

**DIVIDE
&
RULE**

**IN THE NAME OF
COW**

**Report of Fact-finding Team on
lynchings in Haryana and Rajasthan**



Courtesy: Cover : Indian Express
Photos : Khayati Suri

Introduction

Under the banner of Bhumi Adhikar Andolan, a fact finding delegation comprising of peoples' representatives, advocates of Supreme Court and leaders of peasant organizations and Media persons visited Rajasthan on 6th and 7th January 2018 to expose the unabated attacks on dairy farmers, cattle traders and agricultural workers.

The delegation had visited Ghatmeeka village, where farmer Umar khan was a resident. He was killed by the so called Gourakshaks (cow protectors). They also visited Alwar where dairy farmer Pehlu Khan was murdered and finally, Rajsamand where a migrant agriculture laborer Afrasul was burnt and hacked to death, the entire incident was captured on video as well. The delegation interacted with the family members of the victims, representatives of citizen groups and Police and Revenue officers. A public hearing had been organised at Alwar and Udaipur. The delegation visited and discussed the details with the District Magistrates and District Superintendents of Police of both Alwar and Rajsamand.

The gaurakshaks (Cow Protectors) are a communally motivated group that thrives on religiously motivated violence, they are protected by the saffron outfits that are well connected to both RSS and BJP. These attacks and murders as happening in Rajasthan are clearly a part of a conspiracy by the imperialist forces to divide the class unity of India and to perpetuate class exploitation. The British colonizers utilized the strategy of 'Divide and Rule' and currently, under the BJP led Central and State Governments, RSS is playing the same role by misusing religious sentiments.

The communal politics being orchestrated by RSS is against the constitution, it is dangerous to the unity of the people and the country. Such anti-national tendencies needs to be dealt with iron clad determination by all progressive citizens and democratic political forces to save the country. India cannot and should not be allowed to descend into chaos and civil unrest as happening in Syria, Iraq, Lebanon etc., under the machination of Centre Intelligence Agency and US Imperialism. The danger of both majority and minority communalism needs to be resisted and reduced to create and maintain a modern civil society which is possible only by strengthening the class unity of the peasantry as well as the working class.

Unfortunately, the Government of India and the State Government of Rajasthan have failed to live up to the expectation of citizens and have failed to ensure security and peace to the minority communities. So far more than 30 innocent persons, all Muslims, have been lynched in different parts of the country under the NDA government led by Prime Minister Narendra Modi. Rajasthan has become the epicenter of such criminal attacks; the state of unrest has to be reversed to aid and protect the unity of India and its people.

Hence Bhumi Adhikar Andolan decided to facilitate a Fact-Finding report and release it at the National Convention and Photo feature on 20, 21 March 2018 at Annexe Speaker Hall, Constitution Club of India, Rafi Marg, New Delhi.

Hannan Mollah

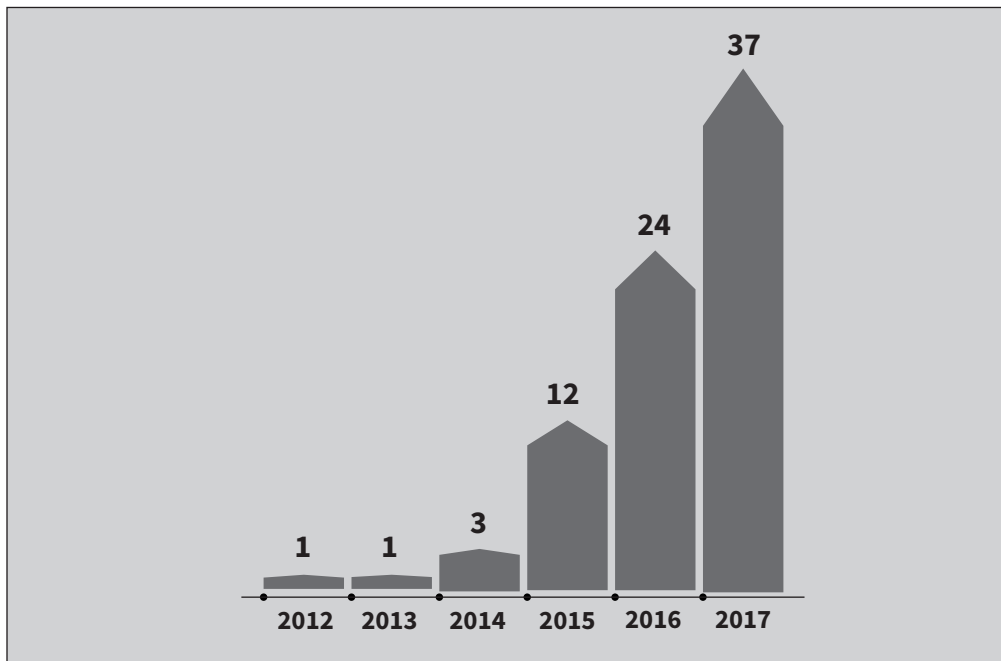
For BHUMI ADHIKAR ANDOLAN

Preface

The strategy of pitting one religion against the other and community against community in order to shatter national unity and to disintegrate the feelings of solidarity dates back to the colonial policy of “*Divide and Rule*” propounded by Lord Curzon. However, the specter of Lord Curzon continues to clank his shackles over India by the way of recent communal mobilizations over cow in various parts of Northern India. Had the British policy of communal divide been to achieve the colonial imperialistic aspirations, the current version of it is to divide the dissenting voices against the unholy nexus of communal forces with the corporate sector.

The vigor and nexus of cow vigilantism has increased with the ascendance of corporate supported BJP Government into power at the center. According to “India

Spend”, a data-journalism website, 97% of all cow-vigilante attacks reported since 2010 took place after the Hindu-nationalist Bharatiya Janata Party (BJP) came to power in 2014, with Narendra Modi as Prime Minister. Muslims and Dalit have traditionally skinned the carcasses of cows and taken the dead bodies off of the roads for decades, now they are selectively bullied, assaulted and lynched. About 25 of 29 persons who were lynched were Muslims. Of all victims, killed or injured, whose identities were reported in the media, 53% were Muslim, 12% were Dalit, and 10% were Hindu. The most common factor among all the victims was that those killed by cow vigilantes were poor farmers. In a third of all the cases i.e., 26 of 78 cases the police filed counter cases against the victims under cow-protection laws.



Among the 78 incidents reported, the number of total victims was 293, 29 of those persons were lynched. 50 out of 78 incidents occurred in Northern India. Despite this alarming rate of killings, the respective State Governments as well as the Government at the Centre have failed to investigate the attacks in a credible fashion. That in many cases, instead of prosecuting the attackers (many of whom are allegedly linked to extremist Hindu groups affiliated with the ruling party) the police have filed complaints under laws banning cow slaughter against the assault victims, their relatives and associates. Because of this kind of implicit support to the attackers, the general trend is to trivialize the incident

increasing incidents of lynching and attacks in the name of “Gau-Raksha” (Cow Protection), encounter killings, deliberate communal polarization and attacks of Muslims in the state. The team included K.K. Ragesh (M. P. from Kerala to Rajya Sabha & Joint Secretary AIKS), Badrudduzza Khan, (M.P. from West Bengal to Lok Sabha), Mehaboob Alam(MLA from Bihar and leader , AIKMS), Amra Ram(Ex MLA and Vice President , AIKS), Dr. Vijoo Krishnan(Joint Secretary, AIKS), P. Krishna Prasad (Ex. MLA and Finance Secretary, AIKS), Thirunavukkarassu (President, AIAWU), P.V. Surendranath (Senior Advocate, Supreme Court of India), Resmitha R. Chandran (Advocate-On-Record, Supreme Court of India), K.R. Sub-



The vigor and nexus of cow vigilantism has increased with the ascendance of corporate supported BJP Government into power at the center.



and valorize the offender. Hence it is crucial for the state to respond immediately to establish the rule of law, and insist that any provocation or suspicion be handled by the criminal justice system and not through mob justice, else people will lose faith in the justice system, and there is risk of a cycle of revenge and violence which is highly dangerous for a multi ethnic social fabric as in India.

It is in this context that the Fact-Finding Team under the banner of Bhumi Adhikar Andolan decided to visit Bharatpur, Alwar, Rajsamand and Udaipur in Rajasthan on 6th and 7th January, 2018 to look into the

hash Chandran (Advocate, Supreme Court of India), Bilal Khan (National Organizer, NAPM), Mujahid Nafees (Leader, BAA Gujarat), Devendra Singh Chouhan (Vice-President, AIKMS), Dharendra Bhaduria (EC Member, AIKMS), Amal (Ex. Vice-President, JNUSU), Chhagan Lal Choudhary (AIKS, Rajasthan), Dr. Sanjay Madhav (AIKS, Rajasthan), Sawai Singh (Samagra Sewa Sangh, Rajasthan) & Moulana Hanif, Virendra Vidrohi (INSAF). The Fact-Finding Team was accompanied by various well-known media persons from national and regional media houses.

06/01/2018 -BAA Delegation Fact Finding at Gatmeeka Village, Bharatpur District, Rajasthan wherein dairy farmer Umar Khan was lynched by cow vigilantes

Ghatmeeka – A Famished Road to Walk On

Ghatmeeka is a Village in Kaman Tehsil in Bharatpur District of Rajasthan State, India. It comes within Bharatpur Division. It is located 85 kms north of Bharatpur District Headquarters, 18 kms from Kaman, 181 kms from State capital of Jaipur and around 120 Kms from Delhi. This Place lies in the border sahred between Districts of Bharatpur and Mathura. Mathura District Nandgaon lies in the east. It is near the Uttar Pradesh State Border. The village which falls within the region Mewat has so far witnessed no communal disturbances, Hindu and Muslim have been living in harmony. Since the region is home to Meo Muslims, it has been under the surveillance of cow vigilantes for some time now.

The village is in utter neglect and people are denied basic facilities like proper roads, well-equipped schools, health-centers, water-supply and other necessities. The entire village is underdeveloped and poverty ridden. It has 450 households in which around 400 are Muslim families. Each of the households rears one or two cows and buffalos on an average. Most houses, thus, have cow sheds attached to them. The team found that every household is engaged in dairying and all homesteads have cows, buffaloes or goats from which the people earn their livelihood. The price for a liter of milk is Rs. 20 only which is very low and the villagers are facing distress in general.

Above all, the cow, a very docile animal has turned into a menace of multidimensional proportions in the lives of these villagers.

Since the BJP led Government started to strictly implement the Rajasthan Bovine Protection Act, most of the clauses of which are against the dairy farming sector, the “Cow” has become a term indicating an agrarian hazard and a threat to the family of a poor dairy farmer. Incidents of killings and beatings of minorities in this region, in the pretext of cow protection, have created chaos in the area and hence “cow” is epitomized as a law and order issue here.

Sanctifying the agonies of the villagers, a strange hoarding captured us by surprise and shock: “Gauraksha Police Chowki”. Such specification of jurisdiction of the police station, basing a particular and narrow subject-“Cow Protection”, is alien to Section 2(s) of the Code of Criminal Procedure, 1973 as well as to Section 2(k) read with Section 8 of Rajasthan Police Act, 2008 mandating the declaration of “any post or place” as police station on territorial basis by valid notification/orders by the State Government only. Raesa, District Secretary of CPI(M), Alwar, said, “These police chowkis were set up by the Rajasthan government in Alwar and Bharatpur allegedly to control cow smuggling,” she added that there were 12 such “cow protection police stations” in the state where some of the worst mob violence under the ‘cow protection’ guise has taken place.

With the family of Umar Khan- the butchered dairy farmer

The Fact-Finding began with a visit to Umar Khan’s family, the dairy farmer who was

lunched by Cow Vigilantes and whose body was found on the railway track at Ramgarh in Alwar District on November, 10, 2017. He is survived by nine children, and the youngest among them was born premature two days after his death and out of shock of it. The family now lives in utter poverty and earns a little by selling milk and through occasional daily wages from rural work. Umar's mother, wife and children are in an inconsolable state with no support or compensation coming from the BJP led State Government. The residents alleged that Umar was killed by a mob of cow vigilantes, but the police is trying to dismiss it as a case of gang war.

The family members have pointed out that the doctor on duty at Alwar Hospital had stated that the death was not due to firing since there was no bullet found in the X-ray. Then the family members and the villagers objected to conducting postmortem at Alwar and thus the police were forced to refer the body to Jaipur for post mortem. In Jaipur, the post mortem confirmed that death was due to two bullet injuries. The murder happened at Gahankar village in Bharatpur district. The vehicle was found at Govindgarh and the body was found 15 km away on the railway tracks in Ramgarh. There was a conscious effort by the criminals to misguide the public that it was an accidental death, and the behavior of the Alwar doctor is unconvincing and suspicious.

FIR and arrest on the murder of Umar Khan

As the Fact-Finding Team had visited the village after advance and proper intimation to the authorities there, a team of local police from Govindgurh was present at the time of the visit. The police said that FIR No.275 is registered under Sections 147(rioting), 307(attempt to murder), 302

(murder) and 201(causing disappearance of evidence of offence/giving false information to screen offender) of IPC and 8 persons were arrested consequently. It is noteworthy that despite the fact that the offence of murder was carried out by the members of an unlawful assembly with the intention to kill and by carrying, possessing and using dangerous weapons and means, the police have not added Sections 149, 324, 325 of IPC while registering the FIR. The police also has registered counter cases against the deceased Umar, Tahir and Javed under Sections 3(Prohibition of slaughter of bovine animal), 5 (Prohibition of export of bovine animal for the purpose of slaughter and regulation of temporary migration or export for other purposes), 6(Transporter to be abettor), 8 (Penalty-Rigorous Imprisonment for 1 yr to 10 yrs) and 9(Punishment for causing hurt to a bovine animal) of Rajasthan Bovine Act, 1995. Admittedly, the deceased Umar has no antecedent criminal records and the only case registered against him is registered after his dead body was recovered from the railway track. The translated copy of FIR No. 275 dated 12/11/2017 of Govindgarh Police Station is extracted as follows:

First Information Report content

To,

*The Head of Police station Govindgarh
Alwar, Rajasthan*

Subject: To register the report of murder.

Sir,

On 10-11-2017 around 5-6 AM in the morning my nephew Umar S/O Sahabdin aged approximately 35 years along with him Tahir S/O Juharu and Javed S/O Ismail was taking a milking cow in a pic-up van and going to their home. As they reached Govindgarh

from Gehankar 7-8 people encircled the pickup vehicle and with intention to kill them attacked on three of them Umar, Tahir and Javed by guns and sharp weapons. Due to the attack my nephew died and Tahir is admitted in a Hospital in Haryana. Among the attackers one of them was being called Rakesh by others. The attackers were proclaiming themselves to be members of Gouraksha Dal. With intention to erase the evidence attackers they took the dead body of Umar and dropped it on Railway Track near Bilaspur between Ramgarh and Jadoli. The dead body was taken by the concerned Ramgarh police and kept at Mortuary, Alwar for postmortem. Above mentioned murder was done in the name of Gauraksha. Sir we hence request you to register case of murder and take legal action against the criminals.

Petitioner Sd/- Illias S/O Mohammad Khan village Ghatmika Tehsil Pahadi, Bharatpur, Mobile No:7665754672 Date 12-11-2017

Police Action: This written report was given by Shri Illias S/O Shri Mohammad Khan, caste: Meo/Mev, age: 55, resident of village Ghatmika, police station Pahadi, Bharatpur by hand to GH Alwar. As per the report it seems to be a case of IPC section 147,302,307,201. I SH Sivdayal 788 was involved in Panchayatnama proceeding. The situation was explained by Mobile to SHO sir. FIR for filing case is transferred to Sujan Singh 1470 Govindgarh police station.

Sd/- Ilayas Sd/- Shivdayal PS Govindgarh, Alwar Camp GH Alwar.

Time 4:30 PM 12-11-2017.

Police Action: This written report of petitioner Shri Illias S/O Shri Mohammad Khan caste: Meo/Mev age: 55, resident of village Ghatmika, police station Pahadi, District Bharatpur is received through Shri Shivdayal HC 788 Alwar received by, Shri Sujan

Singh 1470 in police station. Its copy was filed word to word in CCTNS computer. By the content of the report it seems to be case of IPC section 147,302,307,201. So, after registering complaint real FIR for the research purpose returned to SHO sir on the spot sent by Sujan Singh 1470. Copy of FIR and SR issued as per the rules.

The following persons are said to have been arrested:

1. Bhajwan / Tada (Caste-Gujjar), S/o Bhavary (Gujjar), r/o Bhargpura, P.S. Govindgarh, Dt. Alwar.
2. Ramveer, s/o Mohini (Caste-Gujjar), S/o Bhavary (Gujjar), r/o Bhargpura, P.S. Govindgarh, Dt. Alwar.
3. Dashrath, S/o Ramkaran (Caste-Gujjar), S/o Bhavary (Gujjar), r/o Bhargpura, P.S. Govindgarh, Dt. Alwar.
4. Banty/ Suraj Bhan, (Caste-Gujjar), S/o Saketi Ram (Gujjar), r/o Bhargpura, P.S. Govindgarh, Dt. Alwar.
5. Gangdev/ Moor (Caste -Gujjar), S/o Hira Ram, R/o Gahankar, P.S. Nagar, Dt. Bharatpur
6. Chet Ram (Caste- Gujjar), S/o Gangi Ram, R/o Gahankar, P.S. Nagar, Dt. Bharatpur
7. Khusi Ram, (Caste- Gujjar), S/o Babu/ Ram Sahai, R/o Gahankar, P.S. Nagar, Dt. Bharatpur
8. Rohitas, (Caste- Gujjar), S/o Babu/ Ram Sahai, R/o Gahankar, P.S. Nagar, Dt. Bharatpur

It is pertinent that despite the fact that the dead body of Umar was taken by Ramgarh police and kept at Mortuary, Alwar for postmortem, an FIR was registered only after two days from finding the body from the railway track and only after the relative

specifically lodging a complaint on that behalf. It is also pertinent that the specific allegation in the FIR was that “Among the attackers one of them was being called Rakesh by others. The attackers were proclaiming themselves to be members of Gouraksha Dal”. But, 4 out of the 8 name sake arrests made by the local police on the previous day of the intimated visit of the Fact-Finding Team shows that no person called as Rakesh was arrested. Tahir S/O Juharu and Javed S/O Ismail were also attacked by the cow protectors. Neither any FIR is registered against the attackers nor any identification of the arrested persons were made through them by the police. It is also noteworthy that no investigation was made into the direction of the specific allegation made against Gauraksha Dal. The FIR had also alleged that Umar was murdered in the guise of cow protection. But no enquiry has been made on that aspect either. This is despite the fact that in September, 2017, the Apex Court took cognizance of cow vigilantism and directed the Centre and States alike to take firm action against cow vigilantes and have called for some planned and well-coordinated action by the State Governments. However, Tahir and Javed who were arrested in the name of cow-smuggling in the same case have been languishing in the jail without bail.

Interaction with the community leaders, elected representatives of Panchayat and natives of Gatmeeka Village:

During the interaction with the people of the village, community leaders and the elected representatives of the Panchayat, the Fact-Finding Team found that there was a systematic attempt to brand the entire Muslim community in Mewat region as criminals. Certain elements in the Police



department are working in connivance with the communal forces to brand villagers belonging to minority community as criminals. This is reminiscent of the British colonial branding of certain tribes as Criminal Tribes. Gatmeeka has been labeled as a village of cow smugglers and around 200 people of the village have been charged with cow smuggling. (A list of villagers and the cases registered against them is appended along with this report). The villagers shared the agony that cow vigilantes immediately resort to mob violence (instead of approaching the law and order authorities for justice) if they view a member of minority

community as an accused- no matter what the perceived crime is!

The residents of the village also have shared their apprehension that the increased instances of attacks & lynching in the name of cow protection is calculated and purposeful inasmuch as to deprive the villagers of their only source of livelihood, i.e., dairy farming and to devastate them economically and thereby to force an exodus of the villagers, so that the land, which is only around 120 kms away from Delhi, will be left for the prospective corporate interests to grab on. This aspect points out to a shady design of an unholy nexus of the communal forces with the corporate sector looming over the land masses of Gatmeeka Village.

The pattern and frequency of attacks in the name of cow protection as well as the state's doubtful silence over such incidents have made it impossible to view them as isolated and spontaneous instances of violence. The villagers fear that it is all a part of well- calibrated plan of extermination having the features of a small-scale genocide/ ethnic cleansing even.

Interaction of the Fact-Finding Team with topmost Revenue and Police officers of Alwar

While interacting with the topmost Revenue and Police officers of Alwar-Rajan Vishal, District Collector and Rahul Prakash, Superintendent of police in Alwar- where the repeated incidents of killing of dairy farmers have taken place, the team found a high degree of prejudice against the minority community. This prejudice and clear bias and religious profiling have led to numerous false cases being filed against dairy farmers as cow smugglers and caus-



ing systematic harassment. The approach of the Collector and Superintendent of Police in Alwar was insensitive and they were carrying forward the narrative of the Gaurakshaks.

On the query on “GauRakshak Police Chowkis and cow protection”, RajanVishal replied, “ The prevention of cruelty to Animals Act was revised in 2017 by the central government in order to regulate the animal markets and curb trans-border smuggling of cattle. As per the notification no one can bring cattle to an animal market unless he or she has furnished a written declaration that cattle will not be sold for the purpose of slaughter.”Almost confirming allegations made by rights activists about official police involvement, he said that these police

Divide and Rule in the name of Cow

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chowkis were established to keep a check on the vehicles crossing border areas “to Firozpur, Jirka and Nuh (Haryana) for cow slaughtering and smuggling purposes.”

On the cause of death of Umar Khan, the Superintendent of Police has reiterated that the postmortem report confirmed two bullet injuries. Exceeding the limits of the head of investigating agency in the District, he has ruled the murder of Umar Khan as a “happening” during cow smuggling as no purchase receipt could be from the cattle market (as per Rajasthan Bovine Act), could be recovered from the body of Umar.

The Fact-Finding team has learnt during its interaction with the villagers that when they sell and purchase cows among themselves, i.e., trade the cattle between households, there is no system of receipts, and hence the fact that no purchase receipt could be traced from the body of Umar Khan cannot be a conclusive proof to state that he was killed “for and during” cow smuggling. Further, the aspect that purchasing and selling cows is not legally banned in Rajasthan by any Act and the fact that there was no complaint of cow theft from anybody against Umar Khan reinforces the truth that the deceased was not a cow smuggler. Despite all these, the fact that the Alwar police have registered a case of cow smuggling against



the victim, after two days from his death, underlines the prejudiced mindset of the police and administration. The Police have also omitted to see that no law in the land empowers a mob to take law in their hands for even the severest of offences approved by the penal code.

The District Collector has said that so far, the State Government has not given any compensation to Umar’s family but boastfully claimed that he could successfully implement “Adopt a Cow” policy to protect stray and abandoned cows in the District and so far, 71 cows are adopted accordingly. It is noteworthy that recent interventions of the Government, police and the cow vigilantes preventing cattle trade has caused an increase in stray cattle. The restrictions on the sale of cattle and the compulsive closure of slaughter houses have forced the dairy farmers to release these animals to fend for themselves. The released cattle often end up in destroying crops and hence have turned into a situation in which the District administration has had to find benefactors to adopt the stray animals. Thus, the so-called cow protectors have caused the peril of the animal and lives of people alike.



Alwar Administration on the Murder of Pehlu Khan

Pehlu Khan, a cattle trader from Haryana was Killed in Rajasthan on 1st of April, 2017 on the suspicion that he was transporting cattle for slaughtering. The dying declaration of Pehlu Khan revealed that Om Yadav, Hukumchand Yadav, Naveen Sharma, Sudheer Yadav, Rahul Saini and Jagmal-activists of Vishwa Hindu Parishad and Bajrang Dal- had attacked him. The FIR registered in that case is extracted as follows:

First Information Report Contents

From statement of Shri Pehlu Khan S/o Shri Mohammad, caste Meo/Mev, age 55 years, resident of Jaisinghpur, Sadar police station Nuh, District, Nuh, Mewat, Haryana hall bed no. 17 ICU ward Kailash Hospital Behrod, police station Behrod, District Alwar during his treatment has given the following statement on date 01.04.17.

I and my sons Arif and Irshad were coming in pickup vehicle HR-C-3525 from Harwada, Jaipur to our village Jaisinghpur, Nuh Mewat around 4:00 PM in evening after

purchasing two milking cows by paying 45,000 rupees. We had bought the cow to sell. Near about 7:00 PM when we crossed Behrod small bridge around 200 people stopped our vehicle and started abusing us and then started assaulting us. During this they were calling each other with names Om Yadav, Hukumchand Yadav, Naveen Sharma, Sudheer Yadav, Rahul Saini and Jagmal. They were also calling themselves activists of Vishwa Hindu Parishad and Bajrang Dal. They were calling each other with their name and were saying they will similarly assault whoever will take cow through Behrod. These people have beaten us by lathis (Sticks), kicked and punched us and tore off our clothes. They also snatched all money from our pockets. When in wounded condition we were laying on the road they destroyed our pickup vehicle. At the same time our second pickup vehicle also arrived there in which Ajmat and Rafeek were sitting and it had three cows in it. These people also assaulted them and snatched money from them too. Due to this attack, there were serious injuries on my head and face. Then police arrived and took us to Kailash Hospital Behrod in an ambulance and admitted us there. During the time of assaulting us few people have taken photographs by mobile phones.

Note: When duty doctor Shri Akhil Saxena was asked to sign on form statement he said I am a private doctor and I do not want to visit court so I will not sign on this statement. Duty doctor refused to sign on the statement. As per the statement of Shri Pehlu Khan S/o Shri Mohammad, caste: Meo/Mev, age 55 years, resident of Jaisinghpur, Sadar police station Nuh,





District Nuh, Mewat, Haryana admitted at hall bed no. 17 ICU ward Kailash Hospital Behrod, police station Behrod, District Alwar, it seems to be crime under section 143,323,341,308,379,427 and case will be filled after going back to police station. Note: - after reaching police station on above mentioned report case no. 255/17 was registered. As per above mentioned sections, police station head Ramesh Sinwar was involved in inquiry.”

(BAA had already made a separate fact finding on Pehlu Khan’s murder incident and the report published there on will be attached along with the current Fact Finding Report. Hence the facts are not repeated herein).

It is curious to notice that all the named persons in the dying declaration are not charge sheeted in this case and instead 9 other persons are planted in this case, by the police. This is done in flagrant violation of the mandate of Section 32 of the Indian Evidence Act unequivocally stating that when a person makes a statement as to the cause of his death, or as to the circumstances of the transaction which resulted in his death, in cases in which the cause of death comes into question, such statements are relevant. The reason for not charge sheet-

ing the 6 named persons in the dying declaration is that the mobile tower location of all those 6 persons was different from the place of occurrence. Thus, the way in which the investigation in Pehlu Khan’s lynching is dismally furthering a caution of alarm to us and to Umar Khan murder probe as well.

Alwar fake encounter case: Cow vigilantism on point blank

In Alwar, the team met the family of Talim-Hussain- a 22 year old -who was killed in a fake encounter on 7th December 2017 (Thursday). Talim, was a truck driver from the Salaheri village in Nuh tehsil of Mewat region. He had come home to see his newborn son, Faizan only a day before the occurrence. Aarif, the brother of Talim-Hussain wondered how he could have been shot point-blank at neck, in the guise of an encounter. “Jisnezindagimeinkabhie koi hathiyaarnahiuthaya, who kaise police par golichalasaktahai (how can someone who has never taken up arms in his life, fire at the police)? I called him at around 8:30 am on Thursday, but someone else picked up the phone who told us that he had found the phone on the road and wanted us to collect it. We felt something was wrong.





When we reached there, the police told us that Talim was a cow smuggler and had been killed in an encounter,” he added.

Immediately after the call, the distraught family had left for Alwar, which is just across the state border, in Rajasthan. At Aravali police station, they were coerced to sign a statement that Talim was involved in

really sad that in our country, humans are being killed to protect animals).”

The Alwar Police Administration has no hesitation in dismissing the murder of Talim Hussain as an “incident” in the course of cow smuggling, however, admitted that the case is being probed by CB-CID. On a suggestion that Talim died in fake

“ It is curious to notice that all the named persons in the dying declaration are not charge sheeted in this case and instead 9 other persons are planted in this case, by the police. ”

cow slaughter. The police also asked them to take the body without an autopsy. The family has also denied police allegations about a large gang which was smuggling cows and threatening locals, or about the pistol and cartridges claimed to have been found in the truck. “Police said they were fired upon by seven men. Where are the rest? Didn’t anyone else get injured?” “He was clearly shot from close range. It appears like murder. Even if they charged him of cow smuggling, they had no right to kill him. Bahut dukh kibaatha ki iss desh mein jan warkeliye in saan koma ar ja raha hai (It is

encounter, Alwar SP Rahul Prakash reacted: “The smugglers fired on us at multiple locations. We fired in retaliation. A pistol has been recovered from the truck not to mention the cartridges found nearby. Still, the case is being probed by CB-CID”

A series of Gau-Raksha Police Outposts in the region also act hand-in-glove with the cow vigilante groups. The self-styled cow vigilantes extract money from dairy farmers in return for permission to carry the cows. If they refuse to pay, they are often beaten up and killed, activists claim.

Rajsamand– The Killing of Afrazul, the Migrant Worker, in Broad Daylight

The incident

It was in the broad day light of 6th December, 2017 (i.e., one day before Talim was killed in Alwar) that Mohammed Afrazul, migrant construction laborer from Malda in West Bengal, was hacked to death by ShambhuLalRegar at Rajsamand. Afrazul was offered work at the construction site by Shambhulal. As Afrazul was entering the site, Shambhulal struck him from behind and repeatedly hacked him until he died & burnt the body. ShambhuLal had also trained the 15-year-old accomplice to shoot the barbaric incident. The video shot by the school-going minor on a phone was uploaded, widely circulated and went viral.

The murderer seemed to have been influenced by hate speeches against minorities and the propaganda that Muslim men lure Hindu girls with marriage with the ultimate objective of converting them to Islam.

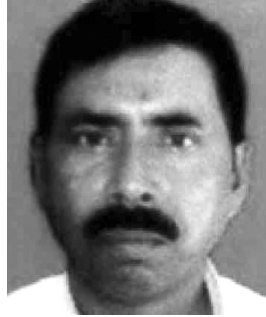
In Rajsamand where Afrazul was killed in a brutal manner, and the whole act was video graphed and made viral on social media, the team met with the Collector and the Superintendent of Police. The approach of the officials here was comparatively cooperative and they pointed out that the killer had conspired to kill and propagate a false story of Love-Jihad in a planned manner. The authorities also informed that the region was known for communal harmony and the incident seems to have been a deliberate and motivated act to disturb peace in the region. They also informed the team that they had taken prompt action to freeze the account to which Hindutva fundamentalists had transferred amount for the killer's family. A compensation of Rs.5 Lakh had been offered to the family of Afrazul, they informed.

On 12th January, 2018, the Rajasthan police filed a 400-page charge sheet against



the accused Shambhu Lal Regar, suggesting that the actual motive for the hate crime was an extra-marital affair rather than “love jihad”. In its charge sheet against him, the Rajasthan Police has said that Shambhu Lal Regar, the accused, had “illicit relations” with the woman he referred to as his ‘Hindu sister’ in videos touting anti-Islam propaganda. It also says that he once took the woman to one of his acquaintances, a bank manager, and asked her to “make him happy”.

The charge sheet says that Shambhu Lal may have raised the whole ‘love jihad’ claim to cover the real motive behind the murder, which was anger over the fact that the woman was still in contact with a laborer from West Bengal called Ballu Sheikh, with whom she had reportedly eloped in 2010. Saying that the woman’s continued ties with Sheikh, who belonged to the same village Saiyedpur as Afrazul, had angered him, the charge sheet says

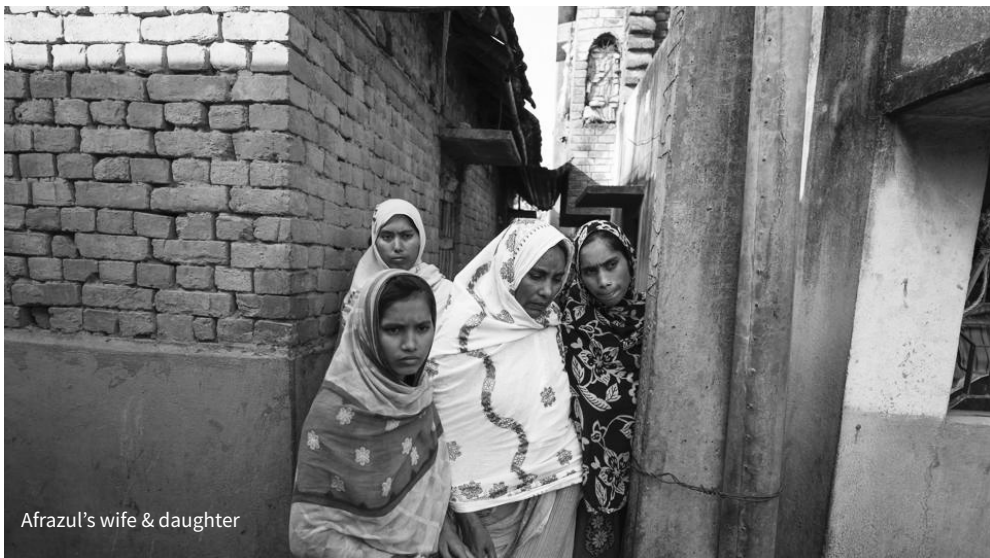


that a year before the murder, Regar had started watching videos of Hindu and Muslim fundamentalists:

“He gathered information related to videos of Hindu extremists, love jihad, Section 370, Islamic jihad, state of terrorism in Kashmir, increasing population of Muslims, Ram Mandir, Padmavati, PK (film),

division of castes in Hindu religion, and reservation and other subjects. Before the murder, he prepared a total of five videos on his mobile phone on communal and religious subjects,” reads the charge sheet.

The charge sheet in Afrazul’s case points out to the emergent need for the State to take measures under Section 153A of Indian Penal Code in curbing the vituperative & inflammable communications, spoken/written/by visible representations promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts



Afrazul's wife & daughter

prejudicial to maintenance of harmony. Such a pro-active role of the State is inevitable to safeguard the multi-religious, multi-ethnic, multi-lingual fabric of the country which keeps it unity despite all its diversities. A careless / deviant/casual or even calculated & cunning spark left to the thought process of a small section of population may turn the country into ashes within a few hours, especially in this era of communication/technology revolution.

Udaipur-Emerging hub of communal attacks

In Udaipur, where the residents are victims of communal attacks and police harassment, a Jan Sunvai (public hearing) was held. The residents apprised the team of the volatile situation being deliberately created by the ruling BJP and Sangh Parivar forces there. Rashida Bi, widow of Zafar-Hussain who was killed in Pratapgarh for objecting to civic officials working under Swachh Bharat Abhiyan campaign for taking the photography of women defecating in the open, met the team and explained that all the culprits are moving around scot-free and the BJP Government has given no compensation for the family of the victim.

Auto drivers, retired government personnel, traders and others from the minority community also brought to the notice of the team that they were facing threats, attacks and intimidation on a day to day basis. They also pointed out that the police are entering homes without following due processes and also arresting people by falsely implicating them.

Consequent to the murder of Afrazul in the adjoining District of Rajsamand, the Hindutva forces called for a rally on December 14 in Udaipur, in support of the accused in the murder case. The District Administration declined permission for that rally and

declared prohibitory orders under Section 144 of Cr. P.C. and shut down social network and mobile services. Despite all these precautions, Hindutva forces, assembled in various parts of the District. Such a congregation included significant participation of lawyers near the Sessions Court premises who have even installed a flag with Hindu symbols. The residents also expressed their concern for obnoxious messages hurting minority community sentiments being circulated in the social media.

The team assured that their issues, grievances & agonies will be raised in the Parliament/taken up to the National Human Rights Commission / expressed before the other authorities/ filed before courts as appropriate in each case and a solid resistance to the communal forces in the region will be facilitated.

Hindustan Through “Lynching” & “Beef-ban”

Hindutva ideologues find lynching of minorities and beef ban as their short cut route to consolidate majority votes and to suppress the dissenting voices from minorities. “Hindu Rashtra” conclave held in Goa between 14th June -18th June 2017 sought the establishment of official Hindu Rashtra by 2023 and the public hanging of beef eaters and their supporters. The conclave was organized by Hindu Jagaran Samiti and Sanatan Sanstha (members of Sanatan Sanstha have been accused of killing Dabolkar, Pansare and Kalburgi).

One may wonder what is the relation between “cow worship” and the establishment of “Hindu Rashtra” as there is not much support for cow worship in ancient Hindu texts (Ramayana and Mahabharata), nor among Hindu scholars like Swami Vivekananda (Madurai lecture) or V.D. Savarkar (Samagra Savarkar Vangmaya).

According to Swami Vivekananda, “there was a time in this very India when, without eating beef, no Brahmin could remain a Brahmin; you read in the Vedas how, when a Sanyasin, a king, or a great man came into a house, the best bullock was killed.” Verses from Vedas (AitareyaBrahmana III.4) support Vivekananda.

VinayakDamodarSavarkar, margadar-sakmahapurush(the guiding great man) of Hindutvaforces was even dismissive of cow worship: “A substance is edible to the extent that it is beneficial to man. Attributing religious qualities to it gives it a godly status. Such a superstitious mindset destroys the nation’s intellect... Let the movement for cow protection be based and popularised on clear-cut economic

Hindutva (emphasis added).”

D.N. Jha, the eminent historian, in his books Holy cow: Beef in dietary traditions (2002) and the Myth of the Holy Cow(2009) relies upon vast historical sources and establishes that beef consumption prevailed in ancient India. Therefore, “holy” status given to cow was a medieval development and it is a hypocrisy that Hindutva forces continue using cow as a successful political symbol to polarize Hindu and Muslim communities.

The essence of creating cow as a political symbol is only one among many attempts of Hindutva forces to create a political identity. This situation emerges from its embarrassment that it has no glorious



Consequent to the murder of Afrazul in the adjoining District of Rajsamand, the Hindutva forces called for a rally in support of the accused in the murder case.



and scientific principles. Then alone shall we achieve genuine cow protection like the Americans.”

According to Savarkar “The cow should not be the emblem of the Hindu nation. The cow is but a mulch symbol of the Hindu nation. By no means should it be considered its emblem. The symbol of Hindutva is not the cow but the man-lion (reference to Narasimha, considered the fourth incarnation of Lord Vishnu). Whilst considering the cow to be divine and worshipping her, the entire Hindu nation became docile like the cow. It started eating grass. If we are to now found our nation on the basis of an animal, let that animal be the lion. We need to worship such a Narasimha. That and not the cow’s hooves, is the mark of

saga of its own either in ancient or modern history to anchor upon. There was no mighty Hindu ruler in Ancient India. Emperor Ashoka was a Budhist and not a Hindu. Likewise, the legacy of Hindutva forces in freedom fighting is confined to appealing to the British for clemency. (This attitude of Hindutva forces is visible from the attempts on their part to dilute the role of freedom fighters like Nehru or from the unabashed attempts to steal the legacies of leaders like Sardar Patel). Thus, the Hindutva forces will continue to build a political symbol to consolidate power, despite any gain or reverse/ challenge or criticism. Cow, beef, minority lynching etc. are only some tools & strategies by Hindutva forces in that direction.

Some cases of lynching & the callous attitude of police and the Government

The lynching in the name of “cow protection” has gone to the level of “gautankwad” (cow terrorism). Most of the attacks are based on rumors. At least in a few cases no arrests of the murderers have been made whereas in a large number of cases, as in the case of Umar Khan of Gatmeeka, the police have registered cases against the victims/ survivors. Absence of any punishment to the offenders has emboldened the cow vigilantes to lynch with impunity. The reasons for lynching varies from accusing the minorities of smuggling cattle, slaughtering cows, storing beef to wearing skull caps. The pattern of incidents reveal that the cow terrorists resort to lynching and attack when they find a Muslim as an offender, no matter what the perceived offence is. The following cases will explain the scenario better:

1. Arif Qureshi, S/o Mohd. Sharif, R/O Qureshi Mohalla, Singar, Punhana, Nuh District, Haryana-

The victim’s family allege that Arif’s murder was due to the brutal assault by the police officials in New Delhi, who falsely filed an FIR against Arif on charges of cow trafficking. The incident took place at Sunder Nagar, PS Hazrat Nizamuddin, New Delhi.

Arif Qureshi was employed by the owner of a pickup truck as it’s conductor/cleaner. He was asked by his employer to travel to New Delhi with the truck. Later Arif’s father Mohd. Sharif was informed by the police official of the Hazrat Nizamuddin Police Station, that his son is admitted in the hospital and that he should come to

New Delhi immediately. Upon reaching the station, Mohd. Sharif was informed that his son was caught stealing cattle and while Arif along with his associates were trying to flee away in the truck, the police chased them and their truck met with an accident, wherein Arif was injured and was caught while two others made good their escape. However, at the hospital, Arif Qureshi told his father that he was brutally beaten by the police and that his injuries were because of the police beatings. Apprehending further harassment from the police, Mohd. Sharif brought his son back to his village where he succumbed to his injuries. Pursuant to Arif’s death, Mohd Sharif decided not to pursue any legal action against the errant police officers out of fear for his own life and that of his family members and that of further police harassment. Thus, no FIR has been registered against the errant officials of the Hazrat Nizamuddin Police Station who were complicit in the murder of Arif Qureshi.

2. Junaid Khan, s/o Jalaluddin, Khandawli Village, Faridabad District, Haryana

On 26/06/2017 Junaid Khan, 16-year-old boy was brutally murdered on a train from Delhi bound for Mathura. Junaid’s family state that it was Junaid’s skull cap and the beard of his brothers (which revealed their religious identity) that led to the killing of the boy in bogie accommodated around 200 persons. F.I.R is launched in this case and investigation is going on. Shakir, a brother of the deceased who was also grievously injured in the incident, is yet to recover from his injuries.

3. Ibrahim s/o Juhardin ,Rashidan w/o Ibrahim, two girls (one aged 20 yrs.&anothera minor) (gang-raped) Residents of Village Dingarheri, Nuh District, Haryana

On 25.08.2016, at around 12 midnight, the family of Ibrahim was attacked by around 8 to 10 people who murdered Ibrahim and his wife Rasheedan and raped the girls. The girls were Ibrahim's nieces who came for Eid. The mob also attacked and grievously injured with rods and sticks other members of Ibrahim's family also. Ibrahim died on the spot, while Rasheedan died on the way to the hospital. It was reported by the elder girl that before raping them, the accused persons had shouted at the family calling them beef eaters to be sent to Pakistan. It is also alleged by the victims' family that the accused have connections with the local BJP MP.

On the statement of elder girl, FIR was registered against 4-5 unknown persons. After registration of the FIR, no action was taken by the police. It was after protests were held and pressure was created on the police that they arrested 4 accused in the case, who are currently in judicial custody, while 4 others have been declared proclaimed offenders by the Court. The

accused were identified by both the girls in a test identification parade. It is alleged by the victim's family that the accused come from a highly influential family and are being helped by the police and local administration. Cross FIRs are lodged against the surviving victims.

The investigation was forced to be transferred to the CBI, on public demand. But CBI is showing laxity in the investigation and hence the victims' family had filed a petition in the High Court of Punjab and Haryana, as CRM-M No. 41814 of 2016, seeking that the investigation may be done under the supervision of the Hon'ble High Court. The case is currently pending for the CBI Status Report.

4. Mustain Abbas, s/o TahirHussain, aged about 30 years, R/o Village NaiMajra, P.S. Gangoh, District Saharanpur (UP)

On 05.03.2016, Mustain Abbas along with his associates went to Haryana for purchasing cattle for his domestic needs. On 06.03.2016 Mustain's associates came back and informed his father that while they were on their way back after purchasing oxen, in the area of Police Station, Shahbad, near village Sharifgarh, members of GauRakshak Dal punctured the tire of their vehicle with nails. Mustain along with his associates vacated the vehicle and tried to run away and the members of the GauRakshak Dal followed them and fired at them. The members of the GauRakshak Dal caught hold of Mustain and had started beating him, while the others managed to escape from the site of occurrence. TahirHussain along with his family searched for Mustain in and around Shahbad, District Kurukshetra, Haryana but were unable to trace him.

On 09.03.2016, TahirHussain lodged a missing complaint with the Police Station,



Gangoh District Saharanpur regarding his son. Thereafter on 11.03.2016, Aslam, one of the associates of Mustain Abbas who was travelling with them revealed the identity of three persons (members of GauRakshak Dal) who had caught Mustain. On receiving this information, Mustain's father went to the village of those three persons. They revealed that on 05.03.2016, they had caught his son but at about 6 PM had handed over him to police station Shahbad. When Mustain's father visited the Police Station Shahbad on 11.03.2016, he was informed by the police officers on duty that they would release his son the next day after interrogation. On 12.03.2016 when Mustain's father visited the PS again with a request for the release of his son, the concerned police officials abused and threatened him, asking him to leave or else he will be encountered. Thereafter, on 12.03.2016, Mustain's father submitted a complaint to the Superintendent of Police, District Kurukshetra, Haryana detailing the sequence of events. However, there was no response from the office of the SP.

On 16.03.2016, Mustain's father filed a Habeas Corpus Petition in the High Court of Punjab and Haryana. The High Court vide Order dated 16.03.2016, appointed a Warrant Officer to conduct raids at places pointed out by Mustain's father where there is a likelihood of illegal detention of the son. The Warrant Officer submitted his report to the High Court on 17.03.2016 which stated that he along with a representative of the Petitioner (Mustain's Father) visited the PS Shahbad, Kurukshetra but the detenu was not found in the premises of the Police Station and the SHO denied any knowledge on the detenu. The Report further states that –

“The SHO informed the Warrant Officer that in the intervening night of 05/06.03.2016,

on the receipt of a complaint from Harbhajan Singh s/o Sh. Saroop Singh, R/o Village DauMajra, District Kurukshetra and others, the members of GauRakshak Dal along with the Police party tried to stop a vehicle (Mahindra Pick Up, Colour White, Regn No. UP-11T-9236) which was carrying five cattles (later on identified as five oxen), but the driver of the vehicle did not stop and tried to flee away from village Sharifgarh towards village Machhroli, where other members of GauRakshak Dal had already closed the road with a Tractor Trolley to save the life of the cattle's from the smugglers. At this point, smugglers fired on the members of the GauRakshak Dal and took U Turn towards village Sharifgarh again. Near the said village, another team of GauRakshak Dal along with police personnel of NH2 blocked the road in order to stop the vehicle with the help of equipment made with sharp iron nails so that the tyres of the said vehicle got burst or punctured and they may be able to stop it. At this point, when the aforesaid vehicle of the smugglers reached there, they fired another shot on the members of the GauRakshak Dal and ran away from the spot but the front-tyres of the vehicle burst due to iron nails. Despite the tyres, they were able to continue to drive the vehicle and managed to run away for about 1 to 1.5 kms. At this point, they left the vehicle there and managed to flee away in the nearby fields. Later on the police party reached on the spot and members of GauRakshak Dal handed over the vehicle to the police and 5 oxen were handed over to the Gaushala. SHO further told that during the inspection of the said vehicle, two empty cartridges were found from the cabin of the said vehicle. Regarding this incident, FIR No. 124 dated 06.03.2016 u/s 11 of Prevention of Cruelty to Animals Act,

Section 307 IPC and 25/24 of Arms Act 1959 at PS Shahbad has been registered against unknown culprits. SHO further informed the Warrant Officer that police suspects that the alleged detenue may be amongst one of the unknown culprits who flee away by leaving their vehicle.”

Thereafter the High Court, vide an interim order dated 18.03.2016, observed that the members of the GauRakshak dal are involved in illegal activities, with the connivance of the police and the local administration. The Court held as follows:

“what meets the eye is that certainly an incident during the intervening night of 5th and 6th March, 2016 has taken place

otherwise. This is not the first instance that has come to the notice of this Court in the State of Haryana which is abound by such incidents where the State, which is supposed to follow rule of law and to give good governance, is looking the other way around.”

On the role played by the senior police officers and district administration, the Court observed that:

“The indolent attitude of the senior police officers on report being lodged is in itself suggestive of the role of police in this episode and apparently even the District Magistrate has failed to perform his duties. The mere assumption that the occupants

“ It is also alleged by the victim’s family that in the name of investigation, the CBI is harassing the relatives of the victim. ”

in the area/jurisdiction of Police Station Shahbad, District Kurukshetra, in which so called vigilante group so constituted with the backing of political bosses and senior functionaries governing the State including police under the name and style of GauRaksha Dal has sought to take law in its own hands. The local administration, be it the police or otherwise, by their muteness and connivance are allowing unleashing terror upon the persons carrying on such a trade in animals. It is not out of place to remark here that it has also come to the notice of this Court on earlier occasions that such like groups are bent upon circumventing law and fleecing poor persons who are ferrying their animals, be it for any personal/domestic use or

of the vehicle were committing cruelty to animals by mere transporting them is wholly unjustified as Article 21 provides right to pursue and carry on a legitimate occupation. Thus, such a restraint and by such a vigilant group which has no legal backing and authority, that too when a person is doing so within social order, this Court would not hesitate to hold that it is duty bound to act into the matter....

As has been conceded by the State that they have registered an FIR (Annexure ‘A’) pertaining to this incident but nothing worth to convince this Court about fruitful results into this disappearance has come forth and rather from this stand, it elicits that there is a feigned attempt under this FIR to wash off the hands of such

vigilante groups having backing of the local police and therefore, this Court has every apprehension that the local police would not only circumvent the law but would also not carry on fair and impartial investigation which this Court wants them to do.... Having regard to the fact that even representation of the petitioner to the Superintendent of Police of the District has not met with any response apparently reflects that even the senior functionaries of the police are hand-in-glove with such vigilante group, obviously to achieve the sinister design and pursuing a definite agenda and it appears that the local police may not carry on the investigations in the right earnest...”

Thereafter, vide order dated 09.05.2016, the Court ordered the immediate transfer of the Kurukshetra District Magistrate, Superintendent of Police, Deputy Superintendent of Police and Station House Officer of the Shahbad Police Station “to a far-off place with inconsequential posting(s)” and further transferred the investigation of both the FIRs to the Central Bureau of Investigation (CBI). The Court further directed the DGP, Haryana as well as Chief Secretary, Haryana to ensure that such so called vigilante groups working under the garb of ‘GauRaksha Dal’ are not allowed to take the law in their own hands and to initiate immediately appropriate steps in this direction. The state government’s appeal to stay the CBI probe was rejected by the Supreme Court, but the transfer of the officials was put on hold.

In the meanwhile, on April 2, 2016 the family finally received a call from Shahbad police station asking them to identify a body they recovered from a drain near Masana village in Kurukshetra. Mustain’s body had countless stab wounds, his face

was mutilated, his limbs were broken and his clothes were not the same as the ones he was wearing when he left home on March 5th 2016.

A fresh FIR bearing No.157 dated 02.04.2016 was registered in PS ThanesarSadar, Distt. Kurukshetra, u/s 302 and 34 IPC against members of GauRaksha Dal namely, Gurcharan S/o Swaran Singh, Shailendra Singh S/o Gian Singh, Bhisham Singh S/o Ajmer Singh & RohirPradhan, GauRaksha Dal, Yamuna Nagar. Post Mortem was conducted on the same day.

The CBI registered a fresh FIR on 23rd May, 2016 and thereafter exhumed the dead body of the victim and conducted another post mortem in December 2016. However, after the case was transferred to the CBI, no arrests have been made, no charge sheet has been filed and the CBI is still conducting the investigation. It is also alleged by the victim’s family that in the name of investigation, the CBI is harassing the relatives of the victim.

5. NomanZahid, S/o SaeedAkhtar, aged about 22 years, R/O Village Raipur, Mirzapur, District Saharanpur, Uttar Pradesh-

Naoman, aged 22 years, s/o SaeedAkhtar, along with 6 other people was coming back after purchasing cattle from a mandi in Malerkotla in Punjab. They were travelling in a pickup truck with 12-13 cattle and were proceeding towards Saharanpur from LawasaChowki near Nahan in Himachal Pradesh. A Scorpio with 10-11 people, who were members of a GauRakshakDal, stopped the truck and started breaking the windows of the truck with rods and sticks and burst the tires of the truck. The victims ran and hid in the jungle. They were caught and beaten by the GauRakshak Dal members in front of the police. A mob of

around 250 people from the neighboring village also joined to assault the victims. While Naoman was beaten by around 50-60 people and shot, Salman, Nishu, Aslam, Furgan, Gulfan and Gulzar were seriously injured. Naoman died on the way to the hospital.

Even though an FIR is registered in this case, the victim's family is not able to proceed with the case due to financial constraints. The trial is heading in a disappointing manner and the witnesses are turning hostile due to pressures and threats from the accused. A Cross FIR under the various provisions of the Himachal Pradesh Prohibition on Cow Slaughter Act 1979 was filed against the 6 co-passengers, all of whom are the witnesses in the murder case of Naoman. The co-passengers, who are the injured eye witnesses in the murder case of Noman, have not been supporting the Prosecution case, as they are scared that the police will initiate action against them in the Cross FIR, if they testify against the members of the GauRakshak Dal and the police officials.

The cases mentioned hereinabove are only illustrative (and not exhaustive) to show how the term "mob rule" is systematically used to deviate and normalize state supported violence



against the minorities. The BJP rule at the Centre and States vigilantly protect the "cow terrorists" whom the Hindutva forces have systematically indoctrinated to cause barbaric massacres of minorities and Dalits. The State supported cow terrorism is in flagrant violation of the rights guaranteed under Part -III of the Constitution of India, especially in the context of interpretation given to Article 21 in the recent privacy judgment, K.S. Puttaswamy v Union of India (2017).

Privacy judgment - its resonances on cattle related laws& fundamental rights

With the passing of privacy judgment, we are bound to deduct that "life and personal liberty" from which the right to privacy primarily emerges, has to be now read with Articles 19 (1) (g) and 25 of the Constitution as well. Article 21 is not the lone repository of liberty and Fundamental Rights not a series of isolated points. As a result, one's right to eat food of one's choice has no meaning, unless that food is reasonably available to purchase. Hence, freedom to trade cattle, slaughter it and to eat that meat /beef shall be a natural corollary of the privacy rights declared by the Apex court in Puttaswamy's case.

Similarly, right to privacy have to be read in the context of religion also. India being a secular nation cannot tell non- Hindus as to what to eat and what not to.

Further, slaughter prohibition laws prevailing in India infringe the right to nutritious food of a person. In order to sustain these laws on the ground of reasonable restriction, the State has to prove the compelling State interest and prove the food is injurious to the health of the person/s having it.

Cattle protection laws & proportionality of punishments:

Law is based on reason. The purpose of an enactment shall be to reform the society. The punishments envisaged to handle the law and order situation of a society is reflective of the stage of civilization through which that society is passing through. Hence the punishments shall not be vindictive/ spiteful. Excessive punishments are helpful only to undermine the respect for law. The cow protection laws enacted in various BJP ruled states illustrate the aspects unambiguously.

In Gujarat, the punishment for cow slaughtering is imprisonment of 7 years to a term of life with fine from Rs. 1 lakh to 5 lakhs. This is equivalent to the maximum punishment which can be imposed for dowry death under Section 304 B of IPC. (It is pertinent that no fine is prescribed under Section 304 B of IPC as in the case of cow slaughtering under Gujarat Act.) In Haryana, the punishment for cow slaughtering is rigorous imprisonment up to 10 years and fine up to 1 lakh. In Jharkhand and Uttarakhand, the punishment is 10 years' imprisonment and a fine up to Rs. 10, 000. In Rajasthan, the punishment is rigorous imprisonment for 1 year to 10 years with a fine up to Rs. 10,000/-

It is noteworthy that many of the cow vigilante states are imposing harsher punishments for cow slaughtering/ trading compared to the provisions of Indian Penal Code protecting human life and liberties. It is also pertinent that these stringent punishments violate the classical arrangement of punishments basing on the distinction of crimes as "minor" and "major". Such scheming of punishments in cattle protection laws are arbitrary and hence violate Article 14.

Whether cattle protection laws, a bane to the cattle community itself

With the advent of barbarous, arbitrary and unreasonable cattle protection laws, cattle became a liability to maintain after they grow old, leading to spread of dangerous diseases and demanding a lot of resources to maintain. The skewed government policy and its reckless implementation has led to a situation wherein cattle owners are left with no other option but to abandon their unproductive cattle. Plummeting cattle population has caused serious fodder crisis. When the abandoned cattle devour the fodder kept for milch cattle/ or when crops are eaten, these stray animals are mercilessly thrashed. Thus, the laws which are supposed to be protecting the cattle have proved to be a bane for them only.

Is cattleowning religion-specific or region-specific?

The data collected by National Sample Survey Office (NSSO) in 2013 show that cattle ownership patterns differ across regions. In Kerala, where employment rate is high only 7 % Hindu households and 5 % Muslim households have cattle. In Uttar Pradesh, an agrarian state, 52 % of Hindus and 21% of Muslim households own cattle. In Kashmir, the percentage of households having cattle is respectively 37 and 57 between Hindus and Muslims. So, cattle owning is only region based and not religion based. But the curious fact that it is Muslim community that is primarily dependent on meat industry for food and employment reveals the driving force for BJP governments to implement cow protection laws in a communally charged manner!

Conclusion

The subject Fact Finding reveal that, in the state of Rajsthan, there is total loss of faith in the law and order mechanism and up on the BJP-led State Government. It is a matter of grave concern that the main opposition party in the State, the Congress has failed to address the issue and mobilize opinion against the communal attacks on citizens. Unfortunately, they have made no efforts to reach out to the families of victims or those facing attacks or being arrested on false charges.

The continuous attacks upon the minorities in the guise of cattle protection would divide the people on communal lines. If it is allowed to continue, the unity of the country in the long run will be in peril. Hate crimes are violent manifestations of intolerance against entire communities. They have a deep impact not only on the immediate victim but also the community with which the victim identifies, affecting social cohesion and stability.

The victims and their families have been living in these villages for generations and generations, rearing cattle as their only livelihood. There hasn't been any

substantial change or transformation in their lifestyle, social involvement and transaction. But overnight their position in society and the communal harmony have been changed oppressively/turtle-turned on the inception of the new communal regime of fascist tendencies. Then comes gauraksha vigilance and other Sangh Parivar outfits to polarize the society on religious and communal terms with hate crimes, unfortunately the fact that there is no effective and specific law against hate crimes and mob lynching compounds the situation.

The Goa conclave declaring 2023 as the year to establish formal Hindu Rashtra and Narendra Modi's references to 2022 as the year to create a "New India" have close nexus. The year 2022 also would denote the centenary of the publication of Savarkar's Hindutva- Hindurashtra thesis. The Hindutva forces are zealously moving towards this set goal of Hindurashtra by artificially creating pan-Hindu political identity, "cow protection" is one such identity creation. The identity creation by Hindutva forces is aimed only to further stabilize power by polarizing the population by spreading hatred and nurturing distrust among themselves.

The effects of hate crimes are deeper and wide-ranging than those of other serious crimes such as murders and assault because their motives perpetuate hatred and instigate others to commit similar crimes. Hence all the secular and democratic forces must come forward to isolate the killer Gaurakshaks and the RSS-BJP forces patronizing these elements.

Demands

The BAA demands from the Central Government and the State Government the following-

1. Immediately arrest all the real culprits responsible for the murder of Umar Khan, Talim&Pehlu Khan.
2. Institute a judicial enquiry into the Umar Khan murder case
3. Grant Rs. 1 crore as compensation to the victim's families and allow Rs. 25 lakh to those who are injured.
4. The Government must facilitate cattle trade
5. The Governments that ban slaughter/close abattoirs must amend cow protection Act to purchase unproductive animals by paying market rate to the owners.
6. Ban all the unlawful organizations comprising of cow vigilantes.
7. Enact special and specific provisions under Indian Penal Code to prevent lynching.

(Drafting Committee P.V. Surendranath (Senior Advocate, Supreme Court of India), Resmitha R. Chandran (Advocate-On- Record, Supreme Court of India), K.R. SubhashChandran (Advocate, Supreme Court of India), P Krishnaprasad , Finance Secretary, AIKS. Report drafted by Resmitha R. Chandran)

FACT FINDING REPORT

12/01/18

I was a part of the fact-finding team under the banner of “Bhumi Adhikar Andolan” to see the actual situation under which Umar Khan, Afrazul Khan and others were killed. On 6th January’18, we visited Ghatmeeka Village in Alwar district of Rajasthan. When we reached Ghatmeeka village a lot of people surrounded us. They wanted to vent their grievances and share their experiences with us. Also, they were eager to know how we could them combat such an organized communal force.

Modi government has declared “Sabka sath sabka Vikas”, But in Ghatmika we saw that people are living like cattle, not like human beings. There was no water, no roads, no houses have been built under any government scheme, and they are mainly ‘Pashupalak’ and milk producers. People are living in their broken old houses with their cattle in the most unhygienic condition. Probably these people are deprived of modern day school education because of the government negligence. In this situation RSS has made them an easy target, some ‘Gau rakshaks’ organized by the RSS are in nexus with the police, both are fully propagating that the villagers of Ghatmeeka, are antisocial and cow smugglers. Then the gaurakshaks are attacking and killing people like Umar Khan, Pehlu Khan and others. In spite of Supreme Court orders, the police have not taken any steps against gau rakshaks. The Superintendent of Police in the Alwar district told us that there is no gau rakshaks in the district, such a motivated and biased person is operating

as the S.P in Alwar district. But, in spite of such attacks and false cases Hindus and Muslims are living in communal harmony. They are not fighting each other, but in the name of gau raksha, the RSS is trying to polarize people in the community.

In Rajsamand, we met the district collector and the S.P to discuss Afrazul Khan Murder case, we came to know that it was not a case of ‘Love Jihad’ it was planned a murder, murder that Shambhulal conspired for four months. The minor who video graphed the murder was given training. It was a result of communal and hate politics.

In Udaipur, we met the widow of Jafar Khan of Pratapgarh, who was lynched by at least 10 people led by the E.O concern of the municipality. They had been photographing women defecating in open spaces; Jafar Khan was brutally beaten up and killed for protesting such photography. Till this date, the accused including E.O have not been arrested, and the accused have been threatening the people from minority communities.

In each case, we spoke to the suffering family and the common people and assured them that we will fight such intolerance and atrocities throughout the country and raise the issue in parliament and with other concerned bodies for social justice. A movement for people’s awareness is also necessary.

MD. BADARUDDOZA KHAN

Member of Parliament, Murshidabad.