

SUBMISSION ON NON-IMPLEMENTATION OF SRIKRISHNA COMMISSION RECOMMENDATIONS

For the Universal Period Review of India being conducted by the UN Human Rights Council

INTRODUCTION

The failure of the state government of Maharashtra to implement the recommendations of the Srikrishna Commission which was appointed by the government to enquire into communal violence in Mumbai in 1992-93 is an example of large-scale impunity that exists for communal violence in India, and the absence of political will to hold perpetrators accountable for the crimes committed. Although the communal violence took place in 1992-93, the issue remains live till date as the state government continues to make promises to implement the recommendations and initiate prosecutions against errant police officers and others, and provide compensation to survivors, and has failed to do so till date. Hence, we submit that this issue is not affected by the requirement of a four-year period of limitation for occurrence of the violation, and that it is well within the mandate of the Human Rights Council to make recommendations / issue directions to the Indian state on this issue.

The non-implementation of recommendations made by the Srikrishna Commission highlights that in the absence of political will, there is an urgent need for a statutory framework to prosecute offenders. In India, a lack of political will to prosecute perpetrators, state complicity in the violence and an absence of a statutory framework to address the issue have, cumulatively, contributed to a growing climate of impunity for communal violence. Hence the urgent need for enacting a Communal Violence Bill, on which a separate submission is being made.

FACTS

In 1992 - 1993, communal violence shook Mumbai. The violence happened in two phases. The first phase occurred in when Babri Masjid was demolished on 6 December 2007. The second phase occurred between Jan – Mar 1993. This second phase was much more organized and systematic in targeting members of the Muslim families in the city. Following the riots, Justice B.N.Srikrishna (who was a sitting judge in the Mumbai High Court at that time) was appointed to investigate the riots under the Commissions of Inquiry Act, 1951. He submitted his report in 1998. Through its investigations the Commission confirmed that 900 people had died in the violence. Of these 275 were non-Muslims. About 200 persons disappeared during the riots. In his report, Justice Srikrishna also named 31 police officers against whom the Commission found substantial evidence to prove their involvement in the communal violence and had therefore recommended that they be prosecuted for their crime. Based on evidence it has also been acknowledged that the government did nothing to stop the communal violence for almost three months. Also, the Commission had recommended that 1371 cases should be re-opened and re-investigated. However, all these cases had been closed by the Government as ‘*A Summary*’ cases despite the fact that the Commission itself had concrete evidence against the accused in all these cases.

Fourteen years after the communal violence of Mumbai and nearly a decade after Justice Srikrishna Commission report was released, successive state governments, irrespective of their political ideology, have done very little to implement the recommendations stated in the Commission’s report. The civil society has initiated advocacy measures at the state and national levels, but these are yet to bear any concrete results.

CURRENT NORMATIVE AND INSTITUTIONAL FRAMEWORK

The Constitution of India has declared India as a ‘Secular’ nation. This has been further explained through laws in Article 51 (A) (E) to promote harmony and the spirit of common brotherhood amongst all people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women. The promotion of enmity between different groups on the grounds of religion is also considered as criminal offence under the Indian law. The Indian statutory law also provides protection for the

rights of the minorities. To this extent the Indian Penal Code also prescribes criminal prosecution for wantonly giving provocation with intent to cause riot Section 153; promoting enmity between different groups on the grounds of religion (Section 153A); uttering words with deliberate intent to wound the religious feelings of any person (Section 298); statements conducive to public mischief (Section 505(1), A) and C); and statements creating or promoting enmity, hatred or ill-will among classes (Section 505 (2)). Apart from this the Government of India, in October 1997, specifies the precise responsibility of the state machinery when dealing with potentially inflammatory statements in the context of communal tensions. Guideline 15 states that effective will needs to be displayed by the district authorities in the management of such situations so that ugly incidents do not occur. Although the above-mentioned provisions exist in the Indian Penal Code, they do not take into account the fact that communal violence is a crime against a collectivity; instead, the crimes are dealt with as crimes against individuals without due recognition to the overall context in which hate propaganda and preparation for targeting members of particular religious communities are carried out.

Also as part of its commitment to the international community, following the Vienna Conference, India has set up institutions such as the National Human Rights Commission. Similarly India also has a National Commission for Minorities which was set up to investigate specifically cases of human rights violations against members of the minority community.

India has ratified major international human rights conventions such as International Covenant on Civil and Political Rights (ICCPR), International Covenant on Socio-Economic and Cultural Rights (ICESCR), Convention on the Elimination of Discrimination Against Women (CEDAW), Convention on the Elimination of Racial Discrimination (CERD), Convention on the Rights of the Child (CRC) and the Genocide Convention. Some major incidents of communal violence in recent times fall within the contemporary understanding of genocide and crimes against humanity. Despite having ratified the Genocide Convention in 1959, India is yet to enact an implementing legislation to facilitate domestic prosecutions for genocide. The concept of crimes against humanity does not feature under Indian criminal law.

THE IMPLEMENTATION AND EFFICIENCY OF THE NORMATIVE AND INSTITUTIONAL FRAMEWORK

Despite being considered a country with the maximum number of progressive laws, India has a very poor track record of implementing these laws, especially those relating to the poor and marginalized sections of the Indian society. The recommendations of Srikrishna Commission ideally gave the government an opportunity to implement the aforesaid legal provisions in the Indian Penal Code and reiterate the values enshrined in the Indian Constitution. However, thirteen years after the release of the report, the officers and politicians continue to enjoy total impunity. While on the one hand some of the police officers have been rewarded with increments and promotions, the politicians too have continued being in active politics and often worked with renewed vigour despite the report.

Despite the elaborate provisions in the Indian Penal Code as set out above, the police had refused to lodge First Information Reports against perpetrators who were police officers, thereby preventing any record of the crimes they committed. Section 197 of the Criminal Procedure Code, which requires the prior sanction of the state government for prosecution of a public official, shields perpetrators who are police officers and scuttles justice and accountability for the crimes they committed, despite the fact that Srikrishna Commission report directed the government to initiate prosecution against 31 errant police officers. Some politicians continue to make inflammatory and hate speeches till date, but the state government has no political will to prosecute them under the relevant provisions of the Indian Penal Code.

Commissions of Inquiry, such as the Srikrishna Commission, are set up to inquire into situations of communal violence, with the motive of stifling the public outcry against such violence and to convince the public that the government has taken action on the issue. However, the Commissions' powers are recommendatory in nature, and the recommendations are often left to the discretion of state governments to implement. Ultimately, the

issue would reach a logical end only with the persistence and tenacity with which members of civil society may pursue the implementation of the commissions' recommendations.

Institutions such as the National Human Rights Commission and the National Commission for Minorities have, by and large, been seen as mechanisms that re-iterate the political stands of the political party in power rather than act independently as per the norms set out for them in the Vienna Declaration. This therefore, makes them a tool in the hands of the government in power. The conventions signed by India, especially the Genocide Convention, have also remained a paper tiger due to an absence of implementing legislation to facilitate domestic prosecutions.

While the Indian state submits periodic reports to U.N. Treaty bodies, these are not submitted as per the timeline prescribed. The Office of the High Commission for Human Rights also mentions that India has not submitted its report to the Committee on Civil and Political Rights since 1995, to the Committee on Elimination of all forms of Discrimination Against Women since 2002, to the Committee on Child Rights since 2001. Also while India submitted its report to the Committee on Economic Social and Cultural Rights in 2006, it was a combined report for the 2nd, 3rd, 4th and 5th submissions.

KEY NATIONAL PRIORITIES

In the light of impunity for communal violence and a lack of political will to prosecute perpetrators as named by the report of Srikrishna Commission, a key national priority would consist of putting in place a statutory framework for prosecution, punishment, reparation of victims of communal violence. This framework would entail:

- a) Enacting an implementing legislation on the Genocide Convention; and
- b) Enact a Communal Violence Bill, 2005, after an effective consultation with civil society representatives, and based on emerging standards in Indian and international law.

CIVIL SOCIETY INITIATIVES

- **Legal Interventions:** Prosecutions related to cases of communal violence are pending in different courts in Mumbai. A majority of these cases, however, pertain to the false cases foisted against the survivors by the police officials. A few cases are pending against the police officials for their role in abetting the communal violence in Mumbai. Representatives of the civil society have extended solidarity to the survivors, by attending the court proceedings and remaining watchdogs in the same.
- **Rallies, Demonstrations, Public Meetings, Protests & Signature Campaigns:** Representatives of the civil society have organized a series of rallies, demonstrations, public meetings, protests and signature campaigns to demand the implementation of the Srikrishna Commission recommendations. (Please refer to **Annexure 1**)
- **Media Advocacy:** Lawyers, activists and survivors have, time and again, addressed the media to disseminate information and mobilize public opinion on the issue, and to increase the visibility to the issue. (Please refer to **Annexure 2**)
- **Advocacy with state and central governments:** Members of civil society have held meetings with government officials in order to persuade the government to implement the recommendations in the interests of safeguarding against erosion of faith of religious minorities in rule of law. For the same purpose, meetings with the National Commission for Minorities, the Planning Commission, Vice-President of India Mr. Hamid Ansari and such other policy makers have also been held. (Please refer to **Annexure 3**)

RECOMMENDATIONS

1. Immediate suspension of all policemen responsible for the violence as indicted by Srikrishna Commission report, registration of complaints against them and investigation by the Central Bureau of Investigation (CBI);
2. Criminal prosecution against politicians indicted in the Srikrishna Commission report, including Bal Thackeray, Madhukar Sarpotdar, Manohar Joshi and others for inciting violence;
3. Quashing of false cases registered by the police against witnesses and survivors of the violence, in order to intimidate and silence them;
4. Re-opening of 'A Summary' cases which had been closed on the ground of insufficient evidence, despite the availability of witnesses for several such cases, and adequate measures to be taken against policemen responsible for the closure of the cases.
5. Awarding of rehabilitation and compensation package to the next of kin of the dead and missing, on par with 1984 anti-Sikh attacks of Delhi. Adequate compensation to be awarded to persons who lost their livelihood and property.

The Undersigned:

1. Saumya Uma – Women's Research and Action Group
2. Maya Nair – Indian Campaign on International Criminal Court
3. Madhu Mehra – Partners for Law in Development
4. Sandhya Gokhale – Forum Against Oppression of Women
5. Adv. Shakil Ahmed – Nirbhay Bano Andolan
6. Hasina Khan - Aawaz – e – Niswan
7. Henri Tiphagne, People's Watch
8. Noorjehan Safia Niaz – Women's Research and Action Group
9. Dr. Ram Punyani – All India Secular Forum
10. Khatoon Sheikh – Hukook-e-Niswan
11. Akhtari Sheikh – Saheli Group
12. Suraiya Sheikh – Women's Research and Action Group
13. Fr. Cedric Prakash – PRASHANT Centre for Human Rights, Justice and Peace
14. Ram Narayan Kumar – South Asian Forum for Human Rights
15. Razzak Sheikh – Sathi Group
16. Pouruchishti Wadia – Law Researcher
17. Oishik Sircar, Law – Researcher
18. Hema Ramani, Lawyer and Activist
19. Apoorva Anand – Faculty, University of Delhi
20. Adv. Shabana Abdul Rahman
21. Muskaan Razia Sheikh
22. Ronita Torcato – free lance journalist
23. Siddharth Varadarajan – journalist
24. Vedantam Shastri – faculty, National Law University, Jodhpur

ANNEXURE 1

RALLIES, DEMONSTRATIONS, PUBLIC MEETINGS



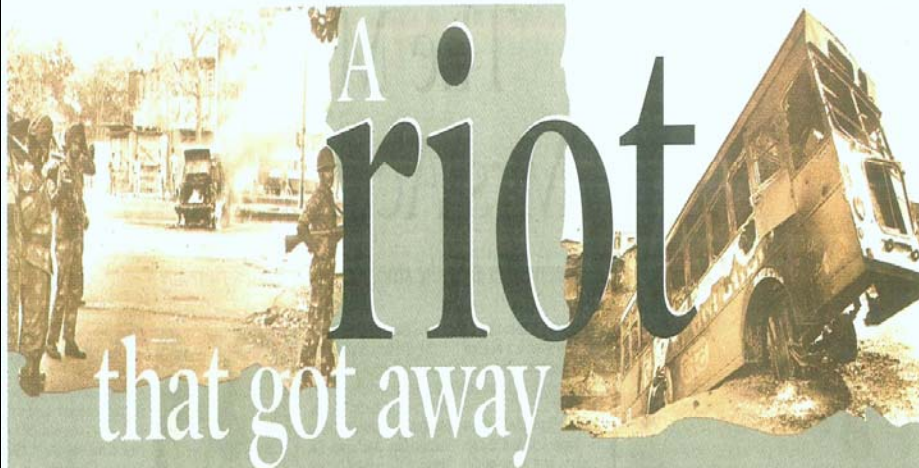
ANNEXURE 2: MEDIA ADVOCACY

Annexure 2 (a)

SUNDAY TIMES OF INDIA, MUMBAI *
AUGUST 5, 2007

TIMES REVIEW

17



A riot that got away

A day before the ninth anniversary of the tabling of the Srikrishna Commission Report, Jyoti Punwani explains how successive Maharashtra governments went blatantly easy on the perpetrators of the '93 riots

This time it's not elections that have made Muslim leaders fish out the inquiry report from their bagful of long-standing grievances. The rain of sentences in the March 12, 1993 bomb blasts trial has reminded some people about unfinished justice in a matter preceding the underworld's attack on the city.

Like clockwork, things have been set into motion. First, the mandatory trip to the Mantralaya. When the Sena-BJP combine was in power, a Muslim leader grumbled, "Our basic problem with this government is that we just can't approach it. When the Congress was in power, we could at least do that." Since the Congress came to power in October 1999, the 'at least' has changed to 'at the most'.

Vilasrao Deshmukh must be yawning whenever he's told that a Muslim delegation wants to meet him — the same old bunch of obsequious *maulanas*, journalists and businessmen, trooping in, short on facts but high on their sense of

leadership, and then trooping out after being given the same old spiel. When the Congress government replaced the Sena-BJP in '99, the Srikrishna Commission Report was just a year old. Like explorers embarking on a righteous mission, the Nirbhay Bano Andolan, a bunch of inspired youngsters, decided to launch a mass signature campaign. After all, its implementation had been part of the Congress' election manifesto. When they carted the 18,000 postcards to the CM, they took with them the former Chief Secretary, J B D'Souza, and a few victims of the riots.

Deshmukh was then holding his 'Janata Darbar', which meant desperate citizens could stand in line for hours to get three minutes with their chief minister. Jostled around, D'Souza, who had once ruled over Mantralaya, spoke his mind as he always does on the need to do justice. Punish the 31 guilty policemen named in the Report, re-open the cases

closed by the police (60% of all riot cases) so that those who killed in the name of religion could be tried, and compensate families of those who went missing in the riots.

The delegation pushed Hajirabi Qureshi forward thinking she was the most deserving of the CM's attention. The emaciated woman in a black burqa, whose husband and son had been dragged away during the riots and never seen again, had not received any compensation. As expected, Deshmukh promised she would get the money and instructed his staff to take down her details.

Seven years later, Hajirabi, who maintained her dignity in the face of the contempt displayed towards her by the CM's staff, is still waiting. Deshmukh, it became clear, was not just clueless about the Report, but unwilling to be cued in. The man who mattered was Chhagan Bhujuval, who, with his axe to grind against the Shiv Sena, would surely implement

the Report. Alas, everyone forgot two vital aspects of Bhujuval's personality. He hated Bal Thackeray but believed in his ideology, and like all home ministers he too would protect the police.

When the Srikrishna Report was tabled, Bhujuval was the Leader of the Opposition. "So are you going to launch an agitation on the report?" I'd asked him. "And lose my Hindu voters?" he'd replied incredulously. As home minister, he told the first delegation that met him, "What do you expect? I punish every policeman and make the force my enemy?"

Expectedly, when Bhujuval, prodded by an indignant Chief Justice of India A S Anand, picked a bunch of policemen to implement the Report, his directions were clear — get the Sena leaders, clear the policemen. Against the former, there was hardly any legal evidence. The mass of evidence against the latter was deliberately ignored. Naturally, no one was convicted. If former Mumbai police commissioner R D Tyagi was charge-sheeted for murder, it was again because Justice Anand (who actually read the affidavits presented to the court) named him in court. But Tyagi was discharged without a trial. That was way back in 2003. As late as last week, the government was saying it would consider an appeal.

Nine years since the tabling of the Report, Deshmukh is still going strong. But those fighting for its implementation are tired. So is the Supreme Court. Wily bureaucrats make sure each affidavit is vaguer and if possible, bulkier than the previous one. Faced with the growing mountain of affidavits and replies, bench after bench asks petitioners to simplify matters in table form. Those drafting the tables now know them by heart.

Meanwhile, the cherubic R R Patil has replaced the belligerent Bhujuval. Of him too, people had great hopes. Again, they had to face the bitter truth — Muslims may be a vote bank but whichever the government, the police and the Hindu mobs can get away with murder, specially when acting together against Muslims. **rw**

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Annexure 2 (b)

GUARD WANTS COP IN DOCK FOR 1993 MASJID FIRING

Rukmini Shrinivasan | TNN

* THE TIMES OF INDIA, MUMBAI
SATURDAY, AUGUST 4, 2007

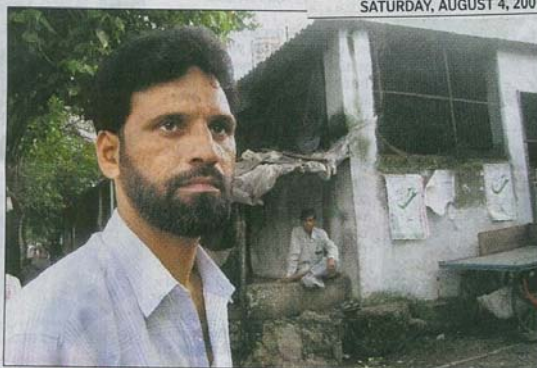
Mumbai: After a 14-year trial battle that is far from over, Farukh Mapkar could be forgiven for never wanting to see the inside of a courtroom again. Yet, the 41-year-old security guard will take on the state government in another court battle next week in a 1993 riots-related incident. "I have the strength to fight because there hasn't been justice yet," he says.

On January 10, 1993, at the height of the riots, the noon namaaz was about to begin at Hari Masjid on R A Kidwai Marg in Wadala. "Suddenly a big group of policemen barged in and

Mapkar has filed a petition in the HC demanding a case of murder be registered against then sub-inspector Nikhil Kapse

started firing. I got shot at in my back. In front of my eyes, sub-inspector Nikhil Kapse asked this young boy called Shamshuddin to put his hands up. Then he shot him in the leg and when Shamshuddin clutched his leg, he came close and shot him at point-blank range," says Mapkar.

While seven people were killed in the firing, no action was ever taken against the police. This despite the fact that the Srikrishna commission, which probed the riots, had declared the police's version "wholly unbelievable" and found Kapse "guilty of unjustified firing and also of inhuman and brutal behaviour during the incident." Instead, Mapkar and others who were praying at the mosque



SHOCKING SUNDAY: Farukh Mapkar alleged that on January 10, 1993, policemen led by sub-inspector Nikhil Kapse opened unprovoked fire on people gathered inside Wadala's Hari Masjid mosque (in the background), killing seven people

or taking shelter were charged with rioting and attempt to murder. Kapse is still employed with the police.

As TOI first reported, a sessions court only last week began Mapkar's trial. The R A Kidwai Marg police have sought time till August 10 to file a fresh chargesheet against him. Lawyer and Nirbhay Bano Andolan (NBA) activist Shakil Ahmed is representing him.

Mapkar has now filed a petition in the high court. According to the petition, from 1993 to date, he had repeatedly complained—that he and others were shot at by Kapse—to the Srikrishna Commission to the R A K Marg police, Zone IV DCP and police commissioner. Yet no FIR was ever registered against Kapse. The Special

Task Force set up by the Democratic Front government in 2000 to reopen closed cases and register new ones too did not register a case against the police in the Hari Masjid incident.

The petition simply asks for a case to be registered against Kapse. "There is no justification for not registering an offence under section 302 of the IPC (murder) against him," it says. Mapkar's case, which will be argued by leading advocate Vijay Pradhan, is likely to come up for hearing on Tuesday.

"I've had to take leave so many times, it's a wonder I still have a job," laughs Mapkar. But he's up for this new battle. "We have to get justice; nothing less."

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Srikrishna report: Govt still awaits copy of SC order

Mumbai: Chief minister Vilasrao Deshmukh and deputy chief minister RR Patil were bombarded with questions on the Srikrishna Commission's report at a press conference at the close of the monsoon session of the assembly.



V Deshmukh

"We are still waiting for a written copy of the recent Supreme Court directives. We will discuss it with the law and judiciary department and check whether the SC's expectations have been met. We will then decide on the action to be taken," said Patil diplomatically.

When asked why his government which called itself secular had to wait for SC directives, Deshmukh was more defensive. "The petition was filed during the Shiv Sena-BJP government's reign because they had rejected the Srikrishna Commission's report. For some reasons, they have not yet withdrawn it. Our government accepted the report and implemented it. We set up an STF to reopen closed cases," he said.

Deshmukh conceded that if there were some police officers against whom cases had not been registered, it would be examined. "The riots case is still open," he said.

Intelligentsia, Ulema Welcome Verdicts, But Say Those Accused In The Riots That Preceded The Blasts Must Also Pay

'Implement Srikrishna report if you don't want a wrong message to go out'

Mohammed Wajihuddin | TNN

Mumbai: Eminent citizens in the city have demanded that the accused of the 1992-'93 Mumbai riots, too, be brought to justice.

Many of them feel that the serial blasts were a retaliation, however misguided, to the riots. Punishing those convicted for the deadliest terror attack on Mumbai is fine, they say, welcoming the verdicts. But they explain that it may give a wrong impression to the world if those accused of engineering the riots are never punished by the government and the judiciary.

"The blasts were a reaction to the riots. We welcome the court's order in the blasts case but justice will be incomplete if the riot accused go unpunished," Muslims for Secular Democracy (MSD)'s Hasan Kamal said. "If justice is denied to the victims of the riots, it will only aggravate their sense of persecution and strengthen the radicals among Muslims," he added.



WHEN MUMBAI BURNED: A file picture shows mobs targeting each other during the post-Babri demolition riots

Many citizens are aghast at the way the Srikrishna Commission report — which held several police officers, politicians and other individuals responsi-

ble for the post-Babri Masjid demolition riots in the city — was dumped.

"The government is morally and constitutionally duty-bound

to implement the recommendations of the Srikrishna Commission. It's not just about certain groups of people as communalism concerns us all. It con-

cerns society at large," eminent film-maker Govind Nihalani, who dealt with communalism in many films (including *Tamas* and *Dev*), said.

The state government's dithering on punishing those guilty for the riots has come in for sharp criticism, both from secular activists and orthodox ulema.

"It's the worst example of majoritarianism. The crime of some individuals has been justifiably punished. But why are those guilty of an organised crime like communal violence still unpunished?" activist Madhushree Dutta asked.

Dutta — whose award-winning documentary, *I live in Behrampada*, exposed the polarised society of Behrampada in Bandra in the post-riot days — said she was glad to see justice delivered in one act of violence but expected justice in the other act of violence as well. "People are conveniently ignoring the gross violation of human

rights during the riots, which made some aggrieved individuals carry out the blasts. Every act of violence, regardless of whoever perpetrates it, must be punished," Dutta demanded.

A section of the people have decided to launch a protest against the Democratic Front's government lackadaisical attitude in implementing the Srikrishna Commission report.

"We don't grudge the court's verdict in the blast case. But we will soon launch a sustained campaign for bringing justice to the victims of the riots," All-India Ulema Association president Maulana Athar Ali said.

Even Urdu dailies have joined the demand to bring the riots accused to book. "*Babri Masjid ki shahadat ke khatiyon ko saza kab milegi* (When will those guilty of demolishing Babri Masjid be punished)?" read the July-22 piece of columnist Zafar Agha in Mumbai's leading Urdu daily, *Inquilab*.

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LONG WAIT FOR JUSTICE

The legal system has been excruciatingly slow in taking up the other terror attacks on Mumbai

KALYAN, 1992

THE ATTACK: A now-forgotten blast at the Kalyan railway station had **killed 15** people; crude bombs were used.

STATUS OF CASE: Five terrorists from Punjab were sentenced to life imprisonment.

RAILWAY STATIONS, 1998

THE ATTACK: Serial blasts ripped through Kanjurmarg railway station (January 23), railway tracks near Goregaon and Malad (January 24), Kandivli railway station (January 27), Santacruz railway station (January 27) and a spot near Virar (January 27), **killing four** persons and **injuring over 30** others.

STATUS OF CASE: A special court found 11 persons guilty.

GHATKOPAR, 2002

THE ATTACK: A blast ripped apart a BEST bus outside Ghatkopar railway station, on December 2, **killing two** persons and **injuring 49** others.

STATUS OF CASE: All eight accused were acquitted in June 2005 by a special court because of lack of evidence.

MUMBAI CENTRAL, 2002

THE ATTACK: A crude bomb exploded at a McDonald's restaurant at Mumbai Central railway station on December 6 and left **25** injured.

STATUS OF CASE: Trial has begun but is stuck in procedural delays.

VILE PARLE, 2003

THE ATTACK: A crude bomb planted on a bicycle exploded in a market near Vile Parle railway

Annexure 3:
LETTER TO CHAIRPERSON OF NATIONAL COMMISSION FOR MINORITIES

Attn:
Shri Qureshi
Hon'ble Chairperson
National Commission for Minorities
New Delhi

Address for correspondance:
29, Bhatia Bhuvan,
Babrekar Marg
Gokhale Road, Dadar
Mumbai, 400028

October 23rd, 2007

Hon'ble Chairperson:

With reference to implementation of the Srikrishna Commission Report on the Mumbai communal violence of 1992-93, we would like to put forth some requests before you.

For long term peace and justice to prevail in society, we need to ensure that people who suffered in 1992-93 violence get justice.

We need to attend to some of the urgent issues arising out of Srikrishna Commission report. Some of the demands emerging from the people are:

- All the policemen indicted by the Srikrishna Commission should be suspended with immediate effect, cases must be registered against them and the investigations should be conducted by the CBI.
- The police had also registered several false cases against those riot affected persons who came forward with names of rioting policemen, politicians and other persons. Those cases should be quashed and criminal cases must be filed against the policemen responsible.
- The police had closed 60 percent of the riot cases on the ground that there were no witnesses. The commission report clearly highlights that in fact witnesses exist for several cases. Such cases must be reopened and adequate measures must be taken against the policemen responsible for the closure of such cases.
- Several people were not able to file complaints because of the atmosphere of fear during the riots and even later. The state should come forward with public pronouncements guaranteeing the safety of those who want to file such complaints to encourage people to speak against the injustices that they have suffered.
- The state should give a minimum compensation of Rs. five lakhs to the next of kin of the dead and the missing as well as one government job per family. Adequate compensation must also be given to those who have lost their livelihoods and their lives possessions.
- The state must also re-investigate all cases that have either been closed or those where the accused have been left free and re-appeal wherever necessary.

In the past, when Minority commission visited Mumbai, open session was held with people from Minority communities who had their grievances. That did provide space to people to voice their issues. But that form of session is not sufficient to address the concerns.

We would specifically like to draw your attention to following excerpts from Commission report and the action taken by government.

Chapter V: Section 1.30 :Srikrishna Commission: Delinquency of police personnel

Using the Right to Information Act, Ms. Teesta Setlwad, from “Communalism Combat” accessed detailed information from the state home department and the police on case-by-case details.

Below are the Excerpts from commission report and RTI findings

"The evidence before the Commission indicates that the police personnel were found actively participating in riots, communal incidents or incidents of looting, arson and so on. The Commission strongly recommends that Government take strict action against the following persons:

1. **Colaba:** SI (Sub-inspector), Vasant Madhukar More, API (Assistant Police Inspector) Sahebrao Hari Jadhav, Police constable (PC-3181), Suresh Pandurang Ithape (PN-985), Shivaji Govindrao Kashid (PN-2238), Hanumant Pandurang Chavan and HC-3649 Gopichand Shaitram Borase. These police personnel were responsible for allowing the violent mob to hack to death one Abdul Razak alias Aba Kalshekar (CR No. 13 of 1993)."

RTI Findings: All these policemen were acquitted on November 18, 2005.

2. **Agripada:** PC-23960 of LA-IV Ashok Naik and Rajaram K. Bhoir were arrested while indulging in rioting and violent activities (CR No. 98 of 1993). Ashok Naik was arrested by NM Joshi Marg Police."

RTI Findings: There has been no prosecution of these two policemen.

3. **Byculla:** Sr PI (Senior Police Inspector) Patankar, PI (Police Inspector) Wahule and SI Ramdesai. Their conduct during the riots was extremely communal. They refused to record complaints in which Hindus were the accused and harassed and ill treated Muslims. Their conduct indicated attempt to shield miscreants belonging to Shiv Sena (CR No. 591 of 1992). The Government should also institute an impartial inquiry into the cold-blooded murder of one young boy, Shahnawaz Hassanmiya Wagle. The inquiry conducted by Deputy Commissioner of Police, Surinder Kumar is just an eyewash."

RTI Findings: One trial, against PI Wahule, is pending. All the rest have been exonerated without trial. There has been no fresh inquiry into the murder of the young boy, Shahnawaz, as directed by the Commission.

4. **Dongri:** Joint Commissioner of Police RD Tyagi, Assistant Police Inspector Deshmukh and Police Inspector Lahane of the Special Operation Squad are guilty of excessive and unnecessary firing resulting in the death of nine Muslims in the Suleman Bakery incident (CR No. 46 of 1993)."

RTI Findings: RD Tyagi was discharged on April 16, 2003 but the state of Maharashtra did not appeal the decision. Others were exonerated and discharged without being prosecuted.

5. **Mahim:** Police constable Sanjay Laxman Gawade was openly indulging in riots and violent activities while carrying a naked sword along with Shiv Sena activist Milind Vaidya. Though the constable was placed under suspension and the sanction of the government was sought for his prosecution, the sanction has not yet been granted. The Commission recommends that such sanction should be granted."

RTI Findings: This is the only case where an accused policeman was dismissed from service, on August 20, 2003.

6. **LT Marg:** Assistant Police Inspector Kamath, for utter dereliction of duty by not acting against the miscreants in the Diamond Jubilee Compound incident (CR No. 25 of 1993)."

RTI Findings: The PI's increments were stopped for some months. There was no prosecution.

7. **MRA Marg:** PC-24242 Vidyadhar Raghunath Shelar, Police Inspector Salvi, Police Sub-inspector (PSI) More. Babu Abdul Shaikh had been taken into custody by them. But because of their conduct he was attacked and murdered by Hindu miscreants (CR No. 579 of 1992). Though the accused, all active Shiv Sainiks, have been arrested, the conduct of the police personnel is not beyond reproof."

RTI Findings: PC Shelar was kept on minimum pay scale for a year; no action was taken against PI Salvi.

8. **Nagpada:** Police Inspector Dhavale overreacted by firing at a mob of 10-12 miscreants throwing stones, resulting in injury to a two-year-old child. Constable Sanjay Bhosale was part of the miscreant mob which broke open and looted articles from the shop 'Cat's collections'."

RTI Findings: PI Dhavale was exonerated during trial.

9. **Tardeo:** PC-7783 Shrirang Pathade, popularly known as "Richard Hawaldar", was openly collaborating with the Shiv Sainiks in looting and violent activities."

RTI Findings: PC Pathade was simply transferred and 'exonerated' of all wrongdoing.

10. **RAK Marg:** Police Sub-inspector NK Kapse's act of unprovoked firing at Hilal Masjid killed seven Muslims (CR No.17 of 1993)."

RTI Findings: PSI Kapse did not appear before Justice Srikrishna but was simply exonerated through a departmental inquiry.

11. **Antop Hill:** Inspector BB Shinge, Sub-inspector Shivgonda Patil and constables AM Ghadi, AY Kamble, PS Dukare, DR Phadtare, SP Patil and BK Gaikwad failed to protect the lives and properties of the Muslim victims."

RTI Findings: Charges were not proved against BB Shinge. Constable Ghadi was compulsorily retired; Kamble was kept on a minimum pay scale for two years; Dukare was suspended and kept on a minimum pay scale for one year; Phadtare was transferred and put under suspension while Patil and Gaikwad were transferred and exonerated.

In the context of this we have very specific prayer before this Commission:

- 1) That this Hon'ble Commission be pleased to take steps to ensure that the recommendations of Srikrishna Commission report are implemented, in particular the recommendations concerning the functioning and actions of police force.
- 2) That this Hon'ble Commission be pleased to recommend that the investigations concerning the indicted policemen and politicians are handed over to the CBI, FIRs be filed and departmental action be taken against these policemen, and be placed under suspension immediately;
- 3) That this Hon'ble Commission be pleased to monitor the investigation as well as the trials of the 31 policemen and politicians, who have been indicted by the Srikrishna Commission Report.
- 4) That this Hon'ble Commission be pleased to recommend that the Government pay revised compensation to survivors of 92-93 violence, on par with compensation recommended for survivors of 1964 anti-sikh violence. From the original list of 165 missing people, about 100 people's relatives still need to be paid. All the relatives of these missing persons also need to be paid compensation.
- 5) That this Hon'ble Commission be pleased to recommend that all the cases closed as "Summary A" be reopened and reinvestigated.

Kind Regards,

Hasina Khan, Awaaz-e-niswan, Mumbai
Shakil Ahmed, Nirbhay Bano Andolan
Farooque Mhapkar, Mumbai
Saumaya Uma, WRAG, Mumbai
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