

Shri Ram Nath Kovind
Hon'ble President of India

17th July 2020

Dear Rashtrapati ji,

Subject- Seeking a commission of inquiry into the manner of investigation of communal violence in North-East Delhi

We are writing to you regarding the ongoing investigation in the incidents of communal violence which took place in North East Delhi between the 23rd and 26th of February, 2020 in which 53 people lost their lives. To ensure that justice is done and those who instigated and caused the violence are prosecuted, it is critical that the investigation be free and fair.

The Delhi Police has set up three Special Investigation Teams (SITs) led by its officials to conduct a probe into the matter. In addition, the Delhi Police Special Cell is also probing the aspect of conspiracy behind the Delhi riots. There are, however, serious questions about the role played by the Delhi Police during the violence, with allegations of the police deliberately not preventing violence and in some places, even being complicit in it.

We highlight below some instances of police complicity in the violence and facts that reveal bias in the ongoing investigation by the police.

1. Police complicity in violence:

- a. **Assault by Police caught on video and death of Faizan-** During the violence in North East Delhi, a disturbing video emerged from near the Maujpur metro station showing uniformed policemen assaulting injured youth lying on the road. The video shows the police forcing the young men to sing the national anthem and repeatedly beating them with lathis and picking up and hitting a young man's head against the road. The police can also be heard taunting the men about the 'Azaadi' slogan, which was oft-used at the protests and sit-ins against the Citizenship Amendment Act (CAA). One of the men, 23 year-old Faizan succumbed to his injuries a few days later. After the assault he was illegally detained by the Police for over 36 hours and as per media reports based on official documents and eye witness accounts, which has not been refuted by the Police, he was denied medical attention. While the act itself was atrocious, what is even more shocking is that the Delhi Police does not appear to be assigning any urgency to identifying the policemen involved and ensuring that they are brought to book. The First Information Report registered by the Bhajanpura Police station makes no mention of the clearly documented video footage of the police assaulting Faizan and the Delhi police has not named any policemen as accused in the case. For any professional law enforcement agency, evidence of involvement of their own personnel in violence should have received the highest priority of the top brass. Only a thorough investigation to identify and punish the accused would have reassured the public that the investigation was unbiased

and the police would act against all, even their own, if found indulging in violence.

Ground Report: Delhi Police Actions Caused Death Of Man In Infamous National Anthem Video- https://www.huffingtonpost.in/entry/delhi-riots-police-national-anthem-video-faizan_in_5e5bb8e1c5b6010221126276

Four Months After Viral Video Of Policemen Beating Man To Death, FIR Says No Suspects-https://www.huffingtonpost.in/entry/delhi-riots-fir-no-suspects-national-anthem-video-faizan_in_5eeb6444c5b61c08257bccd3

'National Anthem' Video Death: Police Cover Up?'

<https://www.ndtv.com/video/shows/reality-check/national-anthem-video-death-police-cover-up-552522>

b. Evidence of Police involvement in stone pelting, violence, breaking CCTVs-

Several accounts and videos have emerged of police allegedly being complicit in the violence, directing mobs pelting stones or looking the other way when mobs were indulging in violence in front of them. Most concerning, there is a video from the Khureji protest site of the Police breaking CCTV cameras at a petrol station raising serious concerns about its conduct. The links to these videos and accounts are given below. To our knowledge, no enquiry or investigation has been set up by the Delhi Police to probe the role of the policemen, despite these videos being publicly available and also being highlighted by the media.

Police breaking CCTV cameras at Khureji-

<https://www.thequint.com/news/india/video-shows-police-breaking-cctv-after-clearing-khureji-protest>

Specific instances documented by The Indian Express–

<https://indianexpress.com/article/cities/delhi/northeast-delhi-violence-caa-protest-death-toll-riot-police-6286933/>

Video by the BBC showing police directing a mob to pelt stones and accounts of police helping mob collect stones- <https://vimeo.com/395094361>

c. No action on complaints against police officials: A piece carried by the publication, Caravan, documents the fate of complaints alleging involvement of senior police officials in the violence. The report states, “*At least one deputy commissioner, two additional commissioners and two station house officers of the Delhi Police participated in criminal intimidation, unprovoked firing, arson and looting during the violence that swept northeast Delhi in late February, according to complaints filed by eyewitnesses*”. Despite the passage of more than 4 months, no FIR has been registered. In fact the Delhi Police appears to have not even acted against the DCP who mutely stood next to a BJP leader who was instigating violence against the protestors warning them that if they did not vacate the area, he would do it himself.

Dead and Buried: Senior police officers accused in Delhi violence; complainants continue to face intimidation- <https://caravanmagazine.in/politics/senior-police-officers-accused-in-delhi-violence-complainants-face-intimidation>

2. Custodial torture:

There are several statements of victims and eye-witness accounts of police assaulting and torturing persons in their custody. Khalid Saifi was picked up by the Police from Khureji on February 26 and in a video of the arrest he can be seen walking with no injuries. Yet a few days later when he was produced before the magistrate, a video shows that both his legs were fractured and in casts, indicating that he might have been tortured in police custody. 24 year old Shahrukh who has been charged with sections of rioting and murder, and who lost complete vision in one eye and 90% in the other during the north-east Delhi riots in February, told The Hindu newspaper that he was punched in the stomach while in Police custody. His family alleged that Rs. 10,000 was extracted from them for not beating Shahrukh during questioning. He was later made to sign a confession statement naming Devangana Kalita and Natasha Narwal of Pinjra Tod who are both under arrest, even though he says he doesn't know either of them and he is not aware of the contents of the statement on which he signed as he couldn't read it due to the injuries to his eyes.

Video of Khalid Saifi- https://www.youtube.com/watch?v=Efe784eIV_0

Statement of Shahrukh to The Hindu-

<https://www.thehindu.com/news/cities/Delhi/have-not-heard-of-pinjra-tod-says-accused-in-delhi-riots-case/article31965974.ece>

3. No action on complaints against leaders of the Bhartiya Janta Party (BJP):

The Caravan had carried a detailed piece highlighting several complaints against BJP leaders— Kapil Mishra, Satya Pal Singh, Jagdish Pradhan, Nand Kishore Gujjar and Mohan Singh Bisht— accusing them of participating in or orchestrating the violence. The article has documented how despite the passage of several months, the Delhi Police had not pursued these complaints. As per the provisions of the law, also reiterated by the Supreme Court, the police is obligated to register an FIR upon receipt of a complaint of commission of a cognisable offence. However, as per information in the public domain and also based on a perusal of the rejoinder of the Delhi police to the piece in The Caravan, it appears the Police has not issued FIRs on these complaints.

It is extremely concerning that the Delhi Police has refused to put nearly 700 FIRs registered by it in the public domain. In fact, it has not even made a summary of the FIRs available to citizens. This creates an asymmetry of information and thwarts all attempts at public scrutiny as only the Police knows which complaints and allegations are being pursued and which continue to languish.

Dead and Buried: Delhi Police ignored complaints against Kapil Mishra, other BJP leaders for leading mobs in Delhi violence-<https://caravanmagazine.in/politics/delhi-police-ignored-complaints-against-kapil-mishra-bjp-leaders-leading-mobs-delhi-violence>

No Evidence To Indicate Role Of Anurag Thakur, Kapil Mishra & Parvesh Verma In Delhi Riots: Delhi Police Tells Delhi HC- <https://www.livelaw.in/news-updates/no-evidence-to-indicate-role-of-anurag-thakur-kapil-mishra-parvesh-verma-in-delhi-riots-delhi-police-tells-delhi-hc-159903>

4. Criminalising dissent and protest:

The probe by the Delhi Police appears to be pursuing a line of inquiry criminalising the protests against the Citizenship Amendment Act (CAA) and portraying them as a conspiracy which resulted in the riots in Delhi. The chronology described by the Police in the chargesheets, which are publicly available, chronicle the various sits-ins in Delhi and speeches by social activists as though each of these was a build up towards the riots. The protests in Delhi were exemplary in their adoption of Gandhian means of non-violent action and were recognized for their peaceful nature not only across the nation, but also globally. The protests in the form of 24 hour sit-ins were legitimate, within the framework of the Indian Constitution and were an expression of those aggrieved by the CAA, NPR and NRC. The blocking of roads or *chakka jam* has a long history in India as an instrument of protest and has been adopted by various movements and even political parties at different points in time. Therefore, the criminalisation of this act and presenting it as part of a conspiracy by the Delhi Police is completely unwarranted.

FIR 59 of 2020 registered by the Crime Branch police station in Delhi on March 6, 2020, documents this 'conspiracy' and has been used to carry out a fishing and roving inquiry against young persons including students and social activists who were involved with the protests. Several stringent sections, including those under the Unlawful Activities (Prevention) Act (UAPA), have been added to this FIR. This appears to be aimed at ensuring that those accused of 'hatching the conspiracy' are unable to secure bail. As is the case with such draconian laws, the process itself becomes the punishment. The pattern of charging people under additional FIRs and more stringent sections if they are granted relief by the judiciary in existing cases also appears to be an attempt in this direction.

The chronology presented in the chargesheets also criminalises dissent by claiming that speeches criticising the CAA, NPR, NRC led to instigation of violence in Delhi. The chargesheets identify several such speeches by social activists and local protestors. However, a perusal of the contents of the speeches as presented in the chargesheets shows that while being strongly critical of government policy, in no direct or indirect manner was there any incitement or call to violence. The approach of the Police appears to be aimed at having a chilling effect on any protests or expression of dissent by people in Delhi. Irrespective of one's views on the CAA, NPR and NRC, the attempt to quell dissent goes against the very ethos and foundation of our democracy.

The notable silence in the chargesheets on the role of BJP leaders who gave inflammatory speeches which were publicly documented including a call to "shoot the traitors" raise serious concern about the impartiality of the probe.

5. Malafides in Police questioning:

The Police has been calling several young people who were part of public protests for interrogation. Many of them have shared that during the interrogation there is an

attempt to intimidate them and offer them “deals” in exchange for giving statements against activists and those involved in the protests.

The malafides in the police investigation is also apparent from the fact that they have been persistently questioning people that they are calling for the investigation about a group called “*Hum Bharat ke Log*” (We the people of India) which was formed by well known academics, intellectuals and activists to oppose the Citizenship Amendment Act, which they considered to be discriminatory and unconstitutional. All information about the members and the activities of this group are available in the media or in the public domain and have been with the Delhi Police as they seized the phones of most of the witnesses they called for interrogation. It is abundantly clear from this information, including the messages exchanged, that the group was not involved in any illegal/criminal activity or any clandestine conspiracy. Yet, the police continue to question people about this group and have even mentioned the names of a few of its members, such as Harsh Mander and Yogendra Yadav, in their chargesheets (though not as accused).

Similarly, the police has also been questioning people about a group called the “Delhi Protests SupportGroup”, which was formed to support the peaceful protests sites by coordinating with cultural artists and public intellectuals who wanted to visit and express solidarity with the cause. The Police has had the transcript of whatsapp chats of this group from the phones that they have seized. It is evident from these chats that the group was only involved in supporting the peaceful protests and not involved in any conspiracy for any criminal or violent activity. Yet the police persists in questioning witnesses about this group.

The ongoing probe by the Delhi police, therefore, does not inspire confidence. With serious allegations against several senior police officials, of being complicit in the violence or assisting the mobs or standing mutely and watching the violence, there is bound to be a perception that the agency is shielding its own.

It is most concerning to note that as per media reports, the Special Commissioner of Police (Crime) in an order dated July 8 to officials heading the riots probe citing “degree of resentment among the Hindu community” regarding arrests of “some Hindu youth” from riot-hit areas in Northeast Delhi directed that “due care and precaution” must be taken while making arrests. (<https://indianexpress.com/article/cities/delhi/hindu-resentment-north-east-delhi-riots-special-cp-6506063/>).

It is equally concerning that a 10 member fact-finding committee constituted by the Delhi Minorities Commission to look into the riots, has suggested that the failure to prevent violence by Delhi police “was not due to individual or sporadic breaches, but was a pattern of deliberate inaction over several days.” (<https://www.thehindu.com/news/cities/Delhi/dmc-report-casts-doubts-on-police-role-during-february-violence/article32106814.ece>)

A credible and unbiased probe is crucial to ensure public trust. The investigation cannot be allowed to become a fishing and roving expedition aimed at causing a chilling effect on dissent and protest in the country. **We therefore call upon the Government of India to institute an inquiry into this investigation under the Commission of Inquiry Act, 1952, by appointing sitting/retired judge(s) of the higher judiciary.**

Further, it must be ensured that officers accused of being complicit in the violence are not involved in the investigation by the Delhi Police.

Considering the overwhelming public interest in ensuring that a thorough and objective investigation is done in the violence which took 53 lives in Delhi, we urge you to take cognisance of the issues raised in this letter.

Signed by:

1. A. Selvaraj, IRS (Retd.), Former Chief Commissioner, Income Tax, Chennai, Gol
2. Abhijit Sengupta, IAS (Retd.), Former Secretary, Ministry of Culture, Gol
3. Aditi Mehta, IAS (Retd.), Former Additional Chief Secretary, Govt. of Rajasthan
4. Alok Perti, IAS (Retd.), Former Secretary, Ministry of Coal, Gol
5. Amitabha Pande, IAS (Retd.), Former Secretary, Inter-State Council, Gol
6. Anjali Bhardwaj, Social activist
7. Ardhendu Sen, IAS (Retd.), Former Chief Secretary, Govt. of West Bengal
8. Arif Ghauri, IRS (Retd.), Former Governance Adviser, DFID, Govt. of the United Kingdom
9. Aruna Roy, Social activist
10. Ashok Kumar Sharma, IAS (Retd.), Former Ambassador to Finland and Estonia
11. Ashok Sharma, IAS, Kirti Chakra
12. Ashok Vajpeyi, IAS (Retd.), Former Chairman, Lalit Kala Akademi
13. Avinash Mohanane, IPS (Retd.), Former Director General of Police, Govt. of Sikkim
14. Brijesh Kumar, IAS (Retd.), Former Secretary, Department of Information Technology, Gol
15. Chandrashekhhar Balakrishnan, IAS (Retd.), Former Secretary, Coal, Gol
16. Deb Mukharji, IAS (Retd.), Former High Commissioner to Bangladesh and former Ambassador to Nepal
17. Deepak Sanan, IAS (Retd.), Former Chief Secretary of Himachal Pradesh
18. EAS Sarma, IAS (Retd.), Former Secretary to GOI
19. G. Balachandran, IAS (Retd.) Former Additional Chief Secretary, Govt. of West Bengal
20. G. Sankaran, Former President, Customs, Excise and Gold (Control) Appellate Tribunal
21. Gopalan Balagopal, IAS (Retd.), Former Special Secretary, Govt. of West Bengal
22. Henri Tiphagne, Executive Director, People's Watch & National Working Secretary, Human Rights Defenders' Alert – India (HRDA)
23. Hindal Tyabji, IAS (Retd.), Former Chief Secretary rank, Govt. of Jammu & Kashmir
24. Jawhar Sircar, Former Union Culture Secretary & Ex CEO, Prasar Bharati

25. Jayati Ghosh, Professor, Jawaharlal Nehru University
26. Julio Ribeiro, IPS (Retd.), Former Adviser to Governor of Punjab & former Ambassador to Romania
27. K. John Koshy, IAS (Retd.), Former State Chief Information, Commissioner, West Bengal
28. K. Saleem Ali, IPS (Retd.), Former Special Director, CBI, Gol
29. K. Sujatha Rao, IAS (Retd.), Former Health Secretary, Gol
30. K.P. Fabian, IFS (Retd.), Former Ambassador to Italy
31. Kalyani Chaudhuri, IAS (Retd.), Former Additional Chief Secretary, Govt. of West Bengal
32. Kamal Jaswal, IAS (Retd.), Secretary to GOI
33. M.G. Devasahayam, IAS (Retd.), Former Secretary, Govt. of Haryana
34. Madhu Bhaduri, IFS (Retd.), Former Ambassador to Portugal
35. Meena Gupta, IAS (Retd.), Former Secretary, Ministry of Environment & Forests, Gol
36. N.C. Saxena, IAS (Retd.), Former Secretary, Planning Commission, Gol
37. Nagalsamy, IA&AS (Retd.), Former Principal Accountant General, Tamil Nadu & Kerala
38. Narendra Sisodia, IAS (Retd.), Former Secretary, Ministry of Finance, Gol
39. Navrekha Sharma, IFS (Retd.), Former Ambassador to Indonesia
40. Neera Chandhoke Distinguished Fellow Centre for Equity Studies
41. Nikhil Dey, social activist
42. Niranjant Pant, IA&AS (Retd.), Former Deputy Comptroller and Auditor General, Gol
43. P. Sainath, senior journalist
44. P.G.J. Nampoothiri, IPS (Retd.), Former Director General of Police, Govt. of Gujarat
45. P.K. Lahiri, IAS (Retd.), Former Executive Director, Asian Development Bank
46. P.R. Dasgupta, IAS (Retd.), Former Chairman, Food Corporation of India, Gol
47. P.S.S. Thomas, IAS (Retd.), Former Secretary General, National Human Rights Commission
48. Prabhat Patnaik, Emeritus professor, Jawaharlal Nehru University
49. Pranab S. Mukhopadhyay, IAS (Retd.), Former Director, Institute of Port Management, Gol
50. Prashant Bhushan, advocate, Supreme Court
51. Rachel Chatterjee, IAS (Retd.), Former Special Chief Secretary, Agriculture, Govt. of Andhra Pradesh
52. Rahul Khullar, IAS (Retd.), Former Chairman, Telecom Regulatory Authority of India
53. Raju Sharma, IAS (Retd.), Former Member, Board of Revenue, Govt. of Uttar Pradesh
54. Rana Banerji, IAS (Retd.), Former Special Secretary, Cabinet Secretariat (R&AW), Gol
55. S.P. Ambrose, IAS (Retd.), Former Additional Secretary, Ministry of Shipping & Transport, Gol
56. Shafi Alam, IPS (Retd.), Former Director General, National Crime Records Bureau, Gol
57. Shailesh Gandhi, RTI activist and former Information Commissioner of CIC

58. Sharad Behar, IAS (Retd.), Former Chief Secretary, Govt. of Madhya Pradesh
59. Shiv Shankar Mukherjee, IFS (Retd.), Former High Commissioner to the United Kingdom
60. Sonalini Mirchandani, IFS, (Resigned), Gol
61. Subodh Lal, IPoS (Resigned), Former Deputy Director General, Ministry of Communications,
62. Sundar Burra, IAS (Retd.), Former Secretary, Govt. of Maharashtra
63. Surendra Nath, IAS (retd.)
64. Suresh K. Goel, IFS (Retd.), Former Director General, Indian Council of Cultural Relations, Gol
65. Sushil Dubey, IFS (Retd.), Former Ambassador to Sweden
66. Syeda Hameed, Former member, Planning Commission
67. V.P. Raja, IAS (Retd.), Former Chairman, Maharashtra Electricity Regulatory Commission
68. Vappala Balachandran, IPS (Retd.) Former Special Secretary, Cabinet Secretariat, Gol
69. Vibha Puri Das, IAS (Retd.), Former Secretary, Ministry of Tribal Affairs, Gol
70. Vijaya Latha Reddy, IFS (Retd.), Former Deputy National Security Adviser, Gol
71. Vipul Mudgal, activist and media scholar
72. Wajahat Habibullah, former Chief Information Commissioner of CIC