

accompanied two Hindu neighbours of his mohalla who came in a tempo to rescue us and then we all went to his house in Govind Nagar. ... "

Smt. Amar Kaur (no.54), resident of Kakadeo area narrates another incident of killing. Her husband had a motor repair workshop in Transport Nagar and two of her sons were having separate business and the third son works in the Indian Air Force. She has stated :

"I became very sad on hearing the assassination of Smt. Indira Gandhi and started weeping. ... My husband S. Teja Singh was in his workshop in Transport Nagar. Karamjit Singh (son) had a motor repair shop at Gadariyan Purwa, Kanpur and my youngest son Varinder Singh was in IAF and had come on leave and he was at home. ... On 1.11.84 at about 3 a.m. my husband S. Teja Singh came home on a bicycle. He was highly upset and sad. My middle son Karamjit did not come. That on 1.11.84 at about 12 noon a police vehicle passed near my house and it was announcing that curfew has been imposed and that nobody should come out. Sometime before the arrival of this vehicle we were planning to leave for some safer place but on hearing about the imposition of curfew we were satisfied that nothing would happen now.

That on 1.11.84 at about 2 p.m. a mob of 2000-2500 shouting anti-Sikh slogans came towards our house. From the window I saw that they were having dandas, lathis, iron-rods, bricks, stones, etc. in their hands. They broke the boundary wall of my house and after breaking open the door, started looting.

That when the rioters were breaking my boundary wall I made my daughters and children jump to the house of the neighbour. Both my sons Kulwant Singh and Varinder Singh also ran somewhere to save their lives. In the house only me and my husband were left. When the rioters were looting, they were shouting, 'Be quick, there are lot of things'. On seeing me the rioters pelted stones at me. I got badly injured and blood started coming out from my head and ears. When my husband S. Teja Singh ran towards the stairs, the rioters hit him with stones and fell down badly injured. Then they beat him so mercilessly that he died. Then they dragged him out and threw him on the burning motorcycle of S. Autar Singh.

... In my house there were big almirahs, big boxes, TV, Fridge, beds, crockery, utensils, jewellery, cash etc. and they were taken away by the rioters. ... On 2.11.84 at about 5 a.m. my son Karamjit Singh, came along with one Ajay (a rickshaw driver) on a cycle. When Karamjit Singh and Ajay reached near the house some mohalla walas were standing there. They asked as to who was there. My son replied that it was he, Karamjit. At this the people standing there shouted to kill him as he had come. People ran towards him. Karamjit left his cycle and ran. Dr. Mishra residing at house no.70/3 Vijay Nagar, Kanpur, hit my son with a spear which hit him in the stomach and he fell down there. Then all the rioters beat him mercilessly and set him ablaze after pouring kerosene oil upon him."

Reference may be made to the affidavit of Smt. Manjeet Kaur (no.106). She was a resident of Kakadeo area and has stated :

"On 2.11.84 at 5 a.m. my landlady Mrs. Bhatia and her sons Bhajan Lal Bhatia and Naresh Bhatia compelled us to leave her house. Myself and my husband begged them that they should allow us to remain there for 2-4 days more but they did not agree. Also we apprehended that if we did not leave the house, both the boys would call the goondas and get us killed. Left with no other option, we started from our house at 7 a.m. to seek refuge elsewhere. When we were passing through A-1 Crossing there were some persons present here and there. They shouted, 'Sardar jaa rahe hain, maro, pakro'. On hearing this, people ran from all directions and caught my husband and elder son Ravinder Pal and started beating them. After beating them with lathis and stones, both of them were set on fire. ..."

These were certainly incidents of brutal killing and clearly exhibit the animality in the rioters. Unless there was a total loss of respect for human life, the manner in which the killings have taken place would not have happened.

Reference may be made to the affidavit of Shiv Pyare Tiwari (no.103) where he has said :

"On 31.10.84 at about 7.30 p.m. when I was preparing my food at the shop, about 500 persons started pelting stones at the shop. I got frightened and came out of the shop. After sometime, the mob stopped a truck passing that way, got diesel from it, poured diesel upon the shop and set it on fire. I watched the burning shop up to 8 p.m. The mob asked me to run away and abused me for serving at the shop of a traitor. They threatened that if I did not run away they would throw me too in the fire. I got scared and took the cycle from the shop and went to the house of my employer. ..."

Obviously the deponent was a Hindu employed by a Sikh. Next are the affidavits of S. Mohinder Singh (no.153) and S. Jasbir Singh (no.141). The deponents are brothers and they have narrated incidents of looting and arson. Shri Gurcharan Singh (no.181), resident of Govind Nagar, has referred to a case of arson on 31st October 1984 around 6 p.m. Smt. Beant Kaur (no.115), Smt. Sharanjit Kaur (no.101) and S. Harpal Singh (no.74) have narrated combined incidents of arson, looting and killing.

The Army not only helped in restoration of law and order but also looked after evacuation, running of Relief Camps and provision of food and clothing. It continued to be in the city till 7 p.m. of 12th November 1984 and thereafter withdrew to the Cantonment.

III

ASSESSMENT OF EVENTS

Though there are several incidents of police passivity and indifference, the role of the police in Kanpur is not as bad as that of Delhi. There have been several events where the police rendered assistance when asked for. In the written submissions on behalf of the State reference has been made to 35 incidents where in FIRs help by the police has been admitted and the role of the police has been applauded. Not much of importance can be given to the unsigned FIRs. But even if no credit is given to these FIR statements, in some of the affidavits and the victims in cross-examination have accepted the position that the police did generally render help. Though the death of 127 Sikhs is accepted, only 57 bodies were sent for postmortem. 70 bodies were said to have not been traced and the explanation for it is that human bodies whether dead or alive were being burnt. The State Government has pleaded that on 31st October, 24 arrests had been made while on 1st November, 913 people were taken into custody and on 2nd November, 1379 people were arrested. It is said that even subsequently after the investigation followed further arrests were made. It is, however, a fact that most of these accused persons were released on bail. In view of the statement made on behalf of the State of U.P. that the bail matters would be looked into by the Committee, it is unnecessary to say anything more about it. For convenient appreciation, police station-wise maps have been prepared and have been kept on record. Three samples thereof are given in Vol. II at p.35-37.

Appendix 8.

Shri Niazi for the riot victims in course of his oral submissions fixed the focal point of attack upon the then District Magistrate, Shri Brijendra, a Member of the Indian Administrative Service. It is not out of place to take note

of the fact that at the relevant time Shri B.S. Bedi, an IPS officer belonging to the Sikh community was the Deputy Inspector General of Police posted at Kanpur. He appears to have extended help through the police to some of the riot victims and had given protection to a number of people who had come over to his place. In these circumstances the Commission has not proposed to examine the role of the police further and would leave this aspect of the matter by recording a finding that better police behaviour was expected and if the police had acted as a professional protector of society, the situation would not have been as bad as it turned out to be.

Reference at this stage may be made to two affidavits, one of Shri Vinod Kumar Sondhi (no.628) a resident of Pandu Nagar area, and the other of Shri Surjit Singh (no.566) an engineer. Sondhi is an engineer by profession and was employed in a local Factory, IEL Ltd., Panki. According to him, around 11.15 a.m. on 1.11.84 as he was walking back to his house, he found that the looters had already entered into the ground floor of his house in which his landlord was residing and they had started looting the property. He alleged that a contingent of police with City Magistrate Gupta had been standing right in front of the house and had made no attempt to keep the looters out of the house. It was further alleged that Major Suresh Nair with his contingent of armed personnel of the Maratha Regiment also appeared on the scene. Sondhi stated that he first requested the City Magistrate and then Maj. Nair for help in throwing the looters out of the house. The City Magistrate is said to have refused to extend any help and instead he had told him that Sondhi should feel happy that his life had not been taken away. Maj. Nair is said to have informed him that he was only on a flag march and in the absence of orders he was not in a position to dismount from

the vehicle. He further alleged that thereupon he himself entered into the house shouting that the police had come and everyone should run away for life. He states :

"This produced a magical effect and I was able to persuade them to vacate the house. At this stage they had looted all the rooms on the ground, first and second floors and only one bed room was left intact. A few of them were also in the process of burning the house as kerosene oil had also been sprinkled near the wooden doors."

The allegations of Shri Sondhi were got investigated by the Commission's Investigating Agency. The Investigating Agency examined several persons and ultimately came to the conclusion that the allegations against Shri Gupta as also against Maj. Suresh Nair were not justified. The Commission had independently issued notice to Shri Gupta and examined him. He has denied his presence in the area at the time he was alleged to be there and pleaded that he was busy elsewhere to control and regulate the meeting held to mourn the death of Smt. Gandhi that morning. He was directed by the District Magistrate to pass through the area where Shri Sondhi's house is located with a view to creating a sense of confidence in the people of that area. It is a fact that Shri Sondhi had asked him for guards to be posted at his place and Shri Gupta had told him that such a request could not be entertained in view of the prevailing situation in the city. Shri Gupta further explained that the area in question not being within his charge, he had no authority to extend Army help for guarding the house of Shri Sondhi. Shri Sondhi claimed a loss of Rs.3 lakhs but stated that he had been compensated to the tune of Rs.2,000/-. This is a matter which will be looked into if and when the State Government sets up a Committee in terms of the recommendations of the Commission to assess the damages. The Commission is of the view that the allegations against Shri Gupta were without foundation though basically demand for guards and refusal by the City Magistrate are facts.

The other affidavit is of Shri Surjit Singh (no.566). He maintained that he was an Engineering Graduate having passed B. Tech. (Hons.) in Mechanical Engineering from I.I.T., Kharagpur in 1955 and claimed that he had obtained advanced training in engineering under Indo-German Technical Cooperation Agreement. He referred in his affidavit, without any justification, to episodes of Ramayan and Mahabharat and to the period when Maharaja Ranjit Singh was ruling over his kingdom. According to him, "the Government headed by Shri Rajiv Gandhi organised the riots all over India and all the Military and Police were ordered to become non-violent spectators. The police were ordered to help the rioters. In Kanpur the police went to jhuggi-jhopri dwellers and distributed kerosene oil, petrol and other inflammable materials and encouraged the public to kill the Sikhs, loot their properties and put the same on fire. The then District Magistrate of Kanpur was extraordinarily zealous to encourage the riots. He is mainly responsible for the Kanpur riots. The propaganda on the Radio and Television ~~as~~organised by the Government was extremely against the Sikhs so as to encourage the riots."

This appears to be the solitary affidavit filed before the Commission where an allegation implicating the Government, the Prime Minister and the military along with other instrumentalities including the police has been made. Reference to this affidavit has been made to indicate these special allegations. The riot victims at Delhi have made no allegations against the Army. On the other hand, in clear terms their action has been praised and they have been given the role of protectors. So far as Kanpur is concerned, non-Sikhs alleged that some of the Sikh soldiers had assaulted a few of the rural residents. This fact was subjected to an administrative inquiry by the Army authorities and as Brig. Kohli has stated, was found not to be true. It is thus clear that at Kanpur too the Army did

excellent service as at other places where the Army had been deployed during the riots. There is also evidence, and Brig. Kohli has produced photographs of the functions where the Sikh residents of Kanpur - including Shri Bhalla - had honoured the military personnel after the riots were over and normalcy had been restored and Saropa was presented to Brig. Kohli as the head of the unit of the local Army personnel. In this view of the matter the assertion that the military had failed to protect and became non-violent spectators is not correct. There is clear material also on record that the Army had exercised effective control in areas where necessary and had even resorted to firing as a result of which some rioters had been killed.

So far as the implication of the Government headed by Shri Rajiv Gandhi is concerned, it may be pointed out here that CJC has taken the stand that the violence at Delhi was premeditated and there was central direction, guidance and control over the riots. In October 1984 the Congress (I) party was in power and Smt. Gandhi as the leader of the Congress (I) group in Parliament was the Prime Minister. With her death Shri Rajiv Gandhi became Prime Minister and headed the Central Government. Several people had made allegations implicating the Congress (I) leaders as perpetrators of the riots. The Commission has separately dealt with that aspect. This affidavit alleges that the Government headed by Shri Rajiv Gandhi had organised the riots. There is indeed no evidence at all of Government implication as such. The Government headed by the Prime Minister is different from the Congress (I) Party and even if there were some lapses on the part of some members of the Congress (I), the Government cannot be said to be a delinquent. The Commission, therefore, records a finding that the Government of India had no hand in

organising the riots. So far as the Congress (I) party is concerned, the Commission is of the view that its findings on this aspect relating to Delhi riots squarely apply.

✓ The Kanpur Riots Inquiry Co-ordination Committee has made pointed allegations against the conduct of Shri Brijendra, the then District Magistrate and the State in its written submissions has referred at great length to Shri Brijendra's activities during that period to deny the allegations. Apart from examining Brig. Kohli the Commission has, inter alia, examined two more persons in regard to the inquiry at Kanpur, one of them is Shri Brijendra and the other Capt. Bareth of the Maratha Light Infantry who had come as a part of the Army into the city during that period. The allegations of the Committee against Shri Brijendra are that he had a bias against the Sikhs and wanted to give expression to his bias by mis-managing the position so as to help the riots to spread. ✓ The Commission has already found that the assessment of the situation as made by Shri Brijendra was not correct. He had gone wrong in forming the opinion that the disturbances had abated by the night of 31st October and he also did not conduct himself properly as the custodian of 1.5 lakhs of Sikhs living within his charge. Representing the State machinery and for effectuating the guarantee in Art.21 of the Constitution which has been dealt with separately by the Commission, he had an obligation to secure the life and property of the Sikhs residing within the city. Smt. Gandhi was a great leader of international repute and stature and was the Prime Minister of India. ✓ She was loved and regarded as their protector by the people belonging to the working class and the economically backward people. She belonged to Allahabad within the State of Uttar Pradesh and everyone in the State looked upon her with reverence and had a sense of

special attachment for her. When with the circulation of the information that she had succumbed to her injuries a definite change took place in the manner of expression of anguish against the Sikh community, the District Magistrate should have taken note of this change. He should have apprehended danger and knowing that the police at his disposal was not adequate as pleaded by the State, he should have immediately looked for augmenting the force. In case such augmenting was not possible otherwise than by calling in the Army, in view of the fact that the Army had been alerted and was available within the Cantonment inside the city and he had the authority to requisition the Army to work in aid of the civil administration, the same should not have been delayed. Whatever police force was available, if the same had been properly deployed from the very beginning the situation would have been contained before the people had picked up the mob spirit. The presence of one or two policemen in the streets would have possibly kept the people away and no formation of rioting mobs would have been possible. It is well known that many people as individuals are not prepared to commit a crime but when they form part of a big mob out to do rioting, they do not mind such participation and activity. One hundred individuals gathering at a place not as a part of a mob are just an assembly of 100 men, nothing more. But when mob spirit is aroused they are not just a collection of 100 people; the mob itself is a newly generated force - something much in excess of a totality of those 100 people. It was the obligation of the police and was the duty of the Distt. Magistrate too to act at the right point of time to ensure the presence of the police in every nook and corner where trouble was likely to generate and make the presence of the police felt. The Commission has several instances in the affidavits including

that of Shri Sondhi just referred to above that presence of the police or even a shout that the police are coming worked like magic. If police had showed their red turbans, raised their little finger and put up a questioning face at the appropriate time, the situation would have taken a different colour. It was the obligation of the Distt. Magistrate as the head of the District Administration to have led the police that way and to have come to provide guidance at the relevant time.

Shri Brijendra posed to be an experienced civilian officer when he was examined by the Commission. He told the Commission that around 5 p.m. on 31st October he apprehended that there would be trouble. He also knew that the police ^{force} had been depleted. The fact that three Circle Officers from the outlying areas were away at Allahabad should have led him to immediately make alternate arrangements in providing three competent officers in those areas. It may be pointed out that these were some of the worst affected areas during the riots. His claim that by 6 p.m. on 1st November normalcy had been restored in Kanpur is clearly wrong. Brig. Kohli has, on the basis of records shown to the Commission, said that firing was necessary at about midnight on 1st November to repel riotous mobs from criminal activity. It is at that point of time that two people from the riotous mob were killed. That being the position, Shri Brijendra's assertion that "normalcy was restored by 6 p.m. of 1.11.84. But for such strong coordinated activity the situation may have gone worse", is not a correct one. Shri Brijendra has told the Commission that the attack on Sikhs as a community had never happened before, and, therefore, the police and the administration could not comprehend its nature and volume and had not been prepared to meet the situation. It is perhaps on the basis of this

statement of Shri Brijendra to the Commission (copy not supplied to Government) that the Uttar Pradesh Administration in its written submissions has adopted an argument on this line. The Commission finds no particular force in such a stand. So far as broad features are concerned, a riot whether it is directed against Hindus, Muslims, Christians or Sikhs would have a common pattern on many aspects. And the way in which such a riot has to be met would not very much depend upon which community it is addressed against. The Distt. Magistrate was, therefore, wrong in saying that this was for the first time that such a riot was noticed and the administration had difficulties in rising up to the demands of such an occasion. The statement of the Distt. Magistrate before the Commission further accepts the position that there was lack of communication and the exact situation prevailing in the outlying areas had never been reported in time to him. The Commission has found it difficult to accept the assertion of the Distt. Magistrate that "the Army could not have controlled the situation even if it had come earlier. As a fact it took about 9 hours to control the situation after the Army was called. The Army moves on the main roads only. When they move there is an apprehension that they might fire. As a fact they do not as they require a Magistrate to give them a direction." As soon as the Army was called or even before the requisition had been sent, arrangements should have been made to deploy sufficient number of police people as also magistrates. To meet an emergent situation the officers should have risen to the demands of the occasion and behaved with circumspection and leadership. If magistrates could be provided a little later that also could have been done before the Army moved into the different parts of the city and magistrates could have been detailed to move along with the Army units. At one stage the Commission had thought of issuing a notice under s. 8B of the Act to Shri Brijendra but

later, on an appraisal of the entire evidence, the Commission thought of considering an inquiry in the hands of the State Government against this officer more appropriate as mere naming under s. 8B of the Act does not bring about punishment. The evidence given by Capt. Bareth of the 16th Maratha Light Infantry has led the Commission to take the view that an administrative inquiry should be made against this officer and his conduct as Distt. Magistrate in respect of October/November 1984 riots should be inquired into. Capt. Bareth has told the Commission :

"Around 10.30 a.m. on 1.11.84, I was called by my Adjutant to report to Kotwali Police Station where a joint Police and Army Control Room had been set up. My officiating CO Major P.N. Pandit told me there to accompany a lady Magistrate, Mrs. Tomar, and act according to her directions. I had an ad hoc column of a platoon formed under me when I moved out. Accompanying the Magistrate, we moved to Kidwai Nagar area. Enroute we met the District Magistrate of Kanpur, Shri Brijendra. He said that he would come with us. Between 11 and 11.30 a.m. we reached a place in Kidwai Nagar, the exact locality I am not in a position to recall, where we saw a big crowd already gathered. When we saw the crowd the Distt. Magistrate asked us to stop and get down from our vehicles. We deployed the column which took its position and covered the area. By then we had left the main road and come into an approach road which appeared to lead to an open ground with a house located at its centre which was very prominent. A little away from this house and after the open space scattered constructions appeared on all sides. This being my first visit into the city of Kanpur, I was not acquainted with the locality. Seeing the Army personnel a servant from the prominent house referred to above came up to us and told us that the big mob had gheraoed the residents of the house and wanted our assistance in rescuing them. I estimated the crowd to be at least 5,000 strong and they appeared to be in a violent temper. When the question of rescuing was discussed and the District Magistrate was trying to take my opinion whether we should enter into the house and do the rescue operation, I suggested that the crowd which had gheraoed the house from all sides should first be cleared out. I indicated to him that since curfew was already in force, by enforcing it strictly the collected crowd could be asked to disperse or at least recede to a distance of 500 yards from the house to facilitate rescue. I did not want to endanger the safety of my own men or myself by entering into the house in the face of the crowd. Leaving the discussion with us at that point, the

Distt. Magistrate started talking to a few of the people from the crowd. What he talked I do not know since we were away from him at that point. He asked the police who were around to fire a few shots, the number of which I cannot indicate. I cannot say whether they were all blank fires but it is a fact that the crowd did not budge. When the crowd did not leave and no sign of improvement in the situation was visible, I had filled up the requisition form IAFD 908 which authorises on the requisition of a Magistrate, use of force including firing, depending on the situation."

Shri Brijendra, according to Capt. Bareth, did not sign the requisition and asked the lady Magistrate accompanying Capt. Bareth not to sign and told them that they could go elsewhere and he could meet the situation. A little later the house was attacked by the mob. Killings took place, all the members of two families excepting a single widow were done to death and the property was looted and the house was set on fire. This matter has been investigated into by the Commission's Agency and the facts spoken to by Capt. Bareth appear to be generally true. The report of investigation is in Vol. II at pages 48-49. This incident has given the clear impression to the Commission that the conduct of Shri Brijendra requires to be looked into. The Commission, therefore, recommends that the State Government should get the conduct of Shri Brijendra examined either by a retired Judge of the High Court or a senior civilian who without embarrassment can examine the allegations against him.

Appen-
dix II.

The Commission got 22 incidents examined through the Investigating Agency and conclusions of the Investigating agency were duly supplied to parties. They appear in Vol. II of the Report at pages 50-56.

Appen-
dix II.

When affidavits were called for by the Commission's Notification and later when the evidence was being recorded there were repeated allegations of police interference. It was also alleged that some of the police officers had a link with the goonda element in the locality and, therefore, the

bad characters were also harassing the witnesses with a view to keeping them away from the Commission so that their nefarious activities during the riots may not be brought to light and be exposed. On several occasions the Commission had to make orders for affording police protection to witnesses. To ease out the situation the Commission suggested to the Uttar Pradesh Government as also to the police establishment of the District that the SHOs of every police station during the riots in case they are still in those areas may be shifted to some other police station within the city so that a changed atmosphere can come to prevail and the victims may have no continuing apprehensions. In deference to the suggestion made by the Commission during hearing of oral arguments, the shifting of police officers in the manner suggested has been done. Similarly, intimation has been received by the Commission from the Home Secretary of the Government of Uttar Pradesh on 30th May 1986 that in deference to the opinion of the Commission and the undertaking given by Government counsel during oral hearing at Kanpur, a Committee has been set up and appropriate Government Notifications have been issued.

There is evidence that some of the trains carrying Sikh passengers to Kanpur were detained at small stations before Kanpur Central Station as the situation at Kanpur Central Railway Station on the 31st October night was in bad shape. The Tinsukia Mail which was scheduled to reach Kanpur in the early hours was detained at Panki around 2 a.m. The Commission visited the Panki Railway Station and had occasion to talk to the Assistant Station Master over there. The claim of the State Police that they had helped in the train being stopped and the Sikh passengers being rescued out to places of safety was not supported by the Asstt. Station Master and his

men. On the other hand, the Asstt. Station Master indicated that an angry crowd had collected at Panki and was marching towards the Railway Station when these passengers had got down. The Asstt. Station Master took these people into his office room, concealed them under his big table and switched off all the lights. When the angry mob wanted to go that side he kept representing to them that nobody had come to the office room. In these circumstances, the Sikh passengers had been saved.

The riot victims maintained that the police were active and played their normal role when trouble started on the 31st. But later during the day and on the following day their attitude became different and they remained passive and indifferent. No reason has been ascribed on behalf of the riot victims for this change. Questioned about it, no one has answered giving a reasonable explanation for the change of conduct. Except that the Kanpur police might have followed the methodology of the Delhi Police after what was happening in Delhi got reported, no other clue has been found out.

The Commission had occasion to look into the reports of the pending cases on the basis of FIRs and investigations that have followed. From 21 police stations total number of 121 cases have come to court and 119 are pending trial while four cases have ended in acquittal. A consolidated statement is in Vol. II at pages 44-47 showing the position of these cases. Allegations of rape had been made and one Dr. (Mrs.) H.K. Borwankar working at the Guru Nanak Hospital, Kanpur, was said to be aware of this fact. Reference/^{was} made to the lady doctor's affidavit (no.346) where these aspects have been stated. The Investigating Agency immediately contacted Dr. (Mrs.) Borwankar. Though there was reference to 12-13 cases of gang-rape, she gave reference of two incidents and requested the Agency not to make any investigation in view of the fact that one of the ladies

Appendix 10.

concerned had already married away and the other was likely to get settled in life. In view of this position, evidence of rape has not really been made available to the Commission. It is, however, not difficult for the Commission to take notice of the position that gangsters of very low type were involved in the riots and taking advantage of the disturbed situation that prevailed and the fact that male members of the affected families were being done to death and the ladies were finding difficulty in immediately seeking shelter, incidents of molestation would have been quite natural.

A break-up of the affidavits filed regarding the Kanpur riots is available in Vol. II, Appendix 9 at pages 38-43.

Representatives of riot victims have met the Commission and have expressed a sense of satisfaction after the inquiry has been completed at Kanpur and the police reshuffle has taken place by saying that a sense of confidence has been restored in the Sikh community and several people who had gone away to Punjab have been returning to pursue their avocations.

The Committee in its written submissions took the stand that the Commission should have called upon the State of Uttar Pradesh and the District Administration of Kanpur to disclose the stand in a written statement and should have directed them to file their affidavits in support of that stand. The Commission does not agree with the stand adopted by the Committee. On the other hand, as stated by the Commission, it was open to the District Administration and the State of U.P. to file their affidavits qua State or District Administration or by officers in their individual capacity. The Notification issued by the Commission authorised one and all to disclose facts within their personal knowledge and relevant to the inquiry.

The allegation of conspiracy said to have been hatched by the lawless elements of the town in cooperation with the

police and led by the District Magistrate to draw the Sikh community is dealt with thoroughly by the Commission at appropriate place. / The Commission has found that the lawless elements in the community took the upper hand during the period of riots. There was no conspiracy as such except that the police force became ineffective or not as effective as it should have been in discharge of its duties. So far as the role of the then District Magistrate is concerned, it has been adequately dealt with. The Commission agrees that it is for the community at large to identify the culprits and ensure that the wrong-doer is adequately penalised in the hands of law. Suitable recommendations in that regard have been separately made.

BOKARO AND CHAS

There is no dispute about the number of deaths in Bokaro and Chas Tehsils. The actual riot at these places took place on November 1, 1984, after imposition of curfew in the morning. Total deaths are admitted to be of 69 Sikhs - on account of police firing on riotous mobs three non-Sikhs also died. The situation in these two Tehsils was brought under effective control and normalised by the afternoon of November 1. A good number of people were killed in Dashmesh Nagar area where an unauthorised Gurudwara and a small colony of Sikhs were razed to the ground and everyone of that community found during the riot was done to death. The Commission visited this locality and recorded a memorandum of local inspection. A large part of Dashmesh Nagar is a totally undeveloped area of the Steel Township where there are a vast number of jhuggis and unauthorised constructions. There is no regular road link with that area from the city. Taking advantage of the secluded location, difficulties of communication and the distance from the police station the jhuggi dwellers succeeded in wiping out the Sikhs living in the area.

As noted elsewhere, the State of Bihar had initially given compensation of Rs.10,000/- to the next of kin of each of the dead Sikhs. The Commission in course of hearing of the matter at Bokaro suggested that the compensation should be enhanced to Rs.20,000/- to be paid at par with similar compensation paid in other States. The State of Bihar agreed to enhance the compensation and as a fact compensation at the rate of Rs.20,000/- for each dead person has now been paid. The State Government at the instance of the Commission provided a good number of riot victim widows with employment.

It has already been noted that the inquiry into the incidents at Bokaro during October-November 1984 riots came as a result of the subsequent notification following the accord between the Prime Minister and Sant Harchand Singh Longowal. Initially the inquiry had been confined to incidents in the Bokaro Steel City which is in Bokaro Tehsil but on a reference made by the Commission on the preliminary finding that many of the incidents took place outside the Bokaro Steel City jurisdiction, the notification was amended and Chas Tehsil was also included. Chas is a sub-division of Dhanbad District in the State of Bihar and contains the commercial part of the habitation. Many of the people working in Bokaro Steel City who do not have residential accommodation within the Steel City Complex live in Chas area.

Compared to non-Sikhs, the Sikh population in either of the Tehsil is small. The average Sikh in these two areas is a workman -usually technician type. In the Steel Plant as also in the other industrial units in Bokaro there were a good number of Sikh workmen. These are the people who have suffered most during the riots.

News of the death of Smt. Gandhi reached Bokaro in the evening of 31st October. Bokaro Steel City has a Supdt. of Police independent of, and separate from, the District Supdt. of Police whose headquarter is at Dhanbad. The State Government had alerted the Steel City authorities as also local officers against any repercussions of the killing of Smt. Gandhi. As it appears, prohibitory orders had been promulgated from the afternoon of 31st October and in the morning of 1st November curfew was imposed. In spite of the imposition of curfew in the morning, several incidents have taken place. There is no dispute that 69 Sikhs were killed within a few hours and when the police opened fire to disperse

riotous crowds three of the rioters died. Several houses were looted and burnt and a lot of persons were also assaulted and received injuries.

Bokaro Steel City is quite spread out. The Sikh employees who have mostly been affected were living either in Steel Factory quarters or jhuggis away from the main locality of habitation. For instance, Dashmesh Nagar is an area which is yet to develop. In this area there used to be a kacha-pucca Gurudwara and several small kacha-pucca houses where some members of the Sikh community were living. A little away there are hundreds of jhuggis where other economically backward people like washermen and cow-herds live. It is a fact that the entire locality where the Gurudwara and the houses of Sikhs were located was totally damaged and twelve persons were killed in this locality alone before any police assistance could reach. The Commission had made a local inspection of this area and found that the allegations in the affidavits relating to incidents of this area were true. Other areas where most of the serious incidents including killings took place are the Cooperative Colony, Lakhrakhana or Ritudin. In most of these places the rioters came from outside the localities where operations took place. It is not disputed that most of the rioters were known bad characters.

One striking feature in regard to Bokaro riots is that most of them consisted of small groups - usually 40 to 50, though occasionally such mobs had gone up to 2000 or so. Some condolence meetings were held on the 31st evening and anti-Sikh slogans were raised and threats were held out. No serious incident took place till about 8 in the morning on November 1. Curfew is claimed to have been imposed in the morning of that day and it would not be unreasonable to hold that the occurrences took place almost as a challenge to the curfew.

There is evidence on record that a white ambassador car had moved about preceding and during the riots and the allegation is that certain materials were being supplied from the car to facilitate the rioting. The Commission has noticed that this aspect is mentioned in a FIR from where a charge-sheet has been sent up and the case is pending trial. The Commission, therefore, does not intend to say anything which might prejudice a fair trial.

As in Delhi and Kanpur, so also at Bokaro some people with party affiliation (Congress I) did participate in the riots. The Commission has scanned the material with care and is of the view that the reasons as also the conclusions reached in regard to Delhi incidents equally apply to Bokaro.

As noticed separately, unlike Delhi and Kanpur, in respect of most of the incidents at Bokaro criminal cases have been instituted and are pending. Since specific incidents are the subject-matter of each of those cases, at the trial when evidence is led, and the full story of each incident is detailed, persons connected with them are likely to be roped in. The Commission has noticed the anxiety of the victims that actual culprits be visited with proper punishment. Since criminal cases are pending and culprits when named (in case not named already) are likely to be brought before the Court, the Commission has not chosen to examine the evidence and reach a conclusion. The Commission can only name a person under s. 8B of the Act while the criminal court can adequately punish the culprit.

It is a fact that at Bokaro the Army had not been commissioned and the riots were contained by the evening of November 1, 1984, through the assistance of the Industrial Security Force locally available. There is allegation that DIG Sriyastava when asked as to whether Army assistance was

necessary, had replied in the negative on 2nd November 1986. By then as a fact the riots had abated. Thus from DIG Srivastava's statement that he did not require the Army any longer no adverse inference or bias can be drawn against him. Allegation of bias was raised against City Magistrate Saran by Shri K.S. Bindra (no.106). He alleged :

"While the mob was indulging in their looting spree, ASI of Police, Chas, Shri Pal happened to pass that way. He was greatly disturbed to see the illegal acts of the mob. He came running and fired in the air to scare the mob away. He even used physical force to disperse the rioters.

At the same time, City Magistrate Saran came on the spot along with armed force. He obviously got infuriated to see Shri Pal driving the mob away. He ordered ASI Pal to go away from there as it was no part of his duty to quell the riot. Shri Pal on being thus rebuked went away and Shri Saran also left without making any order whatsoever to safeguard our persons or property that was in the process of being looted by the mob in the presence of the police."

The allegation against the Magistrate was indeed serious. He was certainly wrong in pulling up the police officer but the Commission did get this aspect closely investigated and the contents of the affidavit turned out to be an embellishment.

Reference may be made to some of the affidavits of the victims to indicate the pattern of incidents. Miss Jasbir Kaur (no.147) whose father was employed as a Caretaker in the Bokaro Steel Plant, states :

"... On 1.11.84 at about 8.30 or 9 a.m. he (father) got ready to go to his office but as we had heard that the atmosphere in the entire city was surcharged with tension and anti-Sikh sentiment, we advised him not to go to the plant lest there may be any danger in the way. Thus, my father remained in the house.

That my brother Kamaljit Singh (aged 25 years) was undergoing TV Course at Calcutta and he had come to meet us on 30th Oct., 1984. Thus, he was also at home.

That my mother Harjit Kaur (aged 43 years) had some fracture in the ankle which was plastered up to down the knee and was therefore lying on a bed in the house.

That my younger brother Kuljit Singh (aged 16 years) was a student of Xth class studying in Sector IXB High School. But as there were examination preparatory leave those days, therefore, he did not go to school and was also at home.

That my brother-in-law (S.Avtar Singh aged 32 years) who owns a Trekker and resides in Sector IX, Qr.No.1066 had come to our house to meet us and thus he was also at home.

That on November 1, 1984, at about 10 a.m. or so, a mob comprising of more than two thousand persons came towards our house. They were having iron rods, lathis axes, spears, firearms, stones; etc.etc. with them. They were shouting anti-Sikh slogans like "Maar do sale sardaron ko", "loot lo" etc.etc. Among the mob, the conspicuous whom I could identify at that time were Mr.Upender, Mr.Joginder and Mr.Ajit all residents of Sector IX. Fourth was Mr.Vinay Kumar Sahu of Sector VIII and one Mr.Deepak. Later on I identified other accused in the Identification Parade.

That on seeing the threatening attitude of the mob and their menacing advance towards our house, we four sisters, namely, myself, Balwinder Kaur (27 years), Paramjit Kaur (21 years), Charanjit Kaur (19 years) and two daughters of Balwinder Kaur (aged 2 years and 2 months respectively) escaped from the back door to the house of our immediate neighbour residing in Qr.No.2015. From the window of house no.2015 we saw everything that happened in our house. My mother could not accompany us because she was bed ridden.

That the aforesaid mob, on coming near our house, started attacking it with sabbals and stones. At that time I saw that some in the mob were having tins of kerosene oil or petrol. They broke the window panes of our house and some of them started throwing burning rags inside the house through our window. By this time the mob had surrounded our house from all sides. There were some clothes lying near our window which caught fire. My brothers and father and brother-in-law tried to extinguish the fire by pouring water over it. In the meantime I heard the sound of somebody firing through a fire arm. I could not know whether it did hit anybody or not. Some miscreant in the mob started hitting the door of our house with iron rods and sabbals. At that time I heard somebody saying that the water connection should be cut off. Somebody stopped the water supply because after that I saw fire and smoke in the house. Probably the inmates of the house aforesaid did not find water to extinguish the fire.

That thereafter the miscreants broke open the door of the house and started dragging out my mother, younger brother, father, elder brother and brother-in-law abovementioned.

That all the victims were dragged to the open compound outside the room. I saw that two persons had my younger brother, Kuljit Singh caught firmly and they were asking other miscreants to bring the spear to kill him. My brother-in-law is a clean shaven Sikh. Kuljit Singh cried for help to his mother but the mother wept bitterly and so much choked that she merely looked at her son helplessly. I heard his cry for a few minutes and the miscreants started beating the boy mercilessly before his parents and brother and brother-in-law. All of a sudden the miscreants pounced upon all the five persons i.e. my mother, father, elder brother, younger brother and brother-in-law and started beating them with all parts of weapons

on which they could lay their hands upon. All the five victims aforesaid fell dead.

After committing the gruesome murder the miscreants started looting the house."

Details from this affidavit have been extracted to indicate that the nature of the violence was almost similar to incidents elsewhere. While in Kanpur and Delhi ladies were ordinarily exempted from attack, there have been incidents at Bokaro of the female folk being also the target of killing.

Affidavit of S. Narinder Singh (no.109) of Gammon Colony narrates events relating to inhuman killing. He states :

"On November 1, 1984, after we had our morning tea, I heard lot of noise and commotion towards Joshi Colony which is at a distance of 400 yards from our residence. After some time I saw smoke coming out from that side and somebody told me that a mob had started indulging in looting the houses of Sikhs and that the trucks and house of one Sardar Kehar Singh had been looted and set ablaze by the mob. After sometime, I heard people shouting anti-Sikh slogans like 'Sikhon ko loot lo - Sikhon ko mar do; Sardaron ko Punjab bhej do, etc.' All of us got scared and got ourselves secured inside our house. Though we heard a lot of noise and saw people running about carrying goods with them yet we were too frightened to come out of the house. ... I know all the aforesaid persons (six of them named) very well because they are my neighbours and frequently meet us. They told us that there was a lot of danger to Sikhs outside; Sardars are being killed and their houses looted and plundered and set on fire and that we should not come out. We requested them that we may be escorted to the nearest police station so that our lives are not endangered. These persons assured us that they will take care of our house and lives and that nobody dare look at us in their presence. They repeatedly swore that they would lay down their lives to save us. They further told us that we should not go with the police even because the police is also against the Sikhs and we shall not be safe if we go with the police. My mother Amrit Kaur (aged 45) prepared tea for the aforesaid persons and my younger sister Jagjit Kaur (aged about 17 years) who was a student of Chas Kanya High School, Chas, studying in class X, served them tea and snacks. These persons left after about half an hour and while going again repeated their assurance to protect us at every cost. They said that we must have faith in them than the police because they had been our immediate neighbours for the last more than 13 years.

That after being assured by the aforesaid persons, we remained inside our house. Though I came to know that the Sikh families were being rescued and taken to

the Relief Camps, yet as the fate would have it, we decided to remain in the house. At that time we were the following persons in the room :

1. My mother Amarjit Kaur;
2. My sister Jagjit Kaur;
3. Rupa Singh, our neighbour, a clean-shaven Sikh;
4. Pyara Kaur w/o. Rupa Singh;
5. Trilok Singh, our neighbour, a clean-shaven Sikh;
6. Balbir Singh, our neighbour;
7. Joginder Singh, our neighbour.

Rupa Singh, his wife, Balbir Singh, Trilok Singh and Joginder Singh had come to our house to seek refuge and though they thought of going to relief camp along with police, yet on the assumption that the neighbours mentioned above would be true to their words and save us, they decided to stay with us.

At about 6 p.m. on 1.11.84, we heard our door being banged by some persons. On peeping through our window I found that all the six persons above-mentioned were at the door. They were armed with revolvers, iron rods, lathies, spears and other sharp edged weapons like knives and choppers. I could not understand their motive because they had earlier posed themselves as our saviors. The above-mentioned six persons were accompanied by other 10 to 15 persons whom I do not know by name but can recognise if produced before me. All of them started hammering our door and started abusing the Sikh community in filthy language. I asked them as to what was the matter. They shouted that we should open the door, otherwise they would break open the door. However, the abovenamed six accused persons said that they only wanted to loot our house and if we open the door and all the inmates come out, no harm would be done to our person. As the force on my door was mounting and it was a matter of time when the door would break, we were left with no option but to open the doors, escape and let the aforesaid accused have their way.

We opened the door and came out in the compound. Immediately when we came out, the mob comprising of the aforesaid persons pounced upon us like blood-thirsty animals. The first blow was dealt by Chandan Singh aforesaid who hit my mother with a chopper on the shoulder. She was so dazed by this sudden and unprovoked attack that she did not ever scream and fell down on the ground. The chopper caused a deep cut on her shoulder and she bled profusely. The attackers aforesaid did not stop after she had fallen but all of them gave her blows with their weapons causing grievous injuries and thus killed her.

The next to be attacked was my younger sister Jagjit Kaur (about 17 years old). A long knife was thrust into her neck which caused a deep cut and a stream of blood flowed from it. She instantaneously fell down but the aforesaid criminals continued to hit her till they were sure that my helpless sister was dead.

The wife of Rupa Singh was hit by a bullet in the temple. When she fell down, the aforesaid persons gave her further blows till she died then and there.

Balbir Singh and Joginder Singh aforesaid were surrounded from all sides and beaten mercilessly with lathies and iron rods. They dropped down dead. The aforesaid persons beat me also. ... When the dead bodies of my mother, sister, wife of Rupa Singh, Balbir Singh and Joginder Singh were still lying down badly injured, I saw that the aforesaid persons started looting our house. They looted everything in the house. ... "

The deponent appeared before the Commission and offered himself for cross-examination but that was declined. Thus, whatever he stated in the affidavit must be taken to be a true account of the incident. When the young man appeared before the Commission he could not control his feelings and tears rolled down his eyes.

Human conduct could not be more depraved than what the narration pictures.

Reference may now be made to the affidavit of Smt. Joginder Kaur (no.150) of Sector 8-B in the Bokaro Steel City. She, inter alia, narrates :

"The mob shouted at Ajit Singh to open the door. They smashed the window panes and threw burning rags inside the house of Ajit Singh. Somebody threw a crude bomb inside his house which hurt the maid servant of Sardar Ajit Singh. When the mob could not open the door, the ring leaders among the mob swore by holy Gita and Janeyu that they only want to loot the house and if the inmates come out they will not be harmed.

Paramjit Kaur wife of Ajit Singh acting on these assurances opened the door of her house. The boy, Lakhbir Singh was standing near Paramjit Kaur. The mob immediately pounced upon the boy and dragged him on the main street. They started beating the boy mercilessly with lathis, iron rods and sabals (crow-bars). Most of the blows were given on the head of the boy. ... The boy had died instantaneously because of severe blows. ... "

The earlier affidavit of Narinder Singh was an instance of treachery and the present one is indicative of the extent to which the scripture could be called in aid by scoundrels.

Affidavit of S. Pritpal Singh (no.92) residing in Chas area narrates event of looting. He and his brother were jointly carrying on business in motor-spares. He states :

"That on November 1, 1984, groups of people started looting the shops belonging to Sikhs after breaking

open the locks of the shops. They also set fire to some of the shops. This looting spree started at about 8 or 9 a.m. and remained in full swing up to about 1 p.m. When the mob was indulging in looting and burning the shops, police parties could clearly be seen moving around but they did not take any action either to disperse the mob or stop the miscreants from looting etc.

That the looting of the shops/houses started again at about 4 p.m. I could see the activities of the mob from the window of my house. At about 5 p.m., the mob set ablaze M/s. Bindra Tyres after looting it. The mob shouted that now it is Gulmarg Motor Company which has remained to be finished off. We got scared and telephoned Gurudwara Chas to rescue us. In the meantime the mob tried to set our shop on fire but as we were the tenants and the landlord was a Bihari he intervened that if the shop is burnt, his property will get damaged.

That ultimately a police jeep which was sent by the Gurudwara people (Davinder Singh Bindra accompanied the police party) rescued us at about 7 p.m. and we came to Chas Gurudwara."

Affidavit of S. Avtar Singh (no.36) narrates a case of arson and looting. Avtar Singh was a resident of Bokaro Steel City area while S. Narendra Singh (no.32) who also narrates an event of arson and looting belonged to Chas area.

The police at Bokaro were not as ineffective as at Kanpur or Delhi. Many of the affidavits indicate that the police came and helped. The Administration actually sought the help of Central Industrial Security Force which was put into use and the situation in Bokaro was contained within 7-8 hours. The Commission takes notice of the fact that most of the incidents are subject-matter of FIRs which more or less have complete particulars. In almost every case an investigation has followed and a large number of cases have ended up in charge-sheet. As noted in another part of the Report, some of these cases are already under trial. Break up of the affidavits regarding incidents at Bokaro and Chas during the riots is available in Vol. II, Appendix 13 at pages 57-59. Particulars of the FIRs and the result thereof as also details of the cases are separately shown in Vol. II, Appendix 14 at pages 60-65.

A few events were investigated by the Investigating Agency of the Commission and its conclusions are in Vol. II, Appendix 15 at pages 66-68.

A map of Bokaro and Chas Tehsils with noting of incidents is in Vol. II, Appendix 16 at page 69.

A FEW NOTABLE INSTANCES

While dealing with the cases of violence at the three places, it has to be remembered that in each of these places the non-Sikhs constituted the majority of the population and the attack was by the non-Sikhs on the Sikhs. There have been a few instances where the Sikhs being of a considerable number in certain pockets organised themselves in self-defence and were in a position to repel attacks of riotous mobs. The Commission has also come across such instances where though at the initial stages such self-defence arrangements had succeeded, later on better armed larger mobs overpowered them. The Commission, however, came across narrations of touching events where people of the non-Sikh communities readily came forward to extend protection even at considerable risk to themselves. There have been two instances where the protectors have suffered death in the process of extending protection. People in colonies surcharged by considerations of humanity and compassion pooled their resources together of manpower and arms and raised defence units which successfully operated in keeping the mobs away throughout the riots. There have also been instances where some policemen have exhibited a high sense of duty-oriented responsibility and not bothering about their personal safety came to the scenes of violence to extend the protection of law to the victims. Pitched against these are some instances of very low human behaviour. The Commission had to record the sorrowful tale of a young man at Bokaro. In the initial round a small crowd came near their house. The crowd posed to have friendly disposition towards the residents of the house. They were invited inside the house, entertained with tea and in return they assured protection to the family. A little later that mob, with a few others returned there, killed everyone in the house and caused grievous injuries to the deponent. There have been other instances like a demand of money assuring protection in return.

Soon after the money had been paid the killing spree started. There have been several colonies in Delhi where no incident at all took place because the people of the colony showed solidarity and under local leadership showed magnificent conduct backed by proper strength. In his affidavit (no.169), Shri Avtar Singh, one of the Sikhs residing in Block No.20, Kalyanpuri, has said :

"3. That the Hindus of 19 and 21 blocks did not allow the mob to proceed towards our block. No police came to our block. We remained safe because of the help of block nos. 19 and 21 only. ...

5. ... From 31.10.84 we Hindus and Sikhs joined together and started keeping night-watch and due to that our block remained safe."

There are several affidavits of this type before the Commission and detailed reference is made to one of them to indicate the pattern. The episodes during the riots were full of exhibition of human behaviour touching divinity on one side as also animal-like conduct of the most base type on the other.

PROSECUTING THE OFFENDER

Most of the widows who appeared before the Commission as witness had a common grievance that the persons who looted their houses, set them on fire, killed their husbands, children and near relations and brutally assaulted them as also on occasions outraged their modesty, were not being prosecuted. They had the obsession that the killers were free on the streets and were even in a position now to jeopardise their security. When the Commission was set up and it became palpable that the incidents of the riot period would be scrutinised in the inquiry, these very villains started threatening the widows and other deponents as also people of the Sikh community with dire consequences in case they came forward to file affidavits, give evidence or did any such thing or took such action which might involve them either in proceedings before the Commission or in criminal action. In many of the affidavits there has been clear indication of the failure of the administration to prosecute the culprits and demand of appropriate prosecutions and due punishment to be awarded to the persons involved in the crimes. The desire to punish is deeply ingrained in man. Law is said to be a regulator of human conduct and those who do not behave according to the set pattern of society and thus commit crimes expose themselves to the process of law. The sharp teeth of law are supposed to bite the deviators. Punishment as deserved for an offence is regarded as retribution; others would regard it as a means of controlling action, i.e. as determent or prevention; still others would see it as a means of producing some form of moral or psycho-social regeneration, i.e. as reform or rehabilitation. Whether punishment is based upon considerations of retribution, determent or reform, unless the wrong-doer is punished, the social fabric is bound to lose its

grip over the people living in the community and both fear and respect for law are bound to diminish. Adam Smith once pointed out that punishment of the wicked is deeply rooted in human instinct and perhaps what the widows and relations of the victims have demanded before the Commission is based upon that. Karl Marx was also right when he said :

"Plainly speaking and dispensing with all paraphrases, punishment is nothing but a means of society to defend itself against the infraction of its vital conditions whatever may be their character."

This statement of Marx has the approval of jurisprudence writers. Punishment occurs when rules are broken and as long as rules exist so shall punishment.

Crime will always remain with us and unless law maintains its grip effectively, the fear of punishment would die out and punishment and law shall cease to have the quality of determent. An anonymous tract written in 1546 ran thus :

"Many thousands of us much here before lived honestly upon our sore labour and trivail bringing up our children in the exercise of honest labour, are now constrained some to beg, some to borrow, and some to rob and steal. And that which is most likely to grow to inconvenience, we are constrained to suffer our children to spend the flowers of their youth in idleness, bring them up to bear beggars' packs or else, if they be sturdy, to suffer prisons, and garnish gallow trees. ..."

In the centuries that have rolled by since the tract was written, society has faced new challenges. Accepted norms have vanished, living pattern has become complicated, competition has increased hundred fold and tolerance has become a thing of the past. In order that the community may be held together strict vigil over lapses and enforcement of law have become necessary. The Commission is inclined to agree that unless the wrong-doers are punished appropriately in accordance with law, apart from the fact that the victims will go totally unsatisfied and this social failure will lurk in their minds

for years to come and is likely to be misunderstood as a treatment of partiality, the wrong-doers would feel encouraged and get emboldened to look forward to fish in troubled waters. It is, therefore, necessary and the Commission is of the firm opinion that every wrong-doer should be punished in accordance with law and every victim should have the satisfaction that the wrong done to him/her has been avenged in terms of, and according to, the scales of justice. Where the community machinery fails to avenge, private enterprise starts. This again has a very detracting force on society and its control and no room for that should be left.

Elsewhere the Commission has dealt with the number of incidents in a classified way. The Commission has also held that during the period of riots, the rioters had their way and the administration had failed to exercise adequate control. Such a tense and panicky situation prevailed that it became difficult for the victims to approach the police for lodging first information reports. It is a fact and the Commission on the basis of satisfaction records a finding that first information reports were not received if they implicated police or any person in authority and the informants were required to delete such allegations from written reports. When oral reports were recorded they were not taken down verbatim and brief statements dropping out allegations against police or other officials and men in position were written. Several instances have come to the notice of the Commission where a combined FIR has been recorded in regard to several separate incidents. For instance, where a large mob came, got divided into groups and simultaneously attacked different houses and carried on different types of operations in the different premises, they as a fact did not constitute one incident; yet only a common FIR has been drawn up. Recording

in brief narrative the incident in a common FIR would not provide a sound basis for a proper prosecution. Tagging of so many different incidents into one FIR was bound to prejudice the trial, if any, as also the accused persons, if called upon to defend themselves in due course. The Commission has noticed on several occasions that while recording FIRs serious allegations have been dropped out and though the case was in fact a serious one, in view of the dropping out of the major allegations, a minor offence was said to have been committed. The Commission was shocked to find that there were incidents where the police wanted clear and definite allegations against the anti-social elements in different localities to be dropped out while recording FIRs. Unless the police were hand in glove with the anti-social elements in their respective localities they would not have behaved that way.

The sum total effect of this has been that proper FIRs have not been recorded. There has been initially some delay in lodging/recording of FIRs on account of the fact that during the period of riots what was of primary importance for the victims was to run away from the scene and conceal from notice of the rioters so as to escape certain death. In several instances those who had not been massacred were picked up either by police or Army personnel or through other agencies or by their own efforts and shifted to Relief Camps where they were maintained for some time. Semi-normal conditions returned in different localities within 3-4 days but confidence took time to get restored and, therefore, until the victims returned to their localities quite some time after, in most of the cases they did not know what exactly had happened, so as to make a full report; nor did they know as to who exactly had died or got assaulted. There

have been several instances where the lady went one way and found herself in one Camp while the children went elsewhere and ultimately got lodged in a different Camp. Being terror-stricken each one ran for his or her life oblivious of what happened to others of the family. When they reached Relief Camps there was no scope for renewing contacts unless by chance they were in one common camp and until they met or re-assembled under a common roof each one was unaware of the continued existence of the other. Only when they came back to their respective localities, scope for lodging of FIRs came. The Commission did come across instances where some FIRs were recorded in a Relief Camp but these were comparatively few. The delay in lodging of FIRs could, therefore, be reasonably explained. If properly explained, many of the lapses in the FIRs may also become acceptable.

In many cases there has not been a proper investigation. The Commission checked up records of investigation of different classes of cases at random and came to find that the investigations were usually perfunctory and most of them had not been duly supervised even though they involved allegations of serious crimes. In view of the fact that bulk of dead bodies, particularly in Delhi and Kanpur had been burnt soon after the incidents, all postmortem reports were not available. Want of postmortem in such circumstances could not be used as a ground against the prosecution. The final reports submitted in these cases, particularly in regard to offences of murder, looting and arson should be re-opened and further investigation undertaken as provided in s. 173(8) of the Code of Criminal Procedure. In regard to the graver offences the limitation prescribed under s. 468, Cr.P.C. has no application. Sufficient discretion also vests in the criminal court under s. 473, Cr.P.C. to deal with situations arising in particular cases.

Most of the cases have ended in final report and a few have been charge-sheeted. Separate detailed statements for the three places under inquiry are already appended in Vol. II at respective places from which the total number of FIRs lodged, investigations undertaken, final reports or charge-sheets submitted, number of criminal cases instituted, etc. would be available. Apart from this, the Commission has collected the data of pending cases at all the three places and even verified about half of the records thereof. Detailed lists of pending cases at the different places are to be found in Vol. II of this Report. It would appear that in regard to the incidents at Bokaro the dereliction of the police is comparatively minimum. Most of the FIRs are detailed and facts which have been stated in the affidavits more or less appear to have been reflected in the reports. There has been some amount of independent investigation and the ratio of cases where charge-sheets have been filed to final reports is comparatively high. Some of the cases have also proceeded for trial notwithstanding the fact that in Bihar criminal trials take a long time even to begin. The Commission came across instances where the charge-sheets required reframing and the committal order required modification at the stage of the commencement of the trial in the Court of Sessions. This in law is permissible as the trial judge has to frame his own charges or can even alter the charges framed by him. The Commission also came across instances where the assistance of lawyer given to the prosecution was not qualitative. In the course of sittings at Bokaro the Commission had suggested to the learned Advocate-General of Bihar who represented that State that instructions should be issued to the Public Prosecutor to ensure that either he personally handled these cases or a capable prosecuting counsel

should be engaged in every case and instructions should be given to such counsel or to the Director of Prosecutions or some other authority handling that job to look into the records and find out whether different sets of charges were to be framed on the basis of the material on record. The learned Advocate-General had assured the Commission that appropriate instructions would immediately be given. A return of compliance along with various orders and directions made by the State Government has been filed. The Commission hopes and trusts that the directions shall be implemented to the fullest extent.

The Commission found that at Kanpur the FIRs were not properly taken down and in many cases common FIRs had been recorded. Similar defects as found at Bokaro were also noticed. During the hearing of oral arguments when the Commission pointed out these aspects, Mr. Giridhar Malaviya appearing for the State of U.P. agreed that necessary steps would be taken and, therefore, the Commission had recorded the following order :

"In the course of submissions made by Mr. Malaviya on behalf of the State Government, the question as to the investigations launched on the basis of the First Information Reports lodged by the victims came up for consideration. The Commission pointed out to Mr. Malaviya that the investigations seem apparently not to have been properly done and the follow up action has also not been properly supervised. Mr. Malaviya agreed that there is scope for such a view and assured the Commission that the State Government would take prompt action in the matter of moving the appropriate courts for re-opening of the investigations as provided under the Code of Criminal Procedure and in all appropriate cases such applications would be made, orders obtained and when permitted by the Court, due investigation will be conducted and all follow up action would be taken. Proper lawyers competent to handle these litigations will also be engaged. Mr. Malaviya has further agreed that a Committee consisting of at least three competent people will be set up to supervise and oversee these steps. The Commission expects that the State Government would appoint an appropriate Committee for the purpose. Mr. Malaviya has agreed that the Commission shall be informed of all actions taken in this regard by May 31, 1986, so that this aspect may be properly reflected in the Report of the Commission."

In the written arguments furnished on behalf of the State of Uttar Pradesh the fact that the proposed Committee has already been constituted has been disclosed. Shri Malaviya appearing before the Commission subsequently also stated that the Committee has started functioning. The Commission records a recommendation on the same line as in regard to cases at Bokaro for the prosecutions at Kanpur.

Coming to these aspects of cases at Delhi, the picture is very grim and the Commission is inclined to agree with the victims that the major part of the responsibility must be shared by the police. While at Kanpur a number of cases have been charge-sheeted and trial thereof is pending, in Delhi most of the cases were closed by final report and the few cases where charge-sheet has been sent up (details of which appear in the appendix), not much of progress appears to have been made except in a few. The police released most of the accused persons on bail at its level and those who were challaned to the Court in custody have been released by the Court. There has been obviously no effective opposition in the matter of grant of bail nor has the order of release on bail been challenged in judicial proceedings in higher courts.

The criminal activity in Delhi apart from being widespread and in greater intensity exhibited a varied spectrum of human conduct. This requires thorough investigation and careful handling. The same police who remained ineffective during the riots and against whom several allegations were advanced, whether recorded or not, were the investigating agency in respect of the FIRs. The Commission finds it not difficult at all to appreciate and accept the contention of the victims that in such circumstances proper investigation could not be expected. Since the number of deaths is considerably great and there have been number of other grave

offences committed, it is necessary that the allegations should be properly looked into and investigations suitably monitored. This will mean fresh or further investigation and review of all actions subsequent thereof. For this purpose since the volume of work is quite heavy, a Committee of at least two officers - one judicial and one administrative, preferably a high ranking police officer from outside Delhi - should be appointed immediately with full authority to look into the papers and give such directions to the prosecuting agency as the facts of each case would warrant. Since there has been a lot of delay in attending to these prosecutions and as further delay would prejudice proper trial and also the prospect of justice being done, it is necessary that expeditious steps should be taken to implement these aspects.

A list of seventeen cases has been supplied by the Committee in its written arguments wherein Sikhs are accused of different offences. The note appended shows that the list is not complete and there may be some more cases pending. It is the stand of DSGMC that some of these cases were baseless, on embellished allegations; innocent people have been roped in and while the aggressor has gone scot free, those who defended themselves in exercise of their right of private defence of person or property have been subjected to the clutches of law. Since the cases are pending trial, the Commission considers it totally improper to deal with them on merit or express any opinion which might embarrass their trial. The Commission, however, is of the view that the recommended Committee should be asked to look into these cases and if there be any prosecution which is not justified by the test of normal norms, the same should, in the interests of justice, be withdrawn by the Delhi Administration.

COMPENSATION TO RIOT VICTIMS

Transformation of society from the state of nature to an orderly one came to be based on the premise that the community took over the protection of everyone inhabiting it. Individual efforts for ensuring protection of life and private property were no more necessary as the community machinery became responsible therefor.

When our Constitution was framed and fundamental rights were guaranteed to citizens under Part III thereof, Article 21 came to confer on every citizen the guarantee of not being deprived of life except according to the procedure established by law. What Article 21 envisages is not only that the State would not take away the life of any person except according to the procedure established by law, but also postulates that every person living within the community would have respect for human life and would not deprive any one of his life except by taking recourse to the process established by law. Within the community, where millions of people live, the guarantee to life can work in an effective way only when not only the State but also every individual is pledge-bound to respect the life of every other person.

Non-deprivation of life is the core of rights of man. The term "life" means right to life expectation, i.e., continual normal existence of a human being without being shortened in any way such as execution, crucifixion or genocide. It includes life-like things such as individual personality, physical security; and also includes the right to the possession of arms, legs, eyes and other component parts of the human body. Deprivation of life is forbidden except by procedure authorised by law. If the State does not have the privilege of summary deprivation of a citizen's life, much less can a citizen have this right against a fellow citizen. The guarantee under Article 21 is, therefore, not only against

the State but it is also against the entire community. As pointed out by the Supreme Court in F.C. Mullin v. Administrator, Union Territory of Delhi¹:

"Every limb or faculty through which life is enjoyed is thus protected by Article 21 and a fortiori, this would include the faculties of thinking and feeling. Now deprivation which is inhibited by the Article may be total or partial, neither any limb or faculty can be totally destroyed nor can it be partially damaged. Moreover, it is every kind of deprivation that is hit by Article 21, whether such deprivation be permanent or temporary. ... "

This view has received judicial acceptance. Within the community every citizen is thus entitled to integrity of his physical person and mental personality. In Sunil Batra et. v. Delhi Administration & Ors. etc.², the Supreme Court pointed out :

"The roots of our Constitution lie deep in the finer spiritual sources of social justice, beyond the melting pot of bad politicking, feudal crudities and sublimated sadism, sustaining itself by profound faith in man and his latent divinity. ... "

Article 51A of the Constitution has indicated the fundamental duties of every citizen. It is the obligation of everyone to abide by the Constitution and cherish and follow the spirit thereof. Article 51A also requires that citizens would abjure violence. It is not necessary in the view of the Commission to refer to the catena of cases decided by the Supreme Court over the years where the dignity and importance of human life have been emphasized and the necessity of every individual within the community to honour, protect and safeguard human life has been reiterated.

The Union of India and the Delhi Administration as also the other groups represented before the Commission have unequivocally stated that the riots were totally unjustified; the inhuman and gruesome killings were not only against the spirit of the Constitution but were against the law of the

1. (1981) 2 S.C.R. 516.

2. (1979) 1 S.C.R. 392.

land; opposed to the sense of human morality and were a naked exhibition of low animal conduct. In a civilized democratic polity governed by Rule of Law, uncontrolled physical violence has no place. Violence and democracy do not go hand in hand. Democracy is often compared with a tender plant which for its growth requires nourishing by elements like fellow-feeling, compassion, a sense of deep understanding, abiding trust and universal respect for human life. Democracy functions appropriately only when society is on even keel. Not only should there be respect for life but also the rights of every citizen in the community have to be accepted by every one else so that each citizen may be assured of his own rights. Performance of duty is the cornerstone of the guarantee of rights to citizens. The system becomes unfailing and perfect only when the correlation between duties and rights is properly understood and everyone willingly performs his duties while looking for fulfilment of his rights.

During November 1984 riots a great number of innocent people belonging to the Sikh community were killed at Delhi as already found by the Commission. It is perhaps true (so stated in view of the pendency of the appeal against conviction) that the people who had killed Smt. Gandhi belonged to the community of Sikhs. From the fact that the killers were Sikhs it does not follow that every Sikh was liable to suffer vicariously for the atrocious acts of the two security guards who assassinated her. The identification of the two Sikhs with every member of that community living in India and to treat every person of that community at par with the assassins has been an unpardonable and unfortunate mistake. Even one of the assassins who was taken into custody alive was not exposed to barbaric treatment. Under the civilized system of law, even the known murderer is entitled

to protection of his life and Article 21 of the Constitution extends the guarantees to him. In Sunil Batra's case the Supreme Court has held that the condemned prisoner awaiting execution is entitled to the guarantee of Art. 21. Viewed in any manner, a section of the community was not entitled to take the law into its own hands and kill innocent people belonging to the Sikh community.

In the affidavits filed on behalf of the victims and in the statements made under oath by some of them - in particular, widows - the details of the incidents have been placed before the Commission. The Commission has elsewhere found as a fact that till about 2 O'clock in the afternoon of October 31, 1984, no incident involving violence had taken place in Delhi. Similarly, till about 2 in the afternoon of that day there was no violence at Kanpur and till the evening of that day no noticeable occurrence took place at Bokaro-Chas. Several incidents, however, took place in Delhi in the afternoon, the evening and the night of October 31, 1984. Attempt was made to press before the Commission the Report published by the PUCL which is said to have conducted an unofficial inquiry into the happenings during November 1984 riots at Delhi. In the inquiry so conducted a conclusion was reached that no event of consequence had happened on October 31, 1984, and only when certain individuals and agencies organised and mobilised the mobs, violent incidents took place on the following day as also a couple of days to follow. The evidence led for the victims clearly indicates that several incidents had taken place on October 31, 1984, at Delhi. These included the manhandling of Sikhs passing on public roads either on scooters, motorcycles, private cars or public transport; assault on them; burning of their scooters and vehicles as also taxis and trucks; pelting of stones at Sikh

houses. That night even two or three Sikhs appear to have been killed. During the night incidents of arson took place and there occurred certain events of brutal assault. The Commission had made it clear in course of the proceedings that it would not rely on the findings reached in the inquiry conducted by the PUCL. The inquiry by the Commission is a statutory one and it has collected its own data and got investigation conducted into the incidents and has received the reports. The Commission has, therefore, to reach its own conclusions on the material available to it. Apart from this, the Commission is of the view that the conclusion that no sizeable incident took place till the evening of October 31, 1984, reached in the inquiry conducted by PUCL is not a correct one. In fact, on the basis of the conclusion that no material event occurred on October 31, that inquiry proceeded to find that taking advantage of the situation interested parties, including certain leaders of the Congress (I) Party, organised violence. It is not for this Commission to take notice of that Report, make an analysis and either accept or reject the same. It is sufficient to indicate that the said Report has not been relied upon by the Commission for any purpose.

It is a fact that the events in Delhi took a very ugly turn from November 1, 1984. More of mobs larger in size than on the previous day and suitably armed with weapons as also with material to conveniently commit arson appeared on the public roads on and from November 1, 1984. The Commission is of the view, agreeing with the submissions made by the Administrations as well as riot victims that the incidents of October 31, 1984, were a natural sequel to the killing of Smt. Indira Gandhi.

For a few years before October 31, 1984, certain unfortunate incidents had been happening in Punjab. Very

often innocent people belonging to a particular non-Sikh community were being killed. The Commission has collected the information from the Punjab Government in April 1986 that their number between June 1, 1983, and October 4, 1984, was around 380 (Appendix at Vol. II, page 70). This had created a stir in the minds of people living within as also outside Punjab.

According to Indian tradition a lady cannot be killed and she is said to be Avadhya. Sikhs are reputed for their valour and valiance. When two of the Sikh guards drawn from the police and meant for providing security to the late Prime Minister opened fire on her and she succumbed to the injuries thus sustained, a sense of universal anguish was the natural reaction. The Commission, therefore, accepts the submission advanced before it that the incidents against the Sikhs on October 31, 1984, started as a natural reaction to the situation and at that stage there was no organised attempt to cause or spread violence by rioting directed against the Sikhs. The Commission, however, reiterates that the Sikhs as a community had not committed any crime and were not answerable for the abominable act of the assailants.

In a few affidavits filed by the non-Sikhs at all the three places of inquiry it had been stated that some of the Sikhs residing in certain parts of the three towns celebrated the death of Smt. Gandhi by distributing sweets, themselves drinking and distributing drinks as also lighting their houses in the manner done on the occasion of Diwali. These allegations have been refuted by filing of affidavits and in the course of arguments by counsel appearing for the riot victims. A few of the deponents who pleaded such conduct on the part of the Sikhs were examined at length both at Kanpur as also at Delhi. There is not much of evidence which can be said to be

credit-worthy to support the allegations of any large scale rejoicing in any of the three places to which the inquiry by the Commission is confined. The Investigating Agency had given attention to this aspect but apart from allegations of stray instances of such unusual and imbalanced conduct, it did not find clear evidence. It is quite likely that some misguided Sikhs have had rejoicing over the death of the late Prime Minister. Death of a great leader in the hands of her security guards was certainly not an event for celebration and the Commission cannot but condemn such conduct. But that again is no justification to resort to mass violence against the Sikh community. Every Sikh who has appeared before the Commission has expressed extreme sorrow on the assassination of Smt. Gandhi. In the condolence meetings that followed her death many of the Sikhs publicly participated. In a number of affidavits of Sikh victims before the Commission there is specific mention of the fact that assault on her and her consequential death brought about generation of widespread sense of gloom and sorrow. Some of the widows who appeared before the Commission did narrate at length that they were grief-stricken when they heard about the assault on Smt. Gandhi and her death. The rejoicing by some Sikhs was again no justification for mass frenzy against the totality of the Sikh community.

The Commission has already recorded a finding that there were widespread lapses on the part of the Delhi Police during the November 1984 riots. The Delhi Police are governed by the Delhi Police Act (XXXIV of 1978) which has been in force within the Union Territory from July 1, 1978. By this Act the Police Act of 1861 has ceased to have force in Delhi (see s. 149). Under s. 4 of the Act the superintendence of the Delhi Police throughout Delhi vests in, and is exercisable

by the Administrator and any control, direction or supervision exercisable by an officer over any member of the police force is exercisable subject to such superintendence. Sections 59 and 60 in Chapter VI of the Delhi Police Act prescribe the duties of police officers. Section 60 provides :

- "It shall be the duty of every police officer -
- (a) to the best of his ability, to obtain intelligence concerning the commission of cognizable offences or designs to commit such offences and to lay such information and to take such other steps consistent with law and with the orders of his superiors as shall be best calculated to bring offenders to justice and to prevent the commission of cognizable and, within his view, of non-cognizable offences;
 - (f) to prevent the breach of the public peace;
 - (m) to use his best endeavours to prevent any loss or damage by fire;
 - (n) to use his best endeavour to avert any accident or danger to the public;
 - (r) to discharge such other duties as are imposed upon him by any law for the time being in force."

Section 149, Code of Criminal Procedure, 1973, provides :

"Every police officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence."

This being a police obligation, is covered specifically by clause (r) of s. 60 of the Delhi Police Act. It is thus clear that those of the police officers who failed to comply with the requirements of s. 149, Cr.P.C. or s. 60 of the Delhi Police Act, have made themselves liable to be dealt with in accordance with law.

The allegations before the Commission about the conduct of the police are more of indifference and negligence during the riots than of any wrongful overt act. It is a fact that in some cases there have been allegations of police participation in the riots but the Commission, in the absence of categorical evidence and in view of the findings of the Investigating Agency, is not in a position to reach a conclusion that there was such police participation. But instances of non-feasance are plentiful.

The next relevant aspect to consider is as to what is the consequence of such lapse. Before going into that aspect, it has first to be considered whether the police owed a duty to the community as a whole or to individual citizens within the society in the matter of providing security for life and property. The Commission is of the view that the duty owed by the police is both to the community as a whole as also to the individuals constituting it. In that event the victims have a right to lay claim in tort against the police officers when they fail to perform their duty and such failure brings about evil consequences and suffering to them. Since the statute imposes a duty and does not provide any remedy by which the duty can be enforced, the general rule is that an action for damages can be brought provided the person suing is one of a class intended to be benefited by the duty. That was the view of Lord Campbell in Couch v. Steel.³ In Square v. Model Farm Dairies (Bourn Mouth) Ltd.,⁴ Slesser, L.J. pointed out :

Where there is a duty imposed by statute and someone is injured by reason of a breach of that duty, in the absence of any penalty or remedy provided in the statute itself, normally an action would lie."

While the liability of the delinquent police officer for damages in tort would be maintainable, the question for further consideration is whether the State also has liability for the failure of performance of duty by its officers. It had been strenuously contended on behalf of the Administration that the State would have no liability to compensate as any such action in the Courts of Law would not be maintainable in view of the immunity enjoyed by the State. The Commission proposes to briefly examine the tenability of this stand.

3. (1854) 3 E & B 402.

4. (1939) 2 K.B. 365.

A Constitution Bench of the Supreme Court in the case of State of Rajasthan v. Smt. Vidyawanti & Anr.,⁵ clearly held that the liability of the State for damages in respect of a tortious act committed by its servants within the scope of employment and functioning as such was the same as that of any other employer. That was the case of a delinquent driver who hit a man while driving a State vehicle. It may be that on facts it may not be a comparable case and perhaps more clear authority would be necessary for making the State liable in the present set of facts. The Commission has already recorded a finding that there is a guarantee to life under Art. 21 of the Constitution and it is the obligation of the State - nay, of everyone in the community too - to effectuate this guarantee by not interfering in any manner with the life of citizens except in accordance with the procedure laid by law. That fundamental right is the most paramount of all such rights. The life of a citizen is the very foundation upon which the exercise of all other rights guaranteed by Part III of the Constitution can only be exercised. Where there is a failure by the State or its appointed agency to guarantee that right, a serious situation does arise. And in examining the matter from that angle one has to keep this position in view.

The weight of opinion of jurists in America is in favour of the defence of immunity not being extended to cases of this type. In recent years the legal community has sought to encourage police respect for the constitutional rights of the citizenry through curbing overreaching police behaviour. Recent developments in tort law affecting both the public and private sectors might lead one to expect a relaxation of judicially constructed barriers to recovery. In the public sector, governmental tort liability has been significantly

5. (1962) Suppl. 2 S.C.R. 989.

expanded through judicial and legislative narrowing of the scope of protection afforded by the doctrine of sovereign immunity. Collectively, the economic and social benefits of cost rationalisation, loss spreading, and corrective justice provide a cogent argument for recognising police liability for negligent failure to prevent crime. Rather than continuing to be mesmerized by fears that expanded liability would drain government coffers and unacceptably encroach on police discretion, courts should recognise the force of these countervailing considerations and abandon the antiquated no-duty rule in favour of a new liability regime, is the opinion expressed in 94 Harvard Law Review 821. Prof. Bermann in his article "Integrating Governmental and Officer Tort Liability", (1977) Columbia Law Review 1125, has adopted the same view. In the United States, by Federal Tort Claims Act, 1946, Congress has made the United States liable in the same manner and to the same extent as a private individual in like circumstances, for damages. In several countries, including England, immunity has been waived by legislation and special provisions have been made regulating liability.

In Kasturi Lal v. State of U.P.,⁶ the Court accepted the test of distinction between sovereign and non-sovereign functions adopted by Peacock, C.J. in P & O Steam Navigation Co. v. Secretary of State for India,⁷ but found that the plaintiff bullion dealer could not recover damages from the Government of Uttar Pradesh for the misappropriation of the gold by the police officer. Gajendragadkar, C.J. extended the cover of immunity but simultaneously commended to Government to legislate in the manner provided in England and U.S.A. A comprehensive bill known as The Government (Liability in Tort) Bill, 1967, being Bill No. 43 of 1967, was introduced in

6. AIR 1965 SC 1039.

7. 5 Bom. H.C.R. App. 1.

Parliament and had been sent to the Joint Select Committee of both Houses but ultimately did not get through.

The Commission does not propose to go into the tenability of the claim for damages or maintainability of the defence of immunity as such aspects are for the appropriate court to adjudicate but the Commission is of the opinion that in a Welfare State every agency of the State should be made accountable to society and be liable to compensate the individual for breach in respect of fundamental rights to every citizen. When viewed from that angle, the police must be accountable not only to the State but also to the individual within the community for whose protection the police is maintained. Such accountability is bound to raise the efficiency of the police and make the police force more disciplined and utility oriented.

Without entering into legal squabbles, the Commission is of the view that the riot victims deserve to be compensated. In respect of every death the next of kin has been paid Rs.20,000/-. In respect of loss to residential premises small compensation of varying standards have been given in all the three areas subjected to inquiry. For business loss or loss to commercial premises no compensation has been admitted. Under instructions of the Central Government certain Banks came forward to encourage various rehabilitation programs. It is a fact that easy loans have been provided in certain cases. The terms under which loans had been taken have been suitably modified and for rehabilitation fresh loans have also been advanced. In a separate Chapter the Commission has indicated some of the benefits the riot-victims have managed to obtain through its intervention. For those ladies whose husbands were killed during the riots - they have become widows - the Delhi Administration has provided some accommodation and is