



LOSING FAITH

THE MUZAFFARNAGAR GANG-RAPE
SURVIVORS' STRUGGLE FOR JUSTICE

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Names of all survivors have been changed.

Cover photo: Fatima, 42, stands in the sugarcane fields in Kandhla, Shamli. In Fugana, her mother-in-law used to work in the sugarcane fields of the rape accused.

Photos by Ruhani Kaur for Amnesty International India

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Dilnaz with her children in the house they moved to from Fugana after the 2013 riots.



“ If those responsible are brought to justice, I will be happy in my heart. I will not live in fear anymore.”

*Esha, a gang-rape survivor, July 2016.
She died during childbirth the next month.*

In 2013, communal violence between Hindus and Muslims in and around Muzaffarnagar and Shamli districts in Uttar Pradesh led to the deaths of over 60 people and the displacement of tens of thousands.

Over three years later, seven Muslim women who were gang-raped during the violence are yet to receive justice.

BACKGROUND

“All three of them threatened me, saying, that if i did not do what they asked, they would kill my son... they took turns to rape me... After they left, I took my son to a tube well, washed my private parts, hands and legs. I gave some water to my son to drink because he had fainted.”

Ghazala's First Information Report to the police

On 7 September 2013, at a massive gathering in a village outside Muzaffarnagar city, Hindu leaders from the dominant Jat community addressed a crowd of over 100,000 people. They had gathered to discuss the recent killings of two Hindu men in an altercation with Muslim men. The altercation had also prompted large gatherings previously, including by Muslim men, in other locations.

Slogans of “save your daughters” were raised at the 7 September gathering, and inflammatory speeches made, allegedly by Bharatiya Janata Party leaders, instigating Hindus to take revenge for the killings.

The gathering was followed by an outbreak of violence in the neighboring districts. Over 60 people were killed in the clashes, which ended only after three days. Thousands of Muslim families were forced to flee their homes and take shelter in relief camps.

A few days later, reports of targeted sexual violence against Muslim women began to surface. Journalists and civil society teams said that they had found scores of Muslim women in relief camps who spoke of having been assaulted, raped or gang-raped, but were unwilling to file official complaints to the police, fearing social stigma and reprisal.

Eventually, seven women came forward to report that they had been gang-raped, all by men from the Jat community. The state government constituted a special team later in September 2013 to investigate the cases, and the Uttar Pradesh Chief Minister and the chief of the ruling Samajwadi Party promised swift justice.

However, to date, there has not been a single conviction in any of the cases. Two of the women have changed their statements, following threats and intimidation. One died in 2016. And in two cases, trials have not even begun. Over three years after the violence, the gang-rape survivors continue to suffer the effects of the crimes against them. The security and compensation that the state government provided to the survivors came only after human rights lawyers filed petitions on their behalf before the Supreme Court in December 2013.

In July 2016 and January 2017, Amnesty International India met six of the survivors, many of whom were unaware of the status of their cases. Researchers also met journalists, lawyers and civil society activists, and examined police and court documents.



The Mahapanchayat in Nagla Madhok, a village outside Muzaffarnagar city, a day before the riots broke out in Muzaffarnagar and Shamli districts. (File photo)

The Uttar Pradesh government has failed to expeditiously investigate and prosecute the cases and deliver justice. The state government and successive central governments have also failed to adequately protect survivors from threats and harassment aimed at deterring them from pursuing their cases, and to provide adequate reparation to the survivors. Their failures continue to keep the survivors in a state of fear and insecurity, sceptical that they will ever get justice.

As state assembly elections commence in Uttar Pradesh, the gang-rapes of Muzaffarnagar and Shamli are at risk of becoming another forgotten human rights tragedy.

GENDER-BASED VIOLENCE IN COMMUNAL RIOTS

Both the incidence of gender-based violence against women during communal riots, and the impunity around it, have long histories in India. In most cases of communal violence, authorities have failed to effectively investigate and bring to justice perpetrators of gender-based violence, particularly rape and other sexual assault.

The use of gender-based violence as a tool to humiliate and dominate a community has been extensively documented. In Muzaffarnagar, all of the seven gang-rape survivors were Muslim women and the alleged perpetrators men from the dominant Hindu Jat community. Human rights lawyer Vrinda Grover says, **“The targeting of the woman is both sexualized in nature as well as intended towards the larger humiliation, targeting and oppression of the minority community.”**

DELAYS IN PROSECUTION

In all seven gang-rape cases, the police took months to file charges, and even after they did so, trials have proceeded extremely slowly.

While long delays in trials are common in India, there has been increased emphasis in recent years on finishing trials involving violence against women within a reasonable time. In 2013, Section 309 of India's Code of Criminal Procedure was amended to ensure that courts did not adjourn hearings without good reason. The amended section states:

"In every inquiry or trial the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded:

Provided that when the inquiry or trial relates to [various forms of rape], the inquiry or trial shall, as far as possible be completed within a period of two months from the date of filing of the charge sheet."

In the Muzaffarnagar gang-rape cases, though, this section appears to have been largely ignored. Even where the police filed charges (which took between six and 14 months in most cases), the trials did not commence immediately. In one case, the trial has not yet begun despite charges having been filed over two years ago.

All the survivors who spoke to Amnesty International India said that they did not receive adequate or regular information about the status of their cases from government authorities. Some said they had not attended hearings for several months as they did not know about the dates of the hearings. Many said they had not met the government prosecutors handling their cases. Activists working with the survivors said that the continued delays in their cases have demoralized them.

The Muzaffarnagar District Government Counsel told Amnesty International India in January 2017 that the delays were partly caused by the difficulty in finding the survivors. He was not aware that one of the seven survivors had died during childbirth in August 2016. The state's Advocate General insisted that there were no delays on the part of the government.



Office of the District Magistrate, Muzaffarnagar. (File photo)

DELAYED JUSTICE: THE PROGRESS OF THE SEVEN GANG-RAPE CASES

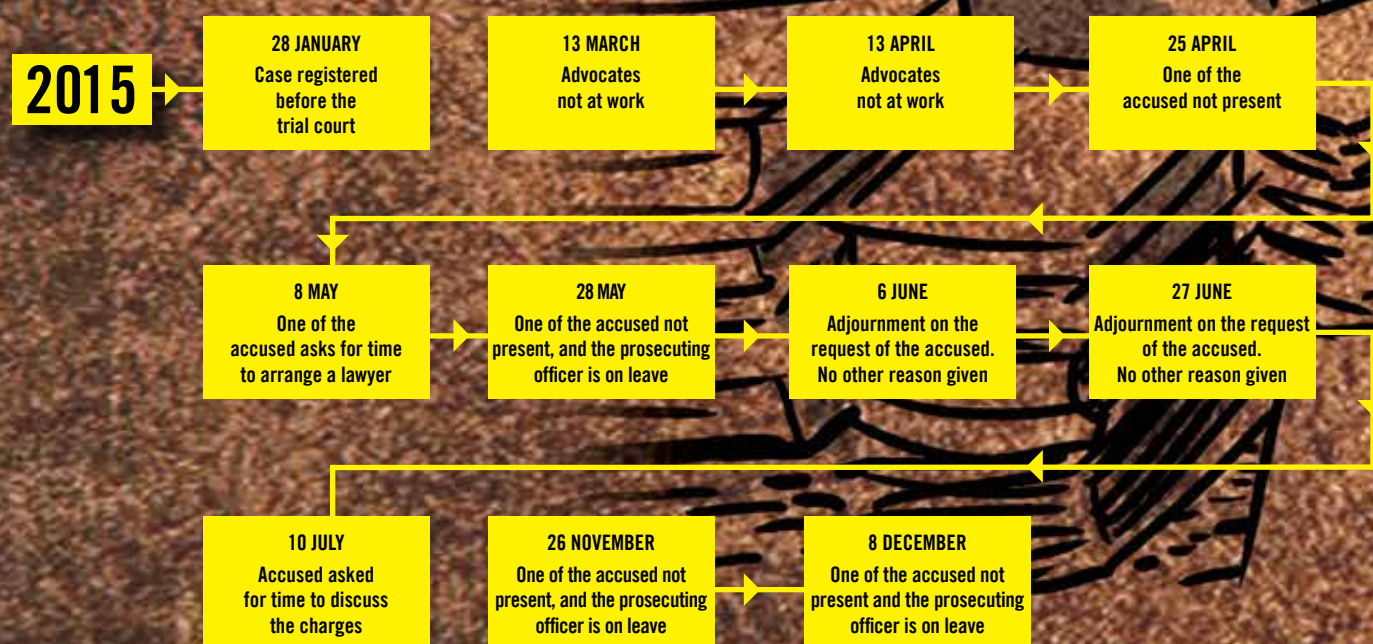
Name	First Information Report registered by police	Charge-sheet first filed by police
Aarzo	22 September 2013	12 April 2014
Bano	25 September 2013	No charges have been filed yet. The case was closed in January 2014 after Bano changed her statement, following threats to the safety of her family. Following a Supreme Court order, in May 2014, she was allowed to depose again before a woman judicial magistrate, where she stated that the accused had raped her.
Chaman	26 September 2013	12 April 2014. In November 2015, Chaman changed her statement before a magistrate, stating that the accused persons were not the men who raped her.
Dilnaz	29 September 2013	24 May 2014. Dilnaz later changed her statement, saying that the accused named in the FIR were not the men who had raped her.
Esha	29 September 2013	25 May 2014
Fatima	Fatima tried to file an FIR on 20 September 2013. The police did not register her FIR the first time. She tried a second time, and managed to have an FIR registered on 9 October 2013.	24 May 2014
Ghazala	Ghazala sent her complaint to the police on 22 October 2013. The police did not register the FIR or acknowledge her complaint. The police registered an FIR only on 18 February 2014, after the issue was raised before the Supreme Court.	10 September 2014

	Framing of charges by court, marking commencement of trial	Status of case
	23 February 2016	Aarzo's testimony has not yet been recorded.
	Not yet framed	The trial is yet to begin.
	9 February 2015	The trial is underway.
	8 June 2015	The accused were acquitted on 21 January 2016.
	14 August 2015	Esha died in August 2016 during childbirth. Her evidence had not yet been recorded.
	26 June 2015	The recording of evidence is underway.
	Not yet framed	A petition seeking the transfer of the case out of Muzaffarnagar was filed in April 2016, and is pending before the Allahabad High Court. The court proceedings have been suspended until a decision on the transfer petition.

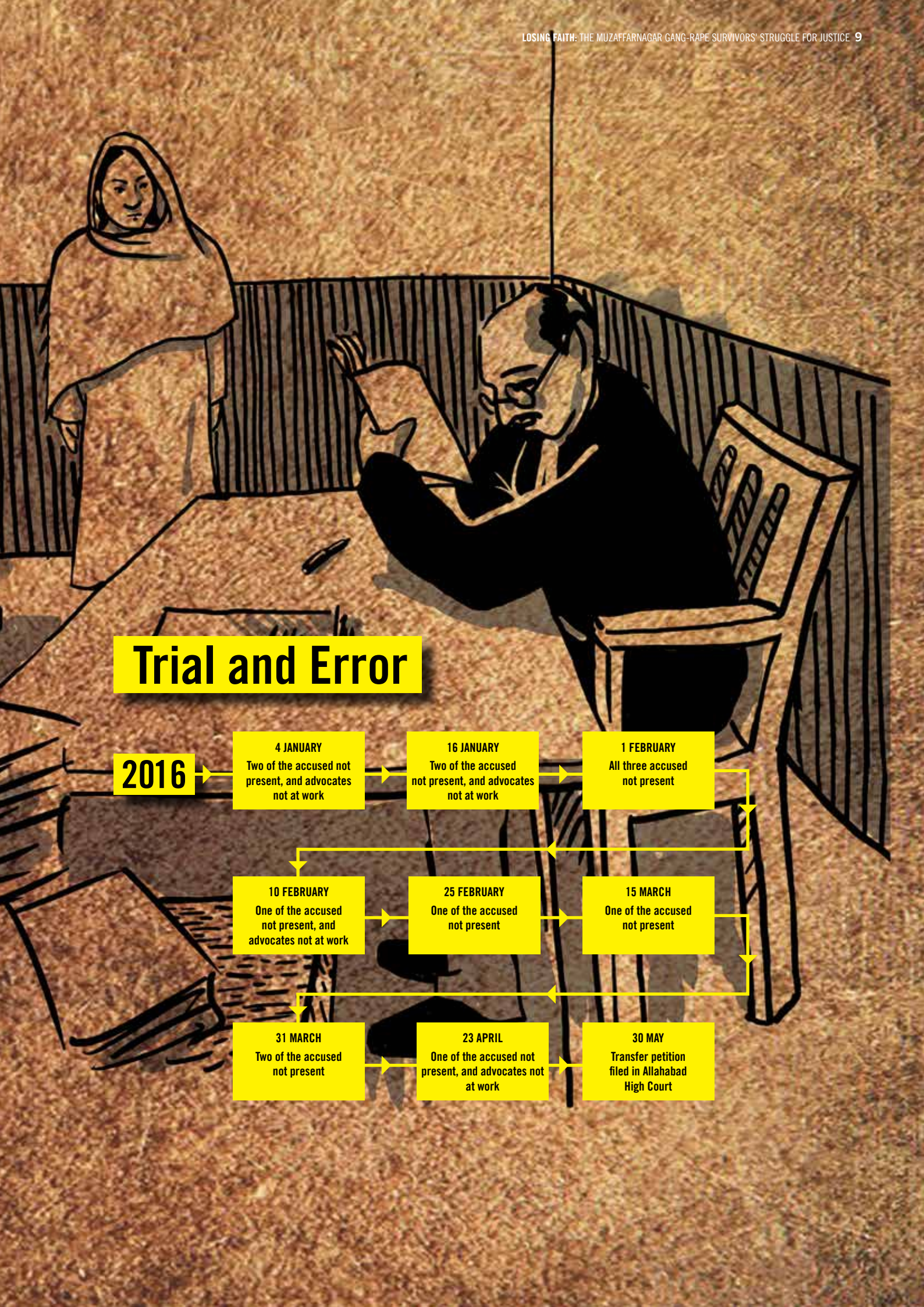
The timeline of the reasons for court adjournments in Ghazala's case illustrates how repeated delays and adjournments, and an apparent lack of intent from prosecutors to expedite proceedings, can hinder the survivors' right to justice.

The Allahabad High Court granted bail to the three accused men in December 2014, January 2015 and February 2015, on the condition that they "shall not seek adjournments on the dates fixed for evidence when the witnesses are present in court". However, adjournments were repeatedly both sought by the accused, and granted by the 'fast-track' court hearing the case.

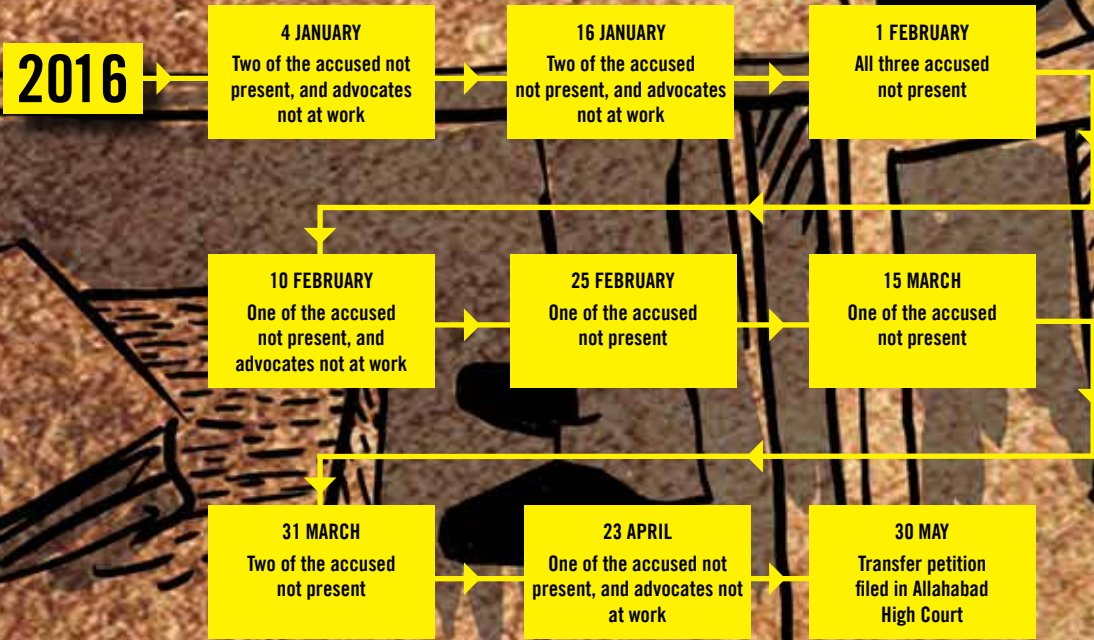
Trial and Error



[This abbreviated timeline describes some of the grounds for adjournment at the trial court hearing Ghazala's case, from the time of registration of case to the filing of a petition seeking transfer of the case outside Muzaffarnagar.]



Trial and Error



THREATS AND INTIMIDATION

“Fair trial means a trial in which bias or prejudice for or against the accused, the witnesses, or the cause which is being tried is eliminated. If the witnesses get threatened or are forced to give false evidence that also would not result in a fair trial.”

Supreme Court of India, Zaheera Sheikh v State of Gujarat, 2006

“We are still scared when our men leave home.”

Dilnaz, a gang-rape survivor, July 2016

Every one of the seven women gang-rape survivors from Muzaffarnagar and Shamli who sought justice reported that they had faced harassment, threats and intimidation from the accused men and their relatives after they filed their complaints. In many instances, the threats continued despite repeated complaints and police protection.

42-year-old **Fatima** was gang-raped by four men inside her house in Fugana, Muzaffarnagar, on 8 September 2013. She said that in August 2014, after the police had filed charges against the accused men, two of the accused told other villagers to pass on a message to her family that they would be killed if she did not withdraw her accusation.

In a complaint she filed in August 2014 to the state police, she described the message:

“If [Fatima] complied they would pay her a sum of ₹15 lakhs, whereas if she did not comply with their demands to withdraw the case against these two accused, they would ensure that she and her family members were killed.”

Despite being provided police protection, she said in the complaint:

“[S]he and her family continue to receive serious threats, as the accused who gang-raped her are free and roaming in Fugana and adjoining villages.”

In January 2017, Fatima told Amnesty International India that the harassment had not stopped:

“Indirectly they send people to ask if we are willing to settle the case by taking some money. We decline their offers.”

Ghazala was gang-raped in a sugarcane field in Lak, Shamli, on 8 September 2013. Her home was looted, and her family was forced to flee to a relief camp. A petition filed by her before the Allahabad High Court in 2016, stated:

“[T]he magnitude and quantum of oppression, threats and coercion is such that the applicant along with her family were being forced and threatened time and again to withdraw from the criminal prosecution...on account of the pending criminal case/trial, the dominant community is hell bent to pressurize and coerce [Ghazala]...”

Ghazala has applied for her case to be transferred out of Muzaffarnagar. She told a Muzaffarnagar trial court in January 2016:

“I am extremely apprehensive of coming to the Muzaffarnagar District court as the accused persons and their family members who all belong to the dominant community wield considerable influence in this area. I fear that harm will be caused to me and my family when I go to give my evidence in the Muzaffarnagar District court.”

The National Commission for Minorities – a statutory body tasked with protecting the rights of members of religious minorities – visited Muzaffarnagar in June 2014. It stated that it had received several complaints “about harassment of rape victims”. It also reported receiving a complaint from the person appointed as a ‘paikar’, or court representative of the seven survivors, of “pressure to withdraw the cases with offers of monetary compensation and also threats of implicating him in false cases and harassment of other kinds”.

Rehana Adeeab, an activist working in Muzaffarnagar, told Amnesty International India that personal safety was the biggest challenge for the survivors. She said:

“Their safety, their statements, them going to the court, safety of their husbands - everything is a challenge. And the condition they are living in. Even though they have relocated to another village, they are still socially engaged in the same area. It's the same police, the same politicians.”

In January 2014, according to a media report, the then-national secretary of the BJP said that unless the cases against the accused were withdrawn, the BJP would launch a stir that would make the administration ‘lose its sleep’.



Fatima and her seven-year-old daughter in the house she now lives in. Fatima said that one of the men who raped her used to deliver milk to her house. "My daughter was with me when it happened. She still remembers everything very clearly."

WITHDRAWAL OF TESTIMONIES UNDER PRESSURE

In three cases, survivors identified and named the men they said had raped them in their First Information Reports, but then retracted their statements in court. Some of them later admitted that they had been compelled to do so after facing pressure and threats to their safety and that of their families, and a lack of adequate support and security from the authorities. Human rights lawyers assisting the survivors said that prosecutors, worryingly, did not try at any point to determine if the retractions were made under pressure.

Chaman, who is in her 50s, was gang-raped inside her house in Fugana, Muzaffarnagar on 8 September 2013. She filed a First Information Report later that month, and the police filed charges against four men in April 2014. All through these months and after, she said, she and her family faced threats and intimidation from the suspects.

Chaman's husband submitted a series of complaints to the authorities - in October 2013, March 2014, April 2014 and May 2014 - about the harassment.

HIS APRIL 2014 COMPLAINT SAID:

"The accused...have been constantly threatening to kill me and have been pressuring me to make my wife withdraw [the FIR] and retract her complaint of rape."

He also told the police that he had received a phone call from a man who said he was the father of one of the accused:

"[The man] told me that with the help of [a newly elected Bharatiya Janata Party MP] he would get the rape case against his son withdrawn. [He] continued to speak aggressively and abusively and threatened to kill my family and me as soon as he could find us. He also said that if he did not manage to kill me he would file false cases against me."

The trial in Chaman's case began in February 2015. On 18 September 2015, at a hearing where Chaman was to testify before the court, one of the accused men asked for additional time to arrange for a lawyer, and the court granted the request and adjourned the hearing. Chaman's lawyers immediately filed an application stating that the tactics being adopted by the accused to delay the trial would enable them to further pressurise, threaten and coerce her.

At the next hearing, on 5 October 2015, the other accused men asked for time to get a lawyer. The court again adjourned the hearing to 23 October 2015. Chaman's lawyer told the court that the accused were avoiding the trial.

A month later, Chaman told the court that she could not identify the men who had raped her.



Chaman on the terrace of the house she now lives in. "I have been unwell since the riots," she said. In Fugana, she used to sew women's clothes, but the sewing machine now lies untouched in a corner.

Bano, who is in her 50s, filed a First Information Report about her gang-rape in Muzaffarnagar in September 2013. The threats began soon after.

Bano said in a complaint to the police in October 2013 that one of the suspects had issued a public threat to her, saying:

“I will not let go of the person who filed a rape complaint against me. When that person goes to the court to give testimony, she will be shot”.

Despite receiving the complaint, the police did not provide Bano with any protection. In December 2013, about three days before she was to record her statement before a magistrate, she said that three of the suspects in her case confronted her at a bus stop and threatened to kill her and her son. She later wrote in a letter to the Investigating Officer in March 2014:

“The three accused men got out of a black car and started hurling filthy abuses at her and her son. All three accused were armed with tamanches (unlicensed pistols) hidden under their shawls. [One of the men] pointed the pistol at her son’s temple and the three men began threatening her saying they would kill her, her son and other members of her family if she gave statement against them...The three accused specifically told [Bano] that when she appears before the Judge to give her statement, she should say that nothing happened to her and that she filed a false FIR...The three accused men left only after [Bano] agreed to act in accordance with their demand.”

When Bano recorded her statement before a magistrate on 11 December 2013, she said that the accused were not the men who had raped her. The police went on to close the case.

Subsequently, Bano told investigators and the Supreme Court that she had recorded her previous statement under immense pressure. She repeatedly asked to have her statement recorded again, this time by a woman judicial magistrate. In March 2014, the Supreme Court directed the police to have all survivors’ statements recorded before a woman magistrate if they wished. On 1 May 2014, she made a fresh statement before a woman magistrate, in which she said that the accused men had raped her during the communal attacks in 2013.

The harassment did not stop. On 6 May 2014, she said, she received a phone call from a person who said he was one of the accused men, who **“demanded that she enter into a compromise with him and withdraw from pursuing her complaint”**. The man, she said in a complaint to the police later that month, told her that **“he would kill her only son...and her husband if she pursued the legal case.”**

When asked in January 2017 if she continued to receive threats, Bano told Amnesty International India:

“The trial in my case has not begun. What reason do they have to threaten me? It has been over three years and they are all roaming free.”



Bano in the courtyard of the house she and her family have moved to. She said, “They threatened to hurt my son. I was scared so I changed my statement and said nothing happened. I did not inform anyone, but when my husband and others found out, they encouraged me to stick to the truth.”

The trial in **Dilnaz's** case ended in the acquittal of the four accused men in January 2016, after she and her relatives changed their statements in court. Her husband told The Indian Express newspaper after the acquittal:

“Despite lodging complaints several times at Fugana and Burhana police stations, no one came forward to help us. People on behalf of the accused would approach us, even threaten us with dire consequences. We are a poor family. There is no one to take care of my family if anything happens to me... We did what we thought was correct.”

When Amnesty International India met Dilnaz a year later, in January 2017, she was not aware of the acquittal.

Human rights lawyer Vrinda Grover, who has been representing the survivors, told Amnesty International India:

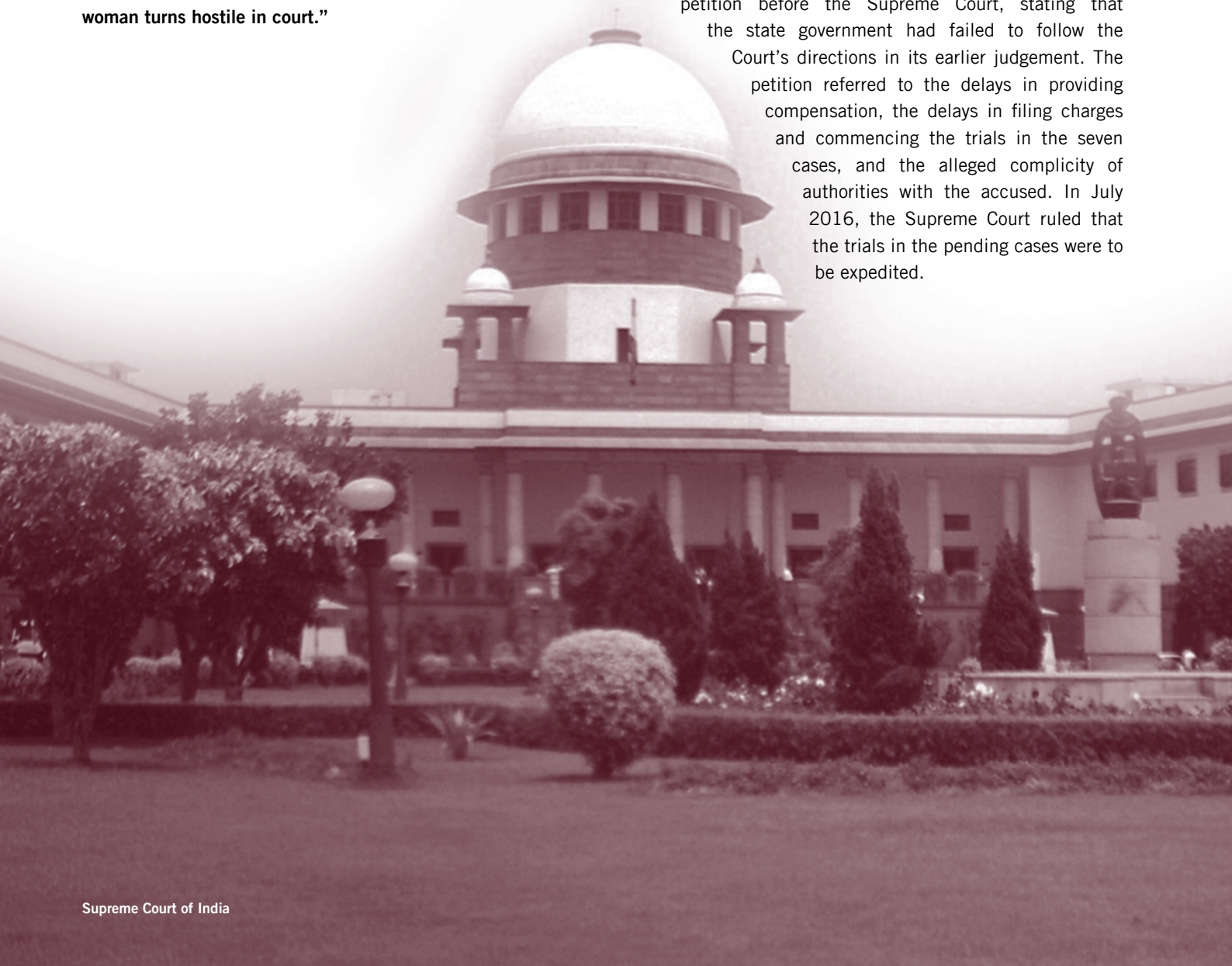
“We are saying yes, you must stand up, in court, in a rape trial, and give evidence, and your dignity must be vindicated. But for that what should she do? She should either put her own life or the life of her children or other family members at stake... We have nothing in the state machinery to provide victim protection against these very insidious ways in which a woman turns hostile in court.”

THE MOHAMMED HAROON JUDGEMENT

In December 2013, human rights lawyer Vrinda Grover filed a petition before the Supreme Court seeking the enforcement of their rights. The Court clubbed the petition with several others on related issues, and delivered a judgement on 26 March 2014 in the Mohammed Haroon v Union of India case directing the state government to take steps to deal with the situation more effectively.

The Court ruled, **“We prima facie hold state government responsible for negligence in preventing communal violence in Muzaffarnagar and adjoining areas.”** It directed the state police to record the statements of the survivors before a woman magistrate. It also directed the police to provide security cover to the survivors for the duration of the trial. The court ruled that the seven survivors were to be paid compensation of ₹ 500,000 each, in addition to other benefits, within four weeks. It also directed the state government to provide the survivors other financial assistance as needed.

In September 2014, the seven survivors filed another petition before the Supreme Court, stating that the state government had failed to follow the Court's directions in its earlier judgement. The petition referred to the delays in providing compensation, the delays in filing charges and commencing the trials in the seven cases, and the alleged complicity of authorities with the accused. In July 2016, the Supreme Court ruled that the trials in the pending cases were to be expedited.



INADEQUACY OF POLICE PROTECTION

The gang-rape survivors who filed police complaints in September 2013 did not immediately receive police protection, even though they had reported threats and intimidation from the suspects. It was only after a writ petition was filed in the Supreme Court on their behalf that the Uttar Pradesh government provided them police protection.

Some of the survivors reported that the authorities had provided protection (one woman constable at first, and when the survivors demanded more, an armed man constable and a woman constable) only around February 2014.

In Bano's case, the police protection did not arrive for nine months. During that time, she repeatedly asked for security, but only received it in June 2014. Unable to cope with the harassment and intimidation, Bano told Amnesty International India, she changed her statement before the magistrate in December 2013 and said she could not identify the men who raped her.

Chaman and her family received police protection in January 2014. But in April, the state government withdrew the constables, ostensibly to attend to election duties. Chaman's husband - who is the court representative for all the seven survivors - filed several petitions subsequently complaining about harassment and threats from the accused in the case.

In May, for instance, he wrote to the state police:

"The accused...have been constantly threatening to kill me and have been pressurizing me to withdraw the above mentioned FIR lodged against them and retract the complaint of rape. I am being targeted and intimidated through the filing of false cases."

In May, for instance, he wrote to the state police:

"The accused...have been constantly threatening to kill me and have been pressurizing me to withdraw the above mentioned FIR lodged against them and retract the complaint of rape. I am being targeted and intimidated through the filing of false cases."

The protection was reinstated only in June 2014.

In some cases, the presence of police protection did not end the threats. Many of the survivors told Amnesty International India that they had had received threats on the telephone, or through other locals. They said they still lived in fear of the suspects, all of whom have been released from custody on bail.

Human rights lawyer Vrinda Grover told Amnesty International India:

"Pressure is brought upon women indirectly, through the family, through relatives and through the male members...Threats are meted out to their children and other family members are threatened. There are all kinds of pressures brought through the male elders of the community. Very high sums of money are offered. All this is what coerces and compels women to not be able to give evidence or not identify the accused."

When Amnesty International India researchers visited the homes of five of the survivors in July 2016 and January 2017, there were no police personnel in four homes. The survivors told Amnesty International India that the constables were away for the day. They mentioned that the families had to arrange to provide food to the constables appointed to protect them.



The Fugana police station, where five survivors filed their First Information Reports. It houses a temple on its premises.

Alleged intimidation by Investigating Officer

Some of the survivors reported that the Investigating Officer who was first appointed to lead the investigation had herself threatened and harassed them, and tried to derail the investigation.

In May 2014, Bano wrote to senior officials in the Uttar Pradesh police, stating that the Investigating Officer had “repeatedly pressurized and harassed [Bano] from pursuing the rape FIR filed by her”. She said that in April 2014, a few days before Bano was to record her statement before a magistrate a second time, the Investigating Officer abused her over the telephone, accused her of fabricating the case, and told her to withdraw her complaint.

Bano said that the Investigating Officer had visited her later in May and told her to fear the accused, who were socially, economically and politically influential. She also allegedly said that she would ensure the accused were acquitted, and that Bano and her son would be killed if she did not withdraw the case.

She allegedly then took the survivor, her husband and their son to a bus stop and intimidated and mocked them in front of Jat shopkeepers. Bano said that the officer told her that the accused would pay her even more than the ₹ 500,000 she had received as compensation.

Ghazala, another survivor, also said that the Investigating Officer had tried to scuttle the investigation. In a television interview to the news channel CNN-IBN in September 2014, she said, “The Investigating Officer in my case took me to [a relief camp] and asked me to reach a compromise with the accused, for which I would be given some money.”

A team from the National Commission for Minorities which visited Muzaffarnagar in June 2014 told the state Chief Minister in a meeting in August: “Several petitioners have complained specifically against Investigating Officer”. They urged the Minister to consider withdrawing the officer from the case. The state government removed the officer from the investigation in November 2014.



Dilnaz with her two-month-old daughter. "The accused offered us money. I don't know how much. They only spoke to my husband, and that too indirectly. But I didn't take money from anybody", Dilnaz said in January 2017.

INITIAL FLAWS IN INVESTIGATION

The seven gang-rape cases were marked at the onset by an apparent lack of seriousness from the Uttar Pradesh state police in investigating the allegations.

DELAY IN REGISTERING FIRS:

Under Section 166A of the Indian Penal Code, refusal to register an FIR by police personnel in a case involving violence against women is a criminal offence. Five of the seven survivors were able to file First Information Reports with the police within about three weeks after the gang-rapes.

Fatima said that she had tried to file an FIR on 20 September 2013, but the police did not accept the complaint. Eventually, she managed to file an FIR on 9 October.

In Ghazala's case, the process took even longer. Ghazala sent a written complaint and request to file an FIR on 22 October 2013, about six weeks after the incident, to the Fugana police station in Muzaffarnagar through registered post. In her complaint, she named the three suspects and said that she had not come forward earlier because of fear. However the police did not register an FIR, and later denied receiving the complaint.

Ghazala then joined the other survivors in filing a writ petition before the Supreme Court. During the hearing of the petition, the Court instructed the Uttar Pradesh state government to register an FIR based on her complaint. An FIR was finally registered only on 18 February 2014.

DELAY IN RECORDING STATEMENTS

Under Section 164(5A) of the Code of Criminal Procedure, for all offences involving violence against women, a magistrate is required to record the statement of the survivor as soon as the

commission of the offence is brought to the notice of the police. However, the statements of the survivors were only recorded much after the registration of their FIRs. The delays lasted from about three weeks in Ghazala's case to over two months in the other six cases.

DELAYS IN MEDICAL EXAMINATION

Section 164A of the Code of Criminal Procedure states that survivors of rape must undergo a medical examination within 24 hours of the time the police receive information about the offence. However this requirement was not followed in any of the cases. In Dilnaz and Esha's cases, the medical examination was only conducted nearly three weeks after they filed FIRs. In Ghazala's case, the medical examination was conducted only in February 2014, about four months after she first sent a complaint to the police.

NOT INVOKING APPROPRIATE LEGAL PROVISIONS

In March 2013, India's laws around sexual violence were amended following widespread protests over the gang-rape of a woman in New Delhi in December 2012. A new provision - Section 376(2)(g) of the Indian Penal Code - was introduced which specifically recognized the offence of rape during communal or sectarian violence.

The riots in Muzaffarnagar were the first major instance of communal violence after the amendments came into force, and the cases therefore had the potential to create a legal precedent. However the police did not invoke Section 376(2)(g) in any of the FIRs registered despite it being applicable. The section was only introduced by the state police in charge-sheets after March 2014, after the survivors raised the issue before the Supreme Court.



Aarzo packs wooden spoons inside her house. Two of her children attend a school nearby, while two daughters help her to make the spoons for a factory nearby, which pays her about ₹ 3000 every month.

LACK OF ADEQUATE REPARATION

“The government should give us some help. I can't go to court if I have no money.”

Aarzo, July 2016

All the seven survivors have received little assistance from authorities in helping them rebuild their lives despite suffering enormous damage to their livelihoods.

Under international human rights law and standards, survivors of human rights violations like rape are entitled not just to effective remedy, but also to reparation, which includes compensation, rehabilitation and guarantees of non-repetition.

The UN Basic Principles and Guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law states that compensation and rehabilitation must cover lost opportunities in education and employment, medical and psychological care, and legal and social services.

However the Uttar Pradesh and central governments have failed in their duty to provide adequate reparation to the seven gang-rape survivors.

In March 2014, the Supreme Court directed the Uttar Pradesh government to give each of the survivors ₹ 500,000 as

compensation, in addition to other benefits, within four weeks. The Court noted:

“No compensation can be adequate nor can it be of any respite for the victims but as the State has failed in protecting such serious violation of fundamental rights, the State is duty bound to provide compensation, which may help in victims' rehabilitation. The humiliation or the reputation that is snuffed out cannot be recompensed but then monetary compensation will at least provide some solace...

Nevertheless, the obligation of the State does not extinguish on payment of compensation, rehabilitation of victim is also of paramount importance. The mental trauma that the victim suffers due to the commission of such heinous crime, rehabilitation becomes a must in each and every case.”

Six of the seven survivors received the compensation on 20 May 2014, eight weeks after the Supreme Court ruling, after repeated requests. Bano only received it even later, in October 2014, more than seven months after the ruling.



A woman walks by the plot of land with the foundation of Esha's house. Esha bought the land with the compensation she received as a rape survivor. She said in July 2016 that her family had not received compensation for their displacement. Esha died in childbirth the next month.

All of the survivors said that they had not received any additional benefits from the state government, apart from the compensation given to all families who had lost their property in the riots.

Bano told Amnesty International India:

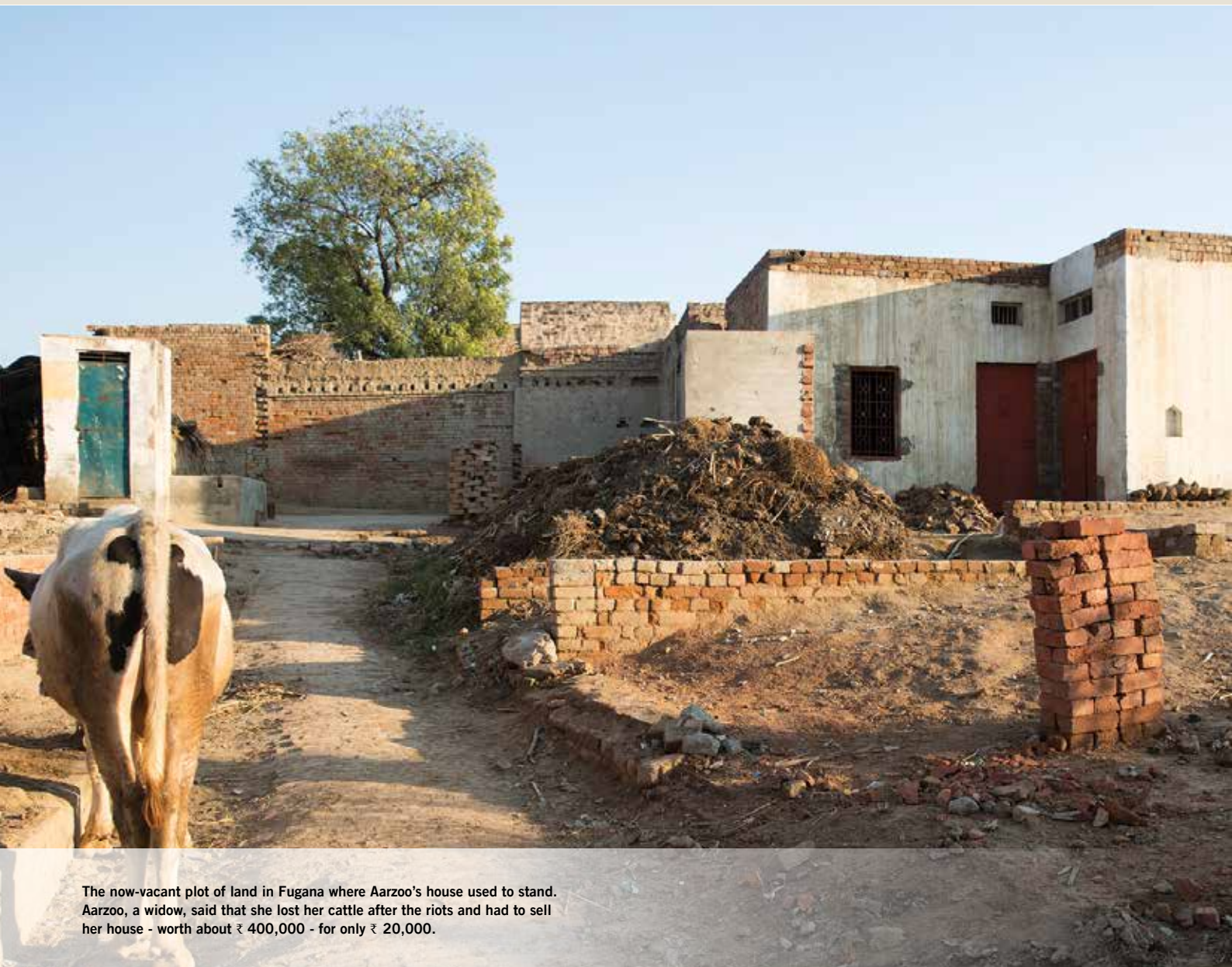
“What did the government do? Give us ₹ 500,000. Is someone’s honour sold for ₹ 500,000? I have to spend plenty of money in commuting to and from the court when I am called. What can a poor person do?”

Fatima told Amnesty International India that in Fugana, where she used to live, her husband worked as a peddler in and around the village. After they were displaced from their village, he lost his livelihood and she said they could no longer afford to send their five children to school. She said in July 2016:

“We wore the same clothes for weeks. My husband went with the security forces to our village. We found a few of our things lying on the road. We had a fridge, washing machine and other things, none of which could be retrieved...They merely gave us ₹ 500,000 and left us. We even have to look after the security guards given to us.”

Neha Dixit, one of the first journalists to report on the gang-rapes, told Amnesty International India:

“While there are these demands for justice for these rape survivors, what is the State providing in terms of rehabilitative measures for survivors to be able to actually fight those cases and make that journey to justice? The accused come and put pressure on them every single day. All of the survivors are from a working class background, so they do need to go back and work somewhere and they don’t get jobs any longer because of the stigma attached to them”.



The now-vacant plot of land in Fugana where Aarzo’s house used to stand. Aarzo, a widow, said that she lost her cattle after the riots and had to sell her house - worth about ₹ 400,000 - for only ₹ 20,000.

Aarzo told Amnesty International India that her livelihood had been severely affected by the violence, and she found it difficult to attend her trial.

“What they gave was ₹ 5 lakh but I suffered losses worth ₹ 10-15 lakh in the riot. I used to have livestock back in Fugana. The government should give us some help. I can't go to court if I have no money. They aren't helping me and the case is still going on.”

In May 2016, Ghazala filed an application in the Allahabad High Court seeking the transfer of her case outside Muzaffarnagar. Her petition described how her forced displacement from her home had affected her family:

“[T]he applicant, belonging to the minority community has been displaced from her village, she has been deprived of her means of livelihood, and has spent a majority of the last two years living in relief camps/make-shift accommodation...[She] had to spend the amount received as compensation from State on rebuilding her life, she and her husband continue to struggle to make ends meet, they do not have means or access to adequate health care.”



Fatima stitches blankets outside her house. In July 2016, she did not have any means of livelihood. The next winter, she started earning a small income by stitching blankets for a supplier for ₹ 3 a piece. This source of income will only last till winter.

RECOMMENDATIONS

Amnesty International India urges the new state government of Uttar Pradesh to:

- Ensure that the investigations and prosecutions into the gang-rape cases are pursued vigorously without undue delay, and those responsible are brought to justice.
- Investigate reports of threats, intimidation or harassment of survivors or their relatives, and bring suspects to trial.
- Provide survivors effective legal assistance and services, keep them informed of the status of investigations and prosecutions, and address any concerns they may have.
- Ensure that survivors are provided adequate rehabilitation, compensation, and other measures of reparation, and that their economic and social needs are met.

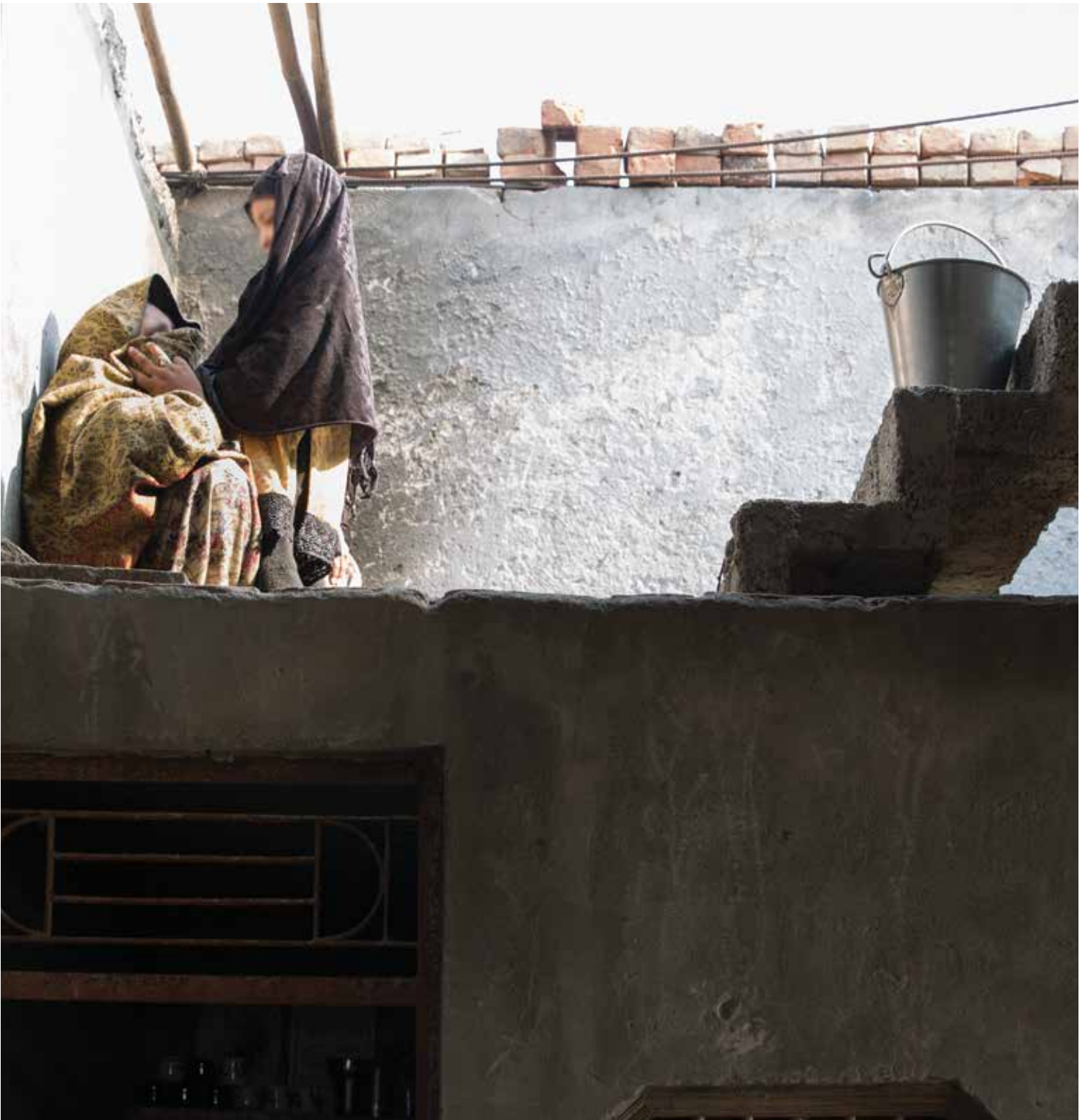
Amnesty International India urges the government of India to:

- Enact a robust law to prevent and respond to communal violence, which incorporates international human rights principles of relief, return, and resettlement.
- Establish a comprehensive and adequately resourced victim and witness protection programme at the central and state levels.
- Undertake comprehensive police reforms to insulate the police from political interference and pressure.

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