

TWENTY YEARS OF IMPUNITY

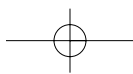
*The November 1984 Pogroms
of Sikhs in India*

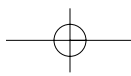
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A Report by

Ensaaf

2nd Edition
October 2006





2nd Edition published in October 2006
by Ensaaf
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Portland, OR 97298-0731

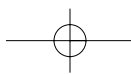
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ISBN-13: 978-0-97870-730-9

ISBN-10: 0-9787073-0-3

(First edition published by Nectar Publishing as ISBN 0-9548412-0-4)



Ensaaf

Ensaaf, which means “justice” in many South Asian languages, is a 501(c)(3) non-profit organization dedicated to ending impunity in India for mass state crimes, and to survivors’ rights to truth, justice and reparations. Impunity means the impossibility of holding perpetrators accountable because they are shielded by law or protected by political institutions and powers.

Ensaaf’s cutting edge advocacy is implemented through four coordinated programs:

- Community Organizing to mobilize survivors to become active participants for change;
- Documentation & Education to expose violations and counter official denials;
- Legal Advocacy to remove perpetrators from power through legal accountability; and
- United Nations advocacy to build international consensus, support and pressure to end impunity for mass state crimes in India.

Ensaaf also publishes a quarterly newsletter. Its website www.ensaaf.org provides detailed information on the organization and its programs, as well as a library of documents relating to human rights in Punjab and India.

About the Author

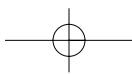
A graduate of Yale University and Harvard Law School, Jaskaran Kaur is the co-founder and Co-Director of Ensaaf. She has authored seminal reports on human rights abuses in India, including *Twenty Years of Impunity: The November 1984 Pogroms of Sikhs in India*, and is a contributing author to *Reduced to Ashes: The Insurgency and Human Rights in Punjab*, which analyzes over 600 cases of extrajudicial execution and disappearance by Punjab’s security forces. Kaur is a 2006 recipient of an Echoing Green fellowship. Kaur currently serves on the Advisory Board of the Discrimination & National Security Initiative of the Pluralism Project at Harvard University. From 2003 to 2005, Kaur was the recipient of the Irving R. Kaufman Fellowship from Harvard Law School. In 2001, she went to Punjab on a Harvard Human Rights Summer Fellowship to study the role of the judiciary in handling habeas corpus petitions filed before the Punjab and Haryana High Court by families of the disappeared; her study was published in the *Harvard Human Rights Journal*. Kaur has interned for numerous public interest organizations, such as Legal Aid, US Committee for Refugees, Human Rights Watch, and Center for Constitutional Rights.

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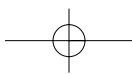
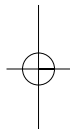
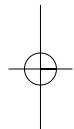
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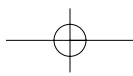
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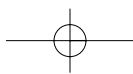
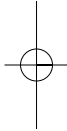
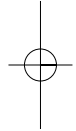


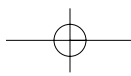
ACKNOWLEDGMENTS

Echoing Green

Citizens Justice Committee and the Human Rights and
Democracy Forum for the provision of some of the survivor affidavits

Creative Stride for cover design



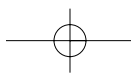
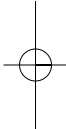
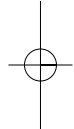


PREFACE TO SECOND EDITION

Two years have passed since the publication of the first edition of Ensaaf's report on the November 1984 massacres, *Twenty Years of Impunity*. During that time, the Justice Nanavati Commission of Inquiry submitted its report to the government, the government submitted an Action Taken Report to Parliament, and Indian Prime Minister Manmohan Singh apologized, but refused to accept state responsibility, for the massacres.

The second edition of *Twenty Years* adds a supplement that reflects on these developments, but does not engage in further evidentiary discussion. *Twenty Years* provides a thorough analysis of the evidence that was before both the Misra and Nanavati Commissions. That analysis clearly demonstrates that senior Congress (I) party officials and police sponsored, organized, and executed the November 1984 massacres of Sikhs.

The second edition also corrects typographical errors in the first edition.



FOREWORD

Any outsider who has lived in India acquires a rich store of indelible images. India dazzles. Its colors, its talented people, its vast stretches of rocky land punctuated by many thousand villages, its cacophonous street life recharge the senses daily and linger long in memory. But behind the nonstop theater of the streets, the music, the art and the mirrors, some monstrous darker images also take hold. For two decades, I have been haunted by one such disturbing scene: the mutilated body of a man sprawled across the open doorway of a railway carriage at Old Delhi station. He may have been trying to reach the steps to escape a mob rampaging through the train bent on massacre. His turban, the hallmark of all observant Sikh men, had been ripped from his head. Someone wielding a knife or machete had slashed his scalp to lop off his hair, which religious Sikhs never cut. In death, he had been cruelly and deliberately stripped of his identity as a Sikh, India's warrior people and the farmers whose hard work and rich Punjabi soil fed the nation.

It was November 2, 1984. This man, left bleeding at the gateway to one of Asia's great cities, was only one of several thousand Sikhs slaughtered over several days that week in India. It was a vicious pogrom, and reports of it would have been hard to believe had I not witnessed its atrocities. While this was a calculated assault on a visible minority group it was also an attack on all the decent people of India and what their country stood for. If the hardworking Sikhs were not safe, what minority could ever be?

The massacre was triggered by the assassination of Prime Minister Indira Gandhi, who had sent the Indian Army into the Sikhs' holiest shrine, the Golden Temple in the Punjabi city of Amritsar, in June 1984, to roust militants. On the last day of October that year, she was gunned down in an act of revenge by her own Sikh bodyguards. I was in Beijing that day, after a trip with a United Nations High Commissioner for Refugees team looking at the conditions of Vietnamese boat people who had landed in Hong Kong and southern China. I had skipped a tourist visit to the Great Wall so that I could transmit photographs to New York through the office of an international news agency in the Chinese capital. Coincidentally, I was still there in that office when bells began to ring on the old machines that in those days alerted reporters to urgent news bulletins. Gandhi had been shot, the bulletin from Delhi said. In hours, I was on my way to Karachi on a Pakistani flight to join a team of *New York Times* reporters heading to New Delhi. Though then based in Bangkok, I had lived in Punjab several years earlier as a visiting university lecturer, and knew something about the Sikhs and their political discontents. From time to time this unrest erupted into bursts of pro-independence, anti-government violence by militant groups who never commanded majority support among Sikhs.

But nothing I had experienced in India prepared me for the terror that had overtaken Delhi and the Sikhs living there in the days that followed Prime Minister Gandhi's death. As the plane from Karachi approached Delhi at night, I could see large bonfires on roads and in neighborhood compounds. Later, I learned that it was mostly Sikh property going up in flames. On the ground, lawless streets were mostly deserted. Sikh men were in hiding, hoping to escape the gangs being trucked around the city with their clubs and knives. In the walled garden of the Sikh-owned hotel where I stayed, there were sad scenes of frightened men having their beards shaved and hair trimmed to remove the

features that made them recognizable as Sikhs – and thus targets. For many others, it was already too late. The killings had begun to take their toll. At railway stations, bodies were being removed from trains and strewn on platforms. In poor Sikh neighborhoods west of the city center and across the Jamuna River, men and some boys were burned to death and only traumatized women and small children survived. In residential New Delhi, the homes of more affluent Sikhs were being fortified. Some families had sought asylum with foreigners or courageous Hindu or Muslim neighbors. I moved from one scene of horror to the next.

The cold facts of those terrible days are recorded in unprecedented detail in this book, which draws on first-person accounts as well as unpublished Indian government records. The book also recounts the political roots of the massacres and the astonishing impunity of government ministers who failed, or refused, to stop the violence. To this day, no government figure of any importance then or any high-ranking official of Indira Gandhi's Congress Party has ever been held accountable, despite reams of testimony from survivors and unofficial inquiries by human rights groups pointing to the involvement of politicians in the incitement of death squads.

Oh, there were commissions established, and reports written. But no significant action followed. Late in 2003, two Indian Supreme Court justices exploded at government attempts to close yet another case in the name of better inter-group relations. "What is this – on one hand you go on appointing commission after commission to probe the riots and on the other you withdraw the case registered by the police," *The Indian Express* quoted the justices as saying in their ruling against closing the case. "Somebody has committed a murder and you are saying that you will not prosecute him on the ground that it will help maintain communal harmony?"

Moreover, the killings of Sikhs continued for a decade after 1984, in secret and illegal cremations in Punjab state of at least 2,097 people in Amritsar district – a number confirmed in testimony to India's Supreme Court – whom the police called suspected militants. That story is the subject of *Reduced to Ashes: The Insurgency and Human Rights in Punjab*, a report published in 2003 by the South Asia Forum for Human Rights in Kathmandu. Thousands of Sikhs still wait for closure on a decade of death. When I returned to live in India as a *Times* correspondent in 1988, I found families deprived of their men still living in squalor.

The attacks on Sikhs in those early days of November 1984 – in which at least as many people died as the Chilean regime of Augusto Pinochet killed in more than 17 years – ended only because the Indian Army finally took charge of Delhi's bloodied streets. In one savaged neighborhood, a military officer in charge expressed his outrage to reporters that the police had stood by and allowed the carnage to go on for days. "We can shoot to kill," he told us, "and, unlike the policemen, you can believe us." The Home Minister of the day, P.V. Narasimha Rao, not only was not called to account for his failure to enforce law and order, but he also went on to become Prime Minister of India in 1991, after Mrs. Gandhi's son and successor, Rajiv Gandhi, was murdered by another outraged minority, a Sri Lankan Tamil guerrilla army his mother had armed and he had tried to disarm.

This is an age when countries as diverse as Mexico, Peru, Cambodia and Ethiopia, among others, are digging into violent eras of their histories to set records straight and name those in power who allowed human rights abuses to occur or, worse, ordered them. In two decades, there has been no similar movement for a day of reckoning in India. Many Indians have tried. In a

democratic country, they have petitioned courts and used the press to keep their stories alive. But even rulings from the highest judges have not budged the politicians who are unwilling to open their parties' records to scrutiny and simply stonewall the judiciary. Other atrocities have occurred since the Sikh massacres of 1984. Among the most recent was the killing of at least 1,000 – perhaps as many as 2,000 – Muslims in Gujarat state in 2002 after 53 Hindu pilgrims burned to death in a train fire whose cause is still a matter of debate. Although the complicity of politicians, this time from the Bharatiya Janata Party of Prime Minister Atal Bihari Vajpayee, has been documented by the fearless and resourceful Indian media, the state's party leader, a Hindu nationalist, was subsequently overwhelmingly reelected to head the government of Gujarat, even as Muslims still waited in makeshift camps for help in rebuilding homes and lives.

Recent administrations in Washington, both Democrat and Republican, have chosen not to criticize India, the world's most populous democracy, except in the mildest language. Most Americans would not tolerate this mounting record of large-scale abuse in a dictatorship, but reports from Human Rights Watch and others about India get little attention because India has convinced the world that its institutions are working. In a largely upbeat study in 2003 of American relations with the region, *New Priorities in South Asia: U.S. Policy Toward India, Pakistan and Afghanistan*, the Council on Foreign Relations in New York nevertheless had some words of warning for India. "India's ability to maintain domestic peace remains in question," the report said. "Were Hindu extremists to upset further the delicate social and communal equilibrium, India's international image and human rights standing would be badly tarnished, its attractiveness as a place for private investment reduced and relations with the United States negatively affected."

This book grows out of a new trend that Indian politicians will not be able to ignore indefinitely. Where governments at home or abroad have failed to bring accountability to those Indians responsible for the deaths of Sikhs and members of other minority groups, a new generation of Indians and Americans of Indian descent are beginning to take up the cause. They are impressive in their scholarship and dedication. They also prove abundantly that among most Indians, there is no animosity for those of other religions or ethnic groups. The problem, young human rights activists say, is a system that allows politicians to exploit the ethnic or religious differences that Indians call "communalism" to advance political goals, no matter how high the human cost.

In this new generation we can place Jaskaran Kaur, an American-born Sikh and Harvard Law School graduate, who is the author of this book. She and others of her generation have met to share ideas with Kashmiri Muslims, secular-minded Gujarati Hindus or disaffected Assamese from the turbulent Indian Northeast. There are counterparts to them in movements to end the apartheid of caste, the suppression of women or the social stigmatization and victimization of people afflicted with HIV-AIDS. All have a common commitment to ending the impunity and inhumanity in Indian politics, whatever form it takes. With the Internet, increasingly sophisticated documentation and professionally organized campaigns, this new generation of activists is determined that accountability must come to India just as it has to other governments that tried to run and hide. For Sikhs, and now the Muslims of Gujarat, that means bringing to justice those who stood back over these twenty years and allowed so many fellow Indians to die the most horrible of deaths.

Barbara Crossette
December 2003

*We have lost sons, brothers, husbands, fathers, we have seen them burned
alive in front of our eyes. Do we not have the right to mourn?
Do we not have the right to want justice?'*

INTRODUCTION

On October 31, 1984, as Indian Prime Minister Indira Gandhi walked through her grounds for an interview with actor Peter Ustinov, two of her bodyguards, Beant Singh and Satwant Singh, raised their guns as if to salute her and shot her. She was rushed to the All India Institute of Medical Sciences (AIIMS). At 11:00 a.m., the government-controlled radio, All India Radio, announced the attempt on the Prime Minister's life.² As a crowd gathered in front of the AIIMS, around 1:00 p.m., the *Hindustan Times'* spot board alerted Indians to her death³ and the *Indian Express* published a special supplement announcing: "Mrs. Gandhi assassinated."⁴ The national TV service, Doordarshan, officially telecast the news throughout India at 6:10 p.m.,⁵ confirming the assassination to a shocked and riveted nation.

Beant Singh and Satwant Singh were Sikhs, a minority religious community in India that forms a bare majority in the northern Indian state of Punjab. According to the 1981 census, the Sikh population in Delhi was 393,921 or 6.33%.⁶ Sikhs are about two percent of the country's population. Beginning roughly 18 hours after the *Hindustan Times* and *Indian Express* first announced Mrs. Gandhi's assassination, the Congress (I)⁷ party and Indian police unleashed a nightmare of organized violence against the Sikh community, supported and encouraged by the Delhi and Central governments. Gangs of assailants burned Sikhs alive, gang-raped Sikh women, and destroyed their gurudwaras⁸ and properties, among other devastating crimes. The violence, allegedly motivated out of grief over Mrs. Gandhi's assassination, continued unabated for at least four days, and intermittently for the rest of the week.

Senior political party officials and police carefully orchestrated the Sikh massacres of November 1984. During the night of October 31, Congress (I) party officials met with their local support networks – people who participated in rallies and election drives – to: identify the residences and properties of Sikhs through government-issued voter or ration lists; distribute weapons, kerosene and incendiary chemicals; exhort non-Sikhs to kill Sikhs and loot and burn their properties; and plan the time of attack. That night, they floated the first rumor that Sikhs had celebrated the assassination of Indira Gandhi, dancing and distributing sweets,⁹ conditioning Indians for the violence to follow.

¹ Gurdeep Kaur, Block 32, Trilokpuri, Delhi quoted in Tavleen Singh, Shame, Indian Express (Oct. 27 1989).

² People's Union for Democratic Rights and People's Union for Civil Liberties, Who are the Guilty? (Delhi: PUCL/PUDR, 1984), Annexure I.

³ Letter from N.C. Menon, Editor of Hindustan Times, to Under Secretary of the Misra Commission (undated) (on file with author).

⁴ Letter from B.G. Verghese, Editor of Indian Express, to Under Secretary of the Misra Commission (undated) (on file with author).

⁵ Replies by Union of India in Respect to Interrogatories Allowed by Justice Ranganath Misra Inquiry Commission. SI. No. 1. (undated) (on file with author).

⁶ Ranganath Misra, Report of the Justice Ranganath Misra Commission of Inquiry, comp. Harish Jain (India: Takshila Publications, 1987), 14.

⁷ The I stands for Indira Gandhi.

⁸ A gurudwara is a Sikh house of worship.

⁹ Citizens for Democracy, Truth About Delhi Violence: Report to the Nation (1985) at <http://www.carnage84.com/human/truth/truth.htm>.

The next morning, on November 1 between 8 and 10 a.m., assailants simultaneously attacked Sikhs throughout the country, shouting slogans of extermination. The gangs often first attacked the Sikh gurudwara in the particular neighborhood. After desecrating the Sikh scriptural canon, Sri Guru Granth Sahib, by urinating on or burning them, burning down the gurudwara, and attacking symbols of the Sikh faith, the mob attacked the properties of Sikhs and the Sikhs themselves. Organized transportation, sometimes provided using state-owned buses and railways, brought assailants to where Sikhs lived. The behavior of policemen surpassed inaction, and often amounted to participation and instigation. If the Sikhs gathered and defended themselves, the police disarmed the Sikhs and sent them to their individual houses, making them easier targets for death squads. Congress (I) party leaders led, directed and encouraged gangs of assailants, and participated in the massacres themselves.

As the violence continued methodically and systematically over the next days, Congress (I) politicians and policemen spread two more false rumors: the Sikhs had poisoned the water supply and Sikhs in Punjab were killing Hindus on Delhi-bound trains. Government officials continued to deny the extent of violence against Sikhs, while police officers and political leaders simultaneously directed the organized slaughtering of Sikhs. The Army, called into Delhi 24-hours after the violence had begun, could not begin to effectively counter the violence until November 3 because of the Delhi administration's refusal to cooperate.

This report focuses on the massacres organized against the Sikhs in Delhi; Kanpur, Uttar Pradesh; and Bokaro, Bihar. The documentary evidence focuses on these areas because the government-appointed commissions and committees that examined these massacres included only these areas in their terms of reference. Although a common pattern followed throughout India,¹⁰ the Central government has not conducted any inquiry into the nature and extent of violence outside of Delhi, Bokaro and Kanpur and the linkages between the violence in different areas.¹¹ In Bokaro, at least 72 Sikhs were killed,¹² and in Kanpur, around 127 Sikhs were massacred.¹³ In Delhi, the official figure is of 2,733 deaths,¹⁴ leaving over 1300 widows and 4000 orphans.¹⁵ Over 50,000 Sikhs also left Delhi after the massacres.¹⁶

Twenty years later, the Indian government has failed to set the record straight and account for the carnage of November 1984. Instead, it has suppressed and destroyed evidence. The government's main commission of inquiry – the Misra Commission, established in April 1985 to examine the massacres – white-washed the massacres, concealing its papers and proceedings from the public. The government also attacked those reporting on the 1984

¹⁰ People's Union, *Who Are the Guilty?*, 1. See, e.g., Many Anne Weaver, *After Assassination, India turns to Rajiv*, *Christian Science Monitor (Int'l)*, (Nov. 1, 1984), 1 (rioting broke out in at least six other states); *Assassination in India: Violence Ripples Through the Nation*, *New York Times* (Nov. 1, 1984), A18 (Sikhs attacked by Hindus in at least eight Indian cities, such as Calcutta, Agartula, Patna, and Madras); *Macneil/Lehrer Newshour* (Nov. 1, 1984), Transcript #2374 (similar pattern in Hindu heartland of north and central India).

¹¹ *Id.*

¹² *Written Submissions in Relation to the Violence at Bokaro on 1-11-1984 on behalf of the Delhi Gurudwara Sikh Management Committee 1* (undated) (on file with author).

¹³ Misra, Report, 76.

¹⁴ R.K. Ahojja, *Ahojja Report* (1987), at <http://www.carnage84.com/official/ahooja/ahooja.htm>.

¹⁵ *Citizens for Democracy, Truth About Delhi Violence*.

¹⁶ *Id.*

carnage, using the rhetoric of national security to criticize parts of the foreign media for “deliberately presenting totally distorted versions of the Punjab situation, which have the effect of encouraging and sustaining separatist activities.” In this backdrop of the blackout of information and accountability, we hope to start examining India’s record by presenting and analyzing the affidavits, government papers, and arguments filed with the *in camera*¹⁸ Misra Commission. Because the government has not revealed the contents of the Misra Commission papers, after twenty years, we feel the public must know and understand the depth of abuses and systematic complicity reported in them.

We have received 6000 pages of Misra Commission documents. This report draws on: the papers and proceedings from the Misra Commission and Nanavati Commission (initiated in May 2000), including approximately 1100 Misra affidavits in English, Punjabi and Hindi, as well as 200 affidavits filed before the Nanavati Commission; the written arguments, replies, and applications submitted by parties; interrogatories and responses; First Information Reports (FIR) prepared by police; testimony before the Nanavati Commission; records from relief camps; and technical orders of the Misra Commission.¹⁹ Although the records we have are incomplete,²⁰ this is the first time a substantial portion of the Misra Commission papers have been analyzed by persons unaffiliated with the government. The government and Commission papers have not been released to the public; Harvinder S. Phoolka, the lead attorney for the victims, has put online the papers in his possession, representing submissions by the victims’ representatives. This report also references reports of administrative committees; human rights documents; and news articles from over 25 domestic and international newspapers, magazines, and news wires, in addition to other secondary material.

The Misra Commission affidavits provide details on crimes suffered by victims and information on perpetrators directly involved. These affidavits are particularly significant given the lack of accurate police and government records and the subsequent destruction of evidence, as explained later in this report. The police records lack required information and, in fact, conceal and manipulate facts as related by survivors. Additionally, legal papers from the 1984 cases demonstrate the paucity of information, resulting from police manipulation of investigations and the lax manner in which prosecutors pursued evidence. Besides the government of India, which refuses to turn over records in an open accounting of the massacres and may have destroyed any relevant documents, no national government archives can provide information on the silent perpetrators and organizers of the carnage.

With so much information destroyed or unavailable, we attempt to reconstruct the major aspects of the carnage. Based on eyewitness testimony of tens of people, civil society organizations have produced reports describing major patterns. Now, we have over one thousand affidavits of survivors and

¹⁷ Government of India, White Paper on the Punjab Agitation (July 1984), 55.

¹⁸ In secret.

¹⁹ The Misra Commission papers are on file with the author, although the Nanavati papers (and some Misra Commission affidavits) are available online at the website of the Carnage Justice Committee (CJC) at <http://www.carnage84.com>. The affidavits cited in this report include the area where the deponent lived at the time of the massacres in order to help the reader correlate the violence with the locality.

²⁰ We do not have copies of all affidavits, the Investigating Agency reports to the Misra Commission, and the testimonies made to the Misra Commission. However, this does not detract from our analysis because of the size of our affidavit sample and our use of secondary sources, such as minority and majority administrative reports which evaluated all of the Misra Commission affidavits on certain topics. The website of the Carnage Justice Committee contains around 570 affidavits, human rights and administrative reports, and proceedings from the Nanavati Commission, among other records.

witnesses who can authoritatively relate the brutality of the crimes they suffered and the actions of the perpetrators, including missteps exposing the role of senior police and government officials. Because these affidavits were submitted within ten months of the massacres, issues of memory do not impact the nature of detail. The sheer number of survivor and witness testimonies allows us to rebuild and establish clear patterns and characteristics of the role of the police, administration and government. We discuss patterns that surface throughout the affidavits.

Self-censorship and the role of lawyers in transcribing some affidavits may have limited the content of these affidavits and our understanding of the entire spectrum of crimes. For example, few affidavits describe in detail experiences of rape and sexual abuse, preferring euphemisms such as “humiliation.” We have details of sexual abuse suffered by Sikh women because of a contemporary independent study conducted by activist, writer and publisher Madhu Kishwar and a few affidavits by victims and a doctor. Also, some affidavits follow a constrained format adopted by lawyers attempting to transcribe hundreds of affidavits in a short time period of several months. This may have removed elements of personal reflection, while maintaining detail on the immediate crimes suffered.

In her affidavit to the Misra Commission, newly-widowed Amarjit Kaur described in disbelief how her neighbor’s son, who was her son’s best friend, led the mob that killed her two sons and her husband and also “dishonoured” her sons’ wives. Repeatedly, she mentioned aspects of her relationship with the killers, how she had seen her neighbor’s son grow up since childhood, how her son and his best friend had shared their joys and sorrows in college. She emphasized her grief at the loss of her family, these betrayals, the confiscation of her land by senior politicians, and her lack of faith in justice.²¹ Any movement towards healing for victim families includes the fulfillment of their right to know what happened during 1984, and how different Indian institutions participated in the violence.

In this report, we aim to use the historical and legal discussion around the events of 1984 to move beyond the rhetoric of national security and communalism, and instead pose paths towards a greater understanding of state human rights crimes and accountability. In the first chapter, we give a background of the events leading to the November 1984 pogroms, focusing on the draconian legislation, censorship, point-blank executions, and arbitrary detentions surrounding the Indian Army attack on the Harmandir Sahib²² Complex in June 1984. Chapter 2 identifies patterns of the pogroms, ranging from the night of meetings, and identification of Sikhs through lists, to the destruction of Sikh symbols and institutions, and methodical and persistent attacks by assailants. Chapter 3 analyzes the police instigation and participation in the massacres, and their subsequent manipulation and destruction of records and investigations. Chapter 4 develops the participation and complicity of political and government officials, from organizing the massacres, to delaying and interfering in attempts to counteract the violence, to failing to provide adequate rehabilitation. In these chapters, we discuss the need to return to the victims, witnesses, and government officials to examine certain points in further detail.

²¹ Aff. of Amarjit Kaur, Kanpur (on file with author).

²² Popularly known as the Golden Temple and located in Amritsar, Punjab.

Subsequently, in the fifth chapter, we discuss the post-massacre elections, and analyze the arguments made by the Delhi government, as well as the official report submitted by the Misra Commission, in order to understand the government's perceptions of human rights abuses. The Delhi Administration blatantly justified the pogroms, citing alleged Sikh celebrations of Mrs. Gandhi's assassination, lying that attacks were initiated by Sikhs, and pointing out allegedly criminal behavior by Sikhs. The Misra Commission, lacking transparency and obstructing the survivors' access to information, produced an insipid report that focused more sincerely on increasing nationalism than on investigating the allegations against senior police officials and politicians. We then highlight the impunity that has allowed major perpetrators of the carnage to live freely and still serve as leaders in the Congress (I) Party.

The sixth chapter analyzes the application of the international law of genocide and crimes against humanity, discussing the legal scope and significance of these crimes. This chapter complements the descriptions provided through the affidavits, to allow the reader to relate the November massacres with international understandings of other mass crimes. The last chapter explores the survivors' search for justice and proposes steps to redress the survivors' international rights to knowledge, justice and reparation. We emphasize initiatives that survivors could organize and encourage readers to collaborate in those initiatives towards further understanding and documenting the carnage of November 1984.

While providing extensive information on the extent of the organization of the massacres and those who actively participated in it, the data – from the affidavits to the administrative reports – cannot give us information on those who may have silently conspired or planned the carnage. We also lack key information on the profiles and motives of the perpetrators. Although many victims recognized the perpetrators, since the death squads included neighbors, shopkeepers, and other local people, many questions remain unanswered: Why did Hindu neighbors kill their Sikh neighbors? Why did Amarjit Kaur's son die at the hands of his best friend from college? While the victims provided rough estimates of the sizes of mobs, ranging from the hundreds to thousands, how many people actually participated in these massacres?

Despite the extensive information contained in these affidavits and materials, on methods of attack, instigation by police and senior government officials, and refusal of care by medical doctors, among other issues, we believe there is also a strong need to, over the next several years, return to interview each person about their affidavit and collect complete testimonies. Given the burden of living with broken families, poverty, and scars of abuse, victims have not been given the opportunity to record and relay their experiences in the past two decades in a fair and public process. Rather, honest attempts to record their stories have been suppressed, or their experiences have been denied. How did the killing of their fathers impact the children? How have the widows survived, and on what support structures have they relied? What are their thoughts about justice and the impunity that has prevailed for the organizers and perpetrators of the carnage? Further documentation must address these questions in order to understand the carnage in all its dimensions. We hope survivors, including those in the diaspora, will lead us and other concerned individuals in organizing and initiating documentation projects, and spearheading the campaign for knowledge, justice and reparation.

CHAPTER 1

Background: State Oppression in Punjab

Sikhs form a majority in the northern Indian state of Punjab, on the border of Pakistan. They suffered greatly in the 1947 partition of the two countries, as hundreds of thousands of people were killed and over 700,000 Sikhs migrated from Western Punjab, in Pakistan, to Eastern Punjab, in India.²³ Although Sikhs chose to join India, their alienation with the central government began soon after partition as Indian leaders failed to honor early promises.

In the early 1950s, the Indian government proposed the reorganization of the states on a linguistic basis. In anticipation of this possible reorganization, the general secretary of the Punjab Congress Committee led a communal campaign convincing many Hindu villagers to deny their mother tongue of Punjabi and instead report Hindi as their language on the 1951 census.²⁴ In its 1955 report, however, the States Reorganization Committee, formed by the Prime Minister, recommended against the reorganization of Punjab.²⁵ Punjabis engaged in civil disobedience to agitate for statehood for Punjabi-speaking people – Punjabi Suba – but the media projected this campaign as a demand for a separate Sikh state.²⁶ In reality, a unilingual Punjab would have made Hindus the majority population in Punjab, 57 percent to 43 percent.²⁷

In the 1960s, the government prohibited newspapers from covering the Punjabi Suba campaign.²⁸ The government eventually proposed reorganization based on the controversial 1951 census. Thus, in September 1966, with the Punjab Reorganization Act, the central government truncated the state of Punjab to create the two new reportedly Hindi-speaking states of Haryana and Himachel Pradesh.²⁹ Although this made Sikhs a majority in Punjab, it decreased Punjab's representation in national parliament to only 13 seats out of 545.³⁰ This loss of land figured prominently in subsequent campaigns against the central government.

Punjab's relationship with the Center was further strained when Prime Minister Indira Gandhi declared an Emergency on June 26, 1975, in reaction to a High Court judgment debarring her from elected office for six years for engaging in electoral corruption.³¹ After Gandhi suspended the constitution, jailed political opponents, and implemented severe censorship,³² the Akali Dal, the Sikh political party, organized the first public protest on July 9, 1975.³³ Over 40,000 Sikhs were jailed in the "Save Democracy" movement³⁴ as, everyday,

²³ Ram Narayan Kumar and George Sieberer, *Sikh Struggle: Origin, Evolution, and Present Phase* (Delhi: Chanakya Publications, 1991), 167.

²⁴ Patwant Singh, *The Sikhs* (New York: Alfred A. Knopf, 2000), 205.

²⁵ Kumar and Sieberer, *The Sikh Struggle*, 178-9.

²⁶ Patwant Singh, *The Sikhs*, 205.

²⁷ *Id.*, 206.

²⁸ Kumar and Sieberer, *The Sikh Struggle*, 182.

²⁹ *Id.*, 185.

³⁰ Patwant Singh, *The Sikhs*, 207.

³¹ *Id.*, 213.

³² *Id.*

³³ Kumar and Sieberer, *The Sikh Struggle*, 249.

³⁴ Patwant Singh, *The Sikhs*, 213.

Sikh activists defied the ban on protests and courted arrest.³⁵ The Emergency ended in March 1977 when Gandhi called for elections, leading to her defeat.³⁶

At a time when leaders of other peripheral states, such as Jammu and Kashmir, Tamil Nadu, Kerala and West Bengal, were demanding decentralization of powers,³⁷ on October 28 to 29, 1977, the Akali Dal formally released the English version of the Anandpur Sahib Resolution (ASR) with over a hundred thousand people in attendance, representing their grievances with the Center.³⁸ The Resolution – perceived as secessionist by the Congress party³⁹ – affirmed the principle of decentralization of powers and endorsed “the principle of state autonomy in keeping with the concept of federalism.”⁴⁰ The ASR highlighted the economic, cultural and religious grievances of Sikhs with the central government, such as economic deprivation brought on by the lack of large-scale industrial development,⁴¹ the diversion of 75% of Punjab’s river waters, and the implementation of a ceiling for recruitment of Sikhs in the Army;⁴² territorial loss, such as the truncation of Punjab and the transfer of Punjab’s capital Chandigarh to the Union;⁴³ and identity concerns, such as Article 25 of the Indian Constitution defining Sikhs as Hindus.

Although the Akali leaders failed to acknowledge this, the ASR resembled the Cabinet Mission Plan of May 1946 for transfer of power from the British, which Sikh leaders had rejected at the time. In early 1946, the Cabinet Mission met with political leaders, including Sikh leaders, to discuss proposals for independence.⁴⁴ The Mission proposed a decentralized federation with a Center that would control defense, communications, and foreign affairs.⁴⁵ The provinces would retain autonomy over all other subjects, and after ten years, by majority vote could secede from the federation.⁴⁶ Punjab would not be partitioned and its infrastructure, such as its irrigation system, would be preserved. The Akalis rejected this proposal, allegedly because it would leave Sikhs under a Muslim majority.⁴⁷

The discontent in the Sikh population accelerated in the years prior to the assassination of Indira Gandhi. In the early 1980s, Hindu and Sikh civilians and police officers became the targets of hundreds of assassinations, attributed by the government to Sikh militants. Beginning in 1981, the Akali Dal and the Gandhi government engaged in fitful negotiations.⁴⁸ Claiming to be secular, the Congress party de-legitimized demands made by Sikh leaders as “communal” or “separatist.”⁴⁹ The early 1980s saw the rise of a charismatic religious leader Sant

³⁵ Kumar and Sieberer, *The Sikh Struggle*, 249.

³⁶ Patwant Singh, *The Sikhs*, 213.

³⁷ Ram Narayan Kumar, *Sikh Unrest and the Indian State* (Delhi: Ajanta Books International, 1997), 4.

³⁸ Patwant Singh, *The Sikhs*, 210.

³⁹ *Id.*, 211-2.

⁴⁰ *Id.*, 211.

⁴¹ *Id.*, 201.

⁴² Joyce J.M. Pettigrew, *The Sikhs of the Punjab: Unheard Voices of State and Guerrilla Violence* (London: Zed Books, 1995), 5.

⁴³ Ranjit S. Narula, *The Anandpur Saheb Resolution*, in Patwant Singh and Harji Malik, eds., *Punjab: The Fatal Miscalculation* (New Delhi: Patwant Singh, 1985), 67-8.

⁴⁴ Kumar, *Sikh Unrest*, 204.

⁴⁵ *Id.*, 205-6.

⁴⁶ *Id.*, 206-7.

⁴⁷ *Id.*, 207.

⁴⁸ Human Rights Watch (HRW) and Physicians for Human Rights (PHR), *Dead Silence: The Legacy of Abuses in Punjab* (New York: HRW, 1994), 8.

⁴⁹ Gurharpal Singh, *Ethnic Conflict in India: A Case-Study of Punjab* (London: Macmillan Press, Ltd., 2000), 105.

Jarnail Singh Bhindrawale, the head of the Sikh seminary Dam Dami Taksal. Sant Bhindrawale gained repute as a religious reformer, as he began huge initiations of Sikhs. The activities surrounding Sant Bhindrawale, his role in leading political opposition to the Congress party and the Akali Dal, and allegations of his inciting violence against Hindus in Punjab, provide the greatest source of disagreement amongst writers on Punjab. The Indian government, however, justified its subsequent policies in order to counter Sant Bhindrawale and the violence he allegedly initiated.

The early 1980s precipitated Punjab's confrontation with the Center. In 1982, the Akali Dal leadership launched the Dharam Yudh Morcha – advocating for the transfer of Chandigarh to Punjab, reallocation of river waters, and the implementation of the ASR, among other demands.⁵⁰ In 88 days, the police arrested over 36,000 Akali Dal activists and preventatively detained at least 2,500 Sikhs under the National Security Act of 1980.⁵¹ During the Asian Games held in New Delhi in 1982, the Akalis threatened massive demonstrations. The central government thus had every Sikh entering Delhi, whether he was a High Court judge or general in the Army, targeted, searched and interrogated.⁵² Security forces prevented the majority of the Sikhs from passing through Haryana, and thus they could not reach Delhi.

As protests increased for fulfillment of Akali demands and a bus was ambushed and six Hindu passengers killed, Prime Minister Gandhi brought Punjab under President's Rule on October 6, 1983.⁵³ Gandhi dismissed the state government and legislative assembly, and declared Punjab a "disturbed area."⁵⁴ 50,000 troops, from state police and paramilitary forces, patrolled Punjab.⁵⁵ The Indian Government's White Paper lists some of the oppressive ordinances, later passed as acts of parliament, in effect during that period: The Punjab Disturbed Areas Ordinance, 1983, effective October 7, empowered any police officer or magistrate to use lethal force against someone whose actions they believed would (a) cause a serious breach of the public order, (b) violate laws forbidding the assembly of more than four persons, or (c) contravene laws banning the carrying of weapons. The Armed Forces (Punjab and Chandigarh) Special Powers Ordinance, 1983, effective October 15,⁵⁶ empowered security forces to shoot to kill, with prosecutorial immunity, and search and arrest without warrant.⁵⁷ Amnesty International described this act as emboldening security forces with a "license to torture and kill with impunity."⁵⁸ In April 1984, changes made to the National Security Act by presidential decree, later approved by the Lok Sabha, permitted detention without charge for six months and detention without trial for up to two years in Punjab and Haryana.⁵⁹

⁵⁰ The Front for the Righteous Struggle. Kumar and Sieberer, *The Sikh Struggle*, 259.

⁵¹ Human Rights Watch (HRW), *Punjab in Crisis: Human Rights in India* (New York: HRW, 1991), 16, citing Amnesty International, Report 1983, 195.

⁵² Khushwant Singh, *My Bleeding Punjab* (New Delhi: UBS Publishers' Distributors, 1992), 50.

⁵³ Human Rights Watch, *Dead Silence*, 10.

⁵⁴ Government of India, *White Paper on the Punjab Agitation* (July 1984), 28.

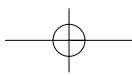
⁵⁵ Stewart Slavin, *Army Sent Into Punjab*, *United Press Int'l* (June 2, 1984).

⁵⁶ Government of India, *White Paper*, 29.

⁵⁷ Armed Forces (Punjab and Chandigarh) Special Powers Act (1983), Sections 4 and 7.

⁵⁸ Amnesty International, *India: Torture, Rape & Deaths in Custody* (1992), 60.

⁵⁹ Indian Army Storms Sikh Golden Temple in Punjab, *Facts on File World News Digest* (June 8, 1984), 401-A1.



On May 31, 1984, precipitating a direct confrontation with the Indian government, the Akali Dal announced plans for another agitation. They intended to block the transport of grains, water and power supplies from Punjab,⁶⁰ threatening Indira Gandhi's government with a sixty percent reduction in the national grain supply.⁶¹ The agitation, set to be launched on June 3 from the Harmandir Sahib complex in Amritsar city, also included the non-payment of water and land taxes.⁶² In its White Paper, the government characterized these agitations as a "communal and extremist" movement⁶³ that "provided a respectable cover for subversive and anti-national forces to operate."⁶⁴ The government responded by deploying 100,000 troops in Punjab, setting the stage for Operation Bluestar, the Indian Army attack on the Harmandir Sahib complex⁶⁵ – the center of Sikh religious and political life.

The Harmandir Sahib complex rests in Amritsar (pool of Nectar), a city founded by the fourth Sikh Guru Ram Das in the 16th century. The foundation of the Harmandir Sahib was laid by the fifth Sikh Guru Arjan Sahib. In the Harmandir Sahib complex,⁶⁶ the golden-domed gurudwara sits majestically in the middle of a sarowar, or pool. The intricately decorated Darshani Deori opens the walkway that takes pilgrims across the water to the gurudwara. Across from the Darshani Deori is the Akal Takht, the seat of Sikh temporal authority. The complex also houses the Sikh Reference Library, the langar (communal dining) hall, smaller gurudwaras, and rest houses, among other offices. The walkway bordering the sarowar is called the parikrama. In May 1982, after the Indian government banned several Sikh militant organizations,⁶⁷ some of the organizations based their activities from the Harmandir Sahib complex. On May 30, 1984, however, President Zail Singh, a Sikh, told Sikh religious leaders in the complex that the Army would not attack it.⁶⁸

On June 1, when Sant Bhindrawale held his rooftop meetings in the complex, the Army failed to target him and his followers, despite their being in full view.⁶⁹ Instead of directing fire at the meeting, soldiers shot at various buildings in the temple complex for seven hours, including the Harmandir Sahib itself which suffered at least 34, and possibly as many as 300, bullet marks.⁷⁰ Giani Kirpal Singh, the Akal Takht Jathedar during Operation Bluestar and an eyewitness to the Army operations, confirmed the bullet marks on Harmandir Sahib and the deaths of 11 pilgrims inside from the soldiers' firing. He and another Sikh religious leader, Giani Sahib Singh, issued a press release on the bullet injuries.⁷¹ According to eye-witness Devinder Singh Duggal, the in-charge

⁶⁰ Id.

⁶¹ Editorial, Violence in Amritsar, Financial Times (June 7, 1984), I-18.

⁶² India: News Ban and Curfew in Punjab, Army Called In, Inter-Press Service (June 4, 1984).

⁶³ Government of India, White Paper, 1.

⁶⁴ Id., 2.

⁶⁵ Ram Narayan Kumar, The Ghalughara: Operation Blue Star—A Retrospect, Sikh Review (Calcutta: June 2000) at <http://www.sikhreview.org/june2000/tsr8.htm>.

⁶⁶ See map at <http://www.sikhs.org/1984p1.htm>.

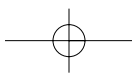
⁶⁷ Human Rights Watch, Punjab in Crisis, 16.

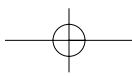
⁶⁸ Kumar, The Ghalughara.

⁶⁹ Id.

⁷⁰ Id. See also, Anurag Singh, Imprimis, in Giani Kirpal Singh, Eyewitness Account of Operation Bluestar (Amritsar: B. Chattar Singh Jiwan Singh, 1999) citing Sachchidanand Sinha, et al., Army Action in Punjab: Prelude and Aftermath (57): "According to the report of the Chief Engineer of the Public Works Department there are 259 bullet marks on Harmandir Sahib alone."

⁷¹ Giani Kirpal Singh, Eyewitness Account, 1-3.





of the Sikh Reference Library, the militants did not fire any shots from inside the complex. As he told the national civil rights organization Citizens for Democracy:

When I asked some of the boys, as to why they did not answer the firing, they replied that they were under strict orders of the Sant not to fire a single shot unless and until the security forces or the Army entered the holy Golden Temple. In the evening, when I heard in the news bulletin that there was unprovoked firing from inside the Temple, but that the security forces showed extreme restraint and did not fire a single shot, I was surprised at this naked lie. The very fact that as many [as] eight persons, including a woman and a child had been killed inside the Golden Temple complex and there were as many as 34 big bullet wounds on all sides of the Harmandir Sahib completely belied the Government's version.⁷²

The White Paper published by the government of India is also silent on the June 1 shootings and killing of pilgrims.

On June 2, the central government declared Punjab a "restricted area,"⁷³ banning travel to Punjab, and the Indian Army assumed police functions.⁷⁴ Despite these restrictions, visitors were allowed to freely enter the Gurudwara complex.⁷⁵ On June 3, the central government imposed a statewide shoot-on-sight curfew,⁷⁶ forbidding anyone from moving about outside except the Army⁷⁷ and suspending transportation, including bicycles and ox-carts.⁷⁸ The government forbade news coverage of the Army attacks, expelled foreign journalists, and cut phone lines across Punjab.⁷⁹ Eleven state-wide daily newspapers refused to publish their papers because the Army did not issue curfew passes to their reporters.⁸⁰ Security forces kept Indian journalists in Chandigarh under virtual house arrest, and confined those in Amritsar to a hotel without phone lines, warning them they would be shot if they left the hotel.⁸¹ The Government banned reporting on all security operations and the conflict in Punjab.⁸²

Eyewitnesses reported that over 10,000 pilgrims and 1300 workers had gathered inside the complex by June 3 to join the Akali agitation or to commemorate the martyrdom anniversary of the fifth Sikh Guru, and they could not leave before the Army's attack for fear of arrest.⁸³ As human rights activist

⁷² Citizens for Democracy, Report to the Nation: Oppression in Punjab (Ohio: Sikh Religious and Educational Trust, Jan. 1986), 57.

⁷³ William Claiborne, India's Army Takes Control in Troubled Punjab, Washington Post (June 3, 1984), A1.

⁷⁴ William K. Stevens, Indian Army Takes over Security in Punjab as New Violence Flares, New York Times (June 3, 1984), A1.

⁷⁵ Citizens for Democracy, Report to the Nation, 58.

⁷⁶ William Claiborne, Indian Forces Besiege Sikh Shrine Amid Hints of Imminent Attack, Washington Post (June 6, 1984), A20.

⁷⁷ William K. Stevens, Heavy Fighting Reported at Shrine in Punjab, New York Times (June 5, 1984), A1.

⁷⁸ William K. Stevens, India Bans Travel to Punjab in Bid to Halt Violence, New York Times (June 4, 1984), A1.

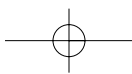
⁷⁹ Tumult in the Punjab, Christian Sci. Monitor (June 7, 1984), 19.

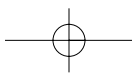
⁸⁰ William Claiborne, Indian Forces Besiege Sikh Shrine Amid Hints of Imminent Attack, Washington Post (June 6, 1984), A20.

⁸¹ Id.

⁸² William K. Stevens, Heavy Fighting Reported at Shrine in Amritsar, New York Times (June 5, 1984), A1.

⁸³ Kumar, The Ghalughara.





Ram Narayan Kumar reported:

Three journalists who came out of the temple complex, after speaking to Bhindranwale, on June 3rd evening told me that there were more than ten thousand Sikh devotees inside with no inkling of what was about to follow. One journalist counseled some village women, who nervously questioned him about the army deployment, to stay put until the curfew got lifted. The journalist himself had no clue on the scale and the nature of the army operation underway.⁸⁴

Pilgrims inside the gurudwara soon learned that those who left were taken into custody.⁸⁵ Gurmej Singh, married with four young children, was a vegetable vendor in Amritsar. On June 3, since it was the anniversary of the martyrdom of the fifth Sikh Guru, he and his friends visited Harmandir Sahib:

We were all still inside the Temple when the army imposed a curfew. Sensing trouble ahead, we tried to leave via the cobbler's bazaar, but we were turned back by a group of angry soldiers who ordered us back into the temple complex until the curfew orders were in force...

We took refuge in an office room in the complex but the bullets followed us everywhere. I was hit in my hip. Many of my village mates and others were fatally wounded.

It was pitch dark, hot, humid and so deafeningly noisy that one could not tell if the person lying next to him was dead or still alive.⁸⁶

The police detained Red Cross volunteers at Jallianwala Bagh, near the Harmandir Sahib complex, preventing them from accessing the pilgrims and gurudwara employees.⁸⁷ Medical workers in Amritsar later reported that soldiers had threatened to shoot them if they provided food or water to Sikhs in hospitals, who had suffered wounds during the Army attack.⁸⁸

On June 4, 1984, the day after the anniversary of the martyrdom of the fifth Sikh Guru, the Indian Army launched Operation Bluestar, allegedly to flush out Sant Bhindranwale and his "terrorists." According to an eyewitness, the Army launched its attack without warning.⁸⁹ The Army used canons⁹⁰ and heavy artillery.⁹¹ Duggal, the librarian, described the start of the attack:

At about 4 a.m. in the early hours of the morning of June 4, the regular Army attack on the temple started with a 25-pounder which fell in the ramparts of the Deori to the left of the Akal Takht Sahib with such a thunder that for a few moments I thought that the whole complex had collapsed. I along with my wife were then sitting in the verandah of my house adjacent to the Sikh Reference Library. Recovering from the initial

⁸⁴ Id.

⁸⁵ Citizens for Democracy, Report to the Nation, 58.

⁸⁶ Flashbacks: Golden Temple Attack, BBC (June 3, 2004) at http://news.bbc.co.uk/1/hi/world/south_asia/3774833.stm.

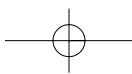
⁸⁷ Kumar, The Ghalughara.

⁸⁸ Sikhs Call National Day of Mourning in India, Christian Sci. Monitor (June 18, 1984), 2.

⁸⁹ Kumar, The Ghalughara.

⁹⁰ Giani Kirpal Singh, Eyewitness Account, 7.

⁹¹ Id., 8.



shock, we moved into the room and took shelter in one of its corners. Thereafter, every second the ferocity of firing increased and it continued unabated till the evening of the 6th June...Through a slit in the shutter of a window we saw a large number of dead bodies in the Parikrama of the Golden Temple. They included women and children.⁹²

Giani Kirpal Singh, at his residence by the Harmandir Sahib complex, described seeing the complex in flames.⁹³

On June 5, heavy canon firing continued as the fire in the complex raged.⁹⁴ The Army killed several religious leaders and gurudwara employees when they stepped outside of the Harmandir Sahib, where 50 to 60 people had taken refuge.⁹⁵ Later that day, the Army invaded the complex with tanks and canons.⁹⁶ During the night, eight tanks used 105 mm canons and battered the Akal Takht, reducing the first floor to rubble and destroying the building.⁹⁷ Because the central government had prohibited any reporting, transmission or publication related to disturbances in Punjab, there was no news coverage of the use of tanks.

On June 6, the Army ordered pilgrims staying in the hostel complex out into the courtyard. Eyewitnesses like Ranbir Kaur, a schoolteacher, described soldiers tying the hands of Sikhs behind their backs with their turbans⁹⁸ and shooting them at point-blank range:

[The detainees] were taken into a courtyard. The men were separated from the women...When we were sitting there the army released 150 people from the basement. They were asked why they had not come out earlier. They said the door had been locked from the outside. They were asked to hold up their hands and then they were shot after fifteen minutes.⁹⁹

A doctor and a police officer confirmed seeing the bodies of Sikhs who had been shot at point-blank range, with their hands tied behind their backs.¹⁰⁰ As one Sikh doctor who worked at a government hospital confirmed:

Two of the Sikhs whose post-mortem examinations I conducted had their hands tied at the back...Some of my other colleagues conducting post-mortems also came across young Sikhs who had been shot this way.¹⁰¹

Bhan Singh, then General Secretary of the gurudwara's management committee, counted at least 70 dead bodies of Sikh children, women, and

⁹² Citizens for Democracy, Report to the Nation, 59-60.

⁹³ Giani Kirpal Singh, Eyewitness Account, 7.

⁹⁴ Id., 8.

⁹⁵ Kumar, The Ghalughara.

⁹⁶ Giani Kirpal Singh, Eye-witness Account, 9.

⁹⁷ Kumar, The Ghalughara.

⁹⁸ Id.

⁹⁹ Human Rights Watch, Punjab in Crisis, 19 citing Ranbir Kaur in Mark Tully and Satish Jacob, Amritsar: Mrs. Gandhi's Last Battle (London: J. Cape, 1985), 184-5.

¹⁰⁰ Judy Woodruff, The MacNeil/Lehrer Newshour (June 13, 1984), Transcript #2273.

¹⁰¹ William K. Stevens, Indira Gandhi Calls Rebellion 'Under Control,' New York Times (June 14, 1984), A1.

elderly men. When he saw soldiers lining up young Sikhs for point-blank execution, Bhan Singh protested. In response, the Major tore his turban off his head and "ordered him to either flee or join the 'array of martyrs.'" Bhan Singh fled as hundreds of young Sikh pilgrims were executed. Harcharan Singh Ragi, a religious leader, emerged out of his quarters in the temple complex, with his wife and daughter and witnessed the Army murdering hundreds of people.¹⁰²

Authorities briefly lifted the curfew in some parts of Punjab on June 6, to enable families to purchase food.¹⁰³ The Army placed the remaining journalists, including Indians accredited to foreign news agencies, onto an Army bus and drove them to the border of Punjab.¹⁰⁴ Lt. Gen. Ranjit S. Dayal, the commander of the Operation, announced Army control over Harmandir Sahib, claiming they had arrested 450 Sikh militants.¹⁰⁵ Although the official White Paper cites the deaths of only 83 Army personnel and 493 terrorists, military sources stated that 1000 Sikhs and 220 soliders died during the attack.¹⁰⁶ Eyewitnesses cited figures ranging from 4000 to 8000 people killed, mostly pilgrims.¹⁰⁷ Although the White Paper states that the Sikh Reference Library was destroyed the night between June 5 and 6, because of firing by militants, Duggal, the librarian, insists that the library was intact when he last saw it on June 6, after the Army had gained control of the complex. When he returned on June 14, the Army had burned the library down.¹⁰⁸

The strict censorship and isolation of Punjab left important questions unanswered, with the only information provided by the government. In addition to the ban on reporting, in early June, the government ordered all papers published in Jalandhar and Patiala, representing the majority of Punjab's dailies, to submit to pre-censorship.¹⁰⁹ The two-month ban and pre-censorship represented the broadest censorship since the Emergency imposed by Indira Gandhi from 1975 to 1977.¹¹⁰ *India Today* described how "the censors' scissors hack[ed] away whole columns of news." Between June 8 and 19, the Chandigarh administration registered 27 cases against *The Indian Express* for violating the censorship.¹¹¹

This censorship caused key gaps: How many of those killed in Bluestar were really militants? How did they die? How many of those subsequently arrested throughout Punjab were militants? For example, Gurmej Singh, the vegetable vendor who visited Harmandir Sahib on June 3 and was ordered back inside the complex by security forces, was arrested after the Army took control of the complex. On June 6, soldiers broke down the office door where he was hiding in the complex, and thoroughly beat him. He was tortured in an Amritsar military camp, charged with sedition, detained, and a year later shifted with 378 others to Jodhpur Jail in Rajasthan. Only five years later did the security forces

¹⁰² Kumar, *The Ghalughara*.

¹⁰³ William K. Stevens, 308 People Killed as Indian Troops Take Sikh Temple, *New York Times* (June 7, 1984), A1.

¹⁰⁴ William Claiborne, Indian Forces Besiege Sikh Shrine Amid Hints of Imminent Attack, *Washington Post* (June 6, 1984), A20.

¹⁰⁵ Neal Robbins, *International, United Press Int'l* (June 6, 1984).

¹⁰⁶ *Angry Sikhs Stage Rallies Across India*, *New York Times* (June 18, 1984), A3.

¹⁰⁷ Kumar, *The Ghalughara*.

¹⁰⁸ *Citizens for Democracy, Report to the Nation*, 66.

¹⁰⁹ S. G. Roy, *International, United Press Int'l* (June 11, 1984).

¹¹⁰ S.G. Roy, *International, United Press Int'l* (June 4, 1984).

¹¹¹ Gobind Thukral, *The Press Under Stress*, *India Today* (July 5, 1984), 78.

¹¹² *Flashbacks: Golden Temple Attack: Gurmej Singh*, *British Broadcasting Corp.* (June 3, 2004) at http://news.bbc.co.uk/1/hi/world/south_asia/3774833.stm.

release him without trial.¹¹²

New York Times reporter Sanjoy Hazarika reported how All India Radio broadcast Mrs. Gandhi's anguish on the situation of Punjab and accounts of the allegedly improving situation. No news was aired on the desertions by Sikh soldiers or high numbers of innocent pilgrims killed in the Army attack. The government controlled the access to information:

Only a handful of carefully selected Indian reporters, working for television, radio and the two major English-language news agencies, Press Trust of India and United News of India, have traveled to the temple on Government-organized trips with President [Zail] Singh and Sports Minister Buta Singh.

Though nominally independent, the two Indian news agencies obtain most of their money from the Indian Government and state governments, which are the biggest subscribers, making the agencies, to some degree, susceptible to government pressure. Western news agency reports are not received directly by newspapers in India, but are funneled through, and edited by, the two Indian news agencies.¹¹³

Hazarika described the impact of the censorship imposed in Punjab, leading to self-censorship in national news sources, inhibiting international coverage, as well:

One editor said that sometimes a reporter and his editors would drop a report based on an official source if the source demanded it, especially if the report was potentially embarrassing to the Government.

Another editor said that editors were reluctant to publish or transmit sensitive reports if official confirmation was lacking because "a denial will only hurt us."

The Government says there is no censorship in any part of India except Punjab. But a representative for The Associated Press here said today that technicians at the overseas communications service refused on June 2 to transmit two radio photographs of soldiers around the Golden Temple.

They gave no reason for their decision, and Victoria Graham, the A.P. bureau chief here, added that they had threatened to stop future news photographs about Punjab. A photographer with United Press International spoke of seven-hour delays in radiophoto transmission here.¹¹⁴

Despite this blackout, reports emerged from Punjab of Army misconduct beyond extrajudicial executions of innocent pilgrims, such as thefts from Sikhs and gurudwaras, burnings of villages, and disrespectful behavior in gurudwaras.¹¹⁵

Government officials prevented the identification of Sikhs killed during

¹¹³ Sanjoy Hazarika, News from Punjab: How New Delhi Curbs What is Reported, New York Times (June 13, 1984), A10.

¹¹⁴ Id.

¹¹⁵ William K. Stevens, Punjab Raid: Unanswered Questions, New York Times (June 19, 1984), A4.

Bluestar by conducting or overseeing post mortems and cremations themselves, despite any identification cards found on bodies. On June 9, the *Press Trust of India* reported that officials had cremated the bodies of 470 people killed in Operation Bluestar, destroying opportunities at identification of victims and crucial physical evidence on causes of death.¹¹⁶ A day later, an *Associated Press* reporter cited contradictory reports by Army officials saying that 400 Sikhs and 80 soldiers had died in the operation, yet they had cremated 780 bodies, 50 at a time because of the lack of wood.¹¹⁷ Home Secretary M.M.K. Wali declared that the government had cremated bodies because of their state of decay from the intense heat.¹¹⁸ Government officials reportedly stated they had photographed and fingerprinted the bodies for later identification.¹¹⁹ The Army, however, never released a list of the dead.¹²⁰ Sikh leaders officially protested the failure of the Army to turn the bodies over to them for cremation according to religious rites.¹²¹

In her speech to the nation after Operation Bluestar, Prime Minister Indira Gandhi masked the simultaneous attack on 41 other gurudwaras in Punjab, the killing and point-blank executions of innocent pilgrims, the coordination of the attack on a day commemorated by the Sikh community, and the failure to issue the curfew earlier or warn pilgrims. Mrs. Gandhi declared that the Harmandir Sahib was unscathed; she conceded some damage to the Akal Takht but maintained that most of the building was intact; she insisted that all Sikh artifacts remained intact.¹²² However, Sikhs reported bullet wounds on Harmandir Sahib; and the Akal Takht was destroyed. While making declarations regarding the extensive arsenal found in the Darbar Sahib complex,¹²³ the Army repeatedly denied its own use of tanks. Regarding Sikh artifacts, Sikh religious leaders, many of whom were in the Darbar Sahib complex during the Army attack, accused the Army of stealing precious Sikh religious artifacts, such as scriptures and books, paintings and other cultural materials. The central government consistently denied these accusations. Twenty years later, however, in April 2004, the Union government filed an affidavit in a court case acknowledging that it possessed many articles, including rare handwritten scriptures and documents, and wished to return them. The High Court then disposed of the petition, ordering the government to return the materials,¹²⁴ which has not yet occurred.

In his eyewitness account, Giani Kirpal Singh lists some of the artifacts

¹¹⁶ Neal Robbins, *International, United Press Int'l* (June 9, 1984).

¹¹⁷ William K. Stevens, *800 Sikh Militants are Said to Have Died in Raid*, *New York Times* (June 11, 1984), A12.

¹¹⁸ Paul Wedel, *International, United Press Int'l* (June 8, 1984).

¹¹⁹ John Elliott, *Indian President Visits Amritsar in Bid to Calm Sikh Fears*, *Financial Times* (June 9, 1984), I2.

¹²⁰ Citizens for Democracy, *Report to the Nation*, 9.

¹²¹ Mary Anne Weaver, *Army Assault on Sikhs Sends Shock Waves Across India*, *Christian Sci. Monitor* (June 11, 1984), 1.

¹²² Mrs. Gandhi Explains Need for Action at Golden Temple, *BBC Summary of World Broadcasts* (June 18, 1984), FE/7672/B/1. After the attack, Indian government representatives repeatedly denied that any harm occurred to the Harmandir Sahib itself. India's Ambassador to the U.S. in 1984 told news reporters that Harmandir Sahib, "the holy of holies," "was never touched upon by our forces." Amb. K.S. Bajpai in *The MacNeil/Lehrer NewsHour* (June 7, 1984), Transcript #2269. In a press conference on June 6, Lt. Gen Dayal stressed that no damage had occurred to Harmandir Sahib. *Security Forces Take Control of Golden Temple*, *BBC Summary of World Broadcasts* (June 8, 1984), FE/7664/B/1.

¹²³ See, e.g., William Claiborne, *Gandhi Says Delhi had to Rout Sikhs*, *Washington Post* (June 9, 1984), A13.

¹²⁴ *Material Seized During Bluestar to be Returned*, *Tribune* (April 27, 2004), at <http://www.tribuneindia.com/2004/20040427/punjab1.htm#38>. The case was Civil Writ Petition No. 11301 of 2003. *SGPC Seeks Return of Books, Valuables*, *Tribune* (June 4, 2004) at <http://www.tribuneindia.com/2004/20040605/punjab1.htm#6>.

that were destroyed during the attack, such as weapons belonging to the Sikh Gurus,¹²⁵ in addition to the destruction and confiscation of artifacts in the Sikh Reference Library. The library had included early manuscripts of the Guru Granth Sahib, with the Gurus' handwriting,¹²⁶ as well as, at least:

400 manuscript copies of *Adi Guru Granth*, *Dasam Granth*, *Janam Sakhis*, *Hukamnamas*, typed manuscripts of 500 old precious books, 1200 files of many newspapers of last sixty years, manuscript copy of Sant Nihal Singh's *Kavi Parkash*, many manuscript copies of historical records, 18 albums of historical paintings and all the almirahs, racks, furniture, blocks of photographs.¹²⁷

The Army refused to acknowledge its role in the destruction of the library and precious historic and religious artifacts.

As Sikhs reeled from the Army attack on the Harmandir Sahib complex, the 24-hour shoot-on-sight curfew in Punjab was briefly relaxed on June 10 in Amritsar and 11 other parts of Punjab.¹²⁸ On June 11, however, Punjab's border remained closed. ABC's Mark Litke reported for *World News Tonight* on the isolation of the state:

Thousands of Punjabis are still stranded in train stations and traffic is backed up for miles on roads leading into the Punjab as the Sikh dominated state remains under emergency rule, cut off from the rest of the nation. Indian Army troops are screening everything that moves when curfews are not in effect. The news blackout is so strict, we had to hide our camera to record these scenes, after being warned we would be shot.¹²⁹

The 24-hour curfew remained in effect in Amritsar even on June 18.¹³⁰ By the end of June, most curfews had been lifted,¹³¹ although they were periodically reinstated.¹³² Punjab was not reopened to foreigners until March 1989.¹³³

As news of Operation Bluestar spread throughout India, Sikh soldiers mutinied, deserting their battalions. Sikhs comprised 10¹³⁴ to 12¹³⁵ percent of the Armed Forces. 126 Sikh soldiers fought their colleagues in one mutiny,¹³⁶ another 500 Sikh soldiers murdered their commander, before deserting.¹³⁷ Over one hundred Sikh soldiers from the Sikh Regimental Center in Bihar confiscated

¹²⁵ Giani Kirpal Singh, *Eyewitness Account*, 9-10.

¹²⁶ Kumar, *Sikh Unrest*, 26-7.

¹²⁷ Giani Kirpal Singh, *Eyewitness Account*, 32.

¹²⁸ Paul Wedel, *Sikh Protestors Burn Pictures of Indira Gandhi*, *United Press Int'l* (June 10, 1984).

¹²⁹ Mark Litke, *World News Tonight*, American Broadcasting Companies (June 11, 1984).

¹³⁰ *Angry Sikhs Stage Rallies Across India*, *New York Times* (June 18, 1984), A3.

¹³¹ *Restrictions are Eased in Punjab but Hunt for Militants Continue*, *New York Times* (June 22, 1984), A2.

¹³² *Security Situation in Punjab*, *BBC Summary of World Broadcasts* (June 26, 1984), FE/7679/B/1.

¹³³ U.S. Department of State, *India: Human Rights Practices, 1989*, 1392.

¹³⁴ *It's a Long Way from Poona*, *Economist* (June 16, 1984), 40.

¹³⁵ S.G. Roy, *The Radicalization of India's Sikhs*, *United Press Int'l* (June 18, 1984).

¹³⁶ *The MacNeil/Lehrer NewsHour* (June 11, 1984), Transcript #2271.

weapons and 48 vehicles and drove towards Punjab before they were intercepted and surrendered.¹³⁸ Military sources estimated that between 2,000¹³⁹ to 5,000 Sikh soldiers mutinied in nine Indian states, with 40¹⁴⁰ to 103 deserters killed in clashes to stop the desertions, and over 1000 arrested.¹⁴¹ All India Radio minimized the mutinies by reporting on the desertions of only an “insignificant number” of Sikhs.¹⁴²

The number of Sikhs detained after Bluestar remains unknown. The Army's figures itself repeatedly varied. On June 8, the Army reported that it had arrested 1,500 “terrorists,” and estimated that about 100 to 150 remained at large in Punjab.¹⁴³ On June 11, reporter William K. Stevens of the *New York Times* attributed the figure of 4000 arrests to Army sources, with nearly 5000 “terrorists” still at large, and 2000 killed since the initiation of Operation Bluestar.¹⁴⁴ On June 21, an Army spokesman stated that 4,220 Sikhs had been detained without trial.¹⁴⁵ Human Rights Watch reported that the government detained up to 6000 people after concluding its Army operations, releasing only 800 by June 27.¹⁴⁶ Because of the Terrorists Affected Areas (Special Courts) Act, the detainees faced undemocratic hurdles: under the Act, charged with “waging war,” they were presumed guilty and had to prove their innocence. The courts also operated *in camera*, concealing the identity of witnesses.¹⁴⁷ Their only appeal lay with the Supreme Court.¹⁴⁸

According to the U.S. Department of State, in March 1989, the government released 187 of the remaining Jodhpur detainees arrested after Operation Bluestar. Four remained in custody and security forces rearrested 78 of those released.¹⁴⁹ Even if these figures are accurate, they do not reveal what happened to the other Jodhpur detainees during detention and after their release. Extensive documentation by the Committee for Coordination on Disappearances in Punjab demonstrates that security forces repeatedly targeted Jodhpur Jail and other “security” detainees and their families in cycles of illegal detention, torture, and often extrajudicial execution or disappearance.¹⁵⁰

On June 22, Prime Minister Gandhi amended the National Security Act for the second time in 1984, giving security forces wider powers of arrest. Again, acting while Parliament was out of session, the Prime Minister altered the Act to allow for the rearrest, on different grounds, of detainees freed by the court. She also removed the court's power to release a detainee if security forces could not support all of the charges.¹⁵¹

¹³⁷ *Id.*

¹³⁸ S.G. Roy, International, United Press Int'l (June 11, 1984). For other accounts, See, also, William K. Stevens, Indian Army Asserts Sikh Troop Revolt Has Ended, *New York Times* (June 13, 1984), A1.

¹³⁹ Paul Wedel, U.S. Embassy Denies CIA Involvement, United Press Int'l (June 14, 1984).

¹⁴⁰ Angry Sikhs Stage Rallies Across India, *New York Times* (June 18, 1984), A3.

¹⁴¹ William K. Stevens, Indian Army Asserts Sikh Troop Revolt Has Ended, *New York Times* (June 13, 1984), A1.

¹⁴² Sanjoy Hazarika, News from Punjab: How New Delhi Curbs What is Reported, *New York Times* (June 13, 1984), A10.

¹⁴³ Sikhs in Temple Hold Out: More Violence is Reported, *New York Times* (June 9, 1984), A4.

¹⁴⁴ William K. Stevens, 800 Sikh Militants are Said to Have Died in Raid, *New York Times* (June 11, 1984), A12.

¹⁴⁵ Neal Robbins, Bomb Attack Injures Three, United Press Int'l (June 21, 1984); See, also Sikh Protests Flare in Northern India, United Press Int'l (June 22, 1984) (reporting 4,277 Sikhs taken into custody since Operation Bluestar).

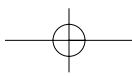
¹⁴⁶ Human Rights Watch, Punjab in Crisis, 18.

¹⁴⁷ U.S. Department of State, India: Human Rights Practices, 1990, 1432.

¹⁴⁸ Citizens for Democracy, Report to the Nation, 11.

¹⁴⁹ U.S. Department of State, India: Human Rights Practices, 1989, 1388.

¹⁵⁰ See Ram Narayan Kumar, Amrik Singh, Ashok Agrwaal, and Jaskaran Kaur, Reduced to Ashes: The Insurgency and Human Rights in Punjab (Nepal: South Asia Forum for Human Rights, 2003).



On June 24, the Army opened Harmandir Sahib to the public.¹⁵² Reporter Dhiren Bhagat described the pilgrims' reactions to the destruction:

All around the shrine [Harmandir Sahib], on the walls of the *parikrama* and the *toshakhana*, the army has touched up and painted afresh the extensive brickwork. But no amount of white paint can cover the bullet marks on the marble and gold, and each morning as the packed mass of pilgrims pushes itself toward the shrine hundreds of hands stretch out to trace each bullet hole, to take in each defacement.¹⁵³

A day later, the authorities closed the gurudwara.¹⁵⁴

In early July, in response to the failure of the armed forces to withdraw from the Harmandir Sahib, the Akali Dal announced a new agitation. It proposed to send squads of unarmed Sikhs to march to the complex in protest.¹⁵⁵ In response to the planned Akali Dal agitation, security forces increased troop patrols and erected barbed wire fences for the one mile between Baba Dip Singh gurudwara, where a group of women planned to begin their march, and Harmandir Sahib.¹⁵⁶ Security forces arrested 100 women the next day, when they marched towards Harmandir Sahib, dressed in black.¹⁵⁷ Security forces also arrested 14 Sikh women in Delhi, who departed from Bangla Sahib Gurudwara for the Harmandir Sahib complex.¹⁵⁸ The Army continued to delay its withdrawal, stating it was contingent on the elimination of all contraband arms held by Sikh militants, and the capture of the militants themselves.¹⁵⁹ It also claimed it was there to facilitate quick repairs to the complex.¹⁶⁰

On August 27, as the Harmandir Sahib complex remained under the Army's control, a magistrate in Amritsar banned a convention planned to be held by Sikh leaders, citing the seizure of inflammatory materials. Sikh leaders called for the convention to occur despite the ban. The police responded by preventatively arresting over 1000 Sikhs. In view of the impending convention, the government ordered the cessation of government-run bus services on September 1 and 2. Despite this, tens of thousands of Sikhs attended the convention on September 2, calling for a march on October 1 to force the withdrawal of the Indian Army from the Harmandir Sahib complex.¹⁶¹

The Indian Army finally withdrew from the Harmandir Sahib complex in late September 1984, after protracted negotiations between Mrs. Gandhi, President Zail Singh and Sikh religious leaders.¹⁶² A few days later, on October 1, the Army re-entered the complex, took over again, and arrested 300 Sikhs,

¹⁵¹ Paul Wedel, Sikh Priests Confront Mrs. Gandhi over Troops in Golden Temple, United Press Int'l (June 23, 1984).

¹⁵² Neal Robbins, International, United Press Int'l (June 25, 1984).

¹⁵³ Dhiren Bhagat, Bhindrawale's Escape, in Salman Khurshid, ed., The Contemporary Conservative (New Delhi: Viking, 1989), 93, originally published in The Spectator (July 7, 1984).

¹⁵⁴ Sikhs' Golden Temple Closed by Indian Army, New York Times (June 26, 1984), A7.

¹⁵⁵ Sikhs Reported to Call for Punjab Agitation, New York Times (July 9, 1984), A4.

¹⁵⁶ S.G. Roy, Plan "Suicide" March on Golden Temple, United Press International (July 15, 1984).

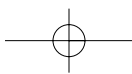
¹⁵⁷ Golden Temple Talks Fail, The Washington Post (July 17, 1984), A15.

¹⁵⁸ Eric Silver, Amritsar Suicide Squads Foiled, Guardian (July 17, 1984).

¹⁵⁹ Sikhs Reported to Call for Punjab Agitation, New York Times (July 9, 1984), A4.

¹⁶⁰ Ajoy Bose, Troops Leave the Golden Temple, The Guardian (Sept. 26, 1984).

¹⁶¹ Banned Sikh Convention Held, Facts on File World News Digest (Sept. 14, 1984), 684-E2 (estimates of the crowd ranged from 20,000 to 200,000).



after Sikhs shouted secessionist slogans and made speeches against the Sikh religious leadership.¹⁶³ On October 5, the Indian Government extended its direct rule over Punjab for another six months.¹⁶⁴ Indian Home Secretary M.M.K. Wali justified the extension because of the re-entry of "separatist militants" into Harmandir Sahib. He stated that 450 "hardcore" militants remained active in Punjab.¹⁶⁵ The security forces did not begin to withdraw again until October 8.¹⁶⁶

In September 1984, despite the information blackout, social worker Kamala Devi Chattopadhyay submitted a petition to the Supreme Court, drawing its attention to the detention of 39 Sikh children, ages 2 to 16, in Ludhiana Jail. They had been arrested during the Army attack on Harmandir Sahib. In violation of national laws protecting the rights of children, the children were held in jails and suffered grueling interrogations by the Central Bureau of Investigation (CBI) and Intelligence Bureau (IB).¹⁶⁷ The Supreme Court ordered the release of the children, stating there was no justification to detain them since they were pilgrims. The security forces released them, but rearrested most of the children and tortured them for information on their relatives, probably killed during Bluestar.¹⁶⁸

In late October, an *Indian Express* reporter published an article on two Sikh boys, ages 11 and 15, held under the National Security Act at the high security prison in Nabha. On October 27, a Sikh organization responded by filing a criminal writ petition before the Punjab & Haryana High Court, demanding their release. Without investigating the declaration of human rights violations, Justice M.M. Punchi, later appointed as Chief Justice of India's Supreme Court, disposed of the petition: "The petition is extremely vague and tends to ask for a fishing inquiry. Dismissed."¹⁶⁹

In 1984, advocacy for human rights of Sikhs became synonymous with threats to national security, creating a climate of popular sanction and effectively preventing international attention to state abuses. After Operation Bluestar, prominent Indian dailies, such as *Times of India* and *Hindustan Times*, spoke of opponents to the Army operations as belonging to "the category of Chamberlain who adopted a policy of appeasement of Hitler."¹⁷⁰ After *Associated Press* reporter and Indian citizen Brahma Chellaney reported in *The Times* of London that soldiers tied Sikhs up and shot them at point blank range during the June Army attack,¹⁷¹ the government preliminarily charged him with sedition, promoting enmity between religious groups, and deliberate insult to religious feelings.¹⁷²

In his early November 1984 order cancelling Chellaney's bail, Delhi High Court Justice D.R. Khanna accused Chellaney of "zest of sensational mongering

¹⁶² Ajoy Bose, Troops Leave the Golden Temple, *The Guardian* (Sept. 26, 1984).

¹⁶³ K.K. Sharma, Troops Re-enter Golden Temple, *Financial Times Ltd.* (Oct. 2, 1984), 1-3.

¹⁶⁴ Venugopala Rao, India: Central Government Extends Rule in Punjab, *Inter-Press Service* (Oct. 5, 1984).

¹⁶⁵ *Id.*

¹⁶⁶ More Buildings Near Golden Temple Handed Over, *BBC Summary of World Broadcasts* (Oct. 10, 1984).

¹⁶⁷ Gobind Thukral, Babes and Arms, *India Today* (Sept. 30, 1984), 25.

¹⁶⁸ Kumar, Ghalughara.

¹⁶⁹ *Id.*

¹⁷⁰ Patwant Singh, *The Sikhs*, 235.

¹⁷¹ *Indian Police Question Reporter on Amritsar*, *New York Times* (Nov. 24, 1984), A3; See also, *AP Reporter Charged Anew*, *New York Times* (Nov. 27, 1984), A-2.

¹⁷² M. Ghazali, *The Charge is Sedition*, in Patwant Singh and Harji Malik, eds., *Punjab: The Fatal Miscalculation* (Delhi: Patwant Singh, 1985), 196.

and dubious pleasing of foreign bosses” for reporting “a recklessly distorted and highly inflammatory version of the Punjab episode.”¹⁷³ Khanna cited the alleged celebration of Sikhs after the assassination of Indira Gandhi stating that Chellaney’s article, published and read in the UK, created havoc “with the uninformed innocent minds by arousing their religious emotions and possible mass hysteria.”¹⁷⁴ In September 1985, after numerous journalists associations protested,¹⁷⁵ the government finally dropped its prosecution of Chellaney and returned his passport.¹⁷⁶

In its efforts to prevent media coverage of its abuses, when the Citizens for Democracy released its *Report to the Nation: Oppression in Punjab* in 1985, the Government arrested the owner of the press Om Prakash Gupta, and the general secretary, ND Pancholi, charging them with sedition and inciting sectarian discord – charges that can bring life imprisonment.¹⁷⁷ The police report also charged V.M. Tarkunde, former justice of the Bombay High Court and then-president of the organization, with sedition.¹⁷⁸

This reporting blackout and communal portrayal of the issues in Punjab created an atmosphere where people could justify the November 1984 Sikh massacres. Minimizing and mischaracterizing the November massacres, reporters maintained that Sikhs had reacted ambivalently to the assassination of Indira Gandhi, creating “understandable resentment.”¹⁷⁹ Communal and government portrayals also de-legitimized Sikh demands and experiences of oppression in Punjab, allowing people to characterize Sikhs as “a people with a chip on their shoulders” and refer to the “Sikh problem” as “essentially psychological.”¹⁸⁰ Reporters and politicians made predictions based on their false stereotypes and communal perception of the conflict in Punjab. The news reports during and after the November 1984 massacres made constant references to the likelihood of a backlash against Hindus in Punjab.¹⁸¹ This never occurred. However, after the systematic and organized massacres of Sikhs in November 1984, in May 1985, July-August 1986, and December 1986, the Sikhs in Delhi became the target of revenge attacks by mobs spurred by the murders of Hindus, allegedly committed by Sikh militants.¹⁸²

¹⁷³ *Id.*, 198.

¹⁷⁴ *Id.*

¹⁷⁵ See, e.g., Journalists Protest to Gandhi about Case against Reporter, *New York Times* (Jan. 26, 1985), A4; Journalists’ Group Protests Treatment of Indian Reporter, *New York Times* (May 4, 1985), A3.

¹⁷⁶ India is said to drop Prosecution of AP Reporter in Punjab Case, *New York Times* (Sept. 14, 1985), A5.

¹⁷⁷ Civil Liberties Leader, Printer Charged With Inciting Unrest, *Associated Press* (Sept. 12, 1985).

¹⁷⁸ Steven R. Weisman, India Bans Critical Punjab Report, *New York Times* (Sept. 16, 1985), A-4.

¹⁷⁹ Dharma Kumar, A Voice from ‘Rest of India’, in Patwant Singh and Harji Malik, eds., *Punjab: The Fatal Miscalculation* (Delhi: Patwant Singh, 1985), 162.

¹⁸⁰ Eric Silver, Sikhs and Grievance Woven into Indian Society, *Guardian* (Nov. 2, 1984).

¹⁸¹ Mary Anne Weaver, Rajiv Gandhi Faces Daunting Task, *Christian Sci. Monitor* (Nov. 2, 1984), Int’l 1; William K. Stevens, On Sikhs’ Holiday, India is Peaceful, *New York Times* (Nov. 9, 1984), A-8.

¹⁸² Hindu Mobs Attack Sikhs, *LA Times* (May 7, 1985), I-2; Eric Silver, Indian Riot Police Crush Hindu Acts of Revenge, *Guardian* (July 28, 1986); G.G. LaBelle, Army Alerted, 1,500 Arrested as Violence Hits New Delhi, *Associated Press* (Dec. 2, 1986).

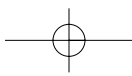
AFFIDAVIT OF GURBACHAN SINGH

I, Gurbachan Singh aged about 33 years son of late S. Swaroop Singh r/o C-54/A Tilak Vihar, New Delhi 18 do hereby on solemn affirmation state and declare as under:

1. That I alongwith my father late S. Swaroop Singh and other family members were residing in our house No. Y-15 Nangloi J.J. Colony No. 1 Delhi 41.
2. I say that on 31-10-84 my Brother-in-law (wife's brother) S. Amrik Singh and his brother-in-law (his wife's brother) Tarlochan Singh were also with us in our Nangloi House.
3. That on 1-11-84 at about 10 AM five hundred to 700 non-sikhs attacked our house and started throwing stones and big bricks...on us. Within few minutes they set on fire all the three doors of our house. I alongwith my younger brothers Kuldip Singh and Gurmit Singh and two other Sikhs who had also entered our house at that time for shelter were defending ourselves from the top of the house which was a double storey house. We had shifted females of our family alongwith my father Swaroop Singh and relatives Amrik Singh and Tarlochan Singh and children in the house of our neighbourer [sic] known as Patwari on the back side.
4. That we went on defending ourselves tirelessly and were seeing from the top of our house that DTC [Delhi Transport Corporation] buses and Buses of Haryana Roadways, were bringing and boarding down non-sikhs in hundreds who were armed with Lathies [4-5 foot long bamboo sticks carried by policemen]. In about one hours time, the mob swelled into about 2000 persons. We received number of injuries.
5. At that time about 10 Police Officials were also present at the spot and they were encouraging the mob to kill us. I saw Sajjan Kumar, the then Congress (I) M.P. of our area standing amongst the mob and he was directing the mob to attack us with more and more force and kill us.
6. Among that mob I could identify several persons of the locality. Some of them are one Prem Chand Jain r/o Y-149 Nangloi, J.J. Colony No. 1, Delhi, a son of Milk Vendur [sic] of the same locality i.e. 22 Block, son of Dr. Gupta, who is having his shop in the Nangloi chowk. One person "Khal Merchant" known as Tunda, one Karisna Shop Keeper in the back lane and his brother in law.
7. That we all the three brothers were having swords [kirpan worn by

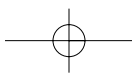
initiated Sikhs] in our hands. But the other two Sikhs who took shelter in our house were not having any arms with them. There were two other Sikh neighbours [sic] also who were armless. All these four Sikhs were killed by the aforesaid persons and mob within four hours. At about 2 PM or 2:30 PM Railway Train from Rohtak side came and stopped near the Gurdwara in our colony. About 2000 non-sikhs alighted from the train, some of them were carrying lathis, while the other some were carrying iron rods and rest of them were carrying kerosene oil containers. All of them attacked us with full force. My father S. Swaroop Singh, brother-in-law Amrik Singh and his brother-in-law Tarlochan Singh were taken out from the house of neighbour [sic] and were killed by striking iron rods on their heads and then sprinkling kerosene oil upon them and then setting them all on fire. This is done by Prem Chand Jain and the aforesaid persons as mentioned in para 6 above. At that time Sajjan Kumar M.P. was also present there. Then I and my two brothers fled away from the spot by protecting ourselves with the swords.

8. Subsequently, police refused to record my above statement. Police took me away from the shelter on 3rd November, 1984. When I insisted that my report be recorded with the name of the culprits who committed murders, Ram Pal Rana, SHO [Station House Officer] Police Station Nangloi, reprimanded me and told me that they had already registered the FIR on 1-11-84 and that names of murderers are not to be recorded in the F.I.R. Ram Pal Rana was openly saying to the public as to how we four sons of our father escaped being killed.
9. I say that till today no investigation worth the name have [sic] been conducted by the police as if no murder is committed by any one.
10. That our entire belongings from our house were looted by Prem Chand Jain and his associates in the presence of the police.
11. I say that throughout the day of 1st November, 1984 when we were being attacked time and again by the non-sikh mob, Ram Pal Rana SHO, remained present on the spot.
12. After about one month, I and my brother Amarjit Singh went to bring ration from the fair price shop in Y-Block. We were caught by the Police headed by Dalal Singh Sub-Inspector and were taken to Police Station. There we were detained, beaten and threatened and kept under wrongful confinement from 11 A.M. to 7 PM. Our photographs were taken by them and addresses of our relatives were taken. We were told by Dalal Singh S.I. that in case we tried to name any murderer of our father and other relatives we will be done to death.
13. That I and the remaining members of my family remained in the camp at



Gurudwara Guru Sangat Sabha B-Block Tilak Nagar for about one month.

14. I say that Ram Pal Rana had obtained my thumb impression on several papers on 3-11-84 itself. I do not know the contents of those papers nor they were disclosed to me.
15. I submit that when I was taken to Police Station and my brother was also taken to Police Station, the S.H.O. Ram Pal Rana was having one barber in the Police Station and our hairs were got cut from him forcibly, at the pain of death.
16. That when this judicial enquiry was ordered, several persons posing themselves to be Police Officers came and by threatening me, took my thumb impression on blank papers.
17. It looks very strange [sic] that thousands of Sikhs were killed intentionally and maliciously in this carnage but no murdered case is either registered or investigated. But curiously enough in subsequent bomb blast in Delhi, about 49 persons were killed and investigations are made in matter as if the entire Sikh community is to be hanged. Where this law had gone out of the status in November 1984.
18. That unless these hardened criminals in Police Force and Congress (I) Party are not hanged for murders there does not seem to be any point for us to gain confidence in this partial government. This conspiracy was hatched out by the ruling party and the non-sikh members of the police force.
19. I pray that the culprits be prosecuted and proper compensation be given to me and my family members.



CHAPTER 2

Patterns and Characteristics of Violence

Congress-Led Meetings and Distribution of Weapons

While waiting to hear news of Mrs. Gandhi's physical condition on October 31, the group in front of the AIIMS¹⁸³ quickly slipped from shock to revenge, chanting angry slogans such as "Khoon ka Badla Khoon Se," or "Blood for Blood."¹⁸⁴ When President Giani Zail Singh, himself a Sikh, arrived at AIIMS around 5:20 p.m., 15 to 20 people stoned his car and made him the first target of their call for revenge.¹⁸⁵ The affidavits show that the violence on October 31, however, remained confined to the areas around the AIIMS, and did not result in the deaths of Sikhs.¹⁸⁶ Placing blame on the entire Sikh community, mobs assaulted Sikhs, pulled them out of cars and off buses, and burned their turbans, but no assailant killed a Sikh. Many people reported that their neighborhoods were peaceful on October 31.¹⁸⁷

During the night of October 31 and early morning of November 1, Congress (I) party leaders met with their local supporters to implement their plan to massacre Sikhs and distribute weapons and money.¹⁸⁸ Congress (I) Member of Parliament (MP) Sajjan Kumar and Congress (I) Trade Union Leader and Metropolitan Councilor Lalit Maken paid 100 Rupees and distributed a bottle of liquor to each assailant.¹⁸⁹ Jagjit Singh of Kiran Garden witnessed a meeting near his house around 8 a.m. where Sajjan Kumar distributed iron rods from a parked truck to about 120 people. The MP instructed the mob to attack Sikhs, kill them, and loot and burn their properties.¹⁹⁰

On the morning of November 1, Congress (I) MP Sajjan Kumar was identified near at least the following Delhi areas: Palam Colony around 6:30 to 7 a.m., Kiran Gardens around 8 to 8:30 a.m., and Sultanpuri around 8:30 to 9 a.m.¹⁹¹ Raj Kumar of Palam Colony, a Hindu, was returning from the market after deciding not to open his shop on November 1. When he reached the Palam Railway main road, he saw a jeep coming towards him, followed by people on scooters, motorcycles and foot. MP Sajjan Kumar, whom he recognized from Kumar's visits to Palam Colony, sat in the passenger seat. The people following the jeep told him they were going to a meeting at Mangolpuri. By the time Raj Kumar reached the meeting, Sajjan Kumar had started speaking.

¹⁸³ See Appendix I for a map of India and Appendix II for a list of abbreviations.

¹⁸⁴ Citizens for Democracy, Truth About Delhi Violence.

¹⁸⁵ Reply on Behalf of Delhi Sikh Gurudwara Management Committee to the Written Arguments of Delhi Administration 4 (undated) (on file with author); Written Submissions on Behalf of Delhi Sikh Gurudwara Management Committee 32 (undated) (on file with author).

¹⁸⁶ Citizens for Democracy, Truth About Delhi Violence.

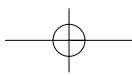
¹⁸⁷ See e.g., Aff. of Narinder Singh, PS Harla, Bokaro Steel City ¶ 2 (on file with author); Aff. of Vikram Singh, Sector II, Bokaro Steel City ¶ 3 (on file with author). There is only one affidavit on the death of a Sikh on October 31, but the Misra Commission did not investigate or further explore this affidavit. Aff. of Ravinder Kaur in Misra, Report, 17.

¹⁸⁸ Citizens for Democracy, Truth About Delhi Violence. See e.g., Citizens Justice Committee, Incidents in Inderpuri, New Delhi (Dec. 10, 1985) (Congress (I) worker Hem Chander distributed iron rods and lathis to assailants gathered in Inderpuri).

¹⁸⁹ People's Union, Who Are the Guilty?, 20, Annexure IV.

¹⁹⁰ Aff. of Jagjit Singh, Kiran Garden ¶ 2 at <http://www.carnage84.com/affidavits/mishra/Sajjan%20Kumar/Jagjit%20Singh.htm>.

¹⁹¹ See also, general sightings of Sajjan Kumar in Palam Colony, such as that by Kishandev Singh in Law enforcing agency was inactive in '84 riots: Verghese, Outlook India (Jan. 17, 2002), at http://www.outlookindia.com/pti_print.asp?id=34846.



Although Raj Kumar could not hear Sajjan Kumar, he heard the mob's deadly answers to Sajjan Kumar's calls: "Sardaroo Ko Mar Do," [Kill the Sardars] "Indira Gandhi Hamari Ma Hai – Aur Inihoo Ne Ushey Mara Hai" [Indira Gandhi is our Mother, and These People Have Killed Her].¹⁹²

Moti Singh witnessed Sajjan Kumar's meeting at a park in Sultanpuri. Having served in the Congress (I) party for 15 to 20 years, Moti Singh recognized many of the attendees, such as Kumar's personal assistant Jai Chand Jamadar.¹⁹³ From the rooftop of his house, Moti Singh heard Sajjan Kumar say:

Whoever kills the sons of the snakes, I will reward them. Whoever kills Roshan Singh [son of Moti Singh] and Bagh Singh will get 5000 rupees each and 1000 rupees each for killing any other Sikhs. You can collect these prizes on November 3 from my personal assistant Jai Chand Jamadar.¹⁹⁴

Two policemen, SHO Bhatti and a constable, also attended the meeting. Moti Singh described how early the next morning, these police officers shot and killed his son Roshan Singh, and then shot and killed his two grandsons as they rushed to help their father.¹⁹⁵

Sarup Singh lived across from eminent Congress (I) leader Shyam Singh Tyagi in Shakarpur. On the evening of October 31, he saw MP and Minister of State for Information and Broadcasting HKL Bhagat standing in front of Tyagi's house talking to four or five people. They went inside Tyagi's house, while Tyagi left to gather more people.¹⁹⁶ Sukhan Singh Saini, a Hindu, witnessed the same meeting and recognized Shyam's brother Boop Singh Tyagi, as well as 13 other people. He also saw Bhagat distribute money to Boop Tyagi, ordering "Keep these two thousand rupees for liquor and do as I have told you.... You need not worry at all. I will look after everything."¹⁹⁷

The night of October 31, in Palam Colony, local Congress (I) leader Balwan Khokhar, later identified as leading many of the murderous mobs, convened a meeting at the Ration Shop run by Pandit Harkesh. As Sampuran Singh Chambal slowed down and passed by, they pointed at him and said: "These are the people who had killed Mrs. Gandhi."¹⁹⁸ Shankar Lal Sharma, an active Congress (I) member, also convened a meeting at his shop at 8:30 a.m. on November 1, exhorting the attendees to swear to kill Sikhs. One of the attendees S.M. Umar subsequently went to warn his Sikh friend Sujjan Singh to leave Delhi.¹⁹⁹

¹⁹² Aff. of Raj Kumar, Palam Colony at <http://www.carnage84.com/affidavits/mishra/Sajjan%20Kumar/Raj%20Kumar-%20%20Banwari%20Lal.htm>.

¹⁹³ Aff. of Moti Singh, Sultanpuri ¶ 2 (on file with author).

¹⁹⁴ Id., ¶ 4.

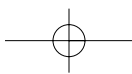
¹⁹⁵ Id., ¶ 6-9. Assailants killed three other members of Moti Singh's family.

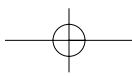
¹⁹⁶ Aff. of Sarup Singh, Shakarpur at <http://www.carnage84.com/affidavits/mishra/Against%20Bhagat/Sarup%20Singh%20-%20%20Gurdial%20Singh.htm> (Punjabi Aff. is also on file with author); See, e.g., Aff. of Sant Singh, Shakarpur ¶ 2, 9 at <http://www.carnage84.com/affidavits/mishra/Against%20Bhagat/Sant%20Singh%20-Shri%20Shiv%20Ram.htm> (lists those attending meeting and over 30 attackers).

¹⁹⁷ Aff. of Sukhan Singh Saini, Shakarpur at <http://www.carnage84.com/affidavits/mishra/Against%20Bhagat/sukhan-gokul.htm>.

¹⁹⁸ Aff. of Sampuran Singh Bhambal, Palam Colony ¶ 1 (on file with author).

¹⁹⁹ Aff. of Sujjan Singh, Neelampur, New Delhi (on file with author).





Congress party leaders who owned oil depots provided the crucial access to abundant amounts of kerosene – a resource too expensive for most of the assailants to afford. The use of kerosene as the chief weapon demonstrates the assailants’ and organizers’ intent to kill, rather than injure, the Sikhs, by brutally burning them to death. In Sultanpuri, where over 400 Sikhs were killed, Cham Kaur witnessed an early morning meeting led by MP Sajjan Kumar and Brahmanand Gupta, owner of an oil depot and president of A/4 Block, Congress (I). In her affidavit, Cham Kaur also named 20 other people attending the meeting in Block B/2. As in other meetings, Sajjan Kumar instructed the crowd to kill Sikhs, and to loot and burn their properties. When Cham Kaur heard those instructions, she rushed home to warn her family.²⁰⁰ Jatan Kaur witnessed the same meeting and also heard Sajjan Kumar’s instructions. On November 2, when a mob attacked her house, she recognized Congress (I) leader Brahmanand Gupta – the provider of kerosene – leading the mob.²⁰¹ Similar meetings were convened elsewhere, such as in Cooperative Colony in Bokaro, where P.K. Tripathi, President of the Congress (I) local unit and also owner of a petrol pump in Nara More, convened a meeting and provided kerosene to death squads.²⁰²

Cars carrying extra petrol also accompanied mobs.²⁰³ Aseem Shrivastava, a Masters student at the Delhi School of Economics described how motorcycles accompanied mobs in order to provide kerosene, and supplies were continuously replenished:

The attack on Sikhs and their property in our locality appeared to be an extremely organized affair... There were also some young men on motorcycles, who were instructing the mobs and supplying them with kerosene oil from time to time. On more than a few occasions we saw auto-rickshaw arriving with several tins of kerosene oil and other inflammable material such as jute-sacks.²⁰⁴

According to late journalist Ivan Fera, a senior official in the Home Ministry also claimed that subsequent investigations of burned businesses demonstrated the use of a combustible chemical substance, whose provision required large-scale coordination. In its written arguments to the Misra Commission, the Delhi Sikh Gurudwara Management Committee (DSGMC) identified 70 affidavits citing the use of a highly inflammable chemical substance.²⁰⁵ Eyewitness accounts confirm the use of a chemical substance, in addition to kerosene oil, as well.²⁰⁶

²⁰⁰ Aff. of Cham Kaur, Sultanpuri at

<http://www.carnage84.com/affidavits/mishra/Sajjan%20Kumar/Cham%20Kaur%20-%20Anar%20Singh.htm>.

²⁰¹ Aff. of Jatan Kaur, Sultanpuri (on file with author).

²⁰² Aff. of Swarn Singh Wadhawa, Guru Nanak Nagar, Bokaro Steel City ¶ 2 (on file with author). See, e.g., on a meeting in Sector I market on November 1, Aff. of Satpal Singh, Ram Mandir, Bokaro Steel City ¶ 2 (on file with author); on a meeting in Sector II on October 31, Aff. of Narinder Singh, Sector I/C, Bokaro Steel City ¶ 2 (on file with author); Aff. of Jaimal Singh, Kingsway Camp in Kusum Lata Mittal, Mittal Report (1990), ¶ 2.22.1 at <http://www.carnage84.com/official/kusum/kusum.htm>.

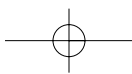
²⁰³ Citizens Justice Committee, Incidents in Inderpuri, New Delhi (Dec. 10, 1985). See also Aff. of Kirpal Singh Chawla, Inderpuri, New Delhi ¶ 3.

²⁰⁴ Aff. of Assem Shrivastava, New Friends Colony ¶ 11 at

<http://www.carnage84.com/affidavits/mishra/promi/Aseem%20Shrivastava.htm>.

²⁰⁵ Delhi Sikh Gurudwara Management Committee, Written Arguments to the Misra Commission (on file with author), 177-181. See, e.g. Aff. of Sarbjit Kaur, Hari Nagar Ashram, New Delhi ¶ 7 (on file with author); Aff. of Sohan Singh, Karol Bagh, New Delhi, ¶ 2 (on file with author); Aff. of Shanti Devi, Nand Nagari, New Delhi, ¶ 8 (on file with author); Aff. of Balwant Singh, Nangal Raya, New Delhi, ¶ 2 (on file with author); Aff. of Sukhvinder Kaur, Tilak Vihar, New Delhi, ¶ 4 (on file with author); Aff. Harbhajan Kaur, Trilokpuri, Delhi, ¶ 4 (on file with author); Aff. of Gurcharan Singh, Gandhi Nagar, Delhi, ¶ 12 (on file with author).

²⁰⁶ Ivan Fera, *The Enemy Within*, Illustrated Weekly (Dec. 23, 1985), 15.



Identification and Tracking of Sikhs Killed

In addition to distributing weapons during these meetings, Congress party officials also provided assailants with voter, school registration and ration lists – generated in advance with the particulars of each Sikh resident in the various neighborhoods.²⁰⁷ In many neighborhoods, the assailants marked the houses of Sikhs on October 31, the night before the initiation of the massacres.²⁰⁸ The lists provided precise information on the location of Sikh houses and businesses, necessary to distinguish the targets among unmarked residences in diverse neighborhoods.²⁰⁹ Because many of the assailants were Jats and Gujjars from neighboring villages, and locals from the Scheduled Castes,²¹⁰ among others, they were illiterate; Congress (I) leaders provided the necessary help in reading the lists.²¹¹ These lists allowed the assailants, led by Congress (I) leaders and neighbors, to accurately pinpoint the location of any Sikh, and surpass the mere slaughter of Sikhs in the streets.²¹² Aunkar S. Bindra was the only Sikh in a house of seven tenants in Cooperative Colony, Bokaro. When the mob came to kill him on November 1, his landlady insisted that no Sikh lived in the house. The mob however pointed to exactly where he stayed.²¹³ Similarly, when one of G.B. Singh's military friends came to rescue him from Safdarjung Enclave in Delhi, a mob asked the driver why he was protecting the house of a Sikh. The driver replied that he did not know any Sikhs lived there, but the mob answered with precision: "We know Col. Jagjit Singh lives [here]. Mr. G.B. Singh the gentleman with one arm stays downstairs."²¹⁴

The mobs attacked all members of Sikh society, regardless of their stature and position. A relief camp on Palam Road, for example, served survivors who worked for the defense services.²¹⁵ Captain Manmohan Singh, a highly decorated officer for his gallantry in the Indo-Pak war of 1971, was attacked persistently by a mob, starting at 9:30 a.m. on November 1. The mob refused to relent despite Captain Manmohan Singh's informing them he was a retired Air Force Officer. At 2:30 p.m., two Delhi Transportation Company (DTC) buses brought more assailants to his house. By 4 p.m., Captain Manmohan Singh faced a four to five thousand strong mob. The assailants broke into his house and attacked him and his family with iron rods. Only then did Captain Manmohan Singh fire his gun, forcing the mob away. The mob persisted, climbing onto the roof of the neighbor's house and throwing petrol bombs at

²⁰⁷ Citizens for Democracy, Truth About Delhi Violence. Numerous affidants testify to seeing these lists. See, e.g., Aff. of Assem Shrivastava, New Friends Colony at <http://www.carnage84.com/affidavits/mishra/promi/Aseem%20Shrivastava.htm>; Aff. of Jaswant Kaur, Shadhra (on file with author); Aff. of Jagdish Kaur, Palam Colony, New Delhi (on file with author).

²⁰⁸ Citizens for Democracy, Truth About Delhi Violence. See also, Cong Leaders Led Mobs in 1984 Riots, says Former Governor. OutlookIndia (Jan. 25, 2002) at http://www.outlookindia.com/pti_print.asp?id=36387.

²⁰⁹ Fera, *The Enemy Within*, 14.

²¹⁰ People's Union, *Who are the Guilty*, 3

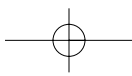
²¹¹ Virginia Van Dyke, *The Anti-Sikh Riots of 1984 in Delhi: Politicians, Criminals and the Discourse of Communalism*, in Paul Brass, ed., *Riots and Pogroms* (New York: New York Univ. Press, 1996), 207.

²¹² Citizens for Democracy, Truth About Delhi Violence.

²¹³ Aff. of Aunkar S. Bindra, Cooperative Colony, Bokaro Steel City ¶ 2 (on file with author).

²¹⁴ Aff. of G.B. Singh, Safdarjung Enclave ¶ 3 (on file with author).

²¹⁵ Fera, *The Enemy Within*, 17.



Captain Manmohan Singh and his family. When the assailants tried to enter his house again, the Captain fired into the air. At 8:30 p.m., police personnel asked Captain Manmohan Singh and his family to surrender, promising them protection. The police subsequently charged him with three murders, failing to take any action against the mob.²¹⁶

The mobs did not just kill Sikhs who came their way, but used the lists in an organized manner to track Sikhs killed. Amar Singh of Yamuna Vihar, Delhi, escaped by having two Hindu boys he knew declare that he was dead and drag his body through the street. Later, however, 15 to 18 persons came to his neighbor's house, asking for his dead body. Amar Singh, hiding in the bathroom of his neighbor's house, overheard their conversation. His neighbor told the group that unknown persons had taken his body away. One person in the mob showed the list to the neighbor and said, "Look, Amar Singh's name has not been struck off from the list so his dead body has not been taken away." The group then searched the neighbor's house, luckily failing to find Amar Singh.²¹⁷

If Sikhs were not in their houses, mobs easily identified Sikh men because of their distinctive appearance of a turban and beard. Neighbors often helped identify Sikh women. Other Sikh women, however, were sheltered by their neighbors and saved their lives by claiming to be Hindus. When the mob began to throw Anand K. Tuli's daughter into a fire, she saved herself by claiming to be the Hindu landlord's daughter.²¹⁸

Slogans of Extermination

The murderous words and constant refrains chanted by the mobs, on television, throughout neighborhoods, demonstrated a desire to kill Sikhs as a people. "Khoon ka Badla Khoon," or "Blood for Blood" began at AIIMS, and reverberated across India through the state-owned TV service Doordarshan. Ranjit Singh Narula, retired Chief Justice of the Punjab and Haryana High Court, watched local television on the morning of November 1, amazed at how the crowd outside Teen Murti, where Mrs. Gandhi's body lay, chanted "Khoon Ka Badla Khoon" and "Sardar²¹⁹ Qaum Ke Ghaddar," or "Sardars are the Nation's Traitors" while the large number of government officials observed without taking any action to stop the inflammatory slogans. This continued on TV the whole day.²²⁰ Even the new Prime Minister Rajiv Gandhi did not stop the chanting mobs.²²¹ When Shanti Bhushan, former law minister and senior advocate of the Supreme Court, tuned into Doordarshan, he saw Prime Minister Rajiv Gandhi passively listening to the slogans.²²²

²¹⁶ Citizens Justice Committee, Instances of Attacks in Connivance with the Police on Individuals who Tried to Save Themselves in Defence at West Patel Nagar (Dec. 10, 1985) (on file with author). Mittal, Mittal Report, ¶ 1.8(A)(iii) (regarding murder cases filed against him).

²¹⁷ Aff. of Amar Singh, Yamna Vihar ¶ 5 at <http://www.carnage84.com/affidavits/nanavati/yamunapuri/Amar-Ram.htm>.

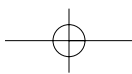
²¹⁸ Aff. of Anand Kaur Tuli, Saket Nagar, Kanpur (on file with author).

²¹⁹ A Sardar is a Sikh man with a turban. However, the word can also be used to refer to the entire Sikh community.

²²⁰ Aff. of Ranjit Singh Narula, Defense Colony ¶ 7 at <http://www.carnage84.com/affidavits/nanavati/promi/ranjitsinghnarula.htm>; See also Aff. of Vikram Singh, Sector II, Bokaro Steel City ¶ 6 (on file with author).

²²¹ Aff. of Avtar Singh Vir, Karol Bagh, New Delhi ¶ 5 (on file with author).

²²² Aff. of Shanti Bhushan, New Delhi ¶ 15 at <http://www.carnage84.com/affidavits/nanavati/promi/shantibhushan.htm>. See also Aff. of Avtar Singh Vir, Karol Bagh ¶ 5 (on file with author).



Throughout the carnage, the official TV station Doordarshan continued to focus on Teen Murti and the chanting crowds, showing no coverage of the massacres of Sikhs. Television viewers abroad watched in horror, but tight controls within India prevented any coverage.²²³ Despite repeatedly showing footage of slogan-shouting mobs, the Union of India told the Misra Commission in its reply to interrogatories that: "Doordarshan did not take shots of persons shouting slogans like 'Khoon Ka Badla Khoon' and 'Sikh Kaum Ke Gaddar.' It was a live telecast and TV cameras focus sometimes covered shots of huge crowds lined up to pay homage to the late Prime Minister."²²⁴

Almost every affidavit spoke of mobs shouting slogans to kill Sikhs. Other slogans often heard were: "Maar Deo Salon Ko," or "Kill the Bastards";²²⁵ "Sikhon do mar do aur loot lo," or "Kill the Sikhs and rob them"; and "Sardar Koi Bhi Nahin Bachne Pai," or "Don't let any Sardar escape."²²⁶

Rumors

In addition to the assassination of Mrs. Gandhi, rumors served to justify the subsequent attacks on Sikhs, to continue to motivate the killers, and to raise the guards of passive Indians against Sikhs. Numerous deponents testified to seeing police traveling through neighborhoods spreading rumors. In Mangolpuri, New Delhi, a police van came to G block and announced that Sikhs had poisoned Delhi's drinking supply the evening of November 1.²²⁷ Lalita Ramdas, a volunteer with Nagrik Ekta Manch who coordinated a relief camp after the massacres started, received a call from her friend Sarita about the same rumor also broadcast by the police in her neighborhood. She wanted to ascertain the truth of it, and finally a correspondent from *Hindustan Times* confirmed the lack of truth in the police's announcement.²²⁸ Poonam Muttreja, of Munirka Enclave, New Delhi, heard the following announcement on a public address system the morning of November 1 at 2:30 a.m.: "Aap ke pani mein jahar mila dian gaya hain, kripya pani nahin pee jeaey" [Your water supply has been poisoned. Please do not drink the water].²²⁹ When she ran to her balcony, she saw what looked like a police jeep exit the colony.

²²³ Malik, *The Politics of Alienation*, 50.

²²⁴ Replies by Union of India in Respect to Interrogatories Allowed by Justice Ranganath Misra Inquiry Commission, Sl. No. 7 (undated) (on file with author). Ignoring affidavits from retired government and judicial officials, the Misra Commission maintained that Doordarshan aired the slogans 18 times for a total of 37 seconds. Misra, Report, 43.

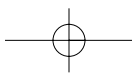
²²⁵ See, e.g., Aff. of Devinder Singh, Vijay Nagar (on file with author).

²²⁶ See, e.g., Aff. of Ranjit S. Wasu, Gwaltoli, Kanpur (on file with author).

²²⁷ People's Union, *Who Are the Guilty?*, 19.

²²⁸ Aff. of Lalita Ramdas, Canning Lane (on file with author).

²²⁹ Aff. of Poonam Muttreja, Munirka Enclave ¶ 7-8 at <http://www.carnage84.com/affidavits/mishra/promi/poonam-amar.htm>.



In Shahdra, New Delhi, police spread rumors of Punjabi Sikhs killing Hindus and sending trains to Delhi filled with Hindu bodies,²³⁰ reminiscent of the 1947 India-Pakistan partition violence. In reality, trains were arriving with bodies of dead Sikhs, as Barbara Crossette portrays in her foreword. V. Khosla described how another false rumor was spread in New Friends Colony that Sikhs had gathered in a Gurudwara on Ring Road, armed themselves, and planned to attack Hindus in the colony. Khosla moved his children outside the colony.²³¹

Aseem Srivastava, the Masters student at Delhi School of Economics, testified about the impact of rumors about celebrating Sikhs:

This rumour, which ultimately proved to be entirely unfounded, succeeded in whipping up considerable Anti-Sikh feeling in our locality, even amongst the so-called educated people. At this point I consider it obligatory on my part to say that I did not see any Sikh distributing sweets to celebrate Mrs. Gandhi's assassination or dead bodies of Hindus arriving in Delhi in trains. Nor did I meet anyone who had personally seen such things.²³²

In addition to the police, Congress (I) leaders, doctors, and Prime Minister Rajiv Gandhi himself gave substance to these rumors. When Subedar (Retd.) Balwant Singh took his injured son to the hospital after a mob attacked them near Sagarpur, New Delhi on November 1, a doctor refused to give his son a glass of water, using the excuse that Sikhs had poisoned the entire supply. Balwant Singh went and fetched the water for his son himself.²³³ In Nand Nagari, Dayal Singh heard Congress (I) leader Narang repeat the rumor regarding the train full of Hindu bodies.²³⁴ Prime Minister Rajiv Gandhi justified the murders, telling prominent Indian journalist M.J. Akbar that the killings were only extensive in those areas where the Sikhs had celebrated the assassination of his mother by distributing sweets.²³⁵

Attacks on Sikh Dignity, Articles of Faith & Structures

The mobs everywhere came armed with iron rods, lathis or long bamboo sticks, kerosene and inflammable powder, knives, bricks and sometimes firearms. After attacking the neighborhood gurudwaras – of which 131 were reportedly repaired by the Delhi Development Authority²³⁶ and 49 remained unrepaired,²³⁷ the mobs used the lathis and bricks to physically attack houses. After entering the house or scaring the inhabitants into coming outside, the

²³⁰ Aff. of Jaswant Kaur, Shadhra (on file with author).

²³¹ Aff. of V. Khosla, New Friends Colony ¶ 17 at <http://www.carnage84.com/affidavits/mishra/promi/vkhosla-dp.htm>; See also Aff. of Jaya Jaitley, Sujan Singh Park ¶ 5 (on file with author).

²³² Aff. of Aseem Srivastava, New Friends Colony ¶ 14 at <http://www.carnage84.com/affidavits/mishra/promi/Aseem%20Shrivastava.htm>; See also corroborating affidavit of Jaya Shrivastava, New Friends Colony, at www.carnage84.com/affidavits/mishra/promi/JAYA%20SHRIVASTAVA.htm.

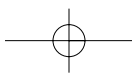
²³³ Aff. of Subedar Balwant Singh, near Sagarpur ¶ 6 (on file with author).

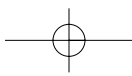
²³⁴ Witness says He was Mistaken by Police as Dead, Press Trust of India (Aug. 9, 2001).

²³⁵ Uma Chakravarti and Nandita Haksar, Delhi Riots: Three Days in the Life of a Nation (New Delhi: Lancer Int'l, 1987), 74 citing M.J. Akbar, Sunday (Mar. 10-16, 1985) (an interview between Prime Minister Rajiv Gandhi and M.J. Akbar).

²³⁶ See Appendix III for Delhi Development Authority's submission in response to interrogatories by the Misra Commission.

²³⁷ Misra, Report, 55.





mobs beat Sikhs with iron rods and used inflammable powder and kerosene to set them on fire and burn them to death. They also used the powder and kerosene to burn their property. Some groups used crude explosives to kill Sikhs hidden inside rooms. According to the Delhi Sikh Gurdwara Management Committee's submissions to the Misra Commission, the mobs used the kerosene to burn Sikhs alive, burn them while unconscious, and burn their dead bodies in bulk.²³⁸ The majority of the victims were burned alive.

Before killing their victims, the mobs humiliated them and inflicted specific acts of cruelty. Assailants repeatedly gouged Satnam Singh's eyes with huge needles, before setting him on fire.²³⁹ On November 3, pacifist leader Swami Agnivesh toured Trilokpuri, one of the worst affected areas:

The carnage was mind boggling. Half burnt bodies were still lying scattered. Some had been mutilated by gorging their eyes. Some had smoldering tyres around their necks. The houses had been completely destroyed and burnt.²⁴⁰

In his statement to the Nanavati Commission, Swami Agnivesh described how he saw about half a dozen bodies lying in the muddy water of Yamuna River.²⁴¹ Another survivor described how she saw the heads of her two dead nephews separated from their bodies and kept in eating plates.²⁴²

Besides the attacks on the gurudwaras, mobs purposefully attacked articles of the Sikh faith. Assailants forcibly cut the hair of Sikh men – kept unshorn by Sikhs according to religious discipline – humiliating them before killing them.²⁴³ When Baljit Singh's grandfather arrived at his uncle's house in Kanpur, the mob had stripped him of the uniform of an initiated Sikh, articles that must always remain on a Sikh's body.²⁴⁴ John Elliott, a *Financial Times* reporter, met two elderly Sikhs in their 60s and 70s at a Delhi gurudwara, who had been assaulted – the gangs had also cut their hair.²⁴⁵ They defiled the Sikh scriptural canon Sri Guru Granth Sahib by urinating on it or by lighting it on fire with cigarettes.²⁴⁶ As Balwant Singh, Granthi of Gurudwara of BC Block in

²³⁸ Written Submissions in Relation to the Violence at Bokaro on Behalf of Delhi Sikh Gurudwara Management Committee, 155-164 (on file with author).

²³⁹ Aff. of Gurcharan Singh, Gandhi Nagar ¶ 12 (on file with author); See also, Aff. of Surjit Kaur, Palam Colony (assailants gorged her husband's eye, hacked him, and burned him to death with kerosene and powder).

²⁴⁰ Aff. of Swami Agnivesh, Jantar Mantar Road ¶ 6 at <http://www.carnage84.com/affidavits/nanavati/promi/swamiagni.htm>.

²⁴¹ Swami Agnivesh, Statement before the Nanavati Commission (May 29, 2001) at <http://www.carnage84.com/records/witness/witness-15.htm>.

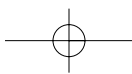
²⁴² Aff. of Balwant Kaur, Tilak Vihar at <http://www.carnage84.com/affidavits/mishra/Sajjan%20Kumar/balwant-mahinder.htm>.

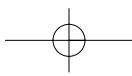
²⁴³ See, e.g., Aff. of Inder Singh, Janta Nagar, Kanpur (on file with author) (gang forcibly cut the hair of his two sons); Aff. of Mehanga Singh, Kanpur (on file with author) (gang forcibly cut hair of entire family); Aff. of Balwinder Kaur, Jahangirpuri (on file with author) (gang demanded that her husband cut his hair; he refused and was killed); Aff. of Gurnam Singh, Shahdara (mob cut his hair and he escaped).

²⁴⁴ Aff. of Baljit Singh, Gobind Nagar, Kanpur ¶ 7 (on file with author).

²⁴⁵ John Elliott, Sorrow, Anger...and Riots: After Mrs. Gandhi's Assassination, *Financial Times* (Nov. 3, 1984), 1-21.

²⁴⁶ See, e.g., Chakravarti and Haksar, Delhi Riots, 90 (interview of Balwant Singh, Shalimar Bagh); Aff. of Janam Kaur, Nangloi ¶ 6 (on file with author); Aff. of Bhai Jaimal Singh, Head Granthi of Gurudwara, Dadsnagar Colony, Kanpur (on file with author); Aff. of Amrik Singh (mob urinated on Sikh scriptures) in Misra, Report, 27; Aff. of Charanjit Singh (mob burned scriptures and Gurudwara in Lajpat Nagar) in Misra, Report, 27.





Shalimar Bagh, New Delhi, said to historians and activists Uma Chakravarti and Nandita Haksar, describing the pain of that desecration:

We don't mind so much for ourselves. I could have been martyred...I don't mind the fact that my house was looted. After all it was the Parmatma [God] who gave it to me. But what I could not bear was that [H]e who had given everything to me should himself be trampled upon by the looters, that [H]e should be insulted and defiled with urine.²⁴⁷

The gangs defiled portraits of the Gurus hanging in Sikh houses, taunting the Sikhs to call their Gurus to save their lives now.²⁴⁸

Persistence of Death Squads

The assailants made repeated visits to Sikh households to ensure that they had killed those they could identify.²⁴⁹ Phanda Singh had escaped the riots during the partition of India and Pakistan only to live through the Delhi massacres. He hid in a neighbor's house, unaware of where his two sons, daughters-in-law, grandchildren and wife had managed to hide. He described the deaths of his two sons, one of them named Labh Singh, as the mobs came back to find them multiple times:

[H]e [Labh Singh] lay...burning for a long time. He asked for water, for his mother and father. When the mob went off the women gave him water. He was a brave and courageous man, big and strong, so he did not give up easily. He kept struggling. After a time the mob came back and beat him with rods again. Only then he died. Even then I did not know about my other son. He was still alive, hiding somewhere. Only next morning they [the mob] found him at 4 a.m. They pulled him out and they killed him.²⁵⁰

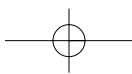
There was no escape for Sikhs caught in the sight of the mobs. In Trilokpuri, Sikhs defended their Gurudwara in Block 32 until 3:30 p.m. on November 1. Once they succumbed to the attacking mob, two Sikhs ran towards the open fields. They jumped the barbed wire and hid themselves in the tall grass, but the mob set the field on fire from several ends, burning the field and the Sikhs alive.

²⁴⁷ Chakravarti and Haksar, *Delhi Riots*, 90. See also, *Aff. of Harbhajan Kaur, Manager of Gurudwara Bhul Bhulaian, Near Tilak Nagar, New Delhi* (on file with author) (lists 28 assailants, all residents of Shastari Nagar, who participated in the destruction of the Gurudwara, the property inside, and the burning of four birs of the Guru Granth Sahib).

²⁴⁸ *Aff. of Surinder Kaur, Bokaro Steel City ¶ 2* (on file with author). *Aff. of Harminder Kaur, Sharda Nagar, Kanpur ¶ 8* (on file with author).

²⁴⁹ See, e.g., *Aff. of Jaspal Kaur, Gandhi Nagar* (on file with author) (assailants attacked house four times in two days until they succeeded in breaking into the house and killing her husband); *Surjit Kaur, Palam Colony* (on file with author) (gangs came back repeatedly until they succeeded in capturing and killing her husband).

²⁵⁰ Chakravarti and Haksar, *Delhi Riots*, 76 (interview with Phanda Singh).



In Block 32, all but six male Sikhs were killed.²⁵¹ In FIR No. 416/84 of Police Station Delhi Cantt., Baljeet Kaur described how the mob returned seven times before finding her father, axing his abdomen and head, and burning him alive.²⁵² In front of government offices in Shastri Bhavan, one group of assailants even burned down the house of MP Ram Vilas Paswan, because he refused to hand over a Sikh to whom he had given shelter. While Paswan escaped, the Sikh burned to death in Paswan's garage.²⁵³

Assailants purposefully hunted Sikhs, and made sure to kill those Sikh males it identified, even where it could have easily let Sikhs escape. In an interview with Nandita Haksar and Uma Chakravarti, Gurmeet Singh Gill described how a mob chased a young Sikh boy dressed as a girl:

[A]s we were standing just near the house, where I was being sheltered, we saw a child of about ten, dressed in a salwar-kameez, who was moving on the road. The child was walking quite normally down the street. He was actually a young boy in the process of fleeing to safety and had been dressed as a girl. Something about the child's appearance made the mob suspect that the child was a boy and someone shouted 'sardar ka ladka hoga (it must be the son of a Sardar).' The child panicked and started running but the mob pursued him and caught him. They asked him where the other members of his family were. The boy was really frightened and he pointed in a certain direction and said that his father was lying there and that he was dead. To my horror the mob dragged the boy upto the father's body, threw the child on him and burnt him saying 'yeh sap ka bachcha hai, ise bhi khatam kar do (This is the son of a snake, finish him off also).' ²⁵⁴

The mob did not act in haste or blindly, comfortable in the police protection. As Madhu Kishwar, founder and editor of *Manushi*, wrote in "Gangster Rule":

Many eyewitnesses confirm that the attackers were not so much a frenzied mob as a set of men who had a task to perform and went about it in an unhurried manner, as if certain that they need not fear intervention by the police or anyone else. When their initial attacks were repulsed, they retired temporarily but returned again and again in waves until they had done exactly what they meant to do – killed the men and boys, raped women, looted property and burnt houses. This is noteworthy because in ordinary, more spontaneous riots, the number of people injured is usually observed to be far higher than the number killed.²⁵⁵

²⁵¹ Citizens for Democracy, Truth About Delhi Violence.

²⁵² Written Submissions in Relation to the Violence at Bokaro on Behalf of Delhi Sikh Gurudwara Management Committee, 61 (on file with author).

²⁵³ Police got Info from Vajpayee's Residence about Mob Attack, OutlookIndia (Sept. 12, 2001) at http://www.outlookindia.com/pti_print.asp?id=11639.

²⁵⁴ Chakravarti and Haksar, *The Delhi Riots*, 153.

²⁵⁵ Madhu Kishwar, *Gangster Rule*, in Patwant Singh and Harji Malik, eds., *Punjab: The Fatal Miscalculation* (Delhi: Patwant Singh, 1985), 175.

Instead of being overwhelmed by sorrow from the death of their leader Mrs. Gandhi, as the police and government claimed, or exhibiting signs of coercion or social pressure, witnesses like ND Pancholi, General Secretary of Citizens for Democracy, saw the mobs dancing, laughing merrily as Sikhs burned to death.²⁵⁶ Aseem Shrivastava, the Masters student from Delhi School of Economics, said the mob “seemed to be jubilant that ‘at last the Sikhs were being taught a lesson.’”²⁵⁷ Madan Lal Khurana, senior leader of the Bharatiya Janata Party (BJP) who later served as Chief Minister of Delhi, saw the mob playing drums in one or two places while people in the mob danced.²⁵⁸

Gangs of assailants, with the complicity and help of the Railway Protection Force, boarded trains, dragged Sikhs out, burned them, and then either left them on the platform or threw them onto the tracks. The police watched, and did not bother to intervene or escort Sikh passengers off the train.²⁵⁹ An annexure filed by the Railway Protection Force, in response to interrogatories from the Misra Commission, reports 46 unauthorized stoppages between stations by gangs of assailants.²⁶⁰ (See Appendix IV) The complicity and participation of the Railway Protection Force in these massacres is discussed in Chapter 3.

Sexual Violence

The rampaging mobs humiliated, sexually molested and raped surviving Sikh women. In *Manushi*, Madhu Kishwar highlighted the story of Gurdip Kaur, a survivor of the massacre in Trilokpuri. The mob killed Gurdip Kaur’s husband and three sons. They raped her in front of her youngest son and then, after he had witnessed the devastation of his mother, they killed him.²⁶¹ According to Gurdip Kaur, most of the Sikh women in Trilokpuri suffered gang rape, from nine and ten year old girls to 80-year old women.²⁶² In several cases, elderly women were raped in front of their families.²⁶³ The rapists then either took the women home with them, or left them naked in the streets.

On November 1, after a day of killings, 150 to 200 women took refuge in a park in Trilokpuri while their male family members hid from view. That night, assailants came and, shining flashlights in their faces, took women to shanties. Tehmi Devi described how assailants raped her and threatened to kill her if she screamed. They tore off her clothes and stabbed her in the leg.

²⁵⁶ See, e.g., Aff. of Gurdeep Singh, City Centre, Bokaro Steel City ¶ 3 (on file with author). Aff. of N.D. Pancholi, Deen Dayal Upadhyay Marg at <http://www.carnage84.com/affidavits/mishra/promi/ndpancholi-dr.htm>; Aff. of Sarabjit Kaur, Hari Nagar Ashram (on file with author); See also FIR No. 410, PS Delhi Cantt., 1.11.1984. translated in Written Submissions in Relation to the Violence at Bokar on Behalf of Delhi Sikh Gurudwara Management Committee, 59-60 (on file with author).

²⁵⁷ Aff. of Aseem Shrivastava, New Friends Colony ¶ 10 at <http://www.carnage84.com/affidavits/mishra/promi/Aseem%20Shrivastava.htm>.

²⁵⁸ Madan Lal Khurana, Statement before Nanavati Commission (May 16, 2001) at <http://www.carnage84.com/records/witness/witness-8.htm>.

²⁵⁹ Id.

²⁶⁰ Appendix IV: Railway Protection Force: Annexure on Unauthorized Stoppages (on file with author).

²⁶¹ Kishwar, Gangster Rule, 176-7.

²⁶² Id., 177-8.

²⁶³ Id., 178.

After raping her, they stole her jewelry and watch.²⁶⁴ Sadora Singh described the recovery of two women who were raped all night in Trilokpuri.²⁶⁵ Victims reported that a Congress (I) block leader had directed the rapists. One victim reported that ten men raped her.²⁶⁶

Padmi Kaur, from Sultanpuri, narrated the brutal experiences of her family on November 1:

After some time the mob arrived, broke open our door and came inside. They caught hold of my daughter Maina Kaur forcibly and started tearing her clothes. In her self-defence my daughter also tore their clothes and also hit them. They tried to criminally assault my daughter. My husband begged them to let her go. They mob said they would kill him “Kohyibhi Sikh ka bacha nahin bachega” (No Sikh son would be spared). They broke the hands and feet of my daughter and kidnapped her. They confined her in their homes for three days.

Padmi Kaur listed several members of the mob, including Congress (I) leader Brahmanand Gupta. She related how her daughter was ill and “has become like a mad girl,” and how, using an inflammable chemical powder, the mob killed her husband, son, neighbor, two brothers, two nephews, and two brothers-in-law all in front of her.²⁶⁷

Dr. H. K. Bovenanker, the Medical Officer in charge of Guru Nanak Hospital, Shanti Nagar, Kanpur, went to a relief camp on November 2 with Dr. H. Bhatia. There they saw at least 12 to 13 cases of gang rape of young girls between the ages of 16 and 20. They had been raped on the instructions of Shiv Mangal Singh, a Congress (I) leader.²⁶⁸ On November 7, the local police recovered six girls from the village of Chilla Gaon, who had been abducted from Trilokpuri.²⁶⁹

Several factors contributed to the underreporting of rape. First, societal shame silenced the victims. As Gurdip Kaur told Kishwar, “The unmarried girls will have to stay unmarried all their lives if they admit that they have been dishonoured. No one would marry such a girl.”²⁷⁰ Survivors used euphemistic language to describe what happened. Sarabjeet Singh saw his pregnant wife stripped naked in the middle of the road and “dishonoured.” After the mob also dishonored his sister-in-law, they poured acid on the bodies of the two women.²⁷¹ Second, doctors intimidated women from getting a medical

²⁶⁴ When Tehmi Devi returned to Trilokpuri the morning of November 2, she found her husband hiding with four to five other Sikh men. She begged the police to rescue him. Despite police assurances, the men received no protection. When she returned to Trilokpuri on November 3, she saw the police removing bodies in a truck. The military pulled her husband's body out of the truck since he was still breathing. A year later, when Tehmi Devi filed this affidavit, she and her injured husband still lived in the relief camp. Aff. of Tehmi Devi, Trilokpuri (on file with author).

²⁶⁵ Sadora Singh, Trilokpuri (on file with author).

²⁶⁶ Citizens' Commission, Delhi: 31 October to 4 November, 1984 (1985), 18-19.

²⁶⁷ Misra, Report, 30-1. After itself citing this affidavit, the Misra Commission blandly reported: “The Investigating Agency did pursue this matter but no evidence of dependable nature could be obtained.” Id., 33. The Misra Report is analyzed in Chapter 5.

²⁶⁸ Aff. of Dr. (Mrs.) H. K. Bovenanker, Kanpur ¶ 5-6 (on file with author).

²⁶⁹ Citizens for Democracy, Truth About Delhi Violence. See also, Aff. of Sadora Singh, Trilokpuri (on file with author) (touching on the experiences of the women he accompanied to Chilla Gaon who were “horribly abused”).

²⁷⁰ Madhu Kishwar, Gangster Rule, 177-8.

²⁷¹ Aff. of Sarabjeet Singh, Kidwai Nagar, Kanpur ¶ 7 (on file with author).

examination and registering complaints.²⁷² Third, in India, rape cases are medico-legal cases that require special evidentiary procedures which doctors in relief camps could not follow. These doctors failed to refer women to competent hospitals.²⁷³ Fourth, the majority of the investigating officers of the Misra Commission were probably men and failed to elicit the personal testimonies from victims.²⁷⁴

Refusal of Medical Care

When survivors managed to reach hospitals, after witnessing the brutal murders of loved ones and risking exposure in the streets, the hospitals refused to treat them either because of animus against Sikhs or threats from assailants. This had devastating consequences for the victims. At the Guru Nanak Hospital in Kanpur, Paramjit Singh was asked to either cut his hair or leave, because an assailant who had been inside the hospital earlier had spotted him.²⁷⁵ Kuldip Singh, an activist with the national civil rights organization People's Union for Democratic Rights, waited one and a half days at Daltonganj Hospital, after a mob had boarded his train and tried to kill him. He received treatment only after his non-Sikh friends threatened the doctors.²⁷⁶ Gurdial Singh's son was shot in the head and taken to the Orsale Hospital Parade in Kanpur. His son received no treatment the whole night, and it was not until the next morning, on November 2, that he was operated on. He died the next day.²⁷⁷ Amarjit Kaur, widowed during the massacres, took her daughter-in-law, a rape victim to the hospital in Kanpur. Dr. B.M. Pandey refused to admit her. At Sri Ganga Ram Hospital in Delhi, the doctor also refused them admission. Only after fourteen days, did she manage to receive treatment. By then, she was paralyzed from waist down.²⁷⁸

Doctors often refused to register medical certificates or properly record injuries for further legal investigations. Balwinder Singh was from Sarai Rohilla in New Delhi. He described how the Railway Protection Force shot at Sikhs defending the gurudwara. The mob attacked the gurudwara and threw his son down from the roof. Then they came down and beat his son's head with an iron rod. Sprinkling kerosene oil on him, they set Balwinder Singh's son on fire. His son started running for the house, and miraculously escaped the mob. Balwinder took him to Hindu Rai Hospital but was refused treatment. He then went to the Lok Nayak Jai Prakash Narain Hospital in New Delhi, where his son

²⁷² Madhu Kishwar, *Gangster Rule*, 179.

²⁷³ *Id.*

²⁷⁴ In her discussion of the investigative techniques used at the International Criminal Tribunal of Rwanda, Binaifer Nowrojee lists interview practices that help elicit rape testimonies in Rwanda: approaching women through trusted interlocutors, conducting interviews in private, and having women investigators. HRW/Africa, *Shattered Lives: Sexual Violence during the Rwandan Genocide and its Aftermath* (New York: Human Rights Watch, 1996), 95.

²⁷⁵ Aff. of Paramjit Singh, Gumati No. 5, Kanpur ¶ 6 (on file with author).

²⁷⁶ Chakravarti and Haksar, *Delhi Riots*, 117.

²⁷⁷ Aff. of Gurdial Singh, Narafa Nagar Kanpur ¶ 19 (on file with author).

²⁷⁸ Aff. of Amarjit Kaur, Kanpur (on file with author).

died on November 2 at 9:30 p.m. The doctors did not conduct an investigation into his death. Dr. I.N. Tiwari refused to prepare a medico-legal certificate and wrote the cause of death as burns and hypovolumnic shock.²⁷⁹ A doctor at Bara Hindu Rao Hospital also refused to record a medico-legal certificate for Ravail Singh, saying he should be thrown in the nallah (stream). Ravail Singh was inside Gurudwara Sarai Rohilla when the Railway Protection Force fired on it. He managed to escape the gurudwara attack but suffered injuries later when a gang attacked his business.²⁸⁰

Attacks on the Media

Assailants attacked journalists trying to capture and record the horrific crimes. As correspondent Mark Litke related, one gang attacked an ABC-TV crew filming in the streets, stealing cameras and equipment. The police and military guards merely watched during the attack.²⁸¹ When survivors at the Punjabi Bagh police station started narrating their experiences to a reporter, a police officer expelled the reporter because the victims were allegedly “too depressed” to be interviewed.²⁸² American television correspondents reported that their satellite transmission facilities were “broken” and they could not send images abroad.²⁸³ Nevertheless, reporters still ventured out to capture the horrors of the Sikh massacres, providing some of the most thorough affidavits to the Misra Commission.

Further Questions

The affidavits provide concrete information on the characteristics of the plan implemented to facilitate the massacres of Sikhs. The organization of meetings and provision of money and weapons; the use of government-issued ration and voter lists; the large-scale provision and distribution of expensive materials, specifically kerosene and combustible chemical substances; and the immediate coordination of transportation, among other things, speak to the prior existence of a plan to massacre Sikhs that merely required implementation. However, we lack information on who designed the plan, when the plan was designed, and what motivated the construction of the plan. How many of those who led mobs, held meetings, and distributed kerosene learned of the plan upon its implementation, and how many participated in the planning process?

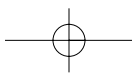
²⁷⁹ Aff. of Balwinder Singh, Sarai Rohilla ¶¶ 4-7 (on file with author).

²⁸⁰ Aff. of Ravail Singh, Sarai Rohilla ¶¶ 2-3 (on file with author).

²⁸¹ Stewart Slavin, *International*, United Press International (Nov. 1, 1984).

²⁸² Barbara Crosse, *Fury Slackens: and New Delhi Revives*, New York Times (Nov. 5, 1984) A-1.

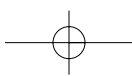
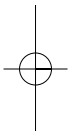
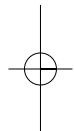
²⁸³ James M. Markham, *Rajiv Gandhi and Sikhs Meet and He Offers Reassurances*, New York Times (Nov. 7, 1984), A-10.



The cruelty of the mobs in humiliating and degrading Sikhs before murdering them, as well as desecrating their bodies, highlights again the need to understand the perpetrators' motives. After the massacres, when civil society organizations raised an outcry, perpetrators did not excuse their actions by citing coercion or psychological pressure. Instead, like Rajiv Gandhi, they tried to justify the massacres by citing celebrations by Sikhs, among other excuses. When doctors refused to provide medical care, or proper medico-legal certificates, did they act on their own animus, or did they receive sanction from higher levels of the hospital administration? Who sanctioned the coverage by the national state-operated TV station of mobs raising slogans of extermination against Sikhs?

Madhu Kishwar's study shows that women suffered sexual violence, although we have no understanding of the extent of rape and other sexual crimes. How many women were abducted and for how long were they forced to live with their captives? How did other residents in the villages, like Chilla Gaon, react when kidnappers brought captive Sikh women to live with them?

Although the affidavits allow us to identify the gamut of crimes and the identity of visible perpetrators, the answers to the above questions would explain the depth of the pre-planning of the massacres and the extent of participation by different sectors of Indian society.

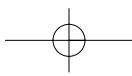


AFFIDAVIT OF RAHUL KULDIP BEDI

Affidavit of Rahul Kuldip Bedi son of (late) Dr. Kuldip Chand Bedi aged 33 years and resident of A-14 Niti Bagh, New Delhi 11049.

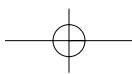
I Rahul Kuldip Bedi, the above-mentioned deponent, do hereby solemnly affirm and state as under:

1. That I am a staff correspondent with the "Indian Express" newspaper and at the time of the November 1984 riots was based in New Delhi.
2. On November 2 1984, around 11:30 p.m. I learnt of the ongoing massacre in Block 32, Trilokpuri, East Delhi, from one Mohan Singh – later one of the refugees at the Farash Bazaar police station camp. Mohan Singh, who had shaved his head and face only hours before and taken shelter in our office canteen on Bahadur Shah Zafar Marg, claimed that over 300 people had been massacred by mobs in his block, number 32, Trilokpuri.
3. Mohan Singh had managed to escape under the cover of darkness and head for the safety of our office where he claimed friendship with some "Jansatta" employees.
4. Around 2:00 pm on 2 November 1984, I along with Mr. Joseph Maliakan, Staff Correspondent, "Indian Express" and Mr. Alok Tomar, Staff Correspondent, "Jansatta" newspaper, rushed to Trilokpuri. On arrival at the entrance to the colony we found the way partially blocked by huge concrete pipes and men armed with lathis atop them standing guard.
5. About 300 yards away from Block 32 we found our path blocked by a several-hundred strong mob. Before we could reach them, two policemen, one Head Constable and a Constable, riding a motorcycle, burst through the crowd, coming from the direction of Block 32 headed towards us.
6. I flagged the motorcycle to a halt and asked the Head Constable driving it whether any killings had taken place in Block 32. The policemen said that there was 'shanti' [peace] in Block 32. On further probing, he admitted that 'only' two people had been killed, no more. Saying this, he sped away.
7. On proceeding further, our car was blocked by the mob, which had turned angry by now and had begun stoning us. A spokesman for the crowd, a short statured man dressed in a white kurta and pyjama, told us to leave or be prepared to face the consequences. Block 32, he said, was out of bounds.
8. We headed for the Kalyanpuri police station and asked the duty officer, a Sub-Inspector, whether there was any trouble in Block 32 Trilokpuri. He

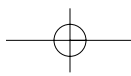


too said that the area was perfectly calm and 'shanti' prevailed. No deaths, he said, had been reported in the area covered by his police station.

9. A parked truck nearby attracted our attention and on closer inspection we found the back of the vehicle littered with three bodies, charred beyond recognition, and a half-charred, barely alive Sikh youth lying atop them. In his quasi-consciousness, the man told us that he was from Punjab and had come visiting relatives in Trilokpuri. In the early hours of the same morning, a rampaging mob, he said, had killed his hosts. He had been brought to the police station around 11:00 am, about four hours before we spoke to him. He had lain there ever since.
10. When the three bodies in the truck and the half-alive man were pointed out to the duty officer, he denied all knowledge of them saying that they were the responsibility of the Station House Officer, Soor Veer Singh. The SHO, he said, was away 'in Delhi' in connection with a post-mortem case and would return only in the evening.
11. We met an army patrol commanded by Colonel P.P.S. Bains who assured us that he would send help to the beleaguered Block 32 in Trilokpuri. We returned to Trilokpuri around 4 pm only to find that no army or police patrols had visited the re-settlement colony.
12. Seeking help, we met an Air Force patrol, led by a Squadron Leader, near the ITO Bridge. The officer however, refused to help on the plea that the Prime Minister, Mr. Rajiv Gandhi, was to visit Shahdara area in a few hours time and he had been instructed to make secure the route leading to the colony. He referred us to an army truck parked nearby.
13. The NCO commanding the truck full of troops said that he had lost his formation and could do nothing for us. However, he asked us to go to the ITO flyover bridge where the army had posted a wireless look-out.
14. The Second Lieutenant manning the wireless post also pleaded helplessness as he too had lost his formation somewhere in the Model Town area of North Delhi, and was in search of it. He advised us to go to the nearby Delhi Police Headquarters building.
15. We arrived at Police Headquarters around 5 pm and went straight to the room of the then Police Commissioner, Mr. Subhash Tandon. Mr. Nikhil Kumar, IPS, Additional Commissioner of Police, manning the telephones in the office, was informed of the situation that we thought prevailed in Block 32, Trilokpuri.
16. Mr. Nikhil Kumar, asserting that he was a "mere guest artist" informed the police control room, the maximum he was prepared to do. The other officers present at this juncture were Mr. N.S. Rana, IPS, Deputy Commissioner of Police (later promoted to Additional Commissioner of Police). These officers were present whenever I went to the Commissioner's room over the next couple of days.



17. On returning to Trilokpuri around 6 pm, we found the Kalyanpuri SHO, Soor Veer Singh, accompanied by two constables, arriving in a van. Soor Veer Singh said that he had radioed his senior officer, particularly his DCP, Seva Dass, IPS, Deputy Commissioner of Police of the massacre.
18. Soor Veer Singh, walking over the sea of hundreds of charred and mutilated bodies in Block 32, told me "the Mussalmans are responsible for this."
19. No police force arrived for the one hour I was in Block 32, helping shocked riot victims to safety.
20. On returning to Police Headquarters, we were told by Mr. Nikhil Kumar that he had done his job by informing the control room.
21. At this juncture, Hukam Chand Jatav, IPS, Additional Commissioner of Police, returning from a tour of trans-Jamna colonies – on his own admittance – arrived in the Police Commissioner's room and declared that "Shanti" prevailed in the entire area, particularly Trilokpuri. He specifically mentioned Trilokpuri as being "calm." Besides the other police officers mentioned as having been present during these exchanges, others in the room included Mr. David Devdass and Mr. Ashutosh Handoo, both reporters from the "Hindustan Times," and two reporters from "The Patriot."
22. When we stressed the urgency of the situation, Hukam Chand Jatav enquired from Mr. Nikhil Kumar as to why he had not been told of the emergency as he was in his office, a floor above, when we appraised the latter around 5 pm. A short argument ensued between the two policemen in which Mr. Nikhil Kumar said that he had called the control room – the limit of his duty.
23. Hukam Chand Jatav arrived at Block 32, Trilokpuri around 7 pm, over 30 hours after the killings had begun on 1st November '84. Mr. Joseph Maliakan, who stayed back to instill confidence in the benumbed riot victims, met him.
24. The following morning, 3 November '84, when I alongwith Mr. Maliakan returned to Trilokpuri we found two bodies smoldering just inside the entrance to the colony. On returning 45 minutes later, after a visit to Block 32, we found two more bodies added onto the pile.
25. Sewa Dass, IPS, Deputy Commissioner of Police, East District, who had just come into the colony was running about confusedly from house to house, trying to make enquiries about the smouldering bodies. Without waiting to investigate, he rushed off to Block 32 in a panic-stricken state.



CHAPTER 3

Role of the Police

As the following discussion shows, senior police officers:

- Ordered their subordinates to ignore attacks against Sikhs;
- Ordered policemen to disarm Sikhs to increase their vulnerability to attack;
- Systematically disabled and neutralized any officers who attempted to deviate from the norm of police inaction and instigation;
- Released culprits; and
- Manipulated police records in order to destroy any paper trail of the violence and protect criminals from the possibility of effective future prosecutions.

At all times, if they so desired, the police and their superiors had sufficient force and knowledge to effectively counter the violence. Below, we explore these issues by discussing police inaction, police instigation of violence, police manipulation of records, and their knowledge and potential to counter the massacres. We also highlight similar abuses committed by the Railway Protection Force and Fire Brigade.

Police Structure²⁸⁴

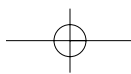
In 1984, there were 73 police stations (PS) in Delhi, each with a Station House Officer (SHO) and, in order of descending hierarchy, Sub-Inspectors (SI), Assistant Sub-Inspectors (ASI), Head Constables (HC), and Constables.²⁸⁵ Each station had a wireless arrangement to the central control room in police headquarters. The 73 police stations were grouped into six police districts (East, West, North, South, Central, New Delhi), with each police district managed by a Deputy Commissioner of Police (DCP). Each DCP had the aid of several Assistant Commissioners of Police (ACP).²⁸⁶

The North, East and Central districts were further grouped into Delhi Range, managed by Additional Commissioner of Police H.C. Jatav. The South, West, and New Delhi districts were in New Delhi Range, managed by Additional Commissioner of Police Gautam Kaul. Subhash Tandon served as the most senior officer, the Commissioner of Police (CP), with ultimate responsibility lying in the Lieutenant Governor of Delhi (Lt. Gov.). The Lt. Gov. was P.C. Gavai until November 4 when he was replaced by M.M.K. Wali. The President of India appoints the Lt. Gov.

²⁸⁴ See Appendix V for a chart of the police structure and list of key police stations in the different districts.

²⁸⁵ Misra, Report, 13.

²⁸⁶ *Id.*



Police Inaction

At best, police officers did not respond to calls for help and passively observed the violence inflicted on Sikhs,²⁸⁷ stating they did not have instructions to save Sikhs. A senior police officer, for example, admitted that the police merely watched while a gang of assailants set the house of Swaran Singh, 200 yards from the police station,²⁸⁸ on fire. At least nine Sikhs were burned alive in the ensuing fire. While patrolling that area, the police remained completely passive – they made no arrests and never opened fire.²⁸⁹ They registered FIR No. 482/84 when one member of the mob, Rajnish, was injured after Swaran Singh acted in self-defense.²⁹⁰ FIR No. 485/84 mentions the attack on Swaran Singh's house, but does not mention the killing of his family.²⁹¹

Neither the relief numbers broadcast on television nor the emergency numbers worked. When the police did receive calls for help, because victims personally approached them after risking exposure in the streets or called them at the station, officers responded with: "We have no instructions to help or save Sikhs."²⁹² The policemen of PS Ganwarganj in Kanpur went further – Inspector Sengal specifically stated that the City Magistrate had instructed them to give the assailants liberty and *not* to interfere in the looting and burning.²⁹³

Even senior officers offered no protection to Sikhs when present during mob attacks. When *Indian Express* reporter Monish Sanjay Suri went to Gurudwara Rakab Ganj around 4 p.m. on November 1, he saw Additional Commissioner of Police Gautum Kaul standing on one side as Congress (I) leader Kamal Nath controlled a mob of 4000 people. When the group charged the gurudwara gate where Kaul stood, Kaul merely stepped to the side.²⁹⁴ The gang burned several Sikhs alive during the attack.

The police also insulted those requesting help, exposing their communal hatred toward Sikhs. On the evening of October 31, Jaya Jaitley and her husband Ashok Jaitley, then an officer of the Indian Administrative Services, drove around the capital to observe the violence. When they asked an officer to intervene and stop a mob from stoning cars, the policeman dismissed the

²⁸⁷ See e.g. Dead bodies were thrown in Yamuna, says victim of 1984 riots. OutlookIndia (Aug. 8, 2001), at http://www.outlookindia.com/pti_print.asp?id=6581 (testimony of Bakshish Kaur on police who watched mob kill her husband in East Delhi); No arrest for five days in Yamunapuri during '84 riots: ACP, OutlookIndia (Nov. 21, 2001) at http://www.outlookindia.com/pti_print.asp?id=24206 (ACP Rampal Singh told Nanavati Commission that from Nov. 1 to 5, 1984, the police did not arrest anyone in his jurisdiction for their role in the violence).

²⁸⁸ Written Submissions of the Delhi Sikh Gurudwara Management Committee, East Delhi, PS Krishna Nagar, 1 (on file with author).

²⁸⁹ House set on fire in presence of police in 84 riots: ACP, OutlookIndia (Nov. 27, 2001) at http://www.outlookindia.com/pti_print.asp?id=25399.

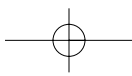
²⁹⁰ Written Submissions of the Delhi Sikh Gurudwara Management Committee, East Delhi, PS Krishna Nagar, 1-2 (on file with author).

²⁹¹ Id.; See also, Aff. of Kusum Lata Jain, Shakarpur ¶ 3-5 (on file with author) (describing how the police, specifically R.D. Malhotra and SP Mul Chand, explicitly informed assailants that they would not interfere in the assailants' "job," after which Jain witnessed the assailants kill four Sikhs).

²⁹² See, e.g., Aff. of Narmahinder Singh, Kanpur ¶ 4 (on file with author) (as a mob attacked, 10 policemen watched, stating they had no instructions to save the Sikhs); Aff. of Jagmohan Singh, Kanpur (on file with author); Aff. of Surjit Kaur, Bokaro Steel City ¶ 4 (on file with author) (regarding failure of DSP to act); Aff. of Harminder Kaur, Sharda Nagar, Kanpur ¶ 12 (on file with author); Aff. of Satwant Kaur, Ratanlal Nagar, Kanpur ¶ 5 (on file with author); Aff. of Kanwaljit Singh, Nirafa Nagar, Kanpur (on file with author) (Deponent was told by the SSP and DC at Kotwali PS that he should defend himself and not expect any help); Aff. of Amrit Kaur, Janakpur (on file with author).

²⁹³ Aff. of Dhanvantbir Singh, Latouche Road, Kanpur ¶ 3 (on file with author); See also Aff. of Har Mahinder Singh, Kakadeo, Kanpur ¶ 10 (on file with author).

²⁹⁴ Aff. (2) of Monish Sanjay Suri, Malviya Nagar ¶ 1-4 (on file with author).



request, stating: "They are only out after the Sardars."²⁹⁵ While 15 to 20 armed policemen leisurely sat in the police station, one Sub Inspector told Nihal Singh, from Sector IX B in Bokaro Steel City, who had come for help: "You bastards are the progeny of Bhindrawale. You Sikhs are worse than Muslims."²⁹⁶ When the General Secretary of a gurudwara in Naraina Industrial Area called the police for help in protecting the burning gurudwara, the police responded: "Isn't what's happening the right thing? Wait, you'll be burned, too."²⁹⁷

The police failed to enforce the curfew. Lalita Ramdas, the Nagrik Ekta Manch activist, described how she spent 18 hours outside on November 2, all in violation of the curfew order. The police did not stop or question her once.²⁹⁸ As Rahul Kuldip Bedi described in his affidavit above, the police's failure to take action extended even to the brutality of leaving a half-dead Sikh man in their parking lot, instead of procuring medical care for him.

Police Instigation of Violence Against Sikhs

The police performed functions vital to the assailants' ability to attack and kill Sikhs. The most important, beside their active participation and promises of impunity, was their role in disarming Sikhs of their kirpans,²⁹⁹ breaking up Sikh defense groups, and sending Sikhs to their individual houses, defenseless. As Gurbachan Singh's affidavit demonstrates, Sikhs often could hold off assailants by defending themselves collectively with their kirpans. In Mangolpuri, when Sikhs resisted the mob, it retreated and went to the local Congress (I) office. The local Congress (I) leader rushed to the police station to complain about the armed Sikhs. The police then came to Mangolpuri, arrested those Sikhs, disarmed them, and sent them back to their houses. The mob then slaughtered each of them.³⁰⁰ In Palam Colony, the Sikhs resisted the mob when it attacked them on November 1 and the mob ran away. Two hours later, a local police van came and disarmed the Sikhs of their kirpans. One hour later, the assailants returned and, refreshed by the police participation, began a looting and killing spree against the defenseless Sikhs.³⁰¹

Police officers forced Sikhs to return to their houses by reassuring them of their protection or threatening to kill them. After reassuring the residents of Guru Nanak Nagar in Bokaro Steel City of their protection, the police went towards the section of the colony where the poor dairy-men lived. Five to ten minutes after their jeep went there, a gang of assailants came from that side and, aware that the Sikhs were now isolated, attacked them.³⁰²

²⁹⁵ Aff. of Jaya Jaitley, Sujan Singh Park ¶ 2 (on file with author). See also Aff. of Smitu Kothari, Court Road ¶ 4 at <http://www.carnage84.com/affidavits/mishra/promi/smitu-rajni.htm> (7 police officials watched a mob burn Sikh-owned taxis, justifying it as revenge for Mrs. Gandhi's death).

²⁹⁶ Tum saala Bhindrawale ko aulad! Tum Sikh Musalmaan se bhi Kharaab ho. Aff. of Nihal Singh, Sector IX B, Bokaro Steel City ¶ 5 (on file with author).

²⁹⁷ Aff. of Malkiat Singh, Naraina Industrial Area ¶ 6 (on file with author).

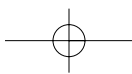
²⁹⁸ Aff. of Lalita Ramdas, Canning Lane (on file with author).

²⁹⁹ A sword, a Sikh article of faith.

³⁰⁰ Citizens for Democracy, Truth About Delhi Violence.

³⁰¹ Aff. of Joginder Singh, Palam Colony ¶ 2 (on file with author). In Trilokpuri, Sikhs initially gathered at the gurudwara to defend themselves, but Soorvir Singh Tyagi, SHO, forced them back to their houses. Carnage84.com, Disarming Sikhs: the Pattern of Police Complicity at <http://www.carnage84.com/credits/disarm.htm>.

³⁰² Aff. of Swaran Singh, Guru Nanak Nagar, Bokaro Steel City ¶ 4-5 (on file with author). See also Aff. of Garib Singh, Guru Nanak Nagar, Bokaro ¶ 3 (on file with author); Aff. of Makhan Singh, Guru Nanak Nagar, Bokaro ¶ 2 (on file with author).



If Sikhs used their licensed firearms in self defense or refused to surrender their kirpans, the police often arrested them, beat them, and filed false charges against them. Senior police officers instructed their subordinates to arrest Sikhs acting in self defense. Harbans Singh was the Sub Inspector of Yamuna Puri police station. When he entered the wireless room, he noticed that all messages relaying that Sikhs were defending themselves were accompanied by directions to the police to take action against the Sikhs. For example, he heard the message: "Sikhs carrying kirpans are moving in Anand Nagar area." The instructions came: "Send force to arrest them immediately." No instructions accompanied messages stating that gangs of assailants were killing Sikhs.³⁰³

Avtar S. Diwan's experiences demonstrate the pattern of arrest, torture, and implication in a false case. Diwan lived with 18 other family members in a two-story house. His father, Faqir Singh, had defended India in two wars, the Indo-China and Kargil wars. On November 1, the mob first attacked their colony in Paharganj. On November 3, his father called the military which rescued them and took the whole family to PS Paharganj where they stayed until November 5. On November 5, the policemen told them it was safe to return. That evening, assailants collected in front of their house. After Faqir Singh called the police, SHO Dev Raj and some constables arrived, but they disappeared during the subsequent attack by the mob. Faqir Singh fired in the air in self-defense with his licensed weapon to scare away the mob. When the military arrived, he stopped, and everyone heard firing continuing outside the house.

Expecting the military to rescue them, the family was surprised when the military and police lined them up on the road and began to beat Narinder Singh, one of their relatives. Late at night, the police took the entire family to PS Paharganj and locked everyone, including the six month- and 18 month-old babies, in the cell. The police beat Faqir Singh. The next day, on November 6, at 3:30 p.m., the police took them to Tis Hazari Courts, sent the three minor children to a children's home, placed Avtar Singh, his father, and his two brothers in solitary confinement in Tihar Jail, and placed the remainder of the family in judicial custody in Tihar. They remained there for a week. The police registered a false case against them, claiming they had fired indiscriminately into the crowd and had killed an Army soldier. The police claimed to have recovered four firearms and an air gun, which were actually licensed weapons the family had deposited during their first trip to the police station. Narinder Singh later died from his police beating, and Avtar Singh's uncle Amir Singh also died at the hands of the mob.

On November 12, Additional Sessions Judge K.B. Andley granted bail to Avtar Singh and his family because he found they had *prima facie* been attacked by a mob and fired because they apprehended danger to their lives. On April 30, 1985, a report from the Central Forensic and Scientific Library exonerated them, stating that the bullets recovered from the deceased Army soldier did not match their firearms. However, not until December 8, 1988, more than four years after the massacres, did the prosecution drop the case, resulting in their acquittal. Ironically, the two police officers who had arrested them and beat

³⁰³ Carnage84.com, Disarming the Sikhs; Aff. of Harbans Singh, Yamuna Puri ¶ 7 at <http://www.carnage84.com/affidavits/nanavati/yamunapuri/Harbans-niranjan.htm>.

Narinder Singh – Amod Kanth, then Additional Commissioner of Police, and S. S. Menon, then SHO Paharganj – received Presidential medals and promotions.³⁰⁴

The actions of the most senior officer, Commissioner of Police Subhash Tandon, reflect this policy of disarming Sikhs. When Tandon arrived at Rakab Ganj Gurudwara, where Kaul had earlier allowed the mob to attack by stepping aside, the mob had already burned alive two Sikhs. Tandon did not touch a single member of the mob or try to ascertain responsibility for the burning deaths of the two Sikhs. Instead, Tandon chose to arrest a Sikh who possessed a licensed firearm.³⁰⁵ Similarly, on November 1, Tandon arrested two Sikhs who fired in self defense from inside Motia Khan gurudwara, located in central Delhi. Tandon charged them with attempted murder although none of the assailants suffered any injuries. Again, he acted as if blind to the mob of assailants before him. The mob subsequently burned down the gurudwara.³⁰⁶

Beyond disarming Sikhs and lodging false cases against them, police officers actively instigated and participated in the looting and killing, also making promises of impunity.³⁰⁷ ASI Rattan Lal Sinha witnessed the mob's attacks on the house of Narinder Pal Singh of Bhowra Colliery. Promising to save the family, he put them inside their store room and locked the door from outside. The rioters then prepared the house for demolition with oxygen dynamite, targeting the store room. In total disregard for his promises to the Sikh family, ASI Ratan Lal Sinha reassured the mob: "When the management is with us, what could anyone do." The mob exploded the dynamite, burying the family. Through the gaps in the wall, the attackers persisted and hounded the trapped family, killing Narinder Pal's father, injuring his mother, and also injuring Narinder Pal with five bullets.³⁰⁸ Similarly, in the case of Gurudwara Rakab Ganj, when the mob began to disperse when Sikhs defended themselves and repulsed the initial attacks on the gurudwara, the policemen shouted: "Salas [Bastards] – this is the time that you have got to do whatever you want. Why are you running off?" The policemen reassured the assailants of ample opportunity to attack: "We will return in ten hours."³⁰⁹

Santokh Singh described how a mob of 5000 to 6000 people, led by prominent Congress (I) leader Panna Lal Pradhan, attacked the Sikhs in Hari Nagar Ashram, New Delhi on the morning of November 1. The DCP, SHO Ishwar Singh, Ved Prakash, Head Constable Mohinder Singh and 50 other

³⁰⁴ Aff. of Avtar S. Diwan, Paharganj (on file with author); See also, Aff. of Kirpal S. Chawla, Inder Puri ¶ 7 (on file with author); Aff. of Major N.S. Phull, Shivnagar Extension ¶ 7 (on file with author); Aff. of Piara Singh, Model Town ¶ 3 (on file with author).

³⁰⁵ Carnage84.com, Disarming the Sikhs.

³⁰⁶ Id.

³⁰⁷ See, e.g., Mob included police officials, Aff. of Satpal Singh, Ram Mandir, Bokaro Steel City ¶ 8 (on file with author); Aff. of Harbhajan Singh, Shakarpur ¶ 3-4 (on file with author); Aff. of Anand Kaur Tuli, Saket Nagar, Kanpur (on file with author).

³⁰⁸ Aff. of Narinder Pal Singh, Bhowra Colliery, Bokaro ¶ 12 (on file with author). See also Aff. of Sarup Singh, Shahdara ¶ 1 (on file with author); Aff. of Manjeet Singh, Civil Lines, Kanpur ¶ 11 (on file with author); Aff. of Har Mahinder Singh, Kakadeo, Kanpur ¶ 10 (on file with author) (police from PS Kalyanpur instructed the mob to kill the Sikh family or otherwise be treated as the nation's traitors); Police, a party to lawlessness in '84, alleges Akali leader, Press Trust of India (Dec. 3, 2001); Aff. of Sarabjit Kaur, Hari Nagar Ashram, New Delhi ¶ 5 (on file with author) (two uniformed policemen and the SHO of PS Sunlight Colony spoke to attacking assailants, shook hands with them, and jointly raised the slogan "Blood for Blood."); Aff. of Jattan Kaur, Sultanpuri ¶ 2 (on file with author) (local police shot Sital Singh on November 1); Aff. of Bachittar Singh, Lajpat Nagar (on file with author) (six policemen in uniform with rifles led the mob in Lajpat Nagar).

³⁰⁹ Chakravarti and Haksar, Delhi Riots, 93.

constables reached the scene. Using loudspeakers, they instructed the mob to kill every Sikh and burn their properties. The senior officers then instructed the policemen to participate. When the curfew order was announced at 6:45 p.m. the police declared they would not enforce it against non-Sikhs. They also repeated the rumor regarding dead Hindu bodies arriving in trains from Punjab and fired rounds at the Sikhs, although no one was hit. The military eventually rescued Santokh Singh and his family.³¹⁰

Police supplemented these verbal promises of impunity and directions to kill with direct participation in the killings. Three jeeps of policemen fired on Sohan Singh and his family, as Sohan Singh attempted to resist the attacking mob.³¹¹ When the assailants attacked Chinti Devi's house in Bokaro Steel City on the morning of November 1, a uniformed and armed police officer accompanied the assailants. The police officer fired four rounds at her elder son when he tried to defend himself with his kirpan against the mob as it chased him. The son fell, hit by the police officer's bullets. The mob then used his kirpan to chop off his head. The mob also killed her husband and dumped their bodies in fields, where they were traced six days later.³¹²

In another case, policemen also shot Ajit S. Sawhney, of Kingsway Camp, in his back, although ACP D.L. Kashyap did take him to the hospital.³¹³ When Bhoop Singh Tyagi, Youth Congress (I) President of the area – who attended a meeting led by MP and Minister H.K.L. Bhagat on October 31, led assailants in an attack on Shakarpur's Sikh residents, four police officials from PS Shakarpur joined him. This gang, including the police, killed Harbhajan Singh's father, brother, and a neighbor who was sheltering with them.³¹⁴

Ravinder Singh told the Nanavati Commission that then SHO J.C. Sharma and other policemen lathi-charged Sikhs in Tilak Nagar on November 2. Then, "without any reason...[they] entered our houses, dragged us out and starting beating us." He discussed how the police took the Sikh men to Tilak Nagar police station, tied their hands, and beat them again. The police broke the arm of one of Ravinder Singh's brothers, and beat the other brother Tarminder Singh with an iron chain. After the beatings, the police filed false charges against the Sikh men and they were sent to Tihar Jail. Ravinder Singh and the other men were released on bail two weeks later.³¹⁵

³¹⁰ Aff. of Santokh Singh, Hari Nagar Ashram ¶ 1-6 (on file with author).

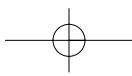
³¹¹ Aff. of Sohan Singh, Karol Bagh, New Delhi ¶ 3 (on file with author).

³¹² Aff. of Chinti Devi, Ritudih, Bokaro Steel City ¶ 3-4 (on file with author).

³¹³ Mittal, Mital Report, ¶ 2.22.4.

³¹⁴ Harbhajan Singh, Shakarpur ¶ 3-4 (on file with author); See also Sarup Singh, Shahdara ¶ 1 (on file with author); Manjeet Singh, Civil Lines, Kanpur ¶ 11 (on file with author).

³¹⁵ Police was biased against Sikhs in 1984: witness, OutlookIndia (Feb. 5, 2002) at http://www.outlookindia.com/pti_print.asp?id=38561.



Manipulation of Records and Investigations

Police officers systematically and thoroughly manipulated or destroyed the potential opportunities for gathering evidence of the perpetrators and crimes. The police refused to record or manipulated information regarding attacks against Sikhs; performed casual investigations, if at all, precluding effective future prosecutions; and falsified their records to cover up the carnage and their lawless activities. Well aware of the future need to hide the criminality of their actions, the police records provide us with little information on the role of police officers and government officials in the carnage, as well as of the spectrum and extent of crimes perpetrated against Sikhs during the massacres.

Section 154 of the Indian Code of Criminal Procedure (CCrP) mandates that police officers record all information about a cognizable offence, given orally or in writing, and obtain the signature of the person providing the information.³¹⁶ This section mandates that police officers record FIRs, or First Information Reports. The failure to register these reports undermines the prosecution of cases. Although FIRs are not considered to be substantive evidence, they are used to corroborate or contradict the complainant, as warranted by Sections 157 or 145 of the Evidence Act.³¹⁷ They also form the basis for further investigation. The police carefully recorded FIRs for murders of non-Sikhs during the massacres.³¹⁸

For Sikh victims, the police:

- Refused to record FIRs;
- Recorded omnibus FIRs;
- Refused to list certain names in the FIRs given by victims as the perpetrators of the violence;
- Filed FIRs under reduced charges; and
- Generally falsified FIRs.

Numerous deponents from areas such as Kiran Gardens, Sarai Rohilla, Hari Nagar Ashram, and Shastri Nagar, for example, stated that the police would not record their reports. When Gurcharan Singh, the granthi of Gurudwara Singh Sabha in Sarai Rohilla went to the police station to describe how the Railway Protection Force had shot and killed five to six Sikhs on November 1 in order to aid the attacking mob, the police officer refused to record his FIR, stating “such things happened with numerous other Sikhs also.”³¹⁹ Baljit Singh of Gandhi Nagar, Kanpur was told by the officer who refused to register his FIR that he should be happy that he had survived.³²⁰ Sham Singh was detained for five days for insisting on filing an FIR; he was released only when he signed a report written by the police that he did not read.³²¹

³¹⁶ J.D. Jain and D.K. Aggarwal, Jain Aggarwal Report (1993), ¶ 5.2 at <http://www.carnage84.com/official/jain/jain.htm>.

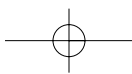
³¹⁷ *Id.*, ¶ 5.3.

³¹⁸ See generally Written Arguments on Behalf of the Delhi Administration (on file with author).

³¹⁹ Aff. of Gurcharan Singh, Sarai Rohilla ¶ 2 (on file with author).

³²⁰ Aff. of Baljit Singh, Gandhi Nagar, Kanpur ¶ 8 (on file with author). See also Aff. of Sham Singh, Patel Road ¶ 2 (on file with author); Aff. of Gian Singh, East Moti Bagh ¶ 4 (on file with author).

³²¹ Sham Singh, Shadi Khampur, Patel Road, Delhi ¶ 2-3 (on file with author).



Senior officers specifically instructed the SHOs of police stations to record a fixed number of FIRs, rather than one FIR for each crime that occurred. The ACP Gandhi Nagar, R.D. Malhotra, told the SHOs of Gandhi Nagar, Kalyanpuri, and Shakarpur to register one, three and three cases, respectively, according to directions issued by the DCP East, Sewa Dass.³²² Similarly, according to DCP Special Branch Bhim Singh, ACP Shahdara ordered the three SHOs of Shahdara subdivision to register only one case per day.³²³ Following a similar pattern, PS Adarsh Nagar registered only one FIR per day.³²⁴ S.M. Bhaskar, then SHO of Krishna Nagar, told the Nanavati Commission that he received instructions from the DCP to only register one FIR per locality.³²⁵

Amrik Singh Bhullar, who was posted as SHO Patel Nagar during the massacres, told the Nanavati Commission that higher police officers directed him to file all 115 complaints received by him as one FIR No. 556: "A decision to treat all such cases in one case was taken at a meeting which was held by the higher officers where I was also present. The discussion...had taken place in the Office of the ACP Patel Nagar...I was told by ACP that this decision to treat those cases as one case was in consultation with DCP (Central)." The next day, when his cross-examination continued, Bhullar tried to retract his statement and place the responsibility of the decision to file one FIR on himself.³²⁶

In response to interrogatories from the Misra Commission, the Delhi Administration stated that the police filed a total of 228 FIRs³²⁷ in massacres where 2733 deaths are officially acknowledged in Delhi, not including other crimes, such as rape, assault, property destruction, and robbery.

Instead of lodging individual FIRs for each crime, as police procedure requires, the police lodged omnibus FIRs of a vague nature, precluding meaningful investigations and prosecutions, as well as destroying crucial evidence. FIR No. 511 of PS Punjabi Bagh, filed on the morning of November 1 by SHO R.C. Singh, states:

[D]ue to the brutal assassination of the Prime Minister of India Shrimati Indira Gandhi and due to strong resentment in the people of Delhi, Capital of India, the Public after having illegally associated, indulged in arson looting and general massacre. And there are reports of firing from various gurdwaras and houses of Sikhs which have resulted in the loss of many lives. Such reports have come for East and West Punjabi Bagh, Raj Nagar, Anand Bagh, Sri Nagar (or Tri Nagar) Shakur Basti and from the circumstances it appears that offence under Section 302, 307, 395, 397, 427, 436, and 25/27, 54/59 Arms Act has been committed.

It is further stated that gas squad was also sent.

³²² Mittal, Mittal Report, ¶ 3.189.

³²³ Id., ¶ 3.59.

³²⁴ Id., ¶ 2.37. In *State v. Kishori* (Kakardooma, Delhi S.C. No. 42/95), Inspector Badam Singh of Trilokpuri deposed that he received instructions from his superiors to combine all incidents into one FIR. *Aff. of Vrinda Grover*, New Delhi ¶ 10 at <http://www.carnage84.com/judge/analysis.htm>.

³²⁵ During his testimony, he also admitted the burning alive of nine Sikhs in a house, in the presence of the police. House set on fire in presence of police in 84 riots: ACP, *OutlookIndia* (Nov. 27, 2001) at http://www.outlookindia.com/pti_print.asp?id=25399.

³²⁶ Amrik Singh Bhullar, Statement before Nanavati Commission (Oct. 4, 2001) at www.carnage84.com/records/witness/witness-74.htm.

³²⁷ Delhi Administration, Interrogatory No. 1, Serial No. 5, Appendix E (on file with author).

Not only did this FIR give absolutely no details of any crimes that had occurred, making future investigations impossible, the same language was replicated in FIR No. 351/84 of PS Nangloi and FIR No. 174/84 of PS Mangolpuri.³²⁸ Also, this FIR absurdly associated the extensive loss of life with firing from Sikh houses and gurudwaras, not the massacres committed by the mobs.

Instead of sending the FIRs immediately to the Metropolitan Magistrate as required by law, the police sent them a week later, suggesting that they actually wrote the FIRs later to cover up their actions. In Sultanpuri police station, the police allegedly lodged FIR Nos. 250 and 251 on November 1. These FIRs also match the language of the FIR from Punjabi Bagh quoted above. The police did not send these FIRs to the Metropolitan Magistrate until November 9.³²⁹

The police protected political leaders and police by refusing to record FIRs or the names of culprits if the complainant identified other police officers or Congress (I) party leaders and workers as the perpetrators.³³⁰ When Sardool Singh went to lodge his report with PS Shahdara on November 12, he named 11 people from the mob. Sub Inspector Tulsi Das called some of those 11 people to the police station and, in their presence, forced Sardool Singh to sign that he had nothing against them.³³¹ Harvinder Singh of Kanpur went to the police station to record an FIR that would have implicated a Congress official's son and B.B. Yadav, the police officer in charge of the Fazal Ganj police post. To his dismay, the very same officer was there and refused to record an FIR that would implicate himself. Instead, Yadav threatened Harvinder Singh to leave the police station or get shot.³³² When Sardul Singh Kalsy of Bokaro Industrial Area went to lodge an FIR against Congress (I) leaders Ram Nath Singh, Dr. P.C. Mishra, and Shukla, the police omitted their names and wrote the FIR in Hindi, which Kalsy could not read and, thus, could not verify.³³³

In addition to the abuses above, the police edited or completely falsified the FIRs. When Devinder Kaur of Sector III/W, Bokaro Steel City, went to the police station to lodge her FIR, she stated that a Central Industrial Security Force (CISF) party had rescued her family. The police interchanged "CISF" for "police" despite Devinder Kaur's insisting otherwise.³³⁴ The police often used preformatted FIRs that did not have columns for the names of perpetrators or the deceased, as well as any facts of the relevant incidents.³³⁵ Police also filed reduced charges, refusing to file complaints of murder.³³⁶ In their testimony before the Nanavati Commission, witnesses Harvinder Singh and Bodh Raj declared that the FIR filed by the police on their behalf stated false information. On November 2, 1984, the police had recorded that they arrived at the scene of arson, arrested 44 people, and opened fire to disperse the mob. Singh and

³²⁸ Written Submissions on Behalf of Delhi Sikh Gurudwara Management Committee, West Delhi (on file with author).

³²⁹ Citizens for Democracy, Truth About Delhi Violence.

³³⁰ See, e.g. Aff. of Jasbir Singh, Thana Nabasta ¶ 7 (on file with author).

³³¹ Mittal, Mittal Report, ¶ 3.33. See, e.g., Aff. of Jaspal Singh Melhan, Gandhi Nagar, Kanpur ¶ 5 (on file with author).

³³² Aff. of Harvinder Singh, Kanpur ¶ 10 (on file with author).

³³³ Aff. of Sardul Singh Kalsy, Bokaro Industrial Area ¶ 7-9 (on file with author).

³³⁴ Aff. of Devinder Kaur, Sector III/W, Bokaro Steel City ¶ 5 (on file with author).

³³⁵ Jain and Aggarwal, Jain-Aggarwal Report, ¶ 5.8.

³³⁶ The police told Mukhinder Singh of Friends Colony (West) that they had lodged one general FIR of the entire locality. They would only endorse his complaint regarding property loss and tag it to that FIR. Aff. of Mukhinder Singh, Friends Colony (West) ¶ 7 at <http://www.carnage84.com/affidavits/nanavati/Srinivaspuri/mukhinder-sohan.htm>.

Raj, however, declared that no police came until evening, by which time the mob had burned 16 to 17 shops, including that of Bodh Raj.³³⁷

Making a farce of the proper procedures regarding investigation, which involve conducting identification parades, drawing site maps, and recording statements of witnesses, the police carried out casual and perfunctory investigations, if at all. According to Senior Advocate Harvinder Singh Phoolka, the police closed 300 out of 700 cases as untraced, meaning that they did not conduct any investigation but merely stated they could not locate the culprits.³³⁸ For those that they did investigate, the police only interviewed the complainant, summarized the complainants' statements and entire experiences during the massacres into vague three to four sentence descriptions, deleted the key perpetrators, failed to correlate related events in order to pinpoint common culprits, or failed to ask the complainants if they had witnessed other crimes.³³⁹ They purposefully told culprits to deposit stolen property on the roadside so that they were not linked to the property, destroying crucial evidence.³⁴⁰

In *State v. Ram Pal Saroj*, for example, Additional Sessions Judge S.N. Dhingra wrote:

Police had not made any other person as witness in this case. In fact, there is no investigation done by the police except recording the statements. Statements recorded by the police are also very sketchy and some times the statements are actually not made by the victims but they have been recorded by the police officials sitting in police station and it is alleged that these statements were made by victims. In most of the cases it is found that in order to help the accused persons police has given wrong facts in the statements. The victims of the riot cases when appeared in the court had given altogether a different story.³⁴¹

In *State v. Ved Prakash, etc.*, Dhingra went to the extent of refusing to use contradictions between the victim statements allegedly recorded by the police and those made by the witnesses in court to discredit the victim, declining to make truth and justice "casualty to the vicious nexus between the police and accused persons."³⁴²

Demonstrating this "vicious nexus," senior officers like Additional Commissioner of Police (Delhi Range) H.C. Jatav ordered the police to protect the culprits by quickly releasing them from their custody. Jaimal Singh from Model Town, New Delhi described how he and others caught some looters on

³³⁷ '84 riot victims contradict police report, OutlookIndia (July 20, 2001) at http://www.outlookindia.com/pti_print.asp?id=3287.

³³⁸ See, e.g., FIR No. 375, PS Srinivaspuri, 1.11.84: Balwant Kaur reported that her husband's murderers were from Sunlight Colony but the case was filed as Untraced. Written Arguments on Behalf of Delhi Sikh Gurudwara Management Committee, Police Station Srinivaspuri (on file with author).

³³⁹ Jain and Aggarwal, Jain-Aggarwal Report, ¶ 5.4-5.5.

³⁴⁰ *Id.*, ¶ 5.6.

³⁴¹ Vrinda Grover, *The Elusive Quest for Justice: Delhi, 1984 to Gujarat, 2002*, in Siddharth Varadarajan, ed., *Gujarat: The Making of a Tragedy* (New Delhi: Penguin Books, 2002), 372-3, citing Karkardooma, Delhi, S.C. No. 57/95, FIR No. 426/84, 12-13.

³⁴² *Id.*, 373 citing Karkardooma, Delhi, S.C. No. 70/95, FIR No. 426/84, 11-12.

October 31 and handed them over to Jatav after explaining what had happened. Jatav immediately released them from his custody.³⁴³ Monish Sanjay Suri, who was an *Indian Express* reporter in 1984, gave a detailed account of the police's release of culprits after Congress (I) leaders intervened with the support of Jatav:

1. I went to the Karol Bagh police station on the morning of November 5 on hearing that the police had recovered a lot of property looted during the days of rioting and that many persons had been arrested.
2. I heard a lot of shouting going on inside the SHO's office. I went to the door of the office. I saw the Additional Commissioner of Police, Delhi Range, Mr. Hukam Chand Jatav, sitting in the SHO's chair. With him was the Central District, DCP, Mr. Amod Kanth. On the other side of the table, among a group of people shouting, I saw Assistant Commissioner of Police, Mr. Murti Sharma and the SHO, Mr. Ranbir Singh.
3. Seeing me, Mr. Jatav angrily ordered a junior police officer present by the side of the door to take me away from there. I had to leave the room, but the shouting was so loud that I could hear everything a few paces away. But then I went round the side and positioned myself near the window through which I could see what was going on in the room, and also hear what was being said.
4. Among the group of people who had come to the office were Mr. Dharam Dass Shastri, then MP, and Mr. Moti Lal Bakolia, Congress-I leader. Both Bakolia and Shastri were shouting in protest against the arrests made by the police. But it was an odd situation. The Congress-I leaders were shouting against Mr. Kanth, the DCP, and his senior, Mr. Jatav was clearly expressing sympathy with the position of the leaders, in a clear rejection of the work done by his own DCP, Mr. Kanth.
5. At one point Mr. Kanth accused the leaders of trying to shield criminals. At this there was loud frenzied shouting on all sides. I saw Mr. Bakoliya get up and reach out at the SHO, as if to assault him. Some others got up and calmed him down. Mr. Shastri was fully backing what Bakoliya was doing. Neither Mr. Jatav nor Mr. Kanth did anything about the rough treatment that the local leaders were trying to give out.
6. In a while Mr. Ram Murti Sharma came out of the office. He said to me that whenever the police try to do any work, the politicians stop them. Obviously disgusted, he pointed to what was going on inside.

³⁴³ Aff. of Jaimal Singh, Model Town ¶ 4-6 (on file with author); See also Aff. of Jasbir Singh Bawa, Malka Ganj ¶ 7 (on file with author). Top police officer ignored Sikhs request in 84 riots: witness, OutlookIndia (Feb. 1, 2002) at http://www.outlookindia.com/pti_print.asp?id=37795.

7. The shouting continued for a while and then the meeting ended. I do not know what was decided. Outside I met Mr. Jatav. I asked him why as a senior officer he had not been firm in preventing some politicians from misbehaving with his SHO. He said nothing of the sort had happened. I said I had seen it. His reply was that no, you have not seen it.³⁴⁴

Suri's affidavit, supported by survivor affidavits,³⁴⁵ clearly demonstrates how senior officers worked with Congress (I) leaders to protect the perpetrators of the massacres. ACP Ranbir Singh recounted the same story when he testified before the Nanavati Commission in January 2004.³⁴⁶

Further tampering with records, senior officers blatantly closed or manipulated their wireless log books and ordered their subordinates not to record wireless messages of attacks against Sikhs. The DCP West, U.K. Katna, kept his own log book closed from 11:00 a.m. to 10:30 p.m. on November 1, and from 9:00 a.m. to 5:30 p.m. on November 2.³⁴⁷ The logbook of the DCP South actually had pages torn out from the period of the massacres.³⁴⁸ Jatav's logbook had similar gaps, such as no entries on November 1 from 5:25 p.m. to 7:25 p.m., and from 5:20 p.m. to 6:47 p.m. and 7:35 p.m. to 10:20 p.m. on November 2. Jatav's subordinates rewrote his log book, as evidenced by a comparison of the handwritings of Head Constables and their normal shifts of recording. For example, one constable recorded entries that covered a 33-hour period, although he could not have worked such a long shift. Despite the normal 12-hour shift, another constable recorded entries over a 24-hour period. Jatav's logbook was also missing key wireless messages describing details of attacks on Sikhs, acknowledged by Jatav.³⁴⁹ The Commissioner of Police, Subash Tandon, never submitted his log book to the Mittal Commission.³⁵⁰ The logbook of Sewa Dass, DCP East, shows that he remained in his office on November 1 and 2. However, affidavits show that he not only traveled throughout his jurisdiction, but his presence led to further violence against Sikhs.³⁵¹

Hardhian Singh Shergil, ASI in the Criminal Investigation Department (CID), had an experience similar to Harbans Singh's above.³⁵² When he went to Geeta Colony police station, he heard a number of wireless messages detailing attacks against Sikhs. The police failed to record these messages, although police procedure required them to do so. Shergil inquired about this lapse, and the wireless operator told him he had received orders not to record messages about attacks on Sikhs.³⁵³

³⁴⁴ Aff. (1) of Monish Sanjay Suri, Malviya Nagar at <http://www.carnage84.com/affidavits/mishra/promi/monish-b.nSuri-1.htm>. In Kanpur, Congress (I) MP Naresh Chander Chaturvedi secured the release of the mobsters identified by Devinder Singh. Aff. of Devinder Singh, Kanpur ¶ 6 (on file with author).

³⁴⁵ See, e.g., Aff. of Jaswant Singh, Prahlad Market ¶ 8 at <http://www.carnage84.com/affidavits/mishra/Dharamdass/Jaswant%20Singh%20-Gokul%20Singh.htm>; Aff. of Kundan Singh, Sat Nagar ¶ 7 at <http://www.carnage84.com/affidavits/mishra/Dharamdass/Kundan%20Singh.htm>; Aff. of Surjit Singh, Deshbandhu Gupta Road, Karol Bagh ¶ 4 at <http://www.carnage84.com/affidavits/mishra/Dharamdass/SURJIT%20SINGH-SANTOKH%20SINGH.htm>; Aff. of Avtar Singh Vir, Karol Bagh ¶ 48 (on file with author).

³⁴⁶ 84 Riots: Cop Blames Congress Leaders, ExpressIndia (Jan. 30, 2004) at <http://cities.expressindia.com/fullstory.php?newsid=74527>.

³⁴⁷ Mittal, Mittal Report, ¶ 6.104(ii).

³⁴⁸ *Id.*, ¶ 7.11(i)(a).

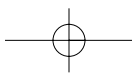
³⁴⁹ *Id.*, ¶ 4.21.

³⁵⁰ *Id.*, ¶ 11.9.

³⁵¹ *Id.*, ¶ 3.226.

³⁵² Please see in this report: Police Instigation of Violence Against Sikhs, 47.

³⁵³ Carnage84.com, Disarming the Sikhs.



The police records also demonstrated basic contradictions. As Anil Dureja, Additional SHO of Connaught Place police station, deposed before the Nanavati Commission, while one record showed senior police officers resorting to firing on November 1, 1984, the daily diary did not provide the necessary corroboration.³⁵⁴

Sufficient Force and Knowledge

The police's plaintive claim of insufficient force to control the mob is further discredited because: wherever police did take a stand, the mob dispersed;³⁵⁵ senior officers purposefully disabled effective and conscientious policemen; and police officers refused offers of support from the Army. Police also cannot plead ignorance of the extent of the violence because they received repeated calls and faxes requesting help and they witnessed the violence themselves. Instead, their brazen action in manipulating the recording of evidence as discussed above shows their knowledge and intent to conceal it. In addition, the police refused to hand over dead bodies in order to further destroy evidence and actively suppress information.

In Durgapura, in the midst of at least a dozen dead bodies lying on the ground in a 100 meter radius, DCP East Sewa Dass brazenly told *Indian Express* reporter Monish Sanjay Suri that only two people had died there and then proceeded to justify their deaths: "Mr. Sewa Dass said a bunch of Sikhs from the gurdwara had attacked an innocent crowd outside, killing a girl. So naturally, he said, they hit back and one Sikh had been killed. He said Sikhs had fortified themselves at Durgapura gurdwara." Suri had just visited the gurudwara and had met frightened Sikh refugees and knew the DCP was lying. He saw bodies lying all around and was told by refugees that many more had been removed in anticipation of the Prime Minister's visit.³⁵⁶

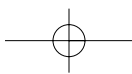
Senior officers actively disabled policemen who tried to counter the violence. First, they rendered them ineffective by not arming them.³⁵⁷ Second, Additional Commissioner of Police H.C. Jatav transferred police officers who attempted to counter the violence. Importantly, police officers still had room to refuse participation in the massacres – the only punishment they suffered was transfer. Jatav transferred ACP Kewal Singh and SHO/Inspector Gurmail Singh, both Sikhs, the night of October 31 from their posts at PS Subzi Mandi, allegedly because someone had threatened to burn down the police station because he resented the activities of those officers. Jatav also accused the Sikh officers of abandoning their duty during the riots, despite evidence that ACP Kewal Singh

³⁵⁴ Ambiguity creeps up in police version about '84 riots, OutlookIndia (Sept. 20, 2001) at http://www.outlookindia.com/pti_print.asp?id=13131. See also Nanavati Panel asks [sic] Delhi police to clarify number of deaths, OutlookIndia (Nov. 20, 2001) at http://www.outlookindia.com/pti_print.asp?id=23969.

³⁵⁵ Mittal, Mittal Report, ¶ 3.3; The SHO of PS Darya Ganj lathi charged the mob and dispersed them. Id., ¶ 1.8(D).

³⁵⁶ Aff. (1) of Monish Sanjay Suri ¶ 1- 4 at <http://www.carnage84.com/affidavits/mishra/promi/monish-b.nSuri-1.htm>.

³⁵⁷ Harbans Singh, then SHO of Yamuna Puri and a Sikh, told the Nanavati Commission that Head Constable Ram Sidhi specifically did not provide him with arms and ammunition, while he distributed them to the rest of the officers present. Even Singh's subordinates received arms and ammunition. Aff. of Harbans Singh, Yamuna Puri, at <http://www.carnage84.com/affidavits/nanavati/yamunapuri/Harbans-niranjan.htm>. See also, IO says there were several lapses in 84 riots investigations, OutlookIndia (Aug. 30, 2001) at http://www.outlookindia.com/pti_print.asp?id=9797.



had asked for shoot-at-sight orders while actively fighting the violence. They were the only two officers who took preventive action on October 31 itself, arresting 90 people, recovering looted property, and registering a criminal case.³⁵⁸ Jatav personally supervised the handing over of their responsibilities to their replacements.³⁵⁹

The police refused Army assistance in controlling the carnage. After the mob attacked his house on November 1, the Central Industrial Security Force (CISF) rescued Aunkar Singh Bindra and took him to the SP's office in Sector I of Bokaro Steel City. Another 500 to 600 victims were there. At this office, Bindra met DIG Srivastava whom he knew well. Bindra requested the DIG to send officers to protect his house, but the DIG claimed that he lacked sufficient force to help. At the same time, a wireless message came through a portable set in the same room where the victims were sitting. Bindra testified to the contents of the message and the DIG's response:

The wireless message was in English and we could very well hear the message. Through the wireless the position of Bokaro was enquired. DIG Sri Srivastava reported over the wireless that there were many casualties in Bokaro. He further said that he was trying to control the situation and have [sic] taken the help of CISF of Bokaro Steel Plant. When asked by the wireless message deliverer whether army was required for Bokaro, Sri Srivastava (DIG) said that he did not require the army at present. Then the deliverer informed the DIG that the SP of Dhanbad had asked for army's help. Upon this Sri Srivastava, DIG replied that army's help may be provided to the SP Dhanbad as requisitioned but the same is not requested for Bokaro Steel City.³⁶⁰

Raghubir Singh corroborated this account in his affidavit to the Misra Commission.³⁶¹

Police also actively engaged in covering up the carnage. Under superior orders, they refused to hand over dead bodies to surviving family members, aware of the potential significance of the physical evidence. On November 2, the East District Control Room sent a wireless message, indicating police attempts to quietly remove bodies: "Deputy Comm'r of Police/East be told to remove eight dead bodies lying in Vinod Nagar."³⁶² Giani Zail Singh, President

³⁵⁸ Mittal, Mittal Report, ¶ 2.48-2.50.

³⁵⁹ Reply on Behalf of Delhi Sikh Gurudwara Management Committee to the Written Arguments of Delhi Administration, 7 (undated) (on file with author); See, also, the experience of SI Rana who was suspended because he refused to reduce the number of deaths he was reporting. Mittal, Mittal Report, ¶ 7.115-6.

³⁶⁰ Aff. of Aunkar S. Bindra, Cooperative Colony, Bokaro Steel City ¶ 5 (on file with author).

³⁶¹ Aff. of Raghubir Singh, Sector IX B, Bokaro Steel City ¶ 4 (on file with author).

³⁶² Mittal, Mittal Report, ¶ 3.14. See also Id., ¶ 7.115-6 (case of SI Rana).

of India, called senior BJP leader Madan Lal Khurana and asked for his help in recovering the dead body of a distant relative. Khurana was shocked that the President himself did not have the power to do that. When Khurana went to the Patel Nagar police station and conveyed the request to ACP Ram Murthy, Murthy replied that he had received orders not to handover bodies to relatives. He did, however, allow the family to come to the electric crematorium for the cremation.³⁶³ Smitu Kothari described seeing, with four other friends, a truck, a matador, and a van completely filled with Sikh bodies at police station Kalyanpuri.³⁶⁴

Railway Protection Force

Like the police, the Railway Protection Force (RPF) supported and participated in mob attacks against Sikhs. Starting November 1, mobs started forcing unauthorized stoppages of Delhi-bound trains, boarding trains and burning alive Sikh passengers. These stoppages occurred in at least 46 places.³⁶⁵ No inquiry, however, was conducted into these stoppages. On November 2, at Tughlakad, for example, the Railway Protection Force explained the stoppage of two trains as due to "defective signals." A mob of 1000 people, ready for the stoppage, boarded the train and killed eight to nine Sikhs.³⁶⁶ The Special Occurrence Report filed by the RPF, however, merely states that the mob "even went to the extent of assaulting the traveling passengers of one community."³⁶⁷

Despite the extent of the violence on the trains, the RPF, Northern Railway did not make a single arrest³⁶⁸ and the Railway Administration only recorded two FIRs.³⁶⁹ Because no inquiry was done, there is no approximate figure of deaths.³⁷⁰ The two affidavits and one FIR No. 356 quoted in the Misra Commission report alone estimate around 45 murders in the three incidents covered. The Minister of State for the Home Minister, Ramdulari Sinha, announced in Parliament in January 1985 that 179 bodies were recovered from trains in Delhi and four states.³⁷¹ The RPF did not start escorting trains until November 4,³⁷² although the RPF, in its answers to interrogatories, characterized this delay as being pressed "into service immediately and elaborately."³⁷³

³⁶³ Aff. of Madan Lal Khurana, Safdarjung Road ¶ 7 at <http://www.carnage84.com/affidavits/nanavati/promi/madanlal.htm>.

³⁶⁴ Aff. of Smitu Kothari, Court Road ¶ 13 at <http://www.carnage84.com/affidavits/mishra/promi/smitu-rajni.htm>; see also Madan Lal Khurana, Statement before Nanavati Commission (May 16, 2001) at <http://www.carnage84.com/records/witness/witness-8.htm> (describing how he saw "dead bodies thrown into those [three] trucks like potato bags" in front of a mortuary. He was told they were for mass cremation at the electric crematorium).

³⁶⁵ Railway Protection Force, Annexure on Unauthorized Stoppages (on file with author).

³⁶⁶ Misra, Report, 34-5.

³⁶⁷ Railway Protection Force, Special Occurrence Report, Rioting and Murders at Rly. Station Tughlakabad (on file with author).

³⁶⁸ Letter from General Manager, Northern Railway, to R.L. Gupta, Secretary, Misra Commission (18 Nov. 1985) (on file with author). See Appendix VI.

³⁶⁹ Mittal, Mittal Report, ¶ 9.9.

³⁷⁰ Misra, Report, 34-5.

³⁷¹ Eric Silver, Riots Over Killing Left 2,000 Dead, *Guardian* (Jan. 25, 1985).

³⁷² Written Submissions on Behalf of Delhi Sikh Gurudwara Management Committee, 23 (on file with author).

³⁷³ Reply to Interrogatories on behalf of Railway Administration (undated) (on file with author).

The example of Sarai Rohilla provides further indication of the participation of the Railway Protection Force in the massacres. Around 2:30 p.m. November 1, Gurcharan Singh, the granthi of the Gurudwara Singh Sabha at Sarai Rohilla, announced over loudspeaker that a mob was attacking the gurudwara. He asked Sikhs to help save the gurudwara. An hour after Sikhs had begun to gather in front of the gurudwara, police told them to go inside it.³⁷⁴ When the Sikhs went inside, the RPF, with a Unit Line across the road, started firing indiscriminately at the Sikhs, killing several Sikhs and one Hindu worshipper. Neither the police nor the RPF fired at the mob as it attacked the gurudwara. The police subsequently refused to record a report.³⁷⁵ After cross-examining several witnesses, the Misra Commission found that the story of the RPF firing on the gurudwara was *prima facie* true and the firing was unwarranted. RPF records disclosed that they had fired 47 rounds.³⁷⁶ No action, however, was taken against the culpable officers.³⁷⁷

The Congress (I) party also used the trains to transport mobs to neighborhoods in Delhi, as discussed later in the report and as highlighted in Gurbachan Singh's affidavit.

Fire Brigade

The Fire Brigade did not respond to calls for help, claiming they did not have instructions to save Sikhs; they also maintained that they did not have sufficient supplies to help. According to the Delhi Fire Services, arson in Delhi continued until November 5, 1984. The fire brigade only reached four gurudwaras out of the over 170 attacked. They did not reach the heavily impacted areas of Mangolpuri, Sultanpuri, Nangloi, Palam Colony, and Delhi Cantt., and only once reached Trilokpuri.³⁷⁸

When Purshottam Pandey called the Fire Brigade to save a Sikh-owned factory in Dadanagar, Kanpur, they replied that they did not have diesel and could not help. When the fire spread to the wall of a neighboring Hindu factory, belonging to Ashok Masale, the Brigade came and controlled the fire in that factory. The Sikh's factory burned down, but the Hindu's factory was saved.³⁷⁹

When S. Bansal, the Fire Officer of Bokaro Steel Plant, came to St. Xavier's School relief camp, Aunkar S. Bindra asked him why firefighting vehicles had not been sent. Bansal replied that DIG Srivastava had requisitioned all the vehicles under his control, leaving him with no capabilities to answer distress calls. Bindra confirmed that he had seen three firefighting vehicles lying idle in the compound of the SP's office.³⁸⁰

³⁷⁴ Aff. of Gurcharan Singh, Sarai Rohilla, ¶ 2 (on file with author).

³⁷⁵ Mittal, Report, ¶ 2.64.1.

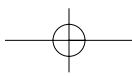
³⁷⁶ *Id.*, ¶ 2.66.

³⁷⁷ *Id.*, ¶ 2.72.

³⁷⁸ Written Submission on Behalf of Delhi Sikh Gurudwara Management Committee, 57-8 (on file with author).

³⁷⁹ Aff. of Purshottam Pandey, Dadanagar, Kanpur ¶ 5-10 (on file with author).

³⁸⁰ Aff. of Aunkar S. Bindra, Cooperative Colony, Bokaro Steel City ¶ 8 (on file with author).



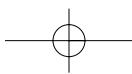
Further Questions

With the police conducting such a systematic and thorough cover up of the massacres and their role in condoning, instigating and participating in them, the question arises as to who was the ultimate source of their orders.

- Given his behavior in condoning the murderous activities of the assailants, and instead choosing to focus on arresting legally armed Sikhs, was Commissioner of Police Subash Tandon the ultimate arbiter, or did the Lt. Gov. or someone senior to him give the police directions?
- Who instructed the wireless operators not to send instructions to counter the violence against Sikhs?
- Who instructed police officers to ignore requests for help by Sikhs?
- Who gave the ultimate order about how many FIRs to register and the exact language to use?
- Who gave police officers the go ahead to kill Sikhs?

The brazenness of the participation by the police, from exhorting mobs to kill over loudspeakers, to tearing out pages from police logbooks, to protecting perpetrators from implication, to blatantly lying about the dead to a reporter, demonstrates that police officers did not have to face consequences for their manipulation and destruction of evidence.

Whereas police officers expressed their communal hatred at the individual level, the coordination of their actions, such as the filing of identical FIRs, the disarming of Sikhs, and the ignoring of all wireless messages about attacks against Sikhs, required coordination and consistency at the most senior levels.



CHAPTER 4

Congress (I) Party and the Delhi Administration

Congress (I) Party Planning

Sudip Mazumdar, a journalist, described an illustrative press conference held by police Commissioner Subhash Tandon:

The Police Commissioner, S.C. Tandon was briefing the press (about 10 Indian reporters and five foreign journalists) in his office on November 6, 5 p.m. A reporter asked him to comment on the large number of complaints about local Congress MPs and light weights trying to pressure the police to get their men released. The police commissioner totally denied the allegation and when questioned further he categorically stated that he has never received any calls or visits by any Congress for that matter, any political leader trying to influence him or his force. Just as he finished uttering these words, Jagdish Tytler, Congress MP from Sadar Constituency, barged into the PC's office along with three other followers and on the top of his voice demanded from the PC, 'What is this Mr. Tandon? You still have not done what I asked you to do?'

The reporters were amused, the Police Commissioner embarrassed. Tytler kept on shouting and a reporter asked the PC to ask that 'shouting man' to wait outside since a press conference was on. Tytler shouted at the reporter: 'This is more important.' However the reporter told the PC that if Tytler wanted to sit in the office he would be welcome, but a lot of questions regarding his involvement would also be asked and he was welcome to hear them. Tytler was fuming. Perhaps realizing the faux pas he sat down and said: 'By holding my men you are hampering relief work.'³⁸¹

Senior political leaders, most visibly of the Congress (I) party, carefully orchestrated the violence, providing for details such as deployment of mobs, weapons, and kerosene, as well as for the larger support and participation of the police. As discussed earlier in this report, during the evening of October 31 and the morning of November 1, party leaders conducted meetings where they distributed weapons, money, voter and ration lists identifying Sikhs and their properties, and, in inflammatory speeches, instructed attendees to kill Sikhs. Starting the morning of November 1, Congress (I) party leaders and workers led and participated in the systematic and methodical massacres of Sikhs.

The systematic killing did not start until the day after Indira Gandhi's assassination, showing that Congress party officials used the night of October 31 to implement their plans. According to Indian historian Rajni Kothari:

³⁸¹ People's Union, *Who Are the Guilty?*, Annexure II.

Evidence from various sources is mounting that soon after Operation Bluestar and the extremist response thereto in parts of Punjab, a plan of retaliation by identifying Sikh targets ranging from households to commercial establishments to Gurudwaras had been under taken including the planning of logistics and the techniques to be employed.³⁸²

Although Kothari does not provide further evidence in his article, the systematic and methodical nature of the violence necessitated pre-planning. A full accounting of the massacres, however, requires further analysis of Kothari's statement and information on who designed these plans and why and when they did so.

In his discussion of the "infrastructure" of terror, Kothari describes how Congress often mobilized well-developed networks of local gang leaders for political rallies, for "storm trooping into courts and commissions of inquiry," and for intimidation and violence.³⁸³ The Congress leaders used these same networks to gather assailants from the resettlement colonies for the Sikh massacres of November 1984.³⁸⁴

Victims named Congress (I) leaders as leading mobs and participating in the brutal murders of Sikhs. On November 1, MP Sajjan Kumar killed both of Bhagwani Bai's sons in front of her.³⁸⁵ Kamla Kaur of Sultanpuri begged MP Sajjan Kumar to spare her family from the assailants. He kicked her aside as the mob killed her family, including her husband and son.³⁸⁶ Sarwan Singh was sheltering in an Advasi's house from where he witnessed the mob kill his younger son and seriously wound his wife. When his elder son ran out to protect his mother, Inder Dev Dubey, another Congress (I) worker and supplier of kerosene, chased and beat the son. Dubey then cut the skull of the young man with a hatchet.³⁸⁷

Congress (I) leader Balwan Khokhar convinced Sampuran Kaur's husband, Nirmal Singh, to come with him on the pretext of mediating with the attacking mob. As they approached the mob, Sajjan Kumar came in his jeep and told Khokhar to "start killing."³⁸⁸ Khokhar handed Nirmal Singh to the mob, saying, "Take this Sardar. Finish him and then finish the remaining Sardars." The mob tied Nirmal Singh with a rope and his turban, and beat him viciously. As a police jeep waited nearby, the assailants poured kerosene on him. When the mob paused, the policeman, wearing a badge that said "Kochhar," demanded, "Why aren't you burning the sardar?" The assailants needed a match stick, which the police officer willingly provided, hastening Nirmal Singh to his death.³⁸⁹

³⁸² Rajni Kothari, *The How and Why of it All?* in Smitu Kothari and Harsh Sethi, eds., *Voices From a Scarred City: the Delhi Carnage in Perspective* (Delhi: Lokayan 1985), 14-15.

³⁸³ Van Dyke, *The Anti-Sikh Riots*, 214 citing Kothari, *The How and Why of it All?*

³⁸⁴ Van Dyke, *The Anti-Sikh Riots*, 214, citing Inder Mohan, *Resettlement: The Other Delhi* in Smitu Kothari and Harsh Sethi (eds), *Voices from a Scarred City: the Delhi Carnage in Perspective* (Delhi: Lokayan, 1985).

³⁸⁵ Aff. of Bhagwani Bai, Rohini at <http://www.carnage84.com/affidavits/nanavati/sultanpuri/Bhagwani-Sewa.htm>.

³⁸⁶ Tavleen Singh, *Shame*, *Indian Express* (Oct. 27 1989).

³⁸⁷ Aff. of Sarwan Singh, Bokaro Steel City ¶ 6 (on file with author).

³⁸⁸ Aff. of Jasbir Singh, Palam Colony ¶ 7 (on file with author).

³⁸⁹ Aff. of Sampuran Kaur, Palam Colony ¶ 4+ (on file with author).

Besides arranging meetings and distributing money, several victims witnessed MP and Minister HKL Bhagat leading mobs.³⁹⁰ Gurmeet Singh of Laxmi Nagar, Delhi, described how Bhagat alighted from his car on November 1 and berated the policemen for not killing all of the Sikhs. After he left, the policemen disarmed the Sikhs and the mob attacked.³⁹¹ Dr. Ashok, Congress (I) Councilor of Kalyanpuri, instigated a mob and watched as they burned two Sikhs alive. He assured the mob that “they should fearlessly kill the Sikhs...publically with brutality, and burn them, loot their houses.” His assurances insinuated that the police would not take any action against the assailants.³⁹²

Deponents named Congress (I) MPs, councilors, and leaders such as Dharam Dass Shastri,³⁹³ Sajjan Kumar, Jagdish Tytler,³⁹⁴ HKL Bhagat, Balwan Khokhar,³⁹⁵ Kamal Nath,³⁹⁶ brothers Tek Chand and Rajinder Sharma, who were close to Shastri,³⁹⁷ Dr. Ashok,³⁹⁸ Shyam Singh Tyagi,³⁹⁹ and Bhoop Singh Tyagi⁴⁰⁰ in Delhi; P.K. Tripathi – owner of a petrol pump and president of the local Congress(I) unit,⁴⁰¹ and Uma Pandey,⁴⁰² in Bokaro; Raju Sabharwal⁴⁰³ and Shiv Mangal Singh,⁴⁰⁴ in Kanpur, among others. Appendix VII lists some of the Congress leaders identified as leading gangs during the carnage.

Regarding the role of Congress party leaders in protecting culprits and securing their release from police custody, as discussed earlier in this report, on November 7, DCP Amod Kanth wrote a confidential letter to Additional Commissioner of Police Jatav. In it, he named other Metropolitan Councilors who had accompanied Shastri and explained how Shastri and the Councilors threatened “us of dire consequences and further riots if any action was taken against those” who had participated in the violence. He also described how Brahm Yadav, Municipal Councilor and President of the Delhi Pradesh Youth Congress (I), and other Councilors had harassed the police at PS Rajinder Nagar

³⁹⁰ Dead bodies were thrown in Yamuna, says victim of 1984 riots, OutlookIndia (Aug. 7, 2001) at http://www.outlookindia.com/pti_print.asp?id=6581.

³⁹¹ Aff. of Gurmeet Singh, Laxmi Nagar ¶ 6-8 at <http://www.carnage84.com/affidavits/nanavati/Against%20Bhagat/gurmeet-mohan.htm>.

³⁹² Aff. of Jogi Singh, Kalyanpuri ¶ 3-6 (on file with author).

³⁹³ Aff. of Bua Singh, West Patel Nagar at <http://www.carnage84.com/affidavits/mishra/Dharamdass/Bua%20Singh-Bela%20Singh.htm>; Aff. of Amrik Singh, West Patel Nagar at <http://www.carnage84.com/affidavits/mishra/Dharamdass/Amrik%20Singh-%20Bhagat%20Singh.htm>; Aff. of Davinder Singh, Deshbandhu Gupta Road ¶ 5 (on file with author).

³⁹⁴ Aff. of Surinder Singh, Gurudwara Rakab Ganj ¶ 3-5 at <http://www.carnage84.com/affidavits/nanavati/Bara%20Hindu%20Rao/Surinder%20Singh%20-Ajit%20Singh-ty.htm>. See also 1984 Anti-Sikh Riots Were Organised: Witness, OutlookIndia (Jan. 18, 2002) at http://www.outlookindia.com/pti_print.asp?id=35026.

³⁹⁵ Aff. of Joginder Singh, Palam Colony ¶ 2 (on file with author); Aff. of Harnam Singh, Palam Colony, ¶ 5 (on file with author); Chakravarti and Haksar, Delhi Riots, 62 (interview of Shano Kaur); Cong Leaders Instigated Violence in 84 Riots: Witnesses, OutlookIndia (Dec. 6, 2001) at http://www.outlookindia.com/pti_print.asp?id=27452.

³⁹⁶ Aff. (2) of Monish Sanjay Suri, Malviya Nagar (on file with author).

³⁹⁷ Aff. of Avtar Singh Vir, Karol Bagh ¶ 49 (on file with author); See also Aff. of Chuni Lal, Karol Bagh ¶ 1 (on file with author).

³⁹⁸ See, e.g., Aff. of Manmohini Kaur, Mahavir Enclave, Palam Road, cited in Misra, Report, 31-2.

³⁹⁹ See, e.g., Aff. of Jasbir Kaur, Shakarpur ¶ 5 (on file with author) (Shyam Tyagi led assailants and killed her husband, brother-in-law, and nephew); Aff. of Gurnam Kaur, Shakarpur (on file with author) (Shyam Singh Tyagi had the bodies of her husband and brother-in-law loaded in a truck and removed).

⁴⁰⁰ Aff. of Harbhajan Singh, Shakarpur ¶ 1 (on file with author) (Tyagi led the mob in their killing of three people from Harbhajan Singh's house).

⁴⁰¹ Aff. of Swarn Singh Wadhawa, Guru Nanak Nagar, Bokaro Steel City ¶ 2 (on file with author).

⁴⁰² Aff. of Baba Uddham Singh, Atwal Gurudwara, Bokar Steel City (on file with author); Aff. of Surjit Kaur, Dashmesh Nagar, Bokaro Steel City (on file with author); Inderjit Kaur, HSCL, Bokaro Steel City ¶ 2 (on file with author).

⁴⁰³ Aff. of Jasbir Singh, Puri Gumti No. 5, Kanpur ¶ 3 (on file with author).

⁴⁰⁴ Aff. of Rattan Singh, Kakadoo, Kanpur ¶ 6 (on file with author); Aff. of Dhanvinder Singh, Kakadoo, Kanpur ¶ 4 (on file with author).

for two to three days when the police arrested 65 of the perpetrators.⁴⁰⁵ When opposition leaders tried to raise this issue with Prime Minister Rajiv Gandhi, questioning him about similar reports in the *Indian Express*, Gandhi casually dismissed their concern, claiming that the *Indian Express* was the Opposition's paper.⁴⁰⁶

The planning was so methodical that the Congress party was able to effectively utilize many aspects of the state machinery and apparatus to carry out or facilitate the massacres. For example, in several cases, Delhi Transportation Company (DTC) buses transported assailants directly to where Sikhs lived.⁴⁰⁷ Satbir Singh, a Youth Congress (I) leader, brought buses filled with people from Ber Sarai and took them to Sri Guru Harkrishan Public School in Munirka. The mob then burned the school building, looted it, and attacked Sikhs all night.⁴⁰⁸ Numerous survivors also deposed about armed mobs arriving in trains and buses that delivered them straight to the survivors' neighborhoods.⁴⁰⁹ All proper precautions had been taken to limit the targets to Sikhs. When neighbors tried to stop a gang of assailants from burning a car, for fear that the overheard cables would catch fire, the leader of the mob assured them: "Don't worry, we have switched this section off from the mains – we are not fools."⁴¹⁰

Many volunteers running relief camps decided they would not accept government assistance, in lieu of the government's role in the massacres.⁴¹¹ Dhiren Bhagat reported on the rejection of 200 blankets offered by a senior minister's wife to a camp in Karol Bagh run by Sardar Mehtab Singh because of the role of the Congress (I) party in the massacres.⁴¹² The minister's wife then organized a meeting between the camp volunteers and her husband, who confirmed allegations of Congress involvement.⁴¹³ When urged to act against the perpetrators in his party, the minister reportedly said: "Confidentially, in this government my own position is not clear. Till I get close enough to Rajiv how can I put your case before him?"⁴¹⁴ At another relief camp in Janakpuri, demonstrating the survivors' attribution of the massacres to the Congress (I) party, one signboard read: "Sorry, no Cong-I politicians allowed," and an accompanying board read "No stray dogs allowed." The police later removed these boards.⁴¹⁵

⁴⁰⁵ Confidential Letter No. 5347/CB(c) cited in Mittal, Mittal Report, ¶ 1.8(E). Amod Kanth is the same officer blamed by Avtar S. Diwan for beating his family and illegally detaining them, among other crimes. The Mittal Report also commends Kanth for opening fire to control violence. Mittal, Mittal Report, ¶ 1.6-1.7. His behavior—representing the only instance of contradictory behavior attributed to a police officer by survivors and witnesses—must be further investigated.

⁴⁰⁶ People's Union, *Who Are the Guilty?*, 12-13.

⁴⁰⁷ See e.g., Aff. of Amrit Kaur, Janakpuri ¶ 2 (on file with author). The DSGMC identifies at least 15 affidavits citing the use of DTC buses to transport mobs. Written Arguments of the Delhi Sikh Gurudwara Management Committee, 166-7 (on file with author).

⁴⁰⁸ People's Union, *Who are the Guilty?*, 11.

⁴⁰⁹ See, e.g., Aff. of Lakhvir Singh, Shahdara ¶ 3 (on file with author) (assailants killed his two brothers, sisters and parents. He was saved because his neighbor claimed him as her son and his hair was already cut. From his neighbor's house, he saw trains stopping to remove assailants according to their directions); Aff. of Amrit Kaur, Janakpuri (on file with author) (a DTC bus stopped outside her house and assailants disembarked).

⁴¹⁰ Raj Thapar, *How Do you Do It?* in Smitu Kothari and Harsh Sethi, eds., *Voices From a Scarred City: the Delhi Carnage in Perspective* (Delhi: Lokayan, 1985), 20.

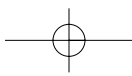
⁴¹¹ Dhiren Bhagat, *The Delhi Riots: 'Now the Tears Have Dried Up.'* in Salman Khurshid, ed., *The Contemporary Conservative* (New Delhi: Viking, 1989), 77-8, originally published in *The Sunday Observer* (Nov. 25, 1984).

⁴¹² *Id.*, 78.

⁴¹³ *Id.*

⁴¹⁴ *Id.*

⁴¹⁵ Fera, *The Enemy Within*, 17.



Deployment of Army

The Delhi administration permitted the massacres to continue for several days by delaying the calling in of the Army, and then it purposefully failed to deploy the Army where violence continued. The order to call the Army into Delhi was issued at 2:30 p.m. on November 1, and on November 2 for Bokaro. Subash Tandon, the Commissioner of Police, delayed calling for the need of armed forces, insisting that he first patrol the area even though reports of killings had flooded the police control room.⁴¹⁶ Tandon, however, continued to insist even until November 3 that only between 15 to 20 people had died.⁴¹⁷

The President of India, Giani Zail Singh, a Sikh, was technically the Supreme Commander of the Armed Forces. Numerous eminent citizens, however, testified to meeting him and witnessing his hopelessness in exerting any authority to counter the massacres. Rajya Sabha MP Khushwant Singh called Giani Zail Singh:

I said, "What do I do, the mob is here?" And he said, "Why don't you leave the house and go somewhere else and stay with a Hindu friend." I said, "Is this the best the president of the republic can do?" And he said, "I'm afraid at this moment, yes."⁴¹⁸

Early morning November 1, Lt. Gen. (Retd.) J.S. Aurora went with Air Chief Marshall (Retd.) Arjan Singh, former diplomat Gurbachan Singh, and Brig. (Retd.) Sukhjot Singh, all Sikhs, to meet Giani Zail Singh and press him to call in the armed forces. To their surprise, despite being the Supreme Commander, the President replied, "I do not have powers to intervene." The President himself did not know whether the Army was going to be called in, stating that he did not have access to Home Minister P.V. Narasimha Rao. Instead, he asked Lt. Gen. (Retd.) J.S. Aurora to contact the Home Minister.⁴¹⁹

After repeated failed attempts to contact the Home Minister and assertions that he was busy in meetings, Lt. Gen. Aurora, IK Gujral – who later became Prime Minister, and Patwant Singh went to the Home Minister's residence and found him available. The Home Minister was utterly indifferent to the violence in Delhi. When Lt. Gen. Aurora suggested the establishment of a joint control room, Rao stated that he would decide that issue when the Army arrived, contrary to the normal procedure of establishing a joint control room prior to the Army's arrival.⁴²⁰

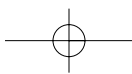
⁴¹⁶ Mittal, Mittal Report, ¶ 11.6.

⁴¹⁷ People's Union, Who Are the Guilty?, Annexure III: Official Pronouncements and News Reports on the Events.

⁴¹⁸ American Broadcasting Companies, Inc., World News Tonight (Nov. 1, 1984) (punctuation added).

⁴¹⁹ Aff. of Lt. Gen. (Retd.) J.S. Aurora, Friends Colony East ¶ 5 at <http://www.carnage84.com/affidavits/nanavati/Srinivaspuril/Lt%20Gen%20J%20S%20Aurora.htm>: See also Suggestions to stop riots in '84 fell on deaf ears: ex-diplomat, OutlookIndia (Jan. 9, 2002) at http://www.outlookindia.com/pti_print.asp?id=33127.

⁴²⁰ Id., ¶ 9-13; See also Kamini Jaswal, NV, Saket ¶ 4 (on file with author) (Supreme Court advocate who met with Rao and also commented on his indifference).



When the Delhi administration did finally call for the Army on November 1, it did not provide civil assistance to the Army, and troops remained lost in Delhi streets.⁴²¹ The order for the appointment of an Executive Magistrate who would attach himself to the Army and give the required orders to act was not issued until November 3.⁴²² Section 130 of the Code of Criminal Procedure (CCrP) states, in part, that if an assembly “cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Executive Magistrate of the highest rank who is present may cause it to be dispersed by the armed forces.” Section 131 allows any commissioned or gazetted officer of the armed forces to order dispersal of the assembly, but only if it is not “practicable” to establish communication with an Executive Magistrate.

In Kanpur, Captain Bareth of the Maratha Light Infantry testified that District Magistrate Brijendra refused to allow an Executive Magistrate to give Captain Bareth the orders he requested to control a mob of 5000 people. Brijendra said he himself would take care of the situation, leading to the deaths of all members of two families, except for one widow.⁴²³

The lack of civilian administrative guidance was exacerbated by the failure to provide a joint control room that could coordinate inflow of information from the police on the locations of violence, if any would have been provided, and pass that information on to Army units. *Who Are the Guilty?*, the People’s Union for Civil Rights (PUCL)/People’s Union for Democratic Rights (PUDR) report on the November 1984 massacres, described the need for a joint control room:

An essential ingredient for successful joint army-civilian administration operation is the setting up of a joint control room. During 1947 riots, when Lord Mountbatten was requested by Jawaharlal Nehru to control the communal situation, the former set up a joint control room at Rashtrapati Bhavan in order to coordinate the efforts of the civil administration and the armed forces...Yet from October 31 to November 4...no effort was made to set up a joint control room. The Commissioner of Police was operating from his office at ITO Police headquarters. The Army commander was at the Dhaula Khan cantonment, and the Lt. Governor was at Raj Nivas.⁴²⁴

⁴²¹ People’s Union, *Who Are the Guilty?*, 9.

⁴²² Written Arguments on Behalf of Delhi Sikh Gurudwara Management Committee, 40 (on file with author); Delhi Administration’s reply to Questions C-1, C-2, C-4 & C-5: (b) “Order dated 3rd November 1984 by the Home Department (General), Delhi Administration, Delhi. This is a notification conferring powers of the Executive Magistrates upon various officers...(d) Wireless Message dated 3.11.84 indicating the various Executive Magistrates moved into their respective areas.” Each magistrate received their own vehicle fitted with a wireless set, and was ordered to send hourly reports to the police control room at police headquarters. Confidential/Urgent memo sent by R.Chandra Mohan, Joint Secretary (Home), DAD. (on file with author).

⁴²³ The Misra Commission called for an administrative inquiry into District Magistrate Brijendra’s behavior. Misra, Report, 94.

⁴²⁴ People’s Union, *Who Are the Guilty?*, 9.

The administration also interfered in the strength and subsequent deployment of troops. On October 31, the General Officer Commanding (GOC), Major General J.S. Jamwal, ordered the 15th Sikh Light Infantry that had just returned from field exercises to Meerut, UP to move to Delhi immediately. It consisted of 1600 soldiers and officers. When the unit arrived at the border of Delhi in the evening, they were stopped there for several hours with no explanation. They did not reach their barracks until 11 p.m. and began their work in the morning of November 1 under the command of Major J.S. Sandhu, a Sikh officer.⁴²⁵

That very day, a "senior intelligence officer" effectively disabled the 15th Sikh Light Infantry and confined them to barracks for the remainder of the massacres. On the afternoon of November 1, Sandhu and his soldiers decided to investigate a fire they saw from the Safdarjung Development Area. A man who identified himself as a senior intelligence officer blocked their entrance into the residential complex, stating that the Army did not have orders to intervene. The man blocked the entrance with his car. After Major Sandhu warned the man that he would order his soldiers to open fire, the man removed himself. The military approached the house on fire, dispersed the mob, and rescued the family. A few hours later, Major Sandhu and his unit were ordered to report back to Delhi Cantonment where they were confined to barracks for the remainder of the massacres. No inquiry was done to ascertain who that "intelligence officer" was and who instructed the withdrawal of the military unit on November 1.⁴²⁶

The Delhi Administration and Indian government subsequently declared before the parliament and the Misra Commission that no Army units were available on November 1.⁴²⁷ In its replies to interrogatories from the Misra Commission, the Union of India falsely stated that the first Army unit took position in Delhi at 4:00 p.m. on November 1,⁴²⁸ hiding the earlier deployment of the 15th Sikh Light Infantry. Three more Army units did not arrive until November 2, at 8 a.m.; and two more arrived at 1:00 and 2:00 p.m. on November 2, as well.⁴²⁹ GOC Jamwal, in his statement before the Nanavati Commission, described Tandon's claims as "baseless" that only 19 companies out of 70 demanded were provided to the civilian administration.⁴³⁰

Army officers criticized the local administration for failing to deploy them where violence continued against the Sikhs. A. S. Brar, then Brigadier General Staff and also a Sikh, told the Nanavati Commission that he had 3000 troops, including 1200 trainees, and did not receive any duties for controlling the violence. He made repeated inquiries with the Headquarters in Delhi because of "distress" calls continuously made to his office, but he did not receive any instructions to respond.⁴³¹ Instead, Brar's troops were assigned ceremonial

⁴²⁵ Patwant Singh, *The Sikhs*, 219.

⁴²⁶ *Id.*, 220.

⁴²⁷ *Id.*, 221.

⁴²⁸ Replies by Union of India in Respect to Interrogatories Allowed by Justice R. Misra Inquiry Commission: SI. No. 3. (on file with author).

⁴²⁹ Replies by Union of India in Respect to Interrogatories Allowed by Justice R. Misra Inquiry Commission: SI. No. 4. (on file with author).

⁴³⁰ Police, Administration were Ill Prepared During Riots: GOC, Press Trust of India (July 30, 2002).

⁴³¹ "84 Riots was State-Sponsored Terrorism," says retd Brigadier. OutlookIndia (Dec. 11, 2001) at http://www.outlookindia.com/pti_print.asp?id=28485.

duty on the day of Mrs. Gandhi's cremation, November 3, at Teen Murti House.⁴³² One Army source spoke to a team of activists from PUCL and PUDR, stating that the deployment of the Army always came after the mobs had ravaged the particular neighborhood.⁴³³ Brar also maintained that troops were sent where there was little violence.⁴³⁴ Despite the lack of orders, Brar did evacuate families and give shelter to some in his regiment's mess hall. For this, Brar claims he was "unceremoniously" transferred out of Delhi and that his "biggest crime was that I was stupid enough to interfere with state-sponsored terrorism."⁴³⁵

Once the Army became effective on November 3, when Army officials could act without consulting the civil authority,⁴³⁶ they were the main force that countered the violence and rescued Sikh families. They were able to rescue Sikh families and halt the carnage with a limited number of civilian casualties from Army firing: two deaths and four injuries.⁴³⁷

In contrast to the government's purposeful delay in calling for deployment of the Army in Delhi, and the Army's confused presence there, Army troops visibly patrolled Amritsar, Punjab, although no violence had occurred there after Mrs. Gandhi's assassination. As Pranay Gupte described in the *New York Times*:

Outside the sprawling temple complex, army troops patrolled Amritsar's motley neighborhoods of low bungalows, dilapidated bazaars and two- and three-story tenements. Since early Saturday, military vehicles that had been mostly out of sight in the month or so since the Indian Army moved out of the Golden Temple have conspicuously roared down the city's potholed streets. Soldiers walked through byways and alleys, their semiautomatic weapons pointed warily at passers-by.

To a visitor, Amritsar for the last three days has seemed a city under siege. Soldiers and policemen are at every street corner, in every bazaar and neighborhood. A curfew is imposed every night at 8 o'clock and it is not lifted until dawn.⁴³⁸

The Delhi Administration and Union of India did not care to take such precautions in Delhi and other parts of India.

⁴³² A.S. Brar, Statement before Nanavati Commission (Dec. 10, 2001) at <http://www.carnage84.com/records/witness/witness-122.htm>.

⁴³³ People's Union, Who Are the Guilty?, 9.

⁴³⁴ Civil Authorities Were 'Unwilling' to Deploy Army: AS Brar, Press Trust of India (July 22, 2002).

⁴³⁵ "84 Riots was State-Sponsored Terrorism," says Retd Brigadier. OutlookIndia (Dec. 11, 2001) at http://www.outlookindia.com/pti_print.asp?id=28485.

⁴³⁶ Sanjoy Hazarika, Indian Army Gets Free Hand to End Violence, *New York Times* (Nov. 4, 1984), 13.

⁴³⁷ People's Union, Who Are the Guilty?, 9-10.

⁴³⁸ Pranay Gupte, At Sikh Shrine, Worry and Deep Anger, *New York Times* (Nov. 5, 1984), A10.

Inadequate Relief Measures

The administration also failed to organize proper relief measures for survivors of the violence, numbering at least 50,000. The administration did not appoint a Relief Commissioner until November 4,⁴³⁹ although by November 2, 18 informal relief camps organized by social workers had sprung up.⁴⁴⁰ Although the Lt. Governor M.M.K. Wali made announcements to the press about providing blankets and mattresses to the survivors, those supplies did not arrive at the camps. Refugees lived without food and “had to urinate and defecate in the corridors of the school building.” As discussed in this report, they did not receive adequate medical treatment. Food only arrived when local Hindu and Sikh communities began to organize meals.⁴⁴¹ Voluntary groups and individuals, such as the non-political group Nagrik Ekta Manch, conducted most of the relief work.

On November 6, the government announced a weak rehabilitation scheme, allocating Rs. 10,000 (\$833.33 in 1984 U.S. dollars⁴⁴²) for the death of next of kin. In 1996, this was increased to Rs. 20,000. The distribution of compensation was delayed, and many still had not received any money by 1998.⁴⁴³ Injured people were allocated Rs. 2000. The relief scheme allotted Rs. 10,000 for the total destruction of property, and Rs. 5000 for substantial destruction.⁴⁴⁴

Simultaneously, on November 6, the government announced the closure of the relief camps, packing people into buses and sending them to their previous residences, where they had suffered violent attacks. Nagrik Ekta Manch petitioned the Delhi High Court to prevent the government from closing the camps until arrangements were made securing the safety of the survivors. The High Court stayed the closure until November 16, and on November 19, ordered the government to make assurances against forced evacuations.⁴⁴⁵ However, the government continued to harass the survivors at the camps. A worker at the Shakarpur Camp told the Citizens’ Commission that the government forced the closure of that camp by shutting off the water supply on November 13.⁴⁴⁶ When Sikhs abroad sent an emergency shipment of blankets for the Delhi winter, customs kept the shipment for six months until the issue was raised in Parliament.⁴⁴⁷

⁴³⁹ People’s Union, *Who Are the Guilty?*, 25.

⁴⁴⁰ Citizens’ Commission, Delhi: 31 October to 4 November, 34.

⁴⁴¹ People’s Union, *Who Are the Guilty?*, 24-5; See also, Paul Anderson, International, United Press International (Nov. 4, 1984).

⁴⁴² See Federal Reserve Bank Historical Exchange Rates at http://www.federalreserve.gov/releases/H10/hist/dat89_in.txt.

⁴⁴³ No Compensation in Sight for Many 1984 Riots’ Victims, *Indian Express* (Oct. 31, 1998) at <http://www.expressindia.com/ie/daily/19981031/30451014.html>.

⁴⁴⁴ R.K. Ahojja, *Ahojja Report* (1987) at <http://www.carnage84.com/official/ahooja/ahooja.htm>.

⁴⁴⁵ Malik, *The Politics of Alienation*, 53.

⁴⁴⁶ Citizens’ Commission, Delhi: 31 October to 4 November 1984, 17.

⁴⁴⁷ Barbara Crossette, *The Sikhs’ Hour of Horror, Relived after 5 Years*, *New York Times* (Sept. 7, 1989), A4.

After leaving the relief camps, many survivors moved to Punjab. With their houses destroyed and the perpetrators still living in their neighborhoods, often harassing any Sikhs who returned,⁴⁴⁸ most survivors did not feel safe returning to their properties. For example, Prabh Charan Singh had lost 21 male members of his extended family, leaving 21 widows, when a mob led by the neighborhood council chairman attacked his house. He and his family moved to Punjab.⁴⁴⁹

According to the Ahojja report, prepared by the Relief Commissioner, Home Secretary R.K. Ahojja, the Relief Commissioner's office settled 1700 claims by March 1985. However, for claims filed after July 1985, the commissioner required death certificates, FIRs, and a copy of the ration card.⁴⁵⁰ Many families never received death certificates and police had refused to record FIRs or the names of the deceased. Thus, the Commissioner's new policy precluded relief for these families. The Delhi Administration had also promised to allocate flats at reduced prices to widows. Many widows were given one-bedroom apartments.⁴⁵¹ In 1989, however, the government demanded Rs. 42,000 for the price of a flat in the ghetto of Tilak Vihar, a widows' colony with 1600 families. Making about Rs. 1000 a month, with Rs. 300 going to bus fare, the widows could not afford medical care, much less the price of the flats.⁴⁵²

State governments, not necessarily Congress (I), across India adopted delay tactics to withhold payment of compensation. In December 1998, the Madras High Court directed the state government to pay Rs. 3,319,033 (\$77,911.57 in 1998 US dollars⁴⁵³) still outstanding to 39 families of victims from Coimbatore. The Court chastised the state for adopting delay tactics "bereft of morality, legality and social consciousness and the objects set out, in the preamble to the Constitution."⁴⁵⁴

In Lucknow, the one-man committee established by the Uttar Pradesh (UP) High Court in January 2000 to examine whether the families in UP, including Kanpur, received proper relief and whether UP had enforced the recommendations of the Misra Commission, could not operate. The state refused to provide it with funding. UP claimed it had disbursed the required relief to the survivors of 260 Sikhs killed in UP, including the 127 from Kanpur. No action, however, was taken against the district magistrate of Kanpur, Brijendra Yadav, who had instigated police officers and prevented the Army from acting to counter the killings, despite the Misra Commission's recommendation of punishment.⁴⁵⁵ In January 2004, the Supreme Court issued notice to the UP government, responding to a survivor's petition stating he still had not received the full compensation owed him.⁴⁵⁶

⁴⁴⁸ See e.g., *Aff. of Charanjit Singh, Bokaro Steel City ¶ 5* (on file with author) (His son lodged an FIR on November 2 and was subsequently shot at by the culprits. He then moved to Jalandhar).

⁴⁴⁹ *Aff. of Prabh Charan Singh, Sagarpur* (on file with author); See also *Aff. of Anand Kaur Tuli, Saket Nagar, Kanpur* (on file with author).

⁴⁵⁰ Ahojja, Ahojja Report.

⁴⁵¹ Barbara Crosse, *The Sikhs' Hour of Horror, Relived after 5 Years*, *New York Times* (Sept. 7, 1989), A4.

⁴⁵² Tavleen Singh, *Shame*, *Indian Express* (Oct. 27 1989).

⁴⁵³ See Federal Reserve Bank Historical Exchange Rate at http://www.federalreserve.gov/releases/H10/hist/dat96_in.txt.

⁴⁵⁴ *India- High Court Orders Compensation to Sikh Families*, *The Hindu* (Dec. 12, 1998).

⁴⁵⁵ Biswajeet Banerjee, *No Funds to Sustain 2nd Panel on 1984 Riots: UP Govt*, *Times of India* (April 3, 2000).

⁴⁵⁶ Rakesh Bhatnagar, *SC Issues Notice to UP Government over Anti-Sikh Riots Plea*, *Times of India* (Jan. 27, 2004) at <http://timesofindia.indiatimes.com/articleshow/447203.cms>.

Censorship of the Press

The administration also actively censored the national and international press to prevent reporting on the violence. James Markham of the *New York Times* described Lt. Gov. Wali's justifications for seizing material from foreign reporters:

Mr. Wali acknowledged that the police had seized film from foreign television journalists at Palam Airport, and he justified the measure by saying that inflammable material could excite passions in the country. "You have your right," he said to the journalists seated around him, "but if you are doing something that is sensitive, we have a right to prevent it."⁴⁵⁷

Markham further noted that American television correspondents had stated that their satellite transmission facilities were "broken," preventing them from sending any images abroad. The administration also banned Indian and foreign journalists from entering refugee camps run by the Government.⁴⁵⁸ Under the orders of its Home Department, the Delhi Administration removed all of the copies of *Surya* magazine the day it appeared on the stands. The cover of *Surya* had pictured the burned bodies of three Sikh men.⁴⁵⁹

In Punjab, strict censorship prevented coverage of the massacres of Sikhs throughout India.⁴⁶⁰ On November 12, the state government banned periodicals, newspapers, or leaflets carrying any reporting of the massacres of Sikhs.⁴⁶¹ On the same day, Rajiv Gandhi made his first address to the Nation after the massacres and did not mention them once.⁴⁶² When Canadian reporter Jonathan Mann attempted to travel to Punjab, he was arrested because foreigners could not enter without special permission from the Home Ministry. They seized Mann's tape recorder, camera and equipment, stating that he was "indulging in objectionable activities near the Golden Temple." Mann had been interviewing residents about the June 1984 Army attack and their views on greater autonomy for Punjab. The authorities charged Mann with traveling in Punjab without required travel documents, punishable with a fine and maximum five-year prison sentence.⁴⁶³

Government-run television and radio stations carried no news on the pogroms. Local newspapers in Bombay, for example, did not report on the massacres of Sikhs. Sikh families learned about the carnage from phone calls and word of mouth.⁴⁶⁴ While censoring independent coverage, the government

⁴⁵⁷ James Markham, *Rajiv Gandhi and Sikhs Meet and He Offers Reassurances*, *New York Times* (Nov. 7, 1984), A10.

⁴⁵⁸ *Id.*

⁴⁵⁹ Letter from Ravi Prakash Jain, Editor *Surya* India, to R.L. Gupta, Secretary of Misra Commission, stating that all copies were taken under orders of Home Department, Delhi Administration (undated) (on file with author).

⁴⁶⁰ Pranay Gupte, *At Sikh Shrine, Worry and Deep Anger*, *New York Times* (Nov. 5, 1984), A10.

⁴⁶¹ James Markham, *Rajiv Gandhi, in Speech to Nation, Pledges a Continuity of Policies*, *New York Times* (Nov. 13, 1984), A10.

⁴⁶² *Id.*

⁴⁶³ *A Canadian Reporter is Arrested in Amritsar*, *New York Times* (Nov. 12, 1984), A12.

⁴⁶⁴ *Assassination's Aftermath*, *New York Times* (Nov. 2, 1984), A17.

embarked on its own disinformation campaign. On the evening of November 1, after a day of coordinated killing resulting in hundreds of deaths and calls for the Army in at least nine cities in India, Home Secretary M.M.K. Wali held a meeting with news representatives. Wali maintained that most of the violence consisted of arson, and that few personal attacks occurred. He also stated that only two people were confirmed killed, contradicting reports by wire agencies.⁴⁶⁵

As railway officials and news agencies confirmed reports of Hindu mobs killing Sikhs on Delhi-bound trains, the state-run Indian television rejected these statements as false “rumors.” In contrast, the United News of India gave a breakdown of 55 deaths on trains bound for Delhi; and Delhi Railway Station officials confirmed the arrival of tens of dead bodies of Sikhs.⁴⁶⁶

Further Questions

Affidavits by survivors raise important questions about the extent of planning and involvement of different State institutions. How did the perpetrators of the massacres secure the use of state-owned buses and trains for the transportation of gangs of assailants? Was it by force, or through complicity? Papers submitted by the government merely deny the use of state-owned transportation for the implementation of the massacres, despite numerous eyewitness accounts testifying otherwise.

How was the Army, particularly the 15th Sikh Light Infantry, effectively disabled? Who was the “senior intelligence officer” who blocked the path of Major Sandhu and his troops, and gave the order to keep them confined to barracks for the duration of the massacres? Three key Army affidavits, provided by GOC Jamwal, as well as Major Sandhu and Chief of Staff A.S. Vaidya – both of whom have died – have been “lost” by the Misra Commission.⁴⁶⁷ What was Home Minister PV Narasimha Rao’s role in the delay in calling for the Army? Despite the eyewitness testimonies describing Rao’s indifference to the massacres, in his statement to the Nanavati Commission, Rao denied his indifference and claimed he “left no stone unturned in the full discharge of duty.” Among other statements of action, Rao claimed he immediately passed complaints to the Commissioner of Police, provided immediate instructions for relief facilities, and visited affected areas.⁴⁶⁸ Statements by volunteers who organized relief camps refute Rao’s claims regarding relief assistance.

What was Rajiv Gandhi’s knowledge or role in the massacres? After the assassination of his mother, he achieved notoriety for responding to the massacres with: “When a big tree falls, the earth shakes.” As discussed in Chapter 2, Rajiv Gandhi also justified the violence by associating it with rumors of Sikhs’ celebrating the assassination of Mrs. Gandhi. He moved the Lok Sabha elections ahead in order to solidify the increase in Hindu support for his party after the Sikh massacres.

⁴⁶⁵ William K. Stevens, *Indian Army Goes into 9 Cities as Anti-Sikh Battling Flares*, New York Times (Nov. 2, 1984), A1.

⁴⁶⁶ Barbara Crossette, *In India, Memories of ‘Trains of Death’*, New York Times (Nov. 3, 1984), A1.

⁴⁶⁷ Nanavati Panel Urged to Quiz Home Secy, Tribune (Mar. 28, 2001), at <http://www.tribuneindia.com/2001/20010328/nation.htm#18>.

⁴⁶⁸ Rao Denies Charges of Indifference in Curbing Anti-Sikh Riots, OutlookIndia.com (July 5, 2002), at http://www.outlookindia.com/pti_print.asp?id=66828.

AFFIDAVIT OF NARINDER SINGH

Affidavit of Narinder Singh son of Santokh Singh aged 22 years r/o Gummon Colony, P.O. Maraphari, P.S. Harla, Bokaro Steel City, Distt. Dhanabad (Bihar) presently residing at Village Syell, P.O. Bhanu Laga, Distt. Kapurthala (Punjab).

I, Narinder Singh, the deponent abovenamed do hereby solemnly affirm and declare on oath as under:-

1. That our family got settled in Bokaro Steel City in the year 1971 and since then we were residing at the aforesaid address. I am carrying on the business of pipes and other structural work at my shop "Punjab Boring Co." Chas. At the relevant time, my father had gone to Baghdad on some foreign assignment and was not with us.
2. That the news of assassination of our revered Prime Minister came at about 6 P.M. on 31-10-1984. At about 8 P.M. on that day I alongwith my Bihari friends had a round of the Karnal Market and we also went to the office of the ADM to see whether the flag there was flying half mast as a mark of respect to the departed soul and as a symbol of national mourning. At that time there was peace in the entire area through which we passed and I did not feel any tension there. After that I returned home and nothing untoward happened through the night.
3. That on November 1, 1984, after we had our morning tea, I heard lot of noise and commotion towards the Joshi Colony which is at a distance of about 400 yards from our residence. After some time I saw smoke coming out from that side and somebody told me that a mob had started indulging in looting the house of Sikhs and that the trucks and house of one S. Kehar Singh had been looted and set ablaze by the mob. After some time, I heard people shouting anti-Sikh slogans like Sikhon ko loot lo-Sikhon ko maar do-Sardaaran ko Punjab bhej do [Rob the Sikhs, Kill the Sikhs, Send the Sardars to Punjab] – etc. All of us got scared and got ourselves secured inside our house. Though we heard lot of noise and saw people running about carrying goods with them but we were too frightened to come out of my house. I saw groups of people from the window of my house.
4. That at about 10 A.M. our following neighbours who are Biharis came to our house:-
 1. R.P. Singh alongwith his Khalasi and Driver. (There are two R.P. Singh's in our area. One is taller than the other. Here I am referring to that who is a bit shorter one. I mentioned the same fact to the Police also.)
 2. Chandan Singh.
 3. Rajinder Singh.
 4. Birgu Singh.
 5. Jamna Singh.
 6. Amar Nath Jha.

I know all the aforesaid persons very well because they are my neighbours and frequently meet us. They told us that there is lot of danger for Sikhs outside. Sardars are being killed and their houses looted and plundered and set on fire and that we should not come out. We requested them that we may be escorted to the nearest police station so that our lives are not endangered. These persons assured us that they will take care of our house and lives and that nobody dare to look toward us in their presence. They repeatedly swore that they would lay down their lives to save us. They further told us that we should not go with the Police even because the police is also against the sikhs and we shall not be safe if we go with the Police. My mother Amarjit Kaur (aged 45) prepared tea for the aforesaid persons and my younger sister Jagjit Kaur (aged about 17 years who was a student of Chas Kenya High School, Chas studying in Class X) served them tea and snacks. These persons left after about half an hour and while going again repeated their assurance to protect us at every cost. They said that we must have more faith in them than the Police because they had been our immediate neighbours for the last more than 13 years.

5. That after being assured by the aforesaid persons, we remained inside our house. Though I came to know that the sikh families were being rescued and taken to the Relief Camps but, as the fate would have it, we decided to remain in the house. At that time we were the following persons in the room.
1. My mother Amarjit Kaur.
 2. My sister Jagjit Kaur.
 3. Rupa Singh, our neighbour, clean-shaven sikh.
 4. Pyar Kaur w/o Rupa Singh.
 5. Tirlok Singh, our neighbour, clean-shaven sikh.
 6. Balbir Singh, our neighbour.

Rupa Singh, his wife, Balbir Singh, Tirlok Singh and Joginder Singh aforesaid had come to our house to seek refuge and though they thought of going to Relief Camp alongwith Police but on the assumption that the neighbour mentioned in para 4 would be true to their words and save us ultimately decided to stay with us.

6. That on November 1, 1984, at about 6 P.M. we heard that our door was being banged by some persons. On peeping through our window, I found that all the six persons mentioned in para 4 above were at the door. They were armed with revolvers, iron rods, lathis, spears and other sharp edged weapons like knives and choppers. I could not understand their motive because they had earlier posed themselves to be our saviours. The abovesaid six persons were accompanied by other 10 to 15

persons whom I do not know by name but can recognize if produced before me. All of them started hammering our door and started abusing the Sikh Community in most filthy language. I asked them as to what was the matter. They shouted that we should open the door otherwise they would break open the door. However, the abovenamed six accused persons said that they only wanted to loot our house and if we open the door and all the inmates come out, no harm would be done to our person. As the force on the door of my house was mounting and it was a matter of time when the door would peak, we were left with no option but to open the doors, escape and let the aforesaid accused have their way.

7. That we opened the door and came out in the compound. Immediately when we came out, the mob comprising of the aforesaid persons pounced upon us like blood-thirsty animals. The first blow was dealt by Chandan Singh aforesaid who hit my mother with a chopper on the shoulder. She was so dazed by this sudden and unprovocative [sic] attack that she did not even scream and fell down on the ground. The chopper caused a deep cut on her shoulder and she bled profusely. The attackers did not stop after she had fallen but all of them gave her blows with their weapons causing grievous [sic] injured [sic] and thus killed her.
8. That the next to be attacked was my younger sister Jagjit Kaur (about 17 years old). A long knife was thrust into her neck which caused a deep cut and a stream of blood flowed from it. She instantaneously fell down but the aforesaid criminals continued to hit her till they were sure that my helpless sister was dead.
9. That the wife of Rupa Singh was hit by a bullet in the temple. When she fell down, the aforesaid persons gave her further blows till she died then and there.
10. That Balbir Singh and Joginder Singh aforesaid were surrounded from all sides and beaten mercilessly with lathis and iron rods. They dropped down dead.
11. That the aforesaid persons beat me also. I received many lathi and iron rod blows and thus got injuries all over the body. I fell down and the blows continued. Providentially, I had not died, but, the criminals probably took me to be dead and I remained lying on the ground and bled profusely from head injuries.
12. That in the confusion that ensued because of this attack by the aforesaid persons, Rupa Singh and Tirlokh Singh as they were not keeping their hairs but looked like Non-Sikh (Mona), ran away from that place and escaped under the cover of darkness.

13. That when the dead bodies of my mother, sister, wife of Rupa Singh, Balbir Singh and Joginder Singh were still lying in the compound of my house and I was lying down badly injured, I saw that the aforesaid persons started looting our house. They looted everything in the house.
14. That at about 10 or 11 P.M. the aforesaid persons threw me and the dead bodies of the aforesaid five deceased outside on the kacha [dirt] road leading to the main road.
15. That two-three hours after I was thrown out, I mustered some courage to move. With great difficulty, I managed to reach the house of a friend of mine who offered me water and also washed my wounds. At his insistence and much against my wishes, having left with no option, I got my hair cut so as to look like a non-sikh (Mona).
16. That after I had recovered a bit, my friend advised me to go the Relief Camp and I came to the St. Xavier's School Relief Camp. Therefrom I got food and some medical attention.
17. That on 2-11-1984, I recognized the dead bodies of my mother, sister, wife of Rupa Singh (Pyar Kaur), Balbir Singh and Joginder Singh lying in the Bokaro General Hospital.
18. That the dead bodies were handed over to me on...Two more dead bodies were also handed over to me for performance of the last rites and funeral. I performed the funeral of all the bodies aforesaid (including those my mother and sister) at Chas cremation grounds.
19. That I got highly depressed by the whole incident and ultimately left for Kapurthala (Punjab) in January 85. Since then I am at Kapurthala and have come here to finalize certain business deals. I have no intention at all to come again to place where my dearest mother and loving sister and others have been done to death in the most cold blooded manner and the blood-thirst [sic] wolves are roaming scot free.
20. That if this Honourable Commission really wants to give justice and bring normalcy to the area, the culprits must be punished in caccordance [sic] with law expeditiously [sic] and sternly.

CHAPTER 5

Aftermath: Elections and Impunity

Post-Massacre Elections

While subsequent personal verbal attacks further alienated the Sikh community, the Congress (I) party's electioneering the next month solidified the betrayal. In the initial aftermath of the violence, survivors reeled from being attacked and killed in their own homes, often by their own neighbors, landlords,⁴⁶⁹ colleagues⁴⁷⁰ and leaders. Newly-widowed Amarjit Kaur described in disbelief how her neighbor's son, who was her son's best friend, led the mob that killed her two sons and her husband and also "dishonoured" her sons' wives. Repeatedly, she mentioned aspects of her relationships with the killers, how she had seen her neighbor's son grow up since childhood, how her son and his best friend had shared their joys and sorrows in college.⁴⁷¹ One neighbor forced Amarjit Kaur to her house for protection, even as that neighbor's son killed her husband:

I was in Chhoti house when her son Randhir Singh came there, his hands were full of blood and the clothes were also blood drained [sic] and in one hand he held gold Karra which was immediately recognized by me as it belonged to my husband. I realized that my world had come to an end.⁴⁷²

As he describes in his affidavit, Narinder Singh's neighbors of 13 years came and visited his family, had tea and snacks with them, and pledged to protect them. Later that day, they led the mob in the attack and personally killed his mother, three Sikh neighbors who had sheltered with them, and his 17-year old sister – by thrusting a knife into her neck and beating her.⁴⁷³ Even soldiers, air force employees, and government servants suffered attacks and murder.

Victims heard statements that drove home the hatred of the Sikh community. Prakash Kaur, a Punjabi teacher at a college of Delhi University described how children threw rotten food into her courtyard and her colleagues joked about the massacres: "In college two of my colleagues said in my presence and especially for my benefit, 'These people should be grabbed by their judis (top knot) whirled around and beaten up thoroughly.'" In another incident her colleagues were talking "quite gleefully that in Pulbangash the mob

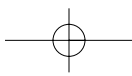
⁴⁶⁹ See e.g. Aff. of Charanjit Singh, Bihar Colony, Chas ¶ 3 (on file with author).

⁴⁷⁰ See e.g. Aff. of Mahal Singh, Dadanagar, Kanpur (on file with author); Aff. of Mohendra Kaur, Kidwai Nagar, Kanpur, ¶ 3 (on file with author).

⁴⁷¹ Aff. of Amarjit Kaur, Kanpur (on file with author).

⁴⁷² *Id.*, ¶ 7.

⁴⁷³ Aff. of Narinder Singh, Harla, Bokaro Steel City (on file with author); See also Aff. of Maluk Singh, Lakra Khanda, Bokaro Steel City ¶ 2 (on file with author) (neighbor brought mob and killed the wife of the deponent's brother); Aff. of Surjit Kaur, Shakarpur (on file with author) (from their rooftops, neighbors instructed assailants about where Sikh family was hiding; assailants found Sikh men there and brutally killed them by rolling them up in mattresses, beating them, and setting the room on fire with the men tied inside the mattresses).



had attacked the gurdwara, taken out the Granth Sahib, spat on it, and urinated over it."⁴⁷⁴ A popular joke reverberated through elite schools in Delhi: "What is a Seekh Kabab?" The answer was: "A burnt Sikh!"⁴⁷⁵

Because many Hindu neighbors had sheltered Sikhs, organized joint Hindu-Sikh defense committees,⁴⁷⁶ and spearheaded relief efforts, the Sikhs in relief camps did not blame the entire community for the massacres. They were sure, however, to place the blame on the police and the most visible politicians leading the massacres, who belonged to the Congress (I) party. When HKL Bhagat came to visit one of the relief camps, the women abused him and drove him out.⁴⁷⁷ As discussed in the previous chapter, one relief camp posted a sign denying admittance to Congress (I) party members.

The Congress (I) party used the elections to solidify Hindu support gained from the Sikh massacres. In the midst of the insecurity caused by Mrs. Gandhi's assassination and the November carnage, Rajiv Gandhi called the parliamentary elections for Lok Sabha, the lower house of national parliament, a month before they were due. No elections would be held in Punjab and Assam.⁴⁷⁸ Rajiv Gandhi held the first election rally near the end of November 1984, on the date of Mrs. Gandhi's birthday, making no mention of the Sikh massacres at all.⁴⁷⁹ Political scientist Rajni Kothari described his speech as a "polemic of constructive revenge."⁴⁸⁰ Gandhi's party then launched a massive propaganda campaign, costing 13 crore⁴⁸¹ (\$10,569,105.70 in 1984 US dollars⁴⁸²) Rupees,⁴⁸³ utilizing the radio, television (183 relay stations), posters and press.⁴⁸⁴ His campaign made direct references to the Sikhs as Indira Gandhi's assassins and as a threat to the nation. Khushwant Singh, writer and MP of the Rajya Sabha or upper house, described the campaign:

Day after day, all papers in India's 15 languages carried full page advertisements showing barbed-wire entanglements and text asking: 'Will the country's border finally be moved to your doorstep?' And 'Why should you feel uncomfortable riding in a taxi driven by a taxi-driver who belongs to a different state?' Huge hoardings showed two Sikhs in uniform shooting at blood-stained Mrs. Gandhi against a back-drop of a map of India, or Mrs. Gandhi's body lying in state with the Congress party candidate's picture doing homage to her.⁴⁸⁵

⁴⁷⁴ Chakravarti and Haksar, Delhi Riots, 166-7.

⁴⁷⁵ *Id.*, 28.

⁴⁷⁶ In one remarkable case in Yusuf Sarai market, Hindu shopkeepers lay down in front of Sikh shops and told the mob they would have to burn them first in order to reach the Sikh-owned properties. Not a single shop was burned or looted. Madhu Kishwar, *Gangster Rule*, 186. Ram Bilas Paswan attempted to rescue an old Sikh man, and the mob attacked his house instead, setting it on fire. Although Paswan escaped, the mob killed the Sikh man. *Aff. of Ram Bilas Paswan at* <http://www.carnage84.com/affidavits/mishra/promi/ram.htm>.

⁴⁷⁷ Chakravarti and Haksar, Delhi Riots, 78 (interview with Phanda Singh).

⁴⁷⁸ Mary Anne Weaver, *Rajiv Gandhi Likely to Triumph over Divided Opposition*, *Christian Science Monitor* (Nov. 29, 1984), 1.

⁴⁷⁹ *Id.*

⁴⁸⁰ Rajni Kothari, *The Aftermath: What does the future hold for Indian politics in the wake of Mrs. Gandhi's assassination?* *Illustrated Weekly* (Dec. 23, 1984), 9.

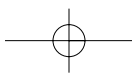
⁴⁸¹ One crore equals ten million.

⁴⁸² One dollar then equaled 12.3 rupees. See http://www.federalreserve.gov/releases/H10/hist/dat89_in.txt.

⁴⁸³ The Bharatiya Janata Party, leading the Opposition against Congress (I), budgeted 20 lakh Rupees for advertising. Shikha Trivedy, *The Hidden Persuaders Illustrated Weekly* (Jan. 13, 1984), 20.

⁴⁸⁴ Khushwant Singh, *My Bleeding Punjab* (New Delhi : UBS Publishers' Distributors, 1992), 101.

⁴⁸⁵ *Id.*



Posters exhorted people to vote for Congress (I), warning “India could be your vote away from unity or separation.”⁴⁸⁶ When reporter Dhiren Bhagat suggested to a friend of his in the Opposition to seize on the role of Congress (I) in the massacres to gain votes, his friend replied:

Fight the election on this issue?...Are you crazy? Go to the villages and they are saying *aur kyon nahin maara Sikhon ko?* (Why didn't they kill more Sikhs?) In Bombay and Delhi, if we are lucky, this will count; in the press, amongst the intellectuals. In the rest of India, no way. It will backfire and people will say *achha kiya Congress ne* (the Congress did well). What can we do in such a country?⁴⁸⁷

Illustrated Weekly conducted a poll of 4008 adults eligible to vote, accounting for geographic, urban/rural, and gender distributions, between November 20 to 25, 1984.⁴⁸⁸ 55% of people interviewed in the major cities, 72% in the Hindu heartland, and 59% in the Southern traditionally pro-Opposition states felt that the assassination of Indira Gandhi had improved the Congress (I) party's chances in the elections.⁴⁸⁹ Additionally, 70 to 80% of the entire pool chose the Congress (I) party as having strong leadership, responsible for maintaining national unity.⁴⁹⁰

Despite only six weeks of campaigning – then the shortest in India's history⁴⁹¹ – on December 27, 1984, the Congress (I) party won 401 Lok Sabha seats out of 508 for the first time in Indian history.⁴⁹² In South Delhi, Lalit Maken won 60 percent of the votes polled.⁴⁹³ HKL Bhagat, in whose East Delhi constituency the highest number of Sikhs were killed, won the second largest majority and was rewarded with a cabinet minister position again.⁴⁹⁴ Bhagat won 386,150 votes compared to the second highest count of 73,970 in his district.⁴⁹⁵ Jagdish Tytler won the Delhi Sadar district getting almost twice as many votes as M.L. Khurana, the senior BJP leader.⁴⁹⁶

⁴⁸⁶ Rajni Kothari, *The Aftermath*, 9.

⁴⁸⁷ Dhiren Bhagat, *The Delhi Riots*, in Salman Khurshid, ed., *The Contemporary Conservative* (New Delhi: Viking, 1989), 79.

⁴⁸⁸ *Murder in the Garden and the Emerging Face of Indian Politics*, *Illustrated Weekly* (Dec. 28, 1984), 26.

⁴⁸⁹ *Id.*, 26-7.

⁴⁹⁰ *Id.*, 32.

⁴⁹¹ Saaless Kottary, *At the Hustings*, *Illustrated Weekly* (Dec. 30, 1984), 20.

⁴⁹² Khushwant Singh, *My Bleeding Punjab*, 101-2.

⁴⁹³ He won 215,892 votes out of 357,448. *Candidates Elected to Lok Sabha*, *The Hindu* (Jan. 10, 1985), 6.

⁴⁹⁴ Khushwant Singh, *My Bleeding Punjab*, 101-2.

⁴⁹⁵ *Candidates Elected to Lok Sabha*, *The Hindu* (Jan. 10, 1985), 6.

⁴⁹⁶ *Id.*

Misra Commission of Inquiry: Establishment and Operations

Efforts to hold the organizers of the carnage accountable through the judicial system failed, primarily because of the initial destruction of evidence by the police, subsequent harassment of potential witnesses, and government and political interference in the initiation of cases. The eight main governmental commissions and committees inquiring into the massacres also failed to hold accountable the organizers of the massacres, by their own initiative or because of pressure by Congress (I) party officials and governments. Thus, 20 years later, no senior politician or police officer has faced conviction or official governmental condemnation for his role in the massacres.

On November 26, 1984, two leading national civil rights organizations, the People's Union for Democratic Rights (PUDR) and the People's Union for Civil Liberties (PUCL), filed a writ petition in Delhi High Court against the Delhi and Indian administrations, calling for the appointment of a Commission of Inquiry, led by the Central Bureau of Investigation (CBI). The petitioners also asked for protection for survivors from harassment by perpetrators involved in the massacres.⁴⁹⁷ S.S. Jog, then Commissioner of Police, responded that the Delhi police had already instituted an independent investigation into the massacres, registered a "large number of cases," and arrested "a number of persons."⁴⁹⁸ On November 25, 1984, Ved Marwah, Assistant Commissioner of Police, had been nominated to lead this investigation. Because of the promise of the Marwah investigation, the Delhi High Court dismissed the PUDR and PUCL petition.⁴⁹⁹

In the six months following the massacres, Prime Minister Rajiv Gandhi established at least four inquiry commissions on different issues, but refused demands for an inquiry commission into the November 1984 Sikh massacres.⁵⁰⁰ In February 1985, Gandhi claimed that by refusing to order an inquiry commission, he was "shielding the Sikh people themselves."⁵⁰¹ In March, he justified his refusal because a commission would "raise issues which are really dead."⁵⁰²

On April 26, 1985, bowing to pressure and hoping to bring some resolution to issues in Punjab, Rajiv Gandhi appointed a Commission of Inquiry, under Section 3 of the Commission of Inquiry Act, 1952, to be led by Ranganath Misra, a justice of the Supreme Court.⁵⁰³ The inquiry commission's terms of reference were:

⁴⁹⁷ Written Submissions on Behalf of Delhi Sikh Gurudwara Management Committee, 4 (on file with author).

⁴⁹⁸ *Id.*, 5.

⁴⁹⁹ *Id.*, 6. AIR 1985 Delhi 268.

⁵⁰⁰ Commissions were established to inquire into the police execution of an opposition member in Rajasthan; rioting in Gujarat; the crash of an Air India jet; and Indira Gandhi's assassination. Baljit Malik, *India's Shame, Sikh Unrest*, *Guardian* (July 12, 1985).

⁵⁰¹ Gandhi Rejects Demand for Inquiry into Anti-Sikh Riots, *Assoc. Press*, Feb. 19, 1985. See also, *Probe not in the interest of Sikhs: PM*, *The Hindu* (Feb. 20, 1985), 7.

⁵⁰² Mr. Gandhi's Almost Bright Start, *New York Times* (Mar. 22, 1985), A-30.

⁵⁰³ After serving as chairman of the Inquiry Commission, Misra was appointed as India's chief justice of the Supreme Court. Patwant Singh, *The Sikhs*, 223. After retirement, he became the chairman of the National Human Rights Commission. *Id.*, 224. As of 2002, he was a Congress (I) party representative in the Upper House, or *Rajya Sabha*. *Jaya Jaitley, Remember 1984*, *Indian Express* (Apr. 12, 2002) at http://indianexpress.com:80/archive_full_story.php?content_id=687.

- (i) To inquire 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;
- (ii) To recommend measures which may be adopted for prevention of recurrence of such incidents.⁵⁰⁴

On July 24, through the accord between Prime Minister Gandhi and Akali leader Harcharan S. Longowal, the inquiry was extended to Kanpur, Uttar Pradesh and Bokaro, Bihar. Chas Tehsil in Bihar was added to the inquiry's parameters by notification of the central government on October 10, 1985.⁵⁰⁵

After the establishment of the Misra Commission, the Delhi High Court enjoined the Marwah report – the police investigation – from publication. Retired Chief Justice Ranjit S. Narula testified that he learned that police officers had told Marwah about orders received from their senior officers to cover up or participate in the massacres, and Marwah had recorded these comments during his examination of the officers. When the officers later submitted their written statements to him, they did not include these comments, although Marwah's personal notes still had the incriminating information.⁵⁰⁶ After Marwah made comments to the press, DCP East, Sewa Dass, and DCP South, Chander Prakash, both from areas with high Sikh casualties, filed suit to stay Marwah's investigation. They argued that the Misra Commission had already been established on the same subject, and Marwah's report would damage the reputations of the police officers, among other arguments.⁵⁰⁷ Justice M.K. Chawla issued an interim injunction against publishing the report, praising the performance of the police during the Sikh massacres, and falsely describing the organized killings as "riots":

The plaintiffs along with their officers and with their limited resources worked day and night to control the riots with great devotion to their duty. In fact the riots were controlled in the said two Districts (South and East) in a very short span of two to three days. However, the journalists and some other social organizations freely criticised the police alleging their administrative failure in not controlling the riots.⁵⁰⁸

The Delhi Administration unfortunately, but not surprisingly, did not appeal the injunction.⁵⁰⁹ Marwah's crucial handwritten notes were later destroyed, allegedly because of instructions from higher authorities. The officers' written statements, devoid of the incriminating statements, were handed to the Misra Commission.⁵¹⁰ Thus, both the PUDR/PUCL petition and the Marwah inquiry were quashed, leaving only the Misra Commission to investigate the Sikh massacres.

⁵⁰⁴ Misra, Report, 1.

⁵⁰⁵ Id.

⁵⁰⁶ Aff. of Ranjit Singh Narula, Defense Colony ¶ 15 at <http://www.carnage84.com/affidavits/nanavati/promi/ranjitsinghnarula.htm>.

⁵⁰⁷ Written Submissions on Behalf of Delhi Sikh Gurudwara Management Committee, 16-7 (on file with author).

⁵⁰⁸ Order in Chander Prakash v. Ved Marwah, I.A. 2246/85 in Appellate; S.No. 677/85 (Nov. 25, 1985).

⁵⁰⁹ Written Submissions on Behalf of Delhi Sikh Gurudwara Management Committee, 16-7 (on file with author).

⁵¹⁰ Aff. of Ranjit Singh Narula, Defense Colony ¶ 24. See also, Crucial Evidence on 84 riots destroyed: Narula, OutlookIndia.com (Jan. 10, 2002) at http://www.outlookindia.com/pti_print.asp?id=33367.

On July 9, 1985, the Misra Commission invited affidavits, publishing an announcement in 25 newspapers of different languages.⁵¹¹ The Citizens' Justice Committee (CJC),⁵¹² formed in June 1985 to represent Sikh victims and led by lawyer Harvinder S. Phoolka, approached the Commission and received recognition as the representative body of the victims.⁵¹³ While accepting the participation of all other civil society groups, the Commission rejected the applications of PUJDR and PUCL, preventing them from participating in the inquiry.⁵¹⁴ The Commission received 2905 affidavits with respect to Delhi, 675 for Kanpur and 172 for Bokaro and Chas.⁵¹⁵

The Misra Commission could not begin operating until late 1985. It did not receive any staff until the end of July 1985.⁵¹⁶ The remainder of 1985 was tied up in modalities. On August 29, 1985, the Misra Commission asked for the appointment of an investigating agency.⁵¹⁷ Despite allegations regarding police participation in the carnage, the Commission appointed D.R. Meena, part of the Indian Police Service, to lead the Investigating Agency. It stated that other police officers, excluding Delhi police, could be appointed to assist him as necessary.⁵¹⁸ In November 1985, the agency still had not begun operations because the administration had not given its officers from outside Delhi any living accommodations.⁵¹⁹

Because of allegedly "tainted" news and the sensitivity of the inquiry, the Commission decided to hold an *in camera*, or closed door, inquiry,⁵²⁰ thereby protecting itself from scrutiny and accountability, as well as concealing the information revealed in the affidavits and testimonies before the Commission. The Commission ordered the press not to publish any news on the proceedings of the Commission.⁵²¹ When the victims' representative body CJC asked for copies of the affidavits in order to effectively prepare for examination of witnesses, the Union of India raised the spectre of terrorism in its reply:

Keeping in view the rising wave of terrorism and such other anti-national and violent activities of anti-social elements it is all the more proper that the contents of the affidavits should not be revealed without hearing the deponent.⁵²²

Raising fears of national security, the Commission thus denied CJC's request. The remainder of the year passed in arguments over disclosure of documents, which parties could participate, and disputes over interrogatories.

⁵¹¹ Misra, Report, 2.

⁵¹² The CJC comprised: Justice S.M. Sikri, a retired Chief Justice of the Supreme Court of India, V. M. Tarkunde, a former Judge of the Bombay High Court and now Senior Advocate of Supreme Court, Soli J. Sorabjee, Senior Advocate of Supreme Court, Air Chief Marshal Arjan Singh (Retd.), and Lt. Gen. J.S. Aurora (Retd.). Misra, Report, 2. Harvinder S. Phoolka was the Convenor of CJC and represented it in the Misra proceedings. Faces Behind the Struggle at <http://www.carnage84.com/credits/faces.htm>.

⁵¹³ Order dated July 29, 1985. Misra, Report, 2-3.

⁵¹⁴ Id., 5.

⁵¹⁵ Id., 3-4.

⁵¹⁶ Written Submissions on Behalf of Delhi Sikh Gurudwara Management Committee, 10 (on file with author).

⁵¹⁷ Id., 11.

⁵¹⁸ Reply by Union of India to CJC's application dated 23rd September 1985, ¶ 2 (on file with author).

⁵¹⁹ Written Submissions on Behalf of Delhi Sikh Gurudwara Management Committee, 11 (on file with author).

⁵²⁰ Misra, Report, 9.

⁵²¹ Id.

⁵²² Reply on Behalf of Union of India to the Application of Citizen's Justice Committee for Supply of Copies of Affidavits, etc., 1 (¶ 3) (Nov. 29, 1985) (on file with author).

The Commission did not begin examining witnesses in Dehi until January 27, 1986,⁵²³ 15 months after the massacres. 25 witnesses appeared per day. The Commission recorded evidence regarding Kanpur from January 13 to January 17.⁵²⁴ The Indian and state governments cross-examined the following number of survivors: 128 in Delhi, 97 in Kanpur, and 45 in Bokaro.⁵²⁵ In another show of partisanship and bias, the Commission permitted cross-examination of the victims, but did not allow the representatives of the victims to cross-examine any of the government, police and Army officials it summoned.⁵²⁶

On March 31, 1986, CJC withdrew from the proceedings before the Misra Commission.⁵²⁷ It cited its inability to access affidavits and thus cross-examine or test the validity of the Investigating Agency's report or other witnesses' depositions. CJC had asked the Commission to summon nine officials, yet the Commission did not inform it when it examined five of those officials.⁵²⁸ CJC felt it could not effectively represent the victims in the face of closed-door inquiries and the withholding of vital documents and information.⁵²⁹

Written Arguments of the Delhi Administration

The written arguments submitted on behalf of the Delhi Administration to the Misra Commission portray a consistent and disturbing pattern of exonerating the police and perpetrators, and distorting and concealing facts by blaming Sikhs as deserving the massacres, by arguing that: (1) they allegedly celebrated the assassination of Indira Gandhi; (2) they allegedly attacked first; and (3) some Sikhs, in general, had an anti-national character that further antagonized the mob. The police also claimed to lack sufficient force to protect the Sikhs from violence.

The Delhi Administration gave the following reasons for why the massacres were spontaneous, and not organized, as written in its arguments submitted to the Misra Commission:

- (a) Sudden assassination and charged atmosphere created by the assassination of the Prime Minister late Smt. Indira Gandhi.
- (b) Simmering discontent/resentment against the Sikh community due to acts of commission and omission overt and covert.
- (c) Time factor being too short to organise or to make planning.

⁵²³ Order Sheet, 7.1.1986, Application No. 42/85 (on file with author).

⁵²⁴ Harvinder S. Phoolka, Application for Supply of Copies ¶ 2-3 (Jan. 9, 1986) (on file with author).

⁵²⁵ Misra, Report, 8.

⁵²⁶ In Delhi, the Misra Commission summoned at least the following 12 people: P.G. Gavai, former Lt. Governor (up to Nov. 3); M.M.K. Wali, former Lt. Gov.; S.C. Tandon, former Commissioner of Police; Ved Marwah, present Commissioner of Police; Gautam Kaul, Addl. Comm'r of Police; H.C. Jatav, former Addl. Comm'r of Police; O.P. Yadav, former SHO, Nizamuddin PS; R.S. Sethi, former District Magistrate; Gen. A.S. Vaidya, former Chief of Army Staff; Maj. Gen. J.S. Jamwal, GOC, Delhi Area; Maj. J.S. Sandhu of the Sikh Light Infantry; P.V. Narasimha Rao, former Home Minister for Union of India. Misra, Report, 11.

⁵²⁷ Carnage84.com, Aftermath of Carnage at <http://www.carnage84.com/intro/soe.htm>.

⁵²⁸ Submissions on Behalf of Citizens' Justice Committee ¶ 11-12 (Mar. 31, 1986) (on file with author).

⁵²⁹ *Id.*, ¶ 13.

- (d) Common pattern of allegation to the effect that the mob had lathies and iron rods in their hands specially when it is known that the Sikhs are armed with kirpans, had the violence been organised the mob would have been armed with deadly weapons. Organised violence always have [sic] an objective to be achieved and for achieving an objective the violence always persists and does not stop after three days.
- (e) The persons who have been arrested do not belong to one particular section of the society. They are members of public at large.⁵³⁰

With (a) and (b), the Delhi Administration blamed the violence on the public fury generated by people's reactions to Mrs. Gandhi's assassination and the violence in Punjab during the previous years, particularly the deaths of Hindus. This extension of blame to the entire Sikh community in India, for the actions of a few, was their main argument supporting their attempt to recharacterize the massacres as a "sudden and spontaneous national outburst,"⁵³¹ ignoring the evidence of organization by Congress (I) party leaders.

As we have seen above, (c) – the time, becomes irrelevant when we notice that the systematic killings did not start until the next day, after Congress (I) party officials met with their local support networks to implement their plans. Also, elements of the massacres discussed in this report, such as the provision of voters lists, distribution of kerosene, and the use of state infrastructure, necessitated extensive preparation. The police's role in disarming Sikhs and the organized supply of "deadly weapons" such as kerosene and inflammable chemical substances from Congress Party workers also renders (d) – nonlethal weapons – insupportable. Further, because of police manipulation and protection, the persons arrested, as stated in (e), do not represent the actual organizers of the carnage.

The Delhi Administration submitted separate arguments for each police station. Each section began with the allegations made by the CJC regarding that specific police station, and then carried into the sanctioned strength and other statistics of the police station. The administration often then described alleged crimes committed by Sikhs, gave a chronology of events during the massacres at that police station, and then ended with a rebuttal of selected affidavits.

The Delhi Administration explained the massacres as a justified reaction to the misbehavior and anti-national character of local Sikhs. In its discussion of PS Srinivaspuri, under the command of DCP South, Chander Prakash – who had challenged the Marwah inquiry – the police prefaced their description of the violence with a list of the past alleged crimes committed by Sikhs in that area, such as: hoisting black flags on Independence Day that year; setting a rickshaw on fire in June 1984; allegedly sabotaging a railway track; and one Sikh man's burning a copy of the Constitution. The Administration then began its description of the violence with the warning: "The riots which had taken place in this area to be viewed in the light of facts referred to above."⁵³² Similarly, while describing the alleged police rescue of Ujagar Singh and his father

⁵³⁰ Written Arguments on Behalf of the Delhi Administration 2 (undated) (on file with author).

⁵³¹ Id., 11.

⁵³² Written Arguments on Behalf of the Delhi Administration, Police Station Srinivaspuri 3-4 (undated) (on file with author).

Harbhajan Singh in PS Krishna Nagar, the Administration highlighted that Harbhajan Singh was an Akali worker who had reportedly courted arrest in protest against the June 1984 Army attack on the Golden Temple. Thus, “[d]ue to this thing the mob were [sic] more agitated and directed against his life.”⁵³³

The Delhi Administration repeatedly made allegations of Sikhs as the aggressors, although victim testimonies, eyewitness accounts, administrative reports, news articles, and human rights reports directly contradict this. In its discussion of PS Srinivaspuri, the Administration stated that the Sikhs came out with their swords and attacked, killing two Hindus; only then did the mob gather and break into violence. The mob dispersed, however, after the police fired three rounds into the air.⁵³⁴ The Mittal report and eyewitness accounts, such as those of Jaya Srivastava and Ravi Chopra, present an alternative account of an unprovoked gang of assailants killing Sikhs.⁵³⁵

The Administration further stressed and gave credence to the rumors spread to explain and justify the massacres.⁵³⁶ In its discussion of PS Nangloi, the Delhi Administration maintained that Sikhs antagonized the mobs and instigated the violence by celebrating the death of Mrs. Gandhi.⁵³⁷ This argument was repeated again in its discussion of some of the worst-hit areas – Mangolpuri, Gandhi Nagar, Seelampur, Shakarpur, Kalyanpuri – despite the falsity of the rumor. In the jurisdiction of PS Kalyanpuri, where around 600 Sikhs were killed,⁵³⁸ the Administration alleged that an attacking crowd of Sikhs, that had spent the whole night celebrating, advanced towards the non-Sikhs, precipitating a confrontation. With great effort, the police pushed the crowds back, but the Sikhs still would not behave and began firing into the crowd.⁵³⁹

In addition to justifying the massacres based on their representations of the behavior of Sikhs, the administration addressed the alleged lack of sufficient police force and accusations of police instigation. Highlighting the need for public cooperation for the maintenance of public order, the Delhi Administration stressed that the police did not have sufficient force to control the mobs. It argued that the police would have injured more people if it had used force.⁵⁴⁰ The Administration did not address the examples of police who successfully controlled mobs by firing in the air, lathi-charging, or merely confronting the mob, as well as the role of senior officers in disabling officers who acted forcefully against the mob.

The Administration also responded to the accusation of police participation and instigation of mobs. In its discussion of PS Srinivaspur, the Administration stated that if police had truly instigated the mob, the casualties of Sikhs would have been much greater, and no witnesses would have survived

⁵³³ Written Arguments on Behalf of the Delhi Administration, Police Station Krishan Nagar 6 (undated) (on file with author).

⁵³⁴ Written Arguments on Behalf of the Delhi Administration, Police Station Srinivaspuri 4 (undated) (on file with author); See also Written Arguments on Behalf of the Delhi Administration, Police Station Ashok Vihar 2 (undated) (on file with author) (violence started because Sikh fired and killed two non-Sikhs).

⁵³⁵ Mittal, Mittal Report, ¶ 7.100.

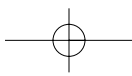
⁵³⁶ Written Arguments on Behalf of the Delhi Administration, Police Station Naraina 2 (undated) (on file with author).

⁵³⁷ Written Arguments on Behalf of the Delhi Administration, Police Station Nangloi 3 (undated) (on file with author); See similar reasoning in Written Arguments on Behalf of the Delhi Administration, Police Station Mangolpuri 2; Police Station Gandhi Nagar 4; Police Station Seelampur 4; Police Station Shakarpur 3; Police Station Kalyanpuri 3-4.

⁵³⁸ Mittal, Mittal Report, ¶ 3.163.

⁵³⁹ Written Arguments on Behalf of the Delhi Administration, Police Station Kalyanpuri 4-6 (undated) (on file with author).

⁵⁴⁰ Written Arguments on Behalf of the Delhi Administration 3 (undated) (on file with author).



to tell the story.⁵⁴¹ In the section on PS Krishna Nagar, the Administration stated that if the mob ran away on seeing the SHO, as stated in one affidavit, then the entire allegation of police instigation in any part of Delhi was false.⁵⁴²

The Mittal Report, an investigation by a subsequent government-appointed committee, has shown that the Delhi Administration lied in key parts of its written submissions to the Misra Commission. For example, the Delhi Administration tried to discredit the affidavit of Dildar Singh, where he gave an example of the organized transport of mobs by state-run trains to scenes of massacre. The Administration altered the distance of Dildar Singh's house from the railway crossing, where the mob alighted from the Jhelum Express, trying to demonstrate that he was too far to have accurately identified the train. The administration also altered and added to Dildar Singh's testimony before the Commission, in an attempt to fabricate a contradiction between his affidavit and his testimony before the Commission.⁵⁴³ In another example, the Delhi Administration attempted to demonstrate that the SHO formed a peace committee in Janakpuri on November 1, thus protecting the area from further violence. The police station's own logbooks, however, show that violence in Janakpuri continued on November 2 and 3.⁵⁴⁴ In a third example, regarding the transfer from PS Subzi Mandi on October 31 of the two Sikh police officers who actively worked to counter the carnage, the Delhi Administration tried to discredit several affidavits blaming the replacement officers of instigation and participation with the mobs, by stating that the Sikh officers were still on duty at those times. However, the police's own statement and records put the new officers in the station at the times specified in the affidavits.⁵⁴⁵

The Mittal report also highlighted the role of the police in threatening survivors to depose in their favor. In the cross-examination of two deponents before the Misra Commission, they revealed they had not voluntarily filed their pro-police affidavits.⁵⁴⁶ Parsa Singh of Kalyanpuri described how the officer in charge of the police station, Madan Lal Bakshi, had participated in the violence. He asked him to gather four or five of his friends and meet SHO Soor Veer Singh Tyagi. On August 22, 1985, Head Constable Kanwar Singh came to Parsa Singh's house and told him he was summoned to the police station. Parsa Singh took four others with him and Tyagi told them to make a statement in his favor. In exchange, he promised to drop the false cases he had filed against them during the massacres.⁵⁴⁷ SI Jugti Ram and SHO Soor Veer Singh Tyagi also forced Pritam Singh of Kalyanpuri and Rajinder Singh of Trilokpuri to sign multiple papers typed in English, which they could not read. The officers neither translated the papers, nor gave them a copy.⁵⁴⁸ Attributing his actions during

⁵⁴¹ Written Arguments on Behalf of the Delhi Administration, Police Station Srinivasपुरi 7 (undated) (on file with author).

⁵⁴² Written Arguments on Behalf of the Delhi Administration, Police Station Krishan Nagar 11 (undated) (on file with author).

⁵⁴³ Mittal, Mittal Report, ¶ 2.41.

⁵⁴⁴ *Id.*, ¶ 6.84.

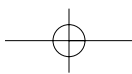
⁵⁴⁵ *Id.*, ¶ 2.51.5.

⁵⁴⁶ *Id.*, ¶ 3.64.

⁵⁴⁷ Aff. of Parsa Singh, Kalyanpuri, Delhi at <http://www.carnage84.com/affidavits/mishra/Against%20Bhagat/parsa-nathu.htm>.

See also Aff. of Lachman Singh, Kalyanpuri at <http://www.carnage84.com/affidavits/mishra/Against%20Bhagat/Lachman%20Singh%20-%20Sona%20Singh.htm>.

⁵⁴⁸ Aff. of Pritam Singh, Kalyanpuri ¶ 4 (on file with author); Aff. of Rajinder Singh, Trilokpuri ¶ 17-19 (on file with author) (another police officer returned a few days later to add Rajinder Singh's signature to a green card with five to six signatures already on it).



the massacres to orders from superior officers, such as Additional Commissioner of Police H.C. Jatav, Tyagi tried to convince Sobha Singh and others from Kalyanpuri to submit favorable affidavits, as well.⁵⁴⁹

Similarly questionable, the administration attached appreciation letters written to the police from non-Sikh shopkeepers in its section on PS Karol Bagh. Many of the letters replicate the same language. For example, the entire contents of the letters from the Karol Bagh Traders Federation and the Beopar Mandal Ahmal Kahn Road repeat the same language. The letters from Daya Singh Jeweller and Sons and Malla Singh and Tarlok Singh are the same, as well. Three letters are unsigned, although written on business letterhead.

In its supplementary arguments, the Delhi Administration attempted to discount all affidavits filed by survivors. The Misra Commission had to extend its one-month period for filing affidavits because only one person submitted an affidavit; others had told CJC they were suffering harassment and intimidation by the organizers of the carnage.⁵⁵⁰ After assurances of protection by the Misra Commission, and provision of protection in several cases, survivors filed affidavits.⁵⁵¹ The Delhi Administration gave an alternative explanation of this delay in filing affidavits, despite strong evidence of witness intimidation by perpetrators: "[W]ill it not be true to say that the so-called victims were induced with the intention to make political gains and abuse the process of this Commission."⁵⁵² The Administration also discounted the human rights reports, issued by PUDR, PUCL, Citizens' Commission, and Citizens for Democracy, as "politically motivated and irrelevant."⁵⁵³

Analysis of the Misra Commission Report

In August 1986, the Misra Commission submitted its report to the Indian government which placed it before Parliament in February 1987.⁵⁵⁴ The Misra report exonerated senior police officers and politicians by placing the blame on the subordinate ranks of the police. The strongest charge leveled against the subordinate ranks of the police was of indifference.⁵⁵⁵ "Whether it be RPF, Govt. Railway Police, or Delhi Police, all appear to have become indifferent within the Union Territory [of Delhi]."⁵⁵⁶ According to the Misra Commission, there was no definite evidence of police leading or instigating mobs.⁵⁵⁷ It thus concealed the information in countless affidavits. While discussing several police lapses, such as the delay in enforcing the curfew and failing to call the Army promptly, the Commission attributed these lapses to the senior officers' lack of knowledge of the extent of the carnage,⁵⁵⁸ despite prominent witness testimony

⁵⁴⁹ Aff. of Sobha Singh, Kalyanpuri (on file with author); Aff. of Lachman Singh, Kalyanpuri ¶¶ 3-5 (on file with author); Aff. of Parsa Singh, Kalyanpuri (on file with author).

⁵⁵⁰ Misra, Report, 3.

⁵⁵¹ Id., 8.

⁵⁵² Supplemental Arguments on Behalf of Delhi Administration 4 (undated) (on file with author).

⁵⁵³ Id., 1.

⁵⁵⁴ Carnage84.com, Aftermath of Carnage.

⁵⁵⁵ Misra, Report, 36.

⁵⁵⁶ Id., 36.

⁵⁵⁷ Id., 59.

⁵⁵⁸ Carnage84.com, Disarming the Sikhs, at <http://www.carnage84.com/credits/disarm.htm>.

of senior police officers moving amidst the violence, and, as reported by Rahul Bedi, of witnesses informing senior officers of the massacres. The Commission concluded that the massacres were spontaneous, and not organized, blaming them on the “lower strata” of society.⁵⁵⁹ By attributing the uprising generally to increasing criminalization and specifically to grief over the assassination of Mrs. Gandhi, Justice Misra removed the communal context of the violence. The Commission provided no transparency to help readers understand its conclusions.

The Commission concluded that the violence was not organized because of the time factor and “the gloom that had spread and affected the Congressmen in particular.”⁵⁶⁰ On one page, Misra asserted that one woman’s husband died on October 31, indicating that the violence had begun immediately,⁵⁶¹ not after deliberation and the implementation of a plan. He did not quote from that woman’s affidavit or offer any reason to believe that the affidavit did not represent an anomaly. On another page, however, Misra used a series of news extracts to compare the violence on October 31 and November 1, concluding: “[E]xcept for killing which came into the process from 1-11-1984, every other form of attack on Sikhs had begun” on October 31.⁵⁶² Thus, Misra contradicted himself in stating that the killing began on November 1, allowing for the possibility of the implementation of a plan during the night of October 31.

While discussing the timing of the violence, Misra failed to discuss the geographical implications of the attacks. Human rights groups reported that attacks on October 31 were confined to the areas around the AIIMS, suggesting spontaneity, while on November 1, attacks were launched simultaneously throughout Delhi, suggesting organization. Moreover, the mobs “swelled up”⁵⁶³ because of the organized use of trains and buses bringing them to their destinations. Misra further contradicted his finding of spontaneity by asserting several times that the mobs followed a “uniform pattern” everywhere, even in the cities of Kanpur and Bokaro.⁵⁶⁴

In his discussion of the spread of rumors, Misra demonstrated a pattern of logic he used throughout the report: stating a conclusion based on his perception of the legitimacy conferred on a person by his profession; providing no supporting evidence for his conclusion; and failing to mention or acknowledge counter-evidence. For example, Misra stated that rumors were “obviously” spread by “miscreants,” and not police.⁵⁶⁵ Despite his obvious conclusion, Misra did not provide any supporting evidence for his claim or refute the affidavits from witnesses blaming police for spreading rumors. Although the Delhi Administration itself referenced these rumors as truths in the arguments it submitted to the Misra Commission, Misra did not discuss this. In another

⁵⁵⁹ Misra, Report, 21.

⁵⁶⁰ *Id.*

⁵⁶¹ *Id.*, 17.

⁵⁶² *Id.*, 21.

⁵⁶³ *Id.*, 48.

⁵⁶⁴ *Id.*, 22, 24, 54, 77.

⁵⁶⁵ *Id.*, 22.

example, Misra dismissed allegations against doctors regarding their refusal to provide care to injured Sikhs:

Indian doctors with their high spirit and tradition could not have allowed themselves to be obsessed by the thought that two guards of the Sikh community had murdered the democratically chosen leader of their great polity.⁵⁶⁶

With this sentence, and no other explanation, Misra disposed of the numerous accounts found in affidavits regarding the refusal of doctors to provide proper medical care to Sikhs.

Misra justified his exoneration of senior police officials based on his perception of Lt. Gov. Gavai's credibility. Gavai claimed that a failure in communication prevented him from receiving timely reports.⁵⁶⁷ The Commission decided not to inquire further into the responsibility of Gavai, citing a heart attack he had suffered before the massacres that must have made it difficult for him "to continue to take any physical load upon himself."⁵⁶⁸ Gavai himself justified the violence, telling the Commission that Indira Gandhi's assassination "was bound to cause repercussions."⁵⁶⁹ According to Misra, Gavai made an indirect admission of moral responsibility in his resignation letter, effective November 3, 1984.⁵⁷⁰ Misra, thus, felt no need to further study Gavai's role and responsibility in the massacres.

Misra dismissed allegations against senior Congress party leaders, such as HKL Bhagat, on the basis of the legitimacy conferred by their political positions: "Shri Bhagat being a sitting M.P. and Minister was not likely to misbehave in the manner alleged."⁵⁷¹ With this sentence, Misra disposed of the numerous affidavits citing Bhagat's leadership and instigation of the massacres. In support of his claim, Misra cited District Magistrate R.S. Sethi who claimed Bhagat would not have acted against Sikhs because they were electors in his community.⁵⁷² In reality, Bhagat benefited from the anti-Sikh propaganda during the post-massacre elections, despite coming from the constituency with the highest official number of Sikhs killed at 1086,⁵⁷³ bagging the second highest amount of votes in the country.

Misra also cited the hundreds of affidavits filed mostly by non-Sikhs in Bhagat's favor, claiming that the allegations against Bhagat were "not very positive or specific."⁵⁷⁴ However, again in an affront to transparency and truth, he did not include a discussion of any of those affidavits which included very specific allegations. Additionally, as the subsequent Report of the Advisory Committee to the Chief Minister of Delhi stated:

⁵⁶⁶ Id., 33.

⁵⁶⁷ Id., 43-4.

⁵⁶⁸ Id., 45.

⁵⁶⁹ Id., 44.

⁵⁷⁰ Id.

⁵⁷¹ Id., 47.

⁵⁷² Id.

⁵⁷³ Harvinder Singh Phoolka, The Case Against Sajjan Kumar, Sikh Spectrum (Jan. 2003) at http://sikh_spectrum.com/archives.htm.

⁵⁷⁴ Misra, Report, 46.

Most of the affidavits in favor of the accused were cyclostyled in identical proformas on which only the particulars of the deponent were filled in by hand....Most of the deponents of these affidavits who were summoned by the Commission did not appear to support their affidavits. Some others who appeared disowned their purported affidavits.⁵⁷⁵

Inder Singh of Trilokpuri described how HKL Bhagat and Councilor Gulati, together or individually, met with him and four others several times – August 15, 24, 26, 27, and 29 of 1985 – promising them housing accommodation in return for agreeing not to name Bhagat in any affidavits. They were still living in a relief camp. At the meeting on August 27, Councilor Gulati told Inder Singh to procure 25 affidavits stating that no Congress worker had participated in the massacres. On August 29, Inder Singh and his four companions told Bhagat that they refused all of his requests.⁵⁷⁶

The late reporter Dhiren Bhagat compared the Misra Commission Report with the inquiry conducted by the British after the Jallianwala Bagh massacre of April 13, 1919, when British Brigadier General Dyer fired on Indians protesting their infringement of civil liberties through the Rowlatt Act. The Disorders Inquiry Committee 1919, led by Scotland's solicitor-general Lord Hunter, had seven other members: three Indians, one British general, and three British civilians.⁵⁷⁷ The Hunter Committee report reproduced the cross-examination of General Dyer, where he expressed his intention to continue firing although the crowd was dispersing, and how, if possible, he would have used machine guns.⁵⁷⁸ Unlike the Misra Commission report which gave no information on the examinations of police and government officials, and refused to even separately examine the affidavits filed against Minister and MP HKL Bhagat,⁵⁷⁹ the Hunter Committee published both the majority and minority reports under the same cover.⁵⁸⁰

Referring to the affidavits describing the meeting convened by HKL Bhagat at Congress (I) leader Shyam Singh Tyagi's house, discussed earlier in this report, Dhiren Bhagat writes:

Mr. Justice Mishra waves away these affidavits with a single sentence: 'The evidence regarding what transpired at the meeting is scanty.' It will not do. We are later told, 'Some of the deponents were cross-examined and they have not stood the test while some have not broken down.' Well, what of the evidence of those who did not 'break down'? What attempt was made to obtain more information? Was Shyam Singh Tyagi questioned? His family? His neighbours? And most importantly, why wasn't Mr. H.K.L. Bhagat cross-examined? Mr. Justice Mishra has thrown away one of the great opportunities of our time. (When approached by newspapers Mr. Bhagat simply declines to speak.)⁵⁸¹

⁵⁷⁵ Patwant Singh, *The Sikhs*, 223.

⁵⁷⁶ *Aff. of Inder Singh, Trilokpuri* at <http://www.carnage84.com/affidavits/mishra/Against%20Bhagat/inder-basan.htm>.

⁵⁷⁷ Dhiren Bhagat, *Bloodstained Whitewash*, in Salman Khurshid, ed., *The Contemporary Conservative* (New Delhi: Viking, 1989), 96, originally published in *The Spectator*, April 8, 1987.

⁵⁷⁸ *Id.*, 97.

⁵⁷⁹ *Id.*, 98.

⁵⁸⁰ *Id.*

⁵⁸¹ *Id.*

The Commission did criticize the subordinate police for refusing to file FIRs that implicated police or “any person in authority,” filing omnibus FIRs, and removing serious allegations when recording FIRs.⁵⁸² Misra criticized the police’s perfunctory investigations. Police and courts released most of the accused on bail, facing no challenge of appeal in this matter from the government.⁵⁸³ Misra also disapproved of the police’s role in disarming the Sikhs during the massacres, despite the police’s fears that Sikhs would further infuriate mobs by using firearms. He stressed that the law of self defense permitted the use of firearms. If police could have controlled the mobs, then they could justifiably have disarmed the Sikhs. But the police themselves admitted they could not control the mobs.⁵⁸⁴

In his analysis of the causes of the massacres, Justice Misra discussed increasing urbanization, the increase in criminal activity,⁵⁸⁵ the increase in the jhuggis or informal resettlements whose inhabitants desired “to cut the rich to size,”⁵⁸⁶ and the need to reorganize the police.⁵⁸⁷ He discussed the “rise of the anti-social element” and gave his lasting solution: “[B]ring them up as ideal citizens trained to tolerate differences, prepared to accept the philosophy of ‘live and let live’, respect each others religion and foster universal fraternity.”⁵⁸⁸ Towards this end, Misra gave a lengthy discursion on education and child-rearing, discussing the use of violence in television,⁵⁸⁹ working mothers,⁵⁹⁰ importance of good manners,⁵⁹¹ poor primary schools,⁵⁹² and inculcating patriotism,⁵⁹³ among many other possible reforms. Dhiren Bhagat sarcastically described Misra’s ruminations:

When not making trenchant observations about the viewing habits of children (‘They are more punctual than adults in viewing television programmes.’) he is busy quoting Mueller’s eulogies about the spiritual wealth of India. When he has finished exhorting ‘everyone in society....to put in great efforts in the right line, first to stop the downward trend and then, raise the same up,’ he busies himself with insisting that ‘every Indian must feel proud to have been born in India.’

Must we?⁵⁹⁴

Justice Misra was rewarded for his whitewashing of the massacres of 1984. After serving as Chair of this commission, he was appointed as Chief Justice of the Supreme Court of India.⁵⁹⁵ After retiring from that position, Misra

⁵⁸² Misra, Report, 112.

⁵⁸³ *Id.*, 115.

⁵⁸⁴ *Id.*, 64.

⁵⁸⁵ *Id.*, 14.

⁵⁸⁶ *Id.*

⁵⁸⁷ *Id.*, 129.

⁵⁸⁸ *Id.*, 131.

⁵⁸⁹ *Id.*, 152, et. seq.

⁵⁹⁰ *Id.*, 141.

⁵⁹¹ *Id.*, 144.

⁵⁹² *Id.*, 142.

⁵⁹³ *Id.*, 145.

⁵⁹⁴ Dhiren Bhagat, *Bloodstained Whitewash*, 97-98.

⁵⁹⁵ Patwant Singh, *The Sikhs*, 223.

served as the first chair of the National Human Rights Commission,⁵⁹⁶ and then went on to represent the Congress Party itself in the Rajya Sabha, or upper house of the national parliament.⁵⁹⁷

Subsequent Committees

On February 23, 1987, the government appointed three more committees based on the recommendations of the Misra Commission: (1) the Jain-Banerjee committee to examine the registration and investigation of criminal cases, recommend the registration of cases, and monitor the conduct of investigations;⁵⁹⁸ (2) the Ahooja committee on the official number of deaths in the massacres; and (3) the Kapur-Mittal committee to discuss the role of the police in greater detail.⁵⁹⁹ Using the lists of the Delhi Administration, CJC, and Bhartiya Janata Party (BJP), in August 1987, the Ahooja committee released its report that officially 2,733 people had died in Delhi alone during the massacres.⁶⁰⁰ The Ahooja Report did not investigate the numbers of Sikhs killed in Kanpur, Bokaro, or other places in India.

The first recommendation made by the Jain-Banerjee Committee was for the police to file a criminal case against, among others, MP Sajjan Kumar and Congress (I) leader Brahmanand Gupta, one of the suppliers of kerosene during the massacres and leader of assailants. Gupta filed a petition in the Delhi High Court to stay the functioning of the Committee, and on November 24, 1987, the Court issued an injunction to the Committee, preventing it from recommending the registration of any new cases, and directed that no cases should be registered on its orders. The final order issued in October 1989 upheld the injunction,⁶⁰¹ quashing the Jain-Banerjee Committee.

On March 22, 1990, the Delhi Administration reconstituted a new Poti-Rosha Committee with similar terms of reference.⁶⁰² This Committee began with an extensive analysis of the injunction and determined that it merely had recommendatory powers, and could not conduct any investigations or accept fresh allegations.⁶⁰³ After months spent procuring police records and then making sense of the false information received from many DCPs, the Committee submitted its recommendations, again including the filing of a case against Sajjan Kumar. When a team from the Central Bureau of Investigation (CBI) went to Kumar's house to arrest him, he locked the officials in a room until his lawyer obtained anticipatory bail for him.⁶⁰⁴ After this event, the members of the Committee decided not to renew their tenure.⁶⁰⁵

⁵⁹⁶ *Id.*, 224.

⁵⁹⁷ Jaya Jaitley, Remember 1984, *Indian Express* (Apr. 12, 2002) at http://indianexpress.com:80/archive_full_story.php?content_id=687.

⁵⁹⁸ Jain and Aggarwal, Jain Aggarwal Report, ¶ 2.2.

⁵⁹⁹ Carnage84.com, *Aftermath of Carnage*.

⁶⁰⁰ Ahooja, Ahooja Report. The report also discussed the failure of the administration to provide proper compensation to survivors.

⁶⁰¹ Jain and Aggarwal, Jain Aggarwal Report, ¶ 2.5.

⁶⁰² *Id.*, ¶ 3.1.

⁶⁰³ *Id.*, ¶ 3.4-3.5.

⁶⁰⁴ Carnage84.com, *Aftermath of Carnage*.

⁶⁰⁵ Jain and Aggarwal, Jain Aggarwal Report, ¶ 3.7-4.1.

The Committee was reconstituted the third time as the Jain-Aggarwal committee. The findings of this Committee were submitted June 30, 1993.⁶⁰⁶ For most of the cases it reviewed, the Committee found that it would be useless to recommend the fresh filing of cases because the evidence had been destroyed.⁶⁰⁷

The Kapur-Mittal Committee split and issued separate reports. Justice Dalip Kapur gave no findings because the Committee did not have the power to summon police officials; whereas Kusum Lata Mittal did an extensive appraisal of almost every police station impacted by the carnage. She reviewed FIRs, police diaries, affidavits filed before her committee and the Misra Commission, and documents from Marwah's inquiry. For each police station, she discussed the patterns of violence, the number of preventative and other arrests, the number of deaths, and the content of different affidavits and FIRs filed. It took the Committee one year to gain access to the Misra Commission documents, although Mittal had to receive clearance from the government in order to quote or publish any of the records from the Misra Commission.⁶⁰⁸ The Mittal report contradicted the Misra Commission's findings that senior officers were not informed. She showed how senior police officers tampered with their logbooks; how police instigated and led mobs; and how they solicited false statements by victims to protect local Congress (I) leaders.

In 1994, the Delhi government of Chief Minister Madan Lal Khurana – the senior BJP leader who lost the December 1984 elections to Congress (I) leader Jagdish Tytler – appointed retired Chief Justice of Punjab and Haryana High Court Ranjit S. Narula to head an advisory committee. The committee reviewed the findings of the above committees and again recommended cases against HKL Bhagat and Sajjan Kumar based on 21 affidavits. In 1995, Khurana asked the central government to take action against these two Congress (I) leaders.⁶⁰⁹ In 1991, the Lt. Gov. Markande Singh had ordered that the cases be registered and had sent them to the CBI for registration. The CBI returned the cases to the government, stating that it did not have time to pursue them. Since then, the cases had not been touched. Khurana finally persuaded the Lt. Gov. to register the cases.⁶¹⁰

Inquiry Body	Date Appointed	Conclusion
Misra Commission	April 26, 1985	Report placed before Parliament in Feb. 1987
Jain-Banerjee Committee	Feb. 23, 1987	Quashed by High Court injunction in October 1989
Ahooja Committee	Feb. 23, 1987	Report on official figure of deaths in Delhi released in August 1987 – 2,733
Kapur-Mittal Committee	Feb. 23, 1987	Mittal Report released Feb. 28, 1990
Poti-Rosha Committee	March 22, 1990	Members did not renew tenure
Jain-Aggarwal Committee	Nov. 30, 1990	Report submitted June 30, 1993
Advisory Committee, Ranjit S. Narula	1994	In 1994, recommended cases against HKL Bhagat and Sajjan Kumar
Nanavati Commission	May 10, 2000	Report due November 2004

Figure 1: Bodies of Inquiry

⁶⁰⁶ Carnage84.com, Aftermath of Carnage.

⁶⁰⁷ Jain and Aggarwal, Jain Aggarwal Report, ¶ 5.13

⁶⁰⁸ Mittal, Mittal Report, ¶ 5.

⁶⁰⁹ Carnage84.com, Aftermath of Carnage.

⁶¹⁰ Aff. of Madan Lal Khurana, Safdarjung Road ¶¶ 11-13, at <http://www.carnage84.com/affidavits/nanavati/promi/madanlal.htm>.

On May 10, 2000, the National Democratic Alliance (NDA) government appointed yet another commission of inquiry led by Justice G.T. Nanavati.⁶¹¹ The Nanavati Commission's terms of inquiry resemble those of the Misra Commission.⁶¹² The Commission solicited new affidavits as well as procured the original affidavits submitted before the Misra Commission. However, the Misra Commission did not turn over key records relating to the deployment of the Army, claiming they were missing, specifically the affidavits of then Chief of Staff A.S. Vaidya, Major J.S. Sandhu of the 15th Sikh Light Infantry, and Major Gen. Jamwal, the GOC of Delhi Area.⁶¹³ Both Vaidya and Sandhu had passed away and thus could not be reinterviewed.

The Nanavati Commission held public hearings, summoning senior police officers, Army personnel, government officials and others.⁶¹⁴ The hearings of Ved Marwah, who was Additional Commissioner of Police in 1984 and was Governor of Manipur when summoned, were closed to the media for alleged security reasons.⁶¹⁵ The report of the Nanavati Commission was due for release March 31, 2003, but has not yet been completed.⁶¹⁶ Its tenure has been extended repeatedly. Nanavati is simultaneously leading the inquiry into the Gujarat massacres of Muslims of 2002, as well as chairing a commission examining the unauthorized colonies in Delhi.⁶¹⁷

Nanavati's decision as Supreme Court judge in the *Kishori Lal* case, discussed below, provides foresight as to how his final report will read. In *Kishori Lal*, he and Justice S. Rajendra Babu wrote that the massacres were a spontaneous reaction to the assassination of Indira Gandhi, "the influence of collective fury" mitigated Lal's intent to kill, and one could not expect people to live up to Constitutional ideals in such a time. Thus, it does not indicate that his report will clearly and accurately reflect the content of the affidavits and uphold the principles of justice. However, unlike Misra,⁶¹⁸ Nanavati has employed the Section 8B procedure of the Commission of Inquiry Act. Under this procedure, the Commission has to issue notice to those against whom it is likely to make negative findings.⁶¹⁹ These people then have an opportunity to answer the charges against them and cross-examine witnesses.

⁶¹¹ Naunidhi Kaur, *Crime and Connivance*, Frontline (Jan. 5-18, 2002) at <http://www.flonnet.com/fl1901/19010810.htm>.

⁶¹² Fresh probe ordered into anti-Sikh riots, Rediff (Jan. 13, 2000) at <http://www.rediff.com/news/2000/jan/13sikh.htm>.

⁶¹³ Nanavati Panel Urged to Quiz Home Secy, Tribune (Mar. 28, 2001) at <http://www.tribuneindia.com/2001/20010328/nation.htm#18>.

⁶¹⁴ Nanavati Commission Summons Marwah, Former LG, CP, OutlookIndia (Feb. 20, 2002) at http://www.outlookindia.com/pti_print.asp?id=41433.

⁶¹⁵ Ved Marwah Deposes Before Nanavati Commission, OutlookIndia (Apr. 5, 2002) at http://www.outlookindia.com/pti_print.asp?id=49993.

⁶¹⁶ Anti-Sikh Riots Probe Likely by March 31, Press Trust of India (Nov. 20, 2002).

⁶¹⁷ Nirmala Ganapathy, 1984: Nanavati Report Delayed, ExpressIndia (Oct. 2, 2003).

⁶¹⁸ Crucial evidence on '84 riots destroyed: Narula, OutlookIndia (Jan. 10, 2002) at http://www.outlookindia.com/pti_print.asp?id=33367.

⁶¹⁹ Police Request Nanavati Commission Not to Summon its Officers, OutlookIndia (Sep. 4, 2001) at http://www.outlookindia.com/pti_print.asp?id=10361.

Nanavati has issued Section 8B notices to Delhi Police Joint Commissioner Amod Kanth and senior Congress leaders Vasant Sathe and Kamal Nath⁶²⁰ – who is now Minister of Commerce and Industry under Prime Minister Manmohan Singh’s government. The Commission has also issued notices to Congress leaders Tytler – now a Minister, then and now MP Sajjan Kumar and Pondicherry IGP U.K. Katna, and over 20 others, including Brahmanand Gupta, then MP Dharam Dass Shastri, then ACP(North) R.S. Malik, and then SHO Mongolpuri R.S. Dahiya.⁶²¹ The Commission supplied the noticees with the evidence against them, and asked them to reply to it. While accepting the materials on behalf of Nath, his counsel then-MP R.K. Anand declared “everything has been politically motivated.”⁶²² When Tytler received the material against him in early December 2003, accompanied by Anand as well, he echoed allegations of political motivation: “It is all concocted story and evidence is completely fabricated,” he stated. “Everything against me is politically motivated.”⁶²³

Retired IPS officer Gautum Kaul filed a written response in December 2003, stating it was comprehensive and did not require an oral representation.⁶²⁴ On behalf of then-MP Dharam Dass Shastri, the Commission summoned two witnesses, Avtar Singh and Chunni Lal, and Ranvir Singh, then SHO of Karol Bagh. Kamal Nath also requested the Commission to cross-examine witnesses.⁶²⁵ Nath denied inciting the mob to attack Gurudwara Rakab Ganj, maintaining he was attempting to disperse the mob instead.⁶²⁶ He further stated that allegations that the police fired on the gurudwara were “absolutely false.”⁶²⁷ Vasant Sathe also denied any role in the attack on the gurudwara. Both senior Congress leaders requested the Commission to cross-examine Ajit Singh, Mukhtiar Singh, and former *Indian Express* reporter Monish Sanjay Suri.⁶²⁸

⁶²⁰ Accused Get ‘proof,’ to Reply by Dec. 12, ExpressIndia (Nov. 11, 2003) at <http://cities.expressindia.com/fullstory.php?newsid=67726>.

⁶²¹ Nanavati Commission Asks Notices to Reply by Jan. 9, OutlookIndia (Dec 9, 2003) at http://www.outlookindia.com/pti_print.asp?id=186648. Others who have been issued notices are Congress leaders Dharam Dass Shastri, Ram Chandra Nagoria, Ram Lal, Tarvinder Singh Bedi, Hardwari Lal, Bramhanand Gupta, and Nathu Pardhan. Then-ACP Gautum Kaul, ACP (North) RS Malik and SHO Mongolpuri RS Dahiya, now ACP (Crime) also received notices. See also, Anti-Sikh Riots: Kamal Nath, Vasant Sathe to defend on Jan 12, Deepika Global (Dec 10, 2003); ‘84 riots case: Cong leaders get more time to file replies, ExpressIndia (Jan. 13, 2004) at <http://cities.expressindia.com/fullstory.php?newsid=73117>.

⁶²² Accused get ‘proof,’ to reply by Dec. 12, ExpressIndia (Nov. 11, 2003) at <http://cities.expressindia.com/fullstory.php?newsid=67726>.

⁶²³ Nanavati Commission Asks Notices to Reply by Jan. 9, OutlookIndia (Dec 9, 2003) at http://www.outlookindia.com/pti_print.asp?id=186648.

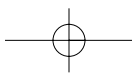
⁶²⁴ Anti-Sikh Riots: Kamal Nath, Vasant Sathe to defend on Jan 12, Deepika Global (Dec. 10, 2003).

⁶²⁵ ‘84 Riots Case: Cong Leaders Get More Time to File Replies, ExpressIndia (Jan. 13, 2004) at <http://cities.expressindia.com/fullstory.php?newsid=78117>.

⁶²⁶ Kamal Nath Denies Role, ExpressIndia (Jan. 16, 2004) at <http://cities.expressindia.com/fullstory.php?newsid=73383>.

⁶²⁷ Id.

⁶²⁸ Id.



Independence of Judges and Lawyers

On November 4, 1984, Delhi police officials claimed to have arrested 1,809 people on charges of looting, rioting and arson.⁶²⁹ Despite the killings occurring throughout Delhi, no arrests had been made for murder.⁶³⁰ Within a few days, the police released all but around 60 of the people arrested.⁶³¹ In January 1985, the Home Minister claimed that 4,579 suspects were arrested in Delhi.⁶³² India's Information Minister stated that there had been a total of 30 convictions, and 14 police officers had been punished for dereliction of duty.⁶³³ 642 of 707 criminal cases ended in acquittals or were "cancelled" because the state allegedly could not trace the accused.⁶³⁴

Vrinda Grover, Advocate of the Supreme Court, conducted an analysis of 137 representative judgments on the November 1984 massacres, with 120 from the trial courts, seven from the High Court, and four from the Supreme Court.⁶³⁵ These cases resulted in only eight convictions for murder, with two of those overturned by the High Court.⁶³⁶ Grave lapses in police investigations, delays in filing cases,⁶³⁷ the failure to identify and investigate prosecution witnesses, the deliberate misrecording of witness statements,⁶³⁸ and the failure to comply with legal procedures⁶³⁹ precluded effective prosecutions.⁶⁴⁰ For example, in *State v. Kanak Singh*⁶⁴¹ the police translated the English FIR into Hindi and considered that to be their investigation.⁶⁴²

In the charge-sheets filed in court, there was often no correlation between the specific charges and the people listed as Prosecution Witnesses. The prosecution also failed to follow the Criminal Procedure Code (CrPC) requirements in Sections 212 and 218 to frame distinct charges for each event.⁶⁴³ Crimes relating to the witnesses often were not included.⁶⁴⁴ In the charge-sheet filed with FIR No. 351/84 of PS Nangloi, for example, no mention was made of the murders of the husbands of two of the Prosecution Witnesses. Although the prosecution did not produce the witnesses in court, alleging that they were

⁶²⁹ Citizens Commission, Delhi: 31 October to 4 November 1984, 15.

⁶³⁰ *Id.*

⁶³¹ Eric Silver, Police Swoop on Riot Suspects, *Guardian* (Jan. 9, 1985).

⁶³² Eric Silver, Riots over Killing Left 3,000 Dead, *Guardian* (Jan. 25, 1985).

⁶³³ Sikh Massacre File Reopened, *The Australian* (Jan. 14, 2000), 8.

⁶³⁴ Revisiting November 1984, *The Hindu* (Jan. 21, 2000).

⁶³⁵ *Aff.* of Vrinda Grover, New Delhi ¶ 2 at <http://www.carnage84.com/judge/analysis.htm>.

⁶³⁶ *Id.*, ¶ 5.

⁶³⁷ *State v. Ram Pal Saroj* (Karkardooma Court, Delhi, S.C. No. 57/95), ASJ S.N. Dhingra (trial started in 1995, 11 years after massacre); *State v. Amir Chand* (Karkardooma, Delhi S.C. 39/95) ASJ S.N. Dhingra: "By simply delaying the trial and delaying the investigation, aged and old witnesses have either become extinct or untraceable and the accused get benefit." *Aff.* of Vrinda Grover, New Delhi ¶ 7 at <http://www.carnage84.com/judge/analysis.htm>.

⁶³⁸ *State v. Kishori* (Karkardooma, Delhi S.C. No. 42/95) Dhingra: "In almost all the cases witnesses have stated that their statement was not correctly recorded." *Aff.* of Vrinda Grover, New Delhi ¶ 21, at <http://www.carnage84.com/judge/analysis.htm>. In one case, *State v. Kanak Singh* (Karkardooma, Delhi, S.C. No. 18/95), the police just translated the English FIR into Hindi and had the witness sign it. That was considered to be the investigation. *Aff.* of Vrinda Grover, New Delhi ¶ 27 at <http://www.carnage84.com/judge/analysis.htm>.

⁶³⁹ ASJ S.N. Dhingra said in *State vs. Kishori and Shabnam* (Karkardooma, Delhi S.C. No. 45/95) (8): "A single challan was filed in the court in respect of the killings of 200 after almost 8-10 years." *Aff.* of Vrinda Grover, New Delhi ¶ 9 at <http://www.carnage84.com/judge/analysis.htm>.

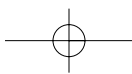
⁶⁴⁰ *Aff.* of Vrinda Grover, New Delhi ¶ 6 at <http://www.carnage84.com/judge/analysis.htm>.

⁶⁴¹ Karkardooma, Delhi, S.C. No. 18/95.

⁶⁴² *Aff.* of Vrinda Grover, New Delhi ¶ 27 at <http://www.carnage84.com/judge/analysis.htm>.

⁶⁴³ Jain and Aggarwal, Jain Aggarwal Report, ¶ 5.9.

⁶⁴⁴ *Id.*, ¶ 5.10.



untraceable, the Jain-Aggarwal Committee located them in Delhi and found that the police had fabricated their statements, omitting the deaths of their husbands.⁶⁴⁵

The charge-sheets also omitted key eye-witnesses. In the case against Rajinder Prasad alias Raj Bania, the charge-sheet did not include the names of the petitioner's four daughters – all of whom had witnessed the murder of their father. Thus, the prosecution and police ensured the acquittal of the defense through reliance on faulty charge-sheets.

In 1995, a district court in the state of Uttar Pradesh sentenced constable Tilak Ram to death for murdering five Sikhs in 1984. He shot and killed five Sikhs while they slept in the local police station where they had taken refuge. The court had rejected Ram's plea of insanity.⁶⁴⁶ The same year, another magistrate, Additional Sessions Judge Shiv Narain Dhingra sentenced 44 people for participating in rioting. In September 1996, he imposed a death sentence on Kishori Lal, and also sentenced another 89 perpetrators to five-year jail terms for crimes such as arson, rioting and looting.⁶⁴⁷

The Supreme Court judgment in *Kishori v. State of Delhi* provides insight into the rationale guiding judicial deliberations on the massacres. Because of his trade as a butcher and role in killing Sikhs during the massacres of November 1984, Kishori Lal received the nickname of the "butcher of Trilokpuri." He has the distinction of being one of the few people who has received a life sentence for his role in the massacres. The Sessions Court sentenced him to death in September 1996 for the murders of five Sikh men, in October for the murders of three Sikh men, and in November for the murders of four Sikh men.⁶⁴⁸ On appeal, Kishori's sentence was confirmed in all but four murders.⁶⁴⁹ In December 1998, the Supreme Court bench of Justice G.T. Nanavati, who heads the current inquiry commission, and S. Rajendru Babu examined whether Kishori's sentence should be commuted to a life sentence.

This case shows how the prosecution itself attempted to mitigate the harm caused by the murderers, the judiciary justified and conceived of the massacres, and the Supreme Court hampered future prosecutions. First, the prosecution stressed that the violence broke out as a spontaneous reaction to Mrs. Gandhi's assassination, giving credence to Kishori's defense of extreme emotional disturbance. Second, the justices explained away Kishori's twelve murders by mischaracterizing the mobs' behavior and finding that the pressures of the mob and "the influence of collective fury" mitigated his intent to kill. Unlike their depiction, however, the mobs came armed; they did not just happen to pick up a weapon "which [wa]s close by." Third, the justices stated that in the absence of medical evidence, they could not determine whether the specific injuries Kishori inflicted resulted directly in the deaths of the victims. Given the police's quick cremation of bodies and failure to perform post mortems,⁶⁵⁰ it

⁶⁴⁵ *Id.*, Chapter 5, PS Nangloi.

⁶⁴⁶ Indian Policeman Sentenced to Death, *United Press Int'l* (Jan. 14, 1995).

⁶⁴⁷ John F. Burns, A Decade after Massacre, Some Sikhs Find Justice, *New York Times* (Sept. 16, 1996), A4.

⁶⁴⁸ First to be Awarded Death Sentence, *Times of India* (Jan. 6, 2000).

⁶⁴⁹ *Kishori v. State of New Delhi*, 1/12/98, G.T. Nanavati and S.Rajendru Babu.

⁶⁵⁰ *Aff. of Vrinda Grover*, *New Delhi* ¶ 33 at <http://www.carnage84.com/judge/analysis.htm>.

would be difficult to meet this requirement of medical evidence. Fourth, the justices condoned the mobs' failure to obey the Constitution, stating "when normal life breaks down and groups of people go beserk losing balance of mind, nor can we expect... [them] to be alive to such high ideals." Indicative of Nanavati's upcoming commission report, Justices Nanavati and Babu stressed that the massacres were not organized.

On December 23, 2002, another major perpetrator, MP Sajjan Kumar, was acquitted in the last case remaining against him.⁶⁵¹ This case illustrates the government delays and impact of police manipulation of evidence. The police had earlier closed all cases against Kumar, never filing a charge sheet.⁶⁵² Only after the Poti-Rosha committee recommended the institution of a case against Kumar, based on the affidavit of Anwar Kaur regarding the murder of her husband, did the CBI register a case on September 7, 1989. In 1992, the CBI applied for prosecution sanction – required by the State for the arrest or prosecution of public servants⁶⁵³ – but received no response for two years from the government of Prime Minister Narasimha Rao (who was Home Minister in November 1984). After M.L. Khurana began to push for the grant of sanction, the CBI was finally able to file its charge sheet in court in December 1994 and record the statements of witnesses in 1999, 15 years after the massacres. Two witnesses testified to seeing Kumar addressing meetings on October 31, exhorting people to kill Sikhs. Anwar Kaur gave her testimony and stood by her statement for two days of cross-examination. On the third day, the reporter recorded a confusing statement where Anwar Kaur first vehemently stood by her testimony of the previous days, and then stated the contrary. Harvinder S. Phoolka, senior advocate representing the victims, attributed this to a recording error – the insertion of one negative word.⁶⁵⁴

The next five witnesses called by the prosecution turned hostile. Kumar's two witnesses, both police officers, had recorded the Sultanpuri omnibus FIR. The Sessions Judge Manju Goel acquitted Sajjan Kumar on the basis of the police officers' testimony that none of the witnesses had mentioned Kumar in their FIRs or testimonies, failing to account for police manipulation of FIRs and testimonies.⁶⁵⁵ The same rationale had also led to the dismissal of the first case against Kumar because the FIRs produced by the Mangolpuri police did not contain his name.⁶⁵⁶ Thus, by tampering with and falsifying the FIRs, and failing to record the names of certain perpetrators, the police managed to preclude most of the prosecutions.

In July 2003, the CBI appealed the acquittals. In late November 2003, the CBI argued before the Delhi High Court that the Sessions Judge had wrongly acquitted Sajjan Kumar and nine others.⁶⁵⁷ The CBI drew on the trial court's use of witnesses' statements before inquiry commissions, alleging that based on Supreme Court precedent and the Commission of Inquiry Act, such statements

⁶⁵¹ Sajjan Kumar, 16 Others Acquitted in '84 Riots Case, OutlookIndia (Dec. 24, 2002) at http://www.outlookindia.com/pti_print.asp?id=106796.

⁶⁵² Harvinder Singh Phoolka, The Case Against Sajjan Kumar.

⁶⁵³ Sections 45 or 197 of the Code of Criminal Procedure.

⁶⁵⁴ Harvinder Singh Phoolka, The Case Against Sajjan Kumar.

⁶⁵⁵ Id.. See also, Court Records Final Statement of Sajjan Kumar in '84 Riot Case, Press Trust of India (Feb. 16, 2002); Court Records Final Statement of '84 Riot Accused, Press Trust of India (Feb. 18, 2002).

⁶⁵⁶ Id.

⁶⁵⁷ Sajjan Kumar Wrongly Acquitted in '84 Riots Case: CBI, Hindustan Times (Nov. 25, 2003).

were not admissible in trial.⁶⁵⁸ Eight victims and the Shiromani Gurudwara Prabandak Committee also filed appeals.⁶⁵⁹ In April 2004, the Delhi High Court criticized the CBI for its delay in filing its appeal. It ordered the CBI to explain its “casualness” and “negligence” in initiating the appeal, due within three months of the original verdict of December 2002.⁶⁶⁰ A month later, the High Court issued notice to Kumar, fixing the date of the hearing of his appeal and the CBI’s explanation for its delay in filing, on July 17, 2004.⁶⁶¹

The issue of witnesses turning hostile in court and recanting or contradicting earlier affidavits also led to the dismissal of the case against current Union Minister Jagdish Tytler. In their affidavits to the Misra Commission, two widows described how on November 1, 1984, at Kabir Basti, Sabzi Mandi, a gang, instigated by SHO Jai Bhagwan Malik and ACP Raghbir Singh and supported by Tytler, killed ten Sikhs, including their husbands. The cases were closed, however, after the women claimed they could not identify their husbands’ killers. Later, however, the two women and another man whose son had been killed filed criminal writ petitions, and the Delhi High Court directed the Central Bureau of Investigation (CBI) to examine their allegations. After the CBI filed closure reports in court, the court summoned the widows who stated again that they could not recognize the perpetrators and also made allegations of false affidavits filed with their thumbprints. The oath commissioner also denied that he attested those affidavits.⁶⁶²

SHO Jai Bhagwan Malik and ACP Raghbir Singh took charge after Additional CP Jatav transferred two Sikh officers who had been acting aggressively to control the violence and looting, taking preventative action even on October 31.⁶⁶³ In addition to the two widows, several other survivors filed allegations of instigation of killings by SHO Malik, ACP Raghbir Singh and Tytler. They, however, were not called to court. Pritam Kaur, for example, narrated how the gang burned alive her husband and son. SHO Malik and ACP Raghbir Singh instigated the gang, stating “Do not spare any one; do not leave any evidence.” The Misra Commission cross-examined Pritam Kaur and she stood by her statements.⁶⁶⁴ The Delhi Administration tried to contest Pritam Kaur’s allegations by stating that Malik and Singh had not yet taken charge. This was refuted by the police’s own records regarding the transfer⁶⁶⁵ – other deponents, not including the two widows who brought the case, made statements corroborating Pritam Kaur’s affidavit.⁶⁶⁶

⁶⁵⁸ *Id.*

⁶⁵⁹ ‘84 Riots: HC Notice for Sajjan Kumar, ExpressIndia (May 18, 2004) at <http://cities.expressindia.com/fullstory.php?newsid=84322>.

⁶⁶⁰ Anti-Sikh Riots: CBI Asked to Explain Delay in Appealing Acquittals, Kerala Next (Apr. 6, 2004).

⁶⁶¹ ‘84 Riots: HC Notice for Sajjan Kumar, ExpressIndia (May 18, 2004) at <http://cities.expressindia.com/fullstory.php?newsid=84322>.

⁶⁶² Court Accepts CBI’s Clean Chit to Tytler, Times of India (Aug. 10, 1999).

⁶⁶³ Mittal, Mittal Report, ¶ 2.47 - 2.50.

⁶⁶⁴ *Id.*, ¶ 2.51.5.

⁶⁶⁵ *Id.*

⁶⁶⁶ *Id.*, ¶ 2.51.6.

The cases against HKL Bhagat faced similar obstacles caused by police manipulating and destroying records and evidence. Despite the numerous eyewitness accounts attributing Minister and MP HKL Bhagat with instigating, organizing and participating in the massacres, as well as numerous government committee recommendations to institute cases against him, Bhagat held four ministerial posts under Rajiv Gandhi. He also served as head of the Congress Party in New Delhi.⁶⁶⁷ In January 1996, a judge ordered the registration of a case against Bhagat based on testimony of a woman whose husband was killed by him. On January 24, Bhagat was arrested and brought to court⁶⁶⁸ and sentenced to two weeks in jail in anticipation of his trial.⁶⁶⁹ Bhagat was later acquitted in this case, as well as in three others.⁶⁷⁰

In December 2000, Bhagat was acquitted in the fifth and last case against him brought by Darshan Kaur. This case reinforces the problems inherent in government prosecution of government employees or political leaders. The judge found Darshan Kaur's testimony to be inconsistent and, because of the lack of other corroborating evidence, especially witnesses, acquitted Bhagat. Collecting witnesses was the responsibility of the prosecution. The prosecution submitted Kaur's statement as recorded by the police, even though the prosecution admitted that the police did not "act in an honest manner" while recording her statement. The prosecution, however, did not even question the police about their failure to properly record her statement.⁶⁷¹ Darshan Kaur appealed, however, and in February 2004, the Delhi High Court issued a bailable warrant against Bhagat and he has been called to appear before Justice R.S. Sodhi on July 19, 2004.⁶⁷²

In light of this administrative and judicial impunity, the victims have had to resort to other avenues of activism to highlight their demands for justice and redress. In March 1991, more than six years after the massacres, five hundred families walked 400 miles from Delhi to Punjab, carrying their possessions, to ask for relief from the Punjab government.⁶⁷³ More recently, a widows group threatened "drastic" action, like self immolation,⁶⁷⁴ unless the CBI conducted an inquiry into the organized killings and the roles of Bhagat, Tytler, and Sajjan Kumar.⁶⁷⁵ However, when the Congress Party's election committee for Delhi convened its meeting in October 2003, it included former MPs Sajjan Kumar and Jagdish Tytler,⁶⁷⁶ both of whom received party nominations and won in the 2004 Lok Sabha elections. Thus, after 20 years, the perpetrators and organizers of the Delhi carnage continue to enjoy the impunity granted to them by the Indian government.

⁶⁶⁷ John F. Burns, A Decade after Massacre, Some Sikhs Find Justice, *New York Times* (Sept. 16, 1996), A4.

⁶⁶⁸ Former Indian Cabinet Minister Arrested for Anti-Sikh Riots, *Agence French Press* (Jan. 24, 1996).

⁶⁶⁹ India's Ex-Minister Jailed for Riots, *United Press Int'l* (Feb. 7, 1996).

⁶⁷⁰ Trial in Pending Bhagat Case to Resume, *The Hindu* (Sept. 16, 2000).

⁶⁷¹ Bhagat Acquitted in Anti-Sikh Riot Case, *Times of India* (Dec. 24, 2000).

⁶⁷² Warrants Issued Against Congress Leader Bhagat, *Kerala Next* (Feb. 5, 2004).

⁶⁷³ Christopher Thomas, Sikh Riot Victims March to Punjab, *Times (London)* (Mar. 28, 1991).

⁶⁷⁴ Varinder Walia, Five Riot Widows Chosen for Immolation Today, *Tribune* (June 3, 2003) at <http://www.tribuneindia.com/2003/20030603/main3.htm>.

⁶⁷⁵ '84 Riot Victims Form "Widows Jatha," *Tribune* (Dec. 5, 2002) at <http://www.tribuneindia.com/2002/20021205/ncrt.htm#14>.

⁶⁷⁶ Delhi Sikh Voters in a Cong Snare, *Business Standard* (Oct. 7, 2003).

CHAPTER 6

Genocide

Naming the Crime

The Indian government has labeled the massacres of Sikhs following Indira Gandhi's assassination as a "riot," defined as "a wild or turbulent disturbance created by a large number of people."⁶⁷⁷ The label of a "riot" not only mischaracterizes the massacres, but it also purposefully masks the most brutal dimensions. This chapter focuses on the possible human rights crimes that could more accurately describe and capture what happened during the pogroms of November 1984, specifically:

- (1) The targeting of a religious group for murder and extermination, as evidenced by:
 - a. Slogans calling for the death of all Sikhs;
 - b. Repeated attacks by gangs to ensure that all Sikhs were killed;
 - c. Direct targeting of Sikh property;
 - d. Destruction of symbols and structures of the Sikh faith; and
 - e. Perpetration of other crimes such as rape and sexual assault, beatings and physical attacks, looting and stealing, extortion, acts of humiliation such as stripping, and mutilation of corpses.⁶⁷⁸
- (2) Police participation and instigation of the murders, as well as manipulation of records and destruction of evidence precluding criminal accountability; and
- (3) Organized and systematic implementation of the carnage, characterized by:
 - a. A systematic and uniform method of killing;
 - b. Public meetings the night before the initiation of the massacres where leaders distributed weapons and exhorted attendees to kill Sikhs;
 - c. Organized dissemination of rumors;
 - d. Effective identification of Sikhs through lists;
 - e. Organized transportation of gangs of assailants; and
 - f. Large-scale provision and distribution of weapons and kerosene.

Discussing the complexities of the law on genocide, this chapter explores the judgments of the international criminal tribunals.

The International Criminal Tribunal for the former Yugoslavia (ICTY) stressed the importance of maintaining the rigor of the definition of genocide:

⁶⁷⁷ Dictionary.com at <http://dictionary.reference.com/search?q=riot&db=%2A>.

⁶⁷⁸ International Crisis Group, *Reality Demands: Documenting Violations of International Humanitarian Law in Kosovo 1999* (June 27, 2000), 212-3 (draws from the list of crimes compiled by ICG that occurred in Kosovo).

The gravity of genocide is reflected in the stringent requirements which must be satisfied before this conviction is imposed. These requirements... guard against a danger that convictions for this crime will be imposed lightly. Where these requirements are satisfied, however, the law must not shy away from referring to the crime committed by its proper name.⁶⁷⁹

We do not embark on this exploration of the law of genocide in order to make a case for genocide; we are not arguing before a court. Our aim goes beyond that. We hope to use this discussion to gain a stronger understanding of all of the characteristics and patterns of conduct defining the November 1984 carnage, towards proposing further issues of study and advocacy. In its report *Reality Demands*, documenting violations of international humanitarian law in Kosovo in 1999, the International Crisis Group engaged in a similar discussion of the application of the laws of genocide and crimes against humanity. It warned:

[I]t may indeed be detrimental to the cause of international peace and justice to use terms without proper consideration of their true scope and meaning. Thus, if the genocide label is attached to situations that perhaps do not satisfy the legal definition, it loses substantial force and effect as an expression of the most supreme horror and condemnation. A further consequence is that those who genuinely seek to argue that genocide has occurred, or is occurring, are perhaps not taken as seriously as they might deserve to be.⁶⁸⁰

We hope this discussion will encourage readers to move beyond labels imposed over the last 20 years and instead, draw their own conclusions as they incorporate the analysis contained in this report, demonstrating the horrific nature of the crimes, the government's role and callous response, and the 20 years of impunity.

Origins of "Genocide"

In his November 1944 work, *Axis Rule in Occupied Europe*, Polish jurist Raphael Lemkin coined the word genocide, combining the ancient Greek word *genos*, meaning race or tribe, and the Latin word *cide*, meaning killing.⁶⁸¹ Having lost his family in the Holocaust, Lemkin embarked on an analysis of German occupation policies. In these works, he defined genocide as "a coordinated plan aimed at destruction of the essential foundations of the life of national groups."⁶⁸² He proposed a broad definition of genocide, incorporating not only attempts at the physical destruction of a group, but also political, social, cultural, economic, biological, religious, and moral genocide.⁶⁸³ Lemkin stressed

⁶⁷⁹ Prosecutor v. Radislav Krstic, Case No. IT-98-33-A (April 19, 2004), ¶ 37.

⁶⁸⁰ International Crisis Group, *Reality Demands*, 34.

⁶⁸¹ Sonali B. Shah, Comment, The Oversight of the Last Great International Institution of the Twentieth Century: The International Criminal Court's Definition of Genocide, 16 *Emory Int'l L. Rev.* 351, 353 (2002).

⁶⁸² Raphael Lemkin, *Genocide, A Modern Crime* at <http://www.preventgenocide.org/lemkin/freeworld1945.htm>.

⁶⁸³ Leo Kuper, *Genocide: Its Political Use in the Twentieth Century* (1981), 30.

that genocide was a crime directed against groups, with the attack on the individual being secondary to the attack on the group.⁶⁸⁴

On December 11, 1946, as a result of Lemkin's lobbying efforts in the United Nations (UN), the General Assembly passed Resolution 96(1), stressing the following elements of genocide: (1) genocide was independent of crimes against peace or war crimes;⁶⁸⁵ (2) religious, racial, political, and other groups were protected; and (3) both public and private individuals could be held accountable. The Resolution requested the Economic and Social Council (ECOSOC) of the UN to make preliminary studies towards drawing up a draft convention.⁶⁸⁶

Fifty-six states unanimously adopted the Convention on the Prevention and Punishment of the Crime of Genocide (1948) ("Genocide Convention"), the first human rights instrument adopted by the UN,⁶⁸⁷ on December 8, 1948.⁶⁸⁸ Although steeped in the recent memory of and desire to condemn the Holocaust,⁶⁸⁹ the Genocide Convention did not specifically refer to it.

The Convention contains 19 articles. Article 1 of the Convention reaffirms that genocide is a crime under international law, irrespective of the context of war or peace. Article 2 of the Genocide Convention defines genocide as:

Any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.⁶⁹⁰

This list of acts is restrictive, rather than illustrative.⁶⁹¹ In Article 3, the Convention defines the following crimes: conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide, complicity in genocide, and genocide itself. Article 4 holds both private individuals and public officials accountable for acts of genocide. In Article 5, the Convention places an obligation on State parties to adopt domestic legislation to "give effect" to the Convention, providing for effective punishment of individuals guilty of genocide.

The Convention has 133 parties and 41 signatories. India signed it on November 29, 1949 and ratified it August 27, 1959.⁶⁹²

⁶⁸⁴ Raphael Lemkin, *Genocide, A Modern Crime*.

⁶⁸⁵ Leo Kuper, *Genocide*, 23.

⁶⁸⁶ *Id.*

⁶⁸⁷ Jennifer Balint, *United Nations Convention on Genocide*, in Israel W. Charny, ed., *Encyclopedia of Genocide* (Santa Barbara, Calif.: ABC-CLIO, 1999), 576.

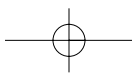
⁶⁸⁸ Shah, *The Oversight*, 354.

⁶⁸⁹ Matthew Lippman, *Article, Genocide: The Crime of the Century, the Jurisprudence of Death at the Dawn of the New Millennium*, 23 *Hous. J. Int'l L.* 467, 471-2 (2001).

⁶⁹⁰ *Convention on the Prevention and Punishment of the Crime of Genocide*, Dec. 9, 1948, G.A. Res. 260A (III), U.N. GAOR, U.N. Doc. A/810 (1948), 78 U.N.T.S. 277 (entered into force Jan. 12, 1951).

⁶⁹¹ Shah, *The Oversight*, 358.

⁶⁹² Status of Genocide Convention at <http://www.unhcr.ch/html/menu3/b/treaty1gen.htm>. Last updated Oct. 9, 2001.



Requirements of Genocide

In *Prosecutor v. Akayesu*,⁶⁹³ the International Criminal Tribunal for Rwanda (ICTR) provided an ordered analysis for determining whether genocide had occurred in Rwanda in 1994. In its first step, the Chamber asked if at least one of the enumerated acts in Article 2 of the Genocide Convention had occurred. In Delhi, for example, during the massacres of Sikhs, the evidence is clear that mobs killed and caused serious bodily and mental harm to the Sikhs, fulfilling this element of genocide.

Two major parameters frame the second step of the genocide analysis – the inquiry regarding the intent element in the definition of genocide. On the one hand is the necessity of a finding of specific intent to destroy a group based on national, ethnical, racial or religious grounds. As Lemkin wrote, the intent to destroy based on these grounds is what distinguishes genocide from mass murder.⁶⁹⁴ On the other hand, the requirement of intent presents evidentiary difficulties for parties trying to prove genocide in a court of law. While the Nazis declared and documented their intent and immediate evidence was recovered, a similar paper trail has not surfaced in subsequent genocides.⁶⁹⁵ In the case of the Sikhs, authorities have already destroyed key evidence, such as police reports, Ved Marwah's handwritten notes from his inquiry into the police's role, and affidavits of key deceased Army leaders. Despite this, the slogans of extermination, public speeches urging the elimination of Sikhs, over one thousand contemporary affidavits of survivors and witnesses, government committee reports, other police and government records, and survivors themselves can provide evidence of intent, as discussed below.

Definition of Intent

The intent element in the definition of genocide requires a finding of specific intent. In *Akayesu*, the Trial Chamber stated that specific intent meant (1) the perpetrator targeted a particular group because of its group identity, (2) with the overall aim of destroying the group.⁶⁹⁶ The International Law Commission (ILC) also interpreted the destruction element as adding to the specificity of the intent requirement, highlighting the perpetrator's intended consequences as determinative:

[A] general intent to commit one of the enumerated acts combined with a general awareness of the probable consequences of such an act with respect to the immediate victim or victims is not sufficient for the crime of genocide. The definition of this crime requires a *particular state of mind* or a *specific intent* with respect to the overall consequence of the prohibited act.⁶⁹⁷

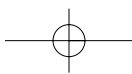
⁶⁹³ *Prosecutor v. Jean-Paul Akayesu*, Case no. ICTR-96-4-T (Sept. 2, 1998).

⁶⁹⁴ Raphael Lemkin, *Genocide* (Apr. 1946) at <http://www.preventgenocide.org/lemkin/americanscholar1946.htm>.

⁶⁹⁵ M. Cherif Bassiouni, Introduction to the Symposium: The Normative Framework of International Humanitarian Law: Overlaps, Gaps and Ambiguities, 8 *Transnat'l L. & Contemp. Probs.* 199 (1998); Leo Kuper, *Genocide*, 35.

⁶⁹⁶ Henry Steiner and Phillip Alston, *International Human Rights in Context* (2nd ed. New York: Oxford Univ. Press, 2000), 1185 quoting *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T (Sept. 2, 1998).

⁶⁹⁷ *Prosecutor v. Radislav Krstic*, Case no. IT-98-33-T (Aug. 2, 2001), n1270, ¶ 571, citing ILC Draft Code, p.88.



Similarly, in *Prosecutor v. Krstic*, the Trial Chamber used genocide only to refer to those “acts committed with the goal of destroying all or part of” the group.⁶⁹⁸ The Appeals Chamber in *Prosecutor v. Jelisić*⁶⁹⁹ emphasized the necessity of distinguishing intent from motive. The existence of a personal motive, such as to secure economic benefits, does not preclude a finding of specific intent.⁷⁰⁰

Inference of Intent

The tribunals recognize that they will rarely find explicit avowals to eliminate a group. Thus, both tribunals agree that intent can be inferred from facts if the defendants do not confess.⁷⁰¹ In their discussions of the relevant factors, both tribunals have stressed the deliberate and systematic nature of the acts, the methodical manner of killing, as well as the scale and character of the acts directed against the target group.⁷⁰² In *Akayesu*, the Trial Chamber highlighted the “undeniable scale, the[] systematic nature and the[] atrociousness” of the killings as evidence of specific intent to exterminate the targeted group.⁷⁰³

The expert witnesses in *Akayesu* identified more specific factors, adopted by the Trial Chamber. Dr. Alison Desforges spoke of statements made by political leaders and songs and slogans used by the Interahamwe as evidence of Akayesu’s intent to commit genocide. Dr. Ronie Zacariah, another expert witness, testified that the Achilles’ tendons of many wounded people had been cut, and the Chamber emphasized the “resolve of the perpetrators of these massacres not to spare any Tutsi.”⁷⁰⁴ The Chamber found that Akayesu was present when Tutsis were killed⁷⁰⁵ and he even addressed a public meeting, ordering Hutus to harm or kill the “enemy.”⁷⁰⁶ Similarly, the speeches of the Congress (I) leaders on October 31 exhorted non-Sikhs to kill Sikhs; mobs chanted slogans to kill the Sikhs; and mobs burned Sikhs alive and returned to Sikh residences repeatedly to ensure no chance for survival.

In discussing the meticulous organization of the violence, the Trial Chamber highlighted the use of lists to eliminate Tutsis.⁷⁰⁷ The Chamber also focused on the “physical targeting of the group or their property” and “the weapons employed and the extent of bodily injury,”⁷⁰⁸ both of which are discussed in this report in the context of the massacres of Sikhs, as well. The use of kerosene as a weapon, for example, ensured that Sikhs were killed rather than injured and alive, and Congress (I) party leaders distributed government-issued voter and ration lists to identify their Sikh targets.

⁶⁹⁸ *Id.*

⁶⁹⁹ *Prosecutor v. Goran Jelisić*, Case no. IT-95-10-A (July 5, 2001).

⁷⁰⁰ *Id.*, ¶ 49.

⁷⁰¹ David Alonzo-Maizlish, Note, In Whole or in Part: Group Rights, The Intent Element of Genocide, and the ‘Quantitative Criterion’, 77 N.Y.U. L. Rev. 1369, 1387 (2002); *Id.*, 1373-4.; See Lippman, Genocide: The Crime of the Century, 504, 509.

⁷⁰² Lippman, Genocide: The Crime of the Century, 509; *Akayesu*, Case No. ICTR-96-4-T, ¶ 523, n.41; David Alonzo-Maizlish, In Whole or in Part, 1387; *Jelisić*, Case no. IT-95-10-A, ¶ 47.

⁷⁰³ *Akayesu*, Case No. ICTR-96-4-T, ¶ 118.

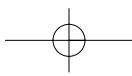
⁷⁰⁴ Steiner and Alston, International Human Rights, 1180, citing *Akayesu*, Case No. ICTR-96-4-T.

⁷⁰⁵ Jeffrey S. Morton, The International Legal Adjudication of the Crime of Genocide, 7 ILSA J. Int’l & Comp. L. 329, 347 (2001).

⁷⁰⁶ Lippman, Genocide: The Crime of the Century, 510.

⁷⁰⁷ *Akayesu*, Case No. ICTR-94-4-T, ¶ 126.

⁷⁰⁸ Alonzo-Maizlish, In Whole or in Part, 1388.



In a joint judgment, *Prosecutor v. Kayishema and Ruzindana*,⁷⁰⁹ the Rwanda tribunal convicted both defendants of genocide after inferring specific intent. In these cases, the Chamber cited similar factors as the *Akayesu* Chamber, such as the number of victims, the methodical pattern of conduct, the weapons used, the statements made by Kayishema calling Tutsis the enemy of Rwanda, the use of words referencing Tutsis as dirt and filth,⁷¹⁰ and the songs about exterminating the Tutsis.⁷¹¹ Whereas Kayishema held a political position as the Prefect of Kibuye, Ruzindana was a commercial trader.⁷¹² The Trial Chamber used the following acts of Kayishema to infer his specific genocidal intent:

At the crime sites where he was found to have participated, Kayishema committed one or more of the following acts: headed the convoy of assailants; transported attackers in his vehicle; directed the initial positioning of the attackers; verbally encouraged them; initiated the attacks by orders or gunshots; lead the groups of attackers; shot at fleeing Tutsis; and, finally, thanked the Hutu attackers for their “work.”⁷¹³

The Trial Chamber inferred Ruzindana’s specific intent based on the following acts:

At the sites where he was found to have participated, Ruzindana committed one or more of the following acts: Headed the convoy of assailants; transported attackers in his vehicle; distributed weapons; orchestrated the assaults; lead the groups of attackers; shot at the Tutsi refugees; and, offered to reward the attackers with cash or beer.⁷¹⁴

Subsequent trials at the ICTR highlighted similar evidence.⁷¹⁵ Like Kayishema and Ruzindana, Congress (I) party officials arranged buses for transporting assailants, procured expensive kerosene for use by assailants, exhorted gangs of assailants to kill Sikhs, rewarded assailants with alcohol and money, and controlled, directed, encouraged, and often led the assailants in their attacks.

The Yugoslav tribunal has focused on similar factors when inferring intent. In its Rule 61 order in *Prosecutor v. Nikolic*, the Chamber looked at language and uniformity, highlighting the “uniform methods used in committing the said crimes, their pattern, [and] their pervasiveness throughout all of the Bosnian Serb-held territory.”⁷¹⁶ In its review of the *Karadzic* and *Mladic* indictment, the Trial Chamber inferred intent from “the perpetration of acts which violate, or which the perpetrators themselves consider to violate, the very foundation of the group.”⁷¹⁷ Thus, the Chamber highlighted the systematic rape

⁷⁰⁹ *Prosecutor v. Clement Kayishema and Obed Ruzindana*, Case no. ICTR-95-1-T (May 21, 1999).

⁷¹⁰ *Id.*, ¶ 538.

⁷¹¹ *Id.*, ¶ 539.

⁷¹² *Id.*, ¶ 20, 24.

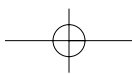
⁷¹³ *Id.*, ¶ 568.

⁷¹⁴ *Id.*, ¶ 571.

⁷¹⁵ See, e.g., *Prosecutor v. George Rutaganda*, Case no. ICTR-96-3-T (Dec. 6, 1999), ¶ 315.

⁷¹⁶ William Schabas, Essay, Legal Perspectives and Analyses: Was Genocide Committed in Bosnia and Herzegovina? First Judgments of the International Criminal Tribunal for the Former Yugoslavia, 25 *Fordham Int'l L.J.* 23, 27 (Nov. 2001) quoting *Prosecutor v. Radovan Karadzic*, Case Nos. IT-95-5-R61, IT-95-18-R61, ¶ 84, 25.

⁷¹⁷ Lippman, *Genocide: The Crime of the Century*, 504, n314.



of women, and the destruction of mosques, churches and libraries, destroying the biological, religious and cultural foundations of the Bosnian population,⁷¹⁸ comparable to the rape of Sikh women, cutting of Sikh hair, defiling of Sikh scriptures, and primary attacks on gurudwaras. In *Prosecutor v. Krstic*, the Trial Chamber also highlighted the concealment of bodies in mass graves, subsequent mutilation of bodies, and reburials of bodies, "thereby preventing any decent burial in accord with religious and ethnic customs and causing terrible distress to the mourning survivors, many of whom have been unable to come to a closure until the death of their men is finally verified."⁷¹⁹ Since the assailants charred Sikhs beyond recognition, many Sikh families also never learned of the ultimate fate of their loved ones. Even when the police collected the bodies of dead Sikhs, as in the case of the relative of President Zail Singh, they did not return the bodies to the families for the last religious rites.

Plan

Although Lemkin wrote about genocide in the context of government plans, the drafters of the Genocide Convention rejected "proposals to include an explicit requirement that genocide be planned by the government."⁷²⁰ In *Prosecutor v. Jelusic*,⁷²¹ the Trial Chamber discussed whether the existence of a plan to exterminate a group was an element of genocide or a major factor. During a two-week period, Jelusic served as the principal executioner at the Luka camp. He systematically killed Muslim inmates at the camp, the majority of whom were community leaders.⁷²²

Judge Claude Jorda found that the Prosecution had failed to prove the perpetration of genocide because it had not shown a general or regional plan to destroy the Bosnian Muslims, in whole or in part.⁷²³ However, the Trial Chamber did not require a plan as an element of the crime of genocide:

[T]he preparatory work of the Convention of 1948 brings out that premeditation was not selected as a legal ingredient of the crime of genocide, after having been mentioned by the ad hoc committee at the draft stage, on the grounds that it seemed superfluous given the special intention already required by the text and that such precision would only make the burden of proof even greater. It ensues from this omission that the drafters of the Convention did not deem the existence of an organisation or a system serving a genocidal objective as a legal ingredient of the crime. In so doing, they did not discount the possibility of a lone individual seeking to destroy a group as such.⁷²⁴

⁷¹⁸ *Id.*, 505. See also *Krstic*, Case no. IT-98-33-T, ¶ 595 (inferring intent from destruction of Muslim homes and mosques).

⁷¹⁹ *Krstic*, Case no. IT-98-33-T, ¶ 596.

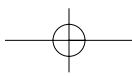
⁷²⁰ Schabas, *Legal Perspectives and Analyses*, 32-3.

⁷²¹ *Prosecutor v. Jelusic*, Case no. IT-95-10-T (Dec. 14, 1999).

⁷²² Schabas, *Legal Perspectives and Analyses*, 30.

⁷²³ *Id.*

⁷²⁴ *Id.*, 31.



The Trial Chamber observed the difficulty of proving specific intent if the violence was not widespread or backed by an organization or system.⁷²⁵ Thus, it was these qualities that influenced the intent determination, more so than the lack of a concrete plan.

The Appeals Chamber upheld the Trial Chamber's conclusion that a plan or policy was not a legal ingredient of the crime of genocide. The Appeals Chamber stressed, however, that when trying to prove specific intent, the existence or inference of a plan could become an important factor: "The evidence may be consistent with the existence of a plan or policy, or may even show such existence, and the existence of a plan or policy may facilitate proof of the crime."⁷²⁶ In *Kayishema and Ruzindana*, the Rwanda Tribunal also wrote that such a plan would be evidence of specific genocidal intent.⁷²⁷ Thus, the existence of a plan is not required to prove genocide, but can help in the determination of specific intent.

Especially important are characteristics that would lead to the *inference* of a plan, such as widespread violence, methodical killing, and the use of lists to identify victims, among other factors. When defining different characteristics of a genocidal plan, as inferred from facts, to destroy the Bosnian Muslim population of Srebrenica, the *Krstic* Trial Chamber discussed factors such as: the systematic nature of the violence and the catastrophic impact on the community,⁷²⁸ from permanent dismemberment to the elimination of male support in a patriarchal society. The Appeals Chamber upheld this inference.⁷²⁹ When looking at the massacres of Sikhs, we lack information on the silent, behind-the-scene perpetrators and the extent of involvement of the most senior government leaders, such as Prime Minister Rajiv Gandhi. However, the organization of meetings and provision of money and weapons; the use of voter lists to identify Sikhs and their properties; the large-scale distribution of kerosene; and the coordination of transportation, all point to the prior existence of a plan. The massacres also had a catastrophic impact on the Sikh community, with the destruction of family units, leaving widows and orphans, and the destruction of homes and businesses, forcing people to live for extended periods of time in relief camps and leave Delhi for Punjab, as at least 50,000 Sikhs did.

In Whole or In Part: A Quantitative Criterion?

Article 2 of the Genocide Convention further complicates the intent to destroy with the phrase "in whole or in part." This phrase appeared in the first draft of the Genocide Convention, was removed in the second draft, but reappeared in the final draft.⁷³⁰ The phrase has confounded scholars and courts as to its exact meaning. The Legal Committee itself questioned whether the phrase should refer to a baseline proportion or number of people killed.⁷³¹

⁷²⁵ Jelisić, Case no. IT-95-10-T, ¶ 101.

⁷²⁶ Schabas, *Legal Perspectives and Analyses*, 32 quoting Jelisić, Case n. IT-95-10-A, ¶ 48.

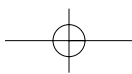
⁷²⁷ Schabas, *Legal Perspectives and Analyses*, 32; See also *Kayishema*, and *Ruzindana*, Case no. ICTR-95-1-T, ¶ 94.

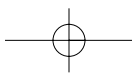
⁷²⁸ *Krstic*, Case No. IT-98-33-T, ¶ 595-6.

⁷²⁹ *Krstic*, Case No. IT-98-33-A, ¶ 35.

⁷³⁰ Kuper, *Genocide*, 31.

⁷³¹ *Id.*, 32.





Genocide scholars have provided a variety of viewpoints. Leo Kuper interprets the phrase to require “a ‘substantial’ or an ‘appreciable’ number” of victims as an element of genocide.⁷³² Because the phrase was part of the chapeau of genocide, William Schabas sees it as reflective of the intent of the perpetrators, not as a numerical threshold. The actual number of deaths, however, can help infer intent.⁷³³ The ILC also gave a similar interpretation of the phrase reflecting intent, rather than a quantitative threshold:

It is not necessary to intend to achieve the complete annihilation of a group from every corner of the globe. None the less the crime of genocide by its very nature requires the *intention* to destroy at least a substantial part of a particular group.⁷³⁴ [emphasis added]

In the report to the Sub-Commission on Genocide, the Special Rapporteur highlighted that the perpetrator can also possess the intent to destroy a qualitatively significant part of a particular group.⁷³⁵ The Final Report of the Commission of Experts described a significant part of the group as the political, intellectual, business, or administrative leaders. The report stressed that this attack on the leadership must be viewed in the context of further attacks on other members of the particular group.⁷³⁶

The decisions of the criminal tribunals, such as in *Kayishema and Ruzindana*, also reflect that “in whole or in part” signifies the intent to destroy a substantial number or significant part of the group, not necessarily the actual result.⁷³⁷ In *Kayishema and Ruzindana*, the tribunal viewed the number killed by the particular perpetrator as an important indicator of the accused’s intent, although not determinative. Beyond stating the relevance of the number or proportion killed as one factor, the tribunal did not further define a quantitative criterion.⁷³⁸

The tribunals have also interpreted geographical limitations arising from the “in whole or in part” phrase. In *Prosecutor v. Akayesu*, the Trial Chamber found Akayesu guilty of genocide because of acts he committed within a particular commune, not looking at the total numbers killed in Rwanda.⁷³⁹ Similarly, the ICTY has focused on genocide in particular regions or municipalities, rather than in the entire region of Bosnia. In *Jelisić*, the Trial Chamber affirmed that under customary international law, they could give a finding of genocide even if the exterminatory intent was restricted to a limited geographic area, such as a municipality.⁷⁴⁰

⁷³² Id.

⁷³³ Schabas, *Legal Perspectives and Analyses*, 40.

⁷³⁴ Id., 41, quoting Draft Code of Crimes Against the Peace and Security of Mankind, Report of the International Law Commission on the Work of its Forty-Eight Session, May 6-July 26, 1996, U.N. GAOR, 51st Sess., U.N. Doc. A/51/10, art. 17, Commentary 8 (1996).

⁷³⁵ *Kayishema and Ruzindana*, Case no. ICTR-95-1-T, ¶ 96; See also *Jelisić*, Case no. IT-95-10-T, ¶ 81-2.

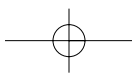
⁷³⁶ *Krstić*, Case No. IT-98-33-T, ¶ 587, n.1303.

⁷³⁷ Schabas, *Legal Perspectives and Analyses*, 41.

⁷³⁸ Alonzo-Maizlish, *In Whole or In Part*, 1388.

⁷³⁹ *Krstić*, Case No. IT-98-33-T, ¶ 582.

⁷⁴⁰ *Jelisić*, Case no. IT-95-10-T, ¶ 83.



In *Krstic*, the Trial Chamber affirmed that the killing of Bosnian Muslims in Srebrenica constituted genocide, defining the targeted part in geographic terms as Bosnian Muslims in Srebrenica. In supporting the Trial Court's definition of the targeted part, the Appeals Chamber listed the numeric size of the targeted part of the group, in absolute or proportional terms, as the starting part of the inquiry into what constituted a substantial, or significant, part of the group. The Chamber also discussed the prominence of the targeted part of the group, within the whole group, among other guiding factors.⁷⁴¹

The Appeals Chamber dismissed the Defense's claim that the Trial Chamber had actually defined the targeted part as the Bosnian Muslim men of military age in Srebrenica. Instead, the attack on these military-aged men allowed for the inference of intent to destroy the geographically limited group of Bosnian Muslims in Srebrenica: "[T]he physical destruction may target only a part of the geographically limited part of the larger group because the perpetrators of the genocide regard the intended destruction as sufficient to annihilate the group as a distinct entity in the geographic area at issue."⁷⁴² The Chamber maintained that the perpetrators intended to eliminate the Bosnian Muslims in the area as a community, through its destruction of the men and boys, forced transfer of the remaining community, and attack on religious and cultural symbols. Similarly, gangs predominantly killed Sikh men and boys in Delhi, partly because they were easier to identify as Sikhs, but also because of the disruptive impact this had on the patriarchal society, towards destroying the group itself.

Contrary to the majority of cases, two cases from the ICTY have proposed a threshold quantitative requirement, even prior to considering whether the requisite intent can be inferred. In *Prosecutor v. Sikirica*,⁷⁴³ the Chamber defined the "quantitative criterion" to require the destruction of a "reasonably significant number, relative to the total of the group as a whole, or else a significant section of a group such as its leadership."⁷⁴⁴ The Chamber decided not to use the detention camp, where the abuses occurred, as the relevant geographical locality. Instead, it looked at the municipality in which the camp was located.⁷⁴⁵ Thus, the camp held around 1000-1400 Muslims, compared to a population of 49,351 Muslims in Prijedor municipality. Because the population of the Muslims in the camp was only between 2 to 2.8% of the municipality's Muslim population, the Chamber found that this did not qualify as a reasonably substantial part.⁷⁴⁶ The Chamber hedged their finding by stating that the failure to destroy a substantial or significant part did not necessarily negate an inference of intent to destroy – it was this fact, considered in combination with other parts of the evidence, which negated the intent.⁷⁴⁷ The *Sikirica* Chamber, however, did not provide any further guidance on the quantitative threshold.

⁷⁴¹ *Krstic*, Case No. IT-98-33-A, ¶ 12-14.

⁷⁴² Schabas, *Legal Perspectives and Analyses*, 42 quoting *Krstic*, Case no. IT-98-33-T, ¶ 590.

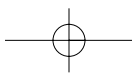
⁷⁴³ *Prosecutor v. Dusko Sikirica*, Case no. IT-95-8-T (Nov. 13, 2001).

⁷⁴⁴ Alonzo-Maizlish, *In Whole or In Part*, 1395 quoting *Prosecutor v. Sikirica*, IT-95-8-T (Sept. 3, 2001), ¶ 65.

⁷⁴⁵ *Id.*, 1396.

⁷⁴⁶ *Id.*, quoting *Sikirica*, Case no. IT-95-8-T, ¶ 72.

⁷⁴⁷ *Sikirica*, Case no. IT-95-8-T, ¶ 75.



The quantitative criterion has come under criticism for altering the definition of intent; posing an insurmountable obstacle, without clear guidelines,⁷⁴⁸ to the prosecution of genocide; placing the number killed as the primary factor, instead of as one of many evidentiary factors;⁷⁴⁹ and challenging the group right to exist. In *Reality Demands*, the ICG condemned the quantitative criterion:

Those who seek to deny that genocide has occurred on the basis of a body count do the term an injustice. It is clear from the very words of the definition in the Convention that more than killing is envisaged. The target of the crime is the group and the destruction of the group, or part of it, is the objective.⁷⁵⁰

The predominant interpretation of “in whole or in part” is that this phrase further defines the intent requirement, as discussed above. If the courts instead decided to employ the quantitative criterion, they would not be able to establish an “appropriate quantity of killings:”

The calculation appears somewhat grotesque and wholly dependent on further determinations of both the geographic scope of inquiry and the numbers of the total group. Take, for example, very large groups, such as the 150 million Muslims in India. If mass killings occur and other intent factors have been satisfied, it seems improbable that the arbitrary number of two percent, here three million people, would fail to pass the reasonably substantial test, even though presumably meeting the “very large number” standard.⁷⁵¹

Regarding the group right to exist, the quantitative criterion would prevent the detection of genocide at the earliest possible time. Genocide could not be officially established until a certain number or percentage of people had been killed.⁷⁵²

The interpretation of “in whole or in part” proves crucial for whether the massacres of Sikhs could be defined as genocide. If, according to official figures, around 3000 Sikhs, out of a population of 390,000, died in Delhi, then that would constitute less than 1% of the population. In *Krstic*, the Appeals Chamber stressed that the killing of military aged Bosnian Muslim men influenced the finding of specific intent to destroy Bosnian Muslims in Srebrenica because of the impact on the likelihood of the community’s physical survival: “As the Trial Chamber found, the massacred men amounted to about one fifth of the overall Srebrenica community...The physical destruction of the men therefore had severe procreative implications for the Srebrenica Muslim community, potentially consigning the community to extinction.”⁷⁵³ However, under the

⁷⁴⁸ Alonzo-Maizlish, In Whole or in Part, 1396.

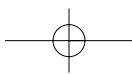
⁷⁴⁹ Id., 1397.

⁷⁵⁰ International Crisis Group, *Reality Demands*, 38.

⁷⁵¹ Alonzo-Maizlish, In Whole or in Part, 1398.

⁷⁵² Id.

⁷⁵³ *Krstic*, Case no. IT-98-33-A, ¶ 28.



predominant interpretation of “in whole or in part,” the gangs’ “success,” or lack of it, in killing Sikhs would only count as one of many factors in inferring specific intent.

In light of the factors discussed above that are used to infer specific intent, many characteristics of the November 1984 massacres compare to the genocides in Rwanda and the former Yugoslavia, such as the systematic manner of killing, the use of lists to identify Sikhs, the attacks on Sikh religious symbols and institutions, the organized transportation of assailants and distribution of kerosene, and the slogans calling for the deaths of Sikhs, among other factors discussed in detail in this report. Besides the crime of genocide, a perpetrator can also be charged with direct and public incitement to commit genocide, conspiracy to commit genocide, complicity in genocide, and attempt to commit genocide. These crimes are not discussed in this report.

Individual Responsibility

In this report, we will not speculate on different individuals’ levels of criminal responsibility, since that requires a detailed analysis of individual actions. We briefly summarize the law on criminal responsibility to demonstrate the various considerations that influence these determinations of responsibility. Article 6 of the ICTR statute and Article 7 of the ICTY statute give the provisions for determining individual criminal responsibility. The first paragraph of both articles discusses five forms of individual criminal responsibility:

A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in [articles above]...shall be individually responsible for the crime.⁷⁵⁴

The second paragraph holds that public officials cannot claim immunity.

The *Akayesu* Trial Chamber clarifies a major distinction between these five forms of criminal responsibility. An individual can be held responsible as a principal perpetrator for committing the crime, but he can also “be held responsible for the criminal acts of others where he plans with them, instigates them, orders them or aids and abets them to commit those acts.”⁷⁵⁵ The state of mind required for responsibility for direct commission of a crime rests in the legal definition of the crime itself. Thus, responsibility for committing genocide requires a finding of specific intent to destroy the group.

Prosecutor v. Tadic states the two part test for determining liability for the other four forms of criminal responsibility: planning, instigating, ordering, or aiding and abetting a crime:

⁷⁵⁴ Statute of the International Criminal Tribunal for the Former Yugoslavia at <http://www.un.org/icty/legaldoc/index.htm>; Statute of the International Criminal Tribunal for Rwanda at <http://www.ictcr.org/ENGLISH/basicdocs/statute.html>.

⁷⁵⁵ *Akayesu*, Case No. ICTR-96-4-T, ¶ 472.

[T]he accused will be found criminally culpable for any conduct where it is determined that he knowingly participated in the commission of an offence that violates international humanitarian law and his participation directly and substantially affected the commission of that offence through supporting the actual commission before, during, or after the incident. He will also be responsible for all that naturally results from the commission of the act in question.⁷⁵⁶

The Appeals Chamber in *Krstic*, for example, overturned the Trial Chamber's finding of Krstic's responsibility as a principal perpetrator of genocide, ruling that he did not possess the requisite state of mind of specific intent to destroy a group. Instead, the Appeals Chamber found Krstic responsible for aiding and abetting genocide⁷⁵⁷ because he assisted in "the commission of the crime knowing the intent behind the crime."⁷⁵⁸ Similar to the specific intent analysis of genocide, the court can infer knowledge from the circumstances.⁷⁵⁹

In terms of the specific conduct that gives rise to individual responsibility, as the *Tadic* judgment summarized, it must "directly affect the commission of the crime itself."⁷⁶⁰ However, the perpetrator does not have to be present at the scene of the crime, and his action and the crime itself can be both geographically and temporally distant.⁷⁶¹ The individual would incur liability under this theory only if the offense was completed.⁷⁶²

The *Akayesu* Judgments provide a detailed description of the forms of participation. The Trial Chamber defines planning as "implying one or several persons designing the commission of a crime at both the preparatory and execution phases."⁷⁶³ Thus, although similar to plotting and complicity, planning can be committed by one person alone.⁷⁶⁴ The *Akayesu* Appeals Chamber states that instigation does not have to be direct or public.⁷⁶⁵ It merely involves "prompting another to commit an offence"⁷⁶⁶ and requires the commission of the principal offence in order to establish liability.⁷⁶⁷ The Trial Chamber defines ordering as when a "person in a position of authority uses it to convince another to commit an offence."⁷⁶⁸

In *Tadic* the Chamber found that aiding and abetting "includes all acts of assistance by words or acts that lend encouragement."⁷⁶⁹ If the accused is present and it can be shown that his presence or words had an encouraging effect on the commission of the crime, then he has aided or abetted in the crime. The *Tadic* Judgment used the example of beating to explain this further:

⁷⁵⁶ Prosecutor v. Dusko Tadic, Case no. IT-94-1-T (May 7, 1997), ¶ 692.

⁷⁵⁷ *Krstic*, Case no. IT-98-33-A, ¶ 138.

⁷⁵⁸ *Id.*, ¶ 140.

⁷⁵⁹ *Tadic*, Case no. IT-94-1-T, ¶ 675-6; See also Prosecutor v. Zdravko Mucic, Hazim Delic and Esad Landzo ("Celebici"), Case no. IT-96-21-T (Nov. 16, 1998), ¶ 328.

⁷⁶⁰ *Tadic*, Case no. IT-94-1-T, ¶ 678.

⁷⁶¹ *Id.*, ¶ 687; "Celebici," Case no. IT-96-21-T, ¶ 327.

⁷⁶² *Akayesu*, Case No. ICTR-96-4-T, ¶ 473.

⁷⁶³ *Id.*, ¶ 480.

⁷⁶⁴ *Id.*

⁷⁶⁵ *Akayesu*, Case no. ICTR-96-4-A, ¶ 478.

⁷⁶⁶ *Akayesu*, Case No. ICTR-96-4-T, ¶ 482.

⁷⁶⁷ *Id.*

⁷⁶⁸ *Id.*, ¶ 483.

⁷⁶⁹ *Tadic*, Case no. IT-94-1-T, ¶ 689.

[W]hen an accused is present and participates in the beating of one person and remains with the group when it moves on to beat another person, his presence would have an encouraging effect, even if he does not physically take part in this second beating, and he should be viewed as participating in this second beating as well. This is assuming that the accused has not actively withdrawn from the group or spoken out against the conduct of the group.⁷⁷⁰

Thus, individuals who may not have possessed the specific intent to destroy a group and thus did not commit genocide, may still incur responsibility for planning, instigating, ordering or otherwise aiding and abetting in the planning, preparation or execution of genocide if they acted with knowledge of the principal person's specific genocidal intent.⁷⁷¹

Superior Responsibility

Prosecutor v. Mucic et. al ("Celebici") was the first case from the criminal tribunals to convict a person of genocide under the doctrine of superior or command responsibility, found in Articles 6(3) and 7(3) of the ICTR and ICTY statutes, respectively. The Trial Chamber traced the judicial development of the concept of command responsibility from its first international judicial recognition in the Nuremberg and Tokyo trials of World War II.⁷⁷² It stated its interpretation of the principal of command responsibility, echoed by later judgments:

In the simplest language it may be said that this Tribunal believes that the principal of command responsibility to be that, if this accused knew, or should by the exercise of ordinary diligence have learned, of the commission by his subordinates, immediate or otherwise, of the atrocities proved beyond a shadow of a doubt before this Tribunal or of the existence of a routine which would countenance such, and, by his failure to take any action to punish the perpetrators, permitted the atrocities to continue, he has failed in his performance of his duty as a commander and must be punished.⁷⁷³

The Trial Chamber further broke down the principal of command responsibility into three essential elements:

- (i) The existence of a superior-subordinate relationship;
- (ii) The superior knew or had reason to know that the criminal act was about to be or had been committed; and
- (iii) The superior failed to take the necessary and reasonable measures to prevent the criminal act or punish the perpetrator thereof.⁷⁷⁴

⁷⁷⁰ *Id.*, ¶ 690; See also "Celebici," Case no. IT-96-21-T, ¶ 327.

⁷⁷¹ *Krstic*, Case no. IT-98-33-A, ¶ 140.

⁷⁷² "Celebici," Case no. IT-96-21-T, ¶ 334-343.

⁷⁷³ *Id.*, ¶ 339.

⁷⁷⁴ *Id.*, ¶ 346.

The requirement of the existence of a superior-subordinate relationship raises questions about the nature and formality of the relationship and the types of superiors liable under the doctrine of command responsibility. The *Celebici* Chamber held that people in positions of superior authority – whether civilian or military – with either de jure or de facto command and with the power to discipline those under their control, can be held responsible for genocidal acts committed by their subordinates.⁷⁷⁵ Thus, formal legal authority is not a prerequisite to incur criminal responsibility under the doctrine of command responsibility.⁷⁷⁶

Both the ICTY and the ICTR rejected the notion of strict liability for crimes committed by one's subordinates. The *Celebici* judgment determined that a superior possessed the requisite mens rea for the imposition of criminal liability when he knew or had reason to know that his subordinates were committing the crimes covered in the tribunals' statutes.⁷⁷⁷ Thus, either the superior "had actual knowledge, established through direct or circumstantial evidence," or had "in his possession information of a nature, which at the least, would put him on notice of the risk of such offenses by indicating the need for additional investigation in order to ascertain whether such crimes were committed or were about to be committed by his subordinates."⁷⁷⁸

The Trial Chamber held that the second type of knowledge – "had reason to know" – required the superior to remain informed about the activities of his subordinates; thus, he could not willfully blind himself to their activities.⁷⁷⁹ The superior could be held liable if he had, in his possession, any type of information that should have put him on notice of crimes being committed by his subordinates; this information did not have to specify the crimes – it merely had to indicate a need for further investigation.⁷⁸⁰ Nor did the superior have to have read the information. Police Commissioner S.C. Tandon, for example, denied knowledge of the extent of the massacres of Sikhs. However, his subordinate police officers later testified before different governmental commissions that they received instructions from senior officers to hide evidence of the carnage; journalists Rahul Kuldip Bedi, Joseph Maliakan and Alok Tomar even personally warned the Commissioner of the massacres, but he still was not moved to action.

Crimes Against Humanity

The most recent statutory definition of "crimes against humanity," found in the Charter of the International Criminal Court, states that these crimes are acts "committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack."⁷⁸¹ The main

⁷⁷⁵ *Id.*, ¶ 354, 370.

⁷⁷⁶ *Id.*, ¶ 354.

⁷⁷⁷ *Id.*, ¶ 383.

⁷⁷⁸ *Id.*

⁷⁷⁹ *Id.*, ¶ 387.

⁷⁸⁰ *Id.*, ¶ 393.

⁷⁸¹ Alexander K.A. Greenawalt, Note, Rethinking Genocidal Intent: The Case for a Knowledge-Based Interpretation, 99 Colum. L. Rev. 2259, 2292 (1999).

elements of this crime are: (1) the attack is either widespread or systematic;⁷⁸² (2) the attack is directed against **any** civilian population, not necessarily a defined group; and (3) the perpetrators engage in the act with knowledge of the wider attack, but not necessarily aware of the consequences of their actions for the survival of any targeted population.⁷⁸³ The perpetrators' acts must form part of the general attack.⁷⁸⁴

Earlier formulations of crimes against humanity, such as in the Nuremberg Charter, restricted its application to international war situations.⁷⁸⁵ Now, however, the crime is understood to apply to times of war and peace, and to both internal and international conflicts.⁷⁸⁶ The crime also applies to both state and non-state actors.⁷⁸⁷

Although the November 1984 carnage was systematic – the pattern or methodical plan was evident⁷⁸⁸ – and the police, Congress party leaders and workers, and other members of the mobs participated in full knowledge of the attacks being carried out throughout Delhi and other areas, the label of crimes against humanity does not account for the aggravating factor that the attack was specifically directed against a religious group. It is this threat to group survival and the higher threshold of specific intent to destroy a group that distinguishes genocide from crimes against humanity.⁷⁸⁹

Perpetrators of violent acts during the massacres, however, can be charged with crimes against humanity in addition to, or in the alternative to, genocide, for acts that were not motivated by specific intent. The ICTY has held that crimes against humanity, with the exception of persecution, do not require an element of discriminatory intent, overturning lower court judgments that did find such a requirement.⁷⁹⁰ Article 3 of the ICTR statute, however, differs from the corresponding article for the ICTY because it requires that the attack be committed on “national, political, ethnic, racial or religious grounds”.⁷⁹¹ However, the *Akayesu* Appeals Chamber has held that clause to serve as a jurisdictional limitation, rather than as requiring discriminatory intent for crimes against humanity, except for persecution.⁷⁹²

Article 7 of the International Criminal Court (ICC) enumerates the crimes that constitute crimes against humanity:

These enumerated acts are murder; extermination; enslavement; deportation or forcible transfer of population; imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; rape, sexual slavery, enforced prostitution,

⁷⁸² Tadic, Case no. IT-94-1-T, ¶ 647.

⁷⁸³ Greenawalt, Rethinking Genocidal Intent, 2294.

⁷⁸⁴ Kelly D. Askin, News from the International Tribunals: Part IV-ICTY (2001), Human Rights Brief 8.3 (Fall 2000) at <http://www.wcl.american.edu/hrbrief/083.cfm> (see discussion of judgment of Prosecutor v. Dragoljub Kunarac et al., Case No. IT-96-23-T & IT-96-23/1-T (Feb. 2001)).

⁷⁸⁵ Thomas W. Simon, Book Review: Defining Genocide, 15 Wis. Int'l L. J. 243, 243-4 (1996).

⁷⁸⁶ Greenawalt, Rethinking Genocidal Intent, 2293.

⁷⁸⁷ Bassiouni, Introduction to the Symposium, 199.

⁷⁸⁸ Tadic, Case no. IT-94-1-T, ¶ 648.

⁷⁸⁹ Greenawalt, Rethinking Genocidal Intent, 2293.

⁷⁹⁰ Tadic, Case no. IT-94-1-T, ¶ 652.

⁷⁹¹ Kayishema and Ruzindana, Case no. ICTR-95-1-T, ¶ 126.

⁷⁹² Akayesu, Case no. ICTR-96-4-A, ¶ 464-7.

forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; persecution against any identifiable group or collectively on political, racial, national, ethnic, cultural, religious, gender or other groups that are universally recognised as impermissible under international law, in connection with any act referred to in this article or any other crime within the jurisdiction of the Court; enforced disappearance of persons; the crime of apartheid; other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or mental or physical health.⁷⁹³

Thus, these represent some of the crimes that a court could possibly charge the perpetrators of the 1984 carnage with, in addition to genocide. An application of the jurisprudence of crimes against humanity would require further explorations into the policy or plan elements,⁷⁹⁴ and the definitions and elements of the enumerated crimes constituting crimes against humanity, among other issues.

Persecution

In *Prosecution v. Tadic*, the Appeals Chamber discussed persecution as a subcategory of crimes against humanity that is executed because of political, religious, or racial grounds.⁷⁹⁵ The Trial Chamber in *Prosecution v. Kupreskic*, while limiting the application of crimes against humanity to armed conflicts,⁷⁹⁶ elaborated that persecution consisted of the deprivation of a variety of fundamental rights by murder, torture, ethnic cleansing, or removing a group from a territory, and attacks on social and economic rights,⁷⁹⁷ falling just short of genocide. Matthew Lippman summarized the Trial Chamber's distinction between persecution and genocide:

The crime of genocide involves the intent to destroy a group or its members. The crime of persecution, on the other hand, involves the criminal intent to forcibly discriminate against a group or its members and thereby systematically violate their fundamental rights.⁷⁹⁸

The *Kupreskic* Chamber evaluated the evidence, considering the intent standards, and found that persecution, or the intent to expel, had occurred, rather than genocide, or the intent to destroy.⁷⁹⁹ In the November 1984 massacres of the Sikhs, the organizers of the carnage were not primarily driven by an intent to drive Sikhs out to other territories, such as to Punjab. Instead, their actions, such as the use of kerosene and burning alive as the main method of murder, and their expressions all spoke of their intent to destroy Sikhs as a group.

⁷⁹³ Akayesu, Case No. ICTR-96-4-T, ¶ 577.

⁷⁹⁴ Tadic, Case no. IT-94-1-T, ¶ 653-4; Kayishema and Ruzindana, Case no. ICTR-95-1-T, ¶ 124-6.

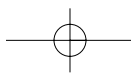
⁷⁹⁵ Lippman, *Genocide: The Crime of the Century*, 499.

⁷⁹⁶ *Id.*, 501.

⁷⁹⁷ *Id.*

⁷⁹⁸ *Id.*, 502.

⁷⁹⁹ *Id.*



CHAPTER 7

Knowledge, Justice, and Reparation

Political Careers of Key Perpetrators

Despite scores of affidavits by survivors and witnesses citing key Congress party politicians as perpetrators and organizers of the carnage, the perpetrators had illustrious political careers. While some commentators claim that those implicated in the carnage suffered political losses, the recent elections of perpetrators to Lok Sabha and appointments to ministerial positions, despite protests by survivors, belie those claims, leaving political declines to the vagaries of politics and personal relations. Kamal Nath, for example, who survivors cite as having led the gang that attacked Gurudwara Rakab Ganj, received a Cabinet position this month as Minister of Commerce and Industry.

In 1984, MP and Minister HKL Bhagat won the second largest majority in the nation and was rewarded with a cabinet minister position. HKL Bhagat, once known as the "Don of Delhi Politics,"⁸⁰⁰ is now 83 years old.⁸⁰¹ Since the 1984 massacres, Bhagat served as Minister of Parliamentary Affairs, Minister of Information and Broadcasting, Minister of Works and Housing (Urban Development), Tourism Minister, and President of the New Delhi chapter of the Congress Party.⁸⁰² Under Prime Minister Rajiv Gandhi, Bhagat held four ministerial posts alone. After Gandhi's government ended, Bhagat continued to live in a luxury bungalow owned by the government and received elite security protection. Only in 1996 was he forced to move out of the bungalow, but only after housing officials wrote off tens of thousands of dollars of rent owed by Bhagat.⁸⁰³ In 1997, Bhagat was expelled from the Congress Party.⁸⁰⁴

Bhagat now suffers from dementia, causing memory loss. Bhagat's wife blames his disease on accusations against him regarding his role in the 1984 pogroms: "After he was accused in the killings, Sikhs came to our house and asked him to go to Amritsar and apologise to the Sikh community. He was asked to wash utensils and clean shoes. But we had not committed any mistake so why did he need to apologise? It was this denial by the party and his people which caused his disease."⁸⁰⁵ In the seven times he contested elections from the East Delhi constituency, HKL Bhagat won four times.⁸⁰⁶ His political demise most likely rests more in his conflicts with other Congress leaders, power struggles, and his declining health, than with any alleged harassment because of his role in the 1984 carnage.

⁸⁰⁰ The Forgotten Don of Delhi, Sify.com (Apr. 17, 2004) at <http://sify.com/cities/delhi/fullstory.php?id=13455618>.

⁸⁰¹ John F. Burns, Legacy of Violence: Indian Officials Face Vengeance for the Killing of Sikhs, *New York Times* (Nov. 14, 1994), A10 (written in 1994, the article said Bhagat was 73).

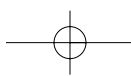
⁸⁰² Former Indian Cabinet Minister Arrested for Anti-Sikh Riots, *Agence France Press* (Jan. 24, 1996); The Forgotten Don of Delhi, Sify.com (Apr. 17, 2004) at <http://sify.com/cities/delhi/fullstory.php?id=13455618>.

⁸⁰³ John F. Burns, A Decade After Massacre, Some Sikhs Find Justice, *New York Times* (Sept. 16, 1996), A4.

⁸⁰⁴ The Forgotten Don of Delhi, Sify.com (Apr. 17, 2004) at <http://sify.com/cities/delhi/fullstory.php?id=13455618>.

⁸⁰⁵ *Id.*

⁸⁰⁶ Shubajit Roy, Hat-trick Bihari Says Sheila will Regret It, *ExpressIndia* (April 21, 2004) at <http://cities.expressindia.com/fullstory.php?newsid=82316>.



Jagdish Tytler resoundingly won the 1984 elections in the Delhi Sadar constituency. He served as the Civil Aviation Minister under Prime Minister Rajiv Gandhi,⁸⁰⁷ and as the Transport Minister in the cabinet of Narasimha Rao, who was the Home Secretary during the 1984 massacres⁸⁰⁸ and served as Prime Minister from 1991 to 1996. Tytler barely lost in the 1996 elections for Delhi Sadar constituency, with 46.63% of the vote compared to the winner's 47.17%.⁸⁰⁹ He also lost in the 1999 elections by five percent to senior Bhartiya Janata Party leader ML Khurana.

Although the Congress Party denied candidacy to Jagdish Tytler, Sajjan Kumar and HKL Bhagat in the 1998 Lok Sabha elections,⁸¹⁰ Tytler and Kumar received party nominations and won in this year's elections. While the opposition had announced the majority of its candidates, Tytler and Kumar "flex[ed] their muscle in their areas of influence"⁸¹¹ and eventually secured themselves candidacies despite protests from survivors. Jagdish Tytler even received a ministerial position.⁸¹² He now serves as an Independent Minister of State for Non-Resident Indian (NRI) Affairs.

Search for Justice

We have yet to understand how the survivors of the 1984 carnage have passed these twenty years, characterized by impunity for the perpetrators. They vividly recall the horrors they survived:

I cannot put in words how I feel when I remember the days of terror we had spent locked in our house in Bhajanpura, Delhi, after Indira Gandhi was assassinated.

But when the entire nation mourns the death of the former prime minister, I remember my friends who were burnt alive on the roads with burning tyres around their necks just because they were Sikhs.⁸¹³

One woman, who threatened self-immolation in 2003, expressed the persistence of her memories:

People tell us to forget our tragedy and start life anew, but we have seen so much carnage, suffered the loss of friends and family members at the hands of our own countrymen that it is impossible to forget it.⁸¹⁴

⁸⁰⁷ H. Subba Rao, Quick Decisions, *The Hindu* (Jan. 25, 2000) at <http://www.hinduonnet.com/thehindu/2000/01/25/stories/13250031.htm>.

⁸⁰⁸ John F. Burns, Legacy of Violence: Indian Officials Face Vengeance for the Killing of Sikhs, *New York Times* (Nov. 14, 1994), A10.

⁸⁰⁹ Tytler got 138,679 votes to Vijay Kumar Goel's 140,282 votes. Election Commission Of India - General Elections 1996: 6 - Delhi Sadar Parliamentary Constituency at <http://www.eci.gov.in/GE2004/States/DetailedResults/GE1996/U05/const06.htm>.

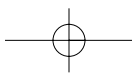
⁸¹⁰ Tytler, Bhagat, Sajjan Kumar Denied Tickets, *Rediff* (Jan. 28, 1998) at <http://www.rediff.com/news/1998/jan/28cong.htm>.

⁸¹¹ Cong Fails to Name Delhi Candidates, *Business Standard* (March 25, 2004).

⁸¹² Tytler Stages Comeback, Sibal Gets In, *ExpressIndia* (May 23, 2004) at <http://cities.expressindia.com/fullstory.php?newsid=85401>.

⁸¹³ Wounds of '84 Riots Still Fresh for Them, *Times of India* (Nov. 1, 2003) at <http://timesofindia.indiatimes.com/articleshow/msid-261524,prtpage-1.cms>.

⁸¹⁴ *Id.*



When Barbara Crossette visited a widows' colony of over 1000 survivors in Tilak Vihar in 1989, she found broken families wavering "between cold bitterness and emotional collapse." Their stories of carnage were overwhelming both in the extent of loss and brutality of death:

They tell how two men's hair...was tied together before they were set ablaze, and the taunts of killers that greeted the dying men's desperate attempt to douse the flames: "Don't they dance well!"

Crossette described families consumed with the impact on the children of the dead:

The women re-enact being told at knifepoint: "We will cut off your breasts and send them to Punjab! You have killed our mother, Indira!" Saduri Kaur, 60, who saw her three sons killed, leaving her 18 grandchildren, is consumed with anxiety that no one will marry her eight granddaughters because she has no money for dowries. She is barely able to keep them alive.

Saduri Kaur could only afford to give her grandchildren a cup of tea for dinner.⁸¹⁵

Ten years after the carnage, R. Devraj visited a widows' colony in light of a study done by the Indian Women's Press Corps (IWPC) on children who lost their fathers in the pogroms. Many women took government jobs after the carnage, becoming the primary breadwinners in the family, leaving their children unattended. IWPC's study concluded that many of the children dropped out of school and engaged in petty crime, drugs, and gambling. Besides growing up without fathers, the manner in which their fathers were killed strongly impacted the children. According to Rithambara Shastri of IWPC, "Apart from a deep-seated insecurity, the children bear a sense of fatalism and have developed the attitude that since life can be snuffed out so easily as happened with their fathers, uncles and brothers, there is little use in studying or building a future." The study also found that survivors placed little faith in the Indian government or in the idea of justice.⁸¹⁶

After twenty years of impunity for perpetrators of the carnage, survivors have expressed feelings of injustice and hopelessness. Prem Kaur, who lost her husband and son in the November carnage, and has appealed the High Court's acquittal of MP Sajjan Kumar, expressed her frustration at the Congress Party's nomination of Sajjan Kumar for elections:

It's wrong he got a ticket. How can he be given a ticket?...What can one person do! I gave my statement against Sajjan Kumar in court. Nothing matters. What can one person like me do, what can I say?⁸¹⁷

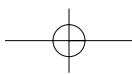
Despite these expressions, Delhi's Chief Minister Sheila Dikshit recently stated at the Harmandir Sahib complex in Amritsar that the survivors of the November 1984 massacres had been suitably rehabilitated and all of their demands met.⁸¹⁸

⁸¹⁵ Barbara Crossette, *The Sikh's Hour of Horror, Relived After 5 Years*, New York Times (Sept. 7, 1989), A4.

⁸¹⁶ R. Devraj, *India: Widows' Colony Struggles to Survive*, Inter Press Service (Nov. 3, 1994).

⁸¹⁷ Narmala Ganapathy, *Sajjan Won't Like to Campaign Here!*, ExpressIndia (April 16, 2004) at <http://cities.expressindia.com/fullstory.php?newsid=81880>.

⁸¹⁸ *Riot victims' Demands Met: Dikshit*, Times of India (Feb. 7, 2004) at <http://timesofindia.indiatimes.com/articleshow/480781.cms>.



Article 32: Fundamental Freedoms

In these twenty years, in addition to the gross human rights violations of November 1984 and the problems of raising families without breadwinners, survivors have faced: the 1984 elections where Sikhs were portrayed as a threat to the nation; the failure of judicial accountability for any major perpetrator, Congress leader or police officer, because of the initial destruction of evidence by the police, subsequent harassment of witnesses, and political interference; the state's failure to pay appropriate compensation; and a series of ineffectual and compromised government-appointed commissions and committees. Political parties, including the Akali Dal, have failed to genuinely represent the principles of justice. In the 2004 Lok Sabha elections, for example, senior members of the Akali Dal actively campaigned for the Bhartiya Janata Party, despite the Party's role in similar pogroms against Muslims in Gujarat in 2002.⁸¹⁹

Instead of addressing the violations and the reality of the current economic, social, and psychological conditions of the survivors, government leaders, politicians and perpetrators have consistently told the Sikhs to forget it and move on. In the initial years after the carnage, government officials failed to admit the reality of the massacres, justifying it on the basis of false rumors regarding Sikh behavior, allegedly anti-national behavior by Sikhs, and allegations of Sikhs as the aggressors.⁸²⁰ When reporter Manoj Mitta wrote an article in April 2004 highlighting the role of R.K. Anand in defending many of the perpetrators before government commissions and courts, Anand responded:

Our party has apologised to the Sikhs even before but I want this matter to be buried. It happened 20 years back and why should it be raked up again?⁸²¹

The appointment of a Sikh, Dr. Manmohan Singh, to the position of Prime Minister has elicited claims from Sikhs and non-Sikhs alike of resolution between Sikhs and the Congress Party – 1984 now just “looks like a bad dream.”⁸²² However, both legally and morally, the appointment of one Sikh to a government position cannot close the chapter for the thousands of victims of the 1984 pogroms against Sikhs. Until the government has fulfilled the survivors' rights to knowledge, justice and reparation, the matter cannot be buried.

Despite these administrative and judicial failures, the survivors of 1984 still have scope for rehabilitation from the government. Article 32 of the Indian Constitution grants full power to the Supreme Court to forge new tools, “which may be necessary for doing complete justice and enforcing the fundamental rights guaranteed in the Constitution,”⁸²³ especially where other tools have proven inadequate. International principles on reparations and impunity can guide India and the survivors on possible steps towards a lasting reconciliation.

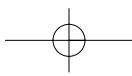
⁸¹⁹ See, e.g., Three Time MP Has no Car, Sify.com (Apr. 21, 2004) at <http://sify.com/cities/delhi/fullstory.php?id=13458502>.

⁸²⁰ See Written Arguments of the Delhi Administration in Chapter 5.

⁸²¹ Prarthna Gahlote, 1984 Riots: RK Anand Says He's Sorry, Recalls 25 Yrs Ago, Gurbani Helped Start His Car, Indian Express (Apr. 20, 2004) at http://indianexpress.com:80/print.php?content_id=45420.

⁸²² See, e.g., Soutik Biswas, Sikhs and Congress Heal Their Rift, BBC (May 20, 2004), at http://news.bbc.co.uk/2/hi/south_asia/3733271.stm.

⁸²³ Nilabati Behera v. State of Orissa & Ors., (1993) 2 SCC 746, ¶ 20.



Reparation and Impunity Principles

All victims of human rights violations and their beneficiaries possess the rights to knowledge, justice, and reparation, including restitution, compensation, and rehabilitation. Although Indian jurisprudence grants wide powers to address violations of fundamental human rights, in reality, legislation and institutional practices restrict remedies in the context of gross human rights violations. The *UN Revised Draft Basic Principles on the Right to a Remedy and Reparation for Victims of [Gross] Violations of International Human Rights and Humanitarian Law (1997)* (“Reparation Principles”)⁸²⁴ and the *Revised Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity (1997)*⁸²⁵ (“Impunity Principles”) elaborate upon the concepts of reparation and impunity. Both documents stress the centrality of the victim in understanding these concepts.

The Reparation Principles elaborate upon the right to an effective remedy and the right to be compensated, provided in key human rights documents.⁸²⁶ These principles describe four forms of reparation that States should provide to victims of violations of human rights and humanitarian law: (i) restitution, (ii) compensation, (iii) rehabilitation, and (iv) satisfaction and guarantees of non-repetition.⁸²⁷ Restitution is described as the restoration of the victim, whenever possible, to the original situation prior to the occurrence of the violation. This includes measures such as “restoration of liberty, family life, citizenship, return to one’s place of residence, and restoration of employment or property.”⁸²⁸ Rehabilitation includes legal, social, medical and psychological care and services.⁸²⁹

The Principles include the satisfaction and guarantees of non-repetition in the definition of reparation, stressing:

- The cessation of continuing violations;
- Full public disclosure and investigation of facts;
- The search for bodies of the killed and disappeared;
- An official declaration or a judicial decision “restoring the dignity, reputation and legal rights of the victim and/or of persons closely connected with the victim;”

⁸²⁴ E/CN.4/1997/104. The Draft Basic Principles can be viewed at <http://www.hri.ca/fortherecord1997/documentation/commission/e-cn4-1997-104.htm>.

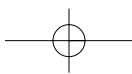
⁸²⁵ Louis Joinet, Revised Final Report: Question of the impunity of perpetrators of human rights violations (civil and political), E/CN.4/Sub.2/1997/20/Rev.1 (Oct. 2, 1997), Annexure II.

⁸²⁶ Article 8 of the Universal Declaration of Human Rights (1948) (UDHR) states the right to an effective remedy; Article 2(3) of the International Covenant for Civil and Political Rights (1976) (ICCPR) states a narrower right to an effective civil remedy. Article 14 of Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment (1987) (“Torture Convention”) discusses reparation in detail, exhorting States to ensure that victims have “an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible.” Article 9(5) of the ICCPR and Article 5(5) of the European Convention for Protection of Human Rights and Fundamental Freedoms (1950) describe an “enforceable right to compensation,” which is, according to the ICCPR, “due according to national law.” See, e.g., Sarah Cullinan, *Torture Survivors’ Perceptions of Reparation* (London: Redress, 2001), 11-12; Theo van Boven, Study concerning the right to restitution, compensation and rehabilitation for victims of gross human rights violations and fundamental freedoms, E/CN.4/Sub.2/1993/8 (July 2, 1993), ¶ 26-29.

⁸²⁷ Articles 12 to 15.

⁸²⁸ Article 12.

⁸²⁹ Article 14.



- An apology, including public acknowledgment of the abuses and acceptance of State responsibility;
- Judicial or administrative sanctions against the perpetrators;
- Commemorations for the victims;
- Inclusion of an accurate account of the violations in human rights training and educational materials; and
- A variety of preventative measures, from ensuring civilian control of the military, to strengthening the independence of the judiciary.⁸³⁰

The Impunity Principles discuss the concept of impunity in terms of victims' rights to knowledge, justice, and reparations. Unlike the Reparation Principles, the Impunity Principles include the satisfaction and guarantees of non-recurrence of violations under a separate discussion of preventative measures.⁸³¹

The right to knowledge surpasses an individual victim's right to truth.⁸³² The right to knowledge incorporates a collective right, imposing a duty on the State to remember and acknowledge the violations.⁸³³ Like the other rights essential to combating impunity, this right is imperative to prevent the recurrence of violations.⁸³⁴ Towards this end, the Impunity Principles stress the establishment of extrajudicial inquiry commissions, given the failures of past judiciaries to adequately ensure justice, and the preservation of archives as means of effectuating the right to know.⁸³⁵ Principles 5 to 12 discuss various methods of building the credibility of these commissions, such as their establishment by law, the power to seek police assistance or call for testimony,⁸³⁶ the provision of social and psychological help for witnesses,⁸³⁷ guarantees for persons implicated,⁸³⁸ and wide publication and dissemination of the commissions' reports.⁸³⁹ Unfortunately, in the case of the November 1984 massacres of Sikhs, the government inquiry commission itself obstructed the right to knowledge.

The victims' right to justice requires that States investigate the violations, prosecute the perpetrators, and punish them, if guilty. In his final report, Special Rapporteur Louis Joinet also stresses that States should develop supplementary procedures to allow victims to intervene and influence criminal proceedings, although prosecution should remain the State's responsibility.⁸⁴⁰ The Impunity Principles emphasize the need for remedies for both individuals and collectives.⁸⁴¹ In terms of collective remedies, the Principles discuss a range of symbolic measures towards providing moral reparation, such as official

⁸³⁰ Article 15.

⁸³¹ Louis Joinet, Revised Final Report: Question of the Impunity of Perpetrators of Human Rights Violations (Civil and Political), E/CN.4/Sub.2/1997/20/Rev/1, ¶ 16.

⁸³² Principles 1, 3.

⁸³³ Principle 2.

⁸³⁴ Joinet, Revised Final report, ¶17.

⁸³⁵ *Id.*, ¶ 18, Principle 4.

⁸³⁶ *Id.*, ¶ 21.

⁸³⁷ *Id.*, ¶ 22.

⁸³⁸ *Id.*, ¶ 23.

⁸³⁹ *Id.*, ¶ 24.

⁸⁴⁰ *Id.*, ¶ 27.

⁸⁴¹ *Id.*, ¶ 40.

declarations, commemorations, formal public recognition and acceptance of responsibility by the State.⁸⁴² Principle 36 specifically stresses the special circumstances of forced disappearances, mandating that the surviving family has the right to be informed of the fate of the disappeared person, and have his body returned to them in the event of decease. This must happen regardless of whether the perpetrators have been identified or prosecuted.

In the formulation of the guarantees of non-recurrence, the Principles propose the disbandment of parastatal armed groups; the repeal of all emergency laws, abolition of emergency courts, and recognition of the non-derogability of habeas corpus; and removal from office of senior officials implicated in serious violations.⁸⁴³

Further Documentation

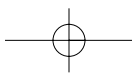
Despite the passage of twenty years, further documentation is necessary in order to understand key aspects of the carnage. As discussed in the report, questions remain on the planning aspects, orders by senior officers, roles of senior government officials, cruelty of assailants, refusal of medical care, and sexual assault, among other issues. Further documentation could aim to address the following gaps in the rights to knowledge, justice and reparation:

Right to Knowledge

- No inquiry has been conducted on the violence in the trains, as well as the linkages between violence in different parts of India in November 1984.
- The survivors of gross human rights violations have not received any public acknowledgment from the State of the abuses they suffered.
- The State has not engaged in a public accounting of how it allowed its institutions to participate in the perpetration of gross human rights violations.
- The State has not investigated the responsibility of individual public servants and non-State actors involved in the perpetration of gross human rights violations.
- The police continue to conceal and manipulate their records.
- The complicity of other sectors of society, such as the medical profession and lower judiciary, remains unexamined. Thus, doctors who falsified post mortem reports, and engaged in other abuses, enjoy impunity.
- The perceptions and experiences of non-Sikhs – those who participated in the massacres, remained silent bystanders, or acted to counter the violence – remain unexamined.
- The experiences of the survivors in the 20 years of impunity have not been documented.

⁸⁴² Id., ¶ 42; See Principles 35 to 36.

⁸⁴³ Id., ¶ 43; See Principles 38 to 42.



Right to Justice

- The judiciary has failed to administer fair trials, resulting in the acquittal of perpetrators of human rights violations, prolonged cases, and harassment of survivors and witnesses.
- Police continue to obstruct justice by manipulating or concealing evidence and intimidating survivors and witnesses who pursue human rights cases against political leaders.
- After two decades, the survivors of gross human rights violations remain without an effective remedy.

Right to Reparation

- The right to compensation remains a vague remedy, without guidelines on how to incorporate and account for the direct and ancillary impacts of human rights violations. There has been no discussion of individual versus collective remedies.
- The majority of the victims and survivors have not received complete reparation. Many find it difficult to continue their lives.
- There is no understanding of the impact of human rights violations in terms of trauma, the status of orphans, the effects of extortion and destruction or confiscation of property, and the status of widows, among other issues.
- Survivors have not had the opportunity to voice their perceptions and experiences of reparation.⁸⁴⁴

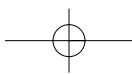
Satisfaction and Guarantees of Non-Recurrence

- Perpetrators of violations of human rights continue to occupy security and governmental positions of power; they have neither been demoted, nor suspended, nor disciplined for their participation in these violations. Instead, many have been promoted and awarded for their roles.
- False cases brought against victims to intimidate them have not been revoked.
- There have been few, if any, judicial or administrative sanctions against perpetrators.

Documentation projects developed to address these failures would enhance our understanding of the carnage of November 1984, although the lack of resources and political will may hamper efforts. Whereas the International Crisis Group had 46 international staff and 123 local staff to record over 4700 statements from survivors in Kosovo, we lack even 20 volunteers. Additionally, the political will to prevent a thorough examination is strong. As former Foreign Secretary and current National Security Adviser J.N. Dixit said in response to calls from the United Kingdom for a truth commission into the carnage of 1984: "They will first have to seek our permission if the Commission wants to carry out any investigations. We will never allow such a thing. It is motivated mischief by some people and should be nipped in the bud."⁸⁴⁵ However, if survivors come together and organize, they can fight impunity on a stronger footing.

⁸⁴⁴ For examples of issues for further study regarding survivors' perceptions of reparations, see Cullinan, *Torture Survivors' Perceptions of Reparation*.

⁸⁴⁵ Bhavna Vij-Aurora, *Twenty Years After*, *The Indian Express* (May 2, 2004) at http://indianexpress.com:80/print.php?content_id=46129. J.N. Dixit *New National Security Adviser*, *Rediff* (May 26, 2004) at <http://www.rediff.com/news/2004/may/26nsa.htm>.



Community Organizing

A human rights movement driven by survivors can challenge impunity at every level, towards realizing the rights to knowledge, justice, and reparation. As an association, survivors of the 1984 pogroms can lead advocacy in different arenas, from national governments to the UN. The Grandmothers of the Plaza de Mayo, for example, began in Argentina in October 1977, searching for two generations: their disappeared children and their disappeared grandchildren. Originally only a group of 12 women, they used to gather weekly for protests in front of the Government House, in Plaza de Mayo, demanding answers. The efforts of the Grandmothers of the Plaza de Mayo have led to key developments in Argentina, towards reuniting appropriated children with their true families and fighting the culture of impunity. The Grandmothers have changed laws, established national institutions, and influenced UN principles.⁸⁴⁶

The Grandmothers began with weekly demonstrations, advocacy before courts, and advertisements in newspapers publicizing the disappearances. At the United Nations, through consistent advocacy, the Grandmothers secured the approval of the Commission on Human Rights for the appointment of an expert group to investigate and prevent the abduction of found grandchildren. The Grandmothers also influenced the development of the UN Convention on the Rights of the Child. After Argentina ratified the Convention, the Grandmothers created a committee to monitor its implementation. The Grandmothers ongoing projects include legal advice, psychological help, a family biography archive project that conducts interviews with relatives and friends of the disappeared to reconstruct their lives, and an investigative team that responds to anonymous tips received about the fate of the disappeared.

A 1984 survivors' association could engage in similar activities to pressure the Indian government, but also pursue projects directed at documenting their own experiences and educating the public to prevent recurrence of similar abuses. Survivors and their supporters could, for example:

- Initiate a private truth commission, comprised of leading experts in human rights and international human rights law, to record and evaluate testimony;
- Encourage UN human rights mechanisms to consider submissions regarding impunity in India and the independence of the judiciary;
- Make traveling presentations to non-Sikhs to educate them and build solidarity with survivors of gross violations of human rights from other countries;
- Prepare model curricula for incorporation of the 1984 pogroms and the experiences of survivors into classes on related subjects;

⁸⁴⁶ Grandmothers of the Plaza de Mayo, Vol. 1.1 ENSAAF Dispatch (May 2004), 4, drawing primarily from Rita Arditti, *Searching for Life: Grandmothers of the Plaza de Mayo* (Berkeley: UC Press, 1999).

- Collect testimonies from survivors themselves on their experiences during the massacres and the subsequent 20 years of impunity;⁸⁴⁷
- Develop a web-based data repository providing wide access to documentation, secondary materials, and related resources;⁸⁴⁸ and
- Educate ourselves about human rights law and the legal systems of countries where the diaspora resides.

Conclusion⁸⁴⁹

The Gujarat pogroms of early 2002, when state leaders of the Bhartiya Janata Party (BJP) organized massacres of Muslims, demonstrates the result of failing to hold state actors accountable for previous gross violations of human rights, such as the November 1984 massacres of Sikhs. Pogroms will recur in India unless the State acknowledges and records these violations in a transparent and honest manner, towards cleansing itself of the people and institutions that perpetrate these crimes and addressing the survivors' rights to knowledge, justice, and reparation. However, private individuals can contribute to a measure of accountability, as well, by informing themselves of the violations and working to address the abuses in a personal capacity. Despite the 20 years of impunity, or because of this passage of time, ENSAAF hopes survivors and their supporters will come together to demonstrate the power of personal testimony and community organizing.

⁸⁴⁷ REHMI, the Recovery of Historical Memory Project, has produced a four volume report of 5000 to 7000 testimonies collected from survivors by other survivors in Guatemala. For more information, look up REHMI at the New Tactics Database at <http://database.newtactics.org/newtactics/CaseList.aspx>.

⁸⁴⁸ See, e.g., Yale University's Cambodia Genocide Program at <http://www.yale.edu/cgp/>.

⁸⁴⁹ Since the writing of this report, there have been developments in the proceedings before the Nanavati Commission and cases against perpetrators of the November 1984 massacres. For regular updates on issues relating to the November 1984 massacres, please visit ENSAAF's blog at <http://blogs.law.harvard.edu/jaskaran>.

SUPPLEMENT

Stonewalling Justice: the Nanavati Report and its Aftermath

In the documentary, *The Widow Colony* (2005),⁸⁵⁰ widow Darshan Kaur describes how Congress MP and Minister HKL Bhagat came to Trilokpuri on November 1, 1984, and gathered a gang in the streets. Bhagat exhorted the gang to kill all Sikhs and leave no survivors. At that instruction, the gang rushed to her house, dragged her husband outside, beat him viciously with sticks, and burned him alive. The assailants also killed her husband's brother, brutally removing his inner organs with a sword. In total, the death squads killed 12 members of Darshan Kaur's family, and left her a widow with three young children, one of whom was only five weeks old. After witnessing the brutal murder of her husband, she hid that night with the other women in her family: "In the morning, we came out and saw that there were heaps of dead bodies everywhere. There was hardly any room to walk. Outside our door, inside our house, everywhere there were so many corpses."⁸⁵¹ Twenty-two years later, the November 1984 massacres continue to horrify and haunt survivors, like Darshan Kaur, and their supporters.

Two years have passed since the publication of the first edition of Ensaaf's report on the November 1984 massacres, *Twenty Years of Impunity*. During that time, the Justice Nanavati Commission of Inquiry submitted its report to the government, the government submitted an Action Taken Report to Parliament, and Prime Minister Manmohan Singh apologized, but refused to accept state responsibility, for the massacres. The passage of these two years has not brought the survivors any closer to the realization of their rights to knowledge, justice and reparation. The survivors have seen their constant refrains for justice fall on deaf ears, perverted by farcical commissions, handicapped prosecutions, and indifferent politicians. No major architect of the 1984 massacres has been held accountable, and perpetrators serve in government positions where survivors live in fear. Despite the strength of the evidence demonstrating that the Congress (I) party and state administration organized the 1984 massacres, the Government has refused to accept responsibility.

This supplement reflects briefly on these developments, but does not engage in further evidentiary discussion. *Twenty Years* provides a thorough analysis of the evidence that was before both the Misra and Nanavati Commissions. That analysis clearly demonstrates that senior political party officials and police sponsored, organized, and executed the November 1984 massacres of Sikhs.

⁸⁵⁰ Documentary: *The Widow Colony* (Sach Productions, 2005), Director: Harpreet Kaur, <http://www.thewidowcolony.com>.

⁸⁵¹ Id.

The Justice Nanavati Commission

On May 8, 2000, the Government of India appointed a second commission of inquiry to examine the massacres of Sikhs in November 1984.⁸⁵² The Justice G.T. Nanavati Commission of Inquiry received a total of 2,557 new affidavits, with 1,041 affidavits describing violence against Sikhs outside of Delhi.⁸⁵³ The Commission also received the available incomplete record, including affidavits, filed before the Misra Commission.⁸⁵⁴

The Nanavati Commission held its first public hearing on October 3, 2000.⁸⁵⁵ At its second hearing, it granted permission to the Delhi Sikh Gurdwara Prabhandhak Committee, the civil society group Carnage Justice Committee, and the political party Shiromani Akali Dal (Badal) to participate in the Commission's proceedings. The Commission ordered all other groups to submit their evidence through these groups, thus restricting access to the Commission.⁸⁵⁶

The Commission examined its first witness in April 2001. The victims' representatives called and examined 118 witnesses, and the Commission summoned 33 witnesses, of which 21 appeared.⁸⁵⁷ The Commission completed recording evidence on March 12, 2004,⁸⁵⁸ and spent the remainder of the year issuing 141 Section 8B notices and hearing evidence in response.⁸⁵⁹ On February 9, 2005, Justice Nanavati submitted his report to the government.

The Nanavati Commission improved upon the proceedings of the Misra Commission of Inquiry by implementing greater transparency in its operations. While the Misra Commission held its hearings *in camera*,⁸⁶⁰ forbade the press from reporting on its proceedings,⁸⁶¹ and prevented the victims' representatives from inspecting or receiving copies of affidavits,⁸⁶² the Nanavati Commission held public proceedings, received wide coverage in the media, and allowed applicants to examine the record.⁸⁶³

The Nanavati Commission's report further addressed a major failing of the Misra Commission's report by acknowledging that the violence was organized – although not to the extent warranted by the evidence. The Misra Commission had concluded that the massacres were spontaneous, and blamed the violence on “the lower strata of society.”⁸⁶⁴ In his analysis of the evidence before the Commission, Justice Nanavati acknowledged that: (1) the attacks against Sikhs changed in nature and intensity from October 31 to

⁸⁵² G.T. Nanavati, Report: Justice Nanavati Commission of Inquiry (1984 Anti-Sikh Riots) (Feb. 9, 2005), Annexure I, Ministry of Home Affairs Notification.

⁸⁵³ Nanavati, Report, 10. The affidavits came from Uttar Pradesh, Bihar, West Bengal, Madhya Pradesh, Maharashtra, Haryana, Jammu & Kashmir, Punjab, Assam, Gujarat, Karnataka, Goa, and Tamil Nadu. *Id.*, 11.

⁸⁵⁴ *Id.*, 10-11.

⁸⁵⁵ *Id.*, 11.

⁸⁵⁶ *Id.*, 11-12.

⁸⁵⁷ *Id.*, 14.

⁸⁵⁸ *Id.*, 15.

⁸⁵⁹ *Id.* Under Section 8B of the Commission of Inquiry Act, the Commission has to issue notice to individuals against whom it is likely to make negative findings.

⁸⁶⁰ Misra, Report, 9.

⁸⁶¹ *Id.*

⁸⁶² See above, p.83.

⁸⁶³ Nanavati, Report, 12.

⁸⁶⁴ Misra, Report, 21.

November 1,⁸⁶⁵ (2) gangs systematically attacked and burned Sikhs alive,⁸⁶⁶ and (3) the logistics of the attacks “required an organized effort.”⁸⁶⁷

The Nanavati Commission’s report also provided information – although brief and incomplete – on judicial and administrative accountability. Justice Nanavati examined the end result of the recommendations made by Kusum Lata Mittal, after her extensive investigation of police records and police functioning for almost every station impacted by the massacres in Delhi. The Mittal report demonstrated that police officers manipulated their logbooks, instigated and led mobs, and solicited false statements from victims in order to protect Congress (I) leaders. According to Nanavati, Mittal had recommended action against 72 police officers. Out of those 72 police officers, the majority were exonerated. In four cases, the police officer received mild punishment in the form of a reduced pension, warning, or censure, and, 20 years after the massacres, seven cases were still pending.⁸⁶⁸ Two annexures to the Nanavati Report also provided information on the outcomes of criminal cases arising from the 1984 massacres. Out of 22 subordinate police officers of the rank of Station House Officer (SHO) or lower, only one was convicted and five still had pending trials.⁸⁶⁹ According to Nanavati, from a total of 587 First Information Reports (FIR) filed regarding the massacres, only 25 individuals were convicted of unspecified crimes and 42 faced pending trials.⁸⁷⁰ Thus, the Nanavati Commission’s own figures reinforced the continuing failure of justice for the tens of thousands of victims and survivors of November 1984.

Failings of the Nanavati Report

The major failings of the Nanavati Commission’s report include its:

- Incomplete and understated description of the massacres;
- Use of euphemisms and imprecise and legally irrelevant language when stating findings against perpetrators;
- Limitation of the inquiry to Delhi alone; and
- Failure to identify the organizers of the massacres.

In his report, Justice Nanavati provided a confused description of the massacres, omitting key elements and understating important characteristics. First and foremost, despite acknowledging that the massacres were organized, Justice Nanavati continued to refer to them as “riots.” As Darshan Kaur stated: “Riots happen in complete chaos. This was organized murder.”⁸⁷¹

⁸⁶⁵ Nanavati, Report, 179.

⁸⁶⁶ Id., 180.

⁸⁶⁷ Id.

⁸⁶⁸ Id., 4.

⁸⁶⁹ Id., Annexure IX, List of the Police officers against whom criminal cases were registered.

⁸⁷⁰ Id., Annexure X, Particulars of criminal cases pertaining to anti-Sikh riots in Delhi.

⁸⁷¹ The Widow Colony (2005).

Justice Nanavati gave two contradictory summaries of the 1984 massacres of Sikhs. In his introductory description, he severely understated the extent of the violence. Instead of reporting that assailants killed thousands of Sikhs, as documented in the Ahuja Committee report, Nanavati wrote that “hundreds of Sikhs were killed. Several others were injured.”⁸⁷² He further stated that “hundreds” of Sikhs relocated,⁸⁷³ whereas human rights groups estimated that at least 50,000 individuals left Delhi after the massacres.⁸⁷⁴ In his concluding description, however, Justice Nanavati described the massacres as an “organized carnage,” with attacks conducted in a “systematic manner.”⁸⁷⁵

Even after acknowledging that the massacres were organized, Justice Nanavati omitted mention of crucial evidence that demonstrated the organized nature of the attack on the Sikh community, such as: the use of government-issued voter and ration lists to identify Sikh residences and businesses; the desecration of the Guru Granth Sahib⁸⁷⁶ and the forced removal of Sikh articles of faith;⁸⁷⁷ the refusal of medical care; the systematic disabling and neutralization of police officers who attempted to quell the massacres; and the manipulation of police records by senior officers⁸⁷⁸ in order to destroy any paper trail of the violence and shield criminals from the possibility of effective prosecutions.

Justice Nanavati further employed imprecise language in discussing the crimes of perpetrators. As a retired justice of the Supreme Court of India, he was well aware of the legal significance of language, yet still diluted his recommendations with his sentence constructions and word choice. Justice Nanavati not only failed to employ precise language that could properly convey the strength of his findings and their implications under the law, he did not devise any method that would have allowed a reader to understand his import. For example, in 1992, El Salvador appointed a truth commission to investigate human rights violations that occurred from 1980-1991. The El Salvador Commission defined a set terminology to indicate the strength of the evidence supporting its findings and its degree of certainty.⁸⁷⁹ Nanavati, however, used language that nullified his findings or made it impossible to understand the significance of the evidence.

The most egregious example of Justice Nanavati’s use of imprecise language is his finding describing the role of Congress (I) MP Jagdish Tytler, who was serving as a Union Minister when the report was released:

⁸⁷² Nanavati, Report, 1.

⁸⁷³ Id.

⁸⁷⁴ Citizens for Democracy, Truth About Delhi Violence.

⁸⁷⁵ Nanavati, Report, 180. Justice Nanavati described aspects of the organized machinery, such as: a systematic and uniform method of killing, public meetings where leaders distributed weapons and gave instructions to kill all Sikhs, (See, e.g., Congress leader Sajjan Kumar gave instructions to crowd to kill all Sikhs, Id., 61; Congress Minister HKL Bhagat addressed crowd of 5000 on Oct. 31, 1984, Id., 82; Sajjan Kumar gave speech to crowd to kill all Sikhs, Id., 108; Sajjan Kumar addressed gang, instigated them to kill Sikhs, Id., 110; Sajjan Kumar ordered assailants to beat Sikhs to death, Id., 114; Sajjan Kumar held meeting on Oct. 31, 1984, instigating Congress (I) workers to attack and kill Sikhs, Id., 121; Id., 180) police instigation of killings, (See, e.g., Id., 67, 71, 77, 102, 116), use of state transportation, such as Delhi Transport Corporation buses to transport gangs of assailants (See, e.g., Id., 29, 63, 72, 101, 121), and large-scale provision and distribution of kerosene and incendiary chemicals (See, e.g., Id., 20, 101, 180).

⁸⁷⁶ The Sikh scriptural canon.

⁸⁷⁷ In Sikh psyche and faith, removal of the articles of faith constitutes the surrender of faith and identity.

⁸⁷⁸ Justice Nanavati made one solitary mention that the log book of the Deputy Commissioner of Police appeared to have been tampered with, but did not reflect on the other evidence gathered by Mittal in her report. NCR 73.

⁸⁷⁹ Priscilla B. Hayner, *Unspeakable Truths* (NY: Routledge, 2001), 13.

Relying upon all this evidence, the Commission considers it safe to record a finding that there is credible evidence against Shri Jagdish Tytler to the effect that very probably he had a hand in organizing attacks on Sikhs.⁸⁸⁰

Using vague terms such as “he had a hand,” instead of “complicity,” “accomplice,” or “superior or direct responsibility,” and further weakening his finding with the qualifier “very probably,” instead of “beyond a reasonable doubt,” Justice Nanavati created an escape from holding Tytler accountable. Similarly, in analyzing the allegations against Congress (I) MP Sajjan Kumar, the Commission stated that it was “inclined to take the view” that credible evidence existed that Kumar was “probably involved” in instigating the massacres.⁸⁸¹

In addition to his use of vague and non-committal language, Justice Nanavati weakened his report by limiting his inquiry to Delhi alone. The terms of reference of the Nanavati Commission of Inquiry compelled it to inquire into the massacres in Delhi and “other parts of the country.”⁸⁸² This represented a broader mandate than the Misra Commission which could only investigate the massacres in the three cities of Delhi, Kanpur and Bokaro. In his report, however, Justice Nanavati focused on Delhi alone, although 1,041 new affidavits filed before him described violence outside of Delhi:

As no fresh material or statement was received with respect to the incidents which had happened in other parts of the country and as no grievance has been made that no proper inquiry was made earlier with respect to those incidents or that no proper action has been taken against the officers and policemen found guilty, this Commission has thought it fit not to refer to the material which was produced before Justice Mishra Commission with respect to those incidents.⁸⁸³

Justice Nanavati dismissed the 1,041 affidavits filed before his Commission, stating that they focused on compensation.⁸⁸⁴ Further, besides one reference in passing,⁸⁸⁵ Justice Nanavati completely ignored the massacres of Sikhs on the railways.

The Nanavati report leaves readers with no information on who organized the pogroms. Although Nanavati clearly stated that “[b]ut for the backing and help of influential and resourceful persons, killing of Sikhs so swiftly and in large numbers could not have happened,” and that the provisions of weapons and transportation of killers “required an organized effort,”⁸⁸⁶ he failed to attribute responsibility. He described the cause of the massacres as the “cause

⁸⁸⁰ Nanavati, Report, 153.

⁸⁸¹ Id., 162.

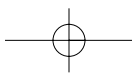
⁸⁸² Id., Annexure I, ¶ 2(a).

⁸⁸³ Id., 15.

⁸⁸⁴ Id.

⁸⁸⁵ Id., 132 (wife told affiant about killing of Sikhs on her train on 1-11-84).

⁸⁸⁶ Id., 180.



of exploitation of the situation,"⁸⁸⁷ and further attributed that exploitation to "anti-social elements," such as the "poorer sections of society."⁸⁸⁸ According to his report, local political leaders exploited "the situation" for their political and personal gains.⁸⁸⁹

Nanavati further exonerated the senior echelon of government, such as the Home Minister, stating that there "was no delay or indifference at the level of the Home Minister."⁸⁹⁰ Although Nanavati agreed with the Misra Commission's findings on the delay in calling in the Army,⁸⁹¹ he did not hold anyone accountable for this delay. As deputy editor of *The Hindu*, Siddharth Varadarajan, commented:

Modern states do not allow small men like Jagdish Tytler, Dharamdas Shastri and Sajjan Kumar to unleash – as part of some sort of private initiative-murder on a genocidal scale. Modern states do not allow their police system to fall apart, except by design. Modern states do not allow Army commanders to say they do not have enough troops to do the job at hand. Littered through Mr. Justice Nanavati's text are all the telltale dots of official guilt but these have been left unconnected, allowing the institutional rot to remain and infect our body politic once again.⁸⁹²

After finding that the carnage was organized with the help of influential persons, Nanavati still concluded that there was "absolutely no evidence" to demonstrate that any high-ranking Congress (I) leaders had organized or instigated the massacres.⁸⁹³

The Government later gleaned a mere ten recommendations from the Nanavati Commission's report to address several thousand murders in November 1984. These recommendations primarily called for further investigations or governmental inquiries.⁸⁹⁴ In rare cases, the Commission made findings against an individual, but expressed its inability to make any recommendations because of judicial acquittals or departmental exonerations of accused individuals.⁸⁹⁵ Nanavati failed to acknowledge that at least one case was

⁸⁸⁷ Id., 181.

⁸⁸⁸ Id.

⁸⁸⁹ Id.

⁸⁹⁰ Id., 178.

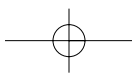
⁸⁹¹ Id., 183.

⁸⁹² Siddharth Varadarajan, Moral Indifference as the form of evil, *The Hindu* (Aug. 12, 2005) at <http://www.thehindu.com/2005/08/12/stories/2005081201511000.htm>.

⁸⁹³ Nanavati, Report, 182.

⁸⁹⁴ For example, Nanavati recommended "appropriate action" against Sub-Inspector Hoshier Singh for "dereliction of duty" during the attack on Gurudwara Rakab Ganj, Id., 143. Other examples of recommendations include: "further investigation" of Congress (I) leader Dharam Dass Shastri's instigation of an attack on Sikhs, Id., 146-7; a departmental inquiry against policemen, Id., 154; and examination of closed cases where Sajjan Kumar was accused by witnesses and no chargesheet was filed, Id., 162.

⁸⁹⁵ See, e.g., Id., 147 (Nanavati made findings against Congress (I) workers Hem Chander and Mahesh Yadav for instigating mobs in an attack on Sikhs, but did not recommend any further action because these individuals were acquitted after the death of the key witness); Id., 154-5 (witnesses turned hostile during trial, leading to acquittal of accused); Id., 159 (Nanavati could not recommend action against Himmat Rai because witnesses turned hostile and he was acquitted in court, but concluded that Rai participated in attack on Gurudwara); Id., 167 (Credible material exists to make finding against Congress leaders, but Nanavati could not make any recommendation because leaders acquitted by court); Id., 167 (Sewa Dass exonerated by departmental inquiry); Id., 167 (Tyagi acquitted, so no recommendation).



discharged because the government refused prosecution sanction.⁸⁹⁶ Further, he himself later stated that, in some cases, acquittals had no significance because of the lack of proper investigations by the police.⁸⁹⁷ The Nanavati Commission also failed to make any recommendations against perpetrators from key areas of the massacres, such as East Delhi, where assailants killed over one thousand Sikhs.⁸⁹⁸

In order to address negligence and omissions of duty by the police, the Commission generally counseled the government to “consider even now if any action can be taken.” The Commission disposed of affirmative acts by policemen, such as instigation of murder, by stating that the courts had already tried the criminal cases.⁸⁹⁹ Justice Nanavati exonerated senior police officers by attributing their vague affidavits to the passage of time, while holding victim and witness affidavits to a much more strict analysis.⁹⁰⁰

The Government's Response

On August 8, 2005, one day before the deadline expired, the Indian government tabled the final report of the Nanavati Commission and its Action Taken Report (ATR) before Parliament. In its ATR, the government addressed ten recommendations from the Commission's report, eight of which implicated individuals. The government gave four main responses: (1) legal hurdles precluded them from taking any action since the accused had retired, (2) the government had taken note of the Commission's finding and would consult another body for further action, although no timelines were set, (3) there was no evidence against the accused, despite Nanavati's finding, and/or (4) the individual was not named as an accused in the original FIR,⁹⁰¹ irrespective of the evidence that police manipulated FIRs. In a few cases, the government also emphasized that the individual had been exonerated in a prior departmental inquiry or judicial proceeding. Thus, the government found that there was no justification to reopen cases against MP Sajjan Kumar, and the government refused to take action against MP and Minister Jagdish Tytler: “It may be pointed

⁸⁹⁶ Ajmer Singh, *Scot-Free: The Killers in Uniform*, Tehelka (Aug. 27 2005) (Shoorvir Singh Tyagi was discharged because the government refused to grant prosecution sanction). Sections 45 and 197 of the Code of Criminal Procedure require consent from the state or central government for the arrest or prosecution of public servants and members of the Armed Forces for actions undertaken in their official capacity.

⁸⁹⁷ See, e.g., Nanavati, Report, 161.

⁸⁹⁸ Manoj Mitta, *Nanavati let off all police officers from worst massacre site*, Indian Express (Aug. 21, 2005) at http://www.indianexpress.com/full_story.php?content_id=76705.

⁸⁹⁹ Nanavati, Report, 158. See Ajmer Singh, *Scot-Free, Tehelka* (general analysis of Nanavati's recommendations, or lack of, against senior police officers).

⁹⁰⁰ Justice Nanavati, for example, discussed the attack on Gurudwara Rakab Ganj, documented in several affidavits. Justice Nanavati disposed of Indian Express reporter Monish Sanjay Suri's affidavit because of a slight discrepancy in his stated time of arrival, between his original affidavit (4 pm), and his testimony over 20 years later before the Commission (between 2 and 4 pm). Nanavati, Report, 22. However, Justice Nanavati did not apply the same logic to the accused Kamal Nath's affidavit. There, he acknowledged that Nath's reply was “vague,” gave no information on when Nath got to the gurudwara and for how long Nath stayed, failed to explain why Nath did not contact the police to quell the violence, but in the end allowed for the lapse of over two decades: “At the same time it is also required to be considered that he was called upon to give an explanation after about 20 years and probably for that reason he was not able to give more details as regards when and how he went there and what he did.” *Id.*, 141. Nanavati further discounted two witness affidavits, and therefore, could not reach a conclusion on the role of Kamal Nath in the attack on Gurudwara Rakab Ganj. *Id.*

⁹⁰¹ The Alleged ATR, Outlook India (Aug. 9, 2005) at <http://203.200.89.68/fullprint.asp?choice=1&fodname=20050809&fname=nanavati&sid=1> (full text of ATR).

out that in criminal cases, a person cannot be prosecuted simply on the basis of 'probability.'⁹⁰² The government exploited the loophole Justice Nanavati had created with his use of legally irrelevant language.

In discussing the action that could be taken against the police and Congress leaders identified by Justice Nanavati, the government limited itself to disciplinary action under the Central Civil Services Rules and Pension Rules. It thus concluded that it could not initiate any departmental proceedings against the accused because (1) they had retired, and (2) more than four years had passed since the alleged crime.⁹⁰³ The government ignored its wide powers under criminal law, such as the Indian Penal Code, through which the accused could be charged with murder, conspiracy to commit murder, destruction of evidence, and other relevant crimes. The Constitutional double jeopardy bar would not apply if the perpetrator had not been charged earlier in the same case, as was often true.⁹⁰⁴ Moreover, there is no statute of limitation for murder.

Survivors and opposition politicians greeted the Nanavati Report and the Action Taken Report with protests and threats to disrupt legislative proceedings. On August 9, 2005, both houses of Parliament – the Lok Sabha and Rajya Sabha – shut down.⁹⁰⁵ Survivors demanded prosecutions of perpetrators, demonstrating outside of Parliament with signs that read: "We Want Justice, Not Reports."⁹⁰⁶ Popri Kaur, who witnessed the murder of her husband when she was just 21 years old, expressed the feelings of injustice:

If the government managed to bring Satwant Singh and Beant Singh [assassins of Prime Minister Indira Gandhi] to justice, why are killers of my husband roaming scot-free?⁹⁰⁷

Sikhs outside of Delhi, in Jamshedpur and Ranchi, held a silent march because of the exclusion of their state Jharkhand in the recommendations made by the Nanavati report.⁹⁰⁸ As protests continued over the days, police targeted protestors with water cannons⁹⁰⁹ and baton-charges.⁹¹⁰

After the protests generated by the Nanavati report and Action Taken Report, on August 10, 2005, Jagdish Tytler resigned from his post as Minister of State for Non-Resident Indian Affairs,⁹¹¹ and MP Sajjan Kumar resigned as Delhi rural board chief.⁹¹² Further, in an ironic turn of events, the Sikh Prime Minister Manmohan Singh apologized for the 1984 massacres of Sikhs. Prime Minister

⁹⁰² Id.

⁹⁰³ Id.

⁹⁰⁴ Manoj Mitta, Evidence against Tytler can form basis for extra chargesheet & a new case, Indian Express (Aug. 10, 2005) at http://www.indianexpress.com/full_story.php?content_id=76009.

⁹⁰⁵ Indian politicians clash over report on anti-Sikh riots, CBC News (Aug. 9, 2005) at <http://www.cbc.ca/story/world/national/2005/08/09/india-report050809.html>.

⁹⁰⁶ Id.

⁹⁰⁷ Vibha Sharma, '84 riot victims burn Nanavati panel report, Tribune (Chandigarh) (Aug. 10, 2005) at <http://www.tribuneindia.com/2005/20050810/main3.htm>.

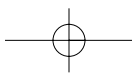
⁹⁰⁸ Sikhs in protest march, Telegraph (Aug. 16=5, 2005), at http://www.telegraphindia.com/1050815/asp/jamshedpur/story_5116133.asp.

⁹⁰⁹ See image at Daily Star, <http://www.thedailystar.net/2005/08/11/d50811131099p.htm>.

⁹¹⁰ Protests by Sikhs turn violent, police use lathi-charge, Outlook India (Aug. 10, 2005) at http://www.outlookindia.com/pti_news.asp?id=316160.

⁹¹¹ Indian minister quits over riots, BBC News (Aug. 10, 2005) at http://news.bbc.co.uk/2/hi/south_asia/4139802.stm.

⁹¹² Sujar Mehdudia, Sajjan Kumar quits as rural development board chief, Hindu (Aug. 12, 2005) at <http://www.hindu.com/2005/08/12/stories/2005081206401200.htm>.



Singh made two statements, one to each house of Parliament. In his Rajya Sabha speech,⁹¹³ he apologized for the massacres and reiterated the main points of his Lok Sabha⁹¹⁴ speech.

The Prime Minister's speeches failed to actively acknowledge or confront the horror of the massacres and instead continued the government's tradition of burying the truth. In his speech before the Lok Sabha on August 10, 2005, Prime Minister Manmohan Singh alternately referred to the massacres as "riots," a "human tragedy," "this whole mass tragedy," and "all these ghastly happenings." His speech anesthetized the stark reality of the organized carnage and the subsequent years of impunity. He warned against partisan politics, yet his speech focused on the alleged contributions of the Congress party to Punjab, after India's independence. After discussing the "events of 1980s," in Punjab, when Punjab experienced a militant movement and brutal police counter-insurgency, Prime Minister Singh raised the specter of a return of "terrorism" in Punjab to those who had vociferously opposed the ATR the day before:

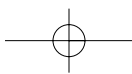
[W]hatever we say or do in this House or outside I think, it would be a sin against our nationhood if we try to sow the seeds of discontent among the youths of Punjab....If you try to create a wedge between the Sikh community and the national mainstream and thereby my worry is – may be it is not your intention – that you are creating a situation where that ugly phase when terrorism held sway in Punjab might not once again come back....In this age of instant communication, what you say here, what you say in the media, reaches outside. I shudder to think what will young people in Punjab see when they hear our Members of Parliament talk the way we talked. They will once again feel insecure about their future. That is not good for Punjab. That is not good for the Sikh community. That is not good for India. Therefore, in the name of national unity, I appeal to all the honorable Members not to say or not to do things which will widen the gulf between the Sikh community and the rest of the country....So, my request to our friends from the Shiromani Akal Dal is, by all means criticise the Congress Party....But please do not say things which will drive a permanent wedge between the valiant Sikh community and the national mainstream.⁹¹⁵

In his speech, Prime Minister Singh devoted more time to implicitly connecting criticism of the ATR to terrorism in Punjab, than he did to seriously addressing the injustices against the survivors of the massacres. In his Rajya Sabha speech, Prime Minister Singh again brought up the fear of terrorism, stating that "Eternal vigilance is the price of liberty." He appealed to the House to refrain from language "which will, once again, give handle to those forces who are inimical

⁹¹³ Prime Minister Manmohan Singh, "I Bow My Head in Shame," Outlook India (Aug. 11, 2005) at <http://www.outlookindia.com/full.asp?fodname=20050811&fname=manmohan&sid=1> (Rajya Sabha Speech).

⁹¹⁴ Prime Minister Manmohan Singh, "PM's Intervention During the Debate," Press Information Bureau (Aug. 11, 2005) at <http://pib.nic.in/release/release.asp?relid=11148> (Lok Sabha Speech).

⁹¹⁵ Prime Minister Manmohan Singh, Lok Sabha Speech.



to our country's unity and integrity and who play upon the sentiments of innocent Sikh youths."⁹¹⁶

The Prime Minister's promises remained the same as those in the ATR – further inquiries and consultations with the Law Ministry. He saved his strongest sentiments for exonerating the Congress Party: "They have finally nailed the lie and they have shown that all these canards which have been spread about the involvement of the top leadership of the Congress Party in those dastardly acts were totally untrue."⁹¹⁷ Prime Minister Singh saluted Tytler, who was repeatedly cited by survivors as a leader of the massacres, as "a valued colleague."⁹¹⁸ Thus, as survivors and witnesses continued to describe the role of Congress (I) leaders in organizing and implementing the massacres, the Prime Minister called them liars and praised the perpetrators, rendering meaningless his calls for continuing the search for truth.

The Prime Minister's Rajya Sabha speech added a statement against remembrance of the massacres, criticizing an MP who had highlighted how assailants targeted all segments of Sikh society during the 1984 massacres:

I was pained yesterday when one honorable Member in the other House brought up instances where Sikh personnel of the Armed Forces suffered in 1984....I respectfully submit to you, that was the most painful chapter in the history of our country. By reliving that, by reminding us again and again you do not promote the cause of national integration, of strengthening our nation of [sic] sense of security.⁹¹⁹

In *The Widow Colony*, Madhu Kishwar responded to the argument of silence in favor of national integration: "This is what your idea of national unity is, a kind of brutal violence." Darshan Kaur directly addressed the issue of remembrance: "We won't forget. I say that 1984 just happened to us, even though people say that 20 years have passed. It is fresh in my mind like it happened yesterday. I will never forget '84. Those who say forget '84 are dead wrong."⁹²⁰

As criticism of the government's response continued, the Union Home Ministry did request the Central Bureau of Investigation (CBI) to reopen cases against MP Sajjan Kumar, Tytler, and Dharam Dass Shastri.⁹²¹ In January 2006, the CBI made such an application regarding Sajjan Kumar before a New Delhi court.⁹²² The CBI's past performance in cases against Sajjan Kumar, however,

⁹¹⁶ Prime Minister Manmohan Singh, Rajya Sabha Speech.

⁹¹⁷ Prime Minister Manmohan Singh, Lok Sabha Speech.

⁹¹⁸ Prime Minister Manmohan Singh, Rajya Sabha Speech.

⁹¹⁹ Prime Minister Manmohan Singh, Rajya Sabha Speech.

⁹²⁰ *The Widow Colony*.

⁹²¹ Sudhi Ranjan Sen, 1984 Sikh Riots: Home asks CBI to reopen cases, *Indian Express* (Oct. 20, 2005) at http://www.indianexpress.com/full_story.php?content_id=80784.

⁹²² CBI to reopen cases against Sajjan Kumar, *Tribune* (Chandigarh) (Jan. 16, 2006) at <http://www.tribuneindia.com/2006/20060116/main1.htm>.

does not leave much hope. In the past, the CBI has missed deadlines for filing appeals and also failed to prepare for hearings and marshal evidence, causing one High Court judge to adjourn a hearing with an admonishment to the prosecutor to "Do your home work and then come to court."⁹²³

Rehabilitation

The Nanavati report did lead to increased compensation for survivors. This focus on compensation, over accountability, truth and justice, has effectively created a regime where the state is allowed to kill, as long as it pays cash for the lives.

For the rehabilitation of survivors, the Nanavati Commission recommended: (1) employment for one family member, if no male member is living and no other means of livelihood exist,⁹²⁴ and (2) compensation on a uniform basis.⁹²⁵ In its ATR, the Government accepted Justice Nanavati's recommendations regarding uniform compensation and employment. In August itself, the government established two committees to inquire into the (1) adequacy and uniformity of compensation throughout several Indian states, and (2) additional employment opportunities for survivors.⁹²⁶ The two committees submitted their reports on October 29, 2005, recommending about an additional total compensation of ten billion rupees.⁹²⁷ On December 29, 2005, the Indian government approved a relief package of 7.15 billion rupees (\$158 million) for survivors. This included about 350,000 rupees (\$7800) maximum per death, and 125,000 rupees (\$2,800) per injury, as well as compensation for uninsured property.⁹²⁸

Conclusion: The Quest for Justice

Twenty-two years after witnessing the brutal murder of her husband, Darshan Kaur continues to pursue justice through the legal system:

We have made so many appearances in court. They thought that if we get stuck in that process, that we would get tired and just give up. But we are not ones to give up! Until we breathe our last, we will keep fighting. We will not give up and just stay silent.⁹²⁹

Survivors continue to insist on knowledge, justice and reparation.

⁹²³ Sajjan's acquittal: HC adjourns hearing as CBI not prepared, Outlook Indi (Aug. 18, 2005) at http://www.outlookindia.com/pti_news.asp?id=317440.

⁹²⁴ Nanavati, Report, 184.

⁹²⁵ Id., 183.

⁹²⁶ Centre forms two panels for '84 riot victims, Tribune (Chandigarh) (Aug. 14, 2005) at <http://www.tribuneindia.com/2005/20050814/main3.htm>.

⁹²⁷ S. Satyanarayan, Panel on '84 riots for Rs 1,000 crore relief, Tribune (Chandigarh) (Oct. 31, 2005) at <http://www.tribuneindia.com/2005/20051031/main6.htm>.

⁹²⁸ Anti-Sikh riot victims get \$158m, BBC News (Dec. 29, 2005) at http://news.bbc.co.uk/1/hi/world/south_asia/4566680.stm.

⁹²⁹ The Widow Colony.

Despite the past failures of judicial accountability and exonerations through departmental inquiries, ample evidence exists to convict the organizers of the carnage. The survivors and eyewitnesses know the truth. The survivors, however, need specific protection measures. Darshan Kaur described how Congress leader HKL Bhagat and other perpetrators attempted to bribe her and physically attacked her family:

When I identified them [HKL Bhagat and others], they offered me a settlement of 2.5 million rupees. They said, "Take the 2.5 million and forget about it." I said, "Twelve people in my family died, give me even one of those people back. I don't want your 2.5 million. Just give me back even one of those people. What am I going to do with your 2.5 million?" When I didn't accept the money for my silence, they started attacking my family and I [sic]. There is this tent outside my front door, the police have put that there on behalf of the Government. Wherever I go, the police go with me. For the house and for the children, the police always are outside."⁹³⁰

The Mittal and Nanavati⁹³¹ reports both highlighted the role of the police and Congress leaders in intimidating survivors to depose in their favor. Yet, the government has not established a witness protection program. Nor has the government incorporated international crimes, such as crimes against humanity, or principles like command responsibility, which holds superiors liable for human rights violations committed by their subordinates, into its municipal law.

In *The Widow Colony*, Sawaranbir Singh expressed the alienation felt by many survivors of November 1984:

This country has become foreign to us. Where are we to live? The Government is not ours and the people are not our own....How are we to survive?

Each day the survivors are denied their rights to knowledge, justice and reparation, their anguish is compounded, their nightmare prolonged, and their alienation deepened. Twenty-two years on, the Indian government continues to call for more inquiries. The institutional breakdown of justice, where thousands of Indian citizens can be denied their rights in order to protect the few, elite, and powerful, cannot be redressed through Nanavati-type commissions. These commissions have served to cover-up the truth, rather than provide a just and meaningful way forward. India, however, still has the opportunity to demonstrate its respect for human rights and participate in the international movement for accountability. India must recognize that it does not have the will or capacity to implement an impartial and thorough investigation into these mass crimes or hold the perpetrators accountable, and invite the international community to help it develop a mechanism to redress these crimes. Until India ends impunity for these genocidal killings, it will continue to be a nation ruled by men, and not the law.

⁹³⁰ The Widow Colony.

⁹³¹ Nanavati, Report, 39, 88, 91, 155.

APPENDIX I

Map of India



APPENDIX II

Abbreviations

ACP	Assistant Commissioner of Police
AIIMS	All India Institute of Medical Sciences
ASI	Assistant Sub-Inspector
ASJ	Additional Sessions Judge
ASR	Anandpur Sahib Resolution
CBI	Central Bureau of Investigation
CCrP	Code of Criminal Procedure
CID	Criminal Investigation Department
CISF	Central Industrial Security Force
CJC	Citizens' Justice Committee
CP	Commissioner of Police
DCP	Deputy Commissioner of Police
DIG	Deputy Inspector-General
DSP	Deputy Superintendent of Police
FIR	First Information Report
GOC	General Officer Commanding
HC	Head Constable
IAS	Indian Administrative Service
IPS	Indian Police Service
Lt. Gov.	Lieutenant Governor
MP	Member of Parliament
PS	Police Station
PUCL	People's Union for Civil Liberties
PUDR	People's Union for Democratic Rights
RPF	Railway Police Force
SHO	Station House Officer
SI	Sub-Inspector
SSP	Senior Superintendent of Police

APPENDIX III

**Delhi Development Authority:
Letter and List of Gurudwaras Repaired**



दिल्ली विकास प्राधिकरण
DELHI DEVELOPMENT AUTHORITY
विकास विभाग
VIKAS MINAR
एकम मंडल
INDRAPRASTHA ESTATE
एक मंडल-2
NEW DELHI 26/11/85

संख्या:

No. 1(12)E4/21-2/15/61-62

सेवा:

From: On Prakash,
Director(Works).

किसी को,

To

The Secretary,
Justice Ranganath Misra
Committee of Inquiry,
5, Dr.Rajendra Prasad Road,
New Delhi-110001.

Sir,

Kindly refer to your application No.43 of 1985 addressed to the Vice-Chairman, DDA alongwith others for furnishing answer to the interrogatories in connection with Gurudwaras/Educational Institutions repaired by DDA. Though the requisite information has already been furnished to Shri R.K. Ahuja, Home Secretary, Delhi Admn. vide this office letter No.E.M.1(12)84/Pt.IV/13778 dated 26.11.85, another copy of the same is however sent to you also for necessary action at your end.

Yours faithfully,

(Signature)
(On Prakash)
Director(Works)

Encl: As stated.

Copy to:-

OSD to Vice-Chairman, DDA for information of action as desired by him.

Director(Works)
D.D.A.

38/24/85
So (Prakash)

DETAILS OF GURDWARAS REPAIRED BY THE D.D.A.Sr.No: Name of the GurdwarasEAST ZONE :

1. Gurdwara East Vinod Nagar.
2. Gurdwara Trilokpuri, Block-30.
3. Gurdwara, West Guru Angad Ngr.
4. Gurdwara Bhatra Birardari, Ghumdihi Ngr. Subhash Mohalla.
5. Gurdwara Shri Reagarhi, Chand Mohalla Ghandi Nagar.
6. Gurdwara Shri Singh Sabha, Nank' Basti, Gali No.4, Gandhi Ngr.
7. Gurdwara, Ajit Nagar.
8. Gurdwara, Shri Singh Sabha, Jheel Khuranja.
9. Gurdwara, Old Anarkali.
10. Gurdwara, Jagat Puri.
11. Gurdwara, Jital Nagar.
12. Gurdwara, Dara Santa Daba, 'K' Bld. Laxmi Ngr.
13. Gurdwara Sri Guru Singh Sabha, Radheygari.
14. Gurdwara Sri Rah Singh Sabha, Nehru Street.
15. Gurdwara, Shakarpur Bld.A-66.
16. Gurdwara, Khureji Khas E-9,10 & 11.
17. Gurdwara, Hargovind Enclave.
18. Gurdwara, Lalita Park.
19. Gurdwara, Ganesh Ngr.II near Sh.Krishan Temple.
20. Gurdwara, Naujpur Extn. Chet Ram Marg.
21. Gurdwara, Naujpur Extn. Gurdwara Mohalla Gali No.3.
22. Gurdwara, North Gonda, K-Bld. Bhajanpura, C Bld.
23. Gurdwara, Gandhi Extn.
24. Gurdwara, Jagjit Nagar & Sheatri Park.
25. Gurdwara, Yasuna Vihar, Bld-9.
26. Gurdwara, Seelampur, Shahdara.
27. Gurdwara, Mansarovar Park, Shahdara.
28. Gurdwara, Subhash Park, Shahdara.
29. Gurdwara, Mandoli Road, Shahdara.
30. Gurdwara, Seelampur Delhi, Shahdara.
31. Gurdwara, Seelampur Ph.II, C.T.Road.
32. Gurdwara, Nahi Mohalla West Haktanah Nagar.
33. Gurdwara, Shivaji Park, Shahdara.
34. Gurdwara, East Ram Nagar, Shahdara.
35. Gurdwara, Loni Border, Loni Road.
36. Gurdwara, Kubal Nagar, Shahdara.

contd...2/-

15 27

WEST ZONE.

- ✓37. Gurudwara, Road No.5, Punjabi Bagh?
- ✓38. Gurudwara Road.
- ✓39. Gurudwara at Road No.33 East Punjabi Bagh?
- ✓40. Gurudwara at Road No.11 Block Z, Paschim Vihar?
- ✓41. Gurudwara at Pkt.73 Janta Qtrs. Paschim Puri?
- ✓42. Gurudwara at A-1 Paschim Vihar.
- ✓43. Gurudwara at Paschim Enclave G-17 Area.
- ✓44. Gurudwara at Pkt.1 Paschim Puri Janta Quarters.
- ✓45. Gurudwara at Punjabi Bagh.
- ✓46. Gurudwara at Naraina.
- ✓47. Gurudwara at New Rohtak Road.
- ✓48. Gurudwara 'B' Blk. Janakpuri.
- ✓49. Gurudwara 'A' Blk. Janakpuri.
- ✓50. Gurudwara 'A' Blk. Janakpuri near vill. Anasatpur.
- ✓51. Gurudwara at Janakpuri C1/C2
- ✓52. Gurudwara at Janakpuri C2/C1.
- ✓53. Gurudwara at blk. D-Janakpuri?
- ✓54. Gurudwara at Lajwanti, Mangal Rays.
- 55. Gurudwara at Padam Banti Mangal Rays?
- 56. Gurudwara at JJR Naraina opposite site office.
- 57. Gurudwara at 'B' Block JJR Naraina & E.A. 80-81 Inderpuri (2Bks).
- 58. Gurudwara at acedmic Bl/2B, Inderpuri?
- 59. Gurudwara at Kirti Nagar.
- 60. Gurudwara at Tilek Nagar?

NORTH ZONE.

- 61. Gurudwara in JJR Colony Mangolpuri.
- 62. Gurudwara in 956, Lakhu Nagar, Tejab Road.
- 63. Gurudwara at 551 Gali No.37 Oskar Nagar.
- 64. Gurudwara at Gujrasaini Town, B-15.
- 65. Gurudwara at Bhai Payasand Colony.
- 66. Gurudwara Har Bhagat Singh at Dhir Pur.
- 67. Gurudwara Singh Sabha at Mukherjee Nagar.
- 68. Gurudwara at Model Town.
- 69. Gurudwara at Singh Sabha Railway Colony behind Nehru Ngr.
- 70. Gurudwara at Singh Sabha, Channa Mandi, Paharganj.
- 71. Gurudwara Guru Amar Dass at Motia Khan.
- 72. Gurudwara at Sri Guru Singh Sabha, Andha Mughl Partap Ngr?
- 73. Gurudwara Tinsar Pur.
- 74. Gurudwara at C-7, Lawrence Road?
- 75. Gurudwara at A-2, Lawrence Road.
- 76. Gurudwara at Ashok Vihar, P.O.?

Contd.,....

1. - 2. -----
77. Gurudwara at Shalimar Bagh Blk. DC
 78. Gurudwara at Shalimar Bagh Blk. A Part. II
 79. Gurudwara behind Asha Cinema, Keesha Nagar.
 80. Gurudwara Bahis Badli Extra.
 81. Gurudwara at Singh Sabha in G(P)SU(U) Patimpura.
 82. Gurudwara Nar Gobind Sat at G.T. Road near Laibaspur.
 83. Gurudwara at G.T. Road near Laibaspur GD, I
 84. - do - Gr. II
 85. - do - Gr. III
 86. - do - Gr. IV
 87. Gurudwara at Nazim Road & Punjabi Mohalla, Morela.
 88. Gurudwara at Sub On Kutte at G.T. Road.
 89. Gurudwara Sant Sujan Singh Village Kiosk No. 2 Gaudipur Delhi.
 90. Gurudwara in Blk. A at Jahangirpuri.
 91. Gurudwara at G.T. Karnal & Wangoli.
 92. Gurudwara at G.T. Karnal, Rohini.
 93. Gurudwara at Nahru Bazaar Mehar Ganj.
 94. Gurudwara at Nangloi.

SOUTH WEST ZONES

95. Gurudwara at Kalkaji.
96. Gurudwara at Amar Colony.
97. Gurudwara at Dayanand Colony.
98. Gurudwara at Gautam Nagar.
99. Gurudwara at East of Kailash (Garhi).
100. Gurudwara at Sujan Singh Park.
101. Gurudwara at Vasant Vihar.
102. Gurudwara Baha Banda Singh Bahadur Mehrauli.
103. Gurudwara at Green Park.
104. Gurudwara at Kishan Nagar.
105. Gurudwara near DDA Flats Punirka.
106. Gurudwara near DTC Depot at Mehrauli.
107. Gurudwara Mehrauli (Main).
108. Gurudwara Mehrauli (Historic).
109. Gurudwara Mehrauli (Near Jain Temple).
110. Gurudwara Saket.
111. Gurudwara Punirka.
112. Gurudwara Bharat Nagar.
113. Gurudwara Lajpat Nagar-I.
114. Gurudwara Badliapur.
115. Gurudwara Kotla Mubarakpur.
116. Gurudwara near Alankar Cinema.
117. Gurudwara JJ Colony Tigris.
118. Gurudwara JJ Colony Badangir.
119. Gurudwara Darya Daud Colony
120. Gurudwara Darya Daud Colony

- 4 -

- | 1. | 2. |
|------|--|
| 119. | Gurudwara Guru Nank Satsang Sabha at New Friends Colony. |
| 120. | Gurudwara Guru Singh Sabha at Badarpur. |
| 121. | Gurudwara C-185, Defence C'ly. New Delhi. |
| 122. | Gurudwara Lajpat Nagar-III. |
| 123. | Gurudwara Krishna Market, Lajpat Nagar-I. |

SOUTH WEST ZONE:

- | | |
|------|---|
| 124. | Gurudwara at JJR Khanpur. |
| 125. | Gurudwara at JJR Scheme at Madangir near Booster Pump. |
| 126. | Gurudwara at Raju Park U/A Colony. |
| 127. | Gurudwara at Ancherka Mor. |
| 128. | Gurudwara at JJR Scheme at Dakshinpuri. |
| 129. | Gurudwara at Mehrauli Ward No.8. |
| 130. | Gurudwara at Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, near Gole Market. |

ROHINI ZONE:

- | | |
|------|---|
| 131. | Gurudwara in Block No.-D in Parshant Vihar. |
|------|---|

APPENDIX IV

Railway Protection Force: Annexure on
Unauthorized Stoppages

BUREAU 'C.

Statement showing the Stoppage of Trains forcibly or otherwise at various places either at Railway Stations or without railway stations, over Delhi Area, during riots after Assassination of Late Prime Minister Sri Indira Gandhi.

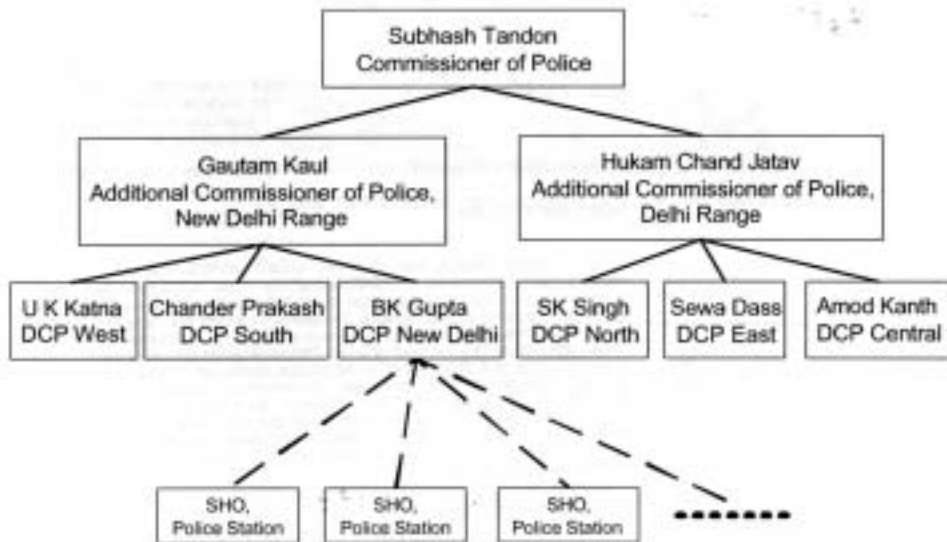
Sl No.	Date	Train No.	Station/Ty. section, whether train stopped.	Cause of stoppage.	Remarks.
1.	2.	3.	4.	5.	6.
1.	1/11/54.	16 UP	New Delhi.	Due to mob.	-
2.	-do-	10 UP	Muzamudin.	-do-	-4
3.	-do-	23 UP	Tughlakabad.	-do-	
4.	-do-	34 DM	Shahdara- Ghaziabad.	-do-	
5.	-do-	25 UP	Tughlakabad- Ghala-Muzamudin.	-do-	
6.	-do-	147 UP	New Delhi- Shahdara.	-do-	
7.	-do-	61 UP	Ghaziabad.	-do-	
8.	-do-	131 UP	Tughlakabad.	-do-	
9.	-do-	146 DM	Ghaziabad- Ghaziabad.	-do-	
10.	-do-	148 UP	Ghala- Muzamudin.	-do-	
11.	-do-	153 UP	Outer Signal, Ghaziabad.	-do-	
12.	-do-	155 UP	*O/S Shahdara.	-do-	* Outer Signal.
13.	-do-	150 DM	Shahdara- Ghaziabad.	-do-	
14.	-do-	2 DM	Ghaziabad.	-do-	
15.	-do-	1 DM	Delhi.	-do-	
16.	-do-	2 AD	Delhi-Shahdara- Delhi.	-do-	
17.	-do-	331 UP	Delhi-Shahdara- Loni.	-do-	
18.	-do-	2 DM	New Delhi- Ghaziabad.	-do-	
19.	-do-	1 DM	Ghaziabad.	-do-	
20.	-do-	2 DM	Shahdara-Delhi- Shahdara.	-do-	
21.	-do-	1 DM	Shahdara.	-do-	
22.	-do-	4 DM	Delhi-Ghaziabad.	-do-	
23.	-do-	2 DM	Delhi-Delhi- Shahdara-Shahdara.	-do-	
24.	-do-	2 DM	Loni-Delhi Shahdara.	-do-	

-----2/-

1.	2.	3.	4.	5.	6.
25.	2-22 1/11/84.	2 DS	Ghaziabad-Delhi Shahdara.	Due to mob.	
26.	-do-	1 DSU	Delhi-Shahdara.	-do-	
27.	-do-	4 DS	Shakurbasti-Dayabasti.	-do-	
28.	-do-	359 ON	Tughlakabad-Okhala.	-do-	
29.	-do-	364 UP	Okhala-Tughlakabad.	-do-	
30.	-do-	7 DS	Delhi Shahdara-Loni.	-do-	
31.	-do-	91 UP	Palam.	-do-	
32.	-do-	201 UP	Delhi Cantt.	-do-	
33.	-do-	1 DS	Palam.	-do-	
34.	-do-	89 UP	Delhi-Jarai Rojilla.	-do-	
35.	-do-	203 UP	Palam.	-do-	
36.	-do-	216 DN	Bijwasan.	-do-	
37.	-do-	215 UP	Palam.	-do-	
38.	-do-	204 ON	Delhi Cantt.	-do-	
39.	2. 11. 1985.	2 GUS.	Dayabasti-Shakurbasti.	-do-	
40.	-do-	3 DS	Gate 3-C between Delhi-Shahdara & Loni.	-do-	
41.	-do-	1 DSU	Delhi-Delhi Shahdara.	-do-	
42.	-do-	38 RR DN	Tughlakabad.	-do-	
43.	-do-	138 DN	Delhi-Shahdara.	-do-	
44.	-do-	151 UP	Tughlakabad.	-do-	
45.	-do-	60 ON	Happi-ai-Shakurbasti.	-do-	
46.	-do-	89 UP	Delhi-Queens Road.	-do-	

APPENDIX V

Delhi Police Chart and Key Police Stations (1984)



Police District	Key Police Stations
Central	Patel Nagar, Karol Bagh, Pahar Ganj, Desh Bandhu, Darya Ganj
North	Kotwali, Subzi Mandi, Ashok Vihar, Sarai Rohilla, Adarsh Nagar, Kingsway Camp
East	Gandhi Nagar, Shakarpur, Kalyanpuri, Shabdra, Seelampur, Yamunapuri, Farash Bazar, Krishna Nagar, Seemapuri
New Delhi	Parliament Street, Tughlaq Road, Tilak Marg
South	Delhi Cantt., Lajpat Nagar, Srinivasपुरi
West	Punjabi Bagh, Nangloa, Sultanपुरi, Mangolपुरi, Janakपुरi, Tilak Nagar, Moti Nagar

APPENDIX VI

Reply by General Manager's Office (Northern Railway) to Interrogatory on Arrests



M.K. KHOSLA.

GENERAL MANAGER'S OFFICE
NORTHERN RAILWAY
BARODA HOUSE,
NEW DELHI.

D. O. No. SR/HC/Misc/85

DATED 16th Nov., 1985

Dear Shri Gupta,

Kindly refer to your D. O. No. D-6/85-MCI (J) dated 6th November, 1985 regarding an application in direction (praying therein for summoning/Procuring documents and Government Records) filed by Shri H.S. Phoolka, Convener/Advocate of the Citizen's Justice Committee before Justice Rangnath Misra Commission of Enquiry. In this context this is to advise that the Railway Protection Force, Northern Railway did not arrest any person during the riots after the assassination of the Late Prime Minister in the Union Territory of Delhi as called for vide Para G-6 of the application enclosed with your letter.

With regards,

Yours sincerely,

(M. K. Khosla)

Gen. Manager

Shri R. L. Gupta,
Secretary,
Justice Rangnath Misra,
Commission of Enquiry,
No. 5, Dr. Rajendra Prasad Road,
NEW DELHI - 110001.

50/7-11
24.11.85

APPENDIX VII

Congress (I) Leaders of the Massacre
 (Written submissions on behalf of the
 Delhi Sikh Gurudwara Management Committee)

**XII : FOLLOWING PERSONS HAVE BEEN IDENTIFIED
 BY THE DEPONENT AS THE ORGANISERS OF THE CARNAGE.**

.....

S.No.	Politician involved in Nov.1984 riots with particulars.	Named by deponent	role attributed.
1.	Sikhan Lal Sood, Councillor East Delhi.	Prithpal Singh Sabbharwal B6/1 Krishan Nagar Delhi.	Leading the mob in Lal Quarter market.
		Ajit Singh A-15/130 Geeta Colony, Delhi.	Leading the mob in Geeta Colony, directed the mob to burn the Gurudwara.
2.	Ram Narayan Verma , Councillor Najafgarh.	S.Ravinder Singh Ho and his C-8/A Fatch Nagar, Jail Road, Tilak Nagar, New Delhi.	son was carrying the mob in a Tempo and was supervising the operation in the area.
3.	D.R. Chhabbra, Councillor, Lajpat Nagar, New Delhi.	S.Jagat Singh 5/6 Old Double Storey Lajpat Nagar IV, New Delhi.	Mob assembled near his house and he gave instructions to the mob who later burnt the Gurudwara.
4.	Deep Chand Councillor Ashok Vihar.	Inder Singh 617 Nimri Colony near Bharat Nagar, Delhi.	His son and brother-in-law were leading the mob in a jeep in Nimri colony and were supplying inflammables to the mob.

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5. H.K.L. BHAGAT
M.P. East Delhi.
1. Sukhan Singh Saini
8-509 School Block
Shakarpur, Delhi. Held a meeting
in Shakarpur
on 31.10.1984
night and
directed
them to kill
the Sikhs.
He instructed
Mr. Lakhani, Adv.
Mr. Lakhami, Adv.
Court not to
charge any fee
from persons
arrested in
rioting.
2. Jagjit Singh
8-364 School Block
Shakarpur, Delhi.
3. Sant Singh
8-465 School Block,
Shakarpur Delhi.
4. Saroop Singh,
U-59 Upadhaya Block,
Shakarpur, Delhi.
5. Jaswant Singh,
TZ-1268, Sat Sang Road. in Shahdara
6. Bharet Singh,
Councillor.
- Pratap Kaur
Y-695, Nangloi,
Delhi. On 2.11.1984 a
little after 4 A.M.
he came in his car
and after seeing
everything left
the place.
7. Sajjan Kumar
M.P.
1. Pratap Kaur
Y-695 Nangloi,
Delhi. On 2.11.1984 a little
after 8 P.M.
Sajjan Kumar delivered
a lecture which was
attended by lots of
people of the
colony.
2. Jasbir Singh
RZ-258 B/18A
Rajnagar, Palam
Colony, Delhi. On 1.11.84 Sajjan
Kumar came in his
jeep at 11 A.M. and
enquired from Balwant
Khokhar about the
scene. Then he
instructed him to kill
all the Sikhs. He
himself watched the
scene by saying "Salon
Ke Khub Maro aur inko
Jalado."

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3. Jatan Kaur
A-4/141 Sultanpuri,
New Delhi. On 1.11.1984
Sajjan Kumar H.P.
addressed a meeting
and directed them to
kill sardars.
4. Moti Singh
B-2/380 Sultanpuri,
Delhi. On 1.11.1984 he came
in a white car, held
a meeting which was
attended by a
substantial number
of Congress workers
and he directed them
to kill the Sikhs.
His P.A. Jai Chand and
Jama'dar also
accompanied him.
5. Chan Kaur
A-4/147 Sultanpuri,
Delhi. On 1.11.84 he
addressed a meeting
which was attended
by Congress workers
and other people.
He directed them to
kill the Sikhs.
6. Prem Kaur
A-4/104 Sultanpuri,
Delhi. On 1.11.1984 he
addressed a meeting
in Sultanpuri and
directed them to kill
the Sikhs.
7. Balwant Kaur
RZT 46/229 West
Sagarpur, Delhi. Some persons preparing
the lists of Sikhs'
houses on 31.10.84
told that they have
been sent by
Sajjan Kumar.
8. Gurcharan Singh,
27/41 Tikana Sahib
Gurdwara, Punjabi
Bagh, New Delhi. Leading the mob in
a car instructed them
to burn Gurdwara and
kill the Sikhs
(disclosed during
cross examination.
9. Updesh Kaur,
Y-886 Mangloi, Delhi. Sajjan Kumar and
Bharat Singh leading
the mob.

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10. Niranjan Singh
P-252 Mangolpuri,
Delhi. His P.A. Hardwari Lal
led the mob.
11. Anok Kaur
F-42 Sultanpuri,
Delhi. He alongwith Jai Kishan
came to Sultanpuri in a
jeep. Jai Kishan told
him that only few
Sikhs have been left
and will be killed.
Sajjan Kumar also
directed that they be
killed.
12. Gurbachan Singh
C-54 A, Tilak Vihar,
New Delhi. Sajjan Kumar led
the mob in Mangloi.
8. Dharam Dass
Shastri, M.P. 1. Surjit Singh,
16-B/5 D.B. Gupta
Road, Karol Bagh,
New Delhi. On 5.11.84 Shastri
forced the SHO of Karol
Bagh police station to
release the persons
arrested for rioting.
2. Jaswant Singh,
16-B Prahlad Market -do-
Karol Bagh, New Delhi.
3. Kundan Singh -do-
11753, Cali No. 4/5
Sat Nagar, New Delhi.
4. Pritpal Singh,
B-5/110 Paschim Vihar -do-
New Delhi.
5. Bua Singh,
773-M Baba Faridpuri,
West Patel Nagar, New Delhi. He alongwith Rajinder
Kumar Shukla
came in a car and
directed to kill
the Sikhs.
- Ealjoet Singh
26/181-182 West Patel
Nagar, New Delhi. When mob attacked
the deponent's
house, the deponent
ran for safety.
Dharam Das Shastri
came in a car.
He did not help
the deponent

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9. Ashok Kumar
Councillor.
1. Dhanpat Singh
11/161 Kalyanpuri,
Delhi.
2. Sahib Singh
11/80 Kalyanpuri,
Delhi.
3. Mohinder Kaur
11/375 Kalyanpuri
Delhi.
4. Birai Bai,
13/1 Kalyanpuri,
Delhi.
5. Jeet Singh,
13/195 Kalyanpuri,
Delhi.
6. Surjit Kaur
13/136 Kalyanpuri
Delhi.
7. Santosh Kaur
13/37 Kalyanpuri,
Delhi.
8. Dharam Kaur
11/179 Kalyanpuri,
Delhi.
9. Katu Singh
13/193 Kalyanpuri,
Delhi.
- He alongwith S.P. Sukhan Lal held a meeting in Trilokpuri and offered Rs.500/- to kill one Sardar.
- He alongwith Mukhan Lal Councillor (Metropolitan) Subhash, Kishore and Raman led the mob and instructed them to kill all the Sardars.
- He was leading the mob.
- He was leading the mob.
- He was leading the mob.
- He was leading the mob.
- He alongwith Sukhan Lal held a meeting in Trilokpuri on 3.11.84 and offered Rs.500/- to kill one Sardar and also instructed to kill all Sardars.
- He was leading the mob and instructed them to kill all Sardars.
- He was leading the mob. The mob set on fire the Gurudwara and were loudly proclaiming that all the

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10. Mohan Singh,
32/59 Trilokpuri,
Delhi.
- When the mob was in looting and burning Dr. Ashok came there and incited the mob to kill the Sardars. Deponents two brothers Kowas Singh and Mewal Singh were killed in front of Dr. Ashok.
10. Arjan Dass
Councillor.
- S. Nihar Singh,
586 Moti Ram Marg,
G.T. Road, Shahdara,
Delhi.
- Pt. Arjan Dass was wielding a gun and his son Ravi was having a revolver with him. They looted the godown of M/s Mahindra and Mahindra.
11. Vasudev
Councillor
(Congress I)
- Gurdeep Kaur
P-5 Badli Vihar,
Delhi.
- He was leading the mob.
12. Dharam Singh
Councillor.
- Swinder Kaur
RZI-66 Sagarpur
New Delhi.
- He, his son Varinder Kumar and three other Congress I workers asked the deponent's husband and son to cut their hair on 2.11.84 at 4 P.M. Dharam Singh started making announcement from Shiva Temple for Dr. Mahavir to take out the deponent family who was taking shelter with him. He made the same announcement from Shiva Temple on 3.11.84 at 4 P.M. He chalked out a plan for the exit of the deponent's family and incited the mob of 500 persons waiting at Tin Bridge to kill the deponent's husband. The deponent's husband and motor cycle were burnt.
13. Mala Ram
Councillor
(Congress I)
- S. Varinder
Singh
43 North West Avenue
Road, Punjabi Bagh
Extension, New Delhi.
- He was leading the mob towards Punjabi Bagh. This was confirmed by S. Harbhajan Singh, H.No. 443 pocket 2, Paschimpuri, who saw him on 1.11.1984 at 3.50 P.M.

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XII ORGANISERS OF CARNAGE IDENTIFIED.

Following persons have been identified by the deponents as the Organisers of the Carnage, at *Local level*.

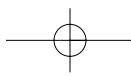
S.No.	Name of the Organiser.	Name of the deponent.
1.	Balwant Khokhar Youth Congress (I) Leader, Palam Area.	1. Jasbir Singh r/o Palam Colony.
		2. Sampuran Singh Chambal r/o Palam Colony.
		3. Sampuran Kaur r/o Palam Colony.
		4. Lachhman Singh Bhatia, r/o Palam Colony.
		5. Jagwinder Kaur r/o Palam Colony.
		6. Jagdish Kaur r/o Palam Colony.
		7. Manmohan Singh, r/o Palam Colony.
2.	Rattan Youth Congress (I). Leader, Palam Area.	Baljinder Singh Kapoor r/o Palam Colony.
3.	Rampal Saroj, Congress (I) Leader Trilokpuri.	1. Hari Singh r/o Trilokpuri.
		2. Tejinder Singh -do-
		3. Gopi Kaur -do-
		4. Sadora Singh -do-
		5. Boji Bai -do-
		6. Sadhu Singh -do-
		7. Sandhori Bai -do-
		8. Satnami Kaur -do-
		9. Devi Bai -do-
		10. Devi Kaur -do-
		11. Gurdip Kaur -do-

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4. Brahmanand
Gupta
Pradhan
Congress (I)
Worker,
Sultanpuri. Chan Kaur r/o Sultanpuri.
5. Nathu Prashad
Swooper
Congress(I)
worker, Sultanpuri. 1. Jatan Kaur r/o Sultanpuri.
2. Pram Kaur -do-
3. Guddi Kaur -do-
6. Jai Kishan
Secretary to
Gajjan Kumar, M.P.
(Sultanpuri) 1. Moti Singh -do-
2. Gulbans Kaur -do-
3. Bant Kaur -do-
7. Hardwari Lal
Mandal
President
Congress (I)
Worker.
Mangolpuri. 1. Harman Singh R/o Mangolpuri.
2. Niranjan Singh -do-
8. Pratap
President
Congress (I)
Worker, Sagarpur. 1. Surinder Kaur r/o Sagarpur.
2. Balwant Kaur -do-
3. Swaran Kaur -do-
4. Amar Kaur -do-
9. Hum Chander
Congress (I)
Worker, Inderpuri. 1. Kripal Singh r/o Inderpuri.
Chawla
10. Gajraj
Congress (I)
Worker, Ram Nagar. Surjit Kaur r/o Ram Nagar,
Shahdara.
11. Shyam Singh Tyagi
Congress (I) Worker
Shakarapur. 1. Saroop Singh)
2. Sukhan Lal Saini) residents
3. Surjit Kaur.) of
4. Amarjit Kaur) Shakarpur,
5. Jagjit Singh) Delhi.
6. Jasbir Singh)
7. Saroop Singh)
8. Surinder Kaur.)
9. Pritpal Kaur)
10. Gurnam Kaur)

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12. Bharat Singh
Congress (I)
Worker, Mangloi.
1. Updesh Kaur) residents of
2. Pratap Kaur) Mangloi.
3. Garbachan Singh)
13. Taru
Congress (I)
Worker,
Kalyanpuri.
1. Birai Bai r/o Kalyanpuri.
2. Jit Singh -do-
3. Surjeet Kaur -do..
14. Virendra Sharma
Nogi
Congress (I)
Worker.
- Ran Singh r/o East Asad Nagar.
15. Dr. Verma
Congress (I) worker
- Gurcharan Kaur r/o Mand Nagri.
16. Bhoop Singh Tyagi
General Secretary
Congress (I)
1. Saroop Singh r/o Shakarpur.
2. Sukhan Pal
Saini -do-
3. Jagjit Singh -do-
4. Gurnam Kaur -do-
17. Bharati
Congress Pradhan
- Ramesh Kaur r/o Sultanpuri.
18. Kaushik
Congress (I) Worker.
- Mahinder Kaur r/o Shakarpur.
19. Vijay Choudhari.
Youth Congress (I)
Worker.
1. Balbir Singh r/o Bhogal, New Delhi.
2. Bhagat Singh
Gandhi -do-
3. Charanjit Singh -do-
4. Paramjit Singh -do-
5. Raghbir Singh -do-
6. J.S. Gandhi -do-
7. Kanwarjit Singh -do-



Mob attack at Pahar Ganj, central Delhi



Aftermath of the massacre in Trilokpuri, East Delhi



Widow and orphans of the massacres

photographs courtesy of the Citizens' Commission, Delhi

