



“EVERYONE HAS BEEN SILENCED”

Police Excesses Against Anti-CAA Protesters
In Uttar Pradesh, And The Post-violence Reprisal

CITIZENS AGAINST HATE

Citizens against Hate (CAH) is a Delhi-based 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 rule of law and justice institutions. CAH was formed in 2017, in response to the rising trend of hate mobilisation and crimes, specifically the surge in cases of lynching and vigilante violence, to document violations, provide victim support and engage with institutions for improved justice and policy reforms. From 2018, CAH has also been working with those affected by NRC process in Assam, documenting exclusions, building local networks, and providing practical help to victims in making claims to rights. Throughout, we have also worked on other forms of violations – hate speech, sexual violence and state violence, among others in Uttar Pradesh, Haryana, Rajasthan, Bihar and beyond. Our approach to addressing the justice challenge facing particularly vulnerable communities is through research, outreach and advocacy; and to provide practical help to survivors in their struggles, also nurturing them to become agents of change.

This citizens' report on police excesses against anti-CAA protesters in Uttar Pradesh is the joint effort of a team of CAH made up of human rights experts, defenders and lawyers. Members of the research, writing and advocacy team included (in alphabetical order) Abhimanyu Suresh, Adeela Firdous, Aiman Khan, Anshu Kapoor, Devika Prasad, Fawaz Shaheen, Ghazala Jamil, Mohammad Ghufra, Guneet Ahuja, Mangla Verma, Misbah Reshi, Nidhi Suresh, Parijata Banerjee, Rehan Khan, Sajjad Hassan, Salim Ansari, Sharib Ali, Sneha Chandna, Talha Rahman and Vipul Kumar. Henri Tiphagne, Ravi Nair, Seema Nair and Tehmina Arora provided valuable guidance. We are thankful to them. We would also like to express our gratitude to victim families, survivors, witnesses and other local informants who agreed to be interviewed for this report, and helped us with relevant documents and insights – despite the pall of fear induced by authorities in Uttar Pradesh. Their courage and hopes for justice is inspiring.

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Uttar Pradesh, and post-violence reprisal



2nd March, 2020
Citizens Against Hate, New Delhi
www.citizensagainsthate.org

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FOREWORD

Voices against violence are often heard, but fear sometimes prevents voices being raised against repression. Young individuals and some groups under the banner of Citizens Against Hate have shown courage in documenting and publicizing recent instances of State repression. It is a tremendous effort worth emulating, particularly given the odds against such constructive documentation.

If the State responds to violence with a heavy hand, it is a form of overreach that is as unnecessary as using a sledgehammer to swat a fly, and this can only be characterized as nothing less than repression. A reaction such as this makes me believe that authorities seem to have forgotten that ours is a welfare State which must be proactive in rendering assistance to the people, rather than complicating their life. In this context, I believe welfare extends far beyond doling out compensation to victims of violence or punishing perpetrators of violence – it also takes within its fold preventing further violence and ensuring justice to victims of violence. These are facets of welfare that are equally, if not more, important and are to be found within the broad contours of Article 38 of our Constitution.

In 'Everyone Has Been Silenced' these individuals and groups have met a large number of victims of violence of varying degree and have accessed documents of the State that point the 'needle of suspicion' to State apathy as well as active repression. The overall picture is grim with violations of human rights going unchecked with no or little remedial action being taken by those in authority. Indeed, the State machinery appears not to be proactive in protecting the rights of citizens but is, on the contrary, answerable by its passivity for human and fundamental right violations under its watch. As the report brings out, for a nation that professes non-violence, it is distressing that the State machinery has been dormant in several documented instances and sometimes insensitive in reacting to situations that disturb peace and tranquillity. This is against the grain of a welfare State and violates one of the fundamentals of the Preamble to our Constitution, namely, social justice.

The report is a powerful voice based on solid research with a focus on constitutional principles, their meaning and violations. It may eventually turn out to be yet another voice in the wilderness, but it is a courageous voice nevertheless and provides more than enough justification for speaking up and speaking out. It is a case study that makes for compelling governance restructuring and appropriate but positive action both at the State level and amongst all of us in civil society. It tells us that everyone has not yet been silenced and if nothing else the documents of the State speak for themselves.

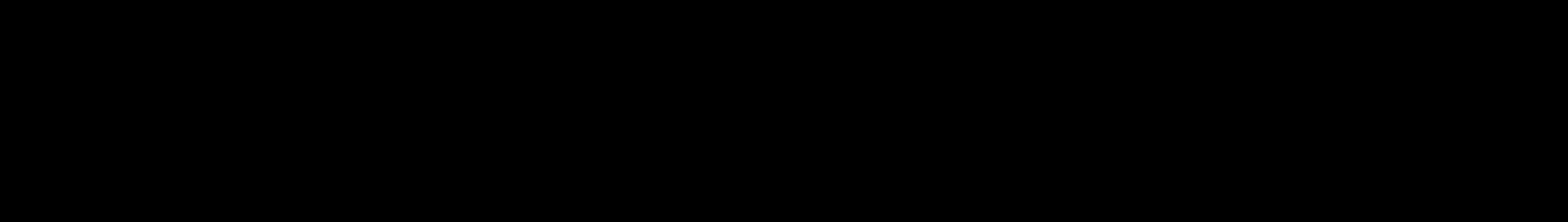
(Madan B. Lokur)

Retired Judge,

Supreme Court of India

New Delhi

3rd March, 2020



EXECUTIVE SUMMARY

INTRODUCTION

1. The controversial Citizenship (Amendment) Act - CAA – 2019, currently under challenge at the Supreme Court for non-consonance with the fundamental right to equality, was signed into law on 12th December 2019, immediately triggering nation-wide protests. These faced a heavy-handed police response with grave allegations of excessive use of force, resulting in numerous deaths and injuries. This repression continues to this day.
2. Police have been particularly aggressive in Uttar Pradesh (UP). At least 23 persons have been killed, 83 injured by the state's own admission, and hundreds detained in a state-wide crackdown against protesters. Entire communities are under pressure, with arrests and detentions continuing to this day. Authorities are trying to intimidate citizens in an effort to prevent further protests against CAA 2019, and to cover up police's crimes.
3. This citizens' fact-finding investigation into police repression against anti-CAA protesters in UP – using testimonies of survivors, official documents, and media and civil society reports – seeks to document the nature of the targeting; the scale of violations that took place; survivors' struggles as they seek justice; and the current status of investigation of crimes. It points to UP Police's excessive use of force and their systematic attempt to subvert the justice system, as they try to cover up their own crimes, thus stymieing efforts for justice.

STIFLING DISSENT

4. Just after CAA 2019 was passed, large parts of UP, especially its Muslim concentrations in western and central districts of Bijnor, Firozabad, Kanpur, Meerut, Muzaffarnagar, Rampur, Sambhal and capital Lucknow, were put under lockdown. Restrictions on assembly and movement were imposed, through orders passed under Section 144, Code of Criminal Procedure (CrPC). Internet services were suddenly suspended in various districts. None of the orders issued, either under S. 144 or for internet suspension, have been made available in the public domain. Protests at Aligarh Muslim University on 13th and 15th December 2019, and later in Lucknow, were met with disproportionate brutal force. Public warnings, house arrests and preventive detentions were then carried out against persons that authorities accused of coordinating protests, often the human rights defenders (HRDs).
5. On and after 20th December 2019, the first Friday after CAA 2019 became law and when nation-wide peaceful protests were planned, police reprisal against

protesters in UP was swift and led to violent consequences. UP Police ordered checking and frisking around mosques, resorted to baton charge without provocation, and used tear gas shells and stun grenades indiscriminately. According to eyewitness and survivor testimonies, police personnel shot live bullets at protesters. Firing resulted in at least 22 deaths and several grievous injuries across several districts. In Firozabad alone, 7 persons were killed, 5 in Meerut, 3 in Kanpur, 2 each in Bijnor and Sambhal, and 1 each in Muzaffarnagar, Rampur, and capital Lucknow. Additionally, an 8-year-old child died in stampede caused by Police action against protesters in Varanasi, taking the count to 23,

6. Later that day, UP Police also ransacked homes and destroyed private property in Muslim neighbourhoods in Muzaffarnagar, Kanpur, Lucknow and Firozabad. In Muzaffarnagar, they also attacked an Islamic seminary, ransacked the property, beat up its staff members and students, and arrested 55 persons. At least 14 were minors, all under the age of 18.

EXACTING 'REVENGE'

7. In post violence crackdown purportedly to exact revenge, as the UP Chief Minister (CM) Yogi Adityanath publicly promised, UP Police detained individuals arbitrarily, followed by invoking serious charges against them. This included, in several instances – Muzaffarnagar, Sambhal, Bijnor among others – children, in complete violation of provisions of the Juvenile Justice Act 2015. There has been widespread complaint of custodial torture and inhuman treatment – including beatings as well as food, water and sleep deprivation.
8. Authorities sealed shops and properties of those they accused of involvement in protests and issued recovery notices on others accusing them of having destroyed public property. Due to the complete lack of transparency, it is unclear whether the state government adhered to the mandated procedures (laid down by the Supreme Court of India and reinforced by the Allahabad High Court) that are to be followed before recovery notices are issued.

SUBVERTING JUSTICE

9. Families of the deceased from across districts report a pattern of threats and intimidation by police, from the time of registration of complaints to conduct of autopsies. Police in several instances did not allow bodies to be taken home for burial, rather forced burials at distant locations, in hurried funerals, with the intent to dispose off bodies speedily.

10. Police are not disclosing, admitting to, or registering cases of deaths by police firing. To date, there is still no official statement or confirmation by the UP Police of the number of deaths caused by police firing; in spite of ground reports and evidence by affected persons, civil society organisations, and the media.¹ In fact, the UP Police has only projected denials and contradictions in disclosing how many deaths have occurred due to police firing.
11. As a result, the First Information Reports (FIRs) registered to date, on deaths, present distorted facts and dilute the offences needed to be invoked. According to Post Mortem (PM) reports and photographic evidence, all deaths (except the one in Varanasi) occurred due to gunshot injuries. Alarming, all injuries are on the upper parts of the body (head, neck, chest, abdomen). In all cases, the accused are recorded as being unknown. Whether survivor families have approached the police or not, the offence of murder (Section 302, Indian Penal Code [IPC]) has not been registered. Where they have, FIRs invoke only Section 304 IPC (culpable homicide not amounting to murder), and do not mention bullet wounds, in several cases stating that the death was due to minor injury. In the lone case of FIR registered under Section 302 IPC, it blames unknown protesters for the firing.
12. Families report intimidation by police at time of registering FIR, not to record bullet injuries as cause of death; or that police firing might have been the cause, dictating instead that it was protesters' shooting and/or minor injuries that caused the deaths. Despite some families naming police officers as likely accused, none were recorded in FIRs. (Bijnor, Meerut) In some instances, families also reported that police refused to hand bodies back to families, unless they signed off on complaints dictated and drafted by police (several in Firozabad). In other cases, release of PM report or release of children from detention (Muzaffarnagar, Sambhal) was made conditional on survivors signing off on the dictated statements.
13. Victim families were not provided copies of FIRs or PM reports immediately, as required. In most cases, it was only after 27th January 2020, well over a month after the date of the violence, on directions of the Allahabad High Court, that police provided families copies of FIRs and PM reports. All PM reports confirm deaths due to bullet injuries, all to upper part of the body. Comparing FIRs against respective PM reports, reveal glaring gaps, if not contradictions, in police's recording of the alleged offences. When these are triangulated with survivor testimonies, the extent of the subversion seems nothing but deliberate and systematic.

¹ <https://www.outlookindia.com/website/story/india-news-police-denials-at-odds-with-horror-accounts-of-lotals-in-uttar-pradesh/344650>

14. Efforts by families to approach the mechanisms in place for remedy – for proper registration of the alleged offences by police and proper investigation too – have not borne much fruit. This includes higher police authorities, national and state human rights commissions, as well as judicial magistrates.
15. UP Police have also been using the criminal justice system to target community members and HRDs, slapping false or exaggerated charges against them, to deter further protests and to silence survivors and witnesses of police crackdown. Many FIRs record involvement of thousands of 'unknown trouble-makers', without specifying their names or descriptions. Testimonies by community members and affected persons reveal that these 'open FIRs' are being used by police currently to target those that might have been witness to police crimes – protesters and bystanders, and those injured on the day – as well as victim families and activists seeking justice.

ENABLING IMPUNITY

16. The deadly use of force against civilians by UP Police has been encouraged by the UP CM, Yogi Adityanath, who has issued public threats against protesters to exact 'revenge', and slap sedition charges against them. His office has celebrated the silencing that this use of the iron fist to repress citizens has had. Other BJP leaders – including national leaders – have endorsed the CM's stand.
17. Police leadership in select districts – Meerut, Bijnor, Kanpur specifically – have led the charge against protesters, pushing their subordinates to use excessive force, in some cases (Bijnor) even promising protection against prosecution, and in specific instances (Meerut) themselves indulging in hate speech against Muslims. The police leadership across the violent districts also seem – from a reading of official documents and survivor testimonies – to have sanctioned the post-violence reprisal against survivors and the subversion of justice system.
18. Evidence is also mounting of police in several districts working with vigilante groups to target protesters and maintain order. This has resulted in police, at best colluding with, at worst, outsourcing law enforcement to anti-minority groups, with serious implications for life and security guarantees for citizens.

CONCLUSION

19. Preventing and cracking down on peaceful protests and Human Rights Defenders (HRD) constitutes a violation of citizens' fundamental rights to assembly and expression, [Constitution, Art 19(1) (a) and (b)] and in contravention of all international law and covenants that guarantee them. Section 144 CrPC

continues to be in operation across the state to this day and is used as the justification for anti-CAA protests to be denied permission. This is in the continued absence of S. 144 orders placed in the public domain as required by law in accordance with the Supreme Court judgment in *Anuradha Bhasin v. Union of India & Ors* (2020). At the same time, authorities continue to permit gatherings and rallies in favour of CAA, or themselves organise events to promote CAA. This discriminatory application of the law is arbitrary and *mala fide*.

20. The prima facie evidence of excessive use of force by UP Police must be credibly and independently investigated with no more delay. Excessive use of force in the circumstances of peaceful assembly and protest, leading to deaths and injuries, is tantamount to violations of constitutionally guaranteed rights in Article 19 and Article 21 (protection of life and personal liberty). In turn, this will be a result of the violation of laws and procedures guiding the use of force by police in public assemblies, in the UP context, namely Regulation 70 of the UP Police Regulations. The extent of both non-adherence as well as active violation of laws and procedures by UP Police must be unearthed to prevent impunity for police excesses, which is the current status quo in the deeply politicised and vitiated atmosphere of UP. It also violates international standards on the right to life and to freedom of assembly, as well as guidance on use of force standards.
21. Police reprisal against survivors, and their subversion of criminal proceedings vitiates the justice system, for which the police and state authorities are directly liable.

RECOMMENDATIONS

A. Immediate (for access to justice for survivors and accountability of duty bearers)

1. Remedial measures
 - i. Fresh registration of cases against policemen, by giving survivor families (and other victims) a second chance to submit complaints; timebound investigation on those, and fastrack trials
 - ii. Witness protection and provision of legal aid for families to represent their cases
 - iii. Compensation to families (killed and injured, and houses and property ransacked), according to national norms, including interim compensation

2. Punitive measures

- i. Time-bound independent Inquiry (by senior police personnel of integrity from outside UP), to establish police complicity in:
 - a. Disproportionate use of force against protesters
 - b. Police reprisal against victims and witnesses
 - c. Subversion of justice system
- ii. Using appropriate laws and service rules to take action against erring officers

B. Preventive (mid-to long term)

- i. Increase representativeness of UP police, to have more persons from marginalised groups (minorities, SC, ST, women), in both leadership and frontline ranks, proportionate to share of population. Ensure this is followed closely in police deployment in districts with high proportion of marginalised groups.
- ii. Better training in:
 - Use of force: mindful of state, national and international standards
 - Human rights, especially for targeted groups, including minorities, SC/ST, women
- iii. Better resources and personnel (capacity) for:
 - Law and order maintenance, and regular policing
 - Investigation
- iv. Reformed procedures and processes in crime registration and investigation
 - Open and transparent, to prevent police playing the system
 - Use of new technology to ensure speedy and accurate registration of crimes, and investigation that is less opaque.
 - Including working of police complaints authorities (PCA) in state and locally, to allow a degree of transparency
 - Investigate *police mitra* scheme of UP Police, its legality, scope, practices and controls.

EDITOR'S NOTE

This volume is organised in three sections. Section A is the main body of the findings, reporting from across Uttar Pradesh, also providing the bulk of the analysis. Section B is commentaries on the report by experts and practitioners. Annexed (as the third section) are district case studies providing more granular account of the incidents and violations, for each district.

THE MURDERED

DECEASED	NATURE OF INJURY (PM report)	DISPOSAL OF BODY	OFFENCES AND INVESTIGATION
📍 Bijnor			
1 Mohammad Suleiman (20)	Bullet Wound in chest	Forced burial	FIR# 444/19 (Nehtaur PS) under different section for rioting, attempt to murder, obstructing public servants, destruction of property etc. No FIR against police officers. Uncle implicated in another case.
2 Mohammad Anas (22)	Bullet, Face	Forced burial	FIR# 449/19 (Nehtaur PS) under different section for rioting, attempt to murder, obstructing public servants, destruction of property etc. No FIR against police officers.
📍 Firozabad			
3 Md Haroon, Mulla ka Nangla	Bullet, Face	Forced burial	FIR # 816/2019, Rasulpur PS, u/s 304. No FIR against police officers
4 Abrar (26), Masrurganj	Bullet, Shoulder	Forced burial	FIR # 09/2020 Rasulpur PS, u/s 304 No FIR against police officers.
5 Armaan (24), Azadnagar	Bullet, Chest	Forced burial	FIR # 808/2019, Rasulpur PS, u/s 304 No FIR against police officers.
6 Rashid (27), Kashmiri gate	Bullet, Head	Forced burial	FIR # 579/2019, Ramgarh PS, for rioting and attempt to murder, obstructing public servants, destruction of property etc. Sec 304 added on 25-12-19. No FIR against police officers.
7 Muqueem (20)	Bullet, Shoulder	Forced burial	FIR # 581/2019, Ramgarh PS, u/s 304. No FIR against police officers.

DECEASED	NATURE OF INJURY (PM report)	DISPOSAL OF BODY	OFFENCES AND INVESTIGATION
8 Nabijaan (22)	Bullet, Chest	Forced burial	FIR # 588/2019, South PS, u/s 304. No FIR against police officers.
9 Shafeeq (40)	Bullet, Head	Forced burial	FIR # 817/2019, Rasulpur PS, u/s 304. No FIR against police officers.
📍 Kanpur			
10 Aftab Alam (23)	Bullet, Chest		FIR #362/2019, Babupurwa PS, under different sections of IPC
11 Mohammad Saif (25)	Bullet, Abdomen	Forced Burial	for rioting, attempt to murder, obstructing public servants, destruction of property, also
12 Raees Khan (30)	Bullet, Abdomen		including 302. No FIR against police officers.
📍 Lucknow			
13 Mohammad Wakeel (32)	Bullet, Abdomen		No FIR against police officers.
📍 Meerut			
14 Md. Asif, (20), Gali 10, Ahmednagar	Bullet, Chest	Forced burial	FIR # 1080/2019 Lisadhi Gate PS, under different sections of IPC for rioting, attempt to murder, obstructing public servants, destruction of property etc. Sections 301, 304 added later. No FIR against police officers.

	DECEASED	NATURE OF INJURY (PM report)	DISPOSAL OF BODY	OFFENCES AND INVESTIGATION
15	Aleem Ansari(24) Gali no 9, Ahmednagar	Bullet, Head	Forced burial	FIR # 817/2019 Nauchandi PS under different sections of IPC for rioting, attempt to murder, obstructing public servants, destruction of property etc. Sections 301, 304, 120 added later. No FIR against police officers. Application by family to under Sec 156(3) CrPC for directions to register criminal offence by police rejected by CJM court on 20-02-20.
16	Zaheer Mohammad (45), Bhumiya ka pul	Bullet, Head	Forced burial	FIR # 1079/2019 Lisadhi Gate PS under different sections of IPC for rioting, attempt to murder obstructing public servants, destruction of property etc. No FIR against police officers. Application by family to under Sec 156(3) CrPC for directions to register criminal offence by police rejected by CJM court on 20-02-20
17	Mohsin (28) Bhumiyan ka pul	Bullet, Abdomen	Forced burial	FIR # 672/2019 Brahmpuri PS, under different sections of IPC for rioting, attempt to murder, obstructing public servants, destruction of property etc. Additional sections 304 and Arms Act added. No FIR against police officers.

DECEASED	NATURE OF INJURY (PM report)	DISPOSAL OF BODY	OFFENCES AND INVESTIGATION
18 Asif Khan (32) Ghante wali gali/ Sadiqnagar.	Bullet, Abdomen	Forced burial	FIR # Lisadhi Gate PS, u/s 301, 304. No FIR against police officers.
📍 Muzaffarnagar			
19 Noor Mohammad (27)	Bullet, Head	Forced burial	FIR # 710/2019 (Civil Lines PS), u/s 302. Firing by protesters. No FIR against police officers.
📍 Meerut			
20 Faiz Khan (22)	Bullet, Neck	Forced burial	FIR # 655/2019 Kotwali PS under different sections of IPC for rioting, attempt to murder, obstructing public servants, destruction of property etc. Also includes Sec. 302. No FIR against police officers.
📍 Sambhal			
21 Shahroz (22)	Bullet, Abdomen	-	FIR # 496/2019, Sambhal PS, u/s 304 due to minor injury. No FIR against police officers.
22 Bilal Pasha (35)	Bullet, Face	-	FIR # 497/2019, Sambhal PS, u/s 304 due to minor injury. No FIR against police officers.
📍 Varanasi			
23 Sagheer (Minor)		Forced Burial	FIR # 915/2019, Bailpur PS, for rioting, obstructing public servants, destruction of property etc.

ABBREVIATIONS

AMU	Aligarh Muslim University
BJP	Bhartiya Janata Party
BPRD	Bureau of Police Research and Development
CAA 2019	Citizenship (Amendment) Act 2019
CERD	Convention on Elimination of all Forms of Racial Discrimination
CM	Chief Minister
CrPC	Criminal Procedure Code
CRC	Convention on Child Rights
DGP	Director General of Police
FIR	First Information Report
HM	Home Minister
HRD	Human Rights Defenders
HYV	Hindu Yuva Vahini
ICCPR	International Covenant on Civil and Political Rights
IGP	Inspector General of Police
IPC	Indian Penal Code
ICJ	International Commission of Jurists
JMI	Jamia Millia Islamia
JJ Act 2015	Juvenile Justice Act 2015
MP	Member of Parliament
NCM	National Commission for Minorities

NCPCR	National Commission for the Protection of Child Rights
NHRC	National Human Rights Commission
NRC	National Register of Citizens
NRIC	National Register of Indian Citizens
NSA	National Security Act
OHCHR	Office of the United Nations High Commissioner for Human Rights
PIL	Public Interest Litigation
PM	Prime Minister
PM report	Post Mortem report
PS	Police Station
PUCL	Peoples Union for Civil Liberties
RTI	Right to Information
SC	Supreme Court (of India)
SHO	Station House Officer
SOP	Standard Operating Procedure
SP	Superintendent of Police
SSP	Senior Superintendent of Police
SPO	Special Police Officer
UP	Uttar Pradesh
USCIRF	US Commission on International Religious Freedom

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NOTE ON TERMINOLOGY

Charge Sheet is the formal police record showing the names of each person brought into custody, the nature of the accusations, the identity of the accusers, and the preferring of charges for record of trial. This is based investigation conducted by the police on the basis of the FIR. The time limit to file charge sheet is related to arrest. The charge sheet is to be filed within 60 days from the date of arrest of the accused in cases triable by lower courts and 90 days in cases triable by the sessions courts.

First Information Report (FIR) is information recorded by a police officer on duty given either by the aggrieved person or any other person to the commission of an alleged offence. Police commences its investigation on the basis of the FIR.

Post Mortem report (PM) is an examination and dissection of a dead body to determine cause of death.

Public Interest Litigation (PIL) is litigation that is taken in order to advance a "good cause" or issue of public importance, as against that for individual interest. It is brought with the aim of protecting the interests of the public, or at the very least, the interests of persons beyond those who are bringing or defending the litigation.

SECTION - A

1. “EVERYONE HAS BEEN SILENCED”²

1.1 INTRODUCTION: CAA 2019 AND COUNTRY-WIDE PROTESTS

The Citizenship (Amendment) Act - CAA - 2019 was signed into law on 12th December 2019, creating a patently discriminatory legislation which, on the face of the law, disadvantages Muslims and also falls foul of India's secular Constitution. The legislation excludes from the definition of “illegal migrants” persons belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian communities from Afghanistan, Bangladesh or Pakistan who entered India due to or for fear of religious persecution and makes them eligible to apply for expedited naturalisation as Indian citizens. Muslims are excluded. By introducing a ‘religion test’ in India's citizenship law, and excluding Muslims or those without any faith, the amendment contravenes Article 14 of the Constitution (equality before the law or equal protection of the law). It is thus manifestly arbitrary. The law also violates Article 25 of the Constitution and the principle of secularism, which is part of the Constitution's ‘basic structure’, specifically its non-denominational character. CAA 2019 is also in contravention of international law, in particular the right to nationality “without distinction as to race, colour, or national or ethnic origin” (Article 5, International Convention on Elimination of all forms of Racial Discrimination - CERD). There are over 140 petitions before the Supreme Court challenging the CAA, with the top court indicating it will refer the matter to a constitutional bench.³ Additionally several state assemblies ruled by opposition parties have adopted resolutions against CAA 2019, urging the central government to rescind the legislation.⁴

CAA 2019 directly impacts the 1.9 million persons excluded from National Register of Citizens (NRC) in Assam, creating a fast track for naturalisation for everyone except Muslims among the cohort, leaving the latter exposed to potential statelessness. The statute is creating anxieties in the rest of India too, especially after senior union ministers and ruling party functionaries have, over much of 2019, linked the new legislation to their purported plans to extend the NRC dragnet to the rest of the

² Uttar Pradesh Chief Minister office tweet. (Yogi Adityanath Office@myogioffice)

Full tweet goes like this. “Every rioter is thinking they made a big mistake by challenging Yogi ji's government after seeing strict actions taken by it against rioters. Every rioter is shocked. Every demonstrator is stunned. Everyone has been silenced.”

<https://www.hindustantimes.com/india-news/rioters-have-been-silenced-yogi-adityanath-on-police-crack-down-property-seizure/story-nC6gA4MxYTUCVwYLaVX7xJ.html>

³ <https://www.indiatoday.in/india/story/caa-hearing-live-updates-news-supreme-court-pleas-citizenship-law-1638997-2020-01-22>

⁴ <https://www.indiatoday.in/india/story/madhya-pradesh-anti-caa-resolution-1643512-2020-02-05>

country, invoking the bogey of the foreigners' menace.

In its first policy statement after returning to power in May 2019, the Hindu-nationalist Bharatiya Janata Party (BJP) government in the Centre declared, "NRC would be implemented on priority in areas affected by infiltrators".⁵ In July 2019, an official notification laid the ground for a two-step process to prepare a National Register of Indian Citizens (NRI) across India.⁶ Central to this exercise, being rolled out along with the decennial Census, 2021, is "identifying persons whose citizenship is doubtful"⁷ No definition is provided, nor a transparent process laid out for this identification. Alongside, central government has delegated to local authorities throughout the country, powers to establish Foreigners Tribunals – institutions to adjudicate foreigner status.⁸ It has also started setting up detention centres in each state meant to house those that will be formally be declared as foreigners.⁹ A pan-India infrastructure to 'detect, detain and deport' has been revving into action for much of 2019. This has caused shock waves in Muslim communities across the country. Suicides have been reported.¹⁰ In Uttar Pradesh, ruled by the BJP, police were tasked in October 2019, to identify, "especially from slums and railway stations and outskirts of towns" foreign nationals, to check their documents, destroy fake ones, record biometrics and take action to deport them.¹¹ The directive does not invoke any law for police to conduct this check, neither does it explain how deportation would take place.

A day after CAA 2019 was voted into law, the Office of the United Nations High Commissioner for Human Rights (OHCHR) condemned the move, by calling the legislation "discriminatory".¹² Earlier, just after the lower house of Indian Parliament had passed the Citizenship (Amendment) Bill 2019, US Commission on International Religious Freedom (USCIRF) voiced 'serious concern' at the 'discriminatory piece of legislation', going on to recommend sanctions against Indian leaders.¹³ More recently, vote on a draft resolution against the CAA in European Parliament, moved

⁵ 'NRC to be implemented on priority in areas affected by infiltration: President' 20 June 2019. Business Line

⁶ Registrar General Citizenship Registration. Notification. SO 2753 (E), 31 July 2019

⁷ Section 4(4), The citizenship (Registration of Citizens and Issue of National Identity Cards) Rules 2003.

⁸ Ministry of Home Affairs. Order. GSR 409 (E). Dated 30 May 2019.

⁹ 'states told to set up centres to detain illegal migrants.' 29 June 2019. The Economic Times

¹⁰ 'states told to set up centres to detain illegal migrants.' 29 June 2019. The Economic Times

¹¹ 'As NRC fear grips West Bengal, Mamata says 11 commit suicide' 26 Sept. 2019. The Week.

¹² 'UP Police asks top officials to start identifying Bangladeshis, foreigners, living illegally'. 1 Oct. 2019. India Today.

¹³ <https://news.un.org/en/story/2019/12/1053511>

by 560 of the total 751 MEPs, from a broad alliance of centre and left parties, calling it "discriminatory and dangerously divisive", was postponed at the last hour, due, reportedly, to intense lobbying by India.¹⁴ The draft resolution also condemns the 'brutal crackdown' against protesters by police in UP and other areas.

On CAA 2019 becoming law, country-wide protests erupted immediately, first in Assam¹⁵, then in university campuses in Delhi¹⁶ and Uttar Pradesh¹⁷, followed by protests in Karnataka¹⁸, before spreading throughout the country. Muslims – particularly women – have been at the forefront of these protests, supported, especially in large urban centres, by student groups, civil society actors, human rights workers and opposition political parties.¹⁹ Protesters have faced restrictions to their freedom to assemble, as well as a disproportionate and excessive police response, resulting in numerous deaths and injuries. 31 protesters have been reported killed in police action²⁰, all in states presently governed by the BJP.²¹ 28 of these are Muslim.²² Evidence and investigation shows in many cases that these casualties have been the result of the use of excessive force on the part of police against protesters (and others caught up in the protests).²³ Among those killed was an 8-year-old in Varanasi, Prime Minister Narendra Modi's parliamentary constituency.²⁴

¹⁴ <https://www.thehindu.com/news/national/india-reaches-out-to-meps-to-soften-stand/article30677739.ece>

¹⁵ <https://www.indiatoday.in/india/story/anti-caa-protests-393-people-arrested-244-cases-registered-in-assam-violence-1631001-2019-12-23>

¹⁶ <https://gulfnnews.com/world/asia/india/jamia-millia-staff-shares-her-experience-protecting-students-during-violence-at-university-1.1576489305578>
<https://www.youtube.com/watch?v=4a2542lghK0&feature=youtu.be>

¹⁷ <https://www.indiatoday.in/india/story/cab-protest-amu-students-teachers-hold-protests-campus-1628112-2019-12-13>

¹⁸ <https://economictimes.indiatimes.com/news/politics-and-nation/two-killed-in-firing-during-anti-caa-protest-in-mangaluru-police/articleshow/72891008.cms>

¹⁹ <https://www.thehindu.com/opinion/op-ed/assessing-the-anti-caa-protests/article30668015.ece>

²⁰ <https://www.indiatoday.in/india/story/citizenship-amendment-bill-protest-deaths-india-comparison-hong-kong-pro-democracy-agitation-1630582-2019-12-22>
[23 in UP alone, 5 in Assam, 2 in Karnataka and 1 in Bihar\).](#)

²¹ <https://www.aljazeera.com/news/2019/12/modi-summons-ministers-india-protests-death-toll-increases-191221063611978.html>

²² All 23 in UP, the 2 in Karnataka, the one killed in Bihar and 2 of the 5 in Assam.

On 24th February 2020, violence erupted in capital Delhi, with pro-CAA protesters attacking anti-CAA protest sit ins and rallies, leading to large-scale violence, that by 25th Feb. had leftdead.

²³ <https://scroll.in/article/947239/police-attacked-first-delhis-seelampur-residents-describe-an-afternoon-of-protest-and-chaos>

²⁴ <https://www.news18.com/news/india/8-year-old-among-12-killed-as-anti-caa-protests-worsen-in-up-inter->

Police have been particularly aggressive against protesters in UP, engaging in what Human Rights Watch has called “Deadly Use of Force against Protesters”.²⁵ The UN has also raised concerns about casualties and injuries during anti-CAA protests, and called on authorities “to respect the right to peaceful assembly, and to abide by international norms and standards on the use of force when responding to protests.”²⁶ International Commission of Jurists (ICJ), examining the lawfulness of UP police’s response to anti-CAA 2019 protests, concluded that many aspects of the response contravened international law and standards – including rights to life and freedom from ill-treatment, both protected under international law and guaranteed by India per its international obligations (ICCPR) and domestic law (Article 21). It called for India to “thoroughly, promptly and impartially” investigate any death and injury caused and bring to justice any law enforcement officials implicated in or found to be responsible for arbitrary deprivation of life during protest.²⁷

1.2 OBJECTIVE, RESEARCH QUESTIONS AND DATA COLLECTION

This is a report of civil society fact-finding into the police crackdown against anti-CAA protesters in Uttar Pradesh, to document evidence and aid in efforts at justice and accountability. State forces in India have had a history of targeting marginalised groups, especially religious minorities. This is more so in Uttar Pradesh, with a history of atrocities against Muslims, Christians, Dalits and women. The recent targeting is the latest manifestation of the lawless behaviour of state forces. It is important that the human rights violations replete in the current crackdown are exposed and the impunity with which authorities are able to target life and liberty of citizens, is challenged. This civil society effort by the Citizens Against Hate collective to document violations is one part of the effort, to be able to establish an evidentiary base to push the envelope for justice for survivors, accountability for duty bearers, and to turn the clock back against further subversion of the rule of law in UP.

The questions we explore in the course of our fact-finding investigation are: (i) the nature, extent and scale of police action against protesters, including the restricting of assembly and expression; use of excessive force; arrests and criminalisation of protesters; and the targeting of children. (ii) How the police have themselves

[net-suspended-in-21-districts-2431869.html](https://www.hrw.org/news/2019/12/23/india-deadly-force-used-against-protesters)

²⁵ <https://www.hrw.org/news/2019/12/23/india-deadly-force-used-against-protesters>

²⁶ <https://www.indiatoday.in/india/story/un-voices-concern-over-violence-in-india-against-qa-urges-respect-for-freedom-of-expression-1629399-2019-12-18>

²⁷ International Commission of Jurists. Briefing Paper on the Unlawful Use of Force by Uttar Pradesh Police to Quell Anti-Citizenship Amendment Act Protests. January 2020.

subverted the integrity of the justice system, through compromising criminal proceedings (refusing to register cases; destroying evidence; denying victim families their rights in criminal proceedings; and the reprisal against families and witnesses, to prevent efforts at justice. (iii) How impunity works, exploring the role of senior political and police functionaries in enabling the targeting. And finally (iv) the role courts and other justice institutions have played, as violations have continued.

Research for the study spanned end December 2019 to January 2020, involving desk work and field visits (through January and February 2020) to sites of violence, to engage with survivor families and those affected as well as with other informants such as lawyers, media persons and community leaders. We looked at media reports and analyses – which gave us the first vivid accounts of the police crackdown in UP – to provide us the basis for mapping the violence. We also accessed fact-finding reports conducted by civil society groups in the immediate aftermath of the violence. UP Police has an active twitter handle.²⁸ We used this extensively, to try to document police's version of their actions and the incidents. Official documents - First Information Reports (FIR), Post Mortem reports (PM), medical reports, court proceedings - were harder to obtain, at least initially.²⁹

We analyzed official documents we were able to access, to map police's accounts of incidents and offences, and as basis for tracking police and prosecution's initial working of criminal proceedings. We also reviewed court documents. Survivor families are crucial interlocutors in any enterprise to document human rights violations. We met and interviewed 19 of the 23 victim families and 3 injured persons, to understand the chain of events from their perspective, their experiences with the police since tragedy befell them on 20th December 2020, and their faltering struggles for justice, since. These have provided us rich testimonies that evidence counter narratives to police's accounts of events. We also met lawyers, community leaders and local activists in the course of our field investigations, to try to piece together accounts of police targeting and the post-violence working of police and other authorities. A key piece of evidence we tried to review was videos of violence sites, but we are still trying to access these. This is something we hope to continue and strengthen, as we move on now from documenting violations to planning interventions.

The rest of this chapter is as follows: Sec 1.3 briefly introduces the context of Uttar Pradesh, and history of targeting of Muslims in the state. Sec 1.4 summarises

²⁸ https://twitter.com/Uppolice?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor

²⁹ With the commencement of hearings in the Allahabad High Court, in a series of Public Interest Litigations (PILs) on police excess in Uttar Pradesh, this became easier, and more material is now available publicly for scrutiny.

state action to gag protests against the CAA 2019. Section 1.5 documents state administration's use of iron fist to target protesters and others; section 1.6 documents the nature and types of violence. HRDs. Sec 1.7 tries to map police's attempts to cover up their crimes in the course of the use of disproportionate force; section 1.8 examines actions of senior political and police leadership that aided police impunity; while section 1.9 casts a brief light on the working of justice institutions as the targeting and police reprisal continues to play out. Section 2.10, concludes trying to draw out some lessons, and Sec. 2.11 provides a set of recommends for actions – immediate and long term. Annexed are also 16 individual district accounts of the police targeting in the worst affected districts, to provide more granular picture and evidence of the violations at the local level – including testimonies of survivors and those that saw the targeting first-hand. These are divided into districts that saw a great deal of the violence - Group A - and those relatively less – Group B.

1.3 UTTAR PRADESH, MUSLIMS, AND RIGHT TO LIFE AND LIBERTY

Uttar Pradesh is central to the situation of Muslims in India. 22.34 per cent of India's Muslims live in UP. Muslims also make up a large proportion of UP's population – 19.23 per cent, 38.5 million in all, according to 2011 census, making Muslims by far, the largest minority religious group in the state. This also has policy implications. UP has 21 of the country's 90 Minority Concentrated Districts; 72 of 388 Minority Concentrated Towns; and 141 of 1228 Minority Concentrated Blocks, with Muslims making up the bulk of the minorities.³⁰ Muslim population in UP varies significantly across its four geographical regions. Almost half (46.9 per cent) live in the western UP, while the eastern region accounts for 36.3 per cent. Western region is also where population is largely urbanized, on an average 40 per cent of the Muslim population in most districts. These are also the districts where much of the current police targeting took place – with Meerut, Muzaffarnagar, Bijnor, Sambhal, Rampur, Firozabad and Kanpur, among the worst affected. In the East, badly affected were Azamgarh, Gorakhpur, Varanasi, and Behraich, among others.

Much targeted violence against Muslims in UP, as in the rest of India, involves hate crimes – that take various forms, most common being 'communal riots'. These have a long history in UP. Recent violence in Muzaffarnagar and Shamli districts, in September 2013, was the latest case of mass targeted violence against Muslims. A BBC report had described that violence episode as "the worst in India in a decade".³¹

³⁰ According to Ministry of Minority Affairs, Government of India, MCD are those with more than 25% concentration of (religious) minority communities. <http://minorityaffairs.gov.in/schemesperformance/multi-sectoral-development-programme/list-90-mcds338-towns-and-1228-cd-blocks>

³¹ <https://www.bbc.co.uk/news/world-asia-india-24172537>

By the time that violence had abated, 52 persons had died, over 60 had been grievously injured, and scores of houses destroyed in fires across 14 villages in the two districts. The impact of the violence on survivors has been long standing and severe. This included that as a result of forced displacement, with official estimates of the displaced in Muzaffarnagar, at its peak, being above 50,000. According to available official records, police filed a total of 566 cases, of which 59 were for murders, 6 for rape, and the rest for dacoity, arson, and other crimes. In subversion of justice, UP administration has since been acting to withdraw prosecution orders against 400 persons accused of arson, assault and vandalism, involving 75 cases. This, even as 41 cases of murder, rape and rioting had, by mid 2019, resulted in acquittals, enabled in part due to threats and intimidation of witnesses.³²

INSTITUTIONAL BIAS

BOX 1

Killing of Muslims by the UP Police has been deemed as emanating from "institutional bias" by the High Court of Delhi. In a 2018 judgment, the Court held 16 policemen of the Uttar Pradesh Provincial Armed Constabulary (PAC) guilty of *"targeted killing by armed forces of the unarmed, innocent and defenceless members of a particular community."*³³ This conviction follows a court battle of 31 years spanning two states. The Delhi High Court's judgment overturns the acquittal of the policemen in 2015 by a trial court. In May 1987, following communal tension in Meerut district of the state of Uttar Pradesh, more than 600 Muslim men – young and old – were arrested and detained by the police and the Army on a flimsy pretext of rifles having been stolen by alleged rioters. Of this larger group, about 40-45 of the men were abducted by the PAC, shot dead, and their bodies thrown into a canal. Some of them miraculously survived and testified what they knew of the abductions and murders before the trial court, but could not identify or name the police personnel as it was the dead of night.

The Delhi High Court's judgment punishes the killings as done in illegal custody, and points to both critical lapses in investigation as well as deliberate suppression and destruction of evidence by the investigating bodies. Added to this, it also exposes bias as the basis for the killings. In the Court's words,

"A disturbing aspect of the present case is the targeted killings of persons belonging to one minority community. It was submitted on behalf of the accused

³² <https://economictimes.indiatimes.com/news/politics-and-nation/yogi-govt-withdraws-75-cases-related-to-muzaffarnagar-riots/articleshow/70372224.cms?from=mdr>

³³ Zulfiqar Nasir and Ors. vs. State of Uttar Pradesh and Ors., CrI. A. 574/2015 and CrI.M.A. No. 8003/2015, dated 31st October 2018, para 1.8

that the prosecution in the present case has not proved motive for the commission of the crime and since the 42 persons allegedly abducted were total strangers, the accused had no grudge or animosity against them and further that 'no sane and prudent person much less than members of the disciplined force like the accused/ Respondents would commit such gruesome crime'.

*What the above submission overlooks is the fact that all the victims belonged to a minority community. This was a case of a targeted killing revealing an institutional bias within the law enforcement agents in this case."*³⁴

This is the first time that a court in India has identified institutional bias as the central motive for police violence. A senior human rights lawyer calls attention to this unprecedented aspect of the judgment, *"The HC judgment makes a significant jurisprudential advance by foregrounding this not as a case of indiscriminate firing by a trigger-happy police force, but rather locating the motive for the cold-blooded murders in the Muslim identity of the victims."* [Vrinda Grover (2018), *"Where prejudice is crime"*, Indian Express, 6 November 2018.

<https://indianexpress.com/article/opinion/columns/hashimpura-massacre-case-verdict-anti-sink-riots-5435387/1>

The overall context of institutional bias is a prime indicator against which the UP Police's role and actions can be gauged in the present violence too.

But communal violence is not the only form of denial of right to life and security of Muslims in UP. Small, everyday violence takes place on a regular basis. According to a recent catalogue of violence against minorities nationally, between 2014 and 2019, UP was the state with the highest number of incidents, 261, more than the next three states combined (Karnataka, Bihar and Delhi).³⁵ The pretext for most targeted violence was cow related, but there are other causes too. Hate speech against minorities; 'love jihad' propaganda (claims by Hindu groups of Muslim boys luring Hindu girls away, as *jihad* by another means); and *ghar wapsi* mobilization (literally 'homecoming', name given to forced conversion of non-Hindus to Hinduism), all occur frequently, many acting as triggers for further violence against minorities. These have the outcome of putting at risk, right to life and religious freedoms of minorities, when a weak and often complicit police and state administration fails to

³⁴ Zulfikar Nasir and Ors. vs. State of Uttar Pradesh and Ors., Crl. A. 574/2015 and Crl.M.A. No. 8003/2015, dated 31st October 2018, paras 101-102.

³⁵ <https://dotodatabase.com/search>

enforce the law, rather often uses the law to target minorities.³⁶

These trends have increased since BJP came to power at the Centre in 2014, and have further cemented after the party's landslide victory in state assembly elections in Uttar Pradesh in 2017. Ajay Singh Bisht, a.k.a Yogi Adityanath, a controversial Hindu monk turned politician led the campaign, and was made the state CM.³⁷ BJP's taking power has emboldened Hindu extremist groups,³⁸ and as evidence emerging from the current violence shops, some have also infiltrated formal state structures.³⁹ March 2019 General Election to the Parliament saw targeting peaking again in the run up to and immediately after BJP returned to power with even bigger majority.⁴⁰ UP – due to its political importance (of the total 545 members of national Parliament, UP sends 80), has often been at the centre of this Hindu extremist mobilization and the targeting of minorities.

1.4 GAG ORDERS: RESTRICTING ASSEMBLY AND EXPRESSION

In the wake of anti-CAA protests picking up in the country, large parts of UP, especially its Muslim concentrations in western and central districts of Muzaffarnagar, Bijnor, Meerut, Bulandshahar, Rampur, Kanpur and capital Lucknow, were put under lockdown with freedom of assembly and speech severely barred by authorities since at least 16th December 2019. According to social media and other media sources, authorities invoked 'prohibitory orders' under Section 144 of the CrPC and shutdown the internet.⁴¹

An examination of the UP Police's official Twitter handle is the only source in the public domain which gives information on Section 144 orders in force.⁴² Tweets

³⁶ Dayal, John and Shabnam Hashmi. 2015. '365 Days'.

³⁷ <https://www.theguardian.com/world/2017/mar/19/uttar-pradesh-yogi-adityanath-hindu-priest-chief-minister>

³⁸ https://www.vice.com/en_in/article/mbxx7q/humans-of-the-hindu-yuva-vahini

³⁹ <https://caravanmagazine.in/politics/uttar-pradesh-police-mitr-spo-civilians>
https://amp.scroll.in/article/950489/meet-the-friends-of-the-uttar-pradesh-police-who-wielded-batons-against-muslims-a-month-ago?__twitter_impression=true

⁴⁰ <https://dotodatabase.com/search>

⁴¹ https://www.business-standard.com/article/economy-policy/going-offline-anti-caa-protests-led-to-large-scale-internet-shutdowns-119122100077_1.html

⁴² Prohibitory orders' under sec 144 CrPC can be issued by a District Magistrate, SDM, or any other Executive Magistrate specifically empowered by State Government. These must be written orders, and the Magistrate needs to put opinion or reasons forth, order to be directed to a particular individual, or persons residing in a particular place or area, or to the public generally but with reference to frequenting or visiting a particular place or area. Police can issue 144 orders in areas designated as Police Commissionerates where DMs are not part of the law and order machinery. A notification by state government should stipulate which rank of officer can give the order.

reporting that orders were in force do not suffice to justify the restriction of freedom of assembly and expression imposed by S. 144 orders. A tweet on 17th December 2019 that was widely re-tweeted by different police formations, claimed that Section 144 was in effect all over the state, having been imposed on 16th December 2019. The tweet also asked members of the public to inform police if any gatherings/protests were being organised.⁴³ In all UP Police communication, protesters were characterised as *updravi* - trouble makers.

State-wide restrictions against CAA protests followed initial moves by students at the Aligarh Muslim University (AMU) – a central public funded university in western UP with large Muslim majority. On 13th December 2019, just after the lower house of Parliament passed the Citizenship (Amendment) Bill, some 700 students were booked by authorities that day for marching peacefully to try to submit a memorandum against the CAA to the local administrator.⁴⁴ Fresh round of protests at AMU on 15th December 2019, resulted in violent police crackdown against students, including use of 'less lethal' weapons such as stun grenades and tear gas, besides indiscriminate baton charge.⁴⁵ These left a trail of injuries – including head wounds, and one student whose hand had to be amputated – and arrest and detention of students, all accused of serious crimes.⁴⁶ The Allahabad High Court had, on reference to it by activists, directed the National Human Rights Commission (NHRC) to enquire into this incident.⁴⁷ NHRC's report submitted in the high court recently, confirms brutal police action and the high court has now issued directions for action against police personnel.⁴⁸ Following the AMU clashes, restrictions on holding anti-CAA protests were beefed up across Uttar Pradesh, the following day.

On 17th December 2019, the day protest meetings were planned at central locations in state capital Lucknow, state authorities targeted community leaders and HRDs, placing several prominent activists under 'house arrest', later detaining them formally.⁴⁹ The next day police escalated this to issuing notices to more than 3,000

⁴³ <https://twitter.com/Uppolice/status/1206936701974798337?s=20>

⁴⁴ AMU 13th Dec

⁴⁵ <https://www.thehindu.com/news/national/security-forces-committed-unbridled-rights-violations-in-amu-fact-finding-team/article30389632.ece>

⁴⁶ <https://www.indiatoday.in/india/story/caa-protest-21-held-clashes-between-amu-students-police-1628730-2019-12-16>

⁴⁷ <https://www.livelaw.in/top-stories/allahabad-hc-directs-nhrc-to-probe-police-action-at-amu-during-anti-cao-protests-151356>

⁴⁸ Allahabad HC # PIL 26805 / 2019, order dated 24th February 2020.

⁴⁹ <https://scroll.in/latest/947399/cao-protests-lucknow-advocate-mohammad-shoaib-detained-whereabouts-unknown-say-colleagues>

persons across the state, warning them not to participate in protests against the CAA planned for Friday, 20th December 2019.⁵⁰ That day, UP Police tweeted – and all districts retweeted the post – no permission had been granted for holding protest marches anywhere in the state.⁵¹

On 16th December 2019, Internet access on mobile phones had already been suspended in 21 districts of UP.⁵² This was extended to capital Lucknow on 19th December 2019, where state govt issued notification suspending SMS messages and mobile Internet / data services for 45 hours “to prevent the possible misuse of media and Internet to disturb the peace and tranquility of the city, and create further law and order situation....”⁵³ In Muzaffarnagar district, community leaders reported mobile service was suspended only in Muslim localities, whilst they were restored in the rest of the district. Broadband internet services remained suspended intermittently across the state since. They were only restored on 28th December 2019.⁵⁴

Restrictions were the most severe on Friday, 20th December 2019, when several groups across the state called for protest marches and sit-ins, including by Muslim community groups and platforms. In Baghpath, adjoining Muzaffarnagar, the police in a tweet that day asked for worshipers to come for Friday prayers in pairs of twos or threes, and no more.⁵⁵ In Kanpur, the City Superintendent of Police (SP) tweeted the following as example of preventive action police was taking against protesters:

We've made some preventive arrests, identified people who are anti-social elements; we've spoken to all Imams and Maulvis to tell people that all the 'namazis' (worshipers) must return home directly after prayers and not indulge in any protest. We have started checking/frisking around all mosques and at strategic locations, installed barriers, deployed force, and are using aerostag (drone mounted camera) with which we will keep

⁵⁰ <https://amp.scroll.in/article/947844/notices-to-recover-damages-from-protestors-in-uttar-pradesh-based-on-flawed-high-court-order>

⁵¹ <https://twitter.com/adgzonelucknow/status/1207372401782083584?s=20>

⁵² <https://timesofindia.indiatimes.com/city/lucknow/internet-snapped-in-21-districts-administration-to-take-call-on-restoration-after-midnight/articleshow/72913649.cms>

⁵³ Uttar Pradesh Government Notification No 189/2019 – CX – 3 dated 19th Dec. 2019, exercising powers under Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017

⁵⁴ <https://economictimes.indiatimes.com/news/politics-and-nation/internet-suspended-in-21-up-districts-over-citizenship-amendment-act/articleshow/72989827.cms>

⁵⁵ <https://twitter.com/baghpatpolice/status/1207921486062743552?s=20>

*an eye and monitor all students etc. within a 5 km radius.*⁵⁶

He further warned people against coming out on roads, claiming that, since Section 144 was in force, and no permission had been granted to hold protests, police would take action against those breaking the rule.⁵⁷

That day would see large scale crackdown by police across the length and breadth of the state - resulting in 22 of the reported 23 deaths and scores injured – among them, protesters as well as worshipers returning home after offering Friday prayers or after work, and bystanders.

In capital Lucknow, a police tweet the following day listed “achievements”, noting:

*Police used drones for surveillance; “some anti-national elements” (read protesters) tried to disturb the atmosphere in Maulviganj area; about 150 “nuisance makers” were taken in custody; 80 persons were booked under section 151; and a total of 11 cases were registered. Internet remained suspended.*⁵⁸

There is no mention of the deaths that occurred.

BOX 2 REQUIREMENTS FOR VALID ORDERS OF SECTION 144 AND INTERNET SUSPENSION

In a recent judgment in *Anuradha Bhasin v. Union of India & Ors*⁵⁹, delivered on 10th January 2020, the Supreme Court issued directions to all state governments pertaining to the publication and validity of orders passed under Section 144 and for suspension of telecom services (including internet). These include (paraphrased):

All orders “in force any future orders” under Section 144, CrPC and for suspension of telecom services, including internet, are to be “published” to enable affected persons to challenge them. *This indicates that all such orders, verbatim, are to be placed in the public domain. Tweets are not sufficient.

The Supreme Court reiterated that “restriction” upon the rights to freedom of speech and expression should be “in consonance with the mandate under Article 19 (2) and

⁵⁶

⁵⁷ <https://twitter.com/kanpurnagarpol/status/1207978601800294401?s=20>

⁵⁸ <https://twitter.com/Uppolice/status/1208256116271939585?s=20>

⁵⁹ *Anuradha Bhasin v. Union of India & Ors* [(2020) SCC OnLine SC 25; bit.ly/2vqv8Ca]

(6) of the Constitution, inclusive of the test of proportionality".

Orders for internet suspension cannot be indefinite as per the Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017

Order for internet suspension can be subject to judicial review

"The power under Section 144 CrPC cannot be used to suppress legitimate expression of opinion or grievance or exercise of any democratic rights".

Reiterating the requirements of S. 144 itself, the Court said an order passed under S. 144 *"should state the material facts to enable judicial review of the same. The power should be exercised in a bona fide and reasonable manner, and the same should be passed by relying on the material facts, indicative of application of mind. While exercising the power under Section 144, CrPC, the Magistrate is duty bound to balance the rights and restrictions based on the principles of proportionality and thereafter, apply the least intrusive measure"*.

The Court also stated that "repetitive orders under Section 144, CrPC, would be an abuse of power".

The state government of UP is bound to adhere, and demonstrate adherence, to the Supreme Court's directions.

Several permission requests for holding protests or sit ins against CAA 2019 are still being denied and free assembly is barred, stating S. 144 is in force. However defying all Supreme Court orders, S. 144 orders are still not published and available in public domain.

In Firozabad, Muslim community leaders informed that authorities denied them permission to hold a sit-in against CAA and for peace and amity (on 10th January 2020), whereas BJP leaders were permitted to take out a large rally on 13th January 2020 in support of CAA 2019.⁶⁰ Permitting one group/community the right to assemble in support of CAA, while denying the right to another group/community who stand in opposition to CAA, suggests the discriminatory use of executive powers. This has damaging and restrictive consequences on the preservation of fundamental rights in UP.

⁶⁰ Interview, minority rights activist. Name withheld. Firozabad, 20th Jan. 2020.

BOX 3 DOMESTIC AND INTERNATIONAL STANDARDS ON FREEDOM OF ASSEMBLY AND EXPRESSION**Domestic****The Right to Assemble - Article 19(1) (a) and (b), Constitution of India**

Article 19 – (1) All citizens shall have the right to – (a) freedom of speech and expression, (b) assemble peacefully and without arms. This right is subject to reasonable restrictions in the interest of the sovereignty and integrity of India and public order.

Jurisprudence

The Supreme Court of India has upheld the sanctity of these fundamental rights, and strongly cautioned state authorities – particularly the executive and the police – from suppressing these rights. A seminal example is the Court's observations in Ram Lila Maidan Incident v. Home Secretary, Union of India:

Ram Lila Maidan Incident v. Home Secretary, Union of India and Ors, (2012) 5 SCC

"Freedom of speech, right to assemble and demonstrate by holding dharnas and peaceful agitations are the basic features of a democratic system. The people of a democratic country like ours have a right to raise their voice against the decisions and actions of the Government or even to express their resentment over the actions of the Government on any subject of social or national importance. The Government has to respect and, in fact, encourage exercise of such rights. It is the abundant duty of the State to aid the exercise of the right to freedom of speech as understood in its comprehensive sense and not to throttle or frustrate exercise of such rights by exercising its executive or legislative powers and passing orders or taking action in that direction in the name of reasonable restrictions".

"The police authorities, who are required to maintain the social order and public tranquility, should have a say in the organizational matters relating to holding of *dharnas* (sit ins), processions, agitations and rallies of the present kind. However, such consent should be considered in a very objective manner by the police authorities to ensure the exercise of the right to freedom of speech and expression as understood in its wider connotation, rather than use the power to frustrate or throttle the constitutional right."

"Refusal and/or withdrawal of permission should be for valid and exceptional reasons. The executive power, to cause a restriction on a constitutional right within the scope of Section 144 CrPC, has to be used sparingly and very cautiously".

International**Universal Declaration of Human Rights**

Articles 19 (right to freedom of opinion and expression) and 20 (right to freedom of peaceful assembly and association) of the Universal Declaration of Human Rights

International Covenant on Civil and Political Rights**Article 19**

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies. (Note by Secretariat. UN HRC, 31st Session. 4th February, 2016)

- States shall *respect* and ensure all rights of persons participating in assemblies
- *Every person has the inalienable right to take part in peaceful assemblies*
- *Any restrictions on peaceful assemblies shall comply with international human rights standards*
- *States shall facilitate the exercise of the right of peaceful assembly*

State government's affidavit in the ongoing Public Interest Litigation (PIL) on police repression against anti-CAA protesters in Allahabad High Court reveals the extent of UP government's resorting to extraordinary measures (including S. 144) to curb

right to assembly and expression specially of minorities, as a matter of routine.⁶¹ It claims Police HQ issued directions to all police officials in the state on 22-10-19 in anticipation of judgement of the SC on Ram Janm Bhumi/Babri Masjid matter, "to take necessary steps to maintain peace, harmony, social and public order from being disturbed by religious hysteria." (para 7).⁶² In the event, the Supreme Court passed judgment that have been seen as being unfair and discriminatory, favouring Hindu parties to the dispute, against Muslim parties, even though the court seems to have acknowledged that evidence and argument favoured the latter party.⁶³

But minority groups were denied even the freedom to express their resentment at the injustice. Government's aforementioned affidavit in the PIL claimed 'effective steps taken to enforce the circular (of 22-10-19 in the wake of Ayodhya judgment) yielded results as no untoward incident of any kind could take place disturbing peace, harmony and tranquility before and after the judgment in the matter" (para 8). The affidavit goes on to argue that encouraged by this evident "success in maintaining law, public and social order" state government issued another circular immediately after the enactment of CAA (on 12th December 2019) with directions to all district police administrations in the state to deploy force to prevent protests. (Para 10 of the affidavit) This was followed with another circular on 16th December 2019, for police to remain alert. (para 11). In Muzaffarnagar, according to the affidavit, Section 144 prohibitory orders had been issued by the District Magistrate way back on 7th November 2019 (para 15) and were renewed on 20th December 2019. (para 16).

A similar prohibitory order in Bangaluru city in southern Karnataka state, against anti-CAA protests there, was struck down as illegal by the Karnataka High court. While passing the order the bench noted "people have a democratic right to protest and express their dissent on government's decisions about issues of importance."⁶⁴ On the other hand a petition filed in Allahabad HC by student groups against local authorities UP's Firozabad town disallowing peaceful anti-CAA protests there, was dismissed by the court on the grounds, according to the judges, that such a protest would "not be in national interest", going on to "if the petitioner is a citizen of India he must maintain peace at any cost".⁶⁵ It is clear that UP state government has not only used extra-ordinary powers to shut

⁶¹ Allahabad HC PIL # 08/2020, affidavit by State of Uttar Pradesh. Hearing of 27th January 2020.

⁶² Ayodhya dispute

⁶³ Critique of SC judgment

⁶⁴ <https://www.thenewsminute.com/article/section-144-bengaluru-k-taka-hc-gives-interim-relief-anti-caa-protesters-114482>

⁶⁵ <https://www.livelaw.in/news-updates/not-in-national-interest-allahabad-hc-delcines-permission-for-anti-caa-protests-152470>

down dissent arbitrarily and without good reason, it has also done it systematically to shut out any expressions of by minority groups of dissent at court judgments and legislations that are discriminatory against religious minorities. How systematic this has been is evidenced by the fact that S. 144 orders that enable the legal enforcement of this shutting out of dissent, are not available in the public domain, to check against the strict legal requirements as to their legality (in terms of material facts contained, reasoned, and prior inquiry done).

1.5 USING IRON FIST TO SUBDUE: LETHAL FORCE AGAINST PROTESTS

As if that was not enough, authorities used excessive force to crack down and break up anti-CAA protests. Protests were organised by a mix of local community groups, political parties, youth groups and often just spontaneously, to express dissent against CAA. Many protest marches were planned to culminate in handing over memorandum to local authorities. These were organised in Muslim pockets across much of Uttar Pradesh (as elsewhere in the country) on 19th December 2019 and particularly on 20th December 2020, the first Friday after the passage of the CAA in the Parliament.

While protest meetings and marches passed off peacefully in many parts of the state⁶⁶, in specific districts, they were met with 'less than lethal' force. The police used stun grenades to disperse protesting students in Aligarh⁶⁷, and used tear gas and batons indiscriminately in Aligarh, Azamgarh, Behraich, Bijnor, Gorakhpur, Kanpur, Lucknow, Meerut, Muzaffarnagar, Sambhal, Rampur and Varanasi, among other districts charging into protesting crowds to break them up. In some districts Police also used 'lethal' force, shooting live bullets into crowds, resulting a total of 22 of the 23 deaths in the state.⁶⁸ Various videos have emerged of police directly firing live bullets at protesters, contradicting police claims that deaths were the result of cross-firing by protesters' using illegal firearms.⁶⁹

⁶⁶ Including for example, in Allahabad town (now called Prayagraj) in the East, where largescale protest marches were taken out against CAA 2019, and allowed so by Police, resulting in no violence incident.

⁶⁷ <https://thewire.in/government/amu-cao-protests-up-police>

⁶⁸ <https://indianexpress.com/article/india/up-cao-protests-deaths-bullet-injuries-6180302/>
<https://www.ndtv.com/india-news/citizenship-amendment-act-protests-video-suggests-up-cop-opened-fire-in-kanpur-contrary-to-no-police-2152566?amp=1&akamai-rum-off>

⁶⁹ <https://gulffnews.com/world/asia/india/cao-protests-video-shows-police-firing-at-protesters-contrary-to-up-dgp-claims-1.1577078324096>

BOX 4 LIST OF RELEVANT DOMESTIC AND INTERNATIONAL STANDARDS ON USE OF FORCE

Domestic

Uttar Pradesh

- Regulation 70 of the UP Police Regulations (updated 2014) laying down principles and procedure that the UP Police must follow in using force in crowd control. This includes:
 - use of 'minimal force' (Part III – 5) to disperse crowd,
 - use of only 'least lethal' force (Part III -6),
 - discontinuance of force once purpose has been served (Part III-7),
 - use of lethal force (live bullet) only when absolutely essential to protect life and property (Part IV -1),
 - and to be immediately stopped once gathering disperses (part IV-4).
 - Firing to be made in downward direction (Part V).

The Regulation contains reporting requirements following every incident of firing.

The UP Police Regulations in Regulation 70 Part C lay down seven principles which control and guide the use of force in dispersal of unlawful assemblies:

- If the magistrate is present then the senior most officer must act on their advice.
- Before the orders for dispersal are given, **every effort must be made to disperse the crowd by the use of warnings and exhortations.**
- If the order to disperse is ignored or if after the announcement of the order to disperse the crowd shows intention to not disperse then force will be used.
- The **discretion of using force is with the magistrate who is present at the scene.** The magistrate will also direct the senior most police officer regarding the use of force. In the absence of a magistrate the responsibility rests with the senior most police officer present on the spot.
- The responsibility of **using the minimum amount of force necessary to effectively disperse the crowd** and carry out arrests rests with the senior most police office irrespective of the presence of a magistrate.
- The kind and duration of force used are subject to clause 7 and are to be decided by a senior police officer. **The least lethal weapons, as the circumstances permit, must be used. No punitive, repressive or ulterior motive will be taken into consideration.**
- **The use of force must stop immediately once the objective has been achieved.** If the magistrate is present, then in consultation with the senior

most police officer, the magistrate shall decide when sufficient force has been applied.

National

Section 129 of the CrPC on dispersal of assembly

- Only an **executive magistrate or an officer- in charge of a police station**⁷⁰ can order the use of force. Use of force can only be resorted to if an **unlawful assembly or an assembly of five or more people (likely to disturb public peace)** does not disperse on being ordered to or shows a **determination not to disperse**.⁷¹
- Law enforcement agencies enjoy the same right of private defence as ordinary people under the Indian Penal Code to protect life and property, which in any case **cannot cause more harm than is necessary for defence**.⁷²
- Ministry of Home Affairs' Standard Operating Procedure to Deal with Public Agitations with Non-lethal Measures

These SOPs, as a model to states, stress that as far as possible **persuasion, negotiation and mediation should be used** to disperse crowds.

If the crowd persists then the assembly should be declared illegal and should be ordered to disperse, if the people do not disperse, they shall be arrested with use of minimum necessary force.

They should be warned of use of force. **Force is to be used first using non-lethal means followed by harsher ways. Use of lethal means should be the last option only when all else fails.** As far as is practicable the assembly should be warned of the use of lethal means and attempt should be made to fire below the waist, if it becomes necessary.

⁷⁰ In her/his absence a police officer not below the rank of Sub-Inspector.

⁷¹ Section 129 Code of Criminal Procedure, 1973 (CrPC).

⁷² Section 99 Indian Penal Code, 1860 (IPC).

International

- **ICCPR:** Articles 6 (Rights to life), Article 7
- Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169) (1979)
- Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990)
- Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extra-judicial, summary or arbitrary executions on the proper management of assemblies. (Note by Secretariat. UN HRC, 31st Session. 4th February, 2016).

Force should only be used when it is absolutely necessary, it should be minimum and proportional to the situation, non-lethal and the least lethal weapons must be used; and its use should be discontinued as soon as the danger to life and property subsides.

On 21st December 2019, a day after the violence in the state, UP Inspector General, Law & Order tweeted the following statement:

Till now 705 people have been arrested for substantive offence and around 4500 people were detained preventively, who've been released on a bond. 263 police officers got injured, out of which 57 had firearm injuries. When scientific evidence collection of the events was done, about 405 empty cartridges were recovered. This shows that how protestors fired on police and in that process many, about 15 people were killed in this whole thing.⁷³

Analysis of the contents of First Information Report (FIR) registered by UP Police of the incidents⁷⁴, indicate that these do not contain credible facts that add up to or justify the offences being invoked. This calls the credibility of the FIRs themselves – and the entire narrative perpetrated by the state that it was protestors that were violent – into question.

First Information Reports (FIR) registered by police of the incidents in various districts, name specific organisers or student bodies as having called the protests, despite having no permission and S. 144 being in place. But with S. 144 orders not in the public domain, people wanting to exercise their right to protest had no information

⁷³ <https://twitter.com/Uppolice/status/1208364406288945153?s=20>

⁷⁴ These FIRs included those from....districts

of where S. 144 was in place and which localities or areas it was in force. They also claim people started gathering after Friday prayers, forming unlawful assemblies. The communal angle to the police record is explicit. FIRs also seem to be targeting Friday prayers at mosques in their respective localities. FIRs in Bahraich record '*namaz padhne ke bahane 200-250 log aa gaye*' (200-250 persons gathered under the guise of Friday prayers). Almost all named suspects in FIRs from UP are Muslims and almost all those detained too were Muslims. In their account of events that unfolded at protest sites, police claim in FIRs they registered, that they repeatedly warned gathered crowd about the unlawfulness of the assembly. Protesters turned violent on being challenged and started abusing police and attacking them with stones and sticks, and at places with firearm. This, according to the FIR account, left police with no choice but to use force to contain crowds, albeit only minimum.

But further reading of the FIRs raises doubts about police's version.⁷⁵ Some FIRs mention protestors using petrol bombs, *sutli* (string) bomb, and country made guns, among others to attack police. But none mention any relevant seizures – except slippers, shoes, sticks in some FIRs. Further none of the arrested had, in police's own admission, any of these weapons on their person. There is omnibus use of Section 148 of Indian Penal Code (IPC - rioting, armed with deadly weapons) even in FIRs which mention protestors armed only with stones. FIRs do not detail specific injuries to police personnel but invoke sections relating to assault and injury situations in general terms. Yet, in the absence of credible information attesting to a high threshold of injury on police or others, in some cases, even Section 307 is applied. None of the FIRs mention any individual role or attribute. At most they name certain people as organisers/instigators, but no other role is mentioned. These are omnibus allegations. The FIRs usually also list several unknown others as suspects, giving the police a great deal of leeway to implicate individuals in these crimes arbitrarily. Even where named, only first names are mentioned making it possible for the police to round up anyone in the area with the same name.

Testimonies and media accounts corroborate the discrepancies in police's accounts. In Nehtaur, survivor families informed the CAH fact finding team that at the Thana Masjid (*Agency Chouraha*, site of incident) no protest was planned or organised, and police charged at worshippers who were just milling out of the mosque after prayers.⁷⁶ In Firozabad, we were informed that police commenced baton charge and firing before Friday prayers had concluded.⁷⁷ And in Muzaffarnagar, police

⁷⁵ This analysis based on a review of FIRs available to us till early Feb. 2020. On 17th February 2020, state government filed compliance affidavit in Allahabad HC, that provided details and copies of all FIRs registered.

⁷⁶ Interview, Family of deceased. Nahtaur, 15th January 2020

⁷⁷ Interview, Family of deceased, Firozabad 20th January 2020

attacked an Islamic seminary well after protests marches had passed away.⁷⁸ Everywhere we travelled – in districts worst affected – we heard how authorities had taken an aggressive stance, presuming violence by protesters, charging into peaceful assemblies, provoking crowds to respond. In Muzaffarnagar and Firozabad especially, we also heard of the role of local BJP politicians, members of Hindu extremist groups, and *police mitras* ('friends of police') working with district police, in either instigating violence against protesters or directly targeting the protesters, including using firearms to shoot to kill.⁷⁹

Recent court proceedings have torn apart the police case. Bijnor sessions court, while granting bail to two accused of rioting and attempt to murder during anti-CAA protests on 20th December 2019, reportedly castigated the prosecution, noting that it provided no evidence to show that the accused had indulged in arson and firing, that any weapons had been seized from them, or that police had sustained any injuries.⁸⁰ Bijnor District police had arrested 100 persons that day, and filed multiple FIRs, claiming that the accused had indulged in violence in Nehtaur, Nagina and Najibabad towns in the district.⁸¹ A recent analysis of 13 court orders from Muzaffarnagar, Varanasi and Lucknow in the media reveals that courts are granting bail to arrested persons on the grounds that police are not able to put forward evidence of claims made in FIRs.⁸² "The specific role of the accused has not been outlined," an order granting bail to 14 persons in Muzaffarnagar recorded, all of who were accused of rioting and obstructing public officials from discharging their duties and assaulting them. No proof of injury to police personnel or photographic evidence of the accused indulging in arson or destruction of public property was provided, the report added. Earlier, in another set of bail orders from Muzaffarnagar, reportedly, 19 persons were granted bail, on similar grounds of lack of evidence.⁸³ In Varanasi, 69 persons were arrested on 19th December 2019. Of these, 56 were charged with serious offences such as rioting with weapons and obstructing public officials from discharging their duties and assaulting them. While granting bail to all the 56, the sessions court reportedly recorded that no clear role of the accused had been established in the violence, apart from the accusation that activists had taken

⁷⁸ Interview, Maulana Asad Hussaini, Madrasa Ilmiya, Muzaffarnagar, 15th January

⁷⁹ Interview: Firozabad (20th January) and Nehtaur (16th January)

⁸⁰ We are yet to obtain bail orders.

⁸¹ <https://indianexpress.com/article/india/citizenship-act-protests-up-bijnor-police-court-6240169/>

⁸² https://amp.scroll.in/article/950409/a-month-after-up-police-made-sweeping-arrests-bail-orders-show-that-it-is-unable-to-offer-evidence?_twitter_impression=true

⁸³ <https://indianexpress.com/article/india/cases-start-falling-in-muzaffarnagar-19-of-107-freed-after-police-say-no-evidence-6216925/>

part in the protest without obtaining permission.⁸⁴

In Lucknow, HRDs, lawyer Mohammad Shoaib, social activist and lecturer Robin Verma and political activist and artist Sadaf Jafar, all arrested on 19th December 2019 and accused of serious offences, including rioting with deadly weapons and obstructing public officials from discharging their duties and assaulting them, were granted bail. It turned out that the prosecution failed to produce any evidence of the claims made against the accused in FIRs and establish the latter's specific role in any crime. Mohammad Shoaib and Robin Verma were not even named in the FIR originally registered against unknown persons in Lucknow, and were added only later on. In Shoaib's case, FIR was registered only after the family filed a *habeas corpus* petition in the Allahabad High Court. On 19th December, Shoaib was taken from his home to an unidentified location and was not traceable for hours. He had been under 'house arrest' since 18th December 2019.⁸⁵ Jafar was released on 1st January 2020, Verma and Shoaib on 7th and 14th January 2020 respectively. Verma and Jafar have revealed that they were physically tortured in custody, while Shoaib was orally abused and humiliated.⁸⁶

State government has kept up its fabrications. In submissions to Allahabad High Court in the PIL against police repression, state government claimed, in the case of Muzaffarnagar, site of much violence on 20th December 2019, that after offering Friday prayers, thousands of persons marched towards the town centre Meenakshi chowk, where on being requested by police officers to disperse, "immediately started pelting stones, petrol bombs, and also started firing..." setting ablaze a police vehicle after which they took a large cache of police arms and accessories.⁸⁷ However, media accounts have a very different story to tell – of police acting with brute force to quell the protest march, joined by men in civilian clothes, probably members of BJP – including Sanjib Balyan, local MP and junior minister in the Central cabinet – besides Bajrang Dal and Rashtriya Swayamsevak Sangh cadres.⁸⁸

Considering that the information in FIRs cannot be relied on, the trends that emerge strongly indicate disproportionate use of force by police and not protestors:

- FIRs do not identify alleged perpetrators with the alleged "deadly" weapons

⁸⁴ Ibid.

⁸⁵ Ibid

⁸⁶ LKO HRD Testimonies

⁸⁷ Allahabad HC PIL 08/2020. State government Affidavit, para 19. Hearing on 27th January 2020.

⁸⁸ <https://caravanmagazine.in/politics/muzaffarnagar-police-hindutva-groups-attack-muslims-attempt-recreate-2013-riots>

- Seizures from the scenes collected only slippers, shoes, sticks
- Various videos of police directly firing live bullets at protesters,

1.6 ENFORCING 'REVENGE': VIOLENCE AND TARGETING

a. Killings and injuries

In a press note issued by UP Police on 26th December 2019, a total of 19 persons were reported to have died in the course of anti-CAA protests, all except one related to incidents of the 20th of December 2019.⁸⁹ Police sources confirmed to the media that most were from 'firearm injuries'.⁹⁰ In submissions to the Allahabad High Court in PIL against police repression on 17th February 2020, they revised this figure to 22.⁹¹ Our own fact finding revealed that there have actually been a total of 23 confirmed deaths. These are from 9 districts in the state: Bijnor (2 killings); Firozabad (7); Kanpur (3); Lucknow (1), Meerut (5), Muzaffarnagar (1); Rampur (1); Sambhal (2) and Varanasi (1). The state government's account leaves out Mohammad Wakeel killed in Lucknow on 19th December 2019. A police spokesperson had then confirmed that post-mortem report indicated wakeel's death⁹² from firearm injury.⁹³ He was buried on December 20, 2019,⁹⁴ and the DM had promised relief to the family.

Police has only admitted that people have died due to firearm injuries. Police are not disclosing, admitting to, or registering cases of deaths by firing. To date, there is still no official statement or confirmation by the UP Police of the number of deaths caused by police firing; in spite of ground reports and evidence being reported by human rights organisations and the media.⁹⁵ Alarmingly, in spite of internal police regulations requiring reporting following incidents of firing, the UP Police has only projected denials and contradictions in disclosing how many deaths have occurred due to police firing. In late December 2019, the Director-General of Police of UP claimed that no one has died from a police bullet and all deaths reported are due

⁸⁹ UP Police note, 'Action taken against anti-CAA 2019 protests in state's districts', 26th December 2019.

⁹⁰ <https://www.freepressjournal.in/india/caa-protest-14-of-16-upprotesters-died-of-bullet-injury>

⁹¹ Allahabad HC PIL 08/2020. State Government Affidavit in Compliance, 17th February, 2020.

⁹² <https://economictimes.indiatimes.com/news/politics-and-nation/five-dead-in-up-as-anti-kaa-protests-turn-violent/articleshow/72911187.cms>,

⁹³ <https://indianexpress.com/article/india/up-kaa-protests-deaths-bullet-injuries-6180302/lite/>

⁹⁴ <https://twitter.com/Uppolice/status/1208256116271939585?s=>

⁹⁵ <https://www.outlookindia.com/website/story/india-news-police-denials-at-odds-with-horror-accounts-of-lo-cals-in-uttar-pradesh/344650>

to firing by protestors themselves.⁹⁶ Following this, a district police chief (Bijnor) admitted to a newspaper that one death was caused by police firing in his district.⁹⁷ This is the only admission so far.

All deceased were poor, working-class Muslims who were, in most cases, the main breadwinners of their families. Most of the 7 in Firozabad were labourers in local glass factories. In Muzaffarnagar the deceased was a labourer, also doubling as driver. In Sambhal, one deceased was a truck driver, another, labourer. In Bijnor, while one of the victims was a student, another was a daily wage labourer. In Meerut too, most were labourers.

22 of the 23 victims died due to bullet injuries. It is of serious concern that all bullet injuries were above the waist: 7 had head wounds; 2 in the neck; 5 chest wounds, 3 in the upper back, and 3 in abdomen. Regulation 70(e) of the UP Police Regulations, laying down the procedure to be followed in using firearms, stipulates that when firearms are used, aim is to be low and pointed only at the most threatening part of the crowd. The nature of injuries seem to signal, thus, an intent, to kill rather than to warn and disperse crowds.

In Nehtaur (Bijnor district) family of Suleiman, an aspiring civil servant, claimed he was picked up by police, taken into a by lane, and shot in the chest.⁹⁸ No weapons were found on Sulieman. This is the only killing of the entire episode, that the UP Police acknowledged as having occurred due to police firing, claiming that police personnel fired in self-defence.⁹⁹ The PM report confirms death due to gunshot wound, with a bullet recovered from the vertebral column.¹⁰⁰ On 28th December 2019, Suleiman's family filed a complaint at Nehtaur Police Station (PS) against 7 police persons, including the Station House Officer (SHO) of Nehtaur PS, Rajesh Solanki, city In-charge, Ashish Tomar, constable Mohit Sharma and another 3 police personnel, claiming the police party picked up Suleiman returning home from mosque, took him into the lane and constable Mohit Kumar shot him to death.¹⁰¹ Media reports, quoting Bijnor SP, Sanjeev Tyagi, claimed an FIR of murder had

⁹⁶ <https://www.indiatoday.in/india/story/uttar-pradesh-police-claims-firing-protestors-not-cops-behind-deaths-CAA-protests-state-1630474-2019-12-22>

⁹⁷ <https://indianexpress.com/article/india/CAA-protests-up-bijnor-protester-killed-police-firing-6181930/>

⁹⁸ Interview, Family members. Nehtaur, 15th January.

⁹⁹ Citation

¹⁰⁰ Post mortem report, Mohammad Suleiman, Bijnor, dated 21-12-19.

¹⁰¹ Complaint by family, addressed to SHO Nahtaur PS, dated 28-12-19

been registered against 6 police officers, including SHO Solanki.¹⁰² Despite several attempts by the family, they were not provided a copy of the FIR. In February, Shoeb Mallick, brother and complainant, received a notice (dated 31/01/20) informing him that his complaint had been included in an existing FIR (# 444/19 of Nehtaur PS), and asking him to report for recording his statement.¹⁰³ The said FIR, registered on a complaint filed by Constable Ramkumar of Nehtaur PS on 20-12-19 details the police's account of the incidents of that day, claiming Mohit Sharma (of district SWOT team) was fired upon, who then fired in retaliation killing the attacker.¹⁰⁴ This is also the statement made in submissions by state to Allahabad High Court in the ongoing PIL against police repression.¹⁰⁵

Nehtaur saw another death – Mohammad Anas – again killed in cold blood, as he stepped out of his house to fetch milk for his 9 month old child, away from the scene of protests. No FIR has been registered of his murder, despite family having submitted a complaint and making several attempts. Nehtaur also saw at least three grievously injured, in one particular case, where the victim – recovering precariously - claims he was shot at by police personnel as he was returning from an errand, and survived because the bullet passed through his body, just grazing vital organs.¹⁰⁶

In all other cases, and despite photographic evidence, as well as PM reports that confirm gunshot injuries to upper parts of the body, Police have registered FIRs claiming death was due to minor injuries (not bullet). In the FIRs, the accused are "unknown", all the more reason, legally, that Section 302 IPC (murder) should have been invoked, as no motive or intent can be prescribed in the absence of any known accused. Yet, the FIRs invoke Section 304 IPC without any facts to allege this offence.¹⁰⁷

There are alarming accounts of police pressuring and intimidating families to record distorted and false facts in their complaints. In the lone case of Muzaffarnagar killing of Noor Mohammad, where Section 302 IPC has been invoked, FIR records that someone from among the protesters shot at the deceased. This, family members

¹⁰² <https://indianexpress.com/article/india/citizenship-act-protests-up-bijnor-police-court-6240169/>

¹⁰³ Notice under section 160 of CrPC. Dated 31/01/20.

¹⁰⁴ FIR # 444/19, Nahtaur PS. Dated 20-12-19.

¹⁰⁵ Allahabad HC PIL # 08/2020, State government affidavit dated 27th January 2020, Para 46. State Government affidavit of Compliance, dated 17th February 2020, Para 3.

¹⁰⁶ Interview, name withheld. Nahtaur. 15th January 2020.

¹⁰⁷ Example: Cases of Bilal Pasha and Mohammad Shahroz, bith Sambhal; and almost all cases in Firozabad.

revealed, police pressurised them to record in their own complaint. Our interviews with other surviving families revealed that in Firozabad, there might have been private individuals firing into the assembly of anti-CAA protesters, as in the case of Muzaffarnagar. Family members and community leaders spoke of individuals associated with Hindu extremist groups being involved in these incidents, claiming that there were videos circulating that could testify to this claim.¹⁰⁸

The number of those injured is not known. In its affidavit before the Allahabad High Court, state government confirmed 83 injuries throughout the state in anti-CAA protests.¹⁰⁹ We met at least two – in Firozabad and Bijnor – both with gunshot wounds to abdomen. They are both undergoing treatment involving multiple and complicated surgeries.

Police claimed on 21st December 2019 that 256 police personnel also sustained injuries in the protests.¹¹⁰ In written submissions to the Allahabad High Court, state government claimed that in Muzaffarnagar district, site of much violence, protesters fired at the Superintendent of Police, SP (City) "who sustained gunshot injuries", as did Additional Director General, ADG, Meerut Zone, who "sustained injury from hard and blunt object".¹¹¹ In a subsequent submission in the same case, state government revised its earlier figure of total injured in anti-CAA protests throughout the state to 455 police.¹¹² When the bench asked for details of the injuries, state government counsel claimed medical reports were too bulky to be attached to submissions. When bench asked if even a list of injured police officers had been submitted, the counsel answered in the negative.¹¹³ No deaths of police personnel have been reported by authorities.

¹⁰⁸ Interview, Muzaffarnagar, 14th Jan. and 13th Feb. 2020; and Firozabad, 20th Jan. and 15th Feb. 2020.

¹⁰⁹ Allahabad HC PIL # 08/2020, State Government Affidavit in compliance, para 5. 17th Feb. 2020.

¹¹⁰ <https://www.indiatoday.in/india/story/up-anti-caa-citizenship-law-violence-clashes-dead-police-injured-ig-1630398-2019-12-21>

¹¹¹ PIL 08/2020. State Government Affidavit, 27th January 2020. Para 19.

¹¹² PIL 08/2020. State Government Affidavit, 17th February 2020. Para. 5.

¹¹³ PIL 08/2020. Hearing on 17th February 2020.

BOX 5 REGULATION 70 UP POLICE – ON REPORTING AFTER POLICE FIRING

Regulation 70 Part D of the UP Police Regulations require strict reporting following police firing. The reference to the senior most police officer must be either the Station House Officer (of the jurisdictional police station) or an officer not below the rank of Sub-Inspector (as per Section 129, CrPC). To date, it is not known if these reports have been completed. The lack of transparency on the part of the police points to obfuscation and cover-up.

After the magistrate has ordered the senior most police officer present to use firearms, the shells of the rounds fired must be determined and their description noted. The use of firearms can only be permitted by the senior most police officer present at the scene and they themselves will be responsible for controlling the use of firearms.

Whenever there is use of firearms, the senior most police officer, unless the responsibility for the same is taken by the magistrate, must write a report detailing the incident and reasons that necessitated the use of firearms, the outcome of the firing incident, the description of those dead or hurt and any other details as may be necessary (emphasis added).

b. Brutalising children: Illegal detention and torture

There have been reports of illegal detention and custodial torture of children by police from various districts in the state.¹¹⁴ A fact finding report on violence against minors in the police crackdown against anti-CAA protesters provides shocking revelation of police lawlessness, violating existing laws and regulations regarding children in conflict.¹¹⁵ Police detained close to 41 minors, and subjected them to custodial torture. Of these, 22 minors were detained and tortured in Bijnor and 14 in Muzaffarnagar. In Bijnor, Police registered FIRs against four minors for rioting among other offences. The minors in questions, were released after 12 days in detention. Two minors sustained bullet injuries in Lucknow, while another eight-year-old was killed in stampede as a result of police's excessive use of force against anti-CAA protests in Varanasi. Parents of the deceased were forced to conduct high security burial just an hour after the body was returned by police. According to the report,

¹¹⁴ https://www.huffingtonpost.in/entry/caa-uttar-pradesh-police-tortured-children_in_5e0207b5e4b05b08ba-bab722?hka

¹¹⁵ 'Brutalising Innocence: Detention, Torture and Criminalization of Minors by UP Police to Quell anti-CAA Protests'. Quill Foundation, Citizens Against Hate and HAQ Centre for child Rights. January 2020.

even by 29th January 2020, two minors continued to be held under detention in Firozabad. It went on to add, the cases had not received any legal aid nor any media coverage. Separately, it was revealed in fact finding teams interviews with lawyers in Sambhal that 6 minors were detained for a full 40 days, before being released on bail.¹¹⁶

All detained minors that the aforementioned fact-finding team spoke with, testified that they were beaten with police batons/*lathis* in custody, resulting in serious injuries in several cases - fractured limbs, smashed knees, and bruised bodies. They were kept in the same enclosure as adult detainees and made to witness violence inflicted by police on adults. During detention, minors were denied basic rights like access to drinking water and food and rebuked or beaten for asking for water or the use of toilets. They were also sleep-deprived, and no arrangement for heating was made despite freezing temperatures. In Muzaffarnagar, detained minors from an Islamic seminary that was attacked and ransacked by police, were fasting (*roza*) on the day of detention. Police denied them water to break the fast. They were also abused and humiliated, and religious slurs against Islamic religious figures were made by police personnel. The minors, along with other detainees, were forced to chant *jai shri ram* ('hail Ram', the Hindu God).

The fact-finding team spoke with the principal of an Islamic seminary in Muzaffarnagar from where many minors were arrested by police on 20th December 2019, and booked for serious crimes.

We like to keep a low profile and have in our history of 40 years never participated in political rallies or protest. On 20th December too, while a call for anti-CAA protest had been given by community groups and political parties, we advised the congregation at Friday prayers, mostly students and staff - not to take part in those. No one from the madrasa went out to join the protest marches taking place just outside the compound. Protest marches started after Friday Prayers concluded at 1.30 PM, and had wound up by about 2.30 pm. At 3.45 PM, all quite suddenly, a group of some 200 police persons, in uniform, forced their way into our compound, smashed CCTV cameras as they entered, and rushed into my chamber. Without uttering a word, they started punching and abusing me. Rest of the police party went about systematically smashing everything in sight - all computer systems, bathroom fixtures, Air conditioner, door panels, window panes and ceiling fans. Policemen then targeted the residential

¹¹⁶ Interview, name withheld. Sambhal. 15th February 2020

block that houses hostel for students. They broke down doors and dragged out all 50 students in residence on the day. All were forced into waiting police vehicles, along with me, the cook and another two staff members. Policemen kept up the beating throughout, in transit in police vehicles, and later at the Civil Lines police station, where we were all deposited, also hurling abuses and religious slurs all the time.¹¹⁷

The Principal of the seminary was himself tortured in custody – ending up with a fractured arm, sore legs, and bruised body – and repeatedly threatened, accused by the police party of having sent his students to protests to violently oppose CAA. According to the Principal, 14 of the 50 students detained by police from the seminary that evening, were minors, i.e. under 18 years of age. 4 of these had FIRs registered against them, accused of serious crimes, including rioting and destruction of property, besides assaulting and obstructing public officials, as well as under Section 307 IPC (acting with intention to cause death) and Section 120-B IPC (criminal conspiracy).¹¹⁸ The four minors were released only after 12 days in detention. The principal confided to the fact-finding team that he was forced by senior district police officers to furnish sworn affidavits absolving the police of any mistreatment – in return for release of the students from custody.¹¹⁹

The FIRs registered by police of the incident, on 11th and 12th January 2020, on complaint by a staff member of the seminary, 20 days after the incident, records identical details in both¹²⁰:

Many protesters at the anti-CAA rallies in Meenakshi chowk area on 20th December 2019 entered Sadaat hostel. Police used minimal force to restore order. Students of the Hauza and protesters who had entered the hostel were taken into custody. In this process, many students suffered injuries and Hauza property was also damaged. At that time, no one's identify was established by Hauza management and staff. Later on staff confirming identify of those that were students at Hauza and being found innocent were released by district administration/Police. This was much appreciated by all. Misinformation spread by newspapers and social

¹¹⁷ Interview, Maulana Asad Hussaini. Principal, Hauza Ilmiya, Muzaffarnagar 14th January 2020, and 13th February 2020.

¹¹⁸ FIR # 684 of 2019, dated 21st December 2019. Civil Lines PS, Muzaffarnagar. Dated

¹¹⁹ Interview, Muzaffarnagar, 15th January 2020.

¹²⁰ FIR # 0013 of 2020 dated 11th January 2020 and # 0016 of 2020 dated 12th January 2020, latter under section 22 of POCSO Act against unknown persons.

*media about students of Sadat hostel having been inhumanly treated is a misrepresentation of facts and is shameful. There is no truth in students having been ill-treated. In this regard, on making inquiries with students and staff, all allegations were found to be baseless. The propaganda is baseless. Please register my complaint and initiate legal proceedings.*¹²¹

In their submission to Allahabad High Court in the PIL against police repression, state government claimed that Maulana Asad Raza had recorded statements (under Sec 161 CrPC) that some rioters entered into the hostel and thereafter police entered into the hostel to disperse them. The affidavit goes on to claim that the principal “nowhere stated that the police tortured him”.¹²²

Media accounts from further on reported that 19 of the 107 persons detained by police in anti-CAA protests in Muzaffarnagar were released from custody. 5 of these were by police themselves, invoking Section 169 CrPC, a rarely used provision, on grounds that evidence was deficient, dropping all grievous charges against them. The rest were released on bail by the courts, again due to lack of evidence. These included 10 students from the Islamic seminary, against whom all charges were dropped, except Section 188 IPC (obstructing public officials).¹²³

The action by state police in detaining and torturing minors is in contravention of Articles 19, 21 and 22 of the Indian constitution, and the entire system of juvenile justice in India.

JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT 2015

BOX 6

In line with international standards, India has carved out a specialised juvenile justice system to respond to children in conflict with law and in need of care and protection. This is separate from the formal justice or courts system for adults. Specific processes and institutions are in place to care for and respond to children who have to come into contact with the justice system. A major principle that underpins our juvenile justice system is that a child's time in a police station is to be kept to the minimum possible, and this is reflected in legal and procedural provisions. The Juvenile Justice (Care and Protection of Children) Act 2015 lays down that a child in

¹²¹ FIR # 0013 of 2020, Civil Lines PS, Muzaffarnagar, registered by Naeem Alam. 11th January 2020. Sections invoked 147, 148, 149, 452 and 427 IPC. Another FIR with exact same details was registered on 12th January 2020, # 0016 of 2020 Civil Lines PS Muzaffarnagar by Naeem Alam, under section 22 POCSO.

¹²² Allahabad HC PIL 08/2020. Affidavit of Compliance, hearing on 17th Feb. 2020. Para 10.

¹²³ <https://indianexpress.com/article/india/cases-start-falling-in-muzaffarnagar-19-of-107-freed-after-police-say-no-evidence-6216925/>

conflict with law is not to be kept in police lockup (or jail) under any circumstances. Section 10 of the **Juvenile Justice Act, 2015** provides that no child is to be kept in a police lockup or in a jail.

The development of law and jurisprudence around the JJ Act has brought in procedures to be followed to determine age at first production (production before a judicial magistrate within 24 hours of arrest). If the arrested person appears to be a juvenile, it is the duty of the Magistrate to order initiation of procedure under the JJ Act and not the formal criminal procedure.¹²⁴ This has been settled by the Supreme Court in *Jitendra Singh @ Babboo Singh and Anr. v. State of U.P* 2013 (9) SCALE 18.

The UP Juvenile Justice (Care and Protection of Children) Rules, 2019 reinforce the protections laid down in the Act:

- No child is to be apprehended for either petty or serious offences, only for heinous offences.¹²⁵
- If a child is held in detention, police is required to bring this to the notice of the district Juvenile Justice (JJ) Board, to enable the latter to direct authorities to make special provisions for the child. They are also required to inform child's parents. [Rule 8(2)].
- According to Rule 8(3), child is not be sent to police lock-up, only to observation home. Finally, vide Rule 9 (1) read with 9 (5), child is to be produced before JJ Board within 24 hours of apprehension

Victim testimonies, official documents that are publicly available, and media accounts reveal that at no point did police or judicial magistrates, either in Muzaffarnagar or other districts from where detention of children have been reported – Bijnor, Sambhal or Firozabad – implement the provisions of the JJ Act during the entire process of incarceration of children. Justice institutions too failed in their duty. In a complete inversion of its mandate, National Commission for the Protection of Child Rights (NCPCR) – the apex national institution for child protection – rather than acting to protect rights of child victims of state repression, directed UP state police chief to ensure that minors were not being used by anti-CAA protesters as shield.¹²⁶ Similar directives have been issued by UP state CPCR to all district administrators.¹²⁷

¹²⁴ Section 9, Juvenile Justice (Care and Protection of Children) Act, 2015.

¹²⁵ Proviso to Rule 8(1) of Uttar Pradesh Juvenile Justice (Care and Protection of Children) Rules, 2019

¹²⁶ Letter no

¹²⁷ Letter no.

Police's detaining and torturing children in custody are also in contravention of international laws. UN Convention on Child Rights (CRC) bans torture of children.

c. Vandalising property

There have been reports from some districts, specifically Muzaffarnagar, Bijnor and Lucknow, of police forcibly entering homes in Muslim localities in the aftermath of the protests on 20th December 2019, including the homes of some of the murder victims, ransacking them¹²⁸ and vandalising property¹²⁹, beating up residents, in what is reported by civilian fact-finding teams as reprisal attacks.¹³⁰ In Muzaffarnagar's Khalapar area, close to the town centre of Meenakshi chowk where violence had erupted after Friday prayers, we met Haji Akhtar, in his smashed up house.¹³¹

Police numbering 100-150, all in uniform, forcibly entered our house at 1.30 am (21st December) using the rear entrance. As they came in, they broke furniture, electric fittings, switch board, and appliances, up and down the house.

That night, police was on rampage, breaking into the entire row of houses in Khalapar. No house that could be broken into was spared. All houses were vandalised, had furniture and appliances damaged, some of it carted away, much dumped outside on the main road. Whilst doing this, Police were also shouting slogans: "hum denge tum ko azaadi" (we will grant you freedom). Later, police charged youth from all houses they had broken into, in fabricated cases of rioting and violence. In one house that was totally ransacked, all 5 brothers have been booked. Many of those booked have now been arrested by police.

Police also beat up my nephew who sustained head injury, and in the state, was arrested by police. Salman was released only after 3 days.

Maulana Akhtar showed us letters of complaint he had faxed to local SSP, DM, the

¹²⁸ <https://www.indiatoday.in/india/story/bijnor-ground-report-muslim-families-flee-as-up-police-vandalise-homes-harass-women-after-clashes-over-caa-1631046-2019-12-24>

¹²⁹ <https://scroll.in/video/947552/watch-scenes-of-destruction-in-muzaffarnagar-as-mob-attacks-muslim-neighbourhoods>

¹³⁰ <https://www.indiatoday.in/india/story/every-assailant-was-policeman-activists-accuse-up-police-of-assaulting-muslims-caa-stir-release-videos-1632361-2019-12-29>

¹³¹ Interview. Maulana Akhtar. Khalapar, Meenakshi Chowk, Muzaffarnagar. 15th January 2020.

state DGP, as well as National Human Rights Commission and National Commission for Minorities. He has neither received any reply from any one, nor has anyone come to record his statement and inquire into the matter.

We heard similar accounts of police vandalism from the family of Mohammad Suleiman, victim of police firing on 20th December 2019 in Nehtaur, Bijnor, where policemen numbering 10-12 in uniform, broke into the first floor house of the deceased, smashed glass panes and utensils in the balcony, according to the family, to overawe the family.¹³² Our fact finding came across similar accounts from Firozabad.¹³³ Media accounts speak of vandalism by police in Lucknow.¹³⁴

d. Collective punishment

Controversially, the UP state government sealed properties of those they accused of being involved in protests, in a stated effort to seize and recover costs of destruction of public property from their sale. Reportedly, the state government holds that this is for restitution for damage to public property during violence accompanying protests, in acts of retribution.¹³⁵ State Chief Minister's Office Twitter handle directed local authorities on 21st December 2019, "Wherever public property is damaged, get damages for that from protestors by identifying them from CCTV footage and other sources".¹³⁶ Reports have emerged from Lucknow, Rampur and Muzaffarnagar as well as Firozabad, of district administration enforcing action. These have taken different forms.

In Muzaffarnagar, we were informed by respondents, many of them victims of police atrocity, that 67 shops in Meenakshi chowk area – the site of protests and violence on 20th December 2019 – were sealed by the police on the 21st December 2019, and notices issued to them of non-payment of past revenue dues. On 25th December 2019, the district administration, in a meeting it called with traders, Imams of prominent mosques and Muslim community leaders, demanded from Muslim leadership that they ensure no further anti-CAA protest, in return for de-sealing of shops (as well as for releasing from detention youth arrested. Once community leaders gave this undertaking, all shops were reopened that same evening. The

¹³² Interview, Mohammad Suleiman's family. 15th January 2020.

¹³³ Interview, Firozabad. Name withheld. 20th January 2020.

¹³⁴ Vandalism – Lucknow

¹³⁵ <https://www.newindianexpress.com/nation/2019/dec/23/67-shops-of-alleged-protesters-sealed-in-uttar-pradesh-district-2079914.html>

¹³⁶ <https://twitter.com/CMOfficeUP/status/1208275318034718721?s=20>

next Friday, 27th December 2019, no protests were held.¹³⁷

In Lucknow, newspapers reported that district administration had issued show cause notices to large number of persons accusing them of destruction of public and private property in protest rallies and asking why cost of the damages should not be recovered from them. These notices cite a 2010 Allahabad High Court order, directing state government to enforce provisions of Prevention of Destruction of Public Property Act, 1984. Media accounts report that Lucknow authorities had constituted a committee to examine losses and complicity of individuals accused.

PRIVATE LIABILITY FOR DESTRUCTION OF PUBLIC PROPERTY

BOX 7

By law, the Supreme Court put in place guidelines to be followed to determine the quantum of damage caused and liability ensued when "mass destruction of property takes places due to protests or thereof" in *Destruction of Public and Private Properties vs. State of AP and Ors*¹³⁸, in 2009. The guidelines are based on recommendations by two specialist Committees headed by eminent jurists, appointed by the Court.

Essentially, either the High Court or the Supreme Court is to appoint either a sitting or retired High Court judge, or sitting or retired district court judge, to act as a Claims Commissioner to "estimate the damages and investigate liability". The Claims Commissioner will report to the High Court or Supreme Court which will finally determine liability "after hearing the parties". Clearly, the Court envisioned that a judicial officer is best placed to determine damages and liability, with the final order to be given by a higher court.

In 2010, the Allahabad High Court reinforced the Court's guidelines and added further directions in its judgment in *Mohammad Shujauddin vs. State of U.P. and Ors*.¹³⁹ In a marked change from the Supreme Court, and what can be seen as a dilution, the High Court gives the function of the Claims Commissioner to an "officer not below the rank of Additional District Magistrate in every district". The ADM is to hear all concerned parties and give an order within 30 days. Even if a dilution of the Supreme Court's guidelines, the UP state government is bound to follow this procedure.

Community members view such actions as collective punishments to intimidate witnesses and those seeking justice against police atrocities, by trying to silence

¹³⁷ Interview, named withheld, Muzaffarnagar, 15th January 2020.

¹³⁸ *Destruction of Public and Private Properties vs. State of AP and Ors* AIR 2009 SC 2266

¹³⁹ *Mohammad Shujauddin vs. State of U.P. and Ors* 2011 (1) ADJ 63

them. They are also being used by authorities to clamp down on any further anti-CAA protests. The jury at a public hearing on police repression against anti-CAA protesters found that the police had been arbitrarily issuing notices to people for recovery of costs of damage to public property, when it is only an ADM or above who can determine damages and give an order. The jury noted, "this cannot be done without establishing the culpability of the person in a court of law", going on to note, "these are intimidatory and illegal tactics being employed by the police".¹⁴⁰ They also added, "there is considerable evidence to show that the police itself indulged in destruction of private property of innocent people".

Intimidatory tactics by authorities have not ceased, two months since the fateful day of December 2019. Media accounts reported recently from Muzaffarnagar, of notices of recovery of damages having been issued against 53 persons.¹⁴¹ And in Sambhal, 11 persons protesting against CAA in Nakkhas PS area have been sent notices by police (under section 111 of CrPC) to sign personal bonds worth Rs 50 lacs each, of maintaining peace.¹⁴² Police claim they apprehend that persons might instigate violence. These include women staging Shaheen Bagh-style sit in protests at Hussaini Bagh area of Nakkhas. The report claimed authorities confirming further action to bound down protesters. In Nahtaur, media reports claim 75 persons were charged afresh under serious sections.¹⁴³ Similar notices are reported to have been issued in Moradabad¹⁴⁴, and in Rampur. And where intimidation has not worked, police have cracked down with chilling force, as in Azamgarh recently, against women protesters, many of who were grievously injured.¹⁴⁵

1.7 COVERING UP: POLICE SUBVERTING JUSTICE PROCESS

Taking the testimonies, eyewitness accounts, and trends emerging from official documents together, it emerges that the motivation behind the post-violence police reprisal is to cover up crimes police themselves have committed. The extent to which UP police has gone to cover their tracks in murder cases, in the process

¹⁴⁰ People's Tribunal on State Action in UP: Citizenship, Democracy and Protest. 16th January 2020. Jury Observations. (p 11).

¹⁴¹ <https://indianexpress.com/article/india/muzaffarnagar-qa-protest-case-adm-prosecution-jury-judge-6268931/>

¹⁴² <https://indianexpress.com/article/india/sambhal-anti-qa-protest-11-asked-to-sign-rs-50-lakh-peace-bond/>

¹⁴³ Shah Times

¹⁴⁴ <https://www.thehindu.com/todays-paper/tp-national/rs-104-crore-fine-defies-logic-up-poet-politician/article30838489.ece>

¹⁴⁵ <https://thewire.in/law/azamgarh-up-police-qa-protesters-crackdown>

subverting the justice system, is instructive. State-wide, there have been a total of 23 confirmed deaths, all in 9 districts, all being Muslim. We visited 8 of the 9 districts where killings had taken place and met 20 of the 23 victim families. 22 of the 23 died due to firearm injuries, families claim, due to police firing or firing by those working in collusion with the police to target anti-CAA protesters. The minor in Varanasi died in a stampede.

a. Forced burials

In all districts we visited except Sambhal, families of victims alleged that they were forced to bury their dead hurriedly, without funeral gatherings, away from their homes, under heavy police presence. The family of Mohammad Suleiman (Nehtaur, Bijnor) testified that they were assaulted by the police when bringing the body home from hospital. Later, after autopsy had been conducted, police refused to allow the family to take the body back home, forcing them rather to bury the body at their relative's village, 30 Km away from Nehtaur, in the early hours of the day, under heavy police presence.¹⁴⁶ This, we heard was a pattern repeated often. In Meerut, all five survivor families testified that they were forced by the police to bury their dead hurriedly, in secret, police not allowing families time to conduct last rites. In Firozabad, 4 families we spoke with confirmed that they were forced by police to hold funerals hurriedly, and discreetly, mostly at night. In Muzaffarnagar, police refused to let Noor Mohammad's body be taken home by family, forcing them to carry out the burial at a village 40 Kms away from Muzaffarnagar where the family had no family connection. The deceased's father in law, who was with the body during autopsy, lamented:

*No one saw the body. Not even Noor Mohammad's wife. They did not allow us to even bury our dead according to our rites. Great injustice has been done.*¹⁴⁷

In Rampur, father of deceased Faiz Khan, told us how police in hospital and later at the mortuary roughed up and desecrated his son's lifeless body. Later the family was given just a few hours to make arrangements to last rites.¹⁴⁸

¹⁴⁶ Interview, Suleiman's family, Nehtaur, 15th Jan. 2020.

¹⁴⁷ Interview, Noor Mohammad's family, Muzaffarnagar, 15th Jan 2020.

¹⁴⁸ Interview, Asim Khan, father of deceased, Faiz Khan, Rampur. 14th February 2020.

b. Doctored FIRs

Despite the passage of two months since the killings, our visits to survivor families revealed, only a few families had copies of FIRs of incidents. It is a violation of Section 154(2) CrPC when a copy of the FIR is not given to the informant/complainant. The FIRs that are available, also reveal significant distortions, hinting at the possibility that the police was manufacturing accounts to suit its version of events. In Firozabad with the most killings – 7 – all except one surviving family had copies of FIRs of their kin's murder. But remarkably, these have all been registered under Section 304 IPC (death due to rash or negligent act not amounting to culpable homicide – hence without intent), rather than under Section 302 IPC (murder).¹⁴⁹ Most did not mention bullet wounds. This is despite photographic evidence in all cases of bullet injuries to head or upper torso; post mortem reports that all mention deaths due to bullet injuries (see later); and families, in their complaints to police for registering FIRs (*tahrirs*), in some cases anyway, mentioning the nature of wounds and the circumstances in which they found the bodies. Family testimonies we obtained, in our interviews with them, too contradict FIR accounts.¹⁵⁰ Haroon is mentioned as having died in a stampede. Abrar is recorded as having been found in an "injured condition". Armaan's FIR is ambiguous about whether he was shot by the police, despite the family's insistence that it was Police killing. Rashid's family has not received a copy of FIR. He had a bullet injury in his head.¹⁵¹ Remarkably, many families mentioned to us that bodies of their deceased was released to them (from hospitals in Delhi, where many victims had to be taken for want of medical care in Firozabad) for burial only after they had submitted signed complaints that police officers dictated to them – not mentioning bullet wounds, or that they had died in police firing.¹⁵²

In Meerut, none of the five families we met in mid-January 2020, had received copies of the FIR. None too had any knowledge whether FIRs had been registered, despite some families having submitted applications to police for registering cases.

In some cases, police has also filed counter-cases against members of victim. Brother of one of the deceased who had filed complaint on the very day of the incident, informed us, he had since been charged under an open FIR for rioting and

¹⁴⁹ Punishment under Sec 304 is imprisonment for a term which may extend to two years, or with fine, or with both. That under sec 302 is death, or imprisonment for life, and liable to fine.

¹⁵⁰ All interviews on 20th January 2020.

¹⁵¹ Interviews, Firozabad, 20th January 2020

¹⁵² Interview, names withheld. Firozabad. 15th February 2020.

loss to public property.¹⁵³ In Sambhal, the two cases have both been registered under Section 304 IPC, mentioning minor injuries as cause of death, despite complaint mentioning bullet wounds, and photograph providing evidence. This is exactly the case in Bijnor. All four survivor families in Bijnor and Sambhal testified to us that police have been constantly pressuring the families to record in their statements, the police version that deaths did not take place due to police firing. SHOs and other police officers have made phone calls and have summoned family members repeatedly to have them change their accounts in the complaint. In Muzaffarnagar, exceptionally, the FIR of murder in Noor Mohammad's case, is registered under Section 302 IPC. But family members testified before us that they were forced to agree to recording that the death occurred due to someone from among the protesters firing at the deceased. The family also alleged that the police has been threatening them not to pursue the case.¹⁵⁴

Efforts by families to correct the distortion in registering of the crime (so these are recorded as murders by police) have not worked so far, despite passage of two months since the violence. Many families submitted complaints to police with names of police officers they considered had shot to kill – citing witnesses accounts (Nehtaur, Meerut). They also sent copies of these complaints to higher authorities – senior police officers in districts as well as state police chiefs, besides bodies such as NHRC, National Commission of Minorities (NCM). These have not yielded any results yet. In its recent deposition before Allahabad High Court, state government admitted a total of 8 complaints had been received against police officials, adding that these had been made part of ongoing investigation being conducted by Special Investigation Team of the concerned district.¹⁵⁵ Two families have also made use of procedures under CrPC [Section 156(3)] to submit complaints to the local judicial magistrate to direct police to register the criminal offence and carry out investigation – both from Meerut. Both these applications to the Chief Judicial Magistrate Meerut were rejected on 20th February 2020, lawyers for the families claim due to intense pressure on all justice institutions by government. Meanwhile, state government and UP Police continue to stand by their position that “so far as persons who died in Muzaffarnagar, Kanpur, Sambhal, Firozabad, Meerut and Rampur are concerned, it is stated that no one lost his life due to Police action”.¹⁵⁶ That only leaves out Bijnore (two deaths), where police have claimed they fired in self-defence; Varanasi, where the death was in stampede, and Lucknow, where police have refused to acknowledge the death.

¹⁵³ Interview, Meerut, 14th January 2020.

¹⁵⁴ Interview, Muzaffarnagar 14th January 2020.

¹⁵⁵ Allahabad HC PIL # 08/2020, State Government Affidavit of Compliance, 17th February 2020, para 7.

¹⁵⁶ Allahabad HC PIL # 08/2020, State Government Affidavit of Compliance, 17th February 2020, para 3.

c. Delayed autopsy reports

Most families we visited in mid-January 2020 had not been provided copies of report of post-mortem. This was despite the lapse of over a month. Till 20th January 2020, none of the 7 families had received PM reports in Firozabad. As of 14th January 2020, this was also the case in Meerut, where 5 murders took place. In Sambhal similarly, the two families had not received PM report, despite both having met police authorities several times, including the district police chief. Exceptions are the two families in Bijnor, that received PMs eight days after the incident. The family of the victim in Muzaffarnagar received PM on 13th January 2019, more than three weeks after the incident, after local politicians intervened. It was only after Allahabad High Court, in PIL in police repression against anti-CAA protesters, ordered, on 27th January 2020, state government to provide copies of PM report to families of all deceased persons that these have since been made available to everyone.¹⁵⁷

PM reports are revealing in how they contradict police's accounts of the killings. All mention gunshot wounds, all on upper part of the body. Allahabad High Court, hearing the aforementioned PIL, noted this violation when it directed state authorities to provide latest information on, among others, complaints made against police officers and actions taken by police, as well as PM reports of all persons killed while participating in protests.¹⁵⁸ Except for the PM from Kanpur, which also mentions an exit wound, others are only entry wounds, implying that bullets would have been left lodged inside the body after incident. These would be available to authorities during autopsy and for conducting additional forensics tests, to determine origin. The ballistics of the bullets become important then, to be able to identify the weapon used, and investigate police's liability in the murder. PMs of both Bijnor victims mention black edges, signifying tattooing. This implies close range firing – thus probable cases of targeted killing. In response to questions by the bench at hearing in PIL on 17th February 2020, state government counsel reported that forensic report had confirmed that injury received by Anas (Nehtaur, Bijnor) was from a 0.315 bore weapon (country-made, not prohibited).¹⁵⁹ On being quizzed by the bench why forensic reports for the rest of the cases had not been available yet, the counsel claimed it was time-taking.¹⁶⁰ We also heard in our interactions with informants that UP Police has been known to also use non-prohibited bore weapons in their operations, thus making it difficult to deduce police role in the

¹⁵⁷ Allahabad HC PIL # 08/2020 directions dated 27th January 2020.

¹⁵⁸ Ibid.

¹⁵⁹ Allahabad HC PIL # 08 of 2020, hearing dated 17th Feb. 2020. Affidavit of Compliance, para 3.

¹⁶⁰ Allahabad HC PIL # 08 of 2020, hearing dated 17th Feb. 2020.

crime solely on the basis of forensic examinations of the weapon used in the crime. These allegations are of course, difficult to confirm. Experts mention further challenges in this enterprise.

d. Witness intimidation

All survivor families we spoke with confided that they were under pressure from police not to pursue murder cases. From the time they approached police to recover bodies for burial, to registering FIRs, and to try to obtain death certificates and post-mortem reports, the experience of family members has been tough and disparaging. Police have mostly dragged their feet to provide victim families what is their right – copies of FIRs and PM reports. And they have either tried to persuade families to change their accounts in applications or resorted to threats and intimidation to force the hands of witnesses to record police versions. Brother of a victim in Meerut, who filed a complaint demanding appropriate registration, has had a case registered against him in one of the 'open FIRs'.¹⁶¹ Another in Muzaffarnagar, has had police personnel visit him, to put pressure, and at other times, offer him inducement, to weaken the case.¹⁶² Another family member, an advocate himself pushing for justice for his nephew (Mohammad Suleiman, Nehtaur) has had notice of recovery issued in a case of destruction of public property, in an effort to silence him.¹⁶³

In Firozabad, site of 7 murders, 34 FIRs were filed regards incidents of the 20th December 2019 – 18 Firozabad South PS and 16 Rasulpur PS.¹⁶⁴ Only 6 were registered the same day, the rest, over the next four days. In 13 of these, complainants were media persons and journalists, who, media reports claim, had been forced by the police to make complaints. Just 5 FIRs contain names of 29 persons, rest are all open FIRs, with the accused recorded as *aggyat* (unknown). As a whole, FIRs list charges of rioting, unlawful assembly, mischief causing damage, mischief by explosive substance, dacoity, criminal intimidation, even 'attempt to murder' in some cases. Open FIRs have allowed police in Firozabad, as in other districts, to implicate fresh people in ongoing cases.

In Bijnor, one of the worst affected districts, 11 FIRs were registered, with 200 persons

¹⁶¹ Interview, Mohsin's family, Meerut, 14th January 2020.

¹⁶² Interview, Noor Mohammad's family, Muzaffarnagar, 14th January 2020

¹⁶³ Telephonic interview with Advocate Afzal, uncle, and in-person interview with family members of deceased Mohammad Sulaiman, Nehtaur, 14th February 2020. Afzal faces imminent arrest and legal action in FIR # 521/2019, Nagina PS.

¹⁶⁴ <https://indianexpress.com/article/india/firozabad-anti-caa-protests-of-34-firs-most-filed-in-days-after-violence-6236944/>

named in those. 101 persons were reported arrested and charged for attempt to murder and other grievous crimes. 20 among the arrested were reported to be juveniles.¹⁶⁵ Notably, FIRs also recorded involvement of another 4000 persons in the protests, without specifying their names, leaving it open for police then to book individuals arbitrarily on the strength of those open FIRs. This picking up and detention of individual, as reprisal, against family and community members that might potentially act as witnesses, in current cases against police action, as well as against HRDs raising their voice against police high handedness, is ongoing now, across the state, creating a chilling effect all around. Lawyers who travelled to the region to provide legal aid to victims too have been detained.¹⁶⁶

1.8 ENABLING IMPUNITY

a. Political leadership green-lighting repression

The deadly use of force against civilians by UP Police has been encouraged by the UP CM, Yogi Adityanath, who has issued public threats against protesters, of exacting 'revenge'.¹⁶⁷ Adityanath is a controversial BJP leader and founder of the anti-minority vigilante group, *Hindu Yuva Vahini* (Hindu Youth Militia), implicated in several attacks against Muslims in UP, before he assumed office as state Chief Minister in March 2017.¹⁶⁸ There are also multiple, ongoing criminal proceedings against Adityanath which accuse him of anti-Muslim hate mongering and rioting.¹⁶⁹ Adityanath is also known for having encouraged, on assuming office, an official state government policy of eliminating alleged criminals, leading to a series of extra judicial killings – or 'encounter killings' – with most of those targeted being Muslim.¹⁷⁰ UN Special Rapporteurs, alarmed by the use of extra judicial killings as state policy in UP, sent a special communication to India in January 2019.¹⁷¹

The highest authorities in government have therefore not only failed to intervene to prevent police excess, they have fuelled communal hatred, making it easier

¹⁶⁵ <https://www.indiatoday.in/india/story/bijnor-ground-report-muslim-families-flee-as-up-police-vandalise-homes-harass-women-after-clashes-over-caa-1631046-2019-12-24>

¹⁶⁶ <https://thewire.in/law/up-police-muslim-lawyer>

¹⁶⁷ <https://www.ndtv.com/india-news/muzaffarnagar-uttar-pradesh-shops-sealed-over-violence-days-after-yogi-adityanath-revenge-remark-2152642?amp=1&akamai-rum=off#click=https://t.co/yDFlMMovNs>

¹⁶⁸ <https://www.theguardian.com/world/2017/mar/19/uttar-pradesh-yogi-adityanath-hindu-priest-chief-minister>

¹⁶⁹ <https://newsable.asianetnews.com/india/7-controversies-and-cases-against-yogi-adityanath-you-must-know>

¹⁷⁰ <https://thewire.in/rights/chronicle-crime-fiction-adityanaths-encounter-rqj>

¹⁷¹ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24066&LangID=E>

for authorities to target Muslims. On December 14th 2019, while students at Jamia Millia Islamia University and Aligarh Muslim University – both historically Muslim universities with large proportions of Muslim students – were being targeted by police for protesting against CAA 2019, Prime Minister Narendra Modi was seeking to give the protests a sectarian colour. At an election rally in the state of Jharkhand, he stated that those who were protesting against the CAA could be identified by the clothes they wore – a dog whistle reference to Muslims, given their use of skull caps and scarves.¹⁷² Union Home Minister Amit Shah has in past months often likened Muslim 'illegal migrants' to termites, asking for them to be thrown into the Bay of Bengal, whilst championing the cause of Hindu 'refugees' in India – which speaks directly to the dynamics of the CAA 2019.¹⁷³ Faced with country-wide protests against CAA 2019, Shah has remained unfazed, remarking, "there might be some difficulties along the way, but we, and our leader, have the courage", to see it through.¹⁷⁴ Recently, Shah along with PM Modi and other top BJP leaders have targeted the women-led indefinite sit-in against CAA 2019 in Delhi's Muslim locality of Shaheen Bagh, by resorting to slander. A central minister has called Shaheen Bagh protesters 'traitors' and incited crowds publicly to shoot them dead¹⁷⁵; a BJP MP has tried scare-mongering, insinuating that the protesters would enter people's homes and rape women¹⁷⁶; Home Minister Shah often exhorted voters in recently concluded Delhi state assembly elections to vote BJP, to teach Shaheen Bagh a lesson¹⁷⁷; and PM Modi has suggested that Shaheen Bagh is not a protest but a conspiracy.¹⁷⁸

In UP, Senior BJP leaders have justified police firing against anti-CAA protesters, even those that have led to deaths.¹⁷⁹ Others have, in veiled threats, warned Muslims against testing the patience of the 'majority' community.¹⁸⁰ Some

¹⁷² <https://thewire.in/communalism/narendra-modi-citizenship-amendment-act-protests-clothes>

¹⁷³ <https://www.reuters.com/article/india-election-speech/amit-shah-vows-to-throw-illegal-immigrants-into-bay-of-bengal-idUSKCN1RO1YD>

¹⁷⁴ <https://www.ft.com/content/776db6a2-21f5-11ea-92da-f0c92e957a96>

¹⁷⁵ <https://thewire.in/communalism/bjp-delhi-elections-shaheen-bagh>

¹⁷⁶ <https://thewire.in/communalism/parvesh-verma-shaheen-bagh-rapists-murderer>

¹⁷⁷ https://www.huffingtonpost.in/entry/delhi-assembly-elections-2020-amit-shah-shaheen-bagh_in_5e2e62d-9c5b67d8874b4f4d7

¹⁷⁸ <https://thewire.in/politics/narendra-modi-delhi-polls-shaheen-bagh-jamia-protests-anti-caa>

¹⁷⁹ <https://www.indiatoday.in/india/story/h-raja-shocker-guns-mangaluru-anti-caa-protest-2-dead-police-firing-1630272-2019-12-21>

¹⁸⁰ https://www.nationalheraldindia.com/politics/when-majority-loses-patience-godhra-happens-says-karnataka-minister-ct-ravi-over-caa-protests?utm_source=metype

have even led pro-CAA rallies where attendees have made calls including to "shoot the traitors", in an apparent reference to Muslims and other opponents of CAA.¹⁸¹ In Muzaffarnagar, the site of some of the worst reprisals by police, multiple media accounts point a finger at a local BJP MP and central Minister, Sanjiv Baliyan, for contributing to the violence against protesters.¹⁸² Baliyan has, in the past, been charged with inciting violence against Muslims in Muzaffarnagar in 2013, that left 57 dead and over 50,000 displaced.¹⁸³ There are no reports of any criminal proceedings having been initiated against either Baliyan or others in instigating the violence against CAA protesters.

b. Police bosses leading the charge

The culture of impunity enjoyed by political leaders has percolated down to the police hierarchy. From the account of police action against Muslims in affected districts on 20th December and thereon, it is clear that police seemed to enjoy a free hand to use excessive force, without restraint or accountability. What enabled this? In the anti-CAA crackdown, district police in some districts, with support of those at the highest levels of state governance, were reported directing their subordinates to deal with CAA protesters with maximum force.¹⁸⁴ These included Bijnor, Meerut, Muzaffarnagar and Firozabad districts. The case of Bijnor is instructive.

Media reports have pointed to an audio recording doing the rounds attributed to Bijnor district police chief, Sanjeev Tyagi, speaking to his subordinates on Bijnor district police wireless network, that might provide clues. Claiming that no person from Bijnor has been affected by the CAA passed by the Parliament, and that rumours and falsehood are the reason for protests, the speaker is heard exhorting his audience – heads of police stations – to deal with CAA protesters with maximum force:

¹⁸¹ <https://www.theweek.in/news/india/2019/12/21/shoot-traitors-slogan-at-pro-cao-march-bjp-kapil-mishra-defiant.html>

¹⁸² <https://www.firstpost.com/india/what-really-happened-during-the-cao-protests-at-muzaffarnagar-ruptured-knees-looted-property-tell-tale-of-police-excess-7820391.html>
<https://www.nationalheraldindia.com/india/anti-cao-stir-two-boys-shot-dead-by-the-police-in-muzaffarnagar-on-friday-lawyers-demand-inquiry>

¹⁸³ <https://www.ndtv.com/india-news/non-bailable-warrants-against-sanjeev-balyan-sadhvi-prachi-in-muzaffarnagar-riots-case-1862364>

¹⁸⁴ Bijnore SP Sanjeev Tyagi directs cops to break hands and legs of CAA protesters
<https://www.youtube.com/watch?v=IGXMJrlZYHM>

Is the Bijnor Police so weak that we cannot hit back! Nobody can fight the police. Break the hands and legs of (expletive) updravi (trouble-makers). Teach them a lesson. Take harshest action against them. Book them under NSA (National security Act)

The speaker then informs his audience that instructions have been received from the state CM himself, to take strict action against protesters, going on to say:

Your overreaction (against protesters) will be fully supported. But if any SHO does not take action against the trouble-makers, they will be suspended.

This is clear proof of police chiefs giving the go ahead to their force to use excessive force against protesters who were exercising their democratic right to dissent against CAA 2019, deemed by UN to be "fundamentally discriminatory" against Muslims. When Tyagi was confronted with the audio recording by New York Times correspondents, he refused to confirm or deny whether the audio was his.¹⁸⁵ He has claimed elsewhere that Muslim community members had promised not to take out any protests, but these assurances had been broken in Naya Bazaar area (of Bijnor, not Nagina or Nehtaur), amounting, according to him, to breaking a promise. This, he suggested, justified police action.¹⁸⁶

In neighbouring Meerut, a video shows the city police head (Akhilesh Narayan Singh, SP City) shouting at Muslim protesters to "go to Pakistan"¹⁸⁷, unleashing an old communal slur. His boss, the District SSP is Ajay Kumar Sahani, formerly posted as SP Azamgarh, and known as 'encounter specialist', implying expertise in extra judicial encounters.¹⁸⁸ Meerut and Bijnor districts saw the worst of state violence against anti-CAA protesters.¹⁸⁹ Two persons were killed in Bijnor, both family members claim, by police in cold blood. Several persons have been injured and detained. Meerut saw one of the highest numbers of murders – 5 on a single day. There are claims that another person might have died.

¹⁸⁵ <https://www.nytimes.com/2020/01/02/world/asia/india-protests-police-muslims.html?smid=nytcore-ios-share>

¹⁸⁶ <https://caravanmagazine.in/politics/nehtaur-bijnor-fear-up-police-defends-two-killings-state-rampage>

¹⁸⁷ <https://www.indiatoday.in/india/story/meerut-sp-akhilesh-narayan-threaten-caa-protesters-pakistan-vid-eo-1632137-2019-12-28>

¹⁸⁸ <http://www.westupnews.com/cities/meerut-zone/meerut/know-about-the-new-ssp-of-meerut-ajay-shahni>

¹⁸⁹ <https://www.indiatoday.in/india/story/ias-aspirant-killed-anti-cao-stir-up-1631065-2019-12-24>
<https://scroll.in/article/947626/why-kill-our-children-blood-and-tears-in-an-uttar-pradesh-town>
<https://www.thequint.com/news/india/family-of-2-killed-in-uttar-pradesh-bijnor-anti-cao-violence>

c. Outsourcing law and order to vigilante groups

Throughout the state, where ever the worst police targeting took place, police was reported to be working together with non-uniformed personnel. These accompanied police in its crackdown against protesters – vandalising homes, destroying property and beating up residents in Kanpur, Bijnor, Muzaffarnagar and Firozabad, among other districts. In a media report, SP Bijnor, Sanjeev Tyagi acknowledged the presence of non-uniformed personnel called *police mitra* in police parties during deployment against anti-CAA protesters.¹⁹⁰ According to victim families we spoke with in Nehtaur, Bijnor, the ones that caused most violence at protest sites on 20th December 2019 were the same *police mitras* or 'friends of police' who had been given free hand to use violence against people. We heard similar accounts in Muzaffarnagar, Firozabad and Kanpur, other sites of police crackdown. These men were reported using police batons and pistols.¹⁹¹

In June 2018, a senior UP police officer, Additional DG Praveen Kumar had revealed to the press, the launch of UP Police's S-10 scheme, where every police person was required to recruit 10 Special Police Officers (SPOs – irregular police force), also called *police mitra*, to make "community policing" more effective and "to maintain better communication with the community."¹⁹² Soon after BJP took in power in state in 2017, newspapers had reported that Agra police was given a target of recruiting 30,000 police mitra in the district alone. Orders provided no guideline on qualifications required, they only provided a general guidance that police mitra should be 'reputed persons' from the community.¹⁹³ A recent investigative report on the force provides useful insight into the working of police mitra, and the extent of coordination between police mitra and violent Hindu groups.¹⁹⁴ Police mitra have been infiltrated by Hindu extremist groups – especially Hindu Yuva Vahini (HYV), the vigilante group founded by Adityanath, incumbent Chief Minister. In Bijnor, district SP Tyagi confirmed to the media that every police station had recruited 100 police mitras in October 2019, ahead of the verdict by Supreme Court in the Babri Masjid title suit. (October 2019). On 20th December 2019, the day of anti-CAA protests, the investigation informs, police mitra were mobilised by Nehtaur police station,

¹⁹⁰ <https://caravanmagazine.in/politics/uttar-pradesh-police-mitr-spo-civilians>

¹⁹¹ Interview, Muzaffarnagar 15th January, Bijnore, 16th January 2020.

¹⁹² NEWS report/notification

¹⁹³ Amar Ujala.

¹⁹⁴ https://amp.scroll.in/article/950489/meet-the-friends-of-the-uttar-pradesh-police-who-wielded-batons-against-muslims-a-month-ago?_twitter_impression=true

given police batons, and tasked to help police prevent protesters from breaking prohibitory orders, besides recording videos of those inciting violence. Among the 100 police mitra in Nehtaur, the report claims, only 15-20 are Muslim (in a town that is 75 % Muslim concentrated). Notably, the report mentions, 15 police mitras are HYV members.¹⁹⁵

1.9 Justice Institutions – a ray of hope?

How have justice institutions responded to this systematic attack on freedoms and life and liberty of citizens? In response to a series of challenges against the constitutionality of the CAA, the Supreme Court not only refused to stay the operation of the law until it heard the case, it also did not show any urgency in arranging a hearing.¹⁹⁶ The hearing was fixed for 22nd January 2020, 40 days from the day the writs were registered, contributing to sustained protests against the legislation across the country. Still showing no urgency, the court issued notices to Government of India on new writs filed – now totalling a record 146 PILs against CAA – and gave it another 4 weeks to file a reply, after which it is expected that hearing would commence. Supreme Court has also refused to hear pleas against excessive police force in the case of Jamia Millia University (JMI) in Delhi, the site of one of the earliest police crackdowns against protesters, on 15th December 2019. Several PILs were filed with the Supreme Court against police repression at JMI as well as at AMU (15th December 2019), seeking independent enquiry and relief to victims. The SC refused to entertain those, and asked petitioners to approach state high courts instead. Commenting on the role of the Supreme Court as the institution to keep majoritarian impulses in check, retired Delhi High Court judge and former chairman of the Law Commission of India, Justice AP Shah, noted recently that the Apex Court was behaving in a way that was indistinguishable from the government.¹⁹⁷

Other justice institutions have been no different. Subsequent to the passage of CAA, several human rights-oriented groups approached the NHRC petitioning it to review CAA, and make its findings public. The letter was endorsed by some 14,000 individuals and groups and sought for NHRC to exert moral pressure on the government against the enactment of the discriminatory law.¹⁹⁸ On 24th December

¹⁹⁵ https://amp.scroll.in/article/950489/meet-the-friends-of-the-uttar-pradesh-police-who-wielded-batons-against-muslims-a-month-ago?_twitter_impression=true

¹⁹⁶ https://indianexpress.com/article/opinion/columns/caa-citizenship-amendment-act-supreme-court-constitution-of-india-6181772/?fbclid=IwAR0GzxbGVBiZoTHPPUomsQndumhpAm2X28bjxecJZt8PjHat_4N2oNxFfwc

¹⁹⁷ https://www.telegraphindia.com/india/ex-judge-lists-supreme-court-missteps/cid/1744687?ref=top-stories_home-template

¹⁹⁸ HRDA, PUCL, Insaaf et al letter to NHRC dated 20th December 2019

2019, select HRDs urged the NHRC to conduct its own independent inquiry into police crackdown in Uttar Pradesh, leveraging authority NHRC already possess. A routine notice has been issued and the response is yet to be submitted to the NHRC. Neither application has seen much light of day. There are no reports of the National Commission for Minorities (NCM) having taken any action in response either to the enactment of CAA or the protests against it, indeed against the police crackdown, all issues within the purview of NCM. We have, in earlier sections, already seen NCPCR, rather than acting to protect the rights of children detained and tortured in custody, instead asking authorities to take action against protesters for using minors as shields in protest meetings.

Amidst all this is also a silver lining. Allahabad High Court is leading the path. On 19th December 2019, in response to a PIL against police repression at AMU seeking court monitored investigation, the court ordered NHRC to conduct an investigation and submit its report within 5 weeks. The court has now ordered, based on NHRC's recommendations, that state government provide compensation to the 6 students grievously injured in the violence; that it take appropriate action against police personnel found engaging in violence, and for the state government instituted investigation into the violence to be conducted in a time bound manner.¹⁹⁹ And when the violence spread throughout the state, the Chief Justice-led bench took on board an email by a Mumbai based lawyer pointing to police atrocities in UP and seeking judicial inquiry, converted it into a PIL, and issued notices to state government.²⁰⁰ A subsequent hearing led to the court asking the government to furnish details of cases registered, including against police officers, and status of investigation conducted, among others.²⁰¹ This is ongoing. Separately, the court also registered a *suo motu* PIL on Internet shut down in the state.²⁰² Allahabad High Court has also questioned government on *habeas corpus* plea of illegally detained HRDs, including Mohammad Shoaib.²⁰³ And yet, even as Allahabad High Court acts as a beacon of hope in an otherwise bleak justice landscape, a recent ruling of the

¹⁹⁹ Allahabad HC PIL # 26085 of 2019, orders dated 24th February 2020.

²⁰⁰ Allahabad HC PIL no 08 of 2020. Order dated 7th January 2020.

<https://www.news18.com/news/india/allahabad-hc-issues-notice-to-up-govt-over-crackdown-during-anti-caa-protests-plea-seeks-judicial-inquiry-2449769.html>

²⁰¹ Allahabad HC PIL no 08 of 2020. Order dated 16th January 2020.

<https://www.outlookindia.com/website/story/india-news-allahabad-high-court-asks-uttar-pradesh-government-for-report-on-police-action-during-violence-in-anti-caa-protests/346334>

²⁰² <http://www.theindianlawyer.in/blog/2020/01/06/allahabad-high-court-has-registered-suo-moto-pil-petition-on-internet-shutdown-in-uttar-pradesh/>

²⁰³ <https://www.news18.com/news/india/up-hc-asks-govt-to-reply-to-habeas-corpus-plea-on-advocates-illegal-arrest-during-anti-caa-protests-2448161.html>

same court acts as yet another dampner. Hearing a petition by student groups in Firozabad seeking relief against district authorities denying holding peaceful anti-CAA protests, a division bench of the court dismissed the petition, observing that holding such protests would not be in 'national interest'.²⁰⁴ Other state High Courts have taken a more clear stand on the same subject to protect rights and freedoms – Maharashtra²⁰⁵; Rajasthan²⁰⁶; Karnataka²⁰⁷. And in a landmark judgement, Karnataka High Court, while ordering the release of 21 accused in anti-CAA violence in Mangaluru, reprimanded the state Police for its "deliberate attempt to cover up police excesses while whimsically implicating innocent persons".²⁰⁸

1.10 CONCLUSION: WEAPONISING POLICE BIAS

Indian police is a brutalising force, and itself brutalised.²⁰⁹ Among the many manifestations of this broken system is the widespread police torture in custody – NHRC calls it routine and commonplace²¹⁰ – and especially custodial executions.²¹¹ Uttar Pradesh is symptomatic of the wrongs with Indian Police, and more, including extrajudicial executions. Just between March 2017 – when Chief Minister Yogi Adityanath took office – and May 2018, media accounts validated by state government claims, reported over 50 extra judicial executions in the state in 'encounter killings', ostensibly as crime control tactics, with Muslim victims disproportionately represented.²¹²

Survey data on police and crime, based on pioneering research, is revealing.²¹³ rustin police in Uttar Pradesh is among the lowest in the country;²¹⁴ fear of police

²⁰⁴ <https://www.livelaw.in/news-updates/not-in-national-interest-allahabad-hc-delcines-permission-for-anti-caa-protests-152470>

²⁰⁵ <https://indianexpress.com/article/india/bombay-high-court-anti-caa-protesters-traitors-6268888/>

²⁰⁶ <https://thewire.in/law/rajasthan-high-court-police-caa-protest>

²⁰⁷ <https://www.barandbench.com/news/breaking-caa-protests-section-144-order-imposed-on-december-18-in-bangalore-was-illegal-karnataka-hc>

²⁰⁸ https://timesofindia.indiatimes.com/city/mangaluru/caa-protests-karnataka-hc-suspects-bid-to-cover-up-excesses-by-mangaluru-police/articleshow/74200406.cms?utm_source=whatsapp&utm_medium=social&utm_campaign=TOIMobile

²⁰⁹ Human Rights Watch, 2009; Common Cause, 2018, 2019

²¹⁰ NHRC

²¹¹ Human Rights Watch. 2016.

²¹² Citizens Against Hate. (2018:15)

²¹³ Common Cause & Centre for Study of Developing Societies, 2018,2019

²¹⁴ Ibid, 56, 62

and its excesses, among the highest. Citizens in UP are among the least satisfied anywhere in the country, of police response to a complaint,²¹⁵ with satisfaction regards investigation of crime, particularly poor compared to the rest of India.²¹⁶ Indicators concerning vulnerable groups are even poorer. Prison data index for UP (measuring proportion of Scheduled Caste - SC, Scheduled Tribe - ST, and Muslim in prisons, as well as undertrials as percentage of total prisoners) is among the worst in the country.²¹⁷ Uttar Pradesh police is also the least diverse police force – with poor representation of SC and ST persons, women and religious minorities, particularly Muslims.²¹⁸ Yet more than 60 per cent of posts in the reserved category (for SC and ST) remain vacant, one of the highest vacancy rates anywhere in the country.²¹⁹

Poor representativeness in the ranks, among other factors, has implications for UP police's attitude towards vulnerable groups, including Muslims. This is especially so given the large Muslim population in the state. Data shows police across the country is riddled with prejudice against vulnerable groups, with a definite bias against Muslims.²²⁰ This bias was found to be the most advanced in Uttar Pradesh – with 56 per cent of all police personnel surveyed, feeling Muslims were more naturally prone to crime.²²¹ In ordinary times, these biases show up in the daily discriminations of Muslims and their neighbourhoods in the functioning of state Police. A study of Muslim perceptions of Police, based on research in 8 cities across India, provides useful insight. It showed that police target and victimise Muslims based on their identity, revealing a distinct bias; Muslim women feel a double burden; police perceive Muslim concentrated neighbourhoods as subversive and criminalised; and that, as a consequence, the trust deficit between Muslims and Police is only widening. (CHRI et al, 2018: ix-x). Occasionally these biases have more sinister outcomes.

In October 2018, the Delhi High Court hearing the Hashimpura (Meerut district, UP) massacre case of 1987 sentenced 16 officers of the PAC to imprisonment for the rest of their lives for their role in the murders. That winter, 42 Muslims had been picked

²¹⁵ Ibid, 43, 45

²¹⁶ Ibid, 48

²¹⁷ Ibid, 26

²¹⁸ Ibid, 23.

²¹⁹ Common Cause, 2019:34

²²⁰ <https://www.livemint.com/news/india/police-prejudices-what-the-data-says-11580808263948.html>

²²¹ Common Cause, 2019:34

up by personnel of the armed wing of UP police, the Police Armed constabulary (PAC), from their houses and were shot dead at point blank range. In their order, the judges recorded "...this was a case of targeted killing revealing an institutional bias within the law enforcement agents..." against "persons belonging to one minority community"²²², confirming a perception long held among Muslims in Uttar Pradesh. There is a body of literature recording this bias.²²³

Police bias against Muslims in Uttar Pradesh is being weaponised by the current BJP government, led by Chief Minister Yogi Adityanath. BJP took power in the state in March 2017. In elections that were run on an Islamophobic campaign, the BJP did not field a single Muslim candidate among the 403 seats it contested to the state assembly. (UP has 19 % Muslim population, numbering 38 million, 2011 Census). On assuming power, Adityanath targeted Muslims economically, by dismantling previous government's efforts to include Muslims and others in public provisioning and hitting at their livelihoods by disrupting the meat supply chain business that employs mostly Muslims and Dalits. He has also sought to give police a free hand to fight crime. In the event, Police have come down disproportionately against Muslims and others from vulnerable groups, including through extrajudicial killings and the generous invoking of the National Security Act – an emergency era legislation – to book petty criminals and political activists.²²⁴ At the same time Hindu vigilante groups, including the Hindu Yuva Vahini, a group that Adityanath himself founded, have been given protection by police to enable them to carry on their targeting of minorities – Muslims, Christians, Dalits and women.²²⁵ Media accounts report how these vigilante groups are now being incorporated into state police structures, as special police officers, to aid police in law and order duties, with serious consequences for police neutrality.²²⁶ The current state targeting of Muslims exercising their democratic right to protest against the CAA 2019, in the form of murders, arbitrary detentions and widespread custodial torture, including of children, by police often working with vigilante groups, portends ill for security of

²²² <https://indianexpress.com/article/opinion/columns/hashimpura-massacre-case-verdict-anti-sink-riots-5435387/>

²²³ NC Saxena, 1982; VN Rai, 2008

²²⁴ <https://scroll.in/article/948194/we-knew-adityanath-was-hostile-to-muslims-but-did-we-expect-his-regime-to-be-so-savage>

²²⁵ https://www.vice.com/en_in/article/mbxx7q/humans-of-the-hindu-yuva-vahini
<https://economictimes.indiatimes.com/news/politics-and-nation/why-yogi-adityanath-needs-to-keep-hindu-yuva-vahini-in-check/articleshow/59717854.cms?from=mdr>
<https://www.theguardian.com/world/2017/mar/19/uttar-pradesh-yogi-adityanath-hindu-priest-chief-minister>

²²⁶ https://amp.scroll.in/article/950489/meet-the-friends-of-the-uttar-pradesh-police-who-wielded-batons-against-muslims-a-month-ago?...twitter_impression=true

Muslims in Uttar Pradesh²²⁷, but also for the state police – alienated from the state's large Muslim population.

1.11 HRDS TARGETED

Catalogued here is a list of HRDs targeted in the UP crackdown

- On 13th December 2019, UP Police in Aligarh booked **Dr. Kafeel Khan** under IPC section 153-A (Promoting enmity between different groups on ground of religion) for allegedly giving a provocative speech at the open talk organised in the AMU campus on the CAA. According to the FIR, Dr. Khan reportedly stated that the BJP leadership was teaching everyone to adhere to their religion first, rather than becoming good human beings. IPC Sections 153b, 505 (2) and 109 were added later during investigation. Dr. Khan was arrested on 29th January 2020 by the UP's Special Task Force from the Mumbai Airport and was lodged in the Mathura jail. The CJM court in Aligarh granted him bail on 10th February 2020 but continued to languish in jail without a proper reason and was to be released on 14th February 2020. However, on the same date the Aligarh District Administration booked him under the stringent National Security Act (NSA).
- On 15th December 2019, **Dr. Sushil Gautam** and other members of Blue Panthers had called for a 2 km peaceful torchlight march in Meerut to protest against the CAA. On the same day around noon, the UP Police in Meerut picked him up from his residence in Meerut, hours before the scheduled peaceful torchlight march. He was taken to Nauchandi police station and then to medical police station. He was finally taken to police line where the SP and Additional District Magistrate were present. He was charged under CrPC Section 151 which deals with preventive detention. He was put in district jail for three days for 'no crime'. On 18th December 2019, he was granted bail by the Additional District Magistrate Meerut and released on the following day. Immediately following his release on 19th December 2019, he along with his father and brother, was once again detained and this time charged under IPC Sections 188, 152 B, 505 and 120 B for burning copies of CAA. His whereabouts are unknown.
- On 20th December 2019 at around 11.45 am, social activist **S R Darapuri**, a former Indian Police Service officer, was detained at his residence by UP Police and taken to the adjacent Ghazipur police station. It was moments before he was supposed

²²⁷ <https://www.theguardian.com/world/2020/jan/03/we-are-not-safe-indias-muslims-tell-of-wave-of-police-brutality>

to address a press conference on Mohd. Shoaib's detention. His location of detention was initially unknown and later was brought to the Hazratganj police station, Lucknow at 1 am on 21st December 21 2019. Mr. Darapuri was booked under FIR 600/2019 under IPC Sections 147, 148, 149, 152, 307, 323, 504, 506, 332, 353, 188, 435, 436, 120-B, 427 along with Sections 3 and 4 of the Prevention of Damage to Public Property Act and Section 7 of the Criminal Law (Amendment) Act 1932 was also slapped on him. On the first instance of his production before a magistrate, his remand was not granted for lack of sufficient evidence. However, the concerned police officers recorded false information and recorded that the magistrate was not present. He was again taken to another magistrate, who granted his remand to the police. Lucknow Sessions Court on 4th January 2020, granted bail to Mr. Darapuri for lack of evidence, however, he was only be released three days later.

- On 18th December 2019, **Mohammad Shoaib**, a senior lawyer and President of forum Rihai Manch, was arbitrarily placed under house arrest by UP Police in Lucknow without any formal order, preventing him from joining the anti-CAA protests on 19th December 2019. On the intervening night of 19th and 20th December 2019, four policemen took him to an unknown location on the pretext of the UP Police circle officer summoning him. When Adv. Shoaib did not return, his wife called the district police chief and informed him about his ill health. Later two police men came to collect his medicines and assured her that her husband would return in an hour or by the next morning. However, for the next two days she had no knowledge about the whereabouts of her husband. A writ of Habeas Corpus was filed before the Allahabad High Court. The additional government advocate (AGA) stated that Adv. Shoaib was arrested at 8.45 am on 20th December 2019 from Clarks Avadh Tiraha, Lucknow, as he was wanted in connection with FIR No. 600/2019 (details of charges mentioned above). His bail application was rejected on 6th January 2020. He was granted bail by the sessions court of Lucknow on 15th January, 2020 spending close to 27 days in jail and was finally released on January 18, 2020
- **Sadaf Zafar** is a former teacher and political activist and one of the media-in-charge for the Indian National Congress in UP. Ms. Zafar was arrested on 19th December 2019, while she was reporting live on her social media on police complacency to respond to violence on anti-CAA protestors at Parivartan Chowk in Lucknow. She was repeatedly abused and beaten by a female cop in police custody in a barbaric manner. She was slapped, her hair was pulled by other female officers. She was kicked in stomach by a senior male police officer, causing severe internal bleeding. She was called a Pakistani after knowing her

identity as a Muslim woman. She spent more than 15 days in city jail and was subjected to custodial torture, inhuman and degrading treatment. She was also arrested under FIR No. 600/2019 (details of charges mentioned above). On 23rd December 2019, the Special Chief Judicial Magistrate rejected her bail application. On 4th January 2020, noting that there was no witness to testify about her specific role during the protests in Lucknow, the Sessions Court, Lucknow granted her bail.

- In the early hours of 19th December 2019, UP Police vans arrived at the Lucknow residence of **Dr. Sandeep Pandey**, a Magsaysay Awardee and social activist, Police personnel were deployed outside his house from 8 am till 7 pm. Dr. Pandey was put under house arrest and prevented him from stepping out to take part in the protests on December 19, 2019, at Parivartan Chowk in Lucknow.
- On 19th December 2019, **Dr. Pawan Rao Ambedkar**, an academician and social activist, was arrested by UP Police during the anti-CAA protest taking place at Parivartan Chowk in Lucknow. Case against Dr. Ambedkar was filed in Hazratganj police station in Lucknow with Case no 600/2019 (details of charges mentioned above). At Hazratganj police station, Dr. Ambedkar was hit by policemen. Men dressed in civilian clothes joined the uniformed personnel in beating him. A lady constable hit him on the head many times with her helmet. His condition due to the assault went from bad to worse, as he was slipping in and out of consciousness. The blows from the helmet and lathis were happening simultaneously. Dr. Ambedkar's bail application was rejected on 23rd December 2019, by the Additional Chief Judicial Magistrate, Lucknow. He was granted bail on 4th January 2020 by Additional District and Sessions Judge, Lucknow. He was only released on 10th January 2020, spending 23 days in custody.
- On 19th December 2019, **Dr. Anoop Shramik**, a Dalit rights activist, was arrested from Beniyabag ground in Varanasi around 12:30 pm by the UP Police during the peaceful protest march against CAA. The police filed the challan against him under CrPC Section 151. Around 4.30 pm, Dr. Shramik along with others were sent to jail. Following this, a case against Dr. Shramik was registered in Chetganj police station in Varanasi and he was booked under IPC Sections 147, 148, 149, 188, 332, 341, and 353 and provisions of the Criminal Law Amendment (CLA) Act. Dr. Shramik's family was not provided the copy of the FIR, neither were they allowed to meet him for three days. Among the 56 people arrested by the police in Varanasi on 19th December 2019, 53 were granted bail on 1st January 2020 and were released. However, Dr. Shramik was not granted bail and instead the police filed another case against him in Lanka police station under IPC Sections

153 (A) and 153 (B). Dr. Shramik was lodged in Chokaghat Jail in Varanasi. He was granted bail by Additional Sessions Judge, Varanasi on January 6, 2020.

- On 20th December 2019, **Omar Rashid**, the UP correspondent of the national newspaper The Hindu, was taken into custody by four unidentified men in plain clothes outside the BJP's UP office in Lucknow. These men inquired about Omar and Robin Verma (another HRD whose details are mentioned in the following section), using strong and aggressive language. At the very first instance, he revealed his identity as a journalist and politely asked them about details of the matter. However, they packed him and Robin Verma into a police jeep, snatched his mobile phone and asked him to not call or inform anyone or he would regret it. They refused to explain anything to him and asked him to talk only when they asked. They drove them to the Hazratganj police station, on the pretext of a senior police officer wanting to talk to them. They were then escorted to a room which looked like a cyber-cell. They locked the room and asked him to keep silent when he protested about this arbitrary detention. The policemen threatened him that they would book him under IPC Section 120B if he didn't keep quiet and also said that they had evidence to show that he was part of the arsonists who vandalized police property and engaged in violence during the protest against the CAA. He again clarified that he was a journalist and showed them his identity cards. They responded by abusing him and said that he should keep his journalism to himself. Mr. Rashid's identity of being a Kashmiri was referred multiple times and despite informing them about his newspaper, they continued with their questions and threats. They were then packed into the rear seat of a police jeep and driven a few kilometres away to the Sultanpuri police outpost without being told anything. Both, Omar and Robin, were again taken into a tiny room and questioned. A few minutes later, two policemen, of the rank of circle officer, came in. One of the police officers, told him he would set him right. He was then taken to another room in the quarters of a constable, where he was also photographed like a suspect. The same cop who threatened to put him in place, again asked him about the "Kashmiris" and said 'he would tear out all his beard and thrash him if he didn't answer his questions as per his liking'. The officer left after some time and he was kept in the room till around 8:30 pm. He was then called to the office of the police circle officer of Hazratganj who questioned him for a few more minutes. He was asked the same questions as was asked earlier. Mr. Rashid was only released allegedly after telephonic intervention of a senior police official.
- On 20th December 2019, **Robin Verma**, an academician and social activist also associated with Rihai Manch, was picked up along with Mr. Rashid. At the

Hazratganj police station, he was beaten with a thick leather belt, slapped many times and insulted for having Muslims on his contact list and WhatsApp chats. He was also booked under FIR No. 600/2019. Mr. Verma's bail application was rejected by the Chief Judicial Magistrate, Lucknow on 23rd December 2019. He was granted bail by the sessions court on 7th January 2020 and was released after 25 days of imprisonment. Apart, from illegal arrest, detention and custodial torture, he was also suspended from his job as a lecturer at the Shia Post Graduate College, Lucknow. It has been reported that the police forced the college administration to suspend him. He was later reinstated to his position in the college.

- On 20th December 2019, **Deepak Kabir**, a theatre actor, director and social activist, was arrested from the Hazratganj Police station. He had gone to inquire about the whereabouts of his friends who were reportedly detained by the UP Police during the anti-CAA protest in Lucknow on 19th December 2019. Mr. Kabir was greeted with untoward remarks and assaulted by half a dozen police officers with batons and rifle butts for speaking up for the arrested protesters. He was also arrested under FIR No. 600/2019 after adding his name in the said FIR. On 7th January 2020, Mr. Kabir was granted bail by Additional District Judge, Lucknow after spending 19 days in Lucknow jail.
- **Mohammad Faisal**, a lawyer practicing in the sessions court in Kota, Rajasthan and associated with the National Confederation of Human Rights organisations (NCHRO), had gone to Shamli as part of NCHRO to offer legal aid to protestors who had been arrested and detained during anti- CAA protests. On 23rd December 23, 2019, he was at the Chief Judicial Magistrate court at Kairana in Shamli along with his three clients for a bail related matter. At around 5.15 pm, the Special Operation Group (SOG) police team along with some local police arrested him and took him forcibly to the Kairana police station. Adv Faisal was booked with FIR No. 797/19 under IPC Sections 145, 149, 153A and 505. In the police custody, Adv. Faisal was abused, ill-treated, mentally and physically tortured. The methods of torture included verbal abuse, slapping and beating with sticks among other extreme methods. He was given electric shocks on his back around his waist. He has been suffering with pain in his legs since the incident. On 2nd January 2020, he was granted bail by the Chief Judicial Magistrate, Kairana

1.12 RECOMMENDATIONS

A. Immediate (for access to justice for survivors and accountability of duty bearers)

1. Remedial measures

- i. Fresh registration of cases against policemen, by giving survivor families (and other victims) a second chance to submit complaints; timebound investigation on those, and fastrack trials
- ii. Witness protection and provision of legal aid for families to represent their cases
- iii. Compensation to families (killed and injured, and houses and property ransacked), according to national norms, including interim compensation

2. Punitive measures

- iv. Time-bound independent Inquiry (by senior police personnel of integrity from outside UP), to establish police complicity in:
 - Disproportionate use of force against protesters
 - Police reprisal against victims and witnesses
 - Subversion of justice system
- v. Using appropriate laws and service rules to take action against erring officers

3. Preventive (mid-to long term)

- vi. Increase representativeness of UP police, to have more persons from marginalised groups (minorities, SC, ST, women), in both leadership and frontline ranks, proportionate to share of population. Ensure this is followed closely in police deployment in districts with high proportion of marginalised groups.
- vii. Better training in:
 - Use of force: mindful of state, national and international standards
 - Human rights, especially for targeted groups, including minorities, SC/ST, women
- viii. Better resources and personnel (capacity) for:
 - Law and order maintenance, and regular policing
 - Investigation
- ix. Reformed procedures and processes in crime registration and investigation
 - Open and transparent, to prevent police playing the system

- Use of new technology to ensure speedy and accurate registration of crimes, and investigation that is less opaque.
- Including working of police complaints authorities (PCA) in state and locally, to allow a degree of transparency
- Investigate *police mitra* scheme of UP Police, its legality, scope, practices and controls

SECTION - B

WHY SUCH GLARING POLICE EXCESSES?

- *Vikash Narain Rai,*
Retired IPS (Former Director, National Police Academy, Hyderabad)

A wave of coercive police action, blatantly partial too, was witnessed in all major BJP ruled states in the wake of anti-CAA stir in December last, but the police excesses in Uttar Pradesh (UP) were of exceptionally harsh, retributive and biased nature. Three elements combined sharply to define the functioning of the police in the biggest state of the country- the regimental mind-set so well entrenched in the men in khaki, the colonial instruments of preventive and persuasive law enforcement freely wielded by them and indiscriminately applied, and the *bhagwa* patronage extended by the UP Chief Minister, Yogi Adityanath, to the politically expedient brand of 'encounter' policing that had been pushing the police hard to fit into an ethos of masculine state power since he took over the reins of UP administration. In fact, with the first two elements, in some measures, common as elsewhere, the last element proved to be the extra spark to create an incendiary mix of police repression and complicity that exploded at the dictates of the man in power.

Yogi's ascendancy has unleashed an era in UP where the communal agenda is being relentlessly pushed through the machinery of administration. The saffronisation of politics is linked to saffronisation of administration in the same way as the caste politics has remained linked to domination of certain castes in various state administrations during last 2-3 decades. Therein lies the significance of Amit Shah in a commanding role in the Ministry of Home Affairs (MHA) under Prime Minister Narendra Modi. As long time Home Minister of Gujarat under Modi, then Chief Minister of Gujarat, Shah had developed a model of complicit policing that might have failed the test of controlling the spate of communal violence in the streets of National Capital (February 24-26), coinciding with the visit of US President Trump to Delhi, but would certainly give hope of a good harvest in the political field.

Yogi seems to have learnt true and fast. The policing he inherited was anything but democratic. Having abandoned any pretense to legitimacy, the most potent crowd dealing weapon, the IPC (Indian Penal Code) no more remained a general code in the hands of the police to effectively negotiate the incidental crimes while quelling the anti-CAA stir. Rather, the police working in tandem with Yogi's 'revenge' call, reflected upon the IPC, in conjunction with CrPC (Criminal Procedure Code), as a selective tool of intrigue, penalisation and complicity. Blinded with political loyalty,

the police acted in a medium of total constitutional apathy.

Having thus lost the trust of the affected population and civil society right in the initial phases of the clampdown, the police soon lost its 'rule of law' sense completely. The remorseless direction taken by the law and order machinery is vividly captured in the tragic accounts and testimonies of the victims and witnesses in this fact-finding report of CAH. The indiscriminate incarceration and torture of peaceful activists of proven credentials, unprovoked application of brutal force at dharna places and even against bystanders and teen-age *madarsa* students, ceiling of shops of affected community and issuance of notices to them to recover riot damages, trespassing of homes of the Muslim community in the dead of the night to beat up inmates and destroy property, all indicated that the police were working on a given agenda instead of banking on any actionable intelligence.

"If you only have a hammer, you tend to see every problem as a nail"- Abraham Maslow, an American psychologist of 20th century, best known for creating Maslow's hierarchy of needs, a theory of psychological health. It proved to be just that in UP, an alarming show of police might, drawing legal sustenance from the colonial era application of Section 144, Criminal Procedure Code (CrPC). The entire state was put under its ambit to assume any gathering of protesters as unlawful, and their motivators as conspirators, warranting its dispersal by use of force in tandem with mass arrests and punitive fines. The shameless disregard for even minimal legal courtesy was so absolute, as if the body of the criminal law had been turned against the constitutional spirit of freedom itself. Leo Tolstoy had summarised such repressive legislations in his essay, *The slavery of our times*, published in 1900: "Laws are rules, made by people who govern by means of organised violence, for non-compliance with which the non-complier is subjected to blows, to loss of liberty, or even to being murdered."

Ask any experienced police officer, it is no child's play to face an almost faceless mob of the kind that gathered spontaneously around the life and death issue of citizenship. One can only pity the police in UP, who, in addition to the fiercest laws at their disposal, were saddled with a dubious political mandate to counter mischief with retribution. They stooped to be the worst offenders of basic human rights and dignity.

The phase of CAA repression saw over 20 people being killed in police firing, and thousands being lathi-charged by the unruly police, and yet, call it a slap to their face, no major arrestee has so far been denied bail by the courts of law. It was police

professionalism at its nadir. In Lucknow, the state capital, the exasperated sessions judge wanted to know from the police if there was a legal provision that the CAA could not be demonstrated against. Only a few days earlier, another sessions judge presiding over a court in the national capital had chided the police for referring to Jama Masjid, one of the venues of anti-CAA protests, in a manner as if it was a place in Pakistan, while accepting the bail plea of a prominent political activist. However, such a deterrent legal scrutiny took weeks to surface and, unfortunately, not everywhere. In UP, hundreds of totally unrelated people have received stern notices for compensating the losses to public property and the bail amounts set for most of the arrestees are too exorbitant to arrange.

To reiterate, when there is a wave of mass protests swaying across the country over a sharply divisive issue as fundamental as perceived denial of citizenship, it makes the task of policing even more dependent on the continued trust of the people in administrative machinery. For the police, the ideal way to maximise cooperation from the agitators would have been to let the doubting sections of people express themselves freely and publicly, as has indeed happened in several non-BJP-ruled places. However, in BJP-ruled states, and particularly in UP, the dynamics of partisan policing ensured that the agitators could hope to put up a show of protest only by risking police repression.

It is the style of policing, shaped in the image of their political masters, that brings the limelight on public confrontation in UP and Delhi as both police action and inaction in the two states are increasingly resented. In UP, the police are perceived to be under a communal agenda unleashed by the CM, Yogi Adityanath. In Delhi, the ambiguous approach of the police in meddling with the student unrest has been patronised by the Union Home Minister, Amit Shah, all along taking a hard political line to cover administrative fallacies. It is evident that their insistence on law enforcement without caring for even a fig of legitimacy can be sustained only by confrontation.

Under the circumstances, it would be frivolous to rely on illusory police reforms and hoping for a magical breakthrough while even a nominal de-linking of the police from political masters seems not on anvil. In any case, police reforms would hardly carry any fragrance for the citizens till arranged in a bouquet of corresponding judicial reforms. It is the archaic colonial laws and justice protocols that have survived the successive post-Independence regimes, irrespective of their diversified ideologies, which need to be urgently questioned.

In 2004, the dreaded POTA and its draconian procedures were attacked by the opposition in the run-up to the General Election. The time has come to eliminate Section 144 that enables the executive to restrain people under the consequences of perpetual disobedience, the most misused text of legal protocol against the constitutional right of peaceful assembly, from the Criminal Procedure Code altogether. Law and order being a state subject, those of the non-BJP-ruled states whose leaders are shouting loudly against police repression in Delhi and UP, may be asked to show the way. Can't they appreciate a simple equation that the democratisation of social and political protests is so intrinsically related to the democratisation of policing and related protocols of the criminal justice system (CJS). The agent of CJS in the forefront of public interface, the Policeman, is also the most deficient in community orientation, democratic sensitisation and constitutional conditioning

That it is 'colonial versus constitutional', and not just police versus the agitators, is best illustrated by the ongoing Gandhian-style satyagraha at Shaheen Bagh, a South Delhi neighbourhood along the banks of the Yamuna in the Okhla area. Here, confounding the administration and political detractors, traditional Muslim women are proving to be a catalyst for a never-ending stream of a cross-section of anti-CAA agitators and sympathisers, pouring in from all over, proudly fluttering the national flag. The stage is decorated with pictures of the democratic heroes of modern India and the air is filled with patriotic songs glorifying human and liberal values.

Will they too be circumvented by brute force? In the meantime, the enthusiastic affirmation by the Shaheen Bagh assembly to the Preamble of the Constitution is a challenge to all concerned that the democratic India can no longer be driven by colonial legislations.

WE SHALL NOT BE SILENCED, NOR SHALL WE EVER FORGET

- *Kalpana Kannabiran*

*sab yaad rakha jayega, sab kuch yad rakha jayega
aur tumhari laathiyon aur goliyon se
jo qatl huwe hain mere yaar sab
unki yaad mein dilon ko barbaad rakha jayega
sab yaad rakha jayega, sab kuch yad rakha jayega.
aur tum seyahiyon se jhooth likhoge,
humein maloom hai,
ho humare khoon se hi sahi, sach zarur likha jayega*

[We will remember everything. We will not forget it at all.
The dearest friends of mine who you murdered with sticks and bullets;
In their remembrance we will keep our hearts broken

We will remember everything. We will not forget it at all.
You will ink down lies; We know it very well.
Maybe with our blood; put plainly, the truth will be written someday.]

Aamir Aziz, 2019

We, in India, find ourselves trapped today in the slushy quicksand of a catastrophic moment, held down, immobilized and facing annihilation by the venomous tentacles of a Hindutva state veering on the edge of fascism — that knows no limits. Muslims are the target of assault – by the police and armed forces, the Parliament, the people in government. The largest section of the judiciary is unwilling to set out the non-negotiability of the Constitution before a state that is unbending in its derogation of the rule of law. The soft targets proliferate – students, dissenters, Hindus who offer refuge to Muslims while mobs are on a rampage – to encompass all the others who walk with and stand with Muslims, and all who stand against the forces of the predator state.

Because of its rootedness in the ideology of Hindu supremacy, it is Muslims who are the most under threat, the most under assault, and the most in danger of being targeted by a politics that seeks to annihilate them as a class. There is an important distinction we need to draw between individual targets and the collective target – the scale of violence, its consequences and its brutality are incomparable. For indeed what we see now is the crest of Hindutva supremacist politics. Its method

of rule is impunity. And it runs and powers the national government. But more importantly, the spread of crimes of hate – ranging from speech to lynching to collective violence to state violence in the name of religion, and the alarming rise of Hindu supremacist banded groups and their silent supporters make any resistance life threatening, for minorities more than for anyone else.

And yet we know that although this is a battle soaked in the blood of Muslims and dissenters, although the human suffering that has been unleashed is unimaginable, although it will take long years to build the long road to freedom yet again, we will do what it takes to get there.

This report on the reign of terror unleashed by the Government of Uttar Pradesh on Muslims in the state is chilling in detail, but demonstrates the resilience of the human spirit. The willingness of those who have borne gruesome and brutal violence to re-live those moments and record their suffering for posterity is not an ordinary act. The willingness of the team of advocates and researchers to embark on this extremely difficult journey of fact-finding and recording testimonies at enormous personal risk is in itself an act of resistance against the anti-constitutional state. In speaking about the deep harms visited on them and in the act of recording, what has in fact been accomplished is an assertion of the Constitution as the guiding force of this country.

The report speaks of police excesses and post-violence reprisals on anti-CAA protestors. It details the incidents, fatalities, injuries, medical treatment denied, the desecration of the dead through forced burials, and the patterns of terror unleashed in the name of the Hindu state. By this token, this is an act of state terror, stoked by the Chief Minister of the state, that no longer remains mere police excess. Let us stop for a moment and look at the list of those who died: Of the twenty-three persons who died, all Muslim men, one was an eight-year old child who died in the stampede, and 21 persons were between twenty and forty-five years of age. Seventeen of the twenty-two men who were killed were 30 years of age and below; a majority of them (eleven) below twenty-five years. Barring the child, Sagheer, all the rest (22 of them) had bullet injuries in the head, face, chest, abdomen and shoulder. Clearly, the police were shooting to kill, as evident from bullet wounds in the upper body, to use the words of Human Rights Watch, “deadly use of force on protestors.”²²⁸ No FIRs were registered against police personnel for causing death by shooting. On the other hand, kin reported facing intimidation with false cases

²²⁸ <https://www.hrw.org/news/2019/12/23/india-deadly-force-used-against-protesters> Accessed on March 3, 2020.

being foisted on them to deter them from naming the police as responsible for the death.

This is a familiar sequence acted out in the case of fake encounters, and there are cases in courts in different states that have ruled with varying degrees of adherence to the rule of law at least since the infamous Emergency of 1975. What one witnesses today in the cases before us of UP and even more recently the murders on the streets of Delhi, however, is the direct incitement to violence by the top state functionaries and elected representatives. The incitement has progressed from dog-whistles to public calls to violence, and has evoked no response of sympathy or righteous anger over the killing of ordinary citizens, nor an invocation of the rule of law to ensure justice and redress. The police force has been aided by the foot soldiers of the Sangh Parivar, on the payroll of the state: *Police Mitra*, they call them in UP, the Special Police Officers that the Supreme Court of India in *Nandini Sundar vs. State of Chhattisgarh (2011)* called out in unequivocal terms. In a state torn apart by the police and army in the name of combatting Maoist insurgency, the Hon'ble Supreme Court observed that there was a "yawning gap between the promise of the principled exercise of power in a constitutional democracy and the reality." In the case of UP before us, we have special police officers armed by the state to attack peaceful protestors and ordinary, mostly poor citizens, who were going about their daily routines in a most diabolical fashion. It is not a coincidence that barring few exceptions the assault has been on Muslims, and all the dead are Muslim. The note of caution sounded by the Supreme Court in *Nandini Sundar vs. State of Chhattisgarh* on disciplining power, the rigour of constitutionalism, the accountability of power, and the non-negotiability of promoting constitutional values and vision are torn asunder by the right wing Hindu majoritarian state.

Why the mass protests against the Citizenship Amendment Act, 2019? And what does this violence on unarmed protestors signal?

The Indian Parliament in December 2019, passed the Citizenship Amendment Act 2019, that redefines the terms of Indian citizenship in far-reaching ways. Section 2 of the *Citizenship Act, 1955* defines an "illegal migrant" (a person who enters the country without valid legal documents or enters with valid legal documents but overstays the stipulated period of valid stay) – these are the only two situations contemplated by the Act at its inception. Subsequent amendments, after the Assam Accord setting deadlines for migrants in Assam to qualify for citizenship and again introducing the OCI category stayed within the original non-denominational template.

However, in December 2019, this section was amended by the Hindu majoritarian

Parliament under the BJP to read as follows:

"Provided that any person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from Afghanistan, Bangladesh or Pakistan, who entered into India on or before the 31st day of December, 2014 and who has been exempted by the Central Government by or under clause (c) of sub-section (2) of section 3 of the Passport (Entry into India) Act, 1920 or from the application of the provisions of the Foreigners Act, 1946 or any rule or order made thereunder, shall not be treated as illegal migrant for the purposes of this Act."

The amendment to Third Schedule of the Citizenship Act, 1955, that stipulates a minimum time period for application for citizenship consists of the insertion of a Proviso that states:

"Provided that for the person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community in Afghanistan, Bangladesh or Pakistan, the aggregate period of residence or service of Government in India as required under this clause shall be read as '*not less than five years*' in place of '*not less than eleven years*.'"

Through this diabolical move, the binary of citizen and non-citizen officially morphed into a binary of refugee or sharanarathi and illegal infiltrators ('avaid ghoospethiya' variously translated as illegal migrant, intruder, infiltrator) solely predicated on religion, as Home Minister Amit Shah himself clarifies:

"I wish to make this clear. There should be no confusion among the people and no confusion in the media...*There is a distinction between ghoospethiye and sharanarathi.* Any person who leaves one country and goes to another in order to protect his dignity (*maanyata*), his identity (*astitva*), his self-respect (*svamaan*), his religion (*dharm*), he is a *sharanarathi*. A person who enters a country illegally for livelihood or other reasons is a *ghoospethiya*. There is no confusion at all in the mind of the Bharatiya Janata Party on this matter" (emphasis added).²²⁹

It must be remembered that the Citizenship Act, 1955 makes no such distinction. While several definitions were contemplated, Alladi Krishnaswami Ayyar drew the attention of the house to the two principles on which the law of citizenship may be

²²⁹ Amit Shah. Press Conference on National Register of Citizens (31.07.2018). https://www.youtube.com/watch?v=z5p85_d_IWE Viewed on 30 November 2019.

based: *lex sanguinis* (blood and race regardless of place of birth) and *lex soli* (grounds of birth). The suggestion of the Advisory committee was to adopt the *lex soli* principle, which was commended by Sardar Vallabhbhai Patel who "referred to the struggle against racial discrimination in South Africa...and to the demand of Indians settled there on the ground of their birth. He cautioned members not to take a narrow view of the subject and introduce racial phraseology in the Constitution... 'It is important,' he said, 'to remember that the provision about citizenship will be scrutinized all over the world'" (Rao, 1968: 152). Given the backdrop of Partition, it was generally felt that the definition of citizenship must be broad enough to accommodate persons with "some kind of territorial connection with the Union, whether by birth, or descent, or domicile" and who "had not made his permanent abode in any foreign country" (Rao, 1958: 158, 162). Even at this difficult time, the ethnic/racial basis and distinctions between religious faith of the seeker of citizenship, did not enter the account at all.

From that foundational position, we have now been forced into hearing the term "*ghoospethiya*" (which is a call to violence) used for all those who are deemed to be outside the borders of the *Hindu nation*. This is no longer India that is being spoken about. The spectre of the potential or actual ousting from citizenship into statelessness along with its concomitant denial of livelihoods, dignity and fundamental freedoms and vulnerability to violence, especially but not only, state violence is particularly chilling. The presumption on which state action under Hindutva proceeds is on the sealing of borders on the basis of religious homogeneity and the ousting/annihilation of the Other.

In the case of UP, we must remember that we are not speaking of the immigrant at all. We are speaking about the gruesome violence visited by the state on *birthright citizens* (to borrow Martha Jones' brilliant term) who are Muslims by faith – citizens who have an intergenerational claim to this country, without any need whatsoever of having to prove it. Mahmood Mamdani's insistence the fact that "the CAA is a demonic rather than a benign legislation" bears infinite repetition, especially after the mass violence against Muslims that has unfolded in UP, Jamia and Delhi between December 2019 and February 2020, where "the official discourse ... seeks to present Muslims as a politically and morally legitimate target for persecution by a government-mobilised majority" (Mamdani, 2019). Since expulsion and detention is not possible in the case of Muslim birthright citizens, this incarceration of the Constitution of India by the Hindutva state drives their annihilation through the politics of maiming (Puar 2017), with very tenuous possibilities, if at all, for justice.

Importantly therefore, even as we document the specific derogations of procedures established by law and due process in the UP cases, as also we must with Delhi that

followed close on its heels, and even as we push for concrete legal and punitive action, we cannot stop with that. It is not the police, the armed militias, and banded mobs that are acting on their own. There is a chain of command. There is concrete evidence of the chain of command. Our responsibility as the conscience-keepers of this country is two-fold: *First*, and most immediately, we must push for the pinning of command responsibility on the elected leaders of the BJP, who through brazen acts of omission, commission and incitement have sanctioned the use of deadly force with intent to maim, and cause death and dispossession of large sections of ordinary, peaceful citizens. This is not a riot. It is not police excess or police action alone. It is a Crime against Humanity. *Second*, we must do everything in our power to rebuild a different idea of India, an idea rooted in the spirit of the Constitution. We find ourselves in the dark pit of a fractured society, where we simply count religious inscriptions on bodies, and express solidarity, doubts, equivocations, allegations and accusations on that basis. As we remember the dead and their extreme suffering, as also those who suffer with them and are condemned to futures of suffering under this regime, we need to stop for a moment and ask ourselves, who are the 'we'? For the 'we' and the 'them' cannot under the Constitution be defined in terms of religious belonging. This must be a country that ousts precarity, not one that ousts/annihilates people condemned to live on the edge of precarity. It must be defined in terms of a shared humanity, and deep mutual respect and dignity. There is really no other way forward.

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ANNEXURE

DISTRICT ACCOUNTS

Group A districts: the more seriously affected – where at least one murder took place, besides other forms of targeting. Police reprisal – vitiating the justice system disadvantaging victims. – is also more serious in these.
9 in all

Group B districts: No reported cases of murders, but police targeting protesters, detaining and cracking down did take place.
7 that we covered.

GROUP A DISTRICTS

BIJNOR

1.1 Introduction

Bijnor, in western Uttar Pradesh, is one of those districts worst affected by police targeting of anti- Citizenship (Amendment) Act - CAA - 2019 protests. On a single day of protests and police crackdown on 20th Dec., 2 persons were reported killed, three left battling for their lives in local hospitals; over 131 persons arrested, and cases filed, in 11 separate FIRs of rioting and destruction of property, against 200 named and over 4000 unnamed persons. Police have been accused of breaking into homes and ransacking them, destroying property, threatening family members, including to set houses on fire, and of custodial torture. In shocking revelations, as many as 21 minors have been reported to have been included among those arrested, and against extant laws and procedures, kept in police custody along with other detainees, subjected to various of form of torture, before being released, over 30-48 hours later. We use media accounts, analysis of FIRs available to us, and some testimonies to piece together the chain of events that Friday in two towns of the districts where violence had been reported from – Nagina and Nehtaur - and the police reprisal that has followed since.

Bijnor has a mixed population profile, 55% Hindu and 43 % Muslim. It has one Parliamentary constituency – that it shares with Muzaffarnagar – currently with the BSP, and 5 state assembly segments, all currently with the ruling BJP. Although in the heart of polarised western UP, and neighbour to Muzaffarnagar, Bijnore districts itself has had less of a chequered history in terms of communal violence than the rest of the region. Below is an account of Nagina town, followed by that of Nehtaur.

1.2 Nagina

Nagina town had a population of 71,000 persons, of which 70.53% are Muslim (2011 Census).

1.2.1 Use of disproportionate force

On Friday, 20th December, there had been a call for anti-CAA protests after weekly prayers. Section 144 had been imposed by district authorities from the previous day, and police was deployed in full force, especially outside mosques. Anticipating trouble on the day, the Imam of the town's principal mosque - Jama Masjid-askedenregation to disperse immediately after prayers.²³⁰ A small group of

²³⁰ https://www.huffingtonpost.in/entry/caa-uttar-pradesh-police-tortured-children_in_5e0207b5e4b05b08ba-bab722?hka

worshippers however lingered on and then marched from Jama Masjid to Gandhi statue in the centre of town. That is when scuffle broke out. Police forced back the marchers, directing tear gas shells and charging participants with batons and stones, in an effort to enforce section 144 CrPC and prevent the assembly. The FIR registered by the police of the incident – with a police constable as a complainant – mentioned that the group turned violent and damaged property, including private cars and shops, also resulting in injury to civilians. (Crime No. 521/2019, Nagina PS, registered at 7.40 pm of 20th Dec. 2019). Notably the FIR is light on specifics – no detail is provided of cars and shops damaged or civilians injured. FIR also accused the protesters of taunting the police, pelting stones at them resulting in several police officers sustaining injuries, and of preventing it from discharging their official duties.

Eyewitness accounts refute this version. Multiple media accounts, quoting community members they spoke to, claim the protesters were marching peacefully, when Police charged at them unprovoked, and that resulted in the scuffle between protesters and police. No public property was damaged.²³¹ According to these accounts, the police action was entirely disproportionate.

1.2.2 Arrest and criminalisation

FIR records that Police was able to exercise force, apprehend 80 protesters, while 100-150 fled away. All 80 persons who have been named in the FIR are Muslim, all 18 years and above, 10 are recorded as having year of birth as 2001 (thus 18 years), 5 as 2000 (19 years). All are recorded as having a wooden stick in their right hand. No firearm is recorded as having been apprehended. All 80 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), besides CLAA 1932, Sec 7 (preventing a person from undertaking business); and PDPPA 1984, Sec 2, 3 (destruction of public property). These are all serious charges, warranting stiff penalties if proven correct. Media accounts report, police started picking up youth later that evening too, with as many as 100 persons picked up on the 20th of Dec.²³²

²³¹ https://www.huffingtonpost.in/entry/caa-uttar-pradesh-police-tortured-children_in_5e0207b5e4b05b08ba-bab722?hka
<https://www.nytimes.com/2020/01/02/world/asia/india-protests-police-muslims.html?smid=nytcore-ios-share>

²³² https://www.huffingtonpost.in/entry/caa-uttar-pradesh-police-tortured-children_in_5e0207b5e4b05b08ba-bab722?hka

1.2.3 Minors tortured in custody

It emerged only after a few days that there were minors among those arrested in Nagina that day. Multiple media reports based on personal testimonies of minors later released by the police and their parents, recount a shocking tale of police breaking the law it is meant to uphold, to detain juveniles violating laws and torturing them in custody.²³³ According to these reports, the number of minors among those rounded up in Nagina could be as high as 22. Those arrested included those rounded up at the site of the protest earlier that afternoon, as well as youth picked up later that evening – including one returning from work, another coming back after taking tuition classes. They were taken to Nagina police station, and then bused to Bijnore district headquarters, 35 KMs away, to the Cantonment police station. Over the next 48 hours, these accounts recount, how minors were subjected to various forms of torture, including repeated violent assaults, forced stripping, and sleep deprivation on a cold night when temperature dipped to 6 degree centigrade. Victims informed media persons that they were beaten when they were picked up, beaten when they were being transported to the Nagina police station, and then at the Bijnore police lines. And then they were beaten every 2-3 hours, with police personnel repeatedly asking them who paid them to participate in the protests. One child's ankle was put in a cast at release. Others had visible signs of beating, including swollen limbs. According to the report, of the estimated 100 persons picked up by police from Nagina on 20th December, 21 minors were released in batches over the next 48 hours. One of the last minors was released on 23rd December, whilst on 25th December, one child was still in custody, and police was refusing to accept the parents version that the child was a minor.

²³³ https://www.huffingtonpost.in/entry/caa-uttar-pradesh-police-tortured-children_in_5e0207b5e4b05b08bab722?hka
<https://www.nytimes.com/2020/01/02/world/asia/india-protests-police-muslims.html?smid=nytcore-ios-share>

TESTIMONY #1 : Y'S MOTHER (15)

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.

Source: Extracted from Brutalising Innocence.

https://www.haqcrc.org/new-at-haq/brutalizing-innocence-detention-torture-criminalization-of-minors-by-up-police-to-quell-anti-caa-protests/?fbclid=IwAR2pduUZPZTY1CFuT2dSEGF-ZEEaySr2BtuJBS8m3v1eTlIMxate5QjE_Y

TESTIMONY # 2 : NAOMI BARTON (JOURNALIST)

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 district SP, Sanjeev 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.

Source: Extracted from Brutalising Innocence.

https://www.haqcrc.org/new-at-haq/brutalizing-innocence-detention-torture-criminalization-of-minors-by-up-police-to-quell-anti-caa-protests/?fbclid=IwAR2pduUZPZTY1CFuT2dSEGF-ZEEaySr2BtuJBS8m3v1eTlIMxate50jE_Y

1.3 Nehtaur

Our second vignette is from Nathaur town, 25 Kms from Bijnor, (population 48,000 pop. 75.80 per cent Muslim), again pieced together using multiple media accounts.²³⁴

1.3.1 Disproportionate force

As in Nagina, Friday 20th December was palpably tense in Nahtaur, with Muslim traders having downed their shutters in protest against the CAA, and large deployment of police all over town. At the central Naiza Sarai mosque, where police deployment was particularly heavy, there were some 100 worshippers for Friday prayers.²³⁵ Once prayers had concluded, the Imam, Rafeeq Ahmad, asked all to go home. No protest meeting was planned, nor any held, and no marches took place. Then, eyewitness accounts mention, without any provocation, police charged into the crowd gathered outside, with tear gas shells and cane charges. These accounts also note the presence of plainclothes men with canes mixed with police force, having instigated initial police action, and later breaking into people's houses, ransacking them and destroying property. District police chief Sanjiv Tyagi later admitted to media persons that there were plainclothesmen with his personnel that day – *police mitras* recruited by state government, part of a community policing programme, and that they had helped restore order that day.²³⁶ Community members told media persons, police mitra were mostly persons with criminal background, enlisted to spy on targeted communities. The BJP regime had recruited them en masse just after taking power in 2017, allowing, some believe, cadres of the Rashtriya Swayamsevak Sangh (RSS) – the Hindu extremist platform of which BJP is the political arm - and other fringe Hindu groups to infiltrate the network.

Police charging at the crowd led to protesters clashing with police. 3 FIRs have been registered under which 35 persons have been named under various sections of Indian Penal Code (IPC), for rioting and destruction of public property. It is also claimed that 23 policemen were injured.²³⁷ These media reports also mention how later, police broke into homes near the mosque, broke everything in houses, cut gas pipes and threatened to set houses on fire, before taking away male members on charges of being protesters, as women begged for mercy. They also threatened

²³⁴ <https://caravanmagazine.in/politics/nehtaur-bijnor-fear-up-police-defends-two-killings-state-rampage>

²³⁵ <https://scroll.in/article/947626/why-kill-our-children-blood-and-tears-in-an-uttar-pradesh-town>

²³⁶ <https://caravanmagazine.in/politics/nehtaur-bijnor-fear-up-police-defends-two-killings-state-rampage>

²³⁷ <https://indianexpress.com/article/india/caa-protests-up-bijnor-protester-killed-police-firing-6181930>

women with rape.²³⁸ It is also reported that at least 9 families have left their homes, fearing police reprisal.²³⁹ Videos that have emerged of the police crackdown earlier in the day provide a chilling account of police personnel on the rampage, charging at the crowd. One policeman is heard shouting, "kill one or two of them".²⁴⁰

1.3.2 'Shoot to kill'

Two killings have been reported from Nehtaur, both from 20th December: Mohammad Suleiman (35) and Mohammad Anas (21). Bijnor SP Sanjeev Tyagi told media persons that both died due to firearm injuries sustained during clashes in the Nehtaur area.²⁴¹

a. Mohammad Suleiman

The police claim that Suleiman snatched SI Ashish's pistol and SI Mohit Kumar (Special Operations Group, Bijnore Police) started chasing Suleiman. It was only when Suleiman shot Mohit that in self-defence Suleiman was shot dead. But the police account records no weapon being found on Suleiman, and SI Ashish's pistol too has not been located.²⁴² Forensic report confirms that Suleiman's injuries were from a service weapon.²⁴³ Suleiman's family members refute the police version, insisting that the deceased had nothing to do with the protests, that he was a student preparing for the civil services examinations and had stepped out to offer Friday prayers.²⁴⁴ They stated that Suleiman was unwell on the day of his death and hence went to Thana Masjid, which was closest to his house for Friday prayer at around 1:45 pm. He was coming out of the Masjid when the police arrested him and took him to Mohallah Shekhan, where he was shot. The family found his body in Mohalla Shekhan. They were informed by eye witnesses about Suleiman's death, and found his body around 2:50 pm.

The family immediately took the body to the government hospital, where there were no doctors present. The family claims that a compounder at the hospital

²³⁸ <https://scroll.in/article/947626/why-kill-our-children-blood-and-tears-in-an-uttar-pradesh-town>

²³⁹ <https://www.indiatoday.in/india/story/bijnor-ground-report-muslim-families-flee-as-up-police-vandalise-homes-harass-women-after-clashes-over-CAA-1631046-2019-12-24>

²⁴⁰ <https://scroll.in/article/947626/why-kill-our-children-blood-and-tears-in-an-uttar-pradesh-town>

²⁴¹ <https://indianexpress.com/article/india/up-CAA-protests-deaths-bullet-injuries-6180302/>

²⁴² <https://indianexpress.com/article/india/CAA-protests-up-bijnor-protester-killed-police-firing-6181930/>

²⁴³ <https://indianexpress.com/article/india/CAA-protests-up-bijnor-protester-killed-police-firing-6181930/>

²⁴⁴ <https://scroll.in/article/947626/why-kill-our-children-blood-and-tears-in-an-uttar-pradesh-town>

told them that as Suleiman was already dead, there was no point in admitting him. While taking the body back home, they were stopped by SDM of Bijnor, Devender Kumar and Tehsil CO of Dhampur, Mahadev. The officials did not allow the family to take the body back to their village and insisted on a post-mortem. The family claims that they were intimidated by the police, with a gun being brandished at one point. This happened at Eidgah chowk. The officials forcefully took the body away in their car for the post-mortem, not to the local government hospital but to Bijnore. Three people from Suleiman's family accompanied them. They kept the body in the mortuary and asked his family to come back at 10:00 am next day. At 1:00 am Suleiman's brother, Munsaf Ali, got a call from the CO who asked him to come to the thana. While waiting at the Thana, the CO rang a bell, following which the sound of a gunshot was heard. After some time, the CO rang the bell again, which was followed by sounds of yet more gunshots. The family asked him for what purpose he did that, the response they got was "*nalla saaf kar raha hoon*", but according to the family, it was to intimidate them.

The CO asked Suleiman's family to go to Bijnor to collect the body. They reached Bijnor at 4:00 am and by 6:00 am the post mortem was done. There were 7-8 people from the family but there were around 1000 police men. They did not let the family take the body back to their village and forced them to bury the body there itself. They buried the body in Suleiman's grandmother's village - Baghdad ansar.

On the 21st, at around 2-3 in the night, 10-12 policemen climbed the terrace of Suleiman's house using their own ladder and started breaking the family's things. According to the family, it was done to intimidate them so that they wouldn't press for an investigation into Suleiman's death.

The family got the post-mortem 8 days after the death. The report is fraught with mistakes, including the names of the deceased and of his father. The family filed an application for registration of FIR and even received an acknowledgment for it but no concrete action has been taken. They fear that an investigation by the police would be biased as the institution is aiding the violence done by its members.

TESTIMONIAL # 3 : MOHAMMAD SULEIMAN'S KILLING, NEHTAUR**(Narrated to our fact funding team by family members, Nehtaur, 14th January 2020)**

Name: Mohammad Suleiman

Age: 20

Residence: Nehtaur, Bijnor

Occupation: Student

Date of Incident: 20 December 2019

Date of Death: 20 December 2019

Place of Death: Nehtaur, Bijnor

Family:

Description of the Incident

Suleiman was unwell on the day of his death (20 December 2019) and hence went to Thana Masjid, which is closest to our house for Friday prayers, at around 1:45 pm. He was coming out of the Masjid when the police arrested him and took him to Mohallah Shekhan, where he was shot. We found his body in Mohalla Shekhan. An eye witness told us about Suleiman's death. We found the body around 2:50 pm.

Description of the Post-Incident Situation

We immediately took the body to the government hospital, there was no doctor there, only one compounder who stated that Suleiman was already dead so there was no point in admitting him. We took the body back where on the way we were stopped by SDM of Bijnor, Devender Kumar and Tehsil CO of Dhampur, Mahadev. They did not allow us to take the body back to our village and insisted on a post-mortem. They intimidated us to the extent that they even put a gun on our chest. This happened at Eidgah Chowk. The police then forcefully took the body away in their car for the post-mortem. They didn't take the body to the government hospital but to Bijnor. We were three people from the family who accompanied the police.

Description of the Post-Death Situation

The police kept the body in the mortuary and asked us to come back at 10:00 am next day. At 1:00 am Suleiman's brother, Munsaf Ali, got a call from the CO who asked him to come to the police station. While waiting at the Thana, the CO rang the bell, a shot was fired, after some time, he rang the bell again and four shots from fired by him. When we asked him the purpose for which he fired the shots, the

response we got was "*nalla saaf kar raha hoon*". We know that it was untrue and that in fact he wanted to intimidate us.

The CO asked us to go to Bijnor to take the body. We reached Bijnor at 4:00 am and by 6:00 am the post mortem was done. We were 7-8 people from the family but there were around 1000 policemen. We were not allowed to take the body back to our village. The police forced us to bury the body in Bijnor itself. We then convinced them to let us bury the body in Baghdad Ansar, Suleiman's grandmother's village.

On 21 December, at around 2-3 in the early morning, 10-12 policemen climbed the terrace of our house using their own ladder and started breaking all our belongings, like glassware and bottles. We could see it very clearly from the window of our house. The purpose was to intimidate us so we wouldn't press for an investigation into Suleiman's death.

The DM and SDM came to our house. The ADG also came. They all came to enquire about Suleiman's death. We told all of them the truth.

We got the post-mortem report 8 days after Suleiman's death after a lot of hard work from our side. It was through the ADG that we got the post-mortem report. The report is fraught with mistakes. Suleiman's name and the name of his father are both entered incorrectly. We know that they did this deliberately. We filed an application for registration of FIR at Thana Nehtaur the same day that we received the post-mortem report. We received an acknowledgment for it but no concrete action has been taken. We fear that an investigation by the police would be biased as the institution is aiding the violence done by its members. They have set up an SIT but all the members are their own so we will not benefit from this.

What happened, these were under the orders of Yogi Adityanath. He was the one who said hit and kill whoever. They wanted riots to happen but luckily in our village the Hindus stood next to us and with us throughout. There have never been riots in this village.

They deliberately fired on the upper body. They wanted to kill and not control the crowd otherwise they would've used other forms of crowd control. The local police (Police Mitra, friends of police) they wear uniform and they are the real cause of concern. They fire on the public, they had desi kattas. Police Mitra were firing and hitting the elderly with lathis.

Suleiman is the only person whose death the police have acknowledged. Otherwise they are not accepting any death as a cause of their actions. In this case also, they are saying that the firing occurred as self-defence.

b. Mohammad Anas

The other deceased that day was Anas, a labourer from the Ghas Mandi area of Nahtaur, who, the family recounts, was out to fetch milk from his neighbour for his 7-year-old daughter. Police was deployed in the area in force, and shops were closed. The moment Anas stepped out of his house, he was caught without notice, by a police bullet that directly hit his head and killed him. The body was taken to Bijnor Hospital on 20th night where the post-mortem was conducted. The post-mortem report did not mention the distance from which the bullet was fired as is usually stated in cases of bullet injury. After the medical formalities were complete, the police refused to hand the body to the family. The police insisted that the family bury his body in a relative's village which was 12 km away from their home. When the family reached the village, a large police contingent was already present. The body was not handed to the family till the grave was dug and only burial was left. The body was buried at 10 am on the 21st.

Anas's family filed an application for registration of FIR but they have received no news from the police despite their acknowledgment to the application. The police respond to the delay stating that since the courts have been on vacation and then strike, they could not do anything.

What happened to the two cases later casts further suspicion on the police account.. There is an eery similarity in the chain of events that occurred in both the cases. Neither family was allowed access to autopsy of the two bodies, nor were autopsy reports handed to them, as they are entitled to. Both families were forced by police not to bring the bodies home to Nehtaur and perform burials away from Nehtaur.

c. Salman (Injured)

Salman, a resident of Nehtaur, was injured in police violence by a bullet fired by police authorised pistol. He was walking near Donda colony (not Thana Mosque) and was fired at from around 30 ft away, by someone in jeans and blue jacket. He was hit on the side of his body and there is an exit wound. Local journalist and one mullah ji took him to Nehtaur hospital. Once they saw the wound, he was referred to Bijnor Hospital. Bijnor Hospital referred him to Meerut, where he stayed for 10-11 days. Two policemen were stationed outside his ward throughout this period. After

leaving the hospital in the ambulance, he was directly taken to Kotwali Thana. The CO was angry at Salman and stated that he was shot in “public firing”.

Salman was then taken to Bijnor thana, where he was asked questions like who was the leader, who organised the protests; what plans were hatched; who gave them weapons. He replied that there were no protests. At that point, he was offered money but he refused. He has been maintaining that it was the police that shot at him and can even recognise him if he sees him again. After the intervention of Mr. Rajan, the chairman of the town committee, Salman was allowed to leave and go home. After 4-5 days, an SI visited his house and asked him the same questions.

In Salman's discharge note, injury was recorded as caused by “army bullet”.

1.4 Enabling police excess

From the above account of police action against Muslims in Bijnore on 20th December onward, it is clear that police seemed to enjoy a free hand to use excess force, without restraint or accountability. What enabled this? Media reports have pointed to an audio recording doing the rounds attributed to the district police chief, Sanjiv Tyagi, speaking to his subordinates on Bijnore district police wireless network, that might provide clues. Claiming that no person from Bijnore has been affected by the CAA 2019 passed by the Parliament, and that rumours and falsehood are the reason for protests, the speaker is heard exhorting his audience – heads of police stations - to deal with CAA protesters with maximum force:

Is the Bijnor police so weak that we cannot hit back! Nobody can fight the police. Break the hands and legs of (expletive) criminals. Teach them a lesson. Take harshest action against them. Book them under NSA (National security act)

The speaker then informs his audience that clear instructions have been received from the state Chief Minister himself, to take strict action against protesters, going on to say:

Your overreaction (against protesters) will be fully supported. But if any SHO (head of police station) is seen not taking action against those resorting to violence, they will be suspended.

This is clear proof of police chiefs giving the green light to their force to use excessive force against protesters who were exercising their democratic right to

dissent against CAA 2019, deemed by UN to be “fundamentally discriminatory” against Muslims. When Tyagi was confronted with the audio recording by New York Times correspondents, he refused to confirm or deny whether the audio was his.²⁴⁵ He claimed elsewhere that Muslim community members had promised not to take out any protests, but these assurances had been broken in Naya Bazaar area (of Bijnor, not Nagina or Nehtaur), amounting, according to him, to breaking a promise. This, he suggested, justified police action.²⁴⁶

According to Suleiman's family, the ones who caused most violence were “friends of police” or “Police Mitra” who had been given free hand to use violence against people. These local men used lathis and pistols.

1.5 Conclusion

Bijnor's is a classic example of how state denied its citizens rights guaranteed by law, at every stage, all for citizens seeking to voice their opposition to a discriminatory law that targets them and their future. Authorities disallowed freedom of assembly and protest by imposing Sec 144 from 19th December 2019, and shut down Internet. On 20th December, attempt by community members to hold peaceful march in Nagina, were prevented. Together with Nehtaur, community members at both sites – both with significant Muslim majorities - were set upon by the police, precipitating clashes, that the police then used to target those present at the sites as well as community members in their homes, afterwards. The toll has been high resulting in 2 deaths, scores arrested, at least 21 of them minors, all tortured in custody, and homes ransacked, property destroyed, and women and elderly threatened by state forces. Scores continue to remain in detention, and many will undoubtedly spend months and years battling a hostile criminal justice system to seek freedom and pursue justice. Denial of freedom and right to life in Bijnor has been the result of a police force deeply hostile to religious minorities – of the 23 police personnel named in FIR (# 521/2019) deployed in front of Jama Masjid in Nagina town, 70 % Muslim population, not one is Muslim - and police and political leadership deliberately and systematically demanding use of maximum force to prevent democratic dissent.

FIROZABAD

²⁴⁵ <https://www.nytimes.com/2020/01/02/world/asia/india-protests-police-muslims.html?smid=nytcore-ios-share>

²⁴⁶ <https://caravanmagazine.in/politics/nehtaur-bijnor-fear-up-police-defends-two-killings-state-rampage>

2.1 Introduction

Western Uttar Pradesh's Firozabad district, known as the centre of India's glassmaking industry, is home to around 2.49 million people (2011 Census). Of these, over 313,000 (12.6%) are Muslims. The BJP controls 3 of the 4 legislative segments that constitute the district (a fifth segment remains vacant), and also represents Firozabad in the national parliament.

By number of casualties, Firozabad was the worst affected site of the violent police crackdown in the state following the eruption of protests against the Citizenship Amendment Act (CAA) on 20th December, with 7 deaths being recorded.²⁴⁷ At least 29 people were named and charged, and at least 14 arrested in around 34 cases registered in connection with the violence.²⁴⁸ There remain at least 2 juveniles still in custody, and 16 others aged around 18-25 years. This includes a 55-year-old cancer patient who was denied treatment despite a court order.

2.2 Use of disproportionate force

Media reports have provided only sketchy details about the events of 20 December, mostly relying on police statements. The police have claimed that the protests, which began following the conclusion of Friday prayers, were violent. The protestors reportedly engaged in stone pelting as well as firing. The police have also claimed that they have recovered hockey sticks, iron rods, knives and bullet cartridges from the protest site. CRPF jawans had to be deployed in the area to contain the situation.

Even though the police have claimed that they did not fire a single bullet in Firozabad, seven people have lost their lives due to bullet injuries. Around 80 people were injured, including 18 policemen²⁴⁹. One of the injured policemen later told the media that he was saved from an angry mob of protestors by a Muslim man.²⁵⁰

According to locals the chain of events on 20th was starkly different from what was stated by the police. They said that electricity and internet had been shut down two

²⁴⁷ Locals told us that the real death toll may be as high as 10.

²⁴⁸ <https://indianexpress.com/article/india/firozabad-anti-caa-protests-of-34-firs-most-filed-in-days-after-violence-6236944/>

²⁴⁹ <https://indianexpress.com/article/cities/uttar-pradesh-firozabad-citizenship-act-protests-police-firing-6200073/>

²⁵⁰ <https://www.ndtv.com/india-news/up-cop-rescued-by-man-from-violent-mob-in-firozabad-during-citizenship-law-protest-2155000>

days prior to the protest. The main crossing in Firozabad at NH-02 was blocked with barricades put up by Firozabad Police at 11 am on 20th December, and arrangements for water cannons were also made. The violence started at 2 pm. Muslims were offering namaaz and as soon as they stepped out of the mosque, open firing was done by men who were also dressed in white kurta-pajama. Then the police also opened fire. This was done very close to the police station at the Glass Chowk. Several shops owned by Muslims were attacked and burned down.

TESTIMONY # 4 : UNNAMED MAN, FIROZABAD

(police attacking worshippers without provocation)

On December 20th, around 2 PM when the namazis came out of the Agaa Sahib mosque after the Juma prayer, the police started lathicharging (baton charging). There was no reason to start the lathicharging as the namazis were simply coming out of the mosque after the prayers, there was no protest or sign of any tension there. In a very short period of time, the police force gathered outside the mosque. As soon as the lathicharging started, some people started running away ..But the police caught hold of people and detained them. The mosque representative also came to speak to the police, but he was also beaten up badly by the police and has head injuries in 3 places. They also pulled his beard and called him 'aatankvadi'...Some people are still so scared that they have not opened up their shops in 5-6 days.

Source: Briefing paper by International Commission of Jurists, dated 15 January 2020. <https://www.icj.org/india-police-used-excessive-force-against-protesters/>

2.3 Killings

The seven casualties of the police firing have been identified and their testimonies are evidence to the disproportionate and deliberate attack made by the UP Police on minorities in the state.

a. Mohammad Haroon

A 30-year-old unmarried man, Haroon was a daily wage labourer mainly engaged as a buffalo seller. On 20th December 2019, there was a scheduled anti-CAA protest at Naini Glass Chowk but before the protest could start, the police along with other unidentified persons (on the side of the police) started firing. Haroon's brother received a call from a stranger that Haroon had been shot. This call was between 5:30 pm and 5:45 pm.

The family took Haroon to Trauma Centre in Firozabad, which refused to admit Haroon. Then he was taken to SN Hospital, Agra where he was put on drip, but no immediate treatment was given. It is important to note that Inspector from Firozabad followed the family till Agra. Haroon was shifted to a private hospital in Agra, and as soon as they started the treatment, hospital authorities received a phone call. Subsequently, they refused to provide any treatment. Haroon's family claims that three hours were lost in going from one hospital to another without receiving adequate treatment. Then he was taken to GG Nursing Home, where treatment wasn't done properly. GG Nursing home declared that he was shot at and confirmed that there was a bullet. On 24th December, he was referred to AIIMS Trauma Centre. AIIMS confirmed the bullet too. A police vehicle followed the family to Delhi as well. On 26th December, at 1 am, Haroon was declared dead at AIIMS.

An FIR (No. 0816) was filed early morning on 26th December in connection with Haroon's death, under section 304 of the Indian Penal Code (IPC). It states in the incident section that he fell in the chaos of the protest and hurt himself, which caused his death. It does not state that his death was caused by a bullet injury, or even that he was shot. Post Mortem was carried out on 26th December at night. The family has not received the post mortem report. However, they have his death certificate. Police pressurized the family continuously. Even on the way back from Delhi, police vehicle followed the family. The police gave the family only four hours to bury Haroon and did not allow relatives to gather. He was buried at 4 am on 27th December.

The family also informed us that Haroon had around 60,000 rupees in his person, as he had just sold a buffalo to take care of his mother's surgery. This money was not recovered from the body. Haroon was taking care of the expenses of the entire household.

b. Abrar

26-year-old Abrar was a labourer in the bangle industry. He is survived by his wife who cannot walk due to a disability, and a 5-year-old son.

On 20th December 2019, Abrar was returning home from work, and was shot twice - one pellet was in his arm and one pellet in his backbone. The family received a call from a stranger at around 6 pm, which made his father and brother go to Naini Glass Chowk.

The government hospital (FH Medical Centre) did not admit him. As there was no ambulance available, the family took Abrar on a motorbike to Agra, wherein they

put him on drip but did not begin treatment. He was then referred to the Trauma Centre at Safdarjung Hospital, Delhi, which also refused to admit him, saying that there was no empty bed. He was then referred to Apollo Hospital Delhi wherein the doctors did a surgery on him on 29th December. Twelve days later, his stitches were removed. On 9th January, he came home and was prescribed medication for 15 days. On 12th January, his mouth and nose started bleeding at home, he started frothing from his mouth and later passed away. His wife said that the bullets were not taken out of his body, and that the infection through those bullets caused his death.

Abrar's father claims that he is sure that the police is in cahoots with the hospital. As they did not want an eye witness- they wanted his son to die. All his tests and reports show two pellets. The police took Abrar's body for post mortem, but did not share post mortem report and returned the body for burial at 9 pm. His burial was also done in heavy police presence, at the sealed Mohammed Ganj burial ground, where Abrar's relatives or loved ones could not come in.

His father also said that from the terrace of their house, on 20th December, they could see police and other people who were in casual clothes openly firing.

The family does not have access to Abrar's death certificate or his post mortem report. They have an FIR copy and Tehreer. FIR No. 0009 has been filed under section 304 of the IPC. It only states that Abrar was found injured and died on his way to the hospital from Agra to Delhi.

His discharge summary from the hospital in Agra clearly states that he had a gunshot injury on the upper body and pellet near his chin.

c. Armaan/Kallu's killing

On 20th December 2019, Armaan had gone for namaaz to the mosque and was on his way back home via Naini Chowk when he was shot.

At the time of recording tehreer, the Superintendent of Police (SP) and Additional SP kept directing Armaan's father to not mention the police. His father, however, did not relent. In his statement he mentioned that the police shot Armaan. In the FIR copy, however, the police has changed the statement. FIR No. 0808 filed on the application of the father of the deceased states that Armaan was shot but it is unclear whether the bullet was fired by a police-man or a civilian.

The family does not have access to death certificate, post mortem report, or the tehreer. It has a copy of the FIR.

d. Rashid

27-year-old Rashid was a widower and daily wage labourer in the bangle industry. He is survived by his 5-year-old daughter. Rashid had a disability in his hand. He would require support from both hands to hold a glass of water.

On 20th December, he was coming back from Naini glass chauraha to Kashmere gate, Firozabad when he was shot on his forehead by the police. He died on the spot. He was shot around 4- 4 30 pm, his family received the information only around 7:30 pm. His family found him already dead in a service lane.

Rashid was taken to SN Hospital by his family where the doctor declared that he died from a 'police bullet.' People in the surrounding areas also told his father that he was shot by the police. Around 50-60 policemen were present at the hospital. The police pressurized the hospital to change its narrative, so the hospital made a statement to a newspaper claiming that he was receiving treatment for his injury at the hospital, and died during the treatment.

Rashid was buried on 21st December at around 4:30- 5 am, as the police pressurized the family to carry out the burial immediately, and did not allow them to call relatives for a prayer meeting, or even a cleric to perform rites. Police told them that they would release the body to be buried in a Firozabad cemetery only agreed to bury it at night. If they wanted the burial to happen in the day, it would only be allowed outside the city. Only 10-12 persons were allowed to be there. Police also followed the family to the burial ground.

The family does not have access to a death certificate, post mortem report, and no tehreer or FIR has been filed.

The police called the family twice or thrice on the phone to say that they did not shoot Rashid. The police also called Rashid's father to a lane close to his house, and in a police vehicle asked him to say on video that he does not know who killed Rashid, and that the police did not shoot him. Rashid's father refused to give the statement. After that, the police have made several phone calls to him, but he hasn't attended their calls.

e. Other civilians recorded to have died in protests in Firozabad were identified

as:

- i. Mohammad Shafiq (45), a labourer at a bangle workshop and a resident of Mashraorganj (Rasulpur PS), shot in the head. Passed away on 26 December in Delhi. His medical report clearly states that he had a gunshot injury. According to the application submitted by his family members to the police
- ii. Nabi Jan (21), a labourer at a bangle workshop and a resident of Mohammadganj, passed away on 20 December.
- iii. Muqem Qureshi (18), a labourer at a bangle workshop and a resident of Nagla Kothi, shot in the chest. Passed away on 23 December in Delhi.

TESTIMONY # 5 :RANI, WIFE OF SHAFIQ, DECEASED

My husband has died. He was coming back from work from the bangle factory. In the protests, he got hit in the head with a bullet from a gunshot. Everyone saw it. He fell and there was nobody to pick him up. The hospital in Firozabad refused to admit him. People from my community took him to Agra – they took him to 10-12 hospitals, they all refused. Finally, one hospital admitted him, but they kept telling me to take him to Delhi. He died in Delhi.

Source: Briefing paper by International Commission of Jurists, dated 15 January 2020. <https://www.icj.org/india-police-used-excessive-force-against-protesters/>

2.4 Registering FIRs

34 FIRs were registered after the protests turned violent on 20th December. Eight FIRs were registered under the Arms Act and the rest were on the charges of rioting, unlawful assembly, mischief causing damage, mischief by explosive substance, dacoity, and criminal intimidation. Only five of the FIRs contain names, mentioning 29 people. The others are against “unknown” persons or “crowds of thousands”. 18 FIRs were registered at Firozabad South Police Station, 16 were filed at Rasulpur Police Station.²⁵¹ One of the arrested is a Stage-2 cancer patient, who also fractured his legs and left arm. Despite a court order in favour of sending him to the hospital, police has failed to do so.²⁵²

While most of the protestors are still in custody, a few workers were granted bail as the registers in their factories suggested that they were at work, and not at the protest.

²⁵¹ <https://indianexpress.com/article/india/firozabad-anti-cqa-protests-of-34-firs-most-filed-in-days-after-violence-6236944/>

²⁵² <https://timesofindia.indiatimes.com/city/agra/up-12-days-after-courts-order-cancer-patient-assaulted-by-police-during-anti-cqa-stir-yet-to-reach-hospital/articleshow/73051188.cms>

One of the arrested, Razzaq, was reportedly arrested with a knife.²⁵³ This points to the arbitrariness with which the names of the protestors were added to the list.

The FIRs registered on application filed by families of deceased follow a pattern. All the FIRs only list section 304 of IPC as the charge. None of the FIRs list the cause of death as bullet injury fired by police despite insistence by the family and evidence by the hospital for the same.

2.5 Patterns of violence

All family members stated that RSS cadres was directly involved in the violence on 20th December, along with the police. A few family members spoke about a businessman who runs a shop called Sharma Transport, who, according to them, was involved in this violence and supplied men and guns. He is closely associated with the BJP and the RSS. In Kashmeri Gate area, which is also a Muslim dominated area in Firozabad, people from the neighbourhood said that on 22nd December, 5-6 RSS men were beating Muslims in the middle of the night while wearing police uniforms. However, they did not have any name badges or labels on their uniform. They also carried out similar violence in Ramgarh, Chishti Nagar (which are also Muslim dominated areas). Several people have fractured bones because of this. On 22nd December, in Mohammed Ganj, 2-3 shops owned by Muslims were burned. Haroon's family also spoke about the involvement of Sharma Transport in this.

2.6 Arrests, criminalisation and post-violence reprisal

On December 27, Firozabad Police's Social Media Cell released a list of 100 "miscreants" who indulged in violence during the protests. It was the third such list released by the police. The Firozabad Police have also sent notices to at least 200 people, asking them to furnish a surety of Rs. 10 lakh each and prove that they would not be a threat to peace in the area in the future. Among those served these notices was Banne Khan (from the Kotla area). Khan had passed away 6 years ago, at the age of 94. Two other men in their 90s - Fahasat Meer Khan (93, founder of a local college, bedridden for months), and Sufi Ansar Hussain (90, caretaker of a local mosque, suffering from pneumonia and just returned from Delhi after treatment) also received similar notices. Both are members of their local peace committees. A viral video from Firozabad showed civilians standing along with policemen and throwing stones at a godown belonging to a Muslim man. In another video, the

²⁵³ <https://www.amarujala.com/photo-gallery/uttar-pradesh/agra/15-cases-registered-in-firozabad-violence-over-caa-protests?pagelid=3>

men were seen attempting to set fire to the godown.²⁵⁴ Azad Khan, the owner of the godown who later revealed the details of the attack to the media, reported that his 19-year-old nephew Faraz was later arrested and charged with attempt to murder. A recovery notice was also sent to Faraz's family, accusing them of being complicit in damaging public and private property. Local BJP leader Prakash Bharadwaj admitted to "helping" the police. *"It was a display of solidarity by Hindus,"* he said.

²⁵⁴ <https://indianexpress.com/article/cities/uttar-pradesh-residents-of-firozabad-say-locals-cops-targeted-them-police-deny-6198726/>

KANPUR

Kanpur has two jurisdictional districts – Dehat (rural) and Shahar (urban). Kanpur Shehar, encompassing Kanpur city has a population of 2.7 million (2011 Census). Muslims make up 20 % of the population.

3.1 Prevention of freedom of peaceful assembly and association

i. Preventing protests

Kanpur Rural police shared UP Police notification dated 19th Dec. 2019 about imposition of S. 144, Cr.P.C. in all of UP.²⁵⁵ The tweet also notifies that no permission had been given for any protest, demonstration, or processions. The SP, Kanpur City gave a byte on December 20th, 2019 that was shared by Kanpur Police in which he disclosed that they had made preventive arrests, were frisking and checking around all masjids, would be using "Aerostag" (drone) to monitor all students, within a 5 km radius, and had deployed about 8000 police personnel.²⁵⁶ In his byte, he also mentioned that Section 144 had been imposed in the city, and they haven't given permission for any protests.²⁵⁷ He asked people to read the Citizenship Amendment Act (CAA) first.²⁵⁸

ii. Police's pro-CAA 2019 outreach

On December 20th, 2019, Kanpur Rural police shared videos of police personnel interacting with members of the Muslim community to dissuade them from protesting against CAA. In this video clip, the SP can be seen telling the audience, " You cannot unnecessarily call a right thing wrong, we won't tolerate that."²⁵⁹ In another video, the SP claimed that even if people don't have identification papers, the government has said that community verification will be allowed as proof.²⁶⁰

²⁵⁵ Kanpur Dehat Police, retweet UP Police, available at <https://twitter.com/kanpurdehatpol/status/1207426845550895105?s=20>.

²⁵⁶ Kanpur Police, retweet UP Police, available at <https://twitter.com/kanpurnagarpol/status/1207978601800294401?s=20>.

²⁵⁷ Id.

²⁵⁸ Id.

²⁵⁹ Kanpur Dehat Police, retweet UP Police, available at <https://twitter.com/kanpurdehatpol/status/1208629355053604864?s=20>.

²⁶⁰ Kanpur Dehat Police, retweet UP Police, available at <https://twitter.com/kanpurdehatpol/status/1208630321874264064?s=20>.

iii. Police mock-drill

The ADG, Kanpur Zone, shared a news clipping on 28.12.2019 about a mock police drill in Kanpur for crowd control.²⁶¹ The ADG participated in this mock drill. According to this report, first, the police will announce that the protest demonstrations are illegal, and demonstrators should go home. Second, the police should use water cannons on the protesters, then use rubber bullets and anti-riot guns, and then nab protestors using lathis.²⁶² The UP Police also tweeted another news clipping about this mock drill. In this chronology is first, three announcements by police telling the crowd that the gathering is illegal and asking them to disperse, then the use of water cannons, then lathicharge, tear gas and rubber bullets, then post a permission from District Magistrate, police can fire at the crowd below the knees, so that injured can be taken in the ambulances deployed in the crowd.²⁶³

TESTIMONY # 6 : ANSAR AHMAD

(Imam of Masjid Mahmoodiya, Ajitganj neighbourhood of Babu Purwa)

We sent out a call on the Friday before that, on 13 December, the all-India call sent out by the Jamiat Ulema-e-Hind. There we gave a memorandum and it all got over peacefully. But there was no call for 20 December, people had just come out after offering namaz. There was no need to fire at them.

Source: As narrated to Caravan Magazine, in a report dated 7 January 2020. <https://caravanmagazine.in/politics/caa-protests-uttar-pradesh-kanpur-dead-police-muslims>

3.2 Use of disproportionate force by police

In Kanpur, protests and alleged violence during protests occurred on 20th December 2019 (Friday), and 21st December 2019 (Saturday). One person died during protest-related violence on Friday, 20th December.²⁶⁴ According to reports, three people have died in Kanpur due to firearm injuries sustained during protests.²⁶⁵ This

²⁶¹ ADG Kanpur Zone, retweet UP Police, available at <https://twitter.com/adgzonekanpur/status/1210753374691266561?s=20>

²⁶² Id.

²⁶³ UP Police, available at <https://twitter.com/UpPolice/status/1210806784715186182?s=20>

²⁶⁴ Kumar Abhishek, 8 die in 2 days as anti-CAA protests rage across country, India Today, Dec. 20, 2019, available at <https://www.indiatoday.in/india/story/anti-citizenship-amendment-act-protest-violence-deaths-karnataka-up-1630188-2019-12-20>

²⁶⁵ Manish Sahu, UP: 14 of 16 killed in CAA protests fell to bullet injuries, The Indian Express, Dec. 23, 2019, avail-

includes Aftam Alam (23-year-old), Mohammad Saif (25-year-old),²⁶⁶ and Raees Khan (30-year-old).²⁶⁷ According to the Circle Officer, the first two deaths happened due to injuries sustained by victims during protest-related violence near the mosque in Nayi Basti.²⁶⁸ However, family members alleged that the victims were shot dead by the police.

Aftab Alam's mother shared that when they went to visit their son in the hospital, he mentioned that a policeman shot him. According to Aftab Alam's family, the police bullet hit him in the chest in the lane outside Babu Purwa maidan, and he died later in the evening.²⁶⁹ He had gone there to collect his wages from a construction site for the previous day's work.²⁷⁰ His family has also alleged that the authorities at Hallet Hospital did not treat Aftab until late in the night when the family put pressure on them to provide treatment.²⁷¹

Mohd. Saif was at the mosque to offer his afternoon prayers, and when he left the mosque to head back to work, a bullet hit him across the road from the mosque.²⁷² His elder brother shared with a journalist that Saif told him at the hospital that the police had fired at him.²⁷³ Raees Khan had taken a job at a wedding function that was to take place in the evening that day at Eidgah Maidan when the chaos started outside.²⁷⁴ A bullet hit him when he stepped out of the wedding tent to see what's happening, and he passed away later in the evening.²⁷⁵ Raees's family, including his

able at <https://indianexpress.com/article/india/up-cao-protests-deaths-bullet-injuries-6180302/lite/>.

²⁶⁶ Id.

²⁶⁷ Sagar, *Quietly defiant, Kanpur's Muslims persist in the face of police brutality and state apathy*, The Caravan, Jan 7th, 2020, available at <https://caravanmagazine.in/politics/cao-protests-uttar-pradesh-kanpur-dead-police-muslims>.

²⁶⁸ Manish Sahu, UP: 14 of 16 killed in CAA protests fell to bullet injuries, The Indian Express, Dec. 23, 2019, available at <https://indianexpress.com/article/india/up-cao-protests-deaths-bullet-injuries-6180302/lite/>.

²⁶⁹ Sagar, *Quietly defiant, Kanpur's Muslims persist in the face of police brutality and state apathy*, The Caravan, Jan 7th, 2020, available at <https://caravanmagazine.in/politics/cao-protests-uttar-pradesh-kanpur-dead-police-muslims>.

²⁷⁰ Id.

²⁷¹ Interview with Aiman J. Khan, January 27, 2020. The name of the interviewee is kept confidential due to concerns of retaliation.

²⁷² Id.

²⁷³ Id.

²⁷⁴ Id.

²⁷⁵ Id.

father, asserted that the police killed him.²⁷⁶ Activist Subhasini Ali met with Raees's family.²⁷⁷ Another person, who was injured in these protests, has claimed that he saw the police shoot at Raees.²⁷⁸

TESTIMONY # 7 : QAMARJAHAN, MOTHER OF MOHAMMED SAIF, AKA NAKIL

My son had taken a bath and took money from me to buy food. He saw a protest was happening and stood to observe it and got hit by live ammunition. He told us that the police fired two bullets which hit him in the stomach and in the hand, near Eidgah, around 3 pm. The police were also abusing him verbally. We took him to the hospital around 5 pm. He was conscious until 5:30 pm until he went to the operation theatre. We were told by hospital authorities the next morning at 9 am that he has died although the news cycle reported his death the previous night. The doctors have not provided any documentation including the post-mortem report. The police only came to deliver the body to make sure that the funeral was conducted without unrest.

Source: Briefing paper by International Commission of Jurists, dated 15 January 2020. <https://www.icj.org/india-police-used-excessive-force-against-protesters/>

All three were admitted to the state-run Lala Lajpat Rai Hospital (also known as Hallet Hospital). A news report has mentioned that the hospital has not given any documentation to any of the victim families, including no admission or discharge slips or even death certificates.²⁷⁹

The report also notes that locals shared about the death of one more person, but this victim's family took his body to their native village for fear of police.²⁸⁰

²⁷⁶ BBC, Citizenship Act protests: Why fear has gripped Muslims in this Indian state, Dec. 31st, 2019, see video, available at <https://www.bbc.com/news/world-asia-india-50946271>.

²⁷⁷ NDTV, Video Shows Cops Vandalising Shops, Vehicles In UP's Kanpur Amid Protests, Dec. 25th, 2019, available at <https://www.youtube.com/watch?v=K4j9E5zQzHk&feature=youtu.be>.

²⁷⁸ Interview with Aiman J. Khan, January 27, 2020. The name of the interviewee is kept confidential due to concerns of retaliation.

²⁷⁹ Sagar, *Quietly defiant, Kanpur's Muslims persist in the face of police brutality and state apathy*, The Caravan, Jan 7th, 2020, available at <https://caravanmagazine.in/politics/caa-protests-uttar-pradesh-kanpur-dead-police-muslims>.

²⁸⁰ Sagar, *Quietly defiant, Kanpur's Muslims persist in the face of police brutality and state apathy*, The Caravan, Jan 7th, 2020, available at <https://caravanmagazine.in/politics/caa-protests-uttar-pradesh-kanpur-dead-police-muslims>.

Five civilians and one police personnel were injured during the protests in Babupurwa.²⁸¹ According to the Kanpur SSP, police has arrested 25 people for the 20th December 2019 protests in Kanpur city.²⁸² According to the report in the Caravan, the police shot 12 people on 20th December, of which four have died, and eight are undergoing treatment at Hallet Hospital.²⁸³

A victim-survivor who was interviewed shared that he stepped out around 3:30 p.m. on 20.12.2019 for an errand, and seeing the disturbance, he decided to avoid the main road and take a side lane instead.²⁸⁴ He stated that a group of policemen walked close to him in the lane, started hurling communal slurs, and shot him in his left thigh.²⁸⁵ Another injured person shared that the police shot him in his leg right below the knee, and authorities at Hallet Hospital did not give him proper medical treatment for the first two days.²⁸⁶ The hospital authorities did not give him his medical reports or x-rays etc.²⁸⁷ One person interviewed shared that her nephew was shot by the police in the chest, around 4:30 p.m. on 20.12.2019, when he was heading for his coaching classes.²⁸⁸

3.3 Arrests and criminalisation

Kanpur City police registered an FIR 362/2019 in Babupurwa PS, for the violence around protests on December 20th, 2019, against 4000-500 unknown persons. The police arrested four people in connection with this FIR. According to the FIR, police had orders to monitor Friday prayers owing to information about anger

[*lice-muslims.*](#)

²⁸¹ Kumar Abhishek, 8 die in 2 days as anti-CAA protests rage across country, India Today, Dec. 20, 2019, available at <https://www.indiatoday.in/india/story/anti-citizenship-amendment-act-protest-violence-deaths-karnataka-up-1630188-2019-12-20>.

²⁸² Manish Sahu, UP: 14 of 16 killed in CAA protests fell to bullet injuries, The Indian Express, Dec. 23, 2019, available at <https://indianexpress.com/article/india/up-kaa-protests-deaths-bullet-injuries-6180302/lite/>.

²⁸³ Sagar, Quietly defiant, Kanpur's Muslims persist in the face of police brutality and state apathy, The Caravan, Jan 7th, 2020, available at <https://caravanmagazine.in/politics/kaa-protests-uttar-pradesh-kanpur-dead-police-muslims>.

²⁸⁴ Interview with Aiman J. Khan, January 27, 2020. The name of the interviewee is kept confidential due to concerns of retaliation.

²⁸⁵ Id.

²⁸⁶ Interview with Aiman J. Khan, January 27, 2020. The name of the interviewee is kept confidential due to concerns of retaliation.

²⁸⁷ Id.

²⁸⁸ Interview with Aiman J. Khan, January 27, 2020. The name of the interviewee is kept confidential due to concerns of retaliation.

among Muslims.²⁸⁹ They received information that a large gathering of 300-400 was proceeding towards the Mosque, and the police informed them that owing to the imposition of s.144 in the district, assembly of large crowds is illegal.²⁹⁰ However, the crowd kept increasing and allegedly became violent and started pelting stones.²⁹¹ According to the police, people in the assembly had petrol bombs, acid bombs, and even illegal weapons, which were aimed at the police.²⁹² Protestors injured police personnel and civilians, and the police used tear gas, mirchi gas, lathicharge, and fired with a pistol and bore in the air to disperse crowds.²⁹³ The FIR mentions that they recovered broken glass bottles and bullets from the site of protest. Police has registered a case under sections- 147, 148, 149, 332, 353, 336, 307, 188, 427, 34, 109 of the Indian Penal Code, S. 7 of the Criminal Law Amendment Act, sections 3,4 of the Prevention of Damage to Public Property Act, 1984, and s.27 of the Arms Act.²⁹⁴

A person shared that he stepped out to buy medicines on 20.12.19, and saw that police were beating a large crowd in Babupurwa area with lathis while using communal slurs.²⁹⁵

Another FIR numbered 173/209 was registered at Bikan Ganj PS, for the violence around protests on December 20th, 2019. The FIR records that police were deployed near all mosques to ensure that people went back home after Friday afternoon prayers. An assembly started gathering around Halimganj and soon increased to about 3000-4000 people in numbers, due to which people in surrounding areas were in a state of fear.²⁹⁶ Police made repeated attempts to disperse the assembly, but the assembly continued unabated and allegedly started pelting stones, due to which one police personnel and two civilians were injured.²⁹⁷ Police have registered a case against 3000-4000 unknown persons under sections- 147, 148, 323, 332, 353, and 333 of the Indian Penal Code, and S. 7 of the Criminal Law Amendment Act.²⁹⁸

²⁸⁹ FIR 362/2019, Babupurwa PS, Kanpur City

²⁹⁰ Id.

²⁹¹ Id.

²⁹² Id.

²⁹³ Id.

²⁹⁴ Id.

²⁹⁵ Interview with Aiman J. Khan, January 27, 2020. The name of the interviewee is kept confidential due to concerns of retaliation.

²⁹⁶ FIR 173/2019, Bikan Ganj PS, Kanpur City

²⁹⁷ Id.

²⁹⁸ Id.

Another FIR in Bikan Ganj PS numbered 174/2019 was registered against people for violence around protests on December 21st, 2019.²⁹⁹ The police claims in the FIR that they received information about a large gathering of people protesting against the CAA and NRC. Police informed the gathering that large assemblies are illegal due to imposition of Section 144 CrPC in the district, but the people in the assembly did not pay heed to their warning and kept moving. In the FIR, according to the police, people in the assembly started pelting stones and petrol bombs at the police, and they possessed illegal weapons. Police personnel, along with civilians, were injured during the protest.³⁰⁰ Police have registered a case under Sections-147, 148, 149, 153, 307, 323, 332, 333, 353, 427, 436, 504 of the Indian Penal Code and S. 7 of the Criminal Law Amendment Act. Police have arrested nine people in connection with this FIR.³⁰¹

UP police tweeted a news clipping on 23.12. 2019.³⁰² The clipping mentions that police were holding Student's Islamic Movement of India (SIMI), and All India Majlis-e-Ittehadul Muslimeen (AIMIM) as responsible for the protests in Kanpur.³⁰³ Police arrested one, Haji Salim, for the protests on 21.12.2019 for staying in touch with SIMI. Haji has earlier also, spent time in incarceration.³⁰⁴ In another news clipping tweeted by UP Police on 23.12.2019, the report claimed that a senior officer of the police has held that Popular Front of India (PFI) responsible for the violence during anti-CAA protests in Kanpur, along with another political organisation known for its radical ideology. They also blamed a local organisation that gave a call to youth to gather, some ten days ago. They claim that protestors used petrol, bombs, weapons, acid, and other things.³⁰⁵ The report claims that organisers distributed pamphlets of some allegedly inciting social media posts, and most people had printed placards on both days of protest. On December 13th, a local organisation pasted posters of a protest at different places, and appeals for gathering for protests were made at a religious site in Babupurva.³⁰⁶ An SP MLA, named Amitabh Vajpeyi was arrested for arson and was later released on bail. Police caught hold of 29 people from Yatimkhana, and

²⁹⁹ FIR 174/2019, Bikan Ganj PS, Kanpur City.

³⁰⁰ Id.

³⁰¹ Id.

³⁰² UP Police, available at <https://twitter.com/Uppolice/status/1208974130206216192?s=20>

³⁰³ Id.

³⁰⁴ Id.

³⁰⁵ Id.

³⁰⁶ Id.

Bekan Ganj area, of which 17 were sent to jail.³⁰⁷ An FIR was registered against 1500 unknown persons in Bekan Ganj PS for violence in Yatimkhana and Bekan Ganj, around Baba sweets on Saturday, and of arrest of Sunni Ulema Council chairman Haji Mohammad Salis who was named as an accused in this FIR.³⁰⁸

One report also mentions torture and overnight detention of teenagers, including minors in Police lock-up.³⁰⁹ A person shared that he and many others were tortured at Babupurwa Police Station.³¹⁰ The wife of one of those arrested shared that around 4 p.m. on 20.12.2019, the police started breaking into homes and vandalizing, and that was when her husband was picked up.³¹¹ She stated that their family was not informed about his whereabouts till late night on 21.12.19, and the police tortured her husband in custody.³¹²

3.4 Targeted surveillance, and harassment of Muslim Community

Police FIRs mention that they were ordered to ensure heavy deployment outside mosques.³¹³ There was heavy deployment of police in riot gear around the Eidgah Maidan area,³¹⁴ and posters with passport size pictures of alleged protestors, are pasted all around.³¹⁵ Locals claimed that many of these alleged protestors haven't lived in Kanpur for years, and the police were engaging in religious profiling.³¹⁶ In

³⁰⁷ Id.

³⁰⁸ Id.

³⁰⁹ Sagar, *Quietly defiant, Kanpur's Muslims persist in the face of police brutality and state apathy*, The Caravan, Jan 7th, 2020, available at <https://caravanmagazine.in/politics/caa-protests-uttar-pradesh-kanpur-dead-police-muslims>.

³¹⁰ Interview with Aiman J. Khan, January 27, 2020. The name of the interviewee is kept confidential due to concerns of retaliation.

³¹¹ Interview with Aiman J. Khan, January 27, 2020. The name of the interviewee is kept confidential due to concerns of retaliation.

³¹² Id.

³¹³ FIR 173/2019, Bekan Ganj PS, Kanpur City; FIR 362/2019, Babupurwa PS, Kanpur City.

³¹⁴ BBC, *Citizenship Act protests: Why fear has gripped Muslims in this Indian state*, Dec. 31st, 2019, see video, available at <https://www.bbc.com/news/world-asia-india-50946271>.

³¹⁵ Sagar, *Quietly defiant, Kanpur's Muslims persist in the face of police brutality and state apathy*, The Caravan, Jan 7th, 2020, available at <https://caravanmagazine.in/politics/caa-protests-uttar-pradesh-kanpur-dead-police-muslims>; see also BBC, *Citizenship Act protests: Why fear has gripped Muslims in this Indian state*, Dec. 31st, 2019, see video, available at <https://www.bbc.com/news/world-asia-india-50946271>.

³¹⁶ Sagar, *Quietly defiant, Kanpur's Muslims persist in the face of police brutality and state apathy*, The Caravan, Jan 7th, 2020, available at <https://caravanmagazine.in/politics/caa-protests-uttar-pradesh-kanpur-dead-police-muslims>.

Kanpur, in the early days, 15 people were sent notices for recovery of damages.³¹⁷

3.5 Police on a rampage, destruction of property

Mobile video footage shared by NDTV shows Kanpur police firing at protesters on 21.12.2019.³¹⁸ Some of the videos also show police officers indulging in vandalism, in the night, in areas where there were protests earlier in the day on 21st December.³¹⁹ The videos show police smashing cars and throwing stones at homes on Saturday night, hours after the violence ended.³²⁰ A Facebook user named Sajid Mumtaz shared a video that is said to be from Kanpur, which shows cops vandalising in a residential colony, throwing stones at houses and breaking windows of cars, etc.³²¹

Police has alleged that people protesting at Babupurva grounds burnt three police bikes and four cars, threw stones and hand grenades at the police, as well as fired at them.³²² Thirteen people were injured in retaliatory firing by the police.³²³ Reports indicate that about a dozen policemen and media personnel were also injured.³²⁴ Police have arrested 36 people in Kanpur.³²⁵

Residents of Kanpur shared with a journalist that the police along with non-uniformed men, opened fire at the protests without any provocation, stormed into homes, used communally charged expletives, vandalised and looted shops

³¹⁷ Scroll staff, Citizenship Act: After Rampur, seven UP districts start recovering damages from suspected protestors, Scroll.in, Dec. 26th, 2019, available at <https://scroll.in/latest/947966/citizenship-act-after-rampur-seven-up-districts-start-recovering-damages-from-suspected-protestors>.

³¹⁸ Alok Pandey, Shylaja Varma, Video Suggests UP Cop Opened Fire In Kanpur, Contrary To "No Police Firing" Claim, NDTV, Dec. 22nd, 2019, available at <https://www.ndtv.com/india-news/citizenship-amendment-act-protests-video-suggests-up-cop-opened-fire-in-kanpur-contrary-to-no-police-2152566?amp=1&akamai-rum=off>.

³¹⁹ Id.

³²⁰ Id.

³²¹ Video available at https://www.facebook.com/groups/1832157863618527/permalink/1858497994317847/_another-video-doing-the-rounds-which-users-have-claimed-is-from-Kanpur-and-shows-policement-indulging-in-vandalism-and-destruction-of-property-in-a-residential-colony-is-available-at-https://www.facebook.com/rqjiv.personal/videos/10162746836705176/?hc_location=ufi.

³²² नागरिकता कानून: यूपी के हिंसक प्रदर्शनों में 13 की मौत, आज स्कूल-कॉलेज बंद, Amar Ujala, Dec. 21, 2019, available at <https://compearch.amarujala.com/india-news/citizenship-amendment-act-2019-nine-killed-in-up-violence-cao-protest-13-shot-police-firing-kanpur>.

³²³ Id.

³²⁴ Id.

³²⁵ Id.

of Muslim shopkeepers, assaulted women, and arrested men.³²⁶ Videos shared by residents show police firing at the demonstrators directly.³²⁷ In a video shared by Facebook user Adeed Akhbar, which he has claimed is from Kanpur, the police are firing at people in a narrow alley with someone shouting communal expletives in the background.³²⁸ It seems that the UP police went on a rampage in Muslim localities of Kanpur, vandalising shops, cars, and other private property of the residents.³²⁹ Mobile phone footage available with NDTV shows hundreds of police officers vandalising shops in Muslim localities on Saturday evening.³³⁰ A Facebook video shared by one, Dilshad Ahmadnawati, shows a cop and other men in plain clothes lathicharging two people in what Dilshad claims is Kanpur's Bapurwa area.³³¹ In another Facebook video shared by a user Saima Naaz, which she claims is from near Ajmeri Hotel in Kanpur, cops can be seen beating men in plain clothes in the evening while protests got over in the afternoon.³³²

LUCKNOW

4.1 Introduction

Lucknow, the capital city of Uttar Pradesh, has been witnessing protests against the recently passed Citizenship Amendment Act since mid-December last year. The city has a population profile of about 23% Muslim population and 71% Hindu population.³³³ Lucknow is one of the Lok Sabha parliamentary constituencies from UP and presently has a BJP member as the Member of Parliament for the constituency. The city faced internet shutdown for at least 15 days³³⁴, operation of Section 144 order throughout the area and about 41 FIRs registered.³³⁵ However, the UP police continued posting tweets and messages addressed to the residents of UP through this period.³³⁶ On December 19 itself, at least four people were admitted to the trauma centre with one death³³⁷ and 112 persons were detained on charges of arson and vandalism.³³⁸ As of December 21, 2019 there were 218 persons arrested.³³⁹ Some online news portals uploaded videos showing that the police in Lucknow had opened fire as against the claims of the police that there was no such incident.³⁴⁰ There are instances where onlookers have recorded the police not to be taking any action and watching by while some persons were pelting stones.³⁴¹ After arrest of six daily wage workers in relation to protests challenging CAA and NRC, reportedly hundreds of daily wage workers from West Bengal had fled Lucknow.³⁴²

4.2 Prevention of freedom of peaceful assembly and association

Section 144 was imposed throughout the on 19th December 2019.³⁴³ The DG police, Dr. S N Sadat at Lucknow stated that no permission was granted for any 'gair paramparagat' (non-conventional) rally and in pursuance of the protocol under section 144 operation, there was patrolling from Chowk to Aminabad.³⁴⁴ ASP Lucknow Kalanidhi Naithani was also visiting sensitive areas.³⁴⁵ The UP police was using drones for surveillance of areas.³⁴⁶

The UP police twitter handle also uploaded a sound bite of the DGP asking the parents not to send out children for protest lest criminal proceedings be initiated against them given operation of Section 144.³⁴⁷ UP DGP on getting the information that some TMC local leaders were planning to visit Lucknow, stated that in light of operative Section 144 such persons would not be allowed to travel from the airport towards the city.³⁴⁸ Section 144 was operational from January 19, in view of "Republic

³⁴⁸ <https://economictimes.indiatimes.com/news/politics-and-nation/anti-caa-protests-wont-allow-tmc-leaders->

Day and the Defence Expo and most importantly, the ongoing protests against the contentious Citizenship Amendment Act (CAA)".

4.3 Use of disproportionate force

On December 19, 2019, a vehicle was set on fire in an area where protests against CAA were happening.³⁴⁹ In areas around Khadra allegedly petrol bombs were being hurled by unidentified persons on December 19.³⁵⁰

i. Death

The police spokesperson confirmed that post-mortem report indicated death of the 32 year old Mohammed Wakeel³⁵¹ from firearm injury³⁵² and was buried by December 20, 2019³⁵³. The DM promised that the wife of Mohammed Wakeel would be allotted a house under the urban housing scheme.

ii. Arrests and criminalisation

On 19 December 2019 at around 1 pm, AISA, Rihai Manch, BAMCEF, PFI, Sharab Mukti Morcha, Nagrik Ekta Manch, etc gave a call for a dharna against CAA and NRC. The FIR stated that there was Section 144 in place and a public notice was given that gatherings were illegal. Further it was stated that the police made attempts to disperse the gathering but the crowd became violent and damaged public and private vehicles, including media vans, which were burnt. People allegedly desecrated a tomb and attacked the police with petrol bombs, bricks and sticks. Police in turn used tear gas, rubber bullets and stun grenades to control the crowd. An FIR was registered (bearing Crime No. 600/2019) on 19 December 2014 at 11:17 pm under sections 147, 148, 149, 152, 307, 323, 504, 506, 332, 353, 188, 435, 436, 120-B, and 427 of the Indian Penal Code and Section 7 of the Criminal Law (Amendment) Act at the Hazratganj Police Thana. The FIR also included charges under Sections 3 and 4 of Prevention of Damage to Public Property, Act 1984. A total of 34 arrests were made and they were sent to judicial custody.

[in-lucknow-due-to-section-144-restrictions-says-up-dgp/videoshow/72924525.cms](https://www.youtube.com/watch?v=ZVAKq0V5ZSI&feature=youtu.be)

³⁴⁹ <https://www.youtube.com/watch?v=ZVAKq0V5ZSI&feature=youtu.be>

³⁵⁰ https://www.youtube.com/watch?v=39t_gU5JxNc&feature=youtu.be

³⁵¹ <https://economictimes.indiatimes.com/news/politics-and-nation/five-dead-in-up-as-anti-caa-protests-turn-violent/articleshow/72911187.cms>

³⁵² <https://indianexpress.com/article/india/up-caa-protests-deaths-bullet-injuries-6180302/lite/>

³⁵³ <https://twitter.com/Uppolice/status/1208256116271939585?s=>

On 19 December 2019 at 2:30 pm an assembly of about 10,000 were protesting CAA and NRC. The assembly obstructed flow of traffic including ambulance. Allegedly, despite attempts by the police to disperse the crowd due to imposition of Section 144, the crowd become more agitated and started stone pelting. Several Police vehicles were damaged and personnel were injured. It was stated that the crowd started abusing and attacking the police with an intent to kill. A total of 6 vehicles were burnt. To control the assembly the police lathicharged, used tear gas, mirchi bomb and rubber bullets. An FIR was registered (bearing Crime No. 599/2019) on 19 December 2014 at 11:09 pm under sections 147, 148, 149, 307, 332, 333, 336, 353, 341, 436, 504, 506, 427, and 188 of the Indian Penal Code and Section 7 of the Criminal Law (Amendment) Act at the Hazratganj Police Thana. The FIR also included charges under Sections 3 and 4 of Prevention of Damage to Public Property, Act 1984. A total of 11 people were arrested and sent to judicial custody. Later on January 19, three FIRs were filed by the Lucknow police charging the accused for rioting and unlawful assembly. The persons so named included daughters of renowned Urdu poet Munawwar Rana - Sumaiya Rana and Fauzia Rana. The said three complaints booked total 24 identified persons, including 16 women, and more than 100 unnamed persons accusing them of "disobedience to order duly promulgated by public servant", "assault or criminal force to deter public servant from discharge of duty". The complaint is believed to have been filed at the instance of a complaint by a woman police constable who had stated that the protestors had misbehaved with her.³⁵⁴

In another FIR, 18 people including 12 women were booked for violating section 144. Over-a-dozen vehicle numbers in the FIR have been indicated for idle parking.³⁵⁵ The third FIR was filed against two persons named Laiq Hasan and Nasreen Jawed accusing them of instigating people to protest in violation of section 144, section 505B (statement conducing public mischief) and 188 (Disobedience to order duly promulgated by public servant) of IPC.³⁵⁶

On 20 December, 2019 an FIR was registered at the Hazratganj Police Thana at 03:32 am (bearing Crime No. 601/2019) against unknown people for burning an OB van of the complainant, News Nation. The FIR mentioned that OB Van was burnt at 12 am on 19 December, 2019 during the protests and contained important documents.

³⁵⁴ <https://www.ndtv.com/lucknow-news/citizenship-amendment-act-protest-lucknow-women-charged-with-rioting-by-cops-over-anti-caa-protest-2167177>

³⁵⁵ <https://www.hindustantimes.com/lucknow/women-s-anti-caa-protests-spread-in-lucknow-ahead-of-amit-shah-s-visit-today/story-VW3eM3fcVZiuzFVwPOOWLM.html>

³⁵⁶ <https://www.hindustantimes.com/lucknow/women-s-anti-caa-protests-spread-in-lucknow-ahead-of-amit-shah-s-visit-today/story-VW3eM3fcVZiuzFVwPOOWLM.html>

The FIR was registered under sections 147, 148, 149, 427, and 435 of the Indian Penal Code.

A total of 11 cases were registered and 200 people were sent to jail by December 21.³⁵⁷

The police stated that they were using photographs, CCTV footage and videos shot on mobile phones to identify the protestors. Social activists such as the Magsaysay award winner Sandeep Pandey were not allowed to join a protest by the police.³⁵⁸

The police charged 80 people under section 151, IPC. The FIR was also filed against 3500 unknown persons.³⁵⁹ Details of these 11 cases are as follows³⁶⁰:

- a. 4 cases were registered in Thakurganj PS. One was against unknown person by Sarfuddin f/o M. Vakil, the person killed by bullet wound. 1 FIR was filed by the SHO of Satkhanda chowki-Rahul Dwivedi. Another FIR was filed by SHO OF Hussainabad Chowki. The fourth FIR filed on the complaint by Hussainabad Masjid's Mutwalli Kamil against unknown protestors. In total there were 27 persons named;
- b. Hasanganj PS lodged an FIR against Osama Siddiqui and 11 other named accused as well as 150 unknown persons for destruction of property around Madeyganj Police chowki, arson etc;
- c. Fire Station officer Rajkishor Singh lodged an FIR against 100 unknown persons;
- d. Kaiserbagh Inspector DN Misra lodged an FIR against 250 unknown persons, and another against 500 unknown persons for arson, violation of 144 etc. Policeman Rohit kumar from the same PS lodged an FIR against those who burnt his bike;
- e. Hazratganj Kotwali Inspector Dhirandra Kumar Khushwaha filed a report naming Shamim Ahmed and 34 other accused. This PS also arrested 11 persons in relation to the case;
- f. An electronic media representative Ashok Kumar lodged an FIR against unknown persons for setting OB Van on fire, breaking laptops etc.

The arrested including Samajwadi Party district head Jai Singh for disturbing law

³⁵⁷ <https://twitter.com/Uppolice/status/1208256116271939585/photo/1>, <https://twitter.com/Uppolice/status/1208261768608223232/photo/1>

³⁵⁸ https://www.youtube.com/watch?v=39t_gU5JxNc&feature=youtu.be

³⁵⁹ <https://twitter.com/Uppolice/status/1208261768608223232/photo/1>

³⁶⁰ <https://twitter.com/Uppolice/status/1208261768608223232/photo/1>

and order³⁶¹, and also activist Sadaf Jafar, former Police IG, S.R. Darapuri. Meanwhile, SP (East) in a video posted on the UP Police twitter handle gave a statement that allegations of harassment raised by Sadaf Jafar were baseless.³⁶² Reportedly, lawyers beat up those arrested for spreading unrest in the city during their court appearance.³⁶³ The dalit rights activist Dr. Pawan Rao Ambedkar was charged with offences of attempt to murder, being in possession of explosives and arson.³⁶⁴

On December 21, 2019, 9 more cases were filed, bringing the total number of cases filed to 20.³⁶⁵ Of these, 7 cases were filed in Hazratganj PS for arson and nuisance at Parivartan chowk. One FIR in Chinhath Kotwali for disturbing social media post. One FIR in Ameenabad for spreading violence. Three were arrested by the officers at the Ameenabad police. Hazratganj Police arrested Rihai Manch Activist, Robin Verma on the charges of mobilising people to gather at Parivartan chowk and conspiracy to instigate violence. However, Shia Post Graduate College administration suspended contractual faculty member Robin Verma.³⁶⁶ The college manager S Abbas Murtaza Samshi was also suspended based on his FB posts.³⁶⁷ Deepak Kabir was also arrested for conspiracy.³⁶⁸ At the same time, 250 unknown persons were charged under National Security Act.³⁶⁹

By Sunday, December 22, number of people arrested rose to 270³⁷⁰ and a total of 34 FIRs had been lodged. Waziganj PS alleged that the persons from Assam damaged property around Swasthya Bhawan and arrested 6 protestors who were allegedly from Assam and West Bengal^{371, 372} By December 23, the number of FIR

³⁶¹ <https://twitter.com/Uppolice/status/1208256116271939585/photo/1>. <https://twitter.com/Uppolice/status/1208261768608223232/photo/1>

³⁶² <https://twitter.com/Uppolice/status/1208753353787760643?s=20>

³⁶³ <https://twitter.com/Uppolice/status/1208256116271939585/photo/1>

³⁶⁴ https://www.huffingtonpost.in/entry/caa-protests-up-police-uttar-pradesh-dalit-activist_in_5e1ac928c5b650c621dfdc6d?ncid=other_homepage_tiwdkz83gze&utm_campaign=mw_entry_recirc

³⁶⁵ <https://twitter.com/Uppolice/status/1208714676776816641/photo/1>

³⁶⁶ <https://scroll.in/latest/947902/citizenship-act-college-teacher-suspended-student-expelled-in-lucknow-for-protests>

³⁶⁷ <https://scroll.in/latest/947902/citizenship-act-college-teacher-suspended-student-expelled-in-lucknow-for-protests>

³⁶⁸ <https://thewire.in/communalism/up-police-muslims-cao-protests>

³⁶⁹ <https://twitter.com/Uppolice/status/1208714676776816641/photo/1>

³⁷⁰ <https://twitter.com/Uppolice/status/1208975159132073985?s=20>

³⁷¹ <https://twitter.com/Uppolice/status/1208975159132073985?s=20>

³⁷² <https://twitter.com/Uppolice/status/1208975159132073985?s=20>

stood at 41 and number of persons arrested was 285.³⁷³ On January 4, 2020, a Lucknow Court granted bail to over 12 persons.³⁷⁴ On January 25, 2020, the police arrested seven men and a woman (Puja Shukla) from the Ghantaghar area. A case was registered against these ten women and 100 unnamed women for violating S. 144 at Ghantaghar.³⁷⁵

4.4 Police brutality against the Muslim community

On the evening of 19th December 2019, policemen forcefully entered houses of non-protesting civilians in Hussainabad, Lucknow. A video (appearing to be shot on camera by someone inside the house) showed vandalism by the men in uniform.³⁷⁶ A resident Rana Parveen said that on 20th December, between 4.30 and 5 pm, the police entered their home when there were clashes going on nearby, hit them with sticks and broke most of the things in the house including the TV. Most of the en in the house were away at work when the police entered.³⁷⁷

The clampdown of the Uttar Pradesh police against the Muslim community has extended to those who have not taken part in the ongoing protests. In three villages located less than 30 km from Lucknow, at least 100 Muslim men have been made to furnish a bond of Rs 50,000 each under Section 107/116 of the Criminal Procedure Code, which virtually serves as an assurance that they will not participate in any protest. They will have to appear in court every fortnight or so for at least the next six months.³⁷⁸ At least 7 persons in of Kamlabad, Badhauri village, in addition to hand-cart vendors and shopkeepers there, and at least 150 persons from Madhion village, have been issued such a notice. Muslim men in Shervani Nagar and Bholapura villages have also been issued such notices. One of the villagers at Kamlabad had informed that Vishnu Kumar, a chowkidar, was ordered by the local police station

³⁷³ <https://twitter.com/Uppolice/status/1209350231483006976?s=20>

³⁷⁴ <https://www.thehindu.com/news/national/our-kin-framed-in-riots-says-lucknow-residents/article30487608.ece>

³⁷⁵ <https://www.news18.com/news/india/10-arrested-from-anti-qaq-protest-site-at-ghantaghar-in-lucknow-fir-against-100-women-2473373.html>

³⁷⁶ https://scroll.in/video/947465/watch-a-young-woman-narrates-how-lucknow-police-broke-in-to-her-home-and-smashed-everything?fbclid=IwAR0UdxMmgk10VZ1awJtkxsLpHPPmrdj5j4_P51Xnyevnel-70Bl2-zCbabok, https://www.facebook.com/farinajamal09/posts/2787548241307595?hc_location=ufi

³⁷⁷ https://scroll.in/video/947465/watch-a-young-woman-narrates-how-lucknow-police-broke-in-to-her-home-and-smashed-everything?fbclid=IwAR0UdxMmgk10VZ1awJtkxsLpHPPmrdj5j4_P51Xnyevnel-70Bl2-zCbabok

³⁷⁸ <https://scroll.in/article/947992/no-criminal-record-no-protest-yet-muslim-men-made-to-sign-bonds-in-uttar-pradesh-villages>

to go door to door with a list of names and addresses of the men charged under Section 107/116 of CrPC. They were asked to sign against their names but none of them realised what had transpired until December 26 when they were told they had to appear in court.³⁷⁹

4.5 Illegal detentions and torture in custody

On December 19, the Lucknow Police detained senior advocate and president of human rights group Rihai Manch, Mohammad Shoaib, a day after he was put under house arrest. The 76-year-old advocate was put under house arrest on December 18, ahead of a scheduled demonstration against the amendments to the Citizenship Act in Lucknow's Parivartan Chowk. The Rihai Manch General Secretary Rajeev Yadav was quoted stating that the police had not named Shoaib in any FIR and it was not yet clear where he was held.³⁸⁰ On December 19, the police came to his home at 11.45 pm and told him that an officer was waiting to talk to him at Nazirabad. Shoaib left with them. Hours later, he had still not returned.³⁸¹ Activists Meera Sanghamitra, Madhavi Kuckreja and Arundhati Dhuru were detained at Hazratganj police station when they went to enquire about Shoaib's whereabouts.³⁸² Unable to trace Shoaib, Shoaib's junior AB Solomon filed a case of habeas corpus, asking that the authorities be ordered to present before the lawyer before the court. In response, the state government's lawyer claimed that Shoaib had been taken into custody from Clark Hotel on December 20. The police later charged him under the sections of the Indian Penal Code that it has generically used against several recently arrested activists, these include rioting with arms, damaging property and even attempted murder.³⁸³

Sadaf Jafar, the only woman detainee on being released on bail talking to a news portal had stated, "I was slapped by many and called Pakistani because of my name". She added that "In the night, I was told that a senior police officer wanted to

³⁷⁹ <https://scroll.in/article/947992/no-criminal-record-no-protest-yet-muslim-men-made-to-sign-bonds-in-uttar-pradesh-villages>

³⁸⁰ <https://scroll.in/latest/947386/citizenship-act-protests-internet-services-restored-in-assam-but-suspended-in-up-karnataka>

³⁸¹ <https://scroll.in/article/948190/uttar-pradesh-human-rights-defenders-one-muslim-the-other-dalit-arrested-for-protesting-caa>

³⁸² <https://scroll.in/latest/947399/caa-protests-lucknow-advocate-mohammad-shoaib-detained-whereabouts-unknown-say-colleagues>

³⁸³ <https://scroll.in/article/948190/uttar-pradesh-human-rights-defenders-one-muslim-the-other-dalit-arrested-for-protesting-caa>

meet me. I had hoped that at least on the ground of humanity and my constitutional rights, my family will be informed of my whereabouts but when I went to meet him, I was abused." She also said that the officer asked two female constables to slap her and proceeded to pull her hair and kick her in my stomach and knee. None of them were wearing badges to keep their identities hidden.³⁸⁴ Sadaf was making a video while walking through an area that a woman cop came over and detained her.³⁸⁵

Deepak Kabir was arrested on December 19 at the Hazratganj PS when he had gone to inquire about the whereabouts of his friends who were picked up during the protests. In his statement to a newspaper, he noted that the Hazratganj SHO snatched his phone and said, "*you are a krantikari right...*" following which 12-15 policemen escorted him to a hall and beat him up with baton and kicked him for at least ten minutes. He added that the SHO instructed them to tie his hands and beat him up as much as they can. He further stated that he was beat up by the police officials even after getting a medical examination done. He said that one of the police official said while beating him, "beat them so much that they can't sit for months and make sure there is a 1.5-2 inch swelling [on their buttocks]". A policeman even commenting on his hairstyle said, "Such hairstyle is kept by Communists. These are urban naxals, prepare a list [of urban naxals]".³⁸⁶

Several people in Khadra area complained that their family members were picked up arbitrarily by the police in the night.³⁸⁷ The police also lathi charged non-violent protesters in Khadra area and were seen to be aiming guns at protesters.³⁸⁸ On the night of December 21, a resident of Khadra area said that at about 2 a.m. in the morning, the police started beating at gate of the house where 18 yo Kamil Khan lived with his parents and brother-in-law. Fearing that they will be picked up too like their neighbours, they did not open the doors. They stated that the police regardless climbed the terrace using ladders and entered the premises. After entering the premises, they picked up men from the five families living in that area, including

³⁸⁴ <https://scroll.in/latest/949129/citizenship-act-protests-activist-sadaf-jafar-alleges-torture-abuse-in-police-custody>

³⁸⁵ <https://www.thequint.com/news/india/sadaf-zabeen-arrested-beaten-by-police>, <https://thewire.in/communism/watch-now-beginning-to-realise-what-being-muslim-in-amit-shahs-india-means-sadaf-jafar>

³⁸⁶ <https://www.thehindu.com/news/national/other-states/brutally-thrashed-and-labelled-urban-naxal-theatre-actor-deepak-kabir-recalls-police-brutality-over-caa/article30522134.ece>

³⁸⁷ <https://twitter.com/Uppolice/status/1208975472995909632?s=20>

³⁸⁸ <https://www.facebook.com/groups/1832157863618527/permalink/1846569955510651/>, <https://scroll.in/latest/947274/citizenship-act-prohibitory-orders-in-bengaluru-up-as-protestors-gear-up-to-hit-the-streets>

Kamil Khan and his brother-in-law. After Kamil's arrest, his mother and his uncle despite having spent the entire day near the jail, could not meet him. His uncle had to put his rickshaw and bike as security deposit to secure bail.³⁸⁹

In another incident from the night of December 21 in Khadra, a resident said that at about 2:30 a.m. police officers came to their door telling them to open the door. Once inside his house, the police detained Mohammad Alam on charges of inciting violence during the protests in Lucknow.³⁹⁰ Another person who lived in the same premises and a heart disease patient was also detained.

The police has alleged that PFI, SIMI and Rihai Manch had incited violence.³⁹¹ The police stated that they had found CDs, postcards and whatsapp messages on the basis of which PFI was stated to be involved in conspiring and instigating persons to protest against CAA and NRC.³⁹²

The police also detained media personnel and used communal slurs against them. Omar Rashid, working with an English daily in Uttar Pradesh was detained in Lucknow were picked by UP police from a restaurant where he was using wifi to file his story³⁹³. Cops interrogated him and his friend and later took them to a police station. Rasheed's Kashmiri background was questioned several times by the policemen.³⁹⁴ Rasheed stated that, "They locked us up in a room. They took away all my belongings including my phone. They beat up my friend brutally. They questioned him and linked him to the violence. They also linked me to the violence saying I am a key conspirator in the violence. They were asking me questions about certain Kashmiris coming here and participating in the violence. Each time I was trying to ask them something they asked me to shut up. They used expletives and said you can put your journalism elsewhere we don't care about it. They told me they had proof against me. The put us in a jeep again and took us to an outpost. Another police officer used a lot of communal slurs against me and said he would tear my beard"³⁹⁵

³⁸⁹ <https://thewire.in/rights/lucknow-caa-protests-18-year-old>

³⁹⁰ <https://thewire.in/rights/uttar-pradesh-police-lucknow>

³⁹¹ <https://twitter.com/Uppolice/status/1209350231483006976?s=20> , <https://www.youtube.com/watch?v=vBLgzlsO73c&feature=youtu.be>

³⁹² <https://www.youtube.com/watch?v=vBLgzlsO73c&feature=youtu.be>

³⁹³ <https://www.thehindu.com/news/national/a-first-person-account-by-the-hindu-correspondent-omar-rashid-of-how-he-was-picked-up-threatened-and-released-by-cops/article30361909.ece>

³⁹⁴ <https://scroll.in/latest/947496/will-tear-out-your-beard-journalist-covering-caa-protest-detained-by-lucknow-police-threatened>

³⁹⁵ <https://caravandaily.com/lucknow-the-hindus-muslim-journalist-detained-hurled-with-expletives-communal-slurs/>

A dalit rights activist Dr. Pawan Rao Ambedkar stated that a woman constable had slammed a scooter helmet on his head. He also said that he was beaten by the police officials once he was detained.³⁹⁶ Speaking to a news portal he had stated, "The police did not ask me anything. There was no dialogue. It was a brutal attack... They hit me on my head. After four or five blows, I was flat. They hit me wherever they could. I lost consciousness. I don't think I came back to my senses after that. I was in a semi-conscious state." When he saw a police officer who recognised him as an organiser of the peaceful protest, he called out to him saying 'Sir, you know me'. Rao said that "he either didn't hear me or ignored me. He said, *"maaro sale ko."*"³⁹⁷ He said that they were still beaten as soon as they got down the bus at the police station at Hazratganj by police men and men dressed in civilian clothes.³⁹⁸ He added that one cell had about 25 people, they were not given any food or blankets. There was one bathroom for 25 persons with the flush that was not functional. Later in the night, he said a police officer kicked him in the stomach after asking his name.³⁹⁹

The President of Rihai Manch, Mohammad Shoaib who was also arrested stated that the police abused him during interrogation. When he objected to such abuse, "they threatened me that my entire family including my children will be put in jail."⁴⁰⁰

Responding to the statements on police brutality by those who were in custody, the government spokesperson in UP had stated that those who have a grievance can make a complaint to the Special Investigation Team to be looked into.⁴⁰¹

4.6 Restriction on freedom of expression

UP police formed a separate cell to keep a tab on social media activities. It emphasised that action would also be taken against those circulating provocative messages.⁴⁰² The Lucknow police also shut down social media accounts and

³⁹⁶ https://www.huffingtonpost.in/entry/caa-protests-up-police-uttar-pradesh-dalit-activist_in_5e1ac928c5b-650c621dfdc6d?ncid=other_homepage_tiwdkz83gze&utm_campaign=mw_entry_recirc

³⁹⁷ https://www.huffingtonpost.in/entry/caa-protests-up-police-uttar-pradesh-dalit-activist_in_5e1ac928c5b-650c621dfdc6d?ncid=other_homepage_tiwdkz83gze&utm_campaign=mw_entry_recirc

³⁹⁸ https://www.huffingtonpost.in/entry/caa-protests-up-police-uttar-pradesh-dalit-activist_in_5e1ac928c5b-650c621dfdc6d?ncid=other_homepage_tiwdkz83gze&utm_campaign=mw_entry_recirc

³⁹⁹ https://www.huffingtonpost.in/entry/caa-protests-up-police-uttar-pradesh-dalit-activist_in_5e1ac928c5b-650c621dfdc6d?ncid=other_homepage_tiwdkz83gze&utm_campaign=mw_entry_recirc

⁴⁰⁰ <https://caravandaily.com/worse-than-emergency-rights-activist-mohd-shoaib-released-after-a-month-in-jail/>

⁴⁰¹ https://www.huffingtonpost.in/entry/caa-uttar-pradesh-protests-shrikant-sharma-yogi-adityanath_in_5e1deedcc5b6640ec3dc2221?ncid=fcbklnkinhpmg00000001

⁴⁰² <https://twitter.com/lkopolice/status/1207520779639889921/photo/4>

arrested three persons allegedly spreading rumours through social media.⁴⁰³ At the historic Hussainabad Clock Tower in Lucknow's old city, around December 27 a poster was put up by the Uttar Pradesh police carrying photographs, apparently shot by the police, of young boys and men whom the police have labelled rioters. The poster called upon the public to identify the men to receive a reward.⁴⁰⁴ The Clock Tower area in Lucknow has been witnessing sit-ins (since around January 17)⁴⁰⁵ by protestors seeking withdrawal of CAA and NRC. Some protestors complained that the electricity in the area was snapped and public toilets were locked.⁴⁰⁶

4.7 Attachment of property

The police stated that protestors in Hazratganj, Wazirganj, Hasanganj and Thakurganj turned violent on Thursday and destroyed property.⁴⁰⁷ A four member committee⁴⁰⁸ was set up by the police to assess the damage to property, identifying people involved and levying fines.⁴⁰⁹ ASP East Lucknow had informed that in relation to the anti-CAA protest held at Parivartan Chowk police issued property attachment notices to 4 including former IG S.R. Darapuri.⁴¹⁰ He added that the action against the protestors would be taken under public property law and other laws.⁴¹¹ State chief minister also stated that the State would take revenge against damage to public property.⁴¹² Attachment of property notices were sent to about 80-90 persons.⁴¹³ The police alleged that they had recovered non-prohibited bore cartridges Lucknow⁴¹⁴.

⁴⁰³ <https://twitter.com/lkopolice/status/1207383943646826496?s=20>

⁴⁰⁴ <https://scroll.in/article/948145/muslim-anger-hindu-support-in-uttar-pradesh-police-rampage-deepens-old-faultlines>

⁴⁰⁵ <https://www.ndtv.com/lucknow-news/citizenship-amendment-act-protest-lucknow-women-charged-with-rioting-by-cops-over-anti-cao-protest-2167177>

⁴⁰⁶ <https://caravandaily.com/prohibitory-orders-in-lucknow-as-anti-caa-protests-continue/>

⁴⁰⁷ <https://twitter.com/Uppolice/status/1208258111749754881/photo/1>

⁴⁰⁸ <https://scroll.in/latest/947598/uttar-pradesh-after-adityanaths-revenge-comment-shops-of-alleged-rioters-sealed>

⁴⁰⁹ <https://twitter.com/Uppolice/status/1209700988581343233?s=20>

⁴¹⁰ <https://compearch.amarujala.com/lucknow/kurri-notice-to-be-send-to-retired-ips-sr-darapuri-in-violence-against-caa-case>

⁴¹¹ <https://twitter.com/Uppolice/status/1208260139075043328?s=20>

⁴¹² <https://scroll.in/latest/947376/cao-protests-up-will-take-revenge-against-those-who-vandalised-public-property-says-adityanath>

⁴¹³ <https://twitter.com/Uppolice/status/1209350009470062592/photo/1>

⁴¹⁴ <https://twitter.com/moradabadpolice/status/1210777244743819264?s=20>

MEERUT

5.1 Introduction

Western Uttar Pradesh's Meerut district, around 80 km north-east of the national capital New Delhi, is home to around 1.4 million people.⁴¹⁵ Of these, over 504,000 (36%) are Muslims. Meerut was one of the bloodiest sites of the violent police crackdown in the state following the eruption of protests against the Citizenship Amendment Act (CAA). On 20 December, five people were shot dead in the district, with a sixth person reportedly succumbing to his injuries later. More than 43 people have been arrested and charged under various sections of the law, and at least 148 people have been asked to pay damages.

Bharatiya Janata Party (BJP) controls 3 of the 4 legislative segments that constitute the district, and the BJP's Rajendra Agarwal has been representing Meerut (along with parts of neighbouring Hapur district) in the national parliament since 2009.

5.2 Use of disproportionate force

On the 19th (Thursday), multiple protests against the CAA—including those led by mainstream political parties like the Samajwadi Party (SP)—had passed off peacefully in the district, despite the imposition of Section 144. Internet services had also been shut down.⁴¹⁶

The sequence of events on the 20th—after piecing together various media reports, other fact finding reports⁴¹⁷, and our own interviews with locals and with the families of those shot dead—is as follows:

In the morning, there had been a call on social media to close shops in protest. Locals told us that the police, in fact, had ordered the closure of even shops that had remained open. After Friday prayers, at around 2.30 pm, people began to march towards a market intersection near the Baghwali mosque, forming a crowd of around 30-40 people. Within a half hour, this crowd had risen to the hundreds. By the time the police arrived, in protective gear, this gathering had become a “buzzing congregation”.⁴¹⁸ The police soon resorted to lathi (baton) charge, tear gas,

⁴¹⁵ 2011 Census.

⁴¹⁶ <https://www.thestatesman.com/india/anti-caa-protests-pass-off-peacefully-in-meerut-division-1502835325.html>

⁴¹⁷ <https://www.counterview.net/2019/12/meerut-anti-caa-violence-led-to-death.html>

⁴¹⁸ <https://www.detroitnews.com/story/news/world/2020/01/06/india-muslim-fear-police-crack-down/40953367/>

and according to multiple witnesses, live bullets, causing the protestors to retaliate by pelting stones. Some reports claim that a nearby police chowki (check post) in the Islamabad locality was set on fire by angry protestors at around 3.30 pm. Enraged policemen then entered nearby Muslim neighbourhoods, where they took position 30-100 m away before firing tear gas (in some areas) shells, immediately followed by live bullets.

The police initially claimed that they did not fire bullets, but later changed their story, saying that they fired in the air. "We took anti-riot measures and used tear gas, but the mob set a police post on fire and burnt several vehicles.... They were firing shots and we fired a few rounds in the air," said Akhilesh Narayan Singh, Superintendent of Police (SP), Meerut (City), to Reuters.⁴¹⁹

Imran, the brother of one of the men killed, refuted Singh's version while speaking to Hindustan Times: "Police fired teargas shells and minutes after that they started firing bullets. They did not come to disperse the crowd or control them but with the clear intention to kill Muslims."⁴²⁰

A video of SP (City) Singh from the same day later went viral on social media. In the video, Singh is seen threatening a group of men in a Muslim neighbourhood:

"Kahan jaoge? Is gali ko main theek karoonga," (Where will you go? I will set this lane right now that you have given me this chance)

"Desh main agar nahin rehne ka man hai to chale jao bhaiya. Aaoge yahan aur haoge kahin aur ka." (If you do not want to live here then go away. You come here but you sing praises about somewhere else?)

("Ek ek ghar ke ek ek aadmi ko jail main bhar doonga main.") (I will throw every man from every house in jail.)

At least two other CCTV videos shot immediately before the beginning of police action showed policemen using batons to destroy the cameras.⁴²¹

⁴¹⁹ <https://www.reuters.com/article/us-india-citizenship-protests-victims-in/fury-grows-after-deaths-in-indian-muslim-neighborhood-idUSKBN1YU13V>

⁴²⁰ <https://www.hindustantimes.com/india-news/meerut-families-allege-forced-burials-say-police-covering-up-excess/story-N76IEObf3CunykoUoCICgl.html>

⁴²¹ <https://www.theweek.in/news/india/2019/12/27/watch-up-police-smash-cctv-cameras-before-violence-began-in-meerut.html>

5.3 The victims

Five persons have been confirmed to have been shot dead in Meerut on the 20th, with a sixth person reportedly succumbing to his injuries at a Delhi hospital on the 24th⁴²². While the identify of the sixth victim remains unclear in publicly available media reports, the others have been identified as:

1. Mohammad Asif (20), an e-rickshaw driver, shot in the chest near the Islamabad police chowki while returning home to the Ahmednagar neighbourhood (Gali No. 10) after parking his vehicle at a garage.
2. Aleem Ansari (24), a dhaba worker, shot in the head near the Islamabad police chowki while returning home to the Ahmednagar neighbourhood (Gali No. 9) after buying groceries.
3. Zaheer Mohammad (45), a worker at a cattle fodder unit, shot in the head in the Bhumiya Ka Pul neighbourhood while smoking a beedi (locally produced cigarette).
4. Mohsin (28), shot in the abdomen in the Bhumiya Ka Pul neighbourhood (Gali No. 12), when he left to buy fodder for his cattle.
5. Asif Khan (32), a labourer at a tyre shop, shot in the chest.

Thus all five were poor, working class Muslims. All the families claim that they were not part of any protests, and many report learning of the deaths from photos and videos circulated via mobile phones, with police confirmation coming much later.⁴²³

One of the victims, 20-year-old Mohammad Asif, has been accused by the police - and by the local media, which is known to be friendly to the ruling dispensation - of being one of the "masterminds" from outside who had come to foment trouble in Meerut. The pretext of the allegation was that a Delhi address was mentioned in his Aadhaar (biometric ID issued to residents of India) card that was retrieved from his body. Asif's family, however, told us that the family had resided in Delhi till 2015 but that they are full-time residents of Meerut now.

The killing of Zaheer was witnessed by at least 3 people quoted in media reports, including a woman shopkeeper from whom he had just purchased beedis. The witnesses assert that while the police and protestors were positioned at opposite ends of the neighbourhood, the bullets definitely came from the direction of the

⁴²² Multiple locals told us that the "unofficial" death toll in the district could be as high as 10.

⁴²³ <https://www.thehindu.com/news/national/other-states/meeruts-ahmed-nagar-mourns-its-dead/article30421502.ece>

police. Imran, Zaheer's brother, told The Quint: "The bullets were shot by someone who was with the police and wearing a yellow uniform. If the crowd had fired, then the police would have been hurt, not my brother."

Mohsin's family has alleged that he was refused admission at four hospitals in the city, where the doctors were allegedly ordered by the district administration to not admit any "rioters". He was admitted to the local government medical college, which declared him dead on arrival.

TESTIMONY # 8 : MOHAMMAD MOHSIN'S KILLING IN MEERUT

(Narrated to CAH fact finding team by Imran, brother of deceased, Meerut, 14th January 2020)

Name: Mohammad Mohsin

Age: 28

Residence: Bhumiya Ka Pul neighbourhood, Meerut

Date of Incident: 20 December 2019

Date of Death: 20 December 2019

Place of Death: Meerut

Description of the Incident

On 20 December, at around 3:45 pm, I called a friend of mine to ask about the situation. He told me that everything was fine, so I was calm. Within 10 minutes of the call, I got another call from a friend telling me that my brother had been shot by the policemen.

Description of the Post-Incident Situation

The friend told me that they had Mohsin's body. I asked them to bring it to my house in Summer Garden. From there I took my brother to Santosh Hospital. We were told by the hospital authorities that the DM had ordered them not to accept cases where there is a bullet injury. We then went to a government hospital (medical, which is 4-5 km away from my house) but the authorities at the hospital called the police. We brought the body back home and I called 112, at around 7.30 pm. At 9.30 pm, I received a call from the SO of Brahmpuri Thana who asked me if my brother died. I responded in affirmative and he then asked me to meet him at a common point so he would accompany us in getting a post-mortem done.

I told him that there was no car available to help us. I also submitted an application with the police about my brother's death stating clearly that his death was caused

by a policeman. The policemen at the station started arguing with me and told me that it was inevitable since the police had to fire that day. I gave the application to them but I received no acknowledgment from their side and neither was there any FIR. Around midnight, we went to the government hospital (medical) for the post-mortem. Police was with us at the hospital. An SP who was in Meerut for 15 years and currently posted in Noida was also present in the hospital and spoke to us. He tried to pacify us saying that whatever is done is now done, the dead cannot be brought back. He then told us to leave and said that we will be called once Post-mortem will be complete.

Description of the Post-Death Situation

Around 5am we got a call from the police stating that the post-mortem was complete and that we should collect the body. They sent a car to pick us up halfway since there was no other mode of transportation available. The police throughout seemed to be in a hurry. As we got the body back, there were around 20-25 cars trailing behind us. They started pressurising us to bury the body to the extent that they even arranged for a gravedigger themselves and even got a grave dug. We went to the cemetery near our house and buried the body there. Body was buried at 7 am on the 21st December. As soon as the body was buried, the police left.

On 5 January 2020, two policemen came to our house and handed me a document. It was a Sec 160 CrPC notice, which stated that I was charged under certain Indian Penal Code provisions like rioting and attempt to murder. The notice asked me to go to the police station to give a statement. In my opinion the notice was sent to intimidate me. I have not gone to give my statement as of now (15 January 2020).

At least two of the families—including that of Mohammad Asif and Aleem Ansari—have alleged that autopsies were conducted on the bodies without them being present. Asif's family was initially not allowed to see his body when they arrived at the hospital late at night on Friday, instead being asked to return the next morning. The bodies were handed over to the families at 4 pm on the 21st, after much negotiation—and assurances from the families that they would not make a public show of the funerals. The burials were completed by 7 pm.

Each of the victims' families told us that they were forced to bury their dead secretly, urgently and away from their neighbourhoods, in the absence of many of their loved ones. In the case of Mohsin, the police themselves are alleged to have brought along a gravedigger, burying the body at around 7 a.m. on the 21st.

Munsi Ahmed, father of Zaheer, says that only four members of his family were present when Zaheer was buried at 6.30 am on the 21st: *"When we sought more time, the police told me I would be held legally for any disturbance. The police only dug the grave and hundreds of them stayed around till we were done with the burial. I couldn't even bring his body home".* Mohammad Asif's father Idul Hasan narrated a similar story: *"Hardly anyone from our family was around when he was buried. The police snatched from me even the chance to grieve and bury him properly."*

As of January 14, 2020—three weeks after the killings—none of the families had received post-mortem reports, despite repeated visits to the police.

5.4 Arrests and criminalisation

At least three of the deceased have been named as accused in the FIRs registered by the UP police.⁴²⁴ *"These men were present at the scenes of violence and remain under suspicion,"* said Meerut SP, City, Singh to Reuters.

Media reports say that 172 persons have been named and 43 persons arrested in the district, under a total of 15 FIRs. We were able to access four of these (two from Nauchandi Police Station and one each from Brahmpuri and Lisari Gate). The FIRs registered in Lisari Gate have blamed "an assembly of Muslims", who pelted stones and used other arms to attack police "with intent to kill", while maintaining that the police used "minimum force" to control the assembly. The FIRs also claim that the police had given adequate warning to the crowd that force would be used unless they dispersed, and that only rubber bullets were subsequently used. The FIR registered in Brahmpuri (under whose jurisdiction falls the Bhumiya Pull neighbourhood, where Zaheer and Mohsin were shot dead) explained their presence in the area by claiming that they were chasing an armed crowd, and that they were overpowered and surrounded by the mob. The police also alleged that people in the neighbourhood lobbed petrol bombs at them from rooftops, concluding that this was a planned, "guerrilla attack" by the protesters. None of the witnesses we spoke to corroborated this version of events. The Brahmpuri FIR makes no mention of any firing by the police.

Those named in the various FIRs have been charged under multiple sections of the Indian Penal Code (IPC), including: Sections 34 (acts done by several persons in furtherance of common intention), 147, 148, 149 (rioting), 186, 188 (obstructing

⁴²⁴ <https://www.thehindu.com/news/national/other-states/meerut-police-crackdown-firs-lodged-against-three-dead-hunt-on-for-thousands-of-unknown-persons/article30397599.ece>

and disobeying public servant), 307, 323 (causing hurt), 332, 333, 336 (endangering human life), 337, 341, 352, 353 (assaulting public servant), 427 (mischief causing damage), 436 (mischief by fire or explosive substance), 504 (provoking to disturb public peace), 506 (criminal intimidation).

The police have also put up several 'Wanted' posters across Meerut, featuring photographs of people who were allegedly involved in the protests.⁴²⁵

UP police have accused the Popular Front of India (PFI), a Kerala-based organisation, of organising the protests and instigating violence. Four PFI members were arrested in Meerut, with police claiming that they had recovered "incriminating evidence" such as pamphlets and phone messages from them.⁴²⁶ Locals, however, say that this is an attempt by the police to pass the buck to outsiders. On January 22, 19 PFI members who were arrested in the state were granted bail after the police failed to provide substantial evidence. Those arrested from Meerut were yet to be granted bail, as of January 24.

In the aftermath of the police crackdown, the district administration has assessed the worth of damage caused to property by protestors at Rs. 14 lakh, and asked 148 people from Meerut to pay up.⁴²⁷

All the families we spoke to have submitted applications to the police to register FIRs regarding the deaths. As of 14th January 2020, none of the FIRs had been registered. In fact, a few days after the killings, Mohsin's brother Imran—who submitted the FIR application at Brahmpuri Police Station on the night of the incident—was himself charged with rioting, as an intimidation tactic.

5.5 Conclusion

Like in other districts across UP, the use of excessive and indiscriminate force has been the central feature of the police crackdown on anti-CAA protests in Meerut. While protests in the district had passed off peacefully a day earlier, the actions of the police after CM Adityanath's "revenge" comment were bloody and brutal,

⁴²⁵ <https://theprint.in/india/posters-of-wanted-men-come-up-in-meerut-where-5-killed-in-violence-during-caa-protests/340603/>

⁴²⁶ <https://www.indiatoday.in/mail-today/story/police-probe-pfi-for-caa-stir-deaths-in-uttar-pradesh-s-meerut-1632739-2019-12-31>

⁴²⁷ <https://www.aninews.in/news/national/general-news/caa-protests-meerut-administration-issues-notice-to-134-people20200105150944/>

leaving Meerut with the second highest reported death toll among all districts, after Firozabad.

The police appear to have arrived at the protest site with the clear intention to wreak havoc, as is evident from the videos that show police men destroying CCTV cameras. Enraged by the response of the protestors—subsequent videos released by the police show a masked protester wielding a gun, and a police check post being set on fire—the police seems to have entered working-class Muslim neighbourhoods and fired indiscriminately, killing innocent bystanders who by all accounts had nothing to do with the protests.

The allegations that some of the autopsies were conducted in the absence of the families, and that the families were forced to urgently bury their dead needs to be investigated further.

The subsequent demonisation of the protestors—including the dead—by the police, and the indiscriminate filing of FIRs and damages notices have all contributed to a pervasive sense of fear among Meerut's Muslim community. Residents of the Ahmednagar locality, home to the families of Aleem and Asif, told us that they stayed up all night for weeks after the killings, remaining on guard fearing further, unprovoked attacks on them by the police.

MUZAFFARNAGAR

6.1 Introduction

As per the 2011 census Muzaffarnagar municipality had a population of 392,768, and the population of the urban agglomeration was 494,792. Muzaffarnagar city is almost evenly split between Hindus (55.79 % of the population) and Muslims (41.39 %). Much like the rest of Uttar Pradesh (UP), Muzaffarnagar saw large scale violent clampdown by the police on the anti-CAA protests. One person was shot dead, and over 72 arrested (including 40 students from a madrasa) and 262 persons named (along with 3000 unnamed) in 26 FIRs registered in connection with the protests. There have also been reports of seizures of shops owned by Muslims, and of large groups of policemen entering Muslim neighbourhoods and ransacking Muslim homes.

6.2 Use of disproportionate force

As per various media reports⁴²⁸ and on ground interactions with locals, it was noted that some organisations had called for a protest after Friday prayers on 20th December 2019. Mohammed Sattar, an eyewitness, said, "It was a peaceful protest and the organisers were in constant touch with the police. As the protesters began dispersing around 3:45pm-4pm, stones suddenly began raining". Sattar said the police then went on the rampage and started thrashing people and vandalising shops in the Muslim neighbourhood. "Some of the protesters ran and hid inside the Madarsa. A group of policemen then barged in, beat the students mercilessly and rounded up almost all of them," Sattar said.

It is stated that when Sanjeev Balyan, the local MP and junior minister in central cabinet, came in person, along with his supporters, that is when things turned violent.⁴²⁹ Balyan put pressure on the police to attack which led to lathi charge. Locals told us that while District Magistrate (DM) and Superintendent of Police (SSP) were neutral, Sanjeev Balyan caused most violence.⁴³⁰ They also claimed that

⁴²⁸ https://www.telegraphindia.com/india/uttar-pradesh-police-accused-of-stripping-cleric/ci_d/1731127?ref=top-stories_home-template
<https://caravanmagazine.in/politics/muzaffarnagar-police-hindutva-groups-attack-muslims-attempt-recreate-2013-riots>
<https://www.theguardian.com/world/2020/jan/03/we-are-not-safe-indias-muslims-tell-of-wave-of-police-brutality>

⁴²⁹ <https://frontline.thehindu.com/cover-story/article30431499.ece>

⁴³⁰ Interview, name withheld. Khalapar locality, Muzaffarnagar. 14th January 2020.

there has been pressure from Balyan on the DM to disconnect water and electricity supply from the Muslim area but the DM refused. We were not able to corroborate this allegation. According to locals, what further caused violence was the constant villainization of Muslims by leaders like Khatauli MLA Vikram Saini who have been making communally inflammatory statements.⁴³¹

TESTIMONY # 9 : BHARAT BHUSHAN ARORA

Journalist with Dainik Bhaskar, on Police collusion with vigilante groups

Sanjeev Balyan and his men definitely tried to communalise the situation. The Muslim procession's intention was to peacefully cross Meenakshi Chowk, meet the administration officials to register their protest and disperse. But because of their youth and the fact that it was a leaderless crowd, they didn't realize that as soon as they crossed Meenakshi Chowk, a Hindu mob, including Jats, would gather. As soon as this happened Hindus, including elements from the Bajrang Dal gathered. The police was anyway siding with the Hindus. The Hindus and the police decided to fix the Muslims.

Source: As narrated to Caravan Magazine, in a report dated 28 December 2019. <https://caravanmagazine.in/politics/muzaffarnagar-police-hindutva-groups-at-tack-muslims-attempt-recreate-2013-riots>

6.3 Death of Noor Mohammad

Muzaffarnagar witnessed the killing of one person, Noor Mohammad, in anti-CAA protests. He is survived by his 7-month old child and wife. He was a taxi driver who lived with his elder brother Umar Daraz, who is a labourer. Our interview with the family revealed, Noor Mohammad was not part of the protests; he had gone for errands, and he parked his car on the road at Mahavir Chowk. As he was leaving, he was shot. The incident occurred around 3.30 pm on 20th December, 2019, near Mahavir Chowk. His family came to know about his death at around 7 pm. They had been trying to locate him. His family took the body to Muzaffarnagar Medical Hospital where he was referred to Meerut. Around 3-4 police vehicles accompanied the family to Meerut. Noor Muhammad died on his way to Meerut. The post-

⁴³¹ <https://timesofindia.indiatimes.com/videos/news/caa-pakistan-can-take-indian-muslims-bjp-mla-vikram-sainis-unique-exchange-program-offer/videoshow/73198761.cms>
<https://indianexpress.com/article/india/people-who-feel-unsafe-in-india-should-be-bombed-bjp-mla-vikram-saini-5522751/>

mortem report stated, "Metallic bullet recovered in right side of cranial cavity" which confirmed his death by a bullet.

After he was declared dead in Meerut, his family was not allowed to take the body back to Muzaffarnagar. The father-in-law proposed taking the body to his village Mansoorpur, which was his for burial. During this negotiation, the Tehsildar, Pushkarnath Choudhry, who was with the family at that time got a call, allegedly from Sanjeev Balyan, asking them not to take the body back to Mansoorpur. They then were forced to take the body to a village called Dorala, which is approximately 40 km from Muzaffarnagar. The bodies of those shot dead in Meerut during anti-CAA protests there, were allowed to be taken away, but not the body from Muzaffarnagar due to the MP's call, refusing the return of the deceased's body. After 3 days, someone from the police informed them that they are free to exhume the body and bring it to Muzaffarnagar on the condition that no protests would be organised. The family did not pursue this offer.

The deceased's brother, Umar Daraz, filed an application for an FIR, which was registered under Section 302 of the Indian Penal Code (IPC). It was registered on 22nd December at 7.30 pm. In the FIR, under the column of "suspect" all it states is "unknown rioters". The FIR states that, "somebody from the crowd of rioters fired the bullet". The deceased's brother says that he was offered 4-5 lakh rupees by the police to take the FIR back, which he refused.

6.4 Arrests, criminalisation and violence in custody

Additional District Magistrate (ADM) Muzaffarnagar issued notices for recovery of costs of destruction of public property to 46 persons in relation to the anti-CAA protests on December 20, demanding a response within 7 days. These notices were issued to persons from Khalapar, Madina colony, Hazipur and Roorki road⁴³². Across two police stations, 262 persons were booked - 157 in Civil Lines Police Station and 105 in Kotwal Police Station. The police also circulated 'wanted' posters with photos of protestors and by-standers—all Muslims. At Civil Lines Police Station, 72 persons were arrested out of which 40 were students of Saadat Madarsa. All arrested were 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),

⁴³² <https://compearch.amarujala.com/uttar-pradesh/meerut/crime/caa-the-administration-has-issued-notice-against-46-people-for-loss-in-violence-at-muzaffarnagar>

120-B: (criminal conspiracy), besides CLAA 1932, Sec 7 (preventing a person from undertaking business); and Prevention of Damage to Public Property Act, 1984, Sec 2, 3 (destruction of public property). Students of the Saadat Madrasa were charged under serious crimes like murder, criminal conspiracy but the police removed all charges except section 188 of the IPC.⁴³³ UP Police also accepted that it arrested four persons mistakenly, and released them after they had spent 10 days before the police realised their mistake.⁴³⁴

6.5 Police ransacking of Muslim homes

The night of 20th December, after the anti-CAA protests, Muslim houses were targeted by policemen. As reported, "Around 11.30 pm, hundreds of policemen in uniform and people in plain clothes swarmed though Mehmood Nagar and Khalapar, carrying hammers and steel rods, entered Muslim households, and destroyed everything in sight. These included household appliances such as refrigerators, televisions, and air conditioners, as well as furniture and fixtures such as lights and fans. The locals noted that as the police force rampaged through the streets, they broke car windows, vandalised Muslim-owned shops, and generally indulged in wanton destruction. In each instance, residents told me, the men broke the CCTV cameras and took the digital video recorder that stores the security video, to erase any evidence of their identity. According to most accounts, the rampage lasted for around three hours."⁴³⁵

During our interactions with residents of Khalapar area, they stated that around 100-150 policemen tried to break into every house. One of the interviewees, Haji Akbar said that his house was ransacked by the police. He said that the house has a rear entrance and it is through that gate which the police entered. One of his relatives, Salman, was beaten up and received head injuries. Salman was arrested and released only after 3 days. Media reports mentioned, 74-year-old Anwar Illahi also stated that they ransacked his home, smashed his car's glass and destroyed nearly everything that came their way as they went up the three floors of his home, shouting his name. All the jewellery he had bought for his daughter's wedding along with Rs.

⁴³³ https://www.huffingtonpost.in/entry/up-cao-protest-police-uttar-pradesh_in_5e15934ec5b66361cb5cd3ec?n_cid=other_whatsapp_catqisohqm&utm_campaign=share_whatsapp&guccounter=1

⁴³⁴ <https://www.hindustantimes.com/india-news/after-crackdown-on-anti-caa-protesters-up-to-review-cases-of-those-arrested/story-Qr7efjsxIFP3yPKGApg83L.html>

⁴³⁵ <https://caravanmagazine.in/politics/muzaffarnagar-police-hindutva-groups-attack-muslims-attempt-recreate-2013-riots>

3.5 lakhs in cash, was stolen. Illahi was also put in police custody for two days.⁴³⁶ Locals stated that all the cars that were parked outside were smashed. The police while vandalising and ransacking said statements like, "We will give you azaadi". It was reported that police attacked with an intention to 'send a message'. Haji Hamad also stated, "I cried and begged for mercy but they were very brutal. They told me Muslims have only two places, Pakistan or Kabristan."⁴³⁷ Locals also stated that the vandalism was done not just by police men but also civilians who they suspect to be members of RSS. The affected families have given representations to NHRC but they have no information of action.

From the 21st onwards, around 67 shops were sealed in Meenakshi Chowk. 63 of the sealed shops were owned by Muslims. It was only by 25th that the shops were allowed to be opened after they took an undertaking from Muslim community leaders that they would not hold any more protests. The SSP of the area called a meeting of the imams and community leaders, along with other members of the community and directed them to ensure that no protests would be held on the coming Friday, and stated that in exchange he would ensure the unsealing of shops and the release of arrested persons. .

6.6 Police brutality - Saadat Madrasa and beyond

On the day, Friday, 20th December at 3.45 PM, a group of some 200 police persons, all in uniform, tried to enter the Saadat Madrasa compound's main gate but could not enter. They went around to the adjacent building, jumped over the walled fence came and opened the gate from inside, breaking all the CCTV cameras at the gate. They then entered the Principal's office (Maulana Asad Hussaini) and 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.

They then went to the hostel block, a 3-storeyed building behind the administrative block, and began beating up students. There were 50 students in the hostel at the time.

Surrounded by a posse of policemen, someone who a policeman later called

⁴³⁶ <https://theprint.in/india/never-felt-such-fear-even-in-2013-says-muzaffarnagar-on-police-action-after-cao-protests/339904/>

⁴³⁷ https://www.telegraphindia.com/india/youve-only-two-places-pakistan-or-kabristan/ci-d/1730395?ref-top-stories_home-template

'Deewan sahab.' held the principal by his ears, and then by the neck as if trying to strangulate him. This while asking the principal, what call he had given at Friday prayers for the protests, and why his students were among the protesters. They also inquired where did students get tamancha (country revolvers) and lathis from, and who had instigated them? The principal tried in vain to convince police that this was all false.

All 50 students were dragged out of their rooms, and into waiting police vehicles. The Principal, cook, and at least two staff members were also dragged out. The police kept on 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 the principal and students were all threatened, abused, and beaten. The principal was severely beaten, he now has a broken arm and has to wear a sling. One student was rolled around a drum and hit on his legs, smashing his knee. He had to spend Rs. 1.2 lakhs on surgery. Many had arms broken, all have beating marks and bruises all over their bodies.

On Fridays students observe fast, and when they asked for water to break fast that evening. They were all denied water. Police abused and passed derogatory remarks against Islamic religious figures like the prophet and they were forced to say Jai Shri Ram. The principal along with 12 students were released the same night. 3 students were released on 21st December. Of all those taken into custody, 14 students were under 18 years. 4 of these were booked and released after 12 days. The principal of the Madrasa stated that he submitted an affidavit saying that there was no torture and ill-treatment while in custody, to secure the release of his students.

The Principal, Maulana Asad Hussaini, told media persons "he had never been subjected to such brutality. "Pachaas saal mein aisa zulm nahi dekha (Never seen such cruelty in the last 50 years)," he said, adding that the police kept asking him if he wanted "azaadi" (freedom). "The police said I should go to Pakistan, and kept calling me a haraamzaada, (bastard)" he alleged."⁴³⁸

There were others that faced police brutality that night. Media accounts report, Mohammad Ahmad was dragged from his bed by the officers, beaten in the street

⁴³⁸ <https://theprint.in/india/no-rectal-bleeding-but-police-thrashed-us-and-said-drink-urine-up-madrasa-students/344634/#click=https://t.co/z01PmEyyCP>

and then detained and allegedly tortured by police in the police barracks, along with Mohammad Sajid, 40. Ahmad recounted how he witnessed police officers force his uncle Sajid to sign a confession that a gun and bullets had been found in the police raid on their home. "He did not want to sign it but he had to because we were terrified," whispered Ahmad softly, his legs still wrapped in bandages from the beatings. After 24 hours Ahmad was released back to his family, but Sajid remains behind bars, his medical condition worsening by the day.⁴³⁹

TESTIMONY # 10 : (14 YEARS) , MAHMOODNAGAR LOCALITY

Kept in custody for almost 4 days

(3 pm on 20 December till 1 am on 24 December)

They kept abusing us. Those among us who were dressed in kurta-pyjama were beaten very badly. They said, "Will your Allah come to save you? Let's see." They beat us and made us chant slogans.

I was returning home from namaaz when I saw people running outside our home. I went home and asked my mother where my brother was. I went to find my brother. There were police vehicles coming from all sides. They caught me and beat me up with sticks. They beat me very badly. I told them I was trying to find my brother, but they did not listen to me. They started abusing us with filthy language. They asked who else was with me. I said that I didn't even know anyone there. They caught me as soon as they saw me.

They beat me for almost half an hour. They made me sit in the car and beat me again. When they took me I started crying. I tried telling them to call my parents. They didn't do that. They held me for four days. Whenever I asked them to let me talk to my parents they refused.

They told me to give them the names of one hundred people. Then they beat me for almost an hour and a half. They came many times and beat me up every time. They were in uniforms. They abused us and our holy Kalaam.

They didn't allow us to call home. We just sat all day. When an official walked by and I asked for water they first swore at me and then gave water. They didn't give us food for two days.

⁴³⁹ <https://www.theguardian.com/world/2020/jan/03/we-are-not-safe-indias-muslims-tell-of-wave-of-police-brutality>

They placed a burning rod in my hand. They were about to throw me in the fire (in the road, when he was picked up). They started beating me and tried to throw me in the fire. They burnt my hand. Two policemen saved me. They said, "Don't throw him in the fire. Put him in the car."

Source: As told to a fact-finding mission by Karwan-e-Mohabbat.
<https://www.youtube.com/watch?v=qR4sEnLCr5s&feature=youtu.be>

14-year-old Mohammad Sadiq was also the victim of police brutality. As reported in the Guardian, "Cars and motorcycles had been set alight and as protesters were fleeing around him, 14-year-old Mohammad Sadiq too began to run. It was then that a dozen police pounced on him, hitting his legs with batons to make him fall to the ground and then unleashing a torrent of blows, he said. "The police said to me, 'if you tell us the names of 100 Muslims involved in the riots we will stop beating you'," recounted Sadiq, as he lay bed-bound and weak from his injuries in his one-room family shack. "I kept telling them I had nothing to do with the riots, that I did not know anything but they kept beating me. The policemen told me to shout 'Jai Sri Ram' and I told them I would not so they put an iron rod into the flames of the car that was on fire and then held it against my hands to burn me." "Then some of the police officers tried to pick me up and put me in the flames of the car on fire," Sadiq said, "but two of them said 'no, let's just take him to the police station'." Sadiq was kept in police detention for the next four days. Stripped to his underwear, he said he was tortured. For two days he was given no food or water and no medical treatment for his badly bleeding wounds. When he was finally released his condition was so bad his mother, Rehana Begum, fainted when she came to collect him."⁴⁴⁰

⁴⁴⁰ ibid

RAMPUR

7.1 Introduction

Rampur is a city, and the municipality headquarters of Rampur District of Uttar Pradesh. Rampur district has been identified by the Ministry of Minority Affairs as one of 14 <Minority Concentration> districts in the state, on the basis of the 2001 census data on population. Police action against Anti CAA protest in Rampur, resulted in one death, arrests of around 40 people, FIR against 140 named people and more than a 1000 unnamed people. Notices for confiscation of property of identified protesters were also sent to 28 people demanding compensation for alleged damage to public property worth Rs. 25 lakhs. The FIR includes more than a thousand unknown persons. Charges filed against the protesters include section 144 (Joining unlawful assembly armed with deadly weapon), 147 (Punishment for rioting), 188 (Disobedience to order duly promulgated by public servant), 307 (attempt to murder), 302 (murder), 333 (voluntarily causing grievous hurt to deter public servant from doing his duty), 353 (Assault or criminal force to deter public servant from discharge of his duty) of Indian Penal Code, among others.

7.2 Use of disproportionate force

The main mosque of Rampur had put out a call for a protest on 21st December. However, the police cancelled the permission for the protest the morning before. While the call for the protest had spread like wildfire through the community, news of its cancellation had not.⁴⁴¹ More than 2000 protesters gathered for the protest which the police dispersed by firing tear gas shells. Police action resulted in one death,³¹ arrests, and another 130 identified for their role in vandalism and more than 130 people named in different FIR's According to the police, there was stone pelting by the protesters during the protest, but the details are unclear.

7.3 Death of Faiz Khan

A 22 year old man Faiz Khan died of a bullet injury in Rampur during the violence, in which several locals and policemen were injured, and six vehicles, including a police motorcycle, were torched, the officials said. Faiz was not a part of the protest and had left his house to finish up some paperwork for his impending trip to Dubai. He saw the crowd on the streets and entered to help an old man when a bullet hit him in the middle of the neck- in the middle of his throat-right between his clavicle. He was rushed to the hospital by the bystanders, but the hospital staff refused to

⁴⁴¹ <https://thewire.in/rights/rampur-up-police-firing-caa-protests>

treat him when they were told that he had been shot during the protest. Faiz's twin brother, Faraz, says that they waited for two and a half hours but nobody came to attend him. Faiz was already dead by the time. The Rapid Action Force arrived at the hospital, and at least 60-70 policemen also gathered at the hospital. They tried to take away Faiz's body but his family made a protective circle around him, refusing to let them take the body. After this, they started beating them with lathis. His father was beaten up, and his brother, who had fallen to the ground beneath his dead brother's body, was also beaten up. During this, they also hit Faiz's mortal remains. His brother relented and the police took the body to another hospital, where he was declared dead on arrival. His body was then taken to another hospital for post-mortem. After arguments with the police, his family was allowed to take the body. The family is convinced that Faiz fell to a police bullet, but the police have issued a statement saying that he was injured by a bullet fired by protestors. The family says that they have no intentions of pursuing the matter further – they want no investigations and will be filing no FIRs.

The post-mortem report has revealed that Khan was shot at from a distance. The District Magistrate has ordered a probe into the death and has asked the police to submit the report in a week.⁴⁴² However, Faiz's brother says that the bystanders told him that the public was unarmed and nobody from the crowd fired a bullet.⁴⁴³

7.4 Arrests and criminalisation

Thirty-one people have been arrested and over 150 others identified for their alleged role in vandalism when the violence broke out.⁴⁴⁴ Families of at least three arrested men in the Nai Basti and Bilaspur Gate areas claimed that the men in question were at home when the protests took place, but the police still arrested them from their homes. Another 6 persons were arrested by the police for their alleged role in the violence in protests. The police said the persons appeared in video footage collected from the protest site. They also allegedly recovered a .32 calibre pistol and two live cartridges from the possession of one of the protestors arrested, identified as Nadeem. The six arrested persons have been identified as Shimmi, Nadeem, Qayam Mian, Amir Ali, Nazim and Zahid.⁴⁴⁵

⁴⁴² <https://timesofindia.indiatimes.com/city/bareilly/rampur-dm-orders-magisterial-probe-into-faiz-khans-death/articleshow/73036482.cms>

⁴⁴³ <https://thewire.in/rights/rampur-up-police-firing-caa-protests>

⁴⁴⁴ <https://www.thehindu.com/news/national/other-states/31-arrested-for-violence-during-anti-caa-stir-in-ups-rampur/article30379851.ece>

⁴⁴⁵ <https://timesofindia.indiatimes.com/city/bareilly/six-more-anti-caa-protesters-arrested-in-rampur/article-show/73062306.cms>

7.5 Internet Shutdowns

In Rampur, internet was shut down on 2 separate occasions under the pretext of prevention of rumours and violence. "Therefore, in order to prevent the possible misuse" of messaging platforms and internet "to disturb the peace and tranquillity of the city and create further law and order situation and in order that normalcy may maintain" temporary suspension of SMS messages and mobile internet/data services of all telecom service providers is ordered for next 45 hours beginning 1500 hours on December 19, said Uttar Pradesh government's Additional Chief Secretary Awanish Kumar Awasthi, in a order issued on December 19. Another internet blackout was ordered on December 27 (from 8 am to 5 pm). The internet shutdown was said to be a preventive measure in view of the Friday prayers and possible protests against the Citizenship Amendment Act. Additional Director General (Law and Order) P.V. Ramasastry said: "We have deployed security personnel in different districts of the state and held talks with the local people. Internet services have been suspended for a day, and we are closely monitoring content on social media."

7.6 Notices for compensation

The Rampur district administration in Uttar Pradesh on Tuesday sent notices to 28 people—including an embroidery worker and a hawker— seeking an explanation on why recoveries should not be made for damage worth Rs 25 lakh caused during anti-Citizenship Act protests. Police had initially said that the damage incurred was worth around Rs 15 lakh but the final assessment put the figure at Rs 25 lakh.⁴⁴⁶

"My son Zameer was returning after offering namaz. The police came and took him away by dragging him along. There is no money with us," Munni Begum. Zameer has also been issued notice. Mohammed Mehmood, another person who has been issued notice for compensation, was allegedly home during the protest. His wife, Shabnam says that "My husband did not participate in any protest," says Mehmood's wife Shabnam. "He was at home. When he heard someone banging the door of the neighbour's house, he came out to take a look. That's when the policemen grabbed him. When I yelled and cried, two lady cops approached towards me to beat me up."⁴⁴⁷ The family members of all three men also allege that when the police came to hand them the notices, they asked for money in exchange. Seema says that the

⁴⁴⁶ <https://economictimes.indiatimes.com/news/politics-and-nation/anti-caa-stir-notice-to-28-people-for-recovery-of-rs-25-lakh-for-damage-to-property-in-rampur/articleshow/72966921.cms>

⁴⁴⁷ <https://thewire.in/communalism/up-rampur-anti-caa-protests-police-fines>

policemen asked her pay Rs 200 but she only had Rs 50, which she gave them.⁴⁴⁸

7.7 Conclusion

The police excesses and the apparent disregard for due procedure have resulted in a number of violations of the basic rights of residents of Rampur. Fear of violence by the administration has prevented people from taking any legal or social recourse towards justice. The father of the one protester killed said that he would not be filing any FIRs because he was scared that another innocent will be picked up and punished for the misdeeds of the police. Those arrested continue to remain in detention. Reports of grave custodial torture from other districts indicate the danger they face in prison. Police action against protesters and criminalization appear to be targeting minorities specifically.

⁴⁴⁸ <https://thewire.in/communalism/up-rampur-anti-caa-protests-police-fines>

SAMBHAL

8.1 Introduction

In Sambhal district, two people were killed during the protests which intensified amidst imposition of Section 144 by Uttar Pradesh Police on the 19th of December 2019. 48 people have been arrested, while 55 have been identified for their involvement in the violent protests and efforts are being made to identify 150 more people by issuing their photos. Notices were sent to 59 people for causing damage to public property, which were estimated by the police to be worth Rs 15 lakhs. Three FIRs have been registered, one against 17 people for rioting and two registered for the deaths of Bilal and Mohammad Sherroz after applications were sent by the family members. In Sambhal, the police did not fire at the public. The shooters were men empowered by the police to use weapons against protestors/ persons of minority communities. The families of the victims have claimed that the shooters were men allied to the RSS.

As per the 2011 census, Sambhal has a total population of 21,92,933 where Muslims are in majority.⁴⁴⁹ The Member of Parliament from Sambhal is Dr. Shafiqur Rehman Barq from Samajwadi Party and Member of Legislative Assembly is Iqbal Mahmood also from Samajwadi Party.

8.2 Imposition of Sec 144, internet shut down, use of disproportionate force

Internet services were shut down⁴⁵⁰ in Sambhal on the 19th of December after a bus was burnt and another one was vandalized during the protests. In addition, Section 144 was imposed and no permission was granted to any group to protest against the CAA by the administration. In a Press Statement, the Additional District Magistrate also communicated that in view of the possibility of stoning, sabotage and rioting in the district, prohibitory orders have been imposed till January 31⁴⁵¹.

8.3 Killings

⁴⁴⁹ https://economictimes.indiatimes.com/news/elections/lok-sabha/uttar-pradesh/elections-2019-while-phase-i-was-about-muslim-jat-phase-iii-a-test-of-muslim-yadav-formula/articleshow/69000863.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

⁴⁵⁰ https://www.business-standard.com/article/pti-stories/anti-caa-stir-internet-services-suspended-in-up-s-sambhal-following-violent-protest-119121900729_1.html

⁴⁵¹ https://www.business-standard.com/article/news-ani/up-prohibitory-orders-to-prevail-in-sambhal-till-jan-31-120010100927_1.html

Two men, Bilal (22) and Mohammad Shahroz (23)⁴⁵² were killed during the protests due to bullet injuries.

a. Bilal Pasha

Bilal was a labourer who used to take land on contract and till it. He is survived by three children, all of whom are under 5 years of age. He was shot at 3.00 pm, near the Bus Depot of Jagat Mohalla (there is a mosque there), where protests were happening. His family got the news of his injury almost immediately and found him alive when they reached the spot. The family, however, found it difficult to transport him to the hospital, as no three-wheeler was ready to take them. By the time they found one, Bilal had died. They took him back to their house by 4:00 pm.

Bilal was shot on the upper body, with a bullet hitting him in his chin, before eventually lodging itself in his windpipe. It was when an X-Ray was taken of Bilal at Chandosi that the family was made aware that the bullet that was lodged in his windpipe. At around 5 pm, the body was taken to Bajoi for the post-mortem. The family got the body back on the 21st, at 11 pm but have not received the post-mortem report. By 1am of 22nd, the body was buried in the local cemetery without any disruption.

After a week, 4-5 policemen visited the family and asked them to go to the thana to give their statement. They went to the police Kotwali. The members were asked to narrate the incident. At the end, the police asked them to put their thumb imprint on a statement. The family members, who are all illiterate, relied on a relative during this process.

b. Mohammad Shahroz

Shahroz was a truck driver who had just returned from Bombay. After Friday prayers, Shahroz had come home and had lunch. He left home at around 3:15 pm. He was near Shankar Chauraha where there was rioting and even stones were thrown at each other. At 4 pm, Shahroz's cousin (Fazam) informed his family that Shahroz was shot at Shankar Chauraha (Chevan Sarai). They got another call from a stranger who asked the family to go to Seva hospital. They reached the hospital and found Shahroz in the ambulance, still alive. Doctors at Seva hospital asked the family to

⁴⁵² <https://indianexpress.com/article/india/caa-protests-up-deaths-police-stood-and-watched-6180277/>

take him to Asian/Haseena Hospital for treatment as he was losing a lot of blood. Asian Hospital said that there was no oxygen and told them to take him to TMO hospital. Shahroz passed away before reaching TMO Hospital around 5pm. After he passed away, the body was taken to the government hospital. From there, they were sent to the Bajoi hospital by police who had arranged for the ambulance for transporting the body. The post-mortem was done and the family received the body at around 11 pm on the 21st December. Shahroz was buried at 2am on the 22nd December without any disruptions and restrictions by the police. The family has not been given the post-mortem report. The family's lawyer has seen the post-mortem report and stated that it clearly mentions that he was shot by a non-police pistol which caused one entry wound and two exit wounds in his body.

The State Government has directed a magisterial inquiry into both the deaths. Deputy Collector/ Sub Divisional Magistrate of Sambhal, Kamlesh Awasthi has been given the responsibility of investigating into the deaths.

8.4 Arrests and criminalisation

An FIR was registered against 17 persons for rioting, which gives details of nine police personnel deployed at the site, the names of the accused, and the timeline of the incident. The FIR states that at 11:15 am, the named accused were protesting and by 1:15 pm they became aggressive, pelting stones and targeting government vehicle. The Additional Superintendent of Police tried speaking to people but was unable to control the crowd. The FIR states, 'our official shot five rounds of bullets from the Anti-Riot Gun; constable Praveen shot seven rounds of bullet...to protect the life and public property', thus explaining and rationalizing the use of firearms by the police officials themselves. It also gives details of the policemen injured and the property damaged and how with great difficulty the police was able to control the crowd.

The latest news reports from Sambhal state that 55 people were arrested as of 8 January. Out of these, 19 were minors and the youngest child arrested is just 11 years old. Instead of being remanded in juvenile homes, the minors were housed with convicted and serial offenders in the Bareilly jail. According to Yamuna Prasad, the Superintendent of Police, "55 persons have been identified and posters are being released for the identification of other 150 people who were involved in violence

during the protests against the Amended Citizenship Act.⁴⁵³ Many protestors who were injured were later arrested by the police.

Two separate FIRs have been registered for the two deaths caused in Sambhal. FIR No. 0497 was registered after an application was filed by Bilal's family after his death. The FIR is registered under Section 304 of the Indian Penal Code. Despite the family telling the police that the death was caused by a bullet injury, the FIR only states that Bilal was present at the site of protest and in the chaos, he hurt his face which later caused his death. The investigating officer is stated as Ram Pal Singh.

FIR No. 0496 was also registered after an application by Shahroz's family. This FIR was also registered under Section 304 of the IPC. As was the case with Bilal, Shahroz's death was caused by bullet injury but the FIR only states that during the chaos at Chandosi Chowraha Bilal got injured and was taken to Haseena Begum Hospital. He was referred to Sambhal Government Hospital and died on the way to the hospital. The post-mortem report also states that the death was caused by a bullet injury by a pistol not used by the police. Despite this, the FIR does not mention that death was caused by bullet injury.

⁴⁵³ <https://caravanmagazine.in/politics/bjp-turned-anti-caa-protests-in-sambhal-into-communal-stone-pelting-aided-by-a-pliant-police>

TESTIMONY # 11 : FXXXX (14), ALAM WALI GALI, SAMBHAL

Was not released as of Jan 19, after being taken into custody on 20 Dec

He is my youngest son. He was with another child. He went at 4:10 pm. We called him and said, come home son, there's a fight there. Two boys have also been killed. He said that he was coming. He left the other boy's hand and said, "Go ahead, I will come soon." He walked towards the police station near the clock tower to see the boy who had died. They caught him near the police station.

He remained at the police station all night and we didn't even know. We thought that since it was the Friday prayers he might come home late. Then, when he didn't come home at all and his phone was switched off, we began to worry. The police snatched away his phone and kept it. On the third night we got to know from the doctor. He said that my son was in Bareilly.

He is 14 years old but not very smart. He started crying. They scared him. He cries even now. He is young and the others with him are older. It is no longer in our hands to do something. We can only try. It is no longer in our hands. We are doing our best. Now he is gone. I think of him a lot. He is my youngest one.

Source: As told to a fact-finding mission by Karwan-e-Mohabbat
<https://www.youtube.com/watch?v=qR4sEnLCr5s&feature=youtu.be>

8.5 Notices for recovery of damages to public property

On the 19th the police reported that the protests had turned violent. A video of the State Road Transport bus burning was also shared by the administration, after which Chief Minister Yogi Adityanath made a statement which lay emphasis on taking revenge from those who damaged public propriety. Acting in line with this statement the District Police sent notices⁴⁵⁴ to 59 people for recovery of damage. Those who were sent notices include a retired police officer, a farmer, and a businessman. They have received identical notices for recovery of Rs. 9.2 lakhs each. These three people were not present at the site of the protests. However they have been charged with rioting since they belong to a local organization called Sambhal Sangharsh Samiti which had planned to organize a protest. As the administration did not grant permission for the protest, the organization had called it off. According

⁴⁵⁴ <https://indianexpress.com/article/india/in-sambhal-57-year-old-doctor-man-behind-2-schools-get-damage-notices-6190784/>

to an NDTV report some people have been also been issued notices⁴⁵⁵ on the basis of a mixed-up identity like a rickshaw puller has been issued a notice while neither the name on the notice matches his name nor the photo shared by the police for people identified matches his photo. The notices issued to people in Sambhal do not mention any specific evidence against the protestors, but only that they are based on a police report. The notices also mention that they have been issued in line with a Supreme Court and Allahabad High Court order for recovering dues from alleged rioters. While the Supreme Court guidelines direct that High Courts may set up a panel to probe the damage and establish/ prove a link between rioters and the event for applying liability, none of this has been mentioned in the notices.

⁴⁵⁵ <https://www.indiatoday.in/india/story/explain-or-pay-for-damage-up-administration-sends-notice-to-26-people-in-sambhal-for-caa-violence-1631638-2019-12-26>

VARANASI

9.1 Introduction

Parliamentary constituency of PM Narendra Modi, Varanasi, has a population of about 3,676,841.⁴⁵⁶ The city is one of the pilgrim shrines for Hindus, who account for about 84.52% of the population, while the Muslims form a minority at 14.88%.⁴⁵⁷ The city is also known for the Benaras Hindu University (BHU), one of the oldest Universities in India. The city witnessed mass detentions and arrest to clamp down protests against Citizenship Amendment Act 2019 (CAA) and National Register of Citizens (NRC). The stampede caused by the police lathi charge also led to the death of 8 yr old, Sageer, the youngest victim in the CAA/NRC protests till now.

9.2 Use of disproportionate Force

As per media reports and legal documents, Varanasi witnessed two incidents of police intervention with regard to Anti-CAA/NRC protests. These were on:

- 19th December 2019, protest wherein prominent activists of the region and students from BHU were arrested or detained for carrying out a peaceful protest against CAA and NRC.⁴⁵⁸ There were also reports of specific targeting of students from BHU, who were not even participating in the protest but were detained when the police became aware that they were from BHU.⁴⁵⁹ Among the arrested were a young couple with a 14 months old daughter. The daughter was breast fed and the forced separation was stated to have severely affected the child's health⁴⁶⁰
- Protests on 20th December 2019 after the Friday prayers, wherein police started lathi charge which led to the death of an 8 yr old and injuries of 7 others.⁴⁶¹ As per reports, in the Bajardiha area of Varanasi thousands of people had gathered after

⁴⁵⁶ <https://varanasi.nic.in/demography/>

⁴⁵⁷ <https://www.census2011.co.in/data/religion/district/568-varanasi.html>

⁴⁵⁸ <https://scroll.in/article/947814/shock-in-varanasi-as-56-social-activists-charged-with-violent-rioting-after-a-peaceful-protest>

⁴⁵⁹ <https://www.thequint.com/videos/news-videos/up-police-were-the-bhu-students-targeted-for-taking-part-in-caa-protests>

⁴⁶⁰ <https://www.theweek.in/wire-updates/national/2019/12/26/del67-up-citizenship-toddler.html>

⁴⁶¹ <https://www.google.com/amp/s/m.livehindustan.com/uttar-pradesh/varanasi/story-caa-protest-situation-deteriorated-in-varanasi-bajradiha-many-injured-in-stampede-after-lathicharge-video-2912892.amp.html>

the Friday prayers to protest the CAA and NRC. By 15:40 hrs the police called enforcements. Initially, the assembly was asked to sit down, which they did, but then suddenly the police started a lathi charge in the narrow lanes⁴⁶². This led to a stampede wherein one died and several were injured⁴⁶³. In the stampede, a minor Sagheer (age varies per reportage) had left his house to just take a look at the assembly was killed.⁴⁶⁴ Sageer's family claim they received no help from the administration and were pressurised to complete the funeral proceedings before the Azaan of the next day.⁴⁶⁵ The incident also led to the injury of Tanweer (15 years old) fell unconscious⁴⁶⁶. When his father went to lift Tanweer, he also fell victim to the lathis and batons of the police. There are conflicting reports about the state of Tanweer's health with some claiming he is critical while others stating he died. Scroll.in has also produced video footage which establishes the protests were peaceful⁴⁶⁷.

9.3 Arrests and criminalization

19th December 2019 Incident

On 19th December 2019, the police arrested 59 persons, including students and activists for participating in a peaceful protest⁴⁶⁸ against CAA and NRC. Among the activists arrested were a young couple Ekta and Ravi, who were now separated from their 14 months old daughter⁴⁶⁹.

⁴⁶²<https://scroll.in/article/947722/ground-report-a-brutal-police-assault-on-peaceful-nrc-protestors-killed-an-11-year-old-in-varanasi>

⁴⁶³<https://www.livehindustan.com/uttar-pradesh/varanasi/story-cao-protest-situation-deteriorated-in-varanasi-bajradiha-many-injured-in-stampede-after-lathicharge-video-2912892.html>

⁴⁶⁴<https://indianexpress.com/article/india/varanasi-8-year-old-killed-in-stampede-we-dont-have-time-to-protest-my-son-was-probably-curious-6198724/>

⁴⁶⁵<https://www.thequint.com/videos/news-videos/up-police-caa-stir-in-varanasi-police-lathi-charge-took-a-toll-on-two-kids>

⁴⁶⁶<https://www.thequint.com/videos/news-videos/up-police-caa-stir-in-varanasi-police-lathi-charge-took-a-toll-on-two-kids>

⁴⁶⁷<https://scroll.in/article/947722/ground-report-a-brutal-police-assault-on-peaceful-nrc-protestors-killed-an-11-year-old-in-varanasi> and <https://scroll.in/article/947980/in-uttar-pradesh-reports-of-violence-and-police-brutality-from-15-districts>

⁴⁶⁸<https://www.livehindustan.com/uttar-pradesh/varanasi/story-cao-protest-hundreds-of-youth-suddenly-hit-the-streets-in-varanasi-lathis-2911330.amp.html>

⁴⁶⁹<https://scroll.in/article/947814/shock-in-varanasi-as-56-social-activists-charged-with-violent-rioting-after-a-peaceful-protest>

Media reports came in about the selective targeting of students from BHU. Reports stated that students who were not even part of the protests but going for making purchases, were stopped and on being identified as BHU students, were dragged out of autos by the police. For the 5 days that these students were detained, they were not allowed to access a lawyer or even inform their families. Eight BHU students who had been detained were released five days after the incident.⁴⁷⁰

An FIR bearing crime no 296/2019 was registered at the Chetganj Police Station against the protestors. It is important to note that the FIR at no point mentions of (i) the assembly being armed, (ii) any police personnel or civilian being injured or hurt and (iii) destruction of public property. However, charges of violent rioting (148 IPC), assault and hurt (332, 353) have been applied. Interestingly, the FIR makes a random mention of the fact that people out of fear shut themselves in their houses (no location/number of people provided) and based on this statement the charge of wrongful restraint (341 IPC) has also been applied. A sessions judge in Varanasi has given bail to the 57 of the arrested on furnishing a bond for Rs. 25,000/- on January 2, 2020, after the bails had been rejected by the Magistrate.⁴⁷¹

20th December Incident

The FIR is not available for this incident but reports claim arrests have been made⁴⁷². The Hindi Newspapers provide the police version of the events which claims that a mob gathered at Bajardiha and despite repeated requests for dispersal did not leave. On the contrary it is alleged by the police that the assembly started pelting stones which forced the police to lathi charge. As per reports, an FIR has been registered against 29 named and 2900 unnamed persons.⁴⁷³

Varanasi Police has also released a poster with images of persons they term as rioters and appealed to the public provide information.⁴⁷⁴ According to reports, the area of Bajardiha has become eerily quiet. Residents state that police chose a Friday knowing that the number of Muslims on the street will be high and they could

⁴⁷⁰<https://www.thequint.com/videos/news-videos/up-police-were-the-bhu-students-targeted-for-taking-part-in-caa-protests>

⁴⁷¹<https://www.theweek.in/news/india/2020/01/02/parents-of-14-month-old-toddler-held-for-anti-cao-protests-get-bail.html>

⁴⁷²<https://scroll.in/article/947722/ground-report-a-brutal-police-assault-on-peaceful-nrc-protestors-killed-an-11-year-old-in-varanasi>

⁴⁷³<https://www.patrika.com/varanasi-news/sagir-died-due-to-the-crushing-of-the-mob-running-away-5535835/>

⁴⁷⁴<https://hindi.news18.com/amp/news/uttar-pradesh/varanasi-varanasi-police-releases-poster-of-accused-during-cao-protest-upat-2714740.html>

beat them. Local mention of nightly raids at houses in search for men between 15-35 years of age. Several young men have chosen to leave their houses and go to nearby relations. The locals also claim that the posters being circulated by the police are of innocent men who have nothing to do with the incident⁴⁷⁵ According to the local papers the Police in a public statement mentioned that 10 cases had been filed till now, in which 73 people had been arrested and 6000 others are being looked into⁴⁷⁶.

9.4 Other updates from the region

On 17th December 2019, the Hindu newspaper carried a news report stating that the BHU administration on the request of the city administration had asked students not to participate in any public assemblies, protests on the citizenship law.⁴⁷⁷ This is prior to any public announcement of 144. As per the twitter handle 144 was applied only on 19th December 2019⁴⁷⁸. There was also a report in the Hindu which stated that 144 was imposed for 359 days in a year in Varanasi.⁴⁷⁹ The local media has also reported that the police and city administration have been going to Muslim localities and spreading information about CAA and NRC. This is reported to being done to remove the 'rumours' being floated about CAA and NRC. The report also mention of a conspiracy to provoke the 'youth' through inflammatory material and an attempt is being made to identify the conspirators.⁴⁸⁰ Reports claim that proceedings are being initiated to recover money for public property damage and as many as 100 notices may be sent.⁴⁸¹ Media report that the Chief Minister on his Varanasi visit directed the administration to take 'strict action' against 'rumour mongers'.⁴⁸²

⁴⁷⁵ <https://hindi.newsclick.in/Ground-report-Varanasi-Bajradiha-where-the-silence-is-still-screaming>

⁴⁷⁶ <https://compearch.amarujala.com/uttar-pradesh/varanasi/varanasi-police-appealed-for-peace-caa-nrc-pro-test-many-accused-arrested?pagelid=1>

⁴⁷⁷ <https://www.google.com/amp/s/www.thehindu.com/news/national/other-states/banaras-hindu-university-tells-students-not-to-participate-in-marches-dharnas-on-citizenship-law/article30331180.ece/amp/>

⁴⁷⁸ <https://twitter.com/varanasipolice/status/1207522799952072705?s=20>

⁴⁷⁹ <https://www.thehindu.com/news/national/other-states/political-discussions-fall-silent-as-fear-grips-varanasi/article30453511.ece>

⁴⁸⁰ <https://compearch.amarujala.com/uttar-pradesh/varanasi/varanasi-police-appealed-for-peace-caa-nrc-pro-test-many-accused-arrested?pagelid=1>

⁴⁸¹ <https://www.hindustantimes.com/india-news/8-up-districts-start-recovering-property-damages-from-public/story-tDL6WqJJU1roop0CgyWf9l.html> and <https://scroll.in/latest/947966/citizenship-act-after-rampur-seven-up-districts-start-recovering-damages-from-suspected-protestors>

⁴⁸² <https://timesofindia.indiatimes.com/india/caa-nrc-at-varanasi-yogi-asks-officials-to-take-strict-action-against-rumourmongers/articleshow/73010260.cms>

GROUP B DISTRICTS

ALIGARH

10.1 Introduction

Aligarh is home to the Aligarh Muslim University (AMU). The administrative headquarters of Aligarh District is Aligarh (Koil). It is also commissionerate Headquarters for four districts: Aligarh itself, Hathras, Kasganj and Etah. Since December 10th 2019, AMU has become one of the epicentres of the anti-CAA movement.

One of the very first student protests began at AMU on 10th December, two days before the Citizenship (Amendment) Bill was passed in the Rajya Sabha. According to reports close to 20,000 students attended the peaceful protest⁴⁸³. Following the protests, the Aligarh police began registered FIRs against 21 named students and 500 cases against unnamed persons⁴⁸⁴. The charges have been under section 144 (Joining unlawful assembly armed with deadly weapon), 147 (Punishment for rioting), 188 (Disobedience to order duly promulgated by public servant) and 353 (Assault or criminal force to deter public servant from discharge of his duty) of Indian Penal Code. It is to be noted that these were peaceful, non-violent protests. And then protests also took place on 15th December 2019, that turned violent.

10.2 Disproportionate Use of force

On the night of 15th December, what began as a peaceful protest in AMU began to get energised as the students started moving towards the main entrance of the University. In response to the protests, the police along with the RAF (Rapid Action Force), moved into the University campus and began firing tear gas shells, rubber bullets, stun grenades and pellets into the campus⁴⁸⁵. The students responded with stone pelting. Four students of AMU who took part in the protests are critically injured, of which one student had to amputate his hand⁴⁸⁶.

According to student testimonies, during the protest, the police entered the university campus, chased many away and had beaten those students who were injured, unconscious or semi-unconscious as a result of inhaling tear gas. They then fired tear gas inside the hostels and forced themselves in after turning the lights off and charged at terrified and unsuspecting students in a brutal manner. The police surrounded the hostels and groups of students in such a manner that they could not escape but to get beaten up with lathis and with the rear end of the guns in an indiscriminate way.

A student testimony stated that when the ambulance of the resident university hospital came to take the injured students to hospital, it was stopped before leaving the campus and both the injured students and the driver were physically assaulted by the police⁴⁸⁷. Another testimony stated that even after reaching the hospital, the police did not allow the doctors to make an MLC report and assaulted the student in the hospital itself. This is a clear indication that the police had not only brutally assaulted the students but also tried to deny them all medical support. This kind of excessive use of force on Muslim students of a minority institution leaves one to believe that the use of premediated violence of this kind is only meant to suppress the voices of an entire community and strip them away of all the fundamental rights granted by our constitution.

The kind of violence unleashed by the state machinery has resulted in lost limbs, severe injuries, deep bruises and gross psychological trauma⁴⁸⁸.

10.3 Arrests and criminalization

After the peaceful protests on 10th December, the Aligarh police had registered FIRs against 21 AMU students along with 500 unnamed persons⁴⁸⁹. According to the FIRs the students had violated section 144 which had been imposed in the area since November 8th 2019.

On the night of 15th December, police detained 21 protestors and close to 56 named FIRs had been registered⁴⁹⁰. Close to 1,000 FIRs were filed against unnamed persons⁴⁹¹. The following week another 1,200 unnamed FIRs were filed against students, teachers and non-teaching staff for violating section 144 and carrying out a peaceful candle light march⁴⁹².

On January 7th Allahabad High Court directed the National Human Rights Commission (NHRC) to investigate police action in Aligarh Muslim University on the

⁴⁸⁷ <https://www.youtube.com/watch?v=Q9nZI-TPkMA>

⁴⁸⁸ <https://www.newsclick.in/Siege-Aligarh-Muslim-University-Fact-Finding-Report>

⁴⁸⁹ <https://www.outlookindia.com/website/story/india-news-aligarh-fir-against-21-amu-students-500-unnamed-persons-over-protest-against-citizenship-amendment-bill-cab-nrc/343966>

⁴⁹⁰ <https://www.outlookindia.com/website/story/india-news-police-arrest-21-after-clashes-at-aligarh-muslim-university-hostels-vacated-internet-shutdown-till-midnight/344225>

⁴⁹¹ <https://www.indiatoday.in/india/story/delhi-cm-kejriwal-meets-senior-aap-leaders-over-jnu-violence-1634352-2020-01-06>

⁴⁹² <https://www.indiatoday.in/india/story/delhi-cm-kejriwal-meets-senior-aap-leaders-over-jnu-violence-1634352-2020-01-06>

night of 15th December 2019⁴⁹³. On 13th January, a 7 member team of NHRC spent five days in AMU as part of investigation⁴⁹⁴.

On 16th January Sharjeel Imam, a JNU student gave a speech during a protest in AMU. Aligarh police lodged a case against Imam for his inflammatory speech which police called "anti-national". Based on this speech Assam police have also filed a case against him under section 13 (1) and 18 of the UA (P) ACT read with Section 153A, 153B, and 124A of Indian Penal Code.

On 24th January, once again UP police booked 4 named and 200 unnamed persons during anti-CAA protests. The charges for violating prohibitory orders are under Sections 145 (unlawful assembly), 147 (rioting), 188 (disobedience of public servant) and 283 (causing danger and obstruction) of Indian Penal Code⁴⁹⁵.

10.4 Custodial Torture

Late on the 16th evening, 26 people were released from custody. Despite contestation officials insisted that of the 26, only 8 were students from AMU⁴⁹⁶. According to these students, they were tortured during police custody. Testimonies allege that the students were stripped and beaten with leather belts⁴⁹⁷. Another student said that he had been beaten with rifle butts. Some of the released students also said that the humiliation and torture continued as the police forced to drink alcohol and made to chant religious slurs like 'Jai Shree Ram'⁴⁹⁸. Almost all accounts of custodial torture confirm the use of vile, Islamophobic language.

⁴⁹³ <https://timesofindia.indiatimes.com/city/allahabad/allahabad-high-court-orders-nhrc-to-probe-december-15-police-action-at-aligarh-muslim-university/articleshow/73147541.cms>

⁴⁹⁴ <https://timesofindia.indiatimes.com/city/agra/up-nhrc-begins-probe-in-amu-violence/articleshow/73232305.cms>

⁴⁹⁵ <https://www.thehindu.com/news/national/other-states/over-150-protesters-booked-by-aligarh-police/article30647204.ece>

⁴⁹⁶ <https://www.news18.com/news/india/tension-prevails-in-areas-around-amu-as-protests-continue-against-citizenship-act-26-people-released-2427291.html>

⁴⁹⁷ <https://scroll.in/article/947178/aligarh-muslim-university-students-allege-they-were-tortured-in-police-custody-after-sunday-protests>

⁴⁹⁸ <https://www.newsclick.in/Siege-Aligarh-Muslim-University-Fact-Finding-Report>

10.5 Discrimination against Kashmiri students

Apart from Islamophobic slurs and violence, students from the state of Jammu and Kashmir have been further targeted, tortured and humiliated. One student said that after the police realised he was from Kashmir, they tied him to a tree and beat him for 10 minutes using lathis and gun butts. The police ethnically insulted him and called him "Pakistani"⁴⁹⁹.

10.6 Administration and State reaction

After 15th December, the students of the University were asked to vacate hostels and return to their native homes⁵⁰⁰. Internet first snapped in Aligarh on 13th December ahead of the anti-CAA protests and then once more on 15th December, post police violence⁵⁰¹. The latter shutdown lasted for close to two days. After the violence, shopkeepers in the neighbouring areas of Jamalpur and Dhodhpur kept their shutters down⁵⁰² and business remained shut. As a 'precautionary measure' police forces were posted at all entry points of the University⁵⁰³. On 2nd January the Allahabad High Court which had sought an answer from the Yogi government regarding the violence at AMU, based on a PIL, reserved its order and said that the judgement will be pronounced on 7th January⁵⁰⁴. On 5th January, former IAS officer Kannan Gopinathan, who resigned from his post in protest against the abrogation of article 370 in Jammu and Kashmir, was denied entry and detained while he was on his way to Aligarh Muslim University. The bureaucrat who was scheduled to address an anti-CAA protest and meet injured students at the hospital said that he was stopped on the highway and detained under CrPC sections 106 and 117 (preventive measure to maintain peace) and the penal code's section 155 (liability of person for whose benefit a riot is committed). He was released after three hours

⁴⁹⁹ <https://caravanmagazine.in/politics/aligarh-muslim-university-students-union-president>

⁵⁰⁰ <https://www.thehindu.com/news/cities/Delhi/police-crackdown-at-amu-students-told-to-vacate-hostels/article30315223.ece>

⁵⁰¹ <https://www.medianama.com/2020/01/223-indian-govt-internet-shutdowns-citizenship-protests/>

⁵⁰² <https://www.news18.com/news/india/tension-prevails-in-areas-around-amu-as-protests-continue-against-citizenship-act-26-people-released-2427291.html>

⁵⁰³ <https://timesofindia.indiatimes.com/india/21-held-after-clashes-between-amu-students-police-hostels-vacated/articleshow/72756012.cms>

⁵⁰⁴ <https://timesofindia.indiatimes.com/city/allahabad/anti-cao-stir-allahabad-hc-reserves-order-on-police-action-at-amu/articleshow/73075174.cms>

against a personal bond and escorted out of the state along the same highway⁵⁰⁵.

In a weak attempt to appeal for peace, the Chief Minister Yogi Adityanath said "People should not pay any attention to rumours about Citizenship (Amendment) Act being spread by some vested interests."⁵⁰⁶ In a display of complete apathy, two days after the violence at AMU, Home Minister Amit Shah reasserted that no matter how much opposition the CAA might face, it will come into action⁵⁰⁷.

After the night of December 15th, AMU administration declared vacations till 5th January 2020 which has now been indiscriminately extended until further notice⁵⁰⁸.

10.7 Conclusion

In conclusion, actions of police and paramilitary units in Aligarh show that the state used excessive and disproportionate force not only to break up the protest but also after the students had already dispersed. Despite what official statements claim, videos, media reports and student testimonies prove that the attack and custodial torture on the students of AMU (particularly, Muslims) was not just an attempt to diffuse tensions but rather than an undoubted attempt to use excessive brute force to stop any form of peaceful dissent. The indiscriminate use of state violence, the lack of government accountability, illegal custodial detention and torture, and denial of medical attention to the injured for a long time post detention was only meant to suppress the voices of an entire community while stripping them off their dignity and fundamental rights granted by our constitution.

⁵⁰⁵ <https://www.telegraphindia.com/india/kannan-gopinathan-arrested-on-way-to-aligarh-muslim-university/cid/1733042>

⁵⁰⁶ <https://www.dailypioneer.com/2019/state-editions/cm-yogi-appeals-for-peace-and-harmony-up-on-high-alert-after-students-protests.html>

⁵⁰⁷ <https://indiandefencenews.info/amit-shah-oppose-as-much-as-you-want-we-will-not-go-back-on-citizenship-bill/>

⁵⁰⁸ <https://www.hindustantimes.com/education/amu-winter-vacations-extended-for-indefinite-period/story-fbyvQYKxKMLCN6wgM27LzK.html>

AZAMGARH & MAU

11.1 Introduction

Several districts in the state of Uttar Pradesh have been witnessing protests since mid-December last year, following the passage of the Citizenship Amendment Act (CAA) in Parliament, and the police brutality on students protesting at Jamia Milia University and Aligarh Muslim University against the CAA and NRC. The districts of Azamgarh and Mau in UP have also witnessed protests, some which turned violent following clashes between the police and protestors.

Azamgarh district has a population profile of 84.06 % Hindus and 15.58 % Muslims.⁵⁰⁹ It is one of the Lok Sabha constituencies from UP and is represented in Parliament by former CM of UP Akhilesh Yadav, of the Samajwadi Party. Mau District in UP constitutes 80.23 % Hindus and 19.43 % Muslims. It is a part of the Ghosi Lok Sabha constituency and is represented in Parliament by Atul Rai of the BSP.

Since December 17, both the districts have seen multiple internet shutdowns and the imposition of Section 144, despite which protestors have been gathering, leading to confrontations with the police. The police in both these districts have identified individuals it claims are responsible for the violence, through videos and CCTV footage of the protests, and made some arrests too.

11.2 Azamgarh:

Vague and Baseless FIRs Lodged

In Azamgarh, two FIRs have been filed by the police, claiming the protestors insulted the police, engaged in stone pelting, and made communal statements. However, there is no evidence to back these claims of the police. As per a media report published in a local Hindi newspaper on 16th December 2019, student groups, Ulema Council and the local leaders of Samajwadi Party and Bahujan Samaj Party held a protest against the CAA between Shibli College and Pahadpur Tihara in Azamgarh. As per the media report, slogans were raised against the Central and the State Government and a letter addressed to the President of India was submitted to the District Magistrate outside the gate of Shibli College. When the protesters tried to enter Azamgarh city through Takia Mohalla, they were stopped by the police who had already put up barricades and the protesters thereafter dispersed. The media

⁵⁰⁹ <https://www.census2011.co.in/data/religion/district/562-azamgarh.html>

report does not talk about any violence by the protesters.⁵¹⁰

Surprisingly, FIR no. 405/2019 was registered in Azamgarh's Kotwali PS on 18.12.2019 regarding the protest which took place on 16.12.2019, under IPC Sections 143, 147, 150, 151, 153-A, 188, 341, 353, 504, against 18 named and 1000 unknown people. As per local activists all the people named in the FIR were arrested and sent to jail. The Azamgarh police have claimed in this FIR that on 16.12.2019, around 1000 people had gathered to protest the CAA and NRC, despite being informed about Sec.144 being in place. The protestors continued their protest which led to a brief scuffle between some protestors and the police. The police in the FIR have claimed that the protestors insisted on marching till the Collectorate, and on being stopped abused the police. Thereafter, the situation was brought under control with the intervention of BSP MLA Hawaldar Yadav.

It is pertinent to note that while the FIR lodged is with regard to the incidents of 16.12.2019, the FIR was only filed on 18.12.2019, with the police having provided no explanation for the delay. Further, on a brief analysis of the contents of the FIR, some of the sections under which the FIR has been lodged are questionable. The FIR does not mention any violence on behalf of the protestors. Nor does it mention that any communal slogans that were raised, yet it has used Sec 153-A. The FIR also does not mention what kind of insults were hurled at the police; therefore the charges under Sec 504 also seem baseless.

On 17th December students of AlJamiat-ul-Ashrafia, a local Sunni Muslim Madarassa (seminary), took out a protest in the Sathiyagaon urban hamlet of Azamgarh's Mubarakpur area. Police authorities claim that when they reached the spot, the protesters reportedly pelted stones, leading to damage to public property.⁵¹¹ The police resorted to using force to disperse the crowd.

The police claim the protestors targeted them with stones, raised slogans, and made inflammatory speeches, as a result of which force had to be used to break-up the protests. Media reports published the next day carried a statement of the District Magistrate Nagendra Pratap Singh, who stated that "Based on the video footage, police have identified 30 people and a case has been registered against them. Ten people have been detained at the Mubarakpur police station." The DM is

⁵¹⁰<https://www.amarujala.com/uttar-pradesh/azamgarh/protest-and-march-against-citizenship-amendment-act-in-azamgarh-azamgarh-news-vns5001585194>

⁵¹¹http://timesofindia.indiatimes.com/articleshow/72875166.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

further reported to have declared on 18th December that "in view of the rumours going on social media, internet services have been suspended in the district this afternoon for 48 hours."⁵¹²

Thereafter, on 17 December, at the Mubarakpur Thana in Azamgarh, FIR no. 282/2019 was lodged by the police, charging 17 protestors who have been arrested under Sections 143, 147, 149, 151, 153-A, 188, 120-B, 353, 336, 427, 504. As per the details of the FIR, police personnel arrived at Ashrafiya College where students were protesting CAB and NRC. Apart from the known leaders there were 100-150 unknown persons present at the protest; those gathered were informed by the police of Sec 144 being in place and asked the protestors to disperse, following which the protestors got angry and began attacking the police. At around the same time the police received information of unrest at the protests being held at Alinagar Chouraha, where they used mild force to disperse the crowd. The FIR does not carry any details regarding police personnel being injured, individual acts of violence or stone pelting; it only vaguely mentions insult to police, without any details. The charges under Section 149, 153-A and 504 mentioned in the FIR are without any evidence. Similarly the police claims of the same protestors being present at Alinagar Choraha and Ashrafiya College are devoid of any evidence, and the information about violence at Alinagar Choraha also remains questionable.

Arbitrary arrests

As per media reports, the next day, on 18th December 2019, 11 persons were arrested by the Azamgarh Police in connection with the Mubarakpur area violence. The SP Azamgarh in a statement however, claimed that "The persons arrested under relevant sections are accused of mingling with the madrasa students, who were peacefully protesting, and then trying to incite violence."⁵¹³ Local activists however stated that many men including one minor were detained on 17th December by the police who were released from police custody after 2-3 days of detention. They were threatened and no charges were put on them by the police. Due to fear of police persecution, these men have chosen to remain silent about their illegal detention. All the people arrested for violence during protests on 16th and 17th December have been released on bail.

⁵¹²<https://www.telegraphindia.com/india/protest-against-caa-internet-services-suspended-in-azamgarh-for-48-hours/cid/1728246>

⁵¹³http://timesofindia.indiatimes.com/articleshow/72875166.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

Another protest was held on 21st December 2019 in Azamgarh, for which permission was given by the police and district administration only after around 150 lawyers went with a permission letter. The protest was peaceful with no reported incidences of violence.

11.3 Mau

Following the police violence against Jamia University students in Delhi, protests broke out in UP's Mau district on December 16, 2019. The police arrested 19 people in connection with the violence which broke out in Dakshin Tola area of Mau, on the charges of mischief mongering and vandalising the Dakshin Tola Police station.⁵¹⁴ According to the police, they had to resort to shelling tear gas, firing in the air and lathi-charging the protestors, who they claimed pelted stones at them, and indulged in arson.⁵¹⁵

Following protests in Mau district on December 23 protests in Mau erupted again, after which the police arrested 21 people and released photos of 110 alleged suspects who they claim were responsible for violence that occurred during the protest.⁵¹⁶ As per the statement given by Mau Superintendent of Police Anurag Arya, three FIRs were lodged in connection with the incident, alongside the arrests.⁵¹⁷ Furthermore, in Mau, Kanpur and Firozabad districts, the police have announced a reward of Rs 25,000 each for those who provide information on three such wanted people.⁵¹⁸

In Azamgarh and Mau, cases registered by the police against protestors are mostly based on videos and CCTV footage of protests.

⁵¹⁴<https://www.indiatoday.in/india/story/anti-caa-protest-uttar-pradesh-19-held-violence-mau-1629095-2019-12-17>

⁵¹⁵<https://timesofindia.indiatimes.com/city/lucknow/anti-caa-protest-violence-erupts-in-uttar-pradeshs-mau-protesters-torch-15-vehicles/articleshow/72767529.cms>

⁵¹⁶<https://www.hindustantimes.com/cities/anti-caa-stir-mau-protesters-look-to-dodge-police/story-FYcPLhGCC1RoLOdOZjNHSl.html>

⁵¹⁷<https://scroll.in/latest/947901/citizenship-act-protests-up-police-release-reward-posters-videos-of-suspects-involved-in-violence>

⁵¹⁸<https://scroll.in/article/947980/in-uttar-pradesh-reports-of-violence-and-police-brutality-from-15-districts>

11.4 Suspension of Internet Services

Following the outbreak of protests against the CAA and police violence against the students of Jamia University, mobile internet services were snapped in Mau and Azamgarh on December 17⁵¹⁹ and once again on December 20⁵²⁰.

⁵¹⁹<https://www.telegraphindia.com/india/protest-against-caa-internet-services-suspended-in-azamgarh-for-48-hours/cid/1728246>

⁵²⁰<https://scroll.in/latest/947386/citizenship-act-protests-internet-services-restored-in-assam-but-suspended-in-up-karnataka>

BAHRAICH

12.1 Introduction

Bahraich is a city and a municipality board in Bahraich district in Indian state of Uttar Pradesh. It was one of the most severely affected districts in the state, where more than 2000 individual detentions were made by the UP police.⁵²¹ Protesters were booked under various provisions of the Indian Penal Code, namely, Sections 147 (Rioting), 149 (Unlawful assembly), 188 (Disobedience to order duly promulgated by public servant), 504 (intentional insult with intent to provoke breach of peace), 506 (criminal intimidation), 332 (causing hurt to deter public servant from his duty), 353 (Assault or criminal force to deter public servant from discharge of his duty), 341 (Wrongful restraint) and 307 (Attempt to murder) and Section 7 of the Criminal Law (Amendment) Act, 1932. Charges of violence in protests have been filed against people who weren't present in the country at the time of the protest. This came to light after 6 FIRs were lodged against 80 named and 2200 unidentified people.⁵²²

"Muslims in this country are being made to live in fear, even in our homes we are not safe from violence now," said Hamid Hasan a 73 year old resident, after the police authorities vandalized his home in UP and beat up his family members.⁵²³

12.2 Disproportionate use of force

There were reports of the police trying to disperse the crowds by use of lathi charge. In addition, Bahraich was also one of the 21 districts in the state of Uttar Pradesh where an internet ban was imposed⁵²⁴. Reports regarding the treatment of the detained/ arrested persons are not available. FIR's filed by the police claim that the crowds had gathered in huge numbers and were attacking the police by pelting stones and attacking their vehicles, which made them retaliate. In the FIR filed at Dargasharif (491/2019) the police has stated that protestors of a 'certain community' were chanting slogans against the government and were getting violent with the police. This led to the arrest of 11 people on the spot. It is pertinent to note here that the chants of 'Modi Yogi Murdabad' cannot amount to the imposition of section 504 of the Indian Penal Code (intentional insult)

⁵²¹ <https://thewire.in/rights/uttar-pradesh-caa-protests-report>

⁵²² <https://www.newsclick.in/CAA-NRC-In-Bahraich-Police-Names-Some-Who-Were-Not-in-Country>

⁵²³ <https://bylinetimes.com/2020/01/09/can-protests-save-indias-muslims-or-is-it-too-little-too-late/>

⁵²⁴ <https://www.newsstate.com/states/uttar-pradesh/internet-shutdown-in-bahraich-after-protest-against-caa-121189.html>

12.3 Arrests and criminalisation

6 FIR's were filed across two stations, namely Kotwali Nagar and Dargasharif police stations just a day apart for pretty much the same reasons. Three of these were filed at the Kotwali Nagar, where a total of 14 people were arrested. In these FIRs, 56 of people were named and some 600-655 were unnamed. The other three FIRs were filed at Dargasharif, where 23 people were arrested and some 1500 unnamed people were detained. The FIRs are unclear as to why certain sections had been imposed, or what led to the violence; stating that the protestors were pelting stones on the police and were causing damage to their property. They are also extremely vague regarding the incidents that led to the supposed violence that the police claims had erupted as a part of the protests when they tried to tell the crowd that Section 144 (unlawful assembly) had been imposed. The FIR filed at Kotwali Nagar claims that people had gathered in large numbers under the guise of offering Friday prayers, even when the permission had been denied. The documents are silent as far as the seizure of property is concerned, even though in other districts of the state, properties of the persons getting arrested has been seized. No deaths as of now have been recorded from Bahraich. There have also not been any case of minors getting arrested.

12.4 Conclusion

There is very little information available with regards to the district of Bahraich alone, however it also reflects a similar image when we put together instances from other parts of the state. The region has also experienced internet bans and illegal detentions of protestors with the police claiming that no force was used to disperse the crowds.

BULANDSHAHR

13.1 Introduction

Bulandshahr has a total population of 34,99,171 out of which 63.63% are Hindus and Muslims are 35.53%. The Member of Parliament (MP) from this constituency is Bhola Singh, member of BJP. Bulandshahr constituency is reserved for Scheduled Caste candidate. The Member of Legislative Assembly (MLA) is Virender Singh Virohi, also from the BJP.

In the district the protest started a little later than the rest of Uttar Pradesh so the police seemed more vigilant and took some preparatory and preventive steps, to ensure that protests against the CAA did not erupt. The twitter handle of the Bulandshahr police shared pictures of Peace Committee Meetings held in the city by police personnel on 16th December⁵²⁵, with leader from both Hindu and Muslim community. Pictures of Peace Marches held by the District Collector along with Senior Police Officers were shared on the 19th and 20th December on the same twitter handle, appealing to people for peace.

13.2 Internet Shutdown and imposition of Section 144 of the CrPC

Internet was shut in Bulandshahr on the 26th of December and remained suspended till the 28th of December⁵²⁶. Prohibitory orders against assembly of more than 4 persons under Section 144 of CrPC were issued by the Police; however, no official orders were to be seen issued in this regard by the Executive Magistrate. The twitter handle of Bulandshahr police shared a news story published in a Hindi Daily that the District Police is keeping an eye on 250 WhatsApp groups⁵²⁷ and also social networking sites to identify people who are promoting rumours spreading wrong information about the NRC and CAA. Some strict guidelines were also issued to the group admins of these groups. People in the district were asked to maintain peace and not share anything provocative on their social media accounts. A poster highlighting the "Truth and the Myths about CAA" were also shared on the 19th through the twitter handle.

⁵²⁵ [https://twitter.com/search?q=\(from:bulandshahrpol\)%20until:2019-12-25%20since:2019-12-17&src=typed_query%C3%82](https://twitter.com/search?q=(from:bulandshahrpol)%20until:2019-12-25%20since:2019-12-17&src=typed_query%C3%82)

⁵²⁶ <https://www.indiatoday.in/india/story/anti-caa-protests-internet-services-suspended-in-bulandshahr-agra-alert-in-saharanpur-1631716-2019-12-26>

⁵²⁷ [https://twitter.com/search?q=\(from:bulandshahrpol\)%20until:2019-12-25%20since:2019-12-17&src=typed_query%C3%82](https://twitter.com/search?q=(from:bulandshahrpol)%20until:2019-12-25%20since:2019-12-17&src=typed_query%C3%82)

13.3 Damage to Public Property

It was reported that the protests against the CAA turned violent on the 20th of December with protesters pelting stones and vehicles being set on fire by them. Protestors were lathi charged⁵²⁸ after the police failed to control the protestors without the use of force, as reported.

13.4 Arrests and FIRs

Three FIRs were registered and 12 people were arrested⁵²⁹ for the violence, a much greater number (number not reported) of unknown persons were booked for the violence in CAA protests, which poses a constant threat to people who could complaint against police atrocities.

Most of the FIRs registered are under the charges of rioting (147), rioting with deadly weapon (148), wrongful restraint (341), disobeying a public servant (188), deterring public servant (332), assault on public servant (353), mischief causing damage (427).

FIR No. 1238 filed after the protest on 20th December states Kamra, Aslam, and Hamid as the three accused. The incident report states that a mob of around 200-250 people were walking towards kala chowraha, and when stopped as it was violating section 144 imposed in the area, the crowd got agitated. They sat there and began a road block. The FIR states that the police were told by the protestors that they only came to the protest at the behest of Samajwadi party leader Hamid Ali and the other two accused were abettors. While the incident report states just this limited information, the charges are of rioting (147), disobeying a public servant (188), deterring public servant (332), assaulting public servant (353).

FIR No. 1237 does not name any particular person in the list of accused. It states that a mob of around 700-800 people gathered and started shouting anti-government slogans. The mob started lathi charge and stone pelting on the police cars. It states that the mob also burnt a police car. The complainant states that he would be able to identify some of the rioters if he saw their face.

FIR No. 1239 lists 19 persons as accused. The complaint is made by the SHO, Aruna Roy, and the charges are the same as in previous FIRs. The SHO writes that she had

⁵²⁸ <http://www.catchnews.com/national-news/protests-against-caa-vehicle-torched-in-bulandshahr-violence-erupted-in-many-districts-of-up-181040.html>

⁵²⁹

information that a large number of muslims were moving from Kala Aam Chowraha and gathering at one place. There were around 700-800 people present and they were chanting slogans against the Citizenship Amendment Act (CAA). The SHO stated that she appealed to the crowd to maintain peace multiple time but all her attempts were in vain. The crowd got agitated and started pelting stones at the police officers and their vehicles. According to the report, some protestors even started firing from a distance less than 150 metres. It was only after the crowd was uncontrollable that the police first did lathi charge and then used tear gas, pellet guns, and chili bomb. The police also fired two shots in the air to warn the crowd. The FIR states that all of the 19 persons listed were involved in provoking people to join the mob.

13.5 Civil Society Response

The district administration had assessed the damage to public property to be worth Rs. 6, 27,507 and had communicated to the Muslim community of their intention to send notices to people for recovery of this amount, which could have resulted in years of harassment. However, to avoid Harassment a section of Muslims from the civil society here handed over a demand draft of Rs 6.27 lakh to the Bulandshahr district administration to compensate for damage to public property during protests over the citizenship law⁵³⁰. The people who handed over the demand draft also requested the police and the administration to withdraw cases filed against the Community members⁵³¹. This act of the community members highlights the deep sense of fear, insecurity and vulnerability of the community about the thought of visiting the court innumerable times to prove that they had not actually damaged the property.

⁵³⁰ https://timesofindia.indiatimes.com/city/meerut/no-politics-religion-over-law-and-order-says-bulandshahr-dm-after-muslims-pay-for-damages/articleshow/73011946.cms?utm_source=contentofinterest&utm_medium=--text&utm_campaign=cppst

⁵³¹ <https://economictimes.indiatimes.com/news/politics-and-nation/bulandshahr-locals-hand-over-rs-6-27-lakh-dd-to-admin-for-caa-protest-damages/articleshow/73009728.cms>

GORAKHPUR

14.1 Introduction

Situated on the banks of the River Rapti, Gorakhpur is located 273 KM north east of the State capital Lucknow. The district has a population of about 4,440,895, out of whom Hindus comprise 90.28% and Muslims comprise 9.08%⁵³². The present Chief Minister of the state also hails from Gorakhpur district. The city witnessed mass detentions and arrests to clamp down protests against Citizenship Amendment Act 2019 (CAA) and National Register of Citizens (NRC). The internet was also suspended as a response to protests, with the administration stating that to enjoy internet services the people would have not stop protests.⁵³³

14.2 Use of disproportionate Force

As per media reports and legal documents, two primary incidents emerge:

- i. On 19th December 2019, there were protests by Samajwadi Party members against the CAA/NRC⁵³⁴. The protests saw massive detentions by the police claiming the gathering was illegal in light of Section 144 being in place. The detainees included former Minister Rampal Nishad and former MLA Mohsin Khan, among others. There have been no reports of violence but the prolonged use of Section 144 to stifle any dissent in itself creates a violation of rights.
- ii. On 20th December 2019, protests after Friday prayers became violent. Reports claim that both the protestors and the police pelted stones at each other⁵³⁵. The FIR (272/2019 at Kotwali PS) states that the police employed lathi charge and tear gas canisters to maintain law and order. A video by ANI of this incident reveals both police and protestors pelting stones at one another and one can hear police saying, "चलो चलो ठोक्को इन सालों को"⁵³⁶.

⁵³² <https://www.census2011.co.in/data/religion/district/559-gorakhpur.html>

⁵³³ <https://www.amarujala.com/uttar-pradesh/gorakhpur/nrc-gorakhpur-police-gorakhpur-city-news-gk-p3339519159?pageld=1>

⁵³⁴ <https://www.patrika.com/gorakhpur-news/samajwadi-party-big-protest-on-caa-and-nrc-gorakhpur-5527625/>, <https://www.deccanherald.com/national/anti-caa-protest-sp-workers-detained-in-gorakhpur-786962.html> and <https://www.livehindustan.com/uttar-pradesh/gorakhpur/story-samajwadi-party-protest-against-caa-in-deoria-and-gorakhpur-2910177.html>. Also see <https://scroll.in/latest/947274/citizenship-act-prohibitory-orders-in-bengaluru-up-as-protestors-gear-up-to-hit-the-streets>

⁵³⁵ <https://scroll.in/latest/947386/citizenship-act-protests-internet-services-restored-in-assam-but-suspended-in-up-karnataka> (link of ANI tweet in the article).

⁵³⁶

14.3 Arrests and criminalisation

As stated above reports claim that about 300 odd people were detained in protests on 19th December 2019 organised by the Samajwadi Party. The detainees included former Ministers and MLAs of the party. There are no reports of anything beyond detention.

The incident on 20th December 2019, was violent with reports claiming that both the protestors and the police indulged in violence. There are no eye-witness accounts of the incident, however as per certain reports even the Police has stated that violence was instigated by outsiders⁵³⁷.

The Gorakhpur FIR may be divided into 3 parts:

- i. Public Relations bit: The FIR states that several steps have been taken by the District Administration to clear any doubts regarding CAA and NRC and prevent the circulation of false information. The FIR also mentions a hotline number 0551-233540 for clearing doubts. It also stated that s. 144 has been in place in Gorakhpur since 5th November 2019 and then makes a specific mention that on 18th December 2019 the District Magistrate circulated amongst the public that 144 was in place and no public gatherings could be held.
- ii. The incident: Reports came in that shops were being closed near Nakhas Chowki. The nearby Masjid had a gathering for Friday prayers. Police asked devotees to go home after the prayers and kept repeating the imposition of 144. However, soon a large assembly of thousands gathered and started getting agitated and did not heed to the calls of dispersal. The assembly was armed with bricks, stones and sticks and soon started pelting stones. The Police in retaliation started lathi charge and deployed 10 tear gas canisters. No protestor was arrested on the spot.
- iii. Arrests: The protests had been vide graphed and based on identification by local police and secret informants arrests were made on the next day i.e. 21.12.2019. the FIR states that houses were searched and when accused were not found in the house, information was received that they were at D.B. Inter College and were arrested from there.

It is pertinent to note that the incident in question is of 20th December 2019 afternoon after 11:30 AM as per the FIR. Yet the FIR is registered a day later on 21st December

⁵³⁷ <https://www.amarujala.com/photo-gallery/uttar-pradesh/gorakhpur/gorakhpur-violence-during-caa-and-nrc-protest-in-india?pageld=3>

2019 at 8:33 PM. No reason for the delay has been provided. The three arrested are out on bail Mohd. Shadab, Hamza and Ayub Khan

14.4 Allegation of false implication⁵³⁸

As per newspaper reports, most of the people arrested were people who did not even participate in the protests but who just happened to be in the location. Several arrests have also been made under s. 107, 116 of the CrPC these include.

- i. Hawkers Rashid Ali and Mohd Yasin sell clothes on the streets. The men state they reached a shop in Nakhas chowk and suddenly the police men started coming towards them. The shopkeeper on getting scared closed the shutter with the two inside. The police barged in and beat up the two and the shopkeeper and arrested them. The men claim all their money and IDs were taken by the police.
- ii. Afghan, another person who detained, had alibi evidence in the form of a wedding he had attended. However, he was still picked up and beaten by the police.
- iii. Noorul Haq and Irshad had gone to Nakhas for some work not knowing that there had been violent clashes. On reaching they saw the isolated area and decided to head back when the police saw them and forcibly halted their bike by putting a stick in the spoke and detained them.
- iv. 25 other people have been detained under the preventive detention sections. However, they are all out.

All detainees allege torture but are afraid to speak to media. The bail was granted on 27th December 2019.

14.5 Other updates from the region

- i. Public posters of alleged perpetrators: The Gorakhpur police has been issuing photos of people said to be involved in the protests and publishing them on twitter as well as local newspapers.⁵³⁹ These posters promise a reward to anyone having information as well as assuring that the identity of the informant will be kept a secret.
- ii. Notices for damages: The District Administration has also sent notices to upto 33 people for the damage caused in the protests.⁵⁴⁰

⁵³⁸ <https://thewire.in/rights/up-police-gorakhpur-anti-caa-protests-muslims>

⁵³⁹ <https://twitter.com/gorakhpurpolice/status/1208111591331250181?s=20>, <https://twitter.com/gorakhpurpolice/status/1208418895649898496?s=20> and <https://twitter.com/Uppolice/status/1208974783557189633?s=20>

⁵⁴⁰ <https://twitter.com/Uppolice/status/1208974783557189633?s=20>, <https://scroll.in/latest/947966/citizen->

- iii. Friday prayers suspended on 27th December 2019: According, to reports in light of violent clashes after Friday prayers on 27th December 2019, the police did not allow devotees to pray at the Mosque in Police Lines. The Imam who leads Friday prayers in the mosque, Hafiz Azeem Yaralwi, said, "Friday prayer is held at 1:15 pm at this mosque. Around 300 people gather here to offer the prayer on Fridays. This Friday, though, the police stopped me and other men at the Police Line gate and told us that everything was closed. No prayer will be offered."⁵⁴¹ As per reports, this was the first time that prayers in this historic mosque were not offered. Police has not given any clarification on the same.

ship-act-after-rampur-seven-up-districts-start-recovering-damages-from-suspected-protestors, <https://scroll.in/article/947980/in-uttar-pradesh-reports-of-violence-and-police-brutality-from-15-districts>

⁵⁴¹ <https://thewire.in/rights/up-police-gorakhpur-anti-caa-protests-muslims>

LAKHIMPUR KHERI

15.1 Introduction:

Lakhimpur Kheri is the largest district in Uttar Pradesh, on the border with Nepal. Its administrative capital is the city of Lakhimpur. The national government designated Lakhimpur Kheri as a Minority Concentrated District on the basis of 2001 census data, which identifies it as requiring urgent aid to improve living standards and amenities.⁵⁴² Total population of Lakhimpur district is 1,042,137 as per census 2011. Hindus constitute 76.55% of Lakhimpur's population. Muslims are a minority in Lakhimpur state forming 20.08% of the total population.⁵⁴³

15.2 Arrest and detentions:

Following the call for a nationwide protest against CAA and NRC on December 19, 2019, around 150 persons assembled near the court premises in Lakhimpur Kheri, a demonstration was staged, meeting held and memo submitted.⁵⁴⁴ According to local news reports, more than 100 workers of Samajwadi Party were detained from Vilobi Hall by the police in Lakhimpur Kheri stating Section 144 Orders.⁵⁴⁵ They were released after five hours from the Police Lines.⁵⁴⁶

15.3 Section 144 Order

The Official Twitter Handle of Lakhimpur Kheri police posted a tweet on the evening of December 20, 2019 stating that Section 144 is in application in the district and permission has been denied for any form of protest or rally.⁵⁴⁷



⁵⁴² <https://kheri.nic.in/about-district/>

⁵⁴³ <https://www.census2011.co.in/census/district/524-kheri.html>

⁵⁴⁴ https://peoplesdemocracy.in/2020/0103_pd/uttar-pradesh-left-led-protests-against-caa-and-nrc

⁵⁴⁵ <https://www.livehindustan.com/uttar-pradesh/lakhimpur-kheri/story-lakhimpur-kheri-me-sarkar-ke-khilaf-pra-darshan-kar-rahe-100-se-jayada-sapai-girafar-2910114.html>

⁵⁴⁶ <https://www.jagran.com/uttar-pradesh/lakhimpur-kheri-protest-of-sapa-19859957.html>

⁵⁴⁷ <https://twitter.com/kheripolice/status/1208030448858779648>

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