

Threatened Existence: A Feminist Analysis of the Genocide in Gujarat
Report by the International Initiative for Justice (IIJ)
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Chapter 4
State Complicity in the pogrom

On 3rd 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.¹

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?"²

¹ Smruti Koppikar, *Indian Express*, April 13, 2002.

² <http://www.hinduonnet.com/thehindu/2002/05/01/stories>

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 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 1st 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;³ 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).

On 28th 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*,⁴ 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 21st they attacked 11 areas. This has happened for the first time ever. In the previous riots this did not happen.

³ 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.

⁴ A low income housing in the form of row tenements.

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 1st 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 (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 18th 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.⁵

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

⁵ Express News Service, April 28, 1999.

being sought as adequate funds are already available in the Prime Minister's Relief Fund.

In all cases brought before the IIJ 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 28th 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 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 15th 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 1st 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 5th 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 (15th 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.⁶

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

⁶ Manjari Katju, Vishwa Hindu Parishad and Indian Politics (Hyderabad: Orient Longman Ltd., 2003) 77.

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).