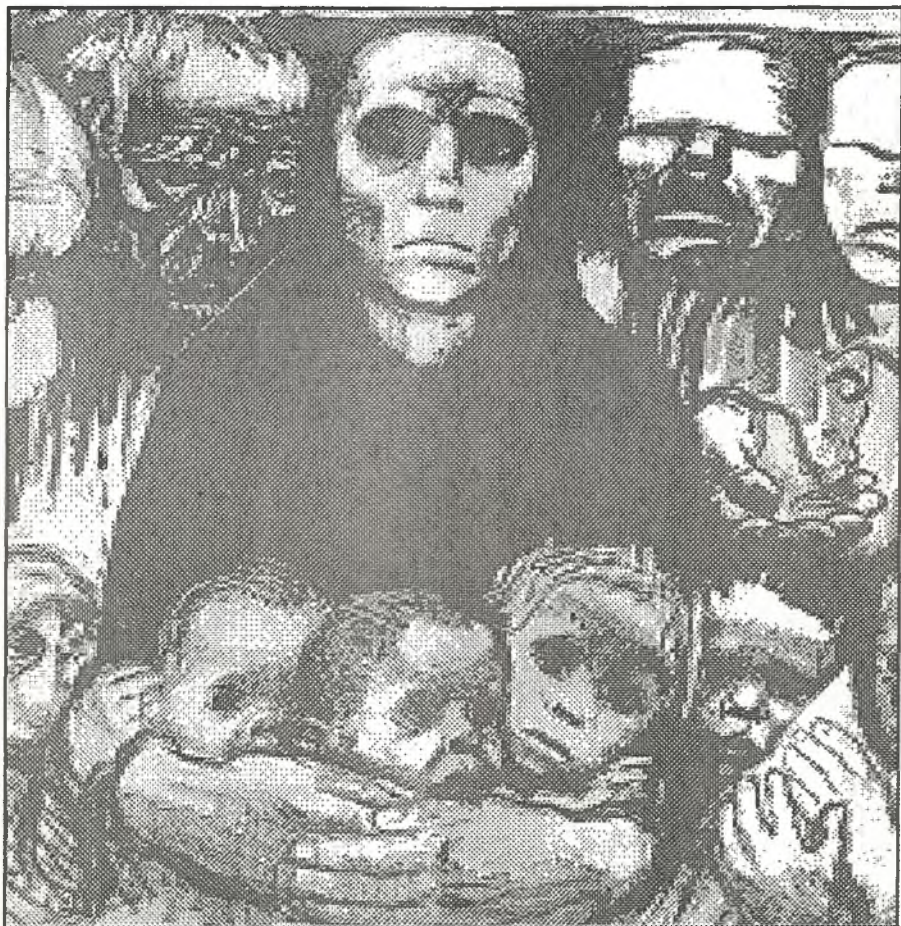


A Continuing Crime

The relief and rehabilitation measures,
the attitude of the judiciary and police investigation and arrests
with regard to the genocide in Gujarat



A Joint Fact Finding Team Report
May 2002

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For copies, contact :

Secretary, Lokshahi Hakk Sanghatana,
10 Laxmi Niwas, 697, Katrak Road, Wadala, Mumbai 400 031
or e-mail cpdr@rediffmail.com

A Continuing Crime

**The relief and rehabilitation measures,
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arrests with regard to the genocide in Gujarat**

A Joint Fact Finding Report

by

**Andhra Pradesh Civil Liberties Committee, Human Rights Forum,
Association for the Protection of Democratic Rights,
West Bengal, Committee for the Protection of Democratic Rights,
Mumbai and Lokshahi Hakk Sangathana, Maharashtra**

A Continuing Crime

A report on the relief and rehabilitation,
the attitude of the judiciary and police investigation and arrests
with regard to the genocide in Gujarat

The carnage in Gujarat should not be described as brutal and bestial because only human beings are capable of committing such crimes, not animals. Muslim men were slaughtered; Muslim women were gang-raped, their properties looted, their homes burnt down, their children brutalized and massacred, their livelihoods destroyed beyond redemption. The Indian State brazenly colluded in a systematic, massive pogrom against the Muslims of Gujarat. The terror and destruction continues to date. This is unparalleled in the history of India.

Since the violence had already been quite well documented by the other teams that had visited Gujarat, so the fact finding team constituted by five civil liberties and democratic rights organisations in India decided to investigate and report on the following terms of reference :

1. Relief and rehabilitation of the victims
2. The attitude of the judiciary
3. Police investigation and arrests

From the 4th to the 13th of May, 2002, the team toured some of the cities and villages of Gujarat that had been affected by the violence.

The team consisted of : Kranti Chaitanya from the Andhra Pradesh Civil Liberties Committee (APCLC); Ashok Debroy from the Association for the Protection of Democratic Rights (APDR), West Bengal, K.Balgopal, P. Ramulu, B. Ramulu and Leya Matthew from the Human Rights Forum, Andhra Pradesh; P.A.Sebastian, Niranjini Shetty, Jennifer Coutinho, Premsagar Gupta, Aseem Prakash, K. Leena and K. Haridas from the Committee for the Protection of Democratic Rights (CPDR), Mumbai and Sanober Keshwaar from Lokshahi Hakk Sanghatana (LHS), Maharashtra.



Introduction

The guilty must be punished to ensure rehabilitation

In as many as 16 of Gujarat's 24 districts, VHP-Bajrang Dal-led mobs carried out a wholesale assault on Muslims which is unprecedented in scale and barbarity. Hundreds of Muslims were butchered. In some cases, whole families were burnt alive in their homes. Even children as small as 2 months and handicapped persons were not spared. Scores of Muslim women - some as young as 12 years, others pregnant, still others with new born babies in their arms, some grandmothers - were chased, stripped, gangraped and then, a great number of them, cut up into pieces and burnt. The violent attacks cut across class lines - even wealthy, influential Muslims, sitting high court judges and former MPs were not overlooked. Particularly targeted were those Muslims who 'dared' to live in Hindu majority areas or those who had their businesses in such areas.

Thousands of houses of working people, put together from meagre earnings over years of toil, were razed to the ground and looted of all the property within - "not even a spoon was left behind". The frenzied mobs destroyed the livelihoods of Muslims - no shop, hotel, restaurant, truck, handcart and rickshaw owned by Muslims was left intact. Standing crops in farms owned by Muslims in the villages were burnt down and bore wells were damaged beyond repair. To wound the psyche of Muslims as a whole, innumerable masjids, dargahs and burial grounds were desecrated and destroyed. Some damaged masjids were turned into mandirs and Hanuman idols were placed inside them. Obscene slogans were scribbled on the walls where they were left standing and dead pigs were hung up in some damaged masjids.

This mayhem and massacre was orchestrated by the Sangh Parivar outfits and had been meticulously planned for months before. And, what is worse, it was

sponsored and sanctioned by the state government itself. It is now common knowledge that the mobs were directed by ministers and that some ministers were sitting in the police control rooms at the height of the riots in Ahmedabad, most likely to ensure that the police did not respond to the frantic calls for help from Muslims. In Ahmedabad and Vadodara, one can see restaurants, shops, business premises owned by Muslims which have been selectively burnt down. The mobs could not have identified them from their look and their names that they belonged to Muslims because all of them had cosmopolitan appearance and names. This indicates the collusion with the mobs by the official agencies such as the revenue department, the sales tax department, the intelligence department and the department for industries.

The police too played a very pro-active role in the attacks in most places - they accompanied the mobs, fired at Muslims to give cover to the advancing mobs and pushed fleeing Muslims towards the mobs. In one place, a police sub-inspector even distributed petrol from his vehicle to the mobs to burn down houses. A minister in Narendra Modi's government has himself testified that on the day of the Godhra incident itself, Modi called a meeting of the police top brass and instructed them not to take any action against people who may express their anger over Godhra in the next few days.

Godhra and after

"If there were no Godhra, there would have been no Gujarat", said the Prime Minister of India at a meeting of the National Executive of his party in Goa in mid-April. Chief Minister Modi invoked Newton's Third Law : "Every action has an equal and opposite reaction." As yet the events of February 27 in Godhra are mysterious, and there has been no thorough, impartial investigation by those (the authorities) who have the resources to do so. Yet official police investigations themselves have surmised that the event was not pre-planned, but spontaneous. In that case, what was this horrific event a response to ?

Godhra did not take place in a vacuum - it happened in a context. For weeks before Godhra, thousands of karsevaks had been criss-crossing India by train, including the trains going through Godhra. They had insulted and abused Muslim co-passengers, molested Muslim women passengers, committed violence on Muslims and unleashed a reign of terror in several parts of India. *Jan Morcha*, a Hindi daily edited by one Sheetla Prasad and published from Ayodhya, reported

in its issue of 25th February, 2002 :

"Trishuldhari Bajrang Dal workers, travelling to Ayodhya on board the Sabarmati Express this morning, let loose a reign of terror upon dozens of helpless Muslim passengers, burqa-clad women and innocent children. They also targeted the people waiting on the platform, forcing them to shout the slogan : "Jai Sri Ram!" A few even declared themselves to be Hindus in the order to escape their wrath.

"According to eye-witnesses, close to 2000 trishul-carrying Bajrang Dal workers, on board the Sabarmati Express coming from the direction of Lucknow, began indulging in these activities from the Daryabad station. Anyone identified as a Muslim on the train was mercilessly attacked with trishuls and beaten with iron rods. Even women and children were not spared. Burqas were pulled off, women were beaten with iron rods and dragged

...."

There is a glaring and fundamental difference between how the state reacted to the Godhra incident and to the subsequent violence in the wake of Godhra. It is a primary obligation of the state to act against those who commit crimes. It is no one's case that the Gujarat government has not acted against the accused who allegedly set fire to the bogey S-6 of the Ahmedabad-bound Sabarmati Express at Godhra on February 27th, 2002. The allegation is that the government acted excessively, vengefully and arbitrarily against those it accused in the Godhra case. Muslims of Godhra have been picked up and charged arbitrarily and the investigation into the incident is flawed on many counts. A drug called 'truth serum' was even administered to the main accused in the Godhra case to extract more information from them This drug has been banned under international law and the UN has called the use of truth serum torture since it meant "physical abuse to extract information" (*The Indian Express*, 23rd June, 2002).

But when we come to what happened in the aftermath of Godhra, the Gujarat state stands accused of instigating and colluding with the mobs, abetting the crimes committed by the mobs and deliberately refusing to act against the criminals who committed the most heinous crimes imaginable. In the Godhra case, the government was eager to prosecute the criminals because the accused were Muslims, whereas in the second instance, the state abdicated its

fundamental, moral and constitutional obligations and mandates and reduced itself to the level of a terrorist organisation, pure and simple. We are taught in the school that the system has 'checks and balances'. But in Gujarat the Legislature and the Judiciary flagrantly refused to correct the Executive as it performed a '*tandav nritya*' (dance of death) against the Muslim citizens of India.

Gujarat violence is state terrorism

The Indian State talks about terrorism with great moral indignation. But what right does the present Indian government have to talk against terrorism? The ruling party, the BJP, has consistently carried out heinous acts of terrorism on the Muslim people. The present Home Minister of India, L.K.Advani, led mobs to demolish the Babri Masjid in 1992. In Gujarat, a few thousand Muslims have been slaughtered and Muslims are being told to accept that they are not equal citizens and they have to accept the hegemony of the Hindu bigots.

Addressing a rally on May 26th at Manali, the Prime Minister said that there was a limit to India's patience and Pakistan must stop cross-border terrorism. But what about the terrorism committed within the country's borders by his own party workers? A couple of years ago, nuns were assaulted and priests were murdered. Churches were demolished and replaced with temples. Graham Staines, a Christian devoted to the care of the leprosy patients, was burnt to death along with two of his minor sons. These activities were organised and executed by the BJP and its companion organisations like Vishwa Hindu Parishad and Bajrang Dal. Were they not terrorist activities committed by the powers that be ?

The Prime Minister urged the people in the same rally to stand united against terrorism. Yes, we the people should also stand united against terrorism — the terrorism of the ruling establishment which has blood on its hands. Referring to the militants' attack at Kaluchak, George Fernandes said that this kind of terror could not go unpunished. In Gujarat, the mob of wild-eyed Bajrang Dal-led mobs wrecked, raped, murdered, burnt, chopped people's hands and feet, urinated on them, destroyed minority homes and shops with cylinders and petrol bombs. It seems that George Fernandes thinks that *this* kind of terror should go unpunished. He said in Parliament that such things had been committed for decades and there is nothing unusual about them.

The politics of aid

The government of the Indian State colluded in the murder of its citizens in Gujarat. What about the established social institutions in Gujarat as a whole? They did not acquit themselves any better. Contrast the present situation with the reaction of society in the case of the earthquake in Gujarat. Aid poured in from home and abroad. Even Bill Clinton took initiative to mobilise massive aid. Today, both domestic and foreign charitable organisations pretend that they have not heard of what happened in Gujarat.

The main reasons for the apathy or hostility of society to the victims of the carnage in Gujarat are two : first, they do not want to incur the wrath of the government. The violence in Gujarat was sponsored by the government. Giving aid to the victims would be seen as an anti-government act. Even those who disagree with the present government do not want to take the risk of antagonizing the government in power. This is the main reason for the lack of response of the funded agencies in India. If they displease the government, the channels through which they receive funds will be choked dry or cut off.

The team met two representatives of an UK-based NGO which had put in thousands of dollars worth of aid to the earthquake -affected in Kutch. They candidly told the team that they had till the middle of May spent on the carnage-affected exactly one per cent of the amount their NGO had spent on the earthquake. When the team asked them why this was so, they replied that most NGOs were reluctant to give aid to the Muslims as they apprehended that their licence under the Foreign Contributions Regulation Act would be cancelled by the government !

Secondly, among the higher echelons of Indian society ,among the heads of large commercial, industrial and so-called charitable organisations, there are many who support, tacitly or openly, the pogrom in Gujarat.

Manufacturing consent

Over the years the Sangh Parivar has been poisoning the minds of many sections of society through well-orchestrated hate campaigns in order to get the man on the street to support their heinous acts against Muslims. The looting and the mayhem and the rape were not the handiwork of trained Sangh Parivar cadres alone. They were supported and backed up in this endeavour by ordinary people

who have been led to believe that Muslims deserved this fate. The highly effective propaganda campaigns over the years have not been stopped or banned, and became even more explicit under BJP rule. A part of this campaign has been the ghettoisation of people's colonies.

This fact came sharply home to the team when we went out for dinner late one night. A local driver took us to a newly opened eating place where we could see some 1000 chairs on either side of the road, all occupied by young men and women, who were apparently from an upper class background. There were people standing in queue waiting for a seat. They were all celebrating life - something which is very good in itself. It should be celebrated and not be mourned...but we read in the newspapers the next day that 20 people had been murdered across the river from 'our area', several properties had been set on fire and several people had been injured in communal violence on the same night.

What did this phenomenon indicate ? First, Ahmedabad had already been ghettoized, thanks to communal violence and disinformation over a long period of time. The systematic dissemination of communal hatred propagated by the Sangh Parivar through pamphlets, *bhajan mandalis*, *shakhas*, meetings, the earlier communal riots, etc. had led to a portrayal of minorities as the alien, aggressive "other" and their cultural and social practices as unacceptable. A Muslim, however wealthy and well-placed, cannot buy a place in Gujarat where Hindus predominantly live. Some well-known Muslims like Mohammed Hassan Jowher, a business consultant and a visiting professor at IIM, Ahmedabad, testified this to the team from his own experience. Muslims have been systematically weeded out of the right bank of the Sabarmati and are being increasingly forced into ghettos like that at Juhapura, which is known as Ahmedabad's "mini-Pakistan". Hindus in Ahmedabad easily speak of "our areas" and "their areas".

The second aspect of the phenomenon was that the violence in Ahmedabad was one-sided. The Hindu segment of the city had complete confidence that nothing would happen to them. The state was fully aware of this fact, that is to say, no police had been deployed in these localities.

In the light of this reality, it is very instructive to note the rumours floating

around in the Hindu localities. A member of the team wanted to go to a place which, the driver of the autorickshaw thought was outside "our area". He told the member : "Sir, please do not go there. They have bombs, missiles, rockets, RDX, etc. They kill our men and rape our women. They kill even policemen." The driver had no ulterior motive in telling such a lie. He believed in what he said. The driver was not an isolated instance in this regard because this is a widespread belief in Gujarat.

The brains who manufactured and spread such disinformation had imbibed, practised and mastered the Nazi terminology of propaganda that a falsehood repeated a thousand times becomes a truth. History is being repeated. Due to this, the Hindu on the street has internalised the stereotype of Muslims : terrorists with allegiance to Pakistan. And he can never see the Muslim as a victim of unjust violence. 'Ehsan Jafari deserved to be slaughtered because he dared to fire at us Hindus...' Why, if he did fire at all, was he compelled to do so is not talked about. The explanation comes pat : "Muslims are by nature *junooni*(warlike)." Ahmedabadis tell you that 'the violence still continues because of the Muslims...Pakistan is sending money and men to the relief camps to continue the disturbances'. This does not stand reason because the Muslims in the relief camps want normalcy to return so that they can pick up the pieces of their shattered lives.

The guilty must be prosecuted and punished

The terrorism in Gujarat was, and is, deliberate. Those who have committed the most heinous crimes are most like to go scot free because it was state-sponsored terror targeted against certain sections of society with calculated motives. Or, as the VHP's Ashok Singhal put it, "the violence symbolised the first positive response of Hindus to Muslim fundamentalism in 1000 years" ! The police are deliberately not booking the real culprits - the leaders of the Sangh Parivar.

Even where arrests have been made, they are so token in nature that they make a mockery of justice. In the Naroda Patia massacre, where over 82 Muslims were burnt alive by a mob of over 15,000, only 22 arrests have been made. In the Chamanpura massacre, where almost 50 persons, including ex-MP Ehsaan Jafari, were killed by a mob of thousands, only 18 have been arrested. What is worse is that the police are making out that it was the Muslims who started the

trouble in these places. In the Naroda Patia case, the police investigations blame a Muslim truck driver for starting trouble after he “recklessly ran his truck over a Hindu youth”. Further, a large number of First Information Reports (FIR) describe the accused as ‘mobs’. In a criminal trial, a mob cannot be punished, only named and identified individuals can be. Even in cases where the accused are individually named, the chance of punishment is nil. Can one expect the Gujarat government to collect evidence and to produce it against the culprits when it itself stands indicted in the pogrom ?

The violence in Gujarat still continues, albeit sporadically, and is likely to be so. In this scenario, fear continues to stalk the Muslims in relief camps and outside. Muslims in the relief camps are not able to go back to their homes even where they have not been wholly destroyed for fear of renewed attacks. Hundreds of Muslims have already shifted out or will not return to mixed areas where they have been staying for generations. To keep the situation boiling thus is to prevent the effective rehabilitation of the victims of the genocide, to bring about a permanent division of areas and to make the wounds in the Muslim psyche continue to fester.

If there is to be any lasting peace in Gujarat, if the deep wounds to the body and minds of Muslims are even to begin to heal, if a smile has to return to the faces of orphaned children, then relief and rehabilitation must be carried out effectively : the killers and looters must be punished severely, the victims must be given adequate compensation which enables them to rebuild their houses, their businesses, their livelihoods, their lives; if the victims do not wish to return to their former habitations, they should be resettled in other areas; the violent and communal activities of the Sangh Parivar outfits should be countered and stopped effectively for good. If these conditions are not fulfilled, there is little chance of a change in the situation.

What we found, much to our dismay and apprehension, is that the state is continuing its genocidal agenda even where relief and rehabilitation is concerned. Those in power are themselves guilty. So this report is not an appeal to them. It is an appeal to the people of India to do all in their power to prevent this continuing crime.



Relief and rehabilitation of the victims

Our team visited a total of 20 Relief Camps in the cities of Ahmedabad and Vadodara, and the districts of Anand, Mehsana, Sabarkantha, Panchmahals, Dahod and Vadodara. Among the camps visited are camps housing dalit victims of violence in Ahmedabad city. The team also visited a number of villages. The team spoke to officials such as the Police Commissioner and District Collector of Vadodara, the District Collector and Superintendent of Police of Mehsana, and the Assistant Relief Commissioner of the Gujarat government. We also met the office-in-charge of the Vishwa Hindu Parishad of Godhra and Panchmahals districts and a senior RSS functionary of Chote Udaipur.

The Gujarat Government officially accepts that there are 91 relief camps in the whole of the state which altogether have 86,963 inmates. In reality though,

there are even more relief camps and an even larger number of people living in them. There are also many others who are, in fact, refugees but are living with friends and relatives. There is no exact estimate available in this regard but it is universally accepted that there are about 1.5 lakh people who have been displaced from their habitation. Needless to say, the overwhelming majority of them are Muslims.

Not a single government-run camp

Even these 91 Relief camps are not run by the government. In fact, not a single camp was set up by the government. It was the Muslim community, both as individuals and associations, that took upon itself the responsibility of sheltering the refugees. The rest of civil society has not extended a helping hand with the rare exceptions like Ahmedabad's Citizens' Initiative (a conglomerate of NGOs in Gujarat, most of whom were active in earthquake relief work in Kutch), Vadodara's Peoples' Union for Civil Liberties (PUCL) and Shanti Abhiyaan, the dalit NGO Navsarjan, SEWA, St. Xavier's Social Service Committee and Disha.

Far from genuinely helping out those who took the initiative to start and run the relief camps, the government agencies even acted as hurdles in the efforts. For example, the organisers of the relief camp at Godhra told the team that the Gujarat Electricity Board had demanded Rs.40,000 as a deposit for giving electricity connection to the camp. Most national newspapers usually set up a Relief Fund for such disasters but none have done so this time. The government official whom we met, the Assistant Relief Commissioner, Mr. Baghela, explained the absence of state-run relief camps by saying that in Gujarat there is "a great tradition of communities taking care of their needy". We can only say that this is a shameful admission of the abdication of responsibility by the state.

Most relief camps are housed under huge tents with a canopy of cotton cloth under which all the families live in small groups in extremely cramped conditions. With the advent of the monsoon, the conditions in the camps are going to be miserable. The tents being open on all four sides, the inmates are vulnerable where security is concerned. Camps run in school compounds like the one at Dariyakhan Ghummat in Ahmedabad face an uncertain future once the schools re-open.

Inadequate Relief

The government's only contribution to the relief camps is to provide some rice, daal, cooking oil, sugar and wheat and Rs. 5/- per head per day, and even this supply was started almost a fortnight after the various camps were set up. Interestingly, while the cash dole was stated to be Rs. 5/- at every camp we visited, the Assistant Relief Commissioner insists that they are giving Rs. 7/-. (It would be worth investigating who is taking the remaining Rs. 2/-) The Rs. 5/- was, without exception stated to be inadequate since the organisers have to pay out of that for the other cooking material not given by the government - tea powder, masalas, vegetables, rent for the cooking vessels and stoves - as well as for water, electricity, tents, etc.

The foodgrains quota and the dole amount is given only for those inmates 'recognised' as being inmates by the government. In all camps, this number of 'recognised' inmates is much less than the actual number. This has come to pass because the government figures were arrived at by conducting a head count of inmates without giving notice to all, with the result that those who had gone out for the day were not counted. In many cases, the government does not recognise those inmates who resided in villages in administrative blocks other than that in which the camp is situated. This is true of Ismail Nagar Camp in Anand district where the government ration is provided only for 805 inmates people as against the actual number of more than ten thousand as of 8th May, 2002. There are also many camps who are not 'recognised' for reasons best known to the government and which therefore receive no foodgrains or cash dole whatsoever like the Mandali camp in Mehsana district. Also, only 5 of the 8 camps in Vadodara city were receiving help as on 9th May, 2002. Only 7 out of the 17 camps in Anand district were receiving help by the first week of May.

The inadequacy in government aid is made up by raising donations, once again from the Muslim community. Even this aid is hard to come by because most of those Muslims who could afford to give donations - traders and business people - have been economically smashed by the attacks. Unfortunately, the attitude of the government, as reflected in the comments of the Assistant Relief Commissioner, is that even what they are giving is more than necessary since the government has the responsibility of providing for food and not for 'paan and cigarettes also'.

Camps under pressure to close down

The government is now putting constant and severe pressure on the Muslim community to disband the camps and send the refugees back to their burnt-out houses. All in order to make a show that things are returning to normalcy. In the less visible districts, the scheme of getting the camps closed by putting pressure upon the organisers of the camps had begun and reached a measure of completion by the time of our visit. The district of Dahod is a good instance. Dahod is one of the districts very severely affected by the carnage. Initially there were two major camps, at Dahod itself and at Jhalod, in addition to smaller camps. But by the time our team visited the district, both these camps were closed down by simply putting pressure upon the organisers. There was not a single camp, strictly speaking, left in the district. Three camps, it is true, remained in the villages of Fatehpura, Sanjeli and Suksar. But they housed the uprooted Muslim population of those very villages. Their houses burnt and their property destroyed, there were living together in a camp in their own village. They are not 'refugees' in the eyes of the government, since they were living in their own village. The other uprooted Muslim families of the district, who belong to villages with a small Muslim population, have no chance of living in a refugee camp in their own village and there is no camp for them anywhere after the closing down of the Dahod and Jhalod camps. Some of them must have gone back to live at the sufferance of the local Sangh Parivar musclemen, and others are living for the present with relatives, or have settled down in the bigger villages and towns with a sizable Muslim population.

This is indeed a pointer to the days to come. For reasons that will soon become clear, it seems very unlikely that - at least in the more seriously affected districts - Muslims will feel safe enough to live in towns or 'Muslim' villages, in many cases at the expense of their previous source of livelihood. This will increase the social, economic and physical distance between the two communities, and make hatred that much easier to incite the next time round. It will lead to the creation of ghettos that can be that much more easily called 'mini-Pakistans' and 'dens of ISI agents'. Localities like Juhapura in Ahmedabad city are far on that way, but there may soon be more such mohallas in various towns, and whole villages too sharing that attribute. It is needless to add that this is in every way a very objectionable and undesirable state of affairs, but one that is desired very much by the Sangh Parivar precisely because it is so objectionable.

Sanitation

We found that the sanitary conditions in the camps are extremely poor. For instance, at the Shah -e- Alam Camp in Ahmedabad which has been visited by almost every dignitary and therefore can be expected to have received more than normal attention, there are only 15 toilets and 12 bathrooms for 13,000 inmates ! In the Aman Chowk Relief Camp at Bapu Nagar, Ahmedabad, where an estimated 10,000 people are housed, there are only 20 toilets and 20 bathrooms. The ratio is no different in other camps.

In the rural camps, dust and puddles of dirty water are a common sight. At the camp in Kalol in the Panchmahals, where we arrived just as the evening's dinner was being served, we were horrified to see a puddle of stagnant water near the bore from which drinking water was being collected by the camp inmates. That sight at the height of summer was an indication of what could be the state of affairs once the monsoon sets in. We need not add that gastroenteritis is the inevitable consequence, which could cause havoc with so many children around.

Medical Facilities

As far as medical facilities are concerned, although one government doctor visits the camps in the cities every alternate day, there is a dire need for much greater medical help, especially in the sphere of psychiatric counseling. There is also a severe shortage of medicines. The doctors merely write out a prescription and it is for the camp organisers to bear the cost of the medicines. A social worker told us that he personally approached chemists in Ahmedabad to donate medicines for the camps, but hardly five out of a hundred responded. This is part of the apathy of civil society which is starkly evident in Gujarat.

Medicines in the camps are available only for simple ailments like cold and fever. It was observed by the team members that cases of jaundice and diarrhoea are common in the camps as also minor cases of cholera. The facility of the mobile hospital in vans provided for some camps in Ahmedabad more often than not is ornamental as the inmates of the camp fear to go out of the camp for security reasons. The team was told about the death of an infant in the Bapu Nagar Camp due to lack of medical care and hygiene. In the Godhra relief camp, the team found that victims of stabbing had had their wounds sewed up very badly and were unable to seek advanced treatment in hospitals because of

financial stringency and security problems. The Red Cross, the UNICEF and also the CPM have been providing medicines to some camps in Ahmedabad.

Compensation for those killed

The Gujarat government declared a compensation of Rs. One lakh to the kith and kin of all those killed in the Godhra incident and in the ensuing carnage. Of this amount, Rs. 40,000 has been paid in cash and the remaining Rs.60,000 in Narmada Bonds. The Rs.50,000 promised by the Prime Minister is yet to be paid.

However, what the team learned from various relief camps is that the distribution of this amount is flawed : as against the total estimated deaths - a conservative estimate - of around 2000 people, the government accepts only 554 as dead. All the others are listed as “missing’ and their deaths have not been compensated. In the Panchmahals district, out of the 249 reportedly killed (of which 2 were killed in police firing and the rest by the attackers), the families of only 100 of these have received compensation; the rest have been classified as “missing”. In the Shah-e-Alam Camp, which houses most of the survivors of the Naroda Patia and the Chamanpura massacres, the families of only 10 out of the 121 killed have received compensation. In the Dariyakhan Ghummat Camp, the relatives of only 84 out of 270 killed have received compensation.

The authorities refuse to give compensation for those who have died unless and until their next-of-kin proves the death conclusively. Given the manner in which the people were killed, it is very difficult to furnish conclusive proof because many bodies have been charred beyond recognition and some are just pieces of flesh. The relatives of those killed are required by the authorities to furnish proof like the death certificate or some other record to prove the identity of the dead kin. It goes without saying that there can be no more cruel a joke than asking for such documents in cases where all the belongings including their homes have been burnt to cinders. We were told by the Assistant Relief Commissioner that in each of the districts, the government had set up committees consisting of the District Collector, the local Mamlatdar, etc. to go into the cases of the ‘missing’, and determine which of them are dead. But if these committees are going to adopt the same old procedures for ascertaining death, more than half the affected families in Gujarat will be found waiting for the statutory period of 7 years before getting the compensation paid to families of

the dead.

Compensation for structures destroyed

It is well known that there has been very extensive destruction of shops and houses in the course of the recent violence. Government statistics show that they have identified 17,166 structures as partially damaged and paid compensation, as of now, for 11,705 structures. The total compensation paid for 11,705 structures is 11.66 lakhs. The amount paid shows that on average they paid Rs. 100 for partially damaged structures. The team came across many cases where people whose houses had been damaged severely have been paid sums as low as Rs.300/- ! The government has also identified 5,349 structures as completely damaged and paid about 6.02 crore for 3,530 structures. That comes to about Rs. 17,000 per structure, which would be the cost of the barest *kaccha* house.

What is more is that this meagre payment is made only for the structures that were destroyed/damaged. No compensation whatsoever has been provided for the economic assets, goods and household accessories that were looted/destroyed by the assailants. The modus operandi was that whatever was of value and could be taken away was looted, and the remains were burnt. We were told in the camp at Himmatnagar, Sabarkantha district, that the assailants brought with them suitably skilled persons for removing usable objects from the shops and showrooms. Of course, the total inactivity of the police and the license given by Narendra Modi's government permitted them time for such leisurely crime. The government, however, has declined to compensate the victims for this loot, and has confined even the meager compensation it has given to the bare structures destroyed.

Inmates of the Godhra relief camp in the Panchmahals district told the team that they received no compensation for their vehicles, handcarts, saleable goods in the shops, etc. which were destroyed by the arsonists. The inmates of all the camps had the same story to tell. In cases where more than one house of the members of the same family had been destroyed, compensation is paid for only one house by adhering to the norm of 'one family-one house'. This has effectively deprived brothers of the same family living in different houses out of the ambit of compensation, even when their houses have been destroyed.

The amount of compensation has varied between a mere Rs.200/- and a maximum of Rs.50,000/-. According to the organisers of the Dariyakhan Ghummat Relief Camp, those who lost houses/shops worth Rs.5 lakhs were given Rs.50,000 as compensation, while those who had lost Rs.50,000 and thereabouts, were given paltry sums of Rs.500/- as compensation, i.e. a mere 10% of what people actually lost. Mohammed Salil of the Sureli relief camp told the team that he had received only Rs.300/- together for his house and shop which were burnt down. Another inmate of the camp, Ahmedbhai Ajmeri, had received no compensation for the destruction of this shop on the ground that the said shop did not stand in his name and he had rented it out for business purposes. In the Mangal Bazaar of Vadodara city where 110 Muslim shops and 62 Hindu shops were burnt, no one had received any compensation. It may also be mentioned here that there are complaints from the camp inmates that the survey of the damaged/destroyed property was conducted in the absence of the affected parties.

At the Vadali camp in Sabarkantha district we were told that the Collector of the district, one Mr. Puri, had exhibited a sympathetic attitude towards the refugees, but as soon as the inmates expressed their appreciation of his attitude on the occasion of the State Governor's visit to the camp, the Collector was transferred. In the relief camp of Idar tehsil, Vijaya Nagar where the inmates are from the border area with Rajasthan, a family of seven brothers whose property was looted have been given no compensation at all. In the Ramayana-Mahabharata village of the same district, the person whose standing crop of cotton of 22 acres and a shop were all looted was not paid any compensation. This bias against Muslims even in the payment of compensation was quite obvious. In the village of Ode in Anand district where 27 Muslims were burnt alive, one poor Muslim whose house was burnt down to ashes got Rs.500/- as compensation whilst a Patel of the same village, of whose house one wall had become covered with soot due to smoke from an adjacent Muslim house that was burnt down, received Rs. 7,000/- !

Some shopkeepers from the Mangal Bazaar in Vadodara made allegations that a local BJP corporator named Rajesh Puralia had demanded a bribe from the people to get them the compensation sanctioned by the government.

Thus we see that the compensation paid to the victims is grossly inadequate.

We were pained to learn that some of the inmates of the Sewala Refugee camp in Mehsana district were in the process of selling their ornaments to sustain themselves.

Since the government has chosen to ignore the loot and destruction of shops, showrooms and household goods as well as economic assets such as jeeps, trucks, etc. there is no official assessment of the total economic loss sustained by the victims. The unofficial estimate, however, puts it at about Rs. 3,800 crore. As against this the total compensation given by the government till now comes to about Rs.6.13 crore, and may end up at the figure of Rs. 10 crore. Thus the help rendered by the government for the economic recovery of the victims is almost zero.

Threats to relief workers

Father Amal Raj of the Ashadeep NGO in Anand told us that many relief workers had received threats and several trucks carrying relief material used to be followed by armed gangs of the Sangh Parivar and their drivers threatened. The organiser of the Dariyakhan Ghummat Relief Camp in Ahmedabad, Mr. Inamul Iraqi, told the team that he had been receiving letters and telephone calls from Mr. Bharatbhai Barot, the Minister for Food and Civil Supplies, to close down the camp. These pressure tactics did not stop at that. Iraqi was subsequently implicated in a police case where he is alleged to have led a mob of 300 Muslims to burn down a dargah and some houses belonging to Muslims at Narbanpura. But because Iraqi has a foolproof alibi in that he can prove that he was at the Kankaria Railway Yard receiving consignments of pig iron in connection with his business, he has not been arrested as yet. The whole case has been framed in order to get him to close down the camp. Mr. Iraqi also told us about a sympathetic Hindu who came to give some aid and extend a helping hand to the Dariyakhan camp. The moment the VHP found out about this, they went to this hapless gentleman's house and threatened him with dire consequences if he ever dared to help the camp again.

In Himmatnagar in Sabarkantha district, the VHP and Bajrang Dal members used to throw stones at Hindus who bring food for the inmates of the camp. A poor Hindu farmer of the Patel caste, who had a poor harvest of only

three *boras* of wheat, donated one of these *boras* to the relief camp. He was promptly threatened by the VHP for doing this. Relief camp organisers in the villages told the team that despite these threats, some Hindus continued to provide relief, albeit clandestinely.

Relief camps are also sitting ducks for riot-happy Sangh Parivar men and the police. The team was told by the organisers of the the Ismail Nagar Camp in Anand of an incident which happened on 25th March, 2002. At 2.30 a.m., BSF jawans accompanied by Sangh Parivar activists having *dandas* (thick sticks) in their hands entered the camp compound and started beating up people. People claim these goons were accompanied by the police. They also entered the houses of neighbouring Muslims and beat them up. This attack was led by the Deputy Superintendent of Police, Mr. Sandhvani. The relief camp organisers feel this attack was carried out as retaliation for the burning of the Sindhi market in Ahmedabad. The confrontation lasted almost one full hour.

A Relief Camp for Hindus : No different

Before we close this section on the relief camps, a glance at the conditions of the Hindu relief camps would be instructive. There are a few camps in the city of Ahmedabad where affected Hindus are housed. The team visited one of them called the Karnavati Relief Camp in Shahpur. We reached during their lunch time and found that the gate of the camp had been closed. There were several people outside the camp : men, women and children begging for food. The gates of the camp were opened up only after the food distribution was over inside. Then we met the inmates, most of whom were in rags. All of them were dalits who lived in a slum nearby. The slum was divided into two parts - one where the dalits lived and the other where Muslims lived. All the inhabitants belong to the poorest strata of society. The Muslim and dalit sections were connected to each other not only by poverty but also by occupation.

The team was told that both the Muslims and the dalits gathered on their respective sides of the slum and attacked each other and devastated whatever little homes they had. The inmates of the camp told the team that the Muslims were away, they did not know where. In the attack, four Muslims and two Hindus were killed. The team did not meet any of the Muslims of this area.

The dalit inmates of this camp repeatedly referred to themselves as Hindus. They never said they were dalits and they repeatedly maintained that it was the Muslims who attacked the Hindus.

The infrastructure of the camp like bathrooms, toilets and food given was no better than what the team witnessed in the Muslim camps. Even though they called themselves Hindus, the inmates of this camp were treated on par with Muslims by the powers that be. Having instigated the poor and oppressed dalits to fight as 'Hindus' against the Muslims, the Sangh Parivar then left them to return to their fate as dalits in the relief camps.

One of the disturbing features of the carnage in Gujarat, to be taken note of, is the way in which the Sangh Parivar organised and used the poor, the dalits and the tribals as the cutting edge of their communal and genocidal campaign against the Muslims. They took advantage of poverty, frustration, ignorance, prejudice and the inherent contradictions in the socio-economic structure to mobilize these sections.

Rehabilitation : Where do the affected Muslims go back to ?

"We are in a very poor state, both mentally and monetarily. There has been no rain these last three years. How will we rebuild our lives ? We tried to file an FIR with the police naming 28 of the attackers, but the police did not co-operate... they are with the attackers. They told us categorically that if you have to come back to the village, then do not name any specific persons in your FIR. The Hindus think that Hindustan belongs only to them. They openly threaten us, saying, "Yahan pe aaenge to kaat diye jaaenge, kyunki Hindustan Hinduon ka hai". But where else can we go ? This is our motherland. And we will stay here. Did I not raise the National flag ? Did I not sing Vandematram ? " said Mushtaqbhai, a victim of Sanjeli village, Dahod district, who then broke down and wept inconsolably.

The government now puts pressure on all the relief camps to close down and coerce the inmates to return to their burnt out houses. Survivors of the most gruesome massacres like those of Naroda Patia, Chamanpura, Sardarpura (where 33 Muslims were electrocuted by being thrown into a village pond into

Dalits as footsoldiers of the Sangh Parivar

Ahmedabad was once known as the Manchester of India due to the several textile mills it housed. Since the 1980s, however, and now more so with the onset of globalisation, these mills are closing down and over a lakh workers have been rendered jobless. These workers have been driven to earn their living in the unorganised sector where there is no job security and where they get a fraction of their erstwhile wages after working for longer hours. The casual labour markets in Ahmedabad and Vadodara have increased since the New Economic Policy saw huge losses in the the organised sector with workers being thrown out of jobs due to closure or through the voluntary retirement schemes.

Most of the working population in Gujarat, as elsewhere too in India, live below the poverty line. What is also disheartening is that with the closure of mills and factories whatever little social consciousness and class solidarity there existed due to the trade unions has been eroded. Having lost control over resources which sustained them as human beings with dignity and honour, the workers have been reduced to a helpless and pitiable state of existence.

There are no powerful trade unions, there is no dalit movement worth the name and the communists are conspicuous by their absence. All this together has left the field open for the RSS to sow its seeds of hatred and communalism. In the recent genocide, the RSS presented the miserable workers and dalits an opportunity to vent their sense of defeat, frustration and hostility and all their negative emotions on the Muslims. These sections were instigated against Muslims as if Muslims were the reason for their miserable existence. Just before the attacks, rumours were spread that the Muslims are going to attack your bastis, so it is better that you attack first and show them their place. Thus the dalits and the workers, being as poor as the Muslims and living side by side with them, had to take the brunt of whatever little retaliation there has been from the Muslim side.

The obscurantist leadership of the Sangh Parivar always kept the tribals and the dalits outside the realm of humanity in accordance with the injunction of *Manuwaad* and the *vama* system. However, the exigencies of vote bank politics and the Ram Mandir movement forced the Sangh leaders to turn to these very sections to act as their footsoldiers. In some cases in the villages, the Sangh Parivar told the tribals that there was a government order to them to loot the Muslims.

Apart from this, the Parivar cleverly manipulated the unjust socio-economic system to win over the deprived against the Muslims. There are areas in Gujarat where the landlords, traders and money lenders are Muslims and the tribals are the victims of the system. In such places, the Sangh Parivar waxed eloquent about the injustice committed by the Muslims against the tribals and used this to incite them against the Muslims. In the course of such deception and unscrupulous manoeuvring by the Parivar, the tribals and dalits have been sinned against twofold : first, when they were kept out of the *vama* system with no mercy or compassion and condemned as satanic in character, and second, when they were used to implement the vicious agenda of the Sangh Parivar against Muslims.

The operation genocide in Gujarat reminds one of the Sikh carnage immediately after the assassination of Indira Gandhi. The Congress leaders paid and mobilised the poor in the slums on the outskirts of Delhi and provided them with vehicles and inflammable material to indulge in arson and murder. The armed forces of the Indian state facilitated their criminal assault on the Sikhs. And over 3000 Sikhs perished. The justification was equally evil : "When a great tree falls, the earth around shakes".

These people who were deployed to commit the pogrom against the Sikhs were the same people who had been uprooted from the area around Jama Masjid in Delhi by the goons of Sanjay Gandhi led by Jagmohan, who is currently a member of Vajpayee's cabinet. They, too were victimised twice : first, their houses were bulldozed; second, they were made to be hired killers and arsonists to wreak vengeance on the Sikhs.

which live electric wires had been introduced), Ode (where 27 Muslims, mainly women and children were locked up in their houses and burnt alive) and the women of Fatehpura (who had sexually assaulted by their neighbours) are absolutely certain that they never want to return to their original places of residence.

Shanty colonies like Naroda Patia and Naroda Gaon have been reduced to ashes but the government has not made any serious offer to rehabilitate the unfortunate inmates anywhere else. This is being left up to the resources of the Muslim community itself. The refugees of Sardarpura are the 'luckiest' in this regard. Having decided not to get back to their native district of Mehsana, they have sought the help of the Muslim community of neighbouring Sabarkantha district, and without wasting time waiting for the government to respond, they have built themselves a rehabilitation colony at Sathnagar.

Security is an extremely important factor if the refugees are ever to go back to their habitations. Providing police pickets to protect the minorities in every village is neither a practical nor a desirable solution. What is required and what the displaced persons are asking for is that a stern message should go to the assailants, more particularly the Sangh Parivar outfits, that further assaults on or any misbehaviour towards the minorities will not be tolerated. Unfortunately, this is what is totally missing.

There are specific complaints that some of the Sangh Parivar who are named in the complaints given by the victims have not been arrested till today and are freely roaming around, sometimes in police vehicles ! Some of them are even members of the local peace committees. Particular mention was made by the victims of Ranjit Singh Chawda (Minister for Handicrafts) and his two sons, Raju and Munna Chawda of Himmatnagar, Sabarkantha district, and B.P. Chauhan, the MLA of Kalol in Panchmahals district and his sons Praveen and Kirit. In addition, a number of local leaders of the Sangh Parivar have been mentioned as assailants who are freely moving around. The attitude of the administration in this matter is farcical. They are treating the matter as if it is an accidental conflict which can be set right by pious counseling.

Peace process thwarted by Hindutva brigade

We were told by the Assistant Relief Commissioner that the policy for

strengthening the morale of the victims is to invite the assailants to the camp and effect a reconciliation in the august presence of the district collector, the mamlatdar, etc. The Superintendent of Police, Mehsana, himself told us how this scheme worked in the village of Kasba. He said that on the appointed day of the reconciliation meeting, the officials and the Muslims came there on time but the Hindu leaders of the village never turned up.

The more atrocious instance is what happened in Raigadh in Sabarkantha district. The district collector and the MLA of Himmatnagar (Minister of Handicrafts, Ranjit Singh Chawda) took with them seven reluctant families from the Himmatnagar camp and held a meeting in the village where they gave speeches and told the Muslims to live there happily ever after. But the Sangh Parivar leaders who attended the meeting got up and openly said in the presence of the officials that the Muslims were fortunate that only their homes were burnt on the last occasion, this time they will be cut up and killed. The officials then safely brought the seven families back to the Himmatnagar camp.

At Kadwal in Vadodara district, where the local SDM went with a few of the displaced Muslim families to drop them back to their village, the local Hindutva brigade said : 'These Muslims gave slogans denouncing Hindustan some time ago, they should seek the villagers' pardon for that if they wish to come back to the village'. The refugees were aghast at this allegation and protested that they had never given any such slogans. After some argument, it was the refugees whom the SDM tried to persuade, asking them to offer an apology since the Hindu leaders were insisting on it, and get back to the village ! And at Raicha of Kawant taluka of the same district, the demand was that the Muslims of the village, who had converted to Islam in 1928, should all reconvert to Hinduism if they wished to get back to the village.

The tale of the duty-conscious postman

A duty conscious postman of that town by name Sakir Hussain Dilawar Khan who migrated to the Vadali camp, insisted on returning to his half-destroyed home at Khetbrahma during daytime and doing his job as a mail runner. One day when he went there, he found his house being burgled by two Bajrang Dal youth. He dragged them to the police station, only to be confronted by Jatin

Mahraj, the local Bajrang Dal leader, who rushed to the police station and abused him. The SHO joined the chorus and arrested the poor postman (for unlawfully restraining the thieves, we presume!). Fortunately, the postmaster, one Mr. D.L. Rathod (said to be a dalit) interfered and got his employee released. But there have also been instances where the refugees who returned have been subjected to physical attacks. In Kissanwadi in Vadodara city, when a Muslim named Siddique Quereshi returned to find out the state in which his house was, he was set upon by VHP-Bajrang Dal activists and beaten up and both his arms were fractured in the process.

Death awaits those who return

The village of Biloda of Sabarkantha district witnessed on 7th May, 2002 a tragic consequence of the attitude of the administration. Though no serious incidents of violence had happened in Biloda in March, the Muslims had felt threatened and had migrated to the Vadali camp. As part of the effort to send people back by force, the Mamlatdar pressurized all of them to get back to their village since they had come out on mere apprehension. Having no option, they went back on 5th May. One of them, Razzakbhai Mansoori, a vegetable vendor, was chopped up and killed at his vegetable stall by VHP and Bajrang Dal activists soon thereafter.

The Sangh Parivar has, in fact, made its intentions clear that it will make it as difficult as possible for the victims to return to their habitations. In the taluka headquarters of Khetbrahma in Sabarkantha district, from where all the Muslims were driven away by burning, looting and destroying their houses and shops, the assailants set up a board at the main crossroads saying :”Muslims no allowed.” The board was there for two months by the time of our visit but the administration had made no efforts to remove it. In some of the destroyed masjids of Dahod district, the warning was explicitly scribbled on the walls (now adorned with photographs of Hindu gods like Lakshmi and Ganesh) : ‘If you come here, you will be hacked’ (Yahan par aaoge to kaat liya jaaoge).

But a signal to the minorities that they do not belong here and are living at the sufferance of those who have appropriated to themselves the right to speak in the name of the Hindus has been sent long ago. In a number of villages all over Gujarat one finds boards put up by the Vishwa Hindu Parishad by the roadside, welcoming visitors to ‘such and such village of and taluka of Gujarat Pradesh

of Hindu Rashtra'. The administration of the state has never thought of removing these boards which blatantly offend the country's Constitution.

Humiliating preconditions laid down for those who wish to return

One would have expected the police to set up conducive conditions to ensure a safe return of the affected Muslims to their original habitations. But instead, the Sangh Parivar outfits have been laying down conditions for the return of Muslims. These conditions are much the same everywhere : Muslims must shave off their beards, they must stop eating beef, they must not engage in the same business as the Hindus of their village, they must change their dressing habits by ceasing to wear the traditional skull cap, they must cease to give 'azaan', they should not even look at Hindu women, they must get Hinduized and best of all, they must convert to Hinduism.

Another important precondition for Muslims wishing to return is that they should withdraw the names of their assailants from the FIRs they have filed, thus ensuring that no one shall be punished for these heinous crimes. Out of sheer desperation, some victims are agreeing to this condition because of their miserable plight. In several villages of the Panchmahals district, the police have also been threatening the complainants to withdraw the FIRs filed by them altogether.

Restoration of livelihood — an uphill task

Taking into consideration that piddling amounts of compensation have been given for damaged/destroyed shops, that no compensation has been given for goods destroyed or vehicles destroyed, Muslims who were shopkeepers, traders and transporters have little chance of restarting their economic activities.

As affected Muslims live holed up in relief camps, there is a real possibility that their businesses and land may be grabbed by Hindus. For example, the place in markets held by Muslim hawkers for years on end is now being taken over by Hindu hawkers, as erstwhile Muslim hawkers of Vadodara's Lehripura and Tarsali markets told us. Hindu hawkers are also now parking their carts right in front of Muslim shops and refuse to move even if asked to. This adversely affects the business of the Muslim shops. A few Muslim shops have also been captured by Hindus while the Muslims have been away. A cycle shop owner of Vishwapura in Mehsana district named Yunusbhai saw his Kismat Cycle

Workshop looted and burnt on March 1st, 2002. When he went back recently to see how things were, he was shocked to find that a Hindu was running another shop in its place !

In the villages, the standing crop in the farms owned by Muslims has been burnt down and there is a fear that their lands may also be illegally grabbed by the Hindus.

Muslims who were working as contract and casual labourers at Hindu establishments have found their names removed from the rolls. This is not the case, however, with those in government service.

The team met a roaming cloth vendor named Ali Akbar Mustafa at the Ismail Nagar camp in Anand who had been selling clothes and saris from village to village for the last 12 years in Baroda district. When he returned after things had settled down to selling cloth in the villages, his Hindu customers told him not to come to their villages again and refused to give him the money, which amounted to Rs.10,000, they owed him as balance payment for the saris they had bought from him earlier

These are but a few random examples of how the Muslims are being starved out of their livelihood in Gujarat. This is happening because the government and the police have refused to send a categorical message to the Hindus at large and the Sangh Parivar in particular - that Muslims are equal before the law like citizens of any other religion and have a fundamental right to live, receive education, do business, seek employment and enjoy all other rights in India as good as anyone else, and anyone contravening this is liable to be booked under the law.





The attitude of the judiciary

We are told that India is a sovereign, socialist, secular democratic republic constituted by the people of India who are all its citizens. It is written in the Constitution that the aim of the Republic of India is to secure to all its citizens justice - social, economic and political; liberty of thought, expression, belief, faith and worship; equality of status and opportunity, and to promote among them all fraternity, assuring the dignity of the individual and the unity and integrity of India. The citizenship of India is not predicated upon grounds of religion, race, caste, sex, place of birth or any of them.

The Constitution has laid down three separate wings for the governance of the Indian state : legislature, executive and judiciary. The legislature enacts the laws; the executive governs the country in accordance with the laws; and the judiciary acts as the 'guardian angel' to watch over the governance by the executive and to ensure that India is governed by law and not by the arbitrary will of those who are transiently in power. One must examine in the light of this

principle the role of the Indian judiciary vis-a-vis the happenings in Gujarat beginning on 27th February, 2002 and find out whether the Indian judiciary performed its statutory, constitutional and moral obligations.

A constitutional court like a High Court or the Supreme Court of India need not wait for a petitioner to come and set the legal process in motion in such situations as prevailed in Gujarat. It should take judicial note of things *suo moto* and ensure that the rule of law prevails in India. There are circumstances where no further evidence is required. Does a court require evidence to accept that the sun rises in the east or the earth revolves around its own axis ? No court will call for evidence, either oral or documentary, to prove that A.B.Vajpayee is the Prime Minister of India or K.R.Narayanan is the President of India. In such matters, the whole world proceeds on the basis of media reports. As the National Human Rights Commission has said, the principle of *res ipsa loquitur* applies (the matter speaks for itself).

In the case of Gujarat there was dire necessity for judicial intervention. There was widespread carnage in the state. It reigned for almost three months in swathes of Gujarat. Sixteen of the 24 districts of Gujarat were engulfed in pogroms. A few instances may give a glimpse of the holocaust which befell a certain segment of the Gujarat population.

Res ipsa loquitur

Shri Ehsaan Jafari, a well-known advocate, ex-M.P. of the Congress Party and poet, resided in the Gulberg Society at Chamanpura in Ahmedabad with his family. The trouble started from the morning of 28th February, 2002, the day of the Bandh. Sensing danger, many Muslims had shifted to the house of Shri Jafari. A huge mob of 20,000 - 25,000, mostly supporters of VHP and BJP, surrounded the Chamanpura area by 7.30 a.m. Shri Jafari repeatedly contacted high officials of the government and the leaders of his own Congress party. By 10.30 a.m. P.C.Pande, the Commissioner of Police of Ahmedabad, and some Congress leaders visited Jafari and assured him that reinforcements would be sent and he would be fully protected. Around 3.30 p.m. the mob pulled Jafari out of his house, tortured him for some 45 minutes, stripped him, paraded him naked and demanded that he say 'Jai Shri Ram' and 'Vande Mataram'. He refused. His fingers were chopped off, and then he was paraded around in the locality, badly injured and bleeding. Next, his hands and feet were chopped off.

He was then dragged, a fork-like instrument clutching his neck, down the road before being thrown into the fire. He was killed along with his three brothers and two nephews. Gangsters first raped 10 to 12 women, then urinated upon them, cut them into pieces with sharp instruments and threw them into the inferno. About 100 people were slaughtered in Chamanpura alone. The police finally arrived at around 4.30 p.m. after the deed was done.

The Best Bakery was set on fire in the Hanuman Tekri area of Vadodara. Excerpts from an eye-witness account : “Jayanti Chaiwala, Mahesh Munna Painter, Thakkar *ke do ladke*, all led a mob of 500-700 people that attacked our bakery on March 1st at 8 p.m..... We phoned 100 (Control Room) and even contacted the police at Panigate Police Station. They kept saying, “*Hum aa rahe hain*” (We are coming). An hour and a half later, at around 9.30 a.m., a police vehicle passed without doing anything to stop the mob.

“It was after the police had come and gone that the mob started its destruction....Twenty of us, along with our mother, remained trapped and terrified on the terrace, as they burnt eight people to death. My *mama*, my sister Shabira, and my *mama*’s children, Zainab and Shabnam (twins) were burnt alive along with the workers in the bakery.....In all, 14 persons were burnt and killed, including my two sisters and *bhabi*. My *chahcha*’s entire family and one sister were burnt alive. Even our domestic animals like goats were not spared. All the attackers were from the *mohalla*.”

About 14 kms from Ahmedabad, Naroda Gaon and Naroda Patia have been home to about 1,000 daily wage earning Muslims. At least 80 people were burnt alive and thrown into a well called *Tisra Kuan*, near the Gangotri and Gopi Park. The police was completely inactive and this provided inspiration to the mob. The witnesses say that the SRP also supported the mob. An eye-witness recalls :”... that terrible day. I was hiding with some others on the roof of my house. From there, I saw my dearest friend Kausar Bano raped, her unborn child slashed out from her womb before being tossed into the fire to be roasted alive. Thereafter, she too was brutally cut up and torched. She was nine months pregnant...”

The cruelty involved was extreme. The collusion and connivance of the police with the criminal mobs was brazen. Even High Court judges and other highly placed officers were not spared. Justice M.H.Qadri, a sitting judge of the Gujarat

High Court, had to flee his official residence forsaken by the Indian state. The house of Justice Akbar N.Divecha, a retired Chief Justice of the Gujarat High Court, was attacked, looted and burnt down. He was rescued by friends in the nick of time - within half an hour of his departure, his house was destroyed by Hindu mobs. Mr. A.I.Sayyed, a Special Inspector General of Police, was mobbed by about 500 people at Vejalpur in Ahmedabad. He narrowly escaped being lynched.

What role did the legal fraternity in Gujarat play in the emergence of such a dire and savage situation ? Girish Patel, a leading advocate of the Gujarat High Court, remarked : “The large majority of the advocates are communally biased. The High Court Bar Association itself arranged a ‘*ghantanaad*’ on the occasion of the programme of the VHP on 15th March, 2002 to mark the *shilanyas*. Five to six months back, a ‘*nava chandi yagna*’ took place in the Kalol Court building itself ! On 28th February, a vehicle was torched in front of the High Court in Ahmedabad. Subsequently, the High Court did not work for ten to fifteen days. ”

‘Modispeak’

Now it is instructive to notice how the Chief Minister of Gujarat reacted to the incidents.

“Investigations have revealed that the firing by the Congressman played a pivotal role in inciting the mob,” said the C.M. on the Chamanpura incident in which Jafari was burnt alive along with several others. On being asked what could have led to Jafari opening fire, he said : “It was probably in his nature.”

“With regard to the incident at Naroda, Modi said that the incident had been sparked off when two drivers - Muslims- intentionally drove their Tata tempos into two people.” (*The Hindustan Times*, March 2, 2002)

“Asked about the violence, Modi quoted Newton’s Third Law -”Every action has an equal and opposite reaction” - to virtually justify what is happening.” (*The Times of India*, March 3, 2002)

It must be clear to every person that the Chief Minister had abdicated his oath to the Constitution and sided with the mobs who indulged in arson, loot, mayhem, rape and murder. The degeneration had reached its nadir. The executive in Gujarat had relegated itself to the level of terrorist gangs. The legislature had lost its salt.

What did the judiciary do to uphold the rule of law in Gujarat ? To ensure that the governance in Gujarat was carried on in accordance with the provisions of the Constitution ? When Justice Qadri was threatened by the mobs, the Chief Justice of the Gujarat High Court reportedly advised him to flee the place and to seek safety on his own. Now here was an opportunity for the Gujarat High Court to prove its worth and to order the Central and State Governments to deploy their full might to ensure that the mobs did not succeed in subversion of the Indian Constitution so that Justice Qadri could stay where he was legally entitled to stay with no harm to either his dignity or his life. Alas ! The Gujarat High Court failed. The last resort forsook its statutory responsibilities. And Justice Qadri was left to the wolves.

The Jansangharsh Manch case

The Indian Judiciary did not stir itself into action even when the citizens moved it. A few instances may illustrate this point. On 1st March, 2002 a violent mob of about 2000 persons first looted and then burnt down some 200 hutments inhabited by about 1500 people near the Khokra Bridge in Ahmedabad. This was aided and abetted by Police Sub-Inspector Modi of the Gomtipur Police Station. Aggrieved by the refusal of the police to investigate and register a case against the culprits, the Jansangharsh Manch, a civil rights organisation in Ahmedabad, filed an application before the Gujarat High Court to direct the government to probe the incident and to register a case against the accused. When the matter came up before the court, the Additional Advocate General stated that the complaint would be registered as an FIR provided that it did not set a precedent. The Court accepted that it did not set a precedent and disposed of the application.

Prosecuting criminals is the primary responsibility of the state. To say that registering a case against the criminals who committed heinous crimes did not set a precedent undermined the very *raison d'être* of the Indian state of which

the judiciary is an important element.

The case against the NHRC

The Karuna Trust, an organisation which subscribes to the Nazi ideology of the VHP, moved the Gujarat High Court to expel J.S. Verma, the former Chief Justice of India and currently Chairman of the NHRC and the other members of the NHRC from Gujarat, to order them not to inquire into the genocide and to shut their mouths on the affairs in Gujarat. The petition made vicious and malafide allegations against the NHRC and its Chairman. The Gujarat High Court was gracious enough to act on the petition and issue notice to the NHRC and its Chairman. Ultimately, the Supreme Court had to intervene to save the Indian Judiciary from ridicule before the world.

The examinations case

The pogrom uprooted ten thousands of people. They today live in refugee camps which are cramped, unhygienic and with no privacy. There are thousands of children who live in such camps. It was highly unconscionable that these children would study and write examinations from such camps. Besides, there was the question of personal safety. The examination centres were in Hindu majority areas where the children were in danger of being gangraped and lynched. The Lok Adhikar Sangh, Ahmedabad, petitioned the Gujarat High Court for the postponement of the examinations. "Forcing exams on students was Modi's way of establishing that everything was normal," observed Advocate Girish Patel who appeared for the petitioners. The Court rejected the petition. Can we say *res ipsa loquitur* ?

The PUDR case

In accordance with the government resolution, all the relief camps in Gujarat were scheduled to be closed on the 31st of May, 2002. This effectively meant that people would have to go back to places where their kith and kin were hacked to death and burnt down to cinders. Furthermore, conditions have been laid down by the VHP and the Bajrang Dal for their return to their original places. They must regrow their prepuce through genetic engineering, they should shave off their beards, they should wear caps, they should wear *dhotis* as the Gujarati Hindus do and so on. Anyone with an elementary knowledge of the Indian Constitution and human civilization will know that these demands are

preposterous and unlawful. So the Peoples' Union for Democratic Rights (PUDR), Delhi went to the Supreme Court with a plea that the date of closure of relief camps be extended. The highest court in the land refused to entertain the plea.

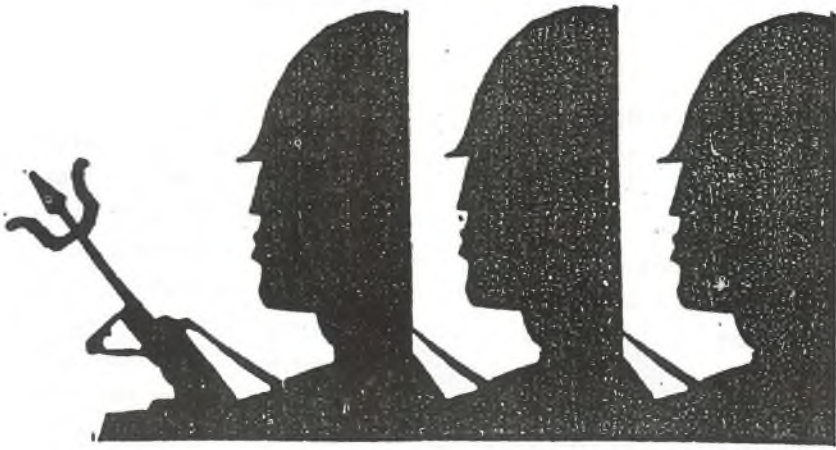
Mallika Sarabhai's petition

It is common knowledge that as time passes, the evidence in a criminal case evaporates. The common knowledge is that the genocide in Gujarat was planned, instigated and executed by the Gujarat government with the assistance of organisations like the VHP, the Bajrang Dal and the BJP which rule India and Gujarat. The rulers have committed heinous crimes against humanity as the Nazis did. They should be caught, tried and punished for crimes against humanity. Can a reasonable person expect that a government controlled by such people will genuinely probe the genocide in Gujarat and prosecute the perpetrators of arson, loot, rape and murder ? The answer must be an emphatic No ! So, Mallika Sarabhai, the famous danseuse, and several others approached the Supreme Court with a request, among others, that a Special Investigating Team be appointed to investigate all the crimes committed from 27th February, 2002 onwards on account of the communal violence which took place in Gujarat.

The circumstances demanded that the Court respond with dispatch and enforce the rule of law in Gujarat as enjoined by the Constitution. But it was not to be so. The case came before Chief Justice Bharucha and two other judges of the Supreme Court. Effectively, nothing was done. The same Chief Justice had once asked the Karnataka Government either to catch Veerappan or to resign. In the case of Gujarat, Justice Bharucha pulled his punches.

In this respect it is apt to remember the oft-quoted remark of Benjamin Cardozo: "The hydraulic pressure of great events do not pass judges idly by." Examples of this are galore. In the Emergency, the Indian judiciary was swept off its feet. Whenever there is a military coup in Pakistan, the Pak Judiciary adapts itself to the situation. Hindutva ideology has pervaded all aspects and all levels of our life. This is dangerous — so dangerous that this can doom the present generation.





The police investigation and arrests

This is not an exhaustive analysis of the investigation undertaken by the police into the offences committed by the Sangh Parivar-driven mobs against Muslims in Gujarat. It is not yet time to take up such an analysis, since that would have to await the filing of final reports/charge sheets in the cases.

For the present we are confining our observations to the FIRs that we have analysed, and the wilful negligence in the matter of arrests of the named assailants, seizure of looted property, etc. Since the failure of the police to protect the people from the killing and burning mobs has already been substantially commented on in the Press, the visual media and in previous fact finding committee reports, we will not dwell much upon it.

Abetment and prior preparation ignored

The first prerequisite of honest investigation is the registration of all cognisable offences. The failure of the Gujarat police in the execution of their responsibility begins with not looking at a major portion of the offences as offences at all. We are referring to the prior concert, conspiracy and preparation for the carnage. It has not been registered as an offence at all. So also the open abetment and

incitement by the BJP leaders, including the Chief Minister himself.

The burning of the Sabarmati Express at Godhra (headquarters of the Panchmahals district) resulting in the horrible death of 58 persons took place on 27th February, 2002. The pogrom against Muslims started from the early hours of 28th February. We need not repeat here what is now public knowledge : that this pogrom was not a spontaneous retaliation, but had been preceded by preparation. It will be recalled that the Vishwa Hindu Parishad had declared 15th March, 2002 as the date on which the construction of the temple at Ayodhya would start. The announcement, accompanied by preparations at Ayodhya and the journey to and fro of the *karsevaks* led to a tense situation in all areas where the Sangh Parivar has a strong presence. Gujarat, needless to add, is one such place. It appears that the VHP and other Sangh Parivar outfits expected that some opportunity would offer itself on or before 15th March, and were prepared to take advantage of it and attack Muslims.

Connivance of officials

Godhra happened to be one such opportunity. Much before that, information concerning Muslim property had already been gathered from official records, with the connivance of officials. This connivance is evident from the fact that the assailants had with them information that could only have been taken from official records. Most of the Muslim business establishments in Gujarat do not have 'Muslim' names. Names such as Sarvodaya, Ashirwad, Anand, Pankaj, Tulsi, etc. are some of the names of these establishments. The employees too are not necessarily or predominantly Muslims. In many cases, even the neighbouring residents did not know that an establishment was owned by a Muslim until it was looted/burnt post-February 27th. A social worker (a Hindu woman who has married a Muslim) told us that there was a hotel carrying the name Tulsi in her neighbourhood which she did not know to have been owned by a Muslim, until it was burnt down after February 28th.

Then there is the case of one Vohra Agencies in Himmatnagar, Sabarkantha district, which was originally owned by a Muslim but bought over by a Hindu just a month before the violence. The transfer of ownership was not immediately entered in the records of the licensing authority under the State's Shops and Establishments Act. And so the rioters who went by the official record burnt it down, even while the new Hindu owner pleaded with folded hands that it was

his !

Apart from having prepared the list of Muslim residences and properties beforehand, it is also widely said that *trishuls* had been distributed well in advance by the VHP and the Bajrang Dal. We were told by the organisers of the refugee camp at Himmatnagar that thick leather belts in which daggers and *trishuls* could be kept were sold by the VHP at the very cheap price of Rs.5/- to youth all over the state much before Godhra.

No preventive action taken

The point which is relevant for the present purpose is that *all this preparation could not have been unknown to the police, if at all they have even a normally functioning intelligence wing*. And yet no preventive action was taken, nor do the FIRs registered in connection with the subsequent violence include any reference to the preparation and conspiracy. This has allowed the leaders of the Sangh Parivar groups to escape the net of prosecution for the planning and preparation that preceded the carnage. It will be recalled that the leaders themselves have not made a secret of it. Keshavram Kashiram Sastri, the nonagenarian Chairman of the VHP unit of Gujarat said openly in the interview he gave to <rediff.com> that 'the list of Muslim shops to be attacked was prepared on the morning of 28th February'. It could be prepared so soon after the Godhra killings only if they had already compiled the necessary information. This amounts to not only the offence of criminal conspiracy under Section 120B of the Indian Penal Code (IPC), but also the offence of preparation for dacoity (the looting that later took place is technically the offence of dacoity), a separate offence under Section 399 of the IPC. All the major Sangh Parivar leaders of the State are guilty of these two offences, quite apart from their culpability in individual offences. *Yet no crime has been registered against them for this offence which they have not even bothered to keep secret.*

The police have registered 210 FIRs in Ahmedabad city for the crimes committed in the first few days of the carnage. This is not by any means the total number of offences committed. Many of the FIRs cover a number of distinct offences committed by a given Hindu mob or mobs, often during a whole day. Whether these offences constitute a single transaction in the technical sense of the Code of Criminal Procedure is doubtful in some cases. That is in fact one of the serious criticisms we have to make.

We have analysed 28 of the FIRs, registered in the police stations of Shahpur Naroda, Meghaninagar, Dariyapur, Rakhiyal, Vatva, Gomtipur, Amraiwadi, Shaheer-Kotada, Bapunagar, Maninagar and Sabarmati in Ahmedabad city. We have also analysed the FIR in Cr. No. 33/02, Kalol Police Station, Panchmahals district, which is in a way a test case of the absolutely unprofessional, if not cavalier, way in which most of the FIRs have been registered.

Mob leaders roam scot free

Before we go on to analyse the FIRs, we must touch on the utter negligence of the police in the matter of making arrests. That arrests have not been made (or made very late) in even the most sensational instances, which have been written about and commented upon in the Press, the visual media and even in Parliament again and again, shows the contempt in which the law and the public opinion are held by the Gujarat police and the government. The whole country has heard of the way Kauser Bano of Naroda was raped, her womb ripped open and the foetus pulled out and burnt. Her killing was the subject matter of the Defence Minister's atrocious comments in Parliament. Newspapers and magazines have written again and again about it. The eyewitness, Jannatbibi Kalubhai Hindubhai Sheikh, has recounted the horror to every visitor to the Shah-e-Alam camp where she has taken shelter. It was known from the beginning that the main assailant was one Ratilal Rathod, a government employee. It should not have been difficult for the police to arrest him, if they wanted to. Yet it took them eleven weeks to arrest him.

On the other hand, the main perpetrators of the looting, burning and killing in the Panchmahals district, Praveen Chowhan and Kirit Chowhan, sons of B.P. Chowhan, the MLA of Kalol, are yet to be arrested (as of 14th May). The offences took place from 28th February till the first few days of March. It is worth noting that in that district a total of 109 persons were killed in the carnage which was organised and led by these two men, quite apart from the crores worth of property looted/destroyed. The mere 'threat' that the two may be arrested was enough for the Sangh Parivar outfits to issue a call for a *Jail Bharo* agitation. And the papers of 15th May have reported that the administration has 'heaved a sigh of relief on coming to know that none less than Jana Krishnamurthy has intervened and persuaded them to call off the agitation'. Since it is not reported as to what has happened to the 'threat' that the police would arrest the two high-profile criminals, we may safely presume that it has

been postponed for the present to assuage the feelings of the Sangh Parivar cadre.

The same is true of the most prominent of the assailants in Sabarkantha district. They are Raju Chawda and Munna Chawda, sons of the Minister for Handicrafts, Ranjit Singh Chawda (MLA from Himmatnagar). The looting, killing and burning in this area went on without let or hindrance throughout the first ten days of March. The police are, as of 14th May, yet to make any effort to arrest the Minister's sons. Lesser criminals, numbering 69, were arrested in that district nearly two and half months after the carnage, leading to a bandh called by the VHP. In Vadodara, two Sangh Parivar men, Vishnu Prajapathi and Kishore Marathe, have been identified as the leaders of the mob. Their names have been mentioned by the survivors in their complaints. They too are yet to be arrested, as of 14th May.

In the Naroda killings (Ahmedabad city), which took 91 lives, the principal accused are Babu Bajrangi, Kishan Korani, Harish Rohera, P.J.Rajput and Raju Noble. All of them are activists of the Sangh Parivar outfits. Their names have been mentioned in each and every one of the complaints filed by the survivors of the Naroda Patia carnage and other killings in that area. Three of them were arrested only in the last week of May. In the case of Ms. Maya Kondnani, MLA from Naroda, and Dr. Jaideep Patel, the Joint General Secretary of the VHP, who were later named by the survivors for their role in the offences, the police are bluntly refusing to arrest them, saying that there is no evidence against them. Whereas, in fact, it is commonly commented in Ahmedabad that Dr. Jaideep Patel stole a march over his boss Pravin Togadia by organising more gruesome killings in his area than Togadia managed in his.

It is true that the police of Ahmedabad have claimed that they have made about 3190 arrests by the second week of May. There is no reason to distrust this number, but what is important is that it does not include the prominent Sangh Parivar personnel who led the murderous gangs.

Delayed arrests fatal to the case

It may be said that not arresting the principal offenders is of no legal consequence, even if it is normally objectionable : they can be chargesheeted and tried even

without being arrested. They can, but not arresting them in time does have a negative effect on the prosecution. Firstly, nothing can demoralise the witnesses (who are none other than the lucky survivors of the killings) more than the knowledge that the killers are freely roaming around within the knowledge of the police. Such demoralisation is ideal for the killers who naturally use their freedom to coerce the witnesses to keep silent. Quick arrests and a quick chargesheet is the best signal the police can send to a witness that he/she can get into the witness box and speak the truth with courage.

Secondly, in cases where the accused are to be subjected to an identification parade, i.e. in cases where the witnesses have no prior acquaintance with the accused, delayed arrest can be fatal to the best mode of corroboration (a properly conducted test identification parade) available to the prosecution. Courts generally do not trust an identification made after a long time and much more so if the accused was not arrested soon after the offence and has been living in the same neighbourhood as the witness : for them there is no way of ruling out the possibility that between the offence and the identification, the witness had a chance of having had the accused pointed out to him/her by someone. Immediate arrest and a quick and properly conducted test identification parade for witnesses who had no prior acquaintance with the accused, would provide the best corroboration. The police have knowingly let that evidence slip by in all the crimes comprising the Gujarat carnage.

But of course this is of a piece with their general attitude concerning the crimes : it is evident from every statement made by the State's rulers, that the Gujarat government, and therefore its police, view the carnage as a justified, if illegal, uprising of the Hindus. Many of them, including the Chief Minister, have publicly sympathised with what they choose to perceive as the revolt of the 'long-suffering Hindu'. They are therefore not interested in prosecuting the offenders but at best only in persuading both sides to let the past be past, and live in peace hereafter. We were told by many refugees in the camps of rural Gujarat, especially in the Dahod and Panchmahals districts, where many of the relief camp inmates are farmers who must one day or the other get back to their lands, that not only their Hindu assailants but also the police have said to them in so many words that if they wish to get back to the village they had better agree to delete the names of the assailants mentioned by them in their complaints. A very specific complaint in this regard was made to us against the police of

Jhalod taluka of Dahod district by the inmates of Sanjeli relief camp. It is evident therefore that the police are not at all thinking of effective prosecution.

No search and seizure operations carried out

Another very major failing on the part of the police is in the matter of search and seizure of the looted property. Property of Muslims has been extensively looted in the State. The burnt out remains of the Muslim-owned hotels on the Ahmedabad-Mumbai highway, the Ahmedabad-Udaipur highway and the Ahmedabad-Indore highway are symbols of this systematic loot and destruction visible to even a casual visitor. But whole *mohallas* and streets in the towns and cities, and whole villages have been consigned to fire after being looted of all their valuables. Our team saw one such fully burnt out village, Sarnayya in Dahod district, which had 86 houses and a Masjid. The modus operandi of the rioters was to loot what could be looted and then douse the structure with petrol and burn it down. In Sabarkantha district, where quite a few of the victims are propertied Bohras, we were told that the rioters attacking a factory or a showroom brought with them skilled persons who would know how to remove useable objects. Of course, the looters had the leisure to identify such objects, and make two or three trips if necessary to take them home, only because the police were very helpfully inactive.

In such cases of looting, *immediate search and seizure of the looted property is essential both for the purpose of proof of the offence*, and for restoration of the stolen property. But in camp after camp we were told that till date no search has been conducted by the police in any of the affected villages and towns. They should know, because if the search had been made, the police would have intimated the victims for the purpose of identification of the property. As with identification of persons, so with identification of property - more so in fact - delay can be fatal to the case since it gives the offender the chance to tamper with distinguishing marks, sell the property, etc.

First Information Reports

It is necessary at the outset to clear some misconceptions in this regard. Many people have complained that most of FIRs are 'vague'. That is not necessarily a defect. The FIR is merely the first information that the police receive about a crime, and its principal role is to kick off the investigation. In given

circumstances, it may very well be that the FIR can only be vague. What is important for the credibility of the first information is that it should be *natural* in the given circumstances, not that it should or should not be full of details or vague. If it is natural - as when the informant is a stranger - that the first information be vague, then it should be and will be vague. If it is natural that it should, in the given circumstances, contain certain information such as the identity of the assailants and witnesses, then it should contain such information. Otherwise that information cannot be credibly led in evidence later.

Many of the FIRs are seriously defective from this point of view. We will only give here a few examples from those we have studied.

Deliberate omission of assailants' names

The complaint in C.R.No.70/02 of Vatva Police Station makes very strange reading. The complainant is none other than Mr. C.J.Singh, Senior Inspector of Police, Vatva Police Station. He says that while he was patrolling the area on the morning of 28th February, 2002, he saw a mob of 4000 to 5000, looting, burning and destroying property. From the Kishanpura bus stand the mob went about destroying the Iran Mallik Masjid and Kabar, and looting some godowns, hotels, etc. He does not name a single one of the rioters in the FIR, though if any prominent local Sangh Parivar leaders were there, it is unlikely that the local Police Inspector would not identify them. He says in his complaint that he fired four rounds and the policemen accompanying him fired seven rounds, but there is no mention of anyone being injured. Evidently none was, though the looting and burning spree went on from 10 a.m. to 7 p.m. It appears that then the rioters got tired and went away, and the Inspector who had gone around with them all along, went back to his police station to register the ridiculous FIR. Apart from the fact that the Inspector obviously facilitated the rioting by merely going behind the mob without calling for forces to stop them, or even making effective use of the means at his command, the FIR is significant for the lack of any details about the mob. No one is named, there is no description of their dress or the words they must have been shouting, and no mention of any local residents as witnesses to the rampage.

If a stranger to the area had filed the FIR, the lack of details would be natural, but when the Police Inspector has filed it, no public personality of the area can be credibly indicted for the offence, nor can any public personality from the

side of Muslims claim to have been a witness. Any evidence led at trial as to the slogans shouted or the apparel worn by the mob which would pin down their political identity could easily be disbelieved by the court. The only way anybody can at all be punished in such a case is to make Police Inspector C.J.Singh an accomplice and prosecute him along with the mob. But who will bell this cat ?

This is only one instance. There are a number of such 'blank' FIRs filed by police officers. The FIR in C.R.No. 58/2002 of the Maninagar Police Station, Ahmedabad, is even more blatant in what it reveals about the police. The FIR is registered by K.N.Patel, Senior Police Inspector. It refers (apparently) to a riot that took place from 1000 hours to 1800 hours on 1st March, 2002 near about the Chandoda chawls, Ramgali Chapra, Bhairavnath Road. The accused are shown as one Abdul Majid Proola Ansari @ Majidulla and three others. The complaint reads as follows : "A 5000 strong mob of Muslims carrying specifically described weapons charged on to the chawls and other buildings, threw bombs and burnt the structures. Slogans were given saying, '*Kill the Hindus, burn their houses.*' The Hindus came out and resisted the attack. Police also fired. One Anna Dagdubhai Sonawane was hit on the head." At the end, the FIR gives a list of the dead and the seriously injured in the day's rioting. The two dead are Muslims (Jummadin Mohammed Jamadar Ansari and Sultan Anubhai Malik) and so are *all the twelve persons who were seriously injured*. Sonawane, whose head injury is mentioned in the narration of the events, finds no mention in the list of the seriously injured. This is obviously, at best, a case where Hindus and Muslims rioted and the police joined the side of the Hindus and together they killed two Muslims and seriously injured twelve. When the local Police Inspector himself (who is likely to be the Investigating Officer) has filed the FIR, and there is no mention of any specific details about the Hindu mob (names, weapons, slogans or words shouted, dress worn) and when a story of self-defence is set up in the police officer's FIR itself, it would be very difficult to convict anyone from the Hindu mob for the death of the two Muslims and the injury to twelve more : unless the Senior Police Inspector K.N.Patel is also made a party to the offence and all of them are jointly prosecuted. But who is to do that ?

In fact, in all the incidents where the FIR, registered at the instance of some police personnel, speaks of 'a mob' or 'a Hindu mob' without naming anyone,

the specific complaints made by the survivors and later sent by post or handed over by other means to the authorities, shows that the names of the leaders of the mob of assailants were known to and identified by the survivors, and moreover, at least some of them are local leaders of the Sangh Parivar outfits who could not but be known to the local police. If the police later file a chargesheet in accordance with the survivors' complaints, the FIR will discredit the prosecution. If they do not, there will be no prosecution.

No investigations into the rapes

A striking thing about the FIRs is that there is no whisper about the crime of rape. In camp after camp one hears tales of public and mass rape of Muslim women by the assailants, but the FIRs are silent. It will be recalled that other reports, especially the ones by the All India Democratic Women's Association and the Women's Panel of the Citizen's Initiative, have also pointed this out. The response of the police to this complaint is that when more serious offences are registered, it does not matter if a lesser offence is not registered ! Firstly, in law the charges are framed separately for each offence, and a separate finding is given for each offence. It may well happen that the assailant is acquitted for the 'graver' offence, but found guilty of a 'lesser' offence. This possibility gets excluded if the 'lesser' offence is not investigated at all. Secondly, even if we assume that we can weigh offences as 'graver' and 'lesser' on the balance of the quantum of punishment, the punishment for gang rape, rape of pregnant women and rape of minors under Section 376(2) of the Indian Penal Code is a minimum of ten years and a maximum of life imprisonment, and the offences are therefore not 'lesser' than any. The plain fact is that even in normal circumstances the police are not very enthusiastic in investigating the offence of rape, which is 'not a law and order problem', as they put it. In circumstances of rioting or mass assault of one community on another, the offence becomes even more invisible.

Omnibus FIRs

A number of the FIRs are omnibus documents. A number of offences are clubbed together in a single FIR registered at the instance of a police officer who in fact could not have had personal knowledge of all the offences described in the complaint. Such documents are tailor-made for a defence lawyer to tear into. This is one area where the High Court of Gujarat has interfered to set the matter right. But that was only in some cases which were brought to the notice

of the Court under its inherent jurisdiction.

C.R.No.33/02, Kalol Police Station, Panchmahals district, is a glaring instance. The offence is said to have taken place between 1100 hours and 1600 hours at Delol village, Dehrol station and Kalol town. Various offences committed by mobs described as 'Hindu religious mob', 'Hindu mob', 'mob of fundamentalist people', at various parts of Kalol town and at Delol village are listed out. It is not stated anywhere in the FIR that the mobs are the same, going from place to place. It is not stated as to how the single complainant, Police Sub-Inspector R.J.Patil of Kalol Police Station, managed to see each of these incidents. Not a single person from the various 'Hindu mobs' is named. Since it is the contention of the victims in the complaints later sent by them by post to the authorities that the mobs in each one of the incidents was different, and was led by named persons who however differ from incident to incident, and these named persons could not be unknown to the police since they are Sangh Parivar cadre or followers of the MLA, Kalol, the contents of the FIR are hopelessly at variance with the version the witnesses will be speaking to. In any case, the very obvious fact that the Police Sub-Inspector R.J.Patil could not possibly have seen or personally known each of the incidents referred to in the FIR would enable the accused to raise serious doubts about the entire investigation.

We have learnt from Advocate Iqbal Ehsan Sayyed of Khanpur, Ahmedabad, that in about 15 cases of omnibus FIRs brought to the notice of the High Court through petitions under Section 482 Cr.P.C., the High Court has directed the police to register separate crimes on the basis of the victims' complaints. Whether the fact that it is a court order will save these cases from the taint of 'belated' complaints has to be seen. But from what we could observe, there are certainly more than 15 such cases.

Inordinate delay in registering FIRs

As said earlier, all over the State, the worst incidents of violence against the Muslims took place from 28th February till the first few days of March. It is needless to say that all the offences are cognisable in nature. In fact, they were offences of such violence and caused such devastation that the police can hardly claim that they did not know of them. But there are a number of instances where the police simply ignored the happenings and did not register an FIR.

The survivors of the carnage were so badly traumatised that they were in no position to come to the police station immediately and give a complaint. As a consequence, quite a few of the FIRs are registered after an inordinate delay.

C.R.No. 131/02, Police Station Naroda, refers to an offence of burning and looting of an automobile establishment by a mob of about 500 Hindus led by named assailants on 28th February, 2002 at Thakkarnagar cross roads. However, the FIR was registered at the instance of the shop owner, Alambhai Jumabhai Mansuri, on 9th March, 2002, ten days after the offence took place. Courts in our country would regard such a long delay in lodging the FIR as fatal to the case. The very occurrence of the offence as complained of would be doubted by the courts. If the police, who must necessarily have had knowledge of the incident, had registered an FIR on the basis of whatever information they had as soon as they got the information, the evidence of the shop owner, who was an eyewitness, would have been good enough evidence.

Another such instance is C.R. No. 144/02 of Police Station Naroda, referring to looting and burning of another such establishment in the area by a Hindu mob shouting Jai Sriram, VHP Zindabad, Bajrang Dal Zindabad, etc. The incident happened 1st March, 2002, and as the police did not register an FIR on their own, the shop owner, Hussainbhai Ghafforbhai Mansuri, lodged the complaint on 12th March, 2002, after a full eleven days.

These are only two such instances. There are six such inordinately delayed FIRs in the 28 we have analysed. If this is a representative percentage, it would mean that more than 20% of the cases are fatally vitiated by delayed registration of the FIR, for no reason other than the sheer carelessness and negligence of the police.

Thus, the police of Gujarat have knowingly and wilfully made a mess of their job in the matter of investigation of the offences related to the genocidal carnage of February-March 2002. The consequence is going to be that many of the assailants will escape punishment notwithstanding that there is enough evidence to convict them if the investigation had been properly done.



Our Demands

- 1. The Government should stop putting pressure on the Relief Camps to close down or reduce their number of inmates. The refugees should be sent back only after adequate compensation has been paid for the property lost, their livelihood ensured by providing them with loans and subsidies, and the violent proclivities of the Sangh Parivar are strictly controlled. In the meanwhile, the cash allowance being given to the relief camps should be increased substantially to cover all their expenses.**
- 2. Sanitation, hygiene and medication in the relief camps should be adequately taken care of by the Government especially in view of the hot summer and the coming monsoon months.**
- 3. All the persons named in the complaints made by the victims should be forthwith arrested. The chargesheets in the cases must be filed in time and effectively prosecuted.**
- 4. As a number of the victims across the state are farmers, and now their lands are open for grabbing, the government should ensure that no mutations or alterations in 7/12 extracts of *Talati* records are made pertaining to agricultural land and house-sites belonging to Muslims who have been displaced from their villages.**
- 5. The house-sites of the displaced persons, whether in rural or urban areas, should be protected from being grabbed.**

In conclusion, the Opposition parties have utterly failed to raise the question of the relief and rehabilitation for the victims of the Gujarat pogroms. They have failed to put pressure upon the Centre and the Gujarat government to ensure that the above demands are fulfilled especially that the inmates of the camps are not forced to leave without adequate compensation and security being provided.

We appeal to the people of Gujarat to at least now wake up and stand by the minorities and give a helping hand to the relief camps and the rehabilitation process.

We appeal to the democratic movements and organizations to come together and resist the fascist onslaught that goes on in the name of Hindutva.



