

## **PERSISTING EMBITTERMENT, FALTERING PROCESSES OF JUSTICE**

Close to three months since communal violence swept across the neighbouring districts of Muzaffarnagar and Shamli in Uttar Pradesh, the effort to restore peace remains patchy and sporadic. Political expediency seems to take precedence over doing what would be fair and just. Processes of accountability for those who took part in the violence remain weak. Known wrong-doers who instigated the violence by spreading concocted and inflammatory information, have been lionised and paraded in triumph by the BharatiyaJanata Party (BJP) as part of its cycle of mobilisation on communal lines for elections early next year. . And the large-scale human displacement that took place remains unmitigated in significant part.

We had observed in our first report written after a visit to affected areas on September 14, that the state government had been in default on its duties of providing relief in the immediate aftermath of the mass violence that began on September 7. Because of reports of continued distress among survivors, we decided to re-visit the affected areas, to evaluate both the situation of survivors, and progress in relief, rehabilitation, reconciliation and legal justice. On our return visit on December 2, we found that all relief camps had been officially terminated, even though several displaced persons were still unwilling to return home because they continued to feel unsafe.

On the positive side, the state government supplied rations in the relief camps for the duration of nearly two months. It also made arrangements for people to register police complaints in the camps, and ensured some basic supplies. However, the quality of basic services in the camps continued to be poor. In an Irrigation Department compound at the edge of the tehsil town of Budhana in Muzaffarnagar district, displaced persons from the village of Itawa, some eight kilometres away, spoke of two children aged three and eleven, having died of dengue in the two months that they had been there. Similar grim stories have been reported from elsewhere in the district.

By all accounts, the situation in Shamli district is much worse. In a recent series of articles, the *Hindustan Times* reported that the displaced people in this district still remain in their squalid unofficial camps with very little to fall back on in terms of essential services. Deaths have occurred on a daily basis. In the Malakpur relief camp about eighteen kilometres from Shamli town alone, there had been an estimated twenty-eight deaths, of which all but three were of infants.<sup>1</sup>

People also report depending substantially on non-government and primarily religious charities for their basic needs, and for the rebuilding of their homes. This dependency is unfortunate, because it reduces them to recipients of private and religious largesse, rather than rights-holders from the state.

The state government sanctioned and disbursed ten lakh rupees as death compensation to survivors of persons deceased in the mass attacks. In addition, in Muzaffarnagar district, the District Magistrate informed us that the administration has disbursed Rs. 1.65 crores for loss of moveable properties to 429 affected persons, and Rs. 22 lakhs to 44 persons for damage and loss of immovable properties. Affected persons complain that the sanctioned amounts are a small fraction of their actual losses; therefore it has been difficult for them to replace and rebuild lost properties. It has also made them dependent on non-official religious charities.

One basic principle of post-conflict rehabilitation, widely accepted, is that displaced persons should be assisted and supported to return to their original homes, but not be forced to do so by premature closure of camps. The District Magistrate (DM) of Muzaffarnagar, Kaushal Raj Sharma, reports taking positive steps to support and assist persons to return to their villages by organising meetings with elders from the Jat and Muslim communities primarily, to create an environment of

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<sup>1</sup>“Cold death stalks Muzaffarnagar riots victims hounded out of home”, *Hindustan Times*, December 3, 2013, extracted on December 4 at: <http://www.hindustantimes.com/india-news/muzaffarnagar/aftermath/cold-death-stalks-muzaffarnagar-riots-victims-hounded-out-of-home/article1-1158297.aspx>.

reconciliation. This was reportedly successful in many villages in which persons had fled in fear, which had not however witnessed incidents of murder, rape or arson. It was much less successful in villages which saw heinous crimes, and serious loss of life and property. Villages such as Itawa, MohammadpurRaisingh, Kutba and Kutbi, where serious loss of life and property was recorded, still remain ethnically 'cleansed' areas, with the Muslims proving more than reluctant to return. The sugarcane harvest which could have been an incentive for Jat land-owners to actively support the return of Muslim agricultural workers, has been delayed by a year-long dispute over procurement price between the sugar mills and the state government.

DM Sharma is hopeful that with the dispute now resolved at least provisionally, the displaced persons would have an incentive to return to their villages. He is deterred by talk of a social boycott and by active efforts in some villages to ensure that the ethnic cleansing becomes a permanent feature.<sup>2</sup> But with other elements of the local administration and officials from Lucknow also involved in an active effort to build support for rebuilding damaged homes, places of worship and restoring a positive atmosphere of trust, he believes that conditions will soon be right for people to return.

Those working against the reconciliation of the violently estranged communities are often emboldened to take direct measures to ensure their ends. The incident of October 30 which resulted in the killing of three young men of the Muslim faith, is manifestly one such action, taken with deliberate intent to turn back the process of restoring trust. Hussainpur and MohammadpurRaisingh are adjoining villages, where agricultural fields are mixed and interspersed. Hussainpur is a village where an estimated half the population is of the Muslim faith; MohammadpurRaisingh is dominated by the Jat community. On October 25, Harender of MohammadpurRaisingh reportedly inflicted some minor gunshot injuries on three Dalit workers on his fields, with seeming intent to blame the Muslims of Hussainpur for the deed. Hostilities escalated and on October 30, following an altercation in which a person of the Jat community suffered a minor injury, a team of vigilantes set out from MohammadpurRaisingh. They encountered a group of five men of the Muslim faith in the fields in Hussainpur, of whom they took three captive, beating them to death later that day. The local police was soon at the scene, conducting a series of raids in which nine arrests were made. The main suspect, Harender, remains at large at the time of this report.

As tensions spiralled, the Jat community called a conclave or "*mahapanchayat*" at MohammadpurRaisingh on November 1 to deplore the allegedly "one-sided" and partisan conduct of the state government and warn of their "tolerance" being sorely tested. Naresh Tikait of the Bharatiya Kisan Union (BKU) addressed the gathering, vowing to make one final effort at an honourable negotiation with the Muslim community, since he was disinclined to see the "bloodbath" continue.

The same day, the Muslim community leadership in Hussainpur addressed a gathering just ahead of Friday prayers to demand justice for the three victims of the October 30 incident. The village *pradhan* warned of the continuing possibility of provocative actions by hostile elements in the Jat community, with the intent of blaming the Muslims of Hussainpur and setting off a cycle of violence.

DM Sharma identifies the October 30 incident as a major setback to reconciliation processes. However, this setback has not deterred the state government from closing down the camps set up for displaced persons, seemingly on a predetermined schedule. The official estimate is that a total of about 42,000 people were displaced in the course of the violence beginning September 7. Of this, roughly 27,000 was in Muzaffarnagar district and the rest mainly in the neighbouring Shamli. Meerut district also had a number of instances of displacements, though far fewer.

As we observed after our last visit, rural riots are distinct from urban affrays. Unlike the relative anonymity of cities, people in villages are usually intimately familiar with their attackers when mass

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<sup>2</sup>For a similar picture, see "Muzaffarnagar village opposes rehabilitation of riot victims", Hindustan Times, November 23, 2013; extracted on December 4 at: <http://www.hindustantimes.com/india-news/muzaffarnagar-village-opposes-rehabilitation-of-riot-victims/article1-1154567.aspx>.

violence occurs in a rural setting. The sense of betrayal and loss, and the associated anger, pain and bitterness is therefore generally much greater in rural riots. As one survivor who continues to live in a makeshift unofficial camp remarked: “When faith is broken, it is very hard for it to be rebuilt”. The confidence of survivors to return to homes which recently saw violence is further shaken because of the very low numbers of arrests, which we will elaborate on in the next section.

There are also distressing reports of organised social and economic boycott and the persistence of hate incidents against Muslims in the district after the mass violence. Many report that if they go back to their villages, they are told they should shave their beards. The cost of resuming life as it was before the riots, in other words, is an effacement of their religious identity. People report such hate exchanges in buses and public spaces. They also report intimidation and boycott in employment as farm labour, or economic activities like the itinerant selling of cloth and other goods, which is a common form of livelihood for Muslims in the district.

As a result of a combination of these factors, around 10,000 persons continue to live in unofficial makeshift camps. With winter upon them, and the withdrawal of state support for the camps, the avoidable distress of the survivors left behind in these camps is greatly enhanced. An equal number of persons – around 10,000 – are estimated to have moved in with relatives or taken rooms on rent. The state government should not have wound up camps before appropriate conditions were created in which it could reasonably be expected that people should willingly and with confidence return to their homes.

This team thinks that the most enduring damage could come from the misguided policy of rendering a one-time grant of five lakh rupees to households which choose not to return to their original villages. In Muzaffarnagar district, there are more than 900 households which have been identified for such assistance, all residents of villages which saw heinous crimes during the violence in September 2013. Considering that fewer than three months have passed since violence broke out, it would seem a rather hasty judgment to assume that affected persons will never be able to return to their original homes. It should instead have been the effort of the state government to rebuild social bonds and trust, and to facilitate reconciliation, rather than assume that people will not be able to return and to pay them a significant sum to rebuild their lives elsewhere (which will almost always be in a Muslim dominated village). This ill-conceived policy which has obviously been put together in response to political pressures and with a view to negotiate the complex bureaucratic norms governing the grant of relief, has in effect provided an incentive for ethnic cleansing and fulfilled the objectives of communal organisations which wish to permanently divide the populations on communal lines.

The process of justice: FIRs, arrests, bail and investigations

Around 540 FIRs have been registered in the twenty-one thanas of Muzaffarnagar district in relation to the violence. These name six thousand persons as accused, but the number of arrests is far lower: as low indeed, as 208. This reflects a regrettable failure of political and administrative will to ensure legal action against those who indulged in mass violence in September.

One reason given for low numbers of arrests by the police administration is that large numbers of women assemble in the villages and block the entrances whenever police vehicles drive there for arrests. Alternately, tractors are arrayed across all points of access, blocking police vehicles. Survivors on the other hand believe that police themselves informally tip off the villagers before arriving to make arrests. This allegation is difficult to independently verify, but locals find it the only plausible explanation for the large gatherings that are organised at short notice, to block village roads.

The local administration is conscious of the need to frontally deal with the mob mentality that has been a formidable obstacle to establishing the rule of law. Leaders of the Jat community have been spoken to in confidence. The arrests meanwhile continue, even as several among those apprehended in the immediate aftermath of the violence come out on bail. SadhviPragya, among the most inflammatory of speakers at the September 7 *mahapanchayat* that inaugurated the cycle of violence, was arrested as late as December 2.

Sangeet Singh Som and Suresh Rana, MLA's of the BJP were both released on bail mid-November, after just over a month-and-a-half under detention. They secured bail in cases of rioting and causing ill-will on grounds of religion soon after their arrests. Charges levelled under the stringent National Security Act (NSA) though, meant that they continued being held. On November 7, the statutory review board that has to authorise every detention under the NSA, held that the special security law did not apply in Som's and Rana's case. Officials of the district administration feel rather thwarted by this ruling. In both acts and words – including in the circulation of an inflammatory video from Sialkot in Pakistan that they purported to be of an incident in Muzaffarnagar – both men had seriously aggravated the threat of violence. The review board in overruling their case, showed an inadequate appreciation, district officials believe, of the power of the new social media.

This team believes that continuing submission to the will of the mobs seeking to prevent the course of justice, does considerable harm to the image and credibility of the administration and the police. The Senior Superintendent of Police (SSP) of Muzaffarnagar district, HariNarain Singh, offers another reason for the low number of arrests: in all cases he argues, it is necessary to independently verify if the complaints were authentic and plausible. There is a risk he says, of malicious and false complaints having been lodged, which would considerably aggravate the situation if acted upon. This team however, disagrees with this purported rationale. It has been our experience in many communal riots witnessed from close quarters, that it is unusual for survivors to lodge false and malicious complaints. The insistence on checking the authenticity of the complaints prior to any action being initiated, seems to shift the burden of proving a crime on to the shoulders of the battered and displaced survivors.

There are also distressing signs of judicial bias, because most arrested persons have been granted bail the day following, or soon after their arrests. This seemingly facile attitude ignores the grave nature of hate crimes, the vulnerability of the survivors, and the possibility that cases could be gravely compromised by the intimidation of witnesses.

#### Women and Children

There have been five cases of gang rape reported in Fugana village. Four FIRs had been lodged but no arrests made. The All India Democratic Women's Association (AIDWA), had reported that in two of the cases no medico-legal investigation had been done. SSP Singh said the complaints of rape came a month after the incidents and a woman inspector has now been appointed to investigate these. Rape and even the threat of rape have been spreading a pall of fear and panic among women. Women among the survivor families are scared to go out even for normal activities like procuring items of daily need, attending to work or education. It appears that there is even fear about following up on cases of sexual assault. There are no counselling centres to help women survivors deal with their trauma.

Relief and rehabilitation are uneven and women and children have felt the impact differently. Camps have been closed down before full justice and rehabilitation. The victims, survivors and others among the affected population have been scattered back in their communities and new domiciles. Many have rented dwellings in the more peaceful villages. Meanwhile some families claim they have not received compensation and relief. In a relief camp that this team visited on the fringe of Budhana tehsil town, about twenty women were seen sitting huddled with their dependent children around them. Menfolk had at the time gone either to work or to follow up on complaints filed. These women say that they have not received state help and the community resources have dried up. They come from Itawa village and do not wish to go back as the Jats there have demanded that their men shave of their beards. "Our identity and religion is primary and we will not go back where there is fear of such violence on us", they say. The police they say, are protecting them for the time being, but the administration is yet to reach out to them. It is evident that schooling for displaced children and health for women and children is left to the survivors to handle. The state and the community are not taking care of such basic necessities.

This gulf between the scale of mob violence and the administration of justice consolidates the fear of discrimination amongst women, for whom displacement, eviction and homelessness are a gendered challenge. DM Sharma told us that two women died during childbirth and there were twenty deaths on account of dengue in the district as a whole, of which a large number were in the relief camps. It is clear that displacement and lack of facilities for women's health impacted many women and children.

As men go back to work and labour, the women of the minority community have to tend to their traumatised children, who have not gone to school for the last three months. They worry about their daughters, and the cure for young girls seems to be early marriage, as families cannot ensure their safety any other way. There have been reports of Muslims organising mass marriages of young girls in villages like Kakda and Kutba and the state government has given some monetary benefits (up to Rs.one Lakh) to each couple<sup>3</sup>.

Meanwhile, women of the Jat community have discovered the new role of protecting their "chaudharies" by mobbing police patrols that seek the arrest of the riot accused. This kind of negative empowerment consolidates caste solidarity to protect criminality, helps mob mentality and mobilisation, creates a climate of impunity for mass violence and reinforces patriarchal force and privilege. Earlier this year the State Governments of Haryana and Punjab said that there was no need to ban *khaps* – or caste panchayats -- and these are increasingly gaining a political utility in generating collective votes during elections. Women from all communities will suffer the consequences of such trends.

The scars on the bodies and minds of the Muslims, particularly on the women are unlikely to heal soon. The state has taken some steps. More are necessary, and in this society where communal identities play a major role, the communities will also have to look inwards and take steps to reach out to each other and build mutual confidence and solidarity, since their stability, development and cohesion will depend largely on how they treat all women and minorities.

#### Political repercussions

Large hoardings of the BJP's prime ministerial candidate Narendra Modi have come up along all the link roads in Muzaffarnagar district in preparation for the 2014 general elections, with former Gujarat minister Amit Shah by his side. The BJP is confident of having consolidated the Jat vote in Muzaffarnagar, and adjoining Shamli, Baghpat and Meerut districts. Many of the BJP leaders named in FIRs for inciting communal violence have either evaded arrest or quickly obtained bail. They are still active in the area, and while those on bail are visible, others have been active in fomenting unrest as the recent Hussainpur incident has clearly demonstrated.

The Congress remains completely out of action in the violence affected districts with the one visit of Prime Minister Manmohan Singh and party president Sonia Gandhi to the relief camps after the first outbreak of violence, failing to galvanise party workers. Villages have not seen or heard from the Congress party in these two months of strife.

The Rashtriya Lok Dal seems to have lost a substantial chunk of its Jat support base in the violence. RLD president and Union Civil Aviation Minister Ajit Singh has not visited the area, after his initial attempt at the first outbreak of violence when he was stopped by the Uttar Pradesh state government from entering the district. His party workers are not active in the affected villages or the camps in bringing relief to the affected persons. The politically astute villagers in the district maintain, however, that Ajit Singh would continue to be a factor in the region as "he will follow the Jats to whatever party they decide to support in the next Lok Sabha elections, and have an alliance accordingly."

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<sup>3</sup>See the report in the Hindustan Times, which is part of the follow-up coverage of the Muzaffarnagar violence: "Riot victims wed for protection, money at UP relief camps", December 4, 2013; extracted the same day at: <http://www.hindustantimes.com/india-news/muzaffarnagaraftermath/underage-girls-marry-in-muzaffarnagar-riot-camps-for-protection/article1-1158812.aspx>.

The BahujanSamaj Party has managed to keep a good grip on the Dalits in the region, ensuring that they remain outside the controversy altogether. The current MP from Muzaffarnagar is from the BSP and remains popular amongst sections of the electorate. A few attempts to create trouble between the Muslims and the Dalits have been foiled as a result, with the district administration also stepping in to expose the plot .

The Jats have been unable to get the support of the other non-Muslim communities in the current violence. The Brahmins, Thakurs, backward classes and Dalits have kept out of the communal conflict and retain old equations with the Muslims. Muslim villagers across the affected areas of Muzaffarnagar confirmed this saying that they were all together, and in one sense it was the Jats who had isolated themselves from the others who are relatively silent and refusing to take sides. The absence of most political parties from the field has in a strange kind of way helped this process.

The Muslims have emerged from the debris of communal violence in Budhana, one of the worst affected tehsils of Muzaffarnagar, to find solace in a new democratic mobilisation. On December 2, thousands of Muslims and other communities gathered at the tehsil headquarters in Budhana to launch the new BhartiyaMazdoorKisanManch (BMKM) amidst passionate speeches and promises of a struggle for justice for all. This is a parallel organisation which seeks to challenge the primacy of the BhartiyaKisan Union (BKU) as a representative body of the peasants of Muzaffarnagar. Leading the new mobilisation is Baba Ghulam Mohammad, an associate of BKU founder Mahendra Singh Tikait, who has now parted ways with the Tikait sons because of their increasing tendency to play communal politics. The BMKM is clearly an effort to give new direction to the politics of the non-Jat population of the area. The launch meeting on December 2 focused on the sugarcane support prices and other issues of broad public interest. It tangentially addressed the recent violence, but only in terms of putting its baleful legacy behind as part of uniting for a common struggle. This emerging movement for a non-sectarian politics in which the Muslim peasants and workers can involve themselves, holds the promise of restoring the ruptured fabric of communal harmony in the district..

#### Conclusions and recommendations

1. This team believes that the state government of Uttar Pradesh should reopen camps with basic facilities especially bearing in mind the winter, for all persons who have not returned home. They should keep these functioning, with all essential services taken care of, for as long as long as people do not voluntarily return to their original habitations.
2. Government should reconsider its policy of paying a one-time compensation of five lakh rupees to those who undertake not to return to their original villages. Instead it should assist and support all families and try to create an environment of security so that people feel confident about returning home. The alternative would be a permanent division of people on communal grounds.
3. Strong and concerted action should be taken under all relevant provisions of the law, against those responsible for spreading hatred. All cases registered should be supervised by senior officers and the perpetrators arrested and sent up in Charge sheet cases.
4. Any attempt at threatening the minority community should be dealt with in non cognisable cases where the suspect is to be bound down by the court for any threatening or menacing behaviour.
5. Government should issue a clear report on the falsehoods that led to the original outbreak of violence, including unfounded rumours of harassment of women and the so-called “love jihad”. This is vital since in the absence of a firm refutation, these concocted stories continue being used and will be a frequent recourse of communal political formations as elections near.
6. A special drive to ensure that all children affected by the violence return to school, and are supported to make up for the lost period

7. Weaker communities may vacate their living space in a communal riot. In Muzaffarnagar and Shamli, we have seen several groups vacating their living area in the village. Their houses have been vandalised. It is the responsibility of the police to deploy pickets in localities in the village where the minority were living, repair the damaged houses and ensure that the families who have left are brought back and resettled and guarded till the village pradhan and others in the local leadership take on the responsibility of ensuring the safety of all. The police should go beyond the investigative and enforcement role and assume the role of peace maker. In association with the district administration, peace committees need to be established in all villages where trouble might seem in prospect.
8. Visits by the DM and SSP to all the villages which have been affected by violence would restore confidence and also persuade intending aggressors to stand down.