

DURING the four day period beginning October 31, 1984, and continuing up to November 3, 1984, a large numbers of Indian citizens belonging to the Sikh community were violently done to death, subjected to grievous hurt, molestation and rape, and prevented from moving freely in public places and even in their own residential colonies. Their houses were burnt down and ransacked, the instruments of their professions, trades and businesses, including vehicles, shops, implements, looted and destroyed. Their places of worship were desecrated, and many of them were forced to divest themselves of some of the outward signs of their religion. In all these ways, their fundamental rights guaranteed under the Constitution were violated.

2. Though these tragic events took place in many parts of the country, we are petitioning the court concerning what took place in the Union Territory of Delhi, since:

(a) Delhi is where the most severe outbreak occurred and was typical of the pattern of outbreaks elsewhere;

(b) the petitioners gathered extensive information on what occurred in many parts of the city. We personally witnessed riots in our own neighbourhoods. We also visited many other riot affected areas and interviewed many victims of riots as well as eyewitnesses belonging to other communities. We obtained a number of detailed, systematic and specific reports and analyses of the riots from human rights organisations and journalists; public statements of government officials were carefully perused.

3. From all that we have been able to find out, we are forced to conclude that these terrible crimes are:

(a) violations of a whole community's fundamental human and constitutional rights;

(b) violation of the Constitution by an attack on the fundamental rights therein guaranteed to all Indian citizens;

Organised Riots Against The Sikhs: A Violation of Fundamental Rights

A Petition To The Supreme Court

We reproduce here the text of a writ petition filed under public interest litigation in the supreme court of India by Madhu Kishwar, Ruth Vanita and Rakesh Bharadwaj, lecturers in Delhi University, against the Indian State, the Home Minister and Home Secretary as the officials who assume specific responsibility for the preservation of the safety of the country's citizens. Also included as respondents are the Delhi administration through the Lieutenant Governor, the Metropolitan Council through the Executive Councillor, the Delhi police through the Commissioner, the Congress (/) party through its president and general secretaries, the chief Congress (I) officials of the Union Territory of Delhi, including the Congress (/) Lok Sabha members from Delhi, the members of the DPCC (I) and its ward leaders in various parts of Delhi, for their violation of the fundamental rights guaranteed in the Constitution to all citizens.

(c) primarily the result of the acts of commission and omission of the respondents.

4. The Constitution guarantees to every Indian citizen the following fundamental rights, among others :

Article 21: No person shall be deprived of his life or personal liberty except according to procedure established by law.

Article 19 (1) : All citizens shall have the right...

(d) to move freely throughout the territory of India

(e) to reside and settle in any part of the territory of India

(g) to practise any profession, or to carry on any occupation, trade or business.

Article 14 : The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.



A victim burnt to ashes

Article 15 (I) : The State shall not discriminate against any citizen on grounds only of religion...

Article 25 (1) : ...all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

The respondents violated all these fundamental rights by instigating and abetting the hauling of Sikhs from their homes, from private vehicles and from public transport such as buses and trains to be beaten and burnt alive, the breaking into of their homes, shops, factories, the looting and burning thereof, the wrecking and desecration of the city's gurudwaras, and many other violative actions too numerous to detail here.

5. The Constitution, Article 13 (1) requires of the State that it shall not make any law which takes away or abridges any citizen's fundamental rights through any administrative order or even legislative act. Thus the Constitution forbids the State to take away the fundamental rights of citizens through extralegal conspiracy with hoodlums.

6. Throughout the four days that violence was raging at its peak, the entire , State and government machinery, the Delhi administration and the Delhi police took no effective action to check it. In fact there is sufficient evidence that policemen and police officers :

(a) stood by and watched violence, arson, rape, looting and murder, without making any attempt to intervene to protect citizens belonging to the Sikh minority, without attempting to dissuade the attackers, to call for reinforcements or other support, or even to inform the fire brigade ;

(b) actively instigated and in many cases, participated in the Violence ;

(c) refused aid and shelter to the victims and potential victims ;

(d) neglected to answer appeals for help ;

(e) refrained from apprehending known offenders who were continuing to commit criminal and unconstitutional offences;

(f) refused to record or to investigate charges made by reliable witnesses.

(See-annexures)

7. The police commissioner has since instituted an enquiry into the functioning of the police during the riots. But it is our contention that all responsibility for the universal and complete paralysis of the police force for so many days in the capital city cannot be ascribed to an individual policemen's dereliction of duty alone or even to the police force alone.



Survivors of a family at a relief camp

Individual policemen could not have acted in such unison in their dereliction of duty unless they had received orders and instructions from their superiors in the force. Further, the police force could not have acted as it did or could not have remained as totally inactive as it did, for such a length of time, without the complicity of higher levels of the State, government and administrative machinery.

As such, while the police enquiry might identify some derelict policemen, the intent and purpose of that enquiry is to preempt the identification of the initiators of the conspiracy, making out that the guilty were merely some policemen and not the senior officers of the government or the ruling party. An enquiry conducted by the police into its own malfunctioning cannot be expected to uncover the truth.

8. Many of the persons who occupy high positions in the State machinery, governmental and legislative bodies, and ruling party structures, have been clearly identified by many responsible citizens as some of the primary instigators of riots. (See annexures). This evidence has been in the hands of the ruling authorities in the State, government and ruling party for a considerable period of time. Yet neither government nor the ruling party has thought fit to institute an appropriate public enquiry to prepare indictments of those high level members of the two institutions who were responsible for the riots.

9. The government has remained conspicuously silent as to the genesis of the riots. Apart from deploring the fact that riots occurred, no statement has been made by government acknowledging its own responsibility for any act of commission or omission which abetted riots. In fact, statements issued by government representatives such as the Prime Minister and the Home Minister referring to the origin of the riots have ascribed them to "people's anger", characterised them as 'inevitable'. (See annexures). Such statements, by blaming an abstraction, "the people", deny the responsibility of government and of highly placed individuals therein, as also the responsibility of the ruling party. Further, such statements are an implicit justification of the riots and seek to explain them away. As such, these statements are part of the cover up operation now being undertaken by the guilty parties.

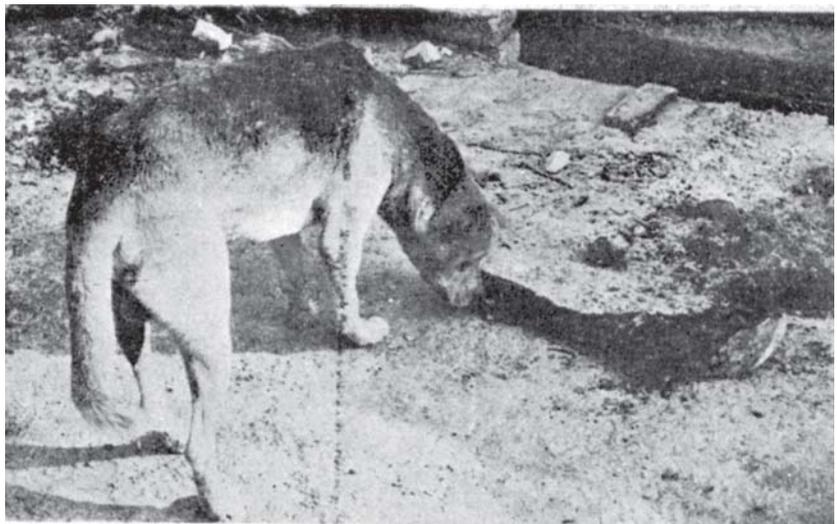
10. The striking similarities in the

manner in which violence was launched and pursued against Sikhs in wide apart areas of Delhi (the pattern, incidentally, did not differ in essential from that reported in other cities and towns of the country), are an indication of the coordination carried out at the highest levels of the State, government and ruling party by individuals, some of whom occupied either one or more of party, legislative, governmental and administrative positions of formal authority, individuals thus capable of overriding the normal process of mobilisation of opposition to the violence.

In support of this view of the atrocities, certain factors must be noted :

(a) It is noteworthy that members of the municipal corporation of Delhi and Congress (I) members of the Lok Sabha from Delhi were seen actively abetting and instigating murder, looting and arson. There is evidence that they organised gangs of their supporters to incite crowds to looting and murder, that they made payments to gang leaders to gather and transport large numbers of hoodlums and weapons into the colonies where Sikhs live, especially to those where Sikhs were more vulnerable by reason of their poverty or lack of community support from non Sikhs. Many of those leaders were seen participating as leaders in the riots, making inflammatory speeches, and directing murders and lootings. During the crucial first few hours of the riots, the main impetus for transforming the sorrow, rage and frustration felt by many people at the assassination of Prime Minister Indira Gandhi into a murderous and systematic attack on citizens belonging to the Sikh community in the Union Territory of Delhi, was carefully orchestrated by these individuals, and others at even higher levels. (See annexures). Otherwise, the violence could not have taken place as systematically as it did, and any spontaneous ruffian activities could have been rapidly squelched.

(b) Mobs of men were seen to have



— Amit

A charred human leg in the streets of Trilokpuri, days after the riots

been transported by truck, tempo, jeep, scooter, together with caches of weapons, to the sites where violence was unleashed, from urban villages and resettlement colonies on the outskirts of Delhi, which are sources of mobilisation of ruling party cadres for political demonstrations and electoral activities. (See annexure). Leaders of the mobs were seen coming in their own vehicles, issuing instructions, and then riding away.

The responsible authorities made not the slightest attempt to stop the transportation of these gangs in broad daylight even though they were shouting murderous communal slogans and brandishing weapons. Indeed, many instances of authorities having abetted their activities have been witnessed.

This refusal to halt the activities of the rioters by the governmental and ruling party structure provided a clear signal that the way was clear for all the criminal elements to murder, rape and loot at their leisure without fear of any consequences whatsoever. Indeed, they may have reckoned that they would be performing a service for the rulers for which they could later expect a variety of forms of recompense.

(c) The unhurried, systematic and

almost relaxed way many of the criminal gangs carried out their activities over the key four days of the riots shows that they were completely confident that those in authority would not disturb them nor would they be punished for their crimes. Commonly, if the mob failed to complete all its murderous acts during a single attack due to resistance put up in self defence by the victims, it would temporarily retreat, knowing that the victims would receive no help in the interval, and would return a few hours later on the same or succeeding days, with many more mob members, and would then proceed to overwhelm the trapped Sikhs, usually burning their houses and then burning the men alive.

Similarly, they would loot houses, rape women, search for hidden men in a systematic and leisurely manner that belies any notion of an irrational frenzied mob and approximates most closely to the actions of a criminal gang who have temporarily been given full authority by the ruling powers to exterminate a whole group of citizens belonging to a particular minority community.

(d) In all the areas, the mobs were peculiarly successful in identifying Sikh houses and shops and selectively burning them. Since most shops were shut at the time of attack, and many of the Sikh

residents were seeking refuge in non Sikh homes, such remarkably accurate picking out of Sikh property as took place would have been impossible unless the mob leaders had prior information. In many places, witnesses report that the rioters had lists from ration shops, kerosene depots or voting lists, which enabled them to identify Sikh residences and business establishments. (See annexures). In many places, local Congress (I) and Youth Congress (I) workers were seen pointing out victims, even those who had cut their hair, and their residences to the attackers

(f) The mode of killing was also remarkably similar. Almost everywhere, male Sikhs were first beaten and immobilised into helplessness, then doused with inflammable substances, which the mob members had supplies, and then set on fire while they were still alive and conscious. The other weapons commonly used by the mobs were *lathis*, metal pipes and stones. Few guns were used and relatively few knives, pikes or similar weapons. The mobs generally seemed confident that these were all they required, since they vastly outnumbered

murdered. This indicates systematic and cold blooded premeditated murders rather than wild mob actions for a brief period. Few of the victims were attacked and left half dead. Most of them were finished off in a very calculated manner before the attackers moved on.

11. Therefore, we submit that the violence which occurred in the four days, October 31, November 1, 2 and 3, 1984, was not a spontaneous outburst of anger on the part of unorganised crowds of people, but was the result of systematic planning and organisation by the respondents, and further that the respondents entered into a deliberate conspiracy to undermine the Constitution by violating the fundamental rights guaranteed therein to the citizens of India, and that they also committed a criminal breach of trust by using the authority vested in them to launch a murderous attack on members of the Sikh community.

12. The government is proceeding to offer some of the the survivors a lump sum amount of Rs10,000 as compensation for life lost. This crude and absurd response to the desperate plight of these victims seeks to equate their situation with the plight of victims of what are called natural disasters, and can be viewed as part of the cover up operations undertaken by the respondents. However, these lives were not lost in consequence of some natural disaster or even of a spontaneous breakdown in the protection ordinarily available to all citizens including those belonging to the Sikh minority. A supreme court enquiry will confirm that these lives were lost as a direct consequence of the deliberate acts of commission and omission engaged in by the respondents aforesaid. Therefore, the court should levy punitive damages of a sufficient amount to deter the organisations and individuals who engaged in murderous rioting from considering any repetition of similar actions. In addition, they should also be responsible for full restitution to these families of their material losses, though of



Devastation in Trilokpuri

who had come from outside the locality and hence could not recognise them.

(e) The mode of operation of the different criminal gangs in widely separate colonies of Delhi was remarkably similar in other ways as well. Most of those murdered were male Sikhs, including adult men, adolescents and young boys. While some women died when they were trapped in their homes which were surrounded and set on fire by mobs, or were killed while attempting to defend their male relatives, most women victims survived, though many of them were injured, raped, terrorised, or otherwise made to endure brutal treatment and humiliation.

their victims and also knew that no support would be forthcoming to save the victims until the murderous attacks were completed.

(g) Such uniform modes of mob action cannot arise spontaneously. They are the result of coordination amongst the gangs, of common purposes and common leadership. Even gangs cannot be expected to organise themselves, overnight, to operate in every nook and corner of a big city, without help from an already well organised institutional network.

(h) The numbers of injured male victims were relatively few compared to the number

course, all will have to acknowledge that there can never be any way to provide any form of restitution for the lives lost, the terror experienced and the enduring physical, mental and emotional wounds these victims will be forced to bear, along with their children, for the rest of their lives.



—Jogi/Lifetools

One of the few who survived the mob attack

All this should be arranged in conjunction with pensions similar to those given to the families of members of the armed forces who lose their lives during war, together with government jobs to surviving members of victims' families which will give them an income equal to that earned by the deceased and in case they are not equipped for such employment, education and training so to equip them with an allowance equal to the income of the deceased, free higher education and subsidised primary education to their children, free medical care assistance in rebuilding their homes and businesses, and allotment of land other than their present residences and places of business should the victims feel insecure at these locations. By offering these various forms of punitive reparations and material compensation we can, in one small way, indicate the sincerity with which the rest

of the people of India regret the terror unleashed on the Sikh minority by gangs of hoodlums acting in our name, and using the powers of the State to attempt to protect themselves from suffering the legal consequences of their acts.

Reliefs Sought

We appeal to the court to:

1. order an independent enquiry, into all the heinous crimes committed, to uncover how the orders were given, and by whom;
2. order an interim suspension from office of those who are indicated to be leading the cover up operations;
3. require that the enquiry result in the enunciation of basic principles that should govern the trials of the violators of Constitutional rights;
4. pending the court's decision, freeze all assets of those organisations and individuals under enquiry ;
5. offer institutional remedies to return the country to Constitutional rule ;
6. provide guidelines for the payment of punitive fines, reparations and compensations from the frozen assets of the extragovernmental organisations and individuals who are convicted of having participated in the murderous attacks on the lives and constitutional rights of Indian citizens belonging to the Sikh minority ;
7. any other order this honourable court deems fit in the interests of justice.

Prayer

In this unprecedented situation, we appeal to the supreme court to use its authority to order a full enquiry into this heinous crime, to determine which of the governmental bodies have acted unconstitutionally, and to what extent, or have not acted where under law they were duty bound to act, which extragovernmental organisations have conspired to violate the constitutional rights of the citizens and to attack a

minority community, and which individuals in positions of trust and authority, in the State, violated their oaths of office to plan and help execute a campaign of terror, looting, murder, and rape against a whole community of Indian citizens.

We realise that in other circumstances the regular law enforcement machinery of the State would have the responsibility to implement the enquiry within the normal framework of the laws, legislative and administrative machinery of the State. However, since key functionaries of that very State and its machinery are co-



—Jogi/Lifetools

The trauma remains

conspirators in the violation of the Constitutional rights of the citizens and have also carried out a massive attempt at cover up of their own culpability, we have no option but to approach this, the highest court in the land. This honourable court has both the Constitutional prerogative and the authority to search out the truth and to return the country to Constitutional rule, to remove violators of the Constitution from positions of power, to require that the guilty are brought to justice and made to pay damages, to ensure that the devastated minority receives some measure of appropriate reparation. □