

Organizing sovereign power: police and the performance of bare bodies

Organization

1–22

© The Author(s) 2014

Reprints and permissions:

sagepub.co.uk/journalsPermissions.nav

DOI: 10.1177/1350508413518265

org.sagepub.com



Srinath Jagannathan

Tata Institute of Social Sciences, Mumbai, India

Rajnish K Rai

Indian Institute of Management, Udaipur, India

Abstract

Drawing from Agamben's theorization of sovereign power and bare lives, we engage with the narratives of three sets of murders in the state of Gujarat. These murders in Gujarat followed a pattern—the victims were almost always Muslims and were labeled as terrorists who had come to assassinate important politicians in the state, and the police claimed that these terrorists were killed in cross-fire. We analyse the empirical material pertaining to these murders to understand the organizational and political processes that were mobilized to legitimize them. We also focus on possibilities of resistance and subversion on account of the contradictions that emerge in the mobilization of these organizational and political processes, and thereby hope to make a call for organizing social relations around anchors other than sovereignty.

Keywords

Agamben, bare lives, police encounters, resistance, sovereign power

In 2002, following the burning of a train coach in which 59 people were killed, there were widespread riots in the Indian state of Gujarat. Victims alleged that powerful people were involved in looting, arson and murder, and that the state had not been serious in bringing the rioters and murderers to justice (Engineer, 2003). While the rioters and murderers roamed free, the victims of the riots were forced to live as refugees (Gupta, 2011). The perpetrators of the riots who had close

Corresponding author:

Srinath Jagannathan, Assistant Professor, Centre for Labour Studies, Tata Institute of Social Sciences, Mumbai 400 088, India.

Email: srinath.jayanti@gmail.com

connections with the political party which ruled the state claimed to carry out the riots to prove that Hindus were not meek and could wage war in their own neighbourhoods (Bunsha, 2006: 31). Rather than condemning the riots and taking action to prevent it, the Chief Minister of the State, Narendra Modi, described it as a spontaneous reaction to the burning of a train compartment in which several Hindus had been killed (Bunsha, 2006: 31).

During the 2002 riots in Gujarat, several innocent people lost their lives to the politics of hate, and the livelihoods of thousands of people were adversely affected (Gupta, 2011). In the words of Dhattiwala and Biggs (2012: 484) 'The Gujarat violence of 2002 is significant for recording the highest annual death toll in any event of Hindu-Muslim violence in a single state in the history of independent India: 984 people, predominantly Muslims, were killed following the death of 59 Hindu passengers in a train at Godhra railway station on February 27'. The Gujarat riots of 2002 were linked to the political-ethnic mobilization undertaken by the Bharatiya Janta Party (BJP) to demolish the Babri Mosque in Ayodhya in the state of Uttar Pradesh, and replace it by a Hindu temple, as some Hindus believe this site to be the birthplace of a Hindu deity Lord Ram (Spodek, 2010). While the Babri mosque was demolished by rioting mobs in 1992, the construction of a Ram temple in its place had not yet been completed, and the Rashtriya Swayamsevak Sangh (RSS) and its affiliated organizations, including the BJP, were still mobilizing people to build the temple (Spodek, 2010). As a part of this process, cadres known as 'kar sevaks' were mobilized from all over the country to travel to Ayodhya to work for the construction of the temple (Spodek, 2010). The immediate trigger of the Gujarat riots in 2002 was the burning of a coach of the Sabarmati Express train on February 27, 2002 in which 59 kar sevaks were killed (Dhattiwala and Biggs, 2012).

Although the exact reasons for the burning of the train coach were not yet known, immediately after the incident, the Gujarat government labeled it as a terrorist attack, thus laying the grounds for riots against Muslims (Patel et al., 2002). However, there exist multiple views and theories about why the train coach may have been burnt. While an investigation by the railway authorities suggested that the burning of the train coach could be an accident (Kumar, 2005), other reports suggested that there was an altercation between the RSS cadres returning from Ayodhya and Muslim tea vendors at Godhra railway station, after which a Muslim crowd attacked one of the train's coaches (Dhattiwala and Biggs, 2012: 486). On the next day, February 28, 2002, a state-wide 'bandh' (strike) was called by the Vishwa Hindu Parishad (VHP), a sister organization of the BJP (Engineer, 2003). The call for this state-wide 'bandh' was supported by the BJP, the ruling political party (Ghassem-Fachandi, 2010). During this 'bandh', large scale violence was inflicted on Muslims (Ghassem-Fachandi, 2010). Evidence shows that those police officers who tried to control the riots had to face the punitive actions of the state, while those who remained inert and allowed the riots to take place, were rewarded and promoted by the state (Dhattiwala and Biggs, 2012). The police failed to investigate the riot cases effectively, thus depriving riot victims of access to justice, and leading the Supreme Court of India to order re-opening investigation in almost 2000 cases of riots and violence (Dhattiwala and Biggs, 2012: 487).

The Gujarat riots set the context for a series of violent actions of the police through which sovereign power could be exercised and Muslim bodies could be stripped of their political rights and rendered bare (Setalvad, 2007). In the following years, a series of murders were carried out in the form of fake police encounters (Sengupta, 2011). These murders followed a pattern. Those who had been murdered were Muslims, and were labeled as terrorists (Setalvad, 2007). The police also claimed in the aftermath of the murders that these terrorists were planning to assassinate the Chief Minister or other important personalities associated with the ruling party in the state (Pelly, 2009). These murders were a part of the strategy to ensure that the politics of hate which informed the riots was kept alive and that Muslims continued to be seen as objects of hate (Pelly, 2009: 206–208). In

this article, from among these many murders, we focus on three sets of murders carried out by police officers with the tacit support of the political dispensation (Sengupta, 2011). The investigations and trials of these three cases are in different stages and the legal matters are being pursued in different courts in India. We do not focus on the technical legal truths that emerge from police investigations and proceeding in the courts. We believe that there are contested social and political realities beyond these technical truths. And there are many layers of facts and knowledge being concealed by actors and it is impossible to access these layers in their entirety. Our endeavour here is to read the texts of investigations, newspaper reports and conversational accounts of several actors, such as investigators, victims, accused and activists, to understand the multiple meanings of these murders. While the court cases pertaining to the encounter victims themselves are sub-judice, several claims from different standpoints continue to be made about these murders and the victims.

One of these murders was that of Sohrabuddin Sheikh on November 26, 2005 (Sengupta, 2011). The anti-terrorism squad claimed that Sohrabuddin Sheikh was a dreaded terrorist who had been commissioned to assassinate the chief minister, Narendra Modi ('Fake Encounter', 2007, April 24). Subsequently, although investigations were carried out by multiple agencies, and several motives for murdering Sohrabuddin Sheikh have been put forward, the actual motives are still shrouded in mystery. An associated murder was that of Tulsiram Prajapati, an associate of Sohrabuddin, on December 28, 2006 ('Tulsi Prajapati Encounter Case', 2012, October 10). As Tulsiram Prajapati knew the details of the kidnapping and murder of Sohrabuddin and his wife Kausarbi, accused police officers hatched a criminal conspiracy to kill him to prevent him from giving testimony in court against them ('Tulsi Prajapati Fake Encounter', 2012, December 29). The third set of murders we focus on are those involving Ishrat Jahan and three others on June 15, 2004 (Pelly, 2009: 207). Again the charge was that Ishrat Jahan and her associates were part of a terrorist cell, tasked with assassinating the Chief Minister ('Gujarat Police Kill 4', 2004, June 16). However, concrete evidence regarding the antecedents of Ishrat Jahan is far from conclusive (Dasgupta, 2009, September 8).

In this article, we suggest that the exceptional nature of these murders reproduces the sovereignty of the state. We draw upon Agamben's (1998) theorization to understand these murders as the production of bare lives which are at the heart of constituting sovereign power. According to Agamben (1998) bare lives are lives stripped of political rights and can, therefore be killed without the killing being labeled as homicide. The police encounter also produces the spectacle of the murdered life as the body of a terrorist, and thus the bare life is a bare body, a body without political rights, a body which can be murdered. We also attempt to discern organizational devices that are mobilized to produce bare bodies as the constitution of sovereign power. In this context, we also attempt to identify the methods through which resistance and subversion could be deployed. Our effort is also to locate the linkages between fascist politics and sovereign power, as violence is deployed for purposes of cleansing unworthy bodies and renewing the organizational body of the nation (Stokes and Gabriel, 2010: 475).

Theoretical framing: bare lives and acts of murder by the police

Politicians often articulate the dilemma that there is a trade-off between ensuring public safety through policing mechanisms and protecting citizens' rights (Fuentes, 2005). Public opinion often supports the use of an iron fist to deal with problems of crime and terrorism (Fuentes, 2005). The imagery of the iron fist indicates how violence is not only accepted within the imagination of democratic sovereignty, but how it significantly constitutes such an imagination. Agamben (1998: 31) articulates sovereignty as 'a scandalous unification of the two essentially antithetical principles ...

violence and justice ... the power that, “with the strongest hand” achieves the paradoxical union of these opposites’. While we are aware of the scandalous violence that informs sovereignty, many times we are happy to remain oblivious of it.

Murtola (2012: 330) describes this duplicity in the following words, ‘The “cynical subject” already knows—say, of the brutalities taking place behind the scenes of global capitalism—yet in material terms acts as if they did not know it. They prefer the mask of ignorance in order to be able to continue with their everyday life’. Given that interactions are at the heart of constituting organizational spaces and times (Cooren and Fairhurst, 2004), the interactions of the police with events in society play an important role in producing the cynical acceptance of the violent organizational apparatus of the state. Fake encounters are a part of police sub-culture in India permitted by the state to restore peace and order (Subramanian, 2007). Fake encounters involve staged murders where the police claim that a criminal or a terrorist element was engaged in cross-fire with the police. While these murders are seen by the police and the state as a way of circumventing the process of bringing the accused to trial, they are an affirmation of the everyday narratives of sovereign violence, which lead to the production of ‘political belonging as pure violence’, as the process of being ‘exposed to sovereign violence over life: from the life which is defined as inside/outside in the classical polis to the life which is to be fostered or denied in biopolitical modernity’ (Baker, 2013: 322).

In permitting fake encounters, the state ends up subverting its own anchors of law and justice (Subramanian, 2007). Agamben (1998: 52–53) describes the extreme consequences of such permissiveness

For life under a law that is in force without signifying resembles life in the state of exception, in which the most innocent gesture or the smallest forgetfulness can have most extreme consequences ... in which law is all the more pervasive for its total lack of content, and in which a distracted knock on the door can mark the start of uncontrollable trials.

Thus, murdering those who are considered as threats to the state makes the extreme consequences of police encounters terrorizing, and may be responsible for producing spaces characterized by ‘marginality, social inequality, ethnic division and segregation’ (Imas and Weston, 2012: 209). While Agamben (1998) demonstrates how the sovereign is constituted through normalizing the exception of violence, critics suggest that there is no concrete plan of political action available within Agamben’s theorization to overthrow sovereign violence (Passavant, 2007). Concrete political programs of resistance can perhaps be charted when it is recognized that the deployment of violence is legitimized by constituting some subjects as being responsible for public disorder who are ‘dangerous, likely to cause pain or unpleasant outcomes, and threaten the safety of vulnerable individuals’ (Grandy and Mavin, 2012: 775). By contesting these discourses of public disorder, the enactment of sovereign violence can be challenged; and the argument of ‘rights intrinsic to humanity as biological life ... being actualized within the confines of the nation-state’ (Lechte and Newman, 2012: 523), and therefore, the politics of rights being subordinate to sovereignty, can be problematized.

By bringing to the fore the injustices of sovereign violence, its capacity to open ‘a zone of indistinction between law and nature, outside and inside, violence and law’ (Agamben, 1998: 64), can be problematized. Since ‘the sovereign is precisely the one who maintains the possibility of deciding on the two to the very degree that he renders them indistinguishable from each other’ (Agamben, 1998: 64), subversion must involve opening up each sovereign decision for political interrogation. The state of Gujarat was already complicit in the construction of Muslims as objects of hate (Pelly, 2009: 206–208), and the murders undertaken by the police where Muslims were labeled as

terrorists, reiterated inequalities based on religious identities. By producing dead bodies through police encounters, the state of Gujarat was seeking to establish a zone of distinction between the 'sacred and profane' (Agamben, 1998: 74), with police actions being articulated as sacred and those who had been killed in the encounters being labeled as profane threats to the state. Kavanagh (2009) argues that the sovereign enacts itself through its relationship with the institution of the fool, and police encounters are a site for us to assess whether those who enact violence on behalf of the sovereign embody a foolish institution, immersed in processes of normatively narrating the fascist vision of the state.

The police encounters in Gujarat inflicted humiliation on the bodies whom they killed by constructing these bodies as deviants and 'objects of scrutiny, scorn and possible violence' (Guenther, 2012: 61). These humiliations are a part of the culture of police torture and police engage in torture and murder only when an ecology supporting, excusing, ignoring and rewarding such murders exists (Huggins et al., 2002). Those who commit murder as a part of their police work, build justifications for the atrocities they perpetrate (Huggins et al., 2002). Huggins et al. (2002) identify four themes for those who committed murder as police workers: secrecy, occupational insulation, division of labour in inflicting violence and personal isolation. The sense of secrecy is important in carrying forward the pretense that the police have engaged in legitimate action. Occupational insulation protects the police workers from investigation and prosecution as fellow officers do not want to transgress the boundaries of professional fraternity. The division of labour in inflicting violence ensures that right from the political establishment in the top to those on the ground, regimes of consent and complicity networks for these murders exist. Personal isolation means that police workers do not need to discuss these murders and defend their actions in other social spaces such as the family or religious spaces. If the sovereign incestuously inhabits the space of violence, then it is necessary to understand how structures of subjectivity and modes of rationality get constituted (Clegg, 1994) in the organizing of sovereign power. Just as the structures of language limit the experiences and voices of subjects deploying it, similarly the structures of sovereign states limit the experiences, relations and possibilities of politics that subjects deploy within the frame of states (Brittain, 2010). If police encounters are a part of the structures of sovereign states, then the politics that can be practiced by subjects in such states is limited by 'the production of bare life' as 'the originary activity of sovereignty' (Agamben, 1998: 83). Yet this is not an originary violence that occurs naturally but requires 'strategic struggle to assemble coalitions, mobilize state projects and stabilized conjoined economic and ideational systems' (Levy and Spicer, 2013: 662), in order to organize the imaginary of the sovereign into concrete social relations.

In terms of the murders enacted by the police, we see that 'sovereignty's basic right now is to decide when its own exercise of power is *not* subject to law' (Fox, 2007: 570). The paradox of the police encounters in Gujarat becomes clear when Agamben (1998: 88–89) traces the identity of sovereign power with the power of a father to kill his sons. Following from this identity, being subjected to the possibility of death at the hands of the patriarchal sovereign is the price that Muslims pay for being citizens within the sovereign realm of the state of Gujarat (Setalvad, 2007). Such patriarchal violence may be associated with fields of surveillance that enforce disciplinary coercion (Weaver, 1997). Weaver (1997) quotes Foucault (1979: 202) to demonstrate the violent impact of cultures of monitoring on subjects—'he who is subjected to a field of visibility, and knows it, assumes responsibility for the constraints of power'. The dead bodies of Muslims murdered in police encounters in Gujarat serve a similar disciplinary spectacle. Knowing that they are under the surveillance of regimes of governmentality, Muslims are expected to collude in disciplining and marginalizing themselves (Simpson, 2006).

As Foucault (1982) points out, practices of governmentality do not involve as much the determination of the actions of subjects as much as structuring the field of actions of subjects, of

facilitating the constitution of governable subjects (Rose-Redwood, 2006). Foucault (1978/1991: 102) describes governmentality as being constituted by an ensemble of ‘institutions, procedures, analyses, reflections, calculations and tactics’ which proceed from a focus on ‘apparatuses of security’, and thus, the deployment of the police as a security apparatus to implement the calculated tactic of encounters does not seem surprising. If discourses are knowledge production mechanisms ‘within “ways of thinking”, which classify or justify what is normal or deviant’ (Fogde, 2011: 67), then the spectacle of murdered bodies produced in an encounter is a production of the normal ways in which the sovereign deals with deviant bodies. As Agamben (1998) would state, in order to establish the law, the sovereign suspends itself outside the law. If a bare life is life stripped of all political rights, then sovereign power is about the decision to include/exclude a life that is currently located in the border zone between political/bare life (Agamben, 1998). The contemporary state enacts these decisions on the basis of surveillance based technologies of governmentality.

Methods

When a murder is committed, acquiring knowledge about the murder often means finding out ‘the story’ of the murder ‘from start to finish’ (Menchu, 2003: 97). But often there are many stories, and what we attempt to do, is not to trace any authentic narrative which gives the complete truth from start to finish about the murders that we engage with, but to ask questions of the truths which have been proposed by other actors. We interrogate official truths of the state and investigating agencies, truths of suffering advanced by victims, truths of advocacy and politics advanced by activists, truths of description and commentary provided by journalists and truths of intimacy and informal conversation provided by lawyers and police workers. We relied on texts such as investigation reports, affidavits, court orders, newspaper reports, transcripts of court hearings, transcripts of conversations we had with police workers, lawyers and activists and field notes to question the linear meanings that have sometimes been imposed on the three sets of murders we focus on.

The three sets of murders were chosen as the texts around which we would conduct our inquiry because each of these murders has been discussed in a variety of public spaces in India, with different political and ethical claims being made. One of the authors of this article is a police officer himself and is not only familiar with publicly available sources of data on these murders, but also has access to other insights gathered from conversations, observations and knowledge obtained over the years. We engaged in conversations with 18 key informants. These informants were police workers, lawyers and activists associated with the investigation of these murders or were representing the interests of victims and their families. We indicated to our informants the purpose of our research, and promised them confidentiality. Therefore, we have concealed the identities of the informants in our study.

The knowledges we have accessed and articulated are not divorced from our own identities. One of us is a police officer in the state of Gujarat and has handled the investigations in the past pertaining to two of these three sets of murders. The actions of this author are well known within the community of police officials, lawyers and activists. While some police officials look at these actions with admiration, others view them as being confrontational and transgressing normalities to which many others have given consent. Since this author is reticent and has relied more on action rather than communication efforts during his police service, his relationship with activists and lawyers is also uneasy. The other author is an academic working in a social science university. Both of us met while completing our PhDs and the sense of friendship that developed also led to doing joint research in a variety of areas. Access to informal conversations and data were regulated by the identities of the researchers.

Further knowledges are accessed through journalistic accounts to discern some of the meaning making processes through which police encounters are played out as political devices in public space. Journalistic accounts can reinforce the need for exceptional violence and re-legitimize the sovereignty of the state, or foster an anti-institutional and flexible ethos in asserting independent opinions which contest mainstream consensus (Kantola, 2013). Journalistic accounts are thus a space where violent, exceptional events such as police encounters can be politicized, either to reinforce the structures of juridical sovereignty of the state, or to question the acts of murder as being complicit in enacting a culture of terror and inequality. If police encounters are a commentary on the complex inter-linkages between liberal democracy and violence, then journalistic practice as a site of democracy (Joseph, 2013), is an important source of narratives to interrogate the performance of police encounters. We deploy journalistic sources as an extension of the intimate knowledge that we gained from our informants, to trace the multiplicity of discourses and plurality of narratives that inhere in the contested terrains of police encounters.

The data were analysed by comparing field notes, texts, reports and other reflections. Extensive memos about the events surrounding the murders helped us to discern the meaning making processes associated with the murders. We identified areas through which we could problematize linear interpretations and contest the dominant meanings, which had become solid.

In many senses, this study follows the methods of a testimonio (Beverly, 2000), where our readings of events are influenced by the ways in which we have been affected. In a testimonio, the researcher becomes an author who 'testifies on behalf of history and personal experience' (Lincoln and Denzin, 2003: 18). Since we belong to a community which has been surviving, coping and ethically responding to regimes of violence in which we live, in many ways we are repositories of the histories that are being played out. We are living embodiments of the many conversations of hope and resistance taking place around us. We are trying to create space for questions, which have been silenced, to be asked. Asking these questions about these murders now is important if we hope to build a better society where we are able to engage with each other differently. Asking these questions which have become submerged in the plethora of information that has emerged about these murders is important to keep alive the prospect of engaging more ethically with acts of violence. These are questions which we hope will prevent Agamben's (1998) thesis of the reduction of our lives into camps, and which will contest the becoming of our bodies as bare bodies in terms of the normalization of the exception.

The three sets of murders

We provide brief narratives of the three sets of murders below.

The murder of Sohrabuddin Sheikh

Sohrabuddin Sheikh was killed in the early morning hours of November 26, 2005. According to the Anti-Terrorist Squad (ATS) of the Gujarat police, a tip off was received from the Udaipur police in the neighbouring state of Rajasthan that Sohrabuddin Sheikh, who was a dreaded criminal was in Ahmedabad. Sohrabuddin Sheikh was also alleged to have links with Pakistan's leading intelligence agencies and was in Ahmedabad to assassinate important political leaders and carry out terrorist attacks. Consequently, the police set a trap on the highway. And according to the ATS, Sohrabuddin Sheikh was traveling on a motorcycle, and when the police party asked him to stop, he started firing on them. When the police returned the fire, he was hit by bullets and killed.

This narrative of the Gujarat ATS was challenged by Sohrabuddin Sheikh's brother Rubabuddin. He wrote several letters to the Chief Justice of the Supreme Court of India ('Fake Encounter',

2007, April 24), *inter alia*, alleging that his brother Sohrabuddin and his wife Kausarbi had been kidnapped by the Gujarat police while they were traveling from Hyderabad to Sangli in a bus. Rubabuddin suspected that not only Sohrabuddin had been murdered, but his wife Kausarbi had also been murdered as her whereabouts could not be traced. The Chief Justice of India treated the letters written by Rubabuddin as a Public Interest Litigation (PIL) and ordered the Director General of Police (DGP) of Gujarat to conduct an enquiry in the matter. The enquiry found prima facie evidence that Sohrabuddin and his wife had been kidnapped from the bus and subsequently Sohrabuddin was killed in a stage managed encounter in the early morning hours of November 26, 2005 (‘Gujarat Government Admits Man Killed in Fake Encounter’, 2007, March 23). However, the whereabouts of his wife could not be found.

Following these enquiries, three Indian Police Service (IPS) officers, two belonging to the Gujarat police and one belonging to Rajasthan police, were arrested on April 24, 2007 (‘Fake Encounter’, 2007, April 24). This was for the first time that senior level police officers, who actively conspired to kill Sohrabuddin, were arrested. This was against the trend of investigations in similar cases where lower level officers were arrested and others in higher levels, who had actually conspired and organized the murders, were not touched. After these arrests, attempts were again made to scuttle the investigations, which led the Supreme Court to transfer the investigations from the Gujarat government to the Central Bureau of Investigation (CBI) (‘Sohrabuddin Case: SC Dismisses Plea’, 2010, August 3). The Communist Party of India (Marxist) (CPM) issued a statement after these arrests—‘The Gujarat government’s shameful communal stance provides the cover for delinquent police officers to kill innocent people with no fear of questions being asked as long as they are termed terrorists and as long as they belong to the minority community’ (‘CPI(M) Demands CBI Inquiry’, 2007, April 25). However, the analysis provided by the CPM is only one entry into the murder, and neglects several elements which went into organizing the murder of Sohrabuddin Sheikh.

One of the police officers who was arrested in this case, was described as a ‘blue eyed boy’ of the Chief Minister (‘Modi’s “Saviour” in Fake Encounter Net’, 2007, April 25). The father of another murder victim alleged that this police officer was involved in the killing of his son as well (‘Modi’s “Saviour” in Fake Encounter Net’, 2007, April 25). This was the murder of a former home minister of Gujarat, Haren Pandya (Thakur, 2006). Haren Pandya had fallen out with the Gujarat Chief Minister after deposing before a Citizen’s Tribunal which was inquiring into the Gujarat riots of 2002 (Thakur, 2006). Pandya’s murder took place in mysterious circumstances and the investigation did not go into the full details of the case (Thakur, 2006). Recently the Gujarat High Court has acquitted all the accused persons charged with the murder of Haren Pandya, citing shoddy and incomplete investigations by the Central Bureau of Investigation (CBI) (Khan, 2011, August 29).

An activist-lawyer familiar with the details of these cases said:

Even the DGP was afraid to ask them any questions. All their actions went unchecked as they were thought to be close to the Chief Minister and the Minister of State for Home (MoS). Whenever an encounter happens, as per due process, an enquiry has to be conducted by the police which has jurisdiction over the local area. In this case, the ATS itself filed a FIR and conducted the enquiry. Why did the DGP not order an enquiry? All the checks and balances in the system were destroyed. When the Supreme Court directed the DGP to order an enquiry, he did not take any action before the third reminder was sent. More than the Supreme Court, what was the DGP afraid of? It is well known that the MoS did not want the enquiry to uncover the truth and scolded the DGP and supervising officer, and asked them to change the enquiry report to save the police officers. Who were being protected and why?

A police officer familiar with the investigation had this to say:

In the Sohrabuddin case, there was tremendous cooperation between the police agencies of three states. This is unprecedented. At the level of the government and the police, such cooperation usually does not exist, particularly when the governments in the states are of different political parties. What was the sudden need to abduct Sohrabuddin from Hyderabad and kill him? He had stopped operating in Gujarat for a long time. The last case that was registered against him was in 2001. Who was pulling the strings?

Another police officer said:

The interest of the Chief Minister is being exaggerated. He is not bothered. He says that police officers are fighting each other and killing themselves. But the role of the Rajasthan police is curious. If the encounter had already been planned, and it was to be a fake encounter, then why were the Rajasthan police called in? The fewer the people who know about wrongdoing the better. And why did the Rajasthan police agree to become a part of the stage managed encounter? The Gujarat Criminal Investigation Department (CID) says that the motive was to obtain rewards, appreciations and promotions from the government. The Central Bureau of Investigation (CBI) says that the motive was an extortion racket comprising politicians, police officers and criminals. Since Sohrabuddin Sheikh was becoming more ambitious and too big for his size, he was killed. But both these motives do not tell the truth. In this drama, everybody has become a scapegoat and nobody is interested in the truth. Everybody is using partial truths to further their interests. The level of planning and coordination indicate there was something else, something larger at play. A common name which featured in the Sohrabuddin and Haren Pandya investigations is that of an informant of Central Intelligence Bureau (IB). What was the role of IB in both the cases? Why is the role of IB officers not being probed? Did Sohrabuddin have a hand in the Haren Pandya murder? Was he blackmailing politicians with his knowledge of the Haren Pandya murder?

An activist said:

There is no doubt that Sohrabuddin was a criminal. But Kauserbi was innocent. Why was she killed—was it only because she was an eyewitness? Also, even if Sohrabuddin was a criminal, isn't there a process which should have been followed? Can you just pick up anybody and kill him? Then what is the difference between you and the terrorists?

Pelly (2009: 205) describes the response of the Chief Minister Narendra Modi to the murder of Sohrabuddin 'In the run up to the ... elections, Narendra Modi made headlines by claiming responsibility for a fake encounter ... in which alleged underworld figure Shorabuddin Sheikh was shot dead by police, despite the fact that three senior police officers were arrested for the crime'. By way of justification, he asked a rally of his supporters:

What should have been done to a man from whom a large number of AK-47 rifles were recovered, who was on the search list of police from four states, who attacked the police, who had relations with Pakistan and wanted to enter Gujarat?

His supporters reportedly answered by cheering 'Kill him! Kill him!'.

The murder of Tulsiram Prajapati

One year later on December 28, 2006, a witness of the murder of Sohrabuddin Sheikh, Tulsiram Prajapati was eliminated ('Tulsi Prajapati Fake Encounter', 2012, December 29). When the investigations for the Sohrabuddin case were being carried out, the investigating officer (IO) had requested to go to Udaipur where Tulsiram was lodged in a jail, to interrogate him (Yadav, 2011, April 23). However, the IO was denied permission by his supervisory officers to go to Udaipur.

Within two weeks of this request, Tulsiram was murdered by a police patrol on the Gujarat-Rajasthan border (Yadav, 2011, April 23). The narrative of the Gujarat police was that two days before his murder, Tulsiram had been brought to Ahmedabad for a trial he was facing. On his way back through train, two men had thrown chilli powder in the eyes of police escorts, and Tulsiram had escaped in the ensuing confusion. Two days later, while chasing him, the police patrol killed him in an encounter (Yadav, 2011, April 23). Surprisingly, this patrol also included the three police officers who were involved in Sohrabuddin Sheikh's murder and from whose custody, Tulsiram had purportedly escaped less than 48 hours ago.

This narrative of the Gujarat police was opened up for enquiry in the light of the Sohrabuddin Sheikh investigations. According to the notes of the supervising officer in the Tulsiram case, there was a strong likelihood that the third person who had got down from the bus along with Sohrabuddin Sheikh and Kausarbi was Tulsiram. Thus, Tulsiram was a star witness in the abduction and murder of Sohrabuddin Sheikh. Interestingly, Tulsiram had premonitions of his death! Before his death, he had written to a number of authorities, including the National Human Rights Commission (NHRC) and the Udaipur Court stating that he feared meeting the same fate as that of Sohrabuddin (Ayyub, 2010, July 3). True to his fears, he was indeed killed. Forensic reports did not find any trace of chilli powder and also suggested that the injuries of the police party involved in the encounter could have been self-inflicted (Ayyub, 2010). The Gujarat police took the case away from the supervising officer who had noted that Tulsiram was likely to be the third person along with Sohrabuddin Sheikh and Kausarbi. After this officer was removed, the state CID continued to maintain that there was no linkage between the Sohrabuddin Sheikh and Tulsiram cases. The Supreme Court which was monitoring the investigations remarked that despite the State CID's denial the possibility of the murder of Tulsiram as the attempt to destroy a human witness could not be ruled out. Later, the CBI investigations disclosed that Tulsiram was indeed the third person along with Sohrabuddin Sheikh and Kausarbi. However, those who were earlier associated with the investigation of these cases doubt the claims of the CBI. They point out that Tulsiram definitely had knowledge about the abduction and murder of Sohrabuddin and Kausarbi, but whether he was indeed the third person traveling with them in the bus on that fateful night is questionable.

The advocate fighting the case on behalf of the family of Tulsiram said that he had been murdered at the behest of the MoS Amit Shah since he was the star witness in the Sohrabuddin Sheikh case (Ayyub, 2010). Telephone records also establish that Amit Shah was constantly in touch with the police officers involved in Tulsiram's murder (Ayyub, 2010). Trusted police aides were tasked to remain on duty at the Gujarat-Rajasthan border during the time of the murder (Ayyub, 2010). In fact, one of these aides was recalled from leave to be on duty during this time (Ayyub, 2010).

An affidavit filed by the supervising officer who had been removed from the investigation of the Tulsiram case indicates how the investigations were impeded. The DGP did not want a reconstruction of the encounters in the spots they took place as he was apprehensive that the forensic evidence generated during the reconstruction would contradict the claims of the accused officers. The DGP intervened with the Director of Department of Forensic Sciences to ensure that the forensic reports were never made available to the supervising officer. In the affidavit, the then supervising officer noted that the DGP was involved in the destruction of evidence and the conspiracy to murder Tulsiram.

A lawyer associated with the case said:

When you look at Tulsiram Prajapati's case, the first thing that strikes you is the level of violence involved. You begin to wonder—is this a film or is this reality? They did not want to leave any witness behind. They wanted to have everyone who had some knowledge about the truth to be on their side. If they had the

slightest doubt regarding this, they were prepared to commit more murders. Kausarbi, Sohrabuddin's wife was killed because she was a witness. Then they also killed Tulsiram Prajapati because they were afraid he would speak the truth about Sohrabuddin's killing.

A police officer with knowledge of the investigations said:

From the beginning, they wanted to scuttle the investigations. They were brazen. They did not try to hide anything. In fact, they wanted to bring in officers who were involved in the conspiracy as a part of the investigation team. Later investigations revealed the roles of these officers. And they wanted to take away the investigation from those who were beginning to find the truth. These officers who were drafted into the team for investigating their own roles in the murder are today languishing in jail. Those who tried to scuttle the probe—they are also in the dock today and can be arrested any time. Only, the CBI appears to be lacking in will.

An activist having knowledge about the case said:

The buck does not stop with the MoS Amit Shah. As soon as the police officers in the Sohrabuddin case were arrested, the investigations were taken away from the officer who had arrested them. For almost a year after that, the state CID kept on insisting that there was no linkage between the Sohrabuddin and Tulsi cases. All the people who assisted in sabotaging the investigations in the Tulsi case were rewarded. The DGP who was trying to destroy evidence was given a plum post after his retirement. Another officer who was impeding the investigations had departmental proceedings pending against him. As soon as they realized that he was cooperating with them, these proceedings were dropped. He was also promoted later. The spouse of the new supervising officer who worked in another department was facing corruption charges. When the supervising officer cooperated, these corruption charges were diluted. These are favours which Amit Shah could not have provided alone as many of them are not concerned with the Home Department. All these decisions would have required the approval of Narendra Modi. If Narendra Modi approved all these decisions, then why is his role not being investigated? Why does the CBI at least not question him once so that the explanations for these dubious decisions can be obtained? While the investigations and charges have stopped with Amit Shah, does the truth end there or does it travel still further up?

The Ishrat Jahan murder

On June 16, 2004, newspapers reported that the Gujarat police had foiled the third attempt in recent times by Pakistani terrorists to kill the chief minister Narendra Modi ('Gujarat Police Kill 4', 2004, June 16). The police claimed that two terrorists had infiltrated India from Pakistan. They were joined by a college student in Mumbai, Ishrat Jahan and a Pune resident Javed, who provided logistical support to these terrorists. The Pune resident had recently converted to Islam and his name before conversion was Pranesh Pillai. On receiving intelligence reports, the police intercepted the car in which the four were traveling. The sharpshooters of the police shot at the tyre of the car. The car came to a halt and one of the terrorists got out and started firing at the police. The police returned the fire for 30 minutes and the four terrorists were killed ('Gujarat Police Kill 4', 2004, June 16). An AK 56 rifle, explosives and cash were recovered from the four who had been killed ('Gujarat Police Kill 4', 2004, June 16).

Later investigations revealed that Ishrat Jahan and three others had been picked up by the Gujarat police and later killed in a stage managed encounter (Dasgupta, 2009, September 8). The weapons and the cash were also planted on them later. Several police officers were later arrested for the murder of Ishrat Jahan ('Ishrat Case', 2013a, 2013b; Ayyub, 2013a).

A civil rights activist who has been following the Gujarat encounters very closely said:

The Ishrat encounter took place in 2004. Soon afterwards, her mother approached the Gujarat High Court claiming that Ishrat was not a terrorist and she was murdered in cold blood. She pleaded for an investigation by an independent agency. The Gujarat High Court burnt the midnight lamp for five years before it finally decided to constitute a Special Investigation Team (SIT). Why did it take five years for the Gujarat High Court to order an investigation? The right to life is the most basic fundamental right. An innocent young girl had been killed and her mother was running from pillar to post for an investigation to know the truth about her daughter's death. Her mother wanted Ishrat to rest in peace at least after her death. She wanted the stigma of being a terrorist to be removed from her daughter's name. Yet the court took five years to order this investigation. If the police is at fault, then what should we say about the judiciary? If it takes five years to order an investigation by an independent agency, then how long would it take for the investigation to be completed, trial to be commenced and concluded, appellate processes to end and the accused brought to justice? And this in a case, in which the spotlight of the national media has been there right from the beginning.

Another lawyer associated with the case said:

It is surprising that the court chose to appoint those officers in the SIT whose names had been suggested by the state government. And this very state government till then had been opposing the need for any independent investigation. Why did the court ignore the names of the officers suggested by the petitioners who were the family of the victims? The only good thing about the names given by the government was that this time they did not ask the accused to investigate themselves. After the constitution of this SIT, all hopes were lost. As per law, magisterial enquiry needs to be conducted in deaths involving the police. In the Ishrat case, the magisterial enquiry report of S. P. Tamang came in 2009. While the findings of the Tamang report may not be entirely correct, it shook the establishment. The very next day, the government and the police officers went to the Gujarat High Court. They wanted the court to ensure that the Tamang report did not become public. It is understandable that the accused police officers would not have liked the report to be made public. But why did the government go along with them and move the Court with the same request? The Gujarat High Court also took an unprecedented approach; it heard the matter till 8 pm, stayed the report and ordered an enquiry against the hapless magistrate. Later, it was only after the intervention of the Supreme Court that a new SIT was constituted by the Gujarat High Court. The Gujarat High Court devised a new formula to constitute the SIT and tried to keep all the parties happy. The three member SIT included one member suggested by the central government, one suggested by the state government and one from a list of officers given by the petitioners. Although some civil rights activists were happy with this formula, in practice the formula did not work. The conflicting interests of the three members made them to work at cross purposes and the constitution of the SIT had to be changed three to four times, adversely affecting the progress of the investigation.

As in the Sohrabuddin Sheikh case, where the role of Central IB is suspicious, in the Ishrat Jahan case as well, the role of IB officers does not appear to be above board. One of the investigating officers said,

There is overwhelming evidence against senior IB officers. They not only gave intelligence inputs which they knew were wrong but also actively conspired with Gujarat police officers to kill Ishrat and the other three.

The role of the central government also vacillated throughout the case. Initially, the Union Home Minister P. Chidambaram said that the Ishrat encounter was genuine (Sahi, 2009, September 26). It was only later that Chidambaram said that intelligence inputs did not mean a license to kill (Sahi, 2009, September 26).

Discussion

Investigations reveal that Sohrabuddin Sheikh and Kausarbi were killed in stage managed police encounters, and these killings were exceptional acts, as the police did not have any legal right to kill Sohrabuddin and should have brought him before the courts for trial. Further, while criminal charges might have existed against Sohrabuddin, no such charges existed against his wife Kausarbi, but she was murdered only to prevent her from acting as a witness to Sohrabuddin's murder. Nevertheless, the state of exception was normalized when Narendra Modi asked people at an election rally whether Sohrabuddin Sheikh should have been killed, and the people replied in a resonant voice that he should have been killed. Further, the voters also re-elected Narendra Modi as the Chief Minister of Gujarat. Thus, ongoing processes of representative democracy and elections rather than contesting the state of exception, normalize the violence of sovereign power.

According to Agamben (1998: 98), a funeral transforms a threatening ghost into a friendly ancestor. Representative democracy as the mobilization of the legitimacy to rule, rather than the mobilization of catharsis and justice, is similar to a vicarious execution of the funerals of bare bodies of subjects such as Sohrabuddin Sheikh. If funerals are about closures then the politics of hate mobilized in the election campaign brings political closure to the spectacle of the murdered corpse of Sohrabuddin Sheikh. After the election victory, the ghost of Sohrabuddin Sheikh can no longer haunt Narendra Modi; the funeral of electoral democracy has punctured the capacity of Sohrabuddin Sheikh's memory to emerge as a phantom who can haunt.

Sovereign violence is normalized through the organizational device of transforming processes of electoral democracy into funeralsque closures of murdered bare bodies. Another organizational device aiding the normality of sovereign violence in India is the mobilization of the Hindu body using war metaphors of militarist drills, by fascist cultural organizations such as the RSS (McDonald, 2003: 1564) to which politicians like Narendra Modi have affiliation. In Gujarat, after the BJP came to power, it allowed officials of the government, including members of the police, to join the RSS thus enabling a militarist and fascist engineering of their bodies into soldiers engaged in a war to form the Hindu nation (Yagnik and Sheth, 2005). This prepared the groundwork for normalizing police encounters such as that of Sohrabuddin Sheikh. These encounters were often seen as organizational techniques of enforcing hygiene and seeking national renewal by the actors carrying them out (Stokes and Gabriel, 2010). This organizational metaphor of hygiene and renewal is linked to the biopolitics of racial differentiation through a governmental mobilization of institutional coalitions (police, political parties, media, judiciary) in terms of 'embodied, emotive and aesthetic dimensions of biological thinking' (Blencowe, 2010: 114) which might slander the Muslim body as a criminal deviant in the project of constructing the Hindu nation.

If we read biopolitical governmentality through the work of Schmitt (2003), then we can see this project as the politics of identifying and organizing particular subjects as enemies and thereby enabling their construction as bare bodies. These bare bodies can be murdered by constructing police encounters as exceptional courts where not even the most basic rights are available for the bare bodies (Lievens, 2010: 919). We find that it is not only Sohrabuddin Sheikh's body which has to appear before the exceptional court of police encounters, but also Kausarbi's body. Kausarbi was not even a criminal, she was only a witness, and what does the murder of a witness signify? Both in terms of political spectacle and legal truth, the testimony of a witness is situated in the zone of indistinction between concealment and revelation, truth and lie, just and unjust exercise of violence. The silencing of the witness by labeling her as an accomplice of the war criminal reveals the potentiality of the testimonial to resist and subvert the narratives of sovereign power. Kausarbi is an inappropriate presence: by being present during the organization of Sohrabuddin Sheikh's

murder, she has already disturbed everyday business, where everyday business equals the state of exception in murdering bare bodies.

Agamben (1998: 104–111) traces the genealogy of the bandit, the outlaw who is banned from the city in the legend of the werewolf, and thereby provides insights into the politics of witnessing. The bandit who is banned from the city, is rendered as a bare body and has no political rights within the city. According to Agamben, the conceptual category of the bandit is linked to the legend of the werewolf, where a man is periodically transformed into a wolf, and therefore has to spend his time in the forests outside the city during this period. Agamben concludes that the man-wolf is a metaphorical embodiment of the bandit, the subject who is *homo sacer*, whose life can be killed without this killing being called as homicide. Agamben (1998: 107) also describes a story where a baron who is close to the king is afflicted by the condition of being a werewolf. Every week he hides his clothes under a stone and is transformed into a wolf for three days, and spends this time stealing and preying on other creatures.

The baron's wife discovers the secret of her husband being a werewolf and steals his clothes from where he has hidden them, thus preventing him from transforming back into a man. Thus, the baron permanently becomes *homo sacer*, a bare body, and there is no witness to provide testimony about the zone of indistinction between a political/bare body that the baron may inhabit. However, the wife who has stolen the clothes is a witness to the transformation from the political to the bare, and the baron is a favourite of the king. The story ends with the king discovering the truth about the baron, and facilitating his transformation back from being a wolf to a man, and punishing the wife for her witnessing and treacherous actions.

Thus, the witness must either be absent, or if the witness is present in an embodied sense like the wife in this case, she must be banned and punished. Thus, the legend of the werewolf constructs the embodied witness as an evil personality worthy of being consigned to bare life. The witness interrupts the sovereign's power to decide about which body must be bare, and which body can be included in the political. The witness is a messy embodied intervention in the border zone of indistinction between inclusion and exclusion where sovereign power is constituted, and therefore the witness needs to be eliminated, to be produced as bare life. The embodied technology of the police encounter through which a witness such as Kausarbi is eliminated manufactures bare life.

The same logic perhaps also applied to the murder of the former Home Minister of Gujarat, Haren Pandya who embodied himself as a witness by appearing before a citizen's tribunal to provide testimonials about the riots of 2002. Haren Pandya's father alleged that the same police officers who were involved in the murder of Sohrabuddin Sheikh and Kausarbi played a role in the murder of his son as well. Indeed the same police officers were involved in the murder of Tulsi Prajapati as well, who was another witness and who could have provided details about the murder of Sohrabuddin and Kausarbi. The legal provisions which militated most against the embodied presence of the witness and the public testimonial, and enabled the creation of the state of exception were anti-terror legislations such as Prevention of Terrorism Act (POTA), 2002, brought in during the reign of the BJP (later repealed when the BJP led coalition lost power in the Centre).

Singh (2006: 123) points out some of the extraordinary provisions of POTA:

'confessions made to a police officer (section 32) and telephonic interceptions (sections 36–48) were considered valid and reliable evidence under POTA. Under Sections 25 and 26 of the Evidence Act, as ordinarily applicable, confessions to police are not admissible as evidence because they can be easily extracted by torture'.

Under the Evidence Act, the statements of the accused had to be recorded in the presence of a magistrate for the statements to be admissible as evidence. In the war like state of exception, this

provision was done away with, and even the magistrate, an official of the state as a witness was done away with, as a messy, evil, embodied presence who was a detriment to the war against terror. These norms of acting without the interruption of the witness nurtured organizational processes of impunity thus enabling police encounters where subjects could be arbitrarily killed, without these killings being labeled as murder.

In Gujarat, the elimination of the witness is also connected with the sinister agenda of rendering all Muslims as bare bodies, of banning the Muslim subject, of showing the Muslim subject as being something less than human (Simpson, 2006), as perhaps werewolves, whose killings will not be labeled as murder. Simpson (2006: 343) outlines the fascist propaganda processes which carried out the dehumanization of the Muslim subject: 'Some months after the carnage, the Government of Gujarat released a compact disc presentation putting forward its own version of events. In the opening scenes of part of the presentation, newspaper headlines flash onto the screen accusing those who attacked the train "in the most ghastly manner since partition" as being "rioters without conscience" and "men without souls". The headlines are clearly made up and are intended to be mistaken for those of respected English language newspapers'. Thus, the Muslim subject is presented as an entity incapable of being human, as 'men without souls'. It is also interesting to note the misrepresentation of respected newspapers in the process; in the violent construction of the bare body, the sovereign of the Gujarat variety would also perhaps want to silence the media as witnesses. It is important to remember that Hindu fascism as it has played itself out in Gujarat, through riots, dishonest propaganda, murders and election victories, embodies 'govern-mentalities ... specific political rationalities' (Collier, 2009: 99) of splitting subjects into those who hate and the hated, and thus disciplining both kinds of subjects by enforcing governmental surveillance in a variety of sites.

The state of exception is legitimized by emphasizing that without these violent exceptions, the political unity of the sovereign is doubtful (Vatter, 2008: 247). The practice of eliminating the witness sets into motion a series of violences to sustain the state of emergency. In many ways, the metaphor of Sohrabuddin Sheikh as a baron who was a favourite of the king, also holds, as one theory emerging from police investigations suggests that he was running a mafia network in conjunction with politicians to extort money from businessmen. He had grown too ambitious and therefore was eliminated. Another theory suggests that he was a witness in the Haren Pandya murder conspiracy, and had begun to blackmail politicians using information he possessed, and therefore he was murdered.

If Sohrabuddin was a favourite baron turned werewolf, and therefore worthy of being killed, then the police officers who had killed him were also witnesses of the sovereign's complicity in the production of the bare body. Sohrabuddin's brother Rubabuddin filed a complaint about the possible murder of his brother. Should the police officers who killed Sohrabuddin also have killed Rubabuddin in order to avoid the possibility of this complaint? If they had killed Rubabuddin, then was it not likely that another subject might have witnessed the murder of Rubabuddin and therefore needed to be killed?

In many ways, the police officers who killed Sohrabuddin, were primary witnesses of the act. In many ways, if Narendra Modi was involved as an embodiment of the sovereign, then it is a possibility that the curse of the witness is likely to catch up with him. In limited ways, perhaps it is beginning to do so, with one of the police officers facing trial in the Sohrabuddin Sheikh case, now implicitly stating that the top political leadership of the state was actively involved in formulating and monitoring the implementation of the policy of police encounters (Ayyub, 2013b). The political problematic of sovereign power thus might not be—how will the violent reign of the tyrant end, but how will the tyrant sustain its violent reign? Agamben (1998: 91–103), analysing the funeral rituals of kings, already argues that the king's body is also homo sacer, and thus Agamben's

theorization of sovereign power might not be pessimistic but might actually be optimistic (Prozorov, 2010) in anticipating the climax of the reign of specific tyrants, and might actually be read as a series of Machiavellian warnings to tyrants of all sorts, including fascists, to be aware of how the empirical reality of their being *homo sacer* will catch up with them through the organizational machination of the curse of the witness.

The curse of the witness certainly caught up with Amit Shah, as he is now facing a criminal trial for his alleged involvement in the conspiracies of the Sohrabuddin and Tulsi Prajapati murders. While the investigations were ongoing, Amit Shah is alleged to have scolded the DGP and the supervising officer to prevent the investigations from taking a turn towards uncovering the police encounters as murders. The act of scolding is meant to drive the body into a zone of terror and silence, producing an exclusion from participation in political processes. The act of scolding humiliates the body and makes it to reflect whether it is worthy of political participation, thus pushing it to the zone of indistinction between inclusion/exclusion in political life. Amit Shah's case was transferred outside Gujarat and will be heard in Mumbai, as it was felt that he might otherwise influence the fairness of the trial through tactics of intimidation, and he himself was asked to remain outside Gujarat for more than a year, thus effecting the ban of political life on him.

The sovereign decision of determining inclusion/exclusion for Amit Shah is already beyond the realm of electoral politics, and is today in the realm of the trial and technical legal processes. Amit Shah's case might not as much be the instance of the fall of the mighty as it might be the 'cleverness and dodging for self-sustenance' of the excluded, 'strategies of survival and subsistence of people who dwell at the margins' (Imas and Weston, 2012: 210). In Gujarat, the strategies of survival of the excluded emerged in response to gross injustices suffered by Muslims during the 2002 riots and the ongoing denial of justice in its aftermath (Setalvad, 2007). The intensity of the Gujarat riots led to coalitions among several civil rights activists and lawyers who created a constituency of resistance and dissent, leading to sustained activism and legal campaigns culminating in the conviction of a few accused who were considered close to the political establishment ('Naroda Patiya Riots: BJP MLA Maya Kodnani Sentenced to 28 Years in Jail, Babu Bajrangi Life', 2012). If these constituencies of dissent did not function in implicit alliance with police officers who were standing up against the wrong at the cost of personal victimization, then they at least acted as resources of solidarity, the constitution of a public, which would welcome their actions.

The dissidents such as members of the civil society and the police officers who refused to be cowed down by the scolding received from the MoS keep 'the political possibility alive (of) resisting any determination of that which is indeterminate' (Baker, 2013: 329). In another sense, if the police are a part of the sovereign apparatus of the state, and yet some police officers have to go through the ignominy of being bullied, then they become a part of the excluded. Then these police officers act with the strategic intelligence of the excluded (Imas and Weston, 2012) to use the logic of the sovereign, such as the curse of the witness, against the sovereign, leading to the trials of subjects such as Amit Shah. One of the reasons why encounters were allowed to happen in the first place was due to the organizational-legal structures that were introduced into the police. Thus, structures such as the Anti-Terrorist Squad (ATS) as an organizational division of the police herald the state of exception as an institutional apparatus of the sovereign; Setalvad (2007: 154) comments on this organizational-legal device: 'it is normally, or always the Crime Branch or the "ATS"—anti terrorism squad of different state police that have developed a clear if unspoken and uncoded drill on how to "encounter" someone'.

While Tulsiram Prajapati was also a witness like Kausarbi, unlike her, he was not killed immediately and he was able to make an appeal to several institutions such as courts and the human rights body NHRC that he was likely to be murdered. The plight of the *homo sacer* is evident in the life of Tulsiram Prajapati as all his appeals were ignored, he existed as a life which could be killed.

In the climatic moment of producing Tulsiram as a bare body, a story of the flight of the criminal body which had invited murder upon itself was built, to normalize bareness. Bareness was also normalized through the organizational technique of rewarding those police officers who thwarted investigations in the Tulsiram Prajapati case, and marginalizing those officer(s) who could uncover evidence of the politician-police linkage in eliminating Tulsiram.

It is in the context of contemporary democracy that the identity between bare life and the bare body comes into play, for in a Foucauldian sense, life has been individualized in the form of discrete bodies. As Agamben (1998: 124) puts it: 'modern democracy does not abolish sacred life but rather shatters it and disseminates it into every individual body ... If it is true that law needs a body in order to be in force, and if one can speak, in this sense, of "law's desire to have a body" democracy responds to this desire by compelling law to assume the care of this body'. The care of the body can also follow from sinister regimes of fascist control, for the developmental Hindu body to be protected, it may be necessary to take care of the Muslim body by keeping it under control (Kanungo and Farooqui, 2008). If the body refuses to be individualized according to the norms of governmentality and is messily caught up with other bodies, and threatens to question sovereign truths, then the body can be eliminated. Tulsiram's body is entangled with the bodies of Sohrabuddin Sheikh and Kausarbi, and it becomes difficult to separate it from the narrative of their murders, and thus the only way to individualize Tulsiram's body and take care of it in the developmental interests of the democratic Gujarat state is to murder it.

As Agamben points out, under biopolitical modernity, the suspension of the rights of the body is first advanced as an exception, and later these exceptions become the norm. The 42nd amendment to the Constitution of India 'strengthened the powers of the central government by providing that no law for the prevention of anti-national activities could be declared invalid on grounds that it violated the fundamental rights in Part III of the Constitution' (Singh, 2006: 121). Thus, fundamental rights which were earlier suspended as an exception could now be permanently suspended. At least in rhetorical, if not substantive terms, this provides legitimacy for the murder of Sohrabuddin Sheikh and Tulsiram Prajapati. Once they have been labeled as anti-national subjects, they have no constitutional rights and therefore can be killed.

This framing of the Other as a criminal is evident in the murder of Ishrat Jahan as well. Ishrat Jahan, a young college student was framed as a terrorist who had come to assassinate the Chief Minister Narendra Modi. Her body had to be first presented as a criminal and a terrorist before it could be murdered and this identity of her body as a criminal had to be retained even after her death. It was not necessary to establish the criminality of the body through processes of law, the state of emergency ensured that merely labeling the body as criminal was enough, and when the first questions regarding the truthfulness of such labeling emerged through Magistrate Tamang's report, it was sought to be immediately silenced as the High Court banned its public release and instead ordered an inquiry against Magistrate Tamang.

There are a couple of administrative-legal mechanisms that helped in producing bareness in the Ishrat Jahan case. The first was the formation of the SIT where police investigation was reduced to the fine art of stakeholder satisfaction by the Gujarat High Court as police investigators were transformed into nominees representing different interests such as that of the victim, state government and the central government. Rather than a site through which justice could be sought for the victim, the SIT became a site where sparring and debate between different interests could be institutionalized. The other legal mechanism which normalized the exception of sovereign violence was the immunity enjoyed by the IB officials. When the role of an intelligence officer alleged to be a part of the murder conspiracy was sought to be investigated by the SIT and the CBI, the central government refused to waive the immunity of the intelligence officer. Thus, it did not matter whether the BJP or the Congress, its political rival was in power, both used legal mechanisms to uphold the

logic of sovereign power over the bare body. Both upheld the immunity of the intelligence officialdom and the exception of refusing to prosecute intelligence officials, even if they provided criminally wrong inputs leading to the murder of innocent subjects. Thus, the law was enforced by suspending it for particular subjects belonging to the sovereign apparatus.

As Agamben (1998: 132) puts it, ‘the principle according to which citizenship was something of which one had to prove oneself worthy and which could therefore always be called into question’ proved to be the point where the fascist politics of racial differentiation and sovereign power merged. By killing the terrorist body of Ishrat Jahan, the police officers were proving themselves worthy of making citizenship claims in Narendra Modi’s Gujarat. By their act of killing Ishrat Jahan they were ‘speaking in the discourse of a culture and tradition in which the notion of the “national” is equal to “Hindu”, and thus they were furthering imaginations of sovereignty structured around ‘jargons of authenticity, foreignness’ and “sons of the soil” criteria of citizenship’ (Bannerji, 2006: 365).

It is through such violent and exclusive categories of citizenship that ‘the BJP and its base community of the Hindu right hope to hegemonize the entire Indian political terrain’ (Bannerji, 2006: 365). The dead bodies of Muslim subjects such as Ishrat Jahan are also disciplinary spectacles which provide directions to citizens about how they may constitute their selves. They provide political and cultural material to citizens to craft their selves both through the power/knowledge operations of the state and other autonomous political engineering of their subjectivities (Allen, 2011). As Schmitt (2003) indicates that it is the sovereign which decides the state of exception, however this decision already incorporates the resistance of the Other, as it is the will and the body of the Other that the sovereign subjugates through the enactment of the resistance (Sims, 2005). While the murder of Ishrat Jahan, Sohrabuddin, Kausarbi and Tusliram indicates the intersection between the production of bare bodies and the organizing apparatus of sovereign power, it also indicates the possibility of resistance as justice claims made on behalf of these murdered bodies can set forth an unpredictable politics which can undo the bareness that the violent murder set forth. And the undoing of bareness can also become the undoing of sovereign power.

Conclusion

From an organizational theory perspective, we hope to have shown some of the contemporary functionings of democracy. In the light of the police encounters we discussed, democracy appears to be organized through the legitimacy of such murders. The representative processes of democracy are used to justify the murders of subjects, articulated as enemies. Such an organization of democracy has important linkages with the social relations of sovereignty. The organizational politics of democracy rather than contesting the state of exception and emergency, normalizes it, thus embodying sovereignty centred representative democracy as an ongoing process of denial of justice to excluded subjects.

Elections in sovereignty centred representative democracies embody the funeralsque. The funeralsque brings a spatial and temporal closure to the violences enacted by the state. The phantom like power of the bodies against whom violence has been committed collapses with the exorcism of the election. The collapse occurs either on account of the violence of the oppressor being legitimized through an election victory or through an election defeat of the oppressor being projected as democratic justice. The justice that is to follow from processes of law is articulated as being only a weaker kind of justice. Thus, the election as an organizational device in sovereignty centred representative democracies serves the purpose of exorcising the violent production of bare bodies in which sovereign power is complicit.

An organizational pedagogy through which the logic of sovereign power can be turned against itself is the curse of the witness. The coherence of sovereign power is threatened by the messy, embodied testimony of the witness. But the murder of the bare body contains several witnesses including the executioner, and the executioner knows the implicit and explicit sources from which the sanction for the execution was obtained. In this identity of the executioner and the conspirator as the witness, the organizational edifice of sovereign power may meet its irreducible contradictions. The ghosts of the murdered bodies may once again become political subjects in the unravelling of multiple testimonials accessed through the curse of the witness.

Another organizational practice through which the violence of sovereign power can be resisted is the enactment of dissidence. Dissidence keeps alive an engaged distance of subjects from the institutional ensemble through which governmentality is mobilized. If governmentality is about structuring ways of thinking, then dissent finds poetic escape from this structured field. By dismantling structured fields of thinking in localized spaces and times, the very coherence of a governmental sovereign can be confronted. An angst driven ethics and politics can be kept alive by local dissident actions.

Finally, by analysing police encounters through Agamben's frame of sovereign power, we hope to have shown the intersections between organizing, life, death, body and resistance. At the heart of the exercise of violence in contemporary times are several organizational processes. Understanding these organizational processes provides us with resources for contesting and subverting regimes of violence. It also opens up the need to constitute social relations beyond the definitiveness of sovereign anchors. From the experiences of the excluded, there is a need to re-organize social relations around the ethics of vulnerability.

Note

The two authors have contributed to different sections of the article. The second author adapted the theoretical framework of Agamben for the purposes of this study, led the data collection efforts in accessing data from different sources, and crafted the methods section. All analysis of the role of the state government of Gujarat, other government agencies in India, public officials and processes has been undertaken by the first author.

We would like to express our sincere thanks to the three anonymous reviewers who have helped in vastly improving the article from its previous drafts. Any errors or shortcomings that remain are solely ours.

References

- Agamben, G. (1998) *Homo Sacer: Sovereign Power and Bare Life*. Stanford, CA: Stanford University Press.
- Allen, A. (2011) 'Foucault and the Politics of Our Selves', *History of the Human Sciences* 24(4): 43–59.
- Ayyub, R. (2010) 'Gujarat Home Minister Amit Shah Called Cops Arrested for Killing Tulsi Prajapati', *Tehelka*, July 3. Retrieved April 10, 2013, from <http://tehelka.com/gujarat-home-minister-amit-shah-called-cops-arrested-for-killing-tulsi-prajapati-2/>
- Ayyub, R. (2013a) 'Ishrat Jahan Case: CBI Acts on Tehelka Evidence Against Top Gujarat Cops, G L Singhal Arrested', *Tehelka*, February 21. Retrieved April 10, 2013, from <http://tehelka.com/ishrat-jahan-case-cbi-acts-on-tehelka-evidence-against-top-gujarat-cops-gl-singhal-arrested/>
- Ayyub, R. (2013b) 'Why DG Vanzara's Letter Matters. And Why it Should Bother Narendra Modi', *Tehelka*, September 3. Retrieved September 22, 2013, from <http://www.tehelka.com/dg-vanzaras-resignation-letter-blaming-narendra-modi-and-amit-shah-for-encounters/>
- Baker, G. (2013) 'The Revolution is Dissent: Reconciling Agamben and Badiou on Paul', *Political Theory* 41(2): 312–35.
- Bannerji, H. (2006) 'Making India Hindu and Male: Cultural Nationalism and the Emergence of the Ethnic Citizen in Contemporary India', *Ethnicities* 6(3): 362–90.
- Beverly, J. (2000) 'Testimonio, Subalternity, and Narrative Authority', in N. K. Denzin and Y. Lincoln (eds) *Handbook of Qualitative Research*, 2nd ed., pp. 555–65. Thousand Oaks, CA: Sage.

- Blencowe, C. (2010) 'Foucault's and Arendt's "Insider View" of Biopolitics: A Critique of Agamben', *History of the Human Sciences* 23(5): 113–30.
- Brittain, C. C. (2010) 'Political Theology at a Standstill: Adorno and Agamben on the Messianic', *Thesis Eleven* 102(1): 39–56.
- Bunsha, D. (2006) *Scarred: Experiments with Violence in Gujarat*. New Delhi: Penguin.
- Clegg, S. (1994) 'Weber and Foucault: Social Theory for the Study of Organizations', *Organization* 1(1): 149–78.
- Collier, S. J. (2009) 'Topologies of Power: Foucault's Analysis of Political Government Beyond "Governmentality"', *Theory, Culture and Society* 26(6): 78–108.
- Cooren, F. and Fairhurst, G. T. (2004) 'Speech Timing and Spacing: The Phenomenon of Organizational Closure', *Organization* 11(6): 793–824.
- CPI(M) Demands CBI Inquiry into Gujarat Fake Encounter Case. *Outlook*. Retrieved April 10, 2013, from <http://news.outlookindia.com/items.aspx?artid=468041>
- Dasgupta, M. (2009) 'Ishrat Jahan Killing Also a Fake Encounter: Probe Report', *Hindu* September 8. Retrieved April 10, 2013, from <http://www.hindu.com/2009/09/08/stories/2009090856670100.htm>
- Dhattiwala, R. and Biggs, M. (2002) 'The Political Logic of Ethnic Violence: The Anti-Muslim Pogrom in Gujarat, 2002', *Politics and Society* 40(4): 483–516.
- Engineer, A. A., ed. (2003) *The Gujarat Carnage*. Hyderabad: Orient Longman.
- Fake Encounters: Three IPS Officers Held for Alleged Role. (2007) *Outlook*, April 24. Retrieved April 9, 2013, from <http://news.outlookindia.com/items.aspx?artid=467819>
- Fogde, M. (2011) 'Governing Through Career Coaching: Negotiations of Self-Marketing', *Organization* 18(1): 65–82.
- Foucault, M. (1982) 'The Subject and Power', in J. D. Rabinow (ed.) (1994) *Power. Essential Works of Foucault 1954–1984*, pp. 223–38. New York, NY: The New Press.
- Foucault, M. (1979) *Discipline and Punish: The Birth of the Prison* (trans. Alan Sheridan). New York, NY: Vintage Books.
- Foucault, M. (1978/1991) 'Governmentality', in G. Burchell, C. Gordon and P. Miller (eds) *The Foucault Effect. Studies in Governmentality*, pp. 87–104. Chicago, IL: University of Chicago Press.
- Fox, C. A. (2007) 'Sacrificial Past and Messianic Futures: Religion as a Political Prospect in Rene Girard and Giorgio Agamben', *Philosophy and Social Criticism* 33(5): 563–95.
- Fuentes, C. A. (2005) *Contesting the Iron Fist: Advocacy Networks and Police Violence in Democratic Argentina and Chile*. New York, NY: Routledge.
- Grandy, G. and Mavin, S. (2012) 'Occupational Image, Organizational Image and Identity in Dirty Work: Intersections of Organizational Efforts and Media Accounts', *Organization* 19(6): 765–86.
- Guenther, L. (2012) 'Resisting Agamben: The Biopolitics of Shame and Humiliation', *Philosophy and Social Criticism* 38(1): 59–79.
- Gujarat Government Admits Man Killed in Fake Encounter. (2007, March 23). Retrieved April 10, 2013, from <http://news.outlookindia.com/items.aspx?artid=460151>
- Gujarat Police Kill 4, Including a Woman, Foil Modi Murder Plot. (2004, June 16). *Indian Express*. Retrieved April 10, 2013, from <http://www.indianexpress.com/oldStory/49082/>
- Gupta, D. (2011) *Justice Before Reconciliation: Negotiating a 'New Normal' in Post-Riot Mumbai and Ahmedabad*. New Delhi: Routledge.
- Ghassem-Fachandi, P. (2010) 'Ahimsa, Identification and Sacrifice in the Gujarat Pogrom', *Social Anthropology* 18(2): 155–75.
- Huggins, M. K., Haritos-Fatouras, M. and Zimbaro, P. G. (2002) *Violence Workers: Police Torturers and Murderers Reconstruct Brazilian Atrocities*. Berkeley, CA: University of California Press.
- Imas, J. M. and Weston, A. (2012) 'From Harare to Rio de Janeiro: Kukiya-Favela Organization of the Excluded', *Organization* 19(2): 205–27.
- Ishrat Case: Arrested Gujarat Cop Alleges Torture by CBI. (2013, April 5). Retrieved April 10, 2013, from <http://tehelka.com/ishrat-case-arrested-gujarat-cop-alleges-torture-by-cbi-2/>
- Ishrat Jahan Case: Gujarat HC Satisfied with CBI Probe. (2013, March 15). Retrieved April 10, 2013, from <http://tehelka.com/ishrat-jahan-case-gujarat-hc-satisfied-with-cbi-probe/>

- Joseph, B. (2013) 'How Much Democracy Does Journalism Need?', *Journalism* 14(4): 474–89.
- Kanungo, P. and Farooqui, A. (2008) 'Tracking Moditva: An Analysis of the 2007 Gujarat Elections Campaign', *History and Sociology of South Asia* 2(2): 222–45.
- Kantola, A. (2013) 'From Gardeners to Revolutionaries: The Rise of the Liquid Ethos in Political Journalism', *Journalism* 14(5): 606–26.
- Kavanagh, D. (2009) 'Institutional Heterogeneity and Change: The University as Fool', *Organization* 16(4): 575–95.
- Khan, S. (2011, August 29) 'Haren Pandya Murder Case: Gujarat HC Acquits All Accused', *Times of India*. Retrieved April 10, 2013, from http://articles.timesofindia.indiatimes.com/2011-08-29/india/29940661_1_pota-court-life-imprisonment-haren-pandya-murder
- Kumar, V. (2005, January, 18) 'Godhra Fire Accidental, Says Banerjee Panel', *The Hindu*.
- Lechte, J. and Newman, S. (2012) 'Agamben, Arendt and Human Rights: Bearing Witness to the Human', *European Journal of Social Theory* 15(4): 522–36.
- Levy, D. L. and Spicer, A. (2013) 'Contested Imaginaries and the Cultural Political Economy of Climate Change', *Organization*, 20(5): 659–78.
- Lievens, M. (2010) 'Carl Schmitt's Two Concepts of Humanity', *Philosophy and Social Criticism* 36(8): 917–34.
- Lincoln, Y. S. and Denzin, N. K. (2003) 'The Revolution of Representation', in Y. S. Lincoln and N. K. Denzin (eds) *Turning Points in Qualitative Research: Tying Knots in a Handkerchief*, pp. 17–20. Walnut Creek, CA: AltaMira.
- McDonald, I. (2003) 'Hindu Nationalism, Cultural Spaces, and Bodily Practices in India', *American Behavioral Scientist* 46(11): 1563–76.
- Menchu, R. (2003) 'The Torture and Death of her Little Brother, Burnt Alive in Front of Members of their Families and the Community', in Y. S. Lincoln and N. K. Denzin (eds.) *Turning Points in Qualitative Research: Tying Knots in a Handkerchief*, pp. 95–104. Walnut Creek, CA: AltaMira.
- Modi's 'Saviour' in Fake Encounter Net. (2007, April 25). *Telegraph*. Retrieved April 10, 2013, from http://www.telegraphindia.com/1070425/asp/nation/story_7692769.asp
- Murtola, A.-M. (2012) 'Materialist Theology and Anti-Capitalist Resistance, or, "What Would Jesus Buy"?'', *Organization* 19(3): 325–44.
- Naroda Patiya Riots: BJP MLA Maya Kodnani Sentenced to 28 Years in Jail, Babu Bajrangi life. (2012, August 30). *Indian Express*. Retrieved September 18, 2013, from <http://www.indianexpress.com/news/naroda-patiya-riots-bjp-mla-maya-kodnani-sentenced-to-28-yrs-in-jail-babu-bajrangi-life/995802/>
- Passavant, P. A. (2007) 'The Contradictory State of Giorgio Agamben', *Political Theory* 35(2): 147–74.
- Patel, A., Padgaonkar, D. and Verghese, B. G. (2002, May 3) *Rights and Wrongs: Editor's Guild Fact Finding Mission Report*. New Delhi.
- Pelly, G., ed. (2009) *State Terrorism: Torture, Extra-Judicial Killings and Forced Disappearances in India—Report of the Independent People's Tribunal—9–10 February 2008*. New Delhi: Human Rights Law Network.
- Prozorov, S. (2010) 'Why Giorgio Agamben is an Optimist', *Philosophy and Social Criticism* 36(9): 1053–73.
- Rose-Redwood, R. S. (2006) 'Governmentality, Geography and the Geo-Coded World', *Progress in Human Geography* 30(4): 469–86.
- Sahi, A. (2009, September 26) 'How the Dead Hunt', *Tehelka*. Retrieved April 10, 2013, from <http://tehelka.com/how-the-dead-haunt/?singlepage=1>
- Schmitt, C. (2003) *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum*. New York, NY: Telos Press.
- Sengupta, A. (2011) 'Blood and Ashes', in H. Dabhol (ed.) *Writings on Human Rights, Law and Society in India*, pp. 36–39. New Delhi: Human Rights Law Network.
- Setalvad, T. (2007) 'Gujarat: Showcasing Muslims and their Predicament', *History and Sociology of South Asia* 1(2): 152–59.
- Simpson, E (2006) 'The State of Gujarat and Men Without Souls', *Critique of Anthropology* 26(3): 331–48.
- Sims, J. (2005) 'Absolute Adversity: Schmitt, Levinas, and the Exceptionality of Killing', *Philosophy and Social Criticism* 31(2): 223–52.

- Singh, U. K. (2006) 'The Silent Erosion: Anti-Terror Laws and the Shifting Contours of Jurisprudence in India', *Diogenes* 53(4): 116–33.
- Sohrabuddin Case: SC Dismisses Gujarat Plea. (2010, August 3). *Indian Express*. Retrieved April 11, 2013, from <http://www.indianexpress.com/news/sohrabuddin-case-sc-dismisses-gujarat-plea/601700/>
- Spodek, H. (2010) 'In the Hindutva Laboratory: Pogroms and Politics in Gujarat, 2002', *Modern Asian Studies* 19(2): 349–99.
- Stokes, P. and Gabriel, Y. (2010) 'Engaging with Genocide: The Challenge for Organization and Management Studies', *Organization* 17(4): 461–80.
- Subramanian, K. S. (2007) *Political Violence and the Police in India*. New Delhi: Sage.
- Thakur, S. (2006) 'Who Killed Haren Pandya?', *Tehelka*
- Tulsi Prajapati Fake Encounter: Suspended IPS Officer Wants to be Shifted to Ahmedabad. (2012, DNA, December 29). Retrieved April 9, 2013, from <http://www.dnaindia.com/india/1783016/report-tulsi-prajapati-fake-encounter-suspended-ips-officer-wants-to-be-shifted-to-ahmedabad>
- Tulsi Prajapati Encounter Case: CBI Court Summons 15 Accused. (2012, October 10). *Indian Express*. Retrieved April 9, 2013, from <http://www.indianexpress.com/news/tulsi-prajapati-encounter-case-cbi-court-summons-15-accused/1014806/>
- Vatter, M. (2007) 'The Idea of Public Reason and the Reason of the State: Schmitt and Rawls on the Political', *Political Theory* 36(2): 239–71.
- Weaver, W. G. (1997) 'Dewey or Foucault? Organization and Administration as Edification and as Violence', *Organization* 4(1): 31–48.
- Yadav, A. (2011, April 23) 'Prajapati Case Goes to CBI. Shah may Face Arrest Again', *Tehelka*. Retrieved April 10, 2013, from <http://tehelka.com/prajapati-case-goes-to-cbi-shah-may-face-arrest-again/>
- Yagnik, A. and Sheth, S. (2005) *Shaping of Modern Gujarat*. New Delhi: Penguin.

Author biographies

Srinath Jagannathan is an Assistant Professor in the School of Management and Labour Studies in Tata Institute of Social Sciences, Mumbai, India. *Address*: Tata Institute of Social Sciences, V N Purav Marg, Mumbai 400 088, India. Email: srinath.jayanti@gmail.com

Rajnish K Rai is a member of the Indian Police Service and Fellow, Indian Institute of Management, Ahmedabad. Currently, he is a Visiting Faculty in Indian Institute of Management, Udaipur, India. *Address*: K-133, Sector 19, Gandhinagar 382019, India.