

INDIA

Communal Violence and the Denial of Justice

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INTRODUCTION

Three years after the deaths of more than 1,000 people in Bombay's worst incident of communal violence since independence, the government of the Indian state of Maharashtra unexpectedly terminated the commission of inquiry that had been set up to investigate the riots. On January 23, 1996, Chief Minister Manohar Joshi announced that "there was no need for such an inquiry" and disbanded the commission before it could issue its long-delayed report. The focus of the Srikrishna Commission's investigation was the violence that broke out in January 1993 and that was directed primarily against Bombay's Muslims. The riots followed weeks of attacks on Muslims in north India in the aftermath of the destruction of a sixteenth-century mosque in Ayodhya in the north Indian state of Uttar Pradesh.

Labeled as "communal" because the violence involved communities identified by religious differences,¹ the riots were in fact orchestrated events which depended on the connivance or outright participation of police and other officials and political leaders. The Srikrishna Commission had been mandated to identify the individuals responsible for criminal acts including murder, rape and arson during the riots, and to investigate the government's failure take prompt action to end the violence. By terminating the commission, the government has signaled that those responsible for the bloodshed, including members of the Bombay police, will not be held accountable for their crimes.

In an apparently related move, on January 23, 1996, the Maharashtra government also announced that it planned to drop twenty-four cases of incitement and other charges in connection with the Bombay riots against Bal Thackeray, the head of the Shiv Sena party, an extremist Hindu nationalist party responsible for organizing many of the January 1993 attacks. The Shiv Sena currently governs Maharashtra in coalition with the Hindu nationalist Bharatiya Janata Party (BJP), India's largest opposition party.²

Human rights groups in India extensively documented the Ayodhya incident and the Bombay riots. Their reports describe in detail the complicity of government authorities and security forces in the destruction of the mosque and the violence that followed.³ Several of these organizations have filed petitions at the Bombay High Court seeking to

¹ The term "communal conflict" originated in colonial analyses of religious conflicts in the Indian subcontinent. It is now used more widely to describe violent conflict and repression that target communities based not only on religious affiliation but on ethnic, racial or linguistic characteristics.

² In March 1995 the Shiv Sena won the largest number of seats (seventy-three of 288) in the Maharashtra state legislature. They have since formed a coalition government in the state with the BJP which won the second largest number of seats (sixty-five of 288). Bal Thackeray remains the leader of the party.

³ See Kamala Prasad, Kamal Chenoy, Kirt Singh, Dinesh Mohan, Sagari Chhabra, and S.C. Shukla, *Report of the Inquiry Commission* (New Delhi: Citizens' Tribunal on Ayodhya, 1994); S.M. Daud and H. Suresh, *The People's Verdict* (Bombay: Indian Human Rights Commission, 1993). Various papers and reports by *Communalism Combat* (Bombay); and Lokshahi Hakk Sanghatana and the Committee for the Protection of Democratic Rights, *The Bombay Riots: The Myths and the Realities* (Bombay: March 1993).

revive the Srikrishna Commission. On January 25, 1996 India's National Human Rights Commission (NHRC) stated that it intended to revive its investigation into the riots, which had been suspended after the Srikrishna inquiry was established. However, on March 18 the NHRC withdrew its proposal, stating that because the status of the Srikrishna Commission was pending before the Bombay High Court and the Supreme Court, it was unable to launch a new investigation.

In June 1994, Human Rights Watch/Asia conducted its own investigation into the role of the government in the communal riots and to assess the status of government efforts to prosecute those responsible for the violence. In Delhi, Bombay, Ahmedabad, and Surat, a researcher documented attacks on Muslims that took place in December 1992 and the government's failure to prevent the attacks; the use of lethal force by police against Muslim demonstrators; and the murder of men, women and children, the rape of women and girls, and other assaults on Muslims in Bombay in January 1993. The findings are based on interviews with thirty-four victims of communal violence and on interviews with a wide range of other witnesses in cities affected by the violence. The researcher also spoke with other informed sources, including human rights activists, journalists, lawyers, politicians, social workers, academics, and religious leaders. Information gained from these interviews was supplemented by reports from several Indian nongovernmental organizations which had conducted investigations into the violence.

There are two reasons for releasing a report on incidents that occurred more than three years ago. The first is to ensure that stories of the victims are told. By terminating the Srikrishna Commission, the Maharashtra government has not only attempted to bury the report but to silence the victims. The international community has also largely forgotten the incidents of December 1992 and January 1993. By publishing this report now, Human Rights Watch hopes to bring pressure on the government to release the findings of the Srikrishna Commission, while protecting the identities of those who testified. If the government is to prevent such attacks in the future, the truth about official complicity in the violence must be known.

The second reason for releasing the report now is to demand full accountability for the actions of political leaders, police and other officials, some of whom remain in positions of authority. The cavalier manner in which the Maharashtra government dismissed the Srikrishna Commission represents an attempt to evade responsibility for the abuses by police and other officials. Unless they are prosecuted and punished accordingly, they and their colleagues will not be deterred from engaging in violence again, as indeed has happened.⁴

Summary of Findings

⁴ While this report focuses on the role of the state in the communal violence which occurred subsequent to the destruction of the mosque at Ayodhya, the government of India has been involved in many other cases of such violence. For example, in 1984, subsequent to the assassination of Indira Gandhi, over 3,000 Sikhs were killed in anti-Sikh riots in Delhi. The police failed to protect Sikhs under attack, and despite numerous commissions appointed to investigate this incident, over a decade later, very few individuals have been arrested, prosecuted, and punished for their involvement in this violent episode. For an examination of communal riots in India during the last fifty years, see Asghar Ali Engineer, *Communal Riots in Post-Independence India* (Hyderabad: Sangam Books, 1991).

The violence in Bombay emerged out of an organized and systematic ideological campaign directed primarily against India's Muslim minority which culminated in the attacks of December 1992 and January 1993. On December 6, 1992, a sixteenth-century mosque in Ayodhya, in the north Indian state of Uttar Pradesh was demolished. During the preceding months, a movement of political parties, religious groups, and cultural organizations, including the BJP, Rashtriya Swayamsevak Sangh (RSS), Vishwa Hindu Parishad (VHP) and Shiv Sena,⁵ had called for the construction of a temple on the site of the mosque as an integral move in their struggle for *Hindutva*, or Hindu rule. Over 150,000 supporters known as *kar sevaks* (voluntary workers)⁶ converged on Ayodhya, where they attacked the three-domed mosque with hammers and pick-axes and reduced it to rubble. The incident was widely covered by the Indian and international press; in fact, reporters were among those attacked by the *kar sevaks*.

Although the Uttar Pradesh government and the national government of India had adequate warning about the intentions of the *kar sevaks*, they did not attempt to prevent the destruction of the Babur mosque at Ayodhya.⁷ As the mosque was being destroyed local police from Ayodhya as well as the Provincial Armed Constabulary (PAC, the Uttar Pradesh state police) stood by. During the following hours, *kar sevaks* rampaged through Ayodhya's Muslim neighborhoods, violently attacked Muslims, looted their shops, and set fire to their homes. Local police and the PAC neither protected Ayodhya's Muslims nor stopped those who perpetrated the violence. National police forces intervened only after the mosque had been destroyed and the local Muslim population had suffered widespread violence.

In the weeks that followed, Muslims publicly demonstrated against the events in Ayodhya. Initially, these demonstrations were stopped by the police, who opened fire on the crowds. Later, protesting Muslims were attacked by *Hindutva* supporters. Large-scale riots ensued in which at least 1,700 women, men, and children were killed, 5,500 injured and an unknown number of women and girls raped.⁸ Moreover, tens of thousands were forcibly displaced as their homes and shops were destroyed. In cities across north India, the police not only failed to protect victims of

⁵ The BJP is currently the largest opposition party in India's parliament. In addition to its important role in national politics, it controls the state legislatures in Maharashtra (in a coalition with the Shiv Sena), Gujarat, and Rajasthan as well as the union territory of Delhi. The RSS is a cultural organization which seeks to promote a Hindu ethos within India and among Indians living abroad. Although an ostensibly cultural organization, RSS cells are involved in supporting political candidates for government, trade unions, and student organizations. The VHP was established to unite Hinduism's regional and caste divisions under a single ecumenical umbrella. It is actively involved in Sanskrit education, the organization of Hindu rites and rituals, and converting Christians, Muslims and animists to Hinduism. The Shiv Sena is based in Maharashtra. At the time of the Ayodhya incident its political power tended to be confined to municipal politics in centers such as Bombay. These organizations, although different in many respects, have all promoted the argument that although India is a democracy because Hindus comprise the majority of Indians, India should be a Hindu state.

⁶ In this context *kar sevaks* are individuals who promoted the *Hindutva* agenda by participating in the destruction of the mosque at Ayodhya.

⁷ See Kamala Prasad et al., *Report of the Inquiry Commission*.

⁸ Unofficial accounts put the figures even higher. See Raj Chengappa and Ramesh Menon, "The New Battlefields," *India Today*, January 31, 1993, p. 28. Precise statistics on the number of women raped and sexually abused are unavailable. However, reports from Indian nongovernmental organizations indicate that such attacks were widespread and disproportionately affected Muslim women and girls. According to the Joint Delegations of National Women's Organizations, which interviewed over 500 women who were affected by the riots: "Attacks on women, including sexual atrocities—stripping, rape and burning, verbal abuse etc. took place more on women from the minority [Muslim] community.... The delegation is in no doubt that whereas there may certainly be unreported instances of sexual attacks on women of the majority [Hindu] community in these cities, the brunt of such atrocities was borne by women of the minority community, the worst such cases being in Surat. We feel it important to emphasize this point because we found a concerted and deliberate attempt in all three cities to ignore or whitewash this reality or 'balance' it by saying 'it happened on both sides.'" Report of the Joint Delegations of National Women's Organizations, *Women Against Communalism* (New Delhi: 1993), p. 10.

communal violence but also, in some areas such as Bombay, directly participated in the violence. Muslims, who constitute twelve percent of India's population, were the principal target and suffered the worst abuses. Many fled out of fear of further violence. The majority of those who organized or participated in communal violence, though readily identifiable, were not detained or prosecuted by either the police or judicial authorities. Furthermore, in clear violation of the right not to be subjected to arbitrary arrest,⁹ a number of Muslims were arrested under the provisions of the Terrorist and Disruptive Activities (Prevention) Act (TADA).¹⁰

Recommendations

By terminating the Srikrishna inquiry, the Maharashtra government has attempted to do two things: bury the truth about what happened and protect the guilty. The first part of the process of securing redress for the victims and their families lies in providing a full accounting and exposing the shameful conduct of the police and party officials to public scrutiny. If a recurrence of the events of January 1993 is to be avoided, the truth about what happened must be made public.

Human Rights Watch joins with human rights groups in India in condemning the Maharashtra government's decision and urges it or the central government to reconstitute the commission of inquiry and permit it to complete its final report. Human rights groups had faulted the Srikrishna Commission for extraordinary delays in completing its work, and charges against some members of the police and other individuals have been pending since the commission was established. In such cases, the NHRC should press for immediate prosecutions. The findings of the Srikrishna investigations should be made public, with adequate safeguards to protect the identities of those who testified.

India's trading partners, particularly those whose companies have investments in Bombay, should put pressure on the Maharashtra government to reinstate the Srikrishna Commission and allow it to make public its findings. International and domestic corporations themselves could usefully exert pressure on the Maharashtra government and use their corporate foundations to provide funding for preventative measures to ensure that communal outbreaks do not recur. Such measures might include community education programs on communal issues and the establishment of a civilian review board to act as a check on the functioning of the police and other governmental institutions during communal outbreaks.

The second phase in the process of restoring the rule of law is punishing the guilty. All those found responsible for murder, rape, assault and destruction of property during the violence of December 1992 and January 1993 should be prosecuted and punished. Police responsible for summary executions and excessive use of force should be prosecuted; those who neglected to intervene to stop the violence should be punished accordingly. Victims and family members should be paid compensation.

⁹ International Covenant on Civil and Political Rights (ICCPR), Article 9.

¹⁰ TADA had circumvented due process requirements in the criminal procedure system for alleged terrorist activities. The law was allowed to lapse in May 1995, due in part to the efforts of the National Human Rights Commission. Introduced in May 1985, TADA allowed the state to arrest those suspected of terrorism without producing them before a judicial magistrate for 180 days (a period which could be extended to one year). Under TADA, confessions made before a police officer and no other witnesses could be used as evidence (creating the opportunity for custodial abuse). Trials took place in specially designated courts, often *in camera*, and the identities of witnesses could be kept secret.

There are other steps the government should take to prevent such violence in the future. Human Rights Watch/Asia believes that in order to avert future events of communal violence the government of India should comply with its own laws as well as with international human rights laws outlawing violent attacks against individuals because of their religious background. Specifically the government should:

- establish appropriate mechanisms, through recruitment, training and regular performance evaluations and disciplinary measures, to ensure that the police protect minority communities in India when they are under attack during communal riots;
- ensure that police are instructed in non-lethal methods of crowd control and make those methods available; and amend the Maharashtra state government's *Guidelines for Dealing with Communal Disturbances* to prohibit the early use of lethal force in order to quell a communal disturbance;
- require that police register all cases of communal attacks, regardless of the religious background of the complainant, and enforce this regulation through frequent reviews of registers by a magistrate or other competent judicial authority and the establishment of a civilian review board mandated to investigate complaints. Police who violate the regulation should be dismissed;
- thoroughly investigate all incidents of communal violence and prosecute the individuals responsible;
- establish commissions of inquiry that would function under a judicial authority or the NHRC to investigate early instances of violence against targeted groups. The tenure of such commissions should not be under the control of any state or local government;
- make public the findings and recommendations of commissions which investigated previous incidents of communal violence.

Incidents of communal violence are too frequently dismissed as unfortunate events arising out of age-old enmities between religious or ethnic groups. As a result, the international community seldom raises concerns about such incidents when, in fact, outside pressure could play a significant role in ensuring that the government take the necessary steps to curb the violence and protect members of all communities.

In order to prevent further incidents of communal violence, India's allies and trading partners should be willing both to speak out when violence occurs and also to use their development assistance programs to work toward long-term prevention of communal violence by establishing educational exchange programs with other countries that have dealt with communal violence; funding NCHR or NGO workshops to provide police with training on controlling communal violence, methods of non-lethal crowd control, and recruitment of a communally diverse police force; and establishing community education programs that focus on communal relations.

The international community should also insist on the physical protection of members of vulnerable communities, especially when there is evidence that they face concerted attacks; speak out against political strategies which heighten communal tensions; seek perspectives on communal issues from nongovernmental sources, including factual information on contemporary abuses; raise the issue publicly during official meetings, and suspend all military cooperation if India continues fail to address the violation of human rights linked with communal violence.

HISTORICAL CONTEXT

Press accounts of communal conflicts in the India have frequently portrayed religious antagonisms, particularly between Hindus and Muslims, as intrinsic to the region. However, such an interpretation fails to take into account the fact that political organizations and governments have exploited religious differences for political purposes.

Independent India established a governmental structure committed to secularism and democracy. Its constitution guarantees equal treatment before the law to all individuals regardless of community background. In the first twenty years after independence, the Congress Party,¹¹ consistently articulated its support for the equal recognition of all religions and communities. Despite state-sanctioned support for secularism and nondiscrimination, however, conservative religious organizations sought to give a communal orientation to political debates revolving around language issues, the protection of religious symbols, and the maintenance of religious personal laws.¹² While the Congress Party often conceded to demands made by the such groups (particularly Hindu organizations) over linguistic, religious, and legal issues, it remained rhetorically committed to nondiscrimination and secularism in the political process.

A perceptible shift in the communalization of politics occurred during the 1970s when Indira Gandhi was prime minister. During this period, support for the Congress Party waned. Many of its post-independence development policies had failed, and massive inequities existed in access to education, housing, health care, and food.¹³ While India was procedurally a democracy, violations of human rights were widespread and endemic. Prime Minister Gandhi increasingly resorted to authoritarian measures to retain power. In 1975, she declared a state of emergency in India and officially suspended a range of civil liberties. The suspension of regular government, which was followed by the defeat of the Congress Party and the election of the Janata Party in 1977, altered the Congress Party's traditionally leftist political platform.

With segments of its traditional base of support shifting allegiance to other parties, the Congress Party attempted to reconstitute itself by moving onto the ideological terrain traditionally occupied by rightist religious parties. For example, in an effort to appeal to the Hindu right, Hindu rituals were used to inaugurate state functions and Hindu symbols were increasingly utilized at political rallies. Simultaneously, the Congress Party opportunistically sought support from conservative elements within the Muslim community while ignoring the sentiments of secular and progressive Muslims.¹⁴

Such strategies were politically successful, and the Congress was re-elected in 1980. In 1984, Indira Gandhi was assassinated. Her successor and son Rajiv Gandhi continued the trend toward the communalization of politics. During the late 1980s and early 1990s the government refused to condemn discriminatory rhetoric of an increasingly militant Hindu right. Rather, the government sought Hindutva electoral support and in 1989, Prime Minister Gandhi

¹¹ The Indian National Congress has dominated Indian politics since its founding in 1885, providing the organization and leadership behind India's independence movement. Since 1969, the party has suffered a number of schisms; however, the Congress Party (I), for Indira Gandhi, dominated all rival parties. The Congress Party (and the Congress Party (I) after 1969) has won every election since independence except two. After Indira Gandhi's assassination, the party was led by her son, Rajiv Gandhi, who was prime minister from 1984-1989. His assassination on May 21, 1991, ended the Nehru-Gandhi family's control of the party, leaving no clear successor. Prime Minister Narasimha Rao was elected in June 1991.

¹² See Tapan Basu, Pradip Datta, Sumit Sarkar, Tanika Sarkar and Sambuddha Sen, *Khaki Shorts and Saffron Flags* (Hyderabad: Orient Longman, 1993).

¹³ Ayesha Jalal, *Democracy and Authoritarianism in South Asia* (Cambridge: Cambridge University Press, 1995).

¹⁴ For more on this history, see Paul Brass, *The Politics of India Since Independence* (Cambridge: Cambridge University Press, 1995), pp. 228-268; Mushirul Hasan, "Indian Muslims since Independence: In Search of Integration and Identity," *Third World Quarterly*, vol. 10, no. 2, pp. 818-842; and Amrita Chhachhi, "Forced Identities: the State, Communalism, Fundamentalism and Women in India," in Deniz Kadyoti, ed., *Women, Islam and the State* (Philadelphia: Temple University Press, 1991), p. 151.

made a campaign speech from near Ayodhya, where he called for *Ram Rajya* (the rule of the Hindu god Ram) in India. Similarly, attempts by conservative Muslims to assert power over the broader Indian Muslim community were supported by the government. For example, Gandhi promoted the agenda of conservative Muslim leaders who sought to uphold "traditional" Muslim family laws.¹⁵

¹⁵ The government's handling of the Shah Bano case was an example of the manner in which it conceded to demands of conservative Muslim leaders. This case involved a Muslim woman who sued for alimony, although Muslim personal law does not grant women alimony rights. Following this case there were widespread demands calling for the reform of personal laws and the creation of a uniform civil code to provide equal rights to all women regardless of religion. However, the government conceded to demands by conservative Muslim leaders and refused to legislatively change Muslim family law to allow for alimony to be paid to a divorced women.

Despite the Congress Party's best efforts, it was the explicitly communal parties which benefited the most from the communalization of Indian politics. In the 1989 national election, the BJP, with its Hindutva agenda,¹⁶ won 15 percent of the popular vote and eighty-eight seats in Parliament.¹⁷ In addition, it gained control of four state assemblies including Uttar Pradesh. The BJP had campaigned on a Hindutva platform which promised, among other things, to build a temple dedicated to Ram on the site of the mosque in Ayodhya.

THE LAW

Victims of communal violence in India suffer a range of violations of internationally recognized human rights. These include the right not to be arbitrarily deprived of life,¹⁸ the right to equal treatment before the law without discrimination,¹⁹ and the right not to be subject to coercion which would impair the freedom to have or adopt a religion.²⁰ Ethnic, linguistic, and religious minorities are guaranteed the right to enjoy their own culture, to profess and practice their own religion, or to use their own language.²¹ Furthermore, under international human rights law states are

¹⁶ BJP ideologues argue that as the essence of democracy is majority rule, and because Hindus constitute the majority of Indians, India must be governed by the principles of Hinduism. Such an argument however, is based on the flawed premise that democracy is the same as majoritarianism and that the majority of Indians subscribe to a monolithic interpretation of Hinduism.

¹⁷ In the next state elections in 1993, the BJP lost control of its state assemblies (although it managed to retain control over Delhi). In 1995 the BJP gained control of four state assemblies including the industrial powerhouses of Gujarat and in alliance with the Shiv Sena, Maharashtra, which contains the metropolis of Bombay.

¹⁸ ICCPR, Article 6.

¹⁹ ICCPR, Article 26.

²⁰ ICCPR, Article 18.

²¹ ICCPR, Article 27.

obligated to prohibit by law any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence.²²

The indiscriminate use of lethal force against unarmed demonstrators violates the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which *inter alia* states: "Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms ... Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall: (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate object to be achieved; (b) Minimize damage and injury, and respect and preserve human life" The Basic Principles also state: "Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law."²³ Unfortunately, the Maharashtra state government's *Guidelines for Dealing with Communal Disturbances 1986* authorize the early use of lethal force in order to quell a communal disturbance, and prohibit firing warning shots in the air, in violation of the Basic Principles.²⁴

²² ICCPR, Article 20.

²³ The Basic Principles were adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on September 7, 1990. The United Nations General Assembly subsequently welcomed these principles in Resolution 45/121 and called on all governments to be guided by them.

²⁴ See Amnesty International, *India: Memorandum to the Government of India arising from an Amnesty International Visit to India 5-15 January 1994*, (London: Amnesty International, August 1994), pp. 18-21.

The violations of human rights that occur in the context of communal violence also clearly violate protections set forth and defined in the Constitution of India and the Indian penal code. Under articles 15, 16, and 19 of the Indian constitution, discrimination on the grounds of religion is prohibited and all citizens are guaranteed the right to equal treatment before the law and the right to equal protection of the laws. Section 153 of the Indian penal code criminalizes the promotion of violent attacks against groups on grounds of religion, race, place of birth, or language.²⁵

²⁵ Section 153 of the Indian Penal Code states in Part 1, section c: "whoever organizes any exercise, movement, drill, or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence, or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community, and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community shall be punished with imprisonment which may extend to three years or with fine or both...." Section 2 states: "Whoever commits an offence, specified in [section] (1), in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine..." Section 148 of the Indian Penal Code provides for three years of imprisonment for "rioting [while] being armed with a deadly weapon or anything which, used as a weapon of offence, is likely to cause death."

AYODHYA

In the sixteenth century a mosque was built in Ayodhya by the Mughal emperor Babur. Contemporary Hindutva ideologues have argued that the site on which the Babur mosque was built is the birthplace of the Hindu god, Ram, and in order to achieve Ram Rajya in India, a temple needed to be constructed there.²⁶ Disputes over the contested site began in 1885.²⁷

In 1984, the VHP demanded the site be handed over to Hindus, and a committee was formed to achieve this goal. The BJP, the Shiv Sena, the militant Hindutva youth organization Bajrang Dal,²⁸ and the RSS all joined in the campaign. In 1985, the Ramjanambhoomi Nyas (Birthplace of Ram Trust) was formed with the intention to raise funds and coordinate the construction of the Ram temple.

²⁶ Hindutva ideologues claim that a Hindu temple was destroyed to build the mosque. This claim has been both supported and refuted by archaeologists and historians. See Sarvepalli Gopal, (ed.), *Anatomy of a Confrontation*, (New Delhi: Penguin India, 1991) and D. Mandal, *Ayodhya: Archaeology after Demolition* (New Delhi: Orient Longman, 1993).

²⁷ In 1885, a court case was filed in Faizabad seeking the construction of a temple on the outer courtyard of the mosque. At this time no claim was made on the land on which the mosque was built. The case was dismissed in December 1885 on the grounds that the construction of a temple in such close proximity to the mosque would endanger the peace. The case was twice appealed and dismissed. On the second appeal, the Judicial Commissioner of Avadh, the jurisdiction in which Ayodhya was located, stated "there is nothing whatsoever on the record to show that the plaintiff is in anyway the proprietor of the land in question." In 1934, amid rising communal tensions in Ayodhya, the mosque was attacked and its domes destroyed. The damage was repaired and the domes restored. In December 1949, idols of the god Ram were illegally installed in the mosque. Prime Minister Nehru called for the removal of the idols. However, the courts issued a prohibitory order denying access to both Hindus and Muslims to the contested site. The building was locked, Muslims lost the right to worship in the mosque, and the idols remained. The courts were to determine ownership and user rights of the structure; however, no final decisions were ever made. For a more detailed history of the dispute over the mosque, see Gopal, (ed.), *Anatomy of a Confrontation*; Kamala Prasad et al., *Report of the Inquiry Commission*, p. 92; and V. R. Krishna Iyer, "Ayodhya and the Supreme Court," *Hindu* (Madras), January 19-21, 1993.

²⁸ The Bajrang Dal is closely affiliated with the VHP. It also has contacts with the BJP and RSS.

On February 1, 1986, the district court of Faizabad ordered that the gates, which prevented entry to the inner courtyard of the mosque, be unlocked to allow Hindus to perform ceremonies in the structure.²⁹ The VHP demanded that full ownership rights be transferred to Hindus so that they could construct a temple to Ram on the site. Confronted with the possible destruction of the mosque, the Babur Mosque Action Committee (BMAC) was formed to gain ownership of the building for the Muslim community.

In 1987, the Uttar Pradesh government transferred the cases connected with the mosque from the district court to the high court. Two years later, the high court transferred the cases to a specially designated three-judge court. During the same year, the state government allowed the performance of special Hindu rituals dedicated to Ram at the disputed site. In 1990, L.K. Advani, leader of the BJP, led a demonstration through Gujarat, Maharashtra, Karnataka, Arunchal Pradesh, Madhya Pradesh, Delhi and Bihar demanding the construction of a temple in Ayodhya. Advani was eventually arrested in Bihar.

In 1991, the BJP won state elections in Uttar Pradesh and the newly elected Chief Minister Kalyan Singh declared that he was determined to construct a temple on the site of the Babur mosque. The district administration then began removing barricades from the external perimeter of the mosque.³⁰ In 1992, kar sevaks from all over India were systematically mobilized by Hindutva organizations through public speeches, the print media, and on audio and video cassettes to travel to Ayodhya to build a temple on the site of the mosque. In November 1992, the Supreme Court asked the Uttar Pradesh government to ensure that no construction would occur on the 2.77 acres of land on which the mosque stood. The Uttar Pradesh government responded that it would guarantee that no construction activity of any kind would take place as long as the high court interim orders were in force relating to the land acquisition.³¹

²⁹ The court based its judgment on a district magistrate's statement that opening the mosque to Hindu worshipers would not cause a threat to law and order. See S.M. Daud and H. Suresh, *The People's Verdict*.

³⁰ The protective barricade of barbed wire fencing was initially installed to protect the mosque from an attack by a large group of people. The removal of the barricade left the mosque vulnerable to such an attack. Later in 1991, the state government acquired the 2.77 acres of disputed land around the mosque. All structures on the 2.77 acres of land surrounding the mosque were demolished and the ground was leveled—making it an ideal gathering spot for thousands of individuals. The state government also leased 4.2 acres of adjacent land to the Ramjanambhoomi Nyas ostensibly for the establishment of a park dedicated to Ram.

³¹ Kamala Prasad et al., *Report of the Inquiry Commission*, pp. 18-20.

Amid calls for the construction of a temple on the site of the mosque, Hindutva groups disseminated anti-Muslim rhetoric in speeches, pamphlets, and the press.³² Discriminatory statements against Muslims included allegations that they were all anti-Indian agents of Pakistan, recipients of preferential treatment by the government of India, responsible for the overpopulation of India, anti-modern in their outlook, and involved with attacks on temples and other Hindu monuments. Neither the state nor the national government sought to counter Hindutva propaganda.³³

³² See Pradeep Dutta and Sumit Sarkar, "Manufacturing Hatred: The Image of the Muslim in the Ramjanumbhumi Movement," in Mehdi Arslan and Janaki Rajani (ed.), *Communalism in India: Challenge and Response* (New Delhi: Manohar, 1994).

³³ For example, VHP journals and pamphlets widely disseminated inflammatory reports that Muslims were intent on increasing their population through raping Hindu women in order to take over India, and that Pakistan and the Gulf states were behind the plan. See Basu et al., *Khaki Shorts and Saffron Flags*, pp. 74-75.

During November 1992, Hindus from all over India began to assemble at Ayodhya with the stated intent of destroying the mosque. Some 27,000 had arrived before November 29; 50,000 by December 1; 90,000 on December 2; and 150,000 the following day.³⁴ The arrival of kar sevaks was facilitated by the local administration, which provided housing in schools, colleges, and other government buildings. In addition kar sevaks were given extra water, electricity, and sanitation facilities. On December 1, kar sevaks started vandalizing Muslim graveyards in Ayodhya.³⁵ Local police did not attempt to stop such attacks.

On December 4 and 5, peace marches to Ayodhya led by the Congress and the Janata Dal parties respectively, were stopped by the local administration and their leaders arrested. On December 5, Hindutva leaders declared that a new temple dedicated to Ram would be constructed the next day. BJP Member of Parliament (MP) Vinay Katiyar publicly stated, "We are definitely going to start construction on the temple."³⁶ On December 6, in a series of vitriolic anti-Muslim speeches, Hindutva leaders called on their supporters to destroy the mosque and begin construction of a temple. RSS, VHP, and Shiv Sena members cordoned off the area surrounding the mosque and began screaming that the building must be torn apart. Thousands of kar sevaks started stoning the mosque amidst cries of "Long live Ram." Hindutva members of parliament urged on those destroying the mosque. For example, BJP MP Uma Bharati chanted into a microphone in Hindi: "One more hard push. Break the Babur Mosque. Harder. Harder." Her BJP colleague, Sadvi Rithambara, followed her with the pronouncement: "If blood must be shed, let it be shed once and for all."³⁷

In the next seven hours a large crowd of kar sevaks systematically demolished the mosque with hammers, pick-axes, and crowbars. Ropes were used to pull down the domes. While the mosque was being destroyed, a number of journalists were violently attacked by kar sevaks. "Sunita,"³⁸ a Hindu journalist, was covering the events at Ayodhya. On December 6 she entered the mosque as it was being demolished.

A kar sevak screamed that I was a Muslim. Soon other kar sevaks starting chanting, "Muslim. Muslim." One of the kar sevaks grabbed me and started to strangle me. I tried to escape but was unable to. One of the kar sevaks said, "Not here in the temple. Let's kill her outside." I was then dragged outside the temple. Before I was attacked again, someone who had recognized me helped me escape.³⁹

³⁴ Kamala Prasad et al., *Report of the Inquiry Commission*, pp. 19 -23.

³⁵ In December 1992, 10 percent of Ayodhya's population was Muslim.

³⁶ "Black Sunday," *Sunday* (Calcutta), December 13-19, 1992 p. 30.

³⁷ "Demolition Diary," *Week*, December 20, 1992, p. 42.

³⁸ All names which appear in quotation marks are interviewees who, for reasons of safety, wish to remain anonymous.

³⁹ Human Rights Watch interview, New Delhi, June 1994.

Venkitesh Ramakrishnan, a journalist with the Indian national magazine *Frontline*, described the attacks against other journalists:

It became clear the moment kar sevaks began demolishing the disputed structure that in the Hindu *Rashtra* [state] the minority communities would have no right to live, not to speak of social interaction; that freedom of expression would be non-existent; and that truth would be only what rulers perceive. The first to feel the taste of the Hindu *Rashtra* were reporters and lensmen. Almost simultaneously the *masjid* [mosque] and the journalists were brutally attacked. What started as an assault of cameramen clicking or filming the storming of the structure soon became an all-out offensive against press persons. Cameras worth lakhs [tens of thousands] of rupees were destroyed, women reporters were molested and beaten up and men thrashed. Many press-persons lost all their belongings.⁴⁰

As the mosque was being destroyed, the area's district magistrate and police superintendent arrived, stayed for five minutes, and left.⁴¹ The local police stationed around the mosque failed to maintain law and order from the beginning, and ceded much authority over controlling the crowds to the various Hindutva factions. "Vinay," a journalist, was at Ayodhya from December 1 to December 8. He watched the kar sevaks destroy the mosque.

When the kar sevaks first started attacking the mosque the few police officers who were guarding the site merely moved aside, allowing VHP and RSS cadres to direct the crowds. During the destruction, various police officers arrived and departed from the site. The police officers observed the destruction, yet made no effort to intervene.

The Provincial Armed Constabulary (PAC), a provincial police force known for its communal bias, also failed to uphold the rule of law.⁴² According to a reporter from the British daily, the *Guardian*: "The more numerous contingent of the Uttar Pradesh-controlled PAC made no secret of their sympathy for the temple movement. They simply stood aside and watched the mosque being torn apart."⁴³

⁴⁰ Venkitesh Ramakrishnan, "Dateline Ayodhya," *Frontline* (Madras), January 1, 1993, p. 9.

⁴¹ "Demolition Diary," p. 40.

⁴² For a description of the role of the PAC in communal riots see Asghar Ali Engineer, *Communal Riots in Post-Independence India*, pp. 80, 97, 278, and 309. The discriminatory role of the PAC in the violence after the destruction of the mosque was described in Shikha Trivedi, "The Forces of Disorder," *The Business Standard* (Calcutta), January 11, 1993. For more on the PAC, see Mohammad Aslam, "State Communalism and the Reassertion of Muslim Identity," In Zoya Hasan et al., eds., *Eight Political Processes and Identity* (London: Sage Publications, 1989).

⁴³ Derek Brown, "The Fateful Madness," *Guardian Weekly* (London), Vol. 147., No. 24, December 13, 1992, p. 7.

Following the demolition, the government of India dismissed Kalyan Singh, the BJP chief minister of Uttar Pradesh, and imposed direct rule over the province. Despite this move, there was initially no visible effort by central government institutions to stop or limit the activities of the kar sevaks. Immediately after the mosque fell, kar sevaks began to clear the rubble to erect a canopy to house idols of Ram. The debris was carried away by tractors and in the luggage of kar sevaks who took pieces of the mosque back to their homes all across India. By the time the central forces intervened, the basis of a temple had been constructed in the form of a 500 square foot platform surrounded by walls and a set of stairs. On December 7, Vinay Katiyar, BJP MP from Ayodhya stated, "We thank the State and district administration, the Uttar Pradesh Police and the PAC for giving us all the help that we needed to complete our mission."⁴⁴

⁴⁴ "Games in U.P.," *Frontline* (Madras), January 1, 1993, p. 14.

In the aftermath of the destruction, Ayodhya's Muslim community was systematically attacked by Hindu mobs for two days. Muslims were physically attacked and their homes, shops, and religious buildings were burned down. Local politicians denied that Hindus had carried out the attacks. BJP MP Uma Bharati complained to reporters that the Muslims were setting their houses on fire.⁴⁵ In neighborhoods where Muslims and Hindus lived next to one another, only property owned by Muslims was damaged and destroyed. On December 6 and 7, the police and the PAC did not protect Muslims and in some cases actively participated in the violence.⁴⁶ Federal troops which were deployed in the vicinity were not used to restore law and order. Muslims were attacked until late in the evening on December 7. On December 8, the central government finally sought to stop the violence, by which time at least fourteen people had been killed and 267 Muslims homes, twenty-three mosques, and nineteen graveyards were destroyed or damaged.

"Sanjay," a resident of Ayodhya, saw a number of kar sevaks rampage through the residential part of town, within hours of the destruction of the mosque. They attacked small local mosques as well as shops with signs which indicated Muslim owners. Sanjay told Human Rights Watch:

I saw them vandalize these buildings and in some cases, torch them. Local police officers were nowhere to be seen. After the violence I made a report to the police regarding what I saw. I specifically identified individuals from Ayodhya who had participated in the violence. None of the individuals I identified was ever arrested.⁴⁷

"Riaz" watched a number of kar sevaks attack his family's home in Ayodhya. He told Human Rights Watch:

I had sent my wife and children away from Ayodhya the week before because I had seen the kar sevaks collecting pick axes and hammers with which they could attack the mosque and I had seen kar sevaks vandalize Muslim graveyards in the vicinity. As the kar sevaks were approaching I escaped to a neighbor's house. The kar sevaks entered my house screaming that "Babur's" descendants [i.e. Muslims] should either go to Pakistan or the graveyard. They then burned down my home. I saw three police officers participate in the burning of my home. After the kar sevaks had rampaged through Ayodhya, I spoke with at least four young Muslim men who had been beaten up by kar sevaks. After their beating they sought to register cases with the local police. No one was arrested in connection with these beatings.⁴⁸

Another eyewitness reported:

⁴⁵ "One for Hanuman," *Week*, December 20, 1992, p. 38.

⁴⁶ See S.M. Daud and H. Suresh, *The People's Verdict*.

⁴⁷ Human Rights Watch interview, Bombay, June 1994.

⁴⁸ Human Rights Watch interview, Bombay, June 1994.

The rioting began seriously only at about 4 A.M. [December 7, 1992] and continued for twelve hours, with mobs of several hundreds roaming the streets of the this temple town shouting “*Jai Shri Ram* [long live Ram]” and plundering and torching each and every Muslim home—134 in all—and business establishments in broad daylight. First they looted all the valuables and currency they could lay their hands on. Then they smashed to pieces everything that was inside the houses. What couldn’t be broken, whether it was a motorcycle or some cattle or clothes and books, went into huge bonfires and was reduced to ashes. After this the houses were set on fire, but not if they were too close to Hindu homes, lest those too got damaged. Any other mosque they could find was an added bonus. As a result, barring two, all the masjids and *idgahs* [Muslim religious sites] were either destroyed or damaged. This was not just some mindless and wanton destruction of human life and property by the kar sevaks in order to sustain the high they had achieved only a few hours ago by razing the Babri Masjid to the ground. On the contrary, they worked to a carefully crafted plan. But all their zeal and commitment would have come a cropper if some of the Hindus of Ayodhya and the U.P. [Uttar Pradesh] police and the Provincial Armed Constabulary posted there had not pitched in. The locals helped the strategists by identifying Muslim property well before December 6, and the police force provided the final touches by either actively participating in the *lootmar* [pillaging] or turning a Nelsons’ eye to what was happening around them. For instance, on the morning of December 7, as I was walking through the heavily policed Ramkot area, not even a stone’s throw away from the disputed site, some kar sevaks were setting fire to the shop of Lala Tailors which was owned by a Muslim. Instead of stopping the miscreants, the PAC men on duty were urging them to quickly throw out the odd pieces of wooden furniture inside, which they then used for making a fire to ward off the winter chill right in the middle of the road.⁴⁹

In the weeks leading up to December 6, the issue of the protection of the mosque was discussed widely in government institutions including the national Parliament, the Uttar Pradesh legislature, the Supreme Court, and the Uttar Pradesh High Court in Allahabad. Despite more than adequate warning that the mosque would be destroyed and Muslims in the region would be victims of communal violence, state and local security forces around the mosque had actually been reduced in early December, for no explicit reason. The PAC was deployed in Ayodhya by the state government, ensuring that the destruction of the mosque would meet little resistance. The central government failed to use its forces specifically deployed in the area to protect the mosque and the local Muslim community. From December 7 onwards, the departure of tens of thousands of kar sevaks was facilitated by the provision of special trains organized by Hindutva organization with the full knowledge of the Uttar Pradesh government. No effort was made to identify or detain those involved in the violence, even though the attacks took place in clear sight of state security forces.

As the kar sevaks left Ayodhya, the central government took direct control of the Uttar Pradesh state government, temporarily banned the RSS, VHP, Bajrang Dal and Muslim communal organizations, arrested L.K. Advani and other Hindutva leaders, and claimed it would hold accountable those responsible for the demolition. Furthermore, it committed itself to the reconstruction of the mosque and the establishment of an inquiry into the failure of the Uttar Pradesh government to protect the mosque. The mosque was never rebuilt, the Hindutva leaders were released without being prosecuted, Hindu and Muslim communal organizations were allowed to freely operate after a short period of time, and thus far no one has been held accountable for these events. During the weeks following the mosque’s destruction BJP MPs stated in Parliament that mosques in Varanasi and Mathura should also be destroyed.

While the Uttar Pradesh government was explicitly supportive of the Hindutva agenda, the central government was negligent in its handling of the crisis in light of the fact that security arrangements had been reduced, even though large number of Hindus had entered into Ayodhya intending to begin temple construction, the local Muslim population had come under attack, and the BJP had come to power promising to build a Ram temple on the site of the mosque.

⁴⁹ From Shikha Trivedy, “The Followers of Godse: The Aftermath of the Babri Masjid Demolition in Ayodhya,” *Manushi*, p. 3.

A nongovernmental independent Citizens Tribunal on Ayodhya was established to issue a report on the events at Ayodhya. The tribunal appointed three former judges, O. Chinnappa Reddy, D.A. Desai, and D.S. Tewatia, to head an inquiry commission. The mandate of the commission was to describe the events that took place around the demolition of the Babur mosque, identify the role of individuals, groups, and governmental bodies in those events, list attacks against individuals as well as properties including homes, businesses, and places of worship in Ayodhya and its environs after the demolition, and identify those who directly engineered, abetted and participated in the riots and the destruction. *The Report of the Inquiry Commission* concluded the following:

1. The central and state intelligence reports warned the central and state administrations of the possibility of destruction of the Babri Masjid well in advance.
2. It was widely known among the kar sevaks in Ayodhya and reported by the Uttar Pradesh police to the state administration that the central forces in Ayodhya would not use firearms on December 6. Kalyan Singh [Uttar Pradesh chief minister] had announced that the Uttar Pradesh police would not use force against the kar sevaks on December 6.
3. Local residents and the police knew that kar sevaks had collected implements which could be used to destroy the Babur mosque. Some journalists and local residents are reported to have witnessed the rehearsal for destruction of the Babur mosque.
4. The Uttar Pradesh police warned their superiors in advance that kar sevaks were planning to destroy all the mosques and Muslim homes in Ayodhya.
5. A very large number of kar sevaks were allowed to collect in Ayodhya and the central government reportedly helped in this process by providing special trains. Kar sevaks were considered special guests by the administration and official machinery was used to make their life comfortable in Ayodhya.
6. Ample warning of the kar sevaks mood was given more than five days in advance when they started destroying and damaging Muslim graves, mosques, and homes.
7. The police took a very negligent and complacent view of their duty. The job of guarding the structure was abandoned at the first opportunity. There is overwhelming evidence of police and PAC forces standing by silently during the violence. There is also substantial evidence of some policeman and members of the PAC participating in the looting. PAC members have also been accused of assaulting some of the victims. On the other hand, where the police fulfilled their duties, human lives and property were saved.
8. A large number of First Information reports (FIRs)⁵⁰ were lodged against specific individuals who allegedly participated in arson, looting, desecration of places of worship and even murder. No arrests were made. Evidence also suggests that no house-to-house search were organized to retrieve stolen goods or locate perpetrators of violence.
9. The demolition of the Babur Mosque on December 6, 1992 was a premeditated act. Leaders of the various Hindutva organizations had repeatedly and publicly stated that they would demolish the mosque and build the temple at the site despite court orders. The courts, the Union government, parliament, and all political parties were all aware of this but failed to act decisively.

The conclusions of the commission appear to be confirmed by leaders of those who participated in the violence. According to a senior Uttar Pradesh Bajrang Dal leader:

⁵⁰ The First Information Report (FIR) is the starting point for any police investigation of a crime.

We had planned it [the demolition] right from the last week of September; 1,200 volunteers were given training. An engineer from Orissa studied the structure, and assigned jobs to various groups. That is how the base of the structure and the domes were simultaneously attacked, unlike in October-November 1990 when only the domes were targeted. Without this planning how do you think we razed the masjid in six hours? Do you think a group of frenzied kar sevaks could have gone about it so systematically?⁵¹

POST-AYODHYA COMMUNAL VIOLENCE

⁵¹ Venkitesh Ramakrishnan, "The Wrecking Crew," *Frontline* (Madras), Jan 1, 1993, p. 10.

Images of the destruction of the mosque at Ayodhya spread throughout India via the Indian press and on British Broadcasting Corporation television. Muslims and advocates for a secular India held both peaceful and violent demonstrations protesting the failure of the state to intervene effectively. Unlike the attack on the Babur mosque, such demonstrations consistently met with a strong response from the police. In various centers throughout India, including Delhi, Hyderabad, Bijapur, Calcutta, Surat, and Ahmedabad, communal violence ensued in which thousands were killed. Within two weeks of the destruction of the mosque, 227 were killed in communal violence in Gujarat, 250 in Maharashtra, fifty-five in Karnataka, fourteen in Kerala, forty-two in Delhi, 185 in Uttar Pradesh, one hundred in Assam, forty-three in Bihar, one hundred in Madhya Pradesh, and twenty-three in Andhra Pradesh.⁵² In the majority of affected areas the state failed to effectively respond to the attacks, and in many cases was complicit in the violence. Such failures were well documented by nongovernmental organizations and the mainstream press. Interviews conducted by Human Rights Watch confirmed the role of the state in communal violence. According to Arun Sinha, a journalist from *Illustrated Weekly of India*, "To Muslims, the message from Ayodhya is clear: Hindu mobs can unleash terror where the state fears to intervene, for fear of forfeiting Hindu votes."⁵³

"Salim," a Muslim resident of the old walled inner-city area of Ahmedabad, in the west Indian state of Gujarat, told Human Rights Watch:

After Friday prayers on January 8, 1993, I heard from other Muslims that mosques in the area were being destroyed. I and a group of friends started vandalizing city buses and government buildings. My group was met by pro-Hindutva supporters and violence broke out. People on both sides were involved in physical assaults, stabbings, and throwing home-made kerosene bombs. Initially, the police did not intervene and a number of people were killed on both sides. When the police finally became involved, at least twenty Muslims were arrested. Those arrested included Muslims not involved in the rioting. At least ten Hindus who had participated in the violence were not arrested. Two or three Hindus were arrested. These Hindus were released in less than one week. More than ten Muslims stayed in police lock-ups for months without charge. I was detained for seven months.⁵⁴

During the week of December 7, 1992, "Farooq," a Muslim resident of a predominantly upper-middle class Hindu area of Ahmedabad was consistently threatened with physical violence by individuals affiliated with the Hindutva movement. He reported these threats to the police who said that they could do nothing. On two occasions groups of four or five people came to his door telling him he should move out of the neighborhood. He did not leave because he felt his predominantly Hindu friends in his apartment building would protect him. Many of his friends suggested that he and his family should leave for their own safety.

During the second week of January 1993, a mob of over fifty individuals came to my apartment building. I and my family escaped into a neighbor's apartment while the mob gutted and destroyed my apartment. I asked the police to apprehend those who had destroyed my apartment. As far as I knew they made no efforts to find any members of the mob, and no one was ever charged. I left the area for a few months and eventually returned.

⁵² "Ayodhya: The Complete Story," *Week*, December 26, 1992, pp. 22-45.

⁵³ Arun Sinha, "The Fall Guys," *Illustrated Weekly of India* (Bombay), December 19 - 25, 1992.

⁵⁴ Human Rights Watch interviews, Ahmedabad, June 1994.

During the next year, he alleged, academically strong schools in the area refused admission to his children because they were Muslim. A number of other professional Muslims cited examples of such discrimination.⁵⁵

"Bahadur," a resident of the old city of Delhi, said that after the destruction of the mosque in Ayodhya the mood among Muslims in his neighborhood was somber. They staged a peaceful demonstration lamenting the loss of one of what he considered one of India's most important mosques. While walking through the streets they were stopped by a group of police officers who swore at the demonstrators. Soon the police were followed by a group of young Hindus chanting "Long live Ram" and "Muslims go back to Pakistan." "Bahadur" told Human Rights Watch:

I did not believe these Hindus were from my neighborhood. The Hindus started to hurl stones at the Muslims. A massive fight ensued. However, the Muslims were outnumbered and several of my friends were badly beaten. Two of my friends were stabbed. Following the fight some shops owned by Muslims were vandalized. I registered a case against the attackers. I do not believe anyone was detained, let alone prosecuted.⁵⁶

According to Samprayadikita Virodhi Andolan, a human rights group, the attacks in East Delhi on Timber market, Z block; Kabootar market, Assi Plot; and Janata colony were simultaneous.

At each of these areas there was a two hundred strong mob, accompanied by armed police and known prominent residents of the localityIt is quite clear that the rioters had the sanction of the police, who either accompanied the mobs or watched from vehicles parked nearby. In addition, the police themselves shot at fleeing Muslims, beat up and harassed men who were dragged from their homes, and used communally abusive language. In short, the police was both violent and communal. The communalization of the police is also evident from the focusing of all its institutional force on Muslims alone. Almost all the arrests were of Muslim men. Women and children of their families were subjected to brutality and extreme humiliation. Since those injured and killed, and whose homes have been destroyed are almost entirely Muslim, the police are in effect punishing the community which was the target of the violence.⁵⁷

Other human rights groups documented similar incidents in Bhopal:

[E]xcluding the three policeman and the CISF inspector killed, the official death toll figure is 139. Eleven of them were women. Our enquiries indicate that approximately 70% killed were Muslims. At

⁵⁵ Human Rights Watch interviews, Ahmedabad, June 1994.

⁵⁶ Human Rights Watch interview, Delhi, June 1994.

⁵⁷ Samprayadikita Virodhi Andolan, *Seelampur 1992: A Report on the Communal Violence in Seelampur New Delhi 1992*, (New Delhi: People's Movement for Secularism, 1993), p. 15. The report was based on eyewitness accounts, collected from December 14 to December 30, 1992 by social workers, doctors, political activists, and lawyers.

least 50 persons were killed in police firings while the rest died in mob violence.... Throughout the city, cutting across economic and gender lines people complained of police atrocities. By and large the atrocities were directed against Muslims. Arson and loot, molestation and murder—charges against police were serious and numerous....These acts constitute a clear violation of law. But so far government has not initiated any meaningful action on these cases.⁵⁸

Deaths in Gujarat numbered 227, with 180 reported from Surat alone. Fifty-seven people were burned alive by the mobs. According to press accounts, the violence began after Muslims staged a protest march.

⁵⁸ Sanskrit Morcha, *Bhopal Riots: A Report* (New Delhi: Bhopal and People's Union for Democratic Rights, April 1993), pp.16 and 29.

The police opened fire in certain pockets of the city, but mercifully the casualties were minimal. But rumor mills relentlessly spread throughout the night, resulting in a mob of 4,000 laying siege to a small Muslim locality on Varachcha Road.... "Soon," recounts a police officer, "the houses were bolted from the outside, petrol was profusely spread on them and they were set on fire." About 27 people are said to have died in this macabre frenzy. A similar incident took place in a Hindu-majority locality on Ved Road. According to an eyewitness, a Hindu, hoodlums marked out a series of houses belonging to the minority community, which were then looted, ransacked, and set on fire. And the residents were bodily lifted and cast into the blazing inferno. At least 32 people perished. In the third gruesome incident, a passenger train was stopped near Udhna on the outskirts of Surat on 10 December. A mob stormed the coaches, hacked several passengers and raped women before killing them. And on all three occasions, the police were nowhere on the scene.... Significantly, all the major incidents of violence occurred in BJP strongholds.⁵⁹

Even Bangalore, a prosperous cosmopolitan city in Karnataka state known for its computer and software industries, saw violence. Nineteen were killed.

In the slums of Bhavaninagar, many huts belonging to Muslims were torched. An Arabic school for Muslim girls was also partially gutted. In the area known as the Kumaraswamy Layout, all the Muslims were targeted and their houses raided and burnt. "Hindus came in crowds and set every house on fire," said Jayamma, a resident of the layout. "Today not a single Muslim lives in Kumaraswamy Layout."⁶⁰

Despite the rising death toll across the country, the central government did not intervene.

The response of the Central Government was marked by unbelievable inertia. The political preoccupations of the ruling party, Congress (I), took precedence over the need to come to grips with the situation, which was assuming the proportions of a communal holocaust.... As a result, police firings seemed to have claimed more lives than the communal clashes did. This indicates a plain inadequacy of deployments and the absence of directions from Delhi and the State capitals.⁶¹

THE KILLINGS IN BOMBAY

⁵⁹ Ranvir Nayar, "Gujarat" in "Frenzy," *Sunday* (Calcutta), December 20-26, 1992, p.54.

⁶⁰ Gauri Lankes, "Karnataka" in "Frenzy," *Sunday* (Calcutta), December 20-26, 1992, p.54.

⁶¹ "Wounds all Over: The Violent Aftermath," *Frontline* (Madras), January 1, 1993, p. 105.

The communal violence that ravaged much of India wrought particularly widespread destruction in Bombay, India's cosmopolitan commercial center and the state capital of Maharashtra. The day after the destruction of the Babur mosque, the Bombay-based Shiv Sena leader Bal Thackeray "issued a statement praising the *Shiv Sainiks* [members of the Shiv Sena] who he claimed were primarily responsible for having broken the domes of the religious site. Stating that he was the 'happiest man,' Thackeray said that he was proud of those Shiv Sena kar sevaks who had done justice to the Hindu cause."⁶²

During the following days Muslims held public demonstrations in the streets of Bombay against the government for failing to prevent the destruction of the mosque. Many of these spontaneous gatherings, particularly in south and central Bombay, degenerated into violent attacks against police officers. Government property, including public transport facilities and police stations, was also attacked. The police, who responded quickly and forcefully, sought to quash both the violent attacks and the peaceful demonstrations. Rather than shouting warnings to the crowds to disperse, or using tear gas or non-lethal weapons, the police opened fire on the crowds. Guns were not directed at the feet or above the crowds but rather directly at areas of the body which could suffer fatal injuries. The majority of those killed were Muslims who died of bullet wounds to the head or chest.⁶³ Direct fire by the police was systematically employed in over fifteen police jurisdictions in Bombay, clearly indicating that the various police stations were acting on orders from a senior city-wide authority. According to Asghar Ali Engineer, a prominent civil rights activist and academic: "...The post-mortem reports showed that out of about 250 deaths (in December), 192 persons died in police firing and out of those more than 95 percent had sustained injuries above the abdomen which shows that the police fired to kill and not to maim or injure."⁶⁴

⁶² Rajdeep Sardesai, "Thackeray Bid to Hog Credit Exposed," *Times of India* (Bombay), December 8, 1992. On the same day Shiv Sena Member of Parliament Moreshwar Dave: "admitted in a meeting with journalists that the demolition of the Babri Masjid [Babur mosque] was planned well in advance and executed with military precision by 500 Shiv Sena kar sevaks who were imparted special training in a fortnight long camp in Chambal." SNM Abdi, "Sena MP Admits Planning Demolition of Mosque," *The Independent* (Bombay) December 8, 1992.

⁶³ Such actions violate the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which require that law enforcement officials apply non-violent means before resorting to the use of force and firearms, exercise restraint in such use, minimize damage and injury, and respect and preserve human life. The Basic Principles also state that those responsible for arbitrary or abusive use of force should be punished. See footnote 24. See also Lokshahi Hakk Sanghatana and Committee for the Protection of Democratic Rights, *The Bombay Riots*, p. 61.

⁶⁴ Asghar Ali Engineer, "Communal Violence and Role of Police," *Economic and Political Weekly* (Bombay,) April 9, 1994, p. 838.

On December 7, 1992, "Ali," a thirty-seven-year-old Muslim shopkeeper from Dharavi, joined a peaceful demonstration of Muslims against the government for allowing the Babur mosque to be destroyed. Although there was no history of communal violence in "Ali's" neighborhood before the destruction of the mosque, a group of Hindus led by members of the Shiv Sena led a demonstration celebrating the destruction of the mosque. The pro-destruction demonstration was full of people shouting that "anti-Indian" Muslims should be sent to Pakistan. Violence ensued between the groups. Later in the day, when the police arrived, they fired on the Muslim group. According to "Ali", no warnings were given nor were there any attempts to use non-lethal force to disperse the crowd. "Ali" told Human Rights Watch:

Over five people were killed in the firing. During the following day, my shop was looted and partially burned. I sought the help of the police to find those who destroyed the store. Nothing was done in this regard.⁶⁵

On December 7, "Timur," a Muslim rickshaw driver from Dharavi, was pulled out of his rickshaw by a group of Shiv Sainiks. He described what happened next:

They started making derogatory comments about Muslims and pushed me around. Although I am a Muslim, I claimed that I was a Hindu. The "Shiv Sainiks" pulled down my *dhoti* [loose pants] to see if I was circumcised. Seeing that I was, they beat me severely and then took my rickshaw. The same day I went to a police station and was told by a police officer that the only place I could get my rickshaw back was in Pakistan.

⁶⁵ Human Rights Watch interview, Bombay, June 1994.

Terrified of what was going on in the area, "Timur" moved back to his family's village in the south Indian state of Kerala for the next few months.⁶⁶

"Vikram," a Hindu resident of Dharavi, stated that on December 7 he saw police hitting three or four young Muslim men with lathis⁶⁷.

I told them to stop. The police officers laughed at me and continued to beat the young men. After the police left three of the men who had serious cuts to their faces picked up the fourth man who had been beaten unconscious.

For the ten days following December 6, much of the violence took place between the police and Muslims. In addition to firing on demonstrators, police entered Muslim households, conducted arbitrary arrests, tortured those arrested, burned down homes, and fired on defenseless residents. During the same period, Hindus, who formed processions supporting the destruction of the mosque, were not stopped by the police. In the latter days of the violence, members of the Shiv Sena began to attack Muslim households alongside the police.

"Salimbhai," a twenty-five-year-old Muslim rickshaw driver from Mazagaon, told Human Rights Watch that in the weeks following the destruction of the mosque, local Shiv Sena officials made a number of public anti-Muslim speeches. Such speeches increased communal tensions by calling on Hindus to take back India from the "Pakistani terrorists" who allegedly lived in Muslim localities all over Bombay. During the same period the Marathi language Shiv Sena newspaper *Saamna* had printed editorials which described Muslims as traitors, people without a nation, and as destroyers of temples who should be crushed like the domes of the Babur mosque. From January 7 to January 11, 1992 a group of Shiv Sainiks rampaged through Muslim neighborhoods in Mazagaon, an area of Bombay. Homes and businesses were burned and shops looted. "Salimbhai" stated:

I was pulled out of my home as expletives were directed at my family and local Muslim leaders. I was dragged past a local police officer who made no effort to intervene. I was brutally beaten with a metal bar until I lost consciousness. When I awoke, I was in the home of a friend who had retrieved me from the street. My family was also in the home. While I was being beaten Shiv Sainiks had set my house on fire. I attempted to register a FIR with the police. However, although I gave the names of the attackers and that of the police officer no one has been charged.⁶⁸

⁶⁶ Human Rights Watch interview, Bombay, July 1994.

⁶⁷ Wooden batons used by the police.

⁶⁸ Human Rights Watch interview, Bombay, June 1994.

On December 8, mobs engaged in widespread looting and arson of Muslim property in Bandra East, a predominantly Hindu middle class neighborhood. In one shopping complex, every Muslim shop was burned. According to eyewitnesses the police did not intervene to save the Muslim property even though the Kherwadi police station was just two hundred yards away and the attack went on for four hours.⁶⁹

Official figures estimate that 167 people were killed between December 6 and 16. Individuals interviewed by Human Rights Watch/Asia, however, indicate that these statistics were grossly understated. Nongovernmental organizations in Bombay claimed that approximately 250 people were killed.

Between December 17, 1992, and January 4, 1993, the city was relatively quiet, although many areas were tense and there were individual incidents of stabbing and arson. The violence, however, was not on the scale witnessed in the week following the mosque's destruction. In late December and early January the Shiv Sena led Hindu religious processions throughout Bombay. On January 5, 1992, two Hindu union workers were killed in an interunion dispute. However, in an atmosphere suffused with communal tensions, these killings were cast in communal terms, and on January 6, a second phase of communal violence in Bombay began with clashes between Hindus and Muslims in central Bombay, Dharavi, Mahim, and Masjid. In January 1992, much of the violence was directed by members of the Shiv Sena who stopped cars, identified Muslim passengers, and attacked them.⁷⁰

In the days that followed, members of the Shiv Sena systematically attacked Muslim men, women, and children in their homes and on the streets, set their residences and shops on fire and in many instances brutally murdered them. In addition, many Muslim women were raped.⁷¹ Publicly brandishing weaponry including swords, metal bars, and batons, Shiv Sainiks and other anti-Muslim Hindus attacked Muslims across the city. The riots in January spread to regions traditionally not prone to communal violence, including some of Bombay's most affluent localities. According to official figures, which representatives of nongovernmental organizations again considered understated, 5,080 huts, 1,711 shops, ninety houses, and sixty-seven other structures were destroyed during the violence in January.⁷²

In stark contrast to police retaliation against Muslims in the preceding month, the police did not get involved in the initial days of the January riots and consistently failed to protect Muslims. In fact, transcripts of police radio conversations, obtained by journalists and shown to Human Rights Watch, reveal an explicit disregard for Muslim safety. In one recording the Bombay Police Control Room told a mobile police unit: "Don't burn anything belonging to a Maharashtrian. But burn everything belonging to a Muslim."

On January 14, 1992, "Farida," a forty-year-old Muslim widow, asked her eighteen-year-old-son, "Aziz," to purchase some food in Dongri. She told Human Rights Watch:

⁶⁹ Flavia Agnes, "Two Riots and After (Bandra East)," *Economic and Political Weekly* (Bombay), February 13, 1993, p. 266.

⁷⁰ As Hindus and Muslims share common physical traits mobs often pulled down the pants of men to see if they were circumcised and thus ostensibly Muslim.

⁷¹ See the Report of the Joint Delegations of National Women's Organizations, *Women Against Communalism*, p. 10.

⁷² M. Rahman, "Trapped in Uncertainty," *India Today* (New Delhi), February 15, 1993, p. 20.

On his return home "Aziz" passed by a group of police officers who started swearing at him. He started to run but dropped his food. When he stopped to pick up the food the police officers kicked him to the ground. They then beat him with their rifles on his head and punched him repeatedly in the stomach. The police officers left him on the street.

"Aziz" was taken home to his mother by a neighbor. Three days later he died of injuries to his head. "Farida" sought help from a local relief organization that urged her to register a case with the police. However, before she went to the police station three officers came to her home and threatened her by stating that if she registered a case, her home would be burned down and she would be beaten. "Farida" told Human Rights Watch, "The police should protect people from crime. But if they are the criminals who can we turn to?"⁷³

"Farhad" participated in a demonstration in Mahim during the second week of January. A group of Shiv Sainiks threw flaming rags dipped in kerosene at the demonstrators. Despite this attack, "Farhad" continued to walk in the direction of the Shiv Sainiks. He told Human Rights Watch:

I recognized two or three police officers among the Shiv Sainiks. A group of ten men brandishing wooden sticks and metal implements beat me until I was unconscious. When I regained consciousness I went to a local hospital. At the hospital I saw at least twenty Muslims who had been badly beaten. Next to the hospital in a courtyard, which served as a morgue, were about twenty bodies—they were all Muslims who were beaten to death during the riots.⁷⁴

"Madhuri," a social worker, went to several hospitals around Bombay during the riots and reported:

At each one I saw the same horrific sight of Muslims who had been severely beaten during the riots. Most of the hospitals' morgues were filled with dead bodies. Many of the bodies were so badly beaten or burned that family members could not identify their dead relatives.⁷⁵

"Rehman," a seventeen-year-old Muslim boy, said that he was walking in Dongri on January 14 when five men whom he identified as local Shiv Sainiks encircled him.

They started making derogatory remarks about Muslim religious leaders. They asked me if I supported the Indian or Pakistani cricket team. I replied Indian. The men then ripped off my clothes and beat me severely. The incident terrified me and I left Bombay for my family's village in [the central Indian state of] Madhya Pradesh for the next three months.⁷⁶

"Wasim," a Muslim architect and resident of an upper class area of Bombay, stated that the rioters looked at apartment building lists to determine which apartments were owned by Muslims. In his building three apartments belonging to Muslim families were ransacked by rioters.⁷⁷

⁷³ Human Rights Watch interview, Bombay, June 1994.

⁷⁴ Human Rights Watch interview, Bombay, July 1994.

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Ibid.

Many Shiv Sainiks had municipal lists which named shop owners and electoral rolls which identified residents of specific homes. Thus, they were able to identify Muslim property which they then systematically destroyed.⁷⁸ While there was violence against Hindus as well, the overwhelming majority of the more than 1,000 individuals killed in Bombay in January were Muslims. As Muslim stores, restaurants, and service centers were destroyed, tens of thousands fled to refugee camps and to areas surrounding Bombay.

"Ravi" employed twenty Muslims in a small textile production facility in Bombay. He told Human Rights Watch:

⁷⁸ Ibid. See also M. Rahman and Lekha Rattanani, "Savagery in Bombay," *India Today* (New Delhi), July 31, 1993, p. 23.

In January 1993, all of my employees fled out of fear for their lives. Their neighborhoods had been attacked and they had seen friends killed. Half of those who fled never returned. I do not know if they resettled outside Bombay or were killed during the violence.⁷⁹

"Khalid," a thirty-five-year-old Muslim man had lived in Bombay all of his life, described what happened in his neighborhood:

My neighborhood had been torched during the riots and four of my Muslim friends were badly beaten. The police never attempted to help any of the Muslims. I was afraid for my family and myself, so we left Bombay for Pune. Thousands of other Muslims also fled.⁸⁰

In at least three instances in January 1993, the Bharatiya Kamgar Sena union controlled by the Shiv Sena forced employers at major businesses to dismiss Muslim employees.⁸¹

Journalists and newspaper editors who vocally opposed the Shiv Sena or the Hindutva agenda, whether or not they were Muslim, were also victims of violence. According to the *Times of India*:

A conspicuous feature of the communal pogrom has been the systematic attack on the Urdu press, with concerted violence against Muslim journalists and on those irrespective of the community, who have engaged in exposing the Shiv Sena's designs.⁸²

⁷⁹ Human Rights Watch interview, Bombay, June 1994.

⁸⁰ Human Rights Watch interview, Bombay, July 1993.

⁸¹ "The Mazagaon Dock Union is controlled by the Shiv Sena. After the 1992-1993 riots, union representatives held a meeting with the Mazagaon Dock authorities demanding that since the docks are a high security area 'anti-nationals' should not be allowed to work there. The term 'anti-national' referred to Muslims who had participated in the riots. Only five Muslim employees of the Mazagaon docks had been arrested for rioting, but the union demanded that since Muslims as a community were unreliable all Muslim workers should be prevented from entering the Mazagaon Dock area. This was revealed to the Srikrishna Commission by a senior inspector of the Byculla police station, Mr. Ulhas Balkrishna Patankar." Meher Pestonji, "Mazagaon Dock Union Debarred 'anti-nationals,'" *Times of India* (Bombay), May 16, 1994. See also Teesta Setalva, "Industrial Apartheid," *Business India* (Bombay), February 1 - 14, 1993, p. 120 and Ulka Bhadkamkar, "Bombay Shuts Doors on Muslim Workers," *Business Standard* (Calcutta), January 20, 1993.

⁸² "City Cops Aided Sena During Riots," *Times of India* (Bombay), March 1, 1993.

Journalists from Bombay vernacular papers including *Urdu Blitz*, *Urdu Times*, *Inqilab*, and *Mahanagar* were threatened with violence and/or physically attacked. The Shiv Sena paper *Saamna* actively disseminated anti-Muslim propaganda and called on patriotic Indians to rid the country of foreign terrorists who were, they claimed, predominantly Muslim.⁸³

⁸³ Ibid., and also Human Rights Watch interviews, Bombay, June 1994.

Justice B.N. Srikrishna of the Bombay High Court was called upon by the government to perform an inquiry into the violence that ravaged Bombay in December 1992 and January 1993. He was to submit his report within six months. The commission received thousands of affidavits and interviewed hundreds of victims and witnesses before it was dissolved. By contrast, within three months of the riots, two retired judges of the Bombay High Court, Justices S.M. Daud and H. Suresh, conducted an independent inquiry which was published by the nongovernmental Indian Human Rights Commission.⁸⁴ This inquiry explicitly indicts individuals from the state government, the police, and the Shiv Sena for their role in Bombay's communal violence.

The report by Daud and Suresh summarizes evidence of violations of human rights committed by the police against Muslims. It provides, for example, a list of eighty-one police officers, including a former joint commissioner and a deputy commissioner, who were named by witnesses for their direct role in the riots. Of the eighty-one police officers, thirty-five were inspectors, twenty-four sub-inspectors, and twelve constables. According to the report:

[M]any witnesses have stated before us that they were attacked in the presence of the police and the police did nothing. In many cases, the police openly supported the rioters and accompanied them in the attack. When the victims went to the police station they were driven away without recording their complaints. In some cases, the FIRs have been recorded but no further investigation has been undertaken....What is regrettable is that in their frenzy to support a particular community, as against the other, the police had become indifferent to human misery....[In] the case of Ms. F.S.____ from Sewri, the police were themselves involved in gang-rape. The victim now has no faith in the police and in the administration of justice.⁸⁵

The report also names over 700 people in twenty-six localities alleged to be involved in the riots, including political leaders from the Shiv Sena, Congress Party, and the BJP. This report shows that if the government was genuinely concerned with upholding its legal obligations in the protection of minority rights, it could draw on a large body of evidence to substantiate cases and initiate prosecution. However, according to *Communalism Combat*, a Bombay-based newspaper established by a prominent journalist, of the 2,278 cases filed with the police for activities relating to communal violence in Bombay between December 1992 and January 1993, by June 1994, 848 of the accused had cases filed against them, 1,333 cases were closed for lack of evidence, ninety-seven cases were ongoing, and no trials had begun.⁸⁶ By the time the Srikrishna Commission was dissolved, eighteen months later, the numbers had changed little. An additional thirty-four cases had been dropped, and still no trials had begun.⁸⁷

⁸⁴ S.M. Daud and H. Suresh, *The People's Verdict*.

⁸⁵ *The People's Verdict*, pp. 104-105.

⁸⁶ "Call for Public Meeting to Demand Action from the State Government and the Police Against those Guilty for Inciting and Participating in the Violence of December 1992 and January 1993 in Bombay," *Communalism Combat* (Bombay), June 10, 1994.

⁸⁷ Smruti Koppikar, "Slap in the Face of Justice," *India Today* (New Delhi), February 29, 1996, p. 43.

The impunity enjoyed by those explicitly involved in acts of communal violence was illustrated by the failure of the state to charge Bal Thackeray, the leader of the Shiv Sena, despite the considerable body of evidence available to establish a case against him. Articles in the mainstream press, reports by nongovernmental organizations, and interviews conducted by Human Rights Watch reveal the active role of the Shiv Sena,⁸⁸ and its relationship with the police, during the Bombay riots. About the Shiv Sena's role, the Calcutta-based *Telegraph* newspaper was blunt:

The Bombay police abetted and aided the Shiv Sena and its allies during the January riots in the city. According to a report prepared by the Editors' Guild of India,⁸⁹ this was particularly marked during the period of mob violence as brought out by tapes of conversations among police officers....[During the January riots] the report stated the Shiv Sena had led its way with its call for a pogrom against Muslims. A noteworthy feature of this pogrom was that attacks on Muslims and destruction of their property persisted even after mob violence had abated....The report said the Shiv Sena put up blackboards openly seeking discrimination against Muslims and spread rumors to create panic while aggressively calling for the expulsion of foreigners, meaning non-Maharashtrians, from the city.⁹⁰

Frontline echoed this view:

Muslim masses were the primary target of this violence, and the Shiv Sena was the main organiser and spearhead of the riots that tore the city apart. During the riots, the Governments of Maharashtra and India, became, in substance, non-governments; they served the cause of rampaging Hindu communalism by standing and waiting and by following a scandalous policy of appeasement of the Shiv Sena and its infamous leader Bal Thackeray....A prominent feature of the second phase of the riots [January 1992] was that gangs led by the Shiv Sena worked to a plan, systematically identifying Muslim homes, shops and establishments, and destroying them.....The Shiv Sena has imposed its own brand of "ethnic cleansing" on vast parts of Bombay; its efforts have been to attack Muslims physically and economically, to create a climate of fear, and to ghettoise an important section of Bombay's population.⁹¹

⁸⁸ The Shiv Sena in Bombay has 40,000 active members. The Bombay police force has 30,000 police officers. P. Padmanbhan, "Battered and Bruised," *Frontline* (Madras), February 12, 1995.

⁸⁹ The Editor Guilds' team which investigated the Bombay riots included the editors of the *Times of India*, *Financial Express*, *Jansatta*, *Maharashtra Times*, and *Janambhoomi*.

⁹⁰ "Newsmen Flay Maharashtra Government: 'Police Helped Sena in Riots,'" *Telegraph* (Calcutta), March 8, 1993.

⁹¹ V.K. Ramachandran, "Reign of Terror: Shiv Sena Pogrom in Bombay," *Frontline* (Madras), February 12, 1993, p. 4 and p. 9.

The state's failure to hold individual Shiv Sainiks accountable for their actions follows a consistent pattern of state failure to hold the Shiv Sena more generally accountable for its role in communal violence. In the 1960s and 1970s, the party helped the Congress government crush Communist Party-led trade unions through organized violence.⁹² For the Shiv Sena's support in busting the unions, the Shiv Sena was granted virtual immunity from prosecution. In 1970, it was involved in communal riots in Bhiwandi that left one hundred dead. The state appointed the Madon Commission, which indicted the Shiv Sena and the police for the riots, but no action was taken against the Shiv Sena. In 1984, the Shiv Sena was again involved in riots in Bhiwandi which according to official figures left 278 dead and 1,115 injured, the majority of whom were Muslim. Again, no Shiv Sena member was prosecuted or punished.⁹³

THE SRIKRISHNA INQUIRY

The termination of the Srikrishna Commission was the Shiv Sena-BJP government's final act to ensure impunity for those responsible for the Bombay riots, but the party's efforts to evade accountability began when the Shiv Sena-BJP government was inaugurated in March 1995. Although Shiv Sena leader Manohar Joshi was sworn in as the chief minister of the state of Maharashtra on March 14, 1995, real power remained with Bal Thackeray. The weekly news magazine, *Sunday*, reported that in his first speech as chief minister, Joshi claimed:

⁹² See Asghar Ali Engineer, "Ten Days that Shook Bombay Bhiwandi," and "Aurangabad Riots," in Asghar Ali Engineer, (ed)., *Communal Riots in Post-Independence India*.

⁹³ Ibid.

[I]t was entirely due to the blessings of Balasaheb Thackeray that he had got the job and was glad that his mentor's dream of establishing the rule of Shivaji had finally come true.... It was left to Thackeray himself to make the usual policy announcements—a right usually reserved for the chief minister.⁹⁴

It was clear from the outset that termination of the Srikrishna Commission was one of Thackeray's top priorities. Shortly after the new government took office, according to Pramod Navalkar, a senior Shiv Sena leader and member of the cabinet, Thackeray declared his intentions:

There is going to be a fixed time limit for these inquiries.... It is high time we did this. We cannot allow things to drag on and on.⁹⁵

Publicly, Thackeray never denied Shiv Sena's participation in the 1993 riots. In response to a journalist's question as to whether it had played an active role, he said:

Yes, active part to the extent of retaliation. If they [Muslims] do this mischief again we [Shiv Sena] will retaliate. I am not a coward. Nor a hypocrite. We will not attack. But if they attack, we will retaliate.⁹⁶

This was consistent with Shiv Sena's interpretation of the events of 1992-93. Although Thackeray openly admitted participation by the party in the riots, he continued to argue that party members should not be held criminally responsible for their actions. The *Hindu*, a Madras-based daily newspaper, reported:

Often Mr. Bal Thackeray has said—in public and in interviews—that he and the Sena are not ashamed of having “stood by the Hindus during their riots” and that but for [this] “protective involvement,” [the] consequences on the city and its majority community would have been horrendous. In this context, there are doubts about the probe's [Srikrishna Commission] survival since it is one thing to express pride and another to be found guilty.⁹⁷

⁹⁴ Namita Bhandare, Lyla Bavandam, and Kripa Raman, “Will this Man Destroy Bombay?” *Sunday* (Calcutta), March 26-April 1, 1995.

⁹⁵ Ibid.

⁹⁶ R. Padmanabhan, “I am not a Coward: Interview with Bal Thackeray,” *Frontline* (Madras), April 21, 1995.

⁹⁷ Mahesh Vijapurkar, “Srikrishna Commission: Sena may Seek Time,” *Hindu* (Madras edition), April 5, 1995.

Other actions by members of the Shiv Sena-BJP represented clear attempts to obstruct any official action against the perpetrators of the riots. On April 1, 1995, Justice M.D. Sardar Ali Khan, the chairman of the National Commission for Minorities, the government body implemented to protect minorities in India, sent a letter to Manohar Joshi requesting that the state government prosecute Bal Thackeray for the threat he posed to minority communities, specifically Muslims, in Maharashtra.⁹⁸ Later that year, the Maharashtra state government allowed the State Minorities Commission's term to expire. The move was condemned by central government officials of the Congress Party, and on March 20, 1996, the National Commission for Minorities decided to set up an office in Bombay to counter the impact of the dissolution of the state office. In addition the commission announced the payment of Rs. 200,000 [U.S. \$5,714] to the families of the victims who had died in the post-Ayodhya riots.⁹⁹

On May 16, 1995, the state government ordered the Srikrishna Commission to expand its role to include investigation of the bomb blasts which killed some 300 people in Bombay in March 1995. It was widely believed that the blasts were the work of a criminal gang, headed by Dawood Ibrahim, a Muslim, in retaliation for the attacks on Muslims in the January riots. As the bombing incident was already under investigation in the courts, civil liberties groups accused the state government of deliberately duplicating efforts in order to delay the Srikrishna Commission's report and to create a link in the public mind between the riots and the bomb blasts in order to neutralize or justify the role of the police and Shiv Sena. The government called on the commission to determine "if there was any linkage between the Bombay riots and the blasts and if there was any common pattern or design between the two." The Shiv Sena had repeatedly demanded that the bomb blasts be included in the inquiry.¹⁰⁰ Despite overwhelming evidence that Muslims were principal victims of the riots, government officials persisted in treating Muslims as equally responsible. When explaining his decision to terminate the inquiry, Chief Minister Joshi stated, "People of different communities and castes were involved in the riots. My party has nothing to do with the decision."¹⁰¹

The Srikrishna Commission was also widely criticized for its slow progress. However, much of the reason for the delay was the sheer volume of evidence it collected. Some 2,000 affidavits were filed by victims or their relatives. The commission recorded evidence from twenty-three police stations in Bombay, interviewing every official who was on duty during the riots.¹⁰² It collected 220 pages of evidence from the Nirumal Nagar police station alone.¹⁰³ The

⁹⁸ "Minorities Panel wants Action against Thackeray," April 2, 1995 and "Minority Panel Chief's Plea to Joshi," *Indian Express* (Madras edition), April 2, 1995.

⁹⁹ "Minorities Panel in Mumbai Mooted," *Hindu* (Madras), March 21, 1996.

¹⁰⁰ Dilip Chawara, "Terms of Riots Panel Amplified," *Times of India* (Bombay), May 16, 1995.

¹⁰¹ "Joshi Dissolves Panel Probing Bombay Riots," *Statesman* (Calcutta), January 24, 1996.

¹⁰² Koppikar, "Slap in the Face of Justice," p. 43.

commission was reportedly about to begin cross-examination of senior political leaders, but all this came to an end when the commission was dissolved.¹⁰⁴

CONCLUSION

Communal violence in India has reached unprecedented levels in the 1990s. Where conflicts were once localized, they now occur on a national scale. At the level of rhetoric, the government claims to be committed to secularism and nondiscrimination. However, the government shows a conspicuous tendency to ignore the scale of violence and human suffering during communal violence. Laxity in enforcing the law and the failure to punish those involved sends the wrong signals to both law-breakers and law enforcers across the country.

The government of India is proud of its claim to be a democracy with a strong commitment to the rule of law. India's constitution and legal system juridically guarantee the protection of basic human rights to its citizens, including the right to protection of the law, the right to due process, and the right to equal treatment before the law regardless of religion, caste, or class. Under customary international law, India is obligated to guarantee human rights set forth and defined in the International Covenant of Civil and Political Rights. However, the denial of justice to victims of communal violence reveals a divergence between India's legal obligations and the practices of its police, judiciary, and officials at various levels of government.

The violence that racked Bombay in January 1993 was one of the most serious of the many communal disturbances that have occurred with greater frequency in India in the past fifteen years. The failure by state and central government officials to take action against those responsible for exploiting communal differences for political gain has only fed the violence and left the victims without hope for justice or security.

As one step toward breaking this cycle, Human Rights Watch urges the government of Maharashtra or India's central government to reestablish the Srikrishna Commission and permit it to finish and release its report. We also urge the National Human Rights Commission to use all means at its disposal, including petitioning the Supreme Court, to compel the government to reconstitute the inquiry and see that justice is done.

Human Rights Watch/Asia

Human Rights Watch is a nongovernmental organization established in 1978 to monitor and promote the observance of internationally recognized human rights in Africa, the Americas, Asia, the Middle East and among the signatories of the Helsinki accords. It is supported by contributions from private individuals and foundations worldwide. It accepts no government funds, directly or indirectly. The staff includes Kenneth Roth, executive director; Cynthia Brown, program director; Holly J. Burkhalter, advocacy director; Barbara Guglielmo, finance and administration director; Robert Kimzey, publications director; Jeri Laber, special advisor; Gara LaMarche, associate director; Lotte Leicht, Brussels office director; Juan Méndez, general counsel; Susan Osnos, communications director; Jemera Rone, counsel; and Joanna Weschler, United Nations representative. Robert L. Bernstein is the chair of the board and Adrian W. DeWind is vice chair. Its Asia division was established in 1985 to monitor and promote the observance of internationally

¹⁰³ Mehra Pranati, "Uncertainty over Panel on Bombay Riots", *Indian Express* (Madras edition), April 5, 1995.

¹⁰⁴ S. Koppikar, "Curtains for a Commission," *India Today* (New Delhi), February 15, 1996, p. 16. The earlier testimony of one Shiv Sena leader, Madhukar Sarpotkar, was considered particularly damaging to the party.

recognized human rights in Asia. Sidney Jones is the executive director; Mike Jendrzeczyk is the Washington director; Robin Munro is the Hong Kong director; Patricia Gossman is a senior researcher; Jeannine Guthrie is NGO Liaison; Dinah PoKempner is Counsel; Zunetta Liddell is a research associate; Joyce Wan is a Henry R. Luce Fellow; Diana Tai-Feng Cheng and Paul Lall are associates; Mickey Spiegel is a research consultant. Andrew J. Nathan is chair of the advisory committee and Orville Schell is vice chair.

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