsofindia.com/my-india/india/what-areas-come-in-northeast-delhi-exams-postponed-where-violence-erupted/attachment/map-showing-delhi-violence-hotspots-february-2020>

Annex II: List of persons killed

SN	Name	Details
1.	Ayub (50), rag picker	<ul style="list-style-type: none"> - Attacked by a mob in Shiv Vihar that forced him to chant Jai Shree Ram. - Died before making it to the GTB hospital.
2.	Mohammad Anwar Qassar (58)	<ul style="list-style-type: none"> - Shot and later burnt to death. House was looted and set on fire. - Family buried just one of his legs since the rest of his body wasn't found.
3.	Jamaluddin (33)	<ul style="list-style-type: none"> - Attacked by a mob of 30-40 people; beaten to death for religious identity. - Brother Nizamuddin, who was also severely injured, alleged that their pants were taken off to ascertain their religious identity.
4.	Vir Bhan (45), factory worker	<ul style="list-style-type: none"> - Died after he was hit by a bullet while returning home on his motorbike
5.	Anas Mohammad (30), daily wage worker	<ul style="list-style-type: none"> - Left his home for work, never to return. - Body later found in a drain near Shiv Vihar.
6.	Salman (24), tailor	<ul style="list-style-type: none"> - Caught by a mob and shot in the head. - Later died in the GTB Hospital.
7.	Dalbir Singh Negi (20)	<ul style="list-style-type: none"> - Was taking a nap in a godown when rioters attacked and murdered him brutally, on 25th February.
8.	Rahul Solanki (27), law student	<ul style="list-style-type: none"> - Went out to buy milk when he was shot. Had a gunshot wound on his throat.
9.	Ankit Sharma (26), Intelligence Bureau official	<ul style="list-style-type: none"> - Was killed and body found in a nearby drain a day later. - Post-mortem report revealed he was stabbed 12 times and received 51 injuries in all.
10.	Akbari (85)	<ul style="list-style-type: none"> - The oldest victim of the riots. Resident of Gamri Village in Khajuri Khas. - On 25th February, an armed mob of around 100 people entered the area, setting shops and houses on fire. - While most of her family survived the arson, 85-year-old Akbari died in the fire on the third floor of her house.
11.	Mohsin Ali (24)	<ul style="list-style-type: none"> - A newly wed, was killed in the riots. His charred car was found the next day.
12.	Sanjit Thakur (33)	<ul style="list-style-type: none"> - Got seriously injured while guarding the gates of his locality as the violence reached the nearby lane. - Later, he died by suicide. His wife suspects that he feared for his life as the violence started.

13.	Shaban (22)	<ul style="list-style-type: none"> - Left home for work but never returned. - Body was found in the GTB Hospital mortuary.
14.	Ratan Lal (42), Delhi Police head constable	<ul style="list-style-type: none"> - Fatally shot in Gokalpuri.
15.	Mubarak Husain (31), labourer	<ul style="list-style-type: none"> - Hit by a bullet in his chest, died on the spot.
16.	Mohammad Sulaiman (27)	<ul style="list-style-type: none"> - Left for work on 25th February but never came back. - Body was identified days later in the mortuary of a hospital.
17.	Amaan Iqbal (17)	<ul style="list-style-type: none"> - Went to market to get milk. - Shot in the head outside an alley.
18.	Rahul Thakur (23)	<ul style="list-style-type: none"> - Stepped out of his home to see what was going on, when he was shot in the chest.
19.	Bhure Ali (27)	<ul style="list-style-type: none"> - Left home for work, never to return. - Body found days later in the Ram Manohar Lohia Hospital.
20.	Prem Singh (27), rickshaw puller	<ul style="list-style-type: none"> - Left home for work, never to return. - Body later identified in the mortuary of the GTB Hospital.
21.	Mehtab	<ul style="list-style-type: none"> - Had gone out to buy groceries when he was attacked by rioters. - Succumbed to his injuries later.
22.	Ashfaq Husain (22)	<ul style="list-style-type: none"> - Had got married only 10 days earlier. - Shot dead, with five bullet injuries on his body.
23.	Zakir Saifi (28)	<ul style="list-style-type: none"> - Was offering prayers at the Farooqia Masjid when a mob chanting Jai Shree Ram attacked and entered the mosque. - In the absence of an ambulance or vehicle, Zakir was taken to the Al Hind Hospital on a cot, after being referred to a bigger hospital by a local nursing home. - Declared brought dead.
24.	Aamir (30) and Hashim (19)	<ul style="list-style-type: none"> - The two brothers were killed when they were returning home after Jit Doval's assurance that the situation was under control. - Their bodies and burnt motorcycle was found in a canal the next day.
25.	Mursaleen Malik (28)	<ul style="list-style-type: none"> - Went missing and later his body was found in the GTB Hospital mortuary.
26.	Jamil Kureshi (24)	<ul style="list-style-type: none"> - Left home to get provisions but never returned. - Body was found in the GTB Mortuary. - "His throat was cut and he had a hole in his nose," his brother said in a media report.

27.	Mohammad Hamza (25)	<ul style="list-style-type: none"> - Went missing on 26th February. Family alleged that police filed a missing persons report only after local court's intervention. - Body was found in a canal in the area with several injuries in the head.
28.	Mohammad Yusuf (53)	<ul style="list-style-type: none"> - Stopped by a mob while on his way home and beaten severely, along with his son Sulaiman. - Yusuf later died at the GTB Hospital
29.	Monis (22), daily wage labourer	<ul style="list-style-type: none"> - Went missing and body found days later in a mortuary.
30.	Musharraf (35)	<ul style="list-style-type: none"> - Was at home with his wife and children when a mob of around 30 men with iron rods, knives and chains broke down the locked door shouting Jai Shri Ram. - Musharraf was dragged out into the street and beaten to death.
31.	Arshad Alam (22), house painter	<ul style="list-style-type: none"> - The sole breadwinner of his family, he left home never to return. - Body was found after a missing report was filed. - His father has alleged that he had bullet injuries in his right leg and hand, but has accused the police of not including these details in the post-mortem report.
32.	Aqib (19), ragpicker	<ul style="list-style-type: none"> - Attacked by rioters; succumbed to injuries in the GTB Hospital.
33.	Sonu (32)	<ul style="list-style-type: none"> - Died of a heart attack hours after he saw a mob in his neighbourhood killing a Muslim man.
34.	Faizan (23), tailor	<ul style="list-style-type: none"> - Among the men pictured lying wounded on the road as police officers forced them to chant the national anthem. - Family alleged that despite injuries, police kept him in custody, and that he was denied access to his family and to medical attention.
35.	Mudasir Khan (36), scrap dealer	<ul style="list-style-type: none"> - Shot in the head on his way home
36.	Mohammad Furqan (32)	<ul style="list-style-type: none"> - Hit by a bullet; brought dead to the hospital.
37.	Nitin Kumar (15)	<ul style="list-style-type: none"> - Youngest victim of the violence, an eighth grade student. - Went out on 26th February to buy chowmien. - Succumbed to injuries in the GTB Hospital.
38.	Shahid Khan (20), auto rickshaw driver	<ul style="list-style-type: none"> - Resident of Yamuna Vihar, shot dead
39.	Aqil Ahmad (40)	<ul style="list-style-type: none"> - After searching for 3 days, Aqil's body was found in the GTB Hospital mortuary.
40.	Parvez (52), social worker	<ul style="list-style-type: none"> - Shot in the back right outside his house.

		<ul style="list-style-type: none"> - According to his family, Parvez was trying to persuade the Hindus and Muslims in the neighbourhood to not participate in the violence.
41.	Altaf (21)	<ul style="list-style-type: none"> - Allegedly taken out from a godown by a Hindu mob and brutally injured. The godown was also set on fire. - Altaf's body was found in a drain. - He had come to Delhi only five days before he was killed.
42.	Dinesh Kumar (28), salesman at electric shop.	<ul style="list-style-type: none"> - Left home for the market and was shot in the head.
43.	Deepak Kumar (32), factory worker	<ul style="list-style-type: none"> - Went out to buy clothes when he was attacked and got badly wounded. Later succumbed to his injuries.
44.	Naresh Kumar Saini (33), vegetable vendor.	<ul style="list-style-type: none"> - Shot in the abdomen and succumbed to injuries a day later.
45.	Irfan (28)	<ul style="list-style-type: none"> - Went out to buy clothes when he was beaten to death by a mob carrying rods, sticks and swords. - His mother who was walking behind him witnessed the whole incident.
46.	Vinod Kumar (51), professional DJ	<ul style="list-style-type: none"> - Left home to buy medicines when he was beaten to death by a mob carrying sticks and stones. His motorcycle was set on fire. - His son, Nitin, who was accompanying him received 42 stitches in his head.
47.	Ishtiyaq Khan (27)	<ul style="list-style-type: none"> - Went out to buy groceries from a nearby store, was shot in his abdomen. - Died in the GTB Hospital.
48.	Maroof (34), ran an electrical appliances shop	<ul style="list-style-type: none"> - Was guarding his area when a mob chanting communal slogans fired at him. The bullet hit Maroof in his right eye. - Succumbed to injuries at the LNJP Hospital.
49.	Babbu (30), auto rickshaw driver	<ul style="list-style-type: none"> - Was returning home to have lunch when he was attacked by a mob. - Succumbed to injuries in the GTB Hospital.
50.	Nazeem Khan (35), scrap dealer	<ul style="list-style-type: none"> - Killed.
51.	Shah Mohd (35)	<ul style="list-style-type: none"> - Resident of Loni, killed.
52.	Alok Tiwari (24), worker in a cardboard factory	<ul style="list-style-type: none"> - Killed
53.	Dilbar (20)	<ul style="list-style-type: none"> - Died of burn injuries.

Source: Delhi Minorities Commission. Report of the DMC Fact Finding committee on the North East Delhi riots of February 2020. (July 2020).

Annex III: List of religious places targeted

SN	Name	Details
1.	Farooqia Masjid	Brijpuri Pulia, Mustafabad
2.	Mina Masjid	Bhagirathi Bihar, near Mustafabad
3.	Madina Masjid	Gali No. 12-13, Shiv Vihar, Phase 7
4.	Tayyeba Masjid	Shiv Vihar, Gaddha Colony
5.	Umar Masjid	Lal Bagh Mandi, Shiv Vihar
6.	Masjid Maula Bakhsh	D-540, Gali 5, Ashok Nagar
7.	Jannati Masjid	Behind Gokalpuri Post Office
8.	Mubarak Masjid	Garhi Mendu near Khajuri
9.	Chand Masjid	E-164, Gali 7, Ashok Nagar
10.	Fatima Masjid	Gali 3, Khajuri Khas
11.	Milan Garden Masjid	Karawal Nagar, near Mustafabad
12.	Abdullah Bukhari Masjid/Madrasa	Tyre Market, Gokalpuri
13.	Azizia Masjid	Gaonri Village, Ghonda
14.	Masjid Umar Farooq	Ghonda Chowk
15.	Auliya Masjid	Shiv Vihar
16.	Allah-wali Masjid	Shaheed Bhagat Singh Colony, Karawal Nagar
17.	Dargah Baba Shaikh (Sayyed Chand Baba Mazar)	Bhajanpura Chowk
18.	Jamiatul Huda Madarsa	Brijpuri
19.	Madarsul Uloom Madarsa	Gokulpuri
20.	Madarsa Mahmoodia	Khajuri Khas
21.	Madrasa Tayyibul Uloom	Ashok Nagar (Shahdara)
22.	Qabristan (Graveyard)	Jyoti Colony

Source: Delhi Minorities Commission. Report of the DMC Fact Finding committee on the North East Delhi riots of February 2020. (July 2020).

Annex IV: Select list of HRDs targeted in Delhi

SN	Name	Details
1	Asif Iqbal Tanha	24-year-old Jamia Milia Islamia student. Arrested in May 2020 and charged under the UAPA. Still in custody.
2	Devangana Kalita	Scholar at JNU and women's rights activist. Arrested in May 2020. Granted bail but re-arrested and charged under the UAPA. Still in custody.
3	Gul Afshan Fatima	Women's rights activist. Arrested in April 2020 and charged under the UAPA. Still in custody.
4	Ishrat Jahan	Former Congress municipal councillor. Arrested in April 2020 and charged under the UAPA. Temporarily released on bail for her wedding. Back in custody.
5	Khalid Saifi	Activist and co-founder of United Against Hate. Arrested in June 2020 and charged under the UAPA. Still in custody.
6	Meeran Haider	Scholar at Jamia Milia Islamia. Arrested in April 2020 and charged under the UAPA. Still in custody.
7	Natasha Narwal	Scholar at JNU and women's rights activist. Arrested in May 2020. Granted bail but re-arrested and charged under the UAPA. Still in custody.
8	Safoora Zargar	Scholar at Jamia Milia Islamia. Anti-CAA protester. Arrested in April 2020 and charged under the UAPA, when she was three months' pregnant. Released on bail in June 2020 after over two months in custody.
9	Sharjeel Imam	Scholar at JNU. Arrested in January 2020 and charged under sedition, UAPA, and others. Still in custody.
10	Shifa-Ur-Rehman	President of the Jamia Millia Alumni Association. Arrested in April 2020 and charged under the UAPA. Still in custody.
11	Umar Khalid	JNU student leader, and the first named in the conspiracy case (Crime Branch FIR no 59 / 2020) Arrested under UAPA act on 13 th September 2020 ON 6 th November 2020, it was reported that both Home Ministry as well as Delhi Government had sanctioned Khalid's prosecution under UAPA, a technical requirement.

1. Kapil Mishra

Initially an AamAadmi Party (AAP) member, Kapil Mishra won the Karawal Nagar assembly seat on an AAP ticket in 2015. He was disqualified as an MLA under the anti-defection law after he campaigned for the BJP during the 2019 Lok Sabha elections and in August 2019, joined BJP. In [December](#) he took out a Pro-CAA rally where the chant, 'DeshKeGaddaron Ko' was shouted by the people.³⁵⁵ On 23 February 2020, he held a Pro-CAA rally in Jaffrabad where he gave Delhi Police a 3-day ultimatum on clearing the Anti-CAA protests. While the Police stood silent, he threatened to take matters in his own hands if the Police did not do anything.

In a complaint filed by Rehmat to the Police, she [stated](#), "At around 4 pm on 23 February, Kapil Mishra came to the site with DCP Ved Prakash Surya and his goons, who were carrying swords, guns, sticks, tridents, spears, and stones, and the police were walking along with them."³⁵⁶ As soon as he came, Kapil Mishra started chanting slogans loudly, 'Deshkegaddaron ko, golimaarosaalo ko'; 'Jai Shri Ram'; 'Kattue Murdabad'. In another complaint filed by Rubina Bano, she [stated](#) that she heard she heard Anuj Kumar, the Assistant Commissioner of Gokulpuri Police Station, assure BJP leader Kapil Mishra over the phone, "Don't worry, we will strew the streets with their dead bodies such that it will be remembered for generations".³⁵⁷ Despite various complaints and reports clearly stating that Kapil Mishra was involved in the hate campaign against Muslims, and his speech instigated the riots, he has not been mentioned, let alone charged, in a single [chargesheet](#) filed by the Delhi Police.³⁵⁸

2. Ragini Tiwari

Also known as JankiBehen, Ragini Tiwari, a follower of YatiNarsinghanandSaraswati, was part of the mob in North East Delhi. She was recorded while making communal speeches near Mohan Nursing home. As reported by [The Quint](#), she was present all through the night of 23 February, until the early hours of the next day when the riots began in Delhi.³⁵⁹ In a complaint made by an eyewitness, accessed by The Quint, it was stated that Ragini Tiwari reached North East Delhi around 9 PM and was accompanied by people carrying big guns, she fired bullets in the air while chanting communal slogans. Her speech, which was recorded on Facebook, stated, "Bahut hua sanatan par vaar, ab nahi sahenge vaar. Sanataniyo baahar aao. Maro ya maar daalo. Baad mein dekhijayegi. Bahut hua. Ab jis ka khoon na khaula, khoon nahi wo paani hai (Enough attacks on Hinduism. We won't tolerate such attacks anymore. Hindus, come out. Die or kill. Rest shall be seen later. If your blood hasn't boiled even now, it's not blood but it is water)." According to an eyewitness, one of the bullets that she fired during her speech hit the head of a boy near by which led to stone pelting and firing. The Quint's story was corroborated by ABP News in part. Like other Hindutva actors whose speeches played a key role in the eruption of riots, Ragini Tiwari has not been mentioned in any of the chargesheets filed by the Delhi Police.

³⁵⁵ -Who is Kapil Mishra? BJP leader being blamed for Delhi riots had once called Modi ISI agent, The Print, <https://theprint.in/india/who-is-kapil-mishra-bjp-leader-being-blamed-for-delhi-riots-had-once-called-modi-isi-agent/371226/> (accessed on 21.10.2020).

³⁵⁶Supra Note 153.

³⁵⁷"We will strew streets with their dead bodies," Delhi police officer told Kapil Mishra over phone, says eyewitness, Maktoob Media, <https://maktoobmedia.com/2020/06/22/we-will-strew-streets-with-their-dead-bodies-delhi-police-officer-told-kapil-mishra-over-phone-says-eyewitness/> (accessed on 21.10.2020).

³⁵⁸Delhi Riots Chargesheet Silent On Kapil Mishra, Names Yogendra Yadav, NDTV, <https://www.ndtv.com/delhi-news/rumours-of-kapil-mishras-men-on-attack-run-led-to-delhi-riots-say-delhi-police-in-chargesheet-2251354> (accessed on 21.10.2020).

³⁵⁹"Kaat Do' Said Ragini Tiwari, 'Eyewitness' Saw Her Firing Bullets, The Quint, <https://www.thequint.com/news/politics/delhi-violence-probe-riots-ragini-tiwari-hindutva-bjp-muslims> (accessed on 21.10.2020).

3. Yati Narsinghanand Saraswati

A Chief Priest at Devi Mandi at Dasna, Narsinghanand, completed his Master's from Moscow Institute of Chemical Machine Building. He worked at several companies in Moscow as well as in London before returning to India. Ever since his return, he has been strongly pushing for a Muslim free India. He has been accused of flaring communal tensions and causing riots and has been under the surveillance of Uttar Pradesh Police for his actions. Dasna in Uttar Pradesh is close to North East Delhi and as curated by [The Quint](#), Narsinghanand made extremely communal statements, many instigating violence.³⁶⁰ On 9th February, he stated, "When your religion needs, you should fight a war. And to pick up arms for religion is not a paap (sin) but punya (virtue)", in a [video published](#) on 22nd February, he can be heard saying, "If we don't remove an evil like Islam from society, how will we survive? Humanity can be saved only if we finish off Islam".³⁶¹ On 25th February, during the riots, [he said](#), "Only Kapil Mishra stood for Hindus against Jihadis in Delhi. Gautam Gambhir is a eunuch. All Hindus must stand with Kapil Mishra."³⁶² Despite these comments, he remains free.

4. Kanhaiya Lal

Kanhaiya Lal is a BJP councillor from Johripur in the East Delhi Municipal Corporation. In a complaint accessed by [The Quint](#), it is clear that the councillor was not only present at the riot site but also was part of the mob and led them.³⁶³ The complainant writes, "That's when I saw Yogendra jeanswala and Councillor Kanhaiya Lal, who was leading the mob. Kanhaiya Lal brought the mob towards Yogendra jeanswala's shop and they stopped there. The entire mob began shouting slogans loudly." The complaint also states that Kanhaiya Lal was saying, "Ka**on ko, Mullo ko nibta do" or "Get rid of the Muslims" through a broadcast mic set up in Bhagirathi Vihar.³⁶⁴ While the complaint was referred to multiple times in the chargesheet filed by the Delhi Police, the parts where Kanhaiya Lal has been accused have not been mentioned even once by the Delhi Police. The complainant filed a [petition](#) in the Delhi High claiming non-registration of his FIR and also stated that he was receiving threats from all those he had named in his complaint, including Kanhaiya Lal.³⁶⁵

³⁶⁰Dasna Priest Called For 'War On Islam' in Run-Up to Delhi Violence, The Quint, <https://www.thequint.com/news/politics/narsinghanand-saraswati-hindutva-delhi-violence-muslims-dasna-ghaziabad> (accessed on 21.10.2020).

³⁶¹<https://www.youtube.com/watch?v=yvCfeyU4Evc> (accessed on 21.10.2020).

³⁶²Delhi Riots Exclusive: BJP Councillor Led Mob, Claims 'Eyewitness', The Quint, <https://www.thequint.com/news/politics/narsinghanand-saraswati-hindutva-delhi-violence-muslims-dasna-ghaziabad> (accessed on 21.10.2020).

³⁶³Delhi Riots Exclusive: BJP Councillor Led Mob, Claims 'Eyewitness', The Quint, <https://www.thequint.com/news/politics/delhi-riots-bjp-councillor-kanhaiya-lal-kapil-mishra-jagdish-pradhan-muslims> (accessed on 21.10.2020).

³⁶⁴Delhi Violence: Man Looted by Rioters Now Being Threatened to Withdraw Complaint, The Wire, <https://thewire.in/rights/northeast-delhi-violence-riots-bjp-kanhaiya-lal> (accessed on 21.10.2020).

³⁶⁵bid.

5. Jagdish Pradhan

Jagdish Pradhan is a BJP leader and former MLA from Mustafabad in Northeast Delhi. In a [complaint](#) made to the Delhi Police by one of the riot victims, it is mentioned, “Kanhaiya Lal (councillor) was talking on the phone and then he said that 'Jagdish Pradhan ne boldiyahaiki in ka**o/mullo ko nibta do' (Jagdish Pradhan has said 'get rid of these Muslims')”.³⁶⁶ There have been at least three complaints, as access by [The Quint](#) which mention Jagdish Pradhan, and explain the direct role played by his workers and campaigners in the violence.³⁶⁷ One of the complaints mention that the mob at Mohan Nursing Home were shouting slogans such as 'Jagdish Pradhan Zindabad', 'DeshkeGaddaro ko GoliMaaroSaalo ko', 'Musalmaanoke do he sthan, Pakistan yaQabristan'. In the complaint made by Iqrar, as accessed by [The Caravan](#), he writes that while he was being beaten up, he heard the mob call Jagdish Pradhan and say, ““Jagdish bhai, we've caught one well-built kattua. We cut the fucker down but he's still got a lot of life left in him. I've called for petrol, the camera is ready, I will send the full video on your other number.”³⁶⁸

The [police](#) have not mentioned Jagdish Pradhan in any of the chargesheets or even initiated an investigation against him.³⁶⁹

6. Satya Pal Singh

Satya Pal Singh a BJP member of parliament from Uttar Pradesh's Baghpat constituency, who has also served as the commissioner of police in Mumbai. According to complaints filed by various victims, he played a key role in the riots. The instructions to the Police and the looting were coordinated by him. According to an [eyewitness](#) who has filed a complaint with the Delhi Police, ACP Dinesh Sharma was leading the mob and was shouting, “Today we must do what SatpalSansad ji has told us. Proceed forward, don't be scared. The police are with you. Pick them one by one and free them from their lives.”³⁷⁰ According to another complaint (accessed by [The Caravan](#)) filed by a victim who had gone to Farooqia Masjid to inspect the damage, saw former Dayalpur SHO Tarkeshwar, and one “Chawla,” identified as the owner of a local general store and a powerful figure in the locality, present at the scene. According to the complaint, Tarkeshwar spoke to the BJP parliamentarian and then instructed Chawla to collect the money from the mosque and the madrasa and take it to the Satya Pal's house. The SHO also stated, “Explain to all the Muslims to leave this neighbourhood and run away, or else they will all be killed.” According to the complainant, “The police personnel set the madrasa on fire, and as the smoke billowed, Chawla and the police force left the site.”³⁷¹

³⁶⁶Delhi Riots Exclusive: BJP Councillor Led Mob, Claims 'Eyewitness', The Quint, <https://www.thequint.com/news/politics/delhi-riots-bjp-councillor-kanhaiya-lal-kapil-mishra-jagdish-pradhan-muslims> (accessed on 21.10.2020).

³⁶⁷Delhi Riots: Several Complaints Name BJP Ex-MLA Jagdish Pradhan, The Quint, <https://www.thequint.com/news/politics/delhi-riots-jagdish-pradhan-kapil-mishra-bjp-mla-muslims> (accessed on 21.10.2020).

³⁶⁸Supra Note 153.

³⁶⁹In 8 Delhi Riots Cases, Complaints Naming BJP Leaders Buried <https://www.ndtv.com/india-news/in-8-delhi-riots-cases-complaints-naming-bjp-leaders-buried-2266374> (accessed on 21.10.2020).

³⁷⁰Supra Note 153.

³⁷¹Supra Note 153.

7. Parvesh Verma

Paresh Verma is a member of the BJP and a member of parliament from West Delhi Lok Sabha constituency. A month prior to the riots, he [said](#) that protestors at Shaheen Bagh will “enter your house... abduct your sisters and mothers, rape them, kill them the way militants had treated Kashmiri Pandits”, which led to an election campaign [ban](#) against him.³⁷² In one of his [speeches](#), he also promised to demolish mosques that were built on government land in his constituency if the BJP came to power in Delhi.³⁷³ Justice Murlidhar, in one of the [hearings](#) on the Delhi riots, had commented FIRs should be lodged against the hate speeches made by leaders like Paresh Verma, Anurag Thakur, and Kapil Mishra.³⁷⁴ Justice Murlidhar was transferred to another High court shortly after the comment. No FIR was registered and none of the leaders were mentioned in any chargesheet filed by the Delhi Police. In August 2020, the [petition](#) filed by Brinda Karat, seeking registration of FIRs against Paresh Verma and Anurag Thakur was dismissed on account that prior sanction from the government was not obtained.

8. Anurag Thakur

During the Delhi election campaigning in January 2020, Anurag Thakur, in one of the rallies [chanted](#), “deshkegaddaron ko, golimaaronsaalon ko (shoot the traitors of the nation)”. In response to the speeches made by leaders like Anurag Thakur and Kapil Mishra, Justice Muralidhar in a hearing on the cases [asked](#) the Police, “Why shouldn't there be an FIR against these four BJP leaders... including Union Minister, MP and MLA? You showed alacrity in registering FIRs for damages to property and arson. Why aren't you registering it for these speeches? Don't you even want to acknowledge the presence of a crime?”³⁷⁵

³⁷²BJP MP says Shaheen Bagh protesters will 'rape, kill' as party makes it Delhi poll plank, The Print, <https://theprint.in/politics/bjp-mp-says-shaheen-bagh-protesters-will-rape-kill-as-party-makes-it-delhi-poll-plank/355438/> (accessed on 21.10.2020).

³⁷³Delhi HC Orders FIR Against 3 BJP Leaders For Hate Speeches: Here Is What They Said, Outlook, <https://www.outlookindia.com/website/story/india-news-delhi-hc-orders-fir-against-3-bjp-leaders-for-hate-speeches-here-is-what-they-said/347904> (accessed on 21.10.2020).

³⁷⁴Ibid.

³⁷⁵Ibid.

9. Mohan Singh Bisht

A member of the BJP and MLA from Karawal Nagar, Mohan Singh Bisht, has been accused in multiple complaints made by riot victims to have been [involved](#) in the violence which includes attacking protesters and vandalising a mosque.³⁷⁶ Shanno, a riot victim filed a [complaint](#) in May against Mohan Singh Bisht, amongst others involved, stating that they were involved in orchestrating the riots.³⁷⁷ She stated that she had been receiving regular threats to withdraw her complaint, and even her family was facing harassment.

10. Abhay Verma

A few days before the riots took place in Delhi, Abhay Verma, a BJP MLA from Laxmi Nagar was leading a group of men and [chanted](#), “Police kehathyaaron ko, golimaaro s***** ko. (Shoot those who killed policemen.)” and “Jo Hindu hit kibaatkarega, wohi is deshmein raj karega” (Those who favour Hindus will rule in this country).³⁷⁸ The video footage was played in court by Justice Murlidhar who came down heavily on the Delhi Police for not initiating action against such speeches. The communal slogans raised by Abhay Verma and the mob he was leading, was in his [constituency](#) of Laxmi Nagar itself.³⁷⁹

11. Nand Kishore Gujjar

Nand Kishore Gujjar is a BJP MLA from Loni, UP which shares its border with North East Delhi. [Many](#) of the complaints made during the riots mention Nand Kishore Gujjar as being involved in instigation and aiding the rioters.³⁸⁰ An [analysis](#) of the investigations by lawyer Mehmood Paracha, shows that there is a complete bias towards BJP leaders³⁸¹. One such case was about a complaint made by a victim who saw his brother getting blown off in an explosion during riots, which named BJP member Nand Kishore. The complainant, when taken to the scene of crime by Crime Branch officers, was attacked by the accused named in his complaint in the presence of the police and the police did nothing. Another complaint made by a person whose house was looted and bombed, named Nand Kishore Gujjar in his complaint. In complaints accessed by [The Caravan](#), it is clear that the BJP leader was involved in planning and executing the riots³⁸². One of the complainants, who was assaulted by the mob stated that while he was being beaten up, one of the men stopped and stated, “Nand Kishore Gujjar ji had said to make videos of two–four of them being burnt alive.” Salim Kassar, a resident of Prem Vihar, wrote that rioters armed with “iron rods, petrol bombs, swords and other weapons were saying that Nand Kishore Gujjar has told them that the police are with them and there is no reason to be afraid.”³⁸³

Despite these complaints being submitted to the Police, Nand Kishore has neither been mentioned in any chargesheet nor has an FIR registered against him.

³⁷⁶Delhi Riots: Several Complaints Name BJP Ex-MLA Jagdish Pradhan, The Quint, <https://www.thequint.com/news/politics/delhi-riots-jagdish-pradhan-kapil-mishra-bjp-mla-muslims> (accessed on 21.10.2020).

³⁷⁷Delhi riots: Complainant says cops assaulted her in station; HC seeks response, Hindustan Times, <https://www.hindustantimes.com/cities/delhi-riots-complainant-says-cops-assaulted-her-in-station-hc-seeks-response/story-BQE11oLcFbeQ7wPte2wUCL.html> (accessed on 21.10.2020).

³⁷⁸'GoliMaaro S***** Ko' Slogans Heard in East Delhi BJP MLA's March, The Quint, <https://www.thequint.com/news/india/bjp-mla-abhay-verma-video-shouts-goli-maaro-saalon-ko-slogan-laxmi-nagar> (accessed on 21.10.2020).

³⁷⁹Delhi riots: Time for Amit Shah to step in, says AAP MP Sanjay Singh, The Times of India <https://timesofindia.indiatimes.com/city/delhi/time-for-amit-shah-to-step-in-aap-mp-sanjay-singh/articleshow/74329110.cms> (accessed on 21.10.2020).

³⁸⁰Delhi Riots Exclusive: BJP Councillor Led Mob, Claims 'Eyewitness', The Quint, <https://www.thequint.com/news/politics/delhi-riots-bjp-councillor-kanhaiya-lal-kapil-mishra-jagdish-pradhan-muslims> (accessed on 21.10.2020).

³⁸¹Mysterious Ghost Informer Behind Arrest Of Safoora Zargar, Others In Delhi Riot Cases, Truth A Casualty, Outlook, <https://www.outlookindia.com/website/story/opinion-mysterious-ghost-informer-behind-delhi-riot-firs-truth-obviously-the-casualty/354213> (accessed on 21.10.2020).

³⁸²Supra Note 153.

³⁸³Ibid

Annex VI: Alleged Delhi Police perpetrators

1. Amulya Patnaik

Position at the time of violence: Commissioner of Police, Delhi

Patnaik is a 1985-batch Indian Police Service (IPS) who served as the Commissioner of Police from February 2017 till 29 February 2020. His tenure had been extended by a month in January in view of the Delhi Assembly elections. During the last four months of his tenure, Patnaik's leadership came under criticism from various quarters numerous times, including for (1) the mass protests by Delhi Police personnel in November 2019, and the subsequent clashes with lawyers, (2) the multiple police actions against students of Jamia Millia Islamia in December, and (3) Delhi Police's inaction as a masked mob attacked teachers and students of Jawaharlal Nehru University in January 2020.

Patnaik has faced criticism both for not 'cracking down hard'³⁸⁴ on the anti-CAA protesters, and for succumbing to political pressure and failing to quell the violence against anti-CAA protesters.³⁸⁵ His leadership during the violence was lambasted by several former senior police officers.³⁸⁶

Patnaik's eventual successor (from 1 March 2020) S.N. Shrivastava was appointed as the Special Commissioner of Police (Law & Order) by the Home Ministry on 25 February, reportedly at the behest of National Security Adviser (NSA) AjitDoval.³⁸⁷ No specific allegations have been raised against Patnaik or Shrivastava.

2. Ved Prakash Surya

Position at the time of violence: Deputy Commissioner of Police, North-East Zone

Surya, a 2009-batch IPS officer, was pictured standing idly next to Kapil Mishra as he made his inflammatory speech on 23 February.³⁸⁸ Multiple eyewitness complaints have alleged that later on the same day, Surya patrolled the streets of Kardampuri and threatened its Muslim and Dalit residents. At one point, he is alleged to have said, "If anyone protests, there will be such riots here that both you and the protests will be killed. You will all be killed."³⁸⁹ On the same day, Surya is also alleged to have led a police contingent that accompanied an armed mob led by Kapil Mishra that raised communal slurs at the Chand Bagh protest site.

Anuj Kumar

Position at the time of violence: Assistant Commissioner of Police, Gokulpuri Police Station, North-East Delhi

³⁸⁴How Delhi police commissioner Amulya Patnaik lost control of his force, Hindustan Times, <https://www.hindustantimes.com/cities/how-patnaik-lost-control-of-his-force-legacy/story-liAqLRa2O8XxIknmC0czyL.html> (accessed on 21.10.2020).

³⁸⁵Under political pressure or a scapegoat? Where Delhi Police chief Amulya Patnaik went wrong, The Print, <https://theprint.in/opinion/newsmaker-of-the-week/under-political-pressure-or-a-scapegoat-where-delhi-police-chief-amulya-patnaik-went-wrong/373289/> (accessed on 21.10.2020).

³⁸⁶Former Top Cops React to Delhi Riots: Amulya Patnaik & Team Were Mute Spectators to Bloody Violence, News18, <https://www.news18.com/news/india/former-top-cops-react-to-delhi-riots-amulya-patnaik-team-were-mute-spectators-to-bloody-violence-2520679.html> (accessed on 21.10.2020).

³⁸⁷S.N. Shrivastava, considered AjitDoval's 'pick', made Delhi Police chief, The Week <https://www.theweek.in/news/india/2020/02/28/s-n-shrivastava-considered-ajit-doval-pick-made-delhi-police-chief.html> (accessed on 21.10.2020).

³⁸⁸BJP leader gives 3-day ultimatum to Delhi Police to clear roads, The Hindu, <https://www.thehindu.com/news/cities/Delhi/bjp-leader-gives-3-day-ultimatum-to-delhi-police-to-clear-roads/article30898775.ece> (accessed on 21.10.2020).

³⁸⁹Senior police officers accused in Delhi violence; complainants continue to face intimidation, The Caravan, <https://caravanmagazine.in/politics/senior-police-officers-accused-in-delhi-violence-complainants-face-intimidation> (accessed on 21.10.2020).

Kumar is a 2016-batch IPS officer. Eyewitnesses have alleged that Kumar was part of a group of police officials that threatened and subsequently fired live bullets at and killed protesters at the sit-in in Chand Bagh on 24 February. The police are alleged to have worked in tandem with a civilian mob.³⁹⁰

He is alleged to have spoken to Kapil Mishra over the phone right before the incident. A witness claimed to have heard Kumar tell Mishra, "Don't worry, we will strew the streets with their dead bodies such that it will be remembered for generations." He is then alleged to have ordered the assault on protestors. Kumar is also alleged to have torn down a poster of Babasaheb Ambedkar and stomped his shoes on it.

Kumar, along with Shahdara DCP Amit Sharma, are reported to have sustained injuries during the same incident. On 5 March, Delhi Police tweeted that Kumar was visited at his residence by the newly appointed Commissioner of Police, and lauded the officer for "heroically rescuing" Amit Sharma.³⁹¹

Kumar resumed duty on 9 May,³⁹² and was subsequently promoted to the rank of Additional Deputy Commissioner of Police.³⁹³

4. Dinesh Sharma

Position at the time of violence: Assistant Commissioner of Police, Bhajanpura Police Station, North-East Delhi

At least one eyewitness has alleged that Sharma was part of a group of police officials and civilians that threatened and subsequently fired live bullets at and killed protesters at the sit-in in Chand Bagh on 24 February.³⁹⁴ Sharma is alleged to have led and encouraged the violence, invoking the support of BJP MP (and former senior police officer) Satya Pal Singh. According to the witness, Sharma told the civilian members of the mob, "Today we must do what Satpal Sansad ji has told us. Proceed forward, don't be scared. The police are with you. Pick them one by one and free them from their lives."³⁹⁵

5. Tarkeshwar Singh

Position at the time of violence: Station House Officer, Dayalpur Police Station, North-East Delhi

Singh was allegedly part of a group of police officials that threatened and subsequently fired live bullets at and killed protesters at the sit-in in Chand Bagh on 24 February.³⁹⁶ Singh is alleged to have assaulted women protesters with lathis. He is also alleged to be part of a group of police officials who picked up bodies of those killed at the protest site and transported them away.

³⁹⁰Ibid.

³⁹¹<https://twitter.com/DelhiPolice/status/1235395347234447360>

³⁹²Delhi riots: ACP Anuj Kumar resumes duty after recovering from injury received during Chand Bagh violence, Times Now, <https://www.timesnownews.com/delhi/article/delhi-riots-acp-anuj-kumar-resumes-duty-after-recovering-from-injury-received-during-chand-bagh-violence/589459> (accessed on 21.10.2020).

³⁹³Anuj Kumar IPS, will be promoted to the rank of Additional DCP, Delhi Police, Sarkar Mirror, http://www.sarkarimirror.com/anuj-kumar-ips-will-be-promoted-to-the-rank-of-additional-dcp-delhi-police/?no_cache=1&fbclid=IwAR0MuyiyLS29UdiTvLIGKHIXNXRt6aXzFI5hvExhsuzRctju3EivE3xzQs (accessed on 21.10.2020).

³⁹⁴Supra Note 384.

³⁹⁵Ibid.

³⁹⁶Ibid.

The next day, Singh is alleged to have been part of another joint mob of civilians and police officials that attacked protesters, including women, with lathis and sticks. Singh is also alleged to have torn down a poster of Ambedkar.

On 26 February, Singh is alleged to have refused to intervene as a mob ransacked a mosque, a madrasa and other public property including CCTV cameras. There have also been allegations that the can of petrol that was used to set the madrasa on fire was initially kept in Singh's car.³⁹⁷

Singh is alleged to have been in touch with BJP MP Satya Pal Singh over the phone.³⁹⁸

6. RS Meena

Position at the time of violence: Station House Officer, Bhajanpura Police Station, North-East Delhi

Meena was allegedly part of a group of police officials that threatened and subsequently fired live bullets at and killed protesters at the sit-in in Chand Bagh on 24 February.³⁹⁹ He is also alleged to be part of a group of police officials who picked up bodies of those killed at the protest site and transported them away.

³⁹⁷Ibid.

³⁹⁸Ibid.

³⁹⁹Ibid.

Annex VI: Delhi Police – a profile

The Delhi Police (DP) is among the largest police forces in India. On 1 January 2019, it had a total strength of 82,190 personnel.⁴⁰⁰ Delhi is divided into 6 Police Ranges, Central, Eastern, New Delhi, Northern, South-Eastern and South-Western, each headed by a Joint Commissioner of Police. There are 15 Police Districts, the Deputy Commissioners of which report to these 6 Joint Commissioners, who further report to the Commissioner of Delhi Police.

Delhi is the capital of India, the seat of the Central Government and has partial, not complete, statehood. Under Article 239AA of the Constitution of India, DP is in the unique position of being controlled not by the elected government of its state, but by the national government, through the Ministry of Home Affairs. This leads to central and state governments often clashing with each other, more so when ruled by two different political parties, and blaming each other for the law and order situation in the capital.⁴⁰¹

DP demonstrates a strange paradox: among the best resourced – in terms of strength, infrastructure, including communication.⁴⁰² Yet, it shows poorly on other counts: training, especially of lower ranks was among poorest in the country;⁴⁰³ disposal of cases was low;⁴⁰⁴ diversity in police force.⁴⁰⁵

DP is largely homogenous in terms of gender, caste, and religion. It has 11.55% of women in its ranks, barely one-third of the 33% 'reservation' for women.⁴⁰⁶ It falls short of fulfilling the requirements of caste-based reservation with 11.27% of Scheduled Castes (SC) positions filled out of the mandated 15%,⁴⁰⁷ 6.70% of Scheduled Tribes (ST) positions out of 7.5%,⁴⁰⁸ and 24.50% of Other Backward Classes positions out of 27%.⁴⁰⁹ Collection of data on representation of religious minorities in Police forces across India was discontinued after 2013, hence there is no way to know officially what representation exists of religious minorities in Delhi Police.⁴¹⁰

⁴⁰⁰Data on Police Organizations (As on January 01, 2019)', Bureau Of Police Research And Development, Chapter 2- Basic Police Statistics, p 59, available at: <https://bprd.nic.in/WriteReadData/userfiles/file/202001301028101694907BPRDData2019-19forweb-2.pdf>

⁴⁰¹ShivamVij, 'Kejriwal may be right. Delhi police should be answerable to Delhi voters', The Quint, 21 January 2014, available at: <https://scroll.in/article/654428/kejriwal-may-be-right-delhi-police-should-be-answerable-to-delhi-voters>

⁴⁰²Police Adequacy Index – a combination of percentage of sanctioned strength, infrastructure and budget - was the highest for Delhi of all state forces. Common Cause and CSDS: Status of policing in India report 2019: Police adequacy and working conditions. P40.

⁴⁰³Ibid.

⁴⁰⁴Common Cause and CSDS: Status of policing in India 2018: A study of performance and perceptions, p23

⁴⁰⁵Ibid, p21

⁴⁰⁶Data on Police Organizations (As on January 01, 2019)', Bureau Of Police Research And Development, Chapter 3- Indian Police : Human Resources, p 91, available at: <https://bprd.nic.in/WriteReadData/userfiles/file/202001301028101694907BPRDData2019-19forweb-2.pdf>

⁴⁰⁷Data on Police Organizations (As on January 01, 2019)', Bureau Of Police Research And Development, Chapter 3- Indian Police : Human Resources, p 82, available at: <https://bprd.nic.in/WriteReadData/userfiles/file/202001301028101694907BPRDData2019-19forweb-2.pdf>

⁴⁰⁸Data on Police Organizations (As on January 01, 2019)', Bureau Of Police Research And Development, Chapter 3- Indian Police : Human Resources, p 83, available at: <https://bprd.nic.in/WriteReadData/userfiles/file/202001301028101694907BPRDData2019-19forweb-2.pdf>

⁴⁰⁹Data on Police Organizations (As on January 01, 2019)', Bureau Of Police Research And Development, Chapter 3- Indian Police : Human Resources, p 84, available at: <https://bprd.nic.in/WriteReadData/userfiles/file/202001301028101694907BPRDData2019-19forweb-2.pdf>

⁴¹⁰Minority members in Delhi police under 4%', The Hindu, 25 November 2017, available at: <https://www.thehindu.com/news/cities/Delhi/minority-members-in-delhi-police-under-4/article20941463.ece>

A Delhi Minorities Commission (statutory body) report released in November 2017 had stated that Muslims formed merely 1.79% of the Delhi Police, while constituting 12.85% of the city's total population. This was based on Right to Information (RTI) applications,⁴¹¹ that revealed that in 2017, Delhi police strength, all ranks, was 76,348. Muslims were only 1300, or 1.7%. Muslim population ratio in Delhi is 13%. In 2013, when data was last published, Muslim number was 1485, confirming that representation has further dipped. Incidentally, Delhi has the best police-population ratio of all states (at 361). But it is skewed against Muslims.

Muslim presence in police formation in North East (NE) Delhi district mirrors the general under-representation in DP as a whole, despite NE Delhi's higher concentration of Muslims in its population (30% compared to 13% for all-Delhi). In NE Delhi, it was 123 persons out of 2940, or just over 4%. Similar under-representation existed in other formations (Central district with a very large Muslim population, only 4%; Special Cell, 4.5%, Special branch 4%). This is despite 2006 central government directive asking states to post larger number of Muslim officers especially in Muslim concentration pockets, as a way to counter the long-standing poor representation problem.

Delhi, like all states have Muslim prisoners overrepresented in their prisons, indicating a case of hyper-incarceration.⁴¹² Muslim prisoners made up 21.6% of the total under-trial prisoner population (2011-15 average), when Muslim population ratio in Delhi is 12.90% (2011 Census).⁴¹³ The double-edged marginalisation, viz. over-incarceration and under-representation, suffered by Muslims has been a longstanding phenomenon.⁴¹⁴ Studies have reported the resultant very high levels of dissatisfaction with Police among Muslims, nation-wide.⁴¹⁵ This perception of discrimination has been reported to be the highest among Muslims in Delhi, compared to other states.⁴¹⁶ Among manifestations of this is Delhi Minority Commission's report of 2015-16 reporting that the largest share of complaints by Muslims it received in the year relating to the working of the Delhi Police (33% of all). DP has a long history of bias against minorities and marginalized sections of society, amply demonstrated during communal riots, 'anti-terror' operations, and even day to day policing. Regarding to the 1984 anti-Sikh riots, the Misra Commission acknowledged that the police were complicit in the violence and purposely left the victims defenceless and vulnerable.⁴¹⁷

⁴¹¹<https://indianexpress.com/article/opinion/columns/muslims-in-delhi-police-jobs-delhi-police-recruitment-crime-in-delhi-national-crime-records-bureau-4936111/>

⁴¹²Ibid, p25

⁴¹³Ibid.

⁴¹⁴Commonwealth Human Rights Initiative. 2018. Muslim Voices. Perceptions of policing in India. P7

⁴¹⁵Ibid. P68.

⁴¹⁶Ibid, p77, p88

⁴¹⁷Hartosh Singh Bal, 'How the Delhi Police Abetted the Pogrom Against Sikhs In 1984', The Caravan, 02 November 2017, available at: <https://caravanmagazine.in/vantage/1984-delhi-police-abetted-pogrom-sikhs>

Eye-witness testimonies named the police as active collaborators.⁴¹⁸ After a series of bomb blasts in 2008, Delhi Police carried out ‘encounters’ (purported anti-terror operations) in predominantly Muslim locality, Batla House in Jamia Nagar, killing two alleged Indian Mujahideen terrorists, Atif Amin and Mohd. Sajid, and arresting two more, with the inspector leading the operation also being killed. The police version was riddled with loopholes and Amin’s and Sajid’s post-mortem reports suggested they were captured, tortured, then executed.⁴¹⁹ The bullets that killed the inspector went missing and were never examined. After the incident, at least 15 Muslim boys from the locality went missing, were ‘encountered’, or were jailed.⁴²⁰ The Special Cell investigating the blasts engaged in widespread abuses of suspects’ rights, such as arbitrary arrest and detention, torture, and threats against suspects and their relatives.⁴²¹

JNU Muslim student Najeeb Ahmed went missing in 2016 after an altercation with some members of Rashtriya Swayamsevak Sangh (RSS) students’ wing Akhil Bharatiya Vidyarthi Parishad (ABVP), with close ties to the ruling BJP. In 2017, Delhi High Court reprimanded Delhi Police for its shoddy investigation in the matter and said it could not refrain from investigating the suspect merely because of his political affiliation.⁴²² The judge said there was “nothing confidential, damaging or crucial” in the police reports filed in sealed covers, based on which media reports had claimed that Najeeb had links to ISIS, and that this report was perhaps planted by the police to sensationalise the matter.⁴²³

To conclude, Muslim-majority areas are generally subjected to harsher policing and discrimination.⁴²⁴ In a survey of 600 police personnel from Delhi, 43% of them felt that Muslims were naturally prone towards committing crimes,⁴²⁵ 24% felt that way about SCs,⁴²⁶ and 21% about STs.⁴²⁷ 38% of them felt that it was natural for a mob to punish someone accused of cow-slaughter.

⁴¹⁸Hartosh Singh Bal, 'How the Delhi Police Abetted the Pogrom Against Sikhs In 1984', The Caravan, 02 November 2017, available at: <https://caravanmagazine.in/vantage/1984-delhi-police-abetted-pogrom-sikhs>

⁴¹⁹Revathi Krishnan, 'Veerappan, Ishrat Jahan, Batla House — India's 10 most controversial 'encounters' since 2003', The Print, 10 July 2020, available at: <https://theprint.in/india/veerappan-ishrat-jahan-batla-house-indias-10-most-controversial-encounters-since-2003/458191/>

⁴²⁰Pallavi Prasad, 'Encounter or Conspiracy? Shoot Out At Batla House Explained', The Quint, 11 July 2019, available at: <https://www.thequint.com/explainers/explainer-a-never-ending-conspiracy-the-batla-house-encounter-explained>

⁴²¹Human Rights Watch, 'The “Antinationals”: Arbitrary Detention and Torture of Terrorism Suspects in India', February 2011, available at: <https://www.hrw.org/report/2011/02/01/anti-nationals/arbitrary-detention-and-torture-terrorism-suspects-india>

⁴²²Rahul Gupta, Infographic- 'Najeeb Ahmad Case: Delhi Police Can't Ignore Questions Over Probe', The Quint, 18 May 2017, available at: <https://www.thequint.com/voices/opinion/najeeb-ahmad-case-delhi-police-investigation>

⁴²³Najeeb Ahmed Investigation to Be Handed Over to CBI, Rules Delhi High Court', The Wire, 16 May 2017, available at: <https://thewire.in/politics/najeeb-ahmed-jnu-cbi>

⁴²⁴Commonwealth Human Rights Initiative & Quill Foundation, 'Muslim Voices: Perceptions of Policing in India', 2018, available at: <https://www.humanrightsinitiative.org/download/1548414445Muslim%20Voices%20Perceptions%20of%20Policing%20Jan%202019.pdf>

⁴²⁵Common Cause & Lokniti – Centre for the Study Developing Societies, 'Status of Policing in India Report 2019', Chapter 6- Police and Society, p 120, available at: https://www.commoncause.in/uploadimage/page/Status_of_Policing_in_India_Report_2019_by_Common_Cause_and_CSIDS.pdf

⁴²⁶Common Cause & Lokniti – Centre for the Study Developing Societies, 'Status of Policing in India Report 2019', Chapter 6- Police and Society, p 120, available at: https://www.commoncause.in/uploadimage/page/Status_of_Policing_in_India_Report_2019_by_Common_Cause_and_CSIDS.pdf

Annex VIII: Domestic and international standards and commitments violated in Delhi

Source: Extracted from Amnesty International. 28th Aug. 2020. BRIEFING: Six Months Since Delhi Riots, Delhi Police Continue To Enjoy Impunity Despite Evidence Of Human Rights Violations

i. Peaceful assembly

Article 21 of the International Covenant on Civil and Political Rights (ICCPR), to which India is a state party, recognises the unrestricted right to a peaceful assembly unless it is not in the “interest of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others”. The limiting clauses are not a license to impose restrictions. However, when the state is unable to protect the participants to the peaceful assembly from severe threats to their safety, it may impose the restrictions, starting with least-intrusive measures based on an individualised or differentiated assessment of the conduct of the participants and the assembly. Blanket prohibitions are customarily disproportionate and must be avoided. Towards this, the law enforcement agencies must also work towards promoting dialogue between various parties in assemblies - before and during the assembly - aimed at promoting preparedness, de-escalating tensions and resolving disputes.¹

Orders under Section 144 of the Indian Code of Criminal Procedure (CrPC), which prohibits an unlawful or violent assembly have been frequently and promptly passed by the authorities to restrict legitimate expression of dissent in the past. However, in the North-East district of Delhi, it was invoked at least a day after the violence erupted. This, despite the Supreme Court of India’s underlining of the stated use of Section 144 in cases of emergency and for the purpose of preventing obstruction and annoyance or injury to any person lawfully employed.

ii. Use of force

The police are given the powers to use force and firearms to enforce the law. However, the use of force must only be resorted to with the utmost respect for the law and with due consideration for the serious impact it can have on a range of human rights: the right to life, to physical and mental integrity, to human dignity, to privacy, and to freedom of movement. The ruthless treatment of the heavily injured men by the Delhi police violated the international human rights standards that allow for force to be used only as a last resort, as much necessary to achieve the objective of such use and proportional to the objective. The principle of proportionality means that law enforcement officials are only allowed to put life at risk if it is for the purpose of saving/protecting another life. In Indian law, sections 129, 130 and 131 of the Code of Criminal Procedure empower the police officers and armed forces to use only necessary or ‘little’ force to disperse an unlawful assembly on the order of the Executive Magistrate or officer-in-charge of the police station.

⁴²⁷ Common Cause & Lokniti – Centre for the Study Developing Societies, 'Status of Policing in India Report 2019', Chapter 6- Police and Society, p 121, available at: https://www.commoncause.in/uploadimage/page/Status_of_Policing_in_India_Report_2019_by_Common_Cause_and_CSIDS.pdf

iii. Right to life and liberty

According to Article 9 of the ICCPR everyone has the right to liberty and security of person and that no one can be deprived of such liberty except in accordance with the procedure established by law. It provides that anyone arrested has a right to be immediately informed about the reasons for the arrest and must be promptly produced before a judge. This applies even if formal charges have not been asserted against a person.² In 1997, the Supreme Court of India in the case of *D.K. Basu v. State of West Bengal* (1997) 1 SCC 416 laid down a set of guidelines to prevent custodial abuse and torture. They have since been incorporated into the CrPC. These guidelines and Section 41B of the CrPC call for identification by the police while making an arrest and preparation of an arrest memo with the date and time of arrest signed by an independent witness and countersigned by the arrested person. It also states that a family member or friend should be informed of the person's arrest along with their place of detention. Section 54 of the CrPC states that the arrested persons are medically examined after being taken into custody. Article 22(2) of the Constitution of India and Section 57 of the CrPC also require the police to produce every arrested person before a magistrate within 24 hours.

iv. Death in custody

Under international law, in any case of death resulting from the use of force by law enforcement officers, regardless of whether it is suspected or alleged that the death was unlawful, there must be a prompt, effective, thorough, independent, impartial and transparent investigation. If the investigation identifies evidence of criminal wrongdoing on the part of any individual or individuals involved, such evidence should be referred to the relevant prosecutorial authorities. Failure to carry out such an investigation would violate India's obligations to respect and protect the right to life and to ensure an effective remedy. Lack of investigation into the torture and subsequent death of Faizan signals towards the multiple violations committed by the Delhi police that remain to be investigated.

v. Incitement to hatred

Article 20(2) of the ICCPR, to which India is a state party prohibits any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. The Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence proposes a six-part threshold test to examine whether an expression constitutes a criminal offence under Article 20 of the ICCPR. The test includes the following elements: 1) context of the statement, 2) the speaker's position or status in the society, 3) intent to advocate or incite hatred, 4) the content and form of the statement, 5) the reach of the statement and 6) the probability of a speech succeeding in inciting the actual action. The speeches made by various political leaders in Delhi, many of whom hold public offices, before the violence seem to pass the threshold test endorsed by the Rabat Plan of Action. The turbulent social and political context during the time the speeches were made, the public standing of the political leaders, the provocative nature of the statement calling for direct violence upon the protesters, the large size of the audience in the election rallies and the recurrent shootings and attacks on anti-CAA protesters along with the actual razing of mosques by rioters point towards the culpability of the political leaders.

Various provisions of the Indian Penal Code (IPC) also regulate hate speech. However, despite the Election Commission of India issuing a notice to Anurag Thakur for making comments that had the 'potential of disturbing communal harmony' and repeated calls by the public to hold the political leaders accountable, on 14 July the Delhi police submitted to the Delhi High Court that there was no evidence that indicates any role played by BJP Leader Kapil Mishra, Anurag Thakur and Parvesh Verma in instigating or participating in the Delhi riots.

vi. Discrimination

International human rights law strictly prohibits all forms of discrimination. No one should be treated differently by law enforcement because of their race, gender, sexual orientation or gender identity, religion or belief, political or other opinion, ethnicity, national or social origin, disability, or other status. Everyone has the right to equal treatment under the law. The Human Rights Council in its Resolution 6/37 called on the states "to exert the utmost efforts to ensure that religious places, sites, shrines and symbols are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration or destruction". Conduct for the Police in India issued by the Ministry of Home Affairs in 1985 states: While the CrPC that governs police procedures in India does not specifically highlight the aspect of non-discrimination, the Model Code of "As members of a secular, democratic state, the police should strive continually to rise above personal prejudices and promote harmony and the spirit of common brotherhood amongst all the people of India, transcending religious, linguistic or sectional diversities and to renounce practices derogatory to the dignity of women and disadvantaged sections of society".

vii. First Information Report (FIR) etc.

Impunity for abuses by law enforcement officials is an entrenched problem resulting from a series of systemic failings. These include the failure by the police or judicial authorities to conduct prompt, thorough, effective and impartial investigations and bring perpetrators to justice and the failure to guarantee the right to an effective remedy. Section 154 of the CrPC, for instance, makes it mandatory for the police to file an FIR on receiving information about a cognizable offence. According to the Indian Penal Code, rioting, destruction of property, murder, serious assault or attempt to cause serious assault are cognizable offences. Making statements that create or promote enmity, hatred or ill-will between classes is also a cognizable offence.

viii. Reparation

International human rights law requires that states parties make reparation to individuals whose rights have been violated. Without reparation to individuals whose rights have been violated, the obligation to provide an effective remedy is not discharged. According to the UN Human Rights Committee, appropriate reparations can involve restitution, rehabilitation and measures of satisfaction, such as public apologies, public memorials, guarantees of non-repetition, and changes in relevant laws and practices, as well as bringing to justice the perpetrators of human rights violations. It is evident that the plethora of abuses committed by the Delhi police during and after the riots does not put them in a position to investigate itself and remedy the widespread impunity enjoyed by its officers and the suppression of the riot survivors.

