

**Threatened Existence: A Feminist Analysis of the Genocide in Gujarat**  
**Report by the International Initiative for Justice (IIJ)**  
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**Prologue**

The violence that was unleashed against Muslim communities, and on women from the Muslim communities in particular, in the state of Gujarat, India from February 27, 2002, onwards was beyond description in its horror. Its efficacy in showing the worst effects of communalism combined with a thirst for political power is unmatched in the post-independence Indian history.

**What happened in Gujarat**

Although it has been repeatedly suggested that the burning of the Sabarmati Express in Godhra on 27 February 2002 triggered the violence against Muslims in Gujarat, much evidence reveals the planned nature of these attacks and casts doubts on the representation of events that occurred on 27th February. Reports show a systematic attempt to identify Muslims in various areas by singling out their homes and establishments much ahead of that date. They also reveal that arms had been procured and distributed widely to the public as part of the plan to target the Muslim community. What happened on the 27<sup>th</sup> of February 2002 was but a pretext to carry out the carnage that was long planned, a flashpoint that facilitated it and gave it a rationale.

On 27<sup>th</sup> February 2002, there was an attack on a train carrying Hindu *kar sevaks*<sup>1</sup> coming back from the demolished *Babri Masjid* site, where they had gone to volunteer their services for the building of a Ram temple. One of the train compartments was set on fire just outside Godhra, a station in Gujarat and 59 people (women and men) perished in the blaze. The assailants were not known and the reason for the train attack was not very clear but by late evening there were statements from the Gujarat government and the Hindu right wing organisations that this was an attack on the *kar sevaks* who were travelling in large numbers in that train. Not only this, there were claims that this was the work of the local Muslim residents around the area where the attacks took place and there were also statements that there was an alleged hand of the Islamic terrorists from across the border – from Pakistan.

The cause for the attack and who was behind it is still not known clearly and although official investigations are still underway, these perhaps shall remain questions that may not be ever fully answered. What followed, however, was a full-scale attack on people from the Muslim communities across the length and breadth of the state. There were thousands of armed mobs moving in towns and in villages spread over an area of hundreds of square kilometres. They were carrying similar weapons, they were carrying out destruction in the same manner and they were all shouting the same slogans. They were well aware of all the Muslim properties (they carried printed lists at times or the houses were appropriately marked beforehand) – residential and business – in different towns and remote villages and they went about systematically attacking all of them. They brutally killed many, they sexually assaulted and violated women and young girls, and they injured people in the most

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<sup>1</sup> Kar sevaks is the term that is used for the volunteers willing to offer free services for community activities. It is the term that has been appropriated by the VHP for the volunteers that it gathers for what it calls the 'Ram Janmabhoomi' movement (sic). Every time there is a show of strength of the VHP and its allies, these kar sevaks are gathered in large numbers from all over the country and taken to the site of the agitation. Many a times people join in with the full knowledge of why they are going but there are also some who go because it is usually a pilgrimage to some holy site.

gruesome manner. All property was destroyed in ways that it could not be rebuilt. (See Annexure I for more details on the carnage before and after the burning of the train.)

In a matter of 72 hours – the time for which the administration did not act or was given strict instructions by the state government to not act – there were about 2000 people killed in the violence. Although the official figure is 762, about 2000 people were missing or killed according to unofficial estimates and around 113,000 people were living in relief camps while others who were displaced were living with relatives in Gujarat or outside. The losses suffered by the Muslim community were estimated to be 38,000 million rupees – 1150 hotels burnt in Ahmedabad city alone, over 1000 trucks burnt, thus severely affecting the hotel and transport industry, which were businesses mainly run by Muslims. About 250 mosques and dargahs were destroyed as part of an attack on the community itself<sup>2</sup>. The state was ravaged and its Muslim populations were displaced from lands they had inhabited for generations and made refugees in their own country. They lived in refugee camps set up by others who were able to withstand the attack.

The violence continued much after the first 72 hours and was further compounded by police violence against the Muslim community as well as by the complete indifference of the other state institutions in providing humanitarian and medical support, or compensation to the violence affected and the active hampering by the police of efforts to register FIRs and other moves towards securing justice.

As many reports from civil rights groups and constitutional state bodies such as the National Human Rights Commission (NHRC) have repeatedly evidenced, the various arms of the state were complicit both in the initial attacks on the Muslim community as well as the later continuing violence. The state and the central government both played a major role in the Gujarat carnage causing sexual violence to the women, destroying property and killing members of the Muslim community. The acts of continuing violence and denial of all rights to the members of the Muslim community could not have happened without the complicity of the State and its institutions. The role and functioning of the Gujarat government has been directly influenced by its penetration by the Sangh Parivar. This fact underlies the conduct of the State before, during and after the peak period of the pogrom.

### **Responses of the Civil Society**

The loss suffered by the Muslim community in Gujarat was so great that one would have expected the state government to rush with relief. The government having failed to reach out to the victims of this violence, it was the civil society that took the lead. The initial efforts towards providing relief and shelter were taken up immediately by the Muslim community and the organizations within. They set up relief camps in schools and other common places both in the urban and rural areas. They mobilized resources, food, medicines and shelter where people fled and took refuge. Later many groups mobilized funds to rebuild houses and to resettle and rehabilitate the survivors of the violence.

Many non-Muslim women and men from the tribal, dalit, and other communities formed pockets of support for many people from the Muslim community when they were under attack or fleeing from the attackers. These people acting out of their belief in humanity and often at great risks to their lives and livelihoods, helped save the lives of many men, women, and children. They may not have been visible in the later organised efforts towards rehabilitation and support, but initially were often the brief safe space for a people under attack.

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<sup>2</sup> “Genocide Gujarat 2002”, Communalism Combat 77-78 (March-April 2002).

Many individuals, NGOs, women's groups, human rights organizations and civil liberty groups from all over India stepped in as well to provide support in terms of collection of food grains, clothes, books, medicines, health care and house building materials. Students, elderly, young and old came forward to help in different ways by spending time with children, filling information forms or providing medical help. Legal aid and support was given by activists from lawyers' collectives helping people to file FIRs, filling in forms and submitting to the authorities for compensation, retrieving property papers and reclaiming their ownership on whatever was left. People were also prepared to witness and depose in the court of law. Many NGOs also provided medical help in the camp by providing medicines and attending to the sick and pregnant women. Support was extended and counselling done with adults and children who had suffered stress and depression due to mental trauma. Even though all these measures were taken, they were very inadequate to deal with the enormity of the situation.

Besides relief and social and economic rehabilitation, groups have come together to organize events for justice and peace. The groups have intervened at various levels to bring the affected people back to their villages, ensure their safety, see that they get a reasonable compensation and that justice is done to them. Above all there has been a struggle to make the state government responsible for this pogrom and to bring justice and redress to the people. There has been a collaborative effort on the part of various groups to set up information networks and work collectively.

Activists from citizen's groups, human rights groups, NGOs, women's collectives, journalists, artists and doctors formed fact finding groups and published reports giving details of the carnage, provided a critical analysis of the situation and demanded justice for the people affected. More than 50 such reports have been published documenting the situation. Citizens' tribunals were conducted to provide a platform to the victims and survivors to speak of the violence they had been so brutally exposed to and demand both compensation and justice. Many films documenting the carnage, the events leading up to it, and providing a critical analysis of the violence have also been made and screened nationally and internationally. (See Annexure I for a list of reports.)

Political parties other than the right wing BJP, while forthcoming in their criticism of the state, were ineffective in providing a critical analysis and the political will to take up forms of redress to ensure justice. Most business conglomerates maintained a studied silence, though a few well-known members of the Confederation of Indian Industries criticised and questioned the Gujarat government. Amongst the national constitutional bodies, it was the NHRC that took active measures to ensure justice and drew attention to the failure of the State in controlling the violence. The Election Commission resisted the state government's pressure to conduct early elections until a reasonably conducive environment could be created for free and fair elections. The Minority Commission of India also presented its report and held the Gujarat Government responsible for not protecting life, liberty and freedom of minorities in the state.

### **International Responses**

What happened in Gujarat has also violated several international laws and treaties, including the Convention Against Genocide, and can be defined as a Crime Against Humanity. The serious nature of these attacks, and their contravention of international standards of human rights, warrants an international response.

Yet the response from the international governments and other international agencies like the UN bodies and Special Rapporteurs has been almost absent. Very few international governments as well as independent human rights bodies criticised the Indian State in failing to provide for the victims of the violence and more importantly in protecting their citizenship rights. The image of India as a

functioning democracy has at times not allowed this intervention and at other times the present government has actively sought to dissuade any 'external' intervention. Bodies like Amnesty International published reports on the carnage but were not permitted by the central government to conduct fact-finding missions in Gujarat.

Many appeals were made to the concerned UN Special Rapporteurs and the UN High Commissioner from women's groups and other human rights groups but there has been no public response to these. One reason for this inaction is the pressure exercised by the Indian Government on the UN mechanisms to not interfere in the 'internal issues' of India. In this regard, the then Chairperson of the National Human Rights Commission, Justice Verma met the then UN High Commissioner for Human Rights, Ms. Mary Robinson and informed her that it was not necessary for her to visit India in the context of the violence in Gujarat.

In any case, these agencies can act only with permission from the respective governments and so these options are difficult to exercise when the State is complicit in the violence. It is ironical that it is precisely these situations in which citizens living in a democracy like India need international intervention to support their efforts to preserve the democratic values of the country and to protect the basic human and citizenship rights of a significant part of the population. In a globalised world, international support from governments and civil society is vital for sustained actions demanding accountability of elected governments within countries and this was very inadequate in the case of Gujarat.

### **Seeking a feminist response**

Much of the post-pogrom activist discourse in India has centred largely around issues of democratic and civil rights of the Muslim community in general, with little specific focus on the rights of women belonging to the Muslim community. For activists grounded in broadly left wing and 'class-based' politics, issues of economic rights have been paramount, and constitute the primary lens through which the pogrom is understood. Even though some reports spoke about the sexual violence that took place in Gujarat, the specific location of 'woman' in these political projects is not articulated as a matter of concern. It is no coincidence that out of the numerous fact-finding reports that came out immediately after the pogrom, only one focused specifically on women. Many of the civil liberty groups, anti-communalism groups which have been the most active have not been concerned with foregrounding feminist concerns about the centrality of sexual violence as an inherent and intrinsic part of the *Hindutva* project as indeed of all projects that seek to forge collective political identities (like ones based on religion, ethnicity, caste) in terms of 'us' and 'them' boundaries.

Women's groups from Gujarat as well as other states have been very actively part of the relief, rehabilitation, legal aid, fact-finding and all attempts for justice, peace and redress being made in and outside of Gujarat after the carnage. They have also attempted to expose, from the beginning, the ways in which the instruments of a democratic state are working against the interests of its own citizens, and the ways in which women's bodies are being used as battlegrounds in the struggle over defining India as a Hindu State. However, there has been a lack of a coherent, national, feminist response to the violence in Gujarat grounded in a 'primarily' feminist understanding of the nature of power and sexual violence as a tool in conflict situations.

Further, in Gujarat, the inability and unwillingness of the Indian judicial system to provide justice for the victims and survivors of the pogrom was coupled with the failure of the Indian political and electoral system to provide equal representation for numerical minorities. This implied a particularly

bleak future for any expectations of justice for the women survivors of the violence necessitating particular action.

### **The International Initiative for Justice in Gujarat (IIJ)**

The need to foreground within India the issue of sexual violence in conflict situations, to evolve a coherent response within the space of the Indian women's movement and to develop a feminist critique of systems of justice and democratic governance brought together feminists from India and outside for international solidarity in analysis and action regarding justice for Muslims in Gujarat. It is in this context that this collective feminist initiative, the International Initiative on Justice in Gujarat, came into being.

As early as May 2002, women's groups working in Gujarat met to discuss various measures that could be collectively taken to voice our growing concerns and highlight the issues as we understood them. From these conversations the idea of having the IIJ grew and then groups from Mumbai, specifically Forum Against Oppression of Women and Aawaaz-e-Niswaan, took the initiative to flesh it out as well as begin a more focussed dialogue with other women's groups. Over several meetings the following groups came together to organise, plan, and finally make the IIJ happen: Citizen's Initiative (Ahmedabad), People's Union for Civil Liberties (PUCL) - Shanti Abhiyan (Vadodara), Communalism Combat, Aawaaz-e-Niswaan, Forum Against Oppression of Women (FAOW) and Stree Sangam (Mumbai), Saheli, Jagori, Sama, and Nirantar (Delhi), Organised Lesbian Alliance for Visibility and Action (OLAVA, Pune), and other women's organizations in India.

The International Initiative for Justice in Gujarat brought together a panel of jurists, activists, lawyers, writers and academics from all over the world. The IIJ team came together as an expression of solidarity with feminists from India to draw international attention to the very concrete impact of the violence on the lives of ordinary Muslim citizens of Gujarat. The specific mandate of the IIJ Panel included investigation of the violence – physical and sexual – suffered by women since 27<sup>th</sup> February 2002 and analysis of the use of sexual violence in conflict situations. The many correlations between what has happened in Gujarat and massacres of various cultural, religious, and ethnic subgroups around the world provided important reasons for convening an international panel, especially in light of how these attacks in Gujarat have affected women.

The IIJ itself was hence framed by three main contexts:

- An understanding of sexual violence against women and how this can be effectively addressed by a legal system not equipped to deal with crimes of this nature and scale.
- The historical context of the Indian sub-continent, where divisions along religious, community and caste lines, along with the rise of Hindu fundamentalism, have led to immense violence, intolerance and divisiveness.
- The globalised representation of the “Muslim” as terrorist worldwide and the alliances and attacks that this has fostered over the various Muslim communities all over the world.

This panel was not conceived of as a ‘fact-finding’ mission, because various independent reports and teams had already established the facts beyond doubt. An exhaustive dossier based on these reports and visual materials was provided well in advance to the panellists to acquaint them thoroughly with the events. Knowing and understanding what had happened, through meetings with various affected people, support workers, lawyers, and confidential meetings with affected women, was important and formed a large part of the panel's work.

The panellists were **Sunila Abeysekera**, Director of *Inform*, Colombo, Sri Lanka, **Rhonda Copelon**, Professor of Law, City University of New York and Director of the *International Women's Human*

*Rights Law Clinic*, **Anissa Helie** of *Women Living Under Muslim Laws* Algeria/France, **Gabriela Mischkowski**, historian and co-founder, *Medica Mondiale*, Germany, **Nira Yuval-Davis**, Professor of Gender and Ethnic Studies at the University of Greenwich, UK, **Uma Chakravarti**, feminist historian from the Delhi University who has documented the anti-Sikh pogrom in Delhi in 1984, **Vahida Nainar**, Researcher of International Law and a Board member of Women's Initiatives for Gender Justice, The Netherlands, Urgent Action Fund, USA, and Women's Research and Action Group, India, current Development Director of the *Women's Caucus for Gender Justice*, New York, **Farah Naqvi**, co-founder of *Nirantar* and an independent writer and consultant on issues of women, democracy and development, Delhi, and **Meera Velayudan** formerly with the *Institute for Environmental and Social Concerns*, Coimbatore.

The panel first met in Mumbai with the organising women's groups. They then visited areas in and around Ahmedabad, Vadodara and Panchmahals in Gujarat between 14<sup>th</sup> and 17<sup>th</sup> December in three separate teams. The results of the Gujarat state elections that saw the BJP, the Hindu right-wing political formation that sanctioned and justified the anti-Muslim violence return to power were declared on the 15<sup>th</sup> of December while the panel was in Gujarat and gave a chance to the panellists to witness in person the hopes of the survivors before the results and the despair after it.

During their visit in Gujarat the panellists met with 181 women and 136 men. Of these, 97 women and men were teachers, lawyers, artists, activists from community organisations and relief camps, women's groups, human rights groups, NGOs, legal aid cells, and other such organisations working in Gujarat. They represented 41 such organisations and groups from Gujarat, Delhi, Bombay, and other parts of the country. People from 7 districts in Gujarat deposed before the panel. They spoke about the violence that had occurred in more than 84 different societies, towns and urban areas and 66 villages within these districts. Around 320 people spoke to the panellists during the IJ.

The results of these visits were summarized in the short Interim Report, which was distributed to the press, and via mail to various organizations, individuals and media outlets domestically and internationally. This final report comes almost a whole year after the panel's visit to Gujarat. Over the interim period, the panellists have continued to raise their voices over Gujarat in all possible platforms. This report has gone through several workings in sustained multiple conversations across several continents amongst the panellists with each other and with the organising groups. It is a result of transnational feminist ideology in action and we are very thankful to have worked with such a dedicated and inspiring team of women.

We expect to use this larger report of the panel as one of the tools for continuing to address the situation of Muslims in Gujarat nationally and internationally, in order to address the violence unleashed by Hindutva supporters both within and outside the machinery of the State. We hope that well known and reputed voices, ideas and actions from feminists from different parts of the world will help the struggle for justice and equality worldwide, and will further articulate our concerns in protecting and fighting for our rights to autonomy, democracy and freedom from violence

We also trust that this initiative will lead to a nexus of shared understanding and activism on the immediate issues of justice in Gujarat in the aftermath of the pogrom; serve as a starting point of a transnational dialogue on issues thrown up by the pogrom including that of the inadequacy of existing legal frameworks to address sexual violence in times of social upheaval and conflict and enrich ongoing feminist discourse on citizenship, democracy and justice.

Finally, we feel that the IJ is a tribute to the spirit and the strength of all the people, especially the women – survivors, activists, feminists – often in the same person, who were not silenced despite all

the pain, the hardships and the despair. The courage of the women who spoke to us, who travelled to meet the panellists in the grim month of December 2002, when many had left their villages yet again because of fear of violence during the elections, is the starting point and the impetus for this process. That they spoke to us knowing that we may not be able to contribute anything tangible to their lives, reaffirmed our knowledge that justice is perhaps the most tangible of all things. And it is towards achieving the justice that they desire, the basic rights of citizenship in their homeland, and a democracy that will provide security to all, is what this initiative is aimed at.

## Chapter 1 Introduction

Among the reactions shared by the panellists of the International Initiative for Justice–Gujarat (IIJ) was the feeling that events of Gujarat 2002 marked a definitive moment in their own relationship with their past and present. Each panellist had her own history of resistance—a history that was at the same time both specific and universal, a history that resonated deeply with events in Gujarat and made participation in the panel imperative. These histories ranged from memories of Nazi terror; to strife torn Israel and Palestine; the consequences of a civil society in Algeria terrorised by Muslim fundamentalists; war crimes in Bosnia; ethnic chauvinism and a protracted war in Sri Lanka; the trauma of India’s partition with the loss of homes, millions of refugees and abductions of women; to the public killing and burning of Sikhs during the anti-Sikh pogrom of 1984; the rise of right-wing parties in the early 90s and repeated rioting upon the emergence of the right-wing State in India that openly appeals to the religious identity of the Hindu majority. Gujarat was a moment in the individual histories of nine women in the panel and many others who provided invaluable support without which the panel could not have been assembled. Many of these “backstage” members of IIJ were themselves from different locations, from within India and outside, from within Gujarat or outside it. Many perhaps were too young to have personally experienced the histories of the formal panellists but had an acute understanding of what Gujarat marked for them in the formation of their own histories.

The specific targeting of women, as part of a conscious strategy to terrorise the Muslim population of Gujarat, also particularly concerned the panellists. According to Rhonda, sexual violence played a fundamental role and was used “as an engine of the mobilisation of hatred and destruction.” The scale and brutality of the sexual violence unleashed upon women was new, or felt as if it was new, to the panellists who could not have been prepared for the testimonies they heard even though they were aware of the centrality of this method in the violence of 2002. Indeed for many it was among the strongest reasons that impelled them to be part of the Initiative. And yet the sheer magnitude of the trauma recounted by women even nine months after the violence was overwhelming. As Meera, who lives in Gujarat and was acutely conscious of what had happened there during February and March, put it:

Many doubts arise in your mind [about the erosion of citizenship] particularly when you come face to face with women who have undergone brutal sexual attacks and mass rape. For the first time, married women broke their silence on the sexual attacks they suffered. A mother spoke of her two daughters but did not say that she herself was a victim...testimonies were often given with young children looking on, punctuated with long silences. None of us could sleep that night: a community was being held to ransom—accept your citizenship or...We exchanged experiences of Bosnia, Palestine, Israel but the extent, brutality and the varied methods of Gujarat was unheard of.

Nira has written about sexuality and nationalism and the horrific results of actions driven by religious fervour, greed and fear and this has shaped her politics as well as her academic concerns. Now as she heard testimonies in Gujarat it was like seeing, through the voices of the testifiers, a graphic picture of the gendered and sexual dimensions of nationalisms and racism that she has been studying and writing about for years. Gabriela has also heard experiences of women who were raped in recent years, but the accounts of women in Gujarat painfully reminded her of the sheer incomprehensibility of the listener in such a situation:

As a feminist activist and researcher in the field of sexualised violence in war, and as an active member of the Medica Mondiale in support of war traumatized victims in Bosnia, Kosovo and Afghanistan I have listened to hundreds of accounts of merciless attacks randomly, deliberately or strategically directed against women during violent clashes between communities. The cruelty described always surpasses the listener's comprehension .... Listening to them I became yet another time painfully aware of the difficulties of bridging the gap between political analyses and the general engagement with gender justice and the overwhelming and acute plight of the many individual survivors of such massive violence, in particular gender-based violence. This counts all the more if I take into account the tremendous lack of safe places for the attacked girls and women to find their own way to "come to terms" with what happened to them.

There was also the special anguish of belonging to the community of the victims and the vulnerability that is experienced thereby. In the words of Vahida who witnessed the riots in Mumbai in 1993:

Nothing in all the reports I had read prepared me for what I felt and experienced during the visit to Gujarat. The testimonies of women concealing a story, of men experiencing loss of dignity and of children robbed of innocence recounted with tears, pain and expectation of justice in their eyes... only exacerbated my own sense of helplessness knowing fully well that nothing that we do will make any immediate difference to their lives. And yet we put together this report in the hope that it will.

This sense of pain, empathy and hope for justice was echoed by Sunila who has worked intensely in Sri Lanka:

Coming from Sri Lanka, where we have seen and lived through terrible violence and bloodshed because of identity-based politics, listening to women and men from the Muslim community in Gujarat testify to their experiences was chilling. So much of what they said could have been transposed directly to people I work with. And the evidence of the impunity for perpetrators, the silence, the denial, the continuing discrimination against those who suffered most is also reminiscent of the situation in Sri Lanka. There were moments when I truly wished I had not agreed to be a part of this process because it was so painful and left one with a sense of frustration about the inevitability of this kind of senseless brutality and inhumanity. Yet, the strength and courage and humanity of the survivors is what, as always, proves inspirational and makes us determined not to give up in the search for justice and guarantees that such barbarism will not be repeated.

At another level, the testimonies were particularly painful for people like Meera whose political work focuses on the marginalized community of Dalits who were alleged to have taken part in the assaults in many areas. How could one marginalized community attack another? What were the conditions that made oppressed castes find identity and strength when they joined their own oppressors to attack another marginalized community? That the ground for such viciousness had been prepared surely and steadily was known. And yet, whatever one knew from the past did not really help, because as Meera said, "However much you intellectualise [nothing could prepare us for] what we heard and saw..." during the testimonies of IIJ.

A sense of despair and incomprehension was the dominant emotion for other members of the Initiative as well. For Uma, whose childhood memories of the partition violence had healed to an extent with the early nation's commitment to a secular and pluralistic society that guaranteed minority rights in the Constitution, the growing divide between communities from the mid-80s,

fanned by State acts of omission and commission, were the beginnings of the betrayal of the nation. The violence of Gujarat sedimented that sense of betrayal. As accounts of the State's complicity in the pogrom became available through reports, the continuous suffering of Muslim survivors who did not have adequate relief, who had no hope of being able to return to their homes and who had lost their livelihoods led her to realize that justice was not going to be done within the national legal system. This was a deathblow to Uma's faith in the social and political system. But even as women spoke up about the sexual violence they had suffered or witnessed, the Central government refused to acknowledge the suffering of its women citizens in Gujarat even after a marathon 14-hour debate in Parliament. At the same time, the Supreme Court had till then provided no relief and the lower courts in Gujarat were systematically eroding the possibilities of justice for survivors and for those who lost their lives. As Uma recalls:

I was a child of independent India, among the first generation of post independence children who had watched the nation being born on the midnight of August 14<sup>th</sup> 1947. Even as I grew into a civil rights and women's rights activist I had a strong sense of faith in the ability of "the people" of the country to resist oppression and redress their grievances and fight for justice. Gujarat spelt the collapse of that faith -- I despaired as I watched the horror of Gujarat unfold through its various stages with wombs being seared, foetuses displayed, children watching rapes, the killing of raped women and then the burning of the bodies so that evidence was destroyed, of attacks on the media and civil rights activists, of mobs who would not let post mortems be conducted, of Hindu women feeding the mobs on the street so that they could continue to attack, and finally of the proclamation of a normalcy in which one section of the people swarmed back to restaurants and shopping malls as if nothing had happened while another lived in terror and degradation. Was this the India of my childhood? Were these my people? It was the despair of Gujarat and the desperation for an acknowledgement of wrongs suffered as I recalled the glazed eyes of a young raped woman that I had seen in August, which convinced me that the struggle for justice was the only way to keep going.

The search for justice and the desire to let the voices of the survivors be heard was the one factor that united all the panellists in their work. Because there was the recognition that women had been targeted at other places as well, there was an urgency to ensure that the plight of women survivors in Gujarat would not become "another item in the long list of casualties," as Anissa pointed out. Further, Anissa believed that it was necessary to provide media coverage of these events outside India and to promote justice for victims and survivors in various international fora. For Rhonda, the anguish in the eyes of the those who gave their testimonies not only recalled photographs of the ghettoised Jews of the Nazi holocaust but also the realization that the painful retelling would not really bring any concrete relief from the courts within Gujarat. In Rhonda's words:

It was chilling to confront the pain and terror of the survivors in Ahmedabad...Among the things I will never forget were the eyes of the many women and several children who came to tell their stories, beautiful eyes, which like their lives were filled with terror instead of the promise of the future; eyes that are particularly familiar to me from the photographs of the ghettoised Jews of the nazi holocaust and those of the Palestinians today resisting the crush of Israeli occupation... I will never forget the hope dashing moment in the widow's community when we learned of the huge and unanticipated BJP victory. Taking my hand the woman next to me said, "Now they will never let us survive....."

Learning of the utter lack of domestic recourse, even from the Supreme Court, forced me to sadly relinquish my earlier admiration of the progressive role in protecting human rights and

reflect on the dangers of the growing right-wing control of the courts in the US, my country. The parallels between the growing fascism in India and the US are sharp and the Gujarat experience brought home the damage the Bush administration inflicts throughout the world in the post 9/11 demonisation of the Muslims as terrorists....

Given the failure of the national legal system, internationalising the issue seemed to provide the only hope. The courage of the testifiers also provided hope. The survivors struggle for justice and keeping the issue alive was also a way to send the message of “zero tolerance to impunity which would act as a potential deterrence,” according to Vahida. It might even reverse the process and prevent violence in the future.

But what if justice continued to be elusive, even after the work of the IIJ was over? For Farah, who had seen many investigative reports by concerned citizens and civil rights groups without any visible consequence, this was a real fear. Being part of the group of women who first drew the attention of people, in India and outside, to the sexual violence, Farah had repeatedly returned to Gujarat to keep in touch with the survivors and follow up on their cases. The pain of hearing the testimonies once more was of a different kind now, as concern about the expectations of the testifiers, especially the women survivors, was uppermost in her mind. She was also committed to going back again and again. How could one face those for whom nothing might change, for whom this was perhaps merely one more group to whom they told their stories, in the hope of justice? In the end the anxiety was resolved by accepting, perhaps only for the moment, that the IIJ “promises nothing but bears testimony to the truth, and takes that truth to the international community.”

The search for justice and the commitment to let the voices of women survivors of Gujarat be heard had united us, the panellists, who were women from three different continents. We also discovered, through all the sharing of experiences the worth of just coming together. As Nira described it, “Being part of a wonderful encompassing feminist collective experience, something I had not been part of for too many years, which helped us to find the strength and comfort with each other, and to remember to celebrate life as long as we can: [it was] feminist politics at its best. Similarly for Rhonda, the accumulation of horror that Gujarat spelt was mediated to an extent by the “courage of the testifiers which together with the amazing energy, solidarity and organization of the women’s groups who came together across cultural lines to organize the IIJ and the growing significance of gender and sexual violence in international law and international arenas provides new hope.” What was particularly valuable in the initiative was that the inquiry genuinely combined national and international perspectives, and had a feminist understanding of gender at its core. The Initiative was also a recovery of some of the joint work done by women’s groups across the world in the 70’s and 80’s, something that had got lost over the years. Vahida spelt this out:

The last couple of decades have seen the lamentable proliferation of women’s rights activities done in isolation and the decline of solidarity among feminists around the world. In such an environment, the coming together of national and international feminists and women’s groups as the IIJ [came] as a breath of fresh air. The idea that it is possible to have an issue-based consensus among diverse groups was promising and exhilarating for future feminist actions against anti democratic, nationalist fundamentalist and patriarchal forces.

In a way, the international coming together of feminists to take up the struggle for justice was also a crucial moment of national solidarity, in Farah’s opinion. Given the enormity of what had happened in Gujarat she was somewhat disappointed with the initial response. In her words:

Large numbers of women did not descend on Gujarat from all corners of India in expressions of solidarity, courage and mourning, speaking as one. IIJ was therefore long

overdue. We finally had women's groups from Delhi, Bombay and Gujarat together, some as panellists, others as organizers and still others as volunteers giving of their time and energy generously, sharing pain with honesty. The shared energy was vital; it is after all what we survive on in times of trouble. The organizing team that Forum put together was wonderful. Boundless in its energy, generous in the space it gave to everyone...

All the panellists were also grateful for the opportunity to participate in the attempt to obtain justice for the survivors of Gujarat. There was an acute sense of responsibility to honour the process and the survivors who testified. All shared the pain and the challenge of Gujarat. As Sunila wrote:

The experience of working with the IJ has provided a fresh impetus for my conviction that we need to campaign for a better and more broad understanding of sexual violence against women during times of conflict, whether it be armed conflict or civil riot or pogrom as we saw in Gujarat in order to create new mechanisms that can provide justice and reparation with a maximum sensitivity to the victims and survivors. In a world where fragmentation and alienation from each other is our most common experience, it was a truly special coming together which I hope shows us the way forward.

In the end the early disappointments of Farah, which other Indian panellists may also have experienced in different ways, were softened by the experience of being part of the IJ. "As a feminist I had expected nothing less, as an Indian and a Muslim I was strangely grateful for the solidarity," wrote Farah at the end of formal work of the Initiative.

And for some of the international panellists, participation in the IJ was not only a way of re-establishing feminist transnational solidarity but was also a way to buttress opposition to political processes that were targeting a minority group. In the words of Gabriela:

I was and still am deeply impressed with the way feminists, human rights activists in India and in Gujarat itself reacted instantly not only in political protest but also in actual support of those who became targets of the unleashed as well as carefully channelled attacks. For the Indian activists the community that responded in solidarity might have been disappointingly small. From my outside perspective, however, the reaction was overwhelmingly fast and thorough, especially the meticulous documentation of the atrocities committed, and the naming of those founding their political power by intentionally instigating hatred among different communities...I found it exceptionally important to support in whatever way possible the IJ in making public the mass crimes that international politics had decided to ignore because the people targeted in the massacre were of the "wrong" ethnic community as the attack on the Muslim community did not fit into the image of the "Muslim Terrorist Enemy."

Anissa too was impelled to participate in the IJ primarily because the "state sponsored pogroms" against the Muslim community in Gujarat had not been given much media coverage in the UK. Participation was a way of redressing that imbalance. Impressed by the combined expertise of the women invited to be on the panel, she considered IJ a way of taking the work of women's groups in India on violence against women, and its redressal, forward. Anissa sums up the work of the Initiative both when it met formally in December 2002 and its life thereafter as thus:

Shaken by the chilling testimonies placed before us served to strengthen our commitment to raise the issue in all possible forums. Since my return from India I have connected with concerned groups in UK participated in workshops and demonstrations, raised the issue of [funding for right wing groups] with the authorities and issued awareness raising email

campaigns. This is a battle that requires long-term efforts both within India and outside. Given the fact that a right –wing government has a powerful position both in regional and central governments, this is a difficult battle but one that must be pursued—if nothing else out of respect for the survivors who overcame their fears and braved tremendous difficulties to meet the IIJ panellists.

As panellists we would also like to place on record our deep appreciation of the outstanding work of the IIJ organizers. In a relatively short period of time the tribunal met a broad section of people: affected people/survivors and victims, activists, social workers, camp organizers and lawyers and many others. Being able to organize dozens of meetings, field visits to the sites of some of the worst attacks, and sometimes to resettlements of those dislocated at a very sensitive time—December 2002 elections—is a tribute to the organizing team and their skill in ensuring that affected people would trust us enough to come forward. This was obviously the result of long-term efforts on the part of the organizers. The logistical arrangements were marvellous... so was the caring support provided to the panellists. A big thank you to the team for everything.

## Framework of the Report

In our visit, we have heard many confirmations of the information contained in the various reports on the violence in Gujarat. We find it regrettable that the Indian government has not paid attention to the facts provided through this process, nor ensured the enforcement and implementation of the recommendations set out in, for example, the report of the National Human Rights Commission. We are also concerned by the fact that in spite of the totally inadequate legal and other responses to the violence in Gujarat, the government has continued to deny permission for international scrutiny of the situation.

We have no doubt that the state has been complicit both in the perpetration of the violence in the state of Gujarat, and in the failure to redress it. We are appalled to discover the continuing levels of violence and the inadequacies of existing mechanisms to deliver justice to the victims and survivors. This violence, which reflects a longer and larger genocidal project, in our view constitutes a crime against humanity and satisfies the legal definition of genocide, both of which are crimes of the most serious dimension under international law. In addition, the results of the recent election in Gujarat give the instigators and perpetrators of violence in that state the power and potential to continue with their campaign of hate and terror against the Muslim community. As we heard so often, ‘They will never let us survive’. This constitutes a frightening exacerbation of the genocidal conditions prevailing in Gujarat with the potential of spreading to other parts of India, and calls for an urgent and concerted international and national response.

The IJ comprised a panel of feminists from different parts of the world and feminist concerns are the primary focus of the report. Women are the worst sufferers of every calamity, natural or man-made, and it is their voices and concerns that are crucial to this report. When the State machinery colludes with the violators, the perpetrators of violence, with the rapists, the problems women face are all the more exacerbated. Lack of rehabilitation measures, compensation, and proper prosecutions affect women most adversely. It is women from the already marginalized sections that suffer the most. At the same time, this report also raises other issues that are being addressed at a global level and are crucial to the survival of a civil and just democracy, such as the very definition of democracy, its future, and the future of the concept and possibility of justice.

The report is broadly divided into two parts. Part I looks at the social and political scenario of the pogrom that took place in February-March 2002 and the period thereafter. It explicates the underlying politics and project of the *Hindutva* project and the *Sangh Parivar* and unravels the gravity of the brutalisation of that project for society, especially for women.

Part II of the report discusses the legal implications of the pogrom from the point of view of both national and international jurisprudence and the ramifications of future legislation a pogrom such as Gujarat.

Part I of the report is in turn divided into five chapters.

Chapter 2 deals with the historical as well as immediate political context in India, and more specifically Gujarat, the site of the pogrom of February–March 2002 and thereafter. It underlines the economic and political situation and the factors that gave rise to and fostered a politics of hate. This chapter looks at the main actors in the pogrom and the *Hindutva* project that aims to shake the foundation of a semblance of democracy in this country.

Chapter 3 focuses on the nature of sexual violence in Gujarat based on the experiences of the women who were victims of the violence and who met the panel. There is a logical continuity between the politics of the actors of the pogrom and the brutality unleashed on the women in

Gujarat. This chapter looks at this continuity and at the politics of the *Sangh Parivar* in the context of their agenda for women.

Chapter 4 looks at how the State has been complicit in the violence and has in fact actively abetted the perpetrators. Control over State power has been an important part of the growth and the actualisation of the *Hindutva* agenda. In this chapter we look at institutions of the State that are supposed to protect citizens and find that the State in Gujarat was, in fact, actively involved in doing just the opposite. It was targeting the minority community, abetting the perpetrators of the violence and stripping Muslims in Gujarat of all rights and dignity.

In chapter 5 we look at the on-going nature of the violence. The violence and targeting did not end in February-March 2002, as the State would like us to believe, but continues to this day. Chapter 5 discusses this and gives voice to the countless women, children and men of an already marginalized community as they recount their terror.

The next 4 chapters that comprise Part II of the report deal with the legal framework: first the national legal mechanisms, and then the international instruments. Legal instruments have different objectives in the case of a pogrom or genocide. They are to obtain some measure of justice and reparations for the victims and survivors and to punish the guilty, at the very least. Another important objective of the legal system is that its mechanisms and instruments should act as a deterrent for any future pogroms or genocide. In a system where the State colludes with the perpetrators, justice is a much-laboured process that needs to be critiqued ruthlessly to ensure that victims and survivors can obtain some semblance of it. Otherwise there seems to be no hope for the future of people and of democracy. Part II of the report also looks at the possibilities of justice that exist, draws parallels from around the world where similar pogroms have taken place and outlines how they were dealt with.

The report then comes to the conclusion that it is necessary to ensure that this kind of gruesome, blood-chilling violence, particularly violence against women in conflict situations, does not take place again. The report is also a call to all people and civil society institutions to actively counter the campaign of hatred and fear that is at the core of such genocidal projects. The report of IIJ urges that active mobilization of all sections of society against discrimination and hate mongering towards minorities and women is urgent. The report calls upon the international community, at the level of State, inter-governmental and non-governmental organizations to condemn the advance of this genocidal project, and pressurise the government to protect human rights and democratic principles.

There is also a small section on information on the major happenings after December, 2002, collected from primary and secondary sources collated and put together by the organizers under a final chapter entitled 'Updates'. These help to further substantiate the analysis of the report and provide information on what is happening in the state and the country now, almost a year after the panellists' visit.

## Note on Text and Codes

The panel met with many men and women survivors of the violence from the Muslim communities, activists from different organizations, lawyers, teachers, men and women who came out to help the victims during the violence, relief camp organizers and many others in three separate teams. The first team met people from Ahmedabad city and from villages in Ahmedabad and Sabarkantha districts in Ahmedabad. The second team met people from Baroda city and from villages in Anand, Baroda and Kheda districts in Anand and Baroda. The third team met people from towns and villages in Panchmahals and Dahod districts in Godhra.

All the names of the people who deposed before the IJ panel have been changed. The names that appear in the text are pseudonyms. This has been done to protect the testifiers from any further persecution. The names of villages have been coded for the same reasons as have the organizations. The districts have been identified to illustrate the extent and spread of the areas from which people testified before the panel. Men and women attackers from the Hindu communities who have been identified in the testimonies have been coded but no pseudonyms have been given to them. These codes have not been included in the report to preserve the safety of the victims.

The notations used are as thus:

AA\*: an area from Ahmedabad city.

AV\*: testimony from a village given to the Ahmedabad team.

AHM\*: A male attacker from the Hindu community.

AHW\*: A woman attacker from the Hindu community.

AO\*: An organization that gave its testimony to the Ahmedabad team.

BV\*: testimony from a village given to the Baroda team.

BO\*: An organization that gave its testimony to the Baroda team.

BM\*: A male attacker from the Hindu community.

PV\*: testimony from a village given to the Panchmahals team.

PO\*: an organization that gave its testimony to the Panchmahals team.

## Chapter 2

### The Context<sup>3</sup>

India has been witnessing a growing form of conservative politics driven by a fascist agenda purportedly based on religious identity, called *Hindutva* by its proponents, the *Sangh Parivar* (The Collective Hindu Family) or the Hindu Right. The ideology of *Hindutva*, which refers to the building of an exclusively Hindu nation has been, and is clearly, at odds with the secular Indian nation, which was created as a sovereign democratic republic in 1947. Under the secular democratic republic an individual finds place in the nation not through ethnic, religious, caste, or racial affiliations but through constitutional guarantees based on concepts of citizenship, equality before law, and civil liberties.

The organizations responsible for the spread of this ideology have been around for many years, but their visibility and presence has been more marked in the past two decades or so. The panel's visits and discussions with people affected by the violence and with organizations working in these areas confirm what other reports have said earlier—that the main perpetrators of the violence in Gujarat have been organizations of the *Sangh Parivar*. Hence we wish to place our report in the context of the history of this right wing organizing and its ideology.

#### 2.1 The *Sangh Parivar*

The term *Sangh Parivar* is consciously used by the Hindu Right to refer to a variety of organizations—political parties, cultural and religious organizations and other affiliates—that adhere to their philosophy. The *Sangh Parivar* operates with a kind of division of labour among its several affiliates.

- The electoral front of the Hindu Right is the *Bharatiya Janata Party* (henceforth BJP). The Maharashtra-based regional political party, the *Shiv Sena*, is also considered a Hindu nationalist party.
- The “cultural organization” of the Hindu nationalists is the *Rashtriya Swayamsevak Sangh* (henceforth RSS). The RSS is the organizational and ideological backbone of the Hindu Right. It stays away from the “lure” of politics and in doing so, acquires moral legitimacy in the eyes of the people. Its main strength is its loyal, dedicated and highly disciplined cadre.
- The *Vishwa Hindu Parishad* (henceforth VHP) is an organization of the Hindu ecclesiastical order, which focuses on unity among Hindus in India as well as in the diaspora. It is heavily funded by the Hindu diaspora for its activities. (For more details on the contribution of the diaspora to these right wing organizations please refer to Annexure II). The *VHP's* youth wing, the *Bajrang Dal* is particularly virulent in its operational tactics and rhetoric.

These organizations are rigidly hierarchical: in most, there are no internal elections, democracy is not encouraged and dissent is not tolerated. Members of one organization often cross over to other organizations of the *Sangh Parivar*. For instance, most office bearers in the BJP have been trained by

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<sup>3</sup> For this section on the political and social context in India we have relied on the knowledge of our Indian participants, the expert testimonies that covered these issues especially on the first day, the reading material put together and sent to us by the organizers before we all met and some secondary sources. Some of the main texts that have been referred to are: Tapan Basu, Pradip Datta, Sumit Sarkar, Tanika Sarkar, Sambuddha Sen. *Khakhi Shorts and Saffron Flags: A Critique of the Hindu Right* (Hyderabad: Orient Longman Press, 1993); Christopher Jaffrelot, *The Hindu Nationalist Movement and Indian Politics, 1925 to the 1990s* (New Delhi: Penguin, 1999); Dipankar Gupta, *Nativism in a Metropolis: The Shiv Sena in Bombay* (New Delhi: Manohar Press, 1982); Zoya Hasan, ed. *Forging Identities: Gender, Communities and the State* (New Delhi: Kali for Women, 1994); C. Baxter, *Jan Sangh: A Bibliography of an Indian Party* (New Delhi: Oxford University Press, 1971).

the RSS. The Hindu Right runs social welfare centres, medical centres, schools, orphanages and other services. The Hindu Right also runs trade unions, student unions, women's wings and controls sections of print as well as other media. (A detailed list of all the organizations is given in Annexure III).

## 2.2 The sleight of hand of the *Sangh Parivar*

All these organizations have worked consistently and for many years (the RSS was formed very early in the mid 1920s) to influence a large section of the population with their ideology. (For a more detailed analysis of the ideology and political growth of the right wing in India refer to Annexure IV). To be able to do this, they had to begin by forging a Hindu unity within the otherwise diverse religious and cultural practices of the country.

Hindu communities have been characterized by multiple practices and beliefs. Hinduism as a religion is not derived from one source or text and has been for many years, a loose combination of beliefs and practices. There are various systems of beliefs that have been loosely termed the "Hindu" religion. These diversities are being obfuscated and glossed over, to create an imposed unity through uniformity, by the *Hindutva* brigade. A *Brahminical*,<sup>4</sup> Hindu, male culture is being established and projected as **the** "Hindu" culture of the region.

There is also a conflation of religion with culture and both these terms are used interchangeably. At the same time a new definition of nationalism has been made popular—"cultural nationalism." All those who do not subscribe to the Hindu religion, and hence culture, are not Hindu and so cannot belong to *Hindustan*.<sup>5</sup> There is thus an effort to make claims to belonging and indigenouness in the name of all—religion, culture and nation.

The Hindu identity thus created is monolithic and not representative of the multiple beliefs of "Hindu" people of this region. It also tries to nullify all contradictions and tensions within the practice of Hinduism – the main one being that of caste. The practice of Hinduism has inflicted all kinds of discrimination and violation on people from the lower castes which continues even today, exploding the myth of a tolerant and non-violent Hinduism. The centuries old violence of the caste system which long precedes the arrival of Christianity or Islam is being denied for the sake of the creation of a "Hindu" identity. In fact, through gross misrepresentation of facts, the right wing organizations have recently begun to shift the onus of violence inherent in the caste system upon Islam and Christianity, by claiming that people who refused to convert were made to occupy the position of the untouchables.

The obverse of the project of creating a Hindu identity is to create an "other" against whom this unity is projected and re-created. Although Hindu fundamentalist organizations do believe that Hindu people are supreme, they have consciously created an imminent and omnipresent threat to the Hindu identity from "foreign" cultures and religions, namely those of Islam and Christianity, to unite diverse populations. With clever distortions of history and with much contribution from international politics, Hindu fundamentalists have managed to successfully create the notion of a

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<sup>4</sup> The caste system in India is a key part of the matrix that delineates community affiliation. Caste may be understood as a system of defining community, a system that is maintained through social hierarchies and clear rules about who one can and cannot marry. One is born into a caste and by extension community. Each sub caste theoretically has its own traditional profession, and thus the community is identified by the work traditionally done by its members. The groups within the caste system – *Brahmins* (priests), *Kshatriyas* (warriors), *Vaishyas* (merchants), and *Shudras* (lower castes) – are organized hierarchically descending from the *brahmins* to the *shudras* with sub-castes within each of these groups. The lower castes are inclusive of the untouchables or Dalits (literally meaning oppressed) who are also referred as *Harijans*.

<sup>5</sup> Hindustan means land of the Hindus and is also one of the names for India.

“victimized” Hindu majority in India and in the world, which needs to arm and protect itself from imagined attacks directed against it.

Violence against all non-Hindus, and against Muslims in particular, lies at the core of Hindu supremacist discourse and practice and is viewed as the necessary step towards the total annihilation or subjugation of minorities. This ideology has been espoused from the early days and its reflections are seen in the writings of V.D. Savarkar, a *Hindutva* ideologue who is revered even today. In his book, “Six Golden Pages in the History of Hindu Nation”<sup>6</sup> he argues for a clear annihilation of Muslims in India, such as the kind that took place in Spain:

It can be seen from history that those nation-states who did not demolish Muslim political and religious powers were completely Islamized. Only those few 5-10 nation states who not only demolished the Muslim state, but also got rid of Muslim religious power could be successful in getting rid of Muslims altogether. One such nation was Spain....The state administration of liberated Spain specified a time period within which all Muslim men and women were required to either convert to Christianity or leave the country altogether. It was also said that those who would not abide by either would be killed. After the given period was over all the men-women, young-old Muslims were killed in Spain. The Church got purified in their blood. Spain had exterminated Muslims. And that is why Spain remained Spain and did not become Morocco.

For the purpose of coalition building, therefore, Hindu supremacists construct Sikhs, Jains and Buddhists as part of the Hindu “community” so as to dominate through numbers. This majority is pitted against the “others.” Within this formation, Muslims and, to a lesser extent, Christians have been the preferred targets of the Hindu Right. From 1998 onwards there have been sporadic and more sustained attacks on the Christian community, particularly in predominantly *Adivasi* (tribal) dominated areas. In all of these regions, the relatively new presence of *Hindutva* forces is threatened by the presence of Christians who are perceived to be enhancing their numbers by seeking religious conversions.

The Hindu fundamentalists thus work mainly at three levels.

- One is to create a “Hindu” identity that obliterates all differences and hierarchies within the religion and brings together diverse sections of the population under one umbrella.
- The second is to “otherise” and exclude all those who do not fit into the category of “Hindu” and who do not thus “belong to the nation.”
- The third is a systematic takeover of state power.

The first two tasks have been systematically carried out over past years, with activities getting a boost in the last two decades when entry into mainstream electoral political processes was gained.<sup>7</sup>

### **2.3 The Political Context of Gujarat**

Violence against people from Muslim communities in Gujarat and the subsequent electoral victory of the very parties implicated in the carnage indicates that Hindu right-wing ideology and politics have been successful to a large degree in the state of Gujarat.

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<sup>6</sup> V. D. Savarkar, *Itihaasachi Saha Soneri Paane (Six Golden Pages in the History of the Indian Nation)* (Mumbai: Manorama Prakashan, 10<sup>th</sup> ed., 2002) 219 –221.

<sup>7</sup> Chayanika Shah, “Representational Democracy to Religious Majoritarianism: The Growth of Hindu Fundamentalism in India.” The paper is to be included in a WLUML report of the conference “The Warning Signs of Fundamentalisms” 2002, London, UK. Forthcoming. The title of the volume is not yet finalised.

Gujarat is one of the most prosperous states in the country in terms of per capita income and has a high level of industrialization. Its development has, however, been uneven. It has been an enthusiastic supporter of neo-liberalisation policies in recent years with an adverse impact on labour coinciding with a decline of labour organization. Apart from the increased casualisation of labour of the erstwhile working class the large numbers of those in the unorganized sector have no possible recourse to collective action. Further, despite high indices of development statutory wages remain low, and are lower than neighbouring Rajasthan. Skewed development and the absence of social movements to represent the interests of the politically vulnerable sections, including workers, *Adivasis* (whose proportion in the population is very high in Gujarat) and Dalits has been a fertile ground for breeding a conservative form of politics in the state. (Professor Arvind from New Delhi, speaking to the panel in Mumbai).

As an ideological formation, *Hindutva* has been dominating politics in Gujarat since the early 1990s and as a political formation, it has captured State power in Gujarat since 1995. In the early decades after Independence, the Congress party both at the Centre and in the State of Gujarat dominated politics. But by the late 1960s, the government's continuing failure to address people's aspirations led to a political crisis. This crisis led to the imposition of a civil national emergency in 1975-77, which further eroded the hold of the Congress party, delegitimized it and led to its defeat in the 1977 Parliamentary elections. The late 1970s thus saw the initial phase of coalition government in which the *Hindutva* forces had their first taste of political power as coalition partner. This was also a period of questioning for India—a range of separatist movements, communal conflicts, caste-wars and strong regional identities developed—which was not only unravelling the “givens” of the secular, socialist, Indian project but also putting a strain on the shrinking resources among competing contenders. The Hindu Right capitalized on this era of uncertainty, nationally and globally, and tried to increase the size of its flock through the construction of a single, “secure,” essentialist identity—a “community of Hindus.”

As the crisis of the State increased in intensity through the late 60s, 70s and into the next decade, political parties began to instrumentally use caste contradictions to build political bases. Reservation policies have therefore consistently played an important role in the politics of Gujarat. Another development at the time was the transformation of caste-based violence into communal violence, particularly in Ahmedabad and Baroda:

Gujarat has a history of communal violence going back to pre-Partition times, which has grown in intensity from 1965 onwards. In the collective memory of people, the 1969 riots parallel the violence of 2002, which affected both Ahmedabad and Baroda. The Reddy Commission of Inquiry had said that the violence was pre-planned and that the police adopted a partisan attitude in arrests and filing of complaints. The planned nature of the 1969 violence included the building up of a communal tempo. Using the backdrop of the 1965 war with Pakistan anti-Muslim sentiment was stoked by the RSS. The use of imagery of the violated Hindu woman's body with rumours of rapes and breasts being cut off was also a feature of 1969. Yet there are important differences between 1969 and 2002. The violence in 1969 was confined to the urban cities, and the government itself was not instrumental in igniting the riots. The general public was also not overtly communalised.” (Professor Arvind, New Delhi).

(In the) early '80s and up to '85- 86 there were a spate of riots in Baroda and they were also linked to the caste reservations then. Most often the caste violence got converted to religion-based violence. Also during the '80s the communal riots could be explained as clashes between differing interests, liquor dons and political members, which was given a communal colour.

Though people were becoming communal they weren't acting on it. The situation changed dramatically in the 90's after the entry of the BJP and saffron parties. (Seema, woman activist, organizations BO8 and BO9, Baroda).

## 2.4 The Rise of BJP in Gujarat

The Congress projected itself as the champion of the marginalized sections of society, during its rule in the late 70s and early 80s, while the BJP supported the cause of the stronger upper castes at the time. With the collapse of the Congress in the State in the late 80s new caste and religious political equations were forged by the BJP in Gujarat:

Traditionally Christian and Muslims were allying with the Congress. BJP thought that if they want to come to power they needed to get religion in. From the 80s they started this poison, then started Ram mandir and became more aggressive after they felt it works. Congress could not win only on Dalit and Muslim vote so they were also silent. We people became like footballs and we are being kicked by both of them. BJP thinks that the more aggressive they are towards Muslims, the more Hindu votes they will get. The Congress thinks if they protect the Muslims they lose Hindu votes so they do not stand up for us. Muslims cannot vote for BJP and are forced to vote for the Congress. Either ways we lose. (Shahadab, Congress party worker, Anand).

BJP favoured opening up of the economy, which garnered the support of the upper caste/upper class constituencies. *Hindutva* propaganda has used both secular issues, like corruption and inflation, as well as communal issues, such as anti-Muslim and anti-Christian rhetoric, to create a "Hindu" constituency across caste and class. Common people's travails have been attributed to the Congress/secular appeasement of minorities much like the anti-Jew campaigns of the Nazis.

The whole State has been dotted with temples and the number of RSS *shakhas* (camps) has risen rapidly since the BJP came to power. In fact, the RSS claims that they will have a *shakha* in every village by the year 2005.<sup>8</sup> The Hindu right-wing has tried to infiltrate into all branches of the bureaucracy making it easy to get census records of minority communities. They have conducted religion-based censuses and have tried to manipulate education by monitoring schools and tampering with syllabi and textbooks. Youth organizations have also been increasingly "monitoring" Hindu girls and policing their behaviour. (See Annexure V for the details).

## 2.5 "Hinduising" the Marginalized

More recently Dalits and *Adivasis* have been drawn into the anti-minority campaign through front organizations allegedly involved in "development" work, and through mobilization to specifically target minorities during riots.

In these villages they used to have *bhajans* [prayers] and tribal festivals but in the last 7-8 years, some people from BD [*Bajrang Dal*] used to go there with their *Hanuman Chalisas* [prayers], the RSS with their *trishuls* [tridents] etc... they would initially say that *ganvaar logon ko theek karna hai* [we have to reform these ignorant people]. They said, "Don't eat meat, don't drink alcohol." Now some of the *Adivasi* leaders are members of the VHP, they are specially invited and transported to meetings, fed and given respect as part of the Hindu fold by giving *chadar* [shawl] etc. And this has been happening on a very regular basis—there is nothing secret about these meetings. Talks at these meetings are about how to protect the Hindu religion—with slogans of "Hindus unite," and the youth are called upon to "chase out the Muslims." And these youth are

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<sup>8</sup> *The Asian Age*, January 7, 2000.

unemployed, vagabond, wastrel men.” (Laila, PO12 organization, PV12 village, Dahod; Kamalbhai, PO3 organization, Panchmahals).

Indeed, during the carnage in 2002, the economic distress and impoverishment of drought-ridden *Adivasis* was manipulated by promising them a free hand in the imminent looting in lieu of their participation in the violence against Muslims. The channelling of political and economic disenchantment into resentment against Muslims has been effectively aided by the large funding provided by the non-resident Indian (NRI) lobby abroad, many of whom are Gujaratis. (A more detailed account is provided in Annexure II). This funding has enabled the *Sangh* Combine to build an extensive network in villages and towns all over the country. They have continuously provided ideological and combat training to people from marginalized sections of Hindu society, mobilizing them in larger and larger numbers to carry out attacks on the “other.” New groups have joined in the violence and its nature has become more gruesome every time.

The *Sangh* Combine has strategically drawn in large numbers of women into its campaigns by using religious festivals as a focal point. From such innocuous beginnings, it has systematically incorporated women into its hate-filled mobilization against Muslims and has even distributed *trishuls* among them. Violence against women from Muslim communities was unprecedented during the Gujarat carnage and women from Hindu communities participated actively in the violence.

From the beginning of the 1990’s, and especially after the destruction of the *Babri Masjid* in 1992, the pattern of violence has become more vicious. Human rights violations are on the increase and the attacks on minorities, especially Christians and Muslims, are now two-pronged: either spearheaded by *Hindutva* storm troopers who have unleashed a reign of terror during BJP rule, or led by the right-wing State itself. In the years 1998-99 about 200 incidents of varying intensity have taken place in Gujarat.<sup>9</sup> The State has become so communalised since 1995, when the BJP came to power, that it has proclaimed itself as a “Hindu *Rashtra*” or Hindu Nation on many sign-boards.

## 2.6 Hindu Right’s Characterization of the Muslim Community

As part of the construction of a Hindu *Rashtra*, the Hindu Right has consistently sought to portray the Muslim as the “other,” the enemy within who undermines the security of the nation, poses a threat to the *Hindutva* project of nation building and erodes “Hindu” rights. These rights are being allegedly diluted by what is termed as the “minority appeasement” of Muslims, attributed specifically to the Congress. More specifically, it refers to legal provisions allowing minority communities in India to be governed by personal laws based on religion, to run their own educational institutions and to receive subsidies for religious pilgrimages. These entitlements are used to convey the impression that minorities are “pampered” in India.

Even though the facts (See Annexure VI for the socio-economic reality of Indian Muslims) differ, they do not matter for the Hindu Right works with emotive and divisive sloganeering instead. Their divisive campaign draws upon political events going back to Independence and the Partition of the sub-continent. The continuing and unresolved tensions in the sub-continent from 1947, about boundaries of the new nation-states, reached a new flashpoint in 1990 in Jammu and Kashmir. This added to the perception of the “Muslim menace” creating more prejudices towards Muslims within India. Indian Muslim society was put on the defensive and was constantly under pressure to prove its loyalty to the country by demonstrating a shared hatred for Pakistan. A slogan coined by the Hindu Right during the early 80s, and which gained currency during *Hindutva* campaigns in the 90s

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<sup>9</sup> Interview of Ghanshyam Shah in <http://www.rediff.com> on May 1, 2002.

(which was also used in Gujarat in 2002) demonstrates how Muslims' right to live in India became increasingly challenged:

*Musalman ke do hi sthan – Qabristan ya Pakistan* (There are only two places where the Muslim belongs, in the graveyard or in Pakistan).

Separatist movements both in Punjab and then in Kashmir have fed easily into the fear psychosis of the Hindu nation under threat. This was oxygen for the Hindu Right—providing for an easy conflation of Pakistani-Terrorist-Muslim-Enemy. The rhetoric of *Hindutva* politics has tended to create an instant subliminal association between these terms in the mind of the average Indian. In contemporary global reality, the *Hindutva* rhetoric dovetails perfectly with America's War on Terrorism. Post 9/11, the words "Muslim" and "terrorist" or "Islam" and "terrorism" are increasingly being used interchangeably.

The BJP's anti-Muslim campaign was accompanied by a direct attempt at collapsing the boundaries between political parties and institutions of governance during its terms of office in Gujarat. As part of its dictum, the BJP government passed an order lifting a 14-year ban on government officials joining the RSS—the organization banned after the assassination of Mahatma Gandhi—in January 2000. This ominous move to open the heart of the bureaucracy to the RSS was resisted and the official order was stayed. However the *Hindutvisation* of State machinery has still proceeded systematically. Since 2000, persons holding official positions in the VHP and other allied organizations have been appointed public prosecutors in district courts. Police and administrative officers have been transferred in order to create a compliant administration. These measures have played a critical role in the partisan functioning of administration during the violence of 2002.

## 2.7 Saffronisation of Education and Media

At another level, saffronisation of education has been pursued vigorously. (For more details on the project of saffronisation of education in the whole country see Annexure VII). Control over educational institutions and manipulation of syllabi and popular media have been effectively utilized to further the ideology of *Hindutva*.

They have taken over the entire educational system far beyond the textbooks, and the respect that is given usually to the "master" in a village has been exploited for the saffronisation of the entire culture, education and society. (Laila, PO12 organization, PV12 village, Dahod).

The teachers recruited in the last 10 years are extremely communal. Within the syllabus they introduce sessions on religion/Hinduism, not officially but unofficially. Space is made within the school day for all this. Sometimes, school times have been changed to accommodate *Asarambapu* [see glossary] programmes. (Kamalbhair, PO3 organization, Panchmahals).

After the BJP came to power school textbooks routinely refer to caste divisions or *varna* as a great invention and to Hitler and Mussolini as folk heroes who rescued their countries from effete regimes.

*Hindutva* strategists realize that ideological campaigns in a society where not everyone goes to school have to include both old and new media tools such as pamphlets and popular tracts as well as audio, video and television to circulate "news." The wider reach afforded by these media has enabled *Hindutva* to penetrate into areas, which do not have access to other forms of information and news. According to one testimony:

The local electronic media was used by the VHP to whip up tension. Many channels were showing "patriotic" and anti-Muslim films. They also telecast the speeches of *Bajrang Dal* and

VHP leaders. .... The significance of the media campaign was that they were very systematically working for the right-wing cause and created an encouraging ground for the violence that ensued. (Reshma, woman activist, organizations BO8 and BO9, Baroda).

## 2.8 Hindutva's Agenda for Women

Any right-wing religious ideology that defines “community” would be both incomplete and ineffective without an agenda for women. So also with *Hindutva*. Hindu women are being drawn into mass *Hindutva* campaigns, like the temple construction in Ayodhya, and supporting and participating in violence. While this gives some recognition to women as members of the community, it also means strict norms of prescribed behaviour for women, as in any other right-wing religious ideology. Those who are regarded as “deviant” or independent are policed and sometimes terrorized by storm troopers of the *Sangh*.

At the same time, women from the “other” (Muslim) community become more vulnerable as attacks on them are not only justified but also demanded. In his book, V. D. Savarkar derides some Hindu kings for, “[N]ot raping Muslim women in conquered areas, as this is the only way to teach Muslims [a] lesson for what was done to Hindu women in the past.”<sup>10</sup>

Selective use and distortion of history has been the hallmark of the *Hindutva* project. Women, their bodies and sexuality play a major role in the replay and reiteration of the distortions of history. There are many stories circulated of how Hindu women were sexually violated by “foreign” Muslim invaders. The stories emphasize that these violations need to be avenged and that women have to be organized and trained in “self-defence” to prevent attacks in the future.

The myth of the virile and violent Muslim man and the victimized Hindu woman, whose body is used to attack Hindu culture and religion, is always kept alive. Women and men are then organized around these notions of self-defence, with hatred for the Muslim man and with a vengeance against the Muslim woman. Simultaneously, the Hindu woman is the perpetual victim and possible avenger when enraged. The *Sangh Parivar's* obsession with women and their shameless use of women's bodies are evident in almost all their strategies and pogroms.

Thus no segment of civil society remains outside the ambit of *Hindutva*—women, children, *Adivasis*, and Dalits have all been drawn into the fold. Consequently, the circuit between a communalised State, a *Hindutva* government and an equally communalised society was completed in Gujarat well before the carnage in 2002.

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<sup>10</sup> Savarkar, 156–159.

## Chapter 3

### Centrality of Sexual Violence and Sexuality to the *Hindutva* Project

Rapes, especially gang rapes, have functioned as one of the central planks of the sexualised violence that took place in Gujarat.

We went to AA5 area. Young men came and started beating us and asked us to leave. Then we went into AA6 area. Again the people from AA6 area people started beating us up. We again started running. We saw smoke, they told us tyres are burning. Lots of women, children were running. We went running there, we saw on the road between AA6 area and the State Transport depot, many girls were stripped and were being raped. Girls were shouting. I saw 4-5 girls being raped... Hindu men AHM14, AHM15, his son AHM16, AHM17 (all from AA6 area) were doing all this.... While raping the girls, the men were shouting *bar bar mahadev*. They were saying, “Go to Pakistan, why are you in Hindustan?” (Safia, woman survivor, AA1 area, Ahmedabad).

They cut off the breasts of her (neighbour’s) daughter, it is difficult to forget, it still swims in my vision. I have lost my mental peace. (Yasmin, woman survivor, PV2 village, Panchmahals).

What had those kids done to them? I cannot forget those girls [who were raped]. We have to try and arrest them [the rapists]. They say that if the police arrests, let them, because they have gathered enough for their families to survive for two years. They say that the police can keep them in for two years.” (Sabah, woman survivor, PV2 village, Panchmahals).

My father-in-law, a retired schoolteacher, refused to leave the village with the other Muslim families who fled to PV3 on February 28<sup>th</sup>. He believed no one would harm us. From the 28<sup>th</sup> about 13 members of my family sought refuge in various people’s houses and the fields. On Sunday afternoon [March 3<sup>rd</sup>] the hut we were hiding in was attacked. We ran in different directions and hid in the field. But the mob found some of us and started attacking. I could hear various members of my family shouting for mercy as they were attacked. I recognized two people from my village – Gano Baria and Sunil – pulling away my daughter. She screamed, telling the men to get off her and leave her alone. The screams and cries of Ruqaiya, Suhana, Shabana, begging for their *izzat* [honour] could clearly be heard. My mind was seething with fear and fury. I could do nothing to help my daughter from being assaulted sexually and tortured to death. My daughter was like a flower, still to experience life. Why did they have to do this to her? What kind of men are these? The monsters tore my beloved daughter to pieces. After a while, the mob was saying, “Cut them to pieces, leave no evidence.” I saw fires being lit. After some time the mob started leaving. And it became quiet. (Sabah’s testimony that appeared in another report).<sup>11</sup>

### 3.1 Extent of Sexual Violence in Gujarat

As has been reported by the Citizens’ Tribunal, in various other reports, and through victims testimonies to the IJ panel it is clear that rapes were not the only form of sexual assault. There were many others like verbal abuses, molestation and taunts that continue till today and a humiliation that knows no bounds. Behind all of these lies a crucial pattern that is central to the agenda of *Hindutva*. In Tanika Sarkar’s words:

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<sup>11</sup> Women's Panel, The Survivors Speak—How has the Gujarat Massacre Affected Minority Women? (Ahmedabad: Citizen’s Initiative, April 2002).

The pattern of cruelty suggests three things. One, the woman's body was a site of almost inexhaustible violence, with infinitely plural and innovative forms of torture. Second, their sexual and reproductive organs were attacked with a special savagery. Third, their children, born and unborn, shared the attacks and were killed before their eyes.<sup>12</sup>

The women in a community suffer attacks in two ways. In the first case they are members of the collective, like any other, and are liable to be attacked. At the same time, they are the biological and cultural reproducers of the community and their bodies symbolize the body of the community and its boundaries. In the *Hindutva* project, the control of the Muslim Other through gender and sexual domination is at the forefront of the political strategy in Gujarat and elsewhere. In fact, Hindu men see it as their function and duty to violate the bodies of Muslim women. Women who were gang raped during the Gujarat carnage reported their attackers as saying: “Use her as much as you want now, we won’t get her tomorrow”, or, “Today we have them, tomorrow we may not.” (Rehana, woman survivor, BV9 village, Anand). Individual male attackers thus get a licence to rape and vent their hostility on women without consequences.

Hence, the sexual assault incidents were not just random, impulsive or isolated incidents. They were widespread and pre-planned. For many cases—Gujarat, Rwanda, the former Yugoslavia—such wide scale violence could not have been conducted without a significant measure of complicity, if not participation, by the State. In Gujarat, it is clear that all events, including the mass use of rape and sexual assault, occurred with the knowledge of highly placed State actors, and, in many instances, were carried out with the full participation and support of the police. A large number of witnesses from Baroda mentioned that the police often hit the stomachs of pregnant Muslim women in “combing operations” (house-to-house searches for Muslims) while shouting, “Kill them before they are born!”

Many witnesses from Ahmedabad and Baroda corroborated this claim with more accounts of police violence:

On April 30<sup>th</sup> they mobbed us from both sides. We were hiding. The Rapid Action Force came. They threw a child from the third floor. P.S.I. Modi was very bad. He even got inside AA53 area Camp no. 5 and sexually assaulted women in the camp. (Farah, woman survivor, AA32 area, Ahmedabad).

In AA56 area, D.C.P. Sawani himself entered the house and beat up small girls, beat up women. One woman who was six months pregnant had an abortion. They said, “We will keep all your men and make you prostitutes.” They used real bad words. So then I also used bad words. I told them, “Even eunuchs can use guns, if you are really men I will take you on”. (Nahida, woman survivor, now living in AA32 area, Ahmedabad).

There was a lot of suggestive sexual violence, verbal [abuse], hitting women on the breasts, targeting private parts, pregnant women were specifically targeted. The policemen also said that the [Muslim] child should not be born. There have been incidents of children being flung across the room. (Sonia, woman activist, organizations BO18 and BO8, Baroda).

Police were also reported to be inactive while they witnessed violence in the most seriously affected places. The State administration colluded with perpetrators of the violence at all levels and continues to do so till today. Investigations into most cases have been shoddy and there are many reasons (elaborated in greater detail later in the report) to believe that the judiciary has also been biased

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<sup>12</sup> Tanika Sarkar “Semiotics of Terror: Muslim Women and Children in Hindu Rashtra,” *Economic and Political Weekly* 37. 28 (July 13, 2002).

against the Muslim community. Tacit and active support had begun before the violence, which allowed the Hindu right-wing to propagate its ideology among people, carry out its training camps and lay the ground for violence of this nature.

We were told in many places that pamphlets produced by *VHP* and *RSS* were distributed extensively among Hindus for up to three months before the carnage. These pamphlets called upon men from the Hindu community to rape women from the Muslim community. The pamphlets argued for the necessity of violence and murder of Muslims. According to an activist Lata from AO9 organization in Ahmedabad, a pamphlet that stated, “Don’t feel guilty to rape women of the other community,” was distributed in a *Bajrang Dal* training camp prior to the violence. The gendered and sexualised character of the *Hindutva* project associates manhood and potency with Hindu domination of “foreign invaders.”

### 3.2 The making of “Real Hindu Men”

When the brother of Mahatma Gandhi’s assassin,<sup>13</sup> affiliated to the *RSS*, was interviewed he claimed, that they wanted to show Indians that there were Indians who would not suffer humiliation— that there were still **men** left among the Hindus. Similarly, Reshma, an activist of BO8 and BO9 from Baroda, reported:

Actually bangles were being sent to areas that were not experiencing violence to incite them into violence. Now there are similar pamphlets being distributed that say that now that we will win elections, there will be time for those people that have not participated in the violence to redeem themselves.

The bangles signified cowardice by feminizing the recipient, but they also alluded to womanhood as the negation of manhood and of potency. People in Ahmedabad also reported that Hindu men, including policemen, would stand in line and expose their penises to show that they were taking part in the violence as “true men.” Lata, an activist from AO9 organization in Ahmedabad reported an incident where Hindu men exposed their penises saying: “Your men are weak, we’re strong, you’re not strong enough to fuck your own women.” The police too was party to such attacks as Shazia from AA32 area in Ahmedabad testified:

...(on March 1) they set our house on fire and continued rampage. P.S.I. (Police Sub-Inspector) Modi was standing in front of our house. He unzipped his trousers and started making vulgar gesture at women. We were totally shocked and embarrassed. Then we saw that the mob which was standing on the terrace of AA54, AA55 area followed suit. They took off their trousers and started to shout, “Where are the terrorists? Come out now. Call your God.”

Hindu manhood thus becomes the violent protector of Hindus, the basis for the creation of a “pure Hindu State” and a means of controlling the Muslim Other. The gender discourse of *Hindutva* advocates specific terms and parameters for Hindu women’s participation in society as well. Within the context of *Hindutva* it seems that two distinct female figures are emerging: one that is subordinate and docile and the other that is aggressive and rises to the nationalist call-to-arms against the Muslim Other.

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<sup>13</sup> Gandhi’s assassination by *RSS* member Nathuram Godse shortly after India gained its independence is in many ways considered the symbolic founding moment of the modern *Hindutva* movement in India.

### 3.3 The “Hindu Woman”

The construction of the ideal Hindu woman as dependent on the authority of her father/husband, subordinate, dutiful and sacrificing producer of children is connected closely to the concept of the Hindu woman as guarantor and defender of Hindu (and therefore “Indian”) culture. “Mother India” is a powerful image in *Hindutva* imagination and in the perception of national boundaries. Although originally the RSS, as a result of German fascist ideological influence, tried to create an image of India as “The Fatherland,” it did not gain much currency. Instead, one of the repeated campaigns of the BJP has been to oblige children, during school assembly, to sing/swear allegiance to “Mother India” or *Matrubhumi*, whom they must be ready to “defend” like her numerous “offspring” have done in the past. *Hindutva* forces have mobilized this rhetoric to great advantage by recruiting women in thousands to provide strategic support (cooking food, handling equipment) for men who were wreaked the worst violence that took place in Gujarat in 2002. Women also themselves actively participated in looting and violence during the riots.

Safia, a woman from AA1 area in Ahmedabad testified, “AHM15’s daughter was pulling women by hair and throwing them in fire.... We saw women from AA6 area pouring kerosene or some chemical powder so the bodies used to burn.”

RSS and VHP camps that offer women training in the use of *trishuls* and in hand-to-hand combat are becoming more popular. This kind of training and distribution of weapons is also being done in schools. In addition to rhetorical appeals, active participation in Hindu right wing spaces may also attract some women due to the social and, increasingly, political recognition this kind of participation affords.

They have been targeting 16-17 year old children since five years back. I know that they have been approaching schools and giving tridents to school children for Rs. 25. They are told this is to protect your religion. If they want to fight, join the militant group that is go into VHP or *Bajrang Dal* or *Durga Vahini*, if interested in intellectual work, you can go into RSS. (Aamir, AO7 organization, Ahmedabad).

In Gujarat, as in Bosnia or Rwanda, the widespread and furious attacks against women of the minority community were regarded as legitimate not only by male attackers but also by women belonging to the majority community. We heard from testimonies that in some places the rapists were actively supported or even instigated by women of the majority community.

As Sarah and Aamir, both working with AO7 organization in Ahmedabad, testified:

They (right-wing groups in the area) have started working with women last six months or so. They tell them, “Look Muslim women eat meat, so also you. But look how strong they are. They come out and fight police, they protect the men. You also must do that.”

### 3.4 The “Enemy Other”

History shows that sexuality is pivotal to nationalist projects in general, and in the construction of the Enemy Other, in particular. German Nazi propaganda portrayed male Jews as seducers and rapists of Aryan girls and women. Similarly, US war posters in World War II mobilized public opinion by portraying Nazi and Japanese men as notorious rapists. Before the outbreak of war in former Yugoslavia, Serbians spread fear and hatred with false propaganda that men belonging to the Muslim Albanian community were raping and seducing Christian Serbian girls. Similarly, the Gujarati language press in the state was flooded with reports of Muslim men raping Hindu girls before the Gujarat pogrom.

Reshma, from organizations BO8 and BO9 in Baroda reported the following regarding the media's role in the attacks:

Sandesh has played a role in actually manipulating sentiments by misreporting, fanning rumours and creating a communal wave. Right from the first day there was a trial of Muslims. They echoed blood for blood after Godhra. They said that Muslim fanatics attacked the train. ...There were reports of mobs of armed Muslims clashing with Hindus. They splashed front page with photos of mangled bodies.

They would publish unsubstantiated report as headlines. They, for example, reported that ten Hindu girls were abducted in Godhra as front page news and then later denied it on an inside page as a small news item, but by then the damage was done. Incidents were interpreted in a communal and in a completely opposite way to make the Muslims look like the aggressors. They fed into Hindu fears and bias. From the first day they said that ISI was involved in the Godhra incident. They also quoted Taslima Nasreen and gave news of how Hindus were being ill treated in Bangladesh.

Many of these reports included gory details of fictitious sexual violence accompanied by horrifying images of Hindu women whose breasts had been cut off. These rumours fed into already established biases against the Muslim community and made attacks against them appear "justified" and retaliatory.

Taslima an activist from AO3, Delhi, who had worked in different areas of Gujarat, said:

We have woken up to Gujarat now. VHP has been working here for last 15 years, their leaflets are regular features in newspapers, colleges—hatred for Muslims, Christians, secular people, only thing that reaches every home is this and people have nothing to counter it...The leaflets say all Muslims have four wives and their population is growing, even though polygamy is more prevalent in Hindus than Muslims.

The male Other is demonised and presented as a deadly threat to and enemy of the woman who is nurturer, guardian of home, hearth, and family of the community. But at the same time, women and girls of the "enemy" community are seen as central targets.

Hindu Right discourse has successfully circulated stories and myths about how Muslim rulers looted and desecrated temples and picked up Hindu girls at will to satisfy their lust. The body of the mother-nation in these stories is conflated with the body of the Hindu woman, and the "rape of both" in such narratives becomes the justification for retaliatory rape on the bodies of the "enemy" Muslim woman. Muslim men, in the Hindu Right discourse, are not seen as "men" at all: they are either "oversexed" to the extent of being bestial (they can satisfy four wives!) or they are effeminate and not masculine enough to satisfy their women.

This racist construction, very similar to constructions of the Black male in White supremacist discourse and of indigenous sexuality vis-à-vis the colonizer, serves very specific ends. It dehumanises the Other (in this case the Muslim) by making him beast-like and thus easy to kill, and it transforms him into a symbol of the "sexual superiority" the emasculated Hindu man must recover by raping and defiling Muslim women. In a way that is similar to the common White man's envy of Black masculinity, there have been calls to Hindu men to join gyms and develop muscular bodies to counter the "animal" attraction of the over-sexualised Muslim man. Of course, when Hindu men commit rape and assault their actions are not seen as bestial or animal-like but are considered signs of valour.

Simultaneously, there is an attempt to show that Muslim men are not real men, but rather, homosexuals or *hijras* (eunuchs) -- considered synonymous and undesirable and are therefore unable to satisfy their women. As a VHP leaflet called *Jihad* (holy war) boasts:

We have untied the penises which were tied till now  
Without castor oil in the arse we have made them cry  
Those who call religious war, violence, are all fuckers  
We have widened the tight vaginas of the *bibis* (women)...  
Wake up Hindus there are still *Miyas* [Muslim men] left alive around you  
Learn from Panvad village where their mother was fucked  
She was fucked standing while she kept shouting  
She enjoyed the uncircumcised penis.<sup>14</sup>

A young man who had been working in a retail shop for five years was questioned thus by his co-workers after the initial violence: “We have taken the honour [raped] of the wives/women of you *miyas*. So what are you doing coming here to work? Will you become a terrorist or will you just stand and watch like a *hijra* [eunuch]?” He could not return to work after this incident. (Mohsin, male survivor, AA45 area, Ahmedabad).

By extension, this is the way for all of emasculated Hindu society to recover its honour. Women’s bodies thus become the arena where the honour and dishonour of communities is played out. This critical aspect of the *Hindutva* discourse has allowed for terrible brutalisation in the form rapes and gang rapes of Muslim women across Gujarat. According to Javed from BO8 organization in Baroda, “[One woman’s]...3-year-old baby was flung against a wall. The head was smashed and the child was instantly killed and the mother was repeatedly raped after that right there.”

### 3.5 Women as Reproducers of Communities

While many women in Gujarat were brutally killed by burning after the rapes, others were raped with the intention of impregnating them. Women bear children not only to their families but also to their ethnic and national collectivities. One of the major sources of fear of the Muslim Other in the *Hindutva* imagination was that “Muslims breed like rabbits.” This was fuelled by Chief Minister of Gujarat Narendra Modi himself who, during an election campaign speech following the violence, characterized Muslims as subscribing to the philosophy of “*Ham panch, hamare pachees*” (We five, and our 25 children).

Many testimonies of rape victims include narratives where the rapists defined their acts of rape as “making a little Hindu”—their own “contribution” to the demographic race between Hindu and Muslim Indians. They said, “We will make you conceive and give birth to Hindu children.” (Rehana, BV9 village, Anand). Tahira, from AA1 in Ahmedabad, testified that her attackers said, “After we impregnate you, only then we will leave your family.” The same was reported by many women from the Muslim community in Bosnia but also, one must add, by some women from the Serbian community who were raped by Muslim men. This reflects the fact that rape is a part of the overall nationalist project based on the racist and patriarchal assumption that only the male seed and patrilineage constitute membership to a particular group, and that the female body serves only as its vessel.

The deliberate shaming, especially of girls and young women, by raping them publicly or in front of other family members, including children, speaks of the intentional attempt to subjugate the

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<sup>14</sup> *Communalism Combat*, 77-78 (2002).

community by attacking the female body. Rehana from BV9 village in Anand district told us how she and seven women and seven girls from her village were raped in front of men from their own community”

They took us to the fields and started shouting dirty abuses at us. Some men were tearing at our clothes and some were scratching our bodies, pricking our bodies. Some men were kissing our face. Some were pressing our breasts and some were pricking our thighs and kicking us. After this one by one we were taken to the wheat fields and we were raped. While they were raping us they were talking and doing obscene things and abusing us.

She went on to recount how the leader of the attacking mob constantly spurred the others on by saying: “Not even one should remain *kori* [untouched],” and “Don’t let a single one go.”

While the torture of men generally creates empathy and solidarity among the targeted community, the sexualised torture of women is particularly destructive to patriarchal notions of female honour. The attackers knew this. Many women we met told us that they could not seek comfort and support from their male relatives. They were afraid of what would happen to them if their complaints instigated fresh violence between men of the two communities. Further, being a victim of violent sexual assault in a patriarchal system is primarily a source of shame to the woman and by association, her family and community.

In fact, one result of the deliberate targeting of girls and young women during the pogrom has been the hasty marriages of girls. One of the reasons for these marriages is the fear of further targeting of single girls in the future. The sense of insecurity that the community lives with and the overtly sexualised rhetoric of violence translate into traditional practices, such as early marriage, restriction of their mobility, withdrawal of girls from schools, colleges and work. Such panic is an inevitable reaction to a very real lack of safety for women.

### **3.6 Marriage: The legal institution for reproduction of communities**

The control of women through marriage has been an important way of maintaining caste, religious, class and community boundaries in Indian tradition. The importance of marriage in preserving social order is elaborated here:

For the Hindu lawmaker, marriage is above all a social institution, whose exclusive purpose is the propagation of the species and preservation of the caste, community, even the nation itself.... Based on respect for the species as the work of the Creator, marriage as an institution concerns caste, race, profession and nation, with which the individual has no right to tamper because it affects everyone else.... Hindu legislation is not puritanical and gives much leeway to human weakness, but marriage outside the caste is considered an antisocial act jeopardizing the entire structure on which society is balanced.<sup>15</sup>

Although there has been a certain weakening of these considerations, largely among a certain economically and socially mobile population, it has remained limited. The notion of a Hindu nation allows some flexibility to certain castes who are in specific class and spatial locations. The attempt to control national boundaries finds expression, for instance, in the especially virulent ways in which marriages between Hindus and Muslims have been treated. Women from the Hindu community who marry men from the Muslim community are necessarily seen as either victims of abduction and/or as traitors. Over the last few years women from the Hindu community in Gujarat wishing to

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<sup>15</sup> The Caste System, from [www.tributetohinduism.com](http://www.tributetohinduism.com)

marry men from the Muslim community are being policed and terrorized to dissuade them from doing so.

According to Seema, an activist of organizations BO8 and BO9 in Baroda,

Soon after the BJP came to power in Gujarat, it dismantled the Violence Against Women Cell of the police and started a Cell to monitor inter religious marriages claiming that Hindu women were going through violence on account of this... Parents complain to the VHP. Sometimes the neighbours also inform the VHP. When parents complain to the police about their daughter leaving home, the police forward that case to the VHP. Even when parents refuse to ally with VHP, the police state their inability to do anything without the help from the VHP. They also have a state shelter home, which they use to put the girl in once she is caught. Cases are registered as abduction. The issue does not become an issue of the family but issue of the state and can even result in riots. Inter caste marriages become an issue of the village and disturbances due to these are restricted to the village level unlike inter religious marriages where even judges try to persuade the girl against it.

Sarah and Aamir from AO7 organization in Ahmedabad said,

If a Hindu girl marries a Muslim boy, she gets a letter in the mail from *Durga Vahini* (Hindu Right women's organization), "If you are trapped in this marriage, our women will come and save you."

The situation has continued to worsen over the past few years. In a detailed testimony, Naina, an University teacher and activist of BO8 organization from Baroda, recounted:

In 1997 there were a series of articles in the Gujarati press about Hindu girls marrying Muslim boys and being converted to Islam as part of an international conspiracy. The media reports form the background for the *Durga Vahini's* pamphlet. It says, "Hindus beware, the Sita of your street is going to become a Ayesha or Fatima or Julia," and, "Muslim thugs are going to seduce girls by marrying them and taking them to foreign nations and then killing them." It says that their children will be Muslim and enslaved in that country. There is a particular focus on M.S. University the pamphlet says. It says, "Be very careful of your children." It has an address and phone number. The pamphlet was found with a truck driver. VHP would police Hindu women outside hostels etc.

They use motherhood in significant ways. In 2001 RSS and ABVP entered my class and all classes of F.Y.B.A. on 14<sup>th</sup> August, giving out pamphlets calling India Mother India and referred to Bangladesh and Pakistan as the two arms of India that were ripped apart. They asked the students to celebrate 15<sup>th</sup> August as the day their mother was ripped asunder. Look at the violence of the imagery and the sense of family. Muslim women also equally becomes the carrier of her community. Now there are gangs of Muslim boys and Hindu boys. If a Hindu girl talks to a Muslim boy, the Hindu gang will threaten him, and vice versa. Great deal of sexual policing as a result of communal polarisation. Striking thing about Gujarat for me as compared to other parts of the country used to be the complete ease with which boys and girls could talk to each other. Have never felt that kind of safety in other places.

For those who had already transgressed the boundaries the violence was a means of sending out a threat to women who might not conform in the future. Hindu women who had married Muslim men were targeted and punished for their transgression by publicly stripping them. A crowd of men tried to attack a woman activist near the RSS headquarters in Ahmedabad but she was saved by a group of people who she had worked with earlier. Another woman, Geetaben, was not so lucky.

She had committed the cardinal “sin” of marrying a Muslim man and she was dragged out of her house, stripped and killed, and her corpse was left naked on the road.<sup>16</sup> Heena, a Hindu woman married to a Muslim man in village BV16 in Anand district, in her written testimony to the panel, recounted how she was publicly raped by nine people who then threatened to kill her if she filed a complaint.

On 3<sup>rd</sup> March evening, at around 5, a mob of 200-250 people from the Hindu community came to my house and started looting and destruction. I was alone in the house. I was dragged out of my house, when I tried to run my legs were hit by sticks and I fell to the ground. At this time one of the men BM25 cried to the crowd, “Take her to the village dump.” Those people carried me to the dump and tied me to a car. They tore off my clothes. They took Rs.600, my *mangalsutra*, my anklets, nose ring and shouted at me that if I filed a complaint they would kill me, “Police has given us freedom to do what we want, we have no fear.” Some people said, “Kill her.” After this one person scratched my face with his nails, the other held me down and they tore off my clothes and then dragged me to the ground. Two people held my hands and after this one person raped me. When he was raping me another man was at my breast. After that nine people raped me one by one. I was unconscious. When I regained consciousness it was around 8 at night. I saw two people were standing there to kill me. One of them BM26 assaulted me with a *dharma* [sharp metal weapon]. I ducked the blow. It hit me on the stomach. I was bleeding now. They left. When I reached home, my house had been broken. The mob was saying, “Cut her to pieces, don’t leave her alive, we don’t want her alive in the village.”

### 3.7 Continuing impact of the violence

The effects of sexual violence conducted on such a mass scale continue to be exploited by the majority community and Muslims experience its impact everyday (discussed in detail in chapter 5). The sexual violence that was inflicted upon the women from the Muslim community during the pogrom also continues in various forms. During the December 2002 state elections in Gujarat, election campaign slogans, victory processions, and speeches, all publicly acknowledged these sexual crimes, and openly threatened that these can, and in fact, would be committed again. This was especially true of BJP victory rallies after the announcement of election results in areas severely affected during by the violence.<sup>17</sup>

The absence of any redressal or justice makes the trauma of the sexual assault even worse for most women. As is, women hardly talk about the sexual violence that they experience. The scale of the violence this time was so immense that total silence was not possible. Yet for every woman that gathered the courage to speak, there are many more who have not spoken at all. In fact, the panel met a woman who had not spoken to anybody, other than those present at the time of the attack, until she spoke to us, almost eight months after the incidents.

The silencing has been in multiple ways as it usually is in the case of sexual assault. Some women have chosen silence because it is shameful to proclaim sexual violence on one’s own body in traditional ethos. In the patriarchal family structure and system of values, the violation of women’s bodily integrity becomes a source of shame not only for the women as individuals but for them as members/symbols of the family and community. In many cases support and acceptance from male members (fathers/ husbands) has been lacking.

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<sup>16</sup> Times of India, April 19, 2002.

<sup>17</sup> These rallies were witnessed by some of the organizers of the IJ while we were in Gujarat when the election results were announced. Other examples of this violence are covered in Section four of this report.

Haleema, a lawyer, feminist and activist from PO14 says:

When I first went to PV10 there were 6 women who said it (rape) happened to them. One woman told me about her relationship with her husband, who does not talk to her, does not have a physical relationship with her, nothing. But she was very grateful to him for accepting her.

Comment by IJJ team member:

In a relief camp in Ahmedabad, I met a young girl whose father had just taken her for an abortion. And he was telling her, “How come your sister was not raped?”

In Gujarat, where the attacks were meant to “dishonour” the community, the silencing came from the community as well. Finding themselves in a vulnerable situation, Muslim communities many a times negotiated peace and apparent harmony by silencing women. One way to combat the use of sexual assault as a weapon by *Hindutva* forces was for the community to behave as if the violence never took place at all. The shared patriarchal value systems of both communities led to many women survivors not being able to talk about their pain and violation.

This “chosen” silence is also directly linked to the State’s refusal to listen, to take action or provide a gender sensitive support system that would encourage women to come forward.

As Haleema, an activist from PO14 organization testified:

I have met two rape victims in Anand district, who said that if I could assure them that their case will go somewhere, they would go ahead with the cases. But I simply could not assure them of that. I do think that a lot more people would be willing to fight if they can see something happen....

Furthermore, no action has been taken against those named in complaints, the investigations have been shoddy and women and other witnesses have not been given any protection by the State.

I stayed two months in (the locality where her case is filed). Then I went back home but I was scared because I had filed this complaint. People are saying that they will beat me up and kill me. They throw stones at my house. And at night, they knock on the door to intimidate me. Only I am threatened – because I am the only eyewitness who has seen the raping and killing. (Sabah, PV2, Panchmahals).

The minimum expectation from a democratic State is the guarantee of equal citizenship rights for all citizens. The State of Gujarat failed in this basic duty and thus made women from the Muslim community particularly vulnerable. It is this complicity of the State that is the final blow to women’s hopes.

## Chapter 4

### State Complicity in the pogrom

On 3<sup>rd</sup> April while we were hiding in Anees's bungalow, some Rapid Action Force men came there. They were using abusive language, "Fuck your mothers and sisters." etc. They burst tear gas shells. They broke into the area where we were hiding and started beating me and other women indiscriminately. I was hit on my vagina, back, buttocks, thighs. They left around 4.00 p.m. Then we went to the camp at AA53 area and all of us were given medical aid. (Rukaiya, woman survivor, AA32 area, Ahmedabad).

The revenue collector of PV3, PV14, ordered direct firing on people and six Muslims were hit, no Hindus were hit at all... There is no hope of reform of the VHP or the BD. If the administration had been neutral this could have been minimized. (Salman, relief camp organizer, PV3 village, Panchmahals).

This time there were also incidents of violence within the hospital, people being turned back from government hospitals and being attacked just out-side or within the premises of the hospital. Mobs were stopping ambulances and were getting into hospital compounds to prevent people from getting treatment there. (Hema, Delhi and Chetan, Baroda, working with BO11 organization).

These are only a few of the myriads of glaring examples of State complicity that we heard. Tragically, it was precisely this State and its institutions that had been given the mandate to protect rights guaranteed to all Indian citizens in the Constitution and in international law.

#### 4.1 Failure of the State

The failure of the State to protect its citizens from acts of violence and discrimination perpetrated by non-State actors in the course of the pogrom constitutes the basis of the call for greater international scrutiny of the situation in Gujarat.

This becomes all the more necessary in view of the fact that the BJP-led government of India has consistently denied the fact that the pogrom actually ever took place, or that it in any way abdicated its responsibilities in respect of the Muslim community of Gujarat. There is immense evidence to prove otherwise. In its 2003 report, Human Rights Watch points out, "Authorities embarked upon covering up their own roles, and that of the *Sangh Parivar*, in the attacks against Muslims".

The events leading up to the pogrom of February-March 2002 and its aftermath expose the way in which promotion of *Hindutva* ideology and the systematic portrayal of the non-Hindu as Other are critical factors in the political campaign of the governing BJP. The Sangh Parivar has propagated the ideology of Hindutva in society producing divisions between different communities and justifying violence and discrimination against non-Hindus. The enrolment of government institutions to further this ideology and their roles in the violence against Muslims in Gujarat (while the BJP was in power) completes, in a sense, the agenda that the *Sangh Parivar* has laid out for itself.

To begin with the *Sabarmati* train incident should not have happened at all. It is the responsibility of the State to prevent such incidents from happening. Instead, State officials immediately implicated the Muslim community without investigation. During and in the immediate aftermath of the violence in Gujarat, the responses of the Central and State governments contributed to the intensification of violence against Muslims in the State. Not surprisingly, given both the police's involvement in the violence and the police and judiciary's communal biases, the post-pogrom period

marked a systematic obstruction of victims' attempts to obtain relief and seek investigation and justice.

As a consequence, when the panel members visited different areas in Gujarat in December 2002, nine months after the pogrom, most of the victims did not have any access to justice. One of the survivors of the carnage from PV10 village in Dahod district, Ruksana, testified before the panel, "Even if we have got compensation, the point is that the perpetrators are roaming about scot-free." The impunity that is being enjoyed by perpetrators of the pogrom remains a daily reminder of the gross injustice confronting the Muslim community of Gujarat and illustrates the lack of accountability of the Government of India and the State government of Gujarat.

The widespread abdication of duties by the law enforcement machinery at all levels, and the consistent manner of such abdication across the State, compels an urgent enquiry into the existence of a previous plan or policy of the administration. The panel thus explores these questions and addresses the nexus between different State institutions that appear to have been "enrolled" to implement this plan and/or policy.

#### **4.2 The Government at the Centre**

The response of the government of India, of Parliament and other key institutions was grossly inadequate and demonstrates a clear disregard for the barbaric violence a large number of Indian citizens suffered in spite of the protection they are guaranteed under the Indian Constitution.

At the peak of the pogrom, the BJP government justified the violence as a "Hindu backlash". The Prime Minister visited Gujarat only on April 4, more than one month after the pogrom. In the second week of April 2002, at a meeting of the BJP in Goa, he stated that:

Wherever there are Muslims they do not want to live with others. Instead of living peacefully, they want to preach and propagate their religion by creating fear and terror in the minds of others.<sup>18</sup>

Even though the situation of law and order in the State had deteriorated completely, Deputy Prime Minister L. K. Advani, elected to the Parliament from Gujarat, did not visit the State to review the situation. The then Defence minister, Mr. George Fernandes did visit Gujarat but later while referring to an incident in which a pregnant woman's abdomen was torn apart by attackers and the foetus killed, Mr. Fernandes said, "Stories are being told about the Gujarat violence as if it was happening for the first time. Did it not happen in 1984 on the roads of Delhi?"<sup>19</sup>

When there were country-wide protests by citizens and political parties demanding the removal of Narendra Modi and his government for their failure to protect citizens of Gujarat, the Central government stood by him and, in fact, appreciated his abilities as the head of the State government. Again, it was the Central government that denied Amnesty International and other international organizations permission to come and investigate the situation in Gujarat. Thus the Central government stood by the State government and was also complicit in the violence.

#### **4.3 The Government at the State**

In the middle of the post Godhra carnage, Chief Minister Modi said: "It is a Hindu backlash and a chain of action and reaction." The role of the State is precisely to stop such "actions" and "reactions". Any offender is supposed to be punished by the State and not by mobs. Even force

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<sup>18</sup> Smruti Koppikar, Indian Express, April 13, 2002.

<sup>19</sup> <http://www.hinduonnet.com/thehindu/2002/05/01/stories>

used in self-defense has to be limited only to defense. All these basic reasons for why the State exists in the first place were thrown to the wind. The government at the local and State level did not stop the attacks nor did it protect the victims of attacks.

Harish, a paralegal worker from BO1 in Anand states,

The police and civil administration have played a role and participated both during the communal violence and after. The responsibility of maintaining law and order, which was of the local administration, was not fulfilled... When appeals were made to the Collector who is responsible for maintaining law and order, there was no response. Candidates of political parties did not meet the riot affected and if they did, they were few.

Citing the refusal of the Fire Department to help, Shazia, a 65 year old woman from AA32 area in Ahmedabad said:

On 1<sup>st</sup> March at around 11.30 a.m. police began to enter our place without any reason. Then they set our house on fire and continued the rampage. The fire brigade refused to put out the fire. They said, “If we put off the fire, we will lose our jobs.”

Survivors also shared with us the endless difficulties they faced at every step in the process of accessing State bodies for redress and justice. Initially, the lack of basic security and constraints on mobility meant that a large number of victims could simply not access urban centres:

We were isolated and could not have approached the state administration to make complaints. And we would get threatened – even our community leaders could not reach the state administration. (Shoaib, PO2 organization and Camp organizer PV11, Panchmahals).

The complicity of the State Government is seen at different and varied levels. Several instances of this multi-layered complicity were narrated to the panel.

In Anand district, 87 FIRs were collected by an organization and 20 of these cases were taken up. One case of rape is included. The paralegal workers from this organization reported the status of one of these cases:

In BV12, in the murder case, the accused is an NRI. The people made an application to confiscate his passport to the collector but it was not done and he has left the country. He was locally known by one name but his official name was something else. When the revenue officials came to look for him the sarpanch said there is no person of this name in the village but in government records his name appears. They have sealed his property for namesake, put a lock on one door but it is accessible otherwise. The property of those who are declared absconding in Godhra case have been attached but the same has not been done here. (Anil, Lawyer, BO1 Organization, Anand).

#### **4.4 The Police**

Women, men and children in villages and towns had horror tales to narrate about the completely inhuman and partisan role of the police. From their testimonies it was evident that the police force of Gujarat is one institution that has been totally indoctrinated and/or intimidated into accepting and implementing the Hindutva ideology. Senior police officials, who tried to explain the widespread involvement of police in the violence have claimed that policemen, are also part of society and could not escape the strong influence of Hindutva as it engulfed the entire State. Many police officers were mobilized by right-wing organizations and acted to further their objectives. Implementing the policy of these organizations took priority over their responsibility to protect citizens and safeguard Constitutional mandates. The excuse being offered to justify police complicity

in the pogrom is that the police as an institution located and operating within a changing society cannot escape those changes.

The panel found such explanations and justifications among senior police officials to be very alarming. They do, however, point to the extent to which the State has abdicated its mandated role and participated in vitiating its own institutions and in reinforcing the brutal communalization of civil society.

Some testimonies heard by the panel recounted the ways in which members of the police flaunted their anti-Muslim rhetoric, secure in the knowledge of their own immunity.

The police was watching the violence and were present in areas like BV5. They were not taking complaints. They said they had orders from the top and that they did not have people available, as they were busy maintaining law and order. Filing a case with a magistrate was also not allowed. Police were not reading out the statements they were taking... In BV9, a Muslim cop told Muslims to just save their own lives, as he could not do anything, not even fire at the mobs. He said there were orders from top.” (Anil, Lawyer, BO1 organization Anand).

Yasmin and other women from PV2 village in Panchmahals district said,

The police told us, “Why did you take birth as Muslims, you should have been born Hindus.” In PV1, PV2 and PV5, none of the accused have been arrested. When we begged the police to save us, they said, “Why are you born a Muslim”. We told them, “It is nature’s doing, what can we do?”

When we asked the police here for help they said, “We are not sending you police, we are sending you bombs instead”, “Why do you people want to come back?” and so on.(Kausar, woman, BV45 area, Baroda).

“The police used to tell people that we have orders to save your lives and not houses.” (Sonia, Woman activist, BO8 and BO18, Baroda). Yasmin and others from PV2 in Panchmahals district said, “The police stood there and said, Kill them.”

“Police said, “Today we will not allow you in because of order from higher up not to save you. We will do the same thing that happened in Godhra,” (Sharifbhai, AA1 area, Ahmedabad).

Many testimonies also spoke of the problems that victims, survivors and others had in pursuing legal redress. Among the problems faced by persons desiring to lodge a complaint with the Police were: the reluctance and sometimes the refusal to record (FIRs); the registration of FIRs in ways that understated the crime or obscured events; the refusal to name accused in FIRs; the recording of “group FIRs” as opposed to individual complaints;<sup>20</sup> non-compliance with the basic investigations procedures; refusal to arrest accused persons; granting of bail even in non-bailable offences, and delays in making charge sheets against the accused named.

In the course of fact-finding, the affected people identified many individuals who were attacking but their names do not appear in the FIRs. (Yusuf, BO8 organization, Baroda).

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<sup>20</sup> The police have a duty to record an FIR for each and every individual complaint. Instead, they clubbed together a number of individual complaints reporting different crimes. As a result, after recording a group FIR, if an individual want to report another crime, the police turns the person away saying that the incident has already been recorded. But the specific crime that the individual wants to report does not find place in the FIR as testified by lawyer Kartik above.

On 28<sup>th</sup> February, they burnt our first office at 11a.m. Police gave diesel from police vehicles to burn Muslim houses. Women and children were saved immediately by our activists. Police refused to file an FIR. When I filed the complaint, they told me that the FIR is already filed and we came to know that a false FIR was filed. ... we realized the burning of *chawl*,<sup>21</sup> houses was not mentioned.” (Kartik, Lawyer and trade unionist, Ahmedabad. )

There is a group FIR – on behalf of 40 people. But whatever I said is not mentioned in the FIR. (Safia, Woman, AA1 area, Ahmedabad).

I lost seven members of my family but not in a single FIR have they written the names of those that have died. (Saleem, AA4 area, Ahmedabad)..

In the cases in PV7 of the 16 arrested, three are in jail and 13 have been released on bail. 26 others are charge-sheeted who, according to the police are absconding, but some of them can be seen in PV7.” (One of the panellists who earlier visited PV7)

In Baroda district none of the accused have been arrested in the FIRs in which charge sheets have been prepared. (Advocate Rehmat and Advocate Majeed, Lawyers, Baroda).

Not only did the police not perform their duties, in fact in many places, the police became attackers themselves.

Police said, “We will insert this stick up your vagina.” On 21<sup>st</sup> they attacked 11 areas. This has happened for the first time ever. In the previous riots this did not happen. Men would be standing all around on the terrace of building. All men would strip and even police striped, fondle their genitals and called us over. (Zeba, AA32 area, Ahmedabad).

On 1<sup>st</sup> March at around 11.30 a.m. police entered our place without any reason. They pinched my grand daughter who is 20 years old, on her cheek and her body at various places. They were making vulgar signs with their hands and using sexual innuendoes to humiliate the girls. (Shazia, AA32 area, Ahmedabad).

One of the basic tenets of the State is that it should rise above the sectional interests and punish even its own arms if they err in any respect. However, even when the panel met people nine months after the pogrom of February-March 2002, most of the offenders who had raped, stolen, burnt and murdered were roaming the streets.

#### 4.5 The Judiciary

The judiciary is supposed to epitomise the role of the State. However, for people who did approach the courts or judicial magistrates, the experience was disheartening. The State Government has chosen public prosecutors who are members or were sympathisers of the *Sangh Parivar*.

Nadiad’s public prosecutor is an RSS person and wears khaki shorts and gives training in the *shakhas* (local RSS branches). Now in Gujarat, public prosecutor appointment is done by the state. They have infiltrated the system by putting in their own people to fight the cases. The senior police officials who were not Hindu were put on posts like traffic control etc., where they could not do anything.(Anil, Lawyer BO1, Anand).

I, along with Heena, (a Hindu woman married to a Muslim man from BV16 village in Anand district) went to the Judicial Magistrate First Class Court in BV3 to file an affidavit to include the names of all persons accused in this case on 12 November, 2002. The clerk of the court

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<sup>21</sup> A low income housing in the form of row tenements.

(CoC) signed and stamped the affidavit but informed me that the Magistrate was not available on that day and that I should return on 18 November to introduce Heena to the Magistrate, after which the affidavit would be submitted to court. When I returned with Heena on the 18<sup>th</sup> of November, the Magistrate remarked, “When the affidavit has already been accepted, why have you come to me? It is between you and the CoC.” The Magistrate then spoke to the CoC privately and he came and informed us that the case has already been transferred to the Sessions Court, BV31. He told us that the affidavit can be filed in the Sessions Court only and that there is not a single paper related to the case in this court. He said that he had signed the affidavit by mistake and kept the original affidavit with him. If those people who are officers of justice can create such obstructions in the process of truth and justice then what can we say to the politicians and other ordinary people?” (Anil, Lawyer BO1, Anand).

The few police officers who acted honestly and performed their duties were later penalised through transfers. The transfers also allowed the investigation process to get derailed even in incidents where some headway was being made. The houses of two High Court judges in Ahmedabad were also attacked by the mobs. That the administration did not even save them showing their bias and also sends a clear signal to the community about how they should behave even if they are part of the administration.

When law enforcers become law breakers, when such breaking of law is justified with the “police is a part of society argument”, when implementation of personal political ideologies of officers takes precedence over protection of the Constitution, when citizens have no confidence in law enforcement mechanisms and in the administration for their protection, there is an erosion of confidence in the State and a complete breakdown of the rule of law. In the opinion of the IIJ panel, this is a sign of a failed State, a State that has not fulfilled its democratic obligations and guarantee of rights of citizens enshrined in the Constitution of India. This calls for a total overhaul of structures and institutions of the State and personnel in order to restore the confidence of affected citizens and among the Indian people as a whole.

#### **4.6 Health Professionals**

According to international law, even in times of war, all parties involved are bound to provide medical relief to the injured on both sides. In Gujarat, the situation was such that even this basic human right was forcibly denied to people. While there is some evidence of doctors in different hospitals – public and private – trying to help patients who were badly injured or raped, there is a great deal of evidence to the contrary as well.

Hema and Chetan from BO11 provided a detail testimony on the complicity of State hospitals officials and health professionals to prevent victims from accessing medical care. Speaking about the ways in which doctors assisted, they said:

Medical examinations and records of injuries were not maintained and doctors did not help in ways they could have, to record the violence and strengthen the cases of people who sought help. VHP and Bajrang Dal activists were present in many hospitals, at times in police uniforms, thus discouraging dying declarations and statements of injury.”

According to the experience of Girish, a male lawyer working with AO4 in V.S Hospital in Ahmedabad:

Doctors were being instructed in what to say and what not, e.g., doctors in front of a body with bullet wounds were saying, “can’t say the cause of death” while the junior doctor there was saying quietly “Police firing at Kalupur”.

On the refusal of hospital authorities to give information on those injured or under treatment, Hema and Chetan of BO11 testified:

In government hospitals during and after the violence, there was a complete clamping down where activists and concerned citizens were not given information about the number of injuries or people that had been attended to. Specifically requests were made by citizen’s groups in Baroda to try and get figures about the number of people admitted, the number of Hindus and Muslims, etc. but they were denied access to any such information.”

The testifiers pointed out that some of the main perpetrators violated their professional code by participating in the crimes.

There has been active participation of health professionals this time in the violence. Pravin Togadia (VHP State president), Maya Kodnani (BJP MLA, from Naroda Patiya, site of the most heinous and severe violence) are all [medical]doctors and are known to be the main instigators and have at some places actually led and directed mobs.”

The polarisation induced and abetted by the State machinery has resulted in the ghettoisation even of medical facilities. An example of this phenomenon given by the testifiers:

As an aftermath of the violence, many of the hospitals that were in the Muslim areas have shut down and moved elsewhere. One 40 – (bed hospital that was running in a Muslim area has moved to a Hindu area). Medical facilities have been re-organized along religious lines.”

#### **4.7 Denial and Mockery of Relief**

The abdication of State responsibility for the humanitarian crisis created by the pogrom meant that not a single camp or welfare centre was established by the State for over 100,000 Muslims affected. The State took absolutely no responsibility to provide any safe locations for members of the Muslim community who were fleeing from mobs and attackers. The crucial responsibilities of relief and rehabilitation were left for the most part to NGOs, many of them run by members of the Muslim community who were themselves affected by the violence. Many camps and temporary shelters were set up by these NGOs either in Muslim dominated areas or in towns where attacks were less probable - in graveyards, mosques, religious schools and open spaces in Muslim neighbourhoods. Many of the camps were not granted official recognition by the government, and in those that were recognized, the government’s support was minimal. A daily sum of maintenance of Rs. 15/- was paid per person of which people received Rs. 10/- worth of grains and cash Rs. 5/- in cash

According to one male camp organizer, Fardeen from PV10 village in Panchmahals, the role of NGOs has been crucial compared to the limited resources offered by the state: “Ever since this crisis happened, a lot of NGOs have come [to Gujarat]. The government has done only 10 per cent.” However, as Akhtar a social worker and another camp organizer from the same district pointed out: “NGOs are helping but it is not enough compared to the work at hand... The task is so enormous and we have limited resources.”

The lack of appropriate State measures to address the pressing needs of victims is all the more unacceptable given the complete destitution in which the Muslim community found itself after the pogroms. One woman (Yasmin, from PV2 in Panchmahals) spoke of her lost dignity in a poignant way:

“I used to be like all of you – now in nine months, I have been reduced to this”, referring to the complete loss of all material wealth experienced by those whose houses and shops were ransacked.

“Within a few hours all we had built up in 20 years was lost”, one woman from Anand said, “we have nothing anymore. They even took our slippers.”

Another woman Mumtaz from PV5 in Panchmahals says, “They have not even left a spoon in the house.”

Yasmin from PV2 also tells of the systematic and ongoing nature of material destruction: “They have taken everything: even stoppers, grills, everything. Whenever these people have the time, even now they keep on taking things. Whatever is left is also being destroyed.”

A businessman from the Bohra Muslim community in Panchmahals district, Shakeeb, also confirms the extent of the damage inflicted to Muslim-owned businesses: “We have had shops here for more than a hundred years. But now, they have completely destroyed our houses, shops and factories with some chemicals that would blow off the roof and just leave walls standing.”

A large majority of Muslims without alternative refuge stayed in these relief camps under terrible conditions from March to July 2002. By April the government was keen to demonstrate the return to “normalcy” to defuse attention on Gujarat from within India and from international quarters. The forcible closure of relief camps became politically expedient in order to erase visible wounds of the carnage. Gradual closures began from early April and finally, by mid July 2002, 11 of the 22 remaining camps were closed, once again displacing people without ensuring conditions for their safe return or rehabilitation.

#### 4.8 Compensation

Under pressure from concerned citizens, human rights groups and media to provide relief to the victims of the carnage, the government announced a number of measures of “aid, assistance and relief.” Significantly, in all official documents, the word *sabai* (assistance) is used instead of *mohavza* (compensation), making it clear that the government considered these payments not as a right or an entitlement but only as charitable gestures. The fact that the government explicitly refused foreign aid to supplement state funds to provide relief and rehabilitation to victims of the pogrom is another indication of its intention to down-play the extent of damage and destruction suffered and to further marginalize the Muslims of Gujarat. The irony of this decision can be understood best when one recalls the urgency with which both the State and Central government sought foreign aid in order to meet rehabilitation needs of Gujarat after the earthquake in 2001 and “relief schemes” declared then as opposed to absence of it during this violence.

Among the type of relief measures announced by the government were:

- Building aid to riot-affected and ex-gratia relief in case of damage to earning assets of miscellaneous business up to Rs.50,000 and Rs.10,000 respectively.
- Housing aid from Rs.5000 to Rs.50,000 in case of damage to house.
- Cash dole and household effect aid of up to Rs.3,000.
- Aid to camps being run by voluntary organizations @ Rs.5 per head.

- Ex-gratia relief to small businessmen for damage to earning asset during the riots ranging from Rs.3000 – Rs.10,000.
- Relief to persons who have become disabled as a result of the riots ranging from Rs.2000 – Rs.10,000 with disabilities assessed at a range between 10% to more than 40%.
- Relief of up to Rs.150,000 to the next of kin of those who died during the riots.

#### **4.8.1 Discrimination in compensation**

Heightening the sense of injustice felt by members of the Muslim community who suffered as a consequence of the pogrom, the State government initially announced compensation of Rs.2,00,000/ for each Hindu person killed in the Godhra train case, and a payment of Rs.1,00,000/- was announced for those Muslims killed in the carnage followed the Godhra incident. This was the subject of much controversy and debate, following which the compensation for those killed in both incidents was fixed at Rs.1,50,000, because the VHP agreed to settle for a reduced compensation for those killed in Godhra.

In terms of the relief packages, there are some differences when compared to the relief announced for victims of the earthquake in Gujarat, about a year prior to the pogrom. Earthquake victims had an added category of “injury” in addition to “disability”, whereas no relief was provided for victims of the pogrom in the category of ‘injury.’ In addition, relief for disability caused during the pogrom is much less in comparison to the relief granted in respect of the same during the earthquake.

The ex-gratia payments announced by the government have been declared to be grossly inadequate and incommensurate with the losses suffered. Payments for the loss of life in the case of Gujarat, for example, is substantially lower than that offered to the victims of the anti-Sikh riots in Delhi or anti-Muslim riots in Bhagalpur, 17 and 12 years ago respectively. In fact on April 27, 1999, the Delhi Government announced an enhanced compensation of Rs 3.50 lakh (approx. US\$ 7000) to the kin of those killed in the 1984 riots following the assassination of former premier Indira Gandhi.<sup>22</sup>

#### **4.8.2 Mockery of compensation**

There are a number of issues and concerns regarding the adequacy of these measures, the difficulties of victims to access the relief, the effectiveness of its implementation and the aims of providing such relief.

The compensation/assistance offered by the government technically covers death, disability, loss of household items, cash for affected people not in camps, ex-gratia payment, house reconstruction support and compensation for loss of employment/ livelihood. However, the amounts offered are shocking in their paltriness. The disparity in the real loss and the amount offered as compensation has been assessed by the Swedish International Development Agency (SIDA), part of the Embassy of Sweden in India, in its Semi Annual Report for the period April - September 2002 as follows:

Furthermore, evidence suggest that the state government has paid less than 5% of the assessed US\$ 10 million damage to immovable property in compensation. Likewise, for an average estimated loss of over US\$ 2,000 per household, actual compensation has been as low as US\$ 8. Meanwhile, the Union Government has clearly stated that external support for humanitarian relief and rehabilitation is not being sought as adequate funds are already available in the Prime Minister’s Relief Fund.

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<sup>22</sup> Express News Service, April 28, 1999.

In all cases brought before the IJ panel, compensation amounts for property destruction were determined entirely by government valuation of the property. This process of valuation was biased to the point of being criminal – generally disbursing to the victims not even a fraction of the real value of their destroyed property. In some villages (as in PV26 in Panchmahals district) even when victims got compensation for their burnt houses, they had to pay a bribe to village revenue officials in return. In AA2 area of Ahmedabad, a family house was burnt down to the ground, a loss its owner, Hussain, estimated at Rs. 100,000. During the survey, the damage was officially estimated at Rs 65,000 but the actual compensation Hussain received was 500 Rs. He adds, “I have made an application but no one is listening.” NGOs working with Muslim community, testifying before the panel said that most of the surveys of damaged to houses were assessed at not more than 5 – 10% of the actual cost of rebuilding them.

According to Akhtar, Camp organizer and social worker from Panchmahals district, those whose home ownership does not show up in official government records are not being compensated at all. There are many such homes, especially in rural areas. In PV29 alone there are 50 houses whose ownership record is not clear. In PV15 also there are 80 such houses. Another problem arose in the case of tenants who did not receive any compensation for the losses they suffered, business or personal, in rented premises. As Shruti working in organization PO12 mentioned in the context of PV2, “It has happened a lot to single women.” In some cases Muslims have been compensated for the loss of livelihood with amounts as low as Rs.200. These hugely undervalued compensatory amounts have not afforded survivors the means to start new economic activities, re-build homes, or their lives.

#### **4.8.3 Problems in accessing the meagre compensation**

Relief measures are also dependent on the victims’ ability to obtain and correctly fill out the claim forms and other assessment forms. The displaced and brutalized Muslim community of Gujarat did not have the resources needed to complete these procedures, the responsibility of providing support in the process of obtaining meagre relief and compensation was placed on the shoulders of the community itself.

The categories under which relief was announced were grossly inadequate and urban-centric. While some relief was offered to small businesspersons who suffered losses, there were no similar provision for agricultural and livestock losses suffered by victims in rural areas. Some victims told the panel about the difficulty of completing the required documentation to obtain relief and the lack of information about some of the measures. Below are the experiences that some of the victims recounted in their efforts to access relief announced by the government:

We have not yet received compensation for damage to articles in the household. Seven people in the villages have not received even the cash dole of Rs. 1250 and their papers have not been processed. There is a death in one woman’s family and she has not received any compensation. (Razia, woman survivor, PV1 village, Panchmahals).

Some have got (relief) others have not got it. Private owners (of houses) have got compensation, tenants have not got. In many cases it happened with shops in Gujarat, the owner got the compensation, the tenant did not get anything. It has happened a lot to single women. (Munni and other women survivors, PV5 village, Panchmahals).

Government has given some compensation for our houses - between Rs. 12000-13000. But there is no compensation for the crop that was burnt. The attacking crowd also took away all

our cattle and there is no compensation for that either. (Mohsina, woman survivor, village AV2, Banaskantha).

Saleem from AA4 area in Ahmedabad said that the value of properties has been consistently undervalued and relief is provided on that basis.

Government still has to pay Rs.6 lakhs as part of the due payment of Rs.7 per person per day. (Rameez, Camp No.9 organizer in AA42 area, Ahmedabad).

#### **4.8.4 Compensation for women – another State failure**

An important function of the State is to protect the most vulnerable sections of society and to design systems that bolster their position rather than the other way around. In the case of compensation to single women whose houses and livelihoods were destroyed, or whose family members were killed, there seems to be a complete collusion between the State and the forces of patriarchy.

The lack of a gendered perspective on relief, rehabilitation and compensation has meant that women victims of the pogrom have faced specific problems and discrimination in accessing what was due to them. Widows are in a particularly dire situation: in one locality, we met a dozen women whose husbands had been killed, whose houses were destroyed, whose crops were burned – in other words, women who had no means to sustain themselves and their children. Most had filed applications for a widow's pension (Rs.500. month) more than three months earlier and had not yet received any financial help (Nagma, PV30, Panchmahals). Furthermore, the complex power dynamics within the Muslim community also meant that widows were often deprived of their death-compensation by their in-laws.

Women, in particular, got nothing. In a family, if there are other male relatives, money went to the father. One woman that I spoke to said that she didn't get the money but her male relatives got. (Rajiv, AO4 organization, Ahmedabad).

Gender-just rehabilitation would also require an explicit mention of gender-based crimes in the list of injuries, or alternatively, be at least included within the category of "injury". However, this is not the case. The financial assistance offered by the government is not only a mockery of the term compensation, but is also a failure to grant to gender-based violence the status of "injury" even on paper.

The IIJ team came across many cases that leave no doubt regarding the inadequacy of official relief and rehabilitation measures undertaken almost a year after the pogrom. Many of the victims, unable to cope, begged us for help: "Do something for our livelihood, we want some independent means," "Give us some work," "All we need is a house, if you could please do this?"

## 4.9 Educational Institutions

Various arms of the State connived during and after the pogrom to destroy the lives, livelihoods and in fact, the very existence of Muslims. A more subtle attack, however, persisted in an implicit way by educational institutions—both private and public. Conversations with different people showed us how impressions are made on young minds, and how an environment is created to impose a certain kind of ideology on students. This kind of work in formal and informal education centres is very important to the creation of a communalised electorate. The State of Gujarat is guilty of using this environment for its own electoral gains instead of acting against it. The State did this both during and after the carnage.

In several cases, the highly communalised school system - Hindu teachers, administrators and students—have made it painfully clear that Muslim students are not welcome.

In a school here in Baroda, a Hindi class teacher asked almost five years ago if there were any Muslim students in the class and if there were, she said she wanted to hit them with her shoes! Now the number of schools run by the RSS in rural areas has been increasing. Their total number is estimated to be about 15,000 by now. The Gujarat government has finalized a new curriculum that is based on RSS ideology. (Reshma, activist, BO8 and BO9 organizations, Baroda)

Discrimination in schools had started a long time ago. My children were going to a good school in 1992, then the school administrator said, “No Muslim students allowed”. This is happening more in Gujarati medium schools, less in English medium. But it’s all getting worse. Not a day goes by without traumatized children coming home telling us about the anti-Muslim comments their teacher has passed. Muslim children are not allowed to participate in cultural programmes. They are simply told, “This is not for you.” (Sarah, AO7 organization, Ahmedabad).

The Hindu right wing has been targeting 16 and 17 year old children. For the last five years they have been approaching schools and giving *trishuls* to schoolchildren for Rs.25. The children are told - this is to protect your religion. They used to hold meetings amongst youngsters. They would organize exposure visits for these youths. They would take them to Muslim areas, saying, “Look how many *madrassas*, *dargas*, mosques are in this area, how many temples are there?” They would be asked to count these Muslim institutions as an exercise. They would be told, “How many Muslims accept you, compared to Hindus? How many Muslims will come to your house?” This has gone deep inside. (Activists from AO7).

In one case after the violence, there was an appeal for medicines for a pregnant woman in the neighbourhood. In one of the schools we got the children to collect money for the medicine, but their teacher came and fired them. She said, “Why are you collecting money to help those women from mini-Pakistan to populate the whole country?” The children wanted to help but the school administration was hostile. In recent months there has been the indoctrination of hate into children’s minds in both the communities, and that is what is scary.” (Gulnaz, social worker, Baroda).

There is one municipal school in the village attended by many Muslim children. The Patel children don’t study in the municipal schools, they go to private ones. So after the violence there was a lot of pressure on the principal to close down the school. People said, “Why do you want to teach Muslims?” The principal is resisting. But now the children are very

irregular. Some are going to work in the fields. And there is also a lot of fear. (Women, BV44, Baroda)

#### **4.10 Elections**

Nine months after the pogrom there were State elections in Gujarat. The months before that clearly indicated that the BJP hoped to gain political and electoral mileage out of the violence. They conducted the local *Panchayat* elections even as the State was in flames. Having won these with large margins, they dissolved the State Assembly hoping to pressurise the Election Commissioner (EC) for early elections. The EC visited the State in mid-August, expressed shock at the law and order situation in the State and demanded that some minimum conditions to be met before the elections could be held. The ruling party responded by criticizing the offices of the EC and targeted for him being “biased” since he belonged to a minority community. Finally the elections were held in December under fairly close scrutiny of the EC.

In spite of the clear failure of both the Central and State government to deliver justice to its Muslim citizens, BJP won the elections and Chief Minister Narendra Modi was re-elected. The BJP came to power in spite of overwhelming evidence of overt and covert acts of complicity by the government in the anti-Muslim pogrom in February-March 2002; in spite of the denial of justice to victims of the violence; and an active on-going social and economic boycott of the Muslim community in Gujarat. In fact, election victory of the BJP provided a context within which violence and discrimination against Muslim and all other minority communities could be justified. It sent a strong message that the electoral impact of the violence was in fact positive. This also seems to be the plan of the administration.

The violence was focused in North and Central Gujarat and the tribal belts which till 1998 were a Congress stronghold. BJP has different programmes for different areas. BJP did not widely distribute their manifesto as that wasn't an issue at all. The campaign in fact started on the 28<sup>th</sup> February, 2002. (Raunak, activist, BO8 and BO9 organizations, Baroda).

In Gujarat, BJP's return to power in the December 2002 State assembly elections with an overwhelming majority represents a crucial step forward in the agenda of *Hindutva* ideology and politics. This election victory was significant for the BJP for several reasons. A few months earlier, the ruling BJP had suffered serious setbacks in all *Panchayat* (local) elections in Gujarat. Thus, regaining lost ground at the level of the State was crucial to the prestige and credibility of the party and for its State leaders especially. This is especially critical in the view of forthcoming elections in many other states of India.

The complete communal polarisation that took place in Gujarat in the aftermath of the pogrom proved to be beneficial to the BJP, as evident from the election results in Central Gujarat—where Godhra is located—where its share of seats increased dramatically from 16 in 1998 to 42 in 2002. The election results were projected as a kind of plebiscite by the BJP to justify the violence against the minority Muslim community and to uphold the leadership of hardcore RSS Chief Minister, Narendra Modi. Speeches by BJP leaders and politicians, including Modi strengthened the hands of *Hindutva* activists in Gujarat who, in the victory processions after the election results, loudly and proudly declared that they would continue with their anti-Muslim actions. No one in the new government condemned Modi's statement or the anti-Muslim slogans of his supporters.

##### **4.10.1 The Election Campaign**

The elections were held in an environment of and continuing violence and systematic economic and social marginalization of Muslims in Gujarat. Undermining of the secular and democratic nature of

the Indian State, as guaranteed in the Constitution, that had taken place during the pogrom was taken further in the election campaign.

Hatred spewing speeches of Modi, Togadia and other members of the *Sangh Parivar* during the campaign have gone unpunished.

We were afraid because of the campaigning, especially as they were saying that our BJP *sarkar* (government) will come to power. So we have left PV10 for the last 10 days and will go back only after the election results. For 10 days I left my land and my house, all lying unattended. Once the results come out in 2-3 days, we will go back. But because of this environment we feel scared.

They have been showing cassettes during the election campaign. For three hours they showed cassettes with Togadia's speeches. 10 BJP jeeps came and stopped, we were scared and we thought, what if they attack us? ... The BJP jeeps would come and ask, "Who are you going to vote for? The answer has to be BJP – if you don't then they say, "We shall see what will happen." This intimidation by the BJP is like routine, we are used to it. But we still don't know when they will say or do anything to us." (Ruksana, PV10 village, Dahod).

At the local level there were all kinds of threats to people. When the leaders themselves were directing the way, the local workers of the *Sangh Parivar* became more aggressive.

One man has a small shack of grocery and he has gone back to PV20. But when he went to collect his credit, he was asked why he had even bothered coming – and that when the BJP comes to power anyway, he will have to shut his shop." (Tabu, PV26 village, Panchmahals).

All through the election propaganda they kept saying, "You give your vote today, then it is our rule." So even if any Dalits wanted to vote for Congress they would be scared. (Sarah and Aamir, AO7 organization, Ahmedabad).

They [Hindus] are saying if Modi comes back they will drive us out, send us to Pakistan, anywhere, but we cannot stay in their country." (Hamid, BV18 village, Anand).

This report, along with many others, clearly shows the careful and systematic planning that went into a pogrom which destroyed thousands of lives and rendered over 100,000 Muslims homeless and destitute in the matter of a few days. These incidents have been acknowledged as the most brutal and widespread communal violence since independence. The declaration of the election results spelt the collapse of the hope that the democratic system would reaffirm the rights of Muslim victims of the carnage as equal citizens of India, and open up a space for claims for justice and redress.

#### **4.11 Denial of citizenship to Muslims**

When we go back, they shout slogans, like "*lungi* in the hand, *paan* in the mouth, drive them to Pakistan." Wherever we go, we hear this. (Munni, PV5 village, Panchmahals).

Why is the patriotism of Muslims always being questioned? Muslims have always come to the defense of India when required. There is now this portrayal of Muslims as terrorists. But anywhere in the world where Muslims have risen up, you will see that it was as a reaction to injustice – you can look at the examples of Palestine, Kosovo, Afghanistan...and India. (Farhaan, PV20 relief camp committee, Panchmahals).

Of course Muslims love the country – which person hates his homeland? But why don't Hindus have to prove their loyalty? We have to prove ours because Hindus got the coin:

they have the stamp so that's enough for them. (Anees, Rafiq and other relief camp organizers from different parts of Dahod district).

The testimonies given above highlight two dominant justifications for denying Muslims their claim to citizenship - one, is the "Muslim as Pakistani" justification, and the other is "Muslim as Terrorist". As discussed in chapter 2 of this report, local anti-Muslim discourse feeds into and draws strength from the global anti-Muslim discourse. What follows then is an easy subliminal association of Muslim-Terrorist-Aggressor, making it difficult for the average person to comprehend the degree to which this community has been victimized in Gujarat.

While the run up to the elections was an occasion to increase pressure on the Muslim community, one camp organizer Fardeen from PV10 in Panchmahals noted, "The hopes of the entire Muslim community lie in the election results. The fate and security of the community depends on it." In the aftermath of elections, the disillusionment set in: "After the 15<sup>th</sup> of December (the date of the results), we have not been able to live in peace, neither can we eat or sleep" (Anees, Rafiq and other relief camp organizers from different towns and villages in Dahod district). Throughout, the election campaign was organized along communal lines.

The incidents of violence continued during the election process as well. People testified before the panel about how they were not allowed to cast their votes in some places or were intimidated in others.

When we were in the booth there was one woman there who said she was from outside, she was taking pictures. A man gave us a rose, saying that BJP should come to power. The men were drunk, and said, "We do not want Muslims". The woman Sarpanch told us, "Go back, the atmosphere is very tense, don't go to vote, don't go back to the village at all." This same woman went around in those days of the violence with kerosene cans." (Sharifa, woman survivor, PV2 village, Panchmahals).

"We do not live in the village yet but when we went there to vote on the day of the election, we were not allowed to come in. They did not let us vote, all the 15 families. We asked for police protection and the police said you will vote today but what will they do to you tomorrow, so don't vote." (Rahman, a man from BV14 village in Anand district).

The election victory of the BJP in Gujarat has posed a challenge to the very nature of the democratic system in India by demonstrating that an anti-democratic force can win an election through so-called democratic means. It signals the failure of the majoritarian electoral representation system to adequately ensure representation of the diversity of concerns of the Indian population. The complicity of the State in the actual pogrom against Muslims in February-March 2002, along with the role played by its institutions to promote and propagate a Hindu majoritarian vision of the Indian state, point to the role of the ruling party in classifying sections of the Indian population as Hindus and all non-Hindus the "other".

#### **4.12 Terrorizing dissent within the majority**

It is not only Muslims who have been under attack and who are unable to get any protection from the State in Gujarat. Anyone who has tried to help Muslims has also become fair game. The message is clear - if *Hindutva* ideology within the ranks of Hindus is not built by consent, it shall be built by force, harassment and the threat of violence.

Urmila and Prakash are both Hindus from the BV41 area in Baroda, who helped save a large number of people during the pogrom. Now they are under attack. On 1<sup>st</sup> May when Muslims from the area went back to check on the houses they had fled from, they were beaten up. Prakash's

brother helped them but the police claim that he was part of the attacking mob that tried to kill the Muslims, even though they themselves insist he was trying to save them. On May 5<sup>th</sup> the police took Prakash's brother to the police station, ostensibly to question him, but instead charged him with "attempt to murder." The enquiry is pending. The co-accused insists that he (Prakash's brother) was part of their mob. According to Prakash, this is part of the mob's strategy to implicate all those who appear to have helped Muslims. He says:

People around us are ok with us, but a little further from our house the hostility begins. We disconnected our phone because we got fed up of threatening calls and invectives. People around us don't do business with us anymore. They say these people are with the Muslims. Threatening messages come through our young daughters, whisper campaigns, hostile stares. In the area where the Muslims used to live, there are several Bajrang Dalis from Maharashtra. They look at us as if they will attack at any time. The Bajrang Dal chief in the area has said, 'The first strike of the sword on Prakash's head will be mine'. There is no point in complaining to the police because they are with the attackers. I have intimated the police of the danger and given a complaint about the threat. But I have not named anyone. That would definitely precipitate an attack. Now with the BJP back in power, people like us will be in danger. We feel very unsafe. We are thinking of leaving the area, but where to go with our entire business wiped out.

A Dalit woman who helped Muslims from BV44 had this to say:

We helped them- they are our people. We lived so closely. I can't not do anything. My husband also supports me. He is a very strong man. When they came after the Muslims we gave them shelter in our house. I am not scared. But now they are threatening my two boys. They say now that the BJP is back in power, we will see to your fate. The most recent threat was given just yesterday (15<sup>th</sup> December, 2002).

Community leaders, NGO activists and journalists report an increase in their own fear and insecurity about being targeted next. In many villages women activists are being told, "We know where you live, we know you go to the field alone, what happened to the Muslim women can also happen to you."

Further, in a post-election speech the newly re-elected Chief Minister Modi hurled a threat at all those who oppose the Hindutva ideology as embraced and propagated by the BJP, including NGOs, secular minded citizens and activists. Declared Modi on national television: "All *Hindutva* opponents will get death sentence and we will leave it to the people to carry this out."

#### **4.13 Election Results – Some Concerns**

The elections results of 2002 demonstrate the beginning of a process of the fixing of political identities along religious lines.

Democratic rule presupposes the possibility of continuous alteration of political majority and the ruling group. The majority and minority are not fixed entities, but may go through periodic alterations as decided by the polity. In theory, the act of fixing the government on the basis of Hindu majority means the effective disenfranchisement of individuals who by their birth belong to numerically smaller ethnic or religious groups. A permanent Hindu government also pushes out from State decisions individuals who, for different reasons, do not believe in the Hindutva ideology. These groups and individuals who do not agree with Hindutva politics, or actively oppose it, would be condemned to a permanent exclusion from

the government. Further, they would find it hard to express anti-government views for the fear of inviting the government's retaliation.<sup>23</sup>

The situation is much worse for the Muslim population, as by definition and accident of birth, they are not included in the Hindutva understanding of citizenship and must be continuously excluded and brutalised. The State and its institutions assume this and at the same time reiterate and recreate the exclusion and brutalisation. The consequences of this hatred and exclusion from a democratic State can mean a further erosion of the basic values and tenets of Indian democracy.

In the past 10 months the leaders have tried to cool passions by diverting attention to constructive work of strengthening the community, to strengthening women's roles, towards social transformation. But now we don't know if the young will listen to us. There seems to be no place for moderate voices like mine now. Now that we have lost the elections, the ballot box whose strength we kept talking about has also been defeated. Now if Hindu leaders like Togadia and company keep on with the verbal assault and create terror, something might snap.”(Javed, activist, BO8 organization, Baroda).

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<sup>23</sup> Manjari Katju, Vishwa Hindu Parishad and Indian Politics (Hyderabad: Orient Longman Ltd., 2003) 77.

## Chapter 5

### The Violence Continues

The State continues to be complicit in the on-going violence against the Muslim community in Gujarat. The violence has extended far beyond the duration of the pogrom and has had an impact well beyond the lives of the tens of thousands who were directly affected. The IJ team, which visited Gujarat over nine months after the worst violence, found that the violence was continuing in different and frightening forms, with long term physical, psychological, economic, and social consequences for all members of the Muslim community and particularly for women.

This chapter illustrates that not only were Muslims the victims of a vicious, politically motivated attack in February-March 2002, but that they continue to be so even today. As a result of the systematic and continuing campaign of violence directed against them, members of the Muslim community who agreed to meet the IJ team were anxious and scared. It is a tribute to their courage that they came forward despite well founded fears that testifying might leave them more vulnerable to attack.

We are afraid to speak, what if it has repercussions? (Naseem, woman survivor, PV1 village, Panchmahals).

I came because you have promised us that our names will not be revealed. (Razia, woman survivor, PV1 village, Panchmahals).

In this environment of deep-rooted fear and complete destitution, people need justice and security to rebuild their lives and sense of self. Based on the testimonies of survivors, this chapter will show that even nine months after the worst violence Muslims have little possibility of doing either, by looking at:

- Fear - generated both by threat of violence and actual attacks
- Displacement and non-rehabilitation
- Continuing economic violence including an economic boycott of Muslims
- Long term impact on Muslim women including the impact on their physical, reproductive and psycho-social health
- Long term impact on children

#### 5.1 Living With Fear

##### 5.1.1 Fear of Physical Attack

Fear is today the dominant emotion in the lives of Gujarati Muslims. They tread quietly and try to keep a low profile because even small altercations with members of the majority community can easily become serious. They tolerate ceaseless insults, threats, and taunts without responding to them because verbal abuse has the danger of becoming physical at any time. There is no provision for security. The fear surrounding the community is palpable, preventing any kind of normalcy and scarring all aspects of life—livelihood, mobility, access to housing and education. The situation is particularly bad for those who live in Hindu dominated neighbourhoods.

People tell us, “Earlier we killed you in the daytime, now we will kill you at night.” (Zoya, woman survivor, AA1 area, Ahmedabad).

Can you give us security? We want to be able to go about freely to collect water or anything else. (Women survivors, PV10 village, Panchmahals).

They are threatening us saying that your daughters have grown up so don't let them out of the house now. What happened to us happened, but how can we see this happening to our young unmarried daughters. They will also have problems at marriage. (Woman survivor, BV9, Anand)

We are still scared of attacks so one person sleeps while the other stays awake. (Rahman, male survivor, BV14, Anand).

The children are scared even now. Even during the Ganesh festival – every event means that (Muslim) families have to move to safer places. (Ruksana, PV10 village, Dahod).

### ***5.1.2 Fear of Sexual Violence***

For women the fear of physical violence is heightened by fear of sexual attacks. Having been subjected to sexual violence themselves, having seen other women from the community being violated, or knowing the extent to which sexual crimes were committed, has engendered a psychological threat perception among all women from the community. This fear has been compounded by the overtly sexualized public discourse of the Hindu Right.

BJP supporters celebrated their election victory by 'informing' women: "Now this is our government. We will make this whole area Hindu. All mothers of Muslims are fucked." (Nahida, AA32 area, Ahmedabad). These threats have also been acted upon. On-going sexual violence includes threats, insults, obscene gestures and actual attack. Violence is not only directed against adult women but also against their daughters. Mothers are warned on the street to keep their daughters inside to prevent them from being raped.

Today we have come here to meet you and I had to take my daughter with me because I am too scared to leave her there. We are constantly haunted by the fear of what if something happen to them? (Ruksana, PV10 village, Dahod).

Nobody has asked for forgiveness or shown regret. We cannot say anything. Rapists stop women in the street to humiliate them: "Didn't we have her, haven't we done this or that to her?" We don't speak about this at home, because then our men will get very agitated. (Woman survivor, BV9, Anand)

### ***5.1.3 Fear of the Police***

In addition to the violence inflicted by sections of civil society, violence and intimidation by the police forces also continues. During recent combing operations in Ahmedabad, the police systematically harassed and arrested members of the Muslim community under the guise of restoring peace. On April 21<sup>st</sup>, 2002 alone, Muslim homes in 11 different locations in Ahmedabad city were attacked by the police late in the night. Just days before the IJ panel was constituted, an incident of police violence was reported from Ahmedabad on December 8<sup>th</sup>, 2002. Incidents of police violence continue to come in even at the time of writing of this report.

Police complicity in the sexual abuse of women during the February-March 2002 pogrom has been a cause of continuing fear and intimidation. For the police are not merely members of an amorphous civil society—they are the visible hands of the State—with the responsibility to protect and the power to prosecute. And when these powers are used as weapons to violate the bodily integrity of women, victims are truly left with no recourse.

Not only was the police complicit in the sexual abuse used to intimidate the entire community then – it continues to be so even today. Several victims recounted the terror they feel when the police make use of explicit sexual innuendos, verbal sexual abuse and physical molestation to threaten them. Some women fear that complaints about the abuse would result in the arrest and prosecution of their men-folk under false charges.

On 21<sup>st</sup> April at the time of the Friday *namaḥ* (prayer) the police got into our house. They tore my clothes and asked me where the men were. They beat me up with a stick... Then they came again at 2.a.m. when my daughter was studying. They said, “Why does she have to study, soon we will make her a prostitute.” (Zeenat, woman survivor, AA32 area, Ahmedabad).

Renana from BV42 area in Baroda faced police violence just the night before she testified to the IJ team (i.e. on 16<sup>th</sup> December, 2002). She said,

They came last night saying, “send these sister-fuckers to Pakistan.” The police have the same pattern every time. They first break the electricity meter so the lights are out, then they break the bulbs, and then attack the houses. They did this in five-six houses last night. Now the women are too scared to confront them so they shut the doors. Often the policemen break the doors and come in. They say things like, “Pull the strings of the Muslims’ pajamas, shove guns in their anus.” Some of us had filed complaints about this police abuse. About 15 days ago some people came to our homes and tried to get us to sign something, saying that the signature would prevent the attacks from happening again. One woman could not read so she showed the paper to someone else. It said, “Women here have not been attacked and they are withdrawing the complaint’. We all refused to sign.

#### **5.1.4 Fear in the Ghetto**

Displaced Muslims today live, for the most part, in ghettoised clusters, for there is a perception that vulnerability is greater when one is physically isolated and conversely that there is some strength in numbers and increased perception of vulnerability if one is physically isolated. As many survivors emphasized, most people try to settle in more secure places with a predominantly Muslim population. Those who are unable to do so feel continually at risk:

We feel safer here, because our relatives are here. We can trust Hindus, they come and talk to us, but that seems to be superficial. We cannot have the same kind of trust as before. (Razia, a displaced woman, PV1 village, Panchmahals).

About 10,000 people attacked us. And once they have attacked us, how can we trust them after what they have done? My brother-in-law was killed and my son who is the father of 5 children was slashed with swords... We are surrounded by Hindu areas so who knows when they will come again? (Bibijan, a widow, PV30 village, Panchmahals).

Ghettoised living means living in a permanent pressure cooker situation in which collective fear is the dominant emotion, and where even a small altercation with any member of the majority community is seen as a collective threat to physical security. Individual fear and trauma merges with the collective fear and trauma. It becomes larger and is re-lived everyday. The lack of security, obstruction of justice by the state, continued threat perception, and the pressure of ghettoised living, has meant that women who were initially willing to talk about sexual assault are no longer ready to do so. So even where the silences around sexual violence were broken they have now been re-imposed.

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It is against this backdrop of pervasive fear about sexual violence against women in particular, and about violence of all forms against members of the community, that concerns about rehabilitation, housing, and economic violence must be understood

## **5.2 Displacement And Rehabilitation**

Tayabba and Gulabi who worked in the AA3 area camp spoke of the attacks there:

After one month there was attack on AA3 Area. AA34 and AA33 area camps were attacked. Police did not bother about it. There was no security provided by police. Only when Prime Minister came to visit then for his security there was police.

Although the camps were not safe and secure places for most people, when the government started forcibly closing the last of the relief camps in July 2002, the displaced survivors had no place to go. Houses were burned and property was destroyed. Most of all “home” was a dangerous place, for the accused were still roaming free and issuing threats to victims.

In villages around PV20 taluka for example, 90 Muslim-owned shops were burnt, 572 homes were destroyed, and 130 people killed (over 70 in a single incident). The main accused has just won the elections. (Farhaan, relief camp organizer, PV20 taluka, Panchmahals).

Till the time of writing of this report many Muslims are still unable to return to their homes. Indeed, without a sense of security it is virtually impossible for survivors to go back to places where they witnessed friends and relatives being slaughtered and burned alive.

A 20 year-old widow, Nagma, from PV30 village in Panchmahals district who has witnessed the brutal murder of her husband stated, “I can’t go back to the village because I am really afraid of being there...and the things I have seen, you won’t be able to even see.”

Often neighbours will not allow victims to return. Countless testimonies highlight the depth of hatred that the survivors continue to face:

They say, “We do not want Muslims, we do not want people with beards and caps at all in our place.” Earlier it was only the village elders who would say these things, but now everybody threatens us. (Razia, woman survivor, PV1 village, Panchmahals).

We are safe over here. We cannot go back to AA2. I had gone only twice and can never go back again. Hindus are threatening and intimidating now. I was staying there for the last twenty years. (Hamida, woman survivor, AA2 area, now living in AA9, Ahmedabad).

In BV14 the Muslim community is under pressure to compromise if they want to be rehabilitated in their village. So far there is no compromise and the Muslims are still resisting. But as a result the Muslims have been forbidden to enter the village, operate businesses, or seek a means of livelihood within the village. Most families from this village are currently living in BV37 and BV38. Four to five families are living on the outskirts of BV14. Only three people have returned to BV14. They are the ones who have not filed any pogrom related cases. (Harish, paralegal worker, BO1, Anand).

### **5.2.1 Compromised Return**

Those who have managed to return to their homes have done so under conditions of economic boycott and “compromise.” There are many “compromise” villages and neighbourhoods in Gujarat today. Essentially “compromise” refers to an entire set of conditions under which displaced Muslims are being allowed to re-enter their original villages and neighbourhoods, without overt threat of physical harm. The most important “compromise” condition is of course, the withdrawal of legal

cases against Hindus. But there is also an agreement that Muslims will live not as free citizens exercising their cultural and religious rights, but as second-class citizens according to terms determined by the Hindus. In some cases, this means cultural conditions such as lowering the volume of the *azaan* from the Mosque. In other cases it means the closure of all neighbourhood beef shops (beef here means buffalo meat, since cow slaughter is banned in Gujarat and many other states of India). For poor Muslims this means a complete change of customary diet since mutton (goat meat) is generally too expensive. These “compromise” agreements are both verbal and in many cases written. But even after having compromised there is no guarantee that the Muslims will be left free to live life as they did before.

In Jhalod in Dahod district, the following conditions were put forth before the community as early as 3<sup>rd</sup> March, 2002 when the violence was at its peak:<sup>24</sup>

1. No Muslim boy should come out of the house after 10 pm.
2. No *azaan* to be recited on the microphone in the *Masjid*.
3. Close Muslim student hostels.
4. Close slaughter houses on the highway.
5. When Hindu bands cross the *Masjid* (mosque) they will not stop playing.
6. No Muslim children should stand and watch a Hindu *barat* (wedding procession).

According to Urmila and Prakash, both Hindus from BV41 area in Baroda, who saved several Muslim families in their neighbourhood during the pogrom:

An entire new language has been created in Gujarat. The new word is “compro.” Muslims will be allowed to come back only once they do “compro”– take back their complaints. Very few people have come back to this area. Out of 150 houses, people from about 20 have returned. Others have tried to go back, but Bajrang Dal cadres go there and don’t let them. Yesterday the few people who have returned came to our house again because they were afraid. At 1am last night the BJP [election] victory procession came to our area. Now with the BJP government coming back to power there is no question of the Muslims returning to their homes. They will not dare.

In BV5 and BV6, the Muslims have agreed to compromise in order to live there. The basic condition is that they drop all charges and discontinue court proceedings. The Muslim community has no choice but to agree because they are entirely dependent on the village for their livelihood and survival. In BV9 there has been a written compromise on stamp paper in the presence of senior district administration officials including the Collector, DSP [District Superintendent of Police], DDO [District Development Officer], TDO [Tribal Development Officer], and *mamlatdaar*. Nearly the entire Muslim community has signed this paper, with just a few exceptions. Now the “compromised” families are living in the village and doing their business. (Harish, paralegal worker, BO1 organization, Anand).

Kazi from BV17 in Anand district testified that most of the 32 pogrom affected families in his village have gone back except for five or six families who have filed complaints. But even those who have been allowed back are not living like they did before. Although they have not been directly forbidden from returning to the village, they are being told they are not welcome indirectly. The shops they used to rent are not being leased to them again and there is constant tension that something will happen again.

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<sup>24</sup> Forum Against Oppression of Women and Aawaaz-E-Niswaan, Genocide in Rural Gujarat: The Experience of Dahod District (Bombay: May 2002).

In some cases, the Muslims who refuse to “compromise” and give up their fight for justice, have been pressured to do so by filing false counter-cases against them.

Suleman from BV13 village in Anand district had a kerosene depot that was damaged during the pogrom due to which he suffered huge financial losses. Naturally he filed a case. Now the Patels have filed a counter-case against him. The charges are that he broke the boundary of a temple and destroyed or stole the idols in it. He is now under pressure to withdraw his case against those who damaged the depot. He will gain nothing in terms of financial compensation by dropping the case, but he might just save his life. However Suleman is still persevering. He continues to deal with the case against him, and has not withdrawn his own. He is waiting anxiously for the outcome. In the meantime, his family has moved into the nearby town because their village BV13 is right next to BV15, a very rich and notorious town dominated by Patels. The accused are threatening him that they will make the people of BV15 finish him off.

In some cases individual District Collectors, *mamlatdaars*, and other district administration officials claim to have “helped” or “facilitated” people’s return to their villages. Testimonies before the IJ team, however, found that this “help” consisted largely of negotiating ‘compromises’ discussed above. In a few cases the ‘help’ seemed to consist of little beyond verbal assurances of safety and the attempt to hold village meetings.

The *mamlatdaar* called a meeting to get the Muslims back to their village. But the Hindus did not come—and they do not want us to go back, they do not want Muslims. They are not allowing the meeting to go on. There is pressure from the local authority but there is hatred too. (Razia, PV1 village, Panchmahals).

They do not allow the local Hindu community to come for the inter-community meetings. The VHP stops them. The Bajrang Dal pressurises local people. They threaten them that if they talk to us, then they will be killed too. (Munni, PV5 village, Panchmahals).

These half-hearted attempts at finding a ‘mediated’ solution to communal violence are meaningless because in village after village, the objective and basic conditions for survival—food, shelter and protection from attack—do not exist and have not been provided for.

### ***5.2.2 No Alternative Housing, No Alternative Livelihoods***

But while the State has been unable to secure the safe return of survivors to their homes, it has also completely failed to either build or provide alternative housing. Affected families have been left with few options. Some have moved in with surviving family members. Others stay in rented accommodation. But with an economic boycott preventing Muslims from securing a regular income, their tenancy is constantly under threat,

When we first came, we were all 28 of us in one of our relatives’ house. (Razia, woman survivor, PV1 village, Panchmahals).

They have to stay in rented houses. They do not have the money for the rent. The owners can’t keep them without getting rent for more than 4 months and he wants them out. So they keep moving. And of course children’s education is affected. (Yasmin describing what her neighbours from PV2 are going through in PV3).

Some victims resort to what most abandoned refugees do the world over - collecting old sheets of plastic, adding a little mud and calling it home,

“We built a little hut for ourselves.” (Yasmin, woman survivor, PV2 village, Panchmahals).

Some Muslim migrant labourers have gone back to their respective states. Those with the means to pay for their forced re-location have left for the Southern States, and to Hyderabad city in particular. But many Muslims are still homeless. None of these large numbers of internal refugees have been economically rehabilitated—they have no jobs or no businesses in their new location—and in the current atmosphere of economic boycott, they have little hope of finding any viable work. Their small compensation amounts can only look after daily needs and rent for a short period of time. Once this compensation money runs out, they are looking at complete destitution and starvation of entire families.

We are stuck in an alien land, away from our *vatan* (*motherland*), our home... no home, no land, no work, no security, no hope. (Tabu, young widow, PV26 village, Panchmahals).

Effective housing rehabilitation would have required large-scale re-construction of burnt and damaged homes in the survivors' original place of residence and alternative housing in new locations for those unable to return. In neither case has the government stepped forward. It has not even provided survivors with resources so that they can initiate their own re-building efforts. The few re-building efforts that the IJ team saw evidence of were undertaken entirely by NGOs and local leaders within the affected community. In PV5, for example, out of 49 Muslim families in the village, only seven remain. The rest who have been living in makeshift shelters in PV39 needed permanent shelters. Community leaders approached two Muslim NGOs to build houses. PO7 gave money for the land and PO8 has now given money for construction.

So acute is the continuing perception of being under threat that even NGOs and community leaders are wary of constructing new houses for fear that they may get damaged again. As Akhtar, a camp organizer from Panchmahals district, told the panel:

In PV30, for example, 140 houses have to be re-built. PO1 has affected a “compromise” undertaking from the Muslims that they will not pursue cases against Hindus. This will reduce the threat of future damage to these houses, and only then will the houses be built. The Muslims have agreed to these terms. Evidence of the continuing sense of fear also comes from the fact that one NGO (PO9 from Hyderabad), which has constructed and repaired many houses in Dahod district, has also got each house insured against future damage.

In some cases, the government instead of housing displaced people has used the pogrom as an excuse to acquire land.

In PV15 for example, 7 houses were built on government land – not an uncommon occurrence in India. Now after the destruction of these homes, the government has started building a shopping centre in their place. (Akhtar, camp organizer, Panchmahals).

When we came back to live here in BV45, after a month, we got a notice for demolition of our houses. Before we could do anything about it, another notice was sent. Politicians want to throw us out. We went to BO14 and they are fighting the case. Now that the BJP has come back, we are sure that we will get more notices. So we want help from you to deal with this. This land was earlier a graveyard and the trust sold it to us. There is nexus between the land developers and politicians and the ideology of ethnic cleansing. This is happening at other places as well. (Murad, BV45, area in the outskirts of Baroda).

In addition to those who have been permanently displaced, a large number of Muslim families have now been compelled to maintain two shelters. Many are living in a permanent state of insecurity, where constant threats (verbal and physical) and periodic incidents of violence (like the burning of

houses and business establishments) make it impossible for them to risk staying in their villages at night. So they live in the relative safety of Muslim majority areas in nearby towns, and return to their village during the day to keep an eye on the land, assets and property that may have survived the pogrom. In a situation where livelihoods have been destroyed, the pressure of constant travel and the burden of maintaining two shelters is crippling.

### **5.3 Continuing Economic Violence**

#### ***5.3.1 Economic Boycott of Muslims***

Even before February 2002, leaflets calling for an economic boycott of the Muslim community were being widely circulated. One such leaflet says the following:

The only solution is financial boycott. Anti-national elements that are using the money they earn with our cooperation to weaken us. They buy arms and molest our sisters and daughters. The answer to these elements lies in Financial Non-Cooperation Movement. Come! Let us resolve:

- (1) I will not buy any thing from any Muslim shopkeeper.
- (2) I will not sell my goods to these elements.
- (3) Neither use these traitors' hotels or their garages.
- (4) I will give my car to Hindus' garages only. From a needle to gold, do not buy anything made by a Muslim nor sell anything made by us to them.
- (5) Boycott movies casting Muslim heroes-heroines. Banish films of traitorous producers.
- (6) Never work in Muslims' offices and do not employ Muslims.

Such a stringent economic boycott will suffocate those elements and break their backs. Then it will be difficult for them to live in any corner of the country. Friends, start this boycott from today so that no Muslim will have the guts to lift his head before us and live. Have you read this newsletter? Then make 10 copies and distribute it amongst our brethren. He who does not follow this newsletter and does not distribute it to others—may he be cursed by Hanuman and Ramchandra. Jai Shree Ram!

— A true Hindu patriot.<sup>25</sup>

The Muslim community is today facing an aggressive campaign of economic violence designed to strangle them. The IIJ team saw overwhelming evidence of this at all levels, whether people owned, a business or a petty trade, or worked for wages. Livelihoods and the very survival of Muslims are at stake and the state of “normalcy” pronounced by the government is a patent lie.

The pogrom in February-March 2002 had not only targeted Muslim lives and homes, but Muslim-owned businesses, business establishments and all means of livelihood. The IIJ team found evidence that the economic violence unleashed then was continuing nine months later. Hindutva forces have managed to sustain a systematic economic boycott against the Muslim community in all the affected areas of Gujarat, aimed at depriving survivors of their means of livelihood.

The boycott is enforced through threats of retaliation against non-Muslims attempting to resist the diktat. It is being practiced not simply by individual employers, businessmen, workers and consumers but is part of a larger campaign by sections of Hindu civil society to terrorize Muslims with the full backing of the state. This strangulation is taking place in many different forms and arenas – most effectively in places where Muslims are few in numbers.

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<sup>25</sup> Communalism Combat 77-78 (2002).

### 5.3.1.1 *The rural boycott*

For the Muslims in rural areas who own some lands, a vital means of economic rehabilitation is to return to their villages, take control of this land and begin cultivation. But in case after case they have been denied the right to return. Even in villages where they have been allowed to return under the humiliating “compromise” conditions discussed earlier, the IIJ team heard many instances of Muslims still being terrorized. Many were unable to cultivate their lands, were denied the right to use common canals or bore wells for irrigation, or were simply forced to leave their land fallow in the face of threats of physical violence.

My son is now driving an auto rickshaw on rent. The other villagers are not allowing people to do farming. They are cutting their electricity and do not give them water. If a Hindu talks to us they threaten to boycott them as well. The Patels told us yesterday that we should pack our things because they are going to throw us out in any case. This village has a woman *Sarpanch* (leader) but she doesn't support us in any way. She cannot talk to us, she is a Dalit and is not allowed a voice. (A Muslim woman from BV44 village, Baroda).

In many cases lands owned by Muslims have simply been taken over by Hindus for agricultural cultivation or grazing. Many of the new sharecropping arrangements are also being communally determined, such that Muslims who have land are being economically coerced to give it out to a Hindu resident of the village. Ultimately the Muslim owner may have to settle for the distress sale of the land, which could have been very valuable. The IIJ panel heard many Muslims testify that they would like to sell their lands and leave.

For the landless, the situation remains extremely grim whether they have been allowed to return or not. Agricultural labourers who have returned are not being employed to work on lands. Those who cannot return for fear of physical harm to themselves and their families, generally find themselves the last to be hired as casual labour on construction sites or as *coolies* (porters) in their new place of residence.

We never get work on the farms anymore. Hindus don't come to Muslims for work. No Hindu will employ poor Muslims. Right now, labourers from a neighbouring village are filling the gap of labourers. (Munni, PV5 village, Panchmahals).

### 5.3.1.2 *The urban boycott*

Muslims working in schools, factories, small industry and business establishments – some of them for decades—are also being denied work. The IIJ team heard numerous examples of textile factory workers, construction workers, steel furniture workers, mechanics, and teachers who were fired after years of service as part of the economic boycott. In each case, the excuses differ but the end result is the same. The few Hindus who have tried to stand by their Muslim colleagues have met a similar fate.

Basheer from AA4 area in Ahmedabad was a teacher at the English Medium Public School for the last 7 years. From March 15<sup>th</sup> onwards, he first received memos alleging that his qualification was not enough and later that he had taken away some school property, etc. After 11 hearings, he got a dismissal notice. He was the only Muslim teacher in pre-school and the only other Muslim, a woman who was not holding a permanent job, was verbally asked to leave.

Raza from area AA41 in Ahmedabad was working in the State transport corporation as a mechanic. In the days during and immediately following the pogrom he could not go to work. He lives far from his place of work and was scared of travelling through Hindu

dominated areas. He asked for two months leave, but was given only one month. But he found himself unable to attend until five months after the pogrom. His bosses told him to resign verbally, saying he was absent far too frequently. He had brought with him his duty record to show that he had never absent from work before the pogrom took place, but it did not matter.

Babar worked at a furniture firm in Ahmedabad. Unable to go to work because of the violence, when he did go after three months, he was dismissed. The establishment is owned by a Hindu. Babar was the only Muslim. He had worked with them since the age of 14. He had even called them on March 13<sup>th</sup>, 2002 and asked if he should re-join, but was told not to come because he was Muslim. The pogrom itself had not damaged his house or property but today he finds himself jobless, surviving on loans, unable to support his five children and unable even to pay the school fees to educate of the two children who are in school.

Shakeel had worked for 10 years in an export textile factory in Ahmedabad as a packager. He came to work 15 days after the worst violence and was not allowed to enter the factory. Finally he was taken in by the police because the factory owner filed a complaint saying that Shakeel was threatening them by entering the factory by force. So far Shakeel has refused to sign on a letter of resignation. He has also tried to get another job but there are none available. He has even lodged a complaint against the factory owner through the Workers Union, but so far nothing has come of it.

Siraj had worked in a chemical factory in Ahmedabad on the machines for 10 years. Returning to work three months after the pogrom, he was asked to leave. He was the only Muslim in the factory, but he had good relations with some Hindu *Thakurs* (upper caste) there. He was even living in a *Thakur* neighbourhood. A *Thakur* colleague tried to defend Siraj to the owner, saying, "He has been operating six machines single-handedly, doing the work of one and half men". The owner then sacked the *Thakur*, for simply standing by Siraj, as well.

Alam used to work in another chemical factory in Ahmedabad. He even managed to make it to work during the worst of the pogrom. But later heard rumours that Muslims were not being allowed to work. Gradually the factory started employing new workers, and one by one the Muslim workers were asked to leave. One day in the month of June, he too was fired. They asked him to leave and come and meet the owner at around 12 noon that day. Days passed and everyday he was given a new reason for why the owner could not meet him. He now recalls the leaflets he saw circulating during the pogrom, asking people not to allow Muslim back into their villages and neighbourhoods. And he is angry. "We used to work like slaves and never raise our voice or even sit down in front of the owner," he says. He has lodged a complaint with the Labour Commission. But so far, there is no response.

In both rural and urban areas Muslims are also being forced to discontinue their traditional trades.

In PV25, the *Naiks* (an *Adivasi* community) used to collect minor forest produce and sell it to Muslim traders. But PM17 the local MLA belonging to the Hindu community intervened. Leaflets on the economic boycott of Muslims were spread and the *Adivasis* were forced to take pledges. One *Adivasi*, who tried to sell forest produce to a Muslim, had his entire collection for the day thrown away by PM17. Now there are no Muslim traders to buy the minor forest produce and the *Adivasis* are also going hungry. (Laila, PO12 organization, PV12 village, Dahod).

Those engaged in petty trades like tailoring, plying taxis and those with small independently owned businesses like grocery shops and kiosks have also been seriously affected. They are simply being prevented from resuming control of their businesses, under threat of physical harm.

Razaq's family tried to return to his village BV14 in Anand district with two other neighboring families. But they were not allowed to enter and were forced to live in the fields on the outskirts of the village. None of them have been allowed to engage in any business either. The Patels have told them bluntly that they must shut their shops. They did attempt to re-open their shop but the Hindus threw everything away and told them to first withdraw all the legal cases. Now Razaq's family survives by selling vegetables on the outskirts of the village.

A Muslim woman from BV44 testified to the fact that she had three teashops that were burned and she suffered losses to the tune of Rs.85,000. Now she goes to different villages as a daily wage labourer because she does not get work in her own village.

Even if the Muslims brave it out (which few have done), their shops and trades are not being patronized by the majority community, which spells economic decimation. Other methods of squeezing independent business ventures are also being vigorously implemented. Denial of access to credit is one certain way to cripple petty traders, especially those trying to restart trades that were destroyed. No one is willing to give Muslims the small capital in the form of seed money that is needed to purchase goods and re-enter the trading cycle. Many Muslim traders have also found that they are no longer considered "safe" trading partners by Hindu creditors and that the two-way credit system by which most petty trades operate is not open to them. Muslim traders have also found that those who owned them money before the pogrom are defaulting. Shop owners find that even though their shops were totally destroyed, the government refuses to give them loans. They are being asked to prove that those shops existed. This is impossible to do since the shops were completely gutted and nothing remains of them.

### ***5.3.2 The communal economic incentive***

The flip side of the economic decimation of Muslims is the economic benefit being derived by Hindu residents of the same villages and neighbourhoods, many of whom participated in the attacks on Muslims in the pogrom. Communal violence and politics is being given a continuous economic incentive, far surpassing the one-time gain derived from the looting which took place during February-March 2002.

The IJ team heard many testimonies of the ways in which the forcible exit of Muslims is being accompanied by a take-over of their occupations and businesses by Hindus. This phenomenon can be seen in transport businesses, cassette shops, petty vending on hand carts and other small businesses.

PV5 is en route to an important local pilgrimage centre. Pilgrim trade is the lifeblood of the village. Once many of the small kiosks dotting the place were owned and run by Muslims. It was lucrative business. That, along with plying pilgrims to and fro in jeep-taxis, was a source of livelihood for almost 90 per cent of the people in the village. After the pogrom, Muslims have found their traditional places for setting up kiosks usurped by Hindu kiosk owners during their absence. They (Hindus) categorically refuse to vacate. Mumtaz from PV5 village in Panchmahals district testified:

They do not allow us to keep our handcarts. They come in large crowds of 50 to 100 people and they stop us at the door if we prepare to leave the house. The crowd is mostly men but women also join. And those women once even beat me up 2-3 months ago (September-

October 2003). I went to the police but the policeman told me to go home, that ‘nothing will come of your Muslim complaints.

Mumtaz and Munni from the same village PV5 say:

They don’t let us do any business here. They tell us to go back. And our men who still have some jeeps intact, they are not allowed to take their jeeps into the area.

### ***5.3.3 Loss of livelihood, Loss of Hope***

The continuing economic squeeze upon the Muslim community has led not only to the loss of livelihood but also to loss of hope and a debilitating desperation.

Casual labour is the only option left. Loading trucks, that is the only work available. Construction workers are not being taken back by the contractors. Now the *Hindutva* of these employers has emerged so they are not employing any Muslim. So for the most part, people are not getting anything. They are just standing and waiting in the hope that a contractor will pick them up. (Devan, social worker, PO12 organization, Panchmahals).

The displaced women of PV1, PV2, PV4, PV5, PV6, and PV39 told the IIJ team, that today they do just about anything to make a living: casual labour, driving rented rickshaws, or taking a handcart around town. Anything. But while they once managed to get 40 *maunds* of maize, now they survive on just five or ten *maunds*.

Ghettoisation thus takes place at various levels and has meant the shrinking of all kinds of spaces. It not only determines the areas in which people can live, but also affects the overall economic situation of the community as its logic dictates where jobs can be taken and what kinds of jobs are available. In the case of trades, it means relying on an already impoverished community with less buying power which leads to a cycle of further deprivation for the community as a whole. This also means a shrinking of the sense of belonging, security and dignity.

The situation is summed up aptly in the words of a social worker, Banu, working with BO7 organization in PV39 village in Panchmahals district:

The biggest damage the violence has caused is that the community has been stripped of dignity and self-esteem, reduced to utter helplessness. The people of PV5 were very well off. And now they keep asking us, “What will you give us, what have you brought?”

## **5.4 Continuing Violence & Its Impact On Women...**

### ***5.4.1 Mental Health Consequences***

Chapter 4 of this report has examined the nature of the February-March 2002 pogrom in Gujarat, and the futile attempts of its victims to get justice from the State. Nine long months later, justice is still as elusive. The post-pogrom period, continuing till the time of writing of this report, has been marked not simply by a failure of the State to act, but by a pro-active and systematic obstruction of any attempts to secure investigation and seek legal redress. The failure of national legal remedies to prosecute perpetrators of the pogrom and secure justice is examined in detail in chapter 6.

All that the victims have to show today are the scars of continuing mental trauma.

#### ***5.4.1.1 Silencing of Pain:***

For women who were either directly violated or whose family members were killed, raped or mutilated, the denial of redress and the lack of public acknowledgement of the violence has exacerbated the trauma. In many cases, women have been forced into silence about rape/sexual

violence because that is the price their community has agreed to pay in order to be allowed back into their homes, villages and neighbourhoods. This is part of the “compromise” conditions discussed earlier, where Muslims have been forced to negotiate “peace” with their Hindu neighbours. The price that Muslim women have had to pay for this negotiated and unequal peace is total silence about the sexual violence, and the agreement that no legal charges will be pressed against members of the Hindu community. This silencing takes place, as we discussed earlier, in addition to other ways in which voices are stifled before the strength to speak is even gathered. The following testimony by Taslima from AO3 organization is an indicator of the number of women who suffered.

I have interviewed more than 100 women, 55 of whom were gang raped. There are many more that I know but have not recorded their testimonies as the community did not want me to talk to them because many were unmarried. Some were married too. I had to go to each village six or seven times before they could start talking about sexual assault. Each woman you speak to would tell you another eight to ten cases who were gang raped in front of her. So the number of gang rapes goes much higher. There are indeed many cases.

The situation has been particularly vicious for young, unmarried girls who were sexually brutalised, for proclaiming the sexual violence they suffered makes it more difficult for them to be married. The forced marriage of young girls is but one of the tragic consequence of this situation. Some mothers reported to social workers that they had been compelled to send their daughters away or marry them off in a hurry, often at a very young age, to men they knew to be unsuitable, lest word of their “shame” got around.

So while some married women have in some cases spoken about their violation to members of their own community, in the case of unmarried girls the silence has been absolute. The widespread ‘silence’ also suggests a gross under-reporting of cases of sexual crimes, even to social workers and volunteers.

#### *5.4.1.2 Trauma*

Silence has meant that women across the board have repressed their pain with immense consequences for their mental health. There has been no acknowledgement of the need to provide treatment for Post-Traumatic Stress Disorder (PTSD), a known consequence of such situations, and a serious public health concern. Camp volunteers, untrained in providing specialised psychiatric care, could only provide basic human emotional support. A social worker remarks that, overall, “Suicidal feelings are on the rise among the displaced,” (Devan, PO12, Panchmahals). A psychiatrist also reports having come across “many women who are mentally disturbed” while an activist says she “personally witnessed the case of a woman who could not sleep for months.” (Taslima, AO3 organization, Delhi, presently working in Gujarat) Many women and young girls exhibit signs of severe mental stress disorders, veering between depression and anger, and are often unable to do even basic household tasks.

“I have seen so much that I can’t forget it” (Safia, another woman who witnessed mob attacking – rapes, bodies burnt from AA1 area, Ahmedabad).

“My niece said last night that [16<sup>th</sup> December 2003] why don’t they kill us all once and for all?”(Sameena, BV43 area, B08 organization, Baroda).

“It’s been ten months but I can’t forget it. I just feel like crying all the time.” (Tabu, who witnessed the rape of her sister-in-law and niece, and saw their bodies being thrown into a well, PV26 village, Panchmahals).

## **5.4.2 Economic Destitution and the Burden on Women**

### *5.4.2.1 Creation of Female Headed Households:*

Many women lost the only family breadwinner, and are today destitute. Many have never worked outside the home before, have no marketable skills, no job experience, and fear the outside world. Economic destitution has made them entirely dependent either on charity from community patriarchs or on the goodwill of NGOs. On several occasions, women burst into tears in front of their children while explaining to the IIJ team that they had no way to feed them the next day (women from PV10). In most cases economic destitution is coupled with the scars of violence, trauma of displacement and re-location, and the sole burden of managing children and a household. This is compounded by the fact that they face an uncertain future.

According to Bibijan from PV30 village in Panchmahals district, out of 800 to 900 Muslims in her village only 30-35 families have managed to return, but even they are still living in tents. The 9-12 from the village widows are refusing to go back because their husbands were killed right there. The fear is too great. “10,000 people attacked us. How can we trust them after that?” she says. She lives in a widow home and says, “I am living here out of desperation. At least I get 2 meals a day.”

Nagma’s husband was killed. They used to own a vegetable stall in their village (PV30 in Panchmahals district). She now lives in PV20 and says, “Here, in PV20, there is only a large wholesale vegetable market, so a small stall is not feasible. Setting up a grocery store is too risky because people might take things on credit that I may not be able to recover. And I can’t go back to the village because of fear.” At the moment she is living off the compensation money with one child in rented accommodation.

### *5.4.2.2 New roles and Burden of survival:*

Many women have been forced to flee their homes and live in new alien situations where their traditional support systems – family, neighbourhood, extended kin networks – do not exist. Here they find themselves coping not only with trauma and loneliness, but also struggling with unfamiliar surroundings and the new demands of daily living. Even where they have returned to their original homes their neighbours have changed beyond recognition. Hostility is a daily visitor. The combination of threats, actual incidents of violence and internalised fear pressure daily lives tremendously. Women described to the IIJ team how these factors add a burden to already difficult material and psychological conditions:

The taps in our houses had been broken but when we came back they would not even let us fill water from their houses. We see that they are wearing and using things looted from our house during the pogrom but we cannot say or do anything. People who had given us shelter also do not recognize us. They keep making fun of us. When my daughter heard rumours that there might be trouble during the declaration of election results, she got hysterical and started screaming that she did not want to live here. Instead of helping her or asking us to stay the women and children from the neighbourhood were laughing at us.

If Muslim women are washing clothes they have to move over when the Hindu women come. If Hindu women are there first they won’t make way. All we want is to live in peace and earn a living. They have so much money. Why can’t they just leave us alone. (Women survivors from BV9).

This is the fourth generation of Muslims to live here. But now, we have to live with great courage. They don't let us fill water, or give electricity – anything.” (Munni, PV5 village, Panchmahals).

We cannot go to the bazaar– no woman can. They stripped us naked and made us walk and beat us all in the open market all the way to the police station. (Ruksana, PV10 village, Dahod).

The economic boycott has also affected Muslim women as consumers. Many women told the IJ team that they are forced to travel long distances to get basic supplies as Hindu shopkeepers in their area would not sell anything to them. The IJ team in Ahmedabad met some women in the AA2 area visit. These women were from a group of 45 widows from AA1 and AA7 area who were settled in AA2. The women said that it took them the whole day, every day, to collect food against their ration cards. The cards can only be used in designated ration shops in the original residential areas from where the women have now been displaced, and they are is a long distance away from the current houses assigned to them by the PO1.

These women are also entirely dependent on others in the community to help them with the daunting procedural requirements for getting relief and compensation and for managing bank accounts – tasks that many have never had to handle before.

According to Salma, a relief camp organizers in Panchmahals district, many of the women are not educated and often unaware of their rights. The day after their money was deposited in the bank it would vanish–withdrawn by a brother-in-law or some other family member who claimed that the money was not safe with women or that the woman would remarry and leave the children to be raised by them. Salma has now recovered money from some men, and opened bank accounts for the women as sole signatories.

The risk of male family members being attacked or rounded up by the police on their return to the village has forced some women to take on several new roles. In such situations older women take on the role of checking on land and property or facing the police during “combing operations” in the neighbourhood where it is reported that Muslim men and boys are routinely and indiscriminately picked up. Women are also seeking means of subsistence, as noted by Dewan from PO12 organization in Panchmahals, “Earlier, Muslim women would not go out – now they are going to work because the men don't get any work anymore”.

### ***5.4.3 Impact on physical health***

#### *5.4.3.1 Reproductive and Sexual Health:*

The physical impact of sexual violence experienced by Muslim women of Gujarat continues till today. Even now, the survivors of sexual violence have little access to counselling and information related to their sexual and reproductive health and rights. Little attention paid to issues related to pregnancy, abortion and sexually transmitted infections as a consequence of sexual violence. In the days following the carnage there were no services that acknowledged women's specific health needs. In the relief camps, the lack of privacy prevented women from seeking treatment for many of the gynaecological problems that they were suffering from. Many women had to give birth in the camps, assisted largely by local volunteers, without the requisite facilities, expertise or environment. Women at the camps, as well as those in curfew-bound areas, were not in a position to seek specialised health services at all.

According to a fact-finding report by the Medico Friends Circle,<sup>26</sup> made available to the IIJ team, several cases of polymenorrhea (shortened menstrual cycles), dysmenorrhoea (painful menses) and menstrual irregularity were encountered among women in the camps. The onset of these problems seemed to be related to the violence women had experienced and the attendant psychological and physical stress. Several women also reported chronic vaginal discharge (vaginal infections). Yet so long after the worst violence, the IIJ team found no evidence of medical help being made available to women to help them deal with the long-term effects of their problems.

#### *5.4.3.2 Impact of Impoverishment on Nutrition and Health of Women:*

In a situation where livelihood options for the entire community have been almost entirely destroyed, providing adequate nutrition for the family has been an issue of serious concern for the women survivors. The premature closure of relief camps and the lack of employment have forced many violence-affected families into a food crisis. Though the Gujarat government issued relief ration cards to the riot affected several women survivors reported that the allocated amounts were grossly inadequate. For those displaced, these cards were of little value help as the rations had to be collected from the original ration shop in the neighbourhoods to which they were unable to return. Reports by women activists mention that women have cut back on their daily diets, sometimes eating only one meal a day. This is hardly surprising as it is well established that even under "normal" circumstances in India, women in the family eat the least in terms of quantity and nutritious value. In a crisis situation they are bound to be the worst affected with serious long-term health consequences.

#### **5.4.4 Impact on Life Choices**

Given that the entire Muslim community in Gujarat is experiencing an acute sense of vulnerability, and a loss of dignity and "honour," women of the community are bearing the brunt of the social response. Since community honour is seen to repose in the women and they have been attacked so brutally, there is now a heightened protectiveness towards women and girls within.

The threat perception to young Muslim girls has led to a spate of early marriages. Young girls considered at highest risk of future sexual attacks were hurriedly married off by their parents while they were still in relief camps. According to estimates by social workers there were at least 150 panic marriages in the relief camp in the town of Godhra, and 180 marriages in *Shah-e-Alam*, the largest relief camp in Ahmedabad.

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<sup>26</sup> Medico Friends Circle, Gujarat Carnage and the Health Services: A Public Health Disaster (May 2002).

For the same reason, young Muslim girls also find their mobility restricted. Public space is no longer seen as a safe space for them and they are not allowed to “hang around” with friends in the neighbourhood or on street corners. In many cases the fear of sexual assault has made parents pull their young daughters out of schools; their life choices compromised forever. In many cases of course, the girls themselves are too scared by what they have seen and heard to want to go to school.

#### *5.4.4.1 Resurgence of traditional identity markers and roles:*

Generally communities under threat cling to their religious/cultural traditions and identities in times of crisis, which invariably leads to stricter definitions of social rules for women. Similarly, in Gujarat, male community leaders are increasingly insisting that women should fit into their narrow definition of what a “good Muslim woman” should be. This is also due to the strong presence of Muslim ‘charitable’ groups during the post-pogrom period. Given that the Indian state abdicated its responsibility in terms of relief and rehabilitation, most of the work was undertaken by Muslim organizations. Taslima, an activist from AO3 organization of New Delhi, who works in Gujarat remarked, “Very few secular groups and NGOs were working and most of the relief work was done by Muslim groups; it is very unfortunate that the community had to look after itself.” Muslim charitable groups take this opportunity to disseminate and promote their own definitions of gender norms and relations. The fact that they address citizens’ needs in a very concrete way gives legitimacy both to their presence and their discourse.

As a result, more women are being encouraged to don the veil. On the one hand, it is simply seen as safer to be hidden behind the veil. In villages and neighbourhoods where Muslim women are forced to live within shouting distance of their attackers, many find it easier to live behind the veil so their identity is concealed and they are spared the pointed insults, the taunts and the recollection of the trauma and humiliation of the attack. On the other hand, the veil is also being adopted as a cultural symbol of the Muslim community. Since women were attacked precisely because of their identity as Muslims, the symbols and traditional gender roles associated with that identity are being revived and protected by the entire community.

For example, in a school of about 100 pupils where 40 girls pursue their studies, the veil is compulsory, a fact which is not at all questioned by Mona, an activist from AO4 organization from Ahmedabad: “Muslim girls have to wear headscarves. The girls were not used to it. First, they threw it out. But by now they are wearing it – they are also happy to wear it since they look very pretty.” There is also a kind of “guilty” revival of religiosity. According to Haleema, a lawyer working with an organization PO14: “There is first denial – women go to *Maulanas* (religious leaders) to try and believe that their missing husbands are still alive. Or, they suffer from guilt that this happened to them because we were not good enough Muslims.”

Other examples illustrate the resurgence of ‘traditional’ gender roles even for women who can be considered “outsiders.” Muslim women activists and social workers from outside Gujarat, who have visited regularly since the violence are welcomed for the help they offer, but nevertheless criticized for not wearing the veil or not being accompanied by a male mentor.

## **5.5 Long Term Impact On Children**

### ***5.5.1 Children traumatized***

Scores of children experienced and witnessed the most horrific scenes of physical and sexual violence during the pogrom. The testimonies placed before the IIJ team made it evident that little professional help was ever made available to them. Nine months later, children continue to be in

varying states of trauma, the full extent of which one will perhaps never know. The children will bear these scars for a lifetime. The little counselling that is being done is done on a group basis and there is still no individual counselling available. Many displaced children who stayed in camps, may not have seen violence themselves but they have heard about it and their lives have changed because of it. Friends were lost, children who grew up together were separated into different relief camps and now find themselves living in different locations. The children need to build new relationships to restore faith in themselves and in others, but they are suspicious now of strangers and do not trust easily. The “us” and “them” divide has left a deep, perhaps immutable, imprint on their minds.

A boy from the AA2 area came back to his house and fell unconscious and started stuttering. No one knows what he had gone through. He was taken to hospital. After few days his father had gone to fetch medicines for him and got killed by a VHP/Bajrang Dal mob. The boy's situation worsened, since he thought he was responsible for his father death. He became violent, used to beat up his sister and also used to hurt himself. If asked he said, “If I don't hurt myself, some one else will do it to me, so how does it matter.” Now the counsellor has started treating him. He is better but not the same. (Mona, trauma counsellor, AO4 organization, Ahmedabad).

Babu, a Muslim boy from AA1 area in Ahmedabad witnessed the rape of his sister. He is 13 year old and extremely violent.

We have been doing a lot of work with children who were in camps. In our work we have noticed that when children saw the colours red and yellow they could not tolerate it. They would start getting agitated and traumatized. (Gulnaz, a social worker who worked in the relief camps, Baroda).

Children from AA1 area came from a middle class background. They had never experienced anything like this fear or deprivation. These children were used to drinking milk, and now they had nothing. All they wanted was to go home. There was nothing to eat. We started a therapy exercise with them. They had to tear paper, soak the paper in bucket of water and throw it at a wall. This was to help them get the tension and anger out. Invariably when we asked them to draw anything, they drew burning houses. (Sarah, a woman activist and her colleague Aamir, organization AO7, Ahmedabad).

### ***5.5.2 Denial of access to schooling through terror***

Mona, who has been working with AO4 organization in AA2 area for several months, testified to the IIJ panel about some of the changes in the pattern of education, which she has noted. According to her, many children have stopped going to school. Those who were attending private English medium schools find them unaffordable now. If the resources are stretched, and a choice has to be made, parents would rather spend their money on educating boys rather than girls. In some cases, children who were in school are now working to earn money. After all they have experienced they see further study as an entirely futile exercise. If the schools happen to be located in Hindu dominated areas, then the children cannot attend at all. The school management has also played its part in pushing children out, by sending letters to Muslim parents saying that they send their children to the school at their own risk.

Our children go to school, but they are scared. Other children abuse, harass and threaten them. My elder daughter does not go to school even now, she is too scared. (Ruksana, village PV10, Dahod).

Tabu, a young widow from PV26 in Panchmahals district with 5 children to raise, tells of the obstruction she faces, “Four of my kids are school going but where I am now staying in PV20, they are not giving admission to my children. They say I should get permission from their previous school in PV26. And over there they tell me, “The other school is no good, send your children here.” But how can I ever send them back there after all that happened?

In case of girls, people are scared to send them out of the houses even to school. Parents have read about what has happened to women in other places, so they will not send girls out or far for studies. There is the constant fear of sexual assault that bothers parents. They are also getting the girls married early at a young age. Their education has been stopped and parents are eager to have them married because they’re scared of what might happen to them. Girls were getting married in the camps, though I don’t understand how this will help save them from sexual assault because marriage did not prevent rapes, we know it happened to all women. (Samira, school teacher and activist, BO8 organization, Baroda).

In some cases, girls who were sexually violated have to go to school with the knowledge that others know their “shame.” In the absence of a supportive school environment, this can be paralyzing for young Muslim girls. Some girls have dropped out of school because they know what happened to so many others and are scared of suffering the same.

### **5.6 Attack on supporters**

Activists, social workers and concerned citizens who have tried to help the Muslim community have themselves come under threat and harassment from *Hindutva* forces. Several testimonies highlighted the risks faced by social workers, especially women, both Muslim and non-Muslim:

Many women [social workers] have faced attacks, on the charge that they are linked to NGOs which are foreign funded or to Christian organizations, accused of being interested only in conversions. Physical threat was given to us: the VHP president and BJP president of the *taluka* [block] said that they will burn our office and that the same thing that happened to Muslim women can happen to you. (Laila, PO12 organization, working in PV12 village, Dahod).

There has been an attempt within the Muslim community to move from being victims to becoming survivors. For Muslim women in particular, the destruction of traditional systems of support has forced them into collective modes of action. Many women were active in helping victims and organizing relief in the 103 refugee camps across Gujarat. Some women left their homes for the very first time in their lives in order to do so. Education too has become a matter of concern for the entire community. Many community leaders see education as a weapon with which to arm themselves against future attacks:

The only way we can transform the situation is to have mass programmes of education or other such programmes.... I agree that it is our weakness that women are not educated. Our women did not know how to resist the violence. We are trying to educate our women....Our women have not seen colleges, or cities. They did not have the wherewithal to deal with sexual assault. When the women fled, they did not know what to take with them and what to leave behind. (Fardeen, relief camp organizer, PV10, Panchmahals).

Girls here are not educated, it is not that we do not have brains. If the girls had been educated, they could have protected themselves in the recent violence. So we thought that we have to try to change things, so that they are better equipped to deal with these kinds of situations. We decided we would bring our girls out, educate them. There was objection

[from the community]. They said, “Why should girls go out and work?” But we said that education would only help the girls. And we set up a *madrassa* (school). (Nafisa, social worker, BO16, Panchmahals).

But today these active Muslims are extremely vulnerable to intimidation by the State. The draconian POTA law has indeed been used against precisely those Muslims who were seen as playing public leadership role in the process of community recovery. Many have been jailed and others, particularly Muslim women, are now too terrified to play a visible community role.

## **5.7 Conclusion**

The IJ team which visited parts of Gujarat in December 2002, nine months after the pogrom, found overwhelming evidence of new and continuing forms of violence against the Muslim minority. They are unable to resume anything resembling a normal life, unable to ensure basic survival and to make free choices in the pursuit of happiness and well being for themselves and their families. The future holds dread.

The fundamental and Constitutional rights of Muslims as citizens of India—economic rights, social rights, cultural rights, religious rights, equality before law—have been violated with the full collusion of the Hindu right-wing government. Even for the most heinous crimes of mass murder and rape, in which both the right to life and the right to bodily integrity are violated, legal options have yielded no results.

This is particularly alarming for what it portends for Indian democracy and the Constitution, which guarantees special protection for the rights of minorities, who are viewed as vulnerable due to their fewer numbers. In the absence of this protection, what we are seeing is fascist majoritarianism in the guise of democracy whose target, in the first instance, is the Muslim community. So far, there is nothing to suggest that this genocidal project will stop on its own. The situation in Gujarat, therefore, calls for urgent action on the part of all sections of society, within and outside India. The international community at the level of the State, inter-governmental and non-State organizations must condemn the advance of this genocidal project in India and pressurize the Government of India to restore human rights and protect the rights of minorities. There is an urgent need to declare a genocidal alert.

## Chapter 6

### Obstacles and Limitations of National Legal Remedies

The State is responsible for compensating the Muslims in Gujarat for the gruesome violence they experienced. This compensation needs to be in terms of both material receipts and access to justice. Chapter 4 presents the intensity and degree of complicity of State officials in greater detail, particularly the police and civil administrations, whose roles as State officials became secondary to their affiliation to the Hindu Right. It is evident that the State has failed to provide compensation in all respects. Instead of ensuring access to justice, systematic efforts have been made to scuttle the investigation and prosecution process right from its early stages, to justify the violence and to deny justice to victims and survivors. Added to these active efforts, are the inherent limitations of Indian laws and procedures to prosecute crimes of mass violence, which places severe obstacles in the process of obtaining justice.

#### 6.1 Aid, Relief and Assistance or Reparation?

To use words of voluntary aid such as “assistance,” “aid” and “relief”— as opposed to the language of obligation and entitlement — is clearly a State exercise to absolve itself of any responsibility and accountability to affected citizens. This stance of both the Central and State government is a far cry from the recognized terminology of “Reparation” under international law. Reparation is understood as the effort to repair damages suffered by victims as a result of State failure and normally includes restitution (restoration of victims to the circumstances before the violation), compensation (provision of any assessable damages, both material and emotional, for the physical, psychological, direct and indirect harm suffered by the victim), rehabilitation (provision of medical, psychological, legal and social services including education and training on the means to develop new livelihoods) and satisfaction (a public acknowledgement of the wrong and promises of non-repetition with steps to restore the confidence and relationship between and within communities and the State.<sup>27</sup> If the government does not accept any responsibility of what happened, reparation can only remain a distant dream.

Reparation in situations like the post-Godhra pogrom would not be made only for the death, harm or loss suffered by victims. It must also include measures to address the continuing sense of fear and anxiety victims experience; the trauma and psychological damage the victims, women and children experience, the loss of citizenship rights and the sense of betrayal the affected community experiences.

Of the four aspects of reparation, judiciary of both the High Court and Supreme Court of India recognize the right to compensation and have in a number of instances awarded compensation or interim compensation to the victims. In *P. Rathinam v/s Union of India and others*, where four police officers were involved in sexual assault on a woman, the Supreme Court accorded interim compensation (Rs. 20,000) to the woman concerned.<sup>28</sup> In *Gundalure M.J. Cherian and others v/s Union of India and others*,<sup>29</sup> the Supreme Court directed the Uttar Pradesh government to pay Rs.2,50,000 (approximately US\$ 5000) as compensation to each of the two sisters who were sexually assaulted and acknowledged at the same time, that there were major lapses amounting to misconduct by the concerned police officer during investigation.

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<sup>27</sup> The Women’s International War Crimes Tribunal for the Trial of Japan’s Military Sexual Slavery, 4 December 2001, The Hague, The Netherlands, Pp.- 254-261.

<sup>28</sup> 1989 Supp. (2) SCC 716.

<sup>29</sup> 1995 Supp. (3) SCC 387.

There have been precedents of the judiciary also holding the State responsible for not controlling situations of riot and protecting property of the people. In a case filed regarding the Coimbatore riots, the Madras High Court held that “There was total failure by the State to perform its mandatory duty, which would amount to culpable inaction. There has been deprivation of fundamental rights and the State is under a Constitutional and legal duty to compensate the victims.” The Court directed the State of Tamil Nadu to pay compensation Rs 33,19,033/- as assessed and recommended by the collector to the victims of Coimbatore riots.<sup>30</sup> Similarly the Delhi High Court has also awarded Bhajan Kaur, a survivor of the anti-Sikh riots in Delhi in 1984, an “Increased compensation from Rs. 20,000 to Rs 200,000 to be given with interest i.e. Rs 3,50,000/-.”<sup>31</sup>

There is thus no reason to believe why the Supreme Court would not take a cue from its own previous rulings and order appropriate interim relief to victims of the Gujarat pogrom, pending investigation of different cases, including those of sexual violence.

## 6.2 Shah and Nanavati Commission

The State in response to the victims demand for justice and for action against those responsible for the violence in Gujarat in February–March, 2002, established an Enquiry Commission under the National Human Rights Commission Act. Setting up an Enquiry Commission for widespread violations are often a means to delay prosecution, avoid responsibility and shield top public officials, politicians and other powerful individuals that are known to be involved. There are several problems with such Commissions. First, they take very long to complete their reports. Second, their findings are published as recommendations and are not mandatory in nature.

The experience of two prior situations where Enquiry Commissions were established (though not comparable to Gujarat events) are indicative of the problems and the ineffectiveness of these mechanisms. Eighteen years later, the Commission set up to investigate the anti-Sikh riots following the assassination of Indira Gandhi in 1984, has yet to submit a report. The Sri Krishna Commission, set up to look into the 1992-93 riots in Bombay following the demolition of the *Babri Masjid* in North India, submitted its report after seven years. The report indicted several individuals responsible for and complicit in the riots. It has been four years since the release of the report and no action has been taken against any of those indicted for fear of refreshing “old wounds.” It would seem that as far as the State is concerned, Enquiry Commissions are a means to serve a dual purpose (neither of them being to serve justice): to immediately demonstrate that the matter is “being investigated” and to erase the events from public memory years later. Many of the perpetrators of both the riots mentioned above continue to enjoy complete impunity. Citizens, particularly those affected, are therefore not inclined to place confidence in such a mechanism.

There are other reasons that contribute to the lack of confidence in the Gujarat Commission as pointed out by Advocate Rehmat and Advocate Majeed from Baroda. Justice K.J. Shah had sentenced persons from the Muslim community to death when presiding over the TADA court in the matter of the Dabgarwad, Laliwal case and the Supreme Court had completely reversed the verdict and also questioned the reasoning of the TADA court.<sup>32</sup> His appointment as the Commissioner to investigate the Gujarat events was therefore opposed. The situation was remedied by appointing Justice Nanavati. Justice Nanavati has subsequently made inappropriate remarks about the case before the Commission while the investigation is still pending. Kartik, a lawyer from Ahmedabad appearing before the Commission said, “Investigation was wrong and police were

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<sup>30</sup> *R.Gandhi and others v. Union of India and another* AIR 1989 Mad 205.

<sup>31</sup> *Bhajan Kaur v. Delhi Administration* AIHC 1996 Del 5644.

<sup>32</sup> *Communalism Combat*, 77-78 (2002) 110.

changing (their story) as per political requirement and we will never see the truth and Justice Nanavati also knows that.”

In May 2003, Justice Nanavati made another statement to the media absolving the Modi government and police officials of Gujarat of any responsibility in the post-Godhra violence. He said that the Commission had recorded no evidence that suggested the complicity of the Narendra Modi government or its police in the post-Godhra killings of Muslims.<sup>33</sup> The propriety of this public statement when the Commission is not even half-way through recording of testimonies, particularly about the region that was even in Nanavati’s admission, worst affected (Ahmedabad) is highly questionable. It also leaves one wondering whether the appointment of Justice Nanavati remedied the perception of the Commission as a “saffron” body at all, or merely regularised it.

### 6.3 Biases in the Investigation and Prosecution

The whole criminal justice system works on the premise that any crime committed is an offence against the State, and that the burden of proof lies on the State or prosecution. The criminal justice system is also governed by the principle that the rights of the accused need to be protected. This principle checks and balances the power of authorities, particularly in cases where the accused come from marginalized sections of society, in a social system where the police and other repressive State agencies engage in violations of all sorts in seeking convictions. However, in the case of crimes *against* people from marginalised sections of society, *by* those with more power, this protection frequently helps in denying justice to the victims. It is obvious that in such a situation, because of the high level and wide complicity of the police and top officials in the State administration legal proceedings against many accused is a non-starter. Yet, the irony and expectation is that those very officials who were involved in the crimes will conduct the investigation and assist prosecution of the guilty.

The section of the legal community that has been representing survivors does not have confidence in the State’s justice mechanisms. Anil, a lawyer from BO1 in Anand district, says in his testimony, “In courts 85% of judges are Brahmins or from other upper castes and *Hindutnavadis*. Also, public prosecutors are appointed by the State from among the RSS fold.” Many reports including the one made by the National Human Rights Commission (NHRC) demanded that the Central Bureau of Investigations (CBI) investigate the Godhra and post-Godhra events. In fact, the Public Interest Litigations (PILs) filed in the Gujarat High Court and in the Supreme Court within six months, petitioned the Court on a number of issues including the need to transfer investigations of major cases to the Central Bureau of Investigation (CBI). A year later, the investigations by CBI is one of the crucial measures that remain relevant, but the Supreme Court is yet to even hear the case.

The police took long to make charge sheets, in some places they have still not done so although they have to do so within 90 days. If you don’t submit a charge sheet the accused can go free. Even in very violent incidents people have been granted bail before being arrested. (Anil, lawyer, BO1 organization, Anand).

Where five functionaries of the Bajrang Dal, VHP and BJP were named in an FIR as instigators, four are free on bail and the fifth was never caught.<sup>34</sup>

One year later, when the panel visited Gujarat, charges were yet to be framed in major cases of the post-Godhra violence. Some of these cases were the Ode case (27 persons burnt alive) from Anand

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<sup>33</sup> Sunday Mid-Day, May 25, 2003.

<sup>34</sup> The Sunday Express[Mumbai], March 2, 2003.

district, the Ghodsar case (14 persons killed) from Kheda district, the Naroda Patiya, Naroda Gaam (103 persons killed) and Chamanpura cases from Ahmedabad district.

While the cases of the violence against the Muslim community do not proceed, the very same people are victimized and harassed by the government on false charges. By September 2003, 240 persons were booked under POTA<sup>35</sup> in Gujarat alone. Out of these 240 persons, 239 persons are from Muslim community. No accused involved in any of the cases involving violence against Muslims have been booked under this Act. Some of the arrested are key witnesses and social workers like Moulana Hussain Umarji, relief Camp organizer at Godhra, clerics Mufti Abdul Kayum Mansuri and Maulvi Abdullahmian Yasinmian Sayeed and relief camp organizers from Shahpur and Dariyapur localities of old Ahmedabad.<sup>36</sup>

#### **6.4 Applicable Laws**

The sections of the Indian Penal Code (IPC) under which charges have been framed thus far are:

- Ss 120 B Criminal Conspiracy
- Ss 153 Wantonly giving provocation with intent to cause riot
- Ss 302 Murder
- Ss 307 Attempt to murder
- Ss 323 Voluntarily causing hurt
- Ss 324 Voluntarily causing hurt by dangerous weapons or means
- Ss 365 Kidnapping or abducting with intent secretly and wrongfully to confine person
- Ss 395 Dacoity
- Ss 435 Mischief by fire or explosive substance with intent to cause damage
- Ss 436 Mischief by fire or explosive substance with intent to destroy house
- Ss 504 Intentional insult with intent to provoke breach of peace
- Ss 506 Criminal Intimidation

From the testimonies presented before the panel, some violations certainly fall squarely under the above sections. Testimonies also suggest that other sections of the IPC were violated but no charges have been framed under them. Some of these sections are:

- Ss 295 Injuring or defiling place of worship with intent to insult the religion
- Ss 295A Deliberate and malicious acts, intended to outrage religious feelings
- Ss 378 – 380 Theft & related offenses
- Ss 403 & 404 Criminal misappropriation of property
- Ss 505 Statements creating or promoting enmity, hatred or ill-will between classes

#### **6.5 Limitations for Justice in Sexual Offences**

It is appalling to note that despite the wide reporting of crimes of sexual violence in different reports on Gujarat, complaints have been filed in very few cases. Of these handful of cases, proceedings have not yet begun in some and one has been closed by the lower courts.<sup>37</sup> The existing laws of sexual offences that have been violated are:

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<sup>35</sup> Prevention Of Terrorism Act, 2002 enacted on March 28, 2002. ‘Terrorist acts’ are defined so broad that anyone could be booked under it. The kind of organization that could be declared ‘terrorist’ is also broad and even human rights groups could be declared ‘terrorist.’ The alleged accused held under POTA are deprived of civil liberties and due process requirements otherwise guaranteed under Indian laws.

<sup>36</sup> Agence France Presse, New Delhi, September 15, 2003.

<sup>37</sup> There is presently an appeal pending in the Supreme Court filed by the NHRC where retrial is being sought.

Ss 375 & 376 Rape

Ss 354 Assault or criminal force to woman with intent to outrage her modesty<sup>38</sup>

Ss 509 Word, gesture or act intended to insult the modesty of a woman

Atrocities on pregnant women that a number of witnesses testified violates:

Ss 312 Causing miscarriage

Ss 313 Causing miscarriage without women's consent

Ss 314 Death caused by act with intent to cause miscarriage and w/out women's consent

Ss 315 Act done with intent to prevent child being born alive

Thus the broad kind of sexual offences committed in Gujarat that can be prosecuted under Indian laws are:

1. rape
2. outraging the modesty of a woman

However, the ways in which these laws are formulated do not reflect the reality of women's experiences of these issues. The biggest problem is that the definition of rape only includes assault in the form of penile penetration. All other forms of assault fall under "outrage of modesty," entailing a much milder punishment because the crime is understood to be much less grave. Prosecution of the crime of rape in "peacetime" shows how evidentiary requirements and procedures that allow for the defense to question the credibility of a woman based on patriarchal norms of morality and gender, contribute to deny justice to women. In 1997-98, less than five per cent of rape cases disposed off by the Court ended in conviction. The Supreme Court has in its decision on *State of Punjab v. Gurmit Singh*<sup>39</sup> recognized the severity of the crime of rape; the limitations of the definition and the evidentiary requirements; and condemned the attitudes during investigation and prosecution of sexual crimes. However, these observations by the highest Court have not been translated into legislation that can effectively deal with the lacunae in the investigation and prosecution of crimes of sexual violence.

The serious limitation of laws to provide justice for crimes against women in non-conflict situations became highly exacerbated in situations of mass violence where sexual violence is targeted and used as a core strategy of destruction. Such situations make the overall environment in which violence is unleashed inherently coercive. Laws, criminal procedures and evidentiary requirements need to reflect a more nuanced understanding of the coerciveness of such circumstances in order to effectively investigate and prosecute crimes of sexual violence. At present however Indian laws are inadequate to effectively prosecute such crimes against women. The testimonies referred to in chapter 3 for example, where insertion and threats of insertion of objects into women's vaginas qualify only as acts only "to outrage modesty," punishment under Indian laws is also not severe.

Understandably then, lawyers working on sexual assault case with the existing legal system are very frustrated. Haleema, a lawyer, feminist and human rights activist from PO14 explained that they have to:

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<sup>38</sup> Understanding of crimes of sexual crimes as 'outraging of modesty' is archaic. There is recognition in recent times that crimes of sexual nature are crimes because they are invasive violations of a woman's person and bodily integrity and not because they outrage women's modesty. Such recognition has translated to international laws in the recent exercise of codification of customary international laws in the Statute of the International Criminal Court. Indian laws on sexual offences need to be reformed to reflect the recent and more accurate understanding in international law of the manner women face and experience sexual violence.

<sup>39</sup> AIR 1996 SC 1393.

Struggle to get the crime of rape prosecuted as against the crime of murder. There is a constant effort at prioritizing between the two—the debate being which is most strategic to push. It is often difficult for many in civil society groups to make an argument as to why is it important to deal with the crime of rape when rape is harder to prove, often lacks evidence, and murder has a higher punishment. Often the crimes of rape and murder happen together and there is a tendency for understanding rape as something that just happens to be part of the complaint. Moreover there is also a tendency of lawyers working on the cases to believe that rape is a private sexual act and so it cannot have happened in a public space. They don't see it as an act of violence.

Because of the inability or unwillingness of male lawyers to appreciate that rape is a crime comparable in its gravity to that of murder, witnesses are encouraged to give more emphasis on murder and leave rape out of their statements.

Nafisa, a woman from PV2 village in Panchmahals district, testifying before the panel said that the police had done nothing about her case yet. She had filed a report with the police in which she had named five persons. She went to take the copy of the FIR the next day, but the police refused to acknowledge that she had recorded a statement the previous day. After waiting for three hours to collect a copy of the FIR, she noticed that the police had dropped the rape charge.

Ratilal Soma Rathod alias Bhavanisinh was repeatedly named by residents of Naroda Patiya who testified before the panel, as the one who was leading the mob and instigating men to commit acts of sexual violence against women. He is the accused in the only rape case registered for the area but has obtained bail for 'want of sufficient evidence.'<sup>40</sup>

The requirement of forensic evidence is a particular barrier in the successful investigation and prosecution of the crime of rape. And the fact that, in situations of mass violence too, the requirement of forensic evidence is not waived guarantees impunity to those who plan and conduct pogroms. The acts of sexual violence are accordingly planned and perpetrated in a manner so as to destroy forensic evidence or at least make it extremely difficult to find.

Girish, a legal activist from AO4 in Ahmedabad, informed the panel that in most cases of rape and gang rape, women were burnt alive to leave no traces of the evidence of sexual assault. In some cases, the evidence was actively destroyed. Taslima, an activist from AO3 organisation, testified that all kinds of active obstruction of legal process had taken place in cases of rapes. In AV13 village, one woman was gang raped and burnt. Her body was taken to a health centre in AV14. The doctor reported that she was gang raped by eleven people and burnt. Then men from VHP came there, took the post mortem report, tore it and threatened the doctor to keep his mouth shut. It was the doctor's student who had carried out the post mortem. The doctor does not talk about this case now.

The complicity of hospital administration as stated in section 4.6 also adds to the difficulty in gathering evidence required in prosecution of crimes of sexual violence. The post mortem form that hospitals are required to fill in the event of death have, as a matter of routine, two questions that could establish if the victim was subjected to sexual violence—injury to external genitalia and injury to internal sexual organs. Hanifa, from AA4 area in Ahmedabad declared to her father before her death that she was raped. The post mortem report given to her father stated that there was “no injury to external genitals” and “nad” (nothing abnormal detected) in response to the question on internal

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<sup>40</sup> The Sunday Express, [Mumbai] March 2, 2003.

injury. (Girish, Lawyer, AO4organization, Ahmedabad). Thus in cases where the bodies were not fully burnt and the post mortem could have been performed, it is highly probable that the hospital authorities did not or were prevented (as evident from the testimony referred to in section 4.6) from looking specifically for evidence of violations of a sexual nature.

## 6.6 Inadequate Legislation

There are other critical aspects to victims testimonies that raise questions about the adequacy of Indian laws to address the incidents that took place all over the State of Gujarat. Many victims, from different regions of the State, testified that the police had said they had no orders to save the victims. The question therefore that arises is why the police want orders to perform their constitutionally mandatory duty of protecting citizens unless they had orders *not* to perform their duties? The order had to come from officials in positions of such authority and power so as to affect the fate of senior officers in the police ranks, in the event the orders were disobeyed. The order was clearly authoritative enough for it to be obeyed so thoroughly and consistently by the police and other organs of the State administration across Gujarat.

Advocate Rehmat and Advocate Majeed from Baroda mentioned in their testimony that the Revenue Minister, Mr. Haren Pandya<sup>41</sup> said that the Chief Minister of the State of Gujarat, Mr. Narendra Modi, had given police orders not to act. He was pressured to withdraw his statement and not given a party ticket again.

This is also confirmed in the Concerned Citizen's Tribunal–Gujarat 2002 report. Narendra Modi is therefore criminally responsible for the violence apart from conspiring, wantonly giving provocation, intentionally insulting with intent to provoke breach of peace and criminal intimidation as provided for in section 120B, 153, 504 and 506 of the IPC. He has criminal responsibility as an individual in a superior commanding position with knowledge or the obligation to know what was happening across the state of Gujarat and in his failure to prevent the pogrom. When an entire range of criminal acts take place in a widespread and systematic manner pursuant to a plan or a policy as in the case of Gujarat, the acts constitute crimes against humanity in international law. (Discussed in chapter 8)

Another aspect of the testimonies presented before the panel is the purposeful targeting of Muslims that was evident. Many victims asked their aggressors why they are being targeted and the response they got was that because they had the misfortune of being born a Muslim. The violence was targeted against the Muslim community and slogans and words used by the mobs as reported by the victims indicated the intention to destroy the community in every possible way. “*Maaro, Kaapo Baalo*” (beat, stab, burn), “Take her today as she may not be available tomorrow,” “Will repeat Naroda Patiya (Naroda Patiya has become synonymous with complete destruction, killing, raping, burning and looting) here,” “Why is he studying he will become terrorist in any case,” are some of the slogans recounted by the victims.

As detailed earlier, a number of victims testified that the violence unleashed against the Muslim community was planned and implemented by leaders of the BJP, *Bajrang Dal* or VHP with an intent to destroy. In legal terms, this constitutes the crime of Genocide under the Convention on the Prevention and Elimination of the Crime of Genocide, 1948. (Details discussed in chapter 7)

There are no distinct provisions in the IPC or in other legislation which criminalize individuals who have the duty to protect citizens and have abdicated such obligations and actively participated in criminal activities. Moreover, much as some of the charges mentioned describe the criminal acts

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<sup>41</sup> On March 26, 2003 Mr. Haren Pandya was killed by an unidentified gunman.

themselves they still do not adequately reflect the crime as a whole. There is no law in the IPC that captures the gravity of the crime that took place in Gujarat, as India has not legislated within its domestic legal system the crime of genocide and crimes against humanity, as codified in international law. But the lack of legislation nationally, on a specific crime recognized in international law, has not prevented India from applying international laws domestically or interpreting existing Indian laws in ways that outlaw the crime in question. The Supreme Court held in *Ktaer Abbas Habid Al Qutaiji v Union of India*<sup>42</sup> that where no construction of the domestic law is possible, Courts can give effect to international conventions and treaties by harmonious construction. Such construction has been made by Indian courts a number of times to outlaw the crime of Torture despite the fact that the “torture” is not defined in the Constitution or in other Indian penal laws.<sup>43</sup> Similar construction is necessary to outlaw the crime of genocide and crimes against humanity in the absence of specific legislation that does the job.

The Gujarat State government and the Indian government, despite compelling and consistent testimony to the contrary, is representing the crimes in Gujarat as acts of individuals in spontaneous outburst to the Godhra train mishap, and not as acts constituting the heinous crime of genocide and crimes against humanity. In doing so, they are clearly violating international law as noted above and explained more fully in Chapters 7 & 8. In addition, the State government is also in violation of several other human rights treaties and conventions such as International Covenant on Economic, Social and Cultural Rights (failure to ensure these rights to the affected community), International Covenant on Civil and Political Rights (no protection of basic right to life, personal liberty and dignity), Convention on Elimination of all forms of Discrimination Against Women (gross violation of women’s and girls’ bodily integrity and rights), Convention on the Rights of Child (violence against children and children witness to crimes against their parents and other family members, suffering psychological trauma), and the Declaration on the Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief.

Finally and most critically, the governments both in Gandhinagar and New Delhi, shown total disregard for and committed gross violation of the guarantees of fundamental rights (to life, to personal liberty, to be free from discrimination, to social and cultural rights etc). to all citizens in the Indian Constitution. With the complete and total collapse of confidence the affected community has in the Shah-Nanavati Enquiry Commission, the Gujarat State government and the Gujarat High Court, the Supreme Court of India is the only institutions from whom the victims and survivors of the Gujarat pogrom have expectations of justice. Unless the Supreme Court acts immediately and decisively on justice related petitions relating to the Gujarat violence and orders measures that would provide justice and reparations to victims, holds the guilty accountable, restores the confidence and trust of the affected community and the credibility of Indian judiciary - one of the mainstays of democracy, is at serious risk.

## **6.7 Developments since June 2003**

The pogrom in February-March 2002 was gruesome and the crime as a whole needs impartial investigation and prosecution. However, there were specific incidents of violence that attracted the attention of the NHRC because of their brutality and the nature of testimonial evidence available. As is evident from their report, the complicity of State officials and institutions in the pogrom did not escape the attention of the Commission. The Commission identified five incidents that could result

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<sup>42</sup> 1999 Supreme Court Unreported; Cited in Palok Basu, Laws Relating to Protection of Human Rights, (Allahabad: Modern Law Publishers, 2002) p. 532.

<sup>43</sup> *Ibid.*, p. 741.

in conviction if properly investigated. One such case is what has come to be known as the “Best Bakery Case.”<sup>44</sup> In June 2003, 39 of the 73 prosecution witnesses turned hostile resulting in acquittal of the 21 individuals named as accused.<sup>45</sup> On inquiry it was found that Mr. Madhu Srivastava, the local BJP MLA, accompanied the witnesses to the Trial Court when they withdrew their statements.

These reports stirred the Commission to file a special leave petition requesting that the Supreme Court order the State of Gujarat to conduct a re-trial of the Best Bakery case.<sup>46</sup> The Gujarat government condemned the move of the Commission particularly when, they claim, they were themselves filing for a re-trial of the case. On September 12, 2003, the Supreme Court passed a stinging comment on the process of justice in Gujarat calling the government’s re-trial of the case an ‘eyewash and asking the State to either provide justice or quit.’<sup>47</sup>

Both, the action of the Commission and the comment of the Supreme Court are indeed commendable and go some way to restore the confidence of the victims and reassure the citizens of the independence of Indian judiciary. However, there is a lot more that the Supreme Court can do to improve the overall health of the judicial system in the country. The Gujarat situation is one that calls for foresight and *suo moto* actions on part of the Supreme Court.

First, the Court needs to look into ways of interim implementation of the Justice Malimath Commission report on witness protection so that prosecution witnesses do not turn hostile for fear of life or due to other threats. Secondly, the complicity of Gujarat State officials in the pogrom is a well-established fact and therefore any expectation that these officials will incriminate themselves for the sake of justice is highly dubious. The acquittal in the Best Bakery case is evidence of this very obvious point. The judicial system allows for transfer of cases from one place to another if the accused fears that he/she would not get a fair trial in the Court with original jurisdiction. The rights of the accused are thus accorded high priority. There is a need to balance this approach to accommodate the rights of victims as well.<sup>48</sup> The petition by Zahira Shaikh requesting an order from the Supreme Court to transfer her case to another State must be seen in this context.<sup>49</sup>

Moreover, in the light that the events of Gujarat in February-March 2002 are international crimes of genocide and crimes against humanity (See Chapters 7 to 9), the Supreme Court or indeed the High Court of any other State in India must assume universal jurisdiction and apply international law to initiate a process to investigate and prosecute those responsible for these crimes with the help of the CBI. For without an independent and impartial authority leading the prosecution of the pogrom in Gujarat, justice will not be served.

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<sup>44</sup> Twelve persons were burnt alive in a bakery in Vadodara district and two were reported missing on March 1, 2002.

<sup>45</sup> <http://www.rediff.com/news/2003/jun/27guj.htm>

<sup>46</sup> <http://www.rediff.com/news/2003/jul/31best.htm>

<sup>47</sup> <http://in.rediff.com/news/2003/sep/12best.htm>

<sup>48</sup> This is also in keeping with recent developments in international criminal law. The ICC statute has for example, included a number of provisions, which recognizes the rights and interests of the victims and allows for their legal representation and participation in the trial process.

<sup>49</sup> Zahira (name unchanged) is one of the witnesses in the Best Bakery case who turned hostile. She later left Gujarat and made known that she withdrew her original statement in Court because of threat and intimidation from Mr. Madhu Srivastava, the local BJP legislator.

## Chapter 7

### Gujarat Pogrom As Genocide

Under international law, offences such as genocide and crimes against humanity are committed not only against the persons or communities targeted; they are also, *erga omnes* violations, that is, violations of obligations that are owed to every nation, and thereby, to humanity as a whole. Genocide and crimes against humanity are also non-derogable violations (*jus cogens*) that can never be justified. As such, these crimes are subject to universal jurisdiction, which triggers the authority, and, indeed, the obligation of the international community as a whole, and every nation individually, to extradite or prosecute the perpetrators. For the reasons set forth in the following two chapters, the pogrom against the Muslim community of Gujarat and the on-going persecution constitute both a genocidal attack and a crime against humanity.

Under international law, “crimes against humanity” and genocide are equally grave violations. There is no hierarchy of egregiousness between them. In assessing whether the attack on the Muslim population of Gujarat constitutes either crimes against humanity or genocide, we have closely examined the facts available to us in light of the international understanding of each of these crimes and their distinct elements. Having done this exercise we agree that, given the context in which these crimes occurred, the attack on the Muslim population in Gujarat as well as the continuing persecution *prima facie* meet the legal criteria of both genocide and crimes against humanity. Both crimes give rise to Universal jurisdiction to try the perpetrators and obligate the Indian State to repair the damage and prevent recurrence.

The contemporary understanding of both genocide and crimes against humanity has also been shaped and developed through the jurisprudence of the post-World War II Tribunals and, more recently, in the *ad hoc* International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR). In the following discussion, we draw upon the Genocide Convention and the Rome Statute as well as upon Tribunals’ jurisprudence and other sources of international law.

#### 7.1 Are events in Gujarat in February-March 2002 Genocide?

Over the years, tremendous caution has been exercised in the use of the term “Genocide.” Since genocide’s are often State-sanctioned mass violence against a particular group or collectivity within its territorial borders, acknowledgement that a certain situation is genocide at once holds the State or authority under which it occurs, responsible. It places an obligation on the States that acknowledge the genocide, to take all measures to prevent and prosecute those responsible. The reluctance by States in the international arena to acknowledge genocides may thus be motivated by the desire to avoid “telling on other States,” to protect their economic or other interests with the genocidal State and escape any obligation to take action. It is, however, articulated in objective terms like, whether the death and physical harm has been significant, whether the two sides are equally responsible or not, whether the “genocide” is a manifestation of internal political equations or not and other similar arguments that are generally put forward by the genocidal State.

The IJ panellists too proceeded cautiously in discussing some of the above issues and others such as the need to adequately describe the continuing violence, the hierarchy of harms compared to situations elsewhere in the world and the psychological significance of the use of the term “genocide”. After a long discussion and due consideration of all issues involved, the present panel has, for reasons explained in detail below, come to the conclusion that there is an on-going genocidal project in the State of Gujarat and that the events of February-March, 2002 in fact satisfy the legal definition of the crime of genocide.

## 7.2 Legal definition of Genocide

The Genocide Convention, completed in 1948, defines the crime of genocide in Article 2:

Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- a. Killing members of the group;
- b. Causing serious bodily or mental harm to members of the group;
- c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d. Imposing measures intended to prevent births within the group;
- e. Forcibly transferring children of the group to another group.

If any one or more of the above acts are committed with the intent to destroy a group identifiable as a distinct national, ethnic, racial or religious group, it is Genocide. There are many testimonies presented to this panel and other tribunals from which it is clear that four<sup>50</sup> of the five acts mentioned above have been committed.

## 7.3 Group targeted on the basis of religion

Although geographic area is of little consequence,<sup>51</sup> all the excerpts of the testimonies produced in this report show that the scale of atrocities was committed across two-thirds of a vast geographical expanse of 196,000km. The crimes were simultaneously committed and were targeted systematically only at the Muslim community. Indeed, as referred to in section 4.4 of this report, perpetrators and the police specifically said that victims were being attacked because they had the misfortune of being born Muslims. The discussion on the question of “Intent” below also demonstrates that Muslims have been the target of the violence. The group therefore has been targeted on the basis of their religion.

## 7.4 Killing members of a group

(a) The excerpts from testimonies below not only show the prevalence and extent of mass killings but also the fact that they happened simultaneously and in similar ways in different geographical regions.

My son, his mother-in-law, brother-in-law, two sons of my sister-in-law and my brother-in-law’s two sons were killed. They were killed and burned in front of my eyes. Total 10 were attacked out of which seven died. Amongst the dead is a three year old child. (Sulema, woman survivor, AA1 area, Ahmedabad).

A 28 year old woman, Gazala from AA1 area in Ahmedabad said that she had a family of 11 members and 8 of them were burnt to death. She and her son were injured. All of them were burnt and beaten and attacked with swords. Her husband and daughter were taken to Vadilal hospital and they died there.

In the Best Bakery incident in Baroda at least 12 persons were burnt alive and two have been reported missing possibly dead. The incident as reported by the surviving eye witness Zahira Shaikh, “Around 8.30 at night, the mob came. They were shouting loudly - making sounds like *Adivasis*. They had swords, bottles, stones, tins of petrol and kerosene, and were beating

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<sup>50</sup> The IIJ panel did not come across any testimonies or reports that suggest forcible transferring of children to another group.

<sup>51</sup> In *Prosecutor v Jelicic* judgment, the Trial Chamber noted that ‘it is accepted that genocide may be perpetrated in a limited geographic zone.’ IT-95-10 ICTY, para 83.

metal plates. There were about 200-300 men and boys... We ran upstairs... At first they looted the bakery... They set fire to the room on the ground floor.. My Uncle who could not run and my sister got burnt in it.. Two other people who were in the house then also died ... The whole night we were on the terrace, and the mob kept pelting stones at us, abusing us and trying to make us come down. They kept trying to put a ladder from behind the house to reach us, but the walls were too hot. ... “In the morning, we kept pleading and asking for forgiveness (*hum ne maafi maanga*). We pleaded for our lives, but the mob, who had been joined by more people in the morning, just laughed.... After a while, they put a ladder at the back and helped us come down.... The mob kept yelling, '*Maaro saalon ko*' (Kill them). They beat the boys more, and when the Hindu workers were trying to escape, they killed them with swords right there. They kept saying, “rape these women,” and were trying to drag us (the women) into the jungle.”

They killed 9 men in my village before my eyes. My son was slashed on his cheek. They threw one daughter into water and hit my other daughter. I got hit while trying to protect her. The police was standing and watching. (Pyarijan, woman survivor, PV30 village Panchmahals).

(b) The exact numbers of how many people were killed in the days after February 27, 2002 is not certain and will perhaps be never known. The official number of deaths in fact conceal a story rather than reveal any real information. The Gujarat administration attempted to keep the official record of those dead low. This was accomplished in many ways. Many were burnt alive and the bodies of those who were killed were also subsequently set on fire. Often the survivors buried the bodies before any investigation could take place. The authorities have no report of the body count of the numbers burnt by authorities. Since many were burnt beyond recognition, relatives could not recognize whether those they reported as missing were in fact dead. Many who sustained injuries and refused to report them for fear of reprisals, subsequently died and their deaths went unreported. Hospitals where injured were admitted have not maintained an accurate record of deaths.

Medical examinations and records of injuries were not maintained and .... doctors did not help in ways that they could have to record the violence. (Hema and Chetan, activists, organization BO11).

The number of deaths should therefore have consisted not only of the officially reported ones but also of the number of people reported missing, the number who died days after sustaining injuries, those who were buried immediately and those whose death went unreported because of the deliberate attempt to keep down the numbers. Independent fact-finding missions visiting Gujarat within a month of the pogrom report the number of people killed as around 2000, over a period of a week, and the number missing at 2500.<sup>52</sup>

(c) Testifiers saw numbers of dead bodies, again in geographically disparate areas of Ahmedabad and Panchmahals.

Abbas from AA4 area in Ahmedabad told the panel that he was involved in clearing 58 dead bodies and bodies of 26 persons who sustained injuries from an area that was set on fire. Of the 26 injured, 10 died in civil hospital and 16 survived.

Shoab who works in PO2 organization and was camp organizer in PV11 in Panchmahals, testified that in PV10 area, pigs were scavenging on dead bodies. The NGOs got the

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<sup>52</sup> Communalism Combat, 77-78 (2002) p. 17.

Collector to send vehicles to pick up the bodies and finally bury them in a *jamaatkhana*(mosque) not in a burial ground.

(d) Often the discussion of whether a genocide took place edges around the “numbers game” i.e. “only 2000 were killed” which implies that it could not have been genocide. Some believe that to make a genocide claim, one has to wait till the death toll rises to millions of people. There is clearly no indication of this either in the definition of genocide or in the negotiations leading up to the Convention. Reading numbers into a definition where none exist is being *ultra vires* to the objectives and purpose of the Convention. The crux of the crime of genocide therefore lies not in the numbers but in the intent to destroy, in whole or in part an entire group of people. The means of destruction, however, are broader than killing. Killing members of a group is only one means of committing the crime of genocide.

### 7.5 Causing serious bodily or mental harm

(a) Genocide is also perpetrated by causing serious bodily or mental harm to members of a group within the context of an intentional effort to destroy the group in whole or in part. In the *Eichmann* case, the District Court of Jerusalem noted that serious bodily and mental harm of members of a group could be caused by “.....deprivation of their [the group’s] rights as human beings, and to suppress them [the group members’ rights] and cause them [members of a group] inhumane suffering and torture.”<sup>53</sup> This view was reaffirmed by the International Criminal Tribunal for Rwanda (ICTR) in the recent *Akayesu* case where the Trial Chamber noted, “causing serious bodily or mental harm to members of the group does not necessarily mean that the harm is permanent and irremediable” and includes “acts of torture, be they bodily or mental, inhumane or degrading treatment, persecution.”<sup>54</sup> Testimonies, like the following and others in the report, demonstrate that many suffered severe physical or mental harm.

Zainab, a woman from AA4 area in Ahmedabad was fully burned. All in her family have died except her grand mother. The mob took her to AA5 area and burned her and her brother. She is 18 years old.

(b) The following testimonies demonstrate the irreparable mental harm caused, to children and male members of families who were forced to watch their female relatives being sexually assaulted and raped.

The testimony of a 10 year old Sahir from AA2 area in Ahmedabad demonstrates the severe physical and mental harm that children have suffered. He was beaten with pipes and his parents were burnt alive. He is the only survivor. He also witnessed the killing of Farhat in AA1 area. Eight people died in his family. He was in the camp for 8 months. Even today he feels scared and cannot sleep. Most of the children in the camp were in the same mental situation.

Women from BV16 recounting some of the cruelty said, “Betrayal of trust was rampant.” People would tell them to run or hide then send the mob after them and proceed to loot their houses. These mobs would stop the women when they were running, give them water, and take their clothes off. They would douse them with petrol. They would be chased by 50-100 men at a time. “Our men and sons have lost their minds, they could not do anything. They do not like to show their faces but what could they do when they [the mob] were

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<sup>53</sup> *A-G Israel v Eichmann* (1968) 36 ILR (District Court, Jerusalem) p. 340.

<sup>54</sup> *Prosecutor v Akayesu* ICTR-96-4-T, Sept.1998, para 502 and 504.

standing in front of them, threatening to kill. Husbands, brothers in law, fathers in law were all there while it [rape] was happening.”

Summarizing the humiliation and persecution felt by the community, Banu from PO7, in PV39, Panchmahals district said in her testimony, “The biggest damage the violence has caused is that the community has been stripped of dignity and self-esteem ... That hurts me a lot and I want to change things. The sense of isolation is also what bothers me.”

(c) While the causing of serious bodily harm is rather straightforward and uncontested, the inclusion of serious mental harm in the Genocide Convention generated some confusion initially. Mainly the questions that arose were how was causing mental harm with the intent to destroy a group in whole or in part, different from mental harm caused otherwise? Or does mental harm relate to injuries sustained to an individual’s mental faculties or is it the kind of harm caused by the use of drugs and narcotics. The *travaux*, or the negotiating history, of the Genocide Convention suggests that most of these views did not receive much support. Consequently, text of the Convention does not include any language that indicates a requirement that acts causing mental harm must be such as to result in the destruction of the group. The text does not limit mental harm to apparent injury to mental faculties nor does it specify the use of narcotics.<sup>55</sup> Rather serious mental harm encompasses psychological harm including traumatization, terror, humiliation, assault on human dignity. This was inflicted on Muslim individuals and the Muslim community as a whole as part of the effort to destroy them by breaking their will and collective security.

## **7.6 Deliberate infliction of conditions of life to bring about destruction of a group**

(a) The ICTR’s *Akayesu* judgment on this issue suggest that infliction of conditions of life should be “construed as methods of destruction by which the perpetrator does not immediately kill the members of the group, but which, ultimately, seek their physical destruction.” The enumeration of the different methods used to inflict conditions of life include “*inter alia* subjecting a group of people to a subsistence diet, systematic expulsion from homes and reduction of essential medical services below minimum requirement.”<sup>56</sup> This list is not exhaustive and is very specific to the case before the Rwandan Tribunal and to the nature of evidence placed before that Trial Chamber. The draft of the Convention mentions another important provision describing that physical genocide could be perpetrated by depriving the group<sup>57</sup> of means of livelihood like confiscating property, looting, curtailment of work, denial of housing and of supplies that are otherwise available to others. There is thus a serious emphasis on deliberate deprivation as well as failure to provide for conditions of life which is “apparent not by some abstract standard of a vital minimum but because it is discriminatory vis-à-vis other groups.”<sup>58</sup> There are many testimonies referred to in subsection 5.3 that point to a virtual economic boycott of the Muslim community in Gujarat since March 2002, one of the means of inflicting conditions of life on a targeted community.

(b) The victims of violence in Gujarat were subjected to conditions of living that were grossly inadequate and much below subsistence levels. As documented earlier in chapter 4, many Muslims could not access emergency health care and, once in hospital, were untreated or mistreated, as

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<sup>55</sup> See discussions in William A. Schabas, *Genocide in International Law* (Cambridge: Cambridge University Press, 2000) 159-165. Indeed it was India that proposed the final wording of Art.II(b) insisting on ‘serious mental’ harm as opposed to the higher standard of ‘grievous’ and without any reference to use of drugs.

<sup>56</sup> *Akayesu*, *Supra* n.52, paras 505 and 506.

<sup>57</sup> Deprivation could also be caused by failure to provide services and conditions of life in addition to actively withholding or refusal.

<sup>58</sup> Schabas, 165-171.

recorded in Saleem's testimony in sub-section 7.8 (b) below. Some testifiers indicated that continuing medical and health problems, which remained untreated were causing suffering resulting in the inability to carry on daily life. Testifiers reported that there were deliberate acts to prevent the wounded from reaching any medical facilities or obtaining assistance.

We were not allowed to reach hospital. Mob was interested in not allowing the doctors to reach hospital because they wanted people to die without any medicines. .... Every time we took critical patients to hospital... the police would stop our vehicle saying we are carrying weapons in the ambulance. (Tayabba and Gulabi who worked in AA3 camp in Ahmedabad).

(c) In the February-March 2002 violence, the Muslim community of Gujarat also suffered the carefully targeted destruction of their homes, businesses, and property—both personal and earning assets. Section 4.8 of this report lists measures taken by the government to provide immediate economic relief to victims and survivors and testimonies of how these provisions fell short of even basic needs and requirements. In addition, there are reports that in some places, graveyards that had no provision for basic sanitation and hygiene (e.g., one toilet for thousands of people) were used as refugee camps for displaced people. Finally the testimonies below and in chapter 5 show that there was an active and continuing effort to deny members of the Muslim community in Gujarat sources of livelihood. Needless to add, these measures consign members of the Muslim community to public charity or illicit means of maintaining of themselves and their families. To be deliberately deprived of livelihood destroys both body and spirit and the consequences lead potentially to the slow death and disintegration of the community in addition to the more immediate death inflicted by the mobs through killing, raping and torching.

Laila from PO12 organisation of PV12 village in Dahod district testified that leaflets proclaiming an economic boycott of the community have been distributed and pledges have been taken in villages to implement the boycott.

Taslima, an activist from AO3 working in different areas of Gujarat noted that there is an active boycott on Muslim shops. All the business of Muslims have been totally destroyed. Muslims are not allowed to conduct a business at a place where a Hindu might have his. This is true for all small towns in Gujarat.

### **7.7 Imposing measures to prevent births within the group**

(a) Births in the Muslim community of Gujarat are clearly seen as a problem. When an overwhelming number of Muslims were in refugee camps after the attacks, the Chief Minister of Gujarat, Mr. Narendra Modi made the following comment in one of his speeches, "Relief camps are actually child-making factories. Those who keep on multiplying the population should be taught a lesson."<sup>59</sup>

The only so-called relief camps that existed in the State of Gujarat at the time were ones that provided shelter to 'house' victims and survivors from the Muslim community. The population Modi refers to in his next sentence is the population of Muslims which needs to be aggressively restricted by "teaching them a lesson."

(b) Admittedly, the act of imposing measures to prevent births does not refer to threats of acts that might be committed in the future. The negotiating history of the Convention identifies methods that potentially cause prevention of births as sterilization, forced or compulsory abortions, segregation of

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<sup>59</sup> The Hindu, September 10, 2002.

sexes and imposing obstacles to marriage.<sup>60</sup> Positive developments in international law since, through judgments of the *ad-hoc* Tribunals, have led to recognition that the use of sexualised violence in genocide is as a way to prevent births by causing serious bodily and mental harm to the women and by knowingly humiliating and stigmatising and thereby rendering women either unable or ineligible to participate voluntarily in the reproductive life of the community. The specific ways in which acts of sexual violence in Gujarat constitute genocide are discussed below.

## 7.8 Genocide through Sexual Violence

(a) Over the last five years, *ad-hoc* Tribunals evolved jurisprudence recognizing that rape and sexual violence may constitute genocide in the same way as any other act, provided they meet the intent requirement.<sup>61</sup> This has also been reaffirmed in the Elements Annex of the Rome Statute of the International Criminal Court, which clarifies that genocide by causing serious bodily or mental harm “may include, but is not necessarily restricted to, acts of torture, rape, sexual violence or inhuman or degrading treatment.”<sup>62</sup>

(b) Very evidently, some of the testimonies presented below show that acts of sexual violence were committed. In many cases, rape or gang rape was the torturous prelude to killing, often by torching the raped woman alive or throwing her to a fire. Inserting iron rods and swords into the vagina of a woman, cutting her open to extract the foetus or for other mutilatory purposes, torching her after rape are all acts that undoubtedly cause serious bodily harm and can lead to death. Because of the stigma and shame attached to rape in society, sexual violence also causes grave mental harm. Even after having suffered violation of her bodily integrity, the woman often feels guilty and responsible for the crime and she may be shunned by her community. And when rapes are committed in front of male members of the family, or in front of children, or in public, the woman and the witnesses suffer additional trauma.

Tahira a woman from AA1 Area in Ahmedabad testified that many women were raped and molested. These women were her neighbours. Fifteen year old Barkat was raped and an iron rod was pushed inside her; even a sword was pushed inside. She witnessed the rape of 5-6 women. Barkat’s mother also saw her being raped. Barkat was burned to death.

Saleem, from AA4 area in Ahmedabad testified that Hanifa, his 20 year old daughter died on 7<sup>th</sup> March in hospital. On 28<sup>th</sup> February, police took her to the hospital and on 4<sup>th</sup> March, he came to know about it. He met his daughter at the hospital who told him what happened. She told him that AHM15, a Hindu man had raped her. She also told him about two other girls who were raped by AHM14 and AHM15. The name of one of the two girls was changed to a Hindu one in the hospital record. They also showed her age as 35 years. She gave her statement to the police and doctors before dying. Her father said that he had seen people who had suffered burns and that, comparatively, his daughter was less burnt. He therefore suspects that she was not allowed to live.

The tempo overturned. As we got out they started attacking us. People started running in all directions. Some of us ran towards the river. I fell behind as I was carrying my son. The men caught me from behind and threw me on the ground. My son fell from my arms and started crying. My clothes were stripped off by the men and I was left stark naked. One by one the men raped me. All the while I could hear my son crying. I lost count after three. They then

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<sup>60</sup> Schabas, 172.

<sup>61</sup> *Akayesu*, *Supra* n.52, para 731.

<sup>62</sup> PCNICC/2000/I/Add.2 Elements of Crimes Annex, Article 6(b) Fn 3, Rome Statute, International Criminal Court.

cut my foot with a sharp weapon and left me there in that state. (Nafisa's testimony that appeared in another report<sup>63</sup>).

(c) Another significant contribution of the ad-hoc Tribunals have been judgments that affirm the use of rape as a means to change the identity of a group, and impart to the child an identity that is different from the one acquired at birth. In *Akayasu*, the Trial Chamber considered that rape could be subsumed within paragraph (d) of the definition of genocide noting "... In patriarchal societies, where membership of a group is determined by the identity of the father, an example of a measure intended to prevent birth within a group is the case where, during rape, a woman of the said group is deliberately impregnated by a man of another group, with the intent to have her give birth to a child who will consequently not belong to its mother's group."<sup>64</sup> Gujarat, like other States in India and outside, is a patriarchal society and the testimonies below show that the perpetrators violated women with the intention of impregnating them with Hindu children. The objective of such impregnation is to replace Muslim children by Hindu children and thereby contribute in bringing about the destruction of the Muslim community.

On 1<sup>st</sup> March '02, I left my home at 1.00 p.m. in the afternoon. I was separated from the rest of the family because of the confusion. I was running towards BV21. At that time, a mob of 20-25 men surrounded me. They said, "She's really pretty and good to look at, she cannot be left alone." I begged them to leave me. They grabbed my son from me and threw the child thrice in the *babul* bush. I begged them to leave my child but they began beating me. One man said, "We shouldn't beat up someone so beautiful, she should be laid on the ground and we should enjoy her body." After this, some were biting me, someone was punching me on my chest, someone was tearing my clothes off and they were abusing me. They were scratching me with their nails or kissing me. They were biting my thighs. They were saying "We will make you birth a Hindu child.' After that three people raped me. They were saying "Use her as much as you want now, we won't get her tomorrow." At that time we could hear screams from the road, so they left me and went towards the road. (Rubina, BV9 village, Anand).

On 1<sup>st</sup> March '02, we left BV9 at around six pm and were going towards BV21. We were surrounded by a mob on the way. Amongst us were seven girls and including me we were eight women. There were eight men with us including my husband, father in law and my nephew. The mob hit the men with iron rods till they lost consciousness. My father in law was threatened with a sword (*dhariya*) "*hum tumko kaat dalenge*" (we will cut you). They took us to the fields and started shouting dirty abuses at us, "We will make you conceive and birth Hindu children." (Rehana, BV9 village, Anand).

They (the mob) were shouting that no Allah would come to protect you. Now say "*Jai Siyaram.*" (Hail to Hindu God Ram). After we impregnate you, then only we will leave your family. (Tahira, AA1 area, Ahmedabad).

## 7.9 Intent to destroy, in whole or in part, a group

(a) Acts are crimes only when the requisite mental element or *mens rea* is met. In general most acts are crimes when they are committed voluntarily and with intent i.e. the perpetrator intended to commit the act and, either intended to cause the consequences of the act, or was aware that such consequences would likely result. The intent referred in the genocide definition however, also refers

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<sup>63</sup> Women's Panel, April 2002.

<sup>64</sup> *Akayasu*, *Supra* n.52, para 507.

to a specific intent in addition to the general intent. It is not sufficient that the acts referred in Art. II (a) – (e) of the Genocide Convention be committed with the intent to kill or cause death or cause physical or mental harm or the knowledge that death or harm would foreseeably result. It is also necessary to show that the acts were committed with the specific intent, expressed directly or inferable from the circumstances, that the acts should cause destruction of a group, in whole or in part.

(b) In *Akayesu*, the Trial Chamber notes that “intent is a mental factor which is difficult, even impossible to determine. ... intent can be inferred from a certain number of presumptions of fact. ...such as the scale of atrocities committed, their general nature, in a region or a country, or furthermore, the fact of deliberately and systematically targeting victims on account of their membership of a particular group, while excluding the members of other groups, can enable the Chamber to infer the genocidal intent of a particular act.”<sup>65</sup> Thus, specific intent can be demonstrated by the presence of a well-defined plan or policy to eliminate, in whole or in part, the targeted group. At the same time spontaneous acts that further the genocide also reflects intent. The fact that only members of a certain group were attacked and that similarly only their livelihoods were destroyed indicates genocidal intent. Genocidal intent can also be demonstrated through statements of leaders and perpetrators and is often preceded and incited by a campaign of hate propaganda that dehumanizes the targeted group, mobilizes people by direct provocation or by stoking fear and/or disgust.

In the context of the Gujarat pogrom, the exercise of signifying intent involves identifying the perpetrators; stating their ideologies in relation to the targeted group; and tracing the ways in which perpetrators are linked to each other and the State. In addition, it involves enunciating the directives of the leadership that guide ideological construction of the targeted group from an economic, gender, cultural, social, and political perspective: and finally demonstrating the ways in which these directives are implemented by the perpetrator group at the ground level.

### **7.10 Victims and survivors describe their perpetrators**

Victims and survivors testifying before the panel named the perpetrators of the crimes they have individually suffered. Some of the above testimonies, and those in other sections of the report, generally indicate who are responsible. Most of them are leaders and members of extreme right Hindu groups such as VHP, RSS, BJP, *Bajrang Dal*, *Shiv Sena*, the head of the State of Gujarat and other senior functionaries and police officials. The following testimonies describe the mobs, which clearly reaffirm and indict the above groups and their leaders:

It was Sunday on 21<sup>st</sup> April. The men [from the mob] were from Shiv Sena with orange belt on their heads.” (Fahima, 27 year old woman survivor, AA2 area, Ahmedabad).

Famila, from AA7 area in Ahmedabad while speaking about her sister-in-law, Firdaus said: On that day she was inside the house with four other persons. ....The mob was shouting “jai shri ram,” they were wearing saffron colour.”

We were having breakfast in the morning. They started throwing stones. The slogans were, get inside and hand over your women. The mob was carrying swords, tridents.( Raffat and Sameera, women from AA7 area, Ahmedabad).

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<sup>65</sup> *Akayesu*, *Supra* n.52, para 523.

Shabana and Shabnam, two women from AA23 area, and Sabiha from AA22 area of Ahmedabad, all concurred that the people in the mob were carrying swords, pipes, *trishul* and saying “Jai Shriram”. All were from Vishwa Hindu Parishad and RSS.

Yusuf from BO8, giving a brief overview on how the violence occurred in Baroda said, The mob carried swords, *trishuls* and other symbols of the *Sangh Parivar*. Petrol bombs and gas cylinders were used to burn these places. ... The mobs were made up of dalits and poor Hindus but the leadership came from leaders of VHP and BJP as well as the *Bajrang Dal*. The *Bajrang Dal* has been giving arms training to the youth even before the riots.”

The men who participated in the mobs were those who participated in the religious programmes conducted by the VHP or who had gone for other VHP programmes. They were drunk, many of the leading ones were rich tribals and the others were dressed as *Adivasis*. Most of those who lead the mobs were from the other backward castes. But we should note that although they are members, tribals do not hold any position of power within these organizations. After the violence, the VHP and BJP have been having night meetings daily, to instruct the guilty about how to duck the complaints, to ensure that the accused are not caught and so on.” (Laila, PO12 organization, PV12 village Dahod; and Kamalbhai, PO3, Panchmahals).

### 7.11 Ideological grounding for the attack on Muslims

Of all the organizations named, the RSS is the oldest and the chief proponent of the fascist *Hindutva* ideology that has been referred to and explained in chapter 2 and in the Annexures. RSS ideologues proclaim, “Hindus alone are the legal citizens of Bharat...”<sup>66</sup> and the non-Hindus “... may stay in this country, wholly subordinated to the Hindu nation, claiming nothing, deserving no privileges, far less any preferential treatment—not even citizen’s rights.”<sup>67</sup> The prescribed treatment of non-Hindu minorities, particularly the Muslim community was therefore found in the example of Nazi Germany. “To keep up the purity of the race and its culture, Germany shocked the world by her purging the country of the Semitic races—the Jews. .... Germany has also shown how well-nigh impossible it is for races and cultures, having differences going to the root, to be assimilated into one united whole, a good lesson for us in Hindustan to learn and profit by.”<sup>68</sup>

### 7.12 Linkages between Hindutva organizations and the State

While the international law of genocide, as set forth in Article IV of the Genocide Convention, does not require the involvement of the state, it is nonetheless clear that when the forces that preach and prepare for genocide acquire state power, as in Nazi Germany and as here, the potential for escalation of the genocidal project is dangerously magnified.

In 1997, the central publication house of RSS, the *Suruchi Prakashan* published “*Param Vaibhav ke Path Par*” (On the Road to Great Glory). This book gives details of more than 40 organizations purportedly created to accomplish different tasks within different constituencies but all working towards the implementation of the *Hindutva* ideology and the manifestation of a *Hindu Rashtra*. All these groups are collectively referred to as the *Sangh* Combine. BJP, the organization formed to take over political power, and named by the victims above appears third on the list.<sup>69</sup> VHP, *Bajrang Dal*,

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<sup>66</sup> Organiser, Vol. 10, Oct.20, 1952, as quoted in C. Baxter, *Jan Sangh: A Bibliography of an Indian Party* (New Delhi: Oxford University Press, 1971).

<sup>67</sup> M.S. Golwalkar, *We or Our Nationhood Defined*, 4<sup>th</sup> ed. (Nagpur: Bharat Prakashan, 1984) 55-56.

<sup>68</sup> Golwalkar, 1<sup>st</sup> ed., (Nagpur: Bharat Prakashan, 1939) 34-35.

<sup>69</sup> See Annexure III for a reproduction of the list

*Durga Vahini and Dharam Sansad* all appear together at number four in the list. Of these, testifiers above have also identified the VHP and the Bajrang Dal. VHP is the organization formed to Hinduise the cultural, religious and social ethos of the country and the Bajrang Dal is tasked with attracting the youth, particularly from the lower caste groups, to use muscle power to manufacture consent for the *Hindutva* agenda and purge undesirable elements in the scheme of things. The *Shiv Sena*, though not officially part of the *Sangh* Combine competes with them in the vehement propagation of *Hindutva* ideology.

The *Hindutva* ideology strives to establish a Hindu *Rashtra* mainly by stoking anti-Muslim feeling among the general populace articulated in language that seeks to justify the sentiment. A recent study done among VHP activists reveals that all “who were met (formally interviewed or not) nurtured without exception a bitter anti-Muslim sentiment, so much that they seem to take as the core of Hindu identity nothing but an anti-Muslim feeling.”<sup>70</sup> The RSS, VHP and their leaders have, on a number of occasion, made statements that clearly voice their anti-Muslim sentiments.

“Let Muslims look upon Ram (Hindu God) as their hero and the communal problems will all be over.” (Organizer, mouthpiece of the *Rashtriya Swayam Sevak* (RSS), June 20, 1971).

“Let Muslims understand that their real safety lies in the goodwill of the majority.” )RSS resolution, Bangalore, March 18, 2002).

“Godhra happened on February 27 and the next day, 50 lakh Hindus were on the streets. We were successful in our experiment of raising Hindu consciousness, which will be repeated all over the country now.” (VHP International Working President, Ashok Singhal, *The Indian Express*, September 4, 2002).

*Hindutva* organizations’ access to State power and institutions are essentially secured and consolidated through BJP, their political formation. With BJP leading a coalition government at New Delhi, there has been a systematic infiltration of RSS functionaries in a number of political positions of authority and power. The Prime Minister, Mr. Atal Behari Vajpayee and the deputy prime minister, Mr. L.K. Advani are leading members of the RSS. For the first time, an RSS *pracharak*, Mr. Narendra Modi is heading a State in India. Further, Annexure V goes on to explain how a number of high officials in public service, judiciary, police and educational institutions are all old RSS hands. As noted in chapter 2 while there have been riots in the State of Gujarat because of conflicting group interests earlier, since the 1990s when BJP rose to power politically, all violence has acquired a communal and religious colour.

### 7.13 Inference of Intent

The ICTR, in its *Akayesu* judgment, refers to a decision of the ICTY on specific intent: “This intent derives from the combined effect of speeches or projects laying the groundwork for and justifying the acts, from the massive scale of their destructive effect and from their specific nature, which aims at undermining what is considered to be the foundation of the group.”<sup>71</sup>

The level and extent of complicity of officials of the State administration is a direct result of the successful infiltration of RSS and their counterparts into bureaucracy, administration and governance. Chapter 4 of the report describes the involvement of government officials, police officers and leaders of extremist Hindu organization officials and institutions in the Gujarat pogrom. From the testimonies recounted there, it is evident that the police and officials of the State

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<sup>70</sup> Katju, 87.

<sup>71</sup> *Akayesu*, *Supra* n.52, para 524.

administration disregarded their duty and responsibility to protect citizens. They colluded in the violence by participating in it, inciting mobs, giving carte blanche to mobs and simply refusing to protect and bring victims to safety. The defiant and non-apologetic statements of the Chief Minister of Gujarat justifying the carnage, plead for recognition as evidence of intent.

“With the entire population of Gujarat very angry at what happened in Godhra much worse was expected.”<sup>72</sup>

Blaming it the Muslim community for the violence, Modi quoted Newton’s third law, “Every action has an equal and opposite reaction.”<sup>73</sup>

Statements like the above from a Chief Minister, who has the responsibility to uphold the Constitution and protect all citizens, certainly indicates his view that carnage is justified in the event of “perceived” aggravation and his support for the violence thus follows. With no evidence even to lend credence to Modi’s claim that Muslims conspired to torch the *Sabarmati* Express,<sup>74</sup> even one year later, his statement about “avenging” it a day after seems to have been a signal to the mobs to implement, to the extent possible, the genocidal intent of destroying the Muslim community, as propounded by extremist *Hindutva* ideology.

#### **7.14 Plan and preparation to destroy**

It seems clear that the construction of a justification was also a part of plan to destroy the Muslims in Gujarat by making the attack appear retaliatory and a “spontaneous” outburst of anger. However, the planning that went into implementing the pogrom gives away their claim that the attack was retaliatory. The testimonies below are accounts suggesting that the attack was planned days in advance and much earlier than the train accident.

In 1999, the Gujarat State government (BJP) conducted a special census of Muslim and Christian households. Justice Kalla (a High Court Judge) initiated a sue moto action and the government had to stop the survey but damage was already done. They had collected enough information.<sup>75</sup> (John, AO12 organization, Ahmedabad).

Professor Keshvram Kanshiram Shashtri, 96 year old chairman of the Gujarat unit of the VHP told a web based news portal [www.rediff.com](http://www.rediff.com) that the list of shops owned by Muslims in Ahmedabad was prepared on the morning of February 28 itself.<sup>76</sup>

The sexual assaults were planned in the Bajrang Dal camps. They circulated many pamphlets, which said women should be assaulted, “Don’t feel guilty to rape women of the other community.” (Lata, woman activist, AO9 organization, Ahmedabad).

Petrol bombs and gas cylinders were used to burn places. The mob used to come prepared with gas cylinders. It is also said that these people were trained to use cylinders much before the incident to be able to burn houses. (Yusuf, BO8 organization, Baroda).

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<sup>72</sup> Narendra Modi, Gujarat Chief Minister, Press Conference in Gujarat, 28 February 2002.

<sup>73</sup> (the action being torching of the train Sabarmati Express which killed 59 Hindu fanatics) [The Times of India](http://www.timesofindia.com), March 3, 2002.

<sup>74</sup> In fact, the police have changed their story a number of times to fit the statements of the leaders that the facts have been obscured beyond recognition and there is serious apprehension that the truth may never be known. See Annexure VIII for the testimony of Kartik, a political activist and lawyer appearing before the Shah and Nanavati Commission inquiring into the Godhra train accident and the carnage that followed.

<sup>75</sup> There are reports that information gathered from this census was used to identify and target Muslim households and individuals for attack and destruction in the Gujarat pogrom.

<sup>76</sup> <http://www.rediff.com/news/2002/mar/12train.htm>

There are similarities in blowing up of the mosque and houses by using gas cylinders. In Sabarkantha and Dahod district villages also you can see the use of gas cylinders though regular gas supply does not exist there and it is clear that this was sent in advance and used against people. The argument of Modi is bogus when he puts up case of spontaneous reaction. Sword and *trishul* is used across the state and this was also sent in advance. Women said that people arrived in *Marutis* (car) to bring swords and tridents. (Taslima, activist working in different districts of Gujarat, AO3).

The pre-planned nature of the attack was also confirmed in a confidential communication of the British High Commission, New Delhi. Commenting on the Gujarat pogrom after a visit to the State, the communication states, “Their systematic campaign of violence has all the hallmarks of ethnic cleansing. The attack on the train at Godhra on 27 February provided the pretext. If it had not occurred, another one would have been found.”<sup>77</sup>

### 7.15 Intent to destroy

The following testimonies, in addition to demonstrating that the above four acts of genocide occurred, also show that the perpetrators intended **to destroy** the Muslim population. Destruction does not only imply acts to cause immediate or eventual death (testimonies clearly point out to the intention to wipe out the Muslim population) but also includes destruction of aspects of life that makes the targeted community a distinctly identifiable group.

Sharifa, testified that when they went to PV2 in Panchmahals district to cast their votes, a mob of men from the Hindu community were present. They were drunk and said, “Now we will not only burn your houses, we will put you into shredding machines. We do not want Muslims.”

They have written on the door of our house, “Don’t come back here, if you come back here, you will be killed.” (Zaitoon, volunteer for organization AO10, Ahmedabad).

Ajaybhai from organizations BO8 and BO9 working in Baroda city, said in his testimony that in the last 10- 12 months BO8 has had to come out with a different face on account of the riots. “BJP, which is a part of the *Sangh Parivar*, has been trying to snuff out the Muslims. It has got power at the Centre. This (Baroda) used to be a Congress dominated area but they have created an atmosphere of terror and have been able to oust the Muslims from their homes.”

One of the means of achieving RSS and VHP’s objective to *Hinduise* the country is to deny religious minorities the right to practice their specific social and cultural ways of living, or to obstruct it. Exhortations to destroy Muslim places of worship, or to claim them as places of Hindu worship, have been propagated consistently in order to reduce the visible presence of the Muslim community. Though acts of cultural desecration are not by themselves one of the constitutive elements of the crime of genocide,<sup>78</sup> they are certainly indicative of the intent to destroy a group by destroying symbols that the group perceives to be markers of their distinctness or ones that the perpetrators perceive to be the identity of the group. Victims before the panel testified about the cultural

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<sup>77</sup> British High Commission, New Delhi, Restricted Fm New Delhi, To DESKBY 111430Z OF 111211Z April 02. The panel has a copy of the document which was leaked to the Hindustan Times on the 15<sup>th</sup> of April, 2003 <http://www.newsindia-times.com/2002/04/26/india-british.html>

<sup>78</sup> Such acts are particularly excluded from the definition of genocide. According to the *travaux* of the Convention, listing acts of cultural desecration as means of genocide did not gather much support among countries, who were perhaps aware that some of their own policies towards minorities may well be construed as genocide.

destruction wreaked by attacks on mosques or shrines; by vilification of the Holy Quran; and by razing to ground the shrine of a Muslim poet writing in Urdu, often associated as the language of Muslims.

Many attempts to target symbols of identity were made, so mosques, dargahs and Korans were destroyed. The *dargahs* (shrines) that were attacked, were also frequented by Hindus. So even symbols of Hindu-Muslim unity were attacked. (Yusuf, male activist, BO8 organisation, Baroda).

They broke our *Masjid*, put a flag of their temple, and installed an idol in the village. (Razia, PV1 village, Panchmahals).

On 28<sup>th</sup> February all the shops were burnt and the mosque was attacked. Three gas cylinders were exploded. They burnt the Quran and urinated on it. (Dilasa, woman survivor, AA32 area, Ahmedabad).

By 4 p.m. on March 8, 02, a tarred road replaced the shrine of the grandfather of Urdu poetry, Wali Gujarati, located not more than 10 metres from the Ahmedabad Commissioner of Police P.C. Pandey's headquarters. The shrine was torn down by marauding mobs allegedly under the directions of Gujarat Revenue Minister Haren Pandya on the night of March 1. That day, a saffron flag was embedded into the site where the shrine once stood.<sup>79</sup>

VHP also actively seeks the religious re-conversion of Muslims and Christians. After one success in re-converting, a VHP activist, Mr. Arvind Brahmabhatt said, "Today the *Moray Salaam* Muslims have come back to the Hindu fold and tomorrow it would be the entire Muslim community which would take a similar step."<sup>80</sup>

The *Sangh* Combine effectively uses BJP's political power to "reform" education to make schools and colleges a breeding ground for the spread of fascist, Hindutva ideology and to ground students in hate politics. School textbooks already project religious minorities such as Muslims, Christians and Parsis as "foreigners" and as "problems" facing the country. Annexure VII on saffronisation of education has more details on ways in which education is used to further the Hindutva ideology.

Similarly, as described in chapter 3, inter-religious marriages are controlled and monitored through the actual establishment of a cell in the state of Gujarat. The objectives are to ensure that no Hindu woman becomes a vehicle to bear Muslim children and help expand their population. A situation vice-versa is not considered a problem, as a Muslim woman married to a Hindu man will mean one less woman to bear Muslim children.

Even the dire situation of the affected Muslims in post-pogrom in Gujarat is being exploited by extremist Hindus to protect themselves from any legal action and to further their ideology of destroying Muslims. Subsection 5.2.1 lays out the ways in which Muslims are forced to agree to "compromises" that involve making changes in centuries old cultural habits and lifestyles such as the practice of *azan* (call to prayer), and of eating beef.

There is thus clearly a multi-pronged approach to achieve the objective of destruction of the Muslim community. The pogrom was one way to achieve physical destruction but there are simultaneous efforts at erasing religious, cultural, and social aspects of Muslim lives that would certainly ensure that the Muslim community, as a distinctly identifiable religious community, ceases to exist in years to come.

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<sup>79</sup> *Communalism Combat*, 77-78 (2002).

<sup>80</sup> Katju, 130.

## 7.16 On-going genocidal project in Gujarat

(a) Genocides do not happen overnight. As explained above, often they are preceded by a history of hate-mongering against the group built up over the years, fuelled on misinformation and events that are often exaggerated and full of propaganda. Similarly a genocidal project is implemented by unleashing acts of genocide over a period of time. While there have been acts of violence over a period of years, February-March 2002 was the first act of genocide. But the violence constituting the genocidal project continues as explained in chapter 5. The following testimonies show specifically how the constitutive elements of the crime of genocide continue even today.

On November 11, 2002 my brother was killed. He was disabled and had an artificial leg. He was also identifiable as a Muslim because he had a beard. He was travelling by bus and used to sell bed sheets. He was on his way back to the village. The mob got onto the bus by stoning and stopping it, they tore out his leg and used an axe to kill him. (Shahana, from village BV19, Kheda).

They [Hindus] have been telling us to get out. This morning [14<sup>th</sup> December, 2002] some women were told that they should leave. In the village nobody talks to us, not even those who live with us in the same lane. There is rule that they should turn Muslims away from their home. (Women from BV16 village in Anand).

Our neighbours still do not talk to us properly. They have been telling us that if the BJP comes to power we are going to kill you and send your dead bodies in a parcel to Pakistan. (Ruksana, woman survivor, village PV10, Dahod).

Last night (15<sup>th</sup> December, 2002) during *namaṣ* time they [the Muslims] were asked not to use loud speakers, which has been the tradition for several years. (Sarah and Aamir, activists, AO7 organization, Ahmedabad).

Shagufta lived in a *Chali* (row tenements) in Ahmedabad, with 3000 people. She said, “Now there is so much hate against Muslims that I cannot rebuild anything there.”

## 7.17 India’s obligation under Genocide Convention

(a) In 1959, India ratified the Convention on Prevention and Punishment of the Crime of Genocide, 1948. Under Article V of the Convention, India is obligated to enact legislation nationally to give effect to the provision of the Convention and to penalize persons guilty of the crime of genocide. Forty-four years later, India has yet to enact the necessary legislation. Without the necessary legislation, India is potentially unable to meet its obligation under the Convention. However, despite the lack of specific legislation, as stated in section 6.6 above, Indian Courts could conceivably show judicial will and apply international law to outlaw prohibited practices such as genocide.

(b) Where the genocidal project has, such as in this case, developed with the active participation and acquiescence of the State, leaving prosecution of the crime of genocide—or even other crimes committed under the Indian Penal Code to further genocide—to national courts would essentially ensure impunity of perpetrators. In the case of Gujarat, it is impossible to leave investigation and prosecution of the genocide to the Gujarat police and the High Court of the State as this will most certainly result in sham trials that will do nothing more than protecting *genocidaires* from justice. The recent admonishment of the State government by the Supreme Court is a reason to believe that the apex Court of India will act independent of any political pressures. However, the hope that the Supreme Court will intervene to provide justice is slowly turning into despair because even after a year, no interim order has been issued in a number of PILs filed before the Court, which request the transfer of investigation to Central Bureau of Investigation to ensure impartial investigation.

(c) In the absence of prosecution at the national level, it is the duty and obligation of the international community to take all measures to prevent and punish those responsible for the crime of genocide. This obligation is stated clearly under Article I of the Convention by which, “The contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.” If, under Article VI, there is no competent tribunal in the State, in the territory of which the crime occurred, and if no international penal tribunal with jurisdiction exists, then contracting parties cannot be prevented from performing their obligation under Article I. Subsequent developments in international law<sup>81</sup> have affirmed the availability and obligation to exercise universal jurisdiction for the crime of genocide. There have been a number of cases where criminals of one country are being tried by another country with legislations of universal jurisdiction. At the same time, the notion that primary jurisdiction for prosecution must lie with the State in which the crime occurred also has wide recognition under the principle of complementarity. However, different states may have a different understanding of how long to wait for national courts to take action before intervening and it is within this context that the Supreme Court of India must intervene immediately and be seen by the national and international community to be doing justice.

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<sup>81</sup> Schabas, 353-368.

## Chapter 8

### Gujarat Pogrom And Continuing Violence As Crimes Against Humanity

Since the post-World War II Judgments of the International Military Tribunals at Nuremberg and Tokyo, “crimes against humanity” has been recognized as one of the gravest international offences subject to universal jurisdiction. Crimes against humanity can be committed by either a State or a non-State organization. And where, as in Gujarat, the State is complicit in crimes against humanity, its culpability is the most because it lends its power to the perpetration of the crimes and, at the same time, deprives victims of the protection to which they are entitled.

The international crime of “crimes against humanity” as defined in the Rome Statute of the International Criminal Court (henceforth the ICC Statute), refers to one or more of a list of criminal acts when committed as part of a “widespread or systematic attack directed against any civilian population, pursuant to a plan or policy of the State or an organization” under circumstances where the perpetrators, be they leaders or direct assailants, do so “with knowledge of the attack.” The list of criminal acts include murder, extermination, enslavement, deportation or forcible transfer of population, imprisonment or severe deprivation of liberty, torture, rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity, enforced disappearance of persons, persecution against the listed group or collectivity, apartheid, and other inhumane acts of similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.<sup>82</sup>

Some of these acts are recognized as crimes in many national legal penal systems including the Indian Penal Code, as evident from the legal provisions applicable in the Gujarat case listed in chapter 6. However, when these acts rise above a certain threshold i.e. they are committed in a widespread or systematic manner pursuant to a plan or policy of the state or an organization, they constitute the international crime of ‘crimes against humanity.’ India has not recognized and legislated crimes against humanity in their domestic legal systems making it difficult to investigate and prosecute the Gujarat pogrom as “crimes against humanity.”

In this chapter, we focus on the crimes against humanity committed in the February-March attack as well as the on-going persecution of the Muslim community of Gujarat.

#### 8.1 Criminal acts constituting the attack in Gujarat

The criminal acts constituting the attack against the Muslim population during the pogrom from February 28-March 3, 2002 in Gujarat include murder, torture, extermination, persecution based on religion, rape, enforced sterilization, other forms of sexual violence of comparable gravity, and inhumane acts causing intentional suffering. We have explained below how testimonies given to this panel, and information in other reports, show that each of the criminal acts that have been committed in Gujarat constitute crimes against humanity.

**8.1.1 Murder:** The constitutive elements of the crime of murder are similar in many legal systems and generally includes wilful and reckless killing. Little needs to be added here to the extensive documentation of testimonies of mass violence causing the death of about 2000 individuals. Testimonies of the present report, those presented before the Concerned Citizens’ Tribunal, and the National Commission for Human Rights more than amply demonstrate that people were wilfully and recklessly murdered. The mobs chased many victims for long distances until their capture and were killed. Other forms of violation such as mutilation and sexual violence were inflicted that

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<sup>82</sup> Article 7 (1), ICC Statute.

resulted in immediate or ultimate death of the victim. Witnesses also testified to torching and burning alive of Muslim women, men and children.

**8.1.2 Torture:** as a crime against humanity is defined as the “intentional infliction of severe physical or mental pain or suffering” in any context where the perpetrator exercises either custody or control over the victim.<sup>83</sup> This definition differs from the one stated in the Convention Against Torture that understands the crime as the infliction of severe pain or suffering by an official or by non-state persons with official instigation, consent or acquiescence for specific purposes, namely to punish, seek information, intimidate, or effect discrimination of any kind.<sup>84</sup> While custody or control is not identified in the Convention’s definition, it is axiomatic that the perpetrator must assert some form of control in order to cause the suffering.

The violence inflicted upon the Muslim population was overwhelmingly designed not only to kill, but to kill tortuously, in the most painful, inhumane and dehumanizing way. The testimonies of victims which describe being encircled by mobs waiting to attack with weapons, of stabbing, of throwing “white powdery chemicals” to induce burns, of torching victims alive are acts that intentionally inflict severe physical and mental pain and suffering. Witnessing atrocities committed upon the loved ones and neighbours, colleagues and strangers, is being subjected to excruciating and unforgettable mental torture. The physical and mental pain inflicted by rape and other forms of sexual violence is clearly recognized as one of the severest forms of torture.<sup>85</sup>

While the term is no longer confined to custodial interrogation, the pattern of violence was often accompanied by interrogation as to why the victims were born Muslims and about their alleged involvement in criminal activities, particularly in the *Sabarmati* Express train incident. In all the cases of physical and mental violation, the perpetrators most certainly exercised control over the victims either by possession of weapons or other harmful substances, or in the knowledge that outnumbered the victims in mob formation, or by the overt and covert support from police, politicians and other State officials.

Similarly, while, for the purposes of crimes against humanity, the perpetrators need not any longer be public officials or have a nexus with them, there is nevertheless adequate documentation of how the violence was encouraged, perpetrated and acquiesced to by public officials right from the Chief Minister, Narendra Modi to his Cabinet ministers and police officials to meet the official nexus requirement of the Convention against Torture. Moreover, the Newtonian statement made by Narendra Modi, reproduced in subsection 7.13, justifying the violence against upon the Muslim community after the *Sabarmati* Express incident, shows that the violence was meant to be a punishment for Muslims’ alleged involvement in it. It was carried out to intimidate and humiliate and was a manifestation of the most extreme imaginable discrimination against Muslim people based on their identity as Muslims and their gender. The violence against the Muslim community in February-March 2002 therefore, by all means and definitions, constitutes the crime of torture.

**8.1.3 Extermination:** As a crime against humanity, extermination is defined as causing death on a massive scale, directly or indirectly, including by “the intentional infliction of conditions of life, *inter alia* the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population.” Such conditions can include the deprivation of access to food and medicine.<sup>86</sup> Extermination as a crime against humanity differs from the crime of genocide in that it can be

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<sup>83</sup> Article 7(2)(e), ICC Statute.

<sup>84</sup> Article 1, Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, 1984.

<sup>85</sup> *Prosecutor v Delalic et al.* IT-96-21, ICTY, November 1998, paras. 495 and 496.

<sup>86</sup> Article 7(1)(b), Elements of Crimes Annex, ICC Statute.

committed without demonstrating the specific intent to destroy a population in whole or in part. In other words, if actions taken will foreseeably entail the destruction of a part of the population, such actions may constitute the crime of extermination.

In Gujarat, the pogrom of February-March 2002 constituted a mass killing that took the lives of approximately 2000 members of the Gujarati Muslim community and injured countless others. The deprivation of necessary and appropriate medical care in most hospitals and the lack of resources for follow-up care contributed to death. Many survivors remain physically or emotionally maimed. They are also stripped of the sense of security that is essential for physical and mental integrity; and of their means of livelihood through wholesale destruction of homes, property and businesses and the ongoing obstruction of livelihoods through the economic boycott. After the elections, which returned the complicit government to power, the women we met with expressed desperation for their survival and utter hopelessness. Thus, in addition to genocide, the attack on the Muslim population of Gujarat can also be understood as involving the crime against humanity of extermination.

**8.1.4 Rape:** Rape is defined in ways that meets some of the gaps experienced in investigation and prosecution of the crime within the national legal system. It is not only restricted to penile penetration and physical force. Even the ICC's narrow definition recognises insertion, "however slight" of objects and other parts of the body into the anal or vaginal opening of the victim as well as a broad understanding of coercion have been recognized as elements of the crime.<sup>87</sup> Chapter 3 highlights how the *Hindutva* propaganda encouraged and mobilized mobs through false claims that Muslim men had raped Hindu women and incited Hindu men to rape Muslim women. The testimonies in chapter 7 and the one mentioned below speaks of the brutality of the crime:

There were many women bleeding, injured, naked. Many women had bite marks on their breasts. Three women were raped with wooden rods inserted into their vaginas. They were bleeding. We cleaned all these women's wounds after removing all the objects inserted in their bodies. (Tayabba and Gulabi, who worked in AA3 relief camp, Ahmedabad).

While rape by itself is a pervasive form of violence that brutally invades the physical integrity of a woman's person, it is also, as recognized in international law and jurisprudence of the ad-hoc tribunals, an act that is torturous and contributes to the destruction of people thereby constituting elements of the crimes of torture and genocide as well.<sup>88</sup>

**8.1.5 Other forms of sexual violence:** Acts of a sexual nature other than rape, committed by force or other forms of coercion, are elements of the crime of "any other form of sexual violence of comparable gravity."<sup>89</sup>

Witnesses from different parts of Gujarat testified about similar patterns of sexual violence against women and girls in the pogrom of February-March, 2002. In chapters 3, 6 and 7 witnesses testified about men in the mob taunting and stripping by women; about police officials exposing their penises to terrorize women; about these acts being done publicly and repeatedly in front of family members and children; mutilating women's genitals with swords; and cutting a pregnant woman's stomach to access the foetus clearly exemplify acts that amount to sexual violence of comparable gravity. Testimonies reproduced in chapter 5 moreover, show that such acts of crimes against humanity continue. Nine months after the pogrom, women have testified about being subjected to

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<sup>87</sup> Article 7 (1) (g)-1, Elements of Crimes Annex, ICC Statute.

<sup>88</sup> *Delalic, Supra n.* 83 and Article 6 (b) footnote 3, Elements of Crimes Annex, ICC Statute.

<sup>89</sup> Article 7 (1) (g)-6, Elements of Crimes Annex, ICC Statute.

acts of sexual violence, particularly by police officials, and reported verbal abuse, sexual innuendos and threats during “combing” operations.

**8.1.6 Enforced Sterilization:** The sexual violence crimes committed by the Hindu mobs, leaders and public officials, insofar as they control or destroy the reproductive capacity of Muslim women, also constitute the crime of enforced sterilization. The international definition of enforced sterilization adopted by the Elements of Crimes of the ICC Statute does not require permanent or absolute deprivation of biological reproductive capacity, but encompasses acts and means which significantly impair reproductive capacity in practice even if for a limited period of time.<sup>90</sup>

Rape alone can destroy or damage women’s reproductive capacity in physical, mental and societal ways and, thus, may also constitute enforced sterilization. The brutal and repetitive rape suffered by women in Gujarat is often a sexual mutilation resulting in permanent damage to women’s reproductive organs and reproductive health. Psychologically, rape can render heterosexual intercourse impossible for survivors, and thus may preclude both intimate relationships and the bearing of children. In the social context, women and girls who are raped may be treated by partners and society as “ruined property” and therefore ineligible for family life and procreation. Clearly, mutilating women’s bodies and removing foetuses are forms of enforced sterilization that result in the prevention of reproduction.

These acts ought to be seen in the context of long-standing *Hindutva* hate propaganda which exaggerates and portrays reproduction in the Muslim community as a way to out-number the Hindu majority. This propaganda was reinforced by the Chief Minister Modi himself when he referred to the relief camps that housed Muslim survivors as “child-making factories” and called for them to be “taught a lesson.”<sup>91</sup>

Additionally, in a society where the patriarchal lineage dominates, such as in Muslim and Hindu communities, another way to prevent Muslims from reproducing is to forcibly impregnate the women with the intent that she bear “non-Muslim children. Pregnancy is a statistically predictable and clearly foreseeable consequence of rape. Testimony received by this panel indicates that some Hindu rapists explicitly stated that they were attempting to impregnate women to force them to bear Hindu babies. This constitutes an attempt to commit the crime of “forced pregnancy” as well as forced impregnation.<sup>92</sup> Whether or not the women so raped became pregnant, these acts of rape coupled with the intent that the women bear the children of the rapist clearly constitute an attempt to forcibly impregnate a woman.<sup>93</sup>

**8.1.7 Persecution:** The ICC Statute defines persecution as the “intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or

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<sup>90</sup> ICC Elements of Crimes, Article 7(1)(g)-5 defines enforced sterilization as depriving a person of “biological reproductive capacity” which, a footnote explains, applies to birth control methods which are permanent “in practice”—that is, prevent reproduction during a significant period in a woman’s reproductive life even if not biologically permanent.

<sup>91</sup> Chapter 7 (Para. 7.0.6(a) *infra*).

<sup>92</sup> Article 7(2)(f) of the ICC Statute defines “forced pregnancy” narrowly as a result of the influence of the Holy See on these negotiations as requiring “the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law.” Forced impregnation, though not listed in the Rome Statute as a crime against humanity, is a constituent element of forced pregnancy (which is listed as a crime against humanity) and a form of **sexual** violence in and of itself.

<sup>93</sup> Under international as well as most domestic law, an attempt is a form of commission of crime. Under the general principles of responsibility adopted by the ICC Statute, a person “(a)ttempts to commit...a crime by taking action that commences its execution by means of a substantial step, but the crime does not occur because of circumstances independent of the person’s intention.” ICC Statute, Article 25(3)(f).

collectivity.”<sup>94</sup> Thus, the crux of persecution—and the reason that it encompasses non-violent as well as violent measures—is the discriminatory intent or hatred, which underlies the severe deprivation of fundamental rights against a particular group. In the case of Gujarat, persecution is based on identification with the Muslim religion or community, as well as upon gender, all recognized by the ICC Statute.<sup>95</sup> The testimonies and reports make it clear that the Muslim community and identity were targeted and that by burning the bodies were made unidentifiable and thus not able to be buried. The chanting of *Hindutva* slogans and the destruction of Muslim religious and cultural properties reflected and exacerbated the religious impact of the attack. The sexual violence directed at women demonstrates the intersection of religious and gender persecution.

Equally important, the attack constituting “crimes against humanity” did not stop with the cessation of overt, mob-inflicted violence in March 2002. Rather, as reflected in more recent reports and in the testimonies provided to the panel, Muslim society, and women in particular, continue to be threatened and attacked in Gujarat. While this ongoing attack is less visible to the nation and to the international community than the pogroms of last year, it consists of (in addition to the sexual and other physical violence and threats thereof) economic, social and cultural persecution based principally on religion.

While the pogroms themselves constitute an extreme form of persecution, the continuing violence, harassment, threats and economic boycott, coupled with the discriminatory failure of justice and redress exemplify continuing persecution based on religion.<sup>96</sup>

The crime of persecution encompasses conduct that severely limits the exercise of basic political, civil, social, economic and cultural rights. In international law, such rights include liberty and security of person, the right to shelter, the ability to establish a home and enjoy family life, the right to education, the right to work and maintain an adequate standard of living, the right to move freely, reside where one chooses, practice one’s religion and express and transmit one’s culture. The destruction of religious or cultural buildings or memorials in such a context also constitutes core aspects of the persecution.<sup>97</sup>

Testimonies show that victims were deprived of all the basic rights stated above. The threat to life if survivors returned to their home and the systematic economic boycott against the Muslim community exemplify deprivation of right to life, security and livelihood. The deprivation of the right to family life has more facets than are obvious at a glance. The trauma and tension of attacks and potential attacks makes daily life and normal relationships difficult, at the same time as it gives rise to intra-familial violence. The denial of women’s experience of sexual violation also exacerbates this condition, preventing any return to normalcy in family life.

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<sup>94</sup> Art. 7(2)(g), ICC Statute. Under international customary law, persecution does not require the commission of any violent acts because it is the discriminatory animus plus the widespread or systematic nature of the deprivation that defines persecution for the purposes of crimes against humanity.

<sup>95</sup> ICC Statute, Art. 7 (1)(h) . In this respect the Rome Statute enlarges, consistent with evolved norms of international law, upon the grounds of persecution stated in the Nuremberg Charter which included persecution on political, racial or religious grounds. See Commentary 7( ) para. 61-62.

<sup>96</sup> See ICC Statute, Article 7(1)(h) identifying accepted these grounds as among the grounds of persecution today as a matter of customary international law.

<sup>97</sup> See Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights. The Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention Against Torture, and the Convention on the Rights of the Child all develop the basic rights of the Universal Declaration and reflect rights protected against discriminatory denial.

At the core of the persecution of the Muslim community is a chilling similarity with the Nazi persecution of Jews: the notion that Muslims are “foreigners” to the Hindu nation and inferior or sub-human as compared to the “legitimate” citizens of the India. *Hindutva* propaganda manufactures hatred towards Muslims by depicting them as pollutants of the Hindu nation, as terrorists, and as miscreants who will elope with Hindu women and out-number the Hindu community.<sup>98</sup> Like the Nazi persecution of Jews, the *Hindutva* persecution of Muslims included pogroms, burning of Islamic religious institutions, looting of businesses, and attacks on prominent people. Seeking to remove Muslim identity and religious practices from India, *Hindutva* advocates and the Gujarat mobs destroyed Muslim sacred places and erected Hindu shrines in their place once the rubble had been cleared.

The inability of the displaced Muslims to return to their homes and work; to obtain education in non-Muslim schools; the continuing threat of sexual attack against women and girls; the economic boycott and the increasing ghettoization of Muslim life all constitute aspects of the persecution of Gujarati Muslims. What the Nazis accomplished through discriminatory laws, the *Hindutva* advocates accomplish through violence, threats, discrimination and lack of access to justice and redress. Gujarat officials are continually complicit in this persecution by having immunized the leaders, perpetrators and supporters of the pogrom as well as for failing to prosecute and prevent the continuing violence and discrimination.

## **8.2 The threshold or chapeau constituting crimes against humanity:**

In order to constitute crimes against humanity, the foregoing conduct must be part of a widespread or systematic attack against any civilian population, carried out by the perpetrator – whether leader, instigator, aider and abettor, or direct attacker – with knowledge that his or her acts were part of the larger attack.<sup>99</sup>

### **8.2.1 Attack**

The “attack” which is a prerequisite to crimes against humanity need not be a military attack and crimes against humanity do not depend upon a connection to war.<sup>100</sup> Indeed the attack need not even involve any violent force at all. The *Akayesu* Judgment opines, “An attack may also be non violent in nature, like imposing a system of apartheid, ..... or exerting pressure on the population to act in a particular manner, may come under the purview of an attack, if orchestrated on a massive scale or in a systematic manner.”<sup>101</sup> Moreover, as confirmed by the ICTY’s Appeals Chamber in the *Kunarac* judgment: “Attack in the context of a crime against humanity ..... encompasses any mistreatment of the civilian population” and “only the attack, not the individual acts of the accused, must be widespread or systematic.”<sup>102</sup> That there was both a widespread and systematic attack against the Muslim community, comprising all the crimes identified above is beyond doubt, and

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<sup>98</sup> For example, the Nuremberg Judgement refers to the Nazi Party Platform, Point 4 which declared:

“Only a member of the race can be a citizen. A member of the race can only be one who is of German blood, without consideration of creed. Consequently, no Jew can be a member of the race.” Other points of the programme declared that Jews should be treated as foreigners, that they should not be permitted to hold public office, that they should be expelled from the Reich if it were impossible to nourish the entire population of the State, that they should be denied any further immigration into Germany, and that they should be prohibited from publishing German newspapers. The Nazi Party preached these doctrines throughout its history.

<sup>99</sup> Rome Statute, Art. 7(1).

<sup>100</sup> Rome Statute, Art. 7(2) and Elements of Crimes, Introduction, para. 7.

<sup>101</sup> *Akayesu*, *Supra* n. 52, para 579.

<sup>102</sup> *Prosecutor v Kunarac et al*, Judgment of the Appeals Chambers, Case No. IT-96-23 and IT-96-23/1, International Criminal Tribunal for the Former Yugoslavia, June 2002, para 86 and 96 respectively.

some of the acts mentioned above were also widespread and systematic, although this is not a legal requirement to prove both.

Chief Minister Modi sought to justify the attack by saying that it was a spontaneous response to the alleged conspiracy of Muslims in torching the Sabarmati Express, which killed 59 Hindu activists. To establish crimes against humanity through, "...The existence of an attack from one side against the other side's civilian population would neither justify the attack by that other side against the civilian population of its opponent nor displace the conclusion that the other side's forces were in fact targeting a civilian population as such," and "... submission that the other side is responsible for starting the hostilities would not, for instance, disprove that there was an attack..."<sup>103</sup>

### **8.2.2 Widespread or Systematic**

The purpose of the threshold or "chapeau" requirement of a "widespread or systematic attack against a civilian population" is to exclude isolated and random acts and distinguish ordinary offences from the international crime of crimes against humanity. It is derived from existing customary law and jurisprudence as reinforced by the ICTY in its *Tadic* judgment, which notes acts can, "occur on either a widespread basis or in a systematic manner. Either one of these is sufficient to exclude isolated or random acts."<sup>104</sup>

The concept of "widespread" includes "massive, frequent, large scale action, carried out collectively with considerable seriousness" and "systematic" means "thoroughly organized and following a regular pattern."<sup>105</sup> The attack on the Muslim population of Gujarat was clearly widespread: tens of thousands of people participated in attacking Muslim communities throughout Gujarat and reduced their communities to ruin. The attacks were particularly intense in the Eastern part of the State, both where the Muslim population was substantial and also where it was more dispersed. Isolated Muslim communities, places of worship as well as Muslim-owned businesses in Hindu areas (that by outward appearances seemed Hindu) were attacked. Testifiers confirmed the finding of the National Human Rights Commission that "the size of the marauding crowds involved in major incidents was found to be between five and fifteen thousand."<sup>106</sup> The preceding sections describe the widespread nature of the individual crimes of murder, burning, rape and other sexual violence as well as the burning, razing and looting of Muslim properties and mosques.

The legal criteria "widespread" is not measured by absolute numbers. As discussed above, it is estimated that at least 2000 people were killed during the pogrom in Gujarat. The scope of the attack is not measured by the number of deaths, but by the scale of the population affected by the combination of crimes comprising the attack, which is assessed by a relative exercise that depends on the civilian population that was attacked.<sup>107</sup> Entire Muslim communities were under attack and the number of people that were physically violated and tortured by being forced to watch attacks on their loved ones and neighbours is substantial.

While the legal requirement is in the alternative, there is no question that the Gujarat attack was also "systematic" in that it was not random but rather the product of a long-standing policy of destruction and subordination of the Muslim community as well as extensive planning despite being

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<sup>103</sup> *Kunarat, Supra* n.99, para 87 and 88.

<sup>104</sup> *Tadic, Supra* n. 102, para 646.

<sup>105</sup> *Akayesu, Supra* n.52, para 580.

<sup>106</sup> National Human Rights Commission (NHRC), *Gujarat Carnage: A Report* (New Delhi: NHRC, April-May 2002) p.4; Concerned Citizens Tribunal, *Crimes Against Humanity: An Inquiry into the Carnage in Gujarat Vol.II*, (Mumbai: Anil Dharker, 2002) 25-26, 29.

<sup>107</sup> *Kunarat, Supra* n.99, para 95.

cast by BJP leaders as an “inevitable” and “spontaneous” response to the Godhra incident.<sup>108</sup> Since direct proof is often impossible, the requirement of “systematic” can be inferred if the pattern of activity is similar in different places or among different actors. An attack can be ‘systematic’ even if it is or appears to be spontaneous where information and discernible patterns indicate pre-planning or a common understanding of the goals or methods of attack.

The testimony of Kartik, a lawyer from Ahmedabad provides crucial evidence of the existence of a plan to justify the carnage and reduce the significance of the crimes that took place by suggesting a “provocation theory.” The testimony states:

If one studies all the FIRs which are filed, they all start with the same paragraph describing what happened to Sabarmati Express. It is as though they were instructed on how the FIRs should be recorded. There could be an exception where a Muslim constable has filed the FIR. The wording in such case is different, which means that he was not part of the planning of how FIRs were to be drafted.

### **8.2.3 Knowledge of the attack**

Under international law, persons are responsible for crimes against humanity when they act with awareness that their acts are part of a larger, widespread or systematic attack on any civilian population. The negotiators of the Rome Statute of the ICC made clear that it is not necessary for a person to know the details of either the policy of the organization instigating, or supporting the attack, or of the plan of attack itself.<sup>109</sup> Further, the requirement that the perpetrator had knowledge of the attack does not require knowledge of the details or specific acts that constitute the attack, but rather an awareness that his/her acts are part of a larger attack of widespread or systematic dimension. Such knowledge “is examined on an objective level and factually can be implied from the circumstances.”<sup>110</sup> There is no question that both State and *Hindutva* leaders, adherents of the *Hindutva* organizations and those who joined the mobs or who participated in the persecution of the Muslim community, for the most part, knew that their acts were part of a larger attack. The notoriousness of the violations, their concerted nature, the numbers of participants and the scale of the attack make ignorance virtually impossible.

### **8.3 Conclusion**

The February-March 2002 attack was the product of the joint action of *Hindutva* forces, including active participation by and complicity of BJP party members and State officials, to build, train, equip and enable a movement whose goal is the elimination of non-Hindus from India. The same steps that demonstrate the genocidal nature of this project, as discussed in chapter 7, also establishes systematicity for the purpose of crimes against humanity.<sup>111</sup> The findings of major fact-finding teams have confirmed that the size of the crowds and scale of the violence indicate long planning and indoctrination.<sup>112</sup> The ideological preparation and militaristic training of *Hindutva* adherents is a

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<sup>108</sup> The ICC Statute sets a higher threshold than the ICTY jurisprudence in demanding that even where an attack is shown to be widespread, it must also be demonstrated that it is carried out “pursuant to or in furtherance of a policy of a state or organization.” Rome Statute, Article 7(2). This requirement is more than met here by the evidence of systematicity discussed in the next paragraph.

<sup>109</sup> Rome Statute, Article 7(1) and Elements of Crimes, Article 7, Crimes Against Humanity, Introduction, para. 2.

<sup>110</sup> *Prosecutor v Tadic*, Opinion and Judgment, Case No. IT-94-1-T, International Criminal Tribunal for the Former Yugoslavia, May, 1997, para 657.

<sup>111</sup> It should be noted, however, that the threshold for crimes against humanity does not require proof of genocidal intent or any specific intent. It is enough that the acts are voluntarily and knowingly carried out.

<sup>112</sup> NHRC, 4; Concerned Citizens Tribunal, Vol. II, 25-26; Human Rights Watch, We Have Orders Not to Save You (2002) 31.

significant part of the planning. Hindutva leaders and literature preached hatred of Muslims and portrayed them as “the other,” as “foreign invaders,” and as enemies of the “Hindu nation” through false assertions and claims. Such false claims have been circulating for many years now but were rampantly used during the election campaign in November-December, 2002. Some such assertions include for example, that Muslims were terrorists amassing arms to “take over;” that Hindu women were being abused by or being made to elope with Muslim men; and that Muslims were threatening to “out-breed” despite the fact that they constitute only 11% of the Indian population.<sup>113</sup> Hindu youth were recruited for training in hatred and violence and some *Adivasi* and Dalit communities were incited to take part in the anti-Muslim attacks as well.<sup>114</sup> Planning is also apparent in the collection and distribution of the widely used weapons of destruction—*trishuls*, gas cylinders and a “white powdery chemical” to enhance the burning.

It is also clear that State officials played a significant role in both the preparations for and execution of the pogrom. Information from the unscheduled census of minorities organized by the Gujarat government in 1999, and the more recent voter registration roles, permitted the mobs to identify Muslim homes and businesses while sparing their immediate Hindu neighbours. Computer printouts of this information were seen in the hands of *Hindutvavadi* leaders of the attack. Equally important is the fact that the Gujarat State government not only consciously failed to take steps that could have prevented such an attack, but deliberately encouraged and endorsed the attacks as legitimate retaliation. The State failed to counter utterly false rumours that a Hindu girl had been raped by Muslims, it permitted a cavalcade of bodies from Godhra; it failed to enforce a curfew when the potential for violence was overwhelmingly clear; and ordered the police “not to save” Muslims under attack. These facts have been documented in other reports and persons testifying before this panel have also stated that the police refused them protection or refuge from the mobs.

Testifiers before the panel witnessed BJP ministers of the State government leading the mobs. They also witnessed how policemen, along with the mobs, took off their pants—threatening women and taking part in the rape, burning and murders. It is important to note that the widespread pattern of sexual and reproductive violence against women alone meets the threshold for crimes against humanity even though they were part of the overall attack, which constitutes crimes against humanity. Moreover, as described above, sexual violence against women and young girls has continued on a lower intensity and less visible basis, since the pogrom of February-March 2002, as part of an on-going persecution of women and the community.

The reports of other investigations and the testimonies received by our panel make clear that the attack on the Muslim community was committed on a widespread and systematic basis during the pogrom in Gujarat and that religious animus motivated the attack. The State of Gujarat actively encouraged and promoted this attack through direct participation, by precluding protection and delaying the entry of the army until sufficient damage was done. The Central Government subsequently failed to condemn these attacks, lauded the Modi government and generally refused to hold the State government accountable. The official impunity with which the State of Gujarat and the Central government have subsequently clothed these atrocities is further evidence of official complicity in crimes against humanity.

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<sup>113</sup> Concerned Citizens Tribunal report, Vol. II, pp. 33,36; Human Rights Watch, p. 43.

<sup>114</sup> Concerned Citizens Tribunal report, Vol. II, pp. 34-35.

## Chapter 9

### The Applicable Principles Of Responsibility

The IJ panel considered and applied the general principles of international law, governing the criminal responsibility of individuals, both State and non-State actors, to the documentation available about the pogrom, the on-going persecution and other violations in Gujarat. In addition, we looked at the responsibility of the State of India to provide reparations for violations under the principles of State responsibility, both for its participation in the commission of these crimes and for its failure to exercise due diligence in preventing and punishing them. These principles and the bases of the responsibility of the State to provide reparations to victims and to the community will be outlined in the following sections.

#### 9.1 Individual criminal responsibility

The international principles were first codified and applied in the Nuremberg and Tokyo Charters and have since been developed by the ad hoc Tribunals and in the Rome Statute of the ICC. They engage individual, supervisory and collective responsibility of leaders as well as of those who carry out the attacks on the ground. Several principles are fundamental:

First, it is clear that no immunities exist for crimes of this dimension. One can hide behind immunity neither as head of State nor as an elected official.<sup>115</sup> There is likewise no legitimate claim of acting pursuant to superior orders because orders—such as the order not to save people—is manifestly illegal.<sup>116</sup> Commanders and superiors are responsible for the crimes committed by a person subject to their authority and control where they knew or should have known that such crimes were being committed or about to be committed and failed to take necessary and reasonable measures to repress or prevent the crimes or to submit the matter to competent authorities for investigation and prosecution.<sup>117</sup>

Second, individual responsibility extends to a wide range of participation including ordering, soliciting, or inducing the commission or attempt to commit a crime; aiding or abetting the crime including providing the means for its commission; contributing to the commission of a crime by a group of persons acting with a common purpose, with either the intention to further the crime or by the knowledge of the intention of the group to commit the crime. With respect to the crime of genocide, there is also a specific recognition in international law of the crime of directly and publicly inciting others to commit genocide. With respect to all these crimes, individuals can be responsible for acting alone or in concert with others.<sup>118</sup>

Under both treaties and customary law, officials and non-state actors are responsible for crimes against humanity and genocide. The State of Gujarat and India are responsible for all internationally recognized wrongful acts—including crimes and violations of human rights—committed by its officials in having incited, conspired, participated in or aided and abetted the pogrom against the Muslim people of Gujarat. The leaders of both Gujarat and India are also responsible for the harm inflicted by the mobs and other private parties, to the extent that State officials flouted their duty to exercise due diligence to prevent and control the violence. Likewise, they are responsible for their complicity

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<sup>115</sup> Rome Statute, Article 27.

<sup>116</sup> Rome Statute, Article 33.

<sup>117</sup> Rome Statute, Article 28. Note that article 28 contains slightly different standards for commanders and superiors, although this is not consistent with customary international law.

<sup>118</sup> See Article 25(2) and (3)(a)-(e); with respect to incitement to genocide, see Article 25(3)(e), Rome Statute.

in the failure to properly and impartially to investigate and prosecute crimes against the Muslim people. Finally, India's obligation to provide adequate reparations to the Muslim people for the harms inflicted on them is not one of charity, as the government has portrayed, but one that is legally owed.

It must also be noted that the principle of non-derogability precludes all justification urged by BJP officials, such as the contention that the massacre in Gujarat was a "natural" response to the Godhra incident, in which 56 Hindus died. Obviously, the desire for revenge (even if it was not whipped up on the unsubstantiated and self-serving assertion that Godhra was perpetrated by Muslims) cannot justify crimes against humanity; that would be to descend to the "law of the jungle." Nor does the claimed "inability" of BJP leaders of Gujarat to control the outbreak of violence acquit them of the responsibility to take necessary and reasonable preventive as well as punitive measures to stop and contain the violence. The facts found by numerous independent inquiries, and confirmed by the testimonies this panel heard, make it clear that the *Hindutva* forces, with the complicity of the State, had planned and prepared for an attack on the Muslim population in Gujarat. The Godhra incident provided the "excuse" and opportunity to inflame and then allow local populations to carry out the attack.

The information available from other reports, and the confirmation of many of their claims in the testimonies heard by the panel, make it clear that Gujarat State officials of the highest level acted together, conspired with and/or supported leaders and members of leading *Hindutva* organizations in the planning, orchestration, incitement, aiding and abetting, and active encouragement and promotion of the February-March 2002 attacks on Muslim people. Their conduct constitutes genocide and crimes against humanity as well as violations of human rights. For example, State officials undertook a census of Muslim properties, which was found in the hands of the ravaging mobs on February 28, 2002. State officials could have prevented these attacks by imposing of curfew and calling for calm after the Godhra train incident – obvious and tested steps to prevent and halt communal violence against the Muslim community.

In fact, when the Central government sent the army to Gujarat, the state government refused to deploy the soldiers until twenty-four hours after they arrived and only once the worst violence had ended.<sup>119</sup> Moreover, State officials knowingly incited, solicited and encouraged the violence by carrying out a public cavalcade of the bodies of the dead in Godhra; and they circulated and failed to counter false information about the incident (including the charge that Muslims had planned the attack on the *Sabarmati* Express and that a Hindu girl had been raped by Muslim men there). They knowingly permitted the violence to erupt and escalate by failing to enforce the curfew uniformly on all communities, as well as by instructing the police to take no measures to suppress Hindu mobs or to protect Muslim people and their properties. The fact that the police acted on orders "not to save them" implicates the highest leadership of the Gujarat State in the violence that ensued.

The facts demonstrate the continued collaboration and complicity of State and non-State actors in the on-going violence and persecution of the Muslim population of Gujarat. The systematic deprivation of justice (part of the ongoing persecution) further engenders responsibility on the part of State leaders for the crimes, as the impunity provided to offenders operates as public sanction and encouragement.

With respect to the ongoing persecution, the justice system is likewise insensitive to persistent threats given to Muslims and to the pervasive discrimination they are suffering. The State abets

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<sup>119</sup> The Kashmir Times, March 9, 2002.

further persecution by celebrating as opposed to condemning the “Gujarat experiment.” While the documentation indicates that *Hindutva* organizations and their supporters are the explicit force behind these violations, the State’s failure to prevent or punish them constitutes encouragement and thus a continuing complicity in this ghastly joint venture.

From the documentation made available to the IIJ panel, and all the other reports produced so far, the individual State officials responsible at the State and national level are Prime Minister Atal B. Vajpayee, Deputy Prime Minister and Home Minister L.K. Advani, Chief Minister Narendra Modi, Gujarat state Minister for Health Ashok Bhatt, Gujarat Minister for Home Gordhan Zadaphya, Chief Secretary Subha Rao, Home Secretary Ashok Narayan, Commissioner of Police (Ahmedabad) P.C. Pandey, Commissioner of Police (Vadodara) D.D. Tuteja and Superintendents of Police of all areas in Gujarat that suffered violence. These are individuals operating at the highest levels who are responsible under the principles of both superior or command responsibility and of varying degrees of direct and active involvement in the pogrom. Other lower level officials with authority over subordinates in different State institutions are likewise responsible while direct perpetrators with no control over others are responsible for being directly or indirectly involved in the actual perpetration of crimes.

In addition, the *Hindutva* leaders, their adherents, those organized to participate in the pogroms and in the on-going persecution, and those who simply joined in the crimes are liable individually, and jointly with others, and with State officials for their role in perpetrating crimes against humanity and genocide against the Muslim community. Given the nature of these religious organizations and their power to exercise effective control over their adherents, the *Hindutva* leaders should also be considered responsible for the acts of the mobs and Hindu persecutors, given their failure to take all necessary and reasonable steps to stop the violence and persecution.

Among the non-State individuals with superior or command responsibility are VHP International Secretary Praveen Togadia, Working President Ashok Singhal, All India Vice-President, Hareshbhai Bhatt, National Secretary, Surendra Jain, President of Gujarat unit of VHP, Keshavram Kashiram Shastri, and Joint Secretaries Jaideep Patel and Kaushik Mehta, other national level senior functionaries like V.H. Dalmia, B.P. Toshniwal, Moropant Pingle, Acharya Giriraj Kishor, RSS chief K. S. Sudarshan and spokesperson M. G. Vaidya, National Chairman of Bajrang Dal, Jaibhan Singh Pavaiyya and Regional Convenor, Prakash Ratnaparkhi. Again, like individual State officials, these are only names of the leaders of organizations who had superior or command responsibility. At the local level, other functionaries and members of the above organizations, who were directly involved in the pogrom are equally culpable.

## **9.2 State responsibility**

The principle of State responsibility for internationally recognized wrongful acts is a long-standing one. It also applies to any wrongful act regardless of whether the State had intent to commit such an act or whether the State did, at some point, seek to minimize or stop the wrongdoing. State responsibility applies whether the officials were acting within the scope of their authority or whether they committed unauthorized acts under the cover of their authority. It also applies to all persons who act as part of the administration of the State, including those who represent a subdivision of the State, and to private persons who act on behalf of the State.<sup>120</sup>

It is axiomatic that non-participation in crimes against humanity and genocide are unquestionably among the core obligations of the State. It is likewise a core obligation of the State under human

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<sup>120</sup> See, e.g., UN Doc. A/CN.4/L.602/Rev.1, adopted by the Drafting Committee on second reading (26 July 2001).

rights law to exercise due diligence to prevent and punish the commission of such acts by others. In this context it is amply evident that the State of India is accountable for the acts of the Gujarat officials in planning, instigating, encouraging, promoting and aiding and abetting the horrific violence visited upon the Muslim community of Gujarat and in the continuing violence, persecution and violations suffered by the community. The State is also liable for the failure of those officials to exercise due diligence to prevent and punish these violations.

The failure of State officials to acknowledge their responsibility, denounce this atrocity and the genocidal project of which it is a part, prosecute its perpetrators, and provide full and fair reparations are continuing violations of international law. In addition, through its complicity and failure to provide protection to the Gujarati Muslim community, the State of India also violates myriad guarantees of international human rights law and is also subject to provide reparations in respect thereof. We cite then, the following continuing failures to discharge the obligation under the Indian Constitution and international law:

- i. *failure to acknowledge, investigate, and disclose the truth by full co-operation with inquiry commissions and by permitting thorough and impartial investigation of its own wrongdoing.*
- ii. *failure to prosecute and punish those criminally responsible including but not limited to those in leadership who participated in encouraging or promoting these crimes.*
- iii. *failure to provide reparations, in the form of a genuine apology and commitment to prevent recurrence, to the Muslim community of Gujarat as well as to those threatened as a result of the violence in Gujarat.*
- iv. *failure to provide reparations in the form of official fair compensation.*
- v. *failure to provide reparations in the form of restitution of survivors to their prior position.*
- vi. *failure to take measures to protect the integrity, well-being and dignity of the survivors.*
- vii. *failure to take necessary measures to prevent recurrence.*

In May 2002, the National Human Rights Commission issued its Report addressing the obligations of the State according to Indian law in the wake of the carnage and destruction in Gujarat. These recommendations have been completely ignored while the persecution of the Gujarati Muslims continues. Architects of the Gujarat pogrom remain immune and continue to carry their genocidal project to other regions of India.

Likewise international law imposes on the offending State a series of continuing obligations designed to redress the harm and prevent future occurrence. To date, neither the State of India nor the State of Gujarat have taken measures designed to satisfy these obligations.

### **9.3 Conclusion**

We have assessed in chapter 6 the struggle of victims and survivors to obtain justice within national legal mechanisms, its inadequacies and with the biases of the very institutions of justice. Chapter 8 shows how crimes in Gujarat certainly amount, in and of themselves, to a widespread and systematic attack on the Muslim people of Gujarat and thus constitutes crimes against humanity. We also concluded in chapter 7 that the attack on the Muslim people of Gujarat and BJP officials' proclaimed intention to replicate the "Gujarat experiment" in other parts of India, illuminate the genocidal character of the *Hindutva* project. The fact that officials of the Central government and state government of Gujarat are among the leading advocates of *Hindutva*, and that they were complicit in the attack in Gujarat, aggravates the danger profoundly and enhances the necessity for stringent action against them. We consider it critical to name the pogrom in Gujarat both as a crime against humanity and as a key step in a genocidal project. In this context, Gujarat represents the first major enacting of systematically organized mass killing, rape, torture and destruction of property and the ability of the community to survive through the violence and on-going persecution.

The State of India has the first obligation and responsibility to bring the perpetrators to justice, to provide full and fair compensation and reparation to victims and survivors, and to take vigorous additional measures to prevent repetition. The complicity of State officials in the attack on the Muslim community of Gujarat both enhances these obligations and complicates their realization. India's failure to meet its obligations is a continuing violation of international law and demands that the international community exercise its authority to prevent the further development of this genocidal project and to bring justice to its victims. In the event of State failure, or demonstrable unwillingness on the part of the State to bring to justice perpetrators of international crimes, such individuals are subject to trial by other nations, exercising universal jurisdiction over genocide and crimes against humanity, as well as by a potential international authority.

Both genocide and crimes against humanity are codified in the Rome Statute of the International Criminal Court (ICC). We recognize that the ICC has no jurisdiction over the crimes committed in Gujarat, not only because India has not yet ratified the Rome Statute, but also because the Court was not yet in force when these events occurred and has no retroactive jurisdiction. However, the Rome Statute represents the minimal understanding of customary international law, with respect to crimes subject to universal jurisdiction, and are thus applicable to all nations, including India, irrespective of non-ratification of the Rome treaty. India's ratification of the Rome Treaty is nonetheless urgent to signal both its acceptance of international accountability and to deter further crimes. In the meantime, both State officials and private persons responsible for genocide, crimes against humanity and such universal offences as murder and torture should be held accountable under international standards.

It is our hope to underscore the urgent need for democratic forces in India to mobilize effectively to combat this threat, and for the world community to support that mobilization and engage its responsibility to monitor and prevent further violence. We urge for swift and immediate measures at every level, to prevent further crimes and to stop the genocidal *Hindutva* project by holding its leaders and accomplices—State officials, organizational leaders and perpetrators of individual crimes—accountable. We call for redress of individual victims and the Muslim community as a whole, and for a cessation of the on-going persecution and fear that they daily experience.

## Chapter 10

### Conclusion

The IIJ team came together on the basis of a shared understanding of communal violence in Gujarat, and with the desire to carry on the struggle for justice for victims and survivors of the anti-Muslim pogrom, to a national and international level. The feminists who form the IIJ come from different locations, in terms of their race, class, ethnic origin, religion and other status; they are all women, located within the specific nexus of power in relation to their subject positions. Without an assumption of commonality of all positions on social and political issues, they stand together as a community of feminists from across the world who refute violence and discrimination on the basis of race, religion and other identity-based differences and who believe in justice and human dignity for all.

Coming as it does almost 18 months since the pogrom, this report can operate as a reflection on the inadequacy of existing processes—both legal and otherwise—to provide justice and redress to victims, and as an allusion to new forms of activism around Gujarat that are relevant to broader struggles for democracy and equality. The Gujarat experience once more highlights the need to look at sexual violence as a significant engine of genocide. We need to understand the genocidal nature of the *Hindutva* project so as to emphasize the critical responsibility of intervention that lies with both the civil society and the State.

We acknowledge the extent of civil society responses to the pogrom, both in terms of the immediacy of the initial reactions and the sustained attention accorded to the events. While the humanitarian efforts were crucial, it is particularly important to note that groups immediately took up issues of rights and justice as well, some drawing on long histories of engagement with communalism and communal violence. Many activists felt disappointed with the response to the pogrom not because key democratic institutions did not exist but because they were not performing as they were intended to, whether it was because of interference by the ruling party, lack of political will, or sheer bureaucratic callousness.

When democratically elected governments intervene to hamper these mechanisms, international actors must intervene—not to replace bodies such as the Indian judiciary or the National Human Rights Commission—but to prevent the further erosion of their autonomy and powers by the ruling party, and to ensure that they perform their intended role of acting as checks and balances within the system. While efforts continue to bring tools of international law to bear upon the crimes of Gujarat, we recognize that the success and efficacy of these efforts depends less on legal definitions and compelling fact patterns and more on shifting global political realities, which might result in the deferral of justice for years to come. This makes it all the more imperative then, for international civil society to take the lead in providing the frameworks for analysis and action.

In evolving frameworks to understand human catastrophe, what is all too often subsumed is a specifically feminist critique of power and sexual violence as a tool in conflict situations. Much of the post-pogrom activist discourse centred around issues of the democratic and civil rights of the Muslim community in general. There was little critique of identity politics, few attempts to redefine community in non-patriarchal ways, and limited attention paid to a concept of justice that could transcend a purely liberal understanding.

The primary flaw in international responses from groups like Amnesty International and Human Rights Watch, which condemned the pogrom, was the degree to which their “rights discourse” privileged violations by the State and State agencies, and underplayed the role of non-State actors

and a general culture of violence. Moreover, even such reports failed to put the violence on the women from the Muslim community in Gujarat within the international experience of sexual violence on women in conflict situations.

Indian women's groups viewed the IJ as an attempt to foreground feminist perspectives within the context of this carnage.

### **10.1 Identity-based politics**

Understanding the identity politics of the Gujarat massacres from a feminist perspective means recognizing that a multitude of political and social formations that articulate demands based on diverse identities are possible. It means acknowledging the necessity of adopting different analyses with respect to each. Some identity-based formations are born out of the desire of one social group to maintain its privilege and power. These processes rely to a great extent on political ideologies of homogenisation and assimilation that privilege race, ethnicity, language, culture, religion of the dominant group and reaffirm structures of traditional and patriarchal power. Examples include white supremacists who maintained a system of apartheid in southern Africa, promoters of the Hindu *Rashtra* in India, and proponents of caste-based hierarchies etc.

Other identity-based formations emerge out of an experience of discrimination and marginalization and are often a response to living under the constant threat of harm. These communities – women, minorities, Dalits—come together in the process of looking inwards for strength and for the power to withstand and combat discrimination, rights denial and violence. Mobilizing and organizing on the basis of the experience of marginalization can be a powerful political tool. It enables those who are outside the structures of power to develop an analytical understanding of their exclusion from power, to build a sense of self-worth and dignity, and to struggle collectively for social and political change.

At the same time, it must be stressed that the process of organizing around a specific identity, building as it does on a community's sense of its own significance and particularity, can generate its own forms of essentialism and create new structures of inclusion and exclusion. The issue confronting many groups that engage in identity-based politics, therefore, is that of building alliances and linkages that can lend strength to their struggle while not being consumed or subsumed by any hegemonic discourse – including their own. The claims made on behalf of a “community,” where the differences in identity and power *within* that community are not recognized, are likely to subordinate, rather than liberate or explicate. Those who experience multiple forms of discrimination and oppression suffer from a situation in which, their other identities are often rendered invisible and silenced when a single identity acquires primacy in a given socio-political context. Sometimes this silencing is forced through the use of brutal coercive measures. And it is one of the reasons why a focus on the sexual violence against Muslim women and girls, in the pogrom and the on-going persecution, is so critical.

Muslims in India are neither an undifferentiated religious or Political entity - despite colonial and Hindutva attempts to construct them as such, even though historically speaking, certain sections like the elite and spokespersons of the community - have in some sense affiliated with Muslim rulers on the basis of common religion. This memory has, for decades both preceding and post-independence, prevented particular sections of Muslims from recognising, acknowledging and coming to terms with the discriminations the community has faced, and from seeking alliances with other marginalized groups like Dalits. The historical discrimination of Muslims, including the experience of untouchability by caste Hindus, is evident in almost every socio-economic indicator such as poverty, literacy, employment and participation in industry. It is only in the context of extreme

violence faced by Muslims in recent years, both within India and outside, that there is now the beginning of a recognition that they must coalesce around an identity of 'oppression' in order to fight for their rights, and indeed their survival. An urgency characterises this development: after all, there is a sharp difference between the ways in which the Hindutva project has understood Dalits, as a group to be subjugated, manipulated, and pressed into its service and Muslims, as a group to be constructed solely in terms of their religious identity, isolated and targeted as the 'other'.

The work of a feminist politics, given this reality, must recognize *both* the imperative to present a united front to the *Hindutva* onslaught, *and* the reactionary impulses (such as reasserting traditional, restrictive roles for women) that often accompany it. A feminist perspective must address itself to the tensions within the Muslim community, and pay heed to the more progressive voices. For example, there is a growing insistence, among some who witnessed the vulnerability of women who had to fend for themselves after the pogroms, that Muslim communities must prioritise education for women. There is a feeling that it is necessary for women to learn skills that would enable them to survive outside traditional male-headed household structures.

It is through intersectional analyses of discrimination and oppression that the potential of “transversal politics,” which crosses the boundaries created by identity, might be realized. Transversal politics understands that the subject positions on which we base our thought and our responses are multiple and constantly shifting. Within this context, as activists we do not represent any one group at all given times; rather, we stand as advocates of a particular understanding of a specific situation and as mobilizing and organizing agents against discriminatory and oppressive practices.

In spite of the fact that we as the IJ team speak in a shared voice, transversal politics does not call for all of us to share the same visions and perspectives on every topic. It recognizes the varied perspectives from which one of us may approach a particular issue and values the expression of dissent. At the same time it holds out the promise of a sometimes occasional, sometimes more lasting, shared space. In the case of IJ, the shaping of that space meant the explicit prioritization of feminist politics, insight and practice. We hope that through our work of placing gender dynamics and women’s concrete situations at the centre of our analysis, we might counter the larger tendency to render invisible or marginalize the significance of gender in this and other conflicts.

## **10.2 Communalisation of society**

In building an analysis of the pivotal position of gender in conflict situations, it is necessary to go deeper, to develop an understanding of the ways in which cultural constructions of “the ideal woman” and “the ideal man” serve to motivate multiple forms of violence against women. These constructions reify women’s roles in reproducing community and nation, and men’s roles in their defence. The belief that the dignity and “honour” of a community rests on the “honour” of its women provides the background against which barbaric acts of sexual and sexualised violence are acted out on the bodies of women. Thus in the dominant perception of the violence in Gujarat, not only were Muslim men and the Muslim community “sullied” by the rape of their women, they were also an assertion of Hindu manliness, and Hinduism’s cultural and religious superiority.

Other myths contributed both to the legitimization of violence against Muslim communities, and to the silencing of women victims from those communities. The common portrayal of Muslim men as seducers of Hindu women in *Hindutva* propaganda licensed Hindu men, and women, to engage in acts of great brutality, by offering the rationale that the violence was revenge for both, ancient and recent incursions on Hindu women’s purity. Meanwhile, in the voices of Muslim women who

survived multiple rape and sexual violence in the Gujarat pogrom of 2002, it is possible to hear intense self-blame and guilt for having “betrayed” the community. Testimonies that relate how reports of sexual violence were silenced not just by the State, but also by the Muslim community, tell of the ways in which communal politics reduces women to sexualised bodies and territories on which men’s battles for power may be fought.

By raising a range of questions about classical definitions of conflict and violence, and by challenging the essentialist notions of masculine and feminine underpinning them, feminist theories on conflict have emerged enriched and expanded. They have explicated the gendered nature of wars and conflict and the multiple roles of women and men within them.

There is a critical factor in which, within a conflict situation, a certain redefining of women’s roles takes place. In general, the conservatism of identity-based politics reaffirms women’s social, cultural and biological reproductive roles, and drives women, ostensibly for their own “protection” to relocate themselves within the confines of the home and the family. It restricts women’s mobility and creates an enhanced sense of insecurity, thus re-establishing the patriarchal division of the world into public and private spheres.

This redefining, however, is not the same for all women. In the case of majority communities, such as the Hindu community in India, a conflict situation also encourages women to move outside the domestic domain to play an active role in the Hindutva political agenda. It is a classic tactic of right-wing movements to harness politically women’s energies in order to protect some profoundly traditionalist order. The paradox is that in the process of engaging politically—and in this case militaristically—in the battle which is really also about their own confinement, women taste the excitement of exercising a political voice and making a political impact, not unlike the experience of feminist activists.<sup>121</sup>

But for women from marginalized communities, like Muslim women in this case, the confinement comes without even the apparent political voice. In fact the reality of being a community under siege is that it inevitably leads to the feeling that only “primordial” relationships to family and community can provide safety and security, and access to public space is completely denied. As the Gujarat example amply shows us, restrictions placed on Muslim women’s mobility have a critical bearing on their ability to access employment, education and in general, participate in public and social life.

In essence all women are caught in their respective “primordial” relationships, which are constructed within a patriarchal and hierarchical order, and have no space to make claims for autonomy and rights within the communities. Right-wing politics thus not only directly attacks and marginalizes those considered the “other,” but also forecloses all spaces for demands from those marginalized within the communities. The situation is even more serious in circumstances where democratic, and secular spaces are also under attack and the very notion of a secular democracy is being undermined.

### **10.3 The challenge to democracy**

In a secular democracy, the very notion of a majority is one of a constantly shifting constituency. This is because people tend to operate on the basis of constantly changing self-interests drawn from a range of identities, that are ephemeral and always in flux, rather than any absolute and immutable one. This is in contrast to religious identity, caste identity and so on, which are considered immutable – which is precisely why the People’s Representation Act expressly forbids vote-seeking based on appeals to such identities. The Act provides a safeguard against the descent of democracy

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<sup>121</sup> This was and is very much the case in the US with the anti-abortion movement; you can also see elements of this ‘empowerment’ and ‘agency’ experienced by women in right-wing and fascist movement in women in Hitler’s Germany.

into crude majoritarianism. The fact that this safeguard and others have failed, serves as a testament not to the inherent impotence of parliamentary democracy, as some have suggested, but to its subversion by forces of the ruling party.

At the same time, it must be stressed that a functioning democracy cannot be reduced purely to an electoral democracy. A host of other institutions – independent police, independent judiciary, legal frameworks, government agencies, State welfare institutions, an independent media etc. – and the protection and promotion of the indivisible and interdependent human rights norms by these institutions are an integral part of a such a democracy and play an equal role in protecting the citizenry, particularly the minorities, against discrimination and violence. The Hindu Right's disregard for and undermining of these institutions exposes their disrespect for democracy and their belief in totalitarianism and violence.

It would be a mistake to attempt to locate this phenomenon, and the Gujarat pogrom, at a purely local or even national level, because the local anti-Muslim discourse both feeds into and draws strength from the global anti-Muslim discourse. What follows then is an easy subliminal association of Muslim-Terrorist-Aggressor, making it difficult for the average person in India or elsewhere to accept the reality that this community – Muslims – have been victimized in Gujarat. Global political events, and in particular, the invasion of Afghanistan and Iraq by the United States following the attacks on September 11, 2001, also provided a justification for the flawed doctrines of retaliation and pre-emptive strike that *Hindutva* forces were quick to take advantage of to defend their actions in Gujarat. The idea of exacting collective punishment against an entire community for the actions of unrelated individuals, or of attacking a much weaker and numerically smaller group in the name of “self-defense” has acquired new validity in the post-September 11 scenario. When the enemy is constructed as a “Muslim-Aggressor” then pretty much all norms of justice, conscience, and rule of law can be overridden – that is the global message.

It would be a mistake to attempt to locate this phenomenon, and what happened in Gujarat, at a purely local or even national level. Global political events, and in particular, the invasion of Afghanistan and Iraq by the United States following the events of September 11, 2001 also provided a justification for the flawed doctrines of retaliation and preemptive strike that *Hindutva* forces were quick to take advantage of in terms of defending their actions in Gujarat. The idea of exacting collective punishment against an entire community for the actions of unrelated individuals, or of attacking a much weaker and numerically smaller group in the name of “self-defence” has acquired new validity in the post-September 11 scenario.

#### **10.4 Justice**

It is not enough merely to reject the notion that violent retaliation or collective punishment could be commensurate with our understanding of justice. Given the complexity of the Gujarat massacres, even the more legitimate principles of punishing perpetrators and compensating the victims are cast into doubt. And yet, the difficulty of locating named perpetrators and establishing their guilt, in a majority of the cases, must not result in the denial of something called justice. At the most general level, then, we must assert that the State bears fundamental responsibility for its failure to prevent the massacres, and that a fundamental duty arises from this responsibility: a duty to recognize and atone for the wrong, and to compensate and rehabilitate the victims. This duty is owed not just to the particular individuals who have come forward with testimonies of their victimization, but to an entire community that was terrorized.

However, an awareness of the fact that a whole community is owed reparation must not blind us to the different ways in which distinct groups within it were targeted in specific ways. In particular, we

must be attentive to the cases of sexual violence, where not only are the perpetrators and victims are unnamed, and where forces within the community (concerned with issues of collective honour and shame) conspire with forces outside to keep the crime unnamed. Justice for women from the Muslim community has to be dealt with separately, over and above the generalized strategy that addresses the community as a whole.

In the assaults on women, it is not only the attackers that are sometimes unknown or un-nameable; those who are targeted also cannot be named and identified. Besides, even if all women were not physically assaulted, all women from the Muslim community in Gujarat lived through the trauma and fear of a possible assault. In such a situation, justice has to include a public recognition of the crime and an acknowledgement that while all women from the Muslim community are victims of the crime, the rest of society carries the onus of being the accused for committing the crime, encouraging it, or not preventing it.

The State then owes women a more complex approach that recognizes their entitlement to more specific reparations and includes the development of mechanisms to prevent the recurrence of such violation. It must institute actual rehabilitation measures in order to address women's economic, social and emotional needs that range from promoting educational opportunities to providing confidential counselling.

We struggle for a definition of justice because it is a struggle to understand the massacres, and to develop some comprehension about whose interests could possibly have been served by such inhumanity and brutality. But without an analysis of the violation, there can be no framing of how justice may be served, and without the promise of justice, there can be no bulwark against the constant threat that what happened in Gujarat could very easily happen again.

## Chapter 11

### Recommendations

#### To the International Community:

- The situation in Gujarat is such even today, that there is a need to declare a **genocidal alert**.
- The genocide that took place in Gujarat had as its backdrop, the international witch-hunt of the Muslim community after the September 2001 attacks and the global war unleashed by America and its allies. The international community needs to bear this in mind.
- Under international law, “crimes against humanity” and genocide are equally grave violations which are also non-derogable (*jus cogens*) and can never be justified. Further these crimes are subject to universal jurisdiction, which triggers the authority and the obligation of the international community as a whole, and every nation individually, to extradite or prosecute the perpetrators of these crimes in Gujarat.
- The use of sexual violence as a strategy needs to be specially addressed by the international community. This is because of the sensitivity of sexual violence, which by its very nature will go completely unnoticed and unpunished unless it has a special focus and it is specifically condemned as a strategy.
- It is urgent to challenge the charitable and tax exempt status of organizations that support, directly or indirectly, the *Hindutva* agenda and spew hatred and violence with public money.
- Investigate and prevent the funding of organizations participating in the instigation and implementation of genocide and crimes against humanity against the minority communities.
- International structures, like the United Nations function necessarily within the framework of various nation-states authorities. Today these bodies are totally inadequate in providing justice to communities and to sections of people who have been denied justice either within the nation-states or by other nation-states. The international community needs to build an international platform and solidarity networks to help struggles of such communities and sections.

#### To the Indian Government:

- Enact legislation to implement the *Convention on the Prevention and Punishment of the Crime of Genocide*, ratified by the Government of India. Under this legislation, prosecute all the constitutionally responsible government officials (elected representatives, as well as ministers), public officials or private individuals for the act of genocide in Gujarat.
- Accede to the Rome Statute of the International Criminal Court and implement its provisions in domestic law applicable to crisis and non-crisis situations.
- Invite and facilitate an international mission of enquiry, including visits by the relevant U.N. Special Rapporteurs to monitor the development of genocide and State responsibility, in order to punish the perpetrators and prevent such occurrences in the future.
- Investigate and prosecute organizations such as VHP, RSS, BJP, *Bajrang Dal*, *Shiv Sena* and their affiliate organizations, as well as officials and individuals responsible for the continuing

harassment and propagation of hate through measures such as training militia and planning genocidal attacks in Gujarat.

- Enforce strict action against, and outlaw where necessary, those responsible for the economic boycott, ghettoisation and other economic sanctions against the Muslim community.
- Establish community reparation rights for people from the Muslim community of Gujarat.
- Recognize the right to rehabilitation as the fundamental right of the Muslim Community of Gujarat.
- Establish the right to compensation of the affected Muslim community of Gujarat for failure of due diligence by the State as distinct from assistance and relief provided.
- Ensure transparency in the distribution of the relief funds.
- Restore to the Muslims of Gujarat, their rights to life, security and survival, as guaranteed to all citizens in the Constitution of India.
- Safeguard and protect the social, economic, cultural and political rights of Muslims in Gujarat as per international human rights norms.
- Ensure food security and shelter, and guarantee adequate conditions of living and the possibility of returning safely to their communities to those displaced.
- Provide comprehensive health services, including trauma counselling, and support services to all who were subjected to the brutal violence.
- Ensure security to children, both girls and boys, in terms of exercising their right to education, without being harassed, targeted and discriminated against.
- Remove communal and discriminatory references and distortion of historical facts in the textbooks of schools, colleges and other educational institutions and develop a comprehensive plan of community education, critical memorialization of the pogrom of 2002, and the support of research into the origins and process of the genocidal project and the methods of combating it.
- Disband forthwith the Gujarat State Cell to monitor inter-religious and other forms of mixed marriages.
- Ensure freedom of social interaction between people of different communities and protect such interaction from being policed and provide protection to people who are threatened.
- Ensure safety and security of human rights & women's rights defenders, and of independent and secular NGOs working to promote human rights and non-discrimination.

#### **For the Judicial System in India:**

- The Supreme Court of India has taken the first step in the direction of securing justice to the victims of the Gujarat carnage, by issuing certain instructions to the State of Gujarat. Though this laudable step has taken more than a year, it is only the beginning. The situation in Gujarat is unprecedented and hence unprecedented measures would be required to ensure justice.

- Transfer all the major cases of carnage outside of Gujarat. Establish special independent court and appoint special prosecutors, as well as staff who are not connected to communal organizations, with the authority to try the crimes committed in Gujarat as crimes against humanity and genocide under customary international legal standards, including the international crimes of rape and sexual violence since India has signed the Genocide Convention.
- In the light that the events of Gujarat in February-March 2002 are international crimes of genocide and crimes against humanity, the Supreme Court or indeed the High Court of any other State in India must assume universal jurisdiction and apply international law to initiate a process to investigate and prosecute those responsible for these crimes with the help of the CBI.
- Establish witness protection programme for all the witnesses of the carnage in Gujarat.
- Ensure prosecution of all instances of sexual violence, including those where the victim has been killed.
- Broaden the understanding of rape to include insertions other than penile penetration and the broad circumstances of coercion recognised in international law.
- Eliminate the insistence on production of medical evidence and corroboration of victims' testimonies, and prohibit admission of evidence attacking the character or sexual chastity of victims.
- Direct the Government of India and the National Commission of Women to implement the scheme for rehabilitation of survivors of sexual assault in Gujarat in accordance with the judgement delivered by Chief Justice Venkatchallaiah.<sup>122</sup>
- Institute a legitimate investigation and prosecution of the crimes committed against the Muslim community and against Muslim women by individuals in the police, paramilitary forces and other officials, including review and re-filing of FIRs and arrest of absconders.
- Hold the controlling authority responsible for the carnage. This should include Ministers, elected representatives, government and public officials and the police. They should be held responsible for abetting the violence (including sexual assault) and for dereliction of duties.

#### **To the Civil Society in India:**

- The privileged sections of society and right-wing religious forces have discriminated against various marginalized communities in India such as the Dalit and *Adivasis* for centuries. Today under the *Hindutva* project there is an attempt to bring these marginalized sections into the fold of a mythical homogenised Hindu *Rashtra*. This very attempt also aims to deny these groups their fundamental rights and to provoke them to attack and violate other marginalized communities, such as the Muslim community in Gujarat. It is the responsibility of all progressive movements in India, including those within oppressed sections, to continue to strengthen the struggles of all marginalized groups and build solidarity across discriminated sections of society, including religious minorities.
- Several organizations are based on important but particular interests of oppressed or marginalized sections of society. Still, there is a need for greater awareness of the divisions

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<sup>122</sup> *Delhi Domestic Working Women's Forum v. Union Of India* (1995) 1 SCC 14.

within those sections and sensitivity towards them. For example, trade unions are based on the identity of people as workers. However, it is necessary to be aware of the rights of the marginalized sections within the workers, such as minorities, socially disadvantaged communities as well as women. This applies to the women's movement and several other movements as well.

- Civil society must demand legislative changes required to secure justice, while opposing draconian laws like Prevention of Terrorism Act (POTA), which target minorities once again. Civil society has the major task of strengthening the secular, democratic structure of society that is under threat and duress today.
- Civil society, democratic and progressive organizations and institutions must come together to support the people of the Muslim community to rebuild their lives and continue in their struggle for justice. In the absence of state help, the major responsibility of relief and rehabilitation was borne by the community itself, while under attack. Civil society has to come forward and build the infrastructure to shoulder this major responsibility.
- Civil society must actively resist attempts to saffronise education by demanding a rational, unbiased, historical and scientific approach, which upholds a secular, democratic and just understanding of society.
- Civil Society also has the major task of strengthening progressive forces within the Muslim community, to ensure justice for all marginalized sections such as gender, caste and class, within the community.

## Updates<sup>123</sup>

Most of the year 2003 has seen a furtherance of the Hindutva project. In fact, at the time of writing these updates, a curfew has been imposed on several areas in the city of Ahmedabad. The State Government, the Central Government and the state have continued with their policies and programs of further marginalizing the Muslim community by the use of both overt and covert repressive measures. We give here a glimpse of these processes, pieced together as a collage, from different official and authoritative sources.

### 1. Furthering Hindutva Ideology

- The **Vishwa Hindu Parishad distributed 6000 *trishuls*** (trident daggers) in Rajasthan in February 2003 and the pace of arming people has increased after the BJP victory in Gujarat. More than 2,600 people were armed in Rajasthan with *trishuls* in less than 35 days in 2003.<sup>124</sup>
- **A survey of Christians** in Gujarat was conducted in early March 2003 by the police on orders of the state government.<sup>125</sup>
- The **Gujarat Freedom of Religion Bill** was passed in the Gujarat State Assembly on 26 March 2003.<sup>126</sup>
- **School textbooks in the state of Gujarat** continue to show distortions under the present government. For instance, in the social studies textbook for the ninth-grade equivalent class, Muslims, Christians and Parsees -- members of a Zoroastrian sect -- are all labelled "foreigners." In the 10th-grade equivalent history textbook, Nazism is referred to with veiled admiration. "Hitler lent dignity and prestige to the German government within a short time by establishing a strong administrative set up ... He adopted the policy of opposition towards the Jewish people."<sup>127</sup>
- The University Grants Commission (UGC) wants to change the nomenclature of **Women's Studies Centres to 'Women and Family Studies'** in the proposed and recently revised (August 2003) Tenth Plan guidelines for all Women's Studies Centres issued by the UGC. Renaming of these Centres by implication limits the focus and domain of women's studies by seeing women only through the lens of the family.<sup>128</sup>

### 2. Moral Policing

- The Government of India on September 7, 2003, finally came out with its **stand on homosexuality** stating it cannot be legalised in India as society disapproves of such behaviour.<sup>129</sup>
- **Hindu Christian Marriage**
  - o A Hindu girl and a Christian youth from Naroda had dared to fall in love and get married. Outside the metropolitan magistrate's court number 18 in Meghaninagar, Rebeiro was roughed up by Babu Bajrangi, member of Bajrang Dal, and three other

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<sup>123</sup> This section is prepared by the Forum Against Oppression of Women taking into account major developments till the first week of November 2003.

<sup>124</sup> [http://pd.cpim.org/2003/0302/03022003\\_rajasthan.htm](http://pd.cpim.org/2003/0302/03022003_rajasthan.htm)

<sup>125</sup> <http://www.pastornet.net.au/jmm/pray/pray0585.htm>

<sup>126</sup> <http://www.keralam.ws/news.html>

<sup>127</sup> <http://washingtontimes.com/upi-breaking/20030814-114442-6119r.html>

<sup>128</sup> **Times of India**, [Mumbai] August 25, 2003.

<sup>129</sup> <http://www.rediff.com/news/2003/sep/08sex.htm>.

- persons. Bajrangi became infamous during last year's communal riots when his name figured among those who led a mob to Naroda-Patia.<sup>130</sup>
- o Reema Sompura, who was separated by use of force from her Christian husband Anthony Rebello by Hindu hardliners on April 29, has fled to Mumbai to be with her husband again. She is now determined to avenge the injustice done to her.<sup>131</sup>
  - **Youth 'stripped' for marrying without elders' permission**  
A youth was paraded naked in a village in Halol taluka, Gujarat on Saturday for marrying a girl of his choice without the sanction of village elders, police said today.<sup>132</sup>
  - **Welcome to the new Hotel Gujarat**  
It was the day after Godhra. Moti Manor, Ahmedabad's three-star hotel famed for its Mughlai cuisine, was in flames like many Muslim properties elsewhere in the city. Now, 20 months later, the hotel is all set to reopen. It will have a new name: Naika. And an all-new Hindu cuisine, totally vegetarian and in sync with the changed times. Moti Manor's irresistible Mughlai went up in flames with the old hotel. "We won't serve non-vegetarian. Otherwise, the hotel will always remain a soft target," says Mohan Agarwal. Manubhai Barot, general secretary of Hotel Owner's Association, says Moti Manor was "the worst-hit hotel during the communal riots and was targeted as it was run by a Muslim." He says association records show that over 100 small restaurants and hotels in Ahmedabad district were set ablaze post-Godhra. "Some changed hands while some are being run by the original owners. Very few have received compensation," he says.<sup>133</sup>

### 3. Further information on Gujarat Cases:<sup>134</sup>

#### 3.1 Status of communal violence cases in Gujarat

City/District	Total cases registered	Pending Trial	True cases closed	False cases closed	Acquitted	Pending Investigation	Pending Sanction for Prosecution	Other
Ahmedabad city	959	516	358	58	7	19	-	1
Ahmedabad Rural	88	69	16	-	2	1	1	-
Baroda city	617	398	204	-	1	3	10	1
Baroda Rural	242	93	148	-	1	-	-	-
Anand	199	134	62	3	-	-	-	-
Kheda	193	134	38		3	17	4	-
Panchmahel	179	96	62	1	16	4	-	-
Bhavnagar	310	42	264	4	-	-	-	-

<sup>130</sup> *Times of India*, Sunday, May 11, 2003.

<sup>131</sup> Sharmana Ganguly *Asian Age*, [Ahmedabad] June 6, 2003.

<sup>132</sup> [http://www.indianexpress.com/full\\_story.php?content\\_id=33396](http://www.indianexpress.com/full_story.php?content_id=33396)

<sup>133</sup> [http://www.indianexpress.com/full\\_story.php?content\\_id=33402](http://www.indianexpress.com/full_story.php?content_id=33402)

<sup>134</sup> *Frontline*, Volume 20 issue 15, July 19 – August 01, 2003.

Sabarkantha	467	176	281	4	-	-	-	3
Banaskantha	61	15	45	-	-	1	-	-
Mehsana	172	78	90	4	-	-	-	-
Dahod	87	24	60	-	-	1	2	-
Others	678	262	404	2	6	-	2	1
Total	4252	2037	2032	76	36	46	19	6

### 3.2 Status of some major cases

Incident	Killings	Status
Naroda Patia, Ahmedabad	83	Trial yet to begin. Some accused absconding. Two still in jail, two witnesses were also jailed.
Naroda Gaon, Ahmedabad	12	Trial yet to begin. Witnesses who named politicians were jailed in connection with a murder case.
Chamanpura, Ahmedabad	67	Witnesses asking for their statements to be recorded properly and for a thorough investigation.
Sardarpura, Mehasana	33	Witnesses asking for special public prosecutor. The present District public prosecutor is a VHP leader.
Randhikpur, Dahod	18	Case closed as true but undetected (owing to lack of evidence). Main witness named the accused. But police have not arrested them; instead the police have declared the witness “unstable”.
Pandharwada, Panchmahel	21	Accused acquitted.
Khanpur, Panchmahel	73	All the accused acquitted. During the trial, the witnesses identified the culprits. They said that they did not name these accused to the police and that the real accused were different people. The witnesses named the real accused in the court. But the public prosecutor did not make an application to bring the real accused before the court. The court while acquitting the accused had passed some observations against the police for not investigating the case properly.
Anjenwa, Panchmahel	11	20 absconding. 5 accused not named in the charge sheet. Witnesses have asked for the arrest of the accused or their property to be attached as was done against the absconding in the Godhra case.
Ambika Society, Panchmahel	13	FIR clubbed with three other cases that occurred in three separate places: Kalol, Boru and Vajalpur. Trial has not yet begun.
Eral, Panchmahel	9	The witness is a woman whose daughter was raped and killed. She has asked for the ‘absconding’ to be arrested and for the names to be included in the charge sheet. The judge will not proceed until all 32 witnesses are present at the same time in court.

### 3.3 Gujarat cops top list of riot atrocities: National Crime Records Bureau

It's official now. The Gujarat Police — accused of bias and committing atrocities during the riots in the wake of Godhra carnage — had killed the maximum number of civilians, says the latest report of the National Crime Records Bureau (NCRB). The report, released on Friday, stated that the maximum number of cases was registered against the state police during the Carnage in 2002

The Gujarat Police topped the list with as many as 506 cases of police firing, killing 222 civilians and injuring 361.<sup>135</sup>

### 3.4 Victimizing the Victims of Assault

- Senior advocate Harish Salve alleged before Supreme Court that riot victim Bilkis Yakub Rasool, who was raped during the Gujarat riots was called by police officials for questioning at 22.00 hours on September 16, on the plea that she had to be taken to Godhra for identification of the dead bodies. This had happened after Bilkis approached Supreme Court for relief. The petitioner had refused to accompany the officers saying no dead body would be available at the place of the incident as it took place 18 months back.<sup>136</sup>
- “I told the court what happened to my daughter and to my mother-in-law and father-in-law, how they were beaten by the mob. But the people in the court, they laughed at me, and they kept on laughing while I testified. The case is still going on. They offered us money to retract our statements. They said they would pay us off. Even my husband was persuaded to withdraw his statement, but I don't want to do that. I want justice.” Madina<sup>137</sup>
- “They started shoving me. I would have been trampled on if some people hadn't helped me into the car. We tried to drive off, but they surrounded us, shouting slogans and kicking and punching the car. But we managed to get out of there while the crowd continued to shout slogans.” Zakia Naseem Jafri, widow of murdered Member of Parliament<sup>138</sup>

### 3.5 Exposing the true face of Hindutva

- **BJP and VHP used us, Godhra victims' kin:**

In an embarrassing development for the Narendra Modi government, some relatives of the Godhra train carnage today alleged being pressured by the BJP and VHP workers and demanded shifting of the Nanavati Commission of inquiry outside the state, as they had “no faith” in the Narendra Modi government. Bharat Panchal, who lost his wife Jyoti in the carnage, accused BJP and VHP of getting away with the compensation allotted to the victims. He said they have not been paid the entire compensation money and demanded an investigation into source of funds and their use by VHP and BJP, who allegedly received the amount in the names of the Godhra victims. The kin of the victims, including 18-year-old Khushboo, appealed to the public not to participate in the forthcoming Ayodhya yatra by the BJP and VHP to be held on October 15. She said, “after going through the sufferings, I don't want anyone to face the same.”<sup>139</sup>

### 3.6 POTA Cases

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<sup>135</sup> [http://www.indianexpress.com/full\\_story.php?content\\_id=31546](http://www.indianexpress.com/full_story.php?content_id=31546)

<sup>136</sup> <http://www.rediff.com/news/2003/sep/25godh1.htm>.

<sup>137</sup> [http://www.channel4.com/news/2003/10/week\\_2/06\\_guj.html](http://www.channel4.com/news/2003/10/week_2/06_guj.html)

<sup>138</sup> [http://www.channel4.com/news/2003/10/week\\_2/06\\_guj.html](http://www.channel4.com/news/2003/10/week_2/06_guj.html)

<sup>139</sup> <http://economictimes.indiatimes.com/cms.dll/html/uncomp/articleshow?msid=217599>

- Amongst the **240 people** booked till September 2003 by the Gujarat government under The Prevention of Terrorism Act (POTA) **239 are Muslims**. These persons have been booked under the cases dealing with the burning of the Sabarmati Express, the Akshardham attacks and the murder of the former Minister, Haren Pandya.<sup>140</sup>
- **‘Abuse of the law in Gujarat: Muslims detained illegally in Ahmedabad’ – a report by Amnesty International**<sup>141</sup>

This document presents well-founded reports of the use of arbitrary and illegal detention by Crime Branch police in Ahmedabad in the past year. Evidence is also presented of the torture and ill treatment of detainees. These human rights violations are being carried out in the context of a large number of arrests of individuals suspected of involvement in a range of alleged conspiracies against the state.

The courts in Gujarat have to date failed to take any action to prevent or investigate and prosecute most of these illegal actions despite on occasion being confronted with allegations and evidence. The widespread use of incommunicado detention by police against members of the Muslim minority in Ahmedabad is reported to have terrorised the Muslim community who have been too scared to make official complaints.

The cases of two men, which are presented in this report, are somewhat unique in that a complaint concerning their treatment was presented before the Gujarat High Court. However, concerned for the safety of the two men and their relatives, Amnesty International is withholding their names from publication.

Amnesty International understands that only a handful of *habeas corpus* petitions have been filed on behalf of those illegally detained, because of the overwhelming fear of retribution amongst relatives and even lawyers. However, what is of considerable concern is that the High Court appears to have ignored their complaints thereby denying them their right to have their complaint of torture independently and impartially investigated as set out under Article 13 of the United Nations (UN) Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture). Their cases appear to exemplify the routine flouting (and acceptance of that flouting) of safeguards against torture or ill treatment by institutions of the criminal justice system.

Amnesty International would like to point out that in researching information on which this report is based, it has not been able to visit Gujarat to interview detainees or police or government officials concerned, as it would have liked to have done.

#### Blatant abuse of the law against members of the Muslim community

In two *habeas corpus* petitions (No.658 and 650 of 2003) filed in the Gujarat High Court on 7 July 2003, **Y** and **Z**, the wives of two men - **W** and his father **X** - claimed that their husbands had been arrested by Crime Branch police officers and were being illegally detained. Twenty-year-old **Y**, resident of Ahmedabad, alleged that her husband **W** had been arrested from his father's house in Ahmedabad on 15 June and that she had not seen him since. Forty-year-old **Z** alleged that she had not seen her husband since he left for Jammu on business on 19 May but that she had been told unofficially that her husband was being illegally detained with his son, at the Gayakwad Haveli Police Station in Raikhad, Ahmedabad, having been arrested in Jammu some time after 20 June. Despite approaching Crime Branch officials on several occasions, the women were told that their husbands were not in custody.

<sup>140</sup> [http://www.hindustantimes.com/news/181\\_376452,000900040003.htm](http://www.hindustantimes.com/news/181_376452,000900040003.htm).

<sup>141</sup> <http://web.amnesty.org/library>

Y testified that, “we could see with our own eyes that they were very much beaten and there was swelling on the entire body. My husband and my father were so much frightened that they could not properly talk to us. Throughout our meeting they were weeping. They have specifically told us that they have not been beaten at all for the obvious reasons. However, that was not at all true. They could barely walk and that was enough to suggest their physical condition.”

The women also testified that they had seen many other detained people in the Gayakwad Haveli Police Station who were handcuffed or chained and who indicated that they were being held in illegal detention without the knowledge of their families.

The two men gave their wives letters in Urdu telling them to withdraw the petitions or they would be killed. The women were then threatened by the Superintendent of Police not to pursue the petitions or their husbands, and they themselves, would be charged under POTA: “That Police Inspector A threateningly told us to withdraw our respective petitions. He told us to accompany him to tender apology of his senior police officer for filing petitions before this Honourable Court or else the consequences could be unthinkable.”

The lawyer acting for the two women persuaded them to pursue the case in the High Court and affidavits testifying to their meeting with their husbands were filed at the hearing on 11 July. In response, the Court repeated its request to the Crime Branch to give a statement as to the whereabouts of the two men. The Crime Branch continued to deny they were in their custody. The High Court gave an order saying that even if the two men were not in Crime Branch custody, the state had a duty to discover their whereabouts and adjourned the case for a further six days till 17 July.

On 16 July (as reported in the media on 17 July) W and X were produced, along with two other men, by Crime Branch officers in the special court established to administer POTA cases in Ahmedabad. Police claimed that they had been arrested the previous day at a railway station in Ahmedabad, with bullets and money in their possession and had been arrested in connection with the 'ISI conspiracy' case.

At the High Court hearing of the *habeas corpus* petitions on 17 July, the judge did not take any action to investigate the claims of illegal detention or torture or to provide remedy despite evidence before him that the two men had been illegally detained for a month and had been subjected to torture or ill treatment. In response to a request by lawyers acting for the wives of the two men to be granted leave to appeal to the Supreme Court, the judge stated:

*“In our opinion, no substantial question of law of general importance is involved in these petitions which is required to be decided by the Honourable Supreme Court.”*

### Illegal detention

Amnesty International has received information that scores of Muslim men have been illegally detained for questioning in connection with the killing of former Home Minister Haren Pandya. Amnesty International was told by a local lawyer that between the end of March and the beginning of May 2003, up to 380 people had been called by police for interrogation. Arrests have continued after May and are reported to be still continuing. The men are not formally arrested and no records are kept of their detention and interrogation by police. In some cases, this "interrogation" is reported to last for two weeks, while in other cases it lasts one or two days. Some detainees have been allowed to see their families during this period and in other cases relatives have been able to provide food for the young men but not been permitted to see them.

### Conclusion

Amnesty International is aware of the openly stated hostility of the Government of Gujarat to human rights organisations and "international interference" in its internal affairs. But in

ratifying international human rights instruments, India has recognised the international jurisdiction of the United Nations in relation to human rights. The state must answer internationally for violations of human rights.

### 3.7 Intervention by the Supreme Court

- The Supreme Court of India, in hearing a NHRC (National Human Rights Commission) petition for **retrial of the Best Bakery case**, has directed the Gujarat government to review the Best Bakery case in which the 21 accused of burning 14 persons to death, were acquitted. The Supreme Court on October 9, 2003, said it would monitor the appeal filed by the Gujarat Government in the High Court against the acquittal of all the 21 accused in the case by the Vadodara trial court, saying it had little faith in the prosecution. The NHRC had filed the petition after one of the key witnesses, Zahira Shaikh who left Gujarat and demanded a retrial, stated that she had lied before the trial court, as she was threatened by the local BJP and Congress leader.<sup>142</sup>
- **Keep off rape victim, Supreme Court tells Gujarat cops**  
The Supreme Court on Thursday asked Gujarat police to 'keep off' the petitioner and riot victim Bilkis Yakub Rasool, who was raped during the Gujarat riots, till the Court decided her plea for transfer of the sexual assault case from state police to CBI. "It would be appropriate for the state police to keep off her till the court decides her plea for transfer of the case to CBI."<sup>143</sup>
- **Beyond Best Bakery: SC turns light on 12 riot cases**  
Shifting the spotlight to investigations into 12 riot cases, tagged with the Best Bakery case in the NHRC petition, the Supreme Court today directed Gujarat to file status reports of the cases and posted the matter for further hearing on November 7. The bench also asked the counsel for Gujarat to file his response within four weeks to an affidavit filed by Citizens for Justice and Peace, which submitted a detailed account of prosecutors who were either members or leaders of local units of the RSS or the VHP in Gujarat.<sup>144</sup>

### 3.8 Public Prosecutors: Not in the interest of victims<sup>145</sup>

- In the Gujarat High Court in May, some victims filed a criminal complaint that in the Sardarpura riot case—in which 33 people were burnt alive—the public prosecutor was Dilip Trivedi, general secretary of the Vishwa Hindu Parishad (VHP). He continues to be public prosecutor in the case although after the court's strictures, he was pulled out from another case. Like him, several VHP-affiliated lawyers hold the key to justice for riot victims across the state. Trivedi was appointed by the state government as public prosecutor in both cases. He registered his "no objection" to bail being granted for the Sardarpura accused. Trivedi was removed from the Dipda Darwaja case and replaced with Rajendra Darji, another VHP lawyer. The request for a special public prosecutor to oversee both the cases has, however, not been complied with as yet.
- **Panchmahals:** There are 121 riot FIRs filed. Trial is on in 26 cases. There has not even been one conviction yet. The Public Prosecutor is Piyush Gandhi, the president of VHP unit of the Panchmahals district. He is also a member of the lawyers' panel of the VHP.

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<sup>142</sup> <http://www.hindu.com/2003/10/10/stories/2003101007110100.htm>

<sup>143</sup> <http://www.rediff.com/news/2003/sep/25godh1.htm>

<sup>144</sup> [http://www.indianexpress.com/full\\_story.php?content\\_id=33644](http://www.indianexpress.com/full_story.php?content_id=33644)

<sup>145</sup> [http://www.indianexpress.com/full\\_story.php?content\\_id=31837](http://www.indianexpress.com/full_story.php?content_id=31837);

[http://www.indian-express.com/full\\_story.php?content\\_id=31507](http://www.indian-express.com/full_story.php?content_id=31507)

- **Ode, Anand:** 27 persons were declared missing by police after an attack on the village. Only three confirmed deaths were registered in the FIR; the rest were named 'missing'. The case coming up for trial. Public prosecutor P S Dhora's panel of public prosecutors will handle riot cases in both Anand and Kheda districts. Dhora is a known RSS sympathiser.
- **Vadodara:** Here 603 FIRs have been filed. Sanjay Bhatt, one of the newly appointed Public Prosecutors asked to handle riot cases, is the nephew of VHP city unit president Ajay Joshi and is also a VHP advocate. Incidentally, Joshi defended the 21 accused in the Best Bakery case, which is now under SC scrutiny.
- **Ahmedabad:** 942 FIRs were filed. The major cases were: 89 killed in Naroda, 39 in Gulbarg Society. Chetan Shah, who was on the VHP advocate panel for two decades, has been appointed Public Prosecutor. Shah has been on the Vishwa Hindu Parishad (VHP) panel of lawyers for over two decades. In 1986, Shah was named in an FIR in connection with a communal riot in the city in which seven Muslims were burnt alive. He was acquitted in that case for "lack of evidence."

### 3.9 Stifling voices of dissent

- **'Mallika Sarabhai is being framed'**

Prominent personalities from all over the country have condemned the alleged victimisation of noted dancer Mallika Sarabhai by the Narendra Modi government in Gujarat. In a memorandum addressed to Deputy Prime Minister L K Advani and Mr Modi, the signatories alleged that over the past few days, the Gujarat government was trying to "frame" Ms Sarabhai, who is based in Ahmedabad, in a false case of human trafficking. They alleged that Ms Sarabhai was being targeted because of her stand against the anti-Muslim pogrom in Gujarat. She is the key petitioner in a petition in the Supreme Court in this regard. In the past she was threatened by vested interests that wanted her to withdraw the petition. The personalities have called for an immediate end to the victimisation of Ms Sarabhai.<sup>146</sup>

- **Gujarat government's cases against Nafisa Ali slammed**

Nafisa Ali had incurred the wrath of Gujarat Chief Minister Narendra Modi over her remarks during a visit to the state earlier this month when she addressed meetings in Godhra, Vadodara and Ahmedabad. She was quoted as stating: "Just like the people of Hitler's country are ashamed of him, people will be of Modi too. Men can be good or bad; you cannot blame an entire religion as good or bad." On August 14, a day before Independence Day, the Gujarat government filed two criminal cases against Ali, who had, in a strong indictment of Modi's role in the sectarian carnage, compared him to Adolf Hitler. She was accused of "promoting religious enmity".<sup>147</sup>

- Suspected VHP activists on Monday forced a Delhi-based documentary maker to apologise for screening *Godhra Tak*, a 62-minute documentary, containing footage of the Godhra train carnage and its aftermath. The documentary, directed by Shubrudeep Chakroborty, was screened at Khet Bhavan near Gandhi Ashram. Soon after the screening for media persons, around seven persons — who identified themselves as VHP activists — entered the premises and asked the director to apologise for screening the film.<sup>148</sup>

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<sup>146</sup> Times News Network, Tuesday, October 28, 2003.

<sup>147</sup> <http://in.news.yahoo.com/030829/43/27de5.html>

<sup>148</sup> [http://www.indian-express.com/full\\_story.php?content\\_id=33824](http://www.indian-express.com/full_story.php?content_id=33824)

- Two Human Rights Defenders, associated with the **Citizens for Justice and Peace**, have been receiving renewed threats in connection with their work related to justice for the victims of the Gujarat carnage, be it the BEST Bakery case or the victims of the Godhra burning of Coach S-6 of the Sabarmati Express. Shri Rais Khan Aziz Khan Pathan, the full-time coordinator of CJP, has received two threats in the past week on his mobile, details of which have been sent by CJP to the DGP, Gujarat State, Mr Chakrovarty, CP Ahmedabad, Mr Kaushik and other officers of the Gujarat State. On October 23, 2003, Teesta Setalvad, Secretary CJP formally applied to the Mumbai police for protection after repeated warnings from the field office of the CJP in Gujarat.<sup>149</sup>

## 4. Continuing Genocide

### 4.1 Continuing violence

- **Only Muslims died, sent to hospital, cops say it's coincidence**  
Three deaths, 37 hospitalised: that's the price Viramgam's Muslims living in the Chandfali and Dhadi Vaas areas paid for Sunday's violence, sparked off when Muslim boys, while playing cricket, sent the ball flying into a temple.  
The other side of the picture: No Hindu died, none of the 12 injured had to be hospitalised. Killed in police firing at his residence — it's over 2 km from the spot where the clash took place — Zakir Yusuf was standing on his terrace when a bullet pierced his chest. Police have arrested 15 Hindus, including Jadhav, and 9 Muslims, among them two boys. Viramgam hasn't heard the last of this.<sup>150</sup>
- **Godhra gets that scare again**  
The spectre of violence and curfew returned to haunt this communally sensitive town today. Arson broke out when stones were thrown from a mosque on processionists accompanying Ganesh idols for immersion. Eleven persons who were injured were taken to the Civil Hospital. Witnesses said the local police and their counterparts from the State Reserve Police often simply watched as processionists went berserk, looting shops, upturning goods, setting things on fire. It was only after the Rapid Action Force stepped in that some order was restored. The videotape clearly shows that the ransacking and arson was "one-sided", said Antani, who too was injured in the incident.<sup>151</sup>
- **Excerpts from the Report of the PUCL fact finding committee – Baroda**<sup>152</sup>  
A police team of around 15 strong, led by PI Gadhvi, combed the area after complaints that the statue in the Mahakali Mandir opposite Kanungo Street had been damaged at 10:30 pm. The police conducted house to house search, looking for the miscreants. During the search, the police have clearly acted in a brutal manner. We observed that the police had brutally assaulted children, women and men from the Muslim community and damaged 17 houses and 12 autorickshaws of people from Muslim community.  
The team also met women who reported that the police were drunk on duty, were mouthing lewd and vulgar comments, were making outright sexual advances, were unzipping and exposing genitals, were using foul language having religious and sexual connotations and caused unnecessary and gratuitous damage to property

<sup>149</sup> Press Release by Citizens for Justice and Peace dated November 8, 2003.

<sup>150</sup> Rupam Jain, Indian Express, November 4, 2003.

<sup>151</sup> [http://www.indianexpress.com/full\\_story.php?content\\_id=31027](http://www.indianexpress.com/full_story.php?content_id=31027)

[http://www.indianexpress.com/full\\_story.php?content\\_id=31146](http://www.indianexpress.com/full_story.php?content_id=31146)

<sup>152</sup> [http://www.onlinevolunteers.org/gujarat/news/September 2003](http://www.onlinevolunteers.org/gujarat/news/September%2003)

## 4.2 Continuing economic boycott

- A study conducted one year later, reported the conditions in parts of Gujarat:<sup>153</sup>
  - **Por:** Hunger and deprivation continues to hit the 400 Muslim residents of Por with over 70 young persons out of jobs. The total strength of this Patel dominated village is 5,000, of which Muslims number 1100. Women were also involved in milking cattle, an occupation that is today unavailable to them, as they do not have access to buffaloes as these were also stolen or driven away.
  - **Vadodara:** Over 17 persons were dismissed from the Gujarat Electricity Board following anonymous complaints on their character being received by the authorities. All of the dismissed employees are Muslim.
  - **Unjha:** Here a huge agricultural market has been purged of Muslims. There was unmentionable violence and marginalisation; so none returned. The land on which the Mosque and Madrassa stood--that were destroyed by a bulldozer—is today still in the possession of the Collector.
- A summary of the findings from villages in Dahod, Panchmahals and Anand district of Gujarat by members from Forum Against Oppression of Women and Aawaaz-e-Niswaan at the end of May 2003:
  - The income levels of the people from the Muslim community have declined to almost 25% to 50% of their earnings as compared to the period before March 2002. The main factors behind this situation are the actively propagated economic boycott, the intimidating atmosphere in the state, lack of safety and security and loss of their means of livelihood.
  - All affected people feel extremely insecure and have had no help at all from the State machinery. It is more than one year that this situation has prevailed and people have still not been able to return to their villages.
  - Even though their goods have been usurped by their neighbours, the police have made no attempts so far to recover the looted property. In some places people have had to buy their own stolen cattle from others by taking loans.
  - People from at least six villages (Wasad, Mogri, Karamsad, Khambhoj, Odh, Sunav) in Anand district have not yet been able to go back to their villages and neither the police nor State machinery have offered any help.
  - In one village, Wasad, the houses were on land leased by the Government for 99 years. The end of the lease period coincided with the violence, when villagers ran away from their homes to save their lives. Now the Government is not allowing them to return under the pretext that the lease has expired. 35 families from this village and around have been living in different places and meeting the Collector and various government offices to renew the lease, without any outcome.
  - In Mogri village even the peace committee meetings were attacked by violent mobs in the month of April and a newly built house was demolished. Police have taken no action against attackers.
  - The livelihoods of the affected people from the Muslim community can be categorized as follows:
    1. **Agriculture:** Most of the villagers who owned land are not in a position to cultivate their own land, as they are being threatened and hence have to give away their land

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<sup>153</sup> Teesta Setalwad, *Communalism Combat*, April 2003.

for cultivation to non-Muslims. The agricultural work involves working away from houses in isolated places, where they fear for their lives. Women too are unable to do any field work due to fear of assault.

2. Agricultural Labour: Most Muslims who used to work as agricultural labourers are not given work by non-Muslims. In places where they have been able to get some work, they are treated badly, constantly abused and continuously reminded and taunted about the happenings of the previous year.
3. Hawkers: People's mobility has reduced considerably. Those who were involved in door to door vending of goods, can now move only in certain areas where they feel relatively safe. Their areas of operation and therefore potential clients have considerably reduced. Non-Muslim clients have reduced drastically. Muslim clients have themselves been affected by the violence of the previous years and have far less money to buy anything.
4. Small shop owners: The most strategic places where their shops stood before the violence have been usurped by the local influential non-Muslims. They have thus lost the vantage places that would yield more clients. The State authorities have done nothing to help people get their shops back. Whatever shops the Muslims have been able to set up, non-Muslim clients do not come to buy; in some cases if they do come, they often do not pay for the goods taken.
5. Transport: Most people who owned any vehicles have lost their vehicles in the violence. Very few could get enough insurance money, which is anyway not sufficient to buy another vehicle. So they have lost their business and their means of livelihood; people whom they had employed have also lost their jobs.
6. Dairy business: In the violence of 2002 people lost all their cattle and hence are not in a position to continue or to restart their dairy business. After their experiences of violence, now investment in cattle is not seen as a safe option because of the constant fear of theft and attacks.
7. Other trades: The mobility and the working hours that need to be put in for making a living have been greatly affected by the violence and prevalent unsafe atmosphere. People cannot stay away from home after dark. This means that the area in which they move for business has to be within a certain distance so that they can come back home before dark.
8. Capital intensive business: All big capital intensive businesses like saw mills, shrimp farming, big shops – have all been looted, burnt and destroyed in the violence. These businesses could not be restarted because of ongoing threats of renewed violence and a severe lack of capital.

See Annexure IX for a detailed report on the economic boycott faced in Mota Sannaiya, a village in Dahod district.

**These glimpses provide a snapshot of the scenario unfolding in Gujarat almost two years after the bloody pogrom. These processes are being fanned and fostered by the majoritarian ideology, not only with the connivance of the State, but with its active design and management. These demonstrate the urgent need for active intervention of the people at the local, national and international level.**

## Those Who Spoke to the IJ

**Many women and men survivors from the Muslim community, as well as activists, social workers, lawyers spoke to the panel. We cannot give details about their situation, or geographical locations for fear of getting identified and further targeted in their areas. Here are salient points from each of the persons who spoke to the panel, braving the difficult situation and constant threats of attacks.**

**W1PW1:** She was completely dispossessed of house, as well as land. Received no compensation at all. Has been threatened by Hindu villagers so cannot return to own village. The priest in the village tricked and betrayed them, led them to a lynching mob.

**W2PW2:** The mosque in her village was also attacked and a flag of the temple was hoisted on it. Quran was also burnt. She used to survive as a agricultural labourer. Now she cannot go back to her village.

**W3PW3:** Her family home and shop were completely burnt. They managed to save their rickshaw. In the 1992 communal violence also they had lost everything. Last time they could return to their village but this time they cannot due to threats.

**W4PW4:** She is displaced from her village and lives in small rented rooms elsewhere. Her family members were killed in the carnage. She gave a report of sexual assault to the police but the next day the police asked for her signature on blank paper. She wants to fight the case and feels strengthened because of the support from women around her, but is also continuously worried about safety.

**W5PW5:** She is fighting a case in court. The accused are also present in court. The court does not want to hear actual witnesses. She has witnessed killings and sexual assaults on close family members. Attackers are still freely roaming around. But she will keep her strength and hopefully will win.

**W6PW6:** She says that her mind has stopped functioning because of the continuous stress. Her family members are missing from the carnage. If they go back to their village they are driven away, by threats of being cut up. They used to give alms and were economically well off. Now they have to stand in queue in wait for alms when people come. She feels that the outside world must put pressure on government.

**W7PW7:** She went back to her village to vote during the elections. At that point, the Hindu villagers threatened them saying they had burnt houses but now they will put the Muslims in shredding machines.

**W8PW8:** She cannot go back to her village. The Sarpanch, who is a woman from the Hindu community, during the carnage went around with kerosene cans to burn their houses and she now tells the Muslims to not come back to the village.

**W9PW9:** When she and others fled through the forest, they were barefoot, and thorns got embedded in their feet. Her husband was doused with petrol and then his limbs were chopped off before he was burnt. She demands that the perpetrators be arrested and punished.

**W10PW10:** She feels that if the BJP comes to power all of them will be under more pressure to withdraw their fight for justice, because the BJP is behind all the attacks.

**W11PW11:** The Hindu attackers have not even left a spoon in the village; everything has been destroyed and looted. The Hindus in her village don't let the Muslims do business or live in the village. The Muslims in her village cannot even see their houses, let alone go back to the village.

**W12PW12:** She feels that the Hindu attackers will attack again. When they go to their village, the village people shout slogans: "lungi in the hand, paan in the mouth, drive them to Pakistan". Even though this is the fourth generation of Muslim families that have been living there.

**W13PW13:** She is extremely afraid of BJP coming to power again. These politicians do not allow the local Hindu community to come for the peace meetings. The VHP stops them. She said that in many cases the owners of houses got the compensation, the tenant did not get anything. It has happened especially to single women.

**W14PW14:** She expressed that a woman knows another woman's pain and neither the police nor the public can understand this. She feels that there should be change within the police and women should be brought into the force.

**W15PW15:** She is one of the few women who studied and completed school. Her dreams are of education for women. She was away when the carnage started. Now works to take initiative amongst women and children.

**W16PW16:** Started working with a non-government organization for women after the carnage where they create space for sharing their experiences, discuss issues of identity, the violence witnessed by them and other issues.

**W17PW17:** She stated that in normal circumstances, you look to the police, the bureaucracy, and the parliament to deliver. In this carnage doctors and government officials who were Muslims too had to flee. If they too were in no position to get help, then one can understand how big the conspiracy was. She spoke of the violence faced by women and the continued threat to them. In her village, young girls are still teased and are scared.

**W18PW18:** She told that, even now, no woman could go to the bazaar. During the carnage, they were stripped and made to walk, had been beaten – all in the open market and all the way to the police station. They were told to give away their daughters to be kept. Now, their neighbours have been saying that if the BJP comes to power they would be killed and their dead bodies will be sent in a parcel to Pakistan.

**W19PW19:** She is an activist who gave up wearing the burkha after the carnage. Now she helps people get rations, relief stuff etc. She says that those who bear oppression are as wrong as those who perpetrate it.... and it is because that they didn't stop things that so many women were assaulted so badly.

**W20PW20:** She also gave a written document detailing the violence and the fact that they got no help from police. She spoke about the constant insecurity that they have to live with.

**W21PW21:** She gave a written document stating how violence was unleashed on the Muslim community in her village and even now how they are living in fear

**W22PW24:** A widow from the Muslim community whose husband and other family members were killed in the carnage. Only a fraction of the Muslim people returned to her village. A mob of 10,000 people had attacked them. She feels that it is difficult to trust the people in her village after what took place. She is now living in a charitable place out of desperation where she at least gets two meals a day.

**W23PW26:** A widow who witnessed many people, including family members, getting killed during the carnage. The police were standing and watching. She and her family members were badly injured. The mobs looted goats and cattle, and stole her husband's tools, machinery, jewellery, everything. She is surviving with her children on compensation and fears what will happen after that is over.

**W24PW27:** Her family members, including her husband, were killed in the carnage. Initially she lived in a charitable place but there was no freedom to meet anyone or go and work. Earlier she had a vegetable stall in her village. Now she cannot even set up small stall because of the fear of people taking goods without paying.

**W25PW28:** During the violence she was separated from her children for 10 days. Her child was born in the relief camp. She now has no family support and lives on charity. Even her young daughter does some wage labour to earn money.

**W26PW29:** She is a widow and is staying with help of a charitable trust. She cannot go back to her village as there was stone throwing on them even as recently as Ramzan. The fear of getting beaten up and violence is very real.

**W27PW30:** She lives with the help of a charitable trust. Her family members were killed in the carnage. She cannot go back to her village because of the fear of further attacks. She is not able to even educate her children as they could not get admission in the school where they are now staying.

**W28PW31:** Her husband was killed in the violence. He was hit by a sword and then burnt. Other family members were also hacked to death. The joint family property is now lying barren. The mobs took their goats and the buffalos died out of neglect. She cannot go back to her village and now lives on charity.

**W29PW32:** She has witnessed killings and sexual assaults during the carnage. She wants to fight and get justice. Initially she knew very little about how to go ahead but now has gathered courage and resolved to struggle.

**W30PW34:** She is a woman activist from the Hindu community who is helping survivors of the carnage. She feels that livelihood needs to be addressed especially as it is linked to security. Says that the leaders of the carnage were not local. Tractor loads of liquor and kerosene were brought into the area. The VHP and Bajrang Dal were able to build the trust and faith of the tribals and mobilise them through training programmes.

**W31PW35:** She is a woman activist from the Hindu community helping in the process of rehabilitation. She helped survivors go back and rebuild their lives. She feels that the protection of witnesses is extremely important.

**W32PW36:** She is a woman activist from the Muslim community who helped in various relief camps and the women in relief camps. Her women relatives from other villages were sexually assaulted. Since they have shifted from their village children do not get admission in current place. She is haunted by the memories of violence. She is working strengthening women through education and independent means of livelihood.

**W33PW37:** She is a woman activist and lawyer from the Muslim community who is helping women in their struggle for justice. She spoke of the struggle with other lawyers and activists to highlight the issue of rape, because often where both have taken place, murder is prioritised over rape. In many cases where rape and murder happened together, rape often happens to just be a part of the

complaint. Families are also ashamed that they couldn't 'save' the women. Many people don't see that as act of violence but as an act of shame within the private sphere.

**W34PW38:** She is a woman activist from the Hindu community who spoke about female-headed households, the situation of widows, their livelihood issues, single women, and various ways in which they attempt to negotiate the system.

**W35PW40:** She is a woman activist from the Hindu community who witnessed the post result scene in this area Gujarat. She spoke about the need for additional non-partisan police. She expressed the fear that the police and security forces will not reach the villages in time, given the level of tension in the air when the results were announced.

**W35PW41:** She is a woman activist from the Muslim community working with a women's organisation which was helping survivors with relief and with means of livelihood. She described her experiences when doing relief work and work that needs to be done to help people find more permanent means of livelihood.

**W36PW42:** She is a woman activist from the Muslim community. She helped in various relief camps. She expressed the need for education for women. She felt that if the girls had been educated they could have protected themselves. They did not know anything about FIRs etc. when they were attacked in the recent violence. The need for women to be economically independent is strong.

**W37PW43:** She is a woman activist from the Hindu community who has worked in various disaster situations. She spoke that livelihood planning should always depend on local skills and natural resources. We have to develop a strategy for livelihoods, in terms of creating markets.

**W38BW1:** She has not been able to go back to her village. She has no source of income and the grain given by the government is over. She is staying with her relatives and the relatives are also asking her to leave. Her 3 daughters, who were in high school, have had to stop their education.

**W39BW2:** She told the panel of her 32-year old brother, who was disabled, was killed in November while travelling back from his work. The mob got onto the bus by stoning and stopping it. He could not run as he was disabled. He was axed to death. His wife and children are also ill. The police have left all the people who were held responsible and arrested earlier.

**W40BW3:** She is a resident of village BV9 in taluka BV5. She is a survivor of sexual violence and narrated to the panel how she was gang-raped and brutally sexually assaulted more than once by different mobs on the 1<sup>st</sup> of March 2002. Her young child was also brutally battered.

**W41BW4:** She, her daughters and her husband were badly beaten up by a large mob on the 1<sup>st</sup> of March 2002 and the entire family is physically and mentally badly affected by the gruesome violence they experienced. BW4 has refused to acknowledge the rape of her daughters because she is afraid that they will not get suitable marriage offers.

**W42BW8:** She and her sister were abducted by a mob of men on the 3<sup>rd</sup> of March 2002 and taken to another village and locked them up. They said obscene things to the two, abused them, tore off their clothes, brutalized them and robbed them of their belongings. When the women managed to ultimately escape, the men also tried to chase them.

**W43BW10:** She, 7 other girls and 8 men were surrounded by a mob when they were trying to run to a safer place. The mob threatened the men with swords and hit the men, including members of her family, with iron rods till they lost consciousness. They took the women to the fields and started shouting dirty abuses at them "We will make you conceive and birth Hindu children". Some men tore at their clothes and some scratched their bodies and sexually abused them.

**W44BW11:** She is a Hindu woman married to a Muslim man and is in her early 30s. She was attacked by a mob of 200-250 people. She was physically attacked, robbed, brutalized and raped. The crowd wanted to kill her and she was very badly injured. She has filed a complaint and feels that she would commit suicide if she loses it.

**W45BW12:** She is a school teacher. She spoke at length about the educational issues vis-à-vis the Muslim community, especially regarding women. She also spoke to the panel about the challenges for human rights organizations, especially in the context of fear, loss of trust and of hope of the Muslim community.

**W46BW13 :** She spoke about the Hindu-Muslim dynamic as well as about the relatively recent attacks against the Christian community. She also narrated to the panel the attempts at moral policing and the violence unleashed by the Sangh Parivar.

**W47BW14 :** She, a Muslim woman living in a Muslim area, spoke to the panel of her struggle to file an FIR when she was beaten up by the police and sustained multiple fractures. She was abused by the police and was sent back several times when she went to file the FIR.

**W48BW15 :** She spoke at length about the violence on women. She met women in the camps, who were suffering from trauma of having to leave their homes, seeing people slaughtered, children being hurt, animals killed and witnessing all kinds of violence.

**W49BW16 and M1BM34:** They spoke to the panel at length about the negative role of health professionals at the time of the carnage. They also spoke about the abysmal conditions of health and sanitation in the camps and about the bad and hostile situation in government hospitals.

**W50BW17 :** She spoke about the role of the media in the carnage – about how rumours that were being spread by various means. She reported that Sandesh has played a role in actually manipulating sentiments by misreporting, fanning rumours and creating a communal wave.

**W51BW18 and M2BM37:** They live in an area that is one of the most violence-affected areas in the city. BW18 and BM37 along with their friends and family saved a lot of Muslim lives right from the first day of the carnage, when Muslims came to their house to ask them for shelter. They kept 500 Muslims with them in their house and their relatives' houses near theirs. The next day the people who had taken shelter with them told them to send them to a safe place, as they feared that the people giving them shelter would be targeted. They narrated several ways in which they are being harassed.

**W52BW19:** She lives in the old walled city, where the mob could not reach, because those areas were Muslim majority and had narrow lanes etc. So there was no violence by the mobs. The police, however, have harassed women 3 times in combing operations here. Some women were repeatedly beaten up. The police have harassed women who were in 'iddat', pregnant, old women, women who had stitches from earlier surgeries were beaten there thus hurting them more. After the police beat her up she has great difficulty in walking.

**W53BW20:** She spoke about continuing harassment from the police – abuses, beating up of people, animals, sexual abuses and other harassment like breaking the electricity meter or bulbs etc. Constant harassment as the constant feature of life was what she narrated to the panel.

**W54BW21:** She spoke of constant police harassment and torture. She talked about her sister-in-law who was 9 months pregnant and was yet beaten up by the police for no reason what so ever.

**W55BW22:** She talked about an attack that had taken place on the day she came to talk to the panel. She talked about an 18 year old girl who was 5-6 months pregnant and was hit her on the chest. She

had a premature baby, but she could not lactate. This young girl who had faced the harassment was so afraid that she refused to come. Her breasts were bleeding for a month.

**W56BW23:** She has been helping in maintaining peace in the area where she lives and works specifically with women. She also spoke of the effect the violence is having on the youth in her area. She was especially worried for her teenage son who had stopped communicating with her.

**W57BW24:** She talked to the panel about continuing violence and harassment by the State, about arbitrary arrests, about continuing destruction of Muslim property and religious symbols. She talked about the constant threats to kill and arrest that her family members also faced.

**W58BW25 and other women from her village** (who did not want to be identified at all) narrated how earlier the atmosphere in the village was very friendly. This time too they were assured that they were safe and the next day they were attacked. Apart from the total destruction and devastation they faced, the sense of betrayal was also very strong and hurtful. They also talked about how they are still not allowed to live and work as earlier and that they had come to talk to the panel at a great risk to their lives. There was one Dalit woman who had supported them and she also came to speak to the panel.

**W59BW26:** She lives in a village where there was immense destruction, looting and killings. She narrated her experience of those days and the fact that it has not been possible to begin life anew.

**W60BW27:** She and her family were the first to return to the village. She recounted how they were stoned when they returned and how they were made to feel unwelcome and intruders in their own house and village. The police were equally callous and that is the atmosphere in which they had to begin life anew.

**W61BW28:** She works with an organisation that is working especially with young girls, and was extremely concerned about the increase in insecurity of the Muslim community due to this carnage and the impact that is taking place on the education and mobility of girls.

**W62BW29:** She is a postgraduate student from the university. She narrated the stress she experienced during the examinations and the impact that actually had on her ability to study and hence on her performance. The feeling of insecurity and lack of trust was the underlying feeling too. So was the determination to do well.

**W63BW30:** She is a teacher from the university. She narrated her frustration at seeing Muslim women who intended to give their exams not being able to do so due to the prevailing insecurity and also at the insensitivity of the University authorities for not postponing the exams to a time when the possibility of Muslim students coming was relatively more. She also presented before the panel some of her observations about the overall atmosphere in the University due to the growing Hindu presence.

**W64BW31:** She is postgraduate student from the university. She had to leave her house and move to safer areas. The neighbours were still quite hostile. But she managed to give the exam and also pass.

**W65BW32:** She studies in BV55 school in the 11<sup>th</sup> grade science. She took the exams during the attacks, had to stay and study in a relative's house. She wanted to top the class, but because of the carnage she got only 93% and came 5<sup>th</sup> in the city! All her friends are girls from the Hindu community and she has not seen any change in their behaviour towards her. She is encouraged by her father to do well. She wants to become a doctor.

**W66BW33:** She is also in class eleven. She too took her SSC exams when all this happened. Whenever she sat to study images of burning people would come before her eyes; she would find it difficult to study. Her parents and teachers would encourage her to study. She too wanted to do really well but couldn't. She got only 91% and did not get a rank! She changed her school recently to another in a Hindu dominated area. She is the only Muslim in the whole class there.

**W67BW34:** She has been doing a lot of work with children in camps. In their work they have noticed that when children saw the colours red and yellow they could not tolerate it. They would start getting agitated and traumatized. She also spoke at length about the hostility of some of the teachers and about saffronisation of the textbooks.

**W68BW35:** *She is an activist in Gujarat and helps several organizations. She shared some of her observations regarding the changes in enrollment patterns for girls in schools after the carnage.*

**W69BW36 and M3BM48:** They are lawyers and spoke of the legal situation in some of the cases. BM48 also appears in the *Sabarmati* Express case.

**Women from four villages that were very badly affected and who did not want to be identified in any way:**

They have been getting constant messages from the village that it will happen again and that they should leave. One of them said that her younger daughters heard this and started screaming. She sent her daughters to another village that has a larger Muslim population.

Another woman spoke about the sexual assault on women and its impact on women. There are many young girls who have suffered this but cannot talk about it because of the negative attention they will get and the fact that they will not be able to get married.

One woman said she did not want to go back to the village. Her daughter-in-law was sexually assaulted.

Some of these women were talking about their experiences of assault for the first time after almost ten months.

Women of another village also told the panel about the treachery of their neighbours and about the horrors of the carnage and its aftermath and about false charges put on Muslims to pressurise them to withdraw cases. Others present reported that the police put up peace committees on which they put the very people who conducted the attacks. Women spoke of being forced out of their own lands despite having lived in the same place for 40 years. Women talked to the panel about the educational loss for their daughters and for Muslim children generally. They spoke about the loss of livelihoods and loss of means of earning as they have not been able to feel secure enough to start; for the majority it has been a denial of all their entitlements, like land, cattle, shops etc.

A woman told the panel how insecure the entire atmosphere is and how there is no sense of peace and security for people to begin to pick up their lives and begin.

**W70AMW1 and M4AMM1:** Their family was a victim of 28th Feb. attack. Their daughter is missing. Their household was isolated with in Hindu Community. Now, displaced to border and

searching for livelihood sources. Their names were taken out from voters' list. They were hoping to get justice through elections. They lived as wage labourers, now living on charity.

**W71AMW3:** Her parents were attacked and when she tried to save them both her hands were cut. Her parents were shot dead. Uncle was attacked with swords. People from the mob tried to molest her but she threw chilly powder at them. They threw her down, she was badly assaulted, and then she was unconscious when they cut her hands.

**W72AMW4:** Her house was looted. She along with her mother was burnt, but she survived. She has not got any compensation for the crop and cattle that were burnt or taken away. The army is still there, so they feel safe, although they still cannot move around freely. In the FIR they have given names of attackers, who are now absconding.

**W73AMW6:** Her son and five other family members were killed and burnt in front of her eyes. Amongst the dead is one three-year-old child. The other four were burned and injured. She has no means of livelihood and they are surviving on charity .

**W74AMW7:** She had a family of eleven and eight of them were burnt to death, after being attacked with swords. Her husband and daughter died in hospital. They have got the compensation and the deposit bonds. Some NGO gave a sewing machine. She gets some charity from Muslim community organizations. She cannot read Gujarati so does not know what was written in her FIR.

**W75AMW8:** Her brother has been arrested four months back. In that area no Muslim had attacked any Hindus but still he was arrested from his workplace. They bailed him three times. He has been arrested under section 302. He was the only earning member. Her small business was burnt down. For destruction of property worth eight lakhs, she has got Rs. 6000 as compensation.

**W76AMW9:** Her daughter-in-law was pregnant and her womb was cut open. Mob was showing them Godhra train photo in paper and were saying they will do the same thing.

**W77AMW11:** She is surviving with small grandchildren. Her daughter is very scared to go back to their home. So she cannot return to where her home was.

**W78AMW12:** They lodged FIR in March. She witnessed her neighbouring women (five-six of them) being raped and molested. Iron rod and sword was inserted inside women and they were burnt later. The attackers were shouting that "No Allah would come to protect you ,now say *Jai Siaram*." "After we impregnate you, then only we will leave your family." They heard "*Maro, Kato, Jai Sriram*". They threw something in their house which caught fire immediately.

**W79AMW15:** She witnessed the police shooting a man and girl. She has also seen the use of gas cylinder as a weapon. She saw many girls being stripped and raped. She saw Hindu women pouring kerosene or some chemical powder so the bodies used to burn. In her area a board has been put up – No Muslims will stay here. The group FIR on behalf of 40 people does not give any details. All the rapists, murderers still move around in the area. They feel scared and constantly fear that they will be attacked again.

**W80AMW17:** She told the mob that she was not a Muslim and that is how she could get out. In her family out of ten only eight have survived. She questioned how come this Government arrests the people who are actually getting killed and attacked. People who had saved other people's lives are targeted and taken away. She also spoke of continued threats.

**W81AMW18:** This young girl was taken to an area and burnt. Her brother was also burned. She is recovering now from severe burns, after undergoing plastic surgery. All the people in her family except her grandmother have died. She would like to study further.

**W82AMW19:** She was attacked along with her young son. She got injuries on hand and head. She cannot use that hand. Her two and half year son was killed. Her husband has lost his job. Everybody is unemployed.

**W83AMW27:** Police told them that they would not help and also will not spare the Muslims as they did not want any Muslims in Gujarat. So her family ran out of their houses and then the house was looted by people from their locality. She could not lodge the FIR because police were part of the attackers. Hindus are threatening and intimidating even now.

**W84AMW28** Mob came from near by society and threw tires inside the Mosque where young children were hiding. Women were beaten. He was forced to come out of the mosque and was beaten by the police. Police arrested many people from the community. This happened in March and in April too.

**W85AMW29:** Police entered their house at 2 am in morning. They used very abusive languages. Said they will shoot her in the chest. They said they would rape her and took away her son and husband. Their jewellery was stolen and household goods destroyed. She could not file any FIR as the police who attacked were on duty.

**W86AMW30:** Her husband was killed on the road. He was travelling in a shared rickshaw with some Bajrang Dal and Sena members when his identity as Muslim got known and he was stabbed and killed.

**W87AMW31:** Her husband was driving his Bakery van when he was looted and beaten to death using metal pipes. Same day their shop worth Rs. 10 lakhs was also burnt. She has got the compensation amount for her husband's death. She has not got any money for the loss of property. When the mob came attacking, near her house, some people tried to defend but the police was siding with the mob and pushing Muslims indoors. One brave woman argued with the police to be unbiased but she was fired at and also people doing Friday *namaz*. Two people died due to police firing.

**W88AMW33:** She is a young mother. Men from the Shiv Sena with orange bands on their heads came to their house in April. Her husband was taken to the terrace and the police shot him there. She knows the name of the policemen who shot him. Her brother-in-law took away the compensation arguing that she would be remarried.

**W89AMW34:** She has seven children. Husband is rickshaw driver but cannot work now. She spoke of police violence or at least violence by men who came dressed in police uniforms. She said that still they are afraid. In buses, rickshaw people watch them and give them different treatment.

**W90AMW35 and W91AMW36:** They were locked inside the house and kerosene and petrol poured from the roof. A boy pulled her out from the roof. The mob was shouting "*jai shri ram*", and were wearing saffron colour. Their complete *chawl* was burnt. They stayed in camp for seven months.

**W92AMW37 and W93AMW38 :** They described the mob and the attack and looting of Muslim owned fire crackers shop. She saw men stripping in front of her, saying they will show their strength. She described two of the leaders of the mob and said that although a mob 20-25 thousand was surrounding the police station, they survived because of a sensitive police Inspector.

**W94AMW39:** She had to disguise as a Hindu woman and travel back from her daughter's house after the violence broke out. She worked extensively with wounded and pregnant women in the camp. She spoke of the terrible conditions in which women were brought to the camp and how

most women and their families did not want to talk now. People are scared of the community reaction and also of the criminals.

**W95AMW40, W96AMW41 and W97AMW42** : All three of them were from one area in urban Gujarat which was very brutally attacked. They described the mobs and the ways in which the women were sexually assaulted. One of them escaped because she said that she was a Hindu and one boy in the mob took pity on her. Her family members were killed, along with many others. All these women gave names of the people leading the mob. According to them none of the accused are under arrest as the complaints have been changed.

**W98AMW46** : She was attacked along with her husband and child but managed to escape as due to a gas cylinder explosion, even the attackers ran away.

**W99AMW47**: Three persons in his family were killed, that includes the breadwinner daughter of the family. She said that even today they are threatened, “Id is yours but the swords are ours”. Her sons have discontinued their education. She is too ill to work and survives on charity.

**W100AMW49** : She and her three small daughters hid somewhere and survived but she lost her husband and a three year old daughter. They were killed but since their bodies could not be identified, they are declared missing. She has got no compensation for their deaths. She has no means of livelihood.

**W101AEW1**: She is an activist woman from the Muslim community. She has visited at least 8 districts of Gujarat traveling through various villages and camps, has interviewed more than 100 women of whom 55 were gang raped. She said there was a pattern in all the crimes committed. She was also involved in a campaign during the elections and spoke of the experience to the panel.

**W102AEW5**: She has been involved in children’s education for the last 6 months. She has been spending time with children in various camps. She spoke about the trauma affecting the children and the need for individual counselling. She gave various recommendations with respect to children survivors.

**W103AEW13** : Woman Lawyer and activist who spoke about the inadequate compensation given as aid, not as a right, and also showed the disparity in compensation given during earthquake and now. She also reported that 70,000 Muslims not allowed to vote based on non-acceptance of the M form.

**W104AEW7 activist woman and AEM10 activist man** : they spoke of the situation in camps and their work there. They spoke in detail about the functioning of VHP, BD , RSS and Durga Vahini through moral policing and threats. They also spoke about discrimination in schools They said that women would speak provided they were assured justice.

**W105AMW52 and W106AMW39** : They worked in the camps that were set up in the cities. They described the awful situation of the women who came in and the difficulty of reaching medical aid. The police checking their vehicles carrying the wounded used to verbally and physically abuse them. Women used to talk about the rapes but now they don’t for fear of being disowned by husbands. Young girls were married early in the camps itself. Previously AMW52 used to work in a public space, but now she no longer moves around alone as she has been threatened. She works from home and even to talk to the panel she came accompanied by someone.

**W107AEW8**: She is an activist woman and also gave a written statement about the atrocities. She spoke of the difficulty in following up rape cases due to people having moved out and also due to the difficulty in legally taking up cases of mass rape. She said that the sexual assaults were also

planned in the Bajrang Dal camps and that a lot of pamphlets circulated which said that women should be assaulted, 'don't feel guilty to rape women of the other community.'

**W108AEW10 :** She is a woman activist and lawyer working on various developmental issues. She gave detailed documents on economic boycott faced by people from Muslim community and also various government resolutions showing inadequacy and bias in government measures. She shared how in the 1984 anti-Sikh violence, the government had set up relief camps, no one was taken to Sikh dominated areas. But in contrast in Gujarat all camps were in Muslim areas only.

**W109AMW55:** She worked in a relief camp for seven months. She used to do all work including cooking. Now she works with social organizations and earns her livelihood.

**W110AMW57:** Her entire house was looted. She got only Rs. 2500 as compensation. Her son used to drive a rickshaw owned by a Hindu. Now he is told, "you become Hindu", "How did you survive?" Her other son was also terminated from his job.

**W111AMW56:** Police shot her husband, when he went to ask for protection from a chasing mob. He died in hospital. She did not get any compensation or relief. She has children to look after.

**W112AMW58:** All her property got destroyed but she received only Rs. 2500 as compensation. Charity organizations helped her to rebuild her house.

**W113AMW59: After the carnage, they have written on the door of her house "don't come back here, if you come back here, you will be killed". She got very little compensation. She works with a social organization now.**

**W114AMW61:** She lost everything in the violence and got compensation of Rs. 100 only.

**W115AMW62:** She got Rs. 100 in the camp and meagre ration calculated for six months. Nothing else. The ration is totally inadequate.

**W116AMW63:** Both she and her husband were doing textile work. She received Rs.150 for all destruction. The place where they lived and worked has RSS workers and so they don't get work. The company is also closed now. Their economic situation is very bad.

**W117AMW64:** She lost more than 40 people from her joint family in the carnage. When she went to work, the owner of the shop grabbed her neck and said, "you know what happened to women in certain area, we'll do that to you too."

**W118AEW11 and W119AEW12:** They were activists of an organization whose emphasis was healing and rebuilding. They also worked with Government. They helped get FIRs registered for families whose houses were burnt. They met the Collector, had a dialogue with him and in some cases got increase in compensation. They also provided the people the means for economic survival.

**W120AMW65:** She spoke of the sexual and other violence that the police subjected her to in her own house on 21<sup>st</sup> April. They also abused her young daughter.

**W121AMW66:** Police always attack young girls. They even said, "we will insert this stick up your vagina" On 21<sup>st</sup> they attacked 11 areas. Men would be standing all around on the terraces of surrounding buildings. They would strip and so would the police. They used to fondle their genitals and call out to women.

**W122AMW67:** She spoke of the attacks by one particular police officer on women and children. She said that he even sexually assaulted women inside the camps.

**W123AMW68:** Her foot was injured when police threw some bomb at her. She described the sequence of events when the police entered their areas.

**W124AMW69:** She spoke of how the policemen desecrated the Quran. She said that a one and a half year child was picked by the police and thrown. When the women protested, the police said, “reproduce more and make more terrorists.”

**W125AMW70:** She described how the rapid action force men entered their area and beat her and other women indiscriminately on vagina, back, buttocks, and thighs.

**W126AMW71:** She described the ways in which the police attacked their properties and their bodies even during the violence. The men in the mob accompanying the police who were standing on the terrace of the area took off their trousers and started to shout. “Where are the terrorists? Come out now. Call your god.” Police continued to harass them till the army arrived in the evening.

**W127AMW72:** The police entered their building, and started firing tear gas and guns. The police bullets hit her husband and daughter, who were inside the house. Police would not even allow them to be taken to the hospital. Finally when they were being taken to the hospital they died on the way.

**W128AMW73:** She told police used to enter the house and beat up small girls and women. A six-month pregnant woman got aborted due to the beatings. Police said, “ We will arrest all your men and make you prostitutes.” The BJP MLA says, “This is our government. We will make this whole area Hindu. All mothers of Muslim are fucked.” She said that now even firecrackers traumatize children.

**W129AMW76, W130AMW77, W131AMW78, W132AMW79:** They described an incident of police violence when the police entered the community area and started firing. One bullet entered in W130AMW77’s thighs. After the police left, the neighbours took her to the hospital. After two months the police came for her, arrested her and put her in jail for six days. W129AMW76 was beaten up inside her own house and also arrested after two months police. She was released after three days. W131AMW78 had gone to dispose waste, when a police bullet injured her. She was admitted to the hospital. Later after one month police arrested her. She was in the jail for 26 days.

**M5PM1:** He has been helping lot of people in the relief camps. He spoke very strongly of the need for continuing support from people outside of Gujarat, especially in the courts when cases are being heard. He spoke about the difficult court proceedings and also of the desperation of the Muslim community in the absence of justice.

**M6PM7:** He is a survivor of the violence and also one of the relief camp organizers. He testified that everybody knows it is state terrorism. The state government has done it. The Muslim community has no hope or belief in the state. The anti-Muslim wave is international. The effort to divide the minority and majority is at its highest in Gujarat. Women have faced the worst impact. They did not have the wherewithal to deal with sexual assault. Many NGOs from within India have helped.

**M7PM8:** He is an active political worker and also part of the camp co-ordinations. He expressed that without the NGOs the Muslim community could not have gotten to back on its feet. They were isolated and continuously threatened and could not have approached the state administration to make complaints. In some place animals were scavenging on dead bodies, the NGOs got the collector to send vehicles to pick up the bodies and finally they were buried

**M8PM9:** He is the principal of a college. He has written many books. He spoke to the panel about the communal history of the area and the role various political parties have played over the years and the various issues that have been communalised since the independence.

**M9PM10:** He is an old activist who has seen India since independence. He spoke to the panel about the history of Muslim communities in the region and history of the region that has seen many communal flare ups in the past fifty years.

**M10PM11:** He has witnessed many communal situations in past years. He gave a written document on the history of communalism, and its social, political, and economic aspects. He spoke about the Hindu Right wing propaganda for economic boycott of Muslims. He also gave some pamphlets about the same.

**M11PM12:** He is the principal of a school.

**M8PM9, M9PM10, M10PM11, and M11PM12** together gave brief history of that area and various situations through which they have struggled. In every riot Muslims have been the sufferers, economically, socially and in terms of human life. The last 10 years were relatively peaceful compared with what has happened now. Various national and international events added to the hostility and to the prejudice against Muslims. The seeds were already sown in the minds of the Hindu community. The role of the state in combination with this groundwork has caused the present situation.

**M12PM13:** He is one of the relief camp organizers. He spoke about the participation of tribals in the4 carnage and how they were given liquor, so they could do anything. Further legal immunity was granted to the lower castes and tribals. But later, this has been used against them, to blackmail them further.

**M13PM15:** He is one of the relief camp organizers. He gave written documents detailing the violence suffered by Muslim community as they were brought to relief camp from surrounding villages. He spoke about Muslims keeping Hindu drivers to save their cars, but Muslim drivers not getting jobs. He also spoke about the long term effects of the carnage on the Muslim community.

**M14PM16:** He gave a written document detailing the need for impartial investigation and special judicial officers. He also emphasised the need for impartial police force to be deployed.

**M15PM18:** He is an activist from the Hindu community working in the tribal areas. He spoke to the panel about the spread of Hindutva in tribal areas and the role of tribals in the Gujarat carnage. He spoke about the various programmes the various right wing organisations run in rural and tribal areas and how even schoolteachers take leave to participate openly in these programmes.

**M16PM19, M17PM20:** They both are working with relief committees. They said that the sense of fear experienced by Muslims since the violence is compounded by their inability to return to their homes. Now it has increased because of the election results. The condemnation issued by the Muslims of burning of the train in Godhra has never been published in Press. In the past they have had dialogues with VHP to try and understand what the Hindu community felt and allay their fears and misconceptions about the Muslim community. They feel that there is now a portrayal of Muslims as terrorists. But anywhere in the world where Muslims have risen up one will see that it is as in reaction to injustice. You can look at the examples of Palestine, Kosovo, Afghanistan... and India.

**M18PM21:** He is an activist working in the relief camps. He stated that rehabilitation was far from complete. Many villages are still as they were when destroyed. People are not going back to the

villages. Livelihood is also one very crucial issue. Insecurity and fear haunts the Muslim community. He also spoke of the various problems in accessing the meagre compensation that were give. Many people who did not own houses according to Government records are not being given compensation.

**M19PM22:** He is an activist working on relief and rehabilitation. He said that everyone is almost certain that something will happen again. People have no money to insure house or business. Any way the compensation money was not enough to start a business or build a house. Those who have got help from the government in terms of compensation have used that money for survival.

**M20PM23:** He is a medical doctor from Muslim community who helped many victims. He organised an operation theatre. People could not go the Civil Hospital, which is meant for both communities. They had seen that these women/patients were not given food for thirteen days there. Also wants to start work in field of education.

**M21PM24:** He handed over a written profile of the community and its losses. The Muslims have had shops there for more than 100 years and there has never been any violence on them up to 1990. But in this violence their houses were completely destroyed. Houses, shops and factories were blown off by use of some chemicals. He also spoke about the present situation of businesses and the difficulties they were facing.

**M22PM25:** He is a lawyer from the Muslim community, who believes that the judiciary is still alive and still hearing them. That is the only place where the common person can go. Feels there should be some provision for impartial investigation. Laws have to be effectively implemented. Public prosecutors are not functioning without bias. The court is a custodian of everyone's personal liberty. Nobody can take it away.

**M23PM27:** He was active in relief work and also suffered many losses during the violence. He spoke at length about the political and economic situation of the Muslims in the area. He thinks that no political party wants Muslims. The Muslim community has been pushed to the side and none of the administrative institutions are fair to them. He felt that law and order too are against them. There are many forms of economic boycott and he spoke about the experience of various trades in the region.

**M24PM38:** He is one of the activists of an organization. He stated that all the schemes are top-down. People do not have the space to decide what they want. Casual labour, like loading trucks, is the only option left. Contractors are not employing Muslim skilled workers for construction. Now the Hindutva of all these employers has emerged so they are not employing Muslims. Amongst displaced people, suicidal feelings are on the rise. Even sharecropping is not an option. Spoke at length on livelihood issues.

**M25PM39:** He was active in relief work. He said he wonders now if Hindus will keep any relations with them at all, how will they relate to Muslims, what kind of relationship will be possible? Will they attack Muslims at drop of a hat? Will they have any business with Muslims?

**M26PM40:** He was active in relief work. He felt that today Muslims want peace, they want to re-establish relations with the Hindus and live in harmony, to live at a human level. They do not want any party, neither BJP, nor the Congress. He felt that neither of these parties could be trusted.

**M27PM41:** He was active in relief work. He spoke about the various forms that economic boycott was taking. He said that just one day earlier, Muslims in the transport business in the village were told that they couldn't ply their passenger vehicles here. He said that the Hindu Right Wing's main

focus will be on the slaughter houses, they will go away with our cattle, raid our shops, not let us continue.

**M28PM42:** He was active in relief work. He spoke of the present economic and social condition of the Muslim community. He, along with other relief workers and camp organisers also discussed at length the responses of the Muslim community to this kind of violence. Many spoke of the need for more education and reforms within the community. Some felt that the education of girls and women needed to be paid close attention to as well.

**M29PM43:** He was active in relief work. He felt that the polarisation between the communities is acute. After elections, Muslims have been cornered. He spoke about trying to have community dialogues towards peace.

**M30PM44:** He was active in relief work. Amongst other economic losses and the problems of restarting or continuing with livelihoods, he spoke about the slaughterhouses which are mostly in the hands of the Muslims and are now being closed down. The intention is to cripple and stop the slaughterhouses and also to move business into other communities like tribals.

**M31BM1:** He is a lawyer and works in 9 talukas of rural Gujarat. He told the panel that in these talukas 103 villages were affected by riots and 5670 families were badly affected. This included looting and burning of houses and shops as well as seriously injuring and killing people and sexually assaulting women.

**M32BM2:** He is a paralegal worker from BV28 taluka. He spoke about village BV29, where 107 houses were completely destroyed, 14 Muslim men were cut alive, and 3 Hindu men were killed by Hindu mobs as well. He also spoke about the adversarial attitude taken by the police vis-à-vis the Muslims.

**M33BM5:** He is a paralegal worker. He has been working to get information on atrocities committed in the attacks on Muslims.

**M34BM6:** He is a paralegal worker. He told the panel that it was mostly the Muslim community that was attacked and women were targeted as well as men. He also talked about how the victims and survivors were being forced to compromise and take back their cases.

**M35BM10:** He is from BV13 village, unable to go back. He was living in the BV5 relief camp. He had his own business and has suffered major losses. The Patels are telling him to take his case back under threat of life. Since he has refused, there is a false case made up against him.

**M36BM11 to M42BM17:** They spoke together to the panel about the political situation in their area in view of the expected election results. All these people were active in relief and rehabilitation work and were also part of community peace efforts.

**M36BM11:** He works in the education field and on women's welfare, rights and rehabilitation.

**M37BM12:** He also works on women's welfare, rights and rehabilitation.

**M38BM13:** He belongs to the Congress party. He has done relief work during riots, and is the municipal councillor (an elected representative).

**M39BM14:** He is a corporator and a Congress party worker. He talked at length to the panel about his observations and analysis regarding the electoral and politically dangerous games of the Sangh Parivar, especially of the BJP, both historically and in the present context.

**M40BM15:** He works with various cultural and religious organisations. He is also a journalist. He works with an organisation working with minority communities.

**M41BM16:** He is a herbal medical practitioner, gives free medicines for help and service, not for money. He has also done some relief work in his village.

**M42BM17:** He spoke at length about the prospects after the election results. He felt that there is no option but for Muslims and Christians to come together. He spoke about the way in which Hindu people helped the Muslims during the riots.

**M43BM18:** He told that panel that in their village they used to live peacefully. They have filed cases and it is because of this that they are not being allowed to go back and hence they are in a lot of trouble. They are 15 families and have no means of livelihood.

**M44BM19:** He lives near the fields on the outskirts of his village. He and two other neighbouring families are the only ones from their village to return back. They had attempted to start their shop there but the Patels threw everything away and told them to stop and take back their legal cases first.

**M45BM20:** He too is being forced to take back the legal case. When he and others displaced from his village went there on the day of the election, they were not allowed to come in. All the 15 families in the village were not allowed to vote.

**M46BM22:** He used to have a shop in his village. The shop was looted and nothing was left in it. He made a police complaint. The people from the majority community are asking him to leave the village. People do not sit in their auto rickshaws. Only 3 families have gone back to the village.

**M47BM23:** He had to leave his village. Their shop and house was looted. They have filed a case, sent by registered post to the DSP's / magistrate's office because they could not make a complaint with the police. They have got no relief or compensation. There is constant tension that something will happen again.

**M48BM31:** He has worked with human rights organisations and spoke to the panel about the history of communal tensions in the city and the state.

**M49BM32:** He gave a brief overview on how the violence occurred in some cities of Gujarat. He talked about State complicity in the 2002 carnage of Gujarat.

**M50BM33:** He is a Professor at the University. His house was also attacked in February 2002. For him, the most significant aspect of the carnage was the involvement of the Dalits and the Adivasis in it. He also spoke at length about patterns of sexual violence.

**M51BM35:** He talked about a Muslim medical centre that runs a hospital that caters to and provides medical facilities for all communities. This centre was burnt during the carnage.

**M52BM36:** He spoke largely about election related issues. He spoke to the panel about the history of electoral and communal politics in Gujarat and the different communities and castes that played a role in the state elections.

**M53BM41:** He talked about his experience of the carnage and the fear, terror and isolation they experienced just before the carnage vis-à-vis the neighbours, the police and the State.

**M54BM44:** He witnessed his son-in-law being killed. He himself was attacked and given up for dead. He wants to pursue his case.

**M55BM45:** He is fighting for his right to stay on the land where his house once stood. The municipality seems to have seen the carnage an opportunity to get rid to people and their houses.

**M56BM46:** He works in a Muslim dominated area and has been active in providing relief after the attacks. He spoke of the increasing ghettoization and its impact on the community at large.

**M57BM47:** He teaches in rural Baroda. He spoke about how in his own college Muslims were incited by pressurising and isolating them to get violent.

**M58AMM7:** Bajrang Dal people came in white shorts and with saffron headbands. The family tried to run to police head quarters but were not allowed inside. Police said, “Today we will not allow you in, because order from higher up, not to save you. We will do the same thing that happened in Godhra.” The police forced them to leave. The mob caught his son and he was beaten up. The names of the accused are given in the FIR but the police have not arrested them.

**M59AMM8:** All the people in his family were killed and burnt. His daughter was in the hospital with 80% burns. She recognised some of the attackers. She died but gave her statement to the police before dying. Her name and papers were changed in the hospital. He also identified two of the people who led the mob. He spoke of a survey conducted some months before the carnage by some women in their predominantly Muslim area about family size, property etc.

**M60AMM12:** He got burnt near his residential quarters. His brother in law died due to burns on the spot. His wife was injured severely. More than half of his family died and others got injured. His wife’s hand and head had cuts and her left hand is completely disabled. They tore away her clothes. He felt betrayed, as he knew all of the attackers, who were government employees. Not a single one is arrested. He wants Justice.

**M61AMM13 (child):** He was beaten up by pipes. His parents were burnt alive in front of his own eyes. He is the only survivor. He has witnessed killing of a pregnant woman and the mutilation of her foetus. The mob was shouting “*Jai Sriram*”. Eight people from his family were killed because did not say “*Jai sriram*.” He was child worker. Even today he feels scared and cannot sleep. Most of the children in the camp felt the same. In the camp, a few organisations came to work with them.

**M62AMM14:** He described the way in which their area was attacked. There was some chemical powder used which immediately caught fire and petrol, diesel, tyres were used to set fire. Three people died in his family. He witnessed the well-planned attack with all weaponry. He helped take out fifty-eight bodies and twenty-six people alive. Ten out of twenty-six died in civil hospital and sixteen survived. Police took them to the hospital. Some people are still missing.

**M63AMM24:** When everyone was running, his mother got caught as she could not run fast. She was asking for water, they poured kerosene in her mouth and set her on fire. A woman who came to help his mother was also stripped and burned. He refused to give name of the attackers as they are all roaming around in city.

**M64AMM25:** When mob attacked the society, his four children were killed and burnt. He has got compensation for this. He could survive because he was hiding on the first floor of house.

**M65AMM26:** He and four others hid in a kitchen when they were attacked. The two women with him were raped and killed in front of him and he can identify the culprits. He managed to hide and escape and described the gory scenes that he saw when he was taken out with about a hundred survivors by the police. He said the crowd was asking the police to hand over the survivors to them, but the police said, “we had given you time till 5.00 p.m. And still so many of them have survived. You people are not efficient. You have lost your chance now.”

**M66AEM6:** He is a lawyer and an activist very active in the democratic rights movement. He spoke at length about the proceedings in the *Sabarmati* express case and in the Shah and Nanavati Commission. He also gave a written account of some of the evidence led in these two.

**M67AEM1, M68AEW2, AEW3, M69AEM2, M70AEM3, M71AEM4 :** They are all legal activists working with survivors of the carnage. They spoke of the biases shown by the police in the

recording of statements and the following investigations. They also spoke of how the doctors and other medical persons participated in this anti Muslim attack by either destroying medical evidence or by victimising the victims. Patients with serious injuries were in hospital but no statements were taken. Very few post-mortem reports available, along with charge sheet. AEW2 and AEW3 also gave written submissions giving details of police complicity in some cases.

**M72AEM8:** He is a human rights activist, involved in election monitoring. Post *Babri Masjid* he was beaten up badly. He has been beaten up number of times. Now he anticipates subtle torture, like discrediting and obstruction of work. He also spoke of the ways in which the Hindu Right was working in Gujarat through monitoring inter-religious marriages and conducting surveys.

**M73AEM9 :** He is a human rights activist and researcher and spoke and gave a written submission on situation of rehabilitation and compensation. He also said there was only relief and no compensation given as citizens' right.

**M74AMM34:** A police bullet is lodged in his spine. His brother and brother-in-law who came to help were also shot at. His brother-in-law died on the spot. They changed four houses to save themselves in that injured state. He is completely paralysed below the waist but the hospital declared him 30% disabled. He cannot ask for compensation, as he is scared that they will put him in prison because of the bullet injury.

**M75AMM35:** He works with the state government. During the carnage he could not attend his duty and asked for leave. After rejoining and working for five months they made him resign from his job. He was orally dismissed on charges of absenteeism.

**M76AMM36:** His whole house was burnt and he got injured on the head. He lost property worth one lakh and only got Rs. 500 as compensation although in the survey the damage was estimated as Rs.65,000.

**M77AMM37:** His entire family is involved in social work. His mother's father was killed in '69 riot, father killed in '85 riot. He had his business. His machines were burnt. Now he helps out in camps.

**M78AMM38:** He spoke of the earlier carnage in 1969, when he was 8 years old. He remembers being on the road with his grandfather when grandfather was beaten by sticks and both his aunts were stabbed. He remembers being saved by some Hindus and how they travelled in the jungle for 3 days, till the army arrived. Now again this is happening to him.

**M79AMM39, M80AMM40, M81AMM41:** They were all relief camp organizers and spoke of the conditions under which the camps were set up and the lack of support and interference from the government . Government still had not paid money for the relief camp. They were almost forced to close the camp. Unofficially people continue to stay, as they had no place to go.

**M82AMM43:** He worked in an Electronics Company. He was terminated when he went to get his salary. They asked him to sign on a resignation letter. They have not given him any other dues.

**M83AMM44:** He was teaching for the last 7 years in a school. He ran to his village during this carnage. When he returned after 15 days, he was terminated and later on charged with theft of school property.

**M84AMM45:** He was working in the furniture Industry for twenty years. He could not report to work for three months during the carnage. He was dismissed from the job because he is a Muslim. He used to work on the basis of piece work, but can not get even that kind of work now.

**M85AMM46:** He was working for ten years in a textile factory. Fifteen days after the carnage he came back from where he had fled. Some Hindu person had occupied his home. The proof of ownership was burnt in the violence. The police detained him because the owner of the factory lodged a complaint against him for threatening them by entering the factory premises. He has lodged a complaint against the factory owner and asked for reinstatement.

**M86AMM46:** He was working with a steel company for twenty-five years. There were only two Muslims in the factory. He was not given any dues and was asked to leave.

**M87AMM48:** He was a machinist in a chemical factory for 10 years. He was the only Muslim. He was terminated. His Hindu friend who stood by him was also terminated.

**M88AMM49:** He and another Muslim worker were terminated orally. No termination letter was given to them. He is planning to lodge a complaint. He is still living in a relief camp.

**M89AMM50:** He used to work in the chemical industry. During the violence also he went to work. In those days there were leaflets distributed saying, “do not allow the Muslims to stay in village.” Then one-by-one all the Muslims were asked to leave. He has lodged a complaint before the Labour Commissioner.

**M90AMM51:** He worked in a retail shop. On 28<sup>th</sup> Feb the mob set fire to his house and killed his pregnant sister. A good Hindu neighbour helped escape and then they took shelter with a Dalit family. They were in the relief camp for three months. When he went back to work, the manager kept taunting him, “You Muslims have killed so many, shouldn’t be here, shouldn’t have been saved, will definitely be killed etc.” He had no alternative but to leave the job.

**M91AMM53 :** He was terminated from his job and has no means of earning. His wife works but they cannot manage to pay for their children’s education.

**M92AMM55:** HE is a camp organizer. He said that from their camp not even 60% people have been rehabilitated. After camp closed down people continued to stay there for two months, as they had no where to go. He said that there were women in the camp who were sexually assaulted and that the police also use sexually abusive language, whenever they visited the camp.

**M93AMM56:** He was arrested and was in prison for three months, since a police bullet injured him. They took arrested him under sections 302 and 307. The police used to say Muslims look better in three places: “Pakistan, graves and Prisons”

**M94AMM57:** He reported the mob would say to women “we will rape you, your daughters, and your mothers.” They used to strip themselves and wag their genitals. His house was looted completely but got only 15000 as compensation.

## Glossary

<i>ABVP</i>	Akhil Bharatiya Vidyarthi Parishad, All-India Students Council, students wing of the Hindu Right
<i>Adivasi</i>	Tribals
<i>Asaram bapu</i>	A Hindu religious leader of North/ Western India with mass appeal
<i>Azaan</i>	Daily prayer announcement from the mosque
<i>Babri Masjid</i>	Historical Monument, Mosque in North India
<i>Bajrang Dal (BD)</i>	The militant organisation of the Hindu Right taking its name from the monkey god
<i>Bazaar</i>	Market
<i>Bhajans</i>	Hindu hymns
<i>Bibi</i>	Hindi/Urdu term for wife, referring here to Muslim woman
<i>Brahmin</i>	The upper most caste in the Hindu caste hierarchy
<i>BJP</i>	Bharatiya Janata Party, political party of the Hindu Right
<i>Chawl, Chali</i>	Tenement housing
<i>Collector, District Collector</i>	Government Administrative Head of District
<i>Congress</i>	A major centrist political party, originally known as Indian National Congress founded in 1885
<i>Dalit</i>	Oppressed, name adopted by groups belonging to the lowest in the Hindu caste hierarchy or 'untouchables'
<i>Dargahs</i>	Shrines that house the graves of Sufi saints
<i>DDO</i>	District Development Officer
<i>Dharma Sansad</i>	Religious Parliament
<i>Dharampatni</i>	Dutiful wife
<i>DSP</i>	Deputy Superintendent of Police, Deputy to the District Head of Police
<i>Durga Vahini</i>	A militant variation of the Hindu Right women's organisation
<i>FIR</i>	First Information Report of a crime prepared by the police
<i>Gujarati</i>	Belonging to Gujarat
<i>Har Har Mahadev</i>	Slogan raised by Hindu warriors while carrying out attacks
<i>Hanuman, Ram, Ganesh</i>	Names of Hindu gods
<i>Hanuman Chalisa</i>	Verses chanted in praise of Hanuman, the monkey god, a favourite disciple of Ram
<i>Hijra</i>	Eunuch
<i>Hindu Rashtra</i>	Hindu Nation
<i>Hindu Sabitya Kendra</i>	Hindu Literature Centre
<i>Hindutva</i>	Ideology and political formation of the Hindu Right
<i>ISI</i>	Inter-Services Intelligence, the Pakistani Intelligence agency
<i>Izzat</i>	Honour
<i>Jai Shri Ram</i>	Victory to the auspicious Ram, a slogan used by the Right Wing or at times even believers
<i>Jihad</i>	Holy War
<i>Kar Sevak</i>	Religious volunteers willing to offer free services for community activities

<i>Kalyan Ashram Trust</i>	A welfare Trust of the Hindu Right organisations for mobilising tribals
<i>Madarasas</i>	Schools for Islamic education
<i>Mandir</i>	Temple
<i>Mamlatdaar</i>	A sub-divisional revenue/ administrative official
<i>Matrubhumi</i>	Motherland
<i>Maunds</i>	A measure of weight
<i>Musalman</i>	Muslim
<i>Miya(n)</i>	A Urdu colloquial term for Muslim man, often used derogatorily
<i>MLA</i>	Member of the Legislative State Assembly
<i>Naiks</i>	A lower caste group
<i>Namaz</i>	Muslim prayers
<i>NRI</i>	Non Residential Indian
<i>Panchnama</i>	Investigative report prepared by authorized witnesses appointed by the police
<i>Panchayat</i>	Village level elected body
<i>Patels</i>	A powerful middle caste
<i>POTA</i>	Prevention of Terrorism Act, a law of the government
<i>Qabristan</i>	Muslim cemetery
<i>Ram mandir</i>	Temple for the Hindu god Ram
<i>Rapid Action Force</i>	A commando police force of the government
<i>Rashtriya Swayam Sevika Samiti</i>	The women's wing of the RSS
<i>Ration cards</i>	Cards provided by the Government for buying essential food items at subsidized rates
<i>RSS</i>	Rashtriya Swayamsevak Sangh (National Volunteer Corps/ Self-help Group), the ideological organisation of the Hindu Right
<i>RSS Shakha</i>	Branch of the RSS
<i>Saffron, saffronisation</i>	The colour associated with the Hindu Right in India, hence denoting communalization
<i>'Sandesh'</i>	A local Gujarati daily newspaper
<i>Sangh Parivar</i>	The Sangh (of the RSS) Family, referring to the collective Hindu Right wing organisations
<i>Sanskritisation</i>	A term coined by M.N.Srinivas, sociologist, to indicate the process whereby castes emulate the practices and customs of the brahminical upper castes
<i>Sarkar</i>	Government
<i>Sarpanch</i>	Head of the Village Panchayat (Council)
<i>Seva Bharati</i>	A Hindu Right organisation working with the cooperative sector
<i>Taluka/ Tehsil</i>	A sub-divisional revenue/ administrative unit
<i>TDO</i>	Taluka Development Officer
<i>Trishuls</i>	Tridents
<i>Varna</i>	The caste system in Hindu religion
<i>VHP</i>	Vishwa Hindu Parishad (World Hindu Council)
<i>Vidya Bharati</i>	A Hindu Right organisation working for advancing education

## **Annexures**

Annexure I: What happened in Gujarat

Annexure II: Role of the diaspora in the emergence of the Hindu Right

Annexure III: RSS and allied organisations

Annexure IV: The history and ideology of the right wing in India

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## Annexure I

### What happened in Gujarat before and after the burning of the Sabarmati Express<sup>154</sup>

The following narrative draws from various sources: newspaper reports, fact-finding missions and other reports, which came out after the Gujarat carnage. It pieces together the sequence of events that occurred in Gujarat before, on and after 27<sup>th</sup> February 2002, and details of the extent and nature of the terrible violence against Muslims in Gujarat in the months that followed.

#### Before 27<sup>th</sup> February 2002: The Build-up of Arms and Information Against Muslims

*Although it has been repeatedly suggested that the burning of the Sabarmati Express in Godhra on 27 February 2002 triggered the violence against Muslims in Gujarat, much evidence reveals the planned nature of these attacks and casts doubts on the representation of events that occurred on 27th February. Reports show a systematic attempt to identify Muslims in various areas by singling out their homes and establishments much ahead of that date. They also reveal that arms had been procured and distributed widely to the public as part of the plan to target the Muslim community.*

- As far back as November 2001, the magazine Communalism Combat reported that 4,00,000 ‘*trishuls*’ (three-pronged spears associated with Hindu mythology) – lethal *Rampuri* knives disguised as religious symbols – were distributed by the Bajrang Dal countrywide. The *trishul*, like the *kirpan* (Dagger) for Sikhs is exempt from the provisions of the Indian Arms Act. Before the campaign for construction of the temple, the VHP, Bajrang Dal and the RSS had distributed thousands of *talwars* (swords) and *trishuls*. The BJP functionaries also participated in all *talwar-trishul* ceremonies, in which processions were organized in towns and rural areas. Training camps in firearms were also reportedly conducted in many places.
- It is claimed that for some two weeks before February 28<sup>th</sup>, LPG (Liquefied Petroleum Gas) cylinders were in short supply in Ahmedabad city, so much so that middle class consumers had to book them far in advance and there was a long line of people waiting to procure them. The rioters however were adequately armed with thousands of LPG cylinders, obviously collected in advance, with which they blew up Muslim commercial establishments.
- In the town of Jhalod, Dahod District (where the town of Godhra is located), it was reported that all Hindu houses were marked with saffron flags *before* the 27<sup>th</sup> of February itself. This was done the day before *Id* (Muslim Festival) that was on 22<sup>nd</sup> February. Further, in the evening there was a rally of around 100-150 VHP/ Bajrang Dal supporters, and meetings were held at various places following this.
- In Limkheda, the district sub division of Dahod District, about six to eight weeks before 27<sup>th</sup> February, a list of all Muslim households and properties was prepared. A VHP leader who is a development officer in LIC (Life Insurance Corporation), Limkheda, had begun instigating people by saying things like, “These Muslims do not allow the *mandir* (temple). They should be killed.”
- In five districts of Gujarat, Muslims said that a few months prior to the attacks, a household survey was conducted by women activists of the VHP to find out details of Muslim properties. The revision of the electoral rolls during the same period seems to have come in handy in

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<sup>154</sup> Source: Dossier prepared for the International Initiative for Justice in Gujarat in December 2002.

distinguishing Muslims from others. Victims also pointed out that some TV cable operators had helped in identifying houses and other Muslim establishments. Furthermore, there are newspaper reports quoting VHP leaders as saying that they had a "list" ready.

- In Sanjeli village, Dahod District, three months prior to the attack, there were huge meetings in which VHP, and the Bajrang Dal had announced, "Sanjeli will burn" and burn it did. In Pandarwada village, Panchmahals District, in mid-February, meetings were held where the BJP/VHP/Bajrang Dal leaders made provocative statements from loud speakers to frighten Muslims and to instigate Hindus to arm themselves to confront the Muslims.
- Reports also indicate that the mob had prior information about Muslim-owned establishments; in a secret circular to the police the Gujarat Government had asked them to furnish details of Muslim organizations in their area. This information was collected as far back as 1<sup>st</sup> February 1999.
- It is also claimed that some 8 months prior to the attack, the Gujarati language newspaper, *Sandesb* had published an article in which it listed many Muslim owned establishments, which were not widely known as these had non-Muslim names or were only partly owned by Muslims. It would appear therefore that the rioters had access to Government records from the Sales tax/Excise departments and the like, which are not normally available.

The environment therefore was already highly charged and polarized, and a systematic hate campaign by right wing forces against the Muslim community was in progress. At the same time a sustained attempt was being made at politicising and using the *Babri Masjid – Ayodhya* temple issue. This was constantly being used to organize large and violent groups of Hindu men and some women.

In January 2001, the VHP *Dharma Sansad* (Religious Parliament) decided that the construction of a *Ram* Temple on the site of the *Babri Masjid* would start on March 15, 2002. The campaign had clear political motives, as it conveniently coincided with the Uttar Pradesh (UP) Assembly elections and was seen as a major factor that would help the Bharatiya Janata Party (BJP) gain electoral support. (Ayodhya, the town in which the contested site is located, is in the state of Uttar Pradesh.) The UP election results announced in February, however, were not favourable to the BJP.

January onwards, many areas in Gujarat and the whole country were placed on red alert due to the aggressive mobilization by the VHP for cadres to join in rebuilding the Ayodhya temple Movement. Groups of *kar sevaks* (religious volunteers) now calling themselves *Ram sevaks* began going to Ayodhya to prepare for this eventuality. Various BJP MLAs (Member of Legislative Assembly) had been arranging for tickets for the *kar sevaks* from the special quota allotted to them as elected officials; many *kar sevaks* were also travelling ticket less. For three weeks in February trains carrying the *kar sevaks* to and from Ayodhya had been stopping daily en route at the Godhra junction station.

Even before the events on 27<sup>th</sup> February at Godhra, there had been instances reported of provocative behaviour by the *kar sevaks*. On 25<sup>th</sup> February *Jan Morcha*, a Hindi daily published from Faizabad (near Ayodhya), detailed instances of provocative behaviour by *kar sevaks*, who allegedly beat and threatened Muslim passengers, insisting that they chant '*Jai Shri Ram*' (Hail Lord Ram). Provocative statements, aimed at the Muslim community, were made by the VHP in various places with regard to the building of the temple, which further added to the prevailing tension.

### **The Violence That Followed The Burning Of The Train**

The VHP called for a *bandh* (widespread closure of markets, offices, activities etc.) for the two days following the burning of the Sabarmati Express train at Godhra. It was reported that the Chief

Minister of Gujarat, Narendra Modi, had called for a meeting with police officials at his residence in Ahmedabad the evening of 27<sup>th</sup> February. The purpose of the two-hour meeting was to direct officials not to take action against the VHP mobs, should anything happen. Modi apparently made it clear that there would be justice for Godhra during the *bandh* and ordered that the police should not come in the way of “the Hindu backlash”. The Director General of Police, K. Chakravarthi, is said to have protested against such instructions, but he was silenced by Modi. All this was revealed by a minister in the state cabinet who voluntarily spoke before the Concerned Citizen’s Tribunal, a non-official tribunal investigating into the massacres. It clearly indicates that the head of a state government had, by his directives, promoted lawlessness from February 28<sup>th</sup> by directing the police chiefs to keep their forces under leash. It suggested a formal sanction given by the State to the subsequent killings. Various other factors also contributed to creating an atmosphere for violence.

Reports indicate that the violence was State wide, affecting at least twenty-one cities and sixty-eight provinces. Information from these areas also suggest a consistent pattern in the methods used, undermining government assertions that these were ‘spontaneous’ ‘communal riots.’ There is more than enough evidence to show how there was State complicity in the attacks all along. As one activist noted, ‘no riot lasts for three days without the active connivance of the State.’ 2000 people were killed in the violence although the official figure is 762 (822 including Godhra). 2500 people are ‘missing’ (or killed) according to unofficial estimates and around 113,000 people were displaced and were living in relief camps.<sup>155</sup>

Attacks on Muslims took place in 19 districts of Gujarat, and were particularly intense in 8 districts along the northeast and southwest axis. These were Ahmedabad, Sabarkantha, Panchmahals, Mehsana, Anand, Kheda, Vadodara, and Dahod. The attacks took place in distinct phases. These districts were engulfed in the most organized armed mob attacks between February 28<sup>th</sup> and March 3<sup>rd</sup> when most of the attacks were concentrated. This was the most intensive, bestial and horrifying phase of violence, marked by large scale hacking, looting, raping and burning men, women and children to death. Mobs continued to be on the rampage until mid-March. Nowhere were the mobs less than 2-3,000, more often they were over 5-10,000 in number.

The communal tension and violence that followed signalled an episode of destruction that would last for months to come. In Ahmedabad district the most intensely affected areas were Naroda Patiya, Vatwa, Paldi, Gomtipur, and Ahmedabad city. Men, women and children were hacked and burnt to death and thrown into a well and several others are still missing. In Chamanpura, a locality in Ahmedabad City, 70 people were cornered by a raging mob for 7 hours during which time they were tortured, butchered and almost all burnt to death, including former Member of Parliament Ahsan Jaffri. In Vadodara City, 14 people were killed in what has come to be known as the “Best Bakery incident” where the family and employees were hacked and burnt to death and in some cases literally baked to death in the bakery ovens.

Another horrifying feature of the violence in Gujarat was the speed and extent to which the violence simultaneously spread to rural areas, in some cases to places that had no history of communal tension. In Sabarkantha district, 94 villages were affected. In one village, over 60 people were burnt alive in the vehicle in which they were trying to flee the attackers. In Panchmahals district, 400 villages were affected and death tolls are extremely high. In one case of severe mob violence, a Hindu mob chased the Muslims into a nearby canal, cornered them and then proceeded to hack and kill all of them. In Mehsana district, not only were people hacked and burnt, there were also reports of acid being thrown on victims after they were slashed by swords. In one village of Mehsana, nearly

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<sup>155</sup> Communalism Combat, 77-78 (2002) 17.

30 people were cornered into a house and electrocuted to death. Similarly in Anand and Kheda districts people were cornered or trapped and hacked to death or burnt alive.

What is significant in the rural areas is that all of the Muslim population in a village under attack was displaced. In the cities on the other hand, the integration of Hindu and Muslim communities made it difficult to displace the Muslim population entirely.

Violence against women was a crucial element of how these massacres were executed. Rape, sexual assault and humiliation were some of the most systematic and consistent mechanisms for violating Muslims and their communities. Women were stripped of their clothes, gang raped, often publicly, and finally, in almost all cases, burnt or hacked to death. Pregnant women were not only not spared the brutality of rape but also had their abdomens slashed open and their fetuses thrown into raging fires. Children as young as 3 years old were sexually assaulted or raped before being burnt to death by the Hindu mobs. One of the survivors of gang rape had the Hindu symbol of *OM* cut out on her head. According to hospital reports, women and men had *OM* cut out on other part of their bodies as well and mutilation of women's breasts was a common feature of the violence.

Mobs ranged in size from 500 to 20,000 but their tactics and tools were so similar that it is impossible to ignore the organized and systematic nature of these massacres of Muslims in Gujarat. By and large, the attackers were identified as RSS, VHP or Bajrang Dal by the survivors, often wearing saffron t-shirts or headbands and chanting *jai shri ram* at every opportunity. They were often people known to the victims, either as neighbours, customers, or even friends. Attackers were armed with gas cylinders, spears, swords, acid solvents and diesel/petrol bombs. They also used guns, knives and home made weapons such as petrol soaked rags set on fire, and sharpened sticks. Still others were equipped with swords and *trishuls* – which were distributed widely by the Bajrang Dal and RSS. One particularly unexpected and disturbing element of this violence was the mobilization of tribal people from the hills for looting and burning Muslim establishments. Armed mobs also continued to patrol areas and chase away fleeing Muslims and in some cases gassed them out of their hiding places.

Another phase of violence began on the 15<sup>th</sup> of March the day of the '*Shiladaan*' in Ayodhya. It was less intensive and destructive than the first few days of violence but was like a steady war of attrition. By this time the violence had spread to almost all parts of Gujarat, including some places that had never experienced communal tension. Areas seriously affected in the first few days of violence were not seriously affected in this phase, as the destruction there had been complete and all Muslims there had fled to relief camps. There was continued violence with incidents of stray stabbing, stone pelting and street level confrontations between both communities. A number of Muslims returning home in affected areas to retrieve their things were killed; in one incident, a van full of Muslims being escorted by the police to a relief camp was set upon fire by a mob and burnt. A number of people of both communities were killed in police firing. Most places remained under curfew as incidents of looting and arson of abandoned properties took place. The role of the police in this phase of the violence was worse than what it was earlier and this was also the time when the police were arresting Muslims and taking action against them.

Besides this gruesome violence there was a systematic attempt to humiliate and terrorise the Muslim community by using foul language and threatening to kill, even if there was no killing. Most importantly, but not surprisingly, there were attempts to desecrate religious structures and scriptures. Women's bodies were spared the acts of gang rape in many places at this time but they were verbally assaulted, harassed and treated as objects of consumption almost everywhere. So although in legal

terms though there were fewer women 'abused' in this phase of violence, almost all women from the Muslim community were attacked in different ways through out this carnage.

#### **Details of Losses suffered:**

- 38,000 million rupees estimated losses suffered by the Muslim community.
- 30,000 million rupees estimated to have been lost due to closing down of shops, industries and commerce. The Gujarat Chamber of Commerce puts the figure as 20,000 million rupees.
- 1150 hotels were burnt in Ahmedabad alone.
- 6000 million rupees loss was suffered by the hotel industry.
- 5000 million rupees worth of property was lost due to hotels and restaurants being burnt down in Bhavnagar, Ahmedabad etc.
- 20,000 workers from the hotel industry were rendered jobless.
- Over 1,000 trucks are estimated to have been burnt.
- Transport companies lost business amounting to 700 million rupees.
- 10,000 million rupees were lost in damage to textile mills in Surat alone.
- 55 Mosques and *Dargahs* were destroyed in Ahmedabad city and district alone. 180-200 Mosques and *Dargahs* destroyed in other places.
- 20,000 two-wheelers and 4,000 cars were burnt. Insurance claims worth 80,000 million rupees were lodged by owners of two and four wheelers.
- 90% of commercial establishments have been wiped out on national highway no 8.

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Volume I & II

<http://www.sabrang.com/tribunal/volI/index.html>

<http://www.sabrang.com/tribunal/vol2/index.html>

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- [www.sabrang.com](http://www.sabrang.com)
- [www.riotinfo.com](http://www.riotinfo.com)

## Annexure II

### Support from the diaspora to the Hindu Right

The *Sangh Parivar* mobilizes much of its resources from overseas Hindu Indians, particularly those who have adopted *Hindutva*, as an acceptable part of their world-view. The appeal of *Hindutva* for non-resident Indians (NRIs) stems in part from managing the challenges of integration into racist societies such as North America and Europe where they are still considered second-class citizens. *Hindutva*, then, creates for these diasporic Hindus, an imaginary community of other Hindus – all participants in a simple, single, monolithic identity. It also gives them an imaginary link and ownership of project 'India,' as cultural ambassadors, even as they continue to live abroad. As such, the *Hindutva* project effectively manipulates religion through the guise of affirming cultural identity to further their sectarian agenda.

On the other hand, the *Sangh Parivar* is also drawing resources from unsuspecting Indians based abroad. Under the cover of fundraising for 'charitable', 'educational' or 'relief' activities, organisations affiliated with the '*Sangh Parivar*' directly support the *Hindutva* agenda in India. In the process, they indeed encourage communal divisions within the diaspora. Furthermore, it should be noted that their discourse is sometimes sophisticated enough to fool uninformed donors or patrons: liberal corporations, government funds or naïve students contribute without knowing to the strengthening of the Hindu extreme right in the sub continent.

There are VHP units, in USA, UK, Canada, Norway, Denmark, Netherlands, West Germany, Hong Kong, Australia, Sri Lanka, Suriname, Trinidad and Tobago, etc. VHP has recently been formed in Spain and Zambia. More units will soon be formed in Portugal, Thailand, South Africa, Guyana and Sweden. The VHP also has several associate organisations in countries like Mauritius, Myanmar, Kenya, Malaysia, Nigeria, Guyana, Malawi, Tanzania, Thailand, Indonesia, Fiji and Nepal.<sup>156</sup> For the purpose of this report, however, we will concentrate on the various umbrella organisations cultivated by the *Sangh Parivar* in the USA and the UK that allow *Hindutva* to knit a systematic and united web. The success of VHP of America and UK can be seen in terms of their financial clout - as they are the primary mode of channelling dollars and pounds into *Hindutva* politics back in India.

In North America *Hindutva* operates through several organizations. Its principle flag bearers are the *Vishwa Hindu Parishad* of America (VHPA) and the Hindu Students Council (HSC). The VHP of America and HSC for instance conducted the World Vision 2000 conference in Washington D.C in 1993, which became a rallying point for overseas Hindus and a ground for further recruitment in the wake of what many commentators called a "celebration" over the destruction of the mosque in India. Through the university network built by the HSC and its clever use of the Internet as a way to mobilize fellow Hindus through chat-groups etc, the VHPA was able to gather together a dispersed Hindu-Indian population.

In the U.K., a dozen *Hindutva* affiliated organisations mirror the structure of the Indian RSS and its affiliates. At the core lies the *Hindu Swayamsevak Sangh* UK (HSS UK), the oldest group, formed in the mid-1960s, which imparts physical and ideological training to its cadres. The *Hindu Sevika Samiti* UK is the women's wing and is modelled on '*Dharmapatni*' ('loyal wife') to the dominant and exclusively male HSS UK. The National Hindu Students Forum (NHSF), thanks to a systematic recruitment campaign on campuses, has become the largest body of Hindu students in the UK. It shares the same office address as the HSS UK and helps circulate, among others, the publications of the *Hindu Sahitya Kendra* (HSK), a *Hindutva* literature dissemination centre. UK-based *Hindutva*

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<sup>156</sup> [www.vhp.org](http://www.vhp.org)

groups have been successful in establishing themselves as the ‘true voice’ of the Hindu community in the eyes of the British State. For example, the *Vishwa Hindu Parishad* (VHP UK), published “Understanding Hindu Dharma”, a textbook widely used in religious education classes and endorsed by numerous local education authorities as part of the official syllabus<sup>157</sup>.

As in North America, fundraising and channelling of financial resources to *Hindutva* activities in India is key. The HSS UK fundraising arms include the *Kalyan Ashram Trust* (KAT), which specifically gathers funds for RSS projects geared towards *Adivasis* (‘tribal’ populations). Another example is the UK branch of SEWA International (SI). Despite its claims to the contrary, SI UK is involved in securing funding for highly politicised sets of activities, such as the ones of *Sewa Bharati* (the Indian RSS’s sectarian welfare wing) or those of *Vidya Bharati* (the RSS’s educational wing). True to the strategic ‘division of labour’ that serves *Hindutva* purposes so well, some organisations are more openly linked to political parties in India than others. For example, the VHP UK, set up in 1971, aligns itself on the ideology of the Indian VHP while the UK Branch of Overseas Friends of the BJP openly lobbies for the Indian Hindu nationalist BJP party. The VHP UK and the HSS UK also maintain strong links with their Indian counterparts - organising joint meetings, disseminating written materials, attending international events, etc.<sup>158</sup>

An attraction for the NRI is that he/she is not treated as just another *Hindutva* foot soldier. Their location (in North America or UK) and their ability to access resources (in dollars) make them relatively powerful members of this global family. There is no doubt that the support *Hindutva* gathers from the diaspora allows the project to grow steadily. For example, between 1990-92 the average annual income of the VHPA was \$385,462. By 1993, this had grown to \$1,057,147. Another powerful US-based organisation linking with the *Sangh Parivar* is the India Development and Relief Fund (IDRF), which raises funds ostensibly to support development and relief activities in India.

These *Hindutva* offshoots do not disclose their connections with extremist politico-religious forces in India and deny any involvement with the propagation of hatred they actively support. Such organisations take full advantage of a lack of public awareness regarding their real aims. As a result, many unsuspecting US corporations such as CISCO, Sun, Oracle, HP and AOL Time Warner have ended up making large contributions to IDRF. For instance, in the fiscal year 1999, Cisco Foundation gave almost \$70,000 to IDRF - placing IDRF among the top 5 of Cisco grantees.

Progressive campaigners are actively involved in exposing the global connections and economic ramifications established by the *Sangh Parivar*. November 2002 saw the inauguration of the Campaign to Stop Funding Hate (SFH),<sup>159</sup> a movement in the US led by a coalition of people – professionals, students, workers, artists and intellectuals – who share a common concern that sectarian hatreds in India are being fuelled by money flowing from the United States. Their first campaign is Project Saffron Dollar which aims to put an end to the collection of money by Maryland based IDRF.

Although the IDRF purports to be a non-sectarian, non-political charity which funds development and relief work in India, a recent report documents in detail the fundamental connections between

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<sup>157</sup> The information in this section is compiled from the following sources: Chetan Bhat and Parita Mukta, “Hindutva in the West: mapping the antinomies of diaspora nationalism”, *Ethnic and Racial Studies*, 23.3 (London: May 2000); “The *Sangh Parivar* in the UK”, *Indian Muslim* (London: March-April 2003).

<sup>158</sup> For example, “60 HSS workers and VHP UK representatives attended the World RSS camp held in Bombay in December 2000- January 2001” while the “Bauddhik Pramukh (Chief Ideology Propagator) of the Indian RSS attended both the HSS UK Sangh Shiksha Varg (annual camp) and the VHP UK Dharma Sansad (religious conclave) held in Leicester, UK, on 4 August 2001”; in *Indian Muslim*, March-April 2003, 4.

<sup>159</sup> [www.stopfundinghate.org](http://www.stopfundinghate.org)

the IDRF and the *Sangh Parivar*.<sup>160</sup> Amongst other documents, the SACW/Sabrang report examines a tax document filed by IDRF (at its inception in 1989) with the Internal Revenue Service (IRS) of the US Federal Government, which establishes that raising funds for the *Sangh Parivar* is the primary reason for the existence of IDRF in the US.<sup>161</sup> The SACW/Sabrang report indicates that 82% of the funds disbursed at the discretion of IDRF go to *Sangh* organizations and nearly 70% of the funds are used for "hinduization/tribal/education" work, largely with a view to spreading *Hindutva* ideology amongst *Adivasi* (tribal) communities. Less than five percent of their funds go to agencies that do not have a distinct Hindu-religious identification. The IDRF, which raised over \$10 million between 1997 and 2001, is currently under investigation by the US administration as part of a wider scrutiny of US-based tax exempt organisations which fund radical causes around the world.

A London-based pressure group - the South Asia Solidarity Group - is also exposing the international forces at work through an investigation of Hindu diaspora organisations' financial links with the '*Sangh Parivar*' in India. A number of *Hindutva* organisations enjoy the status of registered charities<sup>162</sup> in the UK, a major factor enabling them to raise funds on a large scale. This has prompted activists to challenge the charitable status of such fake NGOs that divert funds collected in the name of 'welfare' or 'relief'. In recent years local VHP UK branches successfully secured funding from sources as varied as the London Awards for All Scheme (which is linked to Lottery funding<sup>163</sup>), the Community Chest Fund (another source of funding linked to the Lottery), various London Boroughs (that is, the municipal councils) as well as obtain support from several mayors.

Since September 2002, campaigners have put pressure on Britain's Charity Commissioners to de-register organisations such as the VHP UK, the HSS UK and Sewa International. They presented extensive research to Charity Commissioners documenting the fact that, for example, Sewa International (whose gross income rose from £748,355 in 2000 to £2,175,971 in 2002) raised £4.3 million in connection with the Gujarat earthquake in 2001, most of which was used for sectarian rehabilitation projects. In a petition delivered to the Charity Commission on 8 March 2003, a coalition of NGOs denounced the fact that "one organisation which received £92,000 from Sewa International, the *Vanavasi Kalyan Ashram* in Gujarat, is directly implicated in the February-March 2002 anti-Muslim pogrom."

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<sup>160</sup> "A Foreign Exchange of Hate", is co-published by the South Asia Citizens Web (SACW) based in France, and Sabrang Communications, Bombay, India.

<sup>161</sup> The report offers the following: *Form 1023, duly filled by IDRF executives when it was created in 1989, identifies nine organizations as a representative sample of the types of organizations IDRF has been set up to support in India... All nine are clearly marked Sangh organizations.*

<sup>162</sup> UK Charities are registered with Britain's Charity Commission and, as non-political organisations, benefit from tax exemption. The HSS UK (registered in April 1974) and the VHP UK (registered in August 1972) are enjoying charity status, while Sewa International UK branch uses the charity number of the HSS in its fundraising campaigns.

<sup>163</sup> The 'National Lottery' or 'Lotto' is the UK's central government-run lottery whose proceeds are distributed to charities by a body, the Lottery Commission, which has input from the central government.

### Annexure III

#### RSS and Allied organizations

The RSS, since its inception in 1925, has seen its fundamental task as that of moulding a new kind of Hindu man whose character will be modelled on the virtues of past Hindu heroes to implement its ideology. Such men will see themselves as cells of the vast Hindu nation, and will strive selflessly for its consolidation, social upliftment, and defence against external and internal enemies. Their moral example and selfless activism will act as a lever to regenerate all aspects of Hindu society and create an organically united Hindu nation. The RSS organization sees itself as a hierarchical family.

Its basic unit is the local *shakha* (branch). The *shakha* meets daily and consists of 50-100 members (*swayamsevak*s--volunteers). Although the typical *shakha* includes all age groups from young boys to men over forty, the majority of participants are usually between 15-25 years of age. A *shakha* meeting lasts for one hour, during which RSS ideology and values are inculcated by means of Sanskrit (language rooted in Brahmin culture), prayers of devotion to the Motherland (*Bharat Mata*), traditional Indian group games, traditional Hindu physical and martial arts drills, and group discussions of ideal moral qualities as well as ways to serve the Motherland. Participation in the highly structured *shakha* meeting and its rituals has the character of an act of religious devotional service (*bhakti*) to the holy, all nurturing *Bharat Mata* and the great Hindu family. *Shakha* participation also develops close personal bonds between *swayamsevak*s as well as ties of loyalty to RSS ideals and leaders. In accordance with the overriding concepts of Hindu brotherhood and unity, caste distinctions are not recognized in RSS activities, and the caste system as it is today, is frowned upon as an institution whose inequities divide the Hindu community. While most RSS *swayamsevak*s are from the higher and middle castes, *Dalits* are encouraged to join.

The RSS organizational structure is hierarchical and centralized. At the apex of the pyramid is the *Sarsangchalak* (Supreme Guide), who is presumed to have “guru-like” charismatic powers. In public matters he speaks, usually after consultation with senior RSS members, for the whole organization. The central RSS headquarters are in Nagpur, Maharashtra, with regional, state, and local divisions reaching down to the *shakha* base. The structure of the organisation forms its key link and the *pracharak*s (missionaries) its core cadre. Usually recruited in their twenties and unmarried, *pracharak*s are full-time workers who have undergone a rigorous selection process. Normally highly educated, they live austere and can be shifted around within the organization or loaned out to various RSS-affiliated organizations. Within the RSS organization there is constant feedback between the lower and higher levels. State and all-India festivals and other public events regularly bring *swayamsevak*s and *pracharak*s from different localities together with upper leadership levels. This reinforces the feeling that the RSS is a great, all-Indian family.

Although the membership attrition rate is high, RSS socializing methods seem to have a powerful formative effect on most who participate in the organization. The RSS believes in slow and methodical work with individual families. They begin by individual contacts with family members and its workers seek to bring every member of the family into the fold of the RSS. The organisation also offers programmes and activities for every members of the family. Women are inculcated as mothers and loyal workers into the ideology of the Hindu right. They encourage militancy among women, and give them physical training; but at the same time, the ideology of the Hindu Joint family, inherently oppressive to women, is revered.<sup>164</sup>

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<sup>164</sup> Tanika Sarkar, “The Woman as Communal Subject: Rashtrasevika Samiti and Ram Janmabhoomi Movement,” *Economic and Political Weekly*, 35.35, (31 August 1991).

Militant tradition in certain strands of Hinduism is revered by the RSS. The young men and women in RSS *shakhas* are given physical training in calisthenics and drills. Across North India, the RSS *shakhas* are also linked to wrestling gymnasiums, the *akhdas*. The *akhdas* are to strengthen the 'weakened' Hindu male body and prepare them to protect the Hindu nation by attacking the enemy when the time is ripe. Each *akhdada* is for this purpose dedicated to Hanuman (a celibate god, who is revered as an obedient disciple/servant of Ram) and every *akhdada* has a Hanuman temple at which members offer prayers.

The *akhdadas* are an effort to bring Hindus together in one space much like the Muslims offering *namaaz*. According to Christopher Jaffrelot, the RSS functions on the principles of "stigmatization and emulation". That is to say, that it first stigmatizes and then emulates the 'enemy' so as to beat them at their own game. The Muslim therefore is aggressive and organised (because they offer prayers in one place, the *Masjid*, without any distinction between those who gather to pray) and has to be condemned because he wages a war against Hinduism or the Hindu nation. On the other hand, to become equal to the aggressor, the Hindu has to emulate those very practices because Hinduism is in danger. This leads to a strategy of "assimilating those cultural traits which give the opponent his superiority and prestige in order to resist him more effectively..."<sup>165</sup>

Physical strength is celebrated by the RSS workers and it generates confidence among young men and women. This physical training is supplemented with ideological indoctrination where young men and women are familiarized with key ideological Hindu nationalist texts. They are also given information on Hindu nationalist history and organization. They are fed selected religious history and given an outline of the vision of Hindu *Rashtra*. The minorities are then depicted as obstacles to the realization of this vision. The vicious and threatening images of the 'other' are kept alive in the collective memories of RSS workers through selective readings of history and factually questionable events and stories. Muslim men especially are singled out as lascivious persons who abduct and rape Hindu women. The training focuses on producing loyal and unquestioning workers who are respectful of the organisational hierarchy and offer unquestioning obedience.<sup>166</sup> These cadres are very active during riots and also during elections.

RSS membership has increased rapidly since 1975, when the number of its *shakhas* was between 7500 and 8500. By 1985 there were approximately 20,000 *shakhas*, and in 1993 *India Today* estimated the number at 30,000.<sup>13</sup> The most rapid relative growth since 1977 has been in the four southern states of Andhra Pradesh, Karnataka, Kerala, and Tamil Nadu. By 1982 there were approximately 5600 *shakhas* in these states.<sup>14</sup> On the basis of written sources and personal interviews conducted in Tamil Nadu and Karnataka in 1991, Douglas Spitz, Sr. estimated that there were then well over 6000 RSS *shakhas* in the four southern states and that the number was growing.<sup>167</sup>

The central publication house of the RSS, the *Suruchi Prakashan*, Jhandewalan, New Delhi, published a book in 1997, *Param Vaibhav Ke Path Par (On The Road To Great Glory)* by Sadanand Damodar Sapre, a senior RSS functionary. This book contains details of more than 40 organizations created by the RSS for different tasks. The preface of the book itself declares that "without the knowledge of the different kinds of activities of the *Swayamsevak*s (the volunteers of the RSS) the introduction of

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<sup>165</sup> Christopher Jaffrelot, *The Hindu Nationalist Movement and Indian Politics, 1925 to the 1990s* (Penguin: New Delhi, 1999) 16.

<sup>166</sup> Sarkar, "The Woman as Communal Subject."

<sup>167</sup> Douglas Spitz, Sr., "Cultural Pluralism and Modernity in South Asia: The Rashtriya Swayamsevak Sangh," *The Rising Tide of Cultural Pluralism: The Nation-State at Bay?*, Ed. Crawford Young (Madison: University of Wisconsin Press, 1993).

the RSS is incomplete. Keeping this in mind it has been attempted in this book to produce the brief information about the diverse activities of the *Swayamsevaks*. This book covers the organizational status of the RSS affiliates till the year 1996. We believe that this book will prove to be of use for those who want to understand the RSS with the *Swayamsevaks*’.

**Following is the list of organizations mentioned in the RSS book. The serial numbering is the same as in the book. The bracket has been added to explain the nature and function of each organization.**<sup>168</sup>

1. AKHIL BHARTIYA VIDHYARTHI PARISHAD (Student)
2. VIDYA BHARATI (Education)
3. BJP (Political party)
4. VHP, BAJRANG DAL, DURGA VAHINI, DHARAM SANSAD OR RELIGIOUS PARLIAMENT (Anti-minority organisations). The RSS insists that *Dharam Sansad* (Religious Parliament) is the highest supreme body of the Hindus. This book tells us: “Vishwa Hindu Parishad established *Dharam Sansad* in 1984.” It means that *Dharam Sansad* or the Religious Parliament will be constituted by the VHP)
5. AKHIL BHARATI VANVASI KALYAN ASHRAM (Tribals)
6. BHARTIYA MAZDOOR SANGH (Working class)
7. BHARTIYA KISAN SANGH (Peasants)
8. RASHTRA SEVIKA SAMITI (Social work)
9. SEWA BHARATI AND TATSAM (Social work. These two have taken over all the governmental welfare programmes in slums and poor areas even in cities like Delhi, which has a Congress government. These are basically fronts to divert government funds to the RSS. They have also recently got a licence to send children abroad for adoption.)
10. VISHVA VIBHAG (Foreign Affairs)
11. AKHIL BHARTIYA RASHTRIYA SHEKSHIK MAHASANGH (Education)
12. BHARTIYA SHIKSHA MANDAL (Education)
13. RASHTRIYA SIKH SANGAT (Sikhs)
14. SWADESHI JAGARAN MANCH (Economics. It gets crores of rupees from government departments)
15. DEEN DAYAL SHODH SANSTHAN (Intellectual)
16. BHARAT VIKAS PARISHAD (Same as No. 9)
17. BHARTIYA ITIHAS SANKALAN YOJNA (History)
18. SANSKRIT BHARATI (Sanskrit language which is also a favourite of the University Grants Commission these days)
19. SANSKAR BHARATI (Culture. Was in the forefront against artists such as M.F. Hussain and films like ‘Fire’)
20. AKHIL BHARTI ADHIVAKTA PARISHAD (Lawyers)
21. HINDU JAGARAN MANCH (Anti-minority. It owned up the terrible attacks on Christians and Muslims in Gujarat and other parts of the country)
22. SAMAJIK SAMRASTA MANCH (Anti-reservation front)
23. AKHIL BHARTIYA SAHITYA PARISHAD (History)
24. PRAGYA BHARATI (Religious)
25. VIGYAN BHARATI (Science)
26. LAGHU UDYOG BHARATI (Industry. Huge government funds are made available to it.)

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<sup>168</sup> Ram Puniyani, Hindu Right Wing Organisations, (Delhi: Media house) To be published.

27. AKHIL BHARTIYA GRAHAK PANCHAYAT (Consumers)
  28. SAHKAR BHARATI (Co-operative. They also get huge government funds)
  29. POORVA SAINIK SEWA PARISHAD (Ex-servicemen)
  30. BHARAT PRAKASHAN (Publishes mouthpieces of RSS such as 'Organizer')
  31. SURUCHI PRAKASHAN, DELHI (Publication)
  32. LOKHIT PRAKASHAN, LUCKNOW (")
  33. GYAN GANGA PRAKASHAN, JAIPUR (")
  34. ARCHANA PRAKASHAN, BHOPAL (")
  35. AKASHVANI PRAKASHAN, JULLUNDUR (")
  36. BHARTIYA VICHAR SADHANA, NAGPUR (")
  37. SADHANA PRAKASHAN, GUJARAT (")
- & ABOUT 10 MORE PUBLICATION HOUSES IN DIFFERENT PARTS OF THE COUNTRY.

#### Annexure IV

### The History and Ideology of the Right Wing in India<sup>169</sup>

We witness forces of globalisation and localisation that manifest themselves in the tensions between free markets, erosion of boundaries of nation States and cosmopolitan identities on the one hand and the emergence of particularistic identities that are religious, ethnic, sexual or gendered on the other. The project of nationalism is implicated in these tensions. The exercise of State building which many post-colonial states undertook in the 1940s and 1950s, required religious or community identities to be subsumed under national identity. Citizenship rights in these new nation States were meant to create autonomous, rights-bearing individuals. However, increasing assertions of local identities, especially religious and ethnic identities have challenged this historical project of nationalism since the decade of the 90s. As a result, we remain poised at intersections where many dimensions of identities – local, national and global – converge. The rise of religious extremism illustrates this phenomenon and must be examined for its adverse implications for vulnerable sections of society, especially women.

In the case of India, the newly independent State sought to build a secular, socialist, non-aligned and democratic State in 1947. It also sought to construct citizenship by subsuming local identities, especially caste and religious identities, within national identity but it did so unevenly. For instance, it gave certain community identities public recognition by giving oppressed castes affirmative action rights and religious minorities the right to practice their own religion and to run their own educational institutions.<sup>170</sup> However, the rise of the Hindu right since the late 1980s has led to the erosion of the foundational State policies of the Indian State. Since the Hindu right assumed power in the late 1990s, Indian democracy and secularism has come under threat, socialism has given way to economic liberalisation and the State has been desperate to woo the global powers of the world.<sup>171</sup>

This section outlines the rise and growth of the Hindu right in India. It profiles the ideological content of Hindu right wing discourse and traces its position vis-à-vis women specifically. It examines how colonial policies contributed to the reification of religious identity. Thereafter, it gives a picture of political developments in India right from the nationalist movement in the early twentieth century to present times, and deliberates on the factors responsible for the rise of the Hindu right.

#### **Definitions and Introductory Remarks**

The term ‘communalism’ was coined by the British and can be seen as a product of the age of reason. During the nationalist movement, the term was used to refer to particularistic attachment and allegiances, which hampered the creation of a self-governing nation. In its present commonsensical usage, ‘communalism’ in the Indian context refers to “a condition of suspicion, fear or hostility between members of different religious communities.” In academic terms, “... the term is used for organised political movements based on a proclaimed interest of a religious community, usually in response to real or imagined threats from other religious communities. It also denotes movements that make sectional demands on the State (such as demands for affirmative action programmes) or demands for creation of new nation States.” Other definitions include the understanding of communalism as “...the belief that because a group follows a particular religion,

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<sup>169</sup> Source: Dossier prepared for the International Initiative for Justice in Gujarat in December 2002.

<sup>170</sup> Gurpreet Mahajan, 'Multiculturalism: The Problem' and 'Rethinking multiculturalism', *Seminar*, no. 484, 1999.

<sup>171</sup> A. Vanaik, 'The New Indian Religious State,' *New Left Review*, no.9, May-June 2001. pp. 43-68.

they would, as a result, have common social, political and economic interests”.<sup>172</sup> Communalism has also been called “... a position in which politicised religious identities claim primary legitimacy.”<sup>173</sup>

The term *Sangh Parivar* (Collective Hindu Family) is used interchangeably with the term ‘Hindu right’/‘Hindu nationalists.’ ‘*Sangh Parivar*’ is consciously used by the Hindu right to refer to a variety of organisations – political parties, cultural and religious organisations and other affiliates of the Hindu right – that adhere to their philosophy. This term also connotes the imagined bonhomie and rigid hierarchy of the imagined North Indian upper-caste Hindu joint Family.

The electoral front of the Hindu right is the *Bharatiya Janata Party* (henceforth BJP). The Maharashtra-based regional political party, the *Shiv Sena*, is also considered a Hindu nationalist party. The ‘cultural organisation’ of the Hindu nationalists is the Rashtriya Swayamsevak Sangh (henceforth RSS). The RSS is the organisational and ideological backbone of the Hindu right. It stays away from the ‘lure’ of politics and in doing so, acquires moral legitimacy in the eyes of the people. Its main strength is its loyal, dedicated and highly disciplined cadre. The ‘*Vishwa Hindu Parishad*’ (henceforth VHP) is an organisation of the Hindu ecclesiastical order, which focuses on unity among Hindus in India and in the diaspora. Its youth wing, the *Bajrang Dal* is particularly virulent in its operational tactics and rhetoric. Almost all these parties and organisations are rigidly hierarchical: there are no internal elections, democracy is not encouraged and dissent is not tolerated. Members of one organisation often cross over to other organisations of the *Sangh Parivar*. For instance, most office bearers in the BJP have been trained by the RSS. The Hindu right runs social welfare centres, medical centres, schools, orphanages and other services. The Hindu right also runs trade unions, student unions and controls sections of the print media as well as other media.

### **Ideological Articulation of the Hindu Right**

V. Savarkar, ideologue of the Hindu right, has defined a Hindu as a person “... who regards the land of Bharatvarsha from the Indus to the seas as his father land as well as his holy land.”<sup>174</sup> Given this logic, the Hindu right claims that Jains, Sikhs, and Buddhists are part of the Hindu fold as India is also their ‘holy land,’ but that Muslims and Christians are not, because their holy lands lie outside the borders of the country. The default implication is that religious minorities will always have more pressing allegiances outside the nation and are likely to be ‘traitors.’ The *Sangh Parivar* seeks to monopolise the definition of Hinduism and what it means to be Hindu in order to make it congruent with its own political project. Its ‘Hinduism’ draws selectively from Hindu upper caste, North Indian religious traditions and favours certain ‘Gods’ or epic heroes over others for political reasons specified later. In doing so, it reviles the plurality of religious traditions, rituals and practices of other communities, such as the *Adivasis* (indigenous people or tribals), who are now categorised as ‘Hindu.’ Further, in its monolithic Hinduism, the *Sangh Parivar* negates the syncretic nature of different religious traditions in India, which have shaped and determined each other to a large extent. This history is evident in the art, literature and architecture of the subcontinent, which the *Sangh Parivar* tries actively to subvert. Hindu supremacist ideology that drives the call to a Hindu nation is called ‘*Hindutva*’ and is referred to many times in this text.

The Hindu right believes that Hindus, who comprise the majority community, are the only citizens of India and that only they, given their ethnicity, can determine the common good of the polity. “Hindus alone are the legal citizens of *Bharat*, as it is, they alone inherit everything in this land from

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<sup>172</sup> G. Pandey, *The Construction of Communalism in North India*, (New Delhi: Oxford University Press, 1990).

<sup>173</sup> S. Freitag, *Religious Rites and Riots: From Community Identity to Communalism in North India 1870-1890s*, Unpublished Ph.D. thesis, University of California, Berkeley, 1982.

<sup>174</sup> V. Savarkar, *Hindutva*, (Pune: V.G.Kelkar, 1928) p. 10.

times immemorial...’’<sup>175</sup> Consequently, other minorities cannot be seen as equals. They must assimilate in order to qualify for Indian citizenship. For instance, one RSS leader claimed:

“The foreign races in Hindustan must either adopt the Hindu culture and language, must learn to respect and hold in reverence Hindu religion, must entertain no ideas but those of glorification of the Hindu race and culture, that is, they must not only give up their attitude of intolerance and ungratefulness towards this land and its age-old traditions but must also cultivate the attitude of love and devotion...in a word, they must cease to be foreigners, or may stay in this country, wholly subordinated to the Hindu nation, claiming nothing, deserving no privileges, far less any preferential treatment – not even citizens’ rights.’’<sup>176</sup>

A related theme that runs through the literature of the Hindu right is that Muslims and Christians are not original habitants of the land like the Hindus (specifically upper caste Hindus) and that they came here as ‘invaders.’ This necessitates a selective distortion of history, which they attempt by claiming that Aryans were the original inhabitants of the land, in contrast to prevailing scholarship that establishes that it was the *Adivasis*. The imagery of plunder and defilement of the land by the invaders is woven around the body of ‘Mother India,’ which stretches from Kashmir to Kanyakumari in the south. The discourse is littered with popular stories of Muslim rulers who ‘looted’ India and desecrated temples. It projects Hindus as a feminised race easily vanquished by the Muslims.<sup>177</sup> Hindu kings who ‘resisted’ this onslaught are glorified and seen in a communal light, such as in the case of *Shivaji*, a warrior-king from Maharashtra who is eulogised for his struggle against the Mughals.

The Hindu right then seeks to militarise Hindu religion and stresses the importance of military power to prevent the emasculation of Hindus and preserve the nation. The RSS indoctrination programme includes both physical and ideological training. The mother country becomes conflated with the body of Hindu women and her rape and plunder justifies not only the rape of Muslim women but also becomes an opportunity for Hindu men to reclaim their manhood. Correspondingly, the territorial integrity of the motherland remains a strong current in the discourse of the Hindu right and it has opposed both the partition of India and the nationalist movement in Kashmir. “The Congress cut the country into two. The Communists would cut it into ten. The sole aim of the RSS is to generate forces for the consolidation of Hindustan from Kashmir to Kanya Kumari...Muslims are lying low in wait... *Bharati* Christians would have to mend their ways. Their subsidised attempts to impose their creed on poor Hindus is repugnant.’’<sup>178</sup>

The Hindu right seeks to mobilise Hindus against what it calls ‘the minority appeasement’ policy of the Indian State and the Congress Party. The term ‘minority appeasement’ is used to protest against the special group rights granted to Indian minorities – such as the right to be governed by personal laws based on religion and the right to run their own educational institutions – by the Indian constitution. The Hindu right is also vehemently opposed to the religious conversion of people of the oppressed castes, who turn to other faiths in order to exit the rigid and discriminatory caste

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<sup>175</sup> *Organiser*, Vol. 10, Oct.20, 1952, as quoted in C. Baxter, *Jan Sangh: A Bibliography of an Indian Party*, (New Delhi: Oxford University Press, 1971).

<sup>176</sup> M.S. Golwalkar, *We or Our Nationhood Defined*, 4<sup>th</sup> ed., (Nagpur: Bharat Prakashan, 1984). pp.55-56.

<sup>177</sup> The idea of the feminised ‘native’ is not new and is recurrent in colonial literature and discourse. The ‘emasculation’ of the native was used to reinforce his racial or cultural inferiority and thus justify colonisation. The Indian nationalist movement mobilised this feeling of emasculation to translate it into moral superiority of the natives in relation to the colonisers. The Hindu right keeps this idea of emasculation alive to use it as a call to violence against the ‘internal enemy’.

<sup>178</sup> *Organiser*, Vol.16, Dec.3, 1951, as quoted in Baxter, *op.cit.*

hierarchy in Hinduism. The Hindu right does not favour democracy and advocates a Presidential system of governance with fixed tenure of office, so that a minority government cannot be ousted by a vote of no confidence. It also proposes a '*Gurusabha*' (Council of the wise) comprised primarily of religious leaders who would advise the upper and lower houses.<sup>179</sup> Minorities in such a State would not be given any special privileges or rights. There is a great emphasis on unity among Hindus while keeping caste inequalities and other hierarchies alive, a tension that the Right has not been able to address. These are some of the elements of the theocratic, authoritarian Hindu *Rashtra* (nation) that the *Sangh Parivar* advocates.

The Hindu right takes an uncritical attitude towards Western knowledge systems. Indeed, it celebrates science and technology as buttresses to State power, which can be used to further homogenise the nation.<sup>180</sup> Its belligerence was evident when it conducted nuclear tests in India, in its war against terror and in the BJP's aggressive anti-Pakistan propaganda, which has frequently brought the country to the brink of war with Pakistan. The Hindu right's economic policies are also fraught with tensions. On one hand, the BJP is aggressively pro-liberalisation and has opened India's market to global capital. On the other hand, the RSS takes an anti-Western stand (as it links India's 'moral downfall' to Western influence), and makes an ambiguous call for '*swadeshi*' or 'self reliance' in economic matters. However, these tensions notwithstanding, the entire Hindu right has benefited from the post-globalisation social disquiet, which has been channelled into aggressive cultural self-assertion of the Hindus.

### **Women in the Ideology of the Hindu Right**

As there are no intra-party elections in the Hindu right, very few women have made it to top positions within the *Parivar*. Those who have are mostly widows or unmarried women, and women members of the Hindu clergy. The RSS itself is an exclusively male organisation that does not admit women but runs a separate women's wing called the *Rashtrasevika Samiti* (Organisation of Women in the Service of the Nation), established in 1936.

The structure of the *Samiti* is hierarchical and modelled closely on the RSS where members are given both the physical and intellectual training necessary to erect a Hindu nation. Although women have been inducted into the Hindu right they have been mobilised in a way that reiterates traditional gendered roles. The RSS places great emphasis on family values and mobilises women as faithful mothers of the nation who will raise dutiful sons and spread the message of *Hindutva* to their sisters in a quiet, domestic way. Domestic matters are women's primary responsibility: work in the *shakhas* (branch offices) too must happen only with the permission of the family and family work still comes before *shakha* work. *Samiti* workers are taught never to rebel openly against their families and to use 'persuasion' in matters of domestic conflict, ill treatment from in-laws, choice of life partner etc. There is no political mobilisation around contentious issues such as gender, or class.<sup>181</sup> Sources of tension or rupture within the family or community are not addressed, and there is no discourse of rights except in the context of the Hindu community's entitlements as a whole. Gender is subsumed within the family and the family within the nation-State. The Hindu right wing's concern for women's rights is limited to their insistence on a Uniform Civil Code for all Indians, instead of Personal Laws that allow different communities to be governed in 'personal' matters on the basis of religion. However this demand is based more on the desire to stop 'appeasing minorities' and to

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<sup>179</sup> Vanaik, *op.cit.*, p.59.

<sup>180</sup> Ashis Nandy, *The Savage Freud and Other Essays on Possible and Retrievable Selves*, (Princeton, N.J.: Princeton University Press, 1995).

<sup>181</sup> Tapan Basu, Pradip Datta, Sumit Sarkar, Tanika Sarkar, Sambuddha Sen, *Khakhi Shorts and Saffron Flags: A Critique of the Hindu Right*, (Hyderabad: Orient Longman Press, 1993) p. 42.

make them conform to Hindu law rather than on any concern for gender justice. This is discussed more fully in the upcoming section on the post-independence era.

*Rashtrasevika Samiti* members, who are mostly from the middle class, visit each other informally in their homes and spread the word through neighbourhood contact and kinship networks. They help out in domestic crises but not in a way that questions traditional gendered practice: for instance, they may pool resources to help a family to reduce the burden of dowry but will not question the practice of dowry itself.<sup>182</sup> Most women in the *Samiti* have relatives in the RSS. Induction of individual families into the ideology of the RSS has been crucial to its mobilisation strategy and the women of these Hindu families are encouraged to be part of the RSS women's wings.<sup>183</sup> This kind of prolonged contact maintained over generations is responsible for the proliferation of the saffron ideology we see in society today.

*Hindutva* revives the dichotomy of Woman as the ideal and opposite of Western moral and social degradation and its attendant evils of widow remarriage, adultery and divorce. It lays a great emphasis on female chastity, using the parallel of *Sita*, wife of the mythological hero *Ram*,<sup>184</sup> who withstood the test of fire to prove her sexual purity after she was rescued from a demon by her husband. The Hindu right also upholds the practice of *Sati*,<sup>185</sup> evidenced by its defence of the *Sati* of Roop Kanwar in Rajasthan in 1984, on the grounds that it is authentic religious practice. Threatening the purity of the Hindu woman is the lascivious, over-sexed Muslim man who, according to the propaganda of the Hindu right, has been raping Hindu women for centuries. In fact, the oral myth of the *Samiti* states that it was established when Muslim criminals raped a Hindu woman in front of her husband.

Violence against women is integral to the project of political violence perpetrated by the Hindu right. The fictional rapes of Hindu women since the Middle Ages justify the rape of Muslim women by Hindu men. The Gujarati press invented the rape of three Hindu women by Muslim men in Godhra recently, which served not only to justify the mass rapes of Muslim women in the following riots and but also to conjure up a sense of outrage at the supposedly long history of wrongdoings of the Muslim community. The collective dishonouring of the Muslim community by defiling the bodies of 'their' women is seen as a way to destroy the sources of pleasure, nurture and reproduction for Muslim men and children.<sup>186</sup> Women have been especially targeted in riots through the 1990s but the sadism in the acts of rape and murder of women in Gujarat is unprecedented. Rape and murder is seen as the way for Hindu men to reclaim their manhood and are to be performed as their sacred duty, as is evidenced by the saffron underwear and khaki shorts worn by the attackers in Gujarat. One VHP pamphlet circulating in Gujarat during the riots and signed by the state general secretary contains the following poem:

The volcano which was inactive has erupted  
It has burnt the arse of the *miyas* (Muslim men) and made them dance nude  
We have untied the penises that were tied till now  
We have widened the tight vaginas of the bibis (Muslim women)<sup>187</sup>

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<sup>182</sup> Dowry is the practice of giving money and other goods to the groom at the time of marriage, as compensation for taking on the 'liability' of the woman he is marrying.

<sup>183</sup> Basu et.al., *op.cit.*, p. 42.

<sup>184</sup> Ram is a hero of the epic *Ramayana* and is also worshipped as a deity in some parts of India.

<sup>185</sup> The notionally voluntary suicide of a newly widowed wife by ritual burning on her husband's pyre.

<sup>186</sup> Tanika Sarkar, "Semiotics of Terror in India: Muslim Children and Women in Hindu Rashtra," *Economic and Political Weekly*, vol. 37, no. 28, July 13, 2002.

<sup>187</sup> *Ibid.*

In the riots during the decade of 1990s, right wing Hindu women urged and encouraged their men to rape Muslim women. Sadhvi Ritambhara, a religious figure of the Hindu right, delivered inciteful hate speeches exhorting Hindu men to remasculinise themselves by fighting Muslims. Women came out in droves to participate in and support the destruction of the *Babri Masjid* in 1992 and some 20,000 courted arrest. In 1998, members of the *Shiv Sena* women's wing vandalised theatres across India that were showing *Fire*, a film depicting a lesbian relationship. The *Sangh Parivar* now has an active women's cadre and women have participated widely in looting, rioting and killing in communal riots recently.

The militancy and participation of women in violence may appear to be a contradiction when seen in the light of the Hindu right's discourse on Woman as selfless mother and wife. However, the Hindu right wing has encouraged militancy and religious hatred among women by calling upon these very identities. For instance, in the controversy surrounding the supposed 'occupation' of Ram's birthplace by the Mughal ruler Babar in the 16<sup>th</sup> century, the *Sangh Parivar* inverted the earlier pattern of a femininised love object. Here the beloved but estranged object was the birthplace of a revered *male* deity ('occupied' by a mosque), which women had to liberate for him.<sup>188</sup> This reversal of roles where a woman must save a male deity puts her in an active and empowering position and calls for the development of not only a "trained, hardened, invincible, female body" but also its sacrifice in an "impending apocalyptic war."<sup>189</sup> The need for physical strength and courage is also necessary to seek vengeance against imagined Muslim assaulters and to instil a sense of confidence within women. The women's wing of the VHP, the *Durga Vahini*,<sup>190</sup> which operates mostly in urban centres and small towns, organises regular camps for women at Hanuman temples and includes martial arts and other physical training required for patriotic war. However, women primarily remain the wombs of heroes in *Hindutva* ideology and the call to fight is still predominantly male.

The following description of the "paradox of the *Rashtrasevika*" sums up the contradictory position of women in Hindu right wing politics well:

"undoubtedly empowering in some ways, but bringing women from a traditionally conservative social stratum into public space in a regimented, colourless, grim manner, in a violent campaign of blind hatred geared to produce citizens of an authoritarian Hindu *Rashtra*, on the ruins of secular, democratic politics."<sup>191</sup>

### **Colonial Construction of "the Hindu" and "the Muslim"**

Historians have argued that in pre-colonial India, people's identities were fuzzy and heterogeneous.<sup>192</sup> People apprehended their identities in terms of membership in caste, sub-caste, regional and linguistic groups. While religious identities were part of these intersecting identities, religious differences were not the fundamental basis of differentiation between communities.<sup>193</sup> The British justification of the colonising project was based on the perception of Indian society as barbaric, chaotic and unruly. For the colonisers, the religious bigotry of the Indian people was a supreme example of the irrational nature of the ungovernable natives. The colonisers saw Hindu and Muslim identities as mutually distinct and antagonistic. According to the colonisers, religious differences between Indians automatically spilled over into religious hatred and created problems of law and order for the rulers, and they used the term 'communalism' to describe this animosity.

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<sup>188</sup> Basu et. al., *op.cit.*, p. 82.

<sup>189</sup> Basu et. al., *op.cit.*, pp. 83-84.

<sup>190</sup> Durga is a feared militant goddess who carries numerous weapons and Durga Vahini means vehicle of Durga.

<sup>191</sup> Basu et. al., *op.cit.*, p. 44.

<sup>192</sup> G. Pandey, *op.cit.*

<sup>193</sup> *Ibid.*

The colonial perception of Hindus and Muslims as separate nationalities shaped many colonial policies that served to reinforce the perception of difference, such as the policy of enumerating and classifying the population on the basis of religion in the census. Family laws were also based on religion and customary practice. In 1919, the colonial government introduced separate electorates for Hindus and Muslims. Colonial historiography and reports often converted anti-colonial, caste- or class-based uprisings into ‘religious riots,’ erasing the reasons behind differing constellations of communities and decontextualising them from the root issues.<sup>194</sup> With the growing popularity of the print media, these official narratives received wider attention. These policies led to a new community consciousness, which rose above the localised identities and helped in the creation of all-India Muslim or Hindu communities.<sup>195</sup> These policies in turn fixed the boundaries of religious communities<sup>196</sup>. Thus, these policies naturalised religious differences between communities and attributed religious significance to collective actions of the people when there was none. The British also exploited differences based on religion in their policy of ‘divide and rule’ by which they patronised and supported rulers of different kingdoms to fight against each other, depending on their particular interests in the region.

### **Nationalist Movement and Emergence of the Hindu Right**

The politicisation of community identities during colonial times led to political formations around those very identities in the anti-colonial struggle. On December 30, 1906, the Muslim League was founded in Dhaka. This was the first major political group, which appealed to Muslims as a community, but it was not hostile to others.<sup>197</sup> In response, a United Bengal Hindu Movement began

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<sup>194</sup> *Ibid.* Gyanendra Pandey has shown how colonial records fail to capture the dynamics of the formation of heterogeneous caste/religious coalitions and solidarity between different communities at different points in time. He has pointed out that in Eastern Uttar Pradesh, between 1890 and the 1910s, large Hindu cultivator castes such as Koeris, Kurmis and Ahirs teamed up with Brahmins and Rajputs against the Muslims around the issue of cow sacrifices. However, between the 1910s and the 1920s, when Koeris, Kurmis and Ahirs united to press for caste mobility, Hindu and Muslim Zamindars (landlords) joined hands to suppress these low peasant castes. Pandey points out that British records report both these riots as ‘religious riots’ between Hindus and Muslims. Such a static view of a society fails to capture the ground reality of political convergence of communities around different issues at differing points in time and space. Besides, these early official records established a meta-narrative which served as a blue print for later reports of ‘religious riots’.

<sup>195</sup> Bernard Cohn has focused on this ‘documentation project’ of the British Raj, which he sees as both “totalising” and “individualising.” This project depicted the totality of the people who were to be governed (“the Indians”) but also marked off religious, ethnic groups and castes. Cohn argues that the study of social history of colonial India can also be understood as a construction of knowledge by the colonial state. For instance, colonial data collection for the production of dictionaries and grammar to be used in educational institutions played an important role in the construction of language communities. [Bernard S. Cohn, *Colonialism and Its Forms of Knowledge: The British in India*, (Princeton, N.J.: Princeton University Press, 1996)].

<sup>196</sup> For instance, scholars describing the hardening of community boundaries often cite the events in Kerala, where peasants rebelled against Muslim landlords. In order to suppress the peasants, the landlords established a ‘Khilafat king’ and attacked them. This event was viewed by the colonial state as an inter-religious conflict leading to a breakdown of law and order. It was also publicised in the print media as such and was perceived largely as an attack on Hindus. This led to riots across North India [Christopher Jaffrelot, *The Hindu Nationalist Movement and Indian Politics, 1925 to the 1990s*, (New Delhi: Penguin, 1999) p. 20].

<sup>197</sup> The objectives of the Muslim League at that time were:

“To promote among the Musalmans of India feeling of loyalty to the British government and to remove any misconception that may arise as to the intention of the government with regard to any measures.

To protect and advance the political rights and interests of the *Musalman*s of India and to respectfully present the needs and aspirations to the government.

To prevent the rise among the *Musalman*s of India of any feelings of hostility towards other communities without prejudice to the other above mentioned objectives of the League.”

[A.B. Rajput, *The Muslim League: Yesterday and Today*, (Lahore: Ashray, 1948); quoted in Baxter, *op.cit.*, p. 7].

in 1907. Some urban *Arya Samajis* came together to form the *Punjab Hindu Mahasabha* in 1907, which spread to other parts of India and by 1914, it had called itself the *Akhal Bharatiya Hindu Mahasabha*. The *Mahasabha* opposed the separate electorates for Muslims, which were proposed by the *Muslim League* and adopted the slogan of “One Man, One Vote.”

Given the colonisers’ revilement of Indian culture and the missionary projection of Indian culture as primitive and barbaric, several cultural revivalist movements emerged in response. The Arya Samaj was one such movement of Hindu revival and social reform that appealed to persons of nationalist and revivalist leanings. As a result, the *Arya Samaj* became a common background for nationalist leaders during the early years of the 20<sup>th</sup> century and many members of the *Hindu Mahasabha* were also members of the Indian National Congress. In 1925, Lala Lajpat Rai, a Congressman who was also linked to the *Hindu Mahasabha* laid down the objectives of the *Hindu Mahasabha*. This programme has influenced the Hindu right up to present times. The objectives mooted by Lala Lajpat Rai were: To organise Hindu *Sabbas* through the length and breadth of the country, to provide relief to Hindu men and women who have been victims of communal riots, to reconvert Hindus who were forcibly converted to Islam, to organise ‘*akhdas*’ (gymnasiums) for Hindu youth, to popularise Hindi, to celebrate Hindu festivals, to open Hindu temples and halls, to promote good feeling with Mohammedans and Christians, to represent the communal interests of Hindus in all political controversies, and to work for the upliftment of Hindu women.<sup>198</sup> This articulation of religion based politics led to a split within the Congress party in 1926. Some Congress party members joined the *Hindu Mahasabha*, while others began articulating a secular agenda. However, tacit links between a section of the Congress Party and the *Hindu Mahasabha* remained during the nationalist movement as well as in post-colonial times.

In another significant development, Hedgewar founded the Hindu right wing ‘cultural organisation’ *Rashtriya Swayamsevak Sangh* (RSS) in 1925.<sup>199</sup> The goal of the organisation was to militarise the Hindu religion and to promote religiosity within society to make it coterminous with the *Sangh*. The organisation devoted its formative years in creating a loyal and disciplined cadre. From 1932, its handpicked organisers went to every part of India and established *shakhas*.

Literature on the Hindu right in the pre-partition era suggests that it did not attract many followers at the time. Political participation of all sections of society increased dramatically from the 1920s according to the history of the Indian nationalist movement. The Congress Party was able to capture the imagination of the people through its organisational skills, charismatic leadership and innovative

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<sup>198</sup> Baxter, *op.cit.*, p. 15.

<sup>199</sup> The stated objective of the RSS, according to their website ([www.rss.org](http://www.rss.org)) is:

“The R.S.S. stands for the spread of Hindu culture. Culture means a value system. So the R.S.S. wants to establish a certain value system which in Historical process is called Hindu value system, but is essentially a humane value system. The essential ingredients of this value system are:

a) The truth is one but can have plural manifestations. This plurality need not be in conflict with one another; it can be cooperative and complementary. To understand, appreciate and realize the unity in a tremendous vortex of diversities, should be the humanity's goal of life.

b) The whole universe is permeated with the Godly Spirit. Let us first offer, whatever we earn to this Spirit, then only can we become eligible to feed ourselves. This is succinctly expressed in the Isha Upanishad.....

c) Our concept of *Dharma* is based on the universality of spirit. Therefore, *Dharma* according to Hindu is not simply a bundle of rituals. It is a principle of universal harmony - harmony between an individual and society, harmony between human society and outward nature or *Prakriti*, harmony between individual soul and the universal soul.

d) *The mission of the R.S.S. is to unite and rejuvenate our nation on the sound foundation of Dharma. This mission can be achieved by a strong and united Hindu society. Therefore the R.S.S. has undertaken the task of uniting the Hindus. Rejuvenation of the Hindu nation is in the interest of the whole humanity.*” (emphasis added).

programmes. As a result, while the Hindu right, and especially the RSS, worked steadily and silently during this time, their presence did not register with the masses. In the 1930s, the Government of India Act opened up the electoral process but the *Hindu Mahasabha* lost heavily in the 1937 elections and later, in the 1945 elections as well. The *Hindu Mahasabha* was also not able to impact policy decisions and it was not seen as one of the significant voices in national politics at that time.<sup>200</sup>

The demand for the partition of India emerged and acquired momentum only during the final decade of colonial rule (from about 1937 to 1947). This demand brought religious identities to the fore. Reports suggest that there might have been a brief spurt in the popularity of the RSS during this decade. The RSS was vehemently against the idea of partition, which carved out the Muslim-majority state of Pakistan. The partition, as described earlier, led to large-scale migrations both to and from the newly formed states and was accompanied by large-scale communal violence in which both Hindus and Muslims were killed. In Punjab at that time, the RSS was “involved in a plot to eliminate Muslims in large numbers in selected *tehsils* to change the composition of the population from Muslim majority to non Muslim majority.”<sup>201</sup> The RSS was also implicated in a similar manner in Kashmir.<sup>202</sup> The first President of *Azad* Kashmir has written that, “A plan was hatched [by the RSS] to completely wipe out the Muslim population in the city of Jammu... All branches of the RSS were supplied with their quota of arms and ammunition.”<sup>203</sup>

## Post-Independence Political Developments and the Hindu Right

### *From 1950s - Early 1970s*

The trajectory of political developments in post-colonial India shows a distinct pattern. The newly formed nation State in 1947 defined itself as a secular polity and sought to pursue the path of national unity, social cohesion and economic development. In particular, the Indian State refused to entertain any demands for secession on the basis of religion, culture or region. It accorded to minorities the freedom to practice their own religion and to protect their cultures and languages. The Indian State, at the time of its inception, also gave special group rights to Scheduled Castes and *Adivasis*. It made the applicability of laws relating to marriage, divorce, inheritance etc. contingent upon the religion of the person concerned by enacting Personal Laws for different religious communities as noted before. Although the State reformed elements of Hindu customary law and practice that were translated into the Personal Law of the community, it did not do the same with the Personal Laws of the minorities. Instead, it ambiguously stated that a Uniform Civil Code that would be identical for all communities should be enacted at a later stage. The *ulema* (Muslim clergy) came to be perceived as mediators between the Muslim community and the State because of the erosion of the Muslim League’s support base after partition and its separatist politics. However, the State’s policies such as federalism on a linguistic basis, its socialist planning process and reasonable economic growth in early years of independence contributed to relative harmony between various religious groups.<sup>204</sup>

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<sup>200</sup> For instance, The Crips Mission in 1946 ignored the Hindu Mahasabha. The party managed to secure an audience with the Cabinet Mission in 1948, but its demand, including its opposition to the cessation of Pakistan was ignored in the political arena.

<sup>201</sup> This data is based on an official intelligence report prepared by the Government of Punjab, West Punjab, 1948. The report was titled *RSS in Punjab*, and is cited by Baxter, *op.cit.*, p. 38.

<sup>202</sup> Sardar Ibrahim Khan, *The Kashmir Saga*, (Lahore: Ripin Printing Press, 1965), quoted in Baxter, *op.cit.*, p. 39.

<sup>203</sup> *Ibid.*

<sup>204</sup> Paul Brass, *Ethnicity and Nationalism: Theory and Comparison*. (New Delhi: Sage Press, 1991); Myron Weiner, *Party Building in a New Nation: The Indian National Congress*, (Chicago: University of Chicago Press, 1967).

The Hindu right could not make any headway in the Indian political and social sphere during these decades. There were several reasons for this. One of them was that the Congress pursued a dual policy: Its top leadership continued to espouse secularism in the public sphere and introduced policies to this effect, while its lower cadres were allowed considerable leeway in pursuing religious agendas. Thus, although the Congress was seen as a 'pro-Muslim' party, it housed many Hindu traditionalists as well. As a result, the Hindu right could not monopolise the Hindu vote.<sup>205</sup> Besides, the Indian National Congress enjoyed the support of a large section of society that was mobilised during the nationalist movement, and it was seen as a party that could represent and accommodate the interests of diverse populations. The Hindu right did not have a socio-political vision or a party organisation to compete with the Indian National Congress at the time. In fact, there was overt public disapproval of the Hindu right during that time, as Mahatma Gandhi was assassinated by Nathuram Godse, an RSS office bearer, on October 30, 1948, a year after India achieved independence. The RSS was banned following this incident and its leaders were imprisoned. While the ban lasted only 6 months, the organisation's activities were severely constrained. Hindu right wing parties such as the *Hindu Mahasabha* did not fare well at the hands of the electorate in the two successive elections of 1952 and 1957.

After the ban of the RSS in the 1950s, the Hindu right realised that it needed to engage in some damage control, in order to widen its support base and to have a say in electoral space. It attempted both to make inroads into electoral politics and to develop a cultural base in the 1960s by floating new parties and cultural and political organisations. The opportunity to build a political party arose when there was a split in the *Hindu Mahasabha* and its leader, Shyama Prasad Mookherjee, left the party. The RSS and Shyama Prasad Mookherjee floated a new party, called the *Akshil Bharatiya Jan Sangh*.

In 1964, the RSS leader M. S. Golwalkar turned his attention to the highly diverse and disorganised Hindu ecclesiastical community. He realised that the lack of a unified purpose hampered the RSS vision of a united Hindu society. Golwalkar invited selected religious leaders to Bombay in August 1964 and floated an organisation called the *Vishwa Hindu Parishad*.<sup>206</sup> At its inception on August 29 in Mumbai, the General Secretary expounded the perceived dangers to Hinduism:

“The declared object of Christianity is to turn the whole world into Christendom – as that of Islam is to make it ‘Pak.’ Besides these two dogmatic and proselytising religions, there has arisen a third religion, communism [...] the world has been divided into Christian, Islamic and Communist, and all these three consider the Hindu society as a very fine rich food on which to feast and fatten themselves. It is therefore necessary in this age of competition and conflict to think of, and organise, the Hindu world to save itself from the evil eyes of the three.”<sup>207</sup>

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<sup>205</sup> Jaffrelot, 1999; Thomas Blom Hansen, *The Saffron Wave: Democracy and Hindu Nationalism in Modern India*, (New Delhi: Oxford University Press, 1999).

<sup>206</sup>Its objectives were to consolidate and strengthen Hindu society, to protect and spread Hindu values, ethical and spiritual, and to make them relevant to contemporary society, and to establish and strengthen links among Hindus living in different countries. [W. Anderson and S. Damle, *Brotherhood in Saffron*, (New Delhi: Oxford University Press, 1987). p.133].

<sup>207</sup> Jaffrelot, *op.cit.* p. 197.

In programmatic aspects, the VHP has sought to work in tribal areas of the North East, which are 'susceptible' to Christian influences. The VHP also works on 'social welfare.'<sup>208</sup> It specifically focuses on building linkages between Hindus in different countries as well. Similarly, in Maharashtra, a nativist party demanding new economic opportunities for Maharashtrians was launched. The party's contention was that migrants from South India were being given preference in employment in the rapidly industrialising state. The party called itself the *Shiv Sena* and mobilised the discontent of Maharashtrians against South Indians. The party is known to rely on muscle power to coerce its opponents; it is virulently anti-Communist and has used dubious strategies to counter Communists in the state. There was a rise in crime, bootlegging, smuggling, extortion rackets and drug trafficking in Maharashtra following the period of State-sponsored development in the late 1960s. Although the Sena publicly attacked gangsterism it brought the 'fallen' henchmen of these gangs into its fold. Other political parties in the state also used *Sena* henchmen, or *Shiv Sainiks* (soldiers of the *Shiv Sena*) as they are known, when necessary during the 1970s and 1980s.<sup>209</sup> The *Sena* decided to turn to *Hindutva* ideology when it became a partner of the BJP in 1984.

Thus, during the decades of 1960-1970, the Hindu right concentrated mainly on organisation building. They co-opted/floated student organisations, trade unions, cultural and social welfare organisations. They also made inroads into the print media and started their own mouthpieces. However, political analysts argue that they did not succeed in capturing the imagination of the people during this time as was evident in the electoral defeat of the *Jan Sangh*. The vote share of the *Jan Sangh* did, however, go up in 1962 and 1967 when India went to war with China and Pakistan respectively. Their virulent patriotism gained them some electoral support but it was not sustainable.

### ***From 1970 - 1990***

The fragility of the Indian State's project of secularism, national unity, social cohesion and economic development has become apparent since the 1970s. The 1970s saw the decline of the Congress Party under the leadership of Indira Gandhi. Her leader-centric style of functioning, her practice of appointing Chief Ministers of states herself and the discontinuation of internal elections within the party led to a decline in the organisational pluralism of the party. Between 1975 and 1977, Indira Gandhi imposed authoritarian rule in India under the guise of a 'National Emergency.' The emergency was lifted in 1977 following the spectacular electoral defeat of the Congress Party, bringing the *Janata Party* into power. The *Janata Party* was supported by a wide range of parties across a broad ideological spectrum which had united in their efforts to overthrow the Congress Party. The Hindu right was part of this coalition. However, the gains of the Hindu right were minimal, as other parties were not comfortable with their *Hindutva* agenda and openly distanced themselves from it.<sup>210</sup>

After its split with the *Janata Party*, the *Jan Sangh* decided to reinvent itself. It renamed itself the *Bharatiya Janata Party*. However, an examination of the party manifesto does not show a shift away from the *Hindutva* agenda. The manifestos prepared during the 1970s and 1980s spell out visions such as "the maintenance of Hindu joint family, caste structure and law and the displacement of English by Hindi as the official language." They opposed separate concessions for minorities in

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<sup>208</sup> By 1981, the VHP claimed to have 3000 branches in 437 of India's 534 districts. It operated 442 hostels, orphanages and vocational schools, some 150 medical centres and published 10 Hindu journals. [*Hindu Vishwa*, Nov. 1981, pp. 11, 33, 36 as cited in Anderson and Damle, *op.cit.* p. 134].

<sup>209</sup> Dipankar Gupta, *Nativism in a Metropolis: The Shiv Sena in Bombay*, (New Delhi: Manohar Press, 1982).

<sup>210</sup> Jaffrelot, *op.cit.*

matters of education and personal laws. They also opposed State control of the economy and favoured more liberal policies towards business and industry.<sup>211</sup>

The decade of the 1980s saw an escalation of communal conflict, a resurgence of Hindu nationalism, caste wars and a rise in regional separatist movements in Assam, Punjab, the Darjeeling district of West Bengal, and later, in Kashmir.<sup>212</sup> The *Shiv Sena*, in Maharashtra, took an openly anti-Muslim, anti-*Dalit* and anti-Communist stand and masterminded riots in Bhiwandi, Thane and Mumbai in 1984. The VHP's mobilisation around the issue of *Ram Janmabhoomi* (Ram's birthplace) also led to rioting in Bihar, where the Muslim population in the town of Bhagalpur was almost wiped out. The escalation of tensions around cultural, regional and religious identities questioned the very basis of the Indian nation-State.

The Hindu right as a whole also tried to capitalise on different crises, time and again. Several events at the national level gave it the opportunity to play the religious card. In 1981, in a well-publicised event, a large number of *Dalits* converted to Islam in Meenakshipuram, in the state of Tamil Nadu. The VHP mobilised against this conversion and highlighted the 'return' (reconversion to Hinduism) of two sub-castes in Rajasthan in 1986. The VHP also organised a month-long '*Ekatmata Yagna*' (national integration programme) in 1983. The purpose was to raise funds for religious orders and to work implicitly for Hindu unity. In order to garner votes without depending on party organisation, Indira Gandhi turned to populism in the 1970s and early 1980s. Later, both Indira Gandhi and her successor and son, Rajeev Gandhi turned to religious politics to capture the Hindu vote bank.

The youth wing of the VHP, the *Bajrang Dal*, was formed during the anti-Sikh wave that swept the country in 1983-1984 after *Operation Bluestar* (a military operation against Sikh militants). To neutralise Hindu support for Indira Gandhi and the Congress, the RSS planned an all-out attack on the government on the issue of *Ram Janmabhoomi* (Ram's birthplace) which is discussed in the next section. Riding the wave of anti-Sikh sentiment, the *Bajrang Dal* organised several *trishul dhaaran* functions (trident presentation ceremonies) throughout the country. The activists were given a knife-like trident to be slung across the shoulder – an answer to the *kirpan* (dagger) worn by the Sikhs as a holy emblem. The *Bajrang Dal* has come of age during these 14 years. It has faced a ban and managed to mushroom successfully into an all-India organisation. Born to counter 'Sikh militancy,' it has since identified new targets.

The VHP's strategies to Hinduise the nation did not gain it many supporters at that time as the nation's attention shifted away from *Hindutva* and to Indira Gandhi's assassination carried out by her Sikh bodyguard in 1984. Riots broke out against Sikhs in North India following this event. Rajeev Gandhi, Indira's son and successor, justified the violence as the 'natural outcome' of any calamitous event. In North India, and especially in Delhi, the Congress led government 'allowed' the riots to happen and, in the first case of State collusion in communal riots, many Congress leaders joined the rioting mobs.

Relations between the State and the Muslim minority also catapulted into the limelight during Rajiv Gandhi's reign with the *Shah Bano* case. In 1984, the Indian Supreme Court passed a judgement in the case of *Shah Bano*, a divorced Muslim woman who had approached the court for maintenance under Section 125 of the *Criminal Procedure Code* (CrPC) after her divorce. The CrPC is a uniform criminal code, applicable evenly to all citizens of India, irrespective of religious affiliation. *Shah Bano's* husband took refuge under Muslim Personal Law and argued that he was not entitled to pay her maintenance beyond the period of *Iddat* (a period of 3 months and 10 days immediately

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<sup>211</sup> Brass, *op.cit.*, pp.77, 78.

<sup>212</sup> Freitag, *op.cit.*

following divorce). The court awarded maintenance to Shah Bano but opined that the Indian State should enact a uniform civil code to ensure that women obtained their marital rights.<sup>213</sup> The judgement created a furore within the Muslim community as the more conservative, vocal elements expressed their concern at the eminent 'danger to Islam'. The subsequent elections saw the defeat of the Congress Party and led the coalition government at the centre (led by the Congress Party) to pass the *Muslim Women's (Protection of Rights upon Divorce Act* in 1986. This act removed divorced Muslim women from under the purview of Section 125 CrPC thereby relegating them to the diktats of Muslim Personal Law and divesting them of the secular rights granted to all women in India. While this development was debated across the political spectrum, the Hindu right gained considerable mileage from it. It accused the Indian State of 'appeasing minorities' and began demonising the Muslim community as parochial, backward, pre-modern and resistant to the formation of a political community.<sup>214</sup>

During these decades, the Hindu right became part of coalition governments in various state assemblies. Indeed, even the Communist parties entered into alliances with the Hindu right as the entire opposition sought to defeat the Congress Party. This politics of cooperation helped the BJP consolidate its electoral gains and widen its support base. However, until the late 1980s, the Hindu right could not make inroads into electoral politics on its own. This is also because the Congress Party started using the Hindu card after 'Hindu resentment' over the *Shah Bano* case. The Hindu right could not yet capture a significant Hindu vote, but the ground had been set for 'religious politics' by the 1980s. The Ram *Janmabhoomi* issue provided the perfect plank for the Hindu right to distinguish itself from the Congress and position itself, both culturally and politically, as being truly concerned about Hindus and Hindu sentiments in the country.

### **The Sangh Parivar and the Ram Janmabhoomi Movement**<sup>215</sup>

In Ayodhya, a town in the North Indian state of Uttar Pradesh, a mosque named the *Babri Masjid* was built in 1528 by a general of *Babar*, the founder of the Mughal dynasty. The local myth is that the mosque was built in order to replace an ancient Hindu temple of Ram, built in the 11th century A.D. The local myth further declared that *Ram* was born on that site. The British rulers heard the story when they annexed the kingdom of Avadh in 1856. They put a railing around the mosque, so that Muslims could worship inside and raised the platform outside so that the Hindus worship there. Following partition, given the communalised atmosphere, the Indian State placed a guard outside the temple after closing the site. However, on the night of December 22, 1949, an idol of Ram was planted in the mosque by a group of young Hindus who were never caught or arrested. Riots ensued after this incident and the army quashed them, but the idol of Ram was never removed. Leaders of Hindu and Muslim communities filed suits in court after this event.

In 1984, the VHP agitated to unlock the 'temple of Ram.' The issue once again brought some attention to this dispute but failed to capture national attention, given the assassination of Indira Gandhi at that time. However, a district and sessions judge of the Faizabad court ruled that the disputed site should be opened to the public. This triggered communal violence in Uttar Pradesh

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<sup>213</sup> *Mohammad Ahmed Khan v. Shah Bano Khan* AIR 1985 SC 945.

<sup>214</sup> Zoya Hasan (ed.) *Forging Identities: Gender, Communities and the State*, (New Delhi: Kali for Women, 1994); Amita Parashar, *Women and Family Law Reform in India*, (New Delhi: Sage Press, 1992); M. Mukhopadhyay in Ratna Kapur and Brenda Cossman (eds.), *Subversive Sites: Feminist Engagements with Law in India*, (New Delhi: Sage Press, 1996); Rajeshwari Sunder Rajan, in Ratna Kapur and Brenda Cossman (eds.), *Subversive Sites: Feminist Engagements with Law in India*, (New Delhi: Sage Press, 1996).

<sup>215</sup> This section is based on the discussion of the issue in P. Van der Veer, *Religious Nationalism: Hindus and Muslims in India*, (Berkeley: University of California Press, 1994).

and Bhiwandi in Maharashtra. On March 30, 1988, Muslims staged a large protest. After this, the Ram *Janmabhoomi* issue came to occupy centre stage in politics and in the *Sangh Parivar's* rhetoric. The Congress tried to woo the Hindu vote after the Shah Bano case with Prime Minister Rajiv Gandhi raising the Ram *Janmabhoomi* issue and supporting the VHP's case in a rally in Ayodhya.<sup>216</sup>

In a coordination of rituals and political manipulation, the VHP engaged in an operation to bring bricks from villages across North India in order to lay a foundation for the Ram temple in 1989. This led to communal violence in North India. The heaviest casualties occurred in Bhagalpur, Bihar, where the Muslim population was almost wiped out. Ultimately, the VHP was allowed to lay the foundation outside the mosque, on undisputed land.

In 1990, after the *Mandal Commission* report and caste riots, the BJP decided to reopen the agitation. They organised a 'Rath Yatra,' a ritual procession that passed through ten states of India and was led by L. K. Advani, the current Deputy Prime Minister and Home Minister of India. The BJP, along with the VHP and their allies, engaged in the worship of the 'bricks' of Ram (*Ramshila*) in and across villages and towns of India. These sacred bricks were brought in organised processions and were to be used to build the temple of Ram at the disputed site in Ayodhya. Members of the Bajrang Dal, the youth wing of the VHP, offered cups of their blood to L. K. Advani. The BJP and its allies ran a highly successful audio and video campaign, which used and distorted Hindu religious symbols, myths and stories to suit the BJP's message<sup>217</sup>. These were played on cable television and across street corners and used virulent, inciteful and derogatory language against the Muslims. However, before the procession could reach Ayodhya in Uttar Pradesh, L. K. Advani was arrested by the government of Bihar. The government of Uttar Pradesh also opposed the procession. They were supported by the coalition government at the Centre and the BJP withdrew support to the national government.

Thwarted in their attempt to storm into the state of Uttar Pradesh, the BJP continued with its campaign and spread false allegations of violence committee by state governments against its religious activists. It claimed that thousands had been killed by the state police and BJP wings displayed the ashes of the 'martyrs' in order to incite anger among Hindus. Finally, on December 6, 1992, at the culmination of a rally organised by the BJP and the VHP in Ayodhya, *kar sevaks* (religious volunteers) attacked the *Babri Masjid* with weapons and other instruments and razed it to the ground in a matter of hours. The entire event was well planned and BJP leader L. K. Advani, among other such luminaries of the present BJP-led government, was present at the site.

Following this event, communal violence broke out in many states of India and especially in strongholds of the BJP and its allies. The riots were carefully orchestrated and planned by the BJP and its allies. In the city of Mumbai, the *Shiv Sena* systematically targeted Muslim homes and businesses. The riots in Maharashtra also exposed the tacit consent of the police force, as cases of police inaction were brought to light. This was also a visible indication of the communalisation of State organs such as the bureaucracy and the police.

### **Capturing State Power and Providing Governance: The Hindu Right in the 1990s**

The Hindu right's ascendancy to power finally came about in the 1990s and two specific political developments contributed to it. In the 1990s, an independence movement in Kashmir flared up. The 'Pakistan hand' was soon implicated in influencing and fuelling this struggle. While both Hindus and

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<sup>216</sup> *Ibid.*, p.3.

<sup>217</sup> For instance, a year before the yatra, national TV broadcasted *Ramayana*, a schoolbook version of the ancient epic, which became very popular among the middle classes. The BJP used this epic in multiple ways, even designing L.K. Advani's vehicle to resemble the vehicle of Ram. It also gave party tickets to actors who acted in that serial.

Muslims were affected by the general violence that pervaded the state, Kashmiri Hindus were forced to migrate out of the state. The BJP politicised this issue. The idea of territorial integrity is central to the Hindu right's vision of India and they vehemently opposed the Kashmiri's language of self-determination. The BJP and their allies took this opportunity to demonise Muslims in general, and portrayed Indian Muslims as being pro-Pakistan and thus traitors. The project of liberalising the Indian economy also began in 1991. The BJP provided an agenda of hate to the unemployed and those affected by Structural Adjustment Programmes (SAPs). However, the beneficiaries of economic liberalisation were, to a large extent, the upper castes and the middle class, the traditional supporters of the *Sangh Parivar*.

However, caste violence and changing caste equations provide the key to understanding the BJP's capture of State power. In September 1990, the V. P. Singh government, a coalition of opposition parties, announced an increase in reservation for Other Backward Castes (OBCs) in government jobs and educational institutions, extending the affirmative action programme proposed by the Mandal Commission to include sections of society besides *Dalits* and *Adivasis*. This action unleashed a tremendous backlash from upper castes and some students immolated themselves in protest. Caste riots raged in northern and western parts of India. The BJP and its allies, whose traditional support has been from the upper castes, saw this opportunity to play upon the insecurities of their support base. The whole spectrum of the Hindu right revived the Ram *Janmabhoomi* issue, catapulting the BJP into the national political scene.

Since the BJP-led coalition came to power at the centre in 1999, the Indian State has abandoned the principles of socialism, secularism, democracy and non-alignment, or redefined them according to *Hindutva*.<sup>218</sup> The BJP led coalition has conducted nuclear tests, increased defence expenditure and led the country to the brink of war against Pakistan more than once. The BJP has accelerated the process of disinvestment despite heavy resistance from workers and has also opened the market to foreign capital and goods. They have legitimised the discussion of major changes in the Indian constitution as a step towards building a Hindu State. The BJP has also paid close attention to education. They have exalted military patriotism in school textbooks. They have selectively revised history according to *Hindutva* ideology to establish all Muslim rulers as despotic, backward and hostile to Hindus, to glorify Hindu kings and to indicate that Aryans were the original inhabitants of the land. Minorities have been under the threat of attacks and 113 cases were registered against the BJP for violence against Christians in Gujarat in the year 1997 alone. These ranged from attacks on churches and church personnel to Bible-burning incidents.<sup>219</sup> Regressive bills on women's rights, which threaten to undo many years of sustained work by women's movements, such as the bill on Domestic Violence, are being pushed in the Parliament. Laws that give the State sweeping powers without possibility of regular redress in the courts like POTA (Prevention of Terrorism Act) have been summarily passed.

On all counts, whether it be within law, education, policy (both internal and foreign), the armed forces, the various arms of the State – administrative, judiciary, police etc. – *Hindutva* agendas are being aggressively concretised by the State. Against this backdrop, the events of Gujarat in 2002 can be seen as a further concretisation of the plans of the cultural and political ambitions of the Hindu right. This has been made possible by the consolidation of their power at both the centre and the state.

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<sup>218</sup> Vanaik, *op.cit.*, p.43.

<sup>219</sup> *Ibid.*

## Annexure V

### Years of BJP rule in Gujarat<sup>220</sup>

There is evidence to show that Gujarat was and is being treated as a laboratory by the *Hindutva* forces. One of the first things that the BJP did when it came to power in 1995 was to saffronise major cities and villages. Saffron flags, banners, posters and hoardings became the norm. In cities and villages, boards that said 'Hindu Rashtra's xxxx region welcomes you' were put up in every significant corner. Small and big temples (many of them painted saffron) mushroomed in every nook and corner. All along the state highways in particular, huge temples were constructed. Most government offices began to sport temples in their compounds where *pujas* were being done everyday. In effect, what the state witnessed was the transformation of public space into a saffronised Hindu area of activity.

There has been a drastic increase in RSS *shakhas* in Gujarat, and according to newspaper reports, at the *sankalp shibir* (resolution camp) held in Ahmedabad on January 7, 2000 the RSS had pledged to open a *shakha* in every village in Gujarat by 2005.<sup>221</sup> Interestingly, on January 7, 2000 a *sankalp shibir* was also held in Naroda,<sup>222</sup> one of the worst affected areas in the recent violence.

RSS members have infiltrated the bureaucracy making it easy for them to gain access to electoral records, to conduct religion based census (almost immediately after the attack on Christians in the Dangs in 1998) to get information about Muslim and Christian schools and then to cancel their grants (1999-2000), to manipulate school curriculum, in short, to manipulate the State machinery towards the goal of *Hindutva*. In the year 2000, close on the heels of the RSS *sankalp shibir* on Jan 7, 2000, a 14-year old ban on government officials joining the RSS was lifted. This move was ominous as it opened up the RSS floodgates right into the heart of the bureaucracy in Gujarat.

Educational institutions have particularly been targeted. Christian missionary schools and schools with Muslim managements have been singled out. In 2000 the government came out with a roster of blacklisted schools, which were first asked to furnish their financial details and then their grants were either cancelled or cut down drastically throwing the school managements into a quandary. Christian missionary schools were at one point made the target of a vicious campaign where they were accused of forcible conversions of Hindu girls. The student wing of the BJP, the *Akshil Bharatiya Vidyarthi Parishad* (ABVP) was particularly active in this. ABVP activists terrorised school girls from missionary schools into wearing *bindis* and bangles, thereby introducing a dress code. Similarly from time to time the ABVP has issued injunctions to girl students in colleges in Ahmedabad and Baroda to refrain from wearing Western dresses like trousers, jeans or skirts.

In 1998 in Baroda, the *Bajrang Dal* led a protest against a fashion show leading to the mob physically attacking the models. The ABVP in 1999 tried to pressurise the university authorities to introduce a dress code for girl students. Similarly a reported incident of molestation in the M.S. University was crudely exploited for political gains. The ABVP began a campaign against Muslim students saying that they were responsible for luring young Hindu girls into fraudulent marriages. The campaign went further and stated that because Muslim boys are used to eating meat, and have no respect for Hindu girls (read culture), they molest or rape them.

In July-August 1998, the *Vishwa Hindu Parishad* launched a vicious campaign on inter-religious marriages in towns and villages like Bodeli, Sanjeli and other *Adivasi* areas in Panchmahals, attacking

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<sup>220</sup> Source: Dossier prepared for the International Initiative for Justice in Gujarat in December 2002.

<sup>221</sup> *Asian Age*, January 7, 2000.

<sup>222</sup> *Times of India*, January 9, 2000.

couples who had married across religious lines, and terrorising Muslim residents, in one case forcing them to flee the village. Following this campaign, the BJP-led state government set up a cell to monitor inter-religious marriages, which would be responsible for ‘rescuing’ Hindu girls from such so-called ‘forcible’ marriages.<sup>223</sup>

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<sup>223</sup> *Ibid.*

## Annexure VI

### Socio Economic Reality of Muslims in India<sup>224</sup>

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Muslims make up 12 per cent of India's 1.2 billion people.

On an average, more Muslims live on smaller pieces of land than Hindus.

**19** per cent of Muslims and over 25 per cent Hindus in India have access to piped water.

**30** per cent of Muslims and 43 per cent of Hindus nationwide have access to electricity.

In 1987-88, 57.6 per cent of urban Muslim males and 74.7 per cent of urban Hindu males were literate. A mere 4 per cent of class SSC examinees are likely to be Muslim, when Muslims in India constitute 12 per cent of the population.

Only 9 per cent of Muslim girls and 13 per cent of Hindu girls between 15-19 years are in school. According to NSS 1987-88 data, 32.8 per cent of Muslim girls and 40.6 Hindu girls in the age group five to nine have access to school education. In the age group 15 – 19, this figure drops to a chilling 8.8 per cent for Muslim girls and 12.6 per cent for Hindu girls. Both figures indicate the disturbing reality of our society. Over 42 per cent of urban Hindu women and 59.5 per cent of urban Muslim women have been deprived of basic education and are illiterate.

In the Lok Sabha, there have been a maximum of 49 Muslims or 9.04 per cent in 1980. Whether it was 1952 (23 members out of 489) or 1996 (27 out of 543), it has comfortably made up less than five per cent of the Lower House.

MIT sociologist Omar Khalidi quotes former Defence Minister Mr. Yadav in his forthcoming *Khaki and Ethnic Violence in India* — that “just one per cent out of a total 1100,000 men-at-arms” were Muslim. Khalidi cites a variety of reports to establish Muslim under-representation in the Assam Rifles (2.5 per cent), BSF (4.54 per cent), CISF (3.76 per cent), CRPF (5.5 per cent). According to Khalidi, there were 1.55 per cent Muslims in the Indian Police Service between 1947-56. By 1965, the figure had risen to 3.58 per cent, oscillating in a narrow band to finally settle at 3.65 per cent in 2002.

One out of every eight Indians is a Muslim; but 26 of every 27 senior police officers are non-Muslims. According to one account, even in 1994 in Bihar and Uttar Pradesh, where the governments claim to be the most sympathetic to Muslims, only 12 Muslims out of 2,700 were recruited as policemen. Out of 16,400 sub-inspectors in Bihar, there were 35 Muslims and out of 3,000 in Uttar Pradesh, 116 were Muslims.

There are only 1.6 per cent IAS officers belonging to the Muslim community (80 out of a total of 4,872); 2.5 per cent medical practitioners (1,064 out of 41,733) and 1 per cent chartered accountants

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<sup>224</sup> Given the distortions of history and false statements about the contemporary situation by the *Sangh Parivar* against the Muslim community, we give here a snapshot of the reality, based on objective databases, like that of the Census of India and the National Sample Survey Organisation. This note is based on an article in the Indian Express, dated 14<sup>th</sup> September 2003. [http://www.indianexpress.com/archive\\_full\\_story.php?content\\_id=31472](http://www.indianexpress.com/archive_full_story.php?content_id=31472)

(549 out of 54,000). Their position in the industrial establishment owned by the large corporations is no better. In a group of 2,832 industrial establishments owned by large corporate units, each with sales of Rs. 5 crores (1 crore=10 million) and above, there were only 4 units owned by Muslims with only 8 managing directors, that too in the lower echelons of the corporate sector.

TISCO, the biggest Tata concern, employed only 4.1 per cent Muslims in the executive cadre, 5.6 per cent in the supervisory cadre and 10.30 per cent among workers. The situation in Mahindra and Mahindra was worse: 1.48 per cent in the executive cadre, 2.25 per cent in the supervisory cadre and 5.02 per cent among the workers. A random survey made a decade ago showed that in Delhi Cloth Mills, out of 987, only two were Muslims. Of the 115 senior positions in Pond's, only 1 was held by a Muslim.

## Annexure VII

### Saffronisation of Education<sup>225</sup>

(Note: The colour saffron has been identified with Right Wing Hindu Ideology, and hence the entire exercise of pushing right wing philosophy in school text books has been referred to as Saffronisation of Education)

The *Bharatiya Janata Party* began its intervention in the field of Education by: 1. appointing various personnel in prestigious educational Institutes; 2. by encouraging through public funds and various other means schools run by the Right wing; 3. by changing the textbooks and the curricula at the level of schools and colleges to project Right wing ideology.

#### Part I: National Curriculum

In October 1998 at the Education Ministers' Conference, called by Mr. Murli Manohar Joshi, the BJP Education Minister, publicly announced the agenda of “Indianisation, Nationalisation, Spiritualisation” of Education.

The Central Advisory Board of Education (CABE) of India was officially constituted in April 1982 (though it has been functioning since 1935) and its term expired in 1985. On October 19, 1990 it was reconstituted by the government through a resolution, which held that the CABE was the highest body to advise the Central and State governments in matters of education. The resolution stated that in the past, important decisions had been taken on the advice of the CABE and that it had provided a forum for arriving at a consensus on issues relating to educational and cultural development. National Council of Educational Research and Training (NCERT) formulated the National Curriculum Framework for School Education (NCFSE) without consulting CABE. State approval, a necessary requirement for any significant changes in the national education policy, has also not been taken.

Today the RSS runs more than 20,000 schools throughout the country. The acceptance of the RSS sponsored 'national curriculum' will enhance the number of those influenced by RSS ideology manifold and will cause a considerable shrinkage in the space for secular activities. Already more than 10,000 of these RSS schools, under different names, have affiliation to the Central Board of Secondary Examinations (CBSE) or various state education boards. About 18-20,00,000 students and over 1,00,000 teachers are already a part of its *Vidya Bharti* (Indian Education) network. In Goa, (a BJP ruled state) the BJP Chief Minister has virtually put the entire primary education system at the disposal of the RSS to do with it what it likes. The operationalisation of the National Curriculum will put the entire school education system under right wing control and will make it a breeding ground for the fascist *Hindutva* ideology.

- The books being targeted are predictably history texts by Romila Thapar, R.S. Sharma, Bipin Chandra, Satish Chandra and Arjun Dev. The reasons given are equally predictable--it is

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<sup>225</sup> Nalini Taneja, “The Saffron Agenda in Education”

<http://www.ercwilcom.net/~indowindow/sad/godown/edu/saffron.htm>;

T.K. Rajalakshmi, “The issues at stake,” *Frontline*, vol. 19, no. 20, October 12 - 25, 2002;

Romila Thapar, “Secular Education and the Federal Polity.” This is the text of her address at the 'National Convention Against Saffronisation of Education', organised by SAHMAT (August 4-6, 2001, New Delhi, India)

<http://www.ercwilcom.net/~indowindow/sad/godown/edu/rtsefp.htm>;

Ganashakti Newsmagazine: News Feature, “Education BJP Style: Saffronisation of Books.”

<http://www.ganashakti.com/old/1998/981130/feature2.htm>.

necessary, it is said, to remove the leftist bias in school education. In fact the 'burden' of history on the young child needs to be lightened. The child is made to dwell too much in the past it is argued. He/she needs to be more in tune with the contemporary world. Therefore he/she better know more about the current struggles for the Ram temple than the insignificant medieval period, and of course, the freedom struggle is important, but *Hindutva* leaders like Savarkar should be more adequately represented! Such pronouncements, made publicly and nonchalantly by Mr. Rajput, Director of NCERT, sound disturbing and ominous to say the least.

- The second major concern of the authors of the 'reformed' curriculum is nationalism and national pride. The RSS agenda is writ large in the document itself. It says that Western developments occupy too much space and must be replaced with emphasis on Indian contributions in science and knowledge, and Indian culture and tradition. The document has a completely uncritical view of Indian culture, identifies Indian culture primarily with brahmanical texts and Hinduism, and reeks of chauvinism in the name of national pride, the inculcation of which, according to the tenor and tone of the document, is one of the primary goals of education. It seems India has nothing to learn from others and never did!
- The history texts are nothing but a bald and unadulterated illustration of the RSS view of history and use of history for its sectarian agenda. This view presents Aryans as the original inhabitants of India; that Indian civilisation is essentially Aryan civilisation, that the ancient period of history when Hindu kings ruled was the 'golden' period and India made enormous advances during this period. According to this view, the coming of Muslims brought darkness, cruelty, backward social practices, and the Moghul kings were cruel tyrants who destroyed the already existing Indian nation. Hedgewar, Golwalkar and Savarkar are portrayed as the greatest freedom fighters, Muslims as a community are branded as traitors, primarily responsible for the Partition. Hinduism is in this view, synonymous with nationalism. The distortion of history is carried further in portraying the national movement as one unending struggle of the Hindus poised against Muslim power and then against the alliance between the British and the Muslims. This uninterrupted line of freedom fighters continues into the post independence period with the *kar sevaks* presented as patriotic heroes. Mulayam Singh Yadav (the Uttar Pradesh Chief Minister who brought the *kar sevaks* demolishing the *Babri Masjid* under control) is supposed to be a butcher of Hindus. Even the mention of the assassination of Mahatma Gandhi at the hands of a Hindu right wing extremist has been removed from the textbooks.
- Caste, child marriage, and sati (women “voluntarily” burning to death on the husband’s pyre) are defended; Muslims, Christians and Parsees are called foreigners; Urdu is referred to as a foreign language and it is claimed that the first man on earth was born in India!

Following are some excerpts from the guidelines issued by the University Grants Commission for setting up Departments of Vedic Astrology in Universities:

- “Vedic astrology is not only one of the main subjects of our traditional and classical knowledge but this is the discipline which lets us know the events happening in human life and in the universe on time scale.
- The distinguishing feature of this subject is that it makes us familiar with time, its nature and feature and its effects on human life and other events and that way it helps us to manage and make optimal utilization of time.
- It is a common feature that despite the best methods adapted for estimation, events happen in different ways and add to the worries, tensions and frustrations in life. Here Vedic Astrology can help to see the unforeseen, it being the subject dealing with time.

- Starting of the courses in Vedic Astrology in Universities will not only impart the knowledge of this subject to the people, but will also add a new dimension for research in the fields of Hindu-mathematics, *Vastushastra*, Meteorological Studies, Agricultural Science, Space Science etc.”

### Some of the recent proposals mooted at the Education Ministers’ conference:

In the Education Ministers’ Conference, the Human Resource Development (HRD) Ministry of the BJP-led Central government mooted some proposals which were nothing but efforts to communalise and commercialise the entire education system in the name of nationalisation. Some of the dangerous proposals were:

2. Sanskrit (*language totally controlled by upper caste Brahmins*) will be a compulsory subject up to the Degree level.
3. *Saraswati Vandana* (*Hindu religious prayer*) will be compulsory for school students irrespective of their religion, caste, creed etc.
4. All private schools, which are running for ten years, will be automatically recognised or certified.  
(*The main objective of this proposal is to recognise/ certify RSS run schools and to commercialise the entire schooling system. Through this move the State Government can be bypassed.* (eds.))
5. Hindu culture will be inculcated among all the students right from the primary level up to the highest level.
6. The private sector will be encouraged to set up educational institutions. To achieve the goal of compulsory elementary education the private sector has to play a major role. (editorial note: this can be interpreted as the BJP-led Government trying to deny its own responsibility.)
7. House keeping will be introduced as a subject at the school level for girls.

## Part II: Educational Institutes

There are many books and articles on how various institutes have been affected by Right wing propaganda. Below are some indicative examples.

**Indian Council of Historical Research (ICHR):** Its Council is now dominated by saffron sympathisers. The *Towards Freedom* project has been shelved following the withdrawal of two of its volumes edited by K.N. Panikkar and Sumit Sarkar. Along with this, projects on *Inscriptions of India* and *Economic History of India* pertaining to Railway Construction have also been shelved. Funds have instead been sanctioned and approved for projects on the *Indus Valley Civilisation* and on *Archaeology and Tradition*. In addition, a project on the mapping of the Saraswati river civilization has been given to RSS linked historians. The project is affiliated to a private trust on archaeology, run by the infamous S.P. Gupta who had claimed that there was a Ram temple under the Babri mosque. The direction of research pursued and the funding pattern are obviously linked to the *Hindutva* agenda of proving that the Indus valley civilization was an Aryan civilisation.

**The Archaeological Survey of India (ASI):** Is similarly preoccupied with funding excavations and publications to prove that the Aryans were the original inhabitants of India and that Indian civilization is essentially Aryan civilization.

**The Indian Council for Social Science Research (ICSSR):** Huge funds have been made available to the Shyama Prasad Mookherjee Documentation Centre and the Deen Dayal Upadhyaya Centre for Social Welfare, established by the BJP government. The ICSSR, whose mandate is

essentially to fund the 27 state level institutes, has changed course by starving these institutes and directing funds for international level seminars and projects linked to the *Hindutva* agenda. For instance, the government has pledged some 40 millions for an Oxford chair on Indian History and Culture.

## Annexure VIII

### Testimony on the burning of the Sabarmati Express

Kartik, scientist, trade unionist, lawyer and human rights activist testified before the panel. He has been following up the burning of the Sabarmati Express case hearings before the Shah and Nanavati Commission.

“In the entire Godhra town and district, everyone knows only one story – that there was a conspiracy to hold the train somewhere about 20 km before Godhra. But since the train was late by four hours they could not burn the whole train so they collected near “A” Cabin and had just about resources to burn and destroy only one coach, that is, S-6.

“The facts that I give based on the hearings of the Commission prove that there was no conspiracy from the Muslim community.”

“I have quoted only from the Commission. The hearing is continuing. The Forensic Science Laboratory (FSL) has given the report and the Assistant director deposed before the Commission. The report made headlines saying that the fire was not started from outside the train. This is just a conjecture of the FSL director, nothing else. The FSL team threw water standing outside the train and tried to show that fire could not have been started from the outside. Then the FSL Assistant director comes to the conclusion in the second report that he gave, which is most dangerous, that fire was started by pouring 60 litres of petrol from inside the train. Before this report came, the Police had filed charge sheets against the accused on the assumption that the fire was started from the outside; but after the report came the Police had to change the entire charge sheet which is unheard of in Criminal Jurisprudence. Now they are in a worse position as the report itself is bogus, it has no basis. So now they would have to change the charge sheet once again. Now they have a witness, a boy who states that he carried the petrol, he went inside and poured the petrol. We all know how confessions can be extracted. But the evidence before the Nanavati Commission suggests that there was not a drop of petrol to burn the train.”

“There were three fights. First at the station there was a relatively minor fight. The train was stopped because there was chain pulling. The second fight started after the train stopped at 7:48 for 12 minutes. Hundreds of them participated in this fight. Stones and bricks were thrown from both the sides. *Kar Sevaks* also used bows and arrows in the fight. We have collected some of those. The *kar sevaks* had gone all the way up to Single Falia throwing stones, covering a distance of 50 yards from the train. They were outside the coach. Then the train starts. *Kar sevaks* run to catch the train and the Muslim mob follows them. Then the train stops. The train stops the second time near the cabin. There is no evidence why the train stopped the second time. A conclusion can be drawn that it was the driver, who stopped the train. The chain was pulled from four coaches. Three breaks got corrected. The fourth one did not get corrected. Due to the fight and stone throwing the driver must have decided to start the train. Then the train was stopped to correct the fourth break, which was of the compartment where the fight was taking place. The driver has given three different versions so far. The first time he says it was due to chain pulling. The second time he says the Muslim mob cut the hosepipe and the third time he says the disk was open.”

“The smoke was seen at 8:15 a.m. Everyone talks only about smoke and smoke and smoke. No one talks about fire. We have examined 9 *kar sevaks* from the passengers; we have examined the SP, and he says he did not see any fire. There was no fire at the ground level at all. The fire is found at two vestibule sides, one is on S6 and S7 and other at S5 and S6. There was fire there. There is no conscious decision to burn the coach or to burn people; otherwise the Muslim crowd could have blocked the door. There is not even a single complaint that Hindus were being stopped when they

were coming out. We asked the *kar sevaks* who were inside if anybody had stopped them. They said no. They had come out. The people inside broke three windows, ninety people jumped out. An interesting factor is that all the people who got burnt, have burns above their waist and not below the waist. Every single person is burnt above the waist. The head, face and hands are burnt.”

“No fuel fire could do this. The FSL director messed it up by saying that petrol was poured in. If petrol had been poured in the train, would people’s bodies have been burnt only from above? Sixty litres of petrol could have blown up the coaches.”

“Those people who ran out faced fire all across the top. We talked to one lady who managed to escape. I asked her whether there was fire on the ground. She said no, there was no fire on the ground. She is confused but she categorically says there was fire on the top and on the side. Her feet did not burn even when she was bare foot, had no shoes on. People died of suffocation. The *kar sevaks* who were in the train were hanging on inside the train up to twenty minutes. When they came out they knew that they had left people behind. There was no fire for twenty minutes.”

“My assessment is that, it was the thick rubber of the vestibule that was set on fire, probably using cloth and grease from the wheels. At the bottom there are steel sleepers and on the side there is round big rubber for absorbing shocks. Those things burnt on both the sides and that gave rise to black pungent smoke. So the smoke was pouring in from both the sides. The side of the rubber also caught fire; I have got photographs of that fire from VHP people who were there. The flames are leaping from the rubber. Now there is a tunnelling effect. There is this closed compartment with fire at both ends. This is called flash over. The fire starts eating the steel of the compartment. It starts grazing along the compartment at both ends. It goes through the top surface. By chance if the door or window is opened, then fresh oxygen supply comes in. There is a spurt and it is called flash over fire, where temperature goes up to 600 degree centigrade. According to me that is what happened. And the flash over also was helped by the luggage. Cloth bags are very inflammable. The luggage caught fire. Most of the *kar sevaks* were sitting on the upper birth due to the stone throwing that was taking place. And they were sitting with their luggage. Those people who ran out faced fire all across from the top.”

“People did not die of burning but of suffocation. Police also knew that there were people inside. Police Superintendent Mr. Bhargava deposed before Commission that there was no fire at that time only smoke and he knew that there could be people inside.”

“After the *kar sevaks* came out of the train, they were very aggressive and burned all the Muslim shops and houses near that area.”

“Police can never give us the correct facts. They keep changing their version according to political requirements. They have always gone by the requirements of the Chief Minister. The criminal case is actually totally weak. They did not do *panchnama* of the coach up until the next day afternoon. The Chief Minister Narendra Modi was inside the coach before a *panchnama* was done. First the police accused the ISI, then Mr. Kalota and Haji Bhilal. Now a third person, Mr. Kukure is being named. But Mr. Kukure was selling milk at that time. Mr. Kalota was the president of the Municipal Corporation. He was called by the police to control the mob and then implicated. The DSP says that he had asked Kalota to go away and he had left. The police had even asked Haji Bhilal to go away because he had a beard and the *kar sevaks* were getting angry with him. He too had left.”

“The issue of molestation came out afterwards. There was a girl and her mother. There was also some minor incident of molestation. But it was brought up much later; even the Muslims did not know it then. We have also spoken to them.”

“So the fire was an unfortunate accident. The fire was a consequence of the brawl between two sides. There was no premeditation.”

Shri Rajendraprasad Misrilal Mina deposed as under:

On 27-2-2002 I was on duty as the Assistant Station Master at ‘A’ Cabin of Godhra railway station from 12 at night to morning up to 8 am.

The Sabarmati Express arrived at Godhra railway station at 7.43 am. Since the line was clear, the departure signal was given at 7.45 am. The train started at 7.48am. After some time the train was stopped after blowing the whistle. At that time there was no crowd between cabin ‘A’ and the train.

When the train started again I looked at the clock in the cabin and the time was 7.55 am. When the train reached near the cabin I was standing near the window of the cabin for showing the ‘alright’ signal. When the train arrived at ‘A’ cabin, the engine was blowing the whistle indicating that the chain had been pulled. The period between the restarting of the train and its arrival at ‘A’ cabin could have been around 5 to 6 minutes. I did not see any crowd at that time. It was about 8 o’clock when the train stopped.

When the train was moving with slow speed I had seen a crowd running towards and along with the train. When I got down from the cabin, some people from the crowd came near the cabin. Few persons from the mob were throwing stones on the train... The mob did not arrive all together but about ten to fifteen persons were coming and collecting together. There were also women and children in the mob.

I did not personally see as to who set the fire and how.

Shri Mohan Jagdish Yadav has deposed as under:

I am performing my duty as RPF Police Constable at Godhra. My duty was to do patrolling between ‘A’ cabin and CPWI from 8.00 pm on 26-2-2002 to 8.00 am of 27-2-2002

There is a culvert between ‘A’ cabin and CPWI office. I did not see any suspicious movement near and around the culvert before the arrival of the Sabarmati train at Godhra Station. I did not see any mob near ‘A’ cabin before the arrival of the train. I did not see any suspicious movement throughout the route between ‘A’ cabin and CPWI office before the arrival of the train.

On 27-2-2002 at about 7.45 am, when the Sabarmati express arrived at the platform, I was present in the front of CPWI office. We heard somebody shouting from platform no. 1. On hearing the noise, two of us went to platform no.1. We saw that stones were being hurled between the train passengers and outside people. Some passengers were shouting slogans of Jai Shree Ram. We told the passengers to go and sit in the train. We then raised our sticks and told the outsiders to go away and chased them away. I believe that the reason for the stone throwing was the quarrel that had taken place with the hawkers.

When the train started, we were still on the platform and while we were on the platform the train had moved about four coaches and had stopped. Once again we saw that people from both the sides were throwing stones. Once again we pushed the passengers to get into the train and chased the outsiders beyond the wall.

The passengers who were shouting and throwing stones were passengers of the two coaches. The people who were throwing stones from Singal Faliya, were doing so from behind the wall and some of them were trying to jump across the wall to enter the station. The passengers who were throwing

stones, some of them were also going towards the wall and were shouting '*Jai Shree Ram*'. The people, who were throwing stones from outside were throwing pieces of bricks.

The depositions before Nanavati commission:

The Guard of the Sabarmati Express Shri Satyanarayan Panchuram Varma deposed as under:

I joined Sabarmati Express as the Guard on 27-2-2002.

There was chain pulling immediately after the train left Godhra station and I was informed about it by the Driver. Some passengers had been left behind at the station. The chain was pulled because the passengers were left behind. The train moved further after all the passengers had boarded the train. The train stopped once again after moving about one kilometre.

Shri Raju Bishankumar Bhargava, Police Superintendent of Godhra, deposed as under:

I had reached the burning coach at about 8.30 a.m.

I had seen people with black faces and with some burn injuries on the head coming out of the coach. I had seen ten to twelve passengers coming out of that coach... They were coming out of the door on the Godhra side... The injuries which I noticed on the passengers were on the upper part of their bodies.... I had not noticed any injury below their waist.

I had not seen any flames in the area of the coach, which I could see from the door. I had seen only smoke in that area... I had not noticed any flames on the floor of the area between the doors. I had also not smelt any inflammable fuel like petrol, kerosene, diesel etc.

Some persons were able to get down from the coach but according to my understanding others were not able to get out of that coach because they got suffocated... As I did not hear any cry for help from the passengers trapped inside that coach I presumed that they had become unconscious and therefore they were not raising any cries.

I had not seen any person from the Muslim community preventing the passengers in S-6 and S-7 from coming out of those coaches. No passenger had complained that they were stopped from coming out of those coaches.

## Annexure IX

### Case study of Mota Sarnaiya

Most houses in this village have been built at least partially, that is the outside walls have been erected and every house has doors, windows etc. We did not see the inside of the houses but the external structures were visible. We met the people behind the *Masjid* which is in the process of being rebuilt. Either because the location was out in the open, or because we were talking about livelihoods, most of our conversations were with men from the village. We spoke to very few women – only those who were themselves heads of households. Since the houses of the people from the Muslim community in this village are all in one area, we were able to talk to at least someone from almost every household. In case no one was available from a particular household, others provided that information. Hence for this village we have information for all the 89 affected households.

There are three main occupations that Muslim people from this village have been involved in. One is Haat Bazaar – which is trading in mainly goats and occasionally in cows and buffaloes. The former are traded for meat but the latter only for milk. At present almost every household with able bodied men is involved in this trade. Earlier (about 60 to 70 years ago) most of them were involved in the work of making and selling brooms and *chatais* along with the trade of cattle and goats. This is skilled work and over the years fewer and fewer people continued to be involved in it. About 15 households are today involved in this activity; but only for seven or eight households is this activity the sole means of survival. Five households have small grocery shops or *pan-beedi* shops in the village.

During the carnage all these households lost everything and had to move to Santrampur into the relief camp. After they came back to their village, most of them took up the same occupations that they were involved in before. We met them almost eight to nine months after they had started their work again and on an average we found that, across occupations and income levels, their incomes have reduced to 30 to 40% of what they used to be. A few of them have started daily wage labour in the construction business to supplement their incomes.

*Chatai and jhadoo business:* The brooms and the *chatais* are made from leaves that are available in the *Adivasi* hamlet. Making brooms does not require much skill but the making *chatais* is a more skilled occupation. The *chatais* also take a long time to make. The work involves going to the forests, collecting leaves, making the brooms or *chatais* and then selling them either in the local markets or wandering from village to village. There are only one or two people who are well known and who get orders for *chatais* during the marriage season. The payment for the sale is either in cash or partially in cash and the rest in kind (grain or corn). The main market is among the *Adivasis*

*Haat Bazaar:* The work here too is mainly that of trading. They go around in the *Adivasi* hamlets and buy goats or cattle from them and then take them to the weekly market in different villages to sell them. Usually the main trading is in goats because it is less capital intensive and the goats are used for meat. During monsoons, however, they trade in the milk producing animals like cows and buffaloes. This work involves a lot of moving around and often involves staying out for the night as well.

In both these major activities, it is obvious that the Muslim population is very dependent on the *Adivasis* for both, the raw material and the market. Although the broom and *chatai* business also needs skill, the haat bazaar is purely a trade and they are mainly middle men. With the tensions

between the two communities, the effect on all aspects of these trades is very visible and hence the large drop in incomes.

Earlier the Muslims could easily get the leaves for the brooms and the *chatais*. But now the *Adivasis* are not as willing as they used to be earlier, to let them come to their villages and houses and collect the leaves. They are also not as willing to sell their goats and cattle to the Muslims. If they do sell then it is at a higher price, thus reducing the margin for the Muslim traders. The *Adivasis* have started killing the animals at their villages itself so they do not need to give the goats to the Muslims and besides some have started going to the market and directly selling their goats. As a result, the Muslims do not get the same amount of business.

Further, now the Muslim middlemen cannot travel far or stay overnight to buy goats from *Adivasi* villages as they have to return by dark before 5-6 pm. fearing for their security. This also reduces their business. The same holds for those who go from village to village to sell the brooms and *chatais*.

In the market, with the advent of new traders from amongst the *Adivasis* and the *Dalits* too, the business of the Muslim community has been badly affected. Often the new traders sell their products at a reduced rate (425/- for a goat instead of the earlier usual rate of 500/- and 550/- that the Muslims used to get or less than two rupees for the brooms). The *Adivasis* are also able to command a better price than the Muslim traders who are now afraid to fight for their rights. In *haats* and bazaars the traders just have to comply with the dominant business tactics of the *Adivasis*, or they gather in large numbers, and that is perceived as dangerous and a security risk.

With the *Adivasis* opening shops in their houses, the market for meat has also reduced. As the Muslim traders reported to the team, for every one goat that is cut in a Muslim trader's shop, 5 are cut in an *Adivasi's* shop. All this has meant that their businesses have reduced by 60% to 75 % (to 40 to 25%). Earlier while they used to trade 100 to 200 goats a month, now they can barely trade in 25 to 80 per month.

For those who have small shops, the main problem is that of cash flow and stocking of goods. Since they have very little capital, they have to get the goods for their shops on credit. Before the violence too they used to buy goods on credit; but then they traded goods of higher volumes and thus their credit was higher. Now they cannot afford to get more goods as they might not be able to sell them. While there is no system of charging interest, the goods are sold to them for approximately 5% more than the cost. Now they also have fewer customers; many of their earlier Hindu customers do not come and also discourage others from doing so (or are discouraged by Hindu shop owners) and the buying power of Muslim households has reduced considerably. Thus their business too has been curtailed and stands at 30% to 50% of what it was earlier. There has also been a growth of small shops in *Adivasi* areas. This has meant that fewer of them come to buy things from the Muslim traders.

With respect to social interaction, the *Adivasis* do come to Muslim weddings, but do not join in the feast. They just stay awhile, have soft drinks and leave. Their perception is that on the one hand, the *Adivasis* feel sorry for the loss the loss suffered by the Muslims and hence sympathise with them, while on the other hand, they are also alert and fearful of any reprisal.

### *The Panellists*

**Anissa Helie** is coordinator of the international coordinating office of *Women Living Under Muslim Laws*, UK, an international solidarity network focusing on the rights of women from Muslim countries and communities. In a global context of rising religious Right, the WLUML network looks at issues of militarisation, sexual rights and fundamentalisms – that is, the use of religion as well as ethnicity or culture to seek or obtain political power - within the Muslim world. WLUML's aim is to support the struggles of women from Muslim countries and communities by breaking the isolation in which women often find themselves confined. It also links them with the international women's human rights and feminist movements.

**Farah Naqvi** is an independent writer and consultant on issues of women, democracy and development. She is a founder of *Nirantar*, a women's organization that focuses on education, empowerment, literacy and political participation, particularly of rural women. She has also worked as a television journalist where she produced international features on women in global politics and women in Islamic societies. She was a member of the team which brought out *Survivors Speak*, the first fact finding effort to focus exclusively on the impact that the Gujarat carnage had on Muslim women. She has been working on the issue of Gujarat since March 2002.

**Gabriela Mischkowski** is a historian by training and co-founder of *Medica Mondiale*, a women's organization in Germany working to support war traumatized women. This project was initiated to provide medical and psychological care and support for women because of the widespread use of rape in the conflict in Bosnia-Herzegovina. It has expanded to provide services in Kosovo, Albania and Afghanistan. She also conducted critical monitoring and extensive documentation of the *Foca Trial*, before the *International Criminal Tribunal on the Former Yugoslavia* (ICTY), which dealt exclusively with sexualized violence and enslavement.

**Meera Vellayudan** is a historian by training and currently working with the *Institute for Environmental and Social Concerns*. Her mother was the first Dalit women graduate in India as well as one of the eleven women on the Constituent Assembly, which drafted the Indian Constitution. She comes from a Gandhian family background and has been involved in the Indian women's movement since the late 1970s.

**Nira Yuval-Davis** is a Professor in Gender and Ethnic Studies at the University of Greenwich in London and is currently the President of the research committee on ethnic, race and minority relations of the International Sociological Association. A diasporic Israeli anti-zionist Jew, she has written extensively on nationalism, racism, citizenship and gender relations. She is a founder member of the organizations *Women against Fundamentalisms* and the *International Research Network on Women in Militarised Conflict Zones*. Currently she is a professor of Gender and Ethnic Studies at the University of East London. She has authored *Gender and Nation*, which has been translated into seven languages.

**Rhonda Copelon** is a professor of law at the City University of New York School of Law and Director of the *International Women's Human Rights Clinic* and board member of the Center for Constitutional Rights in New York City. She is a founding board member and legal advisor of the *Women's Caucus for Gender Justice*, has influenced the jurisprudence on sexual violence of the *ad hoc International Criminal Tribunals*, headed the legal advisors to the judges of the *International Women's Criminal Tribunal on Japan's Military Sexual Slavery*, and has been legal counsel in major international cases under the U.S. "Alien Tort Claims Act," including the 1980 case of *Filartiga v. Pena* and,

currently, *Doe v. Islamic Salvation Front* addressing armed Islamist crimes against humanity and war crimes in Algeria.

**Sunila Abeysekera** is director of *Inform*, a human rights documentation centre in Colombo, Sri Lanka and works on issues of human rights abuses in conflict situations. She has been involved in monitoring the on-going peace process in Sri Lanka and promoting the participation of civil society, especially of women, in the negotiations at the local level. She is a member of the Executive Committee of the *Asian Forum for Human Rights and Development* and was recipient of the UN Human Rights Prize for Asia and the Pacific in 1998 for her work on women's human rights.

**Uma Chakravarty** is a feminist historian who has been associated with the democratic rights and the women's movements. She has been involved in investigations of riots since 1984. Most recently she participated in the PUDR fact finding mission in Gujarat on the state of criminal cases and rehabilitation of the victims. She has taught history at Miranda House, Delhi University and is the co-editor of *The Delhi Riots: Three Days in the Life of a Nation*.

**Vahida Nainar** has been a women's rights activist for the past 15 years. Beginning as a field worker with *Awaaz-e-Niswan*, she co-founded and directed *Women's Rights Action Group* for four years during which time she coordinated a nationwide study on women and the law in Muslim communities. She is also a researcher in international law and a Board member of Women's Initiatives for Gender Justice, The Netherlands, Urgent Action Fund, USA, and Women's Research and Action Group, India. She is the former Executive Director (and the current Development Director) of the *Women's Caucus for Gender Justice* a network that intervened in the International Criminal Court process from a gender perspective by influencing the language of the justice mechanisms.