

# People's Tribunal on State Action in UP Citizenship, Democracy and Protest

16 January 2020

*Jury Observations*



Partner organisations

AIDWA, Anhad, Constitutional Conduct Group, CJAR, Delhi Science Forum, Karwan-E-Mohabbat, MKSS, NAPM, NFIW, Not in My Name Campaign, and SNS

## **Partner Organisations**

All India Democratic Women's Association (AIDWA)

Anhad

Constitutional Conduct Group (CCG)

Campaign for Judicial Accountability and Reform (CJAR)

Delhi Science Forum

Karwan-E-Mohabbat

Mazdoor Kisan Shakti Sangathan (MKSS)

National Alliance of People's Movements (NAPM)

National Federation of Indian Women (NFIW)

Not in My Name Campaign,

Satark Nagrik Sangathan (SNS)

## Introduction

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

What unfolded was not in the nature of customary state action to control public protests if they turn violent. The statements of the Chief Minister were highly intemperate and entirely inappropriate for an elected leader of the most populous state in India. There were many deeply troubling reports of the brutality and intensity of police action which followed.

As of 27<sup>th</sup> December 2019, the spokesperson of the Home Ministry reported that 19 people have died in UP in protest related violence since 19<sup>th</sup> December 2019, 1,113 people have been arrested for their alleged involvement in protests and 5,558 preventive arrests have been made<sup>2</sup>. The numbers since have grown.

There were contested reports that in some places, protesters turned violent, although they claim that the rage of the rioters was spurred by police attitude and action. But the violence by the police against the rioters was entirely disproportionate, without following the prescribed protocol of warning, and gradual escalation of violence. Instead videos show the police shooting above the waist, to kill, often in hot pursuit through narrow lanes where there are no protests or crowds. Most of those killed were very poor working-class men, whose families insist they had nothing to do even with peaceful protests.

Through all of this, Chief Minister Adityanath made a call for revenge, followed by even more brutal police raids and assaults. Muslim people have received notices to pay high damages for alleged destruction of public property (including even police batons broken while beating

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

<sup>2</sup> IndiaToday (27<sup>th</sup> December 2019) "Uttar Pradesh CAA protests in numbers: 19 dead, over 1,100 arrested for violence" at <https://www.indiatoday.in/india/story/caa-protests-uttar-pradesh-numbers-1631855-2019-12-27>

people), without any judicial finding as required by law to prove their responsibility for destroying the properties.

And as news began filtering in of the police rampaging in UP, the Chief Minister issued a triumphalist message of self-congratulation from his official Twitter account: “Every rioter is stunned. Every troublemaker is shocked. Everyone has fallen silent, awed by the strict Yogi government”<sup>3</sup>.

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

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

These many deeply troubling reports of the brutality and intensity of police action led to the formation of this People’s Tribunal to investigate the truth of the matter. A number of civil society and human rights organizations came together for this. These were the All India Democratic Women's Association (AIDWA), Anhad, the Constitutional Conduct Group (CCG), the Campaign for Judicial Accountability and Reform (CJAR), Delhi Science Forum, Karwan-E-Mohabbat, Mazdoor Kisan Shakti Sangathan (MKSS), National Alliance of People's Movements (NAPM), National Federation of Indian Women (NFIW), Not in My Name Campaign and Satark Nagrik Sangathan (SNS)

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

The testimonies presented during the Tribunal were by victims of police brutality, various activists both present and who have since met victims, and experts on the various issues that the tribunal exposed. During the proceedings, testimonies were presented the intensity of police violence perpetrated on innocent citizens, including against minors, the role of the Chief Minister and senior leadership in inciting this violence, the role of medial officers who were complicit in perpetrating violence and its impact on people.

The testimonies suggested that Uttar Pradesh is in the throes of what is fast threatening to become a gravely culpable crime against humanity. It appears that the Chief Minister Adityanath has declared war on the Muslim citizens of his state, inciting and encouraging his police forces to unleash upon them an unlawful and brutal reign of terror. It is not as though police bias and violence against minorities is unusual in communal violence, however what we are witnessing in Mr Adityanath's UP is the police force itself becoming the riotous lynch mob. What is unfolding in UP is on a scale and with a methodological deliberateness not witnessed so far outside Kashmir and the North-East, touching a highly dangerous new low.

The members of the Jury of this People's Tribunal include three retired judges of the Supreme and High Courts, with impeccable reputations for being their integrity, fairness and commitment to social and economic justice, leading academics, social workers, retired civil servants of high repute, and a leading psychiatrist. We are grateful for their observations, in which they decry that 'the entire state machinery, led from the top, acted with grave prejudice and perpetrated violence targeting one particular community, the state's Muslim population, and the social activists leading the movement'. This report may not in itself have legal force, but it has high moral value, calling out the grave injustice and debasement of public office in Uttar Pradesh, and compassion and empathy with the suffering people targeted by the state violence.

Harsh Mander and Navsharan Singh<sup>4</sup>

17 January 2020

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<sup>4</sup> We are grateful for the contributions of several people in creating this report, including Mihika Chanchani, Shirin Choudhary (for the cover design), Varna Balakrishnan, and the entire Karwan-e-Mohabbat team.

## **Members of the Jury**

Justice Sudarshan Reddy, Justice V Gopala Gowda, Justice AP Shah, Dr Shantha Sinha, Prof Irfan Habib, Mr Deb Mukherji, Dr Nc Saxena, Mr Chaman Lal, Dr Anirudh Kala.

### **Justice B Sudarshan Reddy**

Justice Reddy is a former judge of the Supreme Court of India. He was appointed as the first Lokayukta (anti-corruption ombudsman) of Goa, a post he later resigned. In his four and a half years at the Supreme Court, Justice Reddy rendered several landmark judgments in various issues relating to criminal jurisprudence, Constitution, taxation, human rights and service law. A few days prior to retirement, Justice Reddy delivered a judgment criticizing the Union government for its slackness in probing black money cases and ordered the constitution of a Special Investigation Team to take all steps necessary to bring back unaccounted monies unlawfully kept in bank accounts abroad. In another landmark judgement defending human rights of India's tribal population, Justice Reddy declared the appointment of tribal youth as Special Police Officers (Salwa Judum<sup>5</sup>) as illegal and unconstitutional.

### **Justice V Gopala Gowda**

Justice Gowda is a retired judge of the Supreme Court of India and a former Chief Justice of Orissa High Court. Early in his career, Justice Gowda independently practiced in the Bangalore High Court, various Labour courts, Industrial Tribunals which focussed on cases relating to labour practices. He then went on to head the Supreme Court bench in 2016 that passed the Singur judgment<sup>6</sup>, ordering the West Bengal government to return nearly 1,000 acres of mainly agricultural land acquired for the Tata Nano plant to its original owners.

### **Justice A P Shah**

Justice Ajit Prakash Shah is the former Chairman of the 20th Law Commission of India. He was the Chief Justice of the Delhi High Court from May 2008 till his retirement in February 2010 before serving in the Bombay High Court and as a Chief Justice of the Madras High Court. Since June 2011, Justice Shah has been the Chairperson of Broadcasting Content

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<sup>5</sup> The Hindu (5<sup>th</sup> July 2011) "Salwa Judum illegal, says Supreme Court" at

<https://www.thehindu.com/news/national/Salwa-Judum-is-illegal-says-Supreme-Court/article13639702.ece>

<sup>6</sup> LiveMint (1<sup>st</sup> September 2016) "Supreme Court declares land acquisition for Tata plant illegal" at

<https://www.livemint.com/Politics/Yr15OkSielfVHttng4AajM/CPM-govts-acquisition-of-land-for-Tata-Motors-in-Singur-ill.html>

Complaints Council (BCCC), the self-regulatory body for non-news general entertainment channels (GECs) set up by the Indian Broadcasting Foundation (IBF). One of the most eminent judgments of Justice Shah is the Decriminalization of Homosexuality in 2018. His other verdicts have also had an equal impact in our society like that of holding that the office of the Chief Justice of India is a “public authority” and therefore comes within the ambit of the Right to Information Act. During his tenure as the Chief Justice of the Madras High Court, he ushered in meaningful reforms in three institutions; prisons, juvenile homes and government observation homes for women. He has been extremely vocal about the need for a transparent, accountable and independent judiciary in many of his talks, lectures and interviews.

### **Dr Shantha Sinha**

Dr. Shantha Sinha is an anti-child labour activist of international reputation. She is the founder of Mamidipudi Venkatarangaiya Foundation, popularly known as MV Foundation, and is a Professor in the Department of Political science in Hyderabad Central University. She headed the National Commission for Protection of Child Rights for two consecutive terms (3 years each) which was set up in 2007. Professor Sinha was its first chairperson. She was awarded the civilian honour of Padma Shri by the Government of India in 1998.

### **Professor Irfan Habib**

Prof Irfan Habib is a renowned historian of ancient and medieval India, he identifies as Marxist and uses Marxist historiography in his work. Prof Habib has stayed committed to secularism and is well known for his strong stance against the Hindu nationalism. Prof. Habib is himself an alumnus of Aligarh Muslim University (AMU) and after completing his education from Oxford he returned to AMU as a faculty member. He currently appointed as Professor Emeritus at the Department of History of the AMU. He was the Chairperson of the Indian Council of Historical Research during 1986-90 and held several senior positions at the Indian History Congress. In 1998 he led the Indian History Congress to pass a resolution against the “saffronisation” of history and criticized the then BJP government for inventing facts and dates to suit their interpretation of history.

### **Mr. Deb Mukherjee**

Mr. Deb Mukherjee was a member of the Indian Foreign Service (1964-2001) and retired as India’s Ambassador to Nepal. He has served as High Commissioner to Bangladesh (1995-2000), Nigeria (1986-1989) and as Consul General in San Francisco (1983-1986). He has also

served in Switzerland, Pakistan, Germany and Bangladesh. After retiring from the foreign service Ambassador Mukherjee became the convener of the Indo-Bangladesh Track II Dialogue (2004-2007) and has anchored over a hundred TV discussions on Indo-Bangladesh relations. He is an occasional contributor to newspapers and journals. Shri Mukherjee has published three books: *The Magic of Nepal* (2005), *Visions of the Infinite* (2009) and *A Quest Beyond the Himalaya* (2013).

### **Dr NC Saxena**

Dr Saxena is a former Indian Administrative Services (IAS) officer, who has also been a member of the National Advisory Council. He is a Distinguished Fellow at the Skoch Development Foundation, New Delhi, and A Rockefeller Foundation Fellow. He obtained his Ph.D. From University of Oxford, U.K. He specializes in rural development, natural resource management, rural livelihoods, poverty alleviation, watershed and drinking water, governance, decentralization and people's participation. He retired from the IAS as Secretary, Planning Commission of the Government of India. He was earlier, Secretary, Lal Bahadur Shastri National Academy of Administration, Musoorie. He is engaged as Consultant with UNICEF, World Bank, UNDP, European Union, GTZ, ADB, and DFID working on projects ranging from village planning, evaluation of urban poverty programs, reforms in public distribution system, water and sanitation, and land management among other issues.

### **Mr Chaman Lal**

Mr Chaman Lal, Indian Police Service (IPS) (Retd.), is a former Director General of Police (DGP) of Nagaland, and Assistant DGP of the Border Security Force (BSF). He has served in Punjab in the 1988-1990 period of high militancy. He has also served as Special Rapporteur at the National Human Rights Commission (NHRC) interrogating the issue of bonded labour in jails. He was honoured with the 6th Nani Palkhivala Civil Liberties Award in Mumbai. He had spent many years in Nagaland in the north-east of India and was recognized as a “friend of the North-East”. After the Emergency of 1975-77, he was Officer on Special Duty (OSD) to the Shah Commission which inquired into the excesses during the Emergency. Post retirement, he has been working with the National Human Rights Commission for a nominal salary of Re 1 per year and has been working to help people in mental health institutions.



## **Dr Anirudh Kala**

Anirudh Kala is a psychiatrist based in Ludhiana, Punjab. He had been an active participant in the Indian Psychiatric Society (IPS) for forty years and had raised awareness about mental health legislation. He is clinical director of The Mind Plus, an acute psychiatric care clinic in Ludhiana. Dr Kala is founding president of the Indian Association of Private Psychiatry and founding president of Indo-Pak Punjab Psychiatric Society, which is a cross border initiative linking mental health professionals of Indian and Pakistani Punjab provinces. Partly based on interactions with Pakistani colleagues and visits to mental health institutes he wrote an anthology of short stories, *The Unsafe Asylum: Stories of Partition & Madness*. Dr Kala was invited in 2011 by the Ministry of Health and Family Welfare, Government of India, to be member of an expert group tasked with formulating the first ever Mental Health Policy for the country. On 1 February 2014, he resigned from the membership of the Indian Psychiatric Society in protest against homophobic statements made by the president of the society its annual conference.

## **Jury Observations**

The jury of this People's Tribunal is deeply worried and dismayed by the testimonies placed before it. It is convinced that the entire state machinery, led from the top, acted with grave prejudice and perpetrated violence targeting one particular community, the state's Muslim population, and the social activists leading the movement.

The jury heard the testimonies of field workers, lawyers, human rights defenders, civil society activists, doctors, eyewitness accounts, and also looked at the videos of victims.

The following were the main findings of the Tribunal.

### **Police Violence:**

The Jury found and concluded that the UP police has been guilty of inflicting enormous violence targeting the Muslim community, peaceful protestors, and not even sparing those were not involved in the protest. The police brutality included:

- apart from violence inflicted on protestors,
- the arrest of and filing of false cases against innocent people,
- the destruction of vehicles and property by entering people's homes, as well as CCTV cameras
- the threats and intimidation of people picked up, against speaking the truth about what happened to any authority or to the media,
- the communalised abuses against victims,
- custodial violence even on minors and
- firing and killing people without following the law,
- preventing medical personnel from treating the injured, and threatening the injured against accessing medical care.

The complaints of the victims about police brutality, violence and destruction of property were either not filed or filed incorrectly. On the other hand, thousands of FIRS were filed against unnamed persons on accusation that protestors had become violent with the intention of continued harassment and intimidation.

## **Role Political Executive and State Administration**

The jury found that political and administrative leadership has failed to control the widespread atrocities caused by the police. In several instances, the jury have observed that senior leadership such as the Chief Minister directed the Police to use the strongest force against protesting citizens by using words like “badla” or revenge.

The Jury concludes that the state administration, through arbitrary and extensive imposition of Section 144 CrPC<sup>7</sup> in several districts, shutting down of internet services, violated citizen’s rights and facilitated police violence.

## **Role of Medical Officers:**

Several people testified that hospital authorities and medical officers denied emergency medical care to even seriously injured victims. It was suggested that this was done allegedly under pressure from the police and state administration. This has clearly been in violation of the Article 21 of the Constitution and the various decisions of the Supreme Court and international treaties to which India is signatory, finally the Hippocratic oath of medical professionals. Such denial does not take place even during war!

## **Impact on Survivors:**

The Jury takes note of the looming anxiety within the families of those affected by this violence. These instances of violence, abuse, and destruction of homes by the police have resulted in absolute fear and trauma in the community. It is important to understand that when the state is the perpetrator itself, there is no sense of security for those affected. It appears that there is no health care or legal help accessible to victims in these difficult and testing times leaving them at a state of acute depression and or anxiety. Chances are that there will be large scale Post Traumatic Stress Disorder in this population unless addressed.

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<sup>7</sup> “The administration is empowered under Section 144 to impose restrictions on the personal liberties of individuals. This means the fundamental right of peaceful assembly provided under Article 19 of the Constitution is curtailed by the administration if the executive magistrate finds the situation at any specified place presenting a potential to disturbance in law and order”  
IndiaToday (19<sup>th</sup> December 2019) “What is Section 144 of the CrPC?” at  
<https://www.indiatoday.in/india/story/what-is-section-144-of-the-crpc-1629613-2019-12-19>

## **Attacks on Human Rights Defenders**

The Jury found several activists, journalists, human rights defenders and lawyers who stood up to injustice were being persecuted, intimidated, harassed and tagged as ‘urban naxals<sup>8</sup>’, anti - nationals. The Jury condemns the arbitrary arrests of the human rights activists and defenders.

## **Issues around Juveniles and Minors**

The Jury is of the opinion that the UP Police and State Administration have violated every principle enshrined in the Juvenile Justice Act, 2015. Every single agency and mechanism that could have come to the rescue of children failed to do its duty. It also reveals that even the best of laws cannot fulfil its purpose if the executive machinery does not wish to see it being implemented well and judiciously.

## **Recovery of costs by the state**

The jury found that the police has been arbitrarily issuing notices to people for recovery of costs of damage to public property allegedly caused by them without specifying any details. Obviously, this cannot be done without establishing the culpability of the person in a court of law. These are intimidatory and illegal tactics being employed by the police. In fact, there is considerable evidence to show that the police itself indulged in destruction of private property of innocent people.

## **Concluding remark:**

The state of affairs in UP shows a complete collapse of rule of law. In fact, the very state administration that is charged with protecting rule of law is perpetrating violence upon its own people.

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<sup>8</sup> Economic Times (30<sup>th</sup> August 2018) “Urban Naxals: How the term came about” at <https://economictimes.indiatimes.com/news/defence/urban-naxals-its-not-such-a-new-thing/articleshow/65598483.cms>

## List of Videos

These videos are created and produced by the Karwan-e-Mohabbat team. The testimonies have been taken during the various fact-finding missions the team has conducted.



Hate Speeches by BJP Leaders Against Anti-CAA Protests

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



UP Police shot to kill Muslim men in crackdown against Anti-CAA protests

[https://www.youtube.com/watch?v=ssy\\_TvdnjPM&feature=youtu.be](https://www.youtube.com/watch?v=ssy_TvdnjPM&feature=youtu.be)



Vandalism of Muslim Homes by UP Police in Crackdown During Anti-CAA protests

<https://www.youtube.com/watch?v=4qLfMyeY7XU&feature=youtu.be>



Police Brutality Against Minors by UP Police During Anti-CAA Protests

<https://www.youtube.com/watch?v=qR4sEnLCr5s&feature=youtu.be>



Shocking Cases of Medical Negligence in UP During Anti-CAA protests

<https://www.youtube.com/watch?v=i467ojktSRQ&feature=youtu.be>

## List of Testifiers

Subhashini Ali	Anirban Bhattacharya
Dinesh Abrol	Sarim Naved
Rahul Roy	John Dayal
Navsharan Singh	Manoj Singh
S R Darapuri	Prashant Bhushan
Nivedita Menon	Tanika Sarkar
Farida Khan	Medha Patkar
Sadaf Jafar	
Deepak Kabir	
Sandeep Pandey	
Akram Akhtar Choudhary	
Mohammed Sharif	
Ali Zaidi	
Maitreyi Gupta	
Sabah	
Arundhati Dhuru	
Mohammad Suleiman	
Abhirr Palat	
Sehba Farooqui	
Leena Menghaney	
Dr Mathew Varghese	
Harsh Mander	
Gufran Alam	
Rajiv Yadav	
Ayesha Kidwai	
Suroor Mander	
Vrinda Grover	