

JUSTICE DENIED

**A Critique of the
Mishra Commission Report
on the Riots
in November 1984**

**PEOPLE'S UNION FOR DEMOCRATIC RIGHTS
PEOPLE'S UNION FOR CIVIL LIBERTIES**

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1984 :

- 31 October : Assassination of Prime Minister Mrs. Indira Gandhi Riots began.
- 1-3 November : Widespread carnage in the city. About 3000 Sikhs killed.
- 17 November : PUDR-PUCI release their report *Who Are The Guilty ?*
- 25 November : Appointment of Ved Marwah Committee on the role of Delhi police in the riots
- 29 November : PUDR-PUCI file a public interest petition in High Court seeking an inquiry.

1985 :

- January : Arbitrary change of bench in High Court petition.
- 24 January : New Bench issues arbitrary order on the maintainability of the petition.
- January : Special Leave Petition in Supreme Court against the order dismissed.
- February : High Court dismisses the petition.
- 26 April : Justice Ranganath Mishra Commission appointed
- 24 July : Scope of the Commission's Inquiry extended as part of Punjab accord
- 29 July : First sitting of Mishra Commission.
- 2 September : Second sitting of the Commission

1986 :

- 10 January : Application of PUDR-PUCI for participation in the proceedings of the Commission rejected.
- 31 March : Citizens Justice Committee and others withdraw in protest against the decision to hold the proceedings *in camera*.
- 22 August : Mishra Commission submits its report.

1987 :

- 23 February : Commission's Report placed before Parliament.
- 24 February : Justice Dalip Kaur Committee appointed on the role of Delhi police in the riots.

तू इधर-उधर की
बात न कर,
यह तो बता
काफ़िला लुटा कैसे ?

Delhi, along with many other places in the country, witnessed widespread disturbances in which thousands of Sikhs were killed from 31 October to about 7 November 1984, following the assassination of Prime Minister Indira Gandhi. Within a week after the carnage, on 17 November, the People's Union for Democratic Rights (PUDR) and the People's Union for Civil Liberties (PUCL) released their report, *Who Are The Guilty?* on the carnage. The main findings of the report were that the carnage was "the outcome of a well-organised plan marked by acts of both deliberate commission and omission by important politicians of the Congress (I) at the top and by authorities in the Administration." These findings were corroborated by press reports. They were further substantiated by the reports and accounts of a number of independent groups and organisations, which include the Citizens' Commission, Citizens For Democracy, Nagarik Ekta Manch, Sampradayikta Virodhi Andolan, and others. These groups, along with almost all the opposition parties, the media and large sections of the general public demanded a high level public enquiry into the disturbances. Eventually the government appointed a commission of inquiry headed by Justice Ranganath Mishra, a sitting judge of the Supreme Court, to inquire into the riots in Delhi, Kanpur, and Bokaro. The report of the Commission was placed before Parliament on 23 February 1987. The following is a critique of the report, in so far as it relates to events in Delhi.

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THE CONTEXT

Beginning with the PUDR-PUCL report, the demand for an inquiry into the carnage following the assassination of Indira Gandhi was raised by wide sections of democratic public opinion in the country. The PUDR and PUCL also moved the courts for an inquiry in a public interest petition which was rejected by both the High Court and the Supreme Court. The government however persisted in refusing the demand for an inquiry. In fact the Prime Minister himself at one stage stated that such an inquiry would not serve any purpose. Meanwhile the demand acquired an emotive fervour in trouble-torn Punjab. Political parties and groups representing the Sikh community made the appointment of such an inquiry almost a pre-condition for any attempt to diffuse the situation in Punjab. Eventually on 26 April 1985 the appointment of the Justice Ranganath Mishra Commission under Section 3 of the Commissions of Inquiry Act, 1952 was announced. Initially its scope was confined to disturbances in Delhi. Subsequently, as part of the accord signed between the Prime Minister and the late H.S. Longowal, the scope was extended to include Kanpur and Bokaro. Later the terms were amended to include Chas Tehsil which is situated on the outskirts of Bokaro. Although the appointment of the commission was a welcome move, the particular context in which the government conceded the demand raises a fundamental question. The reduction of a democratic demand in defence of the right to life and liberty of the people into a communal demand, and its acceptance on such grounds, is against the secular premises of our polity.

In the last two decades more than ten commissions to inquire into communal disturbances had been appointed under the Commissions of Inquiry Act. Notable among are Malegaon (1967), Jainpur and Suchetapur (1967), Ranchi-Hatia (1967), Ahmedabad (1969), Bhiwandi (1971), Jamshedpur (1979), and Hyderabad (1984). In two respects the present Commission of Inquiry stands apart from all earlier commissions. All of them were appointed soon after the communal disturbances took place. In fact only in one of them (Malegaon) was the time lag between the riots and the appointment of the commission a little more than a month. But in the case of the November 1984 carnage the Commission was appointed as late as April 1985, a full six months after the event. Even after that, its first hearing did not take place till 29 July which was followed by a period of inertia, and the second hearing was held as late as 2 September. On 11 September the Commission requested that it have its own investigative

agency under Section 5-A of the Act. But the agency actually never took off till the Commission was obliged to issue a sternly worded order to the Delhi Administration and the Union Government on 5 November 1985. In other words a whole year had lapsed by the time the Commission began its work on a systematic basis. The Commission took another ten months to submit its report, in August 1986. The government then took another six months to place the report before Parliament, in February 1987.

The second and more distinctive feature of the Commission was its terms of reference. In all other commissions of inquiry the first of the terms of reference was common: "To inquire into the causes and course of disturbances". But in the present case the reference was "to enquire into the allegations in regard to the incidents of organised violence which took place in Delhi following the assassination of the late Prime Minister Smt. Indira Gandhi". In other words even the popular description of the Commission as the Commission on the Delhi riots is a misnomer; it was not and it was not meant to be. (It should be added however that with regard to Kanpur, Bokaro and Chas, the Commission was "to inquire into the disturbances".) The unique terms of reference for Delhi, the widespread belief that the ruling party was involved in the carnage, and the inordinate delay in the appointment of the Commission--all considerably damaged the standing of the Commission in the eyes of the public, especially the victims.

THE PROCEDURES

The primary task of the Commission was to inquire into "allegations in regard to the incidents of organised violence" in the Delhi riots. The first set of such 'allegations' were voiced in Delhi by the PUDR and the PUCL. Both these organisations were disallowed from participating in the proceedings. Similarly the Nagarik Ekta Manch, which played a pioneering role in the relief and rehabilitation of the victims in the immediate aftermath of the riots, was granted only "limited leave ... to appear ... and to participate ... " (p.3) in the proceedings. However the Citizens Justice Committee (CJC), the Shiromani Akali Dal (Longowal) and the Delhi Sikh Gurudwara Management Committee were permitted to participate in the proceedings. But the first two organisations were constrained to withdraw in March 1986 in protest against the procedure being followed by the Commission, especially the decision to hold the inquiry in camera and prohibit reporting by the press. Although the report condemns the decision of the CJC to withdraw from the proceedings as an "irresponsible act" (p.7), it nowhere refers to the reasons stated by the CJC, for doing so. It is indeed strange that the report does not even to care to mention the withdrawal of the Akali Dal and the Nagarik Ekta Manch. At the same time four other organisations, whose antecedents are not clear to any one, were allowed to participate, and they continued till the end as parties in the proceedings.

The procedures adopted by the Commission throughout the inquiry were highly questionable in nature. First, out of the 2,905 affidavits received, the Commission selected only 128 for recording evidence. The basis of such selection was never laid down and in effect it excluded a number of affidavits which would have contradicted the eventual findings of the Commission, especially in relation to the role of the Congress (I) party. Again the Commission's own Agency arbitrarily selected only 30 of the affidavits (Vol.II, pp.8-10) for investigation. The investigation itself was reduced to checking and cross checking the affidavits without any independent inquiry worth the name.

Secondly, the repeated request for relevant documents to be produced was disallowed. Eventually when some select documents were summoned, they were not shown to all the participants. Further, while the Commission allowed them to put interrogatives to the officials, crucial questions

were disallowed on the ground that they were "against the public interest" or that they were "irrelevant". According to the CJC, among the questions which were termed "irrelevant" by the Commission were those concerning the details of firing on riotous mobs in Delhi between 31 October and 5 November!

The Commission's procedures concerning the cross examination of the deponents was the most controversial aspect of its functioning. In some cases deposition (Examination-in-Chief) was allowed, while it was disallowed in other cases. In some cases cross examination was allowed while in some it was not. In particular the deposition of some high officials (a total of eleven, whom the report describes as "public officials other than deponents") was not even disclosed to the participating parties. These arbitrary methods not only violate established judicial norms and principles of natural justice, but even the regulations that the Commission had set for itself. For, in the "Regulations of Procedure under section 8 of the Act to be followed by the Commission of Inquiry", which the secretary of the Commission issued in July 1985, Clause 6 explicitly stated that "cross-examination shall be allowed to all parties". The conduct of the proceedings thus became, to quote an apt description by the CJC, "in camera proceedings in camera".

The arbitrary decisions and functioning of the Commission made the inquiry a one-sided affair. This feature perhaps explains the fact that of the total number of the affidavits (2905), as many as 78 per cent (2,266) are classified as "affidavits against the victims" (Vol.II, p.3). This preposterous category called affidavits against the victims, in an inquiry into a carnage in which thousands of people were killed, it should be noted, is an innovation of the present Commission.

If the context in which the Commission was appointed damaged the standing of the Commission in the perception of the public the procedures adopted by it contributed to its complete loss of legitimacy even before it submitted its report.

THE REPORT

The Commission presented its report in two volumes. The first volume (88 pages) comprising the text of the report, is in two parts. (Unless otherwise stated all references to page numbers in this critique are to this volume). The first part includes: an attempt to reconstruct the events; scrutiny of the affidavits; examination of the role of the police, the Administration and other bodies in Delhi; and an assessment of the riots in Delhi, Kanpur, and Bokaro. The second volume (53 pages) consists of appendices comprising items such as break up of affidavits, lists of pending cases and official letters regarding rehabilitation of riot victims.

At the outset some observations on the manner in which the report was written and presented, may not be out of order. Although formal chapter divisions and sub-divisions have been made, the observations of the Commission do not follow these divisions, especially with regard to the role of the Administration and the Congress (I). As a result the report is burdened with far too many repetitions. But more importantly it has also led to a number of contradictory statements, as we shall see later. Consequently the report of the Commission appears incoherent and devoid of any normal logic. Any impression to the contrary given by the present critique is incidental.

The report also has an unusually large number of irrelevant and trite quotations from a variety of thinkers, writers and philosophers, not merely to buttress a point but often to state a point. It appears strange that the Commission feels that the demand for justice by the widows and the relations of the victims should require support from Adam Smith who in the words of the Commission, "*once pointed out that punishment of the wicked is deeply rooted in human instinct...*" (p.62). The Commission makes use of similar quotations which have not only been taken out of context but have often been used without any context. They range from an anonymous sixteenth century tract on crime and punishment (p.62) to a U.S. Senate Committee report on televised crime and violence (p.87); from Karl Marx on the good of society (p.73) to Rabindranath Tagore on moral and spiritual values (p.81); from an obscure and outdated undergraduate textbook of sociology on collective behaviour (p.31) to a little known American scholar's view on films (p.86). Such quotations far outnumber the excerpts from the few affidavits of the victims which the Commission chose to quote.

In addition there are a number of errors in the report betraying ignorance of basic facts. The number of police districts in Delhi in 1984 was not five (pp.8,32) but six. Similarly each district is not a range (p.8), but three districts comprise a range. The range was not under the charge of a Deputy Inspector General (p.8) since the system of DIG's was abolished in 1978. New Delhi did not become a police district in 1986 (p.8) but in 1969. The city of Delhi is presumed to be having the highest population growth rate, and was in fact described as "one of the world's fastest growing cities" (p.75). According to the Census of the last four decades, among the principal cities in India with a population of over 2.5 lakhs, there are at least twenty cities which have higher growth rates than Delhi. Even among the metropolitan cities (over 1 million), Delhi has never been on the top in terms of the population growth rate. The Commission also states that the Seventh Plan closed in 1985. It will actually end in 1990.

The present critique of the report of the Commission must be taken in the light of such limitations, arising from its manner of presentation, its style of stating things and its factual errors.

The Commission held that the riots in Delhi were spontaneous in their origin, but later anti-social elements took over and organised violence was conducted; that the police stations in the affected areas did not keep the police headquarters informed of the situation as a result of which not only the police administration but also the Delhi administration and Central government could not carry out effective and timely intervention; and that while the police were guilty of various acts of commission, the Administration could not be held responsible. While exonerating the Congress(I) of any involvement in the instigation and aiding of the riots, it held a few Congressmen at the lower ranks guilty. We shall examine some of the major findings of the Commission regarding the respective roles of anti-social elements, the Congress(I) the Administration, and the police.

ROLE OF ANTI-SOCIAL ELEMENTS AND CONGRESS (I)

"...the riots at the initial stage were spontaneous and by way of reaction to the situation but later the riots developed into a set type. The change in the pattern...was the outcome of the take-over of the command of the situation by anti-social elements. It is said that the Satan too has a process and when taking to stanic (sic) activities the anti-social elements took to their organised process. This is how...violence in Delhi was indeed organised but such organisation was not by any political party or a definite group of persons but by the anti-social elements which...is (sic) quite a formidable and powerful element in the Indian capital" (p.31).

Thus the Commission identifies "anti-social elements" as the main force behind the organised violence. In its view the phenomenal growth of population in Delhi, (pp. 8,9,75,76) increase in industrial labour accompanied by more criminal activity (p.9), increase in crime rate (p.75), lack of sufficient police force (p.75), fall in moral values (pp.9,76) are some of the causes for the growth of anti-social elements.

To take up some of the facts first; we have already referred to the Commission's notion of Delhi's population growth. The Commission's view of industrial labour apart, industry was not the main occupation of the work force in Delhi: it is the service and the trade sectors. The contention that the police force in Delhi has not been raised commensurate with its population growth is also open to debate. More importantly it should be noted that these kinds of general explanations are valid for a number of other cities where also Sikhs comprise a significant proportion of the population. But no such carnage took place in those cities. In fact the Commission has itself approvingly noted such places elsewhere in its report (p.38). But beyond these generalities, the Commission made no attempt to identify the constituents of this amorphous category called "anti-social element(s)". Instead, at another place in the report it made the category even more amorphous.

"...organised violence at Delhi...was done by the anti-social elements and in the riots, thousands of people who do not really belong to the classification of anti-socials did participate. Many of these participants were people from the lower ranks of the Congress(I) party and sympathisers" (p.30).

The basis of these findings and the finer distinctions made among the mobs that ruled Delhi for over four days, is nowhere stated in the report.

The Commission nevertheless exonerates the Congress(I) party as a whole from allegations of involvement in the riots. The Commission came to its conclusion on the basis of:

- i) Statements made by officials: Shri P.G. Gavai, then Lt. Governor (p.27) and Shri R.S. Sethi the Deputy Commissioner mistaken to be the District Magistrate (p.27);
- ii) The scanty evidence in those select instances of allegations which the Commission's agency investigated;
- iii) The fact that in certain areas the riots did not occur (p.28). On the basis of this the Commission concluded that had the Congress(I) been involved, there would have been no such areas; and
- iv) The resolutions and statements of the Congress(I) party and its leaders against communal violence made during the time.

The Commission nevertheless found nineteen Congress(I) men (at least six of whom are also mentioned in the PUDR-PUCL report) guilty of involvement in the riots. It should be noted that these nineteen have not been named in the report of the Commission, and instead a reference is made to the written arguments of the Delhi Sikh Gurudwara Management Committee (DSGMC) which lists these nineteen persons by name. This document (pp.216,218), gives a supplementary list of "organisers of carnage" at the local level. But the same document also gives a main list of "organisers of carnage" (pp.210-215) which includes 13 senior Congress(I) leaders. The Commission has chosen to ignore this list.

The Commission also deals specifically with the allegations against Shri H.K.L. Bhagat, noting that, "Implicating of Shri Bhagat was perhaps in the air and hundreds of affidavits were filed before the Commission... to say that Shri Bhagat had no role to play in organising the riots" (p.26); the Commission got charges against him in other affidavits investigated by its own agency. And "in the absence of convincing material", the Commission exonerated him. Further, the second volume, (which includes the Appendices) of the report gives a list of thirty instances which were investigated by the Commission's own agency, but the list does not include the name of Shri H.K.L. Bhagat. However it does include that of Mr. Sajjan Kumar who was not mentioned in the text of the report. He was cleared in the Appendix! But two Congress(I) workers, Dr. Ashok and Shri Himmat Rai, were mentioned in the affidavits quoted in the main report (p.19). But these two affidavits (Nos.2367 and 2706 respectively) were not included among those investigated by the agency. In other words the Commission's report mentions one Congress(I) leader in the text and clears him there, mentions one leader in the Appendix and clears him there, and mentions two other names in the text but does not clear them anywhere. It indicts 19 Congress(I) men whose names were not mentioned in either the text or the Appendix. Finally, the party itself was on the whole exonerated of all charges.

The Commission's findings on the role of anti-social elements and Congress(I) needs no further comment.

THE ROLE OF THE ADMINISTRATION

The role of the Administration, both at the centre and that of Delhi, is a question that was not dealt with sufficiently by the Commission. The Commission essentially took the view that the higher echelons of the Administration, including the Prime Minister and the Home Minister, were not aware of the widespread rioting and arson that was taking place, especially during the initial two days (p.25). But other evidence, some of which was presented to the Commission, indicates that a number of leading citizens brought the situation to their notice. Evidence also indicates that a high level meeting took place on the night of 31, October itself, which involved the Prime Minister's secretariate and the Home Ministry. The Commission took particular note of the

state of health of Shri P.G. Gavai, then Lt. Governor, and felt that he "should have been replaced after he had suffered a massive heart attack" (p.26), some months prior to the riots. In fact the Commission underscores the need for the Delhi Administration to have an administrator who is "competent, agile, astute, determined, experienced, farsighted and knowledgeable" (p.26). It may not be out of place here to mention that subsequent to his retirement Shri Gavai has joined the ruling party.

Similarly the Commission also held the view that "happenings in different areas were not being contemporaneously reported to the Police Headquarters" (p.25). In fact it regarded this factor as one of the reasons for the delay in calling the army, for which it held the Lt. Governor and the Commissioner of Police squarely responsible (p.42).

Concerning the allegations against the Delhi Transport Corporation (DTC), the Commission held that the Corporation itself did not extend any assistance to the rioters even though it noted the fact that its employees had been cautioned not to disclose the use of its buses in the riots and the records of the Corporation had been suitably touched up (p.42).

THE ROLE OF THE POLICE:

If there is one force whose role the Commission is less ambiguous about, it is the role of the police. The Commission has severally indicted the Delhi Police. But a distinction has been made even here. While senior police officials were indicted for their failure to correctly assess the situation, the lower ranks were indicted for not effectively intervening. On the basis of the accounts of senior officials it was accepted that the local police stations did not keep the headquarters informed of the developing situation. In some instances "though few in number" the Commission also found that "policemen in uniform have participated in looting" (p.37). Elsewhere also the Commission held the view that the police could be "hand in glove with the anti-social elements in their respective localities" (p.63).

The more important question of possible political pressure on the police has been dealt with in a scattered fashion. It is stated that "in answer to searching questions put to the police officers, they have denied any political force to have operated behind the scene in the matter of formulation of their attitude and conduct. The manner and the setting in which the questions relating to this aspect had been asked would in the ordinary course have brought out such an implication if it were true to any extent" (p.28). Here is an illustration of the "searching manner" in which the Commission dealt with this question:

In answering the question of the Commission as to whether it was a case of positive negligence or one of callousness of intention, Shri Sethi stated; "I do not think it is a case of open participation but to my mind it seems to be a case where under pressure they remained away from duty..." The Commission wanted a clarification as to the meaning of "pressure" and Shri Sethi stated; "I refer to local political pressure but in the absence of any positive material I cannot name the source of pressure. It is, however, a fact that the police remained ineffective as if something had happened to keep them away from their duty. My impression is that had the police done the appropriate planning and on 31-10-84 apprehended that the situation may turn worse, by themselves with a little assistance and moral support from the Army, they would have been able to maintain law and order effectively and nothing to that extent would have happened". In the opinion of the Commission this is a reasonable assessment of the situation" (pp. 35-36).

Elsewhere the Commission observes that with the police "the special loyalty to the people in power which was the hangover of the British imperial tradition continued" (p.33).

Thus, even while indicting them, the Commission prevaricated on the question of political pressure on Delhi police.

THE RECOMMENDATIONS

The second of the terms of reference of the Commission was "to recommend measures which may be adopted for the prevention of a recurrence of such incidents". In pursuance of this objective, the report has devoted 15 pages in part II of the first volume to such recommendations.

It should be noted at the outset that these recommendations have very little relevance to the findings of the Commission given earlier. They are extremely general in nature, and give the Commission's world view on a wide range of issues that have no direct bearing on the matter under consideration. They include lofty sentiments ("without community discipline, no national character can be built up" (p.84)); common place generalisations ("the belly has to be filled full, otherwise physical existence would be in jeopardy" (p.79)); quotations from personal conversations ("a well-placed father told the Commission in a casual conversation that TV has distracted the attention of his children from studies" (p.87)); a good many homilies ("the Additional Commissioners...should have effective control over the DCP's below them and also the ACP's and SHO's" (p.76)); and so on.

The recommendations are contained in four parts:

- i) "Manpower and reorganisation": in which the Commission suggests an increase in police stations and personnel in Delhi (after indicting them thoroughly!), the setting up of a model "police training college as also a police training school"
- ii) "Voluntary Social Agencies": in which, noting the work done by voluntary social organisations in resisting the riotous crowds in some areas, the Commission suggests to the government that it encourage formation of such groups. (Ironically the Commission had disallowed the Nagrik Ekta Manch, the principal voluntary group in Delhi during the riots, from participating in its proceedings).
- iii) "Education": in which the Commission recommends that stress should be given to impart moral and spiritual values to children through religious teachings, and also to impart good manners, patriotism, self-sacrifice etc. to them.

- iv) "Mass media": in which it is stressed that violence should be abjured both in films and television, and that AIR should change its programme pattern to emphasise national integration etc.

In addition the Commission prescribes a "code of conduct" to schools, colleges, teachers, journalists, media, film makers, AIR and Doordarshan, and to the general public. The report ends with a final recommendation: *"In a world where standards are falling, institutions are collapsing and human qualities are vanishing, every one in society has to put in great effort in the right line, first to stop the downward trend and then raise the same up" (p.88).*

In addition to these general recommendations of no particular significance, the Commission has also recommended certain measures with some operative content. There are four such recommendations:

- I. Compensation and Rehabilitation: The Commission has suggested to the government that the compensation paid to the widows or the nearest kin of those killed in the riots should be increased from the original Rs.10,000 to Rs.20,000 (pp.23,72). It has also recommended further government help in providing employment to them (p.23). The government announced that it has accepted the recommendations. It should be noted however that these measures are a far cry from a comprehensive relief and rehabilitation programme that a number of groups have been demanding since the carnage.
- II. Deaths in Delhi: Ever since the first day of the carnage various agencies of the government have been maintaining varied estimates of the number of people killed during the carnage. The highest figure given by the government was 2,307 while the lowest was ten. Even now there is no common figure acceptable to all government agencies. It should be noted that this dispute over numbers concerns the lives of those whom the dead have left behind in the 1984 carnage. The squabbles over numbers constrained the Commission to state that "the manner in which the Delhi Administration has been changing the figure leads the Commission to accept the position that if there is to be a further probe and of a closer type, it is quite likely that the number may increase" (p.23). The government has accepted the recommendation and a committee for this purpose was appointed on 23 February 1987. Strangely the probe is to be conducted by the Secretary (Home), Delhi Administration, the very body

whose incapacity, if not deliberate attempt to mislead, has led the Commission to suggest a fresh probe to ascertain the exact number of dead.

III. Prosecution of the Offenders: The total number of FIRs launched in Delhi in riot cases was 403, of which more or less 200 were disposed of for one reason or other. Of the remaining it appears that only seven cases were proceeding in an effective manner. The Commission has recommended a fresh and further investigation and review of all cases (p.65). The government accepted this recommendation and a committee headed by Justice M.L.Jain has been appointed. But it should be added that subsequently on 18 March 1987 the government suddenly announced that already "legal action has been taken against 2,170 persons for committing serious crimes during the riots in November 1984 in the capital" (Lok Sabha Questions, 18 March 1987). The particular cases in which this 'action was taken', and the nature of the legal action taken remains mysterious. And the government's statement to say the least, is very intriguing.

IV. Conduct of Police: On 4 November 1984, the then Commissioner of Police ordered an inquiry into the violence and the police conduct in Mangolpuri. Later that inquiry seems to have been abandoned in the wake of a new inquiry by the Police Commissioner Ved Marwah, appointed on 25 November 1984. In fact the appointment of this committee was cited as one of the reasons for the opposition of Delhi Administration to the demand for court intervention in the public interest (CWP No. 2667/84) by the PUDR and PUCL. The honourable High Court upheld the government's position. Later the Ved Marwah committee was abandoned due to the appointment of the present judicial commission. (Ved Marwah, as quoted in the Commission's report, p.39). Now the Commission has recommended yet another probe into the conduct of the police, which the government accepted by appointing a two-member committee headed by Justice Dalip Kaur.

Thus every committee that has inquired into the role of the Delhi Police came out with a prima facie case against the police to some extent or other. On each occasion a new committee was appointed, its appointment became the ground for superseding an earlier committee for the same purpose, which was later abandoned. The process is now starting afresh. We are in no position to ascertain the outcome of this interminable process.

CONCLUSION

The November 1984 carnage is a landmark in the recent history of our country not only because it was the worst of its kind in post-independent India but because it offered a powerful challenge to our democratic institutions, since it was the result of acts of omission and commission by those in power. If it is possible, or it is perceived to be possible, for those in authority to escape the consequences of violating the law and the Constitution, the very fabric of ordered social existence is liable to be irreparably damaged.

The events in Punjab since the rise of Bhindranwale, the gradual ascendancy of Sikh communal forces in the state supported by forces from outside, the army action in the Golden Temple, the continuing murder of ordinary people by Sikh fundamentalists, and the evident failure of both the state and central governments to diffuse the situation, all serve as a background to the carnage and its aftermath. The schism between the Sikh community and the rest of the country, especially the Hindu majority, will be further widened if the normal avenues to punish the guilty fail the victims of the riots.

The victims knocked at practically every door of the institutions that the Constitution has provided us with: the police, the executive, the Parliament, and the courts, but each of them has failed the victims.

In the face of these successive failures, the appointment of the Commission raised the sceptre of hope once more. Ironically, however, the victims who volunteered to depose before the Commission found that in doing so they were faced with a renewed threat to their security arising from its peculiar procedures. It is significant that while the PUDR-PUCL report *Who Are The Guilty?* gave the names of the accused, but did not disclose the names of the victims who made the allegations, the Commission does the reverse. It is those who are held to be guilty who are anonymous while those who made the allegations are not only named but even their addresses have been published. And yet the number who courageously deposed before the Commission is significant. In Delhi alone they numbered more than 600. Having been failed by the Commission, where will they go now?

However disturbing the question may be, it should be noted that its relevance is confined not merely to the Sikh community. For, in a ~~sense~~, a judicial commission under the Act is an institutional mechanism that our system offers to the people when other institutions fail. Over the years the demand for a judicial inquiry became part of the democratic movement, and more than two thousand such inquiries were ordered in the last three decades. Its failure, coming after the atrophy of the administration, the indifference of Parliament, and the unwillingness of the courts to intervene in the public interest petition, has serious implications. It indicates the erosion of yet another institution of democratic safeguards. As with other institutions, the institution of judicial inquiries is also being eroded, as revealed by the experience of the Justice Ranganath Mishra Commission, not by external threat but by internal subversion. The implications of this trend leave disturbing questions not only for the Sikh community but for all citizens.