

BRUTALISING INNOCENCE

Detention Torture & Criminalization
of Minors by UP Police to quell
anti-CAA protests





In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

- Article 3, UN convention on the rights of the child, 1989

There is no trust more sacred than the one the world holds with children. There is no duty more important than ensuring that their rights are respected, that their welfare is protected, that their lives are free from fear and want and that they grow up in peace

-Foreword to the 'State of the world children', 1990



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Contents



| | |
|-----------------------------------------------------------------------|----|
| Introduction | 1 |
| Torture Testimonies | 3 |
| 1.1. Physical violence | 3 |
| 1.2. Torture by sleep deprivation | 4 |
| 1.3 Tortured for drinking water | 4 |
| 1.3. Torture by intimidation | 5 |
| 1.3.1. Witnessing torture | 5 |
| 1.3.2. Public humiliation and threat | 6 |
| 1.3.3. Vandalizing homes | 6 |
| 1.4. Torture by Silencing | 7 |
| Violation of Juvenile Justice Act, 2015 | 9 |
| 1.1. Violation of JJ Act | 9 |
| 1.2. Violation of JJ Principles | 11 |
| 1.3. Violation of Privacy | 11 |
| Violation of UN Child Rights Convention (UNCRC) | 13 |
| Response To Violence | 15 |
| 1. Police | 15 |
| 2. State | 15 |
| 3. Independent Welfare Agencies | 16 |
| 3.1. National Commission for Protection of Child Rights (NCPCR) | 16 |
| 3.2. UPSCPCR | 16 |
| 3.3 Response of Civil Societies | 17 |
| Recommendations | 19 |
| 7. For UP state government | 19 |
| 8. For NHRC | 19 |
| Appendix | 21 |
| Annexure 1: Journalist Testimony | 21 |
| Annexure 2: Muzaffarnagar Fact-Finding Report | 23 |
| Annexure 3: Bijnor Fact Finding Report | 26 |
| Annexure 4: Testimonies collected from Media reports | 35 |
| Annexure 5: Letter from Child Rights organizations | 37 |
| End Notes | 41 |

Executive Summary

1. This is a report on police violence against minors in Uttar Pradesh during the anti-CAA protests that erupted nationwide after the Citizenship (Amendment) Act, 2019 was signed into law on 12th December 2019.
2. The report is based on fact finding investigations conducted by participating organisations between 10th and 24th January, 2020, in the districts of Bijnor, Muzaffarnagar, Firozabad and verified media accounts looking into the detention, torture, and criminalization of minors in UP. It contains documentary evidence of nature of violence, the methods of custodial torture and intimidation, and post release targeting by law enforcement agencies and the overall effects in individual cases and its patterns across the state of Uttar Pradesh.

Findings

3. Close to 41 minors are/were detained and subjected to custodial torture. Of these, 22 minors were detained and tortured in Bijnor and 14 minors in Muzaffarnagar. Of the latter, FIRs were filed against four minors who were released after 12 days of detention. Two minors continue to be held under detention in Firozabad and have not received any legal aid nor have their cases received any media coverage. Two minors sustained bullet injuries in Lucknow, while another eight-year-old was killed during stampede as a result of police use of excessive force against anti-CAA protests in Varanasi. The boy's parents were forced to conduct a high security burial one hour after the body was returned.

4. UP Police Brutality:

4.1. All detained minors that we (or fact-finding team) spoke with testified that they were beaten with police batons/lathis and made to witness violence inflicted by police on detained adults. Tortured children returned home with bruised body parts and fractures.

4.2. In Bijnor, where night time temperatures dropped to 6 degree Celsius, police made no heating or sleeping arrangements for any detainees. Moreover, they were not allowed to sleep and if they did, they were brutally beaten.

4.3. During detention, minors were denied basic rights like access to drinking water and food. Instead, they were beaten or rebuked for asking for water or using the toilet.

4.4. In Muzaffarnagar, minors were fasting (roza) on the day of detention. Police denied them water, to break their fast.

4.5. In Muzaffarnagar, detained minors were abused, as were their religious figures. They were also forced to chant jai shri ram.

4.6. In most cases, UP police physically and emotionally threatened minors not to attend any more protests and stated this as a reason for detention.

4.7. In Muzaffarnagar, minors were released only after their guardians signed affidavits testifying that there had been no ill-treatment or torture at the hands of the police.

4.8. In Varanasi, the news of the burial of the minor who died in police action was silenced. The burial was conducted under extreme police surveillance and pressure.

4.9. In an attempt to intimidate and induce fear within the citizenry, UP police have publicly displayed posters with mugshots of protesters, including minors.

5. Violation of Law and standards

5.1. According to the Juvenile Justice (JJ) Act (2015) and rules made under the law by Central Government and UP State Government, no child is to be apprehended for either petty or serious offences. If any child is held in detention, the police is required to bring this to the notice of district Juvenile Justice (JJ) Board to enable the latter to direct the authorities to make the child appear before it at the earliest. The child must also be placed in a special unit under the charge of a special juvenile police unit. The JJ Act grants every minor the right to privacy. Public disclosure of the identity of the child is an offense.

5.2. Under the United Nations Convention on Child Rights (UNCRC), clear guidelines have been laid out against torture of children. UNCRC also upholds child's right to freedom of association and peaceful assembly. International law urges nations to prioritize the child's well-being, survival and development.

5.3. In all the cases of violence against minors in UP, there is a clear violation of national and international laws, principles and guidelines.

6. Response to violence

6.1. When the protests first began, going against empirical evidence, and rather

than asking questions of authorities on the reported cases of violations the National Commission for Protection of Child Rights (NCPCR) issued a notice to the Director General of Police in all States asking to keep a check and punish those who use children as “shields” during protests. Early in January, the Uttar Pradesh State Commission for the Protection of Child Rights (UPSCPCR) also issued a similar directive to DGP Uttar Pradesh. Any form of police excesses fails to find mention in both notices.

6.2. The UP police have denied inflicting any torture or violence against any minors, going so far as to deny in specific cases, even the taking in of minors into custody.

Recommendations

7. For UP state government

7.1 A time bound (3 months) judicial inquiry on police action from 20.12.2019, focusing on child rights violations as per state and national laws. Directions based on inquiry to be acted on within specific time period with the aim to include a) justice for minors and their families and b) accountability of officers responsible.

7.2 For judicial inquiry, age determination of detainees under 21 years to be conducted according to rules prescribed under Section 94 of the JJ Act, 2015.

7.3 National scale of compensation to be referred to, to calculate the physical, mental and psychological violence and loss suffered by the violated minors, and due compensation to be paid.

7.4 Counselling for violated minors and their families.

7.5 Issue a public notice regarding rights of minors, especially vis-a-vis police action and Rule 8(3) of the JJ Act, 2015 and UP JJ Rules, 2019.

8. For NHRC

8.1 A time bound (3 months) judicial inquiry on police action from 20.12.2019, focusing on child rights violations as per state and national laws. Directions based on inquiry to be acted on within specific time period with the aim to include a) justice for minors and their families and b) accountability of officers responsible.

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Introduction

On 12th December 2019, Citizenship (Amendment) Act, 2019 was signed into law, leading to widespread protests across the country. Citizen protests against a fundamentally discriminatory law have been met with severe repression and criminalization at the hands of the police, particularly in the state of Uttar Pradesh.

24 districts in U.P. witnessed protests, of which close to 90% recorded violent incidents or police action or both. Police action over the next few weeks resulted in the death of 24 (all protesters/witnesses), 1200 charge sheeted citizens including human rights defenders, and another 5000 in unnamed FIR's across the state. Across the districts, police action against anti-CAA protests have included assault on by-standing citizens, vandalization of homes belonging to minority communities, specific targeting of minority educational institutions like madrasas, and police collision with non-state actors to produce an atmosphere of fear and unaccountability.

The severity of police action in UP is most visible in the abuse of children. Despite national and international legislations, and the respect accorded to jus cogens norms even in times of war, close to 41 minors have been detained and subjected to custodial torture, criminalization and post custodial coercion in UP. This report documents the police action against minors: its numbers, the intensity, methods used, the chilling effect on demands for accountability, violations of national and international law and the inaction of human rights institutions. Based on fact findings conducted across districts in UP between 10th and 24th January, along with verified media accounts, this report is a collation of recorded testimonies of minor victims, witnesses, police officials and photographic evidence of the abuse, and in some cases police FIR's.

The report shows that the abuse of minors is spread across two primary districts of Muzaffarnagar (14 minors) and Bijnor (22 minors), both of which have more than 40% Muslim population and a high concentration of national minority institutions where children from across the country are studying. Covering the incidents in other districts like Firozabad, Varanasi, and Lucknow, this report documents the violation of national laws like the Juvenile Justice Act, 2015 and the UN Child Rights Convention (UNCRC) which India ratified in 1992.

No official response on police action against minors has come from the executive,



the judiciary, or the national human rights institutions. The NCPCR, with its exclusive mandate on the protection of children has chosen to respond with a statement cautioning citizens on the use of minors in protests.

The findings of the report urge an immediate judicial inquiry into the treatment of minors, steps toward their rehabilitation and care, and official action against wrongdoers.



Torture Testimonies

1.1. Physical violence

Five minors who were released in Nagina area of Bijnor testified that, from the time they were picked up to when they were released, they were beaten every two-three hoursⁱ. In Muzaffarnagar too, despite denial of UP police, all the released students said that they had been subjected to beatings by police batons and lathis in the jailⁱⁱ. A 15-year-old, physically challenged, minor was also detained and beaten up in Muzaffarnagarⁱⁱⁱ said:

"I kept telling them that I am physically challenged. But they wouldn't listen. They put me in a police van and started beating me up non-stop." Suleiman said, sitting in the district hospital to change the bandages on his fractured hand. (Bijnor)

17-year-old Y, also from Nagina, was kept in detention for two days and subjected to torture. Y was scared to speak up^{iv} and merely said that:

"Mostly they beat us on the lower parts of our body. I was not able to walk properly for 15 days. The police detained me on Friday and released on Sunday night. Till then I was in custody where they beat me brutally." (Bijnor)

Recalling what her son shared with her after he returned, Y's mother expressed^v her anguish as follows:

"At last, Y came home after two days with his toes crushed and bruises on his body. He was barely walking and his lower part of the body had turned blue due to beatings by the police.... They were given severe beatings during their period of detention. They were first taken to Bijnor Police Lines and then shifted to a farmhouse owned by a BJP MLA. During their illegal detention, Y and others were beaten up mercilessly by the local police officials and were not even given blankets in the spine-chilling cold winter night.... It was the most shocking thing to hear the account of those two days from Y". (Bijnor)



1.2. Torture by sleep deprivation

In Bijnor, a minor said that, even though temperatures dropped to 6 degree Celsius, no warmth or sleeping arrangements were made for any detainees. Moreover, the minors were not allowed to sleep and if they did, were brutally beaten^{vi}.

"I pressed my fingers against my eyelids to keep my eyes open." Said 17-year-old E. "If you nodded off, the guards would hit you with a stick." (Bijnor)

This was corroborated by Y's mother^{vii}:

"... they were not even given blankets in the spine-chilling cold winter night. All they were given was a floor mat to cover themselves with and a strict word of caution that they were not allowed to sleep. Y and other boys were forced to stay awake the whole night and if somebody fell asleep, they had to face merciless beatings." (Bijnor)

1.3 Tortured for drinking water

Psychological torture tactics were also employed by the UP police. In Bijnor, police gave water when the minors said they were thirsty but whenever the boys asked to use the toilet, they were beaten up^{viii}.

"First the police gave us all water, which we drank because we were thirsty." Said B. "But then we realised we would be beaten every time we wanted to pee." (Bijnor)

Y's mother also confirmed^{ix} the same regarding what her son went through during illegal detention:

"Although, they were allowed to drink water, they were not allowed to use the toilet. Whenever anybody requested for toilet, they used to get beaten up by the police." (Bijnor)

In Muzaffarnagar, during the detention, the minors were refused drinking water and instead were psychologically tortured for asking the same^x.

"They refused to give us water and said that if we are so thirsty, we should drink their urine." said a student who didn't want to be named..." (Muzaffarnagar)



Syed Asad Raza Hussaini, Founder and Principal of the Madrasa^{xi} in Muzaffarnagar said:

“On Fridays students observe fast. They asked for water to break fast that evening. They were all denied water. Police abused and passed derogatory remarks against Islamic religious figures – the prophet. They were forced to say Jai Shri Ram.” (Muzaffarnagar)

1.3. Torture by intimidation

1.3.1. Witnessing torture

The UP police told the detained children of Bijnor that the reason for their detention and abuse by police was in order to *“teach them to never attend a public demonstration again”*^{xii}. All five minors confirmed that they were not only detained along with adults but also made to witness them being tortured^{xiii}.

“At one point, they made an adult prisoner strip naked and show us his bruises.” E said, a statement two other children confirmed. (Bijnor)

The team from Delhi which visited Bijnor tried to meet W, who is reported to be around 13 or 14 years old. The fact-finding team was first intimidated by the locals who said that the boy had gone to Delhi; But by the evening of the 11th of January, the team was told that the boy is in Bijnor itself, but is scared to meet anyone for fear of reprisal from the police. However, after meeting the team, X shared^{xiv} how the police intimidated them with stories of some detained persons being stripped naked:

“While we were going in the bus, one of the police officials made a video call to somebody and showed us the video of other people being stripped naked and subjected to ruthless beatings and brutalities. He said that even we are going to be welcomed in the same manner - ‘Aajao, yahan humne tumhare swagat ki saari tayyari kar rakhi hai’ (Come here, we have done all the preparations to welcome you).” (Bijnor)

X then added:

“I was pushed inside a big hall where about 150 people were detained and were being beaten up. I saw many young people and children in the age group of 15-16 years in the group as well. Police officials were beating everybody present in the hall. While one police official had



held the hands of the detainees, the other police official was raining lathi blows mercilessly on bare bodies.”(Bijnor)

Another child testified that while being released a police man threatened him that this would be his plight if he ever protested again^{xv}.

1.3.2. Public humiliation and threat

The UP police publicly displayed posters with pictures of persons who ‘allegedly’ protested in the rally with a notice seeking information from anyone who knew such persons or their whereabouts. In Bijnor’s Jalalabad area, a 15-year-old boy, Z^{xvi} who is one amongst the many children on the poster said that, this method is being used by the police to intimidate certain communities.

Many young boys have been sent away, out of Bijnor by their families fearing police action. The release of the poster/ public notice has only added to their fears.

“Yesterday, the police released a poster of the persons who were the part of stone-pelting. I got to know from others that my photo is also in that poster. Another picture in the poster resembles my elder brother, who is about 20 years old. Most people in our locality think that he is my brother, but we are not sure as my brother was not wearing the clothes worn by the person in the picture. He doesn't have such clothes. He was wearing something white. My photo is quite clear in the poster and I also have a similar jacket and a cap. The poster has pictures of some other children also from the locality, who are under the age of 18 years like me. No police have contacted us so far since the release of the poster, but I am planning to leave here as soon as possible.” said 15-year-old Z (Bijnor)

1.3.3. Vandalizing homes

In Raukhedi, Jalalabad, District Bijnor, the community reported how the police barged into their homes late at night and vandalized property while threatening families to cooperate with the police. F, who is a resident of Bijnor said^{xvii}:

S was sitting with my father and my younger sister was fetching peanuts for him when someone knocked at our door. When we enquired who was there, the policemen suddenly broke the door open and arrested S without asking or responding to any questions. The police also went upstairs and broke our household items. They



even tried to arrest our father till we started crying and requested them to spare our father who is so old and had done nothing. We asked the policemen why they were taking him. When they didn't pay any heed, me and my two sisters started screaming out of fear. After a hue and cry they left without our father but took S with them. S got married just two months ago and is still in jail...The police were doing wrong as they entered our house without any information and broke our household things. We were not the only ones. The police did this in many houses in the locality and any male member present in the house was being arrested. There were no lady police accompanying them even as they were barging into people's homes forcefully. How can they do this? Who gives them this right?" (Bijnor)

1.4. Torture by Silencing

In Muzaffarnagar, Police heads – SSP, SP, CO City, contacted the madrasa officials/ heads, asking them to give statements saying no beating or torture took place. In return, they said they would release everyone still in custody, otherwise cases would drag on. Syed Asad Raza Hussaini, Founder and Principal of the madrasa testified^{xviii} they submitted an affidavit saying that there had been no ill-treatment or torture.



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Violation Of Law & Standards

1. Violation of Juvenile Justice Act, 2015^{xix}

1.1. Violation of JJ Act

Detention of every minor that took place in the two districts is a violation of the JJ Act and the Rules made under the Central Government and the U.P. State Government.

Both Model Rules and the U.P. State Rules on Juvenile Justice clearly require that no child shall be apprehended for petty or serious offences. Registration of FIR and apprehension is allowed only for heinous offences, and that too if such apprehension is necessary in the best interest of the child. Going by the list of offences figuring in the FIR in Nagina, all the offences are either petty offences or serious offences as per Section 2 (45) and Section 2 (54) of the Juvenile Justice (Care and Protection of Children) Act, 2015.

Under chapter four, section 10 of the Juvenile Justice Act, 2015, it is elaborated that if a child is apprehended, the Child Welfare Police Officer/Special Juvenile Police Unit is responsible for producing the child before the Juvenile Justice Board within a period of 24 hours excluding the time necessary for the journey from the place where the child was apprehended. As mentioned in the testimonies, no minor was produced before any Board and instead all of them were held for longer than 24 hours without any accountability. Neither were any of the children placed under any Child Welfare Police Officer. This means that under no circumstances, should a child be placed in a police lockup or lodged in a jail. All minors detained in UP were not only detained in police lock ups but also tortured and made to witness police torture.



Juvenile Justice (Care and Protection of Children) Act, 2015 CHAPTER IV

PROCEDURE IN RELATION TO CHILDREN IN CONFLICT WITH LAW

10. (1) As soon as a child alleged to be in conflict with law is apprehended by the police, such child shall be placed under the charge of the special juvenile police unit or the designated child welfare police officer, who shall produce the child before the Board without any loss of time but within a period of twenty-four hours of apprehending the child excluding the time necessary for the journey, from the place where such child was



apprehended: Provided that in no case, a child alleged to be in conflict with law shall be placed in a police lockup or lodged in a jail. (2) The State Government shall make rules consistent with this Act,— (i) to provide for persons through whom (including registered voluntary or nongovernmental organisations) any child alleged to be in conflict with law may be produced before the Board; (ii) to provide for the manner in which the child alleged to be in conflict with law may be sent to an observation home or place of safety, as the case may be.



Rule 8 (2) of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016 as well as the UP Juvenile Justice (Care and Protection of Children) Rules, 2019, further require immediate intimation of apprehension of a minor to his/her parents and the probation officer. This procedure was also flouted during the detention of minors.

A mother of a detained child testified^{xx} that:

“On 20.12.2019, my son Y had gone out with his friends. I did not know where he was going. When Y did not come home till late evening, I got worried and started searching for him in the neighbourhood. When I did not get any information regarding his whereabouts, I approached the Chairman of the Nagar Panchayat and got to know that my son, Y has been picked up by police for protesting. As soon as I learnt that he has been picked up by the police, I ran to the local Police Station i.e. Nagina PS. But my son was not there and even the police officials refused to give me any details about my son. I could not meet my son for two days and did not even know where he had been taken. As a mother, those were the most terrifying moments to not know where and how my son was.” (Bijnor)

When a child alleged to be in conflict with the law is not apprehended, Rule 9 (4) of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016 as well as the UP JJ Rules of 2019, require the police to forward information in this regard to the Juvenile Justice Board so that the Board can require the child to appear before it at the earliest and measures for rehabilitation, where necessary, can be initiated. This too has not happened.

The age of all persons appearing to be under 18 years of age needs to be determined through due process prescribed under Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015. As per first hand and second hand testimonies of minors, this procedure had not taken place before, during or after the detention.



CASE LAW

Gopi Nath Ghosh vs State Of West Bengal

In Gopi Nath Ghosh vs. State of West Bengal AIR 1984 SC 237, the Supreme Court has clearly stated, "We are of the opinion that whenever a case is brought before the Magistrate and the accused appears to be aged 21 years or below, before proceeding with the trial or undertaking an inquiry, an inquiry must be made about the age of the accused on the date of the occurrence. This ought to be more so where special acts dealing with juvenile delinquent are in force. If necessary, the Magistrate may refer the accused to the Medical Board or the Civil Surgeon, as the case may be, for obtaining credit worthy evidence about age. The Magistrate may as well call upon accused also to lead evidence about his age. Thereafter, the learned Magistrate may proceed in accordance with law.



In the FIRs registered in Nagina against 83 persons, the age of 28 persons is shown to be between 18 to 21 years. Until the 27th of January 2019, all of them were in jail. On the 28th of January, some were granted bail, but their release needs to be confirmed. In any case, there has been no compliance with the directions issued by the Supreme Court in the Gopinath Ghosh vs. State of West Bengal to determine their age.

1.2. Violation of JJ Principles

Under Section 3 of the JJ Act, 2015, which illustrates the 'General Principles of Care and Protection of Children', state agencies are liable to follow the listed fundamental principles and guidelines framed by the Act. This section presumes every child to be innocent of any mala fide or criminal intent up to the age of eighteen years. It guarantees dignity, equality, care, best interest, right to be heard, safety, privacy and confidentiality, non-stigmatising semantics, non-discrimination, restoration to their families at the earliest, and use of positive measures besides requiring detention to be a measure of last resort and for the shortest period of time. In all the cases of minors who were detained, all the listed principles of this section have been undermined.

1.3. Violation of Privacy

Chapter II of the JJ Act lays down the 'general principles of care and protection of children'. Section 3 (xi) of the JJ Act stipulates that "every child shall have a right to protection of his privacy and confidentiality, by all means and throughout the



judicial process." Disclosure of identity of a child in conflict with the law or a child in need of care and protection is an offence under section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015.



CASE LAW

Justice K.S.Puttaswamy(Retd) vs Union Of India

In K.S. Puttaswamy & Anr. v. Union of India & Ors. "under Section 3 of the Act the Central Government, the State Governments, the Board, and other agencies as the case may be, while implementing the provisions of this Act are to be guided by the principles of Principle of right to privacy and confidentiality." Further, "[s]ection 74 of the said Act prohibits disclosure of identity of children in any newspaper magazine, news-sheet or audio-visual media or other forms of communication which may lead to the identification of a child in conflict with law or a child in need of care and protection or a child victim or witness of a crime" except if this is done in the "best interests of the child".



CASE LAW

Nipun Saxena v. Union of India

In Nipun Saxena v. Union of India [(2019) 2 SCC 703], Justice Deepak Gupta makes a reference to section 74 of the JJ Act which prohibits the disclosure of the identity of children and discusses the same with respect to children in conflict with the law. In this case Justice Deepak Gupta held that "the name, address, school or other particulars which may lead to the identification of the child in conflict with law cannot be disclosed in the media. No picture of such child can be published. A child who is not in conflict with the law but is a victim of an offence especially a sexual offence needs this protection even more."



With reference to the above case law, within the framework of the JJ Act, the circulation of pictures of minors who were a part of the anti-CAA protests for the purposes of identification by the UP police constitutes a violation of the minor's right to privacy. It is pertinent to note that even if the minor is in "conflict with law" such circulation is prohibited by the Act.



2. Violation of UN Child Rights Convention (UNCRC)^{xxi}

The UNCRC is a human rights treaty that illustrates the civil, political, economic, social, health and cultural rights of children. India ratified the UNCRC on 11th December 1992, agreeing to all articles except on issues of child labour. Any person below the age of 18 is defined as a 'child' and thus minor.

The treaty elaborates that:

- a. A child has a basic right to be "protected against all forms of discrimination or punishment" (Article 2 (3)). The treaty clearly states that under no circumstance is it legal to subject a child to "torture, or other cruel, inhuman or degrading treatment or punishment" or deprive a child or his or her liberty in any unlawful or arbitrary manner (Article 37).

In the case of minors held in detention in UP, it is evident from the media testimonies that all minors testified to physical and psychological custodial torture that included severe inhuman, discriminatory, degrading treatment.

- b. A state party is expected to ensure that any institution that holds a child is responsible to ensure care, protection and abide by the directed standard operating procedures of the same while prioritizing the child's well-being, survival and development and ensuring that a child's right to life is never threatened (Article 3, 6 and 36).

The UP police did not abide by any national or international standard operating procedure and in no way was a child's well-being their concern. In fact, the torture they subjected the children to was a direct and immediate threat to the children's life.

- c. Every child is also guaranteed with the right to freedom of association and peaceful assembly (Article 15), and if he or she is perceived to have come in conflict with law and so detained, the child has a right to be heard either "directly or through a representative body in a manner consistent with the procedural rules of national law" (Article 12).

The minors held in Bijnor testified that a few of them were not even taking part in protests while they were picked up. In Muzaffarnagar, the minors were picked up when the police barged into the madrasa into 'madrasas' where no protests took place. During the detention, media narratives state that minors were further threatened not to participate in any anti-state protests.

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○ Response To Violence


1. Police

Bijnor superintendent of police Sanjeev Tyagi claimed to be unaware of any minors being detained and instead asked the journalist covering the incident for evidence^{xxii}. When asked if there were CCTV cameras within the Police Lines that the journalists could access the superintendent Sajeev Tyagi said he would have to “*come back to that at a later time.*” He also asked the journalist if the ‘alleged’ injured children had been taken to private or government hospitals. The officer said he had received no complaints of police brutality and would “*probe*” if he did. According to the report: “*When we told him that the children had said that they had been in the lockup, and had been released, he asked for their names so he could check, and said that this was the first time that he was hearing about it. Tyagi insisted he had not received any allegations of brutality, and so no investigation was taking place. If he got a complaint, he said, a probe would take place.*”

2. State

With regards to violence against children in UP, the government has not taken cognizance or issued any statements. Instead, in a video, the Chief Minister Yogi Adityanath guaranteed that “*badla*” (revenge) will be taken against protestors^{xxiii}. On 27th December, 2019, justifying the UP police crackdown on anti-CAA protestors, he said that the police actions have “*shocked*” protestors into silence.



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|  <p>Yogi Adityanath Office @yogioffice</p> <p>हर दंगाई हतप्रभ है। हर उपद्रवी हैरान है। देख कर योगी सरकार की सख्ती मंसूबे सभी के शांत हैं। कुछ भी कर लो अब, क्षतिपूर्ति तो क्षति करने वाले से ही होगी, ये योगी जी का ऐलान है। हर हिंसक गतिविधि अब रोयेगी क्योंकि यूपी में योगी सरकार है।</p> | <p>*Every rioter is shocked. Every troublemaker is shocked. Everybody has fallen silent after seeing the strictness of the Yogi Adityanath government. The Chief Minister has announced that anybody who damages public property will have to pay up. Every violent protester will cry now because there is a Yogi government in Uttar Pradesh.*</p> |
| <p>#TheGreat_CmYogi</p> <p><small>Translate Tweet 8:44 PM · Dec 27, 2019 · Twitter Web App</small></p> | |





3. Independent Welfare Agencies

3.1. National Commission for Protection of Child Rights (NCPCR)

NCPCR is a statutory body under the Commissions for Protection of Child Rights (CPCR) Act, 2005^{xxiv}. The body is under the administrative control of the Ministry of Women & Child Development, Government of India. The Commission's Mandate is to ensure that all Laws, Policies, Programmes, and Administrative Mechanisms are in consonance with the Child Rights perspective as enshrined in the Constitution of India as well as those in the UN Convention on the Rights of the Child^{xxv}. The NCPCR defines a '**child**' as a person in the 0 to 18 years age group^{xxvi}. If required, the commission has the power to demand and initiate an inquiry into the violation of child rights and recommend initiation of proceedings. During the inquiry, the NCPCR has the powers of a civil court^{xxvii}.

On December 14th, the NCPCR issued a notice to all Director Generals of Police in all states regarding the misuse of children in unlawful activities like stone-pelting during the anti-CAA protests. It elaborated that such use of children as "*shields*" is a violation under the JJ Act, 2015. NCPCR's very own guidelines warn police and military to avoid blanket characterization of adolescent boys as 'security threats' and that the body must in all circumstances uphold the rights and safety of a child^{xxviii}.

Any form of police excesses fails to find mention.

3.2. Uttar Pradesh State Commission for Protection of Child Rights (UPSCPCR)

Instead of condemning violence, the UPSCPCR, a body entrusted with the responsibility of ensuring and upholding child rights at the state level, offered further impunity to the police. In a letter dated 2nd January 2019, like the NCPCR, the UPSCPCR asked all District Magistrates and police heads in UP to submit a report within 10 days on minors being used as a shield in protest^{xxix}. According to the Commission, in the anti-CAA protests in UP, minors are being used as '**human shields**' by protestors, thus "*Misleading children and minors to participate in violent protests in an organised manner is a violation of child rights*"^{xxx}. At no point does the letter mention anything about police excesses against minors.



3.3 Response of Civil Societies

In a letter dated January 6th 2020, 58 child rights activists and organizations from across the country sent a letter to Priyank Kanoongo, the Chairperson of NCPCR. The letter, surprisingly, welcomed the NCPCR's recommendation to District Generals of Police to look into the matter of minor's participation in protests. In a very brief section, the letter states the concern of violence against minors in police custody.

While the letter cautiously suggests that NCPCR take note of the Articles mentioned in the UNCRC, there is no reference of any violation of Juvenile Justice (Care and Protection of Children) Act, 2015 or the UNCRC. The letter does not contain any specific mention of district wise violations, number of detainees, nature of police violence or primary or secondary testimonies either^{xxxi}.

XOX



Recommendations

7. For UP state government

7.1 A time bound (3 months) judicial inquiry on police action from 20.12.2019, focusing on child rights violations as per state and national laws. Directions based on inquiry to be acted on within specific time period with the aim to include a) justice for minors and their families and b) accountability of officers responsible.

7.2 For judicial inquiry, age determination of detainees under 21 years to be conducted according to rules prescribed under Section 94 of the JJ Act, 2015.

7.3 National scale of compensation to be referred to, to calculate the physical, mental and psychological violence and loss suffered by the violated minors, and due compensation to be paid.

7.4 Counselling for violated minors and their families.

7.5 Issue a public notice regarding rights of minors, especially vis-a-vis police action and Rule 8(3) of the JJ Act, 2015 and UP JJ Rules, 2019.

8. For NHRC

8.1 A time bound (3 months) judicial inquiry on police action from 20.12.2019, focusing on child rights violations as per state and national laws. Directions based on inquiry to be acted on within specific time period with the aim to include a) justice for minors and their families and b) accountability of officers responsible.

XOX



Appendix

Annexure 1: Journalist Testimony

Name: Naomi Barton

Organization: The Wire

Date: 21 January 2020

I met with two children who testified to being abused by the UP police in Nagina, while covering the police attacks on civilian protests that took place across December 20 and 21.

Both these children were in a state of what can only be described as a terrible shock and fear. Both of them along with their families refused to be named, for fear that the police would follow up with further violence upon them and their families. As described in the published article, the children testified to being subject to physical beatings during the detainment process as well as at the detention.

They testified to the cruel psychological torture by policemen, where they were offered water repeatedly, and on needing to urinate, were beaten on their way to and from the toilet to the point where one refused to drink water for the two days, he was detained for fear of being beaten further. One child was able to verbally communicate with us and showed us the bruises on his legs. One child was non-verbal at the time, and was only able to communicate to his parents and family, who told us what had taken place. He refused to get out from under his blanket for fear that someone could recognize him and tell the police. The trauma is comparable to PTSD, given that his family has also testified to his not being able to sleep at night for fear of nightmares of the police beating him.

Both families we met lived in abject poverty, and outside the neighbourhood block where they lived, at least six policemen had been stationed, and were on watch. The families all were terrified of making any complaints, as they said the policemen all knew where they lived. They had no protocols for redress available to them, and were in a state of shock and what can only be described as terror of what could happen next, and without provocation. They felt keenly aware that no measures would be taken against policemen for the crimes performed upon their children.

When I interviewed SP Tyagi, who was in charge at the time, not only was he not aware of how many had been detained at Nagina, but he professed a complete ignorance of allegations that children had been detained. Instead, every time we



spoke to the SP regarding video evidence that we had that testified to the torture, he urged us to give that evidence to him to follow up - something that we could not do for fear of putting the children at further risk.

At the very least, given that some people had been detained for two days, and 21 children had been released from custody, a paper trail should exist articulating the release of the detained minors. When asked about what steps were being taken to investigate allegations of abuse in custody, he said no complaints had been made to him and it was the first that he was hearing of this, something that either speaks to a criminal ignorance or criminal incompetence given that every single community member we spoke to over a one-day period was aware of and in fear of what had taken place. When we said that the civil lines station where the children had been held and tortured would have had CCTVs by which information would be verified and if he could investigate on those lines, he deflected the query.

My impression of the police attitude to severe allegations of human rights abuse under their watch was that of resentment, indifference, and frankly an aggressive justification with absolutely no sense of justice or accountability. This combined with their surveillance of the families leads me to believe that their terror is entirely justified and it is incumbent upon the state to address this unless it deliberately intends to keep a religious minority in that state of terror.



Annexure 2: Muzaffarnagar Fact-Finding Report

Name: Syed Asad Raza Hussaini, Founder and Principal

Place: Anjuman e Tariqqie Taleem Sadaat Bahra,
Arya Samaj Road, Muzaffarnagar

Date: 15 January 2020

Below is the Principal's verbatim account of the incidents of 20th December, supported by our own observations of what we saw first-hand.

The compound contains a mosque, madrasa and hostel for madrasa students, last two a smaller enclosed facility, all boys, 60 in all. Students from Mubarakpur, Mau, Saharanpur, Muzaffarnagar, Bijnor, Meerut among other districts (all UP) and Cargill (Kashmir, now Ladakh). All from poor backgrounds. Free teaching and board. There is a separate hostel for girls. The facility is located on Arya Samaj road, close to Meenakshi Chowk/Shiv Chowk (town centre). No other Muslim habitation in the area. Islamiya college – Muslim management – is at some distance away.

P: On the day, Friday, 20th December, a call for protest against CAA had been given. Sec 144 was said to be in effect. Police was deployed everywhere, on Arya Samaj road among others. Police was also deployed inside the compound. The Police party lead came in about 1030 am, met the principal, asked if they could get some tea from the kitchen and also 10-12 chairs. Was happily provided.

The madrasa likes to keep a low profile. No interaction with any political party, nor brush with police in the past. They have also – in the 40 years of its existence – never participated in any political rallies or protests. Principal, who is also the imam of the mosque, asked all students and others at Friday prayers, not to join protest that day, planned for after prayers.

Policemen on duty inside the compound left at 2.30 pm, after the protest rally had passed (at 1.30 pm). (Were aware of the confrontation between protesters and police at nearby Meenakshi Chowk)

At 3.45 PM, a group of some 200 police persons, all in uniform, tried to enter the compound's main gate – iron. Could not enter. Then went around to the adjacent building, jumped over the walled fence came and opened the gate from inside. Broke all CCTV cameras at the gate. Principal was in his office room. They came in, and immediately, without a word, started hitting the principal and abusing him. All



the while smashing everything in sight (administrative block) – from a car parked outside the gate, to all computer systems, bathroom wash basin, commode, the AC in Principal's room, window panes. Ceiling Fan blades inside rooms and veranda were mutilated – how did they do that?

They then went to the hostel block, behind administrative – a 3 floored building – and began beating up students. Being Friday, and just after prayers, they were all in their rooms. Where rooms were bolted from inside, they broke those down – latches, and also entire boards, and dragged students out, from all floors. There was a total of 57 students on roll. There were 50 in the hostel at the time.

Surrounded by a posse of policemen, someone who a policeman later called Deewan sb. held the principal by his ears, and then the neck trying to strangulate him, when the other policeman asked the 'deewan sb.' Not to. This while asking the principal, what call he had given at Friday prayers for the protests, and why his students were among the protesters. Where did they get tamancha (country revolvers) and lathis from, and who had instigated them?

All 50 students were dragged out of their rooms, and into waiting police vehicles. Also dragged out were the Principal, cook, and at least two staff members. The police kept up the beating throughout, whilst in the madrasa, in transit, in police vehicles, and later at the Civil Lines police station, where all were taken. Among those taken was also an 8-year-old student, who was left in the police vehicle, all by himself, as all others were taken into the thana.

At the police station, they were put along with other detainees from the police arrests that day. There Principal and students were all threatened, abused, and beaten. The principal was severely beaten – has a broken arm (in sling now), and bruised legs and body. One student was rolled around a drum and hit on his legs – smashing his knee. (had to spend Rs. 1.2 lakhs on surgery later). Many had arms broken, all have beating marks and bruises all over their body. 4 students are from Kargil. And others from distant districts in UP. Police said we had called specialist stone-pelters for the protest.

On Friday's students observe fast. They asked for water to break fast that evening. They were all denied water. Police abused and passed derogatory remarks against Islamic religious figures – the prophet. They were forced to say Jai Shri Ram.

12 students were released by the police later that night. Also released was the principal, along with staff, except the cook. 3 students were released on 21st Dec. 12 students were challaned (FIR registered, and named as accused). Others have



been released since, except 3 persons who were not our students but were in the compound for Friday prayers. All 3, above 18 years.

Of those taken into custody, 14 students were under 18 years. 4 of these were among those that were challaned. These 4 were released after 12 days. No minor is still in custody now. All were released (including on bail) after we showed proof of their age – being minors.

Several individuals have filed a writ in HC against police brutality against us. Hearing on the case is on 16th January. We think, this has created fear among police of punishment and of losing their jobs. Police heads – SSP, SP, CO City, have all contacted us, asking us to give statements saying no beating or torture took place. In return they said they would release everyone still in custody, otherwise cases would drag on.

We are an educational institution. Since foundation I have focused only on educating poor children and others. We also run coaching classes and school for girls. All this has distracted us from our main work. And if we pursue cases, that will distract us more. So, we submitted an affidavit saying what they asked us to – no ill-treatment, no torture.

Madrasa was closed on Sunday, 22nd Dec. we reopened yesterday. But children – who went home after release, have not come back. They are all scared.

We have also just today started to clean up the mess that police created – fixing electric switch boards, and furniture and doors.

FIR No. 684 of 2019, 21st Dec. Civil Lines Thana

All arrested have been booked under Indian Penal Code 1860 (IPC) sections: 147, 148, 149 (rioting), 186, 188 (obstructing and disobeying public servant), 323 (causing hurt), 336 (endangering human life), 353 (assaulting public servant), 307 (acting with intention to cause death), 504 (provoking to disturb public peace), 427 (mischief causing damage), 120-B: (criminal conspiracy), besides CLAA 1932, Sec 7 (preventing a person from undertaking business); and PDPPA 1984, Sec 2, 3 (destruction of public property).

All charges except Sec. 188 removed off 10 students of the madrasa.



Annexure 3: Bijnor Fact Finding Report

a. **Witness testimony**

Name: X

Place: Nagina

Age: 20 Years

"On the day of Friday prayer on 20.12.2019, me and my friends were coming home after prayer at the nearby mosque. It was between 3:15 to 3:30 PM when a group of police personnel came and caught me and 20 other boys accusing us of pelting stones and taking part in the protest. Amongst the police officials, there were some Police Mitras also who were instrumental in beating us. Out of the people detained by the Nagina Police, only 2-3 persons were around the age of 25 years, the rest were by and large 18 to 22-year olds and there was one 16-year-old and a 14-year-old boy also among them. We were brought to the Nagina Police Station and were subjected to severe beatings. We were not given any information regarding the reasons of our arrest and detention. We were not even allowed to contact any of our family members. They took away our mobile phones and all the money we were having with us.

While we were in the police lock-up, it was time for Asar (the pre-sunset evening prayer). We requested the police officials to let us go to offer the evening prayer, but were not allowed. Thereafter, we decided to offer the Asar prayer in the police lock-up itself and made one of the older boys our Imam to lead the prayer. One of the Inspectors saw this and called us a deshdrohi (traitor). The boy who led the prayer was beaten up badly with a lathi on his chest (batons carried by police).

At around 6.00 PM on the same day, all of us who were detained in the Nagina PS, were taken to Bijnor Police Line in a bus. In the bus, 8-10 police officials were present. We had not been informed of where they were taking us and what was the reason for detaining us. I was not even allowed to contact my family members. All such requests to the police officials were treated with utter disrespect and verbal and physical abuses. While we were going in the bus, one of the police officials made a video call to somebody and showed us the video of other people being stripped naked and subjected to ruthless beatings and brutalities. He said that even we are going to be welcomed in the same manner.

The bus reached Bijnor Police Lines at around 6.45 PM. Upon reaching Bijnor Police Lines, I saw around 100 policemen standing in the formation with their lathis (batons). They started beating us one by one as we got down from the bus. I was



very scared by seeing such a site and did not want to get down. But I was left with no option. As I set foot on the ground, I felt a bone crushing blow of lathi on my left leg. It caused me a lot of pain and I was unable to even walk. At that time, I understood that my left leg is fractured now. I was limping and crawling, but no police official came to help me. Rather I was pushed inside a big hall where about 150 people were already detained and were being beaten up. I saw many young people and children in the age group of 15-16 years as well in the group. Police officials were beating everybody present in the hall. While one police official had held the hands of the detainees, the other police official was raining lathi blows mercilessly on bare bodies. I was already very scared and after seeing all this, I was even more frightened.

When I tried to tell one of the police officials about my fractured leg, he said that I am faking it and did not pay attention. I was in immense pain and was unable to even stand on my feet. At last, police officials brought a doctor who confirmed that I have a fractured leg. I was given some injection, but it did not help me. Apart from the injection, no first aid was provided to me. To avoid any further casualty, I was then sent to the government hospital where it was made out to be a case of accident. I narrated the whole incident to the doctor, but even the doctor refused to help. He wanted a bribe, but I had no money to pay him. After repeated requests, the doctor finally agreed to make a call to my father. At about 9.15 PM, the doctor made a call to my father and informed him about my whereabouts. My father had to pay the doctor even for making that phone call.

When my father reached the government hospital, I was crying in immense pain. My father somehow arranged an ambulance and took me to a private hospital for treatment. The government hospital mentioned accident in my discharge summary but neither discharge summary nor admission slip or any other medical record was provided to us.

We reached the private hospital at around 3 am but did not receive any treatment as we were told the concerned doctor will only come in the morning. Even though my leg was fractured the police had continued with the beatings due to which my leg bone got displaced. Next day the doctors informed my father that my left leg needs to be operated upon and a steel rod will be inserted and for this he was asked to immediately arrange an amount of Rs.70,000."

[See Figure 1 and 2 taken during the interaction with X on 11.01.2020].



Figure 1 : Fractured leg of X

"I belong to a poor family. We are 5 brothers and 4 sisters, all daily wage workers. My father is a compounder in a local clinic and he did not have that kind of money for my operation. Somehow the money was arranged and my leg was operated upon at 6 pm that day. I was admitted at the private hospital for two days and the police officials hung around both the days just to ensure I did not talk to anybody about the incident. The medical records do not mention the other injuries and injury marks I had.

Now, as I am back at my house. I am a tailor, but cannot get back to work for at least one more month as my movement is restricted. I am having sleepless nights and always feel that I or my family members can be picked up by the police at any time without any reason. To my mind, the police was subjecting only people from the Muslim community to brute force and atrocities. I have not come out of my house since the day I came back from the hospital. The police officials may even threaten us if we talk to anybody about the incident."



Figure 2 : Injured finger of X

**b. Witness testimony****Name: Y****Age: 16-17 Years****Place: Nagina****Y's mother:**

On 20.12.2019, my son Y had gone out with his friends. I did not know where he was going. When Y did not come home till late evening, I got worried and started searching for him in the neighbourhood. When I did not get any information regarding his whereabouts, I approached the Chairman of the Nagar Panchayat and got to know that my son, Y has been picked up by police for protesting. As soon as I learnt that he has been picked up by the police, I ran to the local Police Station i.e. Nagina PS. But my son was not there and even the police officials refused to give me any details about my son. I could not meet my son for two days and did not even know where he had been taken. As a mother, those were the most terrifying moments to not know where and how my son was. At last, Y came home after two days with his toes crushed and bruises on his body. He was barely walking and his lower part of the body had turned blue due to beatings by the police. It was the most shocking thing to hear the account of those two days from Y.

As per my son, on the afternoon of 20.12.2019, Y and 21 other people were picked up by the police from the protest site. Out of these 22 people, only 2-3 persons were above 18 years and rest were of Y's age group only. Y and others were detained for two days. They were given severe beatings during their period of detention. They were first taken to Bijnor Police Lines and then shifted to a Farm House owned by a BJP MLA. During their illegal detention, Y and others were beaten up mercilessly by the local police officials and they were not even given blankets in the spine-chilling cold winter night. All they were given was a floor mat to cover themselves with and a strict word of caution that they were not allowed to sleep. Y and other boys were forced to stay awake the whole night and if somebody fell asleep, they had to face merciless beatings. Although, they were allowed to drink water, they were not allowed to use the toilet. Whenever anybody requested for toilet, they used to get beaten up by the police. Y was also beaten up black and blue and his toes were crushed with the boots worn by the policemen and baton. There were beating marks on his lower part of the body.

On 22.12.2019, Y's father received intimation from Nagina PS about release of his son. His father went to the PS along with other people from the neighbourhood. Y's Aadhar Card was submitted to prove that he is a minor. ID Cards and signatures of 10 people were taken by the police for releasing Y but we were not given any



documents. Sharukh's father was not even informed where his son was kept for two days and the reason for his detention."

Y:

Mostly they had beaten us on the lower parts of our body. I was not able to walk properly for 15 days. The police detained me on Friday and released on Sunday night. Till then I was in custody where they beat me brutally. Will you all print or tell anyone whatever I will share? If that is the case, I don't want to tell anything to anyone. I don't want to share my story as I can't trust anyone. Some of my friends shared their stories with someone and they published it in the newspaper. After that, the police went to their house and harassed them for sharing the incident with others. I fear that if I share anything with you, the police will get to know and they will start harassing my family."

Y's sister:

"What will you do after meeting my brother? Are you going to share this with any media? I am asking because I hear that if any family or a child talks with anyone, the police harasses them. So, I do not want the same to happen with us as we are already very poor and not able to face the police."

c. Witness testimony

Name: Z

Age: Around 15 years

Place: Raukhedi, Jalalabad, Bijnor

"On 20th December, 2019 I was in the protest which was organised by young boys after the Friday prayer. No elderly people participated in the protest from our area. We were doing a peaceful protest and suddenly the police started lathi-charge without any intimation. They started beating us and during this, a young child around 8-year old, got injured and started bleeding. On seeing this, the crowd got aggressive and some people started stone-pelting. I was not part of stone pelting, but was present there in the crowd.

Yesterday the police released a poster of the persons who were the part of stone-pelting. I got to know from others that my photo is also in that poster. Another picture in the poster resembles my elder brother, who is about 20 years old. Most people in our locality think that he is my brother, but we are not sure as my brother was not wearing the clothes worn by the person in the picture. He doesn't have such clothes. He was wearing something white. My photo is quite clear in the poster and I also have a similar jacket and cap.

The poster has pictures of some other children also from the locality, who are under



the age of 18 years like me. My brother voted for the first time in the last election, but I don't have any age proof right now. I am afraid what will happen next.

No police have contacted us so far since the release of the poster, but I am planning to leave here as soon as possible. As the story goes, the police unleashed violence on the peaceful protestors at the behest of the SDM because she asked them to arrest all 100 protestors after some stone hit her car. I don't believe this as no one could have thrown a stone from the protest location, which was far from where the SDM was.

There were more than 300 policemen deployed to stop the protest. If anyone wants, then they can check the CCTV footage of that place as there are two cameras there. I got to know that some people who were arrested and detained by the police that day are still in jail."

d. Witness testimony

Name: F

Age: 21

Place: Raukhedi, Jalalabad, Bijnor

"We run a shop from our house as our father is old and does not keep well and our mother is no more. On 20th December 2019, I was offering the Friday prayer and my elder sister was in the kitchen and younger sister was in the shop. A young boy from the neighbourhood named Saqib had come to our shop to buy peanuts. We know him as he comes to our shop daily. Saqib was sitting with my father and my younger sister was fetching peanuts for him when someone knocked at our door. When we enquired asked who was there, the policemen suddenly broke the door open and arrested Saqib without asking or responding to any questions. The police also went upstairs and broke our household items. They even tried to arrest our father till we started crying, requested them to spare our father who is so old and had done nothing. We asked the policemen why they were taking him. When they didn't pay a heed, me and my two sisters started screaming out of fear. After a hue and cry they left without our father but took Saqib with them. Saqib got married just two months ago and is still in jail. Nobody who was arrested has got bail.

The police were doing wrong as they entered our house without any information and broke our household things. We were not the only ones. The police did this in many houses in the locality and any male member present in the house was being arrested. There were no lady police accompanying them even as they were barging into people's homes forcefully. How can they can do this? Who gives them this right?



I am feeling relaxed that on the fateful day my brother was not in the city. He works in Ludhiana. Had he been around they would have taken him too.

That night we were unable to sleep. Everyone in the locality is fearful and life is still not normal. Recently, the Police have shared some posters. There are pictures of some minor boys too in the posters. Many of the boys and male members have run away out of fear of being caught by the police. The local Leaders of the area are also not coming forward to help the affected families. No one knows that what will happen next. We are under constant fear as our house is located at the entrance to the locality."

e. Witness testimony

Name of Suspect: J

Age: 23 years

Place: Raukhedi, Jalalabad, Bijnor

"We get to know about the poster and our brother's picture in it through our neighbours. My brother is not in the city right now as he has gone to Mumbai to attend a wedding function with my parents. We don't know exactly what happened that day but my brother was not a part of the protest. On the contrary, when people had started stone pelting, he tried to stop them. He even asked the police for the loudspeaker so that he could request people to refrain from any unwanted behaviour. The Police told him that said did not have any loudspeaker. Then he went to the mosque and use the loudspeaker of the mosque. He requested people to stop stone pelting, but no one listened to him. He was helping the police even after the outbreak of violence. It is so sad that despite this the police have released his photo in the poster on public display.

So far, no policeman has paid a visit. However, since my brother's picture is on the poster, we don't know what we can do now and who can help us if the police take any action against my brother. My sister in law and I are alone at home with our children and we are very scared. We heard that police have broken the doors of some houses and entered in the middle of the night without any prior information. We don't know that why police are doing this with us.

One day when some responsible persons from locality had met with the police, they were assured by the police that action will only be taken against those found to have stones in their hands in the CCTV footage and not against those who were participating in the protest peacefully. But now they going against their promise and targeting innocent people."

**f. Witness testimony****Name: M****Age: 18 Years and 3 months****Place: Nehtaur**

"M had gone to offer Friday prayer at the nearby mosque. When he did not come back by late afternoon, we got a little worried. I enquired about him in the neighbourhood, but there was no information. It was only at 01.00 AM that I got to know about his arrest from the local police station. When I went to meet my son M the next day, he told me that he was arrested and severely beaten up by the police officials at Nehtaur and he was not even informed about the reasons of his arrest. All he knew was that he has been arrested for being the part of the protest whereas my son had never even gone to the protest and he was coming back from the mosque after offering his prayer.

M is a very obedient and bright boy. He used to go to school, study and help me in my business in his free time. But now everything is changed.

M had informed me that his AADHAR card has been seized by the police officials and they refused to give it back. I don't know when my son will come out of jail. The conditions inside the jail are horrible and inhumane as the jail is overcrowded due to so many detentions during the protest. Inside the jail, my son was not even given proper blankets and I had to go and give him warm clothes and blankets. Whenever I go to meet him, I have to bribe the jail officials. Additionally, I had to pay Rs. 3500/- for not putting my son to any kind of harassment and making him work inside the jail. As M is in jail now, he is going through a lot of trauma. Moreover, he is also going to miss his exams.

His last date of bail hearing was 10 January 2020 and next date is 16 January 2020. We have a lawyer who has asked for a fee of Rs. 4500/- for bail."

According to a neighbour and well-wisher, "The family has spent around 15-16 thousand rupees for giving some respite for their son from the conditions he's been facing since the date he was arrested.

M's mother:

"I am always worried about my son as he is still in jail. Twice I have gone to the district jail to meet him. He was crying in front of me, saying that he wants to come out and requesting us to do something about it. I told him that we are trying our best but no one is to listen to us. He was not in a good condition there but I controlled myself in front of him because if he finds me sad and in sorrow, it will be difficult for him to live



there. I told him not to worry about anything and he will be back home soon. I know that my son has not done anything wrong, but he is still punished by the police. My younger son has been asking me every day as to when will his brother come back and I don't have an answer for him. He knows very well what was happened to his brother. Initially, he was so scared and not ready to go to school because of the fear, but after some days he resumed school. I want to see my child free as soon as possible. Our lawyer has tried for bail, but in all the three hearings so far a new date is given for some or the other reason."

Note : Mohammad M, an 18-year-old boy was picked up by the Nehtaur Police on 20.12.2019 while he was coming home after offering prayer at a nearby mosque. Since then, M is in jail and the bail has been refused by the Magistrate's Court. The FIR against M and others has been lodged under the following sections: S. 147/148/149/188/307/332/333/336/353/395/427/504/506/34 IPC, S. 7 of Unlawful Activities (Prevention) Act, 1967. A copy of the FIR is annexed as ANNEXURE 1.1. A reading of the FIR suggests possibility of use of Section 3 and 25 of Arms Act against M, which gets ascertained from the General Diary annexed at ANNEXURE 1.2.

The family does not understand the legal processes and fail to understand why their son is not being released on bail. According to a neighbour however, since one of the charges in the FIR is on attempt to murder (Section 307 IPC), the Magistrate's Court does not have power to grant bail and this was one of the reasons for delay in getting bail. The other reasons include court strike and closure of courts for condolence on death of a lawyer's child.



Annexure 4: Testimonies collected from Media reports



Huff Post

"I've lost track of how many times I was beaten," said 13-year-old A. "I was beaten all over my body. I've been beaten so badly I need help to walk or eat."

A, the 13-year-old, appeared particularly traumatised by being forced to witness the still-more brutal torture of the adult detainees. *"They were lined up facing the wall and then guards would hit them across their backs with sticks,"* he said.

15-year-old B said he was hit so hard that a policeman's stick broke. *"They said, this is a strong one, hit him some more,"* B said.

"No one else will admit to it, but they made us pull down our pants and show our bruised backsides to the guards," said B.

"First the police gave us all water, which we drank because we were thirsty," said B. *"But then we realised we would be beaten every time we wanted to pee."*

When B was finally released, a policeman hit him one final time. *"He said, 'Now if there is any protest again, you better not attend. Now you know what we'll do.'"*

"I pressed my fingers against my eyelids to keep my eyes open," said 17-year-old E. *"If you nodded off, the guards would hit you with a stick."*

"At one point, they made an adult prisoner strip naked and show us his bruises," E said, a statement two other children confirmed

"The police kept asking, 'Who paid you to protest? Did a political leader call you?'" said E. *"And then they would beat us."*



THE WIRE

The Wire

Abdul (name changed) *"They beat us a lot,"* he said, using lathis. *"They beat us in the street. They beat us in the vans. Then they beat us when we were inside."*

The detainees were offered water and once they asked to use the toilet, they were taken outside and beaten.

Atif (named changed), stopped talking since he was released after in detention for 2 days. His sister recounts, *"They did more than that. He didn't tell ammi but he told me – two policemen held his arms and held him against a wall and a third one hit him on his back with his lathi. He told me that they shoved his face to the ground with their shoe and pulled his hair, saying that they would pull it out. They had been pulling the beards of the others."* Asim stopped drinking water then so he would not have to go to the bathroom. Water was the first thing he asked for when he reached home



Annexure 5: Letter from Child Rights organizations

January 6, 2020

To
Mr. Priyank Kanoongo,
Chairperson,
NCPCR
New Delhi

Dear Sir,

Subject : Your letter on 14.12.2019, addressed to All Director Generals of Police regarding misuse of children in protests against the Citizenship Amendment Bill.

As representatives of organisations and as individuals working to uphold the rights of children, we share NCPCR's commitment to the Best Interest of Children within a Children's Rights Framework.

We equally share a deep concern about every incident when children are misused, where children are hurt, subjected to violence, assaulted, abandoned, abused, or neglected in a manner likely to cause mental or physical suffering, by the civil society or the State. We also feel anguished by the reports of violation of rights of children and young people by the police personnel at various locations, including Uttar Pradesh.

In the light of the above, we welcome your note to All Director Generals of Police, which recommends that the police look into matters of serious concern where children's and adolescent's wellbeing and safety are compromised. It is indeed crucial that they take appropriate and speedy action in the best interest of children and stringently punish the violators including their own personnel when implicated, irrespective of whether it is for or against a certain position.

Equally important is to take note of the fact that as enshrined in the Constitution of India as a fundamental right and complemented by the UN Convention of the Rights of the Child (CRC) as well as the National Policy for Children, children and adolescents persons of India have a right to be heard in all matters affecting them. It is the responsibility of the State, as the Primary Duty bearer, to ensure that they are able to demonstrate their agency, to exercise their right to self-expression – either to dissent or to endorse, to exercise their right to peaceful assembly and to



engage meaningfully in public discourse. Wherever required, the State is duty-bound to provide children and adolescents protection, to ensure that rights of the young persons are upheld not only prior to or during their engagement, but also that they do not face any backlash for their views.

Hence it would be highly pertinent for NCPCR, while emphasising the protection of children and adolescents, to also uphold their citizenship and their right to participation. As also to provide all the support they may require for their meaningful and informed participation at national, state and local levels. **'UN General Comment on Article 12'** and **'UN General Comment on the Implementation of the Rights of the Child during Adolescence'** have both elaborated on this matter in detail and would be a good resource to share with all the concerned State departments.

We look forward to your response and continued dialogue to uphold the rights of children in India.

Best wishes

Aatreyee Sen, Human Rights Activist, Himachal Pradesh; All India Working Group – Rights of Children in Contact with Railways; Amrita Upali Singh, Delhi; Anjali Pawar, Human Rights Advocate; Anubha Rastogi, Advocate, Mumbai; Apurva Singh, Independent Consultant

Archana Sahay, Director, AARAMBH, Bhopal; Arlene Manoharan, Child Rights Activist

Ashika Shetty, Child Rights Workers, Bangalore; Ashok Kumar, Convenor, National Advocacy Unit, Campaign Against Child Labour; Dr. Bindiya Shajith, Child Psychologist, Bangalore

Bharti Ali, HAQ: Centre for Child Rights; Bharti Sharma, Child Rights Activist, Honorary Secretary, Shakti Shalini; Divya Vaishnava, Social Work Practitioner, Gurugram; Geetha Sajjanshetty, Advocate, Karnataka; Fr. George Kollashany; Govind Beniwal, Former Member, SCPCR, Rajasthan; Harleen Walia; Himanshu, Child Rights Defender, Bathinda; Javed Ansari, Child Rights Worker, Jaipur; Kalpana Purushotaman, Bangalore; Kavita Ratna, The Concerned for Working Children; Kesar Parveen, Advocate and Social Worker; Kiran Modi, Child Rights Worker; Krinna Shah, Child Rights Defender, Surat; Krishna Bansal, Child Rights Worker; Dr. Kumar Askand Pandey, Associate Professor, RML National Law University, Lucknow; Kumar Shailabh, HAQ: Centre for Child Rights; Kushi Kushalappa, Bangalore; Musab Omer, CSA survivor and Child Rights Activist, Jammu and Kashmir; Naresh Paras, Mahfooz, UP; Nimisha Srivastava, Child Rights Worker, Delhi; Nishit Kumar, Founder



and MD, Centre for Social and Behaviour Change Communication, Mumbai; J B Oli, Butterflies

Prabhat Kumar, Child Rights Defender, Delhi; Priti Patkar, Social Worker; Radhakant Saxena, Child Rights Activist, Former IG Prisons (Raj); Rajendar Soni, Advocate, Rajasthan High Court, Jodhpur; Ramanath Nayak, Child Rights Activist, Delhi; Rekha Sridhar, Hifazat, Bhopal; Rita Panicker, Butterflies; Ruchira Goswami, National University of Juridical Sciences, Kolkata; J. Sandhya, Advocate and former member, Kerala Child Rights Commission; Sandhya Raju, Advocate, Director, CCRRA, Cochin, Kerala; Seema Naaz, Social Worker, New Delhi; Shahbaz Khan Shervani, Social Worker, England; Dr. Shahina Parveen, Consultant, Child Protection; Shireen Vakil, Tata Trusts; Shweta Verma, Social Work Professional, Delhi; Shweta Wankhede, Lawyer, Mumbai; Shwethank Mishra, Consultant, Child Rights; Swagata Raha, Legal Researcher, Bangalore; Sunil Jha, Rights Worker; Surinder Singh Maan, Karnal, Haryana

Syed Tazkir Inam, Programme Manager, Centre for Child Rights, National Law University and Judicial Academy, Assam; Vaibhav Sharma, Safe Society, Gorakhpur; Vipin Bhatt, Independent Consultant, Delhi; Zaved N Rehman, Independent Consultant



XOX



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Brutalizing Innocence