

Refusal by SIT to examine either the Build Up to the Violence in Mehsana District
Nor the Subversion of the Criminal Justice System through the appointment of Dilip
Trivedi as Special PP in 2002

Prosecution Refuses to Develop Theory of Build-Up and Conspiracy

Witnesses Persist in Making an Application before the SIT and the Court to examine
Ashish Khaitan of *Tehelka Magazine*.

While SIT recorded Asish Khaitan's statement, the prosecution did not examine him as
witness.

http://www.tehelka.com/story_main35.asp?filename=Ne031107Justice.asp

Legal Subversion

Justice. Blind To The Victim

*The Sangh was preparing its case for the defence even before the riots, selecting lawyers with
the utmost care*

IT WAS not just the carnage that was clinically planned and supervised by the State, it was also
the aftermath. Even before the riots began, the Vishwa Hindu Parishad had started chalking out a
strategy for providing legal assistance to Hindus who were likely to be accused of rioting and
killing. Dhimant Bhatt and Deepak Shah, members of the BJP's Vadodara unit — Bhatt also
being the chief accountant of the Maharaja Sayajirao University (MSU) and Shah a member of
the University's executive body — told TEHELKA that key members of the Sangh Parivar met on
the night of the Sabarmati Express incident to constitute a panel of advocates to defend the
rioters. The fact that the VHP had a good number of advocates — both private lawyers and public
prosecutors — among its ranks, made the task easy. Deepak Shah named many Vadodara
lawyers, such as Rajendra Trivedi, Neeraj Jain and Tushar Vyas, who were present in that
preparatory meeting.

In district Sabarkantha, Narendra Patel and Mohan Patel — both members of the RSS — told
TEHELKA that after the riots the RSS had formed a body called Sankalan to provide legal aid to
Hindu rioters. Many of the VHP's lawyers, who had their own private practices, became defence
counsels for the accused, and public prosecutors who were either members of the VHP or
sympathetic to the Sangh extended indirect assistance to the rioters.

The public prosecutors, instead of taking forward the charges against the accused, actually
helped them in the case. So, in many places, both the defence and the prosecution were on the
same side — on the side of those who looted, raped and killed. What hope then did the Muslim
community have of seeing their tormentors convicted? First the police sided with the rioters
through shoddy investigations, and now the prosecution too was ranged against the victims.

Chetan Shah, an active VHP member and a leading Ahmedabad lawyer, was the first to
represent the accused in the Naroda Patiya massacre. The government later appointed him as
the public prosecutor in the Gulbarg society case. TEHELKA met a Gulbarg case accused named
Pralhad Raju, who said that while he was on the run, he was being advised by Chetan Shah
about when he should surrender before the police.

In Mehsana district, Dilip Trivedi, general secretary of the VHP's Gujarat unit, is also the senior
pleader leading a team of about a dozen public prosecutors working under him. Mehsana was

among the worst-affected areas during the riots. Two cases in Mehsana in particular — the Deepda Darwaza incident in Visnagar town and the Sardarpura incident — had shaken the conscience of civil society for the number of people killed and also the barbaric manner in which the killings were carried out. Trivedi, whose job was to oppose the bail applications moved by the accused in these two cases, was accused by civil society of helping the accused get bail. After several representations before the Gujarat High Court and the Supreme Court by the victims, Trivedi was removed from representing them in riot cases. TEHELKA went to see Trivedi at his office within the Mehsana court premises on June 15, 2007.

TRIVEDI REVEALED that in his capacity as the VHP's general secretary, he had coordinated all the riot cases in Gujarat. While the reporter was sitting in Trivedi's chamber, two people walked in to discuss a riot-related case in which Hindus were accused. The men needed Trivedi's help to engage a lawyer who could represent the accused. Trivedi called up a few lawyers and tried to find his visitors a suitable lawyer. After the two men left his office, Trivedi said that the defence lawyer who was handling their case had fallen ill, and the responsibility of finding a new defence lawyer had again fallen upon him. He grumbled about having to manage everything — from coordinating with government lawyers and defence advocates to talking to cops who were reinvestigating the riot cases. He further said that out of a total of 74 riot-related cases in Mehsana, only two had resulted in conviction.

"In one case, I got the acquittal after I made an appeal in the Sessions Court... In the second case, the appeal has been made before the High Court but everyone is out on bail... the conviction was wrong." He then went on to narrate the worst cases of the killing and looting of Muslims that happened in Mehsana post-Godhra. He said one such case — the Sardarpura case — had been stayed by the Supreme Court, but since the accused were out on bail, he was not worried. He then went on to explain how after the accused in the Sardarpura riot case were granted bail by the Mehsana court, the victims had made such a big noise, that *The Times Of India* had carried a front-page story accusing him of playing a partisan role in riot-related cases.

A gleeful Trivedi boasted that even though the allegations against him were true, nothing could be proved "on paper". Everybody knew, he said, that after the riots, he had camped in every district holding meetings with government prosecutors, his own workers and police officers.

In Sabarkantha, TEHELKA met public prosecutor Bharat Bhatt, who also happens to be the VHP'S district president. Bhatt said he had been doing his best to help the accused. This public prosecutor has in fact turned broker — instead of fighting for justice, he is pushing for out-of-court settlements.

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