



'Encounter' at Batla House
Unanswered Questions

A REPORT BY
JAMIA TEACHERS' SOLIDARITY GROUP

*Deep jis ka meblaat bee mein jaley
Chand logon kee kbushion ko lay kar chaley
Voh jo savay mein bar muslibat kay chaley
Aisey dastoor ko, subh-e-beynoor ko
Main nabin maanta, main nabin jaanta*

*Main bbee kha'if nabeen takhta-e-daar say,
Main bbee Mansoor boon, keh do aghyaar say,
Kyun daraatay ho zindaan ki divar say,
Zulm ki baat ko, Jehel ki raat ko,
Main nabeen maanta, Main nabeen jaanta.*

*Phool shaakhon pay kbilnay lagay tum kabo,
Jaam rindon ko milnay lagay tum kabo,
Chak seenon kay silnay lagay tum kabo,
Iss kbulay jhoot ko, Zehan ki loot ko,
Main nabeen maanta, Main nabeen jaanta.*

A lamp only in palaces lit
Shed light for a chosen few
Shade in which one has to fit
Such rites and lightless dawns
I will not accept; I refuse to know.
I am not afraid of execution,

Tell the world that I am the martyr
How can you frighten me with prison walls?
This language of oppression, this night of ignorance,
I will not accept; I refuse to know.

'Flowers are budding on branches', you say
'Every cup overflows', you say
'Wounds are healing themselves', you say
These bare-faced lies, this insult to the intelligence
I will not accept; I refuse to know.

Habib Jalib, 'Dastoor'

I. Background

On the evening of 13 September 2008, Delhi was rocked by blasts. In all, five bombs went off within the span of thirty minutes, between 6:00 pm to 6:30 pm. Two of them in the heart of Delhi in Connaught Place, two at the upscale Greater Kailash M-Block market in south Delhi, and one, the most damaging one, in the crowded Ghaffar Market in Karol Bagh. Three unexploded bombs were found later taking the total number of bombs to 8. The first was found near India Gate inside a dustbin at the Children's Park and one was defused at Regal Cinema Hall which was lying on the road, while another one was found at Central Park, again inside a dustbin. The responsibility for the blasts was claimed by an outfit called the Indian Mujahideen in an email.

Almost immediately, Jamia Nagar, a locality in South-east Delhi, home to over 5 lakhs Muslims became the target of suspicion. The following day (14th September, Sunday), a prominent social activist, Abdul Rasheed Agwan, and a 30-year-old youth Adnan Fahad, both residents of Abul Fazal enclave, were taken to the Special Cell headquarters in Lodhi Road for questioning. They were released late in night after a 12-hour ordeal. On September 18th, a research student of Jamia Millia Islamia was picked up by the Special Cell from the Jamia locality for questioning, stripped, beaten and tortured in custody and was released later on 21st September 2008. (See detailed reports in Appendix, Section I)

On 19th September 2008, in an armed operation conducted by the Special Cell of the Delhi Police, Flat number 108, in the building L-18 in Batla House area of Jamia Nagar was raided. In the ensuing operation, two alleged terrorists, Atif Amin and Sajid, were shot dead by the police. Mohan Chand Sharma, an inspector of the Delhi Police's Special Cell, was injured and later succumbed to his injuries in the Holy Family hospital. A third flat mate, Md. Saif, was arrested

from the site. The Delhi Police claimed that two alleged terrorists had escaped during the operation.

The Delhi Police claimed that the occupants of L-18, Batla House, all students of various universities and institutes in Delhi, and all hailing from Azamgarh in Uttar Pradesh were part of 'Indian Mujahedeen'—supposedly an Islamic terrorist group. Further, the Delhi Police alleged that the deceased and arrested youth were the main conspirators and executors of the Delhi bomb blasts. The following two days saw more arrests: The caretaker of the flat 108, Abdul Rehman, where the deceased boys resided was arrested, as was his son, Zia-Ur-Rehman, a student of Jamia Millia Islamia. Saquib Nisar, a friend of Atif, and Mohammad Shakeel, another student of JMI were also arrested.

II. PROFILES

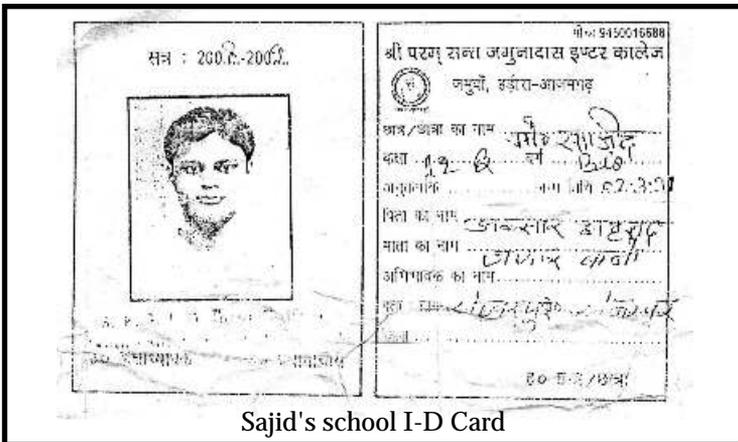
Profile of those killed and arrested in the Batla House operation:

Atif Ameen s/o Mohd Ameen. Age: 24 years. R/o Flat Number 108, L-18, Batla House, Jamia Nagar, New Delhi. Was enrolled in M.A. Human Rights at Jamia Millia Islamia. He hailed from Sarai Meer in Azamgarh. Had been living in Delhi for the past two years, earlier in a Janta Flat in Jasola Vihar, New Delhi, before moving to the present address in August 2008.

He had last visited his home at Sanjarpur during Holi in March for a week.

Md. Sajid s/o. Age: 17 years (a legal minor), R/o Flat number 108, L-18, Batla House, Jamia Nagar, New Delhi. Student of Class XI in Azamgarh. Sajid hailed from Sanjarpur in Azamgarh. He had come to Delhi to seek admission in Jamia School. He sat for the examination but could not succeed in securing admission. He instead took admission in class XI in a school in Azamgarh (See copy of his school I-card) and enrolled in an English Speaking course in Batla House.

No official news of the killing of these boys was given to their families, though their homes in Azamgarh were raided late in the night



Sajid's school I-D Card

of the 19th.

Md. Saif s/o Shahdab Alam. Age: 23-24 years. R/o Flat number 108, L-18, Batla House, Jamia Nagar, New Delhi. Hails from Sanjarpur in Azamgarh. Mohd Saif had arrived in Delhi in 2008 only. He had done his BA in Shibli College, Azamgarh, and MA in History from Jaunpur in Poorvanchal University.

Zia-ur Rahman s/o Mr. Abdul Rehman. Age: 21 years approx. R/o of Zakir Nagar, New Delhi. He is a B.A. (Pass) Final Year student of Jamia Millia Islamia.

Zia already knew Md. Saif from earlier and had helped him and other occupants of L-18 to rent the house, as his father was the caretaker of

the flat. On the night of September 19, his father, Mr. Abdul Rehman, aged 57-58 years, went to the Jamia Nagar police station to show that they had a received a copy of the tenant verification form for the verification of the youth who were tenants in the L-18 flat on 21 August 08 and to clarify their association with the deceased. (See copy of Tenant Verification form) They could not meet with anyone at the Police Station since there was no one present. The same evening the father and son appeared on a

The image shows a scanned copy of a tenant verification form in Hindi. At the top right, there is a small black and white portrait of a man. Below the photo, the form contains several lines of handwritten text in Hindi. The text includes the name 'शहीद अली', address 'L-18, Batla House, Jamia Nagar, New Delhi', and other details. There is a circular stamp on the left side of the form, which appears to be a police station stamp. The form also has some numerical entries like '15-08-2008' and '30 मी 40 मी'. The bottom of the form has a signature and some official markings.

Tenant verification form of the Flat 108, L-18, Batla House. Note the police stamp on the left corner.

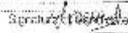
Hindi national news channel and showed the verification form duly stamped by the Jamia Nagar PS. The next day, on 20 September, the two visited the Police Station again at around 2 pm. The police charged them of producing a '*farji*' (forged/ false) verification form and they were questioned throughout the night, after which they were separated. Zia was handed over to the Special Cell and then charged as being one of the bombers. He had no knowledge that his father had been arrested on charges of forgery and cheating till 1st October, the first time he was able to call up his family members and asked to speak to his father.

The family received no official intimation of Zia's arrest.

Mohd. Zeeshan s/o Mohd. Ehsan. Age: 24 years. R/o L-18, Batla House, Jamia Nagar, New Delhi Was finishing a degree in Business Management from Indian Institute of Public Management at Lodhi Road, New Delhi. He was also working in a private firm alongside. He also hails from Azamgarh, where his father teaches at the Shibli College. One of the flatmates of the deceased at L-18, Zeeshan had gone to write a re-examination for his MBA Ist year at IIPM (a management institute) on 19th when the 'encounter' happened. He learned of the incident after he came out of the examination hall; he called his family and friends for advice and his father suggested that he should go to any television channel to publicly declare his innocence. He surrendered to the police waiting below the channel (*Headlines Today*) office though the police initially sought to give the impression that he had been 'nabbed'. The following day he was declared as one of the 'masterminds' behind the serial bomb blasts.

Mohd. Saquib Nissar s/o Nisar Ahmed Azmi, Age: 23 years. R/o Shaheen Bagh, Jamianagar, Delhi. He is a student of MBA (Third Semester) Sikkim Manipal University (Distance Education). (See copy of his examination hall ticket). Saquib completed his B.A. (Hons) in Economics from Jamia Millia Islamia in 2007. He was also working in a private firm in Nehru Place in New Delhi.

On 19th September, he appeared on a national television channel and expressed his shock and disbelief at the killing of Ameen and Sajid. He was picked up from his house and taken to Jamia Nagar Police

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Copy of Saquib Nisar's Admit Card for the semester examinations of Sikkim Manipal University																																													

Station on 20th evening. Since the family was not informed, his father went to the Jamia Nagar PS and returned re-assured that his son would come home the next day. It was only later that he learnt from television news that along with Zia and Shakeel, his son too had been declared as one of the key accused in the Delhi blasts.

Mohd. Shakeel s/o Yameen Khan, r/o D 130/5 Sangam Vihar, New Delhi. Age: 24 years. MA final year student of the Dept. of Economics, Jamia Millia Islamia. He is a close friend of Saquib and Zia.

Shakeel was picked up early morning on 21st September from his home at Sangam Vihar. At around 2 a.m. on 21 September around, 40-50 policemen, some in plainclothes and some in uniform (both from Special Cell and Sangam Vihar PS) came to his family's Sangam Vihar home, surrounding it from the narrow 8 ft lane in the rear and the road in the front. Two men armed with a pistol and an AK 47 confronted Shakeel's brother, who was sleeping on the terrace. They gestured him to remain silent and asked his name. When he said 'Farid', he was taken for identification to Saquib, who had been brought by the police to the spot. Saquib confirmed him as Shakeel's brother, Farid. Shakeel woke up with the noise. Farid, their younger brother Umar and father

Yameen Khan were also rounded up by the police and seated in a police vehicle. Shakeel was separately interrogated by some officers for a few minutes before boarding the police vehicle. Their house was searched and all documents, including their mother's medical reports were seized without giving a seizure memo to the family.

They were taken to the Lodhi Road office of the Special Cell for questioning. While the family members were released the same day, he was kept on police remand by the Special Cell.

Abdul Rehman R/o Zakir Nagar, New Delhi. He was arrested on 20th September 2008 and handed over to the Special Cell when he went voluntarily to the Okhla Police Station on the day of the 'encounter' twice and then on the 20th to clarify their association with the deceased. While the flat owner Mohsin Nissar was allowed to go free, Abdul Rehman, his PA in the National Highways office was arrested for merely introducing the boys who have been staying in Jasola Vihar for the past two years and all verification records had been with the local police. He has now been released on bail.

III. Contradictions in the Police Version(s)

The drama of the 'encounter', staged by the Delhi Police under conspicuous media glare, was from the very beginning scrutinized and questioned by concerned citizens, activists, members of civil and human rights groups. On 20th of September, a team comprising of activists, academicians and journalists visited the site of the shoot out and raised certain critical doubts about the nature of the 'encounter', after interactions with the local residents, eye witnesses and reports that had appeared in sections of the media. Other human rights organisations and independent civil rights groups including the PUDR (Peoples' Union for Democratic Rights), PUCL (Peoples' Union for Civil Liberties), Jan Hastakshep, APCR (Association for the Protection of Civil Rights) and FDI (Forum for Democratic Initiatives) also carried out their fact finding in the area. These groups have worked to expose the several contradictions that have emerged over the last two months in the claims made by the Delhi Police.

1. The Operation:

The Indian Express reported that Sharma went there along with five officers, while *Mail Today* reported a 15-member team. The *Indian Express* report stated: "Around 10:30 am, the door to (flat number) L-18 opened and Sharma was shot thrice" ('Counter-terror', *Indian Express*, Delhi, September 20, p 1.) A gun battle ensued in which the Delhi police fired 22 rounds to register two kills and one capture. Eight rounds in all were fired by the opposing side. Inspector Sharma was then carried away to a nearby hospital where he died hours later, reportedly of a cardiac arrest occasioned by severe bleeding.

On the same day another newspaper reported the press briefing of the Delhi's Police Commissioner. In the briefing that evening, the Police Commissioner stated that Inspector Sharma and his team had "cordoned off" the area that morning. Armed policemen "took positions" around the building at 10:30 that morning and a half-hour later, "another team went up to the flat on the fourth floor". ('Two Terrorists Shot Dead in Delhi', *The Hindu*, September 20, p. 1) This team was fired upon, following which the gun battle ensued.

The Police Commissioner did not contradict the earlier version of the newspaper reports.

2. Information about 'dreaded terrorists':

Delhi Police has consistently made contradictory statements about their intelligence reports regarding the occupants of fourth floor flat of L-18.

20 September:

Quoting police sources, It was reported that the Special cell had credible intelligence inputs about the presence of dreaded terrorists involved in the bombings in Jaipur, Ahmedabad and Delhi in the apartment that was raided. It was claimed that the Special Cell came to know about the presence of a resident whose "physical appearance tallied" with descriptions of a senior operative involved in the July 26 serial bombings in Ahmedabad. ('Shootout at Jamia Nagar', *The Times of India*, 20 September, p 1.)

9 October:

Another version in the press stated that the police has actually only gone to the area to do a recce on 19 September, and that "the presence of armed terrorists took them by surprise." "The police did not expect an encounter at L-18." (*Indian Express* 9 October).

10 October:

In an op-ed article defending the Batla House 'encounter', a senior journalist claimed that "the investigators learned that top commander 'Bashir' and his assault armed squad left Ahmedabad on July 26 for a safe house at Jamia Nagar." Further he says, "the investigators came to believe that Atif Amin either provided Bashir shelter or the two were one and the same person." ('Alice in Wonderland' by Praveen Swami, *The Hindu*, 10 October)

16 October:

The Joint Commissioner of Delhi Police filed an affidavit filed before the High Court stating that the police had gone to Batla House to conduct a raid, after a "specific tip off on September 19th that one Atif alias Bashir...was presently residing at Batla House, Jamia Nagar."

The affidavit then went to state that “the team knocked at the main door of the flat and disclosed its identity but the occupants did not respond...the team members entered the flat thought the side door to apprehend the suspects.” “The team had only meant to apprehend the occupants of the flat but the occupants opened fire to evade arrest. The team members also fired in self-defence...” (*Indian Express*, 16 October, 2008)

Surely there can be only one truth and not the many versions of 'truth' that have emerged in the above contradicting reports. The police must pick one of these 'truths'. It cannot claim all to be 'true' simultaneously:

- a) The police knew that a “top commander” and his “armed assault team” were residing in L-18 (as claimed confidently by Swami). In which case, the Special Cell's almost cavalier approach is inexplicable. Knowing full well that a dreaded terrorist was in residence in L-18, why did the Police make no attempt at forcing a surrender, making public announcements to the effect, vacating the other residents, sealing the building and so on? This could have helped the police arrest the alleged terrorists which would have provide crucial leads into bomb blasts case.
- b) The Police went to L-18 merely for investigation and was ambushed. In which case, isn't it surprising that it took them only a few hours to crack nearly all cases of bomb blasts that have occurred across the country? It was of course inconvenient for UP, Gujarat, Rajasthan and Maharashtra state police, who had been claiming their own successes in uncovering their 'masterminds'—an obvious and sheer one-upmanship. (See section on Changing Masterminds)

The Police commissioner Y. S. Dadwal announced at a news conference the same day that “Atif was the mastermind behind all the recent serial blasts,” and that he had plotted the 13th September's blasts... was also involved in the Ahmedabad blasts on July 26, Jaipur blasts on May 13, and the August 25, 2007 blasts in Hyderabad. He was described as “a key Indian Mujahideen functionary who played a major role in the Jaipur, Ahmedabad, Hyderabad (and) Delhi serial blasts”. (“Two Terrorists Shot Dead in Delhi”, *The Hindu*, 20

September)

The other slain boy, Sajid—a minor of 17 years—was described as bomb-maker. Police Commissioner Dadwal declared that “explosives made by him and his team bore their signature—two detonators, wooden frame, ammonium nitrate and analogue quartz clocks,” (*Hindustan Times*, 20 September 2008). This begs the question: how was the police—which did not even expect an 'encounter' in the morning— were able to say with confidence by the evening that the bombs used in Delhi blasts bore the 'signature' of the slain Sajid?

3. The Puzzle of the Bullet Proof Jacket

The Delhi Police could not make up its mind on this issue either. The Joint Commissioner of Police, Karnail Singh and Deputy Commissioner of Police (Special Cell) Alok Kumar initially reiterated that the Special Cell team members were not wearing Bullet Proof Vests (BPVs). [“Entering a crowded locality would alert the suspects and give them time to escape” (*Indian Express* Oct 9); “To maintain secrecy in a cramped area like Batla House” (*Tehelka*, Oct 4)]

A new version appeared however following the outcry after the publication of pictures of Sajid's body, which clearly show that he had been shot repeatedly in the head. Such bullet injuries suggest that he could have been killed from extreme close range while he was in a crouching or kneeling position. This in itself raises a huge question mark over the 'encounter'. Senior police sources claimed that Sajid was “lying on the floor when he opened fire at a cop. The cop, unlike Inspector Sharma, was wearing a bullet-proof vest. He retaliated by firing a burst from his AK-47, which hit Sajid on his head.” (*Times of India*, Oct 8).

To be fair to the police, this answer does explain why and how Sajid was killed. It also tells us why the cop in question was not much injured when Sajid supposedly fired at him. But it doesn't square with the line the Delhi Police have been pushing up till now, that Inspector Sharma's men did not *deliberately* wear bullet proof vests; or with the claims that the Special team was “armed only with small arms”. (*The Hindu*, October 10)

The Delhi Police must clearly make up its mind if the cops that day

were wearing Bullet-proof vests or not?

Why was the late Inspector Mohan Chand Sharma, a veteran of dozens of encounter operations, the only officer in the operation not wearing a bullet-proof vest? If the Special Cell knew that they were terrorists why was M.C. Sharma not wearing a bullet-proof vest if the Special Cell was going to arrest/apprehend dreaded terrorists?

4. Injuries and Bullets

Photographs of the bodies of Atif and Sajid, taken during the ritual bathing before burial clearly indicate injury marks on the bodies. This has been testified by people who prepared the bodies of the dead boys for their burial. In a statement at the Jan Sunwai organized at Batla House by the Jamia Teachers' Solidarity Group on the 12th October 2008, they testified that the skin on Atif's back was sloughed off. These marks could definitely not have been caused by bullets. There were multiple bullet injuries on Sajid's head. What caused these injury marks? Were they captured before they were eliminated? In an earlier response, the police had cited the elusive post mortem report, saying that the two did not have any injuries on them apart from those caused by bullets, in order to buttress their claim of the "shootout being genuine". (*Times of India*, Oct 9). The documentary proof of the existence of such marks on the bodies however belies their claims. The statements of witnesses at the Jan Sunwai and the photographic evidence cast strong aspersions on the police version.



Rattled by the photographs of an injured Inspector Sharma being escorted out of L-18 building, where no blood stain is visible on the front, the Police have stated that he was hit from the front as "one bullet hit him in the left shoulder and exited through the left arm; the other hit the right side of the abdomen, exiting through the hip." (*The Hindu*, October 10) For this reason, they argue, the bleeding was from the back—the points of exit. However, according to a senior doctor who conducted the post-

mortem on Inspector MC Sharma at the All India Institute of Medical Sciences, "It was difficult to establish the entry and exit points of the bullet because conclusive evidence had been wiped out by the interventions of the doctors at Holy Family Hospital [where Sharma was rushed to]." (*Tehelka*, October 4).

According to the press statement issued by Holy Family Hospital on September 19, 2008, X-rays of the chest and abdomen of M.C. Sharma had "not revealed any foreign bodies". Question remains: what has happened to the bullets fired on him? Have these been collected from the scene and sent for forensic analysis?



Injury marks on the leg of the deceased



Atif Amin's back. It appears as though the back has been skinned

Further, one stenographic journalist tells us that the "abdomen wound was inflicted with Amin's weapon and the shoulder (was) hit, by Mohammad Sajid". And how does he know? "The investigators believe that." (Praveen Swami, *The Hindu*, October 10) And the journalist (?) parrots the police investigators. Indeed, this implicit faith in police sources, with no attempt at independent investigation or verification had been the hallmark of most journalistic reporting in the initial days after the 'encounter'. Few journalists asked to be shown a copy of the post mortem report or the videography of the post mortem.

In absence of the facts, following questions become important:

- What kind of bullets were fired upon Inspector Sharma?
- What was the weapon that killed Sajid and Atif?
- Why are the post mortem reports of Inspector Sharma and Atif and Sajid not being made public?

5. Corroborative evidence: 'Explosive Stuff'

All the newspapers reported substantial cache of arms, etc., recovered by the Delhi Police from L-18 of Batla House, where two alleged terrorists—'responsible' for several bomb blasts—were shot dead and one captured alive.

To begin with, *The Hindustan Times* quoted Police Commissioner Y S Dadwal as saying that “explosives made by him (Sajid) and his team bore their signature—two detonators, wooden frame, ammonium nitrate and analogue quartz clocks.”

Following is the list of recoveries as reported in several newspapers based on police sources:

<i>Dainik Hindustan</i>	One AK 47, two pistols, one computer and important papers
<i>Veer Arjun</i>	One AK 47, .30 bore pistols, cartridges and 21 country pistols.
<i>Navbharat Times</i>	One AK 47, two .30 imported pistols, 20 live cartridges, magazine, two laptops, mobile phones
<i>Rashtriya Sahara (Hindi)</i>	One AK 47 and two .32 bore pistols, one computer and books
<i>Punjab Kesari</i>	One AK 47, two pistols and a computer
<i>Amar Ujala</i>	One AK 47, .30 bore revolver, two laptops, half a dozen mobiles and six pen drives

Most significantly none of the dailies reported the recovery of any ammonium nitrate and analogue quartz clocks, so crucial to the 'terrorists' signature bombs, as claimed by the Delhi Police Commissioner. No question is asked about the recovery of these chemicals or equipment claimed to be part of the terrorist group's signature.

terrorists, the police presented a bucket, adhesive tape and a bag. (*Indian Express*, Oct 9, 2008). The bucket was used to keep bombs (but was presumably empty at the time of 'seizure'); the adhesive tape was used to seal the explosives (!); and finally the bag was used to carry the bombs (but again presumably empty when the police 'recovered' it).

Legal requirements were blatantly flouted with regard to seizures. The police are required to prepare a seizure list of all items recovered from the site and it should be attested to by two public witnesses unconnected with the police. Given that a huge crowd had gathered at the site, surely, the police could have sought the assistance of members of the public. The police did not show anyone the faces of the victims of the 'encounter' killings. *Panchnama* of the site should be done in presence of independent witnesses but this was not done. Neither have the Police allowed the media access to the scene of the crime which is still sealed, even after three months. Normally this is done within a few hours.

The police officials claim that an AK-47 and pistols were recovered from L-18. *What was the weapon that killed Inspector Sharma? Was the AK-47 used at all and if so then by whom was it used? Going by some reports that have appeared (see The Times of India, 20.09.08), the AK-47s have been used by the police only. Is it not strange that alleged terrorists did not use a more deadly and sophisticated weapon like the AK-47, which they purportedly possessed, preferring to use pistols?*

6. Escape Routes?

The four-storey house L-18 in Batla House where the alleged terrorists were staying has only one access point, through the staircase, which is covered by an iron grill. It is impossible to leave the house except from the staircase. By all reports, the staircase was taken over by the Special Cell and/ or other agencies during the counter-terror operation. The house, indeed the entire block, was cordoned off at the time of the operation. The building is abutted on the left and right by two buildings which are only about two floors high. There is a narrow lane to the front and an even narrower lane at the back.

How then was it then possible, as claimed by the police, for two alleged terrorists to

escape the premises during the police operation?

7. The Mystery of Fired Rounds

Ever since the Batla House 'encounter', the issue of the number of rounds of fire—opened by the police and by the alleged 'terrorists' who 'supposedly' took on the raiding police party—has remained muddled and inconclusive.

<i>The Times of India</i>	25 rounds (Police)	8 (alleged terrorists)
<i>Indian Express,</i> <i>The Hindu,</i> <i>Dainik Hindustan,</i> <i>Punjab Kesari and</i> <i>Rashtriya Sahara (Urdu)</i>	25 rounds (Police)	No report
<i>Rashtriya Sahara (Hindi)</i> <i>and Amar Ujala</i>	22 rounds(Police)	8 (alleged terrorists)

Interestingly, the *Navbharat Times* claimed that both the police and the suspects were armed with AK 47s but did not use them.

There are reports that towards the end of the counter-terror operation, some policemen climbed on the roof of L-18 and fired several rounds in the air. Other policemen were seen breaking windows and even throwing flowerpots to the ground from flats adjacent or opposite to L-18.

Why was the police firing in the air and why did it indulge in destruction of property around L-18 after the encounter?

At the Jan Sunwai organised by the Jamia Teachers' Solidarity Group (12th October 2008), all witnesses uniformly testified that the firing happened in quick succession punctuated by short intervals for nearly an hour after Inspector Sharma was brought down from the flat. The members of the locality raised questions about the long duration of firing in L-18. The death of Inspector Sharma too is shrouded in mystery.

8. The Charge of 'over confident terrorists'

18 According to reports in the media after September 19th, the Delhi

schools and institutions; sat for examinations midway through planning and executing blasts. And yet, these masterminds had no inkling of the special cell surveillance, and indeed helpfully stored material such as photographs of blast sites on their laptops and cell phones, so that their guilt could be proved promptly by the police whenever they were caught.

Form No. 16468
 ADMIT CARD
 RECEIPT
 2008-2009

Jamia Sh. Soc. School
 JAMIA MILLIA ISLAMIA
 RAJDA, NAGAR, NEW DELHI - 110025

Roll No. 15 28

Name: SAQIB NISAR
 Date of Birth: 20/05/2007
 Signature of Applicant: [Signature]

Signature of Investigator: [Signature]

Copy of Sajid's admit card for his entrance examination at Jamia School

Union Public Service Commission, Bhopal House, Shaheed Road, New Delhi-110 069

ADMISSION CERTIFICATE

Name: SAQIB NISAR
 Roll No.: 318389
 Date of Examination: 20/05/2007
 Exam: 08 - ECONOMICS
 Centre: 08 - DELHI
 Venue of Examination: BENDRIYA VIDYALAYA, NFD, SOGAN VIHAR, OPP. VIVEK VIHAR POLICE STATION, DELHI-110092

Signature: [Signature]
 Secretary

Copy of Saquib Nisar's admission certificate for UPSC preliminary examinations 2007

Is it conceivable that the alleged kingpin behind the terrorist Indian Mujahideen outfit would have wanted to undergo police verification, just a week after the Ahmedabad blasts and a month before the bombings in Delhi?

Furthermore, detentions and arrests in connection with the Delhi blasts had begun in the Jamia Nagar area from 14th September onwards, and this was public knowledge. Why would real terrorists continue to use a hideout in a locality that was very obviously under the police scanner?

The jury of the Jan Sunwai (JTSG, 12th October 2008) similarly noted that prior to moving to L-18, the deceased had verifications proofs in place with the local police. Sajid had appeared for his 11th class examination at Jamia School and all address details were genuine. Atif had enrolled in Jamia Millia Islamia. Till date, all identification records submitted by them have been found to be true. The verification details for obtaining their mobile connections are also genuine. These proofs establish the credibility of the boys killed in the encounter as students seeking opportunities and a career in the city.

IV. A Mockery of the National Human Right Commission Guidelines

The Delhi Police is guilty of committing several serious procedural lapses. The recommendations of the National Human Right Commission (NHRC) on *encounter killings* clearly state that “*when information is received that death was caused in an encounter as a result of firing by the police, prima facie the ingredients of culpable homicide under section 299 of the IPC are satisfied. That is sufficient to suspect that an offence of culpable homicide has been committed.*”

NHRC issued a notice to the Delhi Police Commissioner Y.S. Dadwal on September 23 asking the Delhi Police to submit a detailed report on the 19th September 'encounter' in accordance with the NHRC guidelines. It sought to know if a magisterial inquiry had been ordered, if so, what was its status. It asked the Commissioner to furnish details as to whether a criminal case regarding the incident has

been registered, and if so, the status of the investigation. The Commission asked Dadwal to furnish the post-mortem reports of suspected terrorists Mohd. Atif and Mohd. Sajid, and Inspector Mohan Chand Sharma who were killed in the September 19 'encounter'. It has also asked the police chief to submit the inquest reports.

All that the NHRC received was an intimation dated September 21 from the SHO, Jamia Nagar, on October 13 regarding the incident

.The Delhi Police failed to submit the report within the stipulated 15 days as asked by the Commission. On the contrary, the Department floated false stories in the media that the NHRC was satisfied by their 'report'. In its report submitted to the Delhi High Court on October 15, Joint Commissioner of Police (Special Cell) Karnail Singh claimed that “the so-called fact finding reports have no veracity and bearing as whenever any death by encounter takes place, the report is sent to the NHRC”. Further the police contended that the NHRC's refusal to recommend any action against police officers in the encounter was testimony to the fact that the commission was “satisfied”. (*Hindustan Times*, October 20).

This was roundly denied by the NHRC on its official website. And in fact, the Commission sent a reminder to the Police Commissioner seeking a complete report by 31st October. However, on the expiry of the 31st October deadline, the Delhi Police asked for yet another extension for submitting the report. NHRC has issued yet another reminder about the magisterial enquiry to the Delhi Police on 6th January 2009—three and a half months after the 'encounter'.

The Police received support from Delhi Lieutenant Governor who refused to grant permission for the magisterial enquiry. His decision was based on reports by the Crime Branch of the Delhi Police—an obviously interested party in the case—and CFSL reports. (*Asian Age*, February 6, 2009). This decision is in direct conflict with the guidelines laid down by the NHRC and as such, is a blow to the institution of the NHRC.

Revised Guidelines/Procedures to be followed in dealing with deaths occurring in encounter deaths issued on 2.12.2003 by National Human Rights Commission

The Following procedure is required to be followed by the State Governments in all cases of deaths in the course of police action:

A. When the police officer in charge of a Police Station receives information about the deaths in an encounter between the Police party and others, he shall enter that information in the appropriate register.

B. Where the police officers belonging to the same Police Station are members of the encounter party, whose action resulted in deaths, it is desirable that such cases are made over for investigation to some other independent investigating agency, such as State CBCID.

C. Whenever a specific complaint is made against the police alleging commission of a criminal act on their part, which makes out a cognisable case of culpable homicide, an FIR to this effect must be registered under appropriate sections of the I.P.C. Such case shall invariably be investigated by State CBCID.

D. A Magisterial Inquiry must invariably be held in all cases of death which occur in the course of police action. The next of kin of the deceased must invariably be associated in such inquiry.

E. Prompt prosecution and disciplinary action must be initiated against all delinquent officers found guilty in the magisterial enquiry/police investigation.

F. Question of granting of compensation to the dependents of the deceased would depend upon the facts and circumstances of each case.

G. No out-of-turn promotion or instant gallantry rewards shall be bestowed on the concerned officers soon after the occurrence. It must be ensured at all costs that such rewards are given/recommended only when the gallantry of the concerned officer is established beyond doubt.

V. Another Procedural Lapse

As per news reports the police has so far not carried out a Test Identification Parade (TIP) by eyewitnesses who claim to have seen those responsible for the Delhi bomb blasts. Was a TIP done before the burial of the two boys who were shot dead? Has the police tried to match the sketches of the accused made earlier on with those being arrested? What are the results of such efforts if they have been made? As a matter of fact such an exercise of matching the sketches released (of suspects) with those actually detained/arrested and allegedly held responsible for the crime is never undertaken and now it seems to be begging an urgent attention. The sketches released by the Delhi Police do not match the features of those arrested or killed. (See sketches of blast suspects)



VI. Forced Confessions as 'Truth'

On 2nd October 2008, *India Today* magazine carried a cover story, “Inside the Mind of the Bombers”. *India Today's* reporter, Mihir Srivastava claimed that he met and interviewed the accused youth on the sidelines of the press conference called by the South District Police. In his 'exclusive' talk with the 'bombers' (nowhere is the simple journalistic ethic of pre-fixing 'alleged' before the term terrorists before the crimes have been proven, adhered to), Srivastava presented what were obviously forced confessions under real violence or threat of violence, as 'facts'. This was not simply an infringement of journalistic codes of reporting but a flagrant violation of the laws of the land, which strictly forbid the use of confessions in police custody

as evidence. While its value as evidence may be nil, this article sought to establish the guilt of these accused youth in the public consciousness.

The Delhi High Court on October 15th 2008, asked the police to file a response as to how a journalist was allowed access to the accused in the custody of the Special Cell even before his relatives or lawyers had a chance to meet him (*Indian Express*, October 17). The police counsel agreed to file a response and conceded to the court that “the confessions recorded in the story were not in good taste and they had no evidential value”.

VII. Police insensitivity

The Delhi Police exhibited extreme insensitivity and callousness in their treatment of the dead bodies of Atif Ameen and Mohd. Sajid. In the Jan Sunwai of the 12th October 2008, questions were raised regarding the condition in which the bodies were received by the family members. Witnesses related how they were not allowed to bury the bodies in the Okhla graveyard. They expressed their anguish about the way in which the police kept the community on tenterhooks about the burial of the bodies. The handing over of the bodies was delayed and the entire process was marked by complete lack of sensitivity in relation to the dead. In their report submitted after the Sunwai, the Jury stated that minimum human sensibilities must be respected regardless of the charges against the dead.

VIII. Travesty of Right to Information Act

A student of journalism at Jamia Millia Islamia, Afroze Alam Sahil, filed a petition under the Right to Information Act (RTI) for access to the post mortem reports of the deceased, Inspector Sharma and Atif and Sajid. The Jaiprakash Narayan Apex Trauma Centre of AIIMS turned down his request arguing that the case was related to Medico Legal Records. They refused to provide information citing Sections 8(1) b and 8(1) h of the RTI.

Section 8(1) b of the Right To Information Act–2005 states that information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court cannot be provided to a RTI petitioner. Section 8(1) h states that information cannot be provided about matters which would impede the process of investigation or apprehension or prosecution of the offenders.

Neither of the above applies to this case, as no orders or rulings have been passed by the court to withhold information in this case. It is also beyond logical comprehension, how the truth of the post mortem reports would impede investigations. Unless of course, the investigations are biased and skewed towards camouflaging the truth.

The (non) response of the Delhi Police

The same petitioner also filed an RTI application to the Delhi Police. On the question of post mortem reports, the Delhi Police declined to provide the reports citing section 8(1)h of the RTI Act-05 as AIIMS had done.

The petition also sought information about the number of people arrested in connection to the serial blasts in the capital on September 13 and the places from where they were arrested. In addition, it was asked if the police have evidence against those who have been arrested.

The Delhi police did not feel it was necessary to answer these questions.

IX. Contradictions in the 'mastermind' theory

A succession of organizations such as the HUIJI, SIMI and the IM have already been named by different state police as the organizations responsible for the blasts that have taken place in Jaipur, Ahmedabad and Delhi and the bomb scare in Surat.

MASTERMIND CHART

U.P. POLICE	WALLIULLAH	<i>UTTAR PRADESH BLASTS, INCLUDING SANKATMOCHAN TEMPLE IN 2006</i>
JAIPUR POLICE	SHAHBAZ HUSSAIN	<i>JAIPUR BLASTS IN MAY 2008</i>
GUJARAT POLICE	ABU BASHAR AND TAUQEER	<i>GUJARAT BLASTS IN JULY 2008</i>

Tauqeer: India's Osama Bin laden

Tauqeer was a member of the now-banned SIMI. He was a software engineer who had worked in multinational software firms in Mumbai, before quitting his job for full time work for SIMI.

Tauqeer's name first appeared in the press conference of the Gujarat DGP in Ahmedabad on August 16, 2008, where his name was given as Altaf Subhan and he was described as a “bomb making expert”.

On August 17, 2008, Tauqeer was described as the “crack bomb maker who fabricated the improvised explosive devices used in Ahmedabad and Surat” in an article by Praveen Swamy in *The Hindu*.) He expanded his name to Mohammad Altaf Subhan.

The Times of India ran a PTI story on August 19, 2008, which quoted an ATS officer—albeit speaking on condition of anonymity—that Tauqeer's real name was 'Abdul Subhan'. It was alleged by this source that Tauqeer was one of the key masterminds of the Ahmedabad serial blasts and possibly the author of the emails sent prior to the Ahmedabad and Jaipur blasts.

On the day of the Delhi blasts, 13 September, *The Hindu's* Swami

extended upon the theme of his earlier write up, even expanding the 'real name' of Tauqeer further to Abdul Subhan Usman Qureshi. He alleged that the signature 'al arbi', in the email sent before the Ahmedabad blasts, matched Tauqeer's handwriting.

Following the Delhi blasts, Tauqeer was the focus of several front-page stories in the newspapers and several features in the television media. He was described variously as the 'head of SIMI's IT wing'; 'terror mastermind' behind all blasts across the country; India's Osama bin Laden; and even compared to the fictional character of the Jackal (*Sakaal Times*). It was reported that a nation-wide hunt had been launched by the police forces of Mumbai, Gujarat, UP and Delhi, backed by IB.

Just two days before the Batla House 'Encounter', the Mumbai ATS additional Commissioner was cited in the *Times of India* saying, "Subhan is the most wanted man. All agencies are coordinating to nab him". On the day of the 'encounter' itself, the DCP, Special cell, Delhi Police, Alok Kumar told reporters: "Tauqeer is the main leader who played an important in all the blasts." It was also reported in the media, who quoted police sources, that after the first Delhi blast, Atif had sent an sms to Tauqeer in Mumbai, who thereupon sent the IM email to the media.

So virulent and sensationalist was the media hype surrounding Tauqeer that his mother, Zubeida Qureshi called a press conference on 17 September and pleaded the innocence of her son.¹

Delhi Police Claims:

The Delhi Police declared after the 19 September 'encounter' that Atif was the real mastermind plotting all the blasts. His name had never surfaced earlier, not even a few days after the Delhi blasts when the sketches of the Delhi Bombers were released. All other 'masterminds' of the different state police were rendered 'secondary agents' as the Delhi Police claimed triumphantly to have busted the Delhi blast case and 'terror module' and proclaimed that Atif Ameen actually plotted

¹ Based on the article, "Will the same fate meet Maria's find, the latest mastermind Peerbhoy", by *Jyoti Punwani*, www.thehoot.org

the UP, Jaipur, Gujarat and the Delhi blasts—he was the new and 'real' 'mastermind'.

Mumbai Police makes new claims:

In a hurriedly-convened press conference on Wednesday 24th Sept 2008, Mumbai Police Commissioner Hassan Gafoor, announced the arrest of five IM members and said they were involved in the recent bomb blasts across the country and had plans to attack Mumbai. He proclaimed Mohammad Sadiq Shaikh as the man ('mastermind') from whom Atif Ameen, the alleged 'mastermind' and leader of the Delhi bombers, reportedly took his orders. "It was not Atif Ameen who was the mastermind. He was just the operations guy. It was actually Sadiq who used to control Atif and made him do the terror attacks".

Mumbai Police insisted that the five 'terrorists' they had apprehended had actually orchestrated the strikes in other states. They were identified as:

- 1) Afzal Mutalib Usmani (32)
- 2) Mohammed Sadiq Shaikh (38)
- 3) Mohammed Arif Shaikh (38),
- 4) Mohammed Zakir Shaikh (28)
- 5) Mohammed Ansar Sheikh (31)

Mumbai's Joint Commissioner of Police (Crime), Rakesh Maria claimed that, "the five (IM) members have assisted or been actively involved in the unexploded bombs in Varanasi, the Shramjeevi Express attack, the Sankatmochan Temple blast, the blasts in a waiting room in Varanasi railway station, the 7/11 blasts in Mumbai local trains and all other blasts in the country that have occurred from 2005."

Quite theatrically, the Mumbai Police introduced new *dramatis personae* and virtually threw out of the window the old theories of the police forces of Uttar Pradesh (UP), Jaipur, Gujarat and Delhi—each of whom had earlier claimed credit for arresting the 'real' terror 'mastermind' behind bomb attacks in their states and elsewhere.

But most of all, it contradicted Maharashtra Police's own claims. As per the Mumbai Police claims, these five men arrested engineered the 7/11 blasts by training and helping seven people—who are now in jail—to plant bombs. But, the state police's Anti Terrorist Squad (ATS) which had arrested those seven people for planning 7/11 blasts stated in its charge sheet that the men were provided training by Pakistani nationals. How could the five men, who are residents of India, according to the Mumbai Police, become Pakistani nationals in the ATS charge sheet? So either the Mumbai Police is wrong or the ATS has made a mistake.

Then this was pointed out to Maria, he had a ready reply: “Those arrested for 7/11 were told by these five men that they were Pakistanis. Hence they believed these five men and told this during our interrogation.”

So, what happened to Tauqeer?

After publicly reiterating the culpability of Tauqeer in sending the so-called 'terror e-mails', on 6th October, Mumbai Police Crime branch, in a press conference announced that the emails had actually been the handiwork, *not of Tauqeer*, but of three well-qualified, computer-savvy IM operatives. The three suspects were: Mansoor Peerbhoy (31), Mubeen Shaikh (24) and Asif Shaikh (22). “The three were trained in an anti-hacking training class in Hyderabad and the Indian Mujahideen had paid Rs. 70,000 per head as their fee for the three-day course,” said an investigator. (*Times of India*, 7 October 2008).

The Crime Branch did not explain why well-qualified computer engineers would have to enroll in a 'course' to gain skills such as hacking into wi-fi accounts—skills that many computer-savvy metropolitan teenagers are equipped with. No information was forthcoming either about the institute offering such courses for the said fee.

But what was most notable was the convenient amnesia about Tauqeer. Tauqeer, chided Maria, was a mere “media creation” (*TOI*, 7 October 2008). Neither is Tauqeer mentioned in the Mumbai Police's arrests nor in the chargesheets filed by the Delhi Police.

What this reveals foremost is the manner in which state police departments operate: feeding stories to the media that are often attributed to unnamed 'sources'—literally manufacturing 'terrorists' and 'masterminds', and then moving on to new set of suspects when evidence runs thin—all with the confidence that their past accusations will not be challenged, or at best be treated as 'collateral damage' in the 'war against terror'.

APPENDIX

I. Profile of those Illegally Detained and Arrested

Following is the list of Muslim men 'arrested' and detained by the Police, in clear violation of the legal norms and rules. These were all 'picked up' (a euphemism for such police abductions) for questioning related to bomb blasts across the country, in particular to the Delhi blasts. Invariably, arrest warrants were never produced, Identification cards were not shown; in no case was the police in either uniform or travelling in vehicles that indicated they were police vehicles. This is not an exhaustive list of all such 'arrests'.

ADNAN FAHAD

Adnan Fahad, father of two children, one aged three and half years old and another barely one, runs a small shop for DTP work in Daryaganj in the Walled City area.

Adnan Fahad's house in Abul Fazal Part I was raided by 12-15 gun-toting men at around 11 am on 14th September. Initially, two of these police men went up to the third floor, knocked at the door saying that they were from the gas agency. They went in, and on finding no male in the house, asked his wife to call up Adnan, who had stepped out in the neighbourhood. As soon as he reached home he was asked to come with them. His friend Nayeem accompanied him to some distance but was forced to return by the police.

The police officers said they were taking him away for some questioning for mere 15-20 minutes. At the Lodhi Road Special cell office, he said, "Hundreds of questions were asked to me from 1 pm to 10:30 pm." These related to his alleged links to SIMI, but also humiliating questions with clear communal bias. The first question to him was: "Are you Shia, Sunni or Ahmadi?" When he replied that he was a "simple Muslim", they retorted, "You are ahle hadees as they say

such things". He was further asked if he had a passport. When he replied in the affirmative, the response was: "Why? Do you want to go to Pakistan?"

"Who do you know in Madhya Pradesh, Rajasthan and Gujarat," they asked. When he said he didn't know any one in particular, but people come to him for business from across the country, the sleuths threatened him of physical torture if refused to budge. He was asked to recall all his activities of the past 14 days, from meal to namaz to meeting with people. He was questioned about his friends or relatives in Pakistan, Bangladesh and England.

His email ID and password was taken and his mails checked by the policemen. At the end he was given a paper to sign. What he could read in a flash of time was that it mentioned Delhi blasts and the failure of interrogation.

What has shocked the families of Agwan and Adnan is that though they were taken for questioning, within hours, news was flashed on television channels that two persons had been arrested in the connection of the Delhi serial blasts.

ABDUL RASHEED AGWAN

Agwan is president of Lucknow-based Foundation for Social Care, which provides scholarship to students pursuing diploma courses. It also runs a 10-bed hospital, another hospital for AIDS patients and a school. He is also assistant general secretary of All India Education Movement whose president is noted educationist Syed Hamid. The organization has in the past launched several caravans on the issues of education, health and communal harmony. He is also associated with Centre for Advancement of Voluntary Efforts, a consultancy firm that helps people in opening NGO, helping them in registration, shares information about funding agencies and government schemes and trains their staff.

On 14th September, at around 12:15 pm, three vans full of plainclothes sleuths entered his home in Shaheen Bagh (Abul Fazl Enclave Part II).

According to his son, Taufique Agwan, they refused to produce any ID cards even when they were asked for it. He was taken away for questioning to the Special Cell office in Lodhi Road where he was subjected to sustained questioning about SIMI.

“They asked several questions about SIMI and its people, they pressed me to give names of some SIMI people in my locality,” said Abdul Rasheed Agwan. He said he could not understand how a banned organization could remain active. “The Delhi blasts are anti-human act and whoever is responsible for it should be punished and I am ready to help the police,” he told the police officials who were interrogating him.

He was asked where he was on Saturday between 5-5:30 pm. He said he was at home with two non-Muslim guests from Hyderabad. They had come to consult him about starting an NGO. The interrogators also asked him about Abul Bashar who was arrested from Azamgarh last month and was later projected as the mastermind of the Ahmedabad serial blasts.

“Do you know about Abul Bashar?” they asked. “Not more than what has appeared in the media,” he said. They alleged that Bashar had his cell number and that he had stayed at his home. Agwan denied the charges.²

MOHAMMAD RASHID

Rashid who hails from Allahabad has been living in the Jamia Nagar locality of Delhi since 2000. He is a convert to Islam from Hinduism. Rashid went to Azamgarh in 1995 and studied at the Jamia-tul-falah *medarsa* from 1995 to 1999. Later he did his B.A, M.A (Islamic Studies) and also B. Ed from Jamia. He is now enrolled for Ph. D at the Department of Islamic Studies (Jamia Millia Islamia), and is a recipient of the UGC scholarship for Ph.D students.

On the afternoon of 18th September 2008, he was picked up from his

² Based on the reports on TwoCircles.net

rented accommodation by plain clothed policemen. While his room was being thoroughly searched he was asked regarding his acquaintance with Abu Bashr, which he denied. Thereafter Abu Bashr (whom Rashid could later recognize on account of his photographs in the newspapers) was brought inside and asked whether he recognized Rashid. Bashr who appeared under tremendous pressure nodded his head towards Rashid. All the while Rashid kept asking these men what the matter was. Not eliciting any reply from his 'tormentors' and feeling hapless, Rashid agreed to voluntarily go with the police.

Rashid was driven around Jamia Nagar for hours; the police vehicle even made a detour towards Jamia Hamdard, where they were denied permission to enter. He was finally taken to the Special Cell Lodhi Road office at around 8.30 pm. Abu Bashr also reached the Cell separately. Rashid was again interrogated and asked if he knew Abu Bashr. Bashr was also asked if he recognized Rashid. Bashr told them that he had met Rashid during the *namaz* at the Markaz (Abul Fazal Enclave) on 25th of July. (While talking to us Rashid refused this and again denied having ever met Bashr). Upon Bashr's affirmation more than half a dozen plain clothed policemen began wantonly hitting Rashid. Next he was taken to another room where he was asked to strip, made to half-sit, and heavy rods were tied to his fore arms. Whenever his hands shook, he was hit with rods on his back and behind his ankle. This went on for the next 35 to 40 minutes after which Rashid who couldn't take it any more, said he recognized Bashr and also agreed to willingly sign wherever they wanted him to. Rashid also told them that he was even ready to be proclaimed the 'mastermind', but he could not take this torture anymore. One of the policemen—whom he recognized later from the newspapers—was Inspector M.C. Sharma. One another person was addressed by others as Sanjeev.

The next day, i.e 19th September, from the early morning he was again interrogated about his acquaintance with both Abu Bashr and Yasin Patel—the latter's phone number was found in Rashid's wallet. He clarified that Yasin had once asked him to give tuitions to his children and that his how he had his contact number. He reiterated

that he wasn't lying about anything and that they could verify his information from other sources and enquire about him from his Department, teachers and neighbours.

The same day, around 5.30. pm, six boys were brought in to Rashid's room. Rashid later realized that these must have been the boys from Jamia school picked up from the flat opposite 108 in L-18. They were asked if they knew Rashid or had seen him at L-18. One of the boys acknowledged that he had once seen Rashid coming down the stairs from L-18. Rashid retorted that he had never visited L-18 but used to go to Khalilullah Masjid occasionally on Fridays. Towards the evening, Rashid overheard policemen saying that M.C Sharma needed twenty units of blood. Late at night Rashid was taken upstairs. A boy was present in that room and they were both asked to recognize each other. Later Rashid realized from newspapers reports, that he was Zeeshan. Meanwhile he also spotted another boy passing by, whose shoulder and hand seemed broken.

On the third day, i.e, 20th September Rashid was beaten up several times, even as he kept repeating that he would sign wherever they wanted him to. While thrashing him, a policeman remarked: 'now you recognise Bashr, but later in court you are going to turn hostile and refuse to do so'. Rashid told that whosoever came in used to beat him up for no reason, particularly after learning that he was a convert, and fasting during the holy month.

He was asked several times, why he converted and also hit by the police again and again when he told them his story about conversion.

Rashid was enquired regarding his financial support, to which replied that he earned enough through tuitions and that he received some scholarships. He was also specifically asked who amongst his teachers provide him money or support. He said none provided him financial help on personal terms.

On this day, most people left for Inspector M.C.Sharma's funeral and came back only late in the evening. A bearded person lectured Rashid for four hours that day and it was also suggested to him subtly that he should work for them: 'those who work for us, we take care of them'.

Finally on 21st Septmeber, Rashid's statement was recorded in the morning. He was asked about his family members, their names, age, addresses, what they do, etc. He was later asked to call his roommate to come to the police station along with any elderly person. His roommate came with an advocate named Ahsan to the Special cell police station and Rashid was released.

SCHOOL CHILDREN

On September 19th, five school children who lived in the flats adjoining 108 in L-18 were picked up after the 'encounter' and taken to the Special Cell office to identify the arrested to establish their links with the deceased. They were picked up in the evening and released after 10.00 pm. the same day. The entire process is totally illegal considering the fact that they were minors. The psychological implications of it were so deep that the entire family has moved out of their residence and have not come back till date.

MOHD. SAQUIB

Eyewitness account of a young boy picked up by the Special Cell from a locality adjacent to Jamia Nagar.

On 23rd September, against the backdrop of the conspicuous 'terror' of the police in the area and some disquieting questions being raised that underscored the grey zones in the encounter—even as young boys continued to be being picked up—some academics from Jamia, journalists, lawyers and members of civil society were closeted in a meeting, deliberating the incident and the police's ultra enthusiasm. Suddenly the meeting was interrupted by call received by a young man, a distant cousin of the slain Atif, who had come to attend the meeting. It was learnt that the Special Cell cops had picked up his younger brother, who had just completed his Higher Secondary. 19-year-old Mohammad Saquib had been picked up from his Shaheen Bagh home. Men in plainclothes had arrived at their Shaheen Bagh home, asked for Talib and not finding him at home, gagged and dragged the

young Saquib away, without even giving him time to wear his chappals. He was bundled in to a car and taken to an undisclosed location. They were actually looking for Talib, his brother.

Since the boy was been picked up by 'unknown' men, it was thus decided to lodge an FIR at the Jamia Nagar PS. It was only sustained pressure and the presence of senior Supreme Court lawyer and journalists that we were successful in registering the FIR. This was probably the first time in Jamia Nagar that such illegal abductions by police had been challenged—it soon produced results. As we were contemplating the legal course, Talib received a phone call from the Special Cell that his brother Saqub had been picked up by their officers and that he could come and fetch him home. Collin Gonsalves and another lawyer reached the Lodhi Road office of the Special Cell to take custody of Saquib. They were however denied his custody, as the Special Cell was willing to release him only to his elder brother and father. We feared that it might be a ploy to arrest Talib upon his visit to the Special Cell office. But as the lawyers were returning and considering the next line of action, they were re-called and asked to take back the boy.

The lawyers returned with Saquib in about 30 minutes. Barefoot and dressed in pyjamas and T-shirt, he burst into tears as he embraced his brother. The brothers could scarcely believe that they had found each other. Saquib narrated his ordeal to his: he was dragged away and not even allowed to have a word with his mother who present in the house. All the way they kept hurling choicest of abuses, interspersed by threats of dire consequences. Soon after they drove up, a car pulled alongside in which a man, with face covered by black cloth was asked to identify Saquib—the man gesticulated in the negative. Threats, abuses, and intimidation continued, as they drove to the Special Cell headquarters. Once there, he was questioned at length as to what was he doing during the Jaipur blasts? Upon Saquib's reply that he had never been to Jaipur, they again tried to terrorize and bully him by alleging that he was present in the video footage of the encounter. Saquib demanded to be shown the footage, upon which the Special Cell replied that they did not have the footage with them at the

moment. He was once again made to be a part of an identification parade, where another man was asked to identify him, who too had no clue regarding him. All through this, Saquib was observing his Ramazan fast, as he sat on the floor hand-cuffed—in gross violation of laws—facing a barrage of abuses. Mercifully though Saquib's ordeal was over and he returned safe, but the horror of those hours spent in unlawful custody—abused and damned—still haunts him and has scarred his young mind.

We suggested to Talib that he might be safer living elsewhere. But he refused to go to any 'safe place' for indeed neither he nor his brother had committed any crime to 'elude' the police in this manner. He was at loss to know 'why the police wanted to pick them up.' To the contrary he was most willing to go to the police station, and answer any question they had for him.

AMIR

On 16 October, the local residents of Shaheen Bagh (near Abul Fazl Enclave) captured a NOIDA police official and his car (without number plate), while 3 others fled. People in Jamia's Shaheen Bagh area managed to avert another possible violent scene when they stopped a black unnumbered Hyundai car in which about 4 people had kidnapped a local boy Amir as he had just entered the area to meet his brother-in-law. The local residents became suspicious of the activity when they spotted the car was without a number plate. As the crowd gathered, 3 persons ran away, but one of them named Mahesh was captured, and taken to the Jamia Nagar police station. According to sources he is a sub-inspector from NOIDA police, although local DCP Vijay Gupta refused to confirm or deny this. The local residents feel that Amir was being kidnapped to be used in another encounter. They found the number plate of the car inside (DL1-TW 1590). They also found two PAN cards - one of Jitendra Chopra s/o Om Prakash, and the other of Yogesh Pal Singh s/o Vishnu Pal Singh, besides a VISA card from Oriental Bank of Commerce with the name Priti Singh. The local police tried to hush the incident, although the leaders

of Jamia area have been making a lot of noise about it, and the atmosphere in Shaheen Bagh is tense.

IMRAN

On 8th November, about 20 days after the foiled kidnapping by Noida Police of a Muslim youth in Jamia Nagar's Shaheen Bagh area, the Haryana Police in broad daylight tried to do a Shaheen Bagh in Malviya Nagar but again they had to face public resistance and flee the scene in 'local police cover' It was around 3:30 pm yesterday when everything was normal in Hauz Rani Gaon area under Delhi's Malviya Nagar Police Station. Imran, 28, was at his shop Gauri Motors. A white colour Bolero jeep with blue beacon light atop but with no number plate came to the shop. Six armed men, who later turned out to be policemen from Ballabhgarh in Haryana, came out and dragged Imran into the van. He cried for help, local residents gathered and asked the 'kidnappers' to show their ID if they are policemen but they threatened to kill them. Yet the locals including women braved their threat and did not allow them to pick the youth. The local police came and took the Haryana Police to Malviya Nagar Police Station. After some time they were released. Locals say that the policemen had some sinister plan to kill the youth in a fake encounter and declare him as terrorist. They said Imran has no criminal background. When the locals asked the policemen to show their ID as they were in civilian dress and in a van with no number plate, they took out their arms and threatened to kill them. The residents called the local police, who assured them of action against those who wanted to pick the youth. They took them in their custody and drove to the Malviya Nagar Police Station. People alleged that the police sided with the Haryana cops upon reaching the police station and released them. Haji Quresh, Imran's brother has filed a complaint.

MURTAZA ALI KHAN

The most recent case is that of a young man from Bareilly, missing

since 28th November 2008 from Zakir Nagar an area adjacent to Batla House. His ailing sister and old father since then have been doing the rounds of local police station and the Special Cell but nobody has so far paid any attention to them.

According to a news item in the 4th December 2008 issue of the Delhi Urdu daily *Roznama Rashtriya Sahara* a young man named Murtaza Ali Khan alias Mannan of Izzat Nagar of Bareilly district of Uttar Pradesh came to see his ailing sister Mumtaz, a resident of Zakir Nagar, on 27th November 2008. In the morning of 28th November, his sister asked him to get some medicine from the Lions Hospital in New Friends Colony. When he did not return for quite some time, his sister Mumtaz and some others went to Lions Hospital where some people told them that a young man has forcibly been picked up by some men who appeared to be police men. They told that those men came in a Santro car with number plate DL-3CY-0718. His relatives approached a former local Municipal Councillor who rang up the police at about 9.45 am. After some time the former Municipal Councillor received a call from the New Friends Colony police station informing that a young man named Mannan has been taken away by the Special Cell. The same day his ailing sister informed the Lieutenant Governor of Delhi, Police Commissioner of Delhi, National Human Rights Commission, National Minority Commission of the incident. But no action till late evening of 3rd December was taken. Despite repeated attempts, the relatives failed to lodge an FIR with the New Friends Colony Police Station. As a result, his sister approached the Delhi High Court demanding that the Court should order the Delhi Police to locate the whereabouts of her brother. His sister told *Rashtriya Sahara* that there was no case either in Bareilly or in Delhi against her brother. She feared that her brother may be implicated in any false case or may be done away with in a fake encounter.

After repeated denials, the Special Cell finally acknowledged that they have indeed picked up Mannan.

II. Terror Trails of 'Special' Cops (Special Cell, STF, ATS)³

The Batla house operation by the Special Cell of the Delhi police has re-opened unanswered questions about the functioning of this and similar agencies. Killings and arrests of Muslim youths by the Special Cell of Delhi police in its anti-terrorist operations are a routine matter by now. For example, as a representation in July 2005 to the National Human Rights Commission by the Committee for Inquiry on December 13 (chaired by late Nirmala Deshpande) documented, the Cell conducted the following operations during the short period between February to July 2005. Importantly, this is the period in which the Supreme Court formulated its judgment on the Parliament attack case, and the conduct of the Cell in its handling of the case was under close scrutiny.

February 18: *Aziz of Al-Jehad* arrested (*The Hindu*, 19 Feb' 2005).

February 25: *Mohammad Untoo* and *Gulam Nazar*, ex-militants, arrested (*The Hindu*, 26 & 28 Feb 2005).

March 5: *Hamid Hussain* and *Sariq* of LeT arrested (*The Hindu*, 6 & 7 March 2005).

March 5: *Shahnawaz*, *Bilawal* and *Shams*, LeT militants, killed in Bharat Vihar (*The Hindu*, 8 March 2005).

March 8: *Iftekar Ahsan Mallick* of LeT arrested (*The Hindu*, 9 March 2005).

March 10: *Mohammad Sayeed*, Pak spy, arrested (*The Hindu*, 11 March 2005).

April 25: *Osama* and *Sabir*, LeT militants, killed near Pragati Maidan (*The Hindu*, 26 April 2005).

May 16: *Harun Rashid*, LeT militant, arrested. (*The Hindu*, 17 May 2005)

May 23: *Ishaq Ittoo*, LeT militant, arrested. (*The Times of India*, 24 May 2005).

³ We are thankful to Prof. Nirmalangshu Mukherjee for sharing this with us. It has also appeared in *Revolutionary Democracy*, Vol. XIV, No. 2, September 2008.

'Encounter' at Batla House: *Unanswered Questions*

June 4: *Ejaj Wani, Shabbir Peer, Nazir Khan* of Hizb-e-Islami arrested (*TheHindu*, 5 June 2005).

July 10: *Abdul Majid Bhatt* of Hizb-ul-Mujahideen arrested (*The Times of India*, 18 July 2005).

In each case one could notice a similar pattern:

- the *media reported just the police version of the story* in a language and with visual aids that vastly heightened the atmosphere of fear.;
- There were *no follow-ups to ascertain whether the arrests and the encounters were genuine*,
- After the arrests, the *arrested persons simply disappeared from view*,
- the *media made no inquiries about their treatment in police custody*, and whether the accused have been given the due protection of law.

Besides, the media conducted no investigation on the following issues:

- sudden increase in anti-terrorist operations by the Special Cell;
- that dreaded terrorist organizations such as LeT could allow themselves to be repeatedly caught in the traps set up by the Special Cell;
- every time the Special Cell with remarkable ease was able to recover huge amounts of explosives and incriminating material, so much so that the identity and the goals of the organizations are immediately exposed;
- the remarkable ability of the Special Cell to remain unharmed in alleged gun-battles.

In at least two cases, there are reasons to doubt the veracity of the police story. First, the alleged ex-militant Mohammad Ahsan Untoo is in fact a senior human rights campaigner in Kashmir, who was arrested by the Special Cell illegally and was brutally tortured in an attempt to extract a confession implicating him with the murderous attack on S. A. R. Geelani (*Indian Express*, 17 May). Second, the

People's Union for Democratic Rights (PUDR) has shown that the encounter near Pragati Maidan in which two alleged militants were gunned down was possibly an act of cold-blooded murder, reminiscent of the Ansal Plaza incident some years ago (The Hindu, 3 May, 2005).

Repeatedly it has been pointed out by the Civil Liberties organizations and Human Rights lawyers that the methods of this special police cell, which functions as a law unto itself, are seriously questionable. In the name of “counter-terrorist” operations, this Cell has repeatedly engaged in false arrests and encounter killings of innocent people. For example, the National Human Rights Commission had questioned their role in the Ansal Plaza incident in which officer Rajbir Singh and his colleagues shot down two unarmed persons allegedly belonging to the Lashkar-e-Toiba.

In spite of persistent and detailed reporting of the unlawful—often murderous—actions of the Cell, by human rights organizations such as People's Union for Democratic Rights (PUDR) and People's Union of Civil Liberties (PUCL), these appeals and reports fell on deaf ears of even otherwise competent authorities including the National Human Rights Commission—they were only marginally covered by the print media, if at all. What stayed in public memory were the dramatic operations of the Special Cell resulting in elimination of dreaded terrorists, recovery of large amount of explosive material and other weapons, large cache of foreign exchange, mobile and e-mail records, and, of course, the immediate detailed confessions. Officers such as Rajbir Singh and Mohan Chand Sharma were projected as national heroes, notwithstanding side-reports of the involvement and subsequent murder of Rajbir Singh in connection with shady land deals worth astronomical amounts of money.

It is natural to ask whether the suggested judicial probe should be restricted to Batla house episode alone. In his recent submission before the Delhi High Court, senior counsel Prashant Bhusan, appearing for PUDR, questioned the legality of the Batla House operation. In the course of his argument, he mentioned several other cases—such as the 'encounter' at the Millenium Park—in which the

operations of the Cell had been seriously questioned by human rights organizations earlier.



At a demonstration against the Special Cell at Jantar Mantar on 26 November 2008.

The Case of Mohammad Qamar and Irshad Ali

In a more recent case, the judicial pronouncement against the Cell had been even more damaging. In a repetition of the familiar story, the Cell had arrested two Muslim youth, Mohammad Maurif Qamar and Irshad Ali and charged them as terrorists belonging to the Al-Badr outfit.

Upon investigation it turned out that Qamar and Ali were actually police informers who were assigned the task of infiltrating terrorist organizations in Jammu and Kashmir. When they refused, Qamar was abducted from his residence in Bhajanpura on 22 December 2005 while Ali had earlier gone missing from his Sultanpuri house on 12 December 2005. Qamar was taken to a room near Red Fort where he came across Ali. Both were needlessly interrogated and tortured by the IB and Delhi Police officers. On 28 December 2005, missing person report was filed by the kin of Qamar, alleging that he had been kidnapped. Representations were also sent to the President, Prime Minister and Home Minister of India, by Aqif Qamar, his brother,

seeking directions to Delhi Police to trace his missing brother. Subsequently the Special Cell sleuths showed the arrest of Ali and Qamar, alleging that they were picked up by the Cell from Mubarak Chowk, on G.T. Karnal Road in north Delhi on 9 February 2006. Among other things, two kg of RDX and pistols were shown to have been recovered from them and booked them under sections 121 (waging war against the state) and 120B (criminal conspiracy) as well as under the Explosives Act.

Fortunately, the accused found a zealous and courageous lawyer to defend them. The lawyer could establish the fact that they were police informers from the phone records between the members of the Special Cell and the accused. The matter was referred to the High Court which ordered a supplementary investigation into the case by the CBI. The agency's investigation conclusively proved that calls were made often to both Ali and Qamar from the landline telephones of intelligence agencies, proving that the duo were indeed informers. In its Status Report submitted before the court of Justice Reva Khetrapal, the CBI stated that:

- There was nothing to prove that Qamar was associated with Al-Badr.
- There were no independent witnesses to the seizure of arms and ammunition.
- The police had made no efforts to trace how the weapons reached the accused.
- The police failed to explain why the mobile phones of the accused were switched off for two months prior to their arrest.

After concluding that the arrests and the recoveries do not 'inspire confidence', the CBI suggested that it seemed that the duo were victims of a conspiracy hatched by the Special Cell in collusion with intelligence bureau operatives. The CBI asked the court to entrust the 'investigation of the case to CBI for a thorough and impartial investigation into the matter'. After a strong reminder by the High Court, the CBI submitted its Closure Report in the court of the Additional Session Judge, S.S. Mohi on 11th November 2008. The CBI came out with some startling findings: the agency told the Sessions Court that Ali and Qamar were as a matter of fact IB informers and—not as alleged by the Special Cell, Al-Badr terrorists. They were innocents who were framed and falsely implicated in the entire case by

the Special Cell, which had planted fabricated evidence on these men. The CBI also disclosed that these two had been kidnapped by the Special Cell in December 2005—a full two months before they were shown to be arrested. These startling revelations have brought into open the way in which such 'special' security agencies operate: kidnapping, framing innocents, planting pistols and explosives, and justifying their high-handedness in the name of fighting 'terror'. The agency further recommended that the three Special Cell cops who were part of the operation and frame-up be booked for fabricating evidence and planting incriminating evidence.

The parallels between 'Al Badar operation' and the Batla House 'Encounter':

- The Special cell team which conducted the 'Al Badr' operation was headed by ACP Sanjeev Yadav and Inspector Sharma—the very same people who led the Batla House operation!
- Moreover, there were several common members between the two Special Cell teams: Sub-Inspectors Ravinder Tyagi, Sanjay Dutt and Rahul Kumar played an important role in both events. Incidentally, Tyagi is the recipient of this year's President's Gallantry Award.
- Arms have been shown to be seized on both occasions. No seizure lists made or verified in either cases.

Sub-Inspectors Ravinder Tyagi, Sanjay Dutt and Rahul Kumar have been recommended for prosecution by the CBI. The CBI report clearly points to a nexus between the IB and the Special Cell in framing Qamar and Ali (and many others like them). Apart from the Delhi Police officials, the CBI also found that an Inspector rank officer of the IB, namely Majid Din, was involved in the abduction and illegal detention of the two youths.

The latest gallantry of the Special Cell comprises threats to the CBI Inspector, Santosh Kumar, for daring to unearth the Special Cell dirt. Kumar has moved an application in the court of Additional Sessions Judge S K Gautam seeking “protection” against threats received from Sub-Inspector Vinay Tyagi of the Special Cell. Kumar has claimed in his application that Tyagi, who was the first investigating officer in the case, had threatened him with “dire consequences for exposing some officers in the case of framing two persons as members of Kashmir-

based militant outfit Al Badr”.

Kumar claims Tyagi issued the threats while they were coming out of courtroom after a hearing on December 15. He has also alleged that Tyagi was trying to tamper with evidence in the case. (Indian Express, 15 January 2009).

III Report of the Jan Sunwai in Batla House (12th October 2008)

On the 12th October, 2008, the Jamia Teachers' Solidarity Group organized a Jan Sunwai and Public Meeting on the Batla House 'Encounter' in the ground opposite Khalilullah Masjid, Batla House, Jamia Nagar, New Delhi, from 10.00 a.m. to 1.00 p.m.

The jury constituted of Swami Agnivesh,

John Dayal, Harsh Mander, Tripta Wahi, Tanika Sarkar, Vijay Singh and Nirmalangshu Mukherji. Prominent members of the civil society who attended the Jan Sunwai included, among others, Prashant Bhushan, Arundhati Roy, Kavita Srivastava and Kavita Krishnan. Faculty, staff and students of Jamia Millia Islamia, University of Delhi and JNU, and members of the media too joined the proceedings of the Jan Sunwai to listen to the eye witness' accounts of the 'encounter'.

The Sunwai helped towards breaking the shroud of silence in which the members of the Jamia Nagar community had been pushed into following the policed feeding of accounts of the 'encounter' that was coming through the media through previous weeks. The people of Jamia Nagar participated overwhelmingly in the Jan Sunwai. The predominant sentiment among the local residents about the 'encounter' was one of shock, anger and disbelief. There was a strong unanimity among the people present regarding the fake nature of the 'encounter' and the entire locality appeared to disagree with the story of the 'encounter' of the police.

This feeling was articulated by the participants and those who gave testimony before the jury. Several people of the community spoke as neighbours, eye witnesses and relatives of either the deceased or the accused and argued that while the problem of terrorism needs serious



The audience listens to the testimonies of the eye witnesses at Jan Sunwai.
Batla House, 12 October 2008

attention, one cannot subscribe to an alternate reign of terror perpetrated by certain sections of the state authority.

Local residents took strong exception to the stereotyping of young Muslim educated youth in this area and also in general as terrorists. It was widely felt that the links which the pliant media and the state is making between education, especially professional technical education among Muslim youth and terrorism has fuelled fears that it will inhibit the progress and social advancement of the community.

Following are the testimonies before the Jury of local residents who were eyewitnesses⁴ to the 'encounter':

Witness 1 (Neighbour)

The witness came to know of the police action only when he heard the police firing, which he initially thought of as bursts of firecrackers. In his opinion the police should have taken some people from the locality or the building into confidence before beginning the operation. Perhaps this way any untoward accident in such an action could have been avoided. According to him, the police perhaps consulted just the *kooda-wallah* (garbage-picker) and the watchman of the building to build more upon their claimed intelligence leads. He said that the police could have got more appropriate intelligence inputs if they had bothered to make enquiries with the residents of the building regarding these boys. On being quizzed what time he turned his attention to the police action, he replied that it must have been around 10:45 am. He mentioned that he heard gunfire of only one kind, and at marked intervals, suggesting that there were no cross-firing and only one party did all the shooting.

He mentioned that when two policemen brought down Inspector Mohan Chand Sharma from L-18, he was walking though propped, and there seemed no bullet injuries to the frontal torso though there was some blood around the left arm. He finds it strange that nobody from police ever came to talk to the residents even after the incident so as to gather any information about the boys.

Witness 2

The witness works in an electricity related firm, and one of their facilities is in the vicinity of L-18. He said he received a call from his

⁴ Names of eyewitnesses and other witnesses have been withheld to protect their identity

office supervisor that some gun firing was going on around his office. He lives close by and immediately rushed off to investigate, reaching the site around 11:20 am. He saw pistol wielding policemen around—some of them were scaling the terrace of L-10, the house opposite L-18, and throwing flower pots onto L-18 breaking window panes, apparently trying to present it as a credible a site of struggle.

He also pointed out that the media was present when he came to the site, though they were not allowed to go beyond the Khalillullah Masjid, where police by this time had put up barricades.

Witness 3 (Neighbour)

The witness recounted that on the morning of the 19th September, he saw some people running around the Khalillullah mosque crossing. He heard that there was some fighting going on. He dismissed it as a brawl between some property dealers who live in the locality. But soon he realized the gravity of the matter, when he saw plain-clothes policemen around and he heard about five rounds of gunfire. He was able to see one gunman in civilian clothes. He heard another five rounds and then saw Mohan Chand Sharma descending down the stairs of L-18, supported by others. He also recounts that all the gunfire had a singular sound type, and hence there must have been no cross firing. Most significantly, he heard nothing to suggest any struggle or shouts, etc., between the police and the boys alleged to be terrorists.

He said that following Inspector Sharma's departure, there were five more rounds of fire, and sounds of breaking glass. In total he claims that there must have been around 20-22 rounds of gunfire; all of one sound-type.

According to him, the police brought the dead bodies completely wrapped in bed sheets, and these were quickly taken away, so they could not identify the faces of the dead. He was also at loss to understand as to why the AK-47 assault rifles and others explosives that the police claimed to have recovered from the site were not shown to anyone?

On being asked if he ever saw any suspicious activity involving these dead students he answered in the negative. Answering about the chronology of the events he says it all began around 10:30 am, around 11:00 am Inspector Sharma was rushed out, and by 11:30 am the bodies of the dead were taken away.

He was very disturbed by the connections being made between technical education among Muslims and terrorism. As a teacher at a polytechnic, he felt himself vulnerable to similar charges.

Witness 4 (Neighbour)

The witness is an advocate and lives in the same lane in which L-18 is located. At the time of police action he heard gunshots and when he came out to see what was going on, he saw some plainclothes policemen with guns. Since he was familiar with some of these policemen—having met them in some or the other connection in the courts—he enquired from them as to what was going on. He was told that there were SIMI men upstairs. He wanted to know more which led to heated exchange between him and couple of these policemen who refused to tell him any more. Then he saw a policeman whom he recognised, rushing up.

He heard some firing, all of one kind only, which suggested absence of crossfire.

Next he saw Mohan Chand Sharma being carried down propped on shoulders of ACP Sanjeev Yadav who was wearing his bullet-proof jacket, while Mohan Chand was not. There were more pistol shots. Then two policemen carried stretchers upstairs, and quickly returned with one dead body completely wrapped in sheets. It was carried out in a Qualis, which was taken right into the complex's parking and nobody was allowed to see what was happening there. Soon after this, a man with his head covered was taken away in a Santro car with a damaged number plate. Everything was over within 25 minutes. The witness then called Zee News. Soon more police force arrived and the witness even saw Karnail Singh walking about.

Regarding the 'controversial' picture of Mr Mohan Chand, the witness suggested that it must have been clicked between 10:30–10:45 am. He said that while Mohan Chand was carried to a vehicle the policemen kept abusing every one around.

The Jury asked him if he had ever earlier seen or met the boys who were killed. He replied that indeed on a couple of occasions he had seen them in the mosque.

He also told Jury that some policemen climbed L-10 and L-11 and threw flowerpots, etc., on to the balcony of the L-18. Some also fired in the air. Responding to another question he told the Jury that Mohan

Chand Sharma seemed to have received bullet wound on his shoulder and there was some blood there. Asked if the dead body that was brought down had blood on it...he said that the body was wrapped in sheets and he could not see any blood anywhere.

He also stated that many more people had been picked up from Shaheen Bagh, Zakir Nagar, etc in the aftermath of the 'encounter'. And from the same building six very young schoolboys studying at Jamia school living in the flat below were picked up and released only late in the night.

Witness 5 (Neighbour)

The witness was heading for his office when he heard gunshots and stopped. He saw Inspector Sharma, bleeding from his left shoulder, being carried by two colleagues. He told the jury that the police abused them and said "*saalon gaadi hatao...*". Soon after he left for his office and returned only by the evening.

Witnesses to the Burial

Others who were not eyewitnesses to the encounter killings namely but otherwise were present when the bodies of the deceased were given final ablution before the burial, testified about the injuries on the dead bodies. They all pointed that Sajid had distinct bullet marks on the head indicating as if he was made to kneel down and then was shot in cold blood at a close range. They also told the jury that Atif's skin was badly bruised and sloughed off from the back as if he was dragged on some rough ground.

Atif had injury marks around his waist and a number of bullet wounds around his chest.

Report of the Jury

On the 14th October, 2008, the jury of the Jan Sunwai submitted its report. The jury was of the view that the on-going targeting of the Muslim minority in the country has created an atmosphere of fear and anxiety. The complete disregard and violation of fundamental civil rights in the process of the State's efforts to control 'terrorist' activities has raised questions regarding the secular character of the Indian democracy and the impartiality of its institutions. The widespread sense of alienation among the minorities can only be mitigated by ensuring justice.

The jury strongly felt that there was ample ground to doubt the veracity of the police version of the sequence of events on 19th September. Following its observations in the Jan Sunwai, the Jury demanded:

- Judicial probe into the 19th September encounter by a sitting Supreme Court judge
- The investigations must be handed over to the Central Bureau of Investigations.

IV. Azamgarh phobia

Azamgarh has been touted as the 'hub of terror'. Dozens of youth are missing, either absconding for fear of charges of terror being forced on them, or picked up by the police, their parents are unsure. A climate of fear still prevails, with arbitrary arrests still continuing unabated.

Azamgarh hockey team called 'terrorists':

The unfounded maligning of Azamgarh by the media as 'atankgarh' has had severe repercussions, which seem to be widening its ambit. Most unfortunate is the case that involved members of the Azamgarh hockey team. The incident happened on the 9th November 2008, when under the coach Abu Lais, three district level players from Azamgarh, namely, Shivanand Maurya, Shamiullah and Pawan Gaud were headed to Etawah to participate in the state level, under-16 hockey tournament. At the Kanpur railway station they were waiting for a train bound to Etawah. Around 2.30 pm when they were boarding the train, one of them suddenly remembered that they left their jerseys behind. The boys rushed back to retrieve their jerseys. As they were running, they were stopped by some GRP personnel and questioned: 'Kahan sey aa rahe ho?'; 'Kahan jaa rahe ho?' ('where are you guys coming from?'; 'where are you all heading to?'). The boys replied they were from Azamgarh and were going to Etawah to take part in state-level hockey tournament. No sooner did the GRP men hear the name of Azamgarh that they were called as 'aatanki' (terrorists) and were subjected to severe physical search, during which Rs 200 was snatched from one boy and Rs 700 from another boy. Monetarily ransacked and emotionally scarred the boys nonetheless left for their tournament, and returned to Azamgarh on 13th November. Subsequently the District Hockey Association submitted a memorandum to the

District Magistrate demanding action against GRP personnel involved.

A Hajj pilgrim's hopes dashed:

69-year-old Nurul Hassan had waited all his life to make a pilgrimage to Mecca and thus accomplish Hajj. But instead of being on a flight to Mecca—scheduled for 16th Nov 2008—he is bed-ridden and almost paralysed from waist downwards; a condition accruing from the torture he was subjected to by the police. On the 24th October 2008, for the rectification of certain irregularities in his Hajj application, Nurul Hassan (a resident of Bahadurganj's mohalla Dakniganj, Janapada Ghazipur) along with his son Salaamat-ullah, from Mau took a UP roadways bus for Lucknow. As he alighted at the Alambagh bus station, some people in plaincloths caught hold of him, bundled him into a waiting Tata Sumo, and took him to an unknown place, where he was kept confined. For three days he was relentlessly questioned and brutally tortured. He was asked to admit to being involved in bomb blasts and provide the names of his relatives who lived in Sanjarpur, Azamgarh. Failing in their designs, the police dumped him on the road in an unconscious state. When he regained consciousness, he managed to reach Mau. He was admitted to hospital and slowly recovered, though he is still unable to even sit straight. Consequently he had to cancel his ticket for Hajj. Even though he filed a report in Ghazipur, the administration has not heeded to his plight, and he fast seems to be losing hope in 'justice', as his bleary eyes tell a tale of horror and reflect fear that he has been living since then.

Aamir Talha

On 21st December 2008, the Nagpur ATS picked up 23-year-old Mohammad Talha, who belongs to Azamgarh. Mohammad Talha, a financial analyst has been working with India's leading IT company Wipro in Hyderabad for the last three years. He had come to Azamgarh for *Eid-ul-Azha* and was returning to Hyderabad by Patna-Sikandarabad Express. He is the son of the prominent Azamgarh cleric, Maulana Rashadi, also a vociferous voice against the spate of illegal detentions and arrests of Muslim youth from Azamgarh.

Talha met some friends on the train with whom he had dinner. At the Nagpur railway station (around 11.30 pm) he and one of his friends got down to fetch water. Suddenly, he was accosted by 4-5 people who claimed to be ATS officers. They pushed his friend to the floor and

dragged Talha away. When the men shouted for help, Talha was gagged, and his friends punched at and threatened with murder.

The GRP (railway police) Nagpur produced Talha before the Railway Magistrate S.P. Pawar and showed him in possession of a pistol and some live cartridges. A case was filed against him under the Arms Act. The court sent him to police custody till January 3. The Maharashtra ATS took him away to Mumbai for interrogation. Police teams from Gujarat, Rajasthan, Delhi, Andhra Pradesh and Uttar Pradesh also arrived there to interrogate him as part of their investigations into terror attacks in those states. But none of them found him involved in any terror act.

In an interview, Talha's father vouched that he had packed his son's bag when he was leaving for Hyderabad. He said: "there was not even a nail cutter in his bag. He had in his bag 2-3 pairs of dress, some *roti* and *halwa*." (See TwoCircles.net, 12/30/2008)

After interrogating him for 13 days, the Mumbai Crime Branch, which is looking into the 26/11 Mumbai attack, did not find him involved in any terror act. On January 3 the Maharashtra ATS told the Nagpur court that they found no evidence of Talha's involvement in any terror case and they did not want to keep him on further police remand. The court heard Talha's bail petition and ordered his release.

Dr Tasleem Rahmani of the Muslim Political Council, said Talha has been falsely implicated in the case. The allegation of him possessing arms is false. "In fact the arms were planted on him and we will prove the allegation wrong," he said

Talha Aamir's father Maulana Aamir Rashadi (the chief of Uttar Pradesh *Ulema* Council and Principal of Madrasa Jamiatur Rashad, Azamgarh), a well-known Muslim scholar and human rights activist in Uttar Pradesh had been at the forefront of agitation against the attitude and campaign of the media and security agencies towards tarnishing the image of Azamgarh and its people.

The arrest of an IT professional—son of a well-known Muslim scholar and human right activist who had strongly disapproved the criminalization of Azamgarh in the wake of the Batla House encounter—is a grim reminder and warning to all those, especially Muslims, who are raising their voices against the injustices perpetrated by security agencies in the name of fighting terror. *Prima facie* it is a case of exerting pressure on an active human rights defender.

JTSG Charter of Demands

- 1) A Judicial Probe headed by a sitting judge of the Supreme Court
- 2) The Investigations must be transferred from the Delhi Police to the CBI.
- 3) Exemplary punishment should be meted to police officers guilty of implicating innocent Muslim youth in false cases of terrorism
- 4) Adequate compensation and jobs should be provided to those acquitted in the terror-related cases.

ACKNOWLEDGEMENTS

ANHAD (act now for harmony and democracy)

APCR (association for the protection of civil rights)

AWAM theatre group, jamia millia islamia

DUJ (delhi union of journalists)

FDI (forum for democratic initiatives)

HRLN (human rights law network)

JANHASTAKSHEP

PUDR (peoples' union for democratic rights)

REVOLUTIONARY DEMOCRACY

TWOCIRCLES.NET

MAHTAB ALAM

AND ALL FELLOW TRAVELLERS IN THE STRUGGLE FOR
JUSTICE

JAMIA TEACHERS' SOLIDARITY GROUP

The events of 19th September and subsequent days left the Jamia community shocked, aggrieved and fearful. In particular the manner and the suspicious circumstances in which young boys, many of them students of Jamia Millia Islamia, were picked up by the Special Cell, and pronounced "dreaded terrorists" by a trial by an utterly sensationalist and prejudiced media created an atmosphere of fear and suspicion.

We as teachers felt that we could not afford to isolate ourselves in intellectual ivory towers. There was an urgent need to reach out to the community, which lives at our very doorstep, and where a large number of teachers, administrative staff and our students reside. Jamia Teachers' Solidarity Group was thus formed. The need for a civil society campaign on this was further underscored when the various contradictions in the police theories emerged.

Through a number of initiatives, including a Jan Sunwai in Batla House, a march to Parliament to demand a judicial probe into the 'encounter', a demonstration against the Special Cell, and public discussions on the role of the media, Supreme Court guidelines on encounter killings etc, we believe we have managed to create a wedge, however small, in the prevailing discourse—a discourse that questions the nationalism and patriotism of people who ask uncomfortable questions. We believe that the true foundation of a democracy can only be justice. Anyone with an interest in deepening and strengthening Indian democracy should raise her voice against this brazen witch-hunt in the name of fighting terror.

Jamia Teachers' Solidarity Group condemns terrorism of all kinds, including state terror.



Citizens' March to Parliament called by Jamia Teachers' Solidarity Group to demand Judicial probe into the Batla House 'encounter'. 24 October 2008

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JAMIA TEACHERS' SOLIDARITY GROUP