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Afsara, a Muslim woman in her forties, clutches a photo of family members killed in the February-March 2002 communal violence in Gujarat. Five of her close family members were murdered, including her daughter. Afsara's two remaining children survived but suffered serious burn injuries. Afsara filed a complaint with the police but believes that the police released those that she identified, along with many others. Like thousands of others in Gujarat she has little faith in getting justice and has few resources with which to rebuild her life.

## **COMPOUNDING INJUSTICE: THE GOVERNMENT'S FAILURE TO REDRESS MASSACRES IN GUJARAT**

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Khalid Noor Mohammed Sheikh and R. Bibi are former residents of Naroda Patia, Ahmedabad, site of one of the deadliest massacres in Gujarat on February 28, 2002. They were interviewed by Human Rights Watch in January 2003. Their stories are representative of many of the testimonies contained in this report.

Sheikh lost nine family members in the Naroda Patia massacre, including his pregnant thirty-year-old daughter Kauser Bano. Her belly was cut open and the fetus was pulled out and hacked to pieces before she was killed. Though Sheikh is willing to testify to what he saw, he claims that the police refused to properly register his complaint and that other witnesses in the case are being forced recant their testimony. He told Human Rights Watch:

*I took [my daughter] Kauser to the hospital for delivery the day before the attack. She was ready to deliver. But the doctor said there was time and to come back in the morning. But there was no morning after. By then it was all over. And the tragedy is that the people who ripped my daughter's child out of her body and killed her are walking about freely. Why does it have to be this way?... The government should realize that on this earth, everyone is equal because we are all Indians. So why these kinds of crimes against us? We just want peace and quiet, that's all. We don't want anything else. We want to live under the principles of love and compassion. This is my request and this is my testimony. Please make every effort that the criminals get punished. Even if they don't get punished a lot, they should at least get punished a little.*

R. Bibi's thirty-six-year-old son was killed by the police in Naroda Patia. She has not received government compensation for her son's death because she could not prove that he was dead. She also received very little for damages to her home that was completely destroyed. She told Human Rights Watch:

*A lot happened that day. The crowds came. Everything was destroyed. We didn't know what was going on, that something was going to happen. We were just doing our work. Suddenly there was an attack. They were raping women. Then they were killing them, burning them and cutting them up into pieces. The police killed my son. They shot him.... The government tells us to bring proof when we go to ask for money.... My life was taken away when they shot my son. Everything has been taken away and now they want evidence, where will I get the body from? I wasn't even able to see his body.... They stole everything, they burnt everything, they killed people, and [Rs. 1,250 (U.S.\$27)] is all we got. Now my daughters go and do housework in other people's homes. They wash dishes, they sweep and clean.... We find some way to fill our stomachs. Somehow we have to survive.... It's too much. Even now we have no relief.*

## I. SUMMARY

In 2002, India experienced its greatest human rights crisis in a decade: orchestrated violence against Muslims in the state of Gujarat that claimed at least 2,000 lives in a matter of days. On February 27, 2002, in the town of Godhra, a Muslim mob attacked a train on which Hindu nationalists were traveling. Two train cars were set on fire, killing at least fifty-eight people. In the days following the Godhra massacre, Muslims were branded as terrorists by government officials and the local media while armed gangs set out on a four-day retaliatory killing spree. Muslim homes, businesses, and places of worship were destroyed. Hundreds of women and girls were gang-raped and sexually mutilated before being burnt to death. In the weeks that followed the massacres, Muslims destroyed Hindu homes and businesses in continued retaliatory violence. According to one official estimate, a total of 151 towns and 993 villages, covering 154 out of 182 assembly constituencies in the state, were affected by the violence.

In April 2002, Human Rights Watch released a 75-page report titled "*We Have No Orders to Save You*": *State Complicity and Participation in Communal Violence in Gujarat*. The report, based on investigations conducted in Ahmedabad in March 2002, revealed that the violence against Muslims was planned well in advance of the Godhra massacre and with extensive state participation and support. State officials of the Bharatiya Janata Party (BJP), a Hindu nationalist party that also heads India's national coalition government, were directly involved in the attacks. In many cases, the police led the charge, killing Muslims who tried to block the mobs' advance. The violence was unprecedented in its organization and unmatched in its brutality in the state of Gujarat. Pregnant women's bellies were cut open and fetuses were pulled out before the women were killed. When a six-year-old boy asked for water, he was made to drink petrol. According to eyewitnesses, "A lit matchstick was then thrown inside his mouth and the child just blasted apart."

The groups most responsible for the anti-Muslim violence include the Vishwa Hindu Parishad (World Hindu Council, VHP), the Bajrang Dal (the militant youth wing of the VHP), and the Rashtriya Swayamsevak Sangh (National Volunteer Corps, RSS). Collectively they form the *sangh parivar* (or "family" of Hindu nationalist groups). The BJP is the political wing of the *sangh parivar*.

This report, based in part on a follow-up visit to Gujarat in January 2003, examines the record of state and national authorities in bringing perpetrators to justice and in providing humanitarian relief and other assistance to victims and people displaced by the carnage. The state government's record is appalling. Despite overwhelming evidence implicating police officers and members of Hindu nationalist groups, including the BJP, not a single case connected to Godhra and its aftermath has resulted in a conviction. Most cases are languishing due to the state's failure to arrest and charge those most responsible for the violence; many have already been dismissed because of the prosecution's failure to collect and record evidence. As the Godhra prosecutors shift from one theory to the next, the relatives of the Hindus killed in Godhra are denied redress and some face economic destitution. Living conditions for many Muslims displaced by the violence, meanwhile, have continued to be grossly inadequate. Promised financial assistance has only trickled in, forcing many victims back to the scene of the crime where their tormentors remain at large. And the government has done little to curb insidious discrimination against Muslims that has proliferated in Gujarat's marketplaces and offices since the massacres.

The promotion of Hindu nationalism as a political and cultural force has consequences beyond its impact on the lives of India's religious minorities. The lack of justice and accountability in Gujarat undermines the rule of law for all citizens and creates a climate conducive to more violence, including retaliatory attacks against Hindus. The economic fallout in a violence-torn state has affected all Gujaratis. Thousands of small businesses owned by Hindus, for example, closed down during the violence, leading to enormous financial losses and rising joblessness. Reports continue to surface of Hindu businessmen committing suicide.

Though not the subject of this report, violations of the cultural and religious rights of Muslims in Gujarat, including prohibitions on prayer, have occurred. The widespread destruction of mosques, graves, and community buildings during the violence, most of which have yet to be repaired, has robbed many Muslims of their cultural

and religious spaces. On religious holidays, such as Moharram, a Muslim day of remembrance, or the Hindu festival of Holi, Gujarat is now a tinderbox: the slightest provocation can and often does turn into widespread violence. The government's failure to denounce discrimination and hold perpetrators of communal violence accountable for their acts is an important reason the cycle of violence and discrimination continues.

### **Impunity for Attacks Against Muslims**

The machinery of justice in Gujarat is stacked against Muslims. Since the beginning of the 2002 violence in Gujarat, no less than forty reports have been released by human rights and citizens' groups documenting the scale of the violence, the complicity of the state government, the military-like planning of the attacks, and the failure to rehabilitate the victims and prosecute the offenders.<sup>1</sup> The reports of India's own National Human Rights Commission also strongly condemned the Gujarat government for its failure to contain the violence. Investigations by the Concerned Citizens' Tribunal, headed by former Indian Supreme Court judges, revealed that senior ministers from Gujarat Chief Minister Narendra Modi's cabinet organized a meeting in Lunawada village of Sabarkantha district just hours after the attack in Godhra on February 27, 2002. At the meeting, a plan was drawn up and disseminated to the top fifty leaders of the BJP, RSS, Bajrang Dal and VHP detailing the methods and strategies for the revenge killings that followed the Godhra massacre. The instructions were then methodically carried out by the police.

Although the government initially boasted of arrests in the thousands, many of those arrested have since been released on bail without further proceedings, acquitted, or simply let go. In *"We Have No Orders to Save You,"* Human Rights Watch reported that the Gujarat state administration was engaged in a massive cover-up of the state's role in the massacres and that of the *sangh parivar*. Eyewitnesses filed numerous police First Information Reports (FIRs), the initial reports of a crime recorded by the police, that named local VHP, BJP, and Bajrang Dal leaders as instigators or participants in the attacks. The few that were arrested have since been released on bail. The police reportedly face continuous pressure from the state to avoid making arrests or to reduce the severity of the charges filed. In many instances, the police refused to include in FIRs the names of perpetrators identified by victims. Instead, police registered what are known as "omnibus FIRs," in which the accused is identified only as "an unruly mob" or "a mob of 10,000." Police also filed false charges against Muslim youth arbitrarily detained during combing operations in largely destroyed Muslim neighborhoods. Officers who tried to keep the peace or stop murderous mobs were transferred or faced the wrath of their superiors.

The patterns identified in Human Rights Watch's previous report continue unabated throughout Gujarat. In both Ahmedabad and Gandhinagar, Gujarat's capital, Human Rights Watch spoke to numerous eyewitnesses, lawyers, activists, and officials involved in the preparation of criminal cases against the perpetrators of the attacks and the distribution of victim relief services. Human Rights Watch research suggests that few if any of those most responsible for violence against Muslims are in custody: most of those who remain in jail belong to marginalized Dalit ("untouchable"), Muslim, or tribal communities. Moreover, the instigators and ringleaders of the attacks may escape prosecution altogether because of manipulations in the filing of chargesheets and FIRs, shoddy investigations, and a biased judiciary.

Witnesses who initially came forward to file FIRS and identify their attackers have since been harassed, threatened, or bribed into turning hostile on the witness stand or simply not showing up when the case goes to

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<sup>1</sup> The following is partial listing of book-length reports on the violence in Gujarat: Concerned Citizens Tribunal, *Crime Against Humanity*, vols. I&II (Mumbai: Citizens for Justice and Peace, 2002); Siddharth Varadarajan ed., *Gujarat: The Making of a Tragedy* (New Delhi: Penguin Books, 2002); M.L. Sondhi and Apratim Mukarji eds., *The Black Book of Gujarat* (New Delhi: Manak Publications Pvt. Ltd., 2002); Indian Social Institute, *The Gujarat Pogrom*, (New Delhi: Indian Social Institute, June 2002); Javed Anand and Teesta Setalvad eds., "Genocide—Gujarat 2002," *Communalism Combat*, March-April, 2002, Year 8, no. 77-78; John Dayal ed., *Gujarat 2002: Untold and Re-told Stories of the Hindutva Lab* (Delhi: Media House, 2002); Paul Mike and Aloysius Irudayam, *Racial Hegemony: Gujarat Genocide* (Madurai and Chennai: Institute of Development Education, Action & Studies, All India Catholic University Federation, and Jesuit Youth Ministry in South Asia, 2002); and Swami Agnivesh and Valson Thampy, *Harvest of Hate: Gujarat Under Siege* (New Delhi: Rupa Co., 2002). For regular updates on developments in Gujarat see [www.onlinevolunteers.org](http://www.onlinevolunteers.org).

trial. In exchange for being allowed to return to their homes by their neighbors, Muslims are being forced to withdraw their cases. Local officials have actively participated in facilitating such “peace” negotiations. Many who have filed complaints, or who themselves were injured by police gunfire, have had false charges filed against them. Attackers roam with impunity, threatening more violence if anyone speaks out against them.

The justice machinery has done little to investigate or prosecute cases of sexual violence. Problems include a lack of medical examinations for victims, refusal to register rape cases in FIRs or include them in chargesheets, deficiencies in Indian rape laws, and the silencing of rape victims by members of their own community due to the stigma that often accompanies such crimes. The widespread burning of victims’ bodies also destroyed evidence of many rapes.

In numerous instances, and in an effort to cover up their own participation in the violence, the police have instituted false cases against men and women injured in police shootings. Some postmortems and medical certificates have also been manipulated to hide any incriminating evidence, falsely indicating that the victims were killed or injured by stabbing or sword injury during their participation in the riots, and not by gunfire. Should a case reach trial, Muslim victims face biased or cowed prosecutors and judges. Lawyers representing Muslim victims or doctors providing medical relief have also faced ongoing harassment and threats.

If the rule of law has been nonexistent for some, it has been draconian for others. More than one hundred Muslims allegedly involved in the attack on the train in Godhra have been charged under the much-criticized Prevention of Terrorism Act (POTA). No Hindus have been charged under POTA in connection with the post-Godhra violence against Muslims, which the state continues to dismiss as spontaneous and unorganized.

To determine possible culpable police inaction or direct complicity during Godhra and its aftermath, the state of Gujarat appointed the Shah-Nanavati Commission of Inquiry, headed by two retired judges. When asked in May 2003 about the evidence collected thus far, Justice Nanavati responded, “the evidence recorded so far in other districts [does] not show any serious lapse on the part of police and the civil administration.” Numerous commissions of inquiry officially appointed to investigate communal riots in India since the partition of India and Pakistan have indicted *sangh parivar*-affiliated groups for their role in violent crimes against India’s minorities yet no action has been taken against them. The current state commission thus inspires little hope of justice.

Ongoing impunity also sows seeds for further violence. In addition to work on the Godhra attack and its aftermath, Human Rights Watch interviewed eyewitnesses to the September 2002 attack on the Akshardham cultural complex of the Swaminarayan Hindu sect in Gandhinagar. On September 24, the complex was attacked by two gunmen. Thirty-three people were killed and seventy were injured, most of them Hindu. Handwritten notes found in the gunmen’s pockets identified the attackers as members of a “movement for revenge,” presumably for the violence against Muslims in the state. This time the central Indian government responded swiftly, taking appropriate steps to maintain peace and security by deploying approximately three thousand army personnel during a nationwide strike called by the VHP to protest the attack. Indian officials called on citizens to end the cycle of violence by refraining from taking the law into their own hands. Critics of the government remarked that had it acted as quickly following the Godhra massacre, many deaths could have been prevented.

### **Inadequate Assistance for Victims and Continued Anti-Muslim Discrimination**

The destruction, enmity, and insecurity left by the communal violence in Gujarat forced more than one hundred thousand Muslims into more than one hundred makeshift relief camps throughout the state, some located in Muslim graveyards. Between June and October 2002, the government unilaterally began to close the camps, forcing thousands of victims either to enter unofficial relief camps or to return to villages and neighborhoods where their security was continually threatened. The state government failed to provide adequate and timely humanitarian assistance to the internally displaced. Problems included serious delays in government assistance reaching relief camps, inadequate state protection for displaced persons and relief convoys, and failure to provide medical and food supplies and build sanitation facilities. The state also failed to address the health, social, and economic needs of sexual violence victims through measures like trauma counseling and testing for sexually

transmitted diseases. Moreover, a lack of access and protection in relief camps limited nongovernmental relief workers' assistance to victims. In January 2003, then-chairperson of the National Human Rights Commission (NHRC) Justice J.S. Verma deplored the failure to provide adequate relief to victims of the violence stating that "a lot more ought to have been done by the Gujarat Government." The recommendations of the NHRC, issued in April 2002, have yet to be implemented.

A series of state government orders following the violence, issued in part as a result of public pressure, established guidelines for compensation for injury, and loss of life, property, employment, or livelihood. By and large, however, victims received paltry sums in compensation for their losses. Most people interviewed by Human Rights Watch received negligible amounts to compensate for the destruction of their homes, ranging from a few hundred to a few thousand rupees (less than one hundred dollars). Sixty-year-old R. Bibi, a former resident of Naroda Patia told Human Rights Watch that the government demanded proof that her son was killed before she could receive compensation: "They want proof, where am I going to go to get proof? My life was taken away when they shot my son. Everything has been taken away and now they want evidence, where will I get the body from? I wasn't even able to see his body." Of the dozens of people interviewed by Human Rights Watch in January 2003, none had been compensated for injury or loss of employment or livelihood.

Independent nongovernmental groups estimate that as a result of the large-scale destruction of homes, properties, and businesses in Gujarat, the Muslim community has suffered an economic loss totaling Rs. 3,800 crore, or approximately U.S. \$760 million. The prolonged closure of shops, industries, and commercial establishments in Gujarat also hurt the economy as a whole and added to soaring unemployment rates.

Muslims in Gujarat, already among the poorest populations in the state, have been further economically marginalized. Ongoing economic boycotts instituted by Hindu nationalist leaders with the support of local officials are crippling the community as a whole. Many remain unable to farm their fields, sell their wares, return to their businesses, operate commercial vehicles, or retain their jobs, including in the public sector. The violence has also proved a successful catalyst for the community's "ghettoization." The reconstruction of homes, carried out almost exclusively by nongovernmental and charity groups, has largely taken place along communal lines. Muslims cannot work, reside, or send their children to schools in Hindu dominated localities. As the segregation of communities continues, hopes for community dialogue or reconciliation have dissipated.

Following the violence in Gujarat in February and March 2002, more than 33,000 children were forced into relief camps throughout Gujarat, representing one-third of the total displaced population. In addition to the children who were direct victims of the mobs, children were witnesses to horrifying violations and deaths of family members. Human Rights Watch spoke to several children who have yet to fully resume their education and have received no psychological counseling. Many suffered severe burn injuries that still cover their arms, legs, and in some cases, their entire bodies. Children's drawings are replete with images of bombs, guns, swords, burning homes and mosques, and mutilated bodies.

### **Communalism as a Political Strategy**

Although different from one another in many respects, *sangh parivar*-affiliated groups have collectively and violently promoted the argument that, because Hindus constitute the majority of Indians, India should be a Hindu state. Nationwide violence against India's Muslim community in 1992 and 1993 following the destruction of the Babri Masjid (mosque) in Ayodhya, and against India's Christian community since 1998, including in the state of Gujarat, stemmed in large part from the violent activities and hate propaganda of these groups.

The attacks and other activities in Gujarat benefited the Bharatiya Janata Party by consolidating the Hindu vote-bank. In December 2002, the BJP won by a landslide in state elections in Gujarat. Using posters and videotapes of the Godhra massacre, and rhetoric that depicted Muslims as terrorists intent on destroying the Hindu community, the party gained the most seats in areas affected by the communal violence. A total of thirty-six winning candidates have prior criminal cases pending against them. Many have been implicated by witnesses in



the anti-Muslim pogrom. Tensions continue to run high in Gujarat as sporadic violence continues in many parts of the state. Emboldened by the BJP victory, the *sangh parivar* has once again gone on the attack.

Soon after their Gujarat win, BJP and VHP officials declared that the strategy used in Gujarat would be repeated all over India, thus raising concerns of further communal violence. In states that go to the polls this year, such as Rajasthan and Madhya Pradesh, campaigns are already in full swing. Members of the VHP in Rajasthan are busy distributing weapons similar to those used in Gujarat, as well as literature depicting Muslims as sexual deviants and terrorists. Members of both communities live in fear that a simple altercation could become the pretext for large-scale violence. In Madhya Pradesh, members of the Hindu Jagran Manch, a *sangh parivar* member, have staged violent protests demanding unfettered access to an eleventh century monument they claim is a temple and that Muslims have been using as a mosque. Three people were killed there in rioting in February 2003.

A surprising feature of the 2002 violence in Gujarat was the mobilization of Dalits, tribals (indigenous peoples), women, and the urban middle class in attacks against Muslims. Many Dalits, tribals, and Hindus also acted heroically to protect their Muslim neighbors. This report also documents the *sangh parivar*'s recruitment and targeting of Dalits and tribals for political ends. Christians in the state have also come under renewed legislative and physical attack.

The violence in Gujarat underscores the volatile consequences of rising Hindu nationalist sentiment propagated by the *sangh parivar*. Despite assertions to the contrary by the Gujarat government, the situation is far from "normal." The arming of civilians continues unabated in the state. Training camps, known as *shakhas*, continue to multiply, providing weapons such as tridents and swords and extensive physical and ideological training to men as well as young boys targeted in recruitment drives. Instead of cracking down on these groups, the Gujarat state BJP government has included the distribution of arms as part of its election manifesto. The *sangh parivar*-sponsored militarization of a growing Hindu nationalist cadre enjoys political patronage, outright impunity, and, as evidence increasingly suggests, funding from Indians living abroad. Likely unbeknown to charitable Indians who have donated millions to VHP and RSS-affiliated groups abroad—groups that represent themselves as cultural, educational, or humanitarian—some of their money is being redirected for violent and sectarian purposes.

India's shift away from secular democracy poses a significant threat to the human rights of India's lower castes and religious minorities and, in a region with two long-term and now nuclear foes, to the security of the region as a whole. The *sangh parivar* exerts considerable influence over India's social, educational, and defense policies, including the country's decision to test nuclear weapons in 1998. Their revivalist campaign includes the "Hinduization" of education, including the revision of history books to include hate propaganda against Islamic and Christian communities.

Human Rights Watch calls on the central Indian government to step in and take over investigations and prosecutions in key cases, including the massacres in Godhra, Naroda Patia, and Gulbarg Society. As events have proven, the same state government complicit in the violence cannot be entrusted to deliver justice or relief. Indians living abroad must also demand accountability from *sangh parivar*-affiliated organizations abroad. In so doing, they would be supporting the protests of many within India against the ongoing assault on India's proud tradition as a secular democracy.

The international community must put pressure on the Indian government to stop supporting communally divisive policies and end ongoing impunity for campaigns of orchestrated violence. If the activities of these groups remain unchecked, violence may spread to other parts of the country and threaten the security of the subcontinent as a whole.

## II. MAIN RECOMMENDATIONS TO INDIAN AUTHORITIES

To bring itself into compliance with domestic and international law, the Gujarat government must act now to prevent further attacks, end impunity, and deliver meaningful assistance to those displaced and dispossessed by the violence. Those responsible for attacks against Hindus and Muslims in Godhra, Akshardham, and Godhra's violent aftermath, including members of the *sangh parivar* and the BJP, must be brought to justice. Specifically, Human Rights Watch makes the following recommendations to the Gujarat state and central Indian government. A complete set of recommendations to domestic and international actors can be found at the end of this report.

#### **To the State Government of Gujarat:**

- Ensure that police register and investigate all cases of communal violence regardless of the religious background of the victim. Establish women's cells in police stations for the reporting and investigation of sexual violence cases and other crimes against women.
- Act without delay to implement the recommendations of the NHRC on the violence in Gujarat.
- Turn over investigations implicating state and police officials to federal agencies such as the CBI.<sup>2</sup> Ensure that these investigations address the conduct of state officials, including police and Bharatiya Janata Party leaders, who incited, took part in, or were complicit in the attacks.
- Suspend all police officers implicated in the attacks, pending investigation. Police found to have violated their duties should be dismissed and prosecuted where appropriate. All officers who helped stem the violence and have since been demoted or transferred should be reinstated to their original posts.
- Provide integration assistance to individuals and families who were victims of the communal violence and who are unable or unwilling to return to their homes. Such integration assistance should include housing, employment assistance, food and water, and access to education and healthcare.
- Allocate compensation for family members of those killed or the reconstruction of homes and places of business, and for the provision of food and other relief supplies for all persons displaced or dispossessed in a nondiscriminatory manner and in accordance with international human rights law and the U.N. Guiding Principles on Internal Displacement.
- Reassess existing state and federal compensation packages that fail to cover all damage and destruction suffered by victims.
- Take prompt and appropriate action against any government official, including elected representatives and members of the state or local administration, who endorse, encourage, or otherwise promote discrimination against Muslims or any other group.
- Adopt and implement measures to ensure safe return and continuing security for all urban and rural families affected by the violence who wish to go back to their original residences and places of business.
- Adopt and implement measures to ensure the security of human rights defenders, journalists, and independent and secular NGOs working in Gujarat to promote human rights and non-discrimination.

#### **To the Government of India:**

The government of India should ensure that Gujarat state investigates and prosecutes perpetrators of communal violence and, where necessary, cooperates with federal agencies such as the CBI in doing so. The government should also take appropriate measures to ensure the security and safety of all citizens of Gujarat, including assisting those who have been displaced or dispossessed by the violence. In addition, Human Rights Watch recommends that the government:

- Investigate and prosecute officials of those organizations, including the VHP, RSS, BJP, Bajrang Dal, Shiv Sena, and their affiliates, implicated in continuing violence against Dalits, tribals, and religious minorities.
- Repeal the resolution that exempts trishuls (tridents) from the scope of the Indian Arms Act. Prohibit, in conjunction with state governments, the distribution of tridents and swords by members of the *sangh parivar*; and seize weapons that have already been distributed by these groups.

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<sup>2</sup> CBI is a federal investigative agency that handles cases of corruption and cases of interstate and other crimes of national importance. CBI inquiries are often demanded in cases where local or state investigations are perceived to be biased.

- End impunity for past campaigns of violence against minorities, including the anti-Sikh violence in Delhi in 1984 and the post-Ayodhya violence of December 1992 and January 1993; the recommendations of the Srikrishna Commission on the post-Ayodhya violence in Bombay should be implemented without delay. Police responsible for excessive use of force should be prosecuted; those having the power and duty to stop the violence but who did not intervene should be appropriately punished.
- Repeal the Prevention of Terrorism Act (POTA), which stands in violation of international due process norms and has been discriminatorily applied in the state of Gujarat and elsewhere.
- Request assistance from United Nations relief agencies, including the United Nations Development Programme (UNDP), the United Nations Children’s Fund (UNICEF), the World Food Programme (WFP), the World Health Organization (WHO), and the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), as well as international humanitarian organizations, to ensure the provision of relief and rehabilitation assistance to all those displaced and dispossessed by the communal violence.

### III. BACKGROUND TO THE VIOLENCE

This chapter provides a brief overview of the February-March 2002 violence in Gujarat, the role of the *sangh parivar*, and the complicity of the Gujarat state government. While much of this information is taken from Human Rights Watch’s previous report, “*We Have No Orders to Save You*,” this chapter also summarizes additional evidence that has emerged in the intervening months, including evidence of state complicity and the foreign funding of *sangh parivar* activities.

#### Overview of the Violence

The violence in Gujarat began in the town of Godhra when two carriages of a train carrying Hindu activists was set on fire on February 27, 2002. Fifty-eight people were killed, many of them women and children. The activists were returning from Ayodhya, Uttar Pradesh, where they had traveled to support a campaign led by the Vishwa Hindu Parishad (World Hindu Council, VHP) to construct a temple to the Hindu god Ram on the site of a sixteenth century mosque destroyed by Hindu militants in 1992. Hindu-Muslim violence following the destruction of the mosque claimed thousands of lives in Bombay and elsewhere in 1992 and 1993. The VHP claims that the mosque was built on a site that was the birthplace of Ram.<sup>3</sup>

By the evening of February 27, retaliatory attacks against Muslims had begun, including in Rajkot, Vadodara, and Bharuch. Starting on the morning of February 28, Hindu mobs unleashed a coordinated attack against Muslims in many of Gujarat’s towns and cities.<sup>4</sup> Despite the state’s claims that police were simply overwhelmed by the sheer size of the Hindu mobs—often numbering in the thousands—evidence collected by the media, Indian human rights groups, and Human Rights Watch all point to state sponsorship of the attacks. In a matter of days more than 2,000 people were killed, an overwhelming majority of them Muslim. The violence quickly spread to poorly protected rural areas, fanned by hate campaigns and economic boycotts against Muslims. Accounts of politicians directing the violence were commonplace.

Tragically consistent with the longstanding pattern of attacks on minorities and Dalits (or so-called untouchables) in India, and with previous episodes of large-scale communal violence in India, hundreds of Muslim girls and women were brutally raped and mutilated in Gujarat before being killed.<sup>5</sup> Widespread looting and burning of

<sup>3</sup> See Human Rights Watch, “India: Communal Violence and the Denial of Justice,” *A Human Rights Watch Report*, vol. 8, no. 2, April 1996 [online], <http://www.hrw.org/reports/1996/India1.htm> (retrieved May 22, 2003).

<sup>4</sup> Muslims make up about 10 percent of Gujarat’s fifty million-strong population.

<sup>5</sup> See Human Rights Watch, “*We Have No Orders to Save You*”: *State Participation and Complicity in Communal Violence in Gujarat* (New York: Human Rights Watch, 2002), pp. 16-18, 27–29; Human Rights Watch, *Broken People: Caste Violence Against India’s “Untouchables”* (New York: Human Rights Watch, 1999), Chapter IX; and Human Rights Watch, “India: Communal Violence and the Denial of Justice.”

homes accompanied the brutal killing and sexual violence. Attackers destroyed dargahs, traditional meeting grounds for Hindus and Muslims, and razed mosques. In some cases makeshift Hindu temples were erected in their place, and saffron flags, the signature emblem of Hindu nationalist groups, were dug deep into mosque domes. Roughly twenty mosques were destroyed in Ahmedabad alone. Even historical monuments were not spared.<sup>6</sup>

### **State Complicity in the Attacks**

Soon after the Godhra carnage, the national government sent the army to Gujarat. The state government refused to deploy the soldiers until twenty-four hours after they arrived and only once the worst violence had ended. After allowing thirty-six hours to pass without any serious intervention, the first of several contingents of army troops were sent to Ahmedabad, Rajkot, and Vadodara on March 1. The army's inability to rapidly intervene was also hindered by the state government's failure to provide requested transportation support and information regarding areas where violence was occurring.<sup>7</sup>

In Ahmedabad, Gujarat's commercial capital and the site of Human Rights Watch's investigations in March 2002, many attacks took place within view of police posts and police stations. Human Rights Watch viewed several police posts less than fifty feet from the site of burnt Muslim-owned restaurants, places of business, and hotels. Without exception, the Hindu-owned establishments neighboring the destroyed structures were unscathed. The same pattern was observed by India's National Human Rights Commission during its fact-finding mission in March 2002.<sup>8</sup>

Attacks throughout Ahmedabad on February 28, 2002, also began at precisely the same time, around 10:30 in the morning. Muslims living in "mixed communities," that is alongside Hindus, were hit the hardest; those concentrated in Muslim enclaves fared only marginally better. According to an article in *The Week*, a weekly Indian news magazine, 1,679 houses, 1,965 shops, and twenty-one *godowns* (warehouses) were burnt, 204 shops looted, and seventy-six shrines were destroyed in Ahmedabad. The great majority of them belonged to Muslims.<sup>9</sup>

Dozens of witnesses interviewed by Human Rights Watch described almost identical operations. The attackers arrived by the thousands in trucks, clad in saffron scarves and khaki shorts, the signature uniform of Hindu nationalist, or Hindutva, groups. Armed with swords, *trishuls* (small, sharp tridents associated with Hindu mythology), sophisticated explosives, and gas cylinders, they shouted slogans of incitement to kill. Guided by voter lists and computer printouts listing the addresses of Muslim families and their properties, information obtained from the Ahmedabad municipal corporation among other sources months earlier, the attackers embarked on a murderous rampage.<sup>10</sup>

In many cases, the police led the charge, aiming and firing at Muslims who got in the way of the mobs. The state offered one excuse after another—that the police were outnumbered, overwhelmed, did not receive orders to respond, or that their own feelings could not be "insulated from the general social milieu"—none sufficient to explain their participation. Press reports and eyewitness testimonies, including those collected by Human Rights Watch, abound with stories of police participation and complicity in the attacks. Their crimes ranged from inaction to direct participation in the looting and burning of Muslim shops, restaurants, hotels, and homes, and the killing of Muslim residents. In many instances, the police also fired upon Muslim youth, crushing any organized self-defense against the mobs.<sup>11</sup> A key state minister was reported to have taken over a police control room in Ahmedabad on the first day of the carnage, issuing directions not to rescue Muslims in danger of being killed.<sup>12</sup>

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<sup>6</sup> See Human Rights Watch, "We Have No Orders to Save You," pp. 31-33.

<sup>7</sup> Rahul Bedi, "Soldiers 'held back to allow Hindus revenge,'" *Telegraph*, March 4, 2002.

<sup>8</sup> Human Rights Watch, "We Have No Orders to Save You," p. 22.

<sup>9</sup> Anosh Malekar, "Silence of the Lambs," *The Week*, April 7, 2002.

<sup>10</sup> Human Rights Watch, "We Have No Orders to Save You," p. 22.

<sup>11</sup> Human Rights Watch, "We Have No Orders to Save You," p. 24.

<sup>12</sup> Praveen Swami, "Saffron Terror," *Frontline*, March 16 – 29, 2002.

The Gujarat government, and in particular its chief minister, responded to severe criticism by either tacitly justifying the attacks or asserting that they were quickly brought under control. On March 1, Chief Minister Modi confidently declared that he would control the “riots resulting from the natural and justified anger of the people.”<sup>13</sup> “Every action has an equal and opposite reaction,” Modi told reporters. “The five crore [50 million] people of Gujarat have shown remarkable restraint under grave provocation,” referring to the Godhra massacre.<sup>14</sup>

Since the release of Human Rights Watch’s previous report, much more evidence has emerged detailing the extent of state participation and of the *sangh parivar*’s execution and planning of the violence against Muslims. The following section offers a partial accounting of that evidence as documented in the two-volume report of the Concerned Citizens’ Tribunal – Gujarat 2002 [hereinafter Citizens’ Tribunal] titled *Crime Against Humanity*.<sup>15</sup>

The following are excerpts from the report:

- On the evening of February 27, after visiting Godhra, Shri Modi announced that there would be a state *bandh* [shutdown] the next day. This was after the VHP and BD had already given the *bandh* call. Thereafter, the chief minister called a meeting of senior police officers. At this meeting, specific instructions were given by him in the presence of cabinet colleagues, on how the police should deal with the situation on the *bandh* day. The next day, i.e., on the day of the *bandh*, there was absolutely no police bandobast [cordonning arrangement]. The state and city (Ahmedabad) police control rooms were taken over by two ministers, i.e., Shri Ashok Bhatt and Shri Jadeja. Repeated pleas for help from people were blatantly turned down.
- Senior ministers from Shri Modi’s cabinet organised a meeting late in the evening on February 27, in Lunavada village of Sabarkantha district. Shri Ashok Bhatt, the state health minister and minister Prabhat Singh Chauhan from Lunavada attended. At this meeting, a diabolical plan was drawn and disseminated to the top 50 leaders of the BJP/RSS/BD/VHP, on the method and manner in which the 72-hour-long carnage that followed was to be carried out.
- According to confidential evidence recorded by the Tribunal, these instructions were blatantly disseminated by the government, and in most cases, barring a few sterling exceptions, methodically carried out by the police and the IAS administration. There is no way that the debased levels of violence that were systematically carried out in Gujarat could have been allowed, had the police and district administration, the IPS and the IAS, stood by its constitutional obligation and followed Service Rules to prevent such crimes.<sup>16</sup>

### **The Sangh Parivar**

Attacks on Muslims in many cases are directly encouraged by Hindu nationalist organizations as part of a concerted campaign to promote and exploit communal tensions to further the BJP’s political rule—a movement that is supported at the local level by militant groups that operate with impunity and under the patronage of the

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<sup>13</sup> “Gujarat used as Hindutva laboratory,” *Asian Age*, March 25, 2002.

<sup>14</sup> Scott Baldauf, “Indian government struggles to maintain order; Continuing riots test Hindu-led coalition’s credibility,” *Christian Science Monitor*, March 4, 2002.

<sup>15</sup> The eight-member tribunal was comprised of eminent members of Indian society, and included: Justice V.R. Krishna Iyer, retired Supreme Court judge; Justice P.B. Sawant, retired Supreme Court judge; Justice Hosbet Suresh, retired Mumbai High Court judge; Advocate K.G. Kannabiran, the president of the People’s Union for Civil Liberties; Aruna Roy of the NGO Mazdoor Kisan Shakti Sangathan; Dr. K.S. Subramanian, former Director General of Police, Tripura; and Professors Ghanshyam Shah and Tanika Sarkar of Jawaharlal Nehru University. The Tribunal collected 2,094 oral and written testimonies from victims, independent human rights groups, women’s groups, NGOs, and academics. The Tribunal also met with numerous senior government officials and police officers. Concerned Citizens Tribunal, *Crime Against Humanity*, vol. I (Mumbai: Citizens for Justice and Peace, 2002), pp. 9 – 10 [hereinafter Concerned Citizens Tribunal, *Crime Against Humanity*, vol. I].

<sup>16</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II (Mumbai: Citizens for Justice and Peace, 2002), p. 18 [hereinafter Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II].

state.<sup>17</sup> The Rashtriya Swayamsevak Sangh (National Volunteer Corps, RSS) was founded in the city of Nagpur in 1925 by Keshav Baliram Hedgewar with the mission of creating a Hindu state. Since its founding, it has propagated a militant form of Hindu nationalism, which it promotes as the sole basis for national identity in India. According to the RSS, the leaders of India's nationalist movement and of post-independence India failed to create a nation based on Hindu culture. Western thought and civilization are perceived as enemies of Hindu culture. Religions such as Islam and Christianity are depicted as alien to India; they are seen as the religions of foreign invaders—the Mughals and the British. The RSS wanted “the entire gamut of social life” to be designed “on the rock bed of Hindu nationalism,” a goal that inspired the creation of RSS political, social, and educational wings, a family of organizations that, as noted above, is now referred to collectively as the *sangh parivar*.<sup>18</sup>

The VHP was formed in 1964 to cover the social aspects of RSS activities. The VHP organizes and communicates the RSS message to Hindus living outside India and holds conferences for Hindu religious leaders from all over the country. The most publicized of the VHP's activities was its Ram temple campaign in Ayodhya (see above). The VHP has also organized programs to reconvert those who have converted from Hinduism to other faiths. The Bajrang Dal is the militant youth wing of the VHP. It was formed in 1984 during the Babri Masjid conflict, in order to mobilize youth for the Ram temple campaign. The Jana Sangh Party was formed in 1951 as the political wing of the RSS, and later replaced by the BJP in 1980. The BJP heads India's coalition government. Gujarat, one of few Indian states led by the BJP, has earned the dubious reputation of being a laboratory for the Hindutva agenda. Since the BJP first assumed power in Gujarat in 1995, it has stacked the government's inner ranks with VHP and RSS members and others that shared and would actively promote *sangh parivar* policies and programs.<sup>19</sup>

### ***Distribution of Weapons and Training by the Sangh Parivar***

The Citizens' Tribunal report also detailed the extent of organization and planning by *sangh parivar* groups that carried out the attacks. Before the anti-Muslim pogrom, tridents and swords were distributed freely throughout Gujarat and were extensively employed as weapons in the killings. Evidence collected by the Citizens' Tribunal from Ahmedabad, Kheda, Bharuch, Ankleshwar, Panchmahal, Mehsana, Sabarkantha, Banaskantha, and Vadodara, revealed that,

training camps were conducted by the Bajrang Dal and the VHP, backed by the RSS and supported by democratically elected representatives from the ruling BJP. The camps were often conducted in temples. The aim was to generate intense hatred against Muslims painted as ‘the enemy’, because of which violence was both *glorified* through the distribution of *trishuls* [tridents] and swords, and *justified* as the legitimate means to self-defence.<sup>20</sup>

*Shakhas* or training camps have long been operational in Gujarat and have experienced increased enrollment since the events of February and March 2002.<sup>21</sup> *Trishul diksha* or trident distribution programs were introduced in Gujarat fourteen years ago. According to VHP statistics, more than 280,000 youth have been given “this

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<sup>17</sup> For more on the *sangh parivar*, see Human Rights Watch, “*We Have No Orders to Save You*,” pp. 39-40.

<sup>18</sup> Ibid. ; Rashtriya Swayamsevak Sangh, “Sangh's March,” in *Widening Horizons* [online], <http://www.rss.org/library/books/wideninghorizons/ch9.html> (retrieved September 1999).

<sup>19</sup> Human Rights Watch, “*We Have No Orders to Save You*,” pp. 41-43.

<sup>20</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II, p. 25 (emphasis in original). The Concerned Citizens' Tribunal report continues: “Six months before the carnage, the tempo of communal mobilisation had increased in a number of villages, with the launch of the *shilapujan* connected to the building of the Ram temple in Ayodhya. ‘*Trishul diksha*’ programmes, in which *trishuls* were distributed at large gatherings, were also organised in a number of areas during the same period. Pranti (Sabarkantha), Sanjeli, Pandharwada and villages from all over Khanpur *taluka* (Panchmahal) reported such meetings. These meetings were only held in villages where there were Muslims and where openly threatening the latter appeared to be one of the main objectives of the assembly.” Ibid., p. 36. A *shilapujan* is a ceremony for the consecration of foundation stones for temple building.

<sup>21</sup> Anil Pathak, “RSS Shakhas Poised to Swell in State,” *Times of India*, May 29, 2002. For more on the recruitment, methodology, and funding of the camps, see Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II, pp. 55-59.

indoctrination” in Gujarat, the highest recorded number in the country.<sup>22</sup> In April 2003 alone, tridents were distributed to more than 3,000 youth in the border districts of Kutch, Banaskantha, Panchmahals, Surat, Kheda, Mehsana, and Gandhinagar. VHP Gujarat’s general secretary Kaushik Mehta told the *Times of India* that trident distribution does not violate the Arms Act as tridents are less than six inches in size and therefore cannot be classified as weapons.<sup>23</sup>

When coupled with reports of ongoing violence, and a rise in attacks against Christians, tribals, and Dalits in Gujarat (see Chapter XI), the mushrooming of shakhas and the distribution of weapons is cause for great concern for the future security of minorities in Gujarat. The expansion of trishul dikshas to other parts of the country must also be addressed. As the controversy over trishul diksha in Rajasthan rages on (see Chapter XI), the Gujarat unit of the VHP and the Bajrang Dal declared that such programs would continue in the state, adding that Gujarat was actively supplying trishuls to neighboring Rajasthan, Madhya Pradesh, and Maharashtra.<sup>24</sup>

In January 2003, Human Rights Watch interviewed Rajeev Singh Pawaar, security head for the Bajrang Dal in Lucknow in the state of Uttar Pradesh. He told Human Rights Watch: “Fifty-eight people were killed in Godhra. Everyone knows this. If this kind of thing happens in Gujarat we will again do the same thing, here also and we are planning for it.... If in any part of the nation Godhra is repeated we will react in the same manner. To end Islamic terrorism is our main priority. This is why we train in the use of trishuls.”<sup>25</sup>

Instead of cracking down on the arming of civilian populations, the Gujarat state BJP government has included the distribution of arms as part of its manifesto under a section on security. Proposed “security” measures outlined in the manifesto include:

- training youth to counter terrorism;
- issuing identification cards for border area residents, training them in the use of weapons, and issuing them arms licenses;
- forming Shakti grams or village forces in border areas; and
- making special efforts to “attract private sector in manufacturing of defence equipments in Gujarat.”<sup>26</sup>

### ***Foreign Funding of Sangh Parivar Activities***

The *sangh parivar*-sponsored militarization of a growing Hindu nationalist cadre enjoys political patronage, outright impunity, and, as evidence increasingly suggests, funding from Indians living abroad. Since the release of “*We Have No Orders to Save You*,” details have emerged identifying *sangh parivar* outfits in the United States and United Kingdom as major sources of funding for *sangh* activities in India. A November 2002 report titled *The Foreign Exchange of Hate: IDRF and the American Funding of Hindutva*, for example, documents the financial ties between the Indian Development and Relief Fund (“IDRF”), a U.S.-based charity, and *sangh parivar* groups that have been linked to attacks against Muslims and Christians and to forcible conversions of tribals to Hinduism.<sup>27</sup> The report is based on analyses of more than 150 pieces of documentary evidence, almost

<sup>22</sup> “‘Trishul diksha’ to continue in Gujarat – VHP,” *Times of India*, April 23, 2002.

<sup>23</sup> Ibid. The Indian Arms Act proscribes weapons with a sharp blade greater than 10.5 cm or six inches in length.

<sup>24</sup> Ibid.

<sup>25</sup> Human Rights Watch interview with Rajeev Singh Pawaar, Lucknow, January 14, 2003.

<sup>26</sup> See <http://www.bjpguj.org/manifesto/m3.htm> (retrieved May 29, 2003).

<sup>27</sup> Sabrang Communications and Publishing Pvt. Ltd. & The South Asia Citizens Web, *The Foreign Exchange of Hate: IDRF and the American Funding of Hindutva* (2002) [online], <http://www.mnet.fr/aiindex/2002/FEH/> (retrieved May 29, 2003). The study found that:

less than 20 percent of the funds sent to India by IDRF go to organizations that are not openly non-sectarian and/or affiliated with the Sangh. More than 50 percent of the funds disbursed by the IDRF are sent to Sangh related organizations whose primary work is religious ‘conversion’ and ‘Hinduization’ in poor and remote tribal and rural areas of India. Another sixth is given to Hindu religious organizations for purely religious use. Only about a fifth of the funds go for disaster relief and welfare—most of it because the donors specifically designated it so. However, there is considerable documentation indicating that even the relief and welfare organizations that IDRF funds, use the moneys in a sectarian way. In summary, in excess of 80 percent of IDRF’s funding is allocated for work that is clearly sectarian in nature. Ibid., § 1.4.

three-quarters of which were published by the RSS and its affiliates. IDRF has rejected the allegations contained in the report and has asserted that it “does not subscribe to any religious, political, or sectarian agendas.”<sup>28</sup> Many who donate to IDRF and other such groups do so for charitable and humanitarian purposes and likely are unaware of the uses of some of their funding.

The Citizens’ Tribunal report states:

- The Tribunal recorded evidence of the vast amounts of money at the *sangh parivar’s* disposal, to lure cadres, pay for advertisements in the mass media, print hate literature, hold arms training camps, distribute *trishuls* in lakhs for free and even employ fully paid cadres.
- Fund-raising has become a zealous activity for the RSS and VHP, the latter known as the World Hindu Council abroad. Evidence before us suggests that organisations such as the Hindu Sevak Sangh (HSS), a U.K.-based ‘charity’ and many such fronts in the U.S. collect and contribute large sums of money to these organisations.
- The VHP finances the Bajrang Dal, which remains an unregistered body, from the money it receives as donations for charitable work.
- Evidence before the tribunal suggests that the VHP itself has floated several organisations through which it collects funds that are in addition to the contributions it receives from other sources.
- The most active have been VHP (USA) and VHP (U.K.), both of which are also connected with other “charitable” societies in these countries.<sup>29</sup>

The U.K. Charities Commission is reportedly under pressure from London-based South Asian organizations to withdraw the charity status of the U.K. unit of the Vishwa Hindu Parishad and the Hindu Swayamsevak Sangh, which have been accused of diverting charitable donations to fund sectarian violence in India.<sup>30</sup> Meanwhile, the U.S. State Department has asked the Justice Department to look into reports suggesting that the India Development Relief Fund is siphoning off funds received from major U.S. companies and individuals to RSS-run institutions with the express purpose of furthering the “Hindutva” agenda.<sup>31</sup>

#### IV. IMPUNITY FOR ATTACKS AGAINST MUSLIMS

Muslims in Gujarat continue to be denied equal protection of the law. Although the government initially boasted of arrests in the thousands following the communal violence, many of those arrested have since been released on bail, acquitted, or simply let go. In “*We Have No Orders to Save You*,” Human Rights Watch reported that the Gujarat state administration was engaged in a massive cover-up of the state’s role in the massacres and that of the *sangh parivar*. Though eyewitnesses filed numerous police First Information Reports (FIRs)<sup>32</sup> that named local VHP, BJP, and Bajrang Dal leaders as instigators or participants in the attacks, few if any of these leaders were arrested. Reportedly under instructions from the state, the police faced continuous pressure not to arrest them or to reduce the severity of the charges filed. In many instances, the police also refused to include in FIRs the names of perpetrators identified by the victims and registered what are known as “omnibus FIRs,” where the accused is identified only as “an unruly mob” or “a mob of 10,000.” Police had, however, filed what were shown to be false charges against Muslim youth arbitrarily detained during combing operations in Muslim neighborhoods that had

<sup>28</sup> Press Release, India Development and Relief Fund, IDRF Dismisses Hate Campaign Against IDRF Launched by Leftist Groups (Nov. 22, 2002), at <http://www.idrf.org/pressrelease112202.html>.

<sup>29</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II, pp. 70 – 71. For more details see: <http://www.sabrang.com/tribunal/vol2/prepvio.html>, sections 9.1-9.21. See also, Rukmini Callimachi, “The scars of nationalism,” *Daily Herald*, May 7, 2003 [online], <http://www.dailyherald.com/special/passagefromindia/hindu.asp> (retrieved May 18, 2003); and Kalpana Wilson, “Foreign direct investment in hatred,” *The Hindu*, March 23, 2003.

<sup>30</sup> Hasan Suroor, “Pressure to withdraw charity status of RSS, HSS in U.K.,” *The Hindu*, March 5, 2003.

<sup>31</sup> Seema Mustafa, “U.S., U.K. to probe Parivar funding,” *Asian Age*, February 25, 2003; David Bank, “Matching-Gift Practices Face Scrutiny Amid Worries About Who Gets Money,” *Asian Wall Street Journal*, February 19, 2003.

<sup>32</sup> The initial reports of a crime recorded by the police.



been largely destroyed. Officers who tried to keep the peace or act against murderous mobs were transferred or faced the wrath of their superiors.<sup>33</sup>

The patterns identified in “*We Have No Orders to Save You*” continue unabated throughout the state. According to local activists, those who remain in jail largely belong to Dalit, Muslim, or tribal communities. Moreover, due to manipulations in the filing of chargesheets and FIRs, shoddy investigations, and a biased judiciary, the instigators and ringleaders of the attacks may escape prosecution altogether. Police refuse to register rape cases, collect forensic evidence, or conduct *panchnamas*<sup>34</sup> at the scene of the crime. Police have also failed to conduct search and seize operations to locate weapons and looted materials. Witnesses who initially came forward to file FIRs and identify their attackers have since been harassed, threatened, or bribed into turning hostile on the witness stand or simply not showing up when the case goes to trial. In exchange for being allowed to return to their homes, Muslims are being forced to withdraw their cases. Local officials have actively participated in facilitating such “peace” negotiations.<sup>35</sup> Many who have filed complaints, or who themselves were injured in police shootings, have also had false charges filed against them. As a result, at this writing not a single person had been convicted for the post-Godhra violence against Muslims. Attackers roam with impunity in their old neighborhoods, threatening more violence if anyone speaks out against them. Following the BJP electoral win in December 2002, many activists and victims have simply given up on pursuing avenues for justice.

The neighborhoods of Naroda Patia and Gulbarg Society were the site of two of the deadliest massacres in Ahmedabad. Human Rights Watch visited both sites in March 2002, three weeks after the violence began, and interviewed numerous eyewitnesses to the attacks who at the time were residing in relief camps. Details of both cases are provided in “*We Have No Orders to Save You*.”<sup>36</sup> In January 2003, following directives from senior police officials, the police began closing the files on the Ahmedabad massacre cases, adding that they had no proof against the BJP and VHP leaders who were named in the complaints. Most of the witnesses who had identified the leaders as instigators of the attacks had changed their statements.<sup>37</sup> By the end of February 2003, a few days shy of the one-year anniversary of the start of the violence, the *Times of India* reported that trials had begun in just one of the 961 “riot cases” from Ahmedabad:

Of the total 961 riot-cases, evidence against the accused could not be gathered in 414 cases, resulting in non-filing of charge-sheets. Only one trial has begun out of the remaining 509 cases in 30 police stations! In 38 other cases investigations are yet to conclude. None of the big names alleged to have led the marauding mobs, which killed nearly 500 persons in Ahmedabad, have been booked. The police officials say, “There is no evidence against the big wigs.” The ‘fall guys’ in the riot cases are mostly those from the lower strata... While there is no move to arrest the “master-minds”, experts say that the cases are far from reaching their logical conclusion. Trials in 509 cases are yet to begin as not a single case has evidence and related documents. According to officials in prosecution department, not even 3% of the cases have been committed for trial. “Most of the cases still continue to have lacunae due to which they have not been able to pass the preliminary scrutiny of the metropolitan courts.” These courts analyse charge sheets and the case-related documents before allowing trial. Till date, the metropolitan courts have found only about 25 cases fit for trial. Of these ‘fit’ cases, hearing has begun in just one. The case pertained to the massacre of 39 people, including former MP Ehsan Jafri, at the Meghaninagar’s Gulbarg Society.<sup>38</sup>

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<sup>33</sup> See Human Rights Watch, “*We Have No Orders to Save You*,” Chapter VII.

<sup>34</sup> An on-site incident report written by the police, requiring five signatures.

<sup>35</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. I, pp. 109-110.

<sup>36</sup> See Human Rights Watch, “*We Have No Orders to Save You*,” Chapter III.

<sup>37</sup> Sourav Mukherjee, “Police closing files on Ahmedabad riots,” *Times of India*, January 10, 2003.

<sup>38</sup> Sourav Mukherjee and Amit Mukherjee, “Trial begins in just 1 of 961 riot cases,” *Times of India*, February 24, 2003.

## The Naroda Patia Case

On February 28, 2002, at least sixty-five people were killed in Naroda Patia by a 5,000-strong mob that torched the entire locality. Countless others sustained severe burns and other injuries. Women and girls were gang-raped in public view before being hacked and burned to death. Homes were looted and burned while the community mosque, the Noorani Masjid, was destroyed using exploding gas cylinders. The crimes in Naroda Patia were among the most brutal in the state. An eyewitness to the murder of a six-year-old boy named Imran who testified before the Citizens' Tribunal described, for example, how "petrol instead of water was poured into [the boy's] mouth. A lit matchstick was then thrown inside his mouth and the child just blasted apart."<sup>39</sup>

At least six BJP workers, who are also VHP activists, were identified as participating in the massacre. FIRs were registered against them but the police were instructed not to arrest them. One police officer told *Indian Express*, an English daily, "It is politically incorrect to arrest them and we are under tremendous pressure not to act against them."<sup>40</sup> Maya Kodnani, a BJP MLA from Naroda, and Jaideep Patel, the Gujarat secretary general for the VHP, were identified as ringleaders of the attacks.<sup>41</sup> There are numerous FIRs registered against each of them. Human Rights Watch spoke to eyewitnesses who placed both Kodnani and Patel at the massacre site on February 28, 2002, leading the mobs. Several people who testified before the Citizens' Tribunal were also eyewitnesses to crimes in which Kodnani and Patel were implicated. One eyewitness noted that, "they were also instrumental in encouraging other accused to commit violent sexual crimes."<sup>42</sup> Their names, however, did not appear in the preliminary chargesheet filed for the Naroda Patia case by the crime branch police in June 2002. Police officials reportedly claimed that they could not find any evidence against them. As a result they were neither arrested nor declared fugitives.<sup>43</sup>

According to an attorney working with the Citizens' Initiative, a collective of nongovernmental organizations:

Dr. Jaideep Patel and Dr. Maya Kodnani are both important political leaders who have been elected on the BJP ticket during these elections. And this is one reason why, right from the beginning the police has tried its best—maybe under political pressure—to ensure that no statement or no complaint, FIR, which includes the names of Dr. Jaideep Patel or Dr. Maya Kodnani are included in the chargesheet which is filed before the court, even though a number of statements and complaints had gone to the police. In fact the Citizens' Initiative itself had sent some of the complaints to the commission of police by registered [mail] to have full proof evidence, still their names are not included in the chargesheet.<sup>44</sup>

Key witnesses who gave statements to voluntary organizations, or before the Citizens' Tribunal, stating that Patel and Kodnani were present during the Naroda Patia massacres have themselves been charged with crimes in an apparent bid to silence them. On August 5, 2002, charges were filed against Bismillah Khan and eleven others, all eyewitnesses to Kodnani and Patel's participation in the Naroda massacre.<sup>45</sup> Their attorney explained the suspicious nature of these charges to Human Rights Watch:

There is a complaint against both Jaideep Patel and Maya Kodnani by some people. Bismillah Khan plus eleven others were witnesses but they have been charged with the February 20 [2002] murder of an unidentified boy. None of their names were in the complaint for that case. Six months after the February 20 attack there was a further statement accusing Bismillah Khan and

<sup>39</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. I, p. 39.

<sup>40</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II, p. 52.

<sup>41</sup> Manas Dasgupta, "Gujarat VHP leader named in FIR on Naroda incident," *The Hindu*, March 19, 2002.

<sup>42</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II, p. 41.

<sup>43</sup> Manas Dasgupta, "Chargesheets filed in Gulmarg Society and Naroda-Patiya massacre cases," *The Hindu*, June 5, 2002.

<sup>44</sup> Human Rights Watch interview with Citizens' Initiative attorney (name withheld), Ahmedabad, January 2, 2003.

<sup>45</sup> Teesta Setalvad, "Criminal State: A year after the state-sponsored genocide in Gujarat, justice for the victims remains a distant goal," *Communalism Combat*, February 2003 [online], <http://www.sabrang.com/cc/archive/2003/feb03/investigation.html> (retrieved May 18, 2003).

eleven others. The police said that the identity of the boy was revealed six months later, and investigations led to Bismillah Khan and eleven others. So there are murder charges against these twelve. The bail application for Bismillah Khan was rejected by the sessions court. Bismillah Khan and a few others are in jail now... Bail applications are immediately granted for Hindus, but they always say to wait for the chargesheet to be filed before applying for bail for Muslims. Bismillah Khan is appearing before a Muslim judge, but they are even more scared than Hindus. A Muslim judge may be under greater pressure by the Hindus.<sup>46</sup>

The language used in the chargesheet prepared for the Naroda Patia case also underscores the partisan bias of the police. The chargesheet omits the names of several of the accused, and, far from describing the military-like precision of the planned attacks, classifies them as reactions to violence instigated by Muslims. The Naroda Patia chargesheet reads, "The unruly crowd at Naroda Patiya went on the rampage after a mini-truck driven by a Muslim man ran over a Hindu youth and the mutilated body of a Hindu was recovered from the area... the crowd was anguished by the incident."<sup>47</sup> Human Rights Watch was unable to find any independent reports to corroborate this claim.

Afsara, a Muslim woman in her forties, was a resident of Naroda Patia. Her eldest daughter, Noor Jahan, her father-in-law, and her brother's wife and his two children were all killed on February 28, 2002. Afsara's two remaining children, her son Sharukh and daughter Shah Jahan, survived but suffered serious burn injuries. Afsara filed an FIR with the police but believes that the police released those that she identified, along with many others. She told Human Rights Watch:

We registered an FIR while the children were in Civil Hospital. I recognized two people and I put down their names. I didn't recognize any one else. How are you supposed to recognize people in a huge mob? There were so many of them, how could we recognize them, we were trying to run to save our lives... As soon as [Chief Minister] Modi came in after elections, they were all released. We went back to Naroda Patia and saw the people who had been released. They're back.<sup>48</sup>

When asked whether she was prepared to testify in court, Afsara responded: "What testimony am I going to give? I've gotten tired of giving my testimony. Nothing happens, what's the point of talking. It also doesn't bring peace to talk about it."<sup>49</sup>

Khalid Noor Mohammed Sheikh lost nine family members in the massacre in Naroda Patia, including his pregnant thirty-year-old daughter Kauser Bano. Her belly was cut open and the fetus was pulled out and hacked before she was killed. Though Sheikh is willing to testify to what he saw, he claims that the police refused to

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<sup>46</sup> Human Rights Watch interview with attorney for Bismillah Khan (name withheld), Ahmedabad, January 2, 2003. On December 3, 2002, Jaideep Patel survived an assassination attempt. He was shot twice by two men on a motorcycle as he was leaving his home. Amy Waldman, "Hindu Nationalist Wounded in Attack by Gunmen in India," *New York Times*, December 4, 2002. The police have launched a major crackdown in Naroda Gaon, a neighborhood close to Naroda Patia, to search for his attackers. According to the Bismillah Khan's attorney:

In Naroda Gaon, ninety young boys, virtually all wage earners have been either short-listed or chargesheeted by the police to be the accused in the case where Jaideep Patel was attacked during his election campaign. They have brought attempted murder charges against these 90. One boy named Abbas was beaten in custody. His father came to us and when we went to provide bail, the father said, "We don't want to make any allegations against the police." The boy also refused to say that the police had beaten him. He was so scared. Many people were taken before Jaideep Patel and he said it wasn't any of them. (Human Rights Watch interview with attorney for Bismillah Khan, Ahmedabad, January 2, 2003.)

<sup>47</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II, p. 110.

<sup>48</sup> Human Rights Watch interview with Afsara, Ahmedabad, January 5, 2003.

<sup>49</sup> *Ibid.* See Chapter IX for a discussion of problems with government compensation for Afsara's family.

properly register his complaint and that other witnesses in the case are being forced to back down, one by one. He told Human Rights Watch:

The attackers wore underclothes that were white, with brown scarves tied around their necks. They had swords, hockey sticks, pipes, arson, diesel, petrol, acid, and so many things to attack us with.... We tried to save ourselves and battle it out from 9:30 a.m. to 5:30 p.m. Eventually we got tired, but people continued to throw pipes and swords and stones at us. And then at around 5:30 or 6:00 they surrounded all the people, including women and children from two to ten years of age. They encircled them and burnt them alive. There were also many rapes. Many women were defiled of their dignity.

I took [my daughter] Kauser to the hospital for delivery the day before the attack. She was ready to deliver. But the doctor said there was time and to come back in the morning. But there was no morning after. By then it was all over. And the tragedy is that the people who ripped my daughter's child out of her body and killed her are walking about freely. Why does it have to be this way?... The government should forbid these people from going free because if they've committed crimes today, tomorrow they could do even worse things. We voted for our government, but in our time of need, there is no support for us. The government should realize that on this earth, everyone is equal because we are all Indians. So why these kind of crimes against us? We just want peace and quiet, that's all. We don't want anything else. We want to live under the principles of love and compassion. This is my request and this is my testimony. Please make every effort that the criminals get punished. Even if they don't get punished a lot, they should at least get punished a little.<sup>50</sup>

Sheikh added that when he went to the police to register a complaint "they didn't write the information down. The police did not record any names in the FIR. We told them but they didn't.... There's also barely anything about the destruction and damage to our house. They accounted for 1,500 rupees only."<sup>51</sup> Sheikh claims that six of the witnesses in the Naroda Patia case have been bribed into recanting their testimony, and that as a result, the main accused have been set free:

Now those people are free and sitting at home. The government should punish them. Their actions were criminal. If we do something small, they drag us to jail and that's that. But in this case things are so different... In our case, in Naroda Patia, of our eight witnesses, six have been lost. So what are the remaining two to do? Now the statement of one or two people won't carry much weight in court. If I say that this happened, there are so many others who are going to say, no it didn't happen. When six people are going to contradict what I say, then my testimony won't have much weight. We are always there, within their view. They can do anything to us. They can even make a so-called accident happen.<sup>52</sup>

Clutching to the photos of his family members who were killed, Sheikh pointed to each one, reciting their names and relationship. "There were two small children, whose names were Asif and Rafique, my son Sarmaddin, my wife Jehnabi, my daughter-in-law Shah Jahan, my sister-in-law Noor Jahan Begum, my daughter Kauser, my

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<sup>50</sup> Human Rights Watch interview with Khalid Noor Mohammed Sheikh, Ahmedabad, January 5, 2003.

<sup>51</sup> Ibid. At the time of the interview, Sheikh had only received Rs. 1,000 for damages to his home, though he estimates his losses at Rs. 500,000: "The television, tape, fridge, radio, fans were all there and they were destroyed. At this point, there isn't even a spoon inside my house." He had received Rs. 450,000 from the government as compensation for the deaths in his family: "I still have checks to pick up for the deaths of my family. Every month checks come in different amounts. I've only received one check in my son Sarmaddin's name. I have four more people to collect checks for. The check that came for my daughter, I have given that money to her husband. I didn't take the money for my daughter." Ibid.

<sup>52</sup> Ibid

sister-in-law's daughter Sufia Bano, and my wife's brother Ismail Bhai Goda." He added, "These photos are all that I have left."<sup>53</sup>

### **The Gulbarg Society Case**

In the neighborhood of Gulbarg Society, Chamanpura, Ahmedabad, more than 250 people took refuge on the morning of February 28 in the home of Ehsan Jaffrey, a former member of parliament and a Muslim. An ordeal that began at 10:30 a.m. ended seven hours later and left at least sixty-five dead, including Jaffrey himself, who was hacked and burned to death. The closest police station was less than a kilometer away. The two Ahmedabad Home Guards already stationed at Jaffrey's home had only sticks as weapons and according to eyewitnesses interviewed by Human Rights Watch provided no protection; one said the guards "were watching and laughing as the attacks took place."<sup>54</sup>

In a petition submitted to the National Human Rights Commission, the Citizens' Initiative stated that the mob, estimated at 5,000, had grown since morning in Gulbarg Society. Jaffrey made countless phone calls to the police, the chief minister, and the central home minister among others asking for protection but to no avail. The telephone lines were cut after the neighborhood's homes were set on fire. Armed with swords, pipes, acid bottles, kerosene, petrol, hockey sticks, stones, and tridents, the mob was unrestrained for six hours. Among the perpetrators identified were workers and local officials of the VHP and Bajrang Dal.<sup>55</sup>

Jaffrey had actively campaigned against Chief Minister Narendra Modi during state by-elections in February 2002, just days before he was killed. Jaffrey urged people not to vote for Modi because of his RSS ties, and asked them to vote for Congress instead. The BJP lost two out of three assembly seats in the elections that took place on February 23, 2002.<sup>56</sup> Modi was elected from Rajkot, the third constituency, but by a much-reduced margin from the previous poll.<sup>57</sup>

As with Naroda Patia, the names of the main accused do not appear in the chargesheet filed for the Gulbarg Society case.<sup>58</sup> While the government initially appointed Assistant Commissioner of Police P.N. Barot, an officer with strong VHP connections,<sup>59</sup> to investigate the Gulbarg Society incident, it later transferred the case to someone else.<sup>60</sup> According to an Ahmedabad-based lawyer who has been helping to collect victim affidavits and who wishes not to be identified, the names of the main instigators, including the police and the main VHP leaders, are included in separate FIRs but those FIRs have not been included in the chargesheet. Most of those charged, he added, are Dalits and other lower-caste community members.<sup>61</sup> The Gulbarg Society chargesheet states: "It was after the firing by Jaffri on members of the mob (of 23,000) that the mob got violent and attacked the locality."<sup>62</sup> According to eyewitnesses, including Jaffrey's wife, Razia, Jaffrey fired a warning shot in the air to disperse the mob but never fired at anyone.<sup>63</sup>

Another attorney whose life has been threatened for his role in helping victims pursue their cases told Human Rights Watch that the witnesses in the Gulbarg Society case are under continuous threat:

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<sup>53</sup> Ibid.

<sup>54</sup> Human Rights Watch interview (name withheld), Ahmedabad, March 22, 2002.

<sup>55</sup> Citizens' Initiative, "Sub: Asking for appropriate action in the communal riots of February 2000 in Gujarat." (Signed petition submitted to the National Human Rights Commission of India, New Delhi), March 2002.

<sup>56</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. I, p. 32.

<sup>57</sup> Ibid., p. 17

<sup>58</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. I, p. 34.

<sup>59</sup> "Pro-VHP officer to prove worst massacres," *Asian Age*, March 25, 2002.

<sup>60</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. I, p. 34.

<sup>61</sup> Human Rights Watch interview, (name withheld), January 2, 2003.

<sup>62</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II, p. 110.

<sup>63</sup> Sheela Bhatt, "Ex-MP Jaffrey's widow relives a day of terror,"

*rediff.com*, March 2, 2002 [online]

<http://www.rediff.com/news/2002/mar/02train.htm> (retrieved June 5, 2003); Luke Harding, "A vision of hell in Indian city gorging on violence," *Guardian*, March 2, 2002.

The main accused are giving them threats saying, “We will file cases against you if you move forward with your testimony.” When the victims call the police and say, “Arrest the accused, they are threatening us,” the police respond by saying, “That’s our work, you leave it alone.” The police are also being bribed. They don’t use the names of the accused and they don’t testify in court. No families have returned to Gulbarg Society. It looks exactly as it did months ago. Their residences are not livable.<sup>64</sup>

Human Rights Watch spoke to one such witness whose son has been missing since the attack on Gulbarg Society. A police sub-inspector (PSI) visited the witness in her home and promised that he would help locate her son. In return, he asked her to sign a piece of paper stating that the police came to save the victims in Gulbarg Society. The witness told Human Rights Watch what happened next:

I said I wouldn’t sign it and he ripped up the paper. Then he brought another piece of paper saying that if the police hadn’t arrived at 5:30 p.m. then we all would have been killed. He asked me to do this because he said that his job was at stake, and that he would be transferred.<sup>65</sup>

The attorney helping her with her case explained that the police sub-inspector had been implicated in “private firing” on the crowd earlier in the day, that is, not as a police officer. The attorney claims that a statement from the witness stating that he arrived after 5:30 p.m. would help clear those charges.<sup>66</sup> A total of eighteen eyewitnesses have submitted sworn affidavits to the trial court hearing the case detailing other blatant attempts to subvert the Gulbarg Society investigations.<sup>67</sup>

The problems associated with the Naroda Patia and Gulbarg Society investigations, including the harassment of witnesses, are also found in other parts of the state. During their visit to Gujarat to determine the feasibility of holding early elections, members of India’s Election Commission documented similar patterns from almost all of the twelve districts that they covered. According to the Election Commission report:

Everywhere there were complaints of culprits of the violence still moving around scot-free including some prominent political persons and those on bail. These persons threaten the displaced affected persons to withdraw cases against them, failing which they would not be allowed to return to their homes. In Dhakor (Kheda District), the team was told by a delegation, in the presence of senior police officers and the district administration authorities, that the culprits had been identified before the police but no arrests had taken place and the main culprits continued to threaten the villagers to withdraw their FIRs. The team has cited many other such cases from almost all the 12 districts covered by them.<sup>68</sup>

In Gujarwaha village in Sabarkantha district one Muslim family had resided amidst 3,000 Hindu households for over thirty years. When the mobs came, Zubeida Razak Memom and her family members ran to hide in the fields. Zubeida filed an FIR against the villagers who burned down her house. In turn the villagers filed a complaint against her alleging that she poisoned the village well. They threatened more trouble if she dared to return to the village; she had no plans to go back.<sup>69</sup>

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<sup>64</sup> Human Rights Watch interview with attorney (name withheld), Ahmedabad, January 3, 2003.

<sup>65</sup> Human Rights Watch telephone interview with Gulbarg Society witness (name withheld), Ahmedabad, January 3, 2003.

<sup>66</sup> Human Rights Watch interview with attorney (name withheld), Ahmedabad, January 3, 2003.

<sup>67</sup> Teesta Setalvad, “Gujarat—One year later,” *Communalism Combat*, April 2003 [online], [www.sabrang.com/cc/archive/2003/apr03/cover1.html](http://www.sabrang.com/cc/archive/2003/apr03/cover1.html) (retrieved May 20, 2003).

<sup>68</sup> Election Commission of India, “Press note: General Elections to the Gujarat Legislative Assembly,” August 16, 2002, p. 24 [online] [http://www.eci.gov.in/press/current/PN\\_16082002.pdf](http://www.eci.gov.in/press/current/PN_16082002.pdf) (retrieved June 5, 2003) [hereinafter Election Commission of India, “Press Note.”].

<sup>69</sup> Habitat International Coalition, Youth for Unity and Voluntary Action, *Rebuilding From The Ruins*:

The Commonwealth Human Rights Initiative (CHRI), an NGO based in Delhi, has been helping to monitor cases in Panchmahals district. As with other districts, numerous incidents have been cobbled together in one case. A CHRI representative spoke to Human Rights Watch about these and other patterns in the cases the organization was handling:

Four or five incidents have been combined so there will only be one trial. There is no demarcation of incidents. In one case the prosecution's witness is the brother of the accused. Things like that. One case we are handling has gone to trial. An individual FIR exists. A mother has named nine people as the accused. Her whole family was wiped out. One person was arrested. The other eight are classified as absconding [fugitives]. They have been accused of murder and rape. The mother says that those supposedly absconding are roaming freely in the village. The PSI goes and buys fruits and vegetables from one of the accused in the morning. I followed him one day and then went to talk to him at the police station. He said they can't find them. I asked him how much fruit he was buying these days.<sup>70</sup>

CHRI also asserted that most of those arrested were charged with rioting or dacoity<sup>71</sup> but not with murder or rape. While some face reduced charges, many have escaped arrest altogether. She added that contrary to mandated criminal procedure the police have not initiated any attachment proceedings for fugitives. As in other districts, witnesses are also facing threats to their security. "Witnesses are threatened in the middle of the night in their homes. They are told, 'Don't open your mouth. Remember February 28? That will happen to you.' And there's nothing we can do about it." Some of the cases being monitored by CHRI have also ended in acquittal. In one particular case, sixty-nine people were burnt in a tempo [vehicle] on their way to Panchmahals district. The case was dismissed in two hearings and all the accused were acquitted. Many of those arrested belong to the Muslim community. Among them are those who were injured in police firings."<sup>72</sup>

### Non-Prosecution of Rape Cases

As documented in "*We Have No Orders to Save You*," scores of Muslim girls and women were brutally raped in Gujarat before being mutilated and burnt to death. Given the large number of people who are still missing and believed dead in Gujarat, as well as the large scale burning of bodies that accompanied the killings, it is difficult to ascertain how many women and girls were subjected to sexual violence. Evidence recorded by the Citizens' Tribunal suggests that as many as 250 women and girls were victims of "gross sexual crimes."<sup>73</sup> Unofficial estimates are much higher.

Muslim women and girls in Gujarat were stripped and paraded naked, gang-raped, mutilated, and burnt alive. Iron rods and other objects were inserted into their bodies. In some cases, the police reportedly opened fire on Muslim men who tried to save them.<sup>74</sup> One mother reported that her three-year-old girl was raped and killed before her eyes.<sup>75</sup> The police also participated in much of the violence against women. Many women were also the victims of police shootings.<sup>76</sup>

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*Listening to the voices from Gujarat and restoring people's right to housing, livelihood and life* (Ahmedabad: Citizens' Initiative, 2002), p. 55 [hereinafter HIC, YUVA, *Rebuilding from the Ruins*].

<sup>70</sup> Human Rights Watch interview with CHRI representative, New Delhi, December 24, 2002.

<sup>71</sup> Dacoity is defined under Indian Penal Code Section 391 as robbery committed by five or more persons.

<sup>72</sup> Human Rights Watch interview with CHRI representative, New Delhi, December 24, 2002.

<sup>73</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II, p. 108.

<sup>74</sup> *Ibid.*, p. 40.

<sup>75</sup> *Ibid.*, p. 41. Representatives of the central government have displayed extreme callousness at reports of sexual violence in Gujarat. During a parliamentary debate on Gujarat on April 30, 2002, for example, Defense Minister George Fernandes stated: "There is nothing new in the mayhem let loose in Gujarat... A pregnant woman's stomach being slit, a daughter being raped in front of a mother aren't a new thing." Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II, p. 39.

<sup>76</sup> See Chapter V.

The justice machinery has done little to investigate or prosecute these cases. The Gujarat government failed to implement recommendations made by the National Commission of Women that would facilitate reporting of rape cases like the posting of female police officers in relief camps and the creation of women's cells in police stations focusing on crimes against women during the violence.<sup>77</sup> Sexual violence against women and girls remains under-reported and prosecutions face numerous obstacles. Problems include a lack of medical examinations for victims of sexual violence, large-scale destruction of evidence, refusal to register rape cases in FIRs or include them in chargesheets, deficiencies in Indian rape laws, and the silencing of rape victims by members of their own community due to the stigma that often accompanies such crimes.

The Ahmedabad-based NGO SAHR WARU-Women's Action and Resource Unit has collected numerous affidavits on cases of sexual violence. Sheba George, the head of SAHR WARU, told Human Rights Watch: "We found sixty cases that we cross-checked with eyewitnesses. For forty of them we have the women's names and in twenty they are unnamed.... In Gomtipur, a police sub-inspector was named as one of the attackers. Women also claimed to be molested by members of the Rapid Action Force. Yet there have been no prosecutions."<sup>78</sup>

Like many in the state George expressed extreme frustration and hopelessness at the lack of avenues for justice, exacerbated by the BJP's electoral win in December 2002 (see Chapter XI). She added: "What are the options now? If you told me today that we could get justice, I could bring so many women willing to speak, but there is no justice.... We even asked for special magistrates to handle the cases but didn't get them. Even if we prepare the cases, where is the scope for justice now?"<sup>79</sup>

Sophia Khan, an attorney with the NGO Vikas Adhyayan Kendra in Ahmedabad, is also monitoring women's cases. She told Human Rights Watch:

Victims were again victimized because the accused are very politically influential. In some cases the accused don't even know what the charges are against them but they go to the witnesses and tell them to withdraw the rape case even though the case had never been filed. Then they start bargaining, saying "We will pay you." But the woman has no say. In one case, the brother took the money. And besides, if she had proceeded with the case, they would not have been able to stay in their area.<sup>80</sup>

Khan explained that rape cases, already difficult to prove under existing Indian law, are all the more difficult to pursue when the evidence of a rape has been destroyed:

There is not much hope in the rape cases. There are so many loopholes in the procedures. And the section on rape itself is patriarchal. Most rape victims were brutally killed and then burned. So there is no evidence left in our existing framework. Just a woman's testimony is not enough. And there was no postmortem and no dying declaration. By the time they got to the police, it was so late, they couldn't get medical exams. The accused inserted iron rods in women's vaginas. This is not simply molestation, but it does not fall under rape in our laws. They are very patriarchal laws.<sup>81</sup>

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<sup>77</sup> See National Commission for Women, "National Commission for Women Report of the Committee Constituted by the National Commission for Women to Assess the Status and Situation of Women and Girl Children in Gujarat in the Wake of the Communal Disturbance," [online], <http://www.ncw-india.org/publications/report/page1.htm> (retrieved June 25, 2003).

<sup>78</sup> Human Rights Watch interview with Sheba George, Ahmedabad, January 3, 2003.

<sup>79</sup> Ibid.

<sup>80</sup> Human Rights Watch interview with Sophia Khan, Ahmedabad, January 4, 2003.

<sup>81</sup> Ibid. Under sections 375 and 376 of the Indian Penal Code, rape is defined as sexual intercourse against the will or consent of a woman and is punishable by seven years to life imprisonment. Penetration is narrowly defined as "sufficient to constitute sexual intercourse," that is, penetration by the penis. Sections of the Indian Evidence Act also allow for evidence relating to a woman's "immoral character" to be introduced into evidence. These and other legal obstacles to the prosecution of rape cases led to a review of rape laws by the Law Commission of India. Their report can be found online at



As reported by the *Hindustan Times* in June 2002, Ahmedabad's Joint Commissioner (Crime) P. Pandey admitted that it would be difficult to prosecute rape cases given that much of the evidence was destroyed when the victims were killed and burned. He added that five cases of rape were registered as part of the Naroda Patia case and two as part of the Gulbarg Society case though none of the victims were alive. The article adds that in many instances the police simply refused to file rape charges or gather the necessary evidence.<sup>82</sup> Fearing for their lives, many rape survivors also hid for days before approaching the police, making it all the more difficult to provide medical evidence.<sup>83</sup>

The cobbling together of numerous cases into general or "omnibus" FIRs (see above) has also made it impossible to pursue rape charges. Rather than listing identified individuals, FIRs simply blame the violence on "mobs." The police claim that mob violence cannot be separated into specific crimes. Sultana Feroz Sheikh told the *Washington Post*, "The police...said that a Hindu mob attacked a Muslim mob.... I am not a 'mob,' I am a woman who was gang-raped by three men. How can I hope for justice when they don't even register my complaint properly?" She added, "To my surprise, the police said I cannot file an FIR. They said an FIR had already existed for that day's events."<sup>84</sup>

An attorney working with the Citizens' Initiative explained how chargesheets have been manipulated to keep out rape charges:

Chargesheets are being doctored or engineered in a specific way, to ensure that political leaders are kept out of the net of the investigation. Any serious major offense of rape against women is systematically diluted or kept out of the chargesheet filed before the court. To give you an illustration, in one of the cases there is a statement where it has been said that twenty men raped five women. This is part of the summary of the chargesheet, but if you look at the entire chargesheet and look through all the statements, there is not a single statement where this fact has been mentioned. Obviously this statement was there before the police when the chargesheet was being prepared, but under certain instructions or pressure, this was removed from the chargesheet, so there is no statement corroborating the allegation that is included in the summary. On the contrary there is a statement by the victim saying that if she has mentioned any such thing, anywhere else, it is not true. Now it would not have been necessary for her to include this statement if she had not earlier alleged that she was raped.<sup>85</sup>

In addition to losing their battle for justice, rape victims in Gujarat have also had little access to healthcare and trauma counseling. According to a report issued by the International Initiative for Justice in Gujarat (IIJ), formed by Indian and international women's groups in response to the targeting of women during the violence in Gujarat,

Survivors of sexual violence have little access to counseling, and issues relating to their sexual and reproductive health and rights are neglected.<sup>86</sup> We found very little attention paid to issues relating to pregnancy, abortions and sexually transmitted infections as a consequence of sexual violence, and were appalled at the lack of safe spaces for women to recover and defend themselves. The medical system has also proved to be unresponsive to the needs of women who

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<http://www.lawcommissionofindia.nic.in/rapelaws.htm> (retrieved June 25, 2003). For more on the obstacles to prosecuting rape cases, see Human Rights Watch, *Broken People: Caste Violence Against India's Untouchables*, Chapter IX; and "Do Rape Laws Favour the Accused?" [online], [www.womenexcel.com/law/rapelaws.htm](http://www.womenexcel.com/law/rapelaws.htm) (retrieved May 12, 2003).

<sup>82</sup> Raveen Thukral, "Not much evidence to bring rapists to justice," *Hindustan Times*, June 17, 2002.

<sup>83</sup> Rama Lakshmi, "Rapes Go Unpunished in Indian Mob Attacks; Muslim Women Say Claims Are Ignored," *Washington Post*, June 3, 2002.

<sup>84</sup> *Ibid.*

<sup>85</sup> Human Rights Watch interview with Citizens' Initiative attorney (name withheld), January 2, 2003.

<sup>86</sup> For more on the problems related to the mental and physical health of survivors of sexual assault, see the report Medico Friend Circle, "Carnage in Gujarat: A Public Health Crisis," May 13, 2002, pp. 21-24.

have been victims of violence including sexual violence.... The few women who tried to bring charges of sexual violence have found the legal and investigative systems totally unresponsive to their needs. In many cases, it is the police who were the instigators and perpetrators of sexual violence against Muslim women.<sup>87</sup>

As with cases of sexual violence against women throughout the country, many survivors have been silenced by members of their own community who want to hide their “shame.” As a consequence, families have forced young girls to get married in an attempt to hide the fact that they were raped. The IJ report states: “We met many mothers who admitted to us that they had been compelled to send their daughters ‘away’ or marry them off to men who they knew to be unsuitable. The failure of state agencies to prosecute perpetrators of violence means that rapists are free to continue to threaten and taunt women on a daily basis.”<sup>88</sup> As men fear for the safety of the women and girls in their family, greater restrictions are being imposed on their ability to move around freely.<sup>89</sup>

The IJ report also found that administrative procedures were “insensitive to, and obstructed access to redress for victims, such as widows’ pensions, school admission, [and] documentation for ‘missing persons.’” A lack of focus on difficulties faced by single women, widows, and female heads of household whose traditional systems of support have collapsed was also noted.<sup>90</sup>

### **Bias in the Courts**

Should a case surmount the obstacles associated with the police registration and investigation of cases and finally reach trial, Muslim victims must then deal with the biases of prosecutors and members of the judiciary. A government official explained:

It’s not just that the witnesses are turning hostile, it’s that the judges and prosecutors are also against them. They will not get justice.... Even the public prosecutors are VHP men; the judges are their men. And in any case, the police has already botched up the case. Where witnesses are willing to testify, the public prosecutors try to turn them into hostile witnesses, or they just adjourn them. I see no chance of any case ending in a conviction. There have already been a dozen acquittals in Panchmahals [district].... At some point someone approached me to ask about the cases and I wanted to say, “Get used to the fact that you are living in a Hindu rashtra and not a secular state.” I have never felt so defeated.<sup>91</sup>

Lawyers representing Muslim victims have also not been spared. According to attorney Sophia Khan, “In courts the lawyers who took up cases for Muslim victims are being harassed or pressured.”<sup>92</sup> In his testimony before the Citizens’ Tribunal, senior solicitor Iqbal Hawa spoke of the disturbing communalization of the Gujarat bar at all levels. His testimony, paraphrased in the Citizens’ Tribunal report, read:

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<sup>87</sup> International Initiative for Justice in Gujarat, “An Interim Report,” December 19, 2002, pp. 2-3 [online], <http://www.onlinevolunteers.org/gujarat/reports/ijg/interimreport.pdf> (retrieved June 3, 2003). IJ is comprised of jurists, activists, lawyers, writers and academics from various parts of the world. Representatives of IJ visited areas in and around Ahmedabad, Vadodara, and Panchmahals, Gujarat between December 14 and 17, 2002 to investigate, among other things, the violence inflicted upon women since February 27, 2002. International Initiative for Justice in Gujarat, “Press Release,” December 19, 2002 [online], <http://www.onlinevolunteers.org/gujarat/reports/ijg/pressrelease.pdf> (retrieved June 3, 2003). IJ investigations also found that police, prosecutorial, and judicial member connections to the *sangh parivar* “clearly impairs the course of justice.” Evidentiary requirements that prevent the prosecution of rape charges without sufficient medical reports and other corroborating evidence were also highlighted. Ibid.

<sup>88</sup> International Initiative for Justice in Gujarat, “An Interim Report,” p. 3.

<sup>89</sup> A similar trend was observed in Bombay following the 1992-1993 riots there. The wearing of *burqas* by Muslim women and girls became much more common. Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II, p. 158.

<sup>90</sup> International Initiative for Justice in Gujarat, “An Interim Report,” p. 4.

<sup>91</sup> Human Rights Watch interview with Gujarat government official (name withheld), Ahmedabad, January 5, 2003.

<sup>92</sup> Human Rights Watch interview with Sophia Khan, Ahmedabad, January 4, 2003.

The bar association (rural district court) had passed an oral resolution that no advocate should take a brief from a Muslim client. The witness also referred to the two-year-old controversy over the appointment of PN Oza, the Gujarat state prosecutor. The appointment was made out of order of seniority simply because he was, and continues to be, a member of the RSS. Without getting into specifics, as it would involve the question of contempt of court, this witness referred to the fact that in Gujarat state, since 1998, even judges were appointed because of their political affiliations to the ideology of the ruling party.<sup>93</sup>

Justice A.P. Ravani, a former chief justice of Rajasthan and eminent citizen of Ahmedabad, testified to the acute insecurity felt by Muslim judges, citing the case of two High Court Muslim judges in Ahmedabad who were forced to flee their homes and seek shelter the day after the Godhra attack.<sup>94</sup> He also deplored the treatment of Muslim lawyers since the violence began. The bar room of the old High Court, which currently houses the Ahmedabad rural courts, has ten to fifteen tables allotted to lawyers belonging to the minority community. The tables were removed and destroyed and obscene slogans were written in their place during the attacks.<sup>95</sup>

### **The Shah-Nanavati Commission of Inquiry**

In March 2002 the Gujarat government appointed retired High Court judge K. G. Shah to head a state commission of inquiry into possible police inaction or direct complicity and administrative failure during Godhra and its aftermath. Shah's close association with the BJP government, including his participation on a panel of lawyers representing the state government before the Supreme Court, left many questioning his ability to conduct an impartial investigation.<sup>96</sup> In May 2002, Justice G.T. Nanavati, a retired Supreme Court judge, was appointed chairperson of the commission.<sup>97</sup> The scope of the commission's inquiry is limited to events starting on February 27, 2002 and ending on April 30, 2002.<sup>98</sup>

Human Rights Watch spoke to Secretary Patel and Under-Secretary Vijayanand. While they are not authorized to speak on behalf of the commission, they did explain that the commission would likely require more time than had originally been allotted to finalize its report. Secretary Patel stated:

We are a fact-finding commission. We submit our report to the government under the terms of reference given to us. We call witnesses, eyewitnesses, and affected persons. There is no mention of any particular case in our terms of reference. We have a general mandate. After the Godhra carnage, violence spread all over the state. It is likely that more time will be required for the preparation of the report. It is difficult to say in what time frame the commission will be able to complete the report. Originally we were given three months, then asked for six more months, then six more months. June 2003 is the new deadline for the completion on the report.<sup>99</sup>

Subsequent to our interview with Secretary Patel, the Shah-Nanavati commission's deadline was indefinitely extended. Starting on July 15 they will hear cases from four of the worst-hit districts, namely Ahmedabad, Vadodara, Bharuch, and Narmada. The commission has already traveled to numerous districts to collect affidavits and depose witnesses. When asked publicly about the evidence collected on the role of the police and

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<sup>93</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. I, pp. 210-211.

<sup>94</sup> *Ibid.*, p. 207; Human Rights Watch, "We Have No Orders to Save You," pp. 46, 60.

<sup>95</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. I, p. 210.

<sup>96</sup> Shyam Parekh, "Riots probe panel faces credibility crisis," Times News Network, March 11, 2002.

<sup>97</sup> "Nanavati's appointment challenged," *Times of India*, June 15, 2002. Justice Nanavati is also heading a commission of inquiry into the anti-Sikh riots of 1984. The then-ruling Congress (I) party has been charged with complicity in the killing of over 2,000 Sikhs in Delhi in 1984 following the assassination of Congress party president and Indian Prime Minister Indira Gandhi by her Sikh bodyguard. The commission's report is likely to be released by the end of the year. "Anti-Sikh inquiry report likely by end of year: Nanavati," The Press Trust of India, May 18, 2003.

<sup>98</sup> "Godhra probe: No evidence of lapse against govt," *Times of India*, May 19, 2003.

<sup>99</sup> Human Rights Watch interview with Secretary Patel, Ahmedabad, January 4, 2003.

district administrations Justice Nanavati responded, “the evidence recorded so far in other districts do not show any serious lapse on the part of police and the civil administration.”<sup>100</sup>

The history of government-appointed commissions of inquiry in the state, and the country, also raise doubts as to whether the commission’s recommendations will be followed.<sup>101</sup> The recommendations of two commissions of inquiry established following the 1969 and 1985 riots have yet to be implemented.<sup>102</sup> Numerous commissions of inquiry officially appointed to investigate communal riots in India since the partition of India and Pakistan have indicted *sangh parivar*-affiliated groups for their role in violent crimes against India’s minorities yet no action has been taken against them.<sup>103</sup>

## V. POLICE SHOOTINGS AND FALSE CHARGES AGAINST VICTIMS

In “*We Have No Orders to Save You*,” Human Rights Watch reported on the arbitrary detention and filing of false charges against Muslims during and after the initial attacks. The practice remains largely unchecked in many parts of Gujarat. R. Bibi, a Muslim woman in her sixties from Naroda Patia, described the frustration and helplessness felt by many Muslims in the state: “When my boys go back [to Naroda Patia] the police harass them. The police take their names down and say that you killed our people, the Hindus. So first they attack us and kill our people and then they put cases against our children. Now where are we supposed to go?”<sup>104</sup> Numerous lawyers have also described to Human Rights Watch a climate of impunity and increasing apprehension on the part of witnesses in key cases. One lawyer monitoring cases in Ahmedabad told Human Rights Watch: “there’s a fear within the community that they’re going to be implicated with false cases with which they have no connection.”<sup>105</sup> This chapter focuses on police shootings, the manipulation of victims’ postmortem reports, and the filing of false charges against Muslim victims of police shootings. Many victims cannot afford to pay bail, or to secure attorneys to represent them.<sup>106</sup>

### Police Shootings

In April 2002 Human Rights Watch reported that in almost all cases documented in Ahmedabad the police led the charge of the mobs, aiming and firing at Muslims who sought to protect their homes and their loved ones. According to a report drafted by the Gujarat police, of the 184 people killed in police shootings, 104 were Muslims.<sup>107</sup> A government official told Human Rights Watch that an overwhelming majority of the eighty Hindus killed were Dalits.<sup>108</sup> Postmortems and medical certificates reportedly have also been manipulated to hide

<sup>100</sup> “Godhra probe: No evidence of lapse against govt,” *Times of India*, May 19, 2003.

<sup>101</sup> State governments in India share a common history of appointing judicial commissions of inquiry to quell public outcries against police excesses during large-scale communal and caste clashes. Although these commissions do serve a political function, their findings, if and when released to the public, are frequently in favor of the state. Those that criticize the state are rarely implemented. The report of the commission singled out various state officials for their role in inciting violence against Muslims. See also the history of Tamil Nadu government-appointed commissions of inquiry into attacks against Dalits in Human Rights Watch, *Broken People: Caste Violence Against India’s “Untouchables,”* Chapter V.

<sup>102</sup> Anil Pathak, “Traditional hot-beds of strife remain relatively quiet,” *Times of India*, March 5, 2002.

<sup>103</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II, p. 73.

<sup>104</sup> Human Rights Watch interview with R. Bibi, Ahmedabad, January 2, 2003.

<sup>105</sup> Human Rights Watch interview with attorney monitoring Ahmedabad cases (name withheld), Ahmedabad, January 2, 2003.

<sup>106</sup> In stark contrast, many *sangh parivar* members accused of attacks against Muslims have been assured of VHP-financed legal representation. On March 9, 2002, the *Indian Express*, an English daily, reported that even before chargesheets were filed, the VHP mobilized a team of fifty lawyers ready to defend accused VHP and Bajrang Dal members in court. The VHP’s Gujarat state general secretary, Jaideep Patel, himself accused of leading the Naroda Patia massacre stated that the Godhra victims, and those accused of post-Godhra crimes had “fought a religious battle. They also fought to protect Hindu lives under attack. Not only the VHP and Bajrang Dal, the whole community should come forward to help them.” Joydeep Ray, “Riots: Parivar picks team for legal battle,” *Indian Express*, March 9, 2002.

<sup>107</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. I, p. 194.

<sup>108</sup> Human Rights Watch interview with Gujarat government official (name withheld), Ahmedabad, January 5, 2003.

any evidence of police shootings, indicating instead that the deceased were killed or injured by stabbing or sword injury during their participation in the riots.<sup>109</sup>

In March 2002, Human Rights Watch visited Chartoda Kabristan camp, located on the site of a Muslim graveyard in Ahmedabad. Many of its several thousand residents were sleeping in the open, between the graves. Several camp residents recounted to Human Rights Watch the manner in which the police shot and killed their relatives during the attacks. Twenty-five-year-old Abdul Aziz, a resident of Panna Lal ki Chali, near Chartoda Kabristan, witnessed the killing of his brother by police gunfire. He told Human Rights Watch:

On the 28<sup>th</sup> afternoon at 3 p.m. my younger brother was returning from work. The police said that a curfew was in place. A crowd gathered to attack. The police was leading the crowd. They were looting and the people followed, looting and burning behind them. The crowd was shouting, "Go to Pakistan. If you want to stay here become Hindu." The police very clearly aimed at my brother and fired at him. He was twenty-three years old.<sup>110</sup>

Twenty-two-year-old Mohammed Salim from Bara Sache ki Chali told Human Rights Watch that most of the deaths in his neighborhood were caused by police shooting. He described a pattern testified to by many interviewed by Human Rights Watch:

The Hindus called us outside to fight. When we came out, the police fired on us, twelve to thirteen people died.... They said come forward, then they started shouting, "Kill the Muslims, cut the Muslims, loot the Muslims." The police were with them and picked out the Muslim homes and set them on fire. The police aimed and fired at the Muslim boys. They then joined with the Hindus to set fire to the homes and to loot the homes. The police were carrying kerosene bottles and shooting and setting the bottles on fire. The others were carrying swords and trishuls.... None of the deaths from our area were from the Bajrang Dal, it was all from police firing.... The police came inside [the Chartoda Kabristan area] and fired.<sup>111</sup>

According to data collected in May 2002 for the Citizens' Initiative-sponsored report *Rebuilding from the Ruins*, the postmortems for these deaths state that the deaths were due to stabbing. Twenty other youths had been picked up from the camp during police combing operations. At the time of the Citizens' Initiative investigation in May 2002, they remained in custody and had not been officially charged.<sup>112</sup>

Investigations conducted in Ahmedabad by SAHR WARU-Women's Action and Resource Unit revealed that police raids and mob attacks that started on February 28, 2002 continued well into April 2002. Many of the victims of indiscriminate police shootings were women. At the height of the violence on March 1, 2002, N. Bibi stepped out onto the balcony of her apartment in Gomptipur. She was hit by a bullet. The postmortem report issued by the hospital erroneously states that her death was "due to shock from stab injuries." Fearing the consequences of pursuing a legal case, her father has since withdrawn his complaint.<sup>113</sup>

During a police raid in Gomptipur, Ahmedabad on April 21, 2002, police opened fire "on whomever they saw" and obstructed efforts by local residents to seek medical aid for the victims.<sup>114</sup> Twenty-two-year-old Naziabanu and her father rushed back into their home when the police arrived. As they were closing their doors, they were shot. Ten minutes later, after the police had left, neighbors came forward to take them to the hospital in an

<sup>109</sup> Human Rights Watch interview with Sheba George, head of the NGO SAHR WARU, Ahmedabad, January 3, 2003.

<sup>110</sup> Human Rights Watch interview, Abdul Aziz, Ahmedabad, March 23, 2002.

<sup>111</sup> Human Rights Watch interview, Mohammed Salim, Ahmedabad, March 23, 2002.

<sup>112</sup> HIC, YUVA, *Rebuilding from the Ruins*, p. 32.

<sup>113</sup> SAHR WARU Women's Action and Resource Unit, "Monitoring Minority Rights. Women who were victims of Police Firings in part of Ahmedabad City (March – April 2002): Present Status," January 2003, p.5.

<sup>114</sup> *Ibid.*, p. 4. Many Muslim youth were also killed or detained by the police in Gomptipur on February 28, 2002. See Human Rights Watch, *We Have No Orders to Save You*, pp. 50–51.

autorickshaw. The vehicle was stopped at a police point at the edge of Sarangpur Bridge. The neighbors assisting the injured victims were dragged out and beaten. They testified that had Naziabanu and her father reached the hospital on time, they may have been saved.<sup>115</sup>

Also on April 21, a forty-two-year-old female resident of Doctor Ki Chali, Gomtipur was shot in the head. She was in the neighborhood's public toilet area. When another resident carried the victim's dead body to the victim's home, the police reportedly followed the trail of blood to her home and proceeded to assault her father and her son. The police officer responsible for the killing has been transferred from his post.<sup>116</sup>

On the night of April 27, 2002, mobs pelted stones and explosives in the locality of Bengali Vas in Chandola, Ahmedabad. Afraid that their homes would be set on fire, Muslim residents gathered across the canal close to their homes. They claim that the mobs called the police, who arrived fifteen minutes later and began assaulting them. The residents ran back inside their homes for shelter. The police broke down their doors and began assaulting men, women, and children with sticks or the butts of their guns. They then began shooting.<sup>117</sup> Seven people were killed, two of them women. A total of fifty-five men and women were severely injured.<sup>118</sup>

### **False Charges Against Victims**

According to lawyers and nongovernmental groups working with victims in Gujarat, in an effort to cover up their own participation in the violence, the police have instituted false cases against a number of people injured by police gunfire. According to Sheba George, the head of the NGO SAHR WARU,

The attitude of the police is this: anyone who has been injured must have participated in the riot. We know of six women who were fired upon by the police and now have charges filed against them. Can you imagine the amount of money they have to spend each time they go to court? They have general charges filed against them, charges for rioting. But the women have not been given the FIRs. They just get picked up.... There was a case of a woman who had been beaten with an iron rod on her legs. She was beaten so badly and was still taken to jail. She had a breastfeeding baby with her. We later took her to give a statement to the police and they started asking if she was Bangladeshi. We don't expect any legal remedy with this government now in place.<sup>119</sup>

Also included in the SAHR WARU report were the events of March 1, in Soni Ka Khet, Millatnagar, Ahmedabad, as thirty-five-year-old Sairabanu Mehmoodmiya Sheikh was proceeding to the open ground near her home to throw out the garbage, the police fired tear gas on the Millatnagar residents. She said she was shot as she waited for the smoke to clear. Sairabanu was eventually booked under Indian Penal Code sections 143, 147, 148, 149, 302, 307, 335, 436, 427, and 188 for: rioting; rioting armed with a deadly weapon; unlawful assembly; murder; attempted murder; causing grievous hurt; mischief by fire or explosive substance with intent to destroy property; mischief causing damage to the amount of fifty rupees; and disobeying the order of a public servant. She was detained in Central Jail for twenty-four days in September 2002.<sup>120</sup> Others injured in police shootings were also booked under similar provisions. Among them were five men who were detained and kept in jail for two-and-a-half months. They were released after a local leader posted their bail. A woman named Saberbanu was held in Central Jail for twenty-four days though she had no offense registered against her in the complaint.<sup>121</sup>

On March 20, 2002, in Saiyyedwadi, Vatva, police reportedly opened fire, without warning, on a group of women as they were gathering for their evening prayers. A total of eight people were injured, six of them women. Two

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<sup>115</sup> SAHR WARU, "Monitoring Minority Rights," p. 4.

<sup>116</sup> Ibid.

<sup>117</sup> Ibid., p. 7.

<sup>118</sup> Ibid., p. 18.

<sup>119</sup> Ibid.

<sup>120</sup> Ibid., pp. 11-12.

<sup>121</sup> Ibid., p. 18.

victims died on the spot. Among those injured was a woman named Mumtazbanu who was disabled in one leg. She said she was standing outside her house when the firing began. As she attempted to get back inside her house, the police shot at her, injuring her second leg. Mumtazbanu was taken into police custody in May 2002. Her case came up for hearing in January 2003.<sup>122</sup>

Najmabibi told SAHR WARU that she was dragged out of her home by the police and beaten on her legs, abdomen, and hands. She was taken to the Shah-e-Alam Dargah camp and from there was admitted to a hospital. Her injury certificate does not implicate the police. Rather it states that she was “Beaten by opposite party on right thigh with sticks during riots.” As part of her treatment, five rods were inserted into Najmabibi’s leg. As of January 2003, she still could not bend her leg and could only afford to get two of the five rods removed. Although her husband registered an FIR, providing details of the assault and naming the police inspector involved, he has not been given a copy of the statement despite repeated visits to the police station.<sup>123</sup> In November 2002 Najmabibi was taken into police custody. She was released after her husband secured her bail. In January 2003, the police were in the process of preparing a chargesheet against her.<sup>124</sup> Another Muslim female resident of Bengali Vas, Chandola, was taken into custody, along with her two-and-a-half-year-old child, on August 21, 2002. She was released three days later after paying a Rs. 10,000 (U.S.\$213)<sup>125</sup> bail. She has been charged with looting houses and for being part of the attacking mob.<sup>126</sup>

## VI. THE GODHRA INVESTIGATION

More than one hundred Muslims have been charged under the much-criticized Prevention of Terrorism Act (POTA) for their alleged involvement in the Godhra massacre. No Hindus have been charged under POTA in connection with the post-Godhra violence against Muslims, which the state continues to dismiss as spontaneous and unorganized. The application of POTA exclusively against Muslims suggests that it is not behavior that determines whether an individual is labeled a “terrorist,” but his or her religion: Islam is falsely equated with terrorism. The government of Gujarat has also allocated considerably greater resources to the investigation of the attack in Godhra than to cases involving Muslim victims. Forensic evidence suggesting that the train was set on fire from the inside, and not by the Muslim mob outside, has not found its way into the investigation. Given the numerous problems associated with the case, many fear that innocent people will be punished while the guilty go free. As the prosecution shifts from one theory to the next, the relatives of many of the Hindus killed are denied redress and face economic destitution.

### **The Godhra Massacre**<sup>127</sup>

As noted at the outset of this report, the ongoing violence in Gujarat was triggered by the torching of two train cars carrying Hindu activists on February 27, 2002. The attack followed an altercation between Hindu activists and Muslim vendors at the train station in Godhra that morning, around 8:00 a.m. A Muslim mob soon gathered and surrounded the train compartment which was then set on fire. There are significantly divergent accounts about the events leading to the dispute that resulted in the Godhra killings. It has been widely reported that a scuffle began between Muslim vendors and Hindu activists shortly after the train arrived at the station. The activists, who had been chanting Hindu nationalist slogans, were said to have refused to pay a vendor until he said “Jai Shri Ram” or “Praise Lord Ram.”<sup>128</sup> As the train then tried to pull out of the station, the emergency brake

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<sup>122</sup> Ibid., p. 15.

<sup>123</sup> Ibid., pp. 7-8.

<sup>124</sup> Ibid., p. 9.

<sup>125</sup> At this writing, one U.S. dollar was equivalent to 47 Indian rupees. Converted figures have been rounded off.

<sup>126</sup> SAHR WARU, “Monitoring Minority Rights,” p. 10.

<sup>127</sup> Reproduced in part from Human Rights Watch, “*We Have No Orders to Save You*,” Chapter III.

<sup>128</sup> Celia Dugger, “After Deadly Firestorm, India Officials Ask Why,” *New York Times*, March 6, 2002; Rajiv Chandrasekaran, “Provocation Preceded Indian Train Fire: Official Faults Hindu Actions, Muslim Reactions for Incident That Led to Carnage” *Washington Post*, March 6, 2002; “Train attack not pre-meditated,” *Times of India*, March 8, 2002;

was pulled, a Muslim mob gathered outside the train, which was then set on fire.<sup>129</sup> Fifty-eight passengers were killed, including fifteen children and twenty-five women.<sup>130</sup>

The Godhra railway station is situated in an overwhelmingly Muslim section of the city. For three weeks preceding the killings, trains carrying Vishwa Hindu Parishad activists had been stopping daily in Godhra.<sup>131</sup> The activists were coming to and from Ayodhya, where the VHP sought to begin construction of a Hindu temple on the disputed site of the mosque destroyed by Hindu activists there. VHP leaders had set March 15, 2002 as a deadline to bring thousands of stone pillars to the site in order to begin construction of the temple.

Initially Gujarat Chief Minister Narendra Modi claimed that the killings were an “organized terrorist attack.”<sup>132</sup> Federal government sources speculated that they were “pre-meditated,” or the work of Pakistan’s Inter-Services Intelligence (ISI).<sup>133</sup> However, senior police officials in Gujarat later concluded that the killings were “not preplanned” but rather the result of “a sudden, provocative incident.”<sup>134</sup> In addition, a report from the Railway Protection Force (RPF) concluded that the killings resulted from a spontaneous altercation between VHP activists and merchants on the railway that escalated out of control, rather than a planned conspiracy.<sup>135</sup>

There was some forewarning of violence from within the police itself. Additional Director General of Police G. C. Raigar provided intelligence ahead of the Godhra incident that VHP volunteers were moving in and out of Gujarat and could instigate communal violence. He was removed from his post after presenting evidence to news media that law and order in the state could be compromised by VHP volunteers coming to and from Ayodhya. He had also questioned the government’s ability to provide security to the Hindu activists or take other measures, despite repeated warnings.<sup>136</sup>

In July 2002, results of an official investigation by the Ahmedabad-based Forensic Science Laboratory stated that the fire could not have been set by the mob from the outside as had been alleged; the fire, it claimed, was set from inside the train.<sup>137</sup> Close on the heels of the forensics report, activists in Gujarat released the results of a detailed survey of the families of those killed in Godhra. The survey revealed that most of those reported killed, and in whose name revenge was unleashed, were *not kar sevaks* (Hindu activists) but ticketless travelers or free riders—a norm on Indian trains.<sup>138</sup> Following media inquiries that the reservation list for that day be made

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Siddharth Darshan Kumar, “Muslim attackers set fire to train carrying Hindu nationalists, killing at least 57,” Associated Press, February 28, 2002.

<sup>129</sup> Dugger, “After Deadly Firestorm”; Chandrasekaran, “Provocation Preceded Indian Train Fire.”

<sup>130</sup> “Death toll in Indian train inferno rises to 58,” Reuters, February 28, 2002.

<sup>131</sup> Priyanka Kakodkar, “Just like Hindustan-Pakistan,” *Outlook*, March 18, 2002.

<sup>132</sup> Ashok Sharma, “Indian violence spreads in wake of train fire that killed at least 58,” Associated Press, February 28, 2002. Reacting to government assertions that the Godhra incident was an act of terrorism, a resident of Chartoda Kabristan relief camp told Human Rights Watch: “They keep talking about terrorism and Pakistan. But isn’t what has happened to us worse than terrorism?” Human Rights Watch interview (name withheld), Ahmedabad, March 23, 2002.

<sup>133</sup> “Needle of Suspicion Points Towards ISI in Godhra Incident,” Press Trust of India, March 1, 2002; “Conspiracy Theories Abound Over India’s Religious Riots,” Dow Jones International News, March 6, 2002.

<sup>134</sup> Chandrasekaran, “Provocation Helped Set India Train Fire,” *Washington Post*; Kingshuk Nag, “Godhra Attack Not Planned,” *Times of India*, March 28, 2002.

<sup>135</sup> The Railway Protection Force is a central government police force for Indian railways. RPF officers were present during the Godhra massacre; S. Satayanarayanan, “Godhra Carnage Not Preplanned: RPF Report Dispels Conspiracy Theory,” *Tribune*, April 9, 2002.

<sup>136</sup> Sheela Bhatt, “Intelligence chief who had warned Gujarat government transferred,” *rediff.com*, April 8, 2002 [online], <http://www.rediff.com/news/2002/apr/08bhatt.htm> (retrieved April 17, 2002).

<sup>137</sup> “Doubts over Gujarat train attack,” BBC News, July 3, 2002 [online] [http://news.bbc.co.uk/2/hi/south\\_asia/2087709.stm](http://news.bbc.co.uk/2/hi/south_asia/2087709.stm) (retrieved June 5, 2003); Human Rights Watch, *World Report 2003: Events of 2002* (New York: Human Rights Watch, 2003), p. 237.

<sup>138</sup> J Sri Raman, “Hum Hindustani: A year after Godhra,” March 3, 2003 [online], <http://www.gujaratplus.com/news/print.php?id=7891> (retrieved May 21, 2003).



available to the public, the Gujarat government released the names of thirty-nine of the fifty-eight who died. The other nineteen have yet to be identified. It remains unclear how many of those killed were *kar sevaks*.<sup>139</sup>

The findings of these reports have yet to find their way into the Godhra investigations, which are fraught with procedural irregularities that directly violate both Indian and international law.<sup>140</sup>

### **The Prevention of Terrorism Act**

In March 2002, the state government charged those arrested in relation to the attack on the Godhra train under the controversial and draconian Prevention of Terrorism Ordinance (POTO, now the Prevention of Terrorism Act, POTA), but filed ordinary criminal charges against those accused of attacks on Muslims. Bowing to criticism from political leaders and civil society across the country, the chief minister dropped the POTO charges but stated that the terms of POTO might be applied at a later date.<sup>141</sup> Eleven months later, on February 19, 2003, POTA was invoked *ex post facto*<sup>142</sup> against 123 people accused in the Godhra massacre. The state contended that new facts had emerged in the investigations that satisfied POTA requirements.<sup>143</sup>

On February 6, 2003, police arrested Maulana Hasan Umarji, a Muslim cleric whom officials say masterminded the attack. The prosecution's theory on Godhra has changed track numerous times. Umarji is the third such "mastermind" to be identified. The first theory involved a conspiracy linked to Pakistan's ISI, the second to the underworld and drug smugglers, and the third linked to Umarji. Officials claim that during his interrogation, he confessed to receiving financial assistance from Pakistan, Saudi Arabia, and Dubai.<sup>144</sup> The People's Union for Democratic Rights, an Indian human rights NGO, has charged that the arrest is politically motivated. Umarji had publicly campaigned against the BJP during the December 2002 elections, and was heavily involved in organizing relief assistance after the violence.<sup>145</sup> He was arrested based on the alleged confession of one of the other arrestees,<sup>146</sup> yet in the eleven months preceding Umarji's arrest, not one of the seventy-odd people arrested had identified Umarji as a participant.<sup>147</sup> Following Umarji's arrest on February 6, Muslim-owned shops in the town of Godhra closed down in protest. Some Hindus in Godhra also closed their shops fearing violence.<sup>148</sup>

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<sup>139</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II, p. 97.

<sup>140</sup> In May 2002, for example, serum was reportedly injected into five of the accused before they were questioned. Relatives of the accused have also been illegally detained. Many have spent months in jail without being produced in court. Setalvad, "Gujarat—One year later." Late at night on April 29, 2003, forty-six-year-old Fakruddin Yusuf died in judicial custody. He had been booked under POTA for the Godhra attack (see below). Yusuf had been suffering from low blood pressure and lung and heart ailments. Yusuf's lawyer, A.A. Hassan, has alleged that his client died as a result of police negligence, adding that he was not given proper medical treatment. "Godhra accused dies in custody," *Times of India*, May 2, 2003; "Main accused of Gujarat's train carnage dies in custody in India," Agence France-Presse, April 30, 2003; "Godhra accused had lung, heart problems," *Times of India*, May 3, 2003.

<sup>141</sup> Human Rights Watch, *"We Have No Orders to Save You,"* p. 5.

<sup>142</sup> The law was retroactively applied to crimes that took place before POTA was passed.

<sup>143</sup> "POTA invoked in Godhra carnage," *Times of India*, February 20, 2003. The long debated anti-terrorism legislation, the Prevention of Terrorism Act (POTA), was pushed through parliament on March 26, 2002. Its close resemblance to the much misused and now lapsed Terrorists and Disruptive Activities (Prevention) Act (TADA) of 1985 (amended 1987) foreshadowed a return to the widespread and systematic curtailment of civil liberties. POTA created an overly broad definition of terrorism, while expanding the state's investigative and procedural powers. Moreover, under POTA, suspects can be detained for up to three months without charge, and up to three months more with the permission of a special judge. Since its passage, POTA has been implemented against political opponents in various parts of the country. Human Rights Watch, *World Report 2003*, p. 241.

<sup>144</sup> Stavan Desai, "In Gujarat, only Godhra case is fit enough for POTA," *Indian Express*, April 3, 2003; "Suspects in Gujarat train attack funded from abroad: officials," Agence France-Presse, February 19, 2003.

<sup>145</sup> "Muslim community traumatised in Godhra," *The Hindu*, April 29, 2003.

<sup>146</sup> "Main Godhra conspirator arrested," *Hindustan Times*, February 7, 2003.

<sup>147</sup> Setalvad, "Gujarat—One year later."

<sup>148</sup> "Protests over Gujarat arrest," BBC News, February 6, 2003 [online], [http://news.bbc.co.uk/2/hi/south\\_asia/2734001.stm](http://news.bbc.co.uk/2/hi/south_asia/2734001.stm) (retrieved June 5, 2003). The Alliance for Defence of Democracy, a collective of NGOs and activists, announced that it will secure the services of prominent Supreme Court lawyers to represent those arrested as a result of the "misuse of POTA." The

While many of those arrested for post-Godhra attacks on Muslims are out on bail, Additional Director General of Police A.K. Bhargav admitted that POTA had been invoked against the Godhra arrestees in part to forestall the possibility of their obtaining bail.<sup>149</sup> On April 17, 2003 a special POTA court rejected the bail applications of fifty-six Godhra arrestees.<sup>150</sup> By sharp contrast, as of the beginning of March 2003, all but three of the sixty-eight accused in the Naroda Patia case were out on bail. In keeping with Indian criminal procedure<sup>151</sup> the police had attached the properties of fifty-one of the fugitives in the Godhra case, but had failed to do the same for fugitives in the Naroda Patia case.<sup>152</sup> Critics in the state, including human rights lawyers, add that POTA—whose evidentiary requirements are lower than those of ordinary criminal legislation—is being invoked primarily against those against whom there is little evidence.<sup>153</sup>

Police continue to dismiss the post-Godhra violence as spontaneous and unorganized; a chilling echo of Chief Minister Modi's now famous justification for the anti-Muslim pogrom that "Every action has an equal and opposite reaction."<sup>154</sup> When questioned about the government's decision not to apply POTA in the Naroda Patia and Gulbarg Society cases, the police responded that there was no evidence of a conspiracy in those cases.<sup>155</sup> This despite the fact that evidence clearly exists, and has been collected in meticulous detail by human rights groups throughout the state in the form of thousands of affidavits and reports. The evidence is simply not being entered into the police record. Responding to charges made by Human Rights Watch that POTA had been selectively applied against Muslims, while ordinary criminal charges were filed against Hindus, a government official told the Associated Press that investigating agencies "had found no Hindus involved in anti-state activities that threatened that country's sovereignty."<sup>156</sup>

In addition to the Godhra massacre, other cases involving *sangh parivar* victims, such as the attack on VHP Gujarat state General Secretary Jaideep Patel (see footnote 46), and the assassination of former Gujarat home minister and VHP functionary Haren Pandya are being pursued much more aggressively than those involving Muslim victims.

On the morning on March 26, 2003, former Gujarat Home Minister Haren Pandya was assassinated. He was shot at close range with five bullets.<sup>157</sup> Three eyewitnesses who testified before the Citizens' Tribunal testified that they saw Pandya on February 28, 2002 opposite the V.S. Hospital in Ahmedabad setting fire to a store called Apna Bazaar Medical and shouting, "Let us burn these Muslims." Pandya, who was leading the mob in the area, also reportedly had prevented the fire brigade from putting out the fire. An FIR had been lodged against him.<sup>158</sup> In August 2002 Pandya resigned from the ministry in Gujarat. A source close to Chief Minister Modi told *rediff.com*, an online news service, that Pandya was asked to either resign or apologize for appearing before the Citizens' Tribunal and implicating Modi in the violence in the state. He was believed to have told the tribunal

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lawyers will also fight for fair compensation for all the victims, and against what they term the "illegal arrests" of peace activists and eyewitnesses. "Top lawyers to defend Godhra case accused," *Times of India*, March 13, 2003.

<sup>149</sup> Under POTA the accused cannot obtain bail unless the court records a finding that there is no prima facie case against them. "In Gujarat, only Godhra case is fit enough for POTA," *Indian Express*, April 3, 2003.

<sup>150</sup> "POTA court rejects bail applications of 56 accused," Press Trust of India, April 17, 2003.

<sup>151</sup> See India's Code of Criminal Procedure, 1973, sections 82, 83.

<sup>152</sup> "89 killed in massacre, police let the probe die," *Indian Express*, March 1, 2003.

<sup>153</sup> "In Gujarat, only Godhra case is fit enough for POTA," *Indian Express*, April 3, 2003. See footnote 143 for more on POTA.

<sup>154</sup> Scott Baldauf, "Indian government struggles to maintain order; Continuing riots test Hindu-led coalition's credibility," *Christian Science Monitor*, March 4, 2002.

<sup>155</sup> "Same terror, different laws in Gujarat," *Indian Express*, February 22, 2003.

<sup>156</sup> Ashok Sharma, "International rights groups demand federal probe into killing of Muslims in India's Gujarat state," Associated Press, March 8, 2003.

<sup>157</sup> Vikram Vakil, "Former Gujarat home minister Haren Pandya shot dead," *rediff.com*, March 26, 2003.

<sup>158</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. I, p. 44.

that Modi met with top police officials on February 27 and gave oral directives not to interfere with the Hindu retaliation (see Chapter III). Pandya had denied that he appeared before the tribunal.<sup>159</sup>

In the aftermath of Pandya's assassination Gujarati police reportedly arrested and detained young Muslim men without producing them in court within twenty-four hours of arrest as mandated by law.<sup>160</sup> On April 19, 2003, the government of Gujarat booked ten more people under POTA for their alleged involvement in Pandya's assassination. They were also accused of the March 11, 2003 attack on VHP leader Jagdish Tiwari, and for the serial blasts in three Ahmedabad Municipal Transport Service buses on May 29, 2002.<sup>161</sup>

In addition to its selective application of POTA, the government of Gujarat has allocated greater resources to the investigation of the attack in Godhra than to cases involving Muslim victims. Public prosecutors in the Godhra case, for example, are paid at the rate of Rs. 7,000 (U.S.\$149) per hearing while those prosecuting the remainder of cases are paid Rs. 400 (U.S.\$9) a day, irrespective of the number of cases they hear.<sup>162</sup> According to an Ahmedabad-based lawyer, a bias is also apparent in the selection of public prosecutors and the rigor of investigations. He told Human Rights Watch:

The government pays Rs. 7,000 per hearing to special public prosecutors working on Godhra. In Ahmedabad the public prosecutors will get Rs. 400 a day. Victims and complainants will not have faith in public prosecutors appointed by the state. There is also no criteria in appointing public prosecutors, like looking for ones who have handled minority cases in the past for example.... The Godhra case is much further ahead and all accused are Muslims. The prosecutors' theory is that Godhra was planned. They told the same to the Commission of Inquiry, but they have not proven it so far.<sup>163</sup>

The special public prosecutor for the Godhra case reportedly has over twenty-five years of legal experience in criminal cases. In contrast, prosecutors appointed to hear the post-Godhra cases lack the necessary experience to handle cases of this magnitude.<sup>164</sup> The Gujarat government has also set up a special POTA court, headed by district sessions judge Sonia Gokanim to try the Godhra case. The court will cease to function once the trial is over.<sup>165</sup> Law Minister Ashok Bhatt, meanwhile, ruled out any special courts to try cases related to the post-Godhra violence against Muslims.<sup>166</sup> As a result cases may drag on indefinitely.<sup>167</sup>

### Uses of "Terrorism"

The application of POTA against Muslims accused in Godhra furthers existing discriminatory views that equate Islam with terrorism.<sup>168</sup> Following the Godhra massacre, the state and central government moved quickly to qualify the attack as a "pre-meditated," "terrorist" attack against Hindus. The recent revival of the Ram temple campaign, and heightened fears of terrorism since September 11 were also exploited by local Hindu nationalist groups and the local press that printed reports of a "deadly conspiracy" against Hindus by Muslims in the state. On February 28, one local language paper headline read: "Avenge blood for blood." Muslim survivors of the attacks repeatedly told Human Rights Watch that they were told to "go back to Pakistan."<sup>169</sup>

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<sup>159</sup> Sheela Bhatt, "Haren Pandya resigns from Gujarat ministry," *rediff.com*, August 6, 2002.

<sup>160</sup> Rathin Das, "Pandya killing: Muslims get midnight knocks," *Hindustan Times*, April 21, 2003.

<sup>161</sup> "Gujarat books 10 under POTA," *Indian Express*, April 19, 2003.

<sup>162</sup> Amit Mukherjee, "Godhra prosecutor to be paid RS 7000 per hearing," *Times of India*, June 22, 2002.

<sup>163</sup> Human Rights Watch interview with lawyer (name withheld), Ahmedabad, January 2, 2003.

<sup>164</sup> Amit Mukherjee, "Godhra prosecutor to be paid RS 7000 per hearing," *Times of India*, June 22, 2002.

<sup>165</sup> "Godhra-POTA," Press Trust of India, March 8, 2003.

<sup>166</sup> Sourav Mukherjee and Amit Mukherjee, "Trial begins in just 1 of 961 riot cases," *Times of India*, February 24, 2003.

<sup>167</sup> Cases dating back to 1985 or 1990 are still pending in Gujarat criminal courts. Concerned Citizens' Tribunal, *Crime Against Humanity*, vol. I, p. 209.

<sup>168</sup> See Chapter XI for more on the theme of terrorism in the BJP election campaign in Gujarat.

<sup>169</sup> Human Rights Watch, "We Have No Orders to Save You," pp. 4-5.

A resident of Naroda Patia who lost nine family members in the violence told Human Rights Watch: “They keep going on about Muslim terrorists, but who are the terrorists? Those who torture Muslims so much should be punished a bit. In a family of nine, I am the only survivor. Whom should I live for now?”<sup>170</sup> Fliers in circulation in Gujarat for years before the attacks cautioned Hindus to “beware of inhuman deeds of Muslims.... Muslims are destroying Hindu Community by slaughter houses, slaughtering cows and making Hindu girls elope. Crime, drugs, terrorism are Muslim’s empire.”<sup>171</sup> Similar fliers depicting Muslims as terrorists and sexual deviants are now in circulation in Rajasthan where the BJP is contesting elections later this year (see Chapter XI).

The labeling of Muslims as terrorists has also seeped into civil society. Teesta Setalvad, prominent Indian journalist, activist, and editor of the journal *Communalism Combat* explained:

The absolute horrifying fact of the violence was the paralysis and complicity of civil society in Gujarat, barring the few very brave and noble exceptions. This huge mass consensus that the discourse of the right wing has got, is really mirrored to a large extent in Gujarat, particularly in Ahmedabad city. So there is discourse about terrorist being used as an alternative to Muslim, where Kashmir is invoked to decide what should happen to Gujarati Muslims, as a payback. After the genocide the chief minister of Gujarat says, “why should I run relief camps, are they baby-making factories?” So this whole demonization of the Muslim community with no basis and rationality, no basis in fact, can really be observed in civil society in Gujarat. Civil society let this carnage take place, let the genocide take place, and even justified it in the name of Godhra.<sup>172</sup>

Members of the VHP and Bajrang Dal have also targeted Hindus for helping refugees, most notably Hindu doctors. Concerted attempts to communalize the medical and legal community in Gujarat may have obstructed the delivery of much-needed medical and legal aid following the violence.<sup>173</sup> Journalists too have come under attack for their unflinching reporting of the events in the country’s English media. On June 11, 2002 Chief Minister Modi issued a blatant threat against such journalists stating that, “Those journalists who cover Gujarat... may meet the fate of Daniel Pearl... Cover communal riots at your own risk, look at Daniel Pearl.”<sup>174</sup> Human rights defenders and peace activists have also come under attack, harassment, or intimidation. Threats are made publicly and privately. In December 2002 VHP General Secretary Praveen Togadia declared, “All Hindutva opponents will get the death sentence and we will leave it to the people to carry this out.”<sup>175</sup>

### **Godhra’s victims**

While the government continues to fumble the Godhra investigations, the relatives of the Hindus killed in the attack are battling poverty and expressing their frustrations with the rhetoric of the VHP. Eighty-year-old Girishchandra Rawal, whose son and wife were killed in the Godhra attack, told reporters:

The VHP has cheated us in the name of Lord Ram.... What do I gain from supporting the Ram temple movement in Ayodhya? Even if the temple is built there my future remains insecure... I have already lost my wife in the Godhra carnage and the son who was the sole breadwinner of my family to the ensuing violence. The state government announced an ex-gratia (compensation) of Rs. 200,000 [U.S.\$4,255] for the kin and later it reduced it to Rs. 100,000 [U.S.\$2,128]. My son has left behind his wife and daughter, how long can I feed them on this meagre amount?

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<sup>170</sup> Human Rights Watch interview with Khalid Noor Mohammed Sheikh, Ahmedabad, January 5, 2003.

<sup>171</sup> Human Rights Watch, *We Have No Orders to Save You*, p. 43.

<sup>172</sup> Human Rights Watch interview with Teesta Setalvad, Mumbai, December 21, 2003.

<sup>173</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. I, p. 210.

<sup>174</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II, p. 31; “Cover communal riots at your own risk, look at Daniel Pearl - Gujarat govt.,” *Indian Express*, June 11, 2002. For more on attacks on the media in Gujarat see Human Rights Watch, *We Have No Orders to Save You*, p. 34.

<sup>175</sup> Neena Vyas, “Hindutva storm will not be - limited to Gujarat - Togadia,” *The Hindu*, December 18, 2002.

Rawal claimed that he had not received the additional Rs. 50,000 (U.S.\$1,064) promised by the VHP to the victims' next of kin.<sup>176</sup> He described Hindutva as "nothing more than a political plank," adding that if you "take the dirty politicking out you have a society that believes in peaceful co-existence."<sup>177</sup> Rukesh Shah, a nineteen-year-old VHP worker who was in the train when it caught fire told reporters, "I lost my grocery shop in the violence. Did the VHP do anything to compensate me? Now I have to work as a daily wage labourer to support my mother and sisters."<sup>178</sup>

## VII. ATTACK ON AKSHARDHAM

On September 24, 2002, two gunmen attacked the Akshardham cultural complex of the Swaminarayan Hindu sect in Gandhinagar, Gujarat. By the end of the attack that lasted over twelve hours, thirty-three people were killed and seventy were injured. Human Rights Watch strongly condemned the egregious attack on Hindus and commended the Indian government for responding swiftly to maintain peace and security in the state following the killings.<sup>179</sup> The government deployed approximately three thousand army personnel during a nationwide strike called by the VHP to protest the attack. Indian officials also called on citizens to end the cycle of violence by refraining from taking the law into their own hands. Critics of the government's handling of the post-Godhra violence remarked that had it acted as quickly following the Godhra massacre, many deaths could have been prevented. The incident once again heightened tensions with Pakistan, blamed by India for the attack.<sup>180</sup>

In January 2003 Human Rights Watch visited the Akshardham complex and spoke to Nishith Acharya, an eyewitness to the attack and full-time volunteer who looks after administration at Akshardham. Acharya told Human Rights Watch that the attackers, armed with grenades and automatic weapons, jumped a fence and rushed to the main walkway of Akshardham, opening fire on tourists at the bookstore along the way: "They threw something inside, a grenade, into the bookstore. By God's grace it did not explode in the bookstore. One middle-aged lady tried to come out. They fired on her, and she was immediately killed. They started moving ahead and went to the podium. I had no weapons and no one in the campus had weapons [so as] to preserve the sanctity of the place."<sup>181</sup>

The attackers then charged toward the main stone monument of the complex, hurling grenades along the way. Acharya relayed an intercom message to the volunteers inside the monument telling them to bring the tourists inside and shut the gates. The same message was communicated to the volunteers in Exhibition Halls one, two, and three. Unable to enter the monument, the attackers proceeded to the basement of the monument hall and detonated a grenade. They then turned their attention to the exhibition area:

Unfortunately the exit door of Exhibition One, which was closed, was opened by one lady, perhaps [she was] thinking of coming out. From there the two terrorists entered and saw that the public was there. They threw a grenade inside. It exploded and they started firing on the public. Many people were injured. There were many casualties.... People were killed there also. One volunteer opened all the doors to let the people out. So they threw a grenade at the entrance part and did firing also. Maximum casualties were there.... The room was full of blood. People were badly injured. But many didn't die. If they had come back and fired again, they all would have died. The terrorists then went up to the rooftop. It was 5:20 p.m. They lay down on the parapet and stopped firing. The police force, the BSF [Border Security Force], CRP [Central Reserve

<sup>176</sup> Sukrat Desai, "Godhra victims' kin say VHP has cheated them," Indo-Asia News Service, February 26, 2003.

<sup>177</sup> Sourav Mukherjee, Radha Sharma, "Ghost of Godhra still haunts them," Times News Network, February 27, 2002.

<sup>178</sup> Ibid.

<sup>179</sup> See Human Rights Watch, "India: Keep Peace in Gujarat," (Press Release) September 26, 2002 [online], <http://www.hrw.org/press/2002/09/gujarat0926.htm> (retrieved June 16, 2003).

<sup>180</sup> Human Rights Watch, *World Report 2003*, p. 238.

<sup>181</sup> Human Rights Watch interview with Nishith Acharya, Gandhinagar, January 3, 2003.

Police] Force and SCF [Security Commando Force] had already taken possession of the complex.<sup>182</sup>

The police and commandos then escorted hundreds of visitors from around the complex to safety and help transport the injured to nearby hospitals. As the security forces were escorting the visitors out from the main monument, the attackers opened fire again but no one was hit. Periodic cross-firing continued throughout the night. At around 6:45 a.m., Black Commandos of India's national security guard—who had been airlifted from Delhi to join the operation—shot and killed the two attackers. Of the thirty-three people killed, one was a member of the special reserve police, one of the national security guard, and one of the state commando force. Parmeshwar Swami, a religious teacher of the institution, four volunteers, and several children were also among those killed.<sup>183</sup>

Two separate letters written in Urdu were found in the pockets of the two attackers that claimed that they belonged to a group called Tehreek-e-Qisas-Gujarat, or "Movement for Revenge in Gujarat."<sup>184</sup> Brigadier Raj Sitapati of the NSG, who led the operation, told the *Times of India* that "The letter mentions that the killings were to avenge what happened during the Gujarat riots" and that they planned the attack "for the satisfaction of their souls because they could not tolerate what happened to children, women and Muslims during the Gujarat riots."<sup>185</sup> The letters, dated August 2, 2002, are reportedly addressed to the "thousands of conscienceless enemies of Muslims in India."<sup>186</sup> On September 26, 2002, Chief Minister Modi moved quickly to rule out the theory that the attackers were local or that the incident was meant to avenge the killing of Muslims in the state. He added that the letters in Urdu were intended to "mislead" those carrying out investigations.<sup>187</sup> Not unlike the state's initial statements about the attack in Godhra, the government was promoting the theory that the attack was the product of Pakistan-sponsored terrorism.<sup>188</sup>

An article in the newsmagazine *Frontline* explains why Akshardham might have been chosen as a target for the attacks:

It is not hard to see why terrorists might have considered the Akshardham temple a high-value target. The complex, for one, is close to Narendra Modi's residence. It is also near the Gujarat police headquarters. Spread over 23 acres (9.2 hectares) of land, the elaborate Akshardham complex is structured around a temple with a golden statue of Lord Swaminarayan. It also has multimedia shows, an exhibition hall, cafes and a vast landscaped garden. "Several foreign dignitaries have visited Akshardham, including Bill Clinton and Prince Philip. Any attack on it would invite international attention," a police officer said. The Swaminarayan sect is also one of the most prosperous and powerful in Gujarat, with a strong following among the Patel community and Gujarati non-resident Indians. Both Patels and NRIs are in large measure seen to be strong BJP supporters. Sections of the Patel community aligned to the Sangh Parivar are perceived to have played a significant role in much of the communal violence in the State.<sup>189</sup>

The article goes on to claim that "elements within the State Police seem to have gone out of their way to misinform. Officials claimed, for example, that a radio intercept had identified the two killed terrorists as

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<sup>182</sup> Ibid.

<sup>183</sup> Ibid.

<sup>184</sup> "Terrorist outfit identified for temple attack," *Times of India*, September 25, 2002. Urdu is the primary language of Muslims in India, and the national language of Pakistan.

<sup>185</sup> Ibid.

<sup>186</sup> R. Prasannan, "Fatal error," *The Week*, October 6, 2002 [online], <http://www.the-week.com/22oct06/cover.htm> (retrieved May 20, 2003).

<sup>187</sup> "Attack not a revenge: Modi," *The Hindu*, September 27, 2002.

<sup>188</sup> Human Rights Watch interviews in Ahmedabad, January 2-5, 2003.

<sup>189</sup> Dionne Bunsha, Praveen Swami, "The Terror Trail," *Frontline*, October 12 - 25, 2002 [online], <http://www.flonnet.com/fl1921/stories/20021025007001200.htm> (retrieved May 20, 2003).

Mohammad Amjad of Lahore and Hafiz Yassir of Attock, Pakistan. Highly placed intelligence sources, however, told *Frontline* that the supposed identification was pure fiction.”<sup>190</sup>

To date, no group has claimed responsibility for the attack and little progress has been made in the investigation. Many have faulted a failure of intelligence agencies to heed warnings of a possible temple attack, while others have pointed out that the killing of both attackers have hampered investigations.<sup>191</sup> The attack has also raised fears that the failure to prosecute those responsible for violence against Muslims may contribute to cycles of retaliatory violence against Hindus and undermine the security of all citizens in the state. Although the authenticity of the letters remained unclear at this writing, the attack on Akshardham highlighted the need to press forward with prosecutions in Gujarat in all cases, regardless of the religious identity of the victims.

## VIII. INADEQUATE RELIEF TO VICTIMS

*In the two decades that I spent in the civil services, I have never observed a single instance earlier when the State did not lead relief operations after a major disaster, human-made or natural... Governments in the past may have faltered in the outcomes of their programmes. But the Gujarat carnage of 2002 marks a sordid first in which civil service functionaries consented to merciless political dictates and cooperated to abdicate responsibility for relief and, over time, even to thwart community efforts to provide shelter and succour to the hapless survivors.*

— Harsh Mander<sup>192</sup>

The destruction as well as enmity and insecurity left by the communal violence in Gujarat in February and March 2002 forced more than one hundred thousand Muslims into over one hundred makeshift relief camps throughout the state, some located in Muslim graveyards. By October 2002, virtually all the camps had been closed by the state, forcing many victims to return to their neighborhoods where their security was continually threatened. Throughout this period, the state government failed to adhere to standards laid out in the U.N. Guiding Principles on Internal Displacement (Guiding Principles) and to international human rights standards.<sup>193</sup> This chapter examines the state government’s failure to provide humanitarian assistance to internally displaced persons, its forcible closure of relief camps, and the ongoing insecurity faced by returnees.

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<sup>190</sup> Ibid.

<sup>191</sup> See for example Bunsha, “The Terror Trail”; B. Raman, “A case of intelligence failure?” *Frontline*, October 12 – 25 [online], <http://www.flonnet.com/fl1921/stories/20021025007301400.htm> (retrieved May 20, 2003); and R. Prasanna, “Fatal error,” *The Week*, October 6, 2002 [online], <http://www.the-week.com/22oct06/cover.htm> (retrieved May 20, 2003).

<sup>192</sup> Harsh Mander, “Before it is too late: The wanton subversion of relief and rehabilitation in Gujarat,” *Frontline*, September 14 – 27, 2002 [online], <http://www.flonnet.com/fl1919/19191100.htm> (retrieved May 16, 2003). Harsh Mander is the Country Director for Action Aid, India, and former officer of the Indian Administrative Service.

<sup>193</sup> The U.N. Guiding Principles on Internal Displacement were presented to the U.N. Commission on Human Rights (the Commission) in 1998 by the Special Representative of the U.N. secretary-general on internally displaced persons, Francis Deng, and unanimously adopted by the commission. Although non-binding, the Guiding Principles are based upon and reflect international humanitarian and human rights law. The Guiding Principles address all phases of displacement—providing protection against arbitrary displacement, ensuring protection and assistance during displacement, and establishing guarantees for safe return, resettlement, and reintegration. The Guiding Principles have gained widespread international recognition and authority. Resolutions of the United Nations Commission on Human Rights and the General Assembly have described the Principles as a comprehensive framework for the protection of internally displaced persons, and have welcomed their use and encouraged U.N. agencies, regional organizations, and NGOs to disseminate and apply them. U.N. agencies and NGO umbrella groups in the U.N. Inter-Agency Standing Committee have endorsed them. Regional bodies in the Americas, Africa, and Europe have endorsed or acknowledged them with appreciation. Individual governments have begun to incorporate them in national policies and laws and some national courts have begun to refer to them as a relevant restatement of existing international law. See [http://www.reliefweb.int/ocha\\_ol/pub/idp\\_gp/idp.html](http://www.reliefweb.int/ocha_ol/pub/idp_gp/idp.html) (retrieved April 23, 2002).

## Failure to Provide Humanitarian Assistance

Guiding Principle 18 states that “competent authorities” should provide internally displaced persons with essential food and potable water, basic shelter and housing, appropriate clothing and essential medical services and sanitation “regardless of the circumstances, and without discrimination.” The government of Gujarat failed to provide adequate and timely humanitarian assistance to internally displaced persons. Problems included serious delays in government assistance reaching relief camps, inadequate state protection for displaced persons and relief convoys, and failure to provide medical and food supplies and build sanitation facilities. Moreover, nongovernmental relief workers seeking to assist victims of violence were limited by a lack of access and protection. The onus of providing much needed relief rested largely on local NGO and Muslim voluntary groups.<sup>194</sup>

A report sponsored by the Citizens’ Initiative in Ahmedabad, titled *Rebuilding from the Ruins*, found that government officials also routinely underreported the figures of those residing in relief camps, partly to minimize their own obligations to the residents, and partly to further the notion that “normalcy” was returning to the state.<sup>195</sup> Several camps in Ahmedabad were also not recognized by the government and therefore did not receive any state rations or relief supplies.<sup>196</sup> Inspecting officers often visited camps in the middle of the day, when most of the wage earners were out pursuing their vocations, resulting in artificially low estimates of the number of residents in camps and food ration entitlements. While voluntary organizations tried to meet these expenses through donations and contributions, they found it difficult to run the camps indefinitely.<sup>197</sup>

In January 2003, Human Rights Watch visited Shah-e-Alam camp, the largest camp in Ahmedabad. Though the camp area, which is situated in a dargah (a traditional meeting ground for Hindus and Muslims), seemed largely uninhabited at the time of our visit; at the height of the violence approximately 12,500 people resided there. According to one of its managers, the camp was closed on August 23, 2002, two months after the government ended its official support. Between March and June the government provided 300 grams of flour, 100 grams of rice, 50 grams of dal, 50 grams of milk powder, 50 grams of oil, and five rupees per person per day. Apart from this five rupee allotment per person per day the camp received no additional financial support from the government. Instead, money was collected from local community members or by placing advertisements in newspapers.<sup>198</sup> A camp resident told Human Rights Watch:

When the government gave food here, there were so many bugs inside what they gave, and that’s what we ate. What could we do? We had no choice. And then the committee people, they saved our lives and brought us here and for ten or twelve days, they were the ones feeding us – the government gave us nothing. And then after ten to twelve or even fifteen days, the government gave rations to the camp but even in what they sent there were so many bugs and other things in the flour and in the rice; the kids used to fall sick from eating it. What could we do? We had to eat.<sup>199</sup>

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<sup>194</sup> For more on access to humanitarian assistance in relief camps see Human Rights Watch, “*We Have No Orders to Save You*,” Chapter VIII.

<sup>195</sup> HIC, YUVA, *Rebuilding from the Ruins*, p. 28. A semblance of “normalcy” would also promote the state’s bid for early state assembly elections. “Gujarat ready for polls, says governor,” *Times of India*, June 6, 2002. For more on the elections, see Chapter XI.

<sup>196</sup> HIC, YUVA, *Rebuilding from the Ruins*, p. 40. The investigating team also visited Hindu camps but found that they were mostly empty “indicating a greater sense of security and confidence amongst Hindus in camps to be able to go out, move about the city and resume their regular lives.” *Ibid.*, p. 35. The report added that Hindu camps received far better official support from the government, in the form of visits by prominent politicians and the involvement of local officials in running the camps. *Ibid.*, p. 36.

<sup>197</sup> Election Commission of India, “Press Note,” pp. 31-32.

<sup>198</sup> Human Rights Watch interview with Shah-e-Alam camp manager, Ahmedabad, January 3, 2003.

<sup>199</sup> Human Rights Watch interview with camp resident (name withheld), Ahmedabad, January 2, 2003.



By June 2002, 8,500 people had left Shah-e-Alam camp. Many went to relatives' homes, some to rental homes, while others out of necessity returned to their homes in Naroda Patia, Naroda Gam, and elsewhere. At the time of the camp's closure in August, 4,000 people remained. A Muslim charity repaired some 700 homes and constructed approximately sixty-five homes in various Ahmedabad neighborhoods. When asked whether the government provided financial support to run the camps (as opposed to the limited subsidies to victims described above) the manager told Human Rights Watch: "Forget money, they didn't even give us protection. We kept asking for help with rehabilitation, even to [Prime Minister] Vajpayee when he came, but nobody did anything." Some of those who lost family members have been able to construct or buy homes in Muslim majority areas. The remainder have for the most part returned to Naroda Patia. "They returned because they own property there and have been unable to sell it for the price at which it was bought."<sup>200</sup>

### **The Forcible Closure of Relief Camps**

The majority of relief camps in Gujarat only remained open until June 2002, when the government unilaterally began to close them, forcing thousands of victims to either enter unofficial relief camps or to return to villages and neighborhoods where their security was continually threatened.<sup>201</sup> Some official camps were closed as early as April or May.<sup>202</sup> As summer temperatures soared, residents searched for shade under the few trees and tattered tents that dotted the open grounds and graveyards that had become their homes. When the monsoons set in in late June, state authorities refused to build rain-proof shelters, despite repeated requests and court injunctions. In Ahmedabad, the district administration began posting signs demanding that camps be disbanded and stopped the state's already meager supply of food and medicines. The camps gradually emptied and residents were forced to move into what was left of their damaged homes, into relatives' homes, or into small hired rooms in Muslim-majority neighborhoods.<sup>203</sup> In October 2002 the government announced that the few remaining camps would be disbanded by October 30.<sup>204</sup>

The forcible closure of the camps in circumstances in which it was foreseeable that some camp residents would have no option but to return to unsafe conditions is contrary to Guiding Principle 15(d)—the "right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk"—and violates the right to choose one's own residence under article 12(1) of the International Covenant on Civil and Political Rights (ICCPR). Furthermore, the closure of the camps without an offer of adequate alternative shelter is a clear violation of article 11(1) of the International Covenant of Economic, Social, and Cultural Rights (ICESCR)—"the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing."<sup>205</sup>

### **Ongoing Insecurity of Returnees**

In August 2002 the Election Commission found that a "substantial majority of electors who had to perforce leave their houses, and in many cases, flee from their villages to save themselves from the arson and carnage ... [had] not yet returned to their houses and villages." The Commission cited slow progress in the reconstruction or repair of homes due to inadequate compensation from the state, and "a fear psychosis still pervading in the minds of the displaced persons" as chief obstacles to return.<sup>206</sup>

When interviewed by Human Rights Watch in January 2003, Savera Bibi, a former resident of Naroda Patia, was among a handful of people who had continued to reside at Shah-e-Alam camp months after it was officially

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<sup>200</sup> Human Rights Watch interview with Shah-e-Alam camp manager, Ahmedabad, January 3, 2003. For more on the Guiding Principles and on humanitarian conditions in Chartoda Kabristan and Dariyakhn Ghummat relief camps in Ahmedabad, see Human Rights Watch, *We Have No Orders to Save You*, Chapter VIII.

<sup>201</sup> Human Rights Watch, *World Report 2003*, p. 238.

<sup>202</sup> Election Commission of India, "Press Note," p. 35.

<sup>203</sup> Mander, "Before it is too late."

<sup>204</sup> Human Rights Watch, *World Report 2003*, p. 238.

<sup>205</sup> India acceded to both Covenants in 1979.

<sup>206</sup> Election Commission of India, "Press Note," pp. 16, 17.

closed. She explained that she and her seven family members had refused to return to Naroda Patia: “I haven’t gone home, and I won’t go back. Why would I go back? We barely survived leaving. We barely saved ourselves on the way out, why would we go back? I don’t have a death wish.”<sup>207</sup> Those who have returned to their homes, for a lack of other options or because they do not wish to abandon property that they own, continue to flock to now-closed relief camps at the first sign of trouble, further undermining the government’s assertion that “normalcy” has returned to Gujarat. According to R. Bibi, a former resident of Naroda Patia and also a lingering resident at Shah-e-Alam camp, “There used to be thousands of people in this camp. Now they’ve gone to their homes. For some they were constructed by committee people [a Muslim charity], and some had to go back to [Naroda] Patia out of necessity. But whenever something happens they come running back here. They put the locks on and come running back here. There is still danger for us there. I don’t feel like going back there.”<sup>208</sup>

According to a report in the *Times of India*, by the end of March 2003 the residents of Naroda Gam and Chamanpura, Ahmedabad had fled to relief camps six times since returning to their residences. The exodus triggering events were the attack on Akshardham in September 2002, the Jagannath Rath Yatra<sup>209</sup> in July 2002, the Muslim holiday of Eid and the attack on VHP leader Jaideep Patel in December 2002, the India-Pakistan cricket match and the assassination of former Gujarat Home Minister Haren Pandya in March 2003. The VHP call for a statewide bandh (shut-down) following the assassination further added to Muslim insecurities.<sup>210</sup> Ongoing impunity for attacks against Muslims (see Chapter IV) and periodic episodes of violence have also made it impossible for many families to return to their homes where their assailants roam freely in their neighborhoods.

## IX. LACK OF GOVERNMENT COMPENSATION FOR VICTIMS

Following the violence in February-March 2002, the government of Gujarat passed a series of orders designed to compensate victims for injury, loss of life, property, and livelihood. In many cases the compensation amounts were lower than precedents set by the state following the earthquake in Gujarat in January 2001. Most people interviewed by Human Rights Watch received negligible amounts to compensate for the destruction of their homes, ranging from a few hundred to a few thousand rupees. Unable to prove that their loved ones were dead, and not simply “missing,” many found it difficult to get compensated. No one interviewed by Human Rights Watch was compensated for injury or loss of employment or livelihood.

The victims of the communal violence in Gujarat in February-March 2002 have been denied the right to a remedy and reparation, a right enshrined in various international human rights instruments.<sup>211</sup> The Universal Declaration of Human Rights, widely viewed as customary international law, provides that everyone has “the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted” by the

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<sup>207</sup> Human Rights Watch interview with Savera Bibi, Ahmedabad, January 2, 2003.

<sup>208</sup> Human Rights Watch interview with R. Bibi, Ahmedabad, January 2, 2003.

<sup>209</sup> An annual Hindu ritual in which a chariot is drawn for 14 kilometers through the streets of Ahmedabad.

<sup>210</sup> Harit Mehta, “Riot victims flee sensitive areas after Pandya killing,” *Times of India*, March 29, 2003.

<sup>211</sup> See, e.g., the Universal Declaration of Human Rights, article 8; the International Covenant on Civil and Political Rights, article 2; and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, article 14 (containing an express provision for an “enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible.”) Other non-binding international instruments also provide guidance on reparations. Principle 29 (2) of the U.N. Guiding Principles on International Displacement stipulates that internally displaced persons should be provided with compensation or other just reparation for property lost during the course of displacement. Further guidance on compensation can be found in the “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law,” drafted by M. Cherif Bassiouni, the U.N. special rapporteur on the right to restitution, compensation, and rehabilitation for victims of gross violations of human rights and fundamental freedoms. It is available online at <http://www.unhcr.ch/Huridocda/Huridoca.nsf/TestFrame/42bd1bd544910ae3802568a20060e21f?Opendocument> (retrieved February 19, 2003).

constitution or by law.<sup>212</sup> The International Covenant on Civil and Political Rights, to which India is a party, requires in article 2 that states “ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.” Persons shall have their right to a remedy determined by “competent judicial, administrative or legislative authorities,” or other competent state authority. The state must “ensure that the competent authorities shall enforce such remedies when granted.”<sup>213</sup> The U.N. Human Rights Committee, in its draft General Comment on article 2, states that without reparations to individuals whose rights have been violated, a state’s “obligation to provide an effective remedy, which is central to the efficacy of Article 2, ... is not discharged. ... [T]he Covenant generally requires appropriate monetary compensation.”<sup>214</sup>

### Compensation Guidelines

Soon after the Godhra train attack on Hindus, the Gujarat state government announced that the families of Godhra victims would receive Rs. 200,000 (U.S.\$4,255) as “compensation.” Their subsequent decision to issue only Rs. 100,000 (U.S.\$2,128) to Muslims whose family members were killed in the revenge attacks following Godhra came under sharp criticism from numerous NGOs and Indian officials outside the Gujarat state government, including two former prime ministers.<sup>215</sup> Compensation for the families of Godhra victims was later reduced to parity with compensation for Muslim victims, but only after VHP activists stated they would be satisfied if families of Godhra victims received the same amount.<sup>216</sup>

On April 4, 2002 Prime Minister A.B. Vajpayee visited Gujarat and announced a federal relief package that included the following provisions: Families that lost loved ones would receive Rs. 150,000 (U.S.\$3,191) for each member killed. Rs. 50,000 (U.S.\$1,064) would come from the Prime Minister’s Relief Fund while Rs. 100,000 (U.S.\$ 2,128) would come from the state.<sup>217</sup> Those who suffered permanent disability would be given Rs. 50,000.<sup>218</sup> As a result of the Prime Minister’s relief announcement, the Gujarat government decided to reduce its compensation amount for families of deceased victims from Rs. 100,000 to Rs. 50,000. As described below, many Muslim victims who lost family members have been unable to prove their loss and have received no compensation under these guidelines.

Vajpayee also announced that those whose homes were completely damaged in rural areas would receive Rs. 50,000 (U.S.\$1,064) while those whose homes had suffered partial damage would receive Rs. 15,000 (U.S.\$319). Vajpayee added that victims would not be resettled in a segregated manner. The federal government would also bear all the expenditure for the reconstruction of damaged homes. Those who lost shops and commercial establishments would also be compensated.<sup>219</sup>

On May 1, 2002, Vajpayee announced an additional Rs. 150 crore (U.S.\$31,914,894) rehabilitation package for the victims of the violence, which included assistance for the reconstruction and repair of damaged homes and shops, and aid for the self-employed to restart their businesses and industrial activities. The package was also to provide for the revival of educational, medical, and other institutions in violence-affected areas, and for programs to support widows. The prime minister added that the package would be supplemented by loans and assistance from banks and financial institutions on relaxed terms similar to those enacted following the earthquake in

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<sup>212</sup> Universal Declaration of Human Rights, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948), article 8.

<sup>213</sup> International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976, article 2. India ratified the covenant in 1979.

<sup>214</sup> U.N. Human Rights Committee, Draft General Comment on Article 2, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant Unedited Version, U.N. Doc. CCPR/C/74/CRP.4/Rev.3 (2003), paragraph 15.

<sup>215</sup> “Gujral, VP Singh Want Equal Compensation for All,” *Economic Times*, March 8, 2002.

<sup>216</sup> Human Rights Watch, “*We Have No Orders to Save You*,” p. 57.

<sup>217</sup> “Don’t discriminate—PM tells Modi,” *Times of India*, April 5, 2002.

<sup>218</sup> “PM Announces Relief Measures for Riot Victims,” *rediff.com*, April 4, 2002 [online], <http://www.rediff.com/news/2002/apr/04train8.htm> (retrieved April 17, 2002).

<sup>219</sup> “Don’t discriminate—PM tells Modi,” *Times of India*.

Gujarat in January 2001.<sup>220</sup> The Gujarat government has yet to account for how it is spending the Prime Minister's additional Rs. 150 crore relief fund.<sup>221</sup>

A series of government orders following these announcements ultimately resulted in the following breakdown of compensation amounts.<sup>222</sup>

Compensation for death	Rs.1 lakh [100,000] (U.S.\$2,128)
Compensation for injury	Rs.1,000 – Rs.50,000 (U.S.\$21 - \$1,064)
Loss of household items (ghar vakhari)	Rs.1,250 (U.S.\$27)
Cash for affected people not in camps	Rs.15 per day (U.S.\$0.32)
Ex-gratia payment <sup>223</sup>	Rs.5,000 – Rs.10,000 (U.S.\$106 - \$213)
House reconstruction support	Maximum of Rs.50,000 (U.S.\$1,064)
Compensation for loss of employment/livelihood	4% of annual income

### Compensation for Damages to Homes

The Rs. 50,000 (U.S.\$1,064) compensation for damaged homes, already low compared to the Rs. 90,000 (U.S.\$1,915) amount commissioned to rebuild homes post-earthquake,<sup>224</sup> was interpreted by the state as a ceiling and not as a fixed amount.<sup>225</sup> As a result, even in cases where homes were completely destroyed the maximum amount of Rs. 50,000 was not awarded.<sup>226</sup> Compensation was calculated on the basis of a survey conducted by the local revenue officer and an engineer. Though many family members in Ahmedabad were present for the survey of their homes, they were unaware of how the damage was calculated. By contrast, in Sabarkantha district, many were absent during the damage assessment survey. They only realized that a survey had taken place once they received a check.<sup>227</sup> The Citizens' Initiative-sponsored report, *Rebuilding from the Ruins*, claims that surveys were also not standardized.<sup>228</sup> When India's Election Commission visited Gujarat in August 2002, it found what it termed to be the "general apathy of the administration in handling this most sensitive issue of restoration of the places of habitation of the affected persons" and cited cases where the relief sanctioned for a completely destroyed house was as little as Rs. 200 (U.S.\$4).<sup>229</sup> The Citizens' Initiative report adds that, "unfair and unjust compensation has added to the sense of betrayal and humiliation that people feel towards the State."<sup>230</sup>

On April 25, 2003, fifty-eight-year-old Babulal Abdul Hamid received a check for Rs. 2,000 (U.S.\$43) for damages to his three homes and his kerosene shop. He had estimated his loss at Rs. 800,000 (U.S.\$17,021). Within minutes of receiving his check, Hamid suffered a fatal heart attack.<sup>231</sup> Thirty-year-old Mira Banu told Human Rights Watch that her family did not receive anything in the way of support from the government. Mira

<sup>220</sup> P. Sunderarajan, "Rs. 150 cr. for rehabilitation," *The Hindu*, May 2, 2002.

<sup>221</sup> A writ petition was filed before the Gujarat High Court asking, among other things, that court order a complete accounting from the Gujarat government of the Rs. 150 crore rehabilitation package. Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II, p. 125

<sup>222</sup> Table reproduced from the report, HIC, YUVA, *Rebuilding from the Ruins*, p. 17.

<sup>223</sup> An ex-gratia payment is a payment made to an individual for loss or damage to personal property in a situation where the party making the payment admits no liability for the loss or damage.

<sup>224</sup> HIC, YUVA, *Rebuilding from the Ruins*, p. 74.

<sup>225</sup> Mander, "Before it is too late."

<sup>226</sup> HIC, YUVA, *Rebuilding from the Ruins*, pp. 73-74.

<sup>227</sup> *Ibid.*, p. 73.

<sup>228</sup> *Ibid.*

<sup>229</sup> Election Commission of India, "Press Note," p. 32.

<sup>230</sup> HIC, YUVA, *Rebuilding from the Ruins*, p. 32. For a comprehensive analysis of violations of the right to housing—as interpreted by international and Indian law—and its application to the rehabilitation of victims of violence in Gujarat see *Ibid.*, pp. 10–15, 90–102.

<sup>231</sup> Palak Nandi, "With paltry compensation, Govt deals riot-affected a body blow," *Indian express online*, May 7, 2003 [online], <http://cities.expressindia.com/fullstory.php?newsid=17151> (retrieved May 20, 2003).

stayed in Shah-e-Alam camp for two months with her children and her husband. While in the camps, her husband became ill and was admitted to the hospital where he died four days later. After her husband's death, Mira moved into her mother's home. "Our house and everything in it was burned down," she said. "We came to the camp with only the clothes on our backs. We got nothing from the government even though we filled out so many forms. We just got two towels and some clothes from some relief workers. We got no money though."<sup>232</sup>

S. Banu, formerly of Naroda Patia, told Human Rights Watch that she was afraid to return to her home because one of the assailants she identified in an FIR continues to reside in her neighborhood. Banu, a mother of three young children, witnessed her husband's murder at the hands of the police.<sup>233</sup> Banu and her children remained at Shah-e-Alam camp until it was closed in October 2002. Her children got very sick in the camps. They then moved into a small home bought for them by a Muslim charity in a Muslim-dominated neighborhood. During Human Rights Watch's interview with Banu, two repairmen arrived at her home to try and repair a metal armoire that was broken into during the violence. Following a visit by President Abdul Kalam, Banu received a check for Rs. 90,000 (U.S.\$1,915) to compensate for her husband's death. She did not receive anything for the damages to her home. She told Human Rights Watch: "Even though the government did a survey we got nothing. They broke down the door and looted everything. I do not want to go back to Naroda Patia. If something happened again, how would I protect my kids? So I came here [location undisclosed]."<sup>234</sup>

Banu showed Human Rights Watch a copy of the affidavit listing the damages to her home, as well as a copy of the FIR naming the people she had accused. Banu received some financial support and a sewing machine from the NGO SEWA, the self-employed women's association.

One of the managers of the Shah-e-Alam camp summarized the experience of camp residents in getting compensation:

People in the camp were given nominal compensation amounts—Rs. 2,000 [U.S.\$43], Rs. 1,000 [U.S.\$21], Rs. 5,000 [U.S.\$106]—but they couldn't do any repairs with that little money. They were given Rs. 2,500 [U.S.\$53] for damage to household items. One person whose house sustained significant damage was only given Rs. 75 [U.S.\$1.6]. Two or three families got Rs. 25,000 [U.S.\$532]. Many houses were destroyed by a chemical so they were not repairable. We raised money for rehabilitation from friends and by putting ads in the papers.<sup>235</sup>

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<sup>232</sup> Human Rights Watch interview with Mira Banu, Ahmedabad, January 2, 2003.

<sup>233</sup> She told Human Rights Watch:

It started at 9 a.m. on February 28. It sounded like a rally. We thought the mobs would leave but then the police came and closed our shops. They started attacking Noorani Masjid [mosque]. My husband came out and the police shot him in the head. He was shot in the back of the head and the bullet came out in front. My daughter was with me and was only four months old at the time. Then the mob came in. It was the Bajrang Dal. They were wearing saffron bandanas. The mob burned my husband's body in front of the police... They were taking Muslim women to the *maidan* [open grounds] then throwing their kids into a large fire they had already prepared. They were raping young girls... Finally at 12:30 a.m. the army came and asked where we wanted to be taken. We said Shah-e-Alam camp. We arrived at 1:30 a.m. But the mobs kept stopping the cars along the way. The mobs surrounded our car and started shouting, "Pull out the Muslims!" The army fired shots in the air and then the mob dispersed. They were also stoning the car with big stones. They were shouting, "Pull out the Muslims and take out the women." When I went to the hospital to claim the body, I told the police that my husband's body was still in Naroda Patia. They dragged the bodies away but his hand was left grabbing a piece of the cycle. Everything was burnt. We buried his hand. (Human Rights Watch interview with S. Banu, Ahmedabad, January 5, 2003.)

<sup>234</sup> Ibid.

<sup>235</sup> Human Rights Watch interview with Shah-e-Alam camp manager, Ahmedabad, January 3, 2003.

The NGO Janvikas<sup>236</sup> conducted a survey on the implementation of compensation guidelines. Gagan Sethi, the head of Janvikas, told Human Rights Watch that while the government had technically complied with its own guidelines, the guidelines themselves were abysmally sub-standard. He stated, “It has been the worst since setting such high standards of rehabilitation post-earthquake. In comparison this is shameful... Everything was done by the rule and not with a reparation or empathy mindset.” He added the following as an example:

There has been very little structural damage to the homes even though all the contents have blown up. The compensation package is based on structural damage so nothing is payable when there is no structural damage. The walls could be charred but if the home is structurally standing then you get nothing. Above and beyond that there is corruption and bribery. As a result even if someone has suffered a loss of Rs. 100,000 [U.S.\$2,128], he may receive only Rs. 1,500 [U.S.\$32]. It’s like losing your pants and being compensated with underwear, and even the underwear has no elastic in it.”<sup>237</sup>

For victims who were residing in rental homes, relief could only be obtained upon receipt of a certificate from the landlord that he or she had no objection to the tenant claiming compensation for the destroyed property. Such certificates, however, have not been forthcoming from landlords.<sup>238</sup> There have also been significant delays in the processing of loans and advances to help victims resume their livelihood.<sup>239</sup>

### **Compensation for the Death of Family Members**

Survivors of the Naroda Patia and Gulbarg Society massacres in Ahmedabad spoke to Human Rights Watch about their difficulties in claiming compensation for the deaths of their loved ones. Twenty-five-year-old Feroz Gulzar, a former resident of Gulbarg Society, lost five family members in the violence—his parents, his sister, and his two brothers. He now resides with his uncle in the Muslim-dominated Juhapura neighborhood. Gulzar told Human Rights Watch that he only received Rs. 10,000 (U.S.\$213) from the government for damages to their home and added, “they gave me compensation money for my parents’ deaths, but not for my sister, or my two brothers. They said they don’t give money to a brother for his brother or sister’s death. We also got Rs. 3,000 [U.S.\$64] for damages to our shop but we don’t go back there. We work at home. We have no hopes of going back and I am all alone. I was about to get married before all this happened.”<sup>240</sup>

Afsara, a Muslim woman in her forties, is a former resident of Naroda Patia. Her eldest daughter, Noor Jahan, her father-in-law, and her brother’s wife and his two children were all killed on February 28, 2002. Afsara’s two remaining children, her son Sharukh, 9, and daughter Shah Jahan, 18, survived but suffered serious burn injuries.<sup>241</sup> They were immediately admitted to Civil Hospital where they remained for two months. The family then moved to Shah-e-Alam camp for three months and finally into a home in a Muslim neighborhood allotted to them by a Muslim charity. Afsara told Human Rights Watch that she received very little from the government:

We were supposed to receive Rs. 90,000 [U.S.\$1,915] for each of the people killed in our family but we have received only one check so far, for my daughter Noor Jahan. The rest we are still waiting for. We don’t understand what’s happening with the money. Nobody is telling us whether it will come, or when it will come. We have no news about that, when we go to the collector’s [a local official] office we just get pushed aside.... We only got Rs. 3,000 [U.S.\$64]

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<sup>236</sup> Since 1987, Janvikas has been providing training and support to individuals and voluntary organizations in the development field, including legal, health, education, and agricultural training. See [www.janvikas.org/aboutus.html](http://www.janvikas.org/aboutus.html) (retrieved June 1, 2003).

<sup>237</sup> Human Rights Watch interview with Gagan Sethi, Ahmedabad, January 5, 2003.

<sup>238</sup> Election Commission of India, “Press Note,” p. 35.

<sup>239</sup> *Ibid.*, pp. 35-36.

<sup>240</sup> Human Rights Watch telephone interview with Feroz Gulzar, Ahmedabad, January 3, 2003.

<sup>241</sup> Sharukh suffered burn injuries on his hand and foot while eighteen-year-old Shah Jahan is almost completely covered in burns.

for household damages. They destroyed the whole house. They burned it. Nothing is left, and for that we got Rs. 3,000. There's nothing left.<sup>242</sup>

R. Bibi, whose thirty-six-year-old son was killed by the police in Naroda Patia, has not received full compensation because she could not prove that her son was dead. She told Human Rights Watch about her son's death and the bureaucratic obstacles she now faced:

A lot happened that day. The crowds came. Everything was destroyed. We didn't know what was going on, that something was going to happen. We were just doing our work. Suddenly there was an attack. People were grabbing their small children and trying to run. They were raping women. Then they were killing them, burning them and cutting them up into pieces. The police killed my son. They shot him. The police released tear gas on us, they attacked us, and shot at us. My son was about thirty-six years old. He was shot and killed right there. His two brothers-in-law, meaning his wife's two brothers, were also killed. Other people were shot as well. Some people died, some people were saved.<sup>243</sup>

When asked about whether she had received any compensation for her son's death R. Bibi added:

The government tells us to bring proof when we go to ask for money.... One month we got a check, and then after that they keep saying, "Bring proof, bring proof. Bring your birth certificate, bring your husband's death certificate." Where am I going to go and get these certificates when they destroyed our homes and they burned everything? Four months ago we got a check but for the last four months we haven't gotten anything.... Now how am I supposed to go in the middle of all these riots and prove that my son was killed, how am I supposed to find his body? We haven't gotten any more checks for his death; he has young children who need to be supported. They want proof, where am I going to go to get proof? My life was taken away when they shot my son. Everything has been taken away and now they want evidence, where will I get the body from? I wasn't even able to see his body. They're saying, "How was he killed? Bring the evidence. Your son must have participated in the riots. He must be off rioting somewhere." The Hindus are burning our homes and attacking our mosque and destroying our things. Now is my son going to help them in looting my home and setting fire to our community? Did we go into their neighborhoods and destroy their homes and set fire to their things and attack their temple? It was our home that was broken, it was our house that was burned, it was our lives that were taken, and it was our mosque that was destroyed. And they're asking us for evidence. I didn't even see his body.<sup>244</sup>

Bibi stated that the government awarded her Rs. 1,250 (U.S.\$27) for household damages then added, "Is there ever just Rs. 1,250 worth of items in anyone's home? They stole everything, they burnt everything, they killed people, and that's all we got. Now my daughters go and do housework in other people's homes. They wash dishes, they sweep and clean." Bibi is now surviving on charity and food rations from the government. She explained that the government gives four kilograms of flour and one kilogram of rice per person per month on a ration card. "Some people got ration cards and others didn't. We had to fight so hard for it. We also have to travel far to collect our rations and spend Rs. 15, 20 and sometimes 30 [U.S.\$0.32, \$0.43, and \$0.64] to travel to

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<sup>242</sup> Human Rights Watch interview with Afsara, Ahmedabad, January 5, 2003.

<sup>243</sup> Human Rights Watch interview with R. Bibi, Ahmedabad, January 2, 2003. Another eyewitness to the killing of R. Bibi's son added:

He was home, he was in front of the house. The police came and fired upon him. The police released tear gas in front of Noorani Masjid, and started firing on our boys. Our boys had nothing in their hands, the police just started firing. The mob started yelling, "Kill the Muslims, cut them, kill them." They kept saying that, and then they just kept piling one body on top of another, cutting and burning them. That's how it happened. (Human Rights Watch interview with eyewitness, Ahmedabad, January 2, 2003.)

<sup>244</sup> Human Rights Watch interview with R. Bibi, Ahmedabad, January 2, 2003.

get the food. If you go twice then maybe one out of two times you'll be able to get food. So that's Rs. 50 [U.S.\$1] or Rs. 60 [U.S.\$1.3] just coming and going.... We find some way to fill our stomachs. Somehow we have to survive.... If you ask me, they've really abused and tortured Muslims here. It's too much. Even now we have no relief. We have no rest. For those who've saved us, many thanks to them. May God take care of them."<sup>245</sup>

Part of the compensation for families who have lost loved ones has come in the form of bonds. Typically the break down is as follows: Rs. 40,000 (U.S.\$851) in cash and Rs. 60,000 (U.S.\$1,277) in bonds. While the families are told that they have Rs. 60,000 in bonds, they have not, in some cases, been given any documents to prove their ownership.<sup>246</sup>

## X. ECONOMIC MARGINALIZATION OF MUSLIMS

*There has been an unimaginable marginalization of Muslims in Gujarat. They have no trading power. The middle class segment of Muslims has been wiped out and set back. They have no benefits and won't get any benefits from this government.*

— Sheba George<sup>247</sup>

Independent nongovernmental groups estimate that, as a result of the large-scale destruction of homes, properties, and businesses in Gujarat, the Muslim community has suffered an economic loss totaling Rs. 3,800 crore, or approximately U.S. \$760 million.<sup>248</sup> The prolonged closure of shops, industries, and commercial establishments in the state has also hurt the economy as a whole rendering thousands of Muslims and Hindus jobless.<sup>249</sup> Across Gujarat, over 1,100 Muslim-owned hotels, over 100,000 homes, around 15,000 business establishments, 3,000 handcarts, and over 5,000 vehicles were badly damaged or completely destroyed.<sup>250</sup> Discriminatory economic boycotts, ghettoization, and the deliberate targeting of businesses and income-generating mechanisms such as handcarts, taxis, autorickshaws, and trucks, have economically crippled the already pauperized Muslim community of Gujarat. In many places, the Hindu community has also been hard hit. Reports have surfaced of Hindu traders committing suicide out of economic desperation. Their businesses were paralyzed for months after the violence and many have been unable to pay off their loans to banks or loan sharks.<sup>251</sup> This chapter looks at the phenomena of ghettoization and boycotts in Gujarat, as well as the long-term psychological and educational impact on Muslim children.

### “Ghettoization”

Successive episodes of Hindu-Muslim violence in Gujarat (in 1969, 1985, 1989, 1990, and 1992) have resulted in the increasing ghettoization of the state's Muslim community.<sup>252</sup> The pattern is now reinforcing itself as Muslim residents once again look for safety in numbers and refuse to return to what is left of their residences alongside Hindu neighbors. The reconstruction of homes has largely taken place along communal lines. Muslims cannot work, reside, or send their children to schools in Hindu dominated localities. As the segregation of communities continues hopes for community dialogue or reconciliation have dissipated.

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<sup>245</sup> Ibid.

<sup>246</sup> HIC, YUVA, *Rebuilding from the Ruins*, p. 32.

<sup>247</sup> Human Rights Watch interview with Sheba George, head of the NGO SAHR WARU, Ahmedabad, January 3, 2003.

<sup>248</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II, p. 44.

<sup>249</sup> For a more detailed account of the economic devastation caused by the violence in multiple industries see: “Economic Destruction” in Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II.

<sup>250</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II, p. 27.

<sup>251</sup> Rasheeda Bhagat, “The great divide in Gujarat,” *Business Line (The Hindu)*, December 11, 2002.

<sup>252</sup> The term ghettoization is defined here to encompass economic and other circumstances that result in the impoverishment and segregation of members of a minority group from the larger community.



Gagan Sethi of the NGO Janvikas laments that NGOs in Gujarat have become “experts in building ghettos.” Together with the NGO Navsarjan, Janvikas has participated in the post-violence construction or repair of over 1,200 homes in Gujarat. Members of the Muslim community and nongovernmental organizations have stepped in where the state has failed, first with the running of relief camps, and now in the reconstruction of homes. Sethi told Human Rights Watch, “First we tried to reconstruct homes where people were already staying. But when they were not willing or even allowed to go back then we had no choice but to build homes in Muslim-dominated neighborhoods.” Sethi described a five-month long peace process in Panchmahals district where Janvikas tried unsuccessfully to broker peace between Hindus and Muslims in a violence-torn neighborhood.

On the 27th of every month a procession is taken out from Godhra, Panchmahals, and other hubs.<sup>253</sup> The *Bajrangis*<sup>254</sup> move in trucks to Muslim areas and shout filthy abuses; they are looking to provoke the Muslims. Sometimes they get the reaction they want: Muslims start stone-throwing. Then the Bajrangis go on a rampage and beat them up. This is what happened when we were trying to broker peace. Finally, the day before yesterday, we gave in and said to the Muslims don’t go back.<sup>255</sup>

An employee of the NGO Navsarjan is overseeing the reconstruction of homes in Sabarkantha and Panchmahals districts. She stated that the government did not provide any support for the reconstruction of homes. The funding came exclusively from NGOs or private donors. Payal confirmed that none of the new homes for Muslims were being built in Hindu areas. She told Human Rights Watch:

When the violence happened, their homes were completely burned. They were injured, attacked, and completely looted. At that time they had to leave their homes, they had to run to save their lives, and they took nothing with them. By the time they could go back to look at their homes, there was nothing left. So literally they have nothing, only the clothes on their back. We’ve been helping them since the beginning. Now they are suffering from other problems. They can’t go back and live with Hindus.... The reconstruction of homes is not in the areas where they lived before because those are Hindu areas and Muslims don’t want to live with Hindus anymore because they are afraid. So the homes are quite far from where they used to live, and where there are majority Muslims. That’s where they wanted to construct their homes. As a result, all the construction work that we are doing is in Muslim areas. We are not doing any construction in Hindu areas.<sup>256</sup>

Payal added that the people they were helping got some money from the government “but not enough to get them back on their feet. They received anywhere from Rs. 2,500 to 15,000 [U.S.\$53 to \$319] for damages to their homes but that is so little compared to what they lost.”<sup>257</sup>

### **Discriminatory Economic Boycotts**

In “*We Have No Orders to Save You*,” Human Rights Watch reported that a pamphlet calling for the economic boycott of Muslims had resurfaced in the state following the March 2002 attacks. The pamphlet, which was issued in the name of the VHP’s office in Raanip locality, referred to Muslims as “anti-national elements” who molest Hindus’ sisters and daughters and who use money earned from Hindus to buy arms. It called on its readers to institute a complete boycott of goods and services proffered by Muslims, adding that Muslims should not be hired in Hindu establishments and should not be allowed to rent property. It also cautioned Hindus to be “alert to

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<sup>253</sup> The 27th is significant as the date of the attack on Hindus in Godhra, which took place on February 27, 2002.

<sup>254</sup> Members of the Bajrang Dal, the militant youth wing of the VHP.

<sup>255</sup> Human Rights Watch interview with Gagan Sethi, Ahmedabad, January 5, 2003.

<sup>256</sup> Human Rights Watch interview with Navsarjan employee (name withheld) Ahmedabad, January 3, 2003

<sup>257</sup> Ibid.

ensure that [Hindus'] sisters-daughters do not fall into the 'love-trap' of Muslim boys" and called on Hindus to vote, but "only for him who will protect the Hindu nation."<sup>258</sup>

According to a February 2003 report in the Bombay-based periodical *Communalism Combat*, a year after the beginning of the violence, economic and social boycotts were still widespread in ten out of Gujarat's twenty-four districts:

In most areas of Ahmedabad and Vadodara and villages of Gandhinagar, Vadodara rural, Anand, Panchmahal, Mehsana, Kheda and Dahod, insidious economic and social boycott continues to cripple the Muslim minority that is still reeling from the effects of last year's brutal violence. It is only the villages and areas that have a sizeable Muslim population that has built up a steely resistance to the politics of hatred and division through the security of numbers — ghettoisation is the stark solution in post-carnage Gujarat.<sup>259</sup>

Many Muslims remain unable to farm their fields, sell their wares, return to their businesses, operate commercial vehicles, or retain their jobs, including in the public sector.<sup>260</sup> Janvikas director Gagan Sethi explained the relevance of the illicit liquor trade in Gujarat—a dry state—to the violence, and the rationale behind the economic boycotts:

There is a Hindu mafia and a Muslim mafia in Gujarat. Muslims controlled illicit liquor trade in Gujarat until Latif was killed.<sup>261</sup> When you control the liquor and the mafia, then you have money. So in previous riots both sides used to fight. In the past ten years, Muslims have been taken out of the liquor trade. Dalits have come up with active VHP-BJP support.<sup>262</sup> So when this riot happened, it was the last bit, the Muslims were removed from their money and muscle. That's why it was one-sided.... The main liquor dens are in Ahmedabad and Baroda. From there the branches flow.... There are two ways to kill a trade. For example, Muslims dominate in the wholesale fruit trade. You can either kill the source in Ahmedabad or see to it that the retailers cannot sell them because of economic boycotts. Slowly, non-Muslims start to take over small trades in villages. What will and won't be boycotted is decided by the VHP at the local level where the VHP is the empowered economic goon. Ultimately, the independent fiefdom of VHP goons at the local level are run with blessings from the top.<sup>263</sup>

Shah-e-Alam camp resident R. Bibi told Human Rights Watch that like many others, her two sons were having a hard time finding work because of their Muslim names:

They don't give business or employment to Muslims. Even now they're not giving work to anybody with a Muslim name. Even my own sons are unemployed and just roaming around here and there. They don't have any work to do. One of them used to do welding work, and the other one was a rickshaw driver, and even the one that was killed used to have a rickshaw. Now nobody is giving work. They are saying, "Go, there is no work for you." Even my son who has two young children doesn't have a job. Now he's gone to his in-laws' home, he doesn't know what else to do. And what is he supposed to do, where would he go? Where will we go? We even had shops in Naroda Patia, but they haven't opened them up yet. There's no public to go to

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<sup>258</sup> The full text of the pamphlet can be found at <http://www.hrw.org/reports/2002/india/India0402-10.htm> (retrieved June 1, 2003).

<sup>259</sup> Setalvad, "Gujarat—One year later."

<sup>260</sup> International Initiative for Justice in Gujarat, "An Interim Report," p. 4.

<sup>261</sup> Abdul Latif was a mafia leader in Ahmedabad who controlled the illicit liquor trade in the eighties and won several municipal elections as an independent. "When pride is prejudice," *Indian Express*, June 4, 2002.

<sup>262</sup> For more on the recruitment of Dalits by the *sangh parivar*, see Chapter XI.

<sup>263</sup> Human Rights Watch interview with Gagan Sethi, Ahmedabad, January 5, 2003.

the shops. How are they going to run the shops without a public there? They live in fear. They sleep in fear.<sup>264</sup>

Afsara's family members were also finding it impossible to earn a living:

There's no work going on, we're just sitting here. We got a car, my husband got a car on loan and he's driving that, but there's no other employment. I used to do sewing work and kokhri-khati. But I can't do that work anymore, I can't go back there. And there's nobody else to work. My older daughter was killed and Shah Jahan can't work [she is covered in burns]. So how are we going to work? First we're afraid to even go back to Patia. That's where I used to do my job, and there's no work here. The NGO gave us a sewing machine, but it needs a motor, it needs thread, it needs some other things. There's no table, there's no scissors, how am I going to use the machine? We have no means right now.<sup>265</sup>

### **The Effect on Children's Education and Identity**

Following the violence in Gujarat in February and March 2002, more than 33,000 children were forced into relief camps throughout Gujarat, representing one-third of the total displaced population.<sup>266</sup> In addition to being raped and burned, children also bore witness to the brutal crimes against their loved ones. Human Rights Watch spoke to several children who have yet to fully resume their education and have received no psychological counseling.<sup>267</sup> Many suffered severe burn injuries that still cover their arms, legs, and in some cases, their entire bodies.

Muslim parents are afraid to send their children back to their old schools. According to Martin Macwan, head of the NGO Navsarjan, "Muslim children are not going back to their old schools largely because of insecurity. Children don't feel safe in schools with no Muslim population. The opposite is also true. In Juhapura, Ahmedabad, a majority Muslim area, there are no Hindu students."<sup>268</sup> R. Bibi told Human Rights Watch:

Everyone used to go to school. Now my daughter-in-law's children are going to school near the home that they were given, that they are living in now. First they used to go to the SRP (Special Reserve Police) school in Naroda Patia. Even the SRP people attacked us. From all sides we were getting attacked. We were surrounded. Why would we send our children back to the SRP school when the SRP themselves were attacking us? Now our children have seen anything, so of course they're scared. They have seen so many people being cut, being killed, being burned, so of course the children are going to be scared. There is no question of us being able to go back there now. The school that they're going to now, they're secure there because that's our area – meaning Muslim area. There are Christian teachers there. I haven't gone home since the violence and riots started – and I won't go back and I don't want to go back.<sup>269</sup>

As reported in "*We Have No Orders to Save You*," children's education certificates were destroyed together with other personal belongings when their homes were looted or set on fire. The government did little to replace these certificates or facilitate the resumption of Muslim children's education following the violence. Under financial constraint, many children have dropped out all together to become child laborers.<sup>270</sup> The education of girls, already of low priority, is being given even less importance in dire financial times.<sup>271</sup>

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<sup>264</sup> Human Rights Watch interview with R. Bibi, Ahmedabad, January 2, 2003.

<sup>265</sup> Human Rights Watch interview with Afsara, Ahmedabad, January 5, 2003.

<sup>266</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II, p. 39

<sup>267</sup> For more on the children's mental health concerns, see Medico Friend Circle, "Carnage in Gujarat: A Public Health Crisis," May 13, 2002, pp. 18–21.

<sup>268</sup> Human Rights Watch interview with Martin Macwan, Ahmedabad, January 2, 2003.

<sup>269</sup> Human Rights Watch interview with R. Bibi, Ahmedabad, January 2, 2003.

<sup>270</sup> Human Rights Watch telephone interview with Dr. Satchit Balsari, Boston, May 15, 2003.

<sup>271</sup> HIC, YUVA, *Rebuilding from the Ruins*, p. 67.

Soon after the violence, principals of English-medium schools in Gujarat were threatened with violence by VHP members if they did not expel Muslim students from their institutions. According to one report, parents were told by school officials to remove their children from these schools on the grounds that their safety could not be guaranteed.<sup>272</sup> These tactics are helping to ensure that Muslim children are increasingly confined to *madrasas*, or Muslim-run religious schools, where education is imparted in Hindi or Urdu—limiting severely the students’ career prospects<sup>273</sup> and effectively requiring them to have a religious rather than secular education. Simultaneously, *sangh parivar*-run schools throughout Gujarat and other parts of India continue to impress upon Hindu children a message of religious intolerance.<sup>274</sup> The end result could be toxic to relations between communities for generations to come.

In addition to the enormous impact on their health, education, and psychological well-being, children in relief camps also struggled with issues of identity. According to one study:

The impact of living like refugees in camps in subhuman conditions for months together increased the feeling of discrimination experienced by children at a time when most Hindu families they knew were safe in their homes. “We feel like outsiders, people who are not wanted,” one child said. The carnage impacted the children’s sense of self-worth and created immense confusion in their minds about their identity: Are we insiders or outsiders, Indians or Pakistanis, citizens or criminals? Commonly used terms such as “We” and “They,” “Us” and “Them” indicated the sharp divide between communities.<sup>275</sup>

Dr. Satchit Balsari, a research associate at the Program on Humanitarian Crises at the Francois-Xavier Bagnoud Center for Health and Human Rights, Harvard University, made repeated visits to Gujarat between August and October 2002 to assess the mental health and education status of children affected by the violence. Balsari met with over one hundred children in relief camps in Ahmedabad and Panchmahals district. A child psychologist from Delhi accompanied Balsari during his visits to Gujarat. Together they worked with children and facilitated the expression of their emotions through art. Invariably the children’s drawings were replete with images of bombs, guns, swords, burning homes and mosques, and mutilated bodies.<sup>276</sup>

Balsari told Human Rights Watch: “The children were deeply traumatized. Their notions of identity of self and others were very warped. Their understanding of the protective role of the state was also permanently altered.” When Balsari asked Muslim children who they thought was responsible for what had happened to their lives they responded, “the Hindus did this. The Hindus are those that grow up to be *Bajrang Dalis*<sup>277</sup> or police officers and kill Muslims.” Balsari added:

The children remember the police firing at them. There were instances in which children approached the police for help but were turned away. All of them remembered that the police fired upon members of their community who were trying to defend their homes. They also recalled how the ambulances didn’t come to their aid. They now see the state as an extension of the larger Hindu community and not as a non-partisan secular protective. Some wanted to grow up and become police officers so they could own a gun and kill the people who did this to them. They said they recognized the people who did this to them. Some were even their neighbors.<sup>278</sup>

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<sup>272</sup> Human Rights Watch, “*We Have No Orders to Save You*,” p. 31.

<sup>273</sup> S.N.M. Abdi, “Hindu hoodlums warn school heads to remove Muslims,” *South China Morning Post*, April 9, 2002.

<sup>274</sup> See Smita Narula, “Overlooked Danger: The Security and Rights Implications of Hindu Nationalism in India,” *Harvard Human Rights Journal*, vol. 16, Spring 2003.

<sup>275</sup> HIC, YUVA, *Rebuilding from the Ruins*, p. 63.

<sup>276</sup> See for example, <http://childreningujarat.tripod.com/expressions.htm> (retrieved June 1, 2003)

<sup>277</sup> Members of the Bajrang Dal, the militant youth wing of the VHP.

<sup>278</sup> Human Rights Watch telephone interview with Dr. Satchit Balsari, Boston, May 15, 2003.

Balsari also spoke to several Hindu children and found that their understanding of the events that had transpired was very much dictated by what they were told in their homes, their school, or what they heard on the street: “The children in the majority community thought that a majority of those in relief camps were Hindus when the opposite was true. A few even cited Godhra to justify the so-called backlash adding that Muslims should ‘go to Pakistan.’” Balsari echoed the fears of many activists in Gujarat about the deep communal divide that had permeated all levels of Gujarati civil society. “A secular voice isn’t reaching the children of either community. The religious space has been taken over by extremists and fundamentalists on both sides while sane voices are reluctant to engage in the religious sphere. The polarization between the two communities is so strong, which will only contribute to continuing cycles of violence.”<sup>279</sup> He then cautioned, “Muslim children are now vulnerable to extremists in their community because they have lost so much and have been so pushed against the wall that they have very little to lose.”<sup>280</sup>

## XI. COMMUNALISM AS A POLITICAL STRATEGY

The landslide victory of the BJP in the December 2002 state assembly elections in Gujarat testified to the effective manipulation of communal violence as a political strategy. The party secured the greatest number of seats in areas most affected by the 2002 violence. The election results also helped ensure impunity from prosecution for those who orchestrated the attacks. This chapter explores the relationship between communal violence and electoral politics in Gujarat, and in other states that go to the polls in 2003. It also documents the *sangh parivar*’s targeting of Christians, Dalits, and tribals in Gujarat; attacks that are in part aimed at curbing the conversion of Dalits and tribals to Christianity and weakening the traditional voter base of the opposition Congress party. For years Dalits and tribals have also been recruited by the *sangh parivar* to act as footsoldiers in anti-Muslim violence. They are now being scapegoated in police arrests and combing operations while those that orchestrated the violence roam free. The end of the chapter revisits the Ram temple campaign, the synthesizing feature of the *sangh parivar*’s anti-Muslim program.

### The BJP Victory in Gujarat State Elections

The BJP first assumed power at the state level in Gujarat in 1995. Following its second electoral win in 1998, the BJP suffered a series of defeats in local elections. In *panchayat* (village council), *taluka* (sub-district), and district elections in 2000, two-thirds of the areas were won by the opposition Congress(I) party. In September 2001 the BJP again lost to Congress in by-elections for two assembly seats. Shortly thereafter, Chief Minister Keshubhai Patel was replaced by Narendra Modi in a bid to reverse the party’s losses.<sup>281</sup> Modi’s appointment was seen as a huge victory for the RSS. He had served as BJP general-secretary for the six years before taking the post, and is also an RSS *pracharak* (volunteer), the first-ever to become chief minister. Pracharaks function as full-time publicists or propagandists for the RSS, “spreading the message of Hindu fundamentalism.”<sup>282</sup>

In state by-elections on February 21, 2002 the BJP lost by a large margin in two out of three assembly seats previously held by it. Six days later, the state was engulfed in violence. On April 12, the BJP proposed early elections in Gujarat shortly after rejecting Chief Minister Narendra Modi’s offer to resign. National political parties were pressing to remove Modi, leading the BJP to temporarily set aside the early election option. At the end of April, the upper and lower houses of the Indian parliament held parliamentary debates on the violence in Gujarat while opposition parties called for a vote to censure the BJP-led national government for failing to ensure the security of Muslims following the Godhra attack. The motion was defeated by nearly 100 votes.<sup>283</sup>

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<sup>279</sup> Ibid.

<sup>280</sup> Ibid.

<sup>281</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. I, p. 17

<sup>282</sup> Kuldip Nayar, “Dilli’s Gang of Four,” *Indian Express*, October 23, 2001 [online], <http://www.indian-express.com/columnists/kuld/20011023.html> (retrieved April 17, 2002).

<sup>283</sup> “India coalition defeats censure vote,” BBC news, April 30, 2002 [online], [http://news.bbc.co.uk/2/hi/south\\_asia/1960988.stm](http://news.bbc.co.uk/2/hi/south_asia/1960988.stm) (retrieved May 15, 2003).

On July 19, 2002, in what was seen as a bid to force early elections in the state, Chief Minister Modi resigned from office and recommended dissolution of the state assembly eight months ahead of schedule. During an emergency cabinet meeting held that evening, a resolution to dissolve the assembly was adopted.<sup>284</sup> Many believed that a push for early elections was engineered to help sweep the BJP, and by extension Narendra Modi, back into power on a rising sentiment of Hindu nationalism. India's Election Commission, however, prohibited such a move, noting that Gujarat was still devastated by the communal violence, and set December 12, 2002 as the election date.<sup>285</sup>

In the December election, BJP candidates won 125 out of 182 seats in the state legislature, an increase of eight seats from the 1998 elections in the state. The Congress party came in a distant second with 51 seats.<sup>286</sup> The BJP's significant gains in central Gujarat—that is, areas most affected by the violence—helped the party overcome losses in all other regions of the state where soaring unemployment rates, water shortages, and retarded economic growth played a critical role. In violence-hit Ahmedabad district, for example, the party won seventeen out of nineteen seats.<sup>287</sup> Overall, the BJP secured fifty-three out of sixty-five seats from the regions most affected.<sup>288</sup> One dozen BJP candidates went as far as blaming their losses on *lack* of violence in their districts.<sup>289</sup>

The campaign rhetoric of both the BJP and Congress(I) party stood in possible violation of India's Representation of the People Act, 1951 that prohibits the use of religion or religious symbols to promote one's candidacy or to adversely affect the election of another candidate. Throughout the campaign, BJP candidates and their *sangh parivar* allies invoked the memory of Hindus killed in the Godhra massacre and the attack on Hindus at Akshardham, while positioning themselves as protectors against the threat of Islamic terrorism.<sup>290</sup> Posters and videotapes of the Godhra massacre were disseminated freely. An election poster in Godhra featuring Chief Minister Narendra Modi and Pakistan President Pervez Musharraf suggested that a vote against Modi was tantamount to a vote for terrorism.<sup>291</sup> Immediately after the poll dates were announced the BJP produced a set of four CDs meant to "enlighten people." Among them was a CD titled "Trial by Fire," which evocatively showed images of the Godhra train on fire. Superimposed on these images were slides saying: "Godhra, Feb 27, 7.43 am....an over 1,000-strong mob of rioters with no conscience....men without souls descended upon Sabarmati Express at Godhra station...58 mute bodies...one more eloquent testimony to the evil that resides in man."<sup>292</sup>

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<sup>284</sup> "Modi dissolves Assembly, seeks early polls," Press Trust of India, July 19, 2002.

<sup>285</sup> Hemendra Singh Bartwal, Syed Liaquat Ali, "Gujarat polls on Dec 12," *Hindustan Times*, October 29, 2002. The Election Commission of India delegated a team to visit Gujarat between July 31 and August 4, 2002, to assess the possibility of a "free and fair election in the State of Gujarat in the context of large scale movement and migration of electors due to communal riots and violence, particularly those belonging to the minority community...." Election Commission of India, "Press Note." The team found that widespread insecurity, coupled with defective electoral rolls would deprive the electors concerned of exercising their franchise. *Ibid.*, p.16. Based on the team's report the full Commission visited Ahmedabad and Vadodara between August 9 and 11, 2002 and found that conditions were "not conducive at all for holding any free and fair election for the present." *Ibid.*, p.14.

<sup>286</sup> Anosh Malekar, "Gujarat Winning the 'Hindu heart'," *The Week*, December 29, 2002 [online], <http://www.the-week.com/22dec29/events11.htm> (retrieved May 15, 2003).

<sup>287</sup> Yogendra Yadav, "The patterns and lessons," *Frontline*, December 21, 2002 - January 3, 2003 [online], <http://www.flonnet.com/fl1926/stories/20030103007901000.htm> (retrieved May 15, 2003).

<sup>288</sup> "The Gujarat Story," *Economic and Political Weekly*, December 21, 2002, p. 5059.

<sup>289</sup> Praveena Sharma, "Ministers who lost out in Gujarat blame lack of riots in their areas," Agence France-Presse, December 17, 2002.

<sup>290</sup> The BJP state election manifesto, as printed on their website, makes clear that the fight against terrorism is a central plank of the party's agenda. The manifesto declares: "We want to throw the terrorists out from this border state. Anti-national elements shall be over powered and antisocial elements shall be dealt through PASA and POTA. It is needless to state that after achieving this basic objectives, peace and prosperity is certain to follow." See <http://www.bjpguj.org/manifestro/m2.htm> (retrieved June 5, 2003). Like POTA, PASA (the Gujarat Prevention of Anti-Social Activities Act, 1985) is a draconian law that allows for preventive detention without charge.

<sup>291</sup> Praveen Swami, "A challenging phase," *Frontline*, January 3, 2003.

<sup>292</sup> Raveen Thukral, "Godhra CD hits Gujarat," *Hindustan Times*, November 30, 2002.

In his last campaign speech, Modi reportedly told his audience: “You decide whether there should be a Diwali [Hindu holiday] in Gujarat or whether firecrackers should burst in Pakistan... when you all go vote this time, if you press your finger on the hand symbol [the symbol of the Congress(I) party] you will hear the screams of Godhra!”... I’ll teach a lesson to the merchants of death.”<sup>293</sup> On election day, a BJP advertisement in the Gujarati media read: “Pay your homage to the Godhra martyrs. Cast your vote.”<sup>294</sup>

Meanwhile, the VHP worked behind the scenes to rouse anti-Muslim sentiment and ensure the BJP’s electoral success.<sup>295</sup> While the BJP’s hands were somewhat tied by threat of censure by the Election Commission, VHP members were free to campaign on the BJP’s behalf without restraint. On December 9, for example, VHP leader Shivanand Maharaj compared the Muslims killed to “garbage” while campaigning for the BJP’s Godhra candidate, former state unit Bajrang Dal president Haresh Bhatt.<sup>296</sup> “What if some of them [Muslims] are killed?” Maharaj asked. Rally after rally, VHP leaders proclaimed that, “only those who work for the Hindu faith will be allowed to rule this country.”<sup>297</sup>

For its part, the Congress(I) party campaigned on what has been termed a “soft Hindutva” platform.<sup>298</sup> According to a report in *Frontline*: “In some areas, Congress (I) candidates adopted flagrantly communal positions on Godhra, and the party did not take a firm stand on the riot victims’ demand for justice. Little effort was made to purge the party of the many Ahmedabad Congress(I) elements who participated in the post-Godhra pogrom.”<sup>299</sup> Nonetheless, the party won the Muslim vote.

Two days before the election, the Imam (a Muslim cleric) of the Ahmedabad Jama Masjid (mosque) in Ahmedabad made an appeal in a local newspaper widely circulated among Muslims to vote only for Congress. The appeal was reprinted in leading Gujarati newspapers by the VHP asking Hindus to “retaliate against the fatwa” with 100 percent voting. The Muslim cleric faced angry protests from members of his own community who faulted the VHP’s manipulation of his appeal for galvanizing Hindus to come out in droves and cast their vote for the BJP.<sup>300</sup>

### ***Criminal cases against elected officials***

In Gomptipur, former municipal corporator Jitendra Vaghela was arrested for rioting and murder, spent several days in jail, and was released on bail. Vaghela was then elected as the BJP MLA from Sherkotda town. His constituency includes the Gomptipur police station area where a case against him had been filed.<sup>301</sup> In all, a total of thirty-six winning candidates from the state assembly elections have criminal cases against them, of which twenty-eight belong to the BJP. Of the remaining candidates, six belong to Congress(I) while two belong to Janta Dal (U). BJP MLA Purushottam Solanki from Ghogha, for example, was implicated in the Bombay riots of 1992-1993 in which thousands were killed following the destruction of the Babri mosque in Ayodhya, Uttar Pradesh. He also has fifteen cases of murder and dacoity against him. BJP MLA Jetha Bharwad from Gondal was booked for rape, “bogus voting” and “booth capturing.” He also served a jailterm.<sup>302</sup>

BJP MLA from Naroda, Maya Kodnani, and VHP Gujarat state General Secretary Jaideep Patel are among those accused of leading the mobs in the attack on Naroda Patia, Ahmedabad. Each have numerous FIRs registered

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<sup>293</sup> Dionne Bunsha, “Riding the hate wave,” *Frontline*, January 3, 2003.

<sup>294</sup> Ibid.

<sup>295</sup> Shekhar Iyer, “Two-day BJP enclava to chalk out poll strategy,” *Hindustan Times*, December 23, 2002.

<sup>296</sup> At the height of the violence in March 2002, Bhatt justified the killing of Muslims as a means to teach them a lesson.

Celia Dugger, “Hindu right wing defends riots,” *New York Times*, March 5, 2002.

<sup>297</sup> Swami, “A challenging phase.”

<sup>298</sup> “‘Soft Hindutva’ failed to work for Cong,” *Times of India*, December 16, 2002.

<sup>299</sup> Swami, “A challenging phase.”

<sup>300</sup> “‘Fatwa gave Gujarat to BJP,’” *Times of India*, December 16, 2002.

<sup>301</sup> Sourav Mukherjee, “Police closing filed on Ahmedabad riots,” *Times of India*, January 10, 2003.

<sup>302</sup> “Criminal cases against Gujarat MLAs,” *Asian Age*, December 20, 2002.

against them.<sup>303</sup> In the 1998 elections Kodnani secured victory by a margin of 7,000 votes. In 2002, she won by a margin of 60,000.<sup>304</sup>

### Post-election violence in Gujarat

In “*We Have No Orders to Save You*,” Human Rights Watch reported extensively on what in retrospect was the first phase of violence in Gujarat: the burning of the train in Godhra on February 27, 2002 in which 58 Hindus were killed and the organized massacre of Muslims throughout the state in the days that followed. Twenty-six major towns and *talukas* (sub-districts) in Gujarat were affected in the first week of violence. In the months that followed, and to date, incidents continue to be reported from districts throughout Gujarat.<sup>305</sup>

Immediately following the elections, a Muslim was killed and more than thirty-two Muslim shops were burnt in Baroda city. Later in the month thirty-four Muslims in Pavagadh town said they were attacked by mobs. On January 1, 2003, approximately forty Muslim shops were burnt in the predominantly Hindu town of Lunawada, eighty miles south of Ahmedabad in Panchmahals district. According to eyewitnesses, the police looked on as the shops burned down.<sup>306</sup> Earlier in the day, a Muslim rickshaw driver was beaten up and his vehicle was torched by Hindus. Aggressive police raids on Muslim neighborhoods often followed these incidents, while complaints registered by Muslims went unheeded. At least forty-five Muslims were arrested during raids in Lunawada, for example. The Hindu perpetrators were left untouched. According to Muslim residents, the police also looted Muslim shops during the raid. Police have denied the charges. In June 2002, the Gujarat High Court passed an order stating that those making complaints had to produce a witness to identify the culprits. Fearing for their own security, and potential criminal charges, witnesses have been hard to come by. Police claim to simply be following the high court order.<sup>307</sup>

Small incidents are also liable to turn into large-scale episodes of communal violence. At least fifteen people were wounded in Ahmedabad in sporadic clashes between Hindus and Muslims during a kite flying festival on January 16, 2003.<sup>308</sup> On January 30, 2003, in Sevaliya Village, Kheda district, an argument between students at C.P. Patel high school ended in the burning of Muslims shops and stalls.<sup>309</sup> On February 1, 2003, three people were injured following a Hindu-Muslim altercation at a barbershop. Eight hawker stalls were torched in the Muslim-dominated Jamalpur area of Ahmedabad.<sup>310</sup> On March 20 in Gorakhpur district, three people, including a Muslim cleric, were killed and scores were injured during celebrations for Holi, a Hindu festival.<sup>311</sup> And the list goes on.

### The Targeting of Christians in Gujarat

In 1999 Human Rights Watch released a report titled “Politics By Other Means: Attacks Against Christians in India” that documented a sharp rise in violence against India’s Christian leadership and its institutions by *sangh parivar* members in numerous Indian states since the BJP came to power nationally in 1998.<sup>312</sup> Many of the

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<sup>303</sup> See section on Naroda Patia in Chapter IV.

<sup>304</sup> “Riot accused, now MLAs,” *Hindustan Times*, December 16, 2002.

<sup>305</sup> For a detailed list of incidents between March and November 2002, see “Continuing Violence,” in *Crime Against Humanity*, vol. I, pp. 193 – 205. Between mid-March and mid-May several incidents of indiscriminate police shootings were also reported. The victims were predominantly Muslims. For more on police shootings, see Chapter V.

<sup>306</sup> Praveena Sharma, “Muslims fearful in India’s Gujarat after Hindu poll win,” *Agence France-Presse*, January 4, 2003 ; Rathin Das, “Curfew still on in Gujarat town,” *Hindustan Times*, January 6, 2003.

<sup>307</sup> Praveena Sharma, “Gujarat Muslims cower in fear, claim Indian police against them,” *Agence France-Presse*, January 13, 2003. For more on the intimidation of witnesses, see Chapter IV.

<sup>308</sup> “Hindu-Muslim clashes in India’s Gujarat, 15 hurt,” Reuters, January 16, 2003.

<sup>309</sup> “Fresh riots in parts of Gujarat,” *Agence France-Presse*, January 30, 2003.

<sup>310</sup> “Three injured in fresh communal clashes in India’s Gujarat,” *Agence France-Presse*, February 1, 2003.

<sup>311</sup> Amit Sharma, “Riots mar Gorakhpur Holi,” *Indian Express*, March 21, 2003.

<sup>312</sup> Most of the attacks took place in the country’s “tribal belt,” which runs from the Pakistani border in the west to Burma and Bangladesh in the east. The belt is home to eighty-one million indigenous people, whose ancestors inhabited India before the Aryan invasions of about 2,000 B.C. brought the country its dominant ethnic group. Animists or spirit worshippers by



incidents took place in the tribal-dominated Dangs district in southeastern Gujarat, site of a ten-day spate of violence and premeditated attacks on Christian communities and institutions between December 25, 1998, and January 3, 1999. Churches and prayer halls were damaged, attacked, or burned down in at least twenty-five villages in the state. Scores of individuals were physically assaulted, and in some cases tied up, beaten, and robbed of their belongings while angry mobs invaded and damaged their homes. Thousands of Christian tribal community members in the region were also forced to undergo conversions to Hinduism. Pamphlets containing anti-Christian propaganda were in wide circulation preceding the attacks.<sup>313</sup> Christian institutions were also targeted by *sangh parivar* during the violence against Muslims in March 2002.<sup>314</sup> Since the violence, Christians in Gujarat are once again coming under legislative, administrative, and physical assault. Like attacks against Muslims, attacks against Christians also serve to synthesize and promote the Hindutva message.

### ***Anti-conversion legislation***

On October 31, 2002, the controversial Prohibition of Forcible Conversion of Religion Bill was passed in the southern state of Tamil Nadu.<sup>315</sup> The new law attracted widespread criticism. Among other things, it makes it more difficult for poor people and others ostracized under the caste system to convert from Hinduism to another religion.<sup>316</sup> Ordered by the AIADMK-ruling government of Chief Minister Jayalalitha Jayaram, the bill found support with the federal government, led by the BJP. On April 9, 2003, Gujarat Governor Sunder Singh Bhandari signed the Gujarat Freedom of Religion Bill.<sup>317</sup> The bill was modeled on the Tamil Nadu bill.<sup>318</sup> The Gujarat Freedom of Religion Bill is unprecedented in that conversion is lawful only if prior permission is obtained from the district magistrate.<sup>319</sup>

The Freedom of Religion Bill has come under attack by legal experts in the state who believe that some provisions of the bill are unconstitutional.<sup>320</sup> India's National Commission for Minorities has stated that the prior

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nature, many tribals do not practice Hinduism. Much like Dalits ("untouchables"), they traditionally fall outside the Hindu fold.

<sup>313</sup> See Human Rights Watch, "Politics By Other Means: Attacks Against Christians in India," *A Human Rights Watch Report*, vol. 11, no. 6, September 1999. More incidents of violence against India's Christian community were recorded in 1998 and 1999 than in all the years since independence. Attacks occurred primarily in the tribal regions of Gujarat, Madhya Pradesh, and Orissa, as well as the state of Maharashtra. Activists belonging to militant Hindu extremist groups, including the Bajrang Dal and the Vishwa Hindu Parishad were often blamed for the violence. While the central government officially condemned the attacks, spokespersons for the BJP characterized the surge in violence as a reaction to a conversion campaign by Christian missionaries in the country. Sporadic violence continues to this day.

<sup>314</sup> See Concerned Citizens Tribunal, *Crime Against Humanity*, vol. I, p. 191.

<sup>315</sup> "Anti-conversion Bill Passed by Tamil Nadu Assembly," *rediff.com*, October 31, 2002.

<sup>316</sup> "Anti-conversion Bill Unjustified: AIDWA" *The Hindu*, November 11, 2002. Attracted by the church's emphasis on social service and equality, many tribals and Dalits ("untouchables") in India have converted to Christianity in part to escape their impoverished state and abusive treatment under India's caste system. For centuries, and throughout the country, Dalits have been treated as outcastes or "untouchables" at the bottom of India's caste system. Dalits are discriminated against, denied access to land, forced to work in degrading conditions, and routinely abused, even killed, at the hands of the police and of higher-caste groups that enjoy the state's protection. Dalit women are frequent victims of sexual abuse. In what has been called India's "hidden apartheid," entire villages in many Indian states remain completely segregated by caste. National legislation and constitutional protections serve only to mask the social realities of discrimination and violence. Dalits have also been relegated to the most menial of society's tasks—occupations that are deemed ritually polluting for other caste communities. They comprise the majority of agricultural laborers and bonded in the country, often making less than U.S.\$1 a day. According to government statistics, an estimated one million Dalits are manual scavengers who clean public latrines and dispose of dead animals; unofficial estimates are much higher. See generally Human Rights Watch, *Broken People: Caste Violence Against India's "Untouchables,"*; Human Rights Watch, *Small Change: Bonded Child Labor in India's Silk Industry* (New York: Human Rights Watch, 2003).

<sup>317</sup> "Gujarat Religion Bill gets Governor's Nod," *The Hindu*, April 4, 2003

<sup>318</sup> "Gujarat to Restrict Religious Conversions," BBC News, March 26, 2003 [online], [http://news.bbc.co.uk/2/hi/south\\_asia/2885741.stm](http://news.bbc.co.uk/2/hi/south_asia/2885741.stm) (retrieved June 5, 2003).

<sup>319</sup> *Ibid.* This stipulation is unique to the anti-conversion bill of Gujarat, as permission from the district magistrate is not needed in other states where similar restrictions are enforced, "Gujarat Religion Bill gets Governor's Nod," *The Hindu*.

<sup>320</sup> *Ibid.*

permission requirement stands in direct violation of Article 25 of the Indian Constitution, which guarantees “freedom of conscience and free profession, practice and propagation of religion” to every citizen.<sup>321</sup> Supporters of the bill say that it will protect lower-caste Hindu communities, who they see as vulnerable to conversion by Christians,<sup>322</sup> adding that Christianity is a “foreign” religion and that Christians are trying to undermine India’s Hindu culture. Christians make up 0.5 percent of Gujarat’s total population, while Hindus make up 85 percent.<sup>323</sup>

### ***Government-sponsored surveys of Christians***

Prior to the bill’s passing, the BJP-led state government ordered a number of surveys by police officials to obtain detailed information on Christians in Gujarat.<sup>324</sup> A similar government-sponsored survey of the activities of Christian missionaries in the state preceded the destruction of churches and other Christian institutions in December 1998 and January 1999 (see above).<sup>325</sup> Between February 2002 and this writing, three additional surveys had taken place. Christians were asked how they came to adopt their faith—by conversion, through marriage, or by birth. Their addresses were also noted.<sup>326</sup> The surveys have alarmed many residents because, prior to the massacre of Muslims in the state, similar surveys were conducted to assess Muslims’ whereabouts. The lists were then used to pinpoint Muslim targets.<sup>327</sup>

The government of Gujarat initially denied that any surveys were taking place, then reluctantly admitted that they were but insisted that they were not surveys but “routine inquiries”<sup>328</sup> taking place at the “local level” in response to a parliamentary query about the anti-conversion bill.<sup>329</sup> The surveys have also been criticized as discriminatory in their targeting of a specific religious group.<sup>330</sup> According to Cedric Prakash, spokesperson for the Gujarat United Christian Forum for Human Rights, the Gujarat police have visited Christian institutions and families all over the state, sometimes in the middle of the night and often without any form of authorization. When questioned about the purpose and source of their inquiries, the police have been unable to provide an answer.<sup>331</sup>

### ***Renewed attacks against Christians***

Following the communal violence against Muslims in the state in 2002, Christian community members in Gujarat fear that the information obtained in the surveys will facilitate further attacks.<sup>332</sup> In fact, Gujarat has already experienced a resurgence in the targeting of Christians. In October 2002, for example, Christians living in Dangs district were told by *sangh parivar* members that they should “give up luring tribals,” as they put it, warning them to take the warning seriously, or “experience another spell of riots, this time targeting foreign-funded Christians.”<sup>333</sup>

On April 11, 2003 members of the VHP attacked a healthcare center in Limbdi village, Gujarat. The attack took place on the opening day of the dispensary. VHP members were reportedly upset because the dispensary had

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<sup>321</sup> “NCM asks Gujarat Govt. to delete controversial clause,” *The Hindu*, April 5, 2003.

<sup>322</sup> “Gujarat to Restrict Religious Conversions,” BBC News.

<sup>323</sup> Ibid.

<sup>324</sup> “A discriminatory exercise,” *The Hindu*, March 14, 2003.

<sup>325</sup> Ibid.

<sup>326</sup> “Govt. puts Christians under survey for third time,” *Times of India*, March 14, 2003

<sup>327</sup> In the attacks in Ahmedabad, for example, the mobs were guided by computer printouts listing the addresses of Muslim families and their properties, information obtained from the Ahmedabad municipal corporation among other sources. A selective census of Muslims and Christians in the state is one of several unconstitutional administrative directives undertaken by the government of Gujarat. Others include a selective census of Dalits and tribals to ascertain “when they converted to Islam or Christianity”; a directive to the state police asking them to investigate every case of inter-religious marriage; and the setting up of a special cell in 1998 to investigate inter-community marriages. Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II, pp. 150 – 151.

<sup>328</sup> “‘Survey’ a routine police inquiry: Govt.,” *Times of India*, March 12, 2003

<sup>329</sup> “Gujarat survey on Christian community,” *The Hindu*, March 11, 2002.

<sup>330</sup> “A discriminatory exercise,” *The Hindu*.

<sup>331</sup> “Gujarat Survey on Christian community,” *The Hindu*.

<sup>332</sup> “A discriminatory exercise,” *The Hindu*.

<sup>333</sup> “Gujarat mantri threatens Dangs Christians,” *Asian Age*, October 21, 2002

been funded by a U.S.-based Christian organization through its India chapter. The attackers ransacked the building, tore down the boards that listed the names of the Christian donors, and wrote pro-Hindu slogans on the doors in red paint.<sup>334</sup>

### **The Recruitment and Targeting of Dalits and Tribals**

A surprising feature of the violence in Gujarat in 2002 was the mobilization of Dalits, tribals, women, and the urban middle class in attacks against Muslims. Many Dalits, tribals, and Hindus also acted heroically to protect their Muslim neighbors during the violence.<sup>335</sup> The focus of this section is on the simultaneous recruitment and targeting of Dalits and tribals by the *sangh parivar*.<sup>336</sup> Much like attacks against Christians in Gujarat and other parts of the country, the recruitment and targeting of Dalits and tribals is aimed in part at consolidating the Hindu vote bank and encouraging voters to defect from the opposition Congress(I) party. Many Dalits and tribals were actively involved in the violence against Muslims. While Dalits were deployed in urban centers, towns and villages, far-flung districts saw tribals taking part in the anti-Muslim pogrom.<sup>337</sup> Dalit and tribal participation in the violence has also made them the scapegoat in police arrests while those that orchestrated the violence roam free.

### ***The Sangh Parivar's recruitment of Dalits and tribals***

The *sangh parivar* has actively campaigned to break the Dalit-Muslim nexus in Gujarat—a nexus forged over the years by their common placement at the bottom of the class ladder, their similar non-vegetarian eating habits, their adjoining neighborhoods, and their common occupation as factory workers in the now defunct mills of Ahmedabad. According to an article in the *Hindustan Times*, an English daily,

In many areas, Hindutva forces have cashed in on poverty. Inroads have been made over years into Dalit constituencies hit by textile mill layoffs. Through meticulous campaigns, Muslims have been identified as the 'other' who have taken away Dalit jobs; and frustration has been channelised into hatred against the community. In Sabarkantha, the VHP front Vanvasi Kalyan Parishad has distributed food and fodder to tribals during two years of drought, earning a lot of goodwill.... Yet, the anti-Muslim alliance between Dalits and tribals and the champions of Hindutva is not a pan-Gujarat phenomenon. In areas where Sangh Parivar outfits are weak, the OBC, Thakores and Dalits provided safe passage to Muslims.<sup>338</sup>

For over a decade, Dalits and tribals in the state have also been mobilized to participate in the Ram temple campaign.<sup>339</sup> The mobilization, which included the distribution of weapons, began ahead of the violence that followed the Rath Yatra led by L.K. Advani (now Deputy Prime Minister of India) in 1990.<sup>340</sup> An article in the newsmagazine *Frontline* elaborates on the *sangh parivar's* recruitment of Dalits:

The BJP attracts Dalit youth... by giving them opportunities to flex their muscles in their neighbourhoods. But the BJP government has done nothing to create employment for them. Hireen [a Dalit] is from Ahmedabad's old textile mill area, Gomtipur, where more than a lakh [100,000] workers, including his father, lost their jobs when the mills closed down. But instead of new jobs, the BJP only has Hindutva to offer. For several Dalits, it is a way to gain social acceptance with the upper castes. Even as the economic recession in the State worsens, growing

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<sup>334</sup> "Christian built dispensary ransacked," *Times of India*, April 12, 2003; Rupal Sanyal, "Hindu hard-liners stop Christians from opening hospital in western India," Associated Press, April 11, 2003.

<sup>335</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. I, p. 212.

<sup>336</sup> For more on the involvement of women and the middle class see Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II, p. 35.

<sup>337</sup> Davinder Kumar, "Poisoned Edge," *Outlook*, July 2, 2002.

<sup>338</sup> Rathin Das, "Dalits, upper castes join hands in Gujarat mayhem," *Hindustan Times*, April 10, 2002.

<sup>339</sup> R. Ilangovan, "'Sangh parivar using Dalits as cannon fodder for Hindutva agenda,'" *The Hindu*, December 12, 2002; Bunsha, "The Hindutva experiment."

<sup>340</sup> *Ibid.* A Rath Yatra is a Hindu ritual involving the drawing of a chariot through the streets.

numbers of urban unemployed youth are recruited into the Sangh Parivar. The lumpenisation of this section is complete. The Sangh's fascist ideas also appeal to a large section of the aspiring lower middle class. Several Sangh workers are also teachers, a fact that enables the widespread infusion of the Sangh's propaganda and ideology among students. The fact that Gujarat is the most urbanised State in the country, with a 38 percent urban population, has made the spread of communalism relatively easy.<sup>341</sup>

As explained to Human Rights Watch by P. Parmar, a Dalit social worker, who has worked to promote Dalit human rights in Gujarat for several years:

During the violence there was a lot of tension between the two communities [Dalits and Muslims]. In the past, Dalits and Muslims used to live together and work together because of the mills. After the mills were shut down, everything went to pot, and the BJP took full advantage of it by rounding up the Dalit boys who were unemployed and who were drinking and gambling. And then they started a business—they would give Rs. 10,000 [U.S.\$213] to somebody for killing a Muslim, they would give Rs. 5,000 [U.S.\$106] for breaking arms and legs, they would give Rs. 2,000 [U.S.\$43] for burning somebody's home. That was the kind of business they were running.<sup>342</sup>

P. Parmar's own relative was recruited in the attacks. She continued:

My relative's son was involved in the massacre at Naroda Patia. He's unemployed and he doesn't have any work. He has two children, but he has no work, so he has to fill four stomachs, and he was quite concerned. He kept looking for work, but that possibility doesn't exist right now, except for manual labor. So when the riots took place, he was involved in them as well, during the attacks. He was telling us that he killed a woman and he killed a man, and they died right there. Their child was falling at his feet saying, "Uncle, please spare me, please spare me, please don't kill me." He told us, "I didn't even have mercy on him. At first I thought I should leave him, and then I thought no, he's a Muslim, and our kar sevaks were killed." And of course he had also been drinking and the VHP person had also given him money. There was nobody else around. He then said, "My heart was saying, spare the child, but I didn't end up doing it and I killed the child as well." Now he says, "I can't sleep, and whenever I sleep I just see the vision of that boy, saying, 'Uncle, please spare me, please spare me.'" So he can't sleep anymore.

For an economically and psychologically decimated population, membership in the *sangh parivar* offers an opportunity to climb out of impoverishment while finally being "accepted" into the Hindu fold. P. Parmar continued:

The whole Dalit youth, whose minds are already awash, who were alcoholized and in a stupor, and who were gambling, all of them joined this business. At the same time, they wanted to go to war for Hindutva, because for the first time they were being treated like Hindus instead of Dalits. And they started thinking that it's better to be Hindus than to be Dalits. So it was part of the war philosophy and also because of money. So the BJP and the Bajrang Dal and the RSS used the Dalits completely. They used them really well.<sup>343</sup>

Over the past few years, the Bajrang Dal has actively recruited unemployed Dalits in the state, offering them salaries of Rs. 3,000 to Rs. 5,000 (U.S.\$64 to \$106) per month, and enlisting them in camps that specialize in

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<sup>341</sup> Bunsha, "Riding the hate wave."

<sup>342</sup> Human Rights Watch interview with P. Parmar, Ahmedabad, January 4, 2003.

<sup>343</sup> Ibid.

indoctrination against Muslims and arms training.<sup>344</sup> The VHP has distributed weapons to Dalits and tribals throughout the state. Ahead of the violence, Dalits were plied with alcohol and money and insignificant positions within the RSS, VHP, or Bajrang Dal shakhas to become the new “footsoldiers” in anti-Muslim violence. They were then assured full state protection and legal assistance should cases be filed against them.<sup>345</sup>

Activist Sheba George told Human Rights Watch that alongside Dalits, tribal community members have also been recruited by the *sangh parivar*. “Dalits and tribals have been used in a Hindu identity,” she stated. “Everyone has participated in this anti-Muslim pogrom. Being anti-Muslim is the synthesizing feature for Hindutva.”<sup>346</sup> Tribals comprise 15 percent of Gujarat’s population, far higher than the national average of 8 percent. Like Dalits and Muslims, they are among the poorest in the state. Successive Congress governments did little for the upliftment of Dalits and tribals, leaving them vulnerable to the *sangh parivar*’s influence.<sup>347</sup> An article in *Frontline* characterizes the recruitment of tribals as part of an electoral strategy:

Over the past 10 years, the Sangh, through its Vanvasi Kalyan Kendras, has been trying to gain ground in the Adivasi areas of central and south Gujarat, where the Congress(I) has an old and strong support base. The Congress(I) retained a large majority of the seats in these regions. These were precisely the areas that were targeted during the communal violence. The BJP has swept the polls in the riot-hit areas of Panchmahal, Dahod and Vadodara, winning every seat in this “Congress(I) bastion”. Its propaganda has seeped so deep that the tribal people have started talking about Godhra instead of basic survival problems. “This has always been a Congress(I) area, but now the BJP has also become popular. During the riots, the BJP bailed us out when we were arrested. The Congress(I) didn't help us. If Muslims harm our religion, why should we let them?” asked Ramsinh Dhabi (name changed), from Bhilpur village in central Gujarat. Several poor Adivasis from this drought-hit region were paid and given liquor to be part of the Sangh mobs. They were told that they would not be arrested.<sup>348</sup>

Dalit and tribal participation in the violence, as well as their lack of political power, has helped to ensure that they are over-represented in jail cells that house those arrested for attacks against Muslims in the state. They are becoming the scapegoats for the attacks while the ringleaders escape prosecution altogether. Dalits were also killed in police shootings during the violence and, like others who have tried to register complaints, have had fabricated charges brought against them. Anand Teltumbde, a prominent Dalit activist, writes:

It is a fact that the Dalits and Tribals were used in large numbers in violence against Muslims but no one can say that the entire carnage was their act. Rather, being in the neighborhood of Muslim masses, only the Dalits suffered their counterattacks. It was not because they identified their attackers as living in their neighborhood but because of their sheer vulnerability. The caste people and that includes backward castes,<sup>349</sup> the torchbearers of the Hindutva, are not to be found in the relief camps because they are not as vulnerable. These people did it and got away with it. Either way, if people are to be charged it always came handy to catch hold of some one like a Dalit. The bias is intrinsic, embedded in the system that readily problematises the have-nots...

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<sup>344</sup> Concerned Citizens Tribunal, *Crime Against Humanity*, vol. II, p. 35.

<sup>345</sup> Kumar, “Poisoned Edge.”

<sup>346</sup> Human Rights Watch interview with Sheba George, Ahmedabad, January 3, 2003.

<sup>347</sup> Kumar, “Poisoned Edge.”

<sup>348</sup> Bunsha, “Riding the hate wave.” Encouraged by its success in the tribal belts during the Gujarat polls, the VHP has declared that it would step up its “welfare work among backwards and tribals” in other parts of the country. The main agenda behind the move is reportedly to “transfer the votes of at least 75 million tribals from the Congress, Left and ultra-Left to the BJP.” Sanjay Basak, “VHP targets tribals all over country,” *Asian Age*, December 20, 2002.

<sup>349</sup> Those whose ritual rank and occupational status are above “untouchables” but who themselves remain socially and economically depressed.

Now that the storm is settling and the police machinery is getting activated, it will be the Dalits and Tribals who will be stamped as the sole perpetrators of the Gujarat carnage.<sup>350</sup>

D. B. Parmar, also a Dalit social worker in Gujarat, adds:

In the police cases following all the violence, non-Dalits are not being named in FIRs. So many Patels and Darbars [upper-caste community members] were implicated, but their names are not in the police cases, even though they were the ones who participated the most, their names are not in the FIRs. When Dalits went to the police station to file cases, they would lock them up. When Muslims went, they would refuse to file their cases, and they would put them in detention as well. That has deterred many Dalits and Muslims from going to fill out FIRs at all. They will even give the names and say, "The people who came and attacked me were from the Bajrang Dal or from the VHP, the RSS." They would even give their names. But if you look at this politically, then the government had put so much pressure on the police that the police would even refuse to file the FIR and put their names in. And also, the police themselves were involved in the violence. There was police firing in Dalit neighborhoods and on Muslim neighborhoods. Even though the VHP ones were the ones who were provoking the violence, but there was no firing on them. There's no FIRs against them, and they have not been arrested.<sup>351</sup>

P. Parmar added:

There were a lot of politics in the arrests. People were given Rs. 100 [U.S.\$2] to go to prison for one night, so that it would look like people were being arrested. The Patels were sent to Togadia hospital<sup>352</sup> so there was no investigation against them to implicate them in the violence. On the other hand, Dalits were sent to the government hospital so that they could be charged with rioting. Anyone who was injured was charged with rioting, including Muslims. There are still many Dalits and Muslims in jail.<sup>353</sup>

Both P. Parmar and D. B. Parmar have conducted extensive survey work for the NGO Navsarjan in Vatva, Kutbihar, Dargyallam, Shahpur, Dargar, Gomtipur, and Berhampura (areas of Ahmedabad) to help collect affidavits and assess the loss of life and damage to properties. Dalit and Muslim victims, they claim, are afraid to approach the police for fear of being arrested, particularly following the BJP electoral win in December 2002:

The victims tell us, "Nobody listens to us, so even if we wanted to, who would we go to?" Dalits and Muslims are so scared; they're not even leaving their homes. This is the atmosphere now, nobody knows when violence could erupt, so people aren't openly able to accuse people right now, and also because of the police's involvement. We've covered all the sensitive areas of Ahmedabad, and all the areas where a lot of Dalits and Muslims were killed. People have showed us all the evidence but at first they weren't even ready to sit with us, even though we have been working with them for years. They were too scared to talk.<sup>354</sup>

Dalits also made up a majority of those that resided in Hindu camps in the state following the violence. Several Dalit neighborhoods were also attacked in retaliatory violence by Muslims.<sup>355</sup>

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<sup>350</sup> Anand Teltumbde, "Damning the Dalits for the Bania-Brahmin Crimes in Gujarat," [online], <http://www.countercurrents.org/dalit-gujarat.htm> (retrieved May 17, 2003).

<sup>351</sup> Human Rights Watch interview with D. B. Parmar, Ahmedabad, January 4, 2003.

<sup>352</sup> A hospital in Ahmedabad owned by VHP International General Secretary Praveen Togadia.

<sup>353</sup> Human Rights Watch interview with P. Parmar, Ahmedabad, January 4, 2003.

<sup>354</sup> Human Rights Watch interviews with P. Parmar and D.B. Parmar, Ahmedabad, January 4, 2003.

<sup>355</sup> Teltumbde, "Damning the Dalits."

### ***Attacks against Dalits***

Dalits in Gujarat have also been victimized by upper-caste Hindus. In addition to enduring daily abuses such as untouchability, exploitation, murder and rape, Dalits were targeted in anti-reservation riots in the state in 1981 and 1985.<sup>356</sup> In 1981 Dalits were targeted in eighteen districts by those protesting a quota system that gave Dalits access to medical and engineering colleges. In 1985, though the hike in job quotas was for OBCs, or backward castes,<sup>357</sup> Dalits again became the targets.<sup>358</sup> By the mid-1980s, the BJP and its supporters changed their strategy toward Dalits, tribals, and OBCs, who collectively account for 75 percent of the state's population, and began uniting them under a Hindutva plank.<sup>359</sup>

Dalit populations are simultaneously vilified by some of the same groups that are purporting to help them. D. B. Parmar told Human Rights Watch about pamphlets that are in circulation in the state demonizing Dalit community members and calling on VHP members to attack Dalits and incite Dalits and tribals against one another:

Three months ago, I saw VHP pamphlets saying that now it was the Dalits' turn. These were coming out of the Paladi [Ahmedabad] VHP office. It told people to give Dalits medicines whose expiry date had already passed. It told people to rape their sisters, and to get Dalits and tribals to turn against one another. It also told them to establish Ram as the god of the Adivasis [tribals]. These are internal documents because there are more Dalit youths in the VHP. Now one of them, being sympathetic to our work, gave us the document because he was afraid of what the VHP was going to do to his community.<sup>360</sup>

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<sup>356</sup> Kumar, "Poisoned Edge."

<sup>357</sup> See footnote 349.

<sup>358</sup> Dionne Bunsha, "The Hindutva experiment," *Frontline*, May 11-24, 2002.

<sup>359</sup> *Ibid.*

<sup>360</sup> Human Rights Watch interview with D. B. Parmar, Ahmedabad, January 4, 2003. A letter from the VHP to Banaskantha Dalit Sangathan (BDS)—an NGO that has been working on human rights violations against Dalits and other marginalized communities for the last three years—reads in part (translated from Gujarati):

THE SECOND OPEN LETTER OF TRUE RAM SEVAKS

Let the Ambedkarite Harijans [Dalits who follow the teachings of Ambedkar, the architect of the Indian constitution and an important Dalit leader] who oppose the Hindutva ideology understand. We will not let them mix with even the soil of Hindustan; today time is in our hands.

Hindutva is the ideology of true Hindus (and) it never accepts the Harijans who are the off springs of the untouchable Ambedkar.

The Ambedkarite Harijans, Bhangis, tribals and the untouchable Shudra castes who believe in (respect) Ambedkar do not have *any* right to give speeches or criticise the Hindutva ideology in Hindustan, because as a dog raises its leg and urinates when there is a pillar or a hill in its way, in the same way whenever there is a question or discussion related to the Hindutva ideology these Ambedkarites, Harijans, Bhangis, Adivasis and other untouchable low castes sling their *dirt* on the Hindutva ideology or show their own caste (their low birth) by speaking abusively (about it).

Now Hindutva has become aware and it is time to teach these Ambedkarites, untouchable Harijans a lesson. Not even the *miyans* (Muslims) can come to their aid now....

Publisher: Vishwa Hindu Parishad, 11, Mahalaxmi Society, Paldi, Karnavati-380 007. Printer: Allied Offset Printers (Guj.) Pvt. Ltd. Kalidas Mill Compound, Gomtipur, Karnavati-380 021.

The letter was sent to Human Rights Watch via email by BDS on March 4, 2003. Both the Gujarati version and English translations were sent. The letter has also been authenticated and published by the periodical Communalism Combat.

## Replicating the “Gujarat Experiment” in Other States

Soon after the BJP’s electoral victory in Gujarat, VHP International General Secretary Praveen Togadia asserted that the experiment of the “Hindutva lab” would be repeated elsewhere in the country, raising concerns that communal violence would be deployed as a political strategy. Togadia went on to state that “[a] Hindu Rashtra [state] can be expected in the next two years.... We will change India’s history and Pakistan’s geography by then.”<sup>361</sup> At this writing four more states had gone to the polls, with five more state elections due before the end of the year. State elections will be followed by national elections in 2004 in which the BJP hopes to gain enough seats to rule outside the constraints of a coalition government.

On February 26, 2003, state elections were held in the northeastern states of Meghalaya, Nagaland, and Tripura, and in the northern state of Himachal Pradesh where the BJP was in power. Contrary to some speculations that the BJP would build on its Gujarat win and secure reelection in Himachal Pradesh, they suffered a decisive defeat to the opposition Congress(I) party.<sup>362</sup> The Congress party did not win a clear majority in Meghalaya, but emerged as the single largest party.<sup>363</sup> It lost ground to a regional party in the state of Nagaland,<sup>364</sup> while leftist parties retained control of Tripura state.<sup>365</sup> The BJP defeat in Himachal Pradesh was blamed on organizational flaws within the party.<sup>366</sup> According to political analysts, the loss was indicative of the BJP’s increasingly declining popularity and the notion that the Hindutva card cannot always be substituted for good governance.<sup>367</sup>

The Himachal Pradesh defeat was indeed seen as a setback for the BJP, a setback it hopes to make up for with aggressive posturing in ongoing electoral campaigns in other states. Later this year, Rajasthan, Chattisgarh, Madhya Pradesh, the capital New Delhi, and Mizoram will go to the polls.<sup>368</sup> Congress is in power in all states except Mizoram where the BJP is in alliance with a regional party.<sup>369</sup> Potentially explosive campaigning efforts are already underway in Rajasthan and Madhya Pradesh, states with populations of 30 million and 40 million, respectively.<sup>370</sup> In Rajasthan, members of the VHP have distributed hate pamphlets vilifying Muslims and depicting them as sexual deviants and terrorists. As in Gujarat, hundreds of thousands of trishuls (tridents) have also been distributed by the group as part of a statewide trishul distribution program.<sup>371</sup> As noted at the outset of this report, similar weapons were and continue to be distributed throughout Gujarat and were used extensively in the violence against Muslims in 2002.<sup>372</sup> On April 13, 2003, VHP International General Secretary Praveen Togadia was arrested in Ajmer, Rajasthan under the Arms Act for defying the ban on the distribution of tridents imposed by the state government on April 8. On April 15, the VHP called for a statewide bandh (shutdown) to protest the arrest.<sup>373</sup> Unlike the bandh call in Gujarat following the Godhra attack, the bandh in Rajasthan met with a lukewarm reception with only some businesses and institutions heeding the call.<sup>374</sup> On April 16, an Ajmer court rejected Togadia’s application for bail, extending his judicial custody to April 30.<sup>375</sup> Togadia was charged with sedition for conspiring to dislodge an elected government<sup>376</sup> and for disturbing communal harmony in

<sup>361</sup> “‘Hindu Rashtra’ in Two Years: Togadia,” *rediff.com*, December 15, 2002 [online], <http://www.rediff.com/election/2002/dec/15guj13.htm> (retrieved June 5, 2003).

<sup>362</sup> Rup Lal Sharma, “Lessons for BJP from HP debacle,” *The Hindu*, March 22, 2003.

<sup>363</sup> “Congress single largest party in Meghalaya,” *rediff.com*, March 1, 2003.

<sup>364</sup> “DAN to stake claim in Nagaland,” *rediff.com*, March 1, 2003.

<sup>365</sup> “Tripura: Left takes over next week,” *rediff.com*, March 1, 2003.

<sup>366</sup> “BJP setback in HP due to organizational flaws,” *Indiainfo.com*, March 1, 2003.

<sup>367</sup> Sharma, “Lessons for BJP from HP debacle.”

<sup>368</sup> “Religious and communal issues top agenda in Indian polls,” *The Straits Times*, February 27, 2003.

<sup>369</sup> “India elections dominated by cow, trident, temple, mosque... and sleaze,” Agence France-Presse, February 26, 2003.

<sup>370</sup> Yoga Rangatia, “The battle for India’s voters,” *Guardian*, January 21, 2003.

<sup>371</sup> “Hindu radicals focus on a new target,” *South China Morning Post*, January 31, 2003.

<sup>372</sup> For more on the distribution of weapons in Gujarat, see Chapter III.

<sup>373</sup> “VHP calls for Rajasthan bandh on Tuesday,” *Times of India*, April 14, 2003.

<sup>374</sup> “Togadia bandh goes unnoticed,” *Indian Express*, April 16, 2003; “Poor response to VHP’s Rajasthan bandh: Police,” *Times of India*, April 15, 2003.

<sup>375</sup> “Togadia arrested after defying ban on distribution of tridents,” Press Trust of India, April 13, 2003; “Togadia remanded to judicial custody,” *The Hindu*, April 14, 2003.

<sup>376</sup> “Togadia charged with sedition,” *Statesman*, April 16, 2003.



Rajasthan. According to the state government, Togadia's speeches and campaigning tactics incited communal unrest in the state.<sup>377</sup>

The BJP and the *sangh parivar* condemned the arrest and warned the Rajasthan government that it would "bear the consequences" for its actions.<sup>378</sup> After spending eight days in jail, Togadia was released on bail on the condition that he would not defy the ban. Upon release, he quickly resumed his trident distribution program.<sup>379</sup> The BJP was in power in Rajasthan for nine years before Congress came to power four years ago. Under the BJP, the VHP spread its influence throughout the state. According to one estimate, the VHP runs over 1,000 projects in Rajasthan, ranging from village schools to "reconversion" centers.<sup>380</sup>

In the state of Madhya Pradesh, echoing the early days of the Babri Masjid conflict in Ayodhya (see below), members of the Hindu Jagran Manch (a *sangh parivar* affiliate) staged violent protests in February 2003 demanding unfettered access to Bhojshala—an eleventh century monument they claim is a temple and that Muslims have been using as a mosque. Three people were killed during the protests. Congress Chief Minister Digvijay Singh has accused the BJP of creating a conflict in order to divide people along communal lines.<sup>381</sup>

### **The Ram Temple Campaign in Ayodhya**

Emboldened by the Gujarat election results, the *sangh parivar* is once again pushing its Ram temple campaign to the front of the agenda.<sup>382</sup> In December 2002, on the ten-year anniversary of the destruction of the Babri Masjid (mosque), the VHP renewed its pledge to build a Hindu temple on the disputed site, despite the BJP's decision not to include the construction of a temple on the site as part of its election manifesto.<sup>383</sup> Numerous marches and protests have taken place in recent months to demand that construction begin, timed well to coincide with polling in February 2003 state elections.<sup>384</sup> Praveen Togadia has stated that the only legal solution to the Ayodhya dispute is the passing of national legislation to declare the site as the birthplace of Ram and to hand it over to Hindu priests.<sup>385</sup> "If the [construction] demand is not met by a Parliament enactment or other means, it can lead to a people's movement which can even lay claim to thousands of mosques," Togadia warned. The VHP has also declared that after Ayodhya, it will target mosques in Mathura and the holy city of Varanasi, also in Uttar Pradesh, alleging that these mosques were built on the remains of Hindu temples demolished by Muslim rulers five centuries ago.<sup>386</sup>

On March 5, 2003, the Allahabad High Court of Uttar Pradesh ordered the Archaeological Survey of India (ASI) to excavate the site and determine whether a temple existed at the spot where the Babri Masjid once stood.<sup>387</sup> The excavations raised a number of issues, and were the subject of much criticism. The excavators worked under imposed time constraints that inhibited their ability to do the work properly. To complicate matters, other religious groups have laid claims that the site should be opened to them as well—Jains and Buddhists are arguing

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<sup>377</sup> "Will sedition charge stick on Togadia?" *Times of India*, April 18, 2003.

<sup>378</sup> "Sangh Parivar, BJP flay Togadia's arrest," *Hindustan Times*, April 17, 2003.

<sup>379</sup> "Togadia defiant," Press Trust of India, April 23, 2003; "Uproar in Indian parliament over Hindu hardliner's weapons distribution," Agence France-Presse, May 5, 2003.

<sup>380</sup> Amrit Dhillon, "Hindu radicals focus on a new target," *South China Morning Post*, January 31, 2003.

<sup>381</sup> "Only ASI order can open Bhojshala: Digvijay," *Hindustan Times*, April 6, 2003.

<sup>382</sup> Shekhar Iyer, "Job done, BJP plays down Hindutva: But VHP claims credit," *Hindustan Times*, December 16, 2002.

<sup>383</sup> "Timeline: Ayodhya Crisis," BBC News, February 27, 2002 [online], [http://news.bbc.co.uk/2/hi/south\\_asia/1844930.stm](http://news.bbc.co.uk/2/hi/south_asia/1844930.stm) (retrieved June 5, 2003).

<sup>384</sup> "India braces for fresh Hindu-Muslim showdown over Babri mosque site," Agence France-Presse, February 21, 2003.

<sup>385</sup> "Declare India Hindu nation: VHP tells Govt," Press Trust of India, March 3, 2003. During a VHP meet in Pune in December 2002 plans were drawn up to set up a separate cell within the VHP to combat "Islamic terrorism" and to "enlighten" people about terrorism in its various forms. Shashank Mhasawade, "VHP meet in Pune: No. 1 agenda is Hindu nation," *Hindustan Times*, December 27, 2003.

<sup>386</sup> "Indian Sectarian Tensions Resurface Ahead of State Polls," Dow Jones International News, February 20, 2003.

<sup>387</sup> "Ayodhya-Excavation," Press Trust of India, March 13, 2003.

that there are remnants of Jain temples and Buddhist temples, and that these will be revealed in the excavation.<sup>388</sup> At this writing, ASI was due to reveal its findings by early July 2003.

In March 2003, the VHP demanded an amendment to the constitution to declare India a Hindu nation.<sup>389</sup> In April 2003 Togadia admitted to the VHP's participation in the Gujarat violence and the destruction of the Babri Masjid. Commenting on the VHP's Ram temple campaign he said, "There are two courses left for us—getting a temple through an act of parliament or the anarchist mode of repeating December 6, 1992. We are ready for both. We demolished the Babri Masjid. We were the ones who came out on the road in Gujarat (post-Godhra)."<sup>390</sup>

## XII. RECOMMENDATIONS TO INDIAN AUTHORITIES AND THE INTERNATIONAL COMMUNITY

To bring itself into compliance with domestic and international law, the Gujarat government must act now to prevent further attacks, end impunity, and deliver meaningful assistance to those displaced and dispossessed by the violence. Those responsible for attacks against Hindus and Muslims in Godhra, Akshardham, and Godhra's violent aftermath, including members of the *sangh parivar* and the BJP, must be brought to justice.

### To the State Government of Gujarat:

#### *Justice*

- Ensure that police register and investigate all cases of communal violence regardless of the religious background of the victim. Establish women's cells in police stations for the reporting and investigation of sexual violence cases and other crimes against women. These cells should have trained female police officers and referrals to health and other support services.
- The national government and the government of Gujarat should establish civilian review boards or civilian ombudsman committees composed of judges and lawyers to examine whether cases are being adequately investigated.
- Act without delay to implement the recommendations of the NHRC on the violence in Gujarat, including that:
  - The Central Bureau of Investigation (CBI) take over investigations of critical incidents in Gujarat, such as the attacks in Godhra, Naroda Patia, and Gulbarg Society.<sup>391</sup>
  - The chief justice of the High Court of Gujarat establish courts expressly to try cases investigated by the CBI.
- Turn over investigations implicating state and police officials to federal agencies such as the CBI. Ensure that these investigations address the conduct of state officials, including police and Bharatiya Janata Party leaders, who incited, took part in, or were complicit in the attacks. The investigations should be sure to address:
  - Instances in which government documents noting the religious affiliation of persons were given to groups responsible for inciting violence or conducting abuses.
  - Malfeasance in investigating and arresting leaders involved in attacks.
  - Excessive use of police force, including executions.
  - Arbitrary detention and filing of false charges.

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<sup>388</sup> "Digging for truth at Ayodhya," BBC News, March 11, 2003 [online], [http://news.bbc.co.uk/2/hi/south\\_asia/2839733.stm](http://news.bbc.co.uk/2/hi/south_asia/2839733.stm) (retrieved June 5, 2003).

<sup>389</sup> "Declare India Hindu nation: VHP tells Govt," Press Trust of India, March 3, 2003. During a VHP meet in Pune in December 2002 plans were drawn up to set up a separate cell within the VHP to combat "Islamic terrorism" and to "enlighten" people about terrorism in its various forms. Shashank Mhasawade, "VHP meet in Pune: No. 1 agenda is Hindu nation," *Hindustan Times*, December 27, 2003.

<sup>390</sup> "Defiant Togadia admits to hand in Gujarat riots, Babri demolition," *Indian Express*, April 3, 2003.

<sup>391</sup> CBI is a federal investigative agency that handles cases of corruption and cases of interstate and other crimes of national importance. CBI inquiries are often demanded in cases where local or state investigations are perceived to be biased.

- Suspend all police officers implicated in the attacks, pending investigation. Police found to have violated their duties should be dismissed and prosecuted where appropriate. All officers who helped stem the violence and have since been demoted or transferred should be reinstated to their original posts.
- Ensure that police use deadly force only as a last resort to protect life and in accordance with the U.N. Basic Principles on the Use of Force or Firearms by Law Enforcement Officials, which emphasize that the use of force and firearms should be in consonance with respect for human rights, and that deadly force should not be used against persons unless “strictly unavoidable in order to protect life.”
- Take prompt and appropriate action against any government official, including elected representatives and members of the state or local administration, who endorse, encourage or otherwise promote discrimination against Muslims or any other group.

### ***Relief and rehabilitation***

- Provide integration assistance to individuals and families who were victims of the communal violence and who are unable or unwilling to return to their homes. Such integration assistance should include housing, employment assistance, food and water, and access to education and healthcare.
- Allocate compensation for family members of those killed or the reconstruction of homes and places of business, and for the provision of food and other relief supplies for all persons displaced or dispossessed in a nondiscriminatory manner and in accordance with international human rights law and the U.N. Guiding Principles on Internal Displacement.
- Reassess existing state and federal compensation packages that fail to cover all damage and destruction suffered by victims. Standards for compensation should be based on present market values of land, building materials, and household goods. Include both material and non-material costs, such as labor charges, costs for installation of water meters, electrical wiring, and sewage disposal systems, in assessing compensation. Compensation for rural families should include losses of assets such as livestock and crops.
- Parameters of damage assessment should be transparent and widely publicized. In addition to government representatives, the team of surveyors must include technically qualified and independent agencies, NGOs, and members of the affected communities.
- Make available adequate healthcare, including free medical care and psychological counseling, for all survivors of the violence. Healthcare professionals trained to deal with rape should be employed, and services should include testing and treatment for sexually transmitted diseases.
- Compile a list of persons missing since the 2002 violence and expedite the payment of compensation to family members who are eligible.
- Restore without delay all personal legal documents lost or destroyed during the communal violence. Included are passports, personal identification documents, and birth, marriage, and education certificates.
- Work with local NGOs to provide legal advice to persons having claims.
- Make available low-interest loans and institute other economic rehabilitation measures for businesses affected by the violence.

### ***Legislative and administrative reforms***

- Cease all government-sponsored surveys, unrelated to the census, regarding the residences and other information of members of Dalit, tribal, Christian, and Muslim communities that could place the security of those communities at risk.
- Repeal the Gujarat Freedom of Religion Bill, which on its face is contrary to the right to freedom of religion and belief under international human rights law.
- Disband the Gujarat state cell set up monitor inter-religious and other forms of mixed marriages.
- Launch public awareness campaigns in Gujarat and other states aimed at preventing future communal violence. Such campaigns should reaffirm legal provisions, explain what recourses are available to minorities, and publicize the procedures for filing a First Information Report (FIR). Campaigns

should also include public service announcements aimed at condemnation of religious violence and extremism, and at raising awareness of human rights.

### **Security**

- Adopt and implement measures to ensure the safe return and continuing security for all urban and rural families affected by the violence who wish to go back to their original residences and places of business.
- Adopt and implement measures to ensure the security of human rights defenders, journalists, and independent and secular NGOs working in Gujarat to promote human rights and non-discrimination.

### **To the Government of India:**

The government of India should ensure that Gujarat state investigates and prosecutes perpetrators of communal violence and, where necessary, cooperates with federal agencies such as the CBI in doing so. The government should also take appropriate measures to ensure the security and safety of all citizens of Gujarat, including assisting those who have been displaced or dispossessed by the violence. In addition, Human Rights Watch recommends that the government:

- Investigate and prosecute officials of those organizations, including the VHP, RSS, BJP, Bajrang Dal, Shiv Sena, and their affiliates, implicated in continuing violence against Dalits, tribals, and religious minorities.
- Establish civilian review boards or civilian ombudsman committees composed of judges and lawyers to examine whether cases in Gujarat are being adequately investigated.
- Repeal the resolution that exempts trishuls (tridents) from the scope of the Indian Arms Act. Prohibit, in conjunction with state governments, the distribution of tridents and swords by members of the *sangh parivar*; and seize weapons that have already been distributed by these groups.
- End impunity for past campaigns of violence against minorities, including the anti-Sikh violence in Delhi in 1984 and the post-Ayodhya violence of December 1992 and January 1993; the recommendations of the Srikrishna Commission on the post-Ayodhya violence in Bombay should be implemented without delay. Police responsible for excessive use of force should be prosecuted; those who had the power and duty to stop the violence but did not intervene should be appropriately punished.
- Repeal the Prevention of Terrorism Act (POTA), which stands in violation of international due process norms and has been discriminatorily applied in the state of Gujarat and elsewhere.
- Establish state branches of the National Human Rights Commission (NHRC), the National Commission for Minorities (NCM), and the National Commission for Women (NCW) in Gujarat, with adequate financial resources and powers to initiate prosecution where appropriate. The 1993 Protection of Human Rights Act should also be amended so that the NHRC is not excluded from inquiring into matters already pending before state commissions.
- Implement the recommendations of the Law Commission of India on amendments to existing laws relating to sexual assault so as to ensure prosecution of all instances of sexual violence.
- Implement the recommendations on police reform made by the National Police Commission in 1980.
- Request assistance from United Nations relief agencies, including the United Nations Development Programme (UNDP), the United Nations Children's Fund (UNICEF), the World Food Programme (WFP), the World Health Organization (WHO), and the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), as well as international humanitarian organizations, to ensure the provision of relief and rehabilitation assistance to all those displaced and dispossessed by the communal violence.
- Provide the U.N., international humanitarian organizations, and local nongovernmental relief agencies full, free, and unimpeded access to all those displaced and dispossessed by the communal violence. Share with these agencies rehabilitation-related information in Gujarat.
- Ratify the Rome Statute of the International Criminal Court and enact the necessary legislation to implement its provisions.

- Invite the following United Nations human rights bodies and experts to conduct fact-finding missions in Gujarat:
  - The Working Group on Arbitrary Detention;
  - The special rapporteur on torture and cruel, inhuman and degrading treatment;
  - The special rapporteur on extrajudicial, summary and arbitrary executions;
  - The special rapporteur on violence against women;
  - The special rapporteur on adequate housing;
  - The special rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance;
  - The representative of the United Nations secretary-general on internally displaced persons.
- Include information on the recent communal violence in India's future periodic reports to human rights treaty bodies established for the:
  - International Convention on the Elimination of All Forms of Discrimination Against Women;
  - International Covenant on Civil and Political Rights (overdue as of December 31, 2001).

#### **To India's Donors and Trading Partners:**

- Assist the government of India in delivering relief and rehabilitation assistance to those displaced and dispossessed by the communal violence and take steps to ensure that such assistance is delivered in a nondiscriminatory manner and in accordance with international human rights law and the U.N. Guiding Principles on Internal Displacement.
- Support the adoption of preventative measures to ensure that communal outbreaks are prevented in the future. Such measures may include community education programs and the establishment of independent review boards to act as checks on the functioning of the police and other state and local government institutions during communal outbreaks.
- Urge the Indian government to prosecute those responsible for the violence in Gujarat, including state, government, and police officials, and call upon the government to invite relevant U.N. human rights experts and commissions to monitor the ongoing situation.
- Urge the Indian government to implement the recommendations of the NHRC concerning the violence in Gujarat; the recommendations of the Srikrishna Commission on the 1992-1993 Bombay riots; and the 1980 recommendations of the National Police Commission on national police reform.
- Urge the Indian government to amend its laws on sexual violence according to the recommendations of the Law Commission of India so that all cases of sexual assault may be prosecuted. Provide funding for programs to provide health, economic, and legal services to sexual violence survivors.

#### **To International Lending Institutions:**

- Ensure that anti-discrimination measures built into World Bank and Asian Development Bank-funded projects are thoroughly implemented in areas where there are serious problems of communal violence and religious discrimination. As part of their commitment to good governance, the World Bank and other international lending institutions should establish ongoing dialogue with NGOs at all stages of the decision-making process, including before a loan is released, while the project is being implemented, and in the course of any post-project evaluation.
- Ensure that all social impact assessments prior to approval of projects investigate the effect of proposed policies and programs on communal violence and religious discrimination. In consultation with NGOs, explore ways in which programs could help address these problems.

#### **To United Nations Agencies and International Humanitarian Organizations:**

- Explore with the Indian government ways to expand existing relief programs to address the humanitarian needs of those displaced and dispossessed by the communal violence in Gujarat, without discrimination and in accordance with international human rights law and the U.N. Guiding Principles on Internal Displacement. Assistance should be focused on health and sanitation, food and nutrition, social and psychological support, shelter, and educational needs of the internally displaced, as well as on rehabilitation and reconstruction assistance to facilitate the safe return of internally

displaced persons to their own homes and communities. Support services should address the specific needs of sexual violence survivors and ensure that widows and female-headed households have full access to reconstruction assistance.

- Establish mechanisms to monitor violence or abuse targeting displaced persons, returnees and Muslims communities.
- Provide appropriate protection and assistance to displaced children and other vulnerable groups, such as female heads of household and physically disabled displaced persons.

**To the Indian Diaspora:**

- Promote informed charity so that funds are not channeled to groups promoting violence.
- Increase public awareness and education campaigns on human rights in India among Indian diaspora communities.

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*Asia Division*

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